

BUSINESS TENANCIES

The *Business Tenancies (Fair Dealings) Act* commenced on 1 July 2004. This legislation gives small retailers a more balanced bargaining position when they negotiate their leases with landlords.

The key features of the Act are:

A ban on ratchet clauses

Ratchet clauses mean rents can go up but never down, which sometimes maintains rents at unrealistic levels. Banning ratchet clauses means rents should reflect market value by rising and falling in line with the economy.

Mandatory disclosure statements

Mandatory disclosure statements will keep dealings between tenants and landlords open and fair. The statements will include details such as costs and expenses for tenants, rent calculations and reviews, and outgoings to be paid by the tenant.

Five-year leases

The minimum five-year lease provision brings the Northern Territory into line with other jurisdictions. Five-year leases will improve security of tenure for tenants, and provide certainty to landlords.

Mediation

The Act provides an impartial Commissioner of Business Tenancies to mediate disputes between tenants and landlords.

Compensation claims

If landlords disturb or disrupt trading – for example carrying out renovations without adequate notice – tenants may be able to claim compensation.

The legislation covers most businesses providing retail goods or services. The Act applies only to:

- Leases for less than 1000m²
- Leases lasting between six months and 25 years
- Leases entered into after the Act began on 1 July 2004
- Leases where the tenant is not a listed Corporation.

The *Business Tenancies (Fair Dealings) Act* provides contemporary retail tenancy legislation to give small business operators a fair go.