

NORTHERN TERRITORY OF AUSTRALIA

RESIDENTIAL TENANCIES LEGISLATION AMENDMENT ACT 2020

Act No. 13 of 2020

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 13 of 2020

An Act to amend the *Residential Tenancies Act 1999* and the *Residential Tenancies Regulations 2000*

[Assented to 16 April 2020]
[Introduced 16 October 2019]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Residential Tenancies Legislation Amendment Act 2020*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Residential Tenancies Act 1999

3 Act amended

This Part amends the *Residential Tenancies Act 1999*.

4 Section 4 amended (Definitions)

- (1) Section 4, definition ***notice of termination***

omit

- (2) Section 4

insert

acceptable behaviour agreement, see section 28B of the *Housing Act 1982*.

CEO (Housing), see section 6 of the *Housing Act 1982*.

notice of intention to terminate means a notice given in accordance with section 101.

5 Section 24A amended (Condition reports generally)

- (1) Section 24A(1)

omit, insert

- (1) A condition report is a report about the condition of residential premises that is:

(a) made either entirely in writing or partly in writing and partly by using images; and

(b) made in the manner and containing the information required under this Act.

- (2) Section 24A(2)

omit

partly or entirely by using images

- (3) Section 24A(3)

omit

or entirely

6 Sections 65A and 65B inserted

After section 65

insert

65A Keeping pets

- (1) It is a term of a tenancy agreement that a tenant may only keep a pet on the premises in accordance with this section.

Note for subsection (1)

The Disability Discrimination Act 1992 (Cth) provides for rights in relation to assistance animals.

- (2) Any tenant who wishes to keep a pet on the premises must first give the landlord written notice describing the proposed pet.
- (3) The landlord has 14 days after receiving the notice under subsection (2) to object to the tenant keeping the pet by:
- (a) giving the tenant written notice of the objection and the reason for the objection; and
 - (b) making an application to the Tribunal under section 65B.
- (4) A tenant must not keep a pet on the premises before the expiry of the 14-day period referred to in subsection (3).
- (5) If the landlord does not apply to the Tribunal under section 65B within the 14-day period referred to in subsection (3), the tenant may keep the proposed pet on the premises.
- (6) If the landlord applies to the Tribunal under section 65B within the 14-day period referred to in subsection (3), the tenant must not keep the pet on the premises unless the Tribunal orders that the landlord's objection to the keeping of the pet is unreasonable and that the tenant may keep the pet on the premises.
- (7) A tenant may give a notice under subsection (2) in respect of more than one pet.

Example for subsection (7)

A notice might relate to an aquarium with multiple species of tropical fish.

- (8) The tenant's right to keep a pet on the premises under this section is subject to any prohibition on animals or birds applicable to the premises under:
- (a) Part V, Division 6, of the *Unit Titles Act 1975*; and

(b) Part 3.5, Division 2, of the *Unit Title Schemes Act 2009*.

65B Applications to Tribunal

- (1) A landlord who objects to a tenant keeping a pet on the premises under section 65A must apply to the Tribunal for an order that the landlord's objection is reasonable and that the tenant must not keep the pet on the premises.
- (2) In determining an application under this section, the Tribunal must consider the reasonableness of the tenant keeping the pet on the premises and may have regard to the following matters:
 - (a) the type of pet the tenant proposes to keep on the premises;
 - (b) the character and nature of the premises;
 - (c) the character and nature of the appliances, fixtures and fittings on the premises;
 - (d) whether keeping the pet on premises is permitted, restricted or prohibited under any other law or by-law;
 - (e) any prescribed matters;
 - (f) any other matter the Tribunal considers relevant.

Example for subsection (2)(d)

The local council might have a by-law governing the keeping of pets in the area where the tenant lives.

- (3) After considering the matters specified in subsection (2), the Tribunal may make:
 - (a) an order that the landlord's objection is reasonable and that the tenant must not keep the pet on the premises; or
 - (b) an order that the landlord's objection is not reasonable and that the tenant may keep the pet on the premises.
- (4) On making an order under subsection (3), the Tribunal may provide for conditions and any other ancillary matter relating to the keeping of a pet on the premises it considers appropriate.

7 Section 77 repealed

Section 77

repeal, insert

77 Tenant not to impede entry

If a landlord or a person authorised by an agent of the landlord enters premises or ancillary property in accordance with this Act, the tenant must not unreasonably impede the landlord or person in carrying out the purpose for which entry lawfully occurred.

