**Q&A - Tenancy database law changes**

This information relates to the amendment of the *Residential Tenancies and Rooming Accommodation Act 2008* relating to the use of tenancy databases.

**What do property managers/owners have to tell prospective tenants when they are applying for a rental property?**

458A Notice of usual use of database

From 1 July 2016, all property managers/owners must inform prospective tenants in writing:

* The name of any tenancy database companies the manager/owner usually uses
* the reason they use tenancy databases is to check a person’s rental history
* How to contact the database operator

This can be done by adding the information to your application form, or by using this [template](http://www.rta.qld.gov.au/~/media/Files/Information-about-your-application-and-tenancy-databases.ashx) developed by the RTA. The information must be given for each application, unless the prospective tenant had been informed less than seven days prior.

**What happens if a listing is found on a tenancy database?**

458B Notice of listing

From 1 July, 2016, if the property manager/owner finds a listing about a prospective tenant, they must inform the tenant in writing and within seven days:

* That there is a listing about the person
* Details of who made the listing (if contained in the database)
* The name of the tenancy database
* How the prospective tenant can contact the database operator to get information about any listing (20 penalty units).
* How the person can get a copy of the listing
* How they can have the listing removed or amended (20 penalty units).

This can be done by using the [template](http://www.rta.qld.gov.au/~/media/Files/Notice-of-a-listing-on-a-tenancy-database.ashx) the RTA has developed, or by incorporating it into your usual advice to prospective tenants about the outcome of their tenancy application.

**What rules do you have to follow before a person can be listed?**

S459 Restriction on listing

A person can only be listed on a tenancy database if they are:

* Named as a tenant on the tenancy agreement
* Only when the tenancy agreement has ended
* For approved reasons: see *What are the approved reasons for tenancy database listings?*

The property manager/owner must:

* Give the tenant a copy of the proposed listing, or make reasonable attempts to inform them of the proposed listing
* Allow the person/s you are listing 14 days to review the personal information and make a submission objecting to its entry into the database (unless it is publicly available court or tribunal records; or is amending inaccurate, incomplete, ambiguous or out of date listings)
* Consider any objections the person has about the proposed listing, such as its accuracy, completeness or clarity (20 penalty units).

The property manager/owner must not:

* Charge a fee for giving the proposed listing to the tenant
* List information that they know is inaccurate, incomplete, ambiguous or out of date (20 penalty units).

**What are the approved reasons a tenant can be listed on a tenancy database for? [this is standard text]**

A tenant named on the tenancy agreement can only be listed after the tenancy has ended in one of the following circumstances:

Amount owing

Tenants may be listed where the agreement has ended and the amount owing exceeds the rental bond, and:

* The money owed under a conciliation agreement or Tribunal order is not paid on time, or
* They have been served with a Notice to remedy breach (Form 11) for rent arrears and have failed to remedy the breach, or
* After abandonment of the property, unless the dispute is currently subject to a Tribunal determination.

If no rental bond has been charged, a person cannot be listed unless the amount owed is more than the equivalent of one week’s rent, plus any amount of tenancy guarantee.

Objectionable behaviour

A tenant can be listed for objectionable behaviour where the Tribunal has terminated the tenancy agreement for that reason.

Repeated breaches

A tenant can be listed for repeated breaches where the Tribunal has terminated the tenancy agreement for that reason.

**What are the requirements to give tenants copies of tenancy database listings?**

Property managers/owners who have listed tenants must give the tenant a copy of the listing within 14 days of being asked in writing for a copy by the tenant (20 penalty units). A reasonable fee may be charged for giving the information.

Database operators must give the tenant a copy of the listing within 14 days of being asked in writing for a copy by the tenant (20 penalty units). A reasonable fee may be charged for giving the information.

Any fees charged must not be excessive and must not be for lodging a request for accessing the information.

**What are the requirements around the quality of listings?**

459A Ensuring quality of listing – lessors and lessor’s agents

Tenants can challenge listings on the basis they are:

* Inaccurate, where the information indicates the person owes an amount but the person no longer owes the amount and had paid it more than three months after it became payable.
* Incomplete,
* Ambiguous, or
* Out of date, where the information indicates the person owes an amount, but the person no longer owes the amount and had paid it within three months after it became payable, or was made on the basis of a tribunal order which has subsequently been reopened or appealed, or set aside.

Tenants should contact the person who made the listing, and ask them to amend inaccurate, incomplete or ambiguous listings, or to remove out of date listings. The listing person must amend or remove the listing within seven days of being advised. Database operators must amend or remove the listing within 14 days of being advised of inaccurate, incomplete, ambiguous or out of date listings. There are penalties for not doing this.

If necessary, the tenant can apply to QCAT for an order to have the listing amended or removed.

**What happens if the circumstances around the listing change?**

If the property manager/owner becomes aware that the details of the listing are inaccurate, incomplete, ambiguous or out of date, they must within seven days:

* Inform the database operator in writing of how the information must be amended so it is no longer inaccurate, incomplete or ambiguous, and
* Inform the database operator in writing of listings that must be removed because they are out of date.
* Keep a copy of the notice they give the database operator for one year (20 penalty units).

This is not necessary if they amend or remove the information in the database themselves within seven days of becoming aware the details of the listing are inaccurate, incomplete, ambiguous or out of date.

**What do database operators have to do?**

459B Ensuring quality of listing – database operators

**By 1 January 2017, database operators must have removed all listings which are, at that stage, three years or older.**

From 1 July 2016, database operators must:

If a property manager/owner advises a database operator that a listing is inaccurate, incomplete or ambiguous (but not out of date), the database operator must amend the information within 14 days of being given the notice (40 penalty units).

If the database operator is advised by a property manager/owner that the listing is out of date, the database operator must remove the information within 14 days of being given the notice (40 penalty units).

459C Providing copy of personal information listed

* Provide a copy of the personal information listed on their database within 14 days of a written request (where a fee has been asked for and been paid)
* If a fee has been charged by the property manager/owner it must not be excessive and must not be for simply applying to lodge a request for the information

459D Keeping personal information listed

* Database operators must not keep listings for longer than three years (40 penalty units).
* **IMPORTANT:** By 1 January 2017, database operators must have removed all listings which are, at that stage, three years or older.

**Are there any additional protections for victims of domestic and family violence?**

Victims of domestic and family violence can apply to QCAT for an order not to be listed on a tenancy database, or to have a listing removed, due to any breach of the tenancy agreement arising from an act of domestic or family violence.

This does not prevent the perpetrator of domestic and family violence from being listed on a tenancy database if other listing criteria has been met.

**What are the penalties for breaching tenancy database laws?**

Breaches of the laws carry a penalty of between 20 and 40 units per offence ($121.90 per unit) for individuals. Corporations found guilty could face fines 5 times that amount.

ENDS.