
Major changes to residential tenancy legislation

The Residential Tenancies Amendment Bill 2020 was passed by Parliament on 5 August 2020, and is awaiting Royal Assent. The Bill makes a number of changes to the Residential Tenancies Act 1986, which will affect all residential landlords and tenants.

Media have rightly focused on the reduced frequency of rental increases and changes to the termination of periodic tenancies, with these provisions being substantially amended for the first time in over 30 years.

Most residential property landlords will only be able to terminate a periodic tenancy:

- by giving 63 days notice if the owner of the premises, or a member of the owner's family (which includes extended family and whānau), requires the premises as their principal place of residence within 90 days after the termination date; or
- by giving 90 days notice, but only for certain specified reasons. The list of reasons for terminating a tenancy is narrow, and the "no cause" ground has been removed.

Tenants will need to give at least 28 days' notice to terminate a periodic tenancy - up from 21 days.

A late change was made to allow tenants to withdraw from a fixed-term or periodic tenancy on 2 days' notice in circumstances of family violence. Any remaining tenants are then able to apply to the Tenancy Tribunal to be released from the tenancy on hardship grounds. A landlord who is physically assaulted by a tenant can terminate the tenancy by giving 14 days' notice, but only if a charge is laid against the tenant for that assault.

Rent may not be increased within 12 months after the start date of the tenancy or 12 months after the last increase took effect. This applies even if the tenancy agreement (including for a fixed term tenancy) provides otherwise. As with the current Act, rent cannot exceed the market rent and cannot be charged more than 2 weeks in advance.

In addition:

- landlords must allow tenants to undertake minor changes to the property (such as hanging pictures and redecorating), subject to certain conditions and provided that the changes do not require a building consent;

- landlords must facilitate the installation of fibre connections to a property, although not if the installation will materially compromise the weathertightness, character or structural integrity of a building;
- landlords must include the rent when advertising properties, and cannot hold auctions or solicit bids;
- fixed-term tenancy agreements will automatically become periodic tenancies on expiry, unless both parties agree otherwise or in limited other situations;
- to evict a tenant for anti-social behaviour (being harassment and activities causing non-minor alarm, distress or nuisance), the landlord will need to warn the tenant (in writing) at least 3 times in a 90 day period of that behaviour before seeking a Tenancy Tribunal order;
- all tenancies (except social housing tenancies where the tenancy agreement prohibits assignment) are assignable with the prior written consent of the landlord, and that consent cannot be unreasonably withheld; and
- financial penalties are increased, generally by 50% or more, but with significant additional penalties potentially imposed where a landlord has 6 or more tenancies.

The amendments also strengthen the Residential Tenancies (Healthy Homes Standards) Regulations 2019 (which set “healthy homes standards” for heating, insulation, ventilation, draughtiness, moisture ingress and drainage) by requiring that landlords retain information about compliance with the healthy home standards and provide that information to tenants on request.

The changes largely result from a public consultation process undertaken by the Ministry of Business, Innovation and Employment in 2018, and driven by the Government’s desire to make life better for tenants in light of home ownership being at a 60 year low and the number of rented properties exceeding 600,000. The changes therefore increase the rights of tenants, and reflect that tenants will often occupy rental accommodation for many years.

We advise a range of social housing and residential property investors on the acquisition, management and disposal of properties. If you would like further advice on the changes to the Residential Tenancies Act 1986, please contact our real estate and property [team](#).

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