



Landlord Obligations Information Guide

OXYGEN





Overview of legislation relating to Landlord Obligations

This book focuses specifically on the legislation obligations of landlords.

Tenants have various obligations under some legislation, however only the responsibilities of landlords have been explained here.

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Overview of legislation relating to Landlord Obligations

As a landlord, you are not required to hold a license – anyone can do it.

The most important skill you should possess as an ethical and professional landlord is being aware of your legal responsibilities under the Residential Tenancies Act 1986 and other obligations and compliance. You should also have an excellent knowledge of your property.

A landlord should take the time to understand the tenancy laws and keep up to date with legislation changes. They need to ensure they carry out regular maintenance and keep their properties in good condition. Along with complying with the RTA, various building regulations, and ensuring they engage appropriately qualified trades and service people.

The purpose of this guide is to highlight some of the obligations you may not be aware of as a landlord (it is not a comprehensive list).

Residential Tenancies Act 1986 & Residential Tenancies Amendment Acts 2010, 2016, 2019, 2020

This law relates to residential tenancy agreements and excludes commercial leases.

A landlord must provide a property in a reasonable state of cleanliness.

For example, renting out a property which has been contaminated by use as a methamphetamine laboratory or providing a premises infested with vermin is a clear breach. Ask yourself if you would feel comfortable living in the property.

A landlord must provide and maintain premises in a reasonable state of repair.

Once the landlord becomes aware of the need for repairs (such as faulty wiring or a defective stove) he/she must carry out the repairs within a reasonable time frame.

The assessment of a reasonable state of repair is qualified by the age and character of the property.

A landlord has the obligation to compensate a tenant for repairs paid by the tenant not only when the tenant has actually notified the landlord of the disrepair but also where he/she has made a reasonable attempt to notify the landlord.

A landlord must comply with all requirements imposed by the Act in respect of smoke alarms and insulation. Failure to comply with the Act can result in significant penalties and fines.

Smoke Alarms Requirements

Working smoke alarms or detectors are compulsory in all rental properties. New smoke alarms must be photoelectric and have a long battery life, or be hard-wired.

Smoke alarms must be installed:

- within 3 metres of each bedroom door, or in every room where a person sleeps.
- in each level or story of a multi-story or multi-level home.
- in all rental homes, boarding houses, rental caravans, and self-contained sleep-outs.

New smoke alarms must:

- be photoelectric.
- have a battery life of at least eight years, or be hard-wired.
- be installed according to the manufacturer's instructions.
- meet international standards.

Who is responsible for maintaining smoke alarms?

Landlords and tenants are both responsible for maintaining smoke alarms. Landlords must ensure smoke alarms are working at the start of a tenancy, and remain in working order during the tenancy.



Tenants must ensure they do not damage, remove, or disconnect a smoke alarm. They are responsible for replacing dead batteries during the tenancy (if the smoke alarm has replaceable batteries).

Tenants must let the landlord or property manager know if there are any problems with the smoke alarm as soon as possible.

When can I enter the property?

Between 8am and 7pm. You must give 48 hours' notice.

What happens if I don't meet my obligations?

Landlords could face a penalty of up to \$4,000. If tenants don't meet their obligations they could face financial penalties of up to \$3,000.

Smoke Alarm Testing Services (SATS)

Rest easy knowing that your smoke alarms will be tested, cleaned and checked for compliance, by a professional smoke alarm technician, and within the New Zealand legislation standards.

Residential Tenancies Amendment Act 2020

These law changes will modernise New Zealand's rental laws and align them with the present-day realities of renting.

The key changes:

- **Rent increases:** Rent increases are limited to once every 12 months.
- **Security of rental tenure:** Landlords will not be able to end a periodic tenancy without cause by providing 90 days' notice. New termination grounds will be available to landlords under a periodic tenancy and the required notice periods have changed.
- **Changes for fixed-term tenancies:** All fixed-term tenancy agreements will convert to periodic tenancies at the end of the fixed-term unless both parties agree otherwise, the tenant gives a 28-day notice, or the landlord gives notice in accordance with the termination grounds for periodic tenancies.
- **Making minor changes:** Tenants can ask to make changes to the property and landlords must not decline if the change is minor. Landlords must respond within 21 days to a tenant's request.
- **Prohibitions on rental bidding:** Rental properties cannot be advertised without a rental price listed, and landlords cannot invite or encourage tenants to bid on the rental (pay more than the advertised rent amount).
- **Fibre broadband:** Tenants can request to install fibre broadband, and landlords must agree if it can be installed at no cost to them, unless specific exemptions apply.
- **Privacy and access to justice:** A suppression order can remove names and identifying details from published Tenancy Tribunal decisions if a party who has applied for a suppression order is wholly or substantially successful, or if this is in the interests of the parties and the public interest.
- **Assignment of tenancies:** All requests to assign a tenancy must be considered. Landlords cannot decline unreasonably. If a residential tenancy agreement prohibits assignment, it is of no effect.
- **Landlord records:** Not providing a tenancy agreement in writing will be an unlawful act and landlords will need to retain and provide new types of information.
- **Enforcement measures being strengthened:** The Regulator (the Ministry of Business, Innovation and Employment) will have new measures to take action against parties who are not meeting their obligations.
- **Changes to Tenancy Tribunal jurisdiction:** The Tenancy Tribunal can hear cases and make awards up to \$100,000. This is a change from \$50,000.