77A Tribunal may order tenant to let landlord enter premises

- (1) If a tenant unreasonably impedes, or fails to permit, the lawful entry of the landlord or a person authorised by an agent of the landlord to the premises or ancillary property, the Tribunal may, on the application of the landlord, make an order permitting the landlord to enter the premises or ancillary property.
- (2) An order under subsection (1) may:
 - (a) authorise reasonable means to enter the premises or ancillary property; and
 - (b) impose conditions or limits on the means that may be used.
- (3) A landlord entering the premises or ancillary property under the order must not use any means that makes physical contact with the tenant or with any other person on the premises or ancillary property.
- (4) The landlord must replace, or pay compensation for, any property damaged by the entry of the landlord under the order, except for property used to prevent the landlord from entering the premises or ancillary property.
- (5) Subject to subsections (3) and (4) and section 49(1) and (3), the landlord is not liable criminally or civilly for an act or omission done in good faith in entering the premises, or ancillary property, in accordance with the order.

8 Section 83 amended (Fixed term tenancy becomes periodic if not terminated)

Section 83(b)

omit

notice of termination

insert

notice of intention to terminate

9 Section 90 replaced

Section 90

repeal, insert

90 Fixed term tenancy

A landlord may terminate a fixed term tenancy that is due under the tenancy agreement to terminate on a particular day by giving the tenant a notice of intention to terminate at least 14 days before that particular day.

10 Section 91 amended (Employment-related tenancy)

Section 91(1)

omit

notice to the tenant in accordance with section 101

insert

giving the tenant a notice of intention to terminate

11 Section 95 replaced

Section 95

repeal, insert

95 Fixed term tenancy

A tenant may terminate a fixed term tenancy that, under the tenancy agreement, is due to terminate on a particular day by giving the landlord a notice of intention to terminate at least 14 days before that particular day.

12 Part 11, Division 3A heading amended (Notice of intention to terminate for failure to remedy breach)

Part 11, Division 3A, heading

omit

of intention to terminate for failure

13 Part 11, Division 5 heading amended (Notice of termination)

Part 11, Division 5, heading

omit

termination

insert

intention to terminate

14 Section 101 amended (Form of notice of termination)

(1) Section 101, heading

omit

termination

insert

intention to terminate

(2) Section 101(1), (2) and (3)

omit

notice of termination

insert

notice of intention to terminate

15 Section 102 amended (Notice may be withdrawn)

Section 102

omit

notice of termination

insert

notice of intention to terminate

16 Section 103 amended (Tenant to give vacant possession)

Section 103

omit

notice of termination

insert

notice of intention to terminate

17 Section 104 amended (Tribunal may make order for possession)

Section 104(1)

omit, insert

- (1) If the tenant does not give up vacant possession of the premises to the landlord in accordance with a notice of intention to terminate under section 101, the landlord may apply to the Tribunal for an order for possession of the premises.

18 Section 105 amended (Tribunal may suspend order for possession)

Section 105(4)

omit, insert

- (4) If a tenancy is extended under this section and the tenant fails to pay rent within 7 days after the rent is due, the landlord may give the tenant a notice of intention to terminate at least 7 days before the date specified in the notice for termination.

19 Section 116A inserted

After section 116 in Part 2, Division 2

insert

116A Tenancy Trust Account offence

A person commits an offence if the person contravenes section 116(1).

Maximum penalty: 20 penalty units.

20 Part 15 inserted

After section 136

insert

Part 15 Termination for purposes under the Housing Act 1982**Division 1 Application to public housing****137 Application**

This Part applies in relation to a tenancy agreement for residential accommodation entered into under the *Housing Act 1982* between the CEO (Housing) and a tenant.

Division 2 Renovation, replacement or demolition of public housing**138 Termination for renovation, replacement or demolition**

The CEO (Housing) may terminate a tenancy agreement in accordance with this Division if the CEO (Housing) requires vacant possession of the premises for the purpose of renovation, replacement or demolition of the premises.

Note for section 138

Section 14(1) of the Housing Act 1982 allows the CEO (Housing) to delegate its powers and functions under this Act.

