

RESIDENTIAL TENANCIES COVID-19 MODIFICATION NOTICE – Modified entry and inspection processes

On 28 April 2020 and 11 May 2020, the Northern Territory Parliament passed COVID-19 Modification Notices and amendments to those Notices that impact the processes involved in the Residential Tenancies Act 1999. These Notices provide the framework for the Territory's response to tenancy issues arising as a result of the COVID-19 emergency.

In order to alleviate some of the stresses landlords and tenants may face, modifications have been made to how inspections may be undertaken, and when a landlord may gain entry to the premises. Please note that these modifications have begun to be revoked as the COVID-19 emergency is reassessed.

Ingoing and outgoing inspection reports:

The current ingoing and outgoing inspection report processes require the report to be completed in the presence of the tenant, unless it is not practical for the tenant to be present. The modification notice makes it clear that a tenant is not required to be present during the preparation of the inspection report if a Government COVID 19 direction would prevent the tenant from being present. Under those circumstances, the inspection report may be completed by the landlord, and the tenant may make changes in the usual manner. It should be noted that the Chief Health Officer has not issued a direction that prevents landlords completing the inspection report in the presence of the tenant.

Acknowledging that some people may feel uncomfortable about completing the report with the other party being present, even where a Government COVID 19 direction does not prevent the tenant from being present, the modifications establish a new process for completing the inspection report where either party to the tenancy agreement can agree in writing that the other party does not have to be present when the report is made. If the parties agree in writing, the process for completing the inspection report is:

- the party who prepares the report must provide it to the other party;
- the other party can modify the report and return it to the party who prepared it;
- when returned to the party who prepared it, the modified report is taken to be accepted by both parties, and is not open to further modification.

Periodic inspections:

While periodic inspections are an important tool for monitoring the tenant's compliance with the tenancy, they do not generally have the same weight as the ingoing and outgoing inspection reports when settling disputes at the end of the tenancy.

The previous modification of Section 70 to the Residential Tenancies Act 1999 has been revoked as of the 5 June, 2020. Therefore, normal periodic inspections now apply. However, if a request for an inspection occurred during the modification period (28 April, 2020 - 5 June, 2020) a periodic inspection cannot occur for 2 months after the last inspection occurred.

Modified timeframes for entry:

To alleviate some of the interruptions to daily activities caused by the COVID-19 emergency, the modification notice modifies the timeframes for entry to the premises by the landlord under certain circumstances, and suspends other entries. The entry may be gained for the following purposes, subject to the amended timeframes:

- repairs and maintenance;
- at a time agreed between the landlord and tenant, with at least 48 hours written or oral notice unless the repairs are emergency repairs, where the timeframes remain unchanged (between 7.00 a.m and 9.00 p.m. and 24 hours' notice);
- preparation of a condition report (other than periodic inspection);
- at a time agreed between the landlord and tenant, with at least 48 hours written or oral notice; or
- inspection by prospective tenant or purchaser:
- for inspection by a prospective tenant: during the 28 days before the termination of the tenancy agreement at a time agreed between the landlord and tenant with at least 48 hours written or oral notice; or
- for inspection by a prospective purchaser: at a time agreed between the landlord and tenant with at least 48 hours written or oral notice before the termination of the agreement; and
- the number of inspections is limited to 2 per week;
- inspection of premises for sale:
- for a person authorised by the landlord to carry out an inspection for the purposes of creating reports relating to the sale of the property;
- at a time agreed between the tenant and the landlord with at least 48 hours written or oral notice; and
- inspections for this purpose are limited to 2 per week.

Entry under all other circumstances is suspended for the duration of the emergency period.