Housing Improvement Regulations 1947

The purpose of these regulations is to ensure Kiwi houses are warm, dry, safe and sanitary, and are worthwhile for landlords to be aware of. These regulations are the minimum requirements, but the bylaws of a local authority will also apply. Overall every house and its appliances shall be kept in a state of good repair.

The regulations include provisions for:

Room size, function and safety

Each property must have:

- A room that can be used as a kitchen or kitchenette with a sink and tap connected to useable water.
- A bathroom with a shower or bath and running hot water.
- A toilet (inside or outside the property) for the exclusive use of those that live in the property.

Light, ventilation, drainage and dampness

Each property must have:

- Bathrooms and toilet rooms must have a window or other adequate means of ventilation.
- Every habitable room must have windows or other way of letting in light and ventilation.
- There must be enough space and ventilation underneath any timber floors to prevent dampness and decay.
- There must be drainage to remove storm water, surface water and ground water. Every house must have gutters, downpipes and drains to remove roof water.

Overcrowding

Landlords must ensure that the house does not become overcrowded by making sure:

- there are enough facilities for the number of people living in the house (eg, bathrooms and toilets)
- bedrooms are at least six square metres. If there is more than one person sleeping in the room it will need to be bigger
- they don't exceed the number of people (excluding those under one year of age) that can occupy bedrooms.
- Landlords shouldn't advertise a property as having a certain number of bedrooms if the rooms don't meet the regulations.

Sewage and sanitation

- Every toilet and sink must connect to an adequate sewerage system or other means of disposal. If a landlord provides a wastage system, the landlord must maintain it (eg, empty the septic tank).

Heating

- Every living room must have an approved form of heating. What approved forms of heating are may differ between councils around the country.
- Also note all main living areas under Healthy Homes must meet the heating criteria.


The Health Act 1956

This Act applies to both commercial and residential landlords.



Water

A landlord is required to provide an adequate and convenient supply of water that is fit for drinking.



Property clean-up to prevent danger to Health & Safety

A landlord is sometimes required to clean the property if a local authority is of the opinion that this is necessary to prevent danger to health and safety, for example, a meth-contaminated property. If compliance is not undertaken, the local authority is able to clean the premises and forward the associated costs to the landlord. The general penalty for offences under this Act is a fine.

Occupiers Liabilities Act 1962

A landlord owes a duty of care to all persons who, or whose goods, may from time to time be lawfully on the premises.

Obligations are attached to the occupier of a property, and impose a duty of care to see that tenants and visitors to the property are reasonably safe.

Complication and liability arises under the Occupiers Liability Act (OLA) when the landlord retains control of common parts of the building, for example, the entrance hall, staircases, lifts and roof in a block of flats or similar shared living arrangements.

The landlord then will be an occupier in the terms of the Act, and will be under the common duty of care set out in the Act. Landlords in these situations have incurred liability for injury resulting from broken steps or missing handrails.

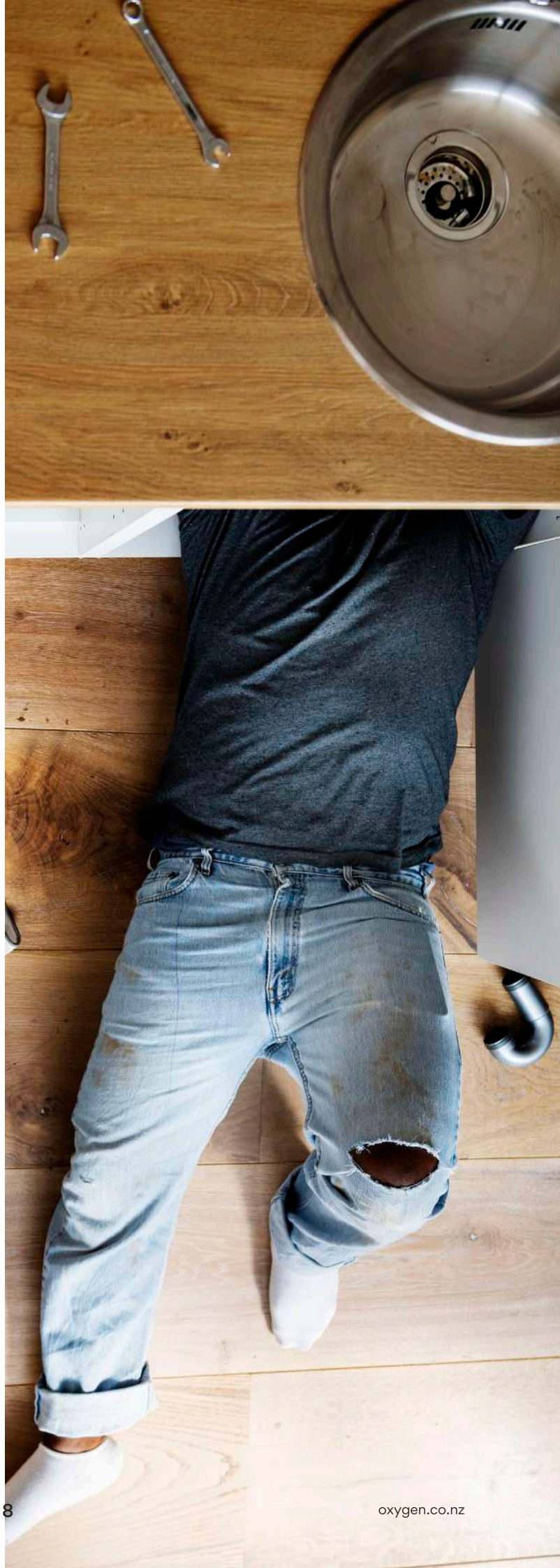
Under the OLA, the tenant and their family or friends become visitors to these common parts of the building and the landlord will owe them a duty of care under the Act, for example, if someone was visiting friends and fell down the stairs which had no handrail, and he/she suffered an injury, the landlord would be heavily fined because the landlord should have ensured that the stairs were safe with a handrail put in place.