139 Process for termination

- (1) The CEO (Housing) must not terminate a tenancy agreement under this Division unless:
 - (a) the CEO (Housing) has taken reasonable steps to consult with the tenant or the occupier of the premises in accordance with subsection (2); and
 - (b) the CEO (Housing) has given the tenant or the occupier of the premises a notice of intention to terminate with the additional information specified in subsection (3); and
 - (c) the CEO (Housing) has undertaken to enter into a new tenancy agreement with the tenant or the occupier of the premises, in accordance with subsection (4), for either return to the renovated premises or occupation of new premises; and
 - (d) transitional accommodation acceptable to the tenant or the occupier of the premises is available for occupation in accordance with section 140; and
 - (e) the CEO (Housing) and the tenant or the occupier of the premises have agreed to a date for vacant possession of the premises.
- (2) Before giving the notice of intention to terminate, the CEO (Housing) must take reasonable steps to consult with the tenant or the occupier of the premises about the following:
 - (a) the renovation, replacement or demolition of the premises;
 - (b) the process for termination under this Division;
 - (c) the undertaking of the CEO (Housing) to enter into a new tenancy agreement with the tenant or occupier of the premises;
 - (d) the transitional accommodation being offered to the tenant or occupier of the premises;
 - (e) the rights of the tenant or occupier of the premises during this process;
 - (f) any questions the tenant or occupier of the premises may have about the matters in paragraphs (a) to (e).

- (3) The notice of intention to terminate must also include the following information:
 - (a) a summary of the renovation, replacement or demolition work to be done to the premises;
 - (b) a summary of the process to terminate the tenancy;
 - (c) the undertaking of the CEO (Housing) to enter into a new tenancy agreement with the tenant or occupier of the premises and the terms of the new tenancy agreement;
 - (d) a clear explanation of the rights of the tenant or occupier of the premises to transitional accommodation;
 - (e) a clear explanation of the right of the tenant or occupier of the premises to remain in possession of the premises under section 141;
 - (f) the expected date when the tenant or occupier of the premises can move into the transitional accommodation;
 - (g) a clear explanation that the CEO (Housing) will pay for the reasonable moving costs;
 - (h) a clear explanation of the effect of section 142 regarding the security deposit.
- (4) The CEO (Housing) must give the tenant or occupier of the premises a written undertaking to enter into a new tenancy agreement that explains the terms of the new tenancy agreement.
- (5) The CEO (Housing) must pay the reasonable expenses of the tenant or occupier of the premises to move to the transitional accommodation and to the renovated premises or new premises.

140 Transitional accommodation

- (1) The CEO (Housing) must offer the tenant or occupier of the premises, without charge, transitional accommodation from the time of vacant possession of the premises until the renovated premises or new premises is available.
- (2) If the tenant or occupier of the premises accepts the transitional accommodation, the CEO (Housing) must offer to enter into an agreement regarding the terms of that accommodation.
- (3) Despite any provision to the contrary, an agreement referred to in subsection (2) is not a tenancy agreement and is not subject to this Act.

141 Right to possession

The tenant or occupier of the premises is entitled to remain in possession of the premises until the later of the following:

- (a) the date for vacant possession of the premises agreed by the CEO (Housing) and the tenant or occupier;
- (b) the date the transitional accommodation is available.

142 Security deposit

Despite section 112, within 7 days of terminating a tenancy agreement under this Division, the CEO (Housing) must repay any money paid as a security deposit for the premises unless the tenant consents to the money being retained in trust as a deposit under the new tenancy agreement.

143 Disapplication of section 84

Section 84 does not apply to termination of a tenancy agreement under this Division.

Division 3 Relocating tenant in public housing**144 Grounds for relocation**

- (1) The CEO (Housing) may terminate a tenancy agreement in accordance with this Division if the CEO (Housing) offers to relocate the tenant or occupier of the premises to other accommodation because:
 - (a) the premises have more bedrooms than the tenant or occupier needs and the other accommodation would have a suitable number of bedrooms; or
 - (b) the premises do not meet the social, physical, psychological or medical needs of the tenant or occupier and the other accommodation would be better suited to those needs; or
 - (c) the premises or neighbours pose a risk to the health or safety of the tenant or occupier and the other accommodation would be safer.

- (2) The CEO (Housing) may terminate a tenancy agreement in accordance with this Division if the CEO (Housing) offers to relocate the tenant or occupier of the premises to other accommodation because the tenant or occupier engaged in the following conduct:
- (a) any unacceptable conduct as specified in section 100(1)(a), (b) or (c);
 - (b) any anti-social behaviour specified in section 28A of the *Housing Act 1982*.

