

Breach of duty reasons

Rooming house agreements

'Duty Provisions' under [s208](#) of the Residential Tenancies Act 1997 (Vic) (RTA) are specific duties renters must meet. Where there is a breach of these provisions, the other party may issue a Breach of Duty Notice which serves as a formal warning and if the issue is not rectified it can enable either party to apply to the Victorian Civil & Administrative Tribunal (VCAT) to obtain a compliance order, compensation order, or both.

Where successive breaches have occurred, on the third occasion a rooming house operator may issue a Notice to Vacate under [s142ZH](#).

A breach of duty notice must be in writing and specify:

- Which duty was breached;
- The loss or damage caused by the breach;
- The required time for the breach to be remedied or to compensate for the loss or damage;
- That a similar breach must not happen again;
- That if the notice is not complied with, an application can be made to VCAT for a compliance or compensation order.

A [Notice of breach of duty to rooming house resident](#) is available for download from the Consumer Affairs Victoria (CAV) website.

Rooming house operators can only issue a breach for certain reasons. Below provides a summary of the reasons and the required timeframes to remedy the breach.

RTA section	Reason	Timeframe to remedy the breach
s110	Non-residential use You have used the room for a purpose other than a residential purpose.	3 days

<u>s112</u>	Unpaid rent You have not paid the rent on the due date and/or in the agreed manner.	3 days
<u>s113</u>	Interference with peace You have interfered, or allowed your visitor to interfere with, the privacy and peace and quiet of other residents or their proper use and enjoyment of the rooming house.	3 days
<u>s114(1)</u>	Room in poor condition You have not kept the room in a reasonably clean condition.	3 days
<u>s114(2)</u>	Room left in poor condition You did not leave your room reasonably clean and in the same condition as when you entered into occupation of the room, taking into account fair wear and tear.	3 days
<u>s114A</u>	Interference with a safety device You have removed, deactivated or interfered with a prescribed safety device in the rooming house, which was not reasonable to do so in the circumstances.	3 days
<u>s115</u>	Modifications without consent You have installed a fixture in the room or rooming house without my prior written consent.	3 days
<u>s116(1)</u>	Unreported damage caused by resident You or your visitor caused damage other than fair wear and tear to the room or the rooming house, and you did not notify and compensate me.	3 days
<u>s116(2)</u>	Unreported damage or breakdown	3 days



	You did not report damage to a room or damage to, or breakdown of, facilities, fixtures, furniture or provided equipment of which you had knowledge.	
<u>s117</u>	Animal without consent You kept an animal at the rooming house without my consent.	3 days
<u>s118</u>	Failure to supply key You failed to give me a key to the door of your room to allow access as permitted by the Act.	3 days
<u>s119</u>	Failed to observe house rules You failed to observe house rules made in accordance with the Act. The house rule(s) you did not observe is/are: <i>Note: write the rule in section 4 or attach to this notice.</i>	3 days
<u>s140</u>	Refusal to permit entry • 137(a)–you did not permit a person exercising a right of entry to enter the room to show the room to a prospective resident. • 137(b)–you did not permit a person exercising a right of entry to enter the room to show the rooming house to a prospective buyer or lender. • 137(c)–you did not permit a person exercising a right of entry to enter the room to enable the rooming house operator to carry out their duties under the Act or any other Act. • 137(d)–you did not permit a person exercising a right of entry to enter the room upon believing on reasonable grounds that you had failed to comply with your duty as a resident. • 137(e)–you did not permit a person exercising a right of entry to enter the room to inspect the room, where entry for that purpose has not been made within the last 4 weeks.	3 days



	Note – the rooming house operator should refer to section 137 to ensure that you have a right of entry.	
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Further Assistance

Should you have any questions or comments in relation to the information in this resource please email leadingpractice@chiavic.com.au.

This resource will be periodically reviewed and continually updated based on sector feedback.