Gas Act 1992, Plumbers, Gasfitters and Drainlayers Act 2006

A landlord must take all practicable steps to ensure the safety of gas appliances and fittings when renting out a property.

A landlord must use an appropriately qualified person to carry out gas and electrical work on any property, for example, if an unregistered gasfitter installed an appliance incorrectly resulting in a gas leak and explosion, the landlord could face a large fine since he/she did not use an accredited/registered gasfitter.

Various breaches can attract a fine or a term of imprisonment depending on the damage and risk to life.



The Building Act 2004 and Code

Both residential and commercial landlords are responsible for obtaining any necessary consents and ensuring building work complies with the Building Code, which applies to new building work and does not affect existing buildings unless they're renovated/altered.

The Code does not set out construction methods. It describes how a building must perform, rather than how it must be designed and constructed, for example, one objective is to safeguard people from illness or injury which could result from external moisture entering the building – that is, buildings must be weathertight.

Buildings are considered dangerous if they are likely to cause injury or damage to other properties.

Buildings are considered unsanitary if they are offensive or likely to be harmful to health, don't have enough protection against moisture and don't have an adequate supply of drinkable water.

A breach under the Act can result in a significant financial penalty.

Court case example – Breaching the Building Act 2004

A dispute arose in court when a tenant found out his power supply was driving a bore pump that provided water to other houses on the rural property where he rented a cottage. The landlord re-routed the power to the bore pump to another property but sought to increase the rent. The tenant became concerned the extra rent was designed to make him pay for a landlord cost. This prompted the tenant to serve notice on the landlord to rectify other issues with the property.

He also asked the council to investigate whether the cottage had appropriate consents and was safe to live in. The council inspected and told the landlord it would be classed as an unsanitary building under Section 123 of the Building Act 2004. It turned out the cottage was also not fully consented which came as a shock to the landlord as it was not noted on the LIM. The tribunal found the unconsented cottage could not be used lawfully as a residence and ordered the landlord to pay the tenant back \$12,600 in rent.



The Property Law Act 2007

This act does not generally apply to residential tenancies. However in some instances the Property Law Act (PLA) is taken into account. For example, making an insurance claim.

Court case example where the PLA has been taken into account – Osaki Ruling

Many landlords are aware of the infamous ruling where the Osakis (tenant) left a pot unattended which started a fire, and led to extensive damage and repairs costing the landlord close to \$217,000.

The landlord's insurer, AML, claimed the fire repair costs from the Osakis, but the Osakis protested claiming that the Tenancy Tribunal had exclusive jurisdiction, and that the claim made was barred by sections in the PLA. Ultimately the Court of Appeal found in the tenants' favour in April 2016. The Court decided the insurance provisions in the PLA applied to residential tenancies. Previously the PLA's prohibition on landlords pursuing tenants for reparation from tenant-caused accidental damage was thought to be restricted to commercial tenancies.

Prior to the decision, landlords would claim the cost of repair of unintentional damage from the tenant under the Residential Tenancies Act 1986. The court decided the insurance provisions in the PLA applied to residential tenancies. This means that if the landlord's insurance covers the damage caused, then the tenant does not have to pay.

Note: Fortunately the question of careless or unintentional damage has been addressed by the Residential Tenancies Amendment Act 2019.

Broadly speaking, under the Residential Tenancies Amendment Act 2019 if tenants (or their guests) damage a rental property as a result of careless behaviour, the tenant will be liable for the cost

of the damage up to a maximum of 4 weeks' rent or the landlord's insurance excess, whichever is lower.

The image is a composite. The background shows a construction worker from the side, wearing a yellow hard hat, safety glasses, and a plaid shirt. He is wearing a safety harness with red and tan straps and is working on a wooden framework. In the foreground, there is a close-up of a blue and grey safety harness with various straps and buckles. The entire image has a teal overlay on the left side where the text is located.

Health and Safety At Work Act 2015

The Act applies to residential property but only while it is a place of work, for example, where tradesmen are engaged and enter the premises to carry out repair work.

A landlord owes a duty of care to ensure the health and safety of everyone involved with or affected by work undertaken on the property.

Equally this responsibility falls upon a property manager as your agent if they are managing the work on the landlord's behalf.

A landlord only has a responsibility in respect of things he/ she can reasonably influence and control. This could mean discussing the scope of work with contractors, checking whether they are properly qualified, that they use safe work practices, and intend to use the correct equipment and materials for the job.

Where there are overlapping duties in relation to a property, landlords, their property managers and contractors must communicate with one another to ensure work is undertaken in a safe and healthy way.