Note for section 144

Section 14(1) of the Housing Act 1982 allows the CEO (Housing) to delegate its powers and functions under this Act.

145 Process for termination

- (1) The CEO (Housing) must not terminate a tenancy agreement under this Division unless:
- (a) the CEO (Housing) has given the tenant or occupier of the premises a notice of intention to terminate with the additional information specified in subsection (2); and
 - (b) the CEO (Housing) has undertaken to enter into a new tenancy agreement with the tenant or occupier of the premises, in accordance with subsection (3), for the other accommodation; and
 - (c) the CEO (Housing) has considered and determined any submissions under section 147.
- (2) The notice of intention to terminate must also include the following information:
- (a) the reasons for the tenant's relocation;
 - (b) the process for termination under this Division;
 - (c) the undertaking of the CEO (Housing) to enter into a new tenancy agreement with the tenant or occupier of the premises and the terms of the new tenancy agreement;
 - (d) a clear explanation that the CEO (Housing) will pay for the reasonable moving costs;
 - (e) a clear explanation of the right of the tenant or occupier of the premises to remain in possession of the premises under section 146;

- (f) the expected date when the tenant or occupier of the premises can move into the other accommodation;
 - (g) a clear explanation of the right to make submissions under section 147;
 - (h) a clear explanation of the effect of section 148 regarding the security deposit.
- (3) The CEO (Housing) must give the tenant or occupier of the premises a written undertaking to enter into a new tenancy agreement that explains the terms of the new tenancy agreement.
- (4) The CEO (Housing) must pay the reasonable expenses of the tenant or occupier of the premises to move to the other accommodation.

146 Right to possession

The tenant or occupier of the premises is entitled to remain in possession of the premises until:

- (a) the date for vacant possession of the premises agreed by the CEO (Housing) and the tenant or occupier; or
- (b) if there is no agreement and no submission is made under section 147 – 14 days after the date the tenant or occupier is given the notice of intention to terminate; or
- (c) if there is no agreement and a submission is made under section 147 – 14 days after the date the tenant or occupier is given notice of the decision of the CEO (Housing) under that section.

147 Submissions on relocation

- (1) Within 14 days of being given a notice of intention to terminate under this Division, the tenant or occupier of the premises may submit reasons to the CEO (Housing) why:
- (a) the tenant or occupier should not be relocated; or
 - (b) the tenancy agreement should not be terminated.
- (2) The submissions may be made orally or in writing.

- (3) After considering the request and any representations made, the CEO (Housing) may:
- (a) proceed with the notice of intention to terminate the tenancy agreement; or
 - (b) withdraw the notice of intention to terminate the tenancy agreement; or
 - (c) amend the notice of intention to terminate the tenancy agreement with a new undertaking that offers different accommodation from that previously offered.
- (4) The CEO (Housing) must give the tenant or occupier of the premises written notice of the results of a determination under subsection (3).

148 Security deposit

Despite section 112(1) and (2), the CEO (Housing) is entitled to retain in trust any security deposit previously paid by the tenant, as a security deposit under the tenancy agreement for the other accommodation.

149 Tribunal's additional power under section 84

The Tribunal may, on the application of the tenant under section 84, declare that the termination has no effect unless the CEO (Housing) amends its notice of intention to terminate with a new offer of other accommodation that the Tribunal considers more appropriate.

21 Part 18, Division 6 inserted

After section 174

insert

Division 6 Residential Tenancies Legislation Amendment Act 2020

175 Keeping pets

- (1) Sections 65A and 65B do not apply to a tenancy agreement entered into before the commencement.
- (2) In this section:

commencement means the commencement of section 6 of the *Residential Tenancies Legislation Amendment Act 2020*.

Part 3 Amendment of Residential Tenancies Regulations 2000

22 Regulations amended

This Part amends the *Residential Tenancies Regulations 2000*.

23 Regulation 10A amended

Regulation 10A, heading

omit, insert

10A Prescribed information in notice to remedy breach

24 Schedule 1 amended (Offences and penalties)

Schedule 1, after entry for section 112(2)

insert

116A

4

Part 4 Repeal of Act

25 Repeal of Act

This Act is repealed on the day after it commences.