# Detailed Reference Guide 27: Changes to goods left behind procedure

This reform starts on 29 March 2021.

## New requirements

If a former renter leaves behind goods at a rented premises at the end of a rental agreement, the owner of the premises can dispose of some goods but must store others.

The owner of the premises can immediately dispose of:

* goods of no monetary value (unless they are prescribed goods that must be stored)
* perishable foodstuffs, and
* dangerous goods.

The owner of the premises must store any personal documents (including official documents, photographs, mail and other documents a person would reasonably be expected to keep) for at least 90 days. They must let the former renter reclaim the personal documents after repaying any reasonable costs the owner of the premises had to spend to remove and store them.

For all goods of monetary value (and goods that are prescribed goods), the owner of the premises is required to:

* take reasonable steps to give a notice to the former renter that goods have been left behind, and
* must store the goods in a safe place for at least 14 days after giving the notice (this period may be extended either by agreement or by VCAT order).

The notice given to the former renter must be in the form approved by the Director of Consumer Affairs Victoria and must include information about the former renter’s rights and obligations in relation to the goods left behind.

The former renter or another person who owns the goods may reclaim the goods at any time before they are sold or disposed of by the owner of the premises.

Before the goods can be reclaimed, the owner of the premises may require that an occupation fee be paid. However, an occupation fee may only be charged if the goods left behind were of a sufficient quantity to prevent the owner from renting out the premises.

The occupation fee must not be greater than the amount of rent that the former renter would have had to pay for the number of days the goods were stored and can be no more than 14 days rent in total (unless VCAT has ordered that the goods be stored for more than 14 days, in which case the maximum fee is equal to the number of days VCAT ordered the goods to be stored).

If the goods are not reclaimed within 14 days (or the extended period if it has been agreed or ordered by VCAT), the owner of the premises may sell or dispose of the goods in any lawful manner.

If the goods are not reclaimed and are sold by the owner of the premises, the former renter has six months to claim the proceeds of the sale less the occupation fee and the cost of the sale.

If the former renter does not claim the remainder of the proceeds of sale within six months, the owner of the premises is required to pay the proceeds of the sale less the occupation fee and the cost of the sale into the Residential Tenancies Fund within 30 days of the end of the six-month period.

VCAT has been given power to make the following orders relating to goods left behind by renters:

* an order that the goods must be stored for a period of more than 14 days,
* if the costs of storing the goods is greater than the occupation fee allowed to be charged, an order that a higher occupation fee be paid to reclaim the goods,
* if the stored goods are destroyed, disposed of or sold by the owner of the premises otherwise than in accordance with the requirements of the Act, an order for compensation to be paid to the former renter for loss of the goods,
* if the owner of the premises wrongfully retains the stored goods and refuses to give them up to the former renter, an order for the return of the goods and/or for compensation to be paid to the former renter for loss of the goods, and
* if the owner of the premises wilfully or recklessly damages or loses the stored goods, and order for compensation to be paid to the former renter for the loss or damage of those goods.

## Previous requirements

Previously the owner of the premises was only required to store goods left behind if the total combined value of the goods was more than the costs of removing, storing them for 28 days and selling them at public auction. The owner of the premises was able to request that Consumer Affairs Victoria inspect and make a formal assessment of whether the combined value of the goods was greater than these costs.

The owner of the premises was required to store all goods that could not be disposed of for 28 days, and was required to give the former renter notice that goods had been left behind within seven days of putting the goods in storage.

The owner of the premises could charge the former renter a fee to reclaim the goods that included the cost of notifying the former tenant, cost of their removal and storage and organising the sale of the goods.

If the goods were not reclaimed the owner of the premises was required to sell the goods through a public auction, after advertising the auction in the newspaper.

## Requiring further specification

* The form for the notice to the former renter that goods have been left behind (to be approved by the Director).
* Types of goods which the owner of premises is required to store even though they are not worth any money, are perishable foodstuffs or are dangerous will be prescribed in the Regulations.

## Relevant legislation in the *Residential Tenancies Act 1997*

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| Part 9 (sections 378 to 401) | Goods left behind by renters, residents and site tenants |

Note: This was Reform 86 in the Fairer Safer Housing review.