A landlord who recklessly exposes individuals to serious risk of injury, illness or death may be liable for 5 years imprisonment, and a fine of up to \$600,000 for individuals and \$3 million for companies, for example, if a landlord arranged for a contractor to install insulation knowing there were exposed wires in the ceiling and the contractor was electrocuted, the landlord would be fined. At the other end of the scale simply failing to comply with a duty could result in a fine of up to \$100,000 for individuals and \$500,000 for companies. should have ensured that the stairs were safe with a handrail put in place.

Why this Act was put in place

This legislation was put in place because annually workplace accidents cost New Zealand billions per year. Many people die as a result of a workplace accident and many more are seriously injured every year. The aim of this legislation is to cut those numbers by at least 25%. Prosecutions are in place for serious breaches or repeat offenders.



Healthy Homes Standards

The Healthy Homes Standards (HHS) set minimum requirements for heating, insulation, ventilation, moisture and drainage, and draught stopping in rental properties.

Heating standard

The main living room must have one or more fixed qualifying heaters, which provide at least the required heating capacity to heat the main living room to at least 18°C and be capable of maintaining this temperature during the coldest days of winter. A heating assessment tool is available at www.tenancy.govt.nz will help calculate the minimum heating capacity required and what heating options will meet the heating standard if installed.

Insulation standard

The minimum level of ceiling and underfloor insulation must either meet the 2008 Building Code or, for existing ceiling insulation, have a minimum thickness of 120mm and be in reasonable condition with no dampness, damage or displacement. Some existing insulation will need to be topped up or replaced.

Ventilation standard

All rooms must have at least one window, door or skylight which opens to the outside and can be fixed in the open position. The windows or doors must comprise at least 5% of the floor area of that space. All kitchens and bathrooms must have an extractor fan vented to the outside.

Moisture ingress and drainage standard

Rental properties must have efficient drainage for the removal of storm water, surface water and ground water. Rental properties with an enclosed sub-floor space must have a ground moisture barrier.

Draught stopping standard

Landlords must make sure the property doesn't have unreasonable gaps or holes in walls, ceilings, windows, skylights, floors and doors which cause noticeable draughts. All unused open fireplaces closed off or their chimneys must be blocked to prevent draughts.

Compliance Timeframes

1 July 2020

- Ceiling and underfloor insulation is compulsory in all rental homes where it is reasonably practicable to install.
- Landlords must sign a statement of intent to comply with the Healthy Homes Standards in any new, varied or renewed tenancy agreement.
- This statement is in addition to the existing requirement to include a signed insulation statement with all tenancy agreements that covers what insulation the property has, where it is and what type.
- Landlords must keep records that demonstrate compliance with any Healthy Homes Standards that apply or will apply during the tenancy.

1 December 2020

- Landlords must include a statement of their current level of compliance with the Healthy Homes standards in most new or renewed tenancy agreements.

1 July 2021

- Private landlords must ensure their rental properties comply with the Healthy Homes Standards within 90 days of any new, or renewed tenancy.
- All boarding houses (except Housing New Zealand and Community Housing Provider boarding house tenancies) must comply with the Healthy Homes Standards.

1 July 2024

- All rental homes must comply with the Healthy Homes standards.

1. Heating

Landlords must provide one or more fixed heaters that can directly heat the main living room to a maintained temperature of at least 18°C.

What are the general requirements for heaters?

Your heaters must:

- be fixed (not portable).
- be at least 1.5 kW in heating capacity
- not be an open fire or an unflued combustion heater, eg portable LPG bottle heaters.
- have a thermostat if you use a heat pump or an electric heater.

In most cases, the right type of heater will be a larger fixed heating device like a heat pump, wood burner, pellet burner or flued gas heater. In some cases, eg small apartments, a smaller fixed electric heater will be enough.

What if I have existing heating?

You don't need to add more heating if you have one or more existing heaters that:

- were installed before 1 July 2019
- each have a heating capacity greater than 2.4kW
- meet the requirements in the standards
- are not electric heaters (heat pumps are acceptable) if the required heating capacity for the main living room is over 2.4 kW
- have a total heating capacity that's at least 90% of what is required.

Can I top up existing heating?

If your existing heating doesn't have the required heating capacity, you can add a smaller fixed electric heater to 'top up' your heating. If you do, you must meet all these conditions:

- you installed your existing heating before 1 July 2019
- the required heating capacity is more than 2.4 kW
- the 'top up' you need is 1.5 kW or less.

for example, if you have a heat pump with a heating capacity of 3.3 kW, but you need a total heating capacity of 4.5 kW, you can add a fixed 1.5 kW electric heater with a thermostat to meet the standard.

What are the exemptions to the heating standard?

There are two exemptions to the heating standard:

- where it is not reasonably practicable to install a qualifying heating device
- where the rental property is a certified passive building.

It can be classed as not reasonably practicable to install heating, providing any professional installer can't access the area without:

- carrying out substantial building work, or
- causing substantial damage to the property, or
- creating greater risks to a person's health and safety than is normally acceptable, or
- it is otherwise not practicable for a professional installer to carry out the work.
- where the property falls under 'Unit Titles' and the BC rules it not practicable.

2. Insulation

Ceiling and underfloor insulation has been compulsory in all rental homes since 1 July 2019.

