

Bringing you news from the world of New Zealand property management.

Healthy home assessment delays and vacancies

It is an unlawful act not to include a statement that details the current level of compliance with the healthy homes standards in any new or renewed tenancy.



Tenants either need to give a minimum of 21 days' notice (fixed-term tenancy granted prior to 11 February 2021) or 28 days' notice to end a tenancy. For landlords that have not had their property assessed for the healthy homes standards, this does not allow a lot of time.

Landlords must get the property assessed and have this information included as part of the tenancy agreement, for any new or renewed tenancy. There are no exceptions. Landlords cannot rent a property without knowing the current level of compliance.

Failing to include a current level of compliance statement can result in exemplary damages of \$750. Landlords then have just 90 days to meet all the standards, or risk exemplary damages of up to \$7,200 payable to the tenant, or a fee payable to the Crown.

It is imperative that landlords act now or risk a lengthy vacancy period as the wait time for getting properties assessed is increasing as demand increases, particularly in regional New Zealand.

Tenants are aware that if they leave their current property, their new rental will meet the healthy homes standards within 90 days. If you lose your current tenant and a new tenant moves in, and your property has not been assessed, you risk a vacancy period while waiting to get the property assessed, and you will still need to meet all the standards within 90 days.

Harcourts advice to landlords has been, and continues to be, don't delay meeting the healthy homes standards. The earlier you meet the standards, the more likely you are to retain your current and valued tenant. The result being fewer vacancy periods with happy tenants, greater financial returns, and a warm dry healthy investment property.

Harcourts represented on REINZ Sector Group

Harcourts is proud to be represented on the Residential Property Management Sector Group by our Property Management Operations Manager for New Zealand, Jodine Clark. The sector group is an invaluable source of knowledge, support and practical experience to the team and

Board at the Real Estate Institute of New Zealand (REINZ). The members meet regularly and communicate the unique needs of the residential property management sector to the REINZ board. They are integral in informing new policy, assisting in development of resources including

education and events at local and national level.

Harcourts is pleased to be able to bring its expertise to the Residential Property Management Sector Group Committee.

Unlawful Residential Premises

Under the Residential Tenancies Act, landlords must comply with all legal requirements relating to buildings, health and safety that apply to the premises. They must also ensure that the premises can legally be lived in at the start of a tenancy.

In practice, this means landlords need to be broadly aware of health-related and safety-related requirements in the following laws:

- Building Act 2004 and the Building Code
- Health Act 1956
- Housing Improvement Regulations 1947
- Bylaws made under the Local Government Act 2002. These are set by individual councils.

The Residential Tenancies Amendment Act 2019 strengthened the law for holding landlords to account if they rent out unsuitable properties.

The Act has amended the definition of 'residential premises', so that regardless of whether premises can be legally lived in, they will be considered 'residential premises' under the Residential Tenancies Act if they are lived in or intended to be lived in. This amendment gives the Tenancy Tribunal full jurisdiction over cases concerning premises that are unlawful for residential purposes. It also means that tenants living in unlawful residential premises will be protected by the minimum requirements in the Residential Tenancies Act, such as landlord responsibilities for complying with building, health and safety laws, cleanliness, maintenance and repairs,

smoke alarms, insulation, bond lodgement, rent increase notices, and notice periods for ending a tenancy.

Tenancy Services will be able to enforce the Act against landlords who breach it, regardless of whether premises are lawful for living in or not.

In cases of unlawful residential premises, the Tribunal can now order:

- the landlord to repay the tenant all or some rent, depending on the circumstances of the matter
- that the tenant is not liable for rent arrears, compensation or damages unless it would be unjust not to make the tenant liable
- the landlord to make the premises lawful and comply with relevant legislative obligations, such as fire safety requirements under the Building Act 2004, within a specified timeframe
- exemplary damages (a financial penalty payable to the tenant) for failing to comply with this work order
- the tenancy be terminated
- any other order in favour of the tenant that it may currently do under the Residential Tenancies Act.



Tenants will be able to give two days' notice to end a tenancy in an unlawful residential premise if the premises were unlawful at the start of the tenancy and are still unlawful. Both the tenant and the landlord can apply to the Tribunal for an order terminating a tenancy on the ground that the premises are unlawful.

What are unlawful residential premises?

Unlawful residential premises include dwellings within a property which have been constructed for another purpose, such as a garage or a commercial building, or properties which do not comply with relevant building health and safety legislation. Many "granny flats" may fall under these criteria.



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