

Property Management Focus.

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Privacy Act Guidance for Landlords & Tenants

The Office of the Privacy Commissioner (OPC) has produced a new set of guidelines outlining what information should, and should not, be requested from tenants when they apply for a tenancy. The new guidelines also cover what should be requested or acted upon only once a preferred tenant has been selected.

Landlords need to collect, use and disclose personal information to determine a potential tenant's suitability to rent a property. This has not changed. It is also reasonable for a landlord to request more detailed information once a person becomes a tenant. However, any personal information that is requested by a landlord or property manager must always be reasonably connected to a tenancy.

The recommended change to the tenancy application process is that for some of the information collected, it should only be requested or acted upon once the preferred applicant or applicants have been selected. This could include activities such as performing a credit check, requesting proof of income or date of birth from a prospective tenant.

The Privacy Act has 12 privacy principles, 11 of which apply to landlords and property managers

Principles 1-4
collection of personal information including guidelines on taking photographs

Principle 5
storage and security of personal information

Principles 6-8
tenants' right to access their personal information and request corrections

Principle 9
information that becomes unnecessary should not be retained

Principles 10-11
the use and disclosure of personal information

Harcourts Property Managers are abreast of the new Privacy Act Guidelines and we have made some changes to the information we request from prospective tenants.

You can download the guidance information fact sheet [here](#)



With the introduction of changes to the Privacy Guidelines, now seems like an opportune time to bring to our landlords' attention their rights and responsibilities under the Human Rights Act 1993.

The purpose of the Act is to promote and protect the human rights of all people in New Zealand. It is unlawful to discriminate against people for their age, sex, marital status, religion, ethical beliefs, colour, race, ethnicity, disability, political opinion, employment status, family status or sexual orientation. These factors are irrelevant when deciding who will or will not be a good tenant.

A landlord must not discriminate on the grounds of disability which means that you cannot decline an application from a person who is reliant on a Service Dog because of a no pet policy. If you state that no pets are allowed, this must not include Service Dogs. The good news is that puppies trained for purpose are always Good Boys and are almost guaranteed to be good tenants.

More to Come? Proposed Tenancy Law Reforms

We have seen a number of changes to the Residential Tenancies Act 1986 (RTA) come into force in recent times. These include banning charging tenants letting fees, the introduction of the Healthy Homes Standards and, most recently, the Residential Tenancies Amendment Bill (No 2) which addressed tenants' liability for damage (and insurance), unlawful rental properties and contamination.

There are some proposed amendments to the Act that haven't yet been passed in to law. These reforms aim to improve the security and stability of tenure for tenants, promote good-faith

relationships in the rental environment, and ensure there are appropriate protections in place for both landlords and tenants.

It is important to note that these are proposed changes only. Harcourts Property Managers are well skilled to respond to any further changes to the RTA and will ensure that landlords remain well informed and abreast of any law changes that affect them and their investment.

[The discussion document and further information is available here](#)

Landlord's Insurance Excess What should it be?

The Residential Tenancies Amendment Bill (No 2) that was passed into law on 27 August 2019 addressed tenants (or someone for whom the tenant is responsible) being held liable for damage or destruction to the rental premises caused by their careless acts and omissions.

The Bill also refers to the rights of a tenant to receive the benefit of a landlord's insurance claim. In the event of a claim resulting from a careless act, a tenant must pay the insurance excess or up to four weeks rent, whichever is lower. A reaction to this amendment from some landlords may be to increase their excess to be the equivalent of four weeks rent.

Commonly an insurance policy may include various excesses depending on the type of event that results in an insurance claim. For example, in the event of a flood that is unrelated to a tenant's actions or behaviour, the landlord would be responsible for the higher excess.

Before making any changes, Harcourts recommends that landlords review their insurance policy and seek further advice from their insurer on what their excesses should be to avoid future dilemmas.

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