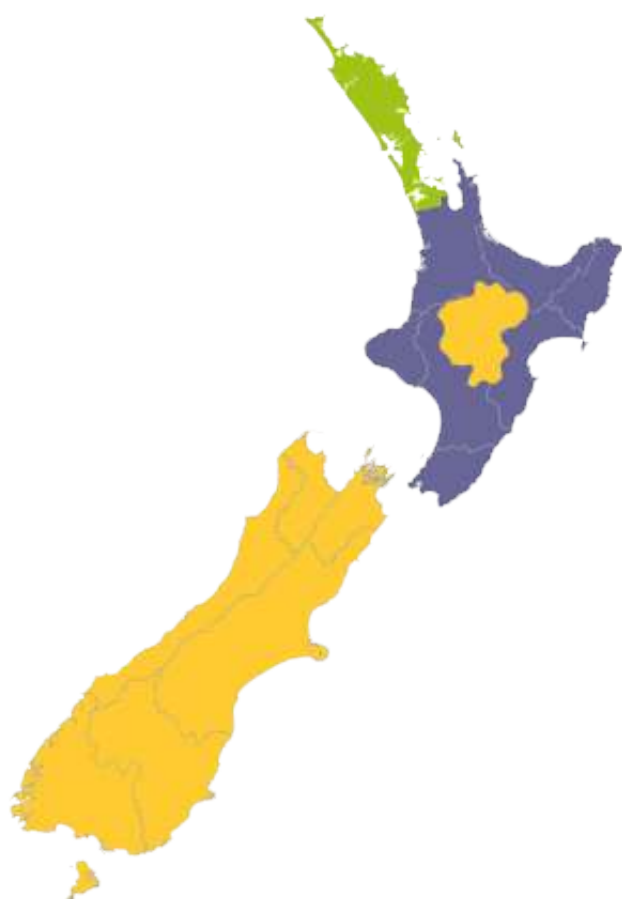
What are the current regulations right now?

There are existing obligations for all rental properties in respect of insulation and failure to comply with these can result in penalties of up to \$4,000.

The 2016 insulation requirements state that ceiling and underfloor insulation must be installed in rental homes from 1 July 2019 and every tenancy agreement must include a compliant insulation statement. Existing rental properties should already comply, however, if you have recently purchased a new rental property we strongly recommend adhering to the Healthy Homes insulation requirements outlined in this guide, as you will be required to do so anyway.

What are the Healthy Homes insulation requirements?

Insulation requirements under the Healthy Homes standards are measured by R-value. Minimum required R-values vary across New Zealand, as shown in the map below.



- Zone 1:** ceiling R 2.9, underfloor R 1.3
- Zone 2:** ceiling R 2.9, underfloor R 1.3
- Zone 3:** ceiling R 3.3, underfloor R 1.3

What are the exemptions to the heating standard?

There are three exemptions to the insulation standard:

1. Access is impracticable or unsafe

Some areas of some homes may be unsafe or not reasonably practicable to access. This may be due to:

- their design
- limited access
- potential for substantial damage
- health and safety reasons.

There is an exemption for parts of homes where a professional installer is unable to access and/or insulate, until this becomes possible (for example when a property is re-roofed).

2. Partial exemption for certain underfloor insulation

If the rental home has existing underfloor insulation that was installed when the home was built or converted. This insulation must still be in reasonable condition. Landlords must have a copy of any compliance documents that shows the home met the requirements of the time. For example:

- code compliance certificate
- certificate of acceptance
- another relevant compliance document.

3. Ceilings and floors with other habitable spaces directly above or below

The third exemption applies to areas of ceilings or floors where there are other habitable spaces directly above or below. This might be another floor of the same property or another apartment. These areas do not require insulation to meet the Healthy Homes insulation standard.

3. Ventilation

All habitable rooms in a rental property must have at least one window, door or skylight which opens to the outside and can be fixed in the open position.

What are the window requirements?

All habitable rooms in a rental property must have at least one window, door or skylight which opens to the outside and can be fixed in the open position.

The size of the openable windows, doors and skylights together must be at least 5% of the floor area of that room.

Each window door, window or skylight must be openable and must be able to remain fixed in an open position.

What are extractor fan requirements?

All kitchens and bathrooms must have an extractor fan vented to the outside.

Kitchens – In any room with a cooktop, new fans or rangehoods installed after 1 July 2019 must have a minimum diameter (including ducting) of 150mm or an exhaust capacity of at least 50 litres per second.

Bathrooms – In any room with a shower or bath, new fans installed after 1 July 2019 must have a minimum diameter (including ducting) of 120mm or an exhaust capacity of at least 25 litres per second.

What if I have an existing fan?

Fans put in before 1 July 2019 must ventilate to the outside of the house and be in good working order, but they don't have to meet the requirements listed above.

When they stop working, they must be replaced with fans which do meet all the requirements.

What are the exemptions to the ventilation standard?

There are two specific exemptions for the ventilation standard:

1. A room doesn't need to meet the requirements for openable windows and external doors if it was lawful when it was built or converted into a habitable space. If having fewer windows or doors was only lawful because the room met alternative ventilation requirements, then the room must still meet those requirements to qualify for this exemption.
2. This exemption applies to kitchens or bathrooms where it is not reasonably practicable to install an extractor fan. This exemption has a number of criteria which must all be met. We recommend landlords get professional advice and keep a copy of that advice to qualify for this exemption.

