



MARYANNE BIRCH
REAL ESTATE

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Property News

May 2016

Important Compliance Advice

Corded Window Coverings, Smoke Alarms & Electrical Safety Switches.

The renting of residential property is bound in law by both specific and general obligations that must be discharged. When dealing with issues of compliance a Landlord must consider all relevant Legislative Acts, Standards and Codes to ensure compliance is obtained and maintained. As a minimum (but not limited to) a Landlord must attend to their obligations surrounding Corded Window Furnishings, Smoke Alarms, Safety Switches, Electrical Safety, and Pool Barriers prior to and/or during any period of tenancy. Weighing up the risks and the complexities surrounding compliance, it is recommended that Landlords should not consider doing this themselves.

Corded Window Coverings

New Laws that affect all Lessors

The Australian Competition & Consumer Commission (ACCC) identified a major hazard with loop cord systems as children face a risk of strangulation. The ACCC places a conservative estimate of the number of children dying of such a cause in Australia since 1990 at 15. As a result, the ACCC issued Mandatory Standards that regulates corded internal window coverings. This is known as Trade Practices (Consumer Product Safety Standard – Corded Internal Window Coverings) Regulations 2010.

The Regulations apply nationally and specify the Mandatory Safety Standards in the design, construction and labelling of corded window furnishings. From 1 July 2011 all suppliers, which includes Landlords, must comply with the Mandatory Safety Standards in relation to any corded window covering such as Vertical Blinds, Venetian Blinds, Holland Blinds, Roman Blinds and curtains and

any fitting containing cords, such as curtain rods and tracks. Landlords are responsible for ensuring that the property and the products provided work effectively and safely and that the products come with instructions and safety information as required by the law. It is likely that any corded window furnishings in your property manufactured before December 2010 do not comply with The Trade Practices Mandatory Safety Standards. In our role as your Managing Agent, it is our duty of care to ensure our Landlords are informed and educated about the Regulations and advised to take steps to remove or reduce the risk of harm to Tenants and their visitors from potential injury caused by loop cord window coverings. Landlords who fail to take action may be in the line of fire of liability risk in the event of a child's death or injury caused by a non compliant corded window covering at a rental property. Insurance Policies vary, but most have an exclusion clause that means that the insurance company does not have to pay out for negligence claims where the Policy Owner knowingly takes no action or breaks the law relating to fixing a defect or making the premises safer.

Smoke alarms

A Landlord's responsibility must comply with Australian Standard 3786-1993 by ensuring rental properties are fitted with the required number of working smoke alarms installed in accordance with the Building Code of Australia. Furthermore, under the current legislation, Landlords or Agents must

test and clean smoke alarms. Batteries that are flat or nearly flat must be replaced immediately. Any smoke alarm nearing the end of the service life or deemed faulty must also be replaced. These duties, under the law, are the responsibility of the agent or landlord and not the tenant. Smoke alarm compliance is governed by both State and Federal legislation. Landlords or agents who do not comply with these are guilty of an offence. Failure to protect the safety of your tenants and investment property with a working and regularly maintained smoke alarm may result in the dismissal of an insurance claim for damage, loss of life or personal injury, or even a \$500 penalty for simply failing to comply.

Summary

In view of the above, we have negotiated a very favourable bulk deal with our Provider Inspectors (Smoke Alarm Solutions) to incorporate the inclusion of Corded Window Coverings in their Annual Package (covers compliance checks for all 3; Corded Blind Compliance, Smoke Alarms, and Electrical Safety Switches). Their fee starts from \$149 (service fee only, equipment extra) includes unlimited callouts ie: if there is more than one tenancy change within the 12 month period, they will attend as many times as required, rectify any breaches and provide the necessary report. We strongly recommend you nominate this package to ensure the highest level of compliance for your investment property.

What's New this Month - The 2016/17 Budget was handed down on 3 May 2016.

There are significant changes in **Superannuation Rules** – which we advise you discuss with your accountant to ensure optimisation of your Super strategy. Detail is included in the link http://budget.gov.au/2016-17/content/glossies/tax_super/downloads/FS-Super/SFS-Combined.pdf.

Interest Rates were reduced by .25% as the reserve bank responds to lower than expected inflation results for the March quarter. This was widely predicted, and there is still speculation that we may see a further cut within the next quarter.

New tax rules for property sales over \$2 million

Australian residents buying or selling real property with a market value of \$2 million or more need to be aware of new rules which come into effect on 1 July 2016. Assistant Commissioner Malcolm Allen said Australian residents who are selling a taxable Australian property with a market value of \$2 million or more need to obtain a clearance certificate from the ATO, to confirm a 10 per cent withholding amount does not need to be withheld from the transaction. "The seller needs to provide a clearance certificate to the buyer by settlement, or the buyer will be required to withhold 10% of the sales price and pay this to the ATO," Mr Allen said. "We encourage all Australian residents who are looking

to sell property with a value of \$2 million or more to apply for a clearance certificate as early as possible. "It is easy to obtain a clearance certificate. The form is available to download through our website, and there is no fee for clearance certificate applications." Clearance certificates are valid for 12 months from issue, and must be valid at the time it is made available to the buyer. Penalties apply where sellers make false or misleading declarations to the ATO, or where the buyer fails to withhold when they should. The ATO has been working with real estate agents, conveyancers and legal practitioners

to ensure the industry is aware of how to help their clients meet their withholding obligations. The new rules have been introduced to ensure foreign residents meet their capital gains tax liabilities. Amounts withheld will be credited against their final income tax liability assessed on foreign residents' income tax returns.

Source – ATO website

Avoidable Tax Return Errors

Ahead of the end of financial year, investors are encouraged to take particular care to ensure accuracy in submissions, and in turn maximise potential benefits. Extract PAUL BENNION, DEPPRO.

With the start of the new financial year fast approaching, property investors throughout Australia are getting ready to lodge their tax returns. Property investors have historically been targeted by the ATO, and if you are a first-time investor, it is important that your tax returns are accurate. Some common mistakes made by property investors, as identified by the ATO, include:

- Claiming rental deductions for properties not genuinely available for rent.
- Incorrectly claiming deductions for properties that are only available for rent for part of the year, such as holiday homes.

- Incorrectly claiming structural improvement costs as repairs when they are capital works deductions, such as re-modelling a bathroom or building a pergola.
- Overstating deduction claims for the interest on loans taken out to purchase, renovate or maintain a rental property

Another area where first-time investors can make errors is tax depreciation. The benefits associated with tax depreciation are very significant, as they can be equivalent to 60 per cent of the total purchase price of the property.

To qualify for these legitimate tax deductions, an investor must have a fully compliant tax depreciation company undertake an on-site inspection of the property and then compile a depreciation report. Estimates of tax depreciation benefits made from an office desk will not be accepted by the ATO.



Farewell Ashley

We farewelled Ashley last week. She is off to have second baby. We wish her and her family all the best. Ellie and Elise are looking forward to speaking with you.

PROPERTY OF THE MONTH!



10 Asquith St, Morningside

Entry Level Morningside Cutie!

Soak up the parkside lifestyle in this wonderful home set amongst the quiet and leafy suburb of Morningside. Featuring three well sized bedrooms, modern entertainers kitchen with extra storage and a low maintenance, practical bathroom, this air conditioned home has everything you need.

Entertaining is a breeze from the rear deck which overlooks the backyard, however the best part is direct access to the local park with a playground for the kids and an off-leash area for the dog! There is also massive storage with multi car storage and you are surrounded by quality homes.

OFFERS OVER \$595,000
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