



Compliance with Habitability Standards

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Compliance with Habitability Standards

Sections 52 and 63 of the Residential Tenancies Act 2010 (NSW) impose a legal obligation upon the landlord to provide the residential premises in a reasonable state of cleanliness and fit for habitation by the tenant, and provide and maintain the residential premises in a reasonable state of repair. These legal obligations form part of the Residential Tenancy Agreement between the landlord and tenant.

Compliance with the minimum standards is a legal requirement, safeguarding landlords and agents from legal liabilities and ensuring properties meet health and safety requirements.

Section 52 of the Residential Tenancies Act specifies seven (7) minimum requirements that must be met for the premises to be fit to live in. It is important for agents to understand the significance of each standard. It states that residential premises are not fit for habitation unless the residential premises:

1. are structurally sound; and

2. have adequate natural light or artificial lighting in each room of the premises other than a room that is intended to be used only for the purposes of storage or a garage, and
3. have adequate ventilation, and
4. are supplied with electricity or gas and have an adequate number of electricity outlet sockets or gas outlet sockets for the supply of lighting and heating to, and use of appliances in, the premises, and
5. have adequate plumbing and drainage, and
6. are connected to a water supply service or infrastructure that supplies water (including, but not limited to, a water bore or water tank) that is able to supply to the premises hot and cold water for drinking and ablution and cleaning activities, and
7. contain bathroom facilities, including toilet and washing facilities, that allow privacy for the user.

For the purposes of point (1), residential premises are 'structurally sound' only if the floors, ceilings, walls, supporting structures (including foundations), doors, windows, roof, stairs, balconies, balustrades and railings:



- a. are in a reasonable state of repair, and
- b. with respect to the floors, ceilings, walls and supporting structures, are not subject to significant dampness, and
- c. with respect to the roof, ceilings and windows, do not allow water penetration into the premises, and
- d. are not liable to collapse because they are rotted or otherwise defective.

The landlord's duty to provide and maintain the residential premises in good repair is a statutory obligation under the Residential Tenancies Act. Therefore, Section 63 of the Act provides:

1. A landlord must provide and maintain the residential premises in a reasonable state of repair, having regard to the age of, rent payable for and prospective life of the premises.
2. A landlord's obligation to provide and maintain the residential premises in a reasonable state of repair applies even though the tenant had notice of the state of disrepair before entering into occupation of the residential premises.
3. A landlord is not in breach of the

obligation to provide and maintain the residential premises in a reasonable state of repair if the state of disrepair is caused by the tenant's breach of this Part.

4. This section is a term of every residential tenancy agreement.

It is necessary for agents to be thorough when inspecting properties to ensure that all issues are identified where possible, and addressed promptly by qualified and appropriate professionals.

The collaboration between landlords and agents is crucial in ensuring properties meet compliance standards. Both the landlord and managing agent have a legal responsibility to ensure that a rented property is maintained in safe and good state of repair. Agents play a pivotal role in maintaining these standards by conducting regular inspections and coordinating necessary repairs.

We will examine these requirements in more detail over the next few newsletters, as it is essential that agents and landlords work collaboratively in achieving these outcomes for residential rental properties.

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