4. Moisture Ingress and Drainage

Rental properties must have efficient drainage for the removal of storm water, surface water and ground water, including an appropriate outfall. The drainage system must include gutters, downpipes and drains for the removal of water from the roof.

If the rental property has an enclosed subfloor, a ground moisture barrier must be installed if it is reasonably practicable to do so.

What are the drainage and guttering requirements?

Rental properties must:

- have efficient drainage for the removal of storm water, surface water and ground water, including an appropriate outfall.
- include gutters, downpipes and drains for the removal of water from the roof.

What are the exemptions to the moisture ingress and drainage standard?

There is one specific exemption to the moisture ingress and drainage standard. This exemption covers properties where it is not reasonably practicable to install a ground moisture barrier.

It is not reasonably practicable to install something if a professional installer can't access the area without:

- carrying out substantial building work, or
- causing substantial damage to the property, or
- creating greater risks to a person's health and safety than is normally acceptable, or
- it is otherwise not reasonably practicable for a professional installer to carry out the work.

What if I have an existing fan?

A ground moisture barrier is generally a polythene sheet that can be bought from most building retailers. It can be installed by a house owner or a building professional.

Ground moisture barriers must either:

- be a polythene sheet and installed in accordance with section 8 of New Zealand Standard NZS4246:2016 , or
- have a vapour flow resistance of at least 50MNs/g and be installed by a professional installer.

5. Draught Stopping

Landlords must make sure the property doesn't have unreasonable gaps or holes in walls, ceilings, windows, skylights, floors and doors which cause noticeable draughts.

All unused open fireplaces closed off or their chimneys must be blocked to prevent draughts.

When is a gap or hole unreasonable?

When determining if a gap or hole is unreasonable and therefore should be blocked, the following factors should be considered:

- the size and location of the gap or hole
- the extent of the draught that is allowed through the gap or hole
- the extent of the total draught that occurs through the gaps or holes if there is more than one gap or hole
- at the premises
- the impact of a draught through the gap or hole on heat loss from the property.

The age and condition of the premises should not be considered when determining if a gap or hole is unreasonable.

As a rule of thumb, gaps or holes with a width greater than 3mm in or around the walls, ceilings, windows, doors and floors that let

air into or out of the home will usually require blocking to prevent unreasonable draughts.

This means that if the edge of a New Zealand \$2 dollar coin can fit in the gap, then the gap needs to be sealed.

Common causes of gaps larger than 3 mm

Walls, ceilings and floors

- gaps at the junction of the wall and ceiling (often around scotia or cornices)
- gaps at the junction of the wall and floor (often around skirting boards)
- holes in walls or ceilings
- holes or gaps in floorboards
- unnecessary gaps around electrical and plumbing passages
- decommissioned ventilation devices
- gaps around roof space/loft hatches.
- External doors and windows
- poorly fitting windows or doors
- excessive clearance between the bottom of the door and the floor
- broken or loose hinges catches or latches that prevent the door or window closing tightly
- broken or poorly fitted pet doors
- broken or cracked windows or doors

What are the exemptions to the draught stopping standard?

There are no specific exemptions to the draught stopping standard.



General Exemptions

There are three general exemptions that apply to all five of the Healthy Homes standards.

The following information provides an overview only of exemptions. For complete information about exemptions, see the Tenancy Services website.

The general exemptions

1. If the landlord intends to demolish or substantially rebuild the rental property and has applied for the relevant resource or building consent before the Healthy Homes compliance date. This exemption will last for up to 12 months from the Healthy Homes compliance date. It may end earlier in certain circumstances, for example if the consent lapses or is terminated, or the application for consent is refused. If requested, the landlord will need to provide evidence that they have applied for the relevant resource or building consent.
2. If the tenant is the immediate former owner of the rental property and the tenancy started immediately after the landlord acquired the property from the tenant. In this situation, an exemption will apply for 12 months from the date the tenancy commences.
3. If a rental property is part of a building and the landlord does not own the entire building (for example, if a landlord owns an apartment). The landlord will be partially exempt from complying with parts of the standards if their ability to comply with the Healthy Homes standards is not possible because:
 - They need to install or provide something in a part of the building where the landlord is not the sole owner
 - Or – they need access to a part of the building that they are not the sole owner.

Landlords must still take all reasonable steps to ensure the rental property complies with the Healthy Homes standards to the greatest extent reasonably practicable.

Landlord and their Agent's Duties

Person Conducting a Business or Undertaking (PCBU)

You are not expected to become an expert in all trades or manage everything for that worker on your property, however when identifying or managing risks you might need to inform the tradesperson that there is a dog on the premises and arrange to keep it contained while work is carried out. This is to protect the tradesperson's safety and is your responsibility.



Unlawful Residential Pre

Property owners must comply with all legal requirements relating to buildings and health and safety that apply to the rental property. They must also ensure that the rental property can legally be lived in at the start of a tenancy.

Property owners can be held to account if they rent out unsuitable properties, such as garages and sleepouts.

Regardless of whether the rental property can be legally lived in, it will be considered a residential premises under the Residential Tenancies Act if it is lived in or intended to be lived in.

