

Do you rent a room?

Rooming Accommodation generally covers residents who rent a room, but share facilities like a kitchen or bathroom. The *Residential Tenancies and Rooming Accommodation Act 2008* (the Act) is the law that covers tenants and lessors as well as residents and providers in Queensland.

Rooming accommodation

You may live in rooming accommodation and be a resident if you rent a room and share facilities with other residents.

There are some common types of rooming accommodation, these include (but are not limited to):

- boarding houses;
- supported accommodation; or
- student accommodation.

The Act defines “**rooming accommodation**” as accommodation occupied or available for occupation by residents in return for the payment of rent, where each of the residents:

- has the right to occupy 1 or more rooms;
- does not have the right to occupy the whole premises;
- does not occupy a self-contained unit; and
- shares other rooms or facilities outside their room with other resident/s.

Opting in

If you live in rooming accommodation but your agreement states it is a Residential Tenancy Agreement, or you have signed a Form 18a General Tenancy Agreement, then you will be covered by the residential tenancies provisions of the Act.

The residential tenancy laws generally provide greater protection and renting rights than the rooming accommodation sections of the Act.

Are you a resident?

You are a resident if:

- you pay rent for a room (or rooms) in a rental premises; *and*
- you occupy the room/s as your main or only residence; *and*
- you share other rooms or facilities (like a bathroom, kitchen, lounge) with other resident/s; *and*

- the provider:

- *doesn't live on the premises; or*
- *if the provider does live on the premises there are 4 or more rooms for rent.*

You may also be covered by the rooming accommodation provisions of the Act if for example you *rent a room*:

- in holiday accommodation (e.g. motel or backpacker hostel), unless you are on holiday. Under the Act if you live in holiday accommodation for six weeks or more, then your stay is taken not to be for a holiday unless otherwise proved; *or*
- that is part of a hospital, nursing home or retirement village as part of your employment.

Contact the Tenants' Union of Queensland or your local Tenant Advice and Advocacy Service for further help determining coverage under the Act.

You are *not* a resident if:

- you are a provider of rooming accommodation; *or*
- you are a relative of the person who provides you rooming accommodation.

Rooming accommodation *not* covered by the Act

The Act does not apply to rooming accommodation if:

- the provider lives on the premises; and
- there are 3 or less rooms occupied, or available for occupation, in the premises.

The Act also does not apply to the following types of room-only accommodation:

- a room that is self-contained e.g. studio apartment;
- accommodation within a university campus:
 - *provided by the university; or*
 - *where the accommodation is provided for a non-profit purpose;*
- approved aged care accommodation provided under the *Aged Care Act 1997* (Cth);

The provider is the person who is providing you with your room. Unless otherwise stated, 'provider' can be taken to include 'provider's agent'. A resident is a person who rents a room in rooming accommodation.

- accommodation provided at an authorised mental health service under the *Mental Health Act 2000*;
- accommodation in a private hospital under the *Private Health Facilities Act 1999*;
- some types of accommodation provided for school students;
- holiday rooming accommodation, where occupation of the premises is for holiday purposes;
- accommodation provided under the Supported Accommodation Assistance Program (SAAP);
- accommodation owned or funded by Aboriginal Hostels Limited; or
- in some instances, premises at a retirement village

If any of these situations apply to you, then you will not be covered by the Act.

Boarders and lodgers

If you rent a room but are not a tenant or a rooming resident, you may be a boarder or lodger.

If you are classed as a boarder or lodger, the Act will not apply to you. However, if you pay a bond, the bond provisions of the Act apply and your bond money must be lodged with the Residential Tenancies Authority (RTA).

If you aren't sure if you are covered by the Act you can apply to the Queensland Civil and Administrative Tribunal (QCAT) to make a decision about whether or not you are a resident, or a boarder or lodger.

In making a decision, QCAT will consider:

- the extent you have control over the premises;
- the extent another person you pay rent to has control over the premises;

- whether the person you pay rent to also lives in the premises;
- any services provided to you;
- whether you share facilities, including bathroom and kitchen facilities; and
- anything else QCAT considers relevant.

If you are a boarder or lodger, you are covered by the common law rather than the Act.

Under common law, your room and the shared areas of the premises should be in good condition. You also have the right to reasonable privacy and quiet enjoyment of your own room and space.

You should be given reasonable notice to leave.

"Reasonable notice" varies in each circumstance. For example, if you are a boarder paying rent fortnightly, then 2 weeks' notice to leave may be reasonable, however if you have lived in the premises for many years then a longer notice to leave might be reasonable.

Boarder and lodger disputes are heard in the Magistrates Court rather than in QCAT.

You should put any agreements about your renting situation in writing and keep a copy.

For free tenancy advice & further information call:

Tenants' Union of Queensland (TUQ)

1300 744 263 – Statewide advice line

www.tuq.org.au

Tenant Advice and Advocacy Services (TAAS)

Look under "T" for tenancy advice in the telephone directory for a local TAAS.

Further information:

Residential Tenancies Authority (RTA)

1300 366 311

www.rta.qld.gov.au

The Tenant Advice and Advocacy Service (Queensland) is administered by the Queensland Department of Communities (Housing and Homelessness Services) funded by both the Residential Tenancies Authority from interest earned on bond lodged with the Authority, and by the Department of Communities (Housing and Homelessness Services).

Disclaimer: This brochure provides information only and is not intended to provide legal advice.

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