

Room Capacity

The first thing to note is that the number of residents in a room that was occupied on 20 September 2005 cannot be increased above the number in residence on that day until either:

- The room falls vacant, or
- After 1 December 2005, you follow the new procedure to obtain the consent of the resident/s to an increase in the room capacity.

Types of Residency Right

Every resident of a rooming house will now have either an "exclusive occupancy right" or a "shared room right". Exclusive occupancy does not necessarily mean sole occupancy. For example, a couple may occupy a room under an exclusive occupancy right.

The residency right is an exclusive occupancy right unless:

- The room was occupied on a share basis on 20 September 2005, or
- A vacant room is offered to residents on a share basis, or
- After 1 December 2005, a resident with an exclusive occupancy right consents to share the room with one or more other people.

Notification and Consent

From 1 December 2005, owners are required to give new notices about room capacity to:

- All existing residents with shared room rights
- All prospective residents before they occupy a room.

An owner who wishes to increase the capacity of a shared room or change the resident's exclusive occupancy right to a shared room right must obtain their written consent using the *Notice to Rooming House Resident: Consent to Increase in Room Capacity* form.

Notice to Existing Rooming House Resident: Shared Room Right

Between 1 December and 15 December 2005, you must give every resident who has a shared room right a *Notice to Existing Rooming House Resident: Shared Room Right* form. This explains that the resident's occupancy right is a shared room right and states the room capacity (number of residents sharing the room on 20 September 2005).

However, if you wish to increase the room capacity immediately, you can give the resident/s a *Notice to Rooming House Resident: Consent to Increase in Room Capacity* form by 15 December 2005 instead.

Notice to Rooming House Resident: Consent to Increase in Room Capacity

This form can be used at any time you want to seek consent to an increase in the maximum number of residents who can share the room or a change from an exclusive occupancy right to a shared room right. The form includes an offer to the existing resident/s of a specified reduction in rent.

The written consent of every affected resident must be obtained before the change can occur, and the notice seeking the consent expires after 14 days. There is a three-day cooling-off period in which a resident may withdraw consent. Where cooling off rights are not exercised, the notice becomes effective 7 days after the consent (or the last consent, if there is more than one existing resident) is obtained.

A resident of a room who has consented to sharing or who has consented to an increase in room capacity may still seek a review of the reduced rent, following the existing process for excessive rent claims. This right must be exercised within 30 days of the resident first being given the *Consent to Increase in Room Capacity* form.

A proposed increase in room capacity that exceeds the lawful capacity (currently specified by the Health (Prescribed Accommodation) Regulations 2001) will be of no effect.

Notices to New Residents

Every proposed new resident must be given either a *Notice to Proposed Rooming House Resident: Exclusive Occupancy Right* or a *Notice to Proposed Rooming House Resident: Shared Residency Right*.

When a room is occupied under a shared room right, you have the right to determine who will be the co-residents of the room.

If you unlawfully allow an additional resident to occupy the room, the existing residents of the room are not required to pay any rent until the number of residents is reduced to its previous capacity or 7 days after the proper consents are obtained. The residents may also apply to the Victorian Civil & Administrative Tribunal (VCAT) for appropriate orders.

Other points

You cannot apply separate service charges for electricity and gas in shared rooms.

You must take all reasonable steps to ensure that individual residents of a shared room, or their visitors, do not interfere with the privacy, peace and quiet of other residents of the room. However, the Act makes it clear that merely permitting more than one resident to occupy a room does not breach this obligation.

A resident has a corresponding duty not to interfere with the rights of another resident of the room.

A resident of a shared room must not use the room, or permit his or her visitors to use the room, for an illegal purpose.

You must give a copy of the Consumer Affairs Victoria publication *Rooming houses: A guide for residents, owners and managers* to residents on or before the day they move in or face a fine of up to \$500.

Consumer Affairs Victoria strongly encourages you to obtain copies of the updated version of this free booklet for existing residents also.