This gives the Tenancy Tribunal full jurisdiction over cases concerning rental properties that are unlawful for residential purposes. It also means that tenants living in unlawful rental property will be protected by the minimum requirements in the Residential Tenancies Act, such as property owner responsibilities for complying with building, health and safety laws, cleanliness, maintenance and repairs, smoke alarms, insulation, bond lodgement, rent increase notices and notice periods for ending a tenancy.

Properties may be unlawful for rental property use if:

- They do not have the required consents under the Building Act 2004 or the Resource Management Act 1991.
- There is unconsented building work.
- They are deemed unsafe and unsanitary by the local authority.

Insurance

Insurance is important for both landlords and tenants.

Landlords should insure their rental property against any damage. Tenants should also have insurance for their belongings, and to protect them from liability. Speak to insurers for more details about their policies.

Landlords need insurance to cover damage

If you're a landlord, make sure your property is insured and that the cover is for a rental property. Landlords are responsible for paying the premiums.

Policies can also cover things like vacancy periods or tenant damage. Check your policy to see what it covers.

Talk to your insurance company about their rules for making claims. Some insurers need the landlord to prove that thorough tenant checks and regular inspections have been completed.

You may also choose to insure any furniture or other items that are in the tenancy agreement. Any damage to them won't be covered by the tenant's contents insurance.

Insurance Statement

Landlords need to provide their property management company with an Insurance Statement. To make this process as seamless as possible, there are three fields you are required to fill out:

- Is the rental property insured?
- Are there insurance excesses?
- What is the dollar value of the excesses?

If you have more than one excess, which is likely if you have both landlord insurance and house insurance, you will need to list

the different types of excesses, e.g., house insurance, landlord's contents, accidental damage by tenant, intentional damage by tenant, contamination damage. Please note, different policies may have different types of excesses so please ask your insurer for this information if you are unsure.

Tenant liability for damage

If tenants, or their guests, damage a rental property as a result of careless behaviour, the tenant will be liable for the cost of the damage up to a maximum of 4 weeks' rent or the property owner's insurance excess, whichever is lower.

A tenant will still be fully liable for the cost of damage where it is intentional or where the tenants' act or omission that caused the damage constitutes an imprisonable offence. The tenant will also be liable if the damage is caused by their guests, or someone they are responsible for, in these circumstances.



The Lease or Tenancy Agreement

A landlord's responsibilities are also subject to the type of agreement between the parties. These agreements vary from commercial leases to residential tenancies.

Maintenance on appliances

If an appliance is provided as part of the terms of a residential tenancy, the landlord has an obligation to ensure it is maintained. For example, if you are thinking of installing a heat pump in your rental property, you will need to ensure that the pump is serviced from time to time. This would be news to a lot of people who think that a heat pump can just be installed and used day after day without any maintenance. In some situations other forms of portable heating might actually suit a property better, depending on its size, output and use.



Contract and Tort

The obligation to repair arises when a landlord has notice of the need for repair and a landlord must take reasonable steps to repair (an ethical approach).

If a landlord fails to carry out repairs in this context and within a reasonable time then the tenant may:

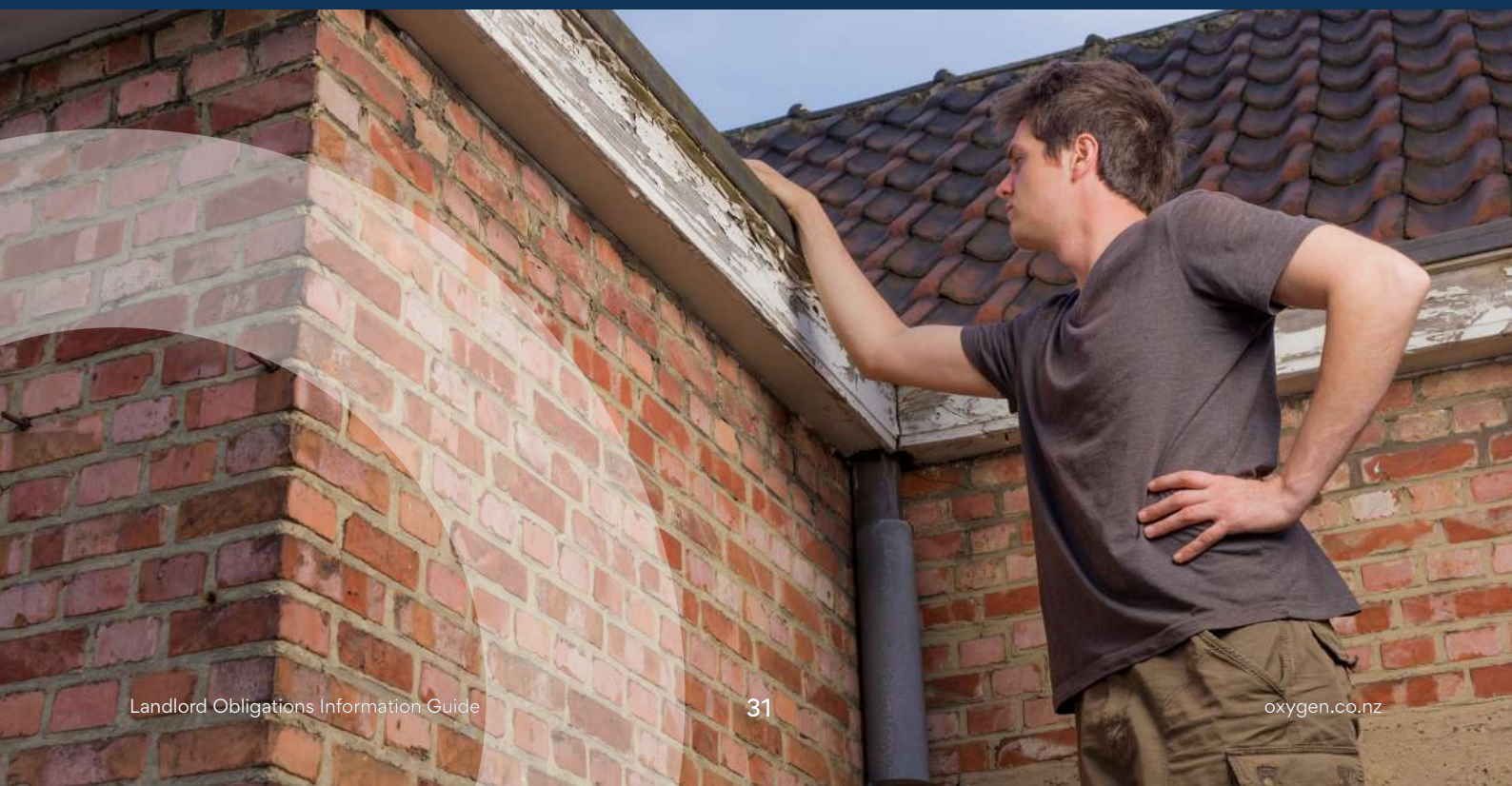
- Carry out repairs and set-off cost against rent.
- Seek an order from the Tenancy Tribunal for specific performance.
- Possibly cancel the lease or claim damages.

