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Landlord Risk Management in Australia

Owning investment properties can be rewarding, but landlords face increasing legal, financial and operational risks. Regulatory change, stronger tenant protections and ESG expectations mean that proactive risk management is essential.

In this month's article, landlords will learn what the key risks for them are, how to manage those risks and how NSW tenancy law changes impact termination rights.

Key risks for landlords in Australia

Landlord risk generally falls into three categories:

- **Property-related risks**: structural defects, maintenance failures, safety hazards and environmental or planning non-compliance can lead to liability, repair costs and disputes.
- **Tenant-related risks**: these include rent arrears, insolvency, property damage, unauthorised use and disputes arising from tenant conduct or lease interpretation.
- **Legal and regulatory risks**: non-compliance with tenancy laws, building standards and statutory obligations may result in penalties, litigation and reputational harm.

Practical risk management strategies

1. Screen tenants thoroughly

Comprehensive due diligence remains one of the most effective risk-management tools. Before entering into a lease, landlords should –

For individuals:

- review credit history and rental history
- check bankruptcy or insolvency records
- obtain references.

For companies and other entities:

- confirm corporate structure and authority to enter the lease
- assess financial solvency
- identify ultimate beneficial ownership where relevant.

2. Use clear, legally sound and fit-for-purpose leases

Well-drafted leases are critical in today's regulatory environment. Landlords should ensure that leases are:

- clear, comprehensive and tailored to the property and tenant's use
- transparent about rent, outgoings and review mechanisms
- precise in allocating maintenance and repair obligations
- accurate in identifying the leased premises, inclusions and exclusions
- compliant with the unfair contract terms regime, particularly for standard-form leases involving individuals or small businesses.

Poorly drafted or outdated leases remain one of the most common sources of disputes.

3. Proactive property maintenance and emergency planning

A proactive approach to property management can prevent minor issues from escalating into major disputes or claims. Best practice includes:

- scheduling regular inspections and preventative maintenance
- responding promptly to repair requests
- providing tenants with clear procedures for reporting issues
- maintaining detailed maintenance and inspection records
- implementing an emergency response plan for events such as fire, flood or structural failure, including guidance on insurance claims and access arrangements.

4. Insurance and financial protections

Landlords should ensure appropriate financial safeguards are in place, including:

- requiring tenants to hold adequate public liability and, where appropriate, property insurance
- obtaining bank guarantees or security deposits proportionate to the risk profile of the lease
- considering personal guarantees for closely held entities
- maintaining landlord insurance covering rent loss, legal liability and property damage. Insurance arrangements should be reviewed regularly to ensure they remain fit for purpose.

5. Legal compliance and ongoing monitoring

Keeping pace with regulatory change is increasingly important. Recent and emerging developments landlords should be aware of include:

- **NSW Residential Tenancy law updates:**
    - In NSW, the Residential Tenancies Amendment Regulation 2025 introduced further restrictions on no-grounds terminations and extended notice periods. As a result, landlords can no longer end a tenancy for no reason or simply because it suits them. Terminations generally need to fall within prescribed categories, and longer notice periods mean it can take much longer to regain possession.
    - In Queensland, the Property Law Act 2023 replaced long-standing legislation and introduced new compliance requirements affecting leasing practices.
- **Unfair contract terms regime** - applies broadly to standard-form leases. Terms that are one-sided, unclear or excessive may be unenforceable and expose landlords to penalties.
- **Modern slavery and ESG obligations** – leases increasingly include obligations requiring tenant cooperation with modern slavery reporting, sustainability targets and ESG commitments, particularly where landlords or tenants are part of larger corporate or government supply chains.
- **Anti-money laundering and counter-terrorism financing** – leases may need to be updated to comply with upcoming reforms, particularly where landlords or their representatives provide services that fall within the scope of designated services under AML legislation.

Effective risk management is central to successful property ownership. By using clear leases, screening tenants carefully, maintaining properties proactively and staying informed about regulatory change, landlords can protect their assets and reduce disputes.

This month's article was reproduced with the kind permission of **Eric Kwan** *and* **Stella Sun**, *Special Counsels at* ***Bartier Perry Lawyers.*** *Eric can be contacted on (02) 82817807 or ekwan@bartier.com.au and Stella on (02) 82817817 or ssun@bartier.com.au.*

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