

COVID-19 TENANCY AMENDMENTS OVERVIEW

On 24 April 2020, the Northern Territory Parliament passed the Tenancies Legislation Amendment Act 2020, which provides the framework for the Territory's response to tenancy issues arising as a result of the COVID-19 emergency.

The Act gives the Minister special powers to change tenancy laws

Like equivalent interstate legislation, the laws passed by the Territory Parliament do not set out the full detail of the new scheme. This detail will be in **modification notices**. A notice must be tabled in parliament on the next Sitting day after it is made. Parliament has three Sitting days to disallow the notice.

The use of modification notices allows the laws to be adapted as circumstances change, including where it is not possible to easily reconvene Parliament.

The laws are generally only changed for the emergency period

The Minister's power to issue modification notices only exists while an emergency declaration is in force for COVID-19. Once the emergency period ends, the notices automatically cease to apply to new tenancy agreements entered into after the date on which the emergency period expires.

The exceptions to this are: a new role for the NTCAT in mediating commercial tenancy disputes concerning re-possession of premises, a raised threshold before the Supreme Court can hear retail tenancy disputes, and some offences that relate to conduct that occurs during the emergency period, but which may still be prosecuted after the emergency period has ended.

What laws can the Minister change, and how much?

The Minister can change the *Business Tenancies (Fair Dealings) Act 2003* and the *Residential Tenancies Act 1999* by means of modification notices. The Minister's powers are essentially limited to the subject matter of these Acts. The Minister could not legally insert new provisions in these Acts that were not about dealing with the kind of tenancies to which these Acts relate.

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The Act provides that the Minister can also clarify how the modification notice provisions interact with the *Law of Property Act 2000*.

The current priority was to ensure that the laws concerning tenancy were adapted to deal with hardship that has arose as a result of COVID-19.

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