The parties are under a duty to act reasonably.

Where a landlord retains control of a fixture, such as the guttering and it is leaking, then he/she will have an obligation to repair it.

Water damage and tenant possessions

If during a period of bad weather, water penetrated the roof causing damage to the tenant's equipment, a landlord is generally responsible for repairing the roof, although a landlord must remedy structural damage, not minor repairs. However unless the tenant had already notified the landlord in writing of the need to repair the roof, and the landlord had not carried out such repairs within a reasonable time, the landlord will not be required to reimburse the tenant for the damage to the tenant's possessions.



Tort

A tort is a wrongful act or an infringement of a right, other than under contract, leading to liability. Tortious remedies are available to tenants independently of what is stated in the lease or tenancy agreement including possible liability for property damage.

Example One

Landlords are liable to the tenants because the landlord did not disclose the presence of chemicals to the tenant.

Example Two

Landlords are liable for nuisances of tenants if they have authorised them or enabled them, for example, the landlord allowed students to tenant a unit in a quiet cul-de-sac and disregarded the neighbouring premises. Loud parties created a nuisance particularly for the elderly couple living in the unit next door. The landlord was held liable for the neighbours' nuisance because the landlord should have selected appropriate tenants for this property and the landlord also had the power to stop the nuisance by warning the students to be quiet.

Summary

This content does not seek to address every instance of landlord responsibilities however it does highlight the fact that landlords should take the time to:

- Study the tenancy laws.
- Keep up-to-date with legislation changes around health and safety.
- Keep in regular communication with their property manager.
- Ensure that they maintain their properties safely and in a reasonable state of repair.
- Comply with various building regulations and ensure they engage appropriately qualified trades and services people.

Landlord obligations do vary in accordance with numerous circumstances which include, but are not limited to, the following;

- The agreement between the parties.
- Whether a tenant has notified the landlord of the need to repair a fault.
- The tenant's cooperation with a landlord attempting to remedy an issue.
- Whether a property manager has been engaged.
- The age, character and locality of the property.



How can we help you?

If you're a property owner or investor looking for experienced property managers in Wellington and Hawke's Bay, Oxygen offer a professional and friendly service. We can find the ideal tenant for your investment property and maximise your return on investment.

Our Oxygen offices are located in Wellington, Lower Hutt, Upper Hutt, and Hastings. We offer free rental appraisals and have an outstanding team of experienced property managers ready to help. We are committed to taking care of your rental property and will provide you a property management service to keep your investment profitable and hassle-free so that you can get on with enjoying life. Our team will:

- Conduct inspections, and report on the condition of your property before, during and post tenancy.
- Arrange for repairs and maintenance to be done to the property.
- Engage with Oxygen's accredited contractors only.
- Use integrated software systems for customer management, tenant services and maintenance.
- Receive rents and receipt the owner's rent into an internally audited account.
- Issue owners with a monthly report electronically detailing income and expenditure.
- Process any insurance claims where authorised to do so in consultation with the owner.
- Review weekly rent returns.
- Re-let the property at the end of each tenancy on the event of a vacancy.
- Do all such lawful things as may be directed by the owner in writing.
- Exercise the owner/tenants' rights to terminate leases and tenancies.
- Keep the owner up-to-date with legislation changes that could potentially impact their property.
- They are deemed unsafe and unsanitary by the local authority.

Rental Appraisal

We will provide a free, no obligation rent appraisal of your home which will tell how much your property could be rented for in today's market. Request a rental appraisal today at www.oxygen.co.nz/appraisal.

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