

Fact sheet

Share homes, co-tenancies and sub-letting

Sharing a home with other people can make renting a more affordable option for tenants. The *Residential Tenancies and Rooming Accommodation Act 2008* (the Act) includes provisions which directly affect people sharing rented homes. Tenants in share home arrangements must be aware of their legal rights and responsibilities, and the rights and responsibilities of the lessor/agent.

What living arrangements can be made under the Act?

The Act acknowledges that people share rented homes in a number of legal arrangements.

These include:

- **co-tenancies** – where all the occupants of the home are named on the agreement as tenants
- **sub-letting** – where one or more occupants are named on a tenancy agreement and those tenants then establish a sub-tenancy agreement with other occupants (either verbally or in writing) for the right to occupy part or all of the home
- **boarding and lodging** – where a provider/agent retains control over the resident's use of the premises. This may include where the provider/agent provides services such as meals, cleaning and laundry or where each individual occupant has a separate agreement for a right to occupy separate parts of the home.

The rights and responsibilities of the parties will depend on which of the above legal arrangements apply. In some cases, it is difficult to categorise the arrangement and the Tribunal may have to determine the issue.

Co-tenancies

Co-tenants named on the tenancy agreement as tenants are jointly and individually responsible for the rent and home. This means that each tenant may be liable for the lessor's losses individually or together.

The tenancy agreement must state the names of co-tenants in a rented home.

Sub-tenancies

A sub-tenancy agreement is with the head tenant and not with the lessor/agent. There is a distinct and separate agreement between the head tenant and the lessor/agent. There is no direct agreement between the sub-tenant and the lessor/agent. Only the parties named in an agreement are liable for losses caused under that agreement. However, the sub-tenant may be liable to the head tenant if the head tenant incurs a loss as a result of a breach of the agreement by the sub-tenant.

A written tenancy agreement must be completed, naming the head tenant(s) as the lessor and naming the sub-tenant(s) as tenant(s). The sub-tenancy agreement must comply with the Act and the standard terms. The length of the term of the sub-tenancy must not exceed the length of the term of the head tenancy agreement.

Boarders and lodgers

Boarders and lodgers may be covered by the rooming accommodation provisions of the Act, or may not be covered by any tenancy law. Refer to the fact sheet *Rooming accommodation coverage* to see if the rooming accommodation provisions would apply, or if necessary the Tribunal may have to

determine if the Act applies. Even if the boarding or lodging agreement is not covered by the Act, the bond provisions still apply. Bonds for boarders and lodgers must be lodged with the RTA and the relevant forms must be completed.

Lessor's permission

The lessor/agent has the right to know and approve of the people residing in the rented home. The lessor/agent must be consulted about changes and may ask prospective co-tenants or sub-tenants to complete an application for rental form. Approval from the lessor/agent must be given in writing.

Disputes may occur when the lessor/agent discovers that there are people living in the rented home who were not named on the agreement and who have not been approved. This may have occurred because the membership of a share home has changed over time. It is essential that the lessor/agent be notified each time a change occurs. The Act states that the lessor/agent must not unreasonably refuse permission to sub-let or transfer the agreement from one person to another. Tenants or occupants of a share home can apply to the RTA's dispute resolution service if they believe the lessor/agent has acted unreasonably in refusing to sub-let or transfer the agreement.

Bond

The lessor/agent must give a receipt for the bond money. Tenants can ask for the receipt to show the name of each co-tenant and the amount paid by each.

All rental bonds must be lodged with the RTA within 10 days of being received, together with a *Bond lodgement* (Form 2). This applies to bonds for share homes, sub-lettings, boarding houses and lodging arrangements. The *Bond lodgement* must state the names of all people contributing to the bond, the amount of bond money paid by each co-tenant, and be signed by all contributing parties. This becomes important at the end of the tenancy when parties are involved in negotiating the bond refund.

When sub-letting, the head tenant can ask for a bond from the sub-tenant. The bond must be receipted and lodged with the RTA by the head tenant. The head tenant and sub-tenant must lodge the bond money with the RTA, together with a completed and signed Form 2.

Bonds taken in boarding and lodging arrangements must be lodged with the RTA in the same way as all other bonds.

Failure to comply with these requirements is an offence. Lessor/agents and head tenants may be prosecuted by the RTA for failing to lodge bonds of tenants, sub-tenants, boarders and lodgers. For more information see the *Rental bonds fact sheet*.

Changes in co-tenancy

Where a bond has been paid and membership of the share home subsequently changes, co-tenants can pass bond money between themselves from an incoming to an outgoing tenant. They will need to complete a *Change of bond contributors* (Form 6) and lodge it with the RTA to ensure the RTA has current information about the bond.

A *Change of bond contributors* (Form 6) should be signed by the tenants and the lessor/agent. Approval for changes must be sought from the lessor/agent. But remember, the lessor/agent cannot unreasonably refuse the transfer from one co-tenant to another.

In the event that all the co-tenants leave the home and a transfer to a new household occurs, the existing bond should be claimed with a *Refund of rental bond* (Form 4) and the new bond lodged with a *Bond lodgement*. Alternatively, a *Change of rental property* (Form 3) may be used with the lessor's approval.

Bonds involving a bond loan from Department of Housing and Public Works require their approval for transfer.

When individual tenancies in a share home or a sub-tenancy end, individual parties can claim their bond by completing a *Refund of rental bond*. Contact the RTA for more details.

Before any person vacates a share home, it is useful to discuss costs for cleaning, damage or unpaid rent. Costs may be apportioned so that the departing tenant makes a contribution for any moneys owing for which they are responsible. It is also helpful if the departing tenant leaves a forwarding address.

Further information

For more information contact the Residential Tenancies Authority on 1300 366 311.

Accessing RTA forms

The RTA's forms can be obtained electronically or in person by:

- rta.qld.gov.au
- 1300 366 311
- Level 23, 179 Turbot St Brisbane



If you need interpreting assistance to help you understand this information, contact TIS on 13 14 50 (for the cost of a local call) and ask to speak to the Residential Tenancies Authority (RTA).

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Disclaimer

This fact sheet is prepared for information only. The Residential Tenancies and Rooming Accommodation Act 2008 is the primary source on the law and takes precedence over this information should there be any inconsistency between the Act and this fact sheet.