

Residential Tenancies Amendment Act 2020 Quick Guide

The Residential Tenancies Amendments Act 2020 is set to have a significant impact on a landlord's responsibilities and on the way they must operate their tenancies. The changes will implement almost 100 new amendments to the existing Residential Tenancies Act - and it's crucial that landlords are across them all.

These new rules will future proof our changing rental market as we continue to see increasing demand for rental properties and longer-term tenancies.

The good news is that the changes are entirely manageable, and will ultimately create the framework for a more secure renting environment for landlords and tenants alike.

This guide is designed to highlight all the key changes that will come into effect, and explain what these will really mean for residential landlords.

We encourage all landlords to seek out further information to help them understand what is coming, and your Ray White property manager is here to help answer any questions.

Stage 1: Commencement date 12 August 2020

Rent increases - Rent increases can only occur once every 12 months, and any rent increase cannot occur within 12 months of the tenancy start date, or within 12 months of the last increase.

Stage 2: Commencement date 11 February 2021

Security of rental tenure - The provision allowing landlords to terminate a tenancy without cause, by providing 90 days' notice, will no longer apply. New termination grounds will be available to landlords under a periodic tenancy and the required notice time frames have also changed. Key examples of this are, but are not limited to:

- **14 days' notice**
The tenant physically assaults the landlord or family member.
- **63 days' notice**
The landlord or their family member requires the property to live in.
- **90 days' notice**
The landlord intends to put the property on the market for sale as vacant.
The property has been sold with a requirement of vacant possession.
The landlord intends to carry out extensive renovations at the property.
The property is to be demolished.

Security of rental tenure (continued)

- **Notice period determined by the Tenancy Tribunal**

The landlord issues three separate notices for antisocial acts in a 90-day period.

The landlord issues three separate notices for late rent (5 working days +) in a 90-day period.

The landlord will suffer greater hardship than the tenant, if the tenancy continues.

Fixed-term tenancies - All fixed-term tenancies will convert to periodic tenancies at the end of their term unless both parties agree otherwise, or the tenant gives 28-days' notice (for any reason).

Landlords may still give notice for a fixed-term tenancy to expire, but only if this is in accordance with the termination grounds listed in the Residential Tenancies Act (RTA), or by order of the Tenancy Tribunal.

Making minor changes - Tenants can request to make a change to a rental property and this request cannot be declined by the landlord if the change is minor. Landlords must respond to such requests for minor changes within 21-days.

Tenants are responsible for any costs associated with both the installation and reversal of any minor changes they request, and landlords can place reasonable conditions as to how changes are carried out.

Rental bidding - Landlords cannot advertise a property for rent without the rental price being clearly listed, and they cannot encourage or solicit higher rental bids or hold a rental 'auction'. However, prospective tenants can still offer to pay more for a property if they choose to do so.

Assignment of a tenancy - Tenants can request to assign their tenancy to another party, and landlords must not unreasonably decline this request. Landlords must respond to any request for assignment within a reasonable timeframe.

Landlords retain their right to conduct necessary vetting and checks on proposed tenants and can decline this request if evidence can be shown that the tenant is not suitable.

Fibre broadband - Tenants can request to install fibre broadband at a rental property and landlords must agree, if it can be installed at no cost to the landlord. Tenants are responsible for any ongoing costs related to the fibre service.

Landlords can decline a fibre broadband request, however, only if specific exemptions apply e.g. the installation may breach Body Corporate rules, or risks compromising the weathertightness or character of the property.

Privacy and access to justice - Tenants or landlords can apply for a suppression order to remove names or any identifying details from being published in a Tenancy Tribunal decision, if their case is wholly or substantially successful. The Tribunal can also decide to suppress details if it is in the interests of the parties or the public interest to do so.

Landlord records - Landlords must provide a tenancy agreement in writing, and failure to do so can be classed as an unlawful act leading to the possibility of exemplary damages being awarded to the tenant.

Landlords have an obligation to provide records relating to healthy homes standards, upon request, and must now retain various records, and information relating to the property and the tenancy, for up to 12-months after the tenancy expires.

Enforcement of the Residential Tenancies Act - The Regulator (the Ministry of Business, Innovation, and Employment) will have new measures available to them for taking their own direct action against landlords who are not meeting their obligations.

This action can include seeking voluntary agreements with landlords to comply with the RTA, or improvement notices to correct a breach of the Act. Failure to comply with either can result in financial penalties for landlords.

Changes for Tenancy Tribunal jurisdiction - The jurisdiction and administrative powers of the Tenancy Tribunal jurisdiction are broadened under the new changes.

It can now hear cases and make awards of up to \$100,000, and new layers of penalties and fines are in place for landlords, or their associated parties, if they own six or more tenancies.

Transitional and emergency housing - Accommodation provided for these purposes, which is funded by the government or part of a special needs grants programme, is exempt from the Residential Tenancies Act.

Stage 3: Commencement date 11 August 2021

(Stage 3 may take effect earlier if Government agrees)

Family violence - Tenants experiencing family violence will be able to withdraw from a tenancy without financial penalty. They must give two days' notice, along with appropriate evidence of the family violence e.g. a protection order or a police safety order.

If they are the sole tenant the tenancy will end, however, if co-tenants remain in the property, they will pay a proportionally reduced rent rate for a period of two weeks, before rent returns to its normal rate.

Physical assault - A landlord will be able to issue a 14-day notice to terminate the tenancy if the tenant has assaulted the landlord, the owner, a member of their family, or the landlord's agent, and the police have laid a charge against the tenant in respect of the assault.

Key considerations for landlords

So, what do the changes really mean for landlords in respect of the day-to-day management of their tenancies? There are a number of key areas landlords must now consider in respect of how this might impact their current processes and procedures.

Communication - Landlords need to be careful that tenant communications and requests are acknowledged and responded to in a timely manner. The changes implement new fines in certain situations if tenants' requests are not responded to promptly, so it's crucial that landlords don't delay.

Fixed-term vs periodic - Landlords should carefully consider their long-term plans for a property prior to signing a tenancy. This may depend on their desire for more flexibility of tenure (periodic tenancy) versus long-term income security (fixed-term tenancy). This is particularly important if there is a possibility that the landlord may wish to sell the property in the future or that it may be needed for the landlord or a family member to live in.

Minor alterations - For minor alterations to occur without issue for both landlords and tenants, an agreement between the two parties clearly outlining the terms will be crucial.

The agreement should clarify exactly what the minor change will be, where in the property it is to occur, and any expectation that the tenant remediates the alteration back to its original condition at the end of the tenancy (if that is requested by the landlord).

Record keeping - Providing a written tenancy agreement should be standard practice, however, landlords must now increase the level of documentation they hold for every tenancy. A good rule of thumb is to store anything relating to the tenancy from start to finish, and for 12 months afterwards. This will include advertising and tenant vetting documents, maintenance and invoices for work done, healthy homes compliance details, and all end-of-tenancy paperwork.

Fines - We strongly encourage all landlords to ensure they understand the changes regarding fines and penalties that are possible for failing to meet their RTA requirements. Overall, potential fines have increased, and can increase further still in situations where a landlord owns six or more tenancies. This number also includes properties held by a partner or 'associated person', so the best way to remove the risk is to properly learn and adhere to your requirements.

General RTA knowledge - Managing a tenancy and the obligations around being a landlord are becoming increasingly complex and legislated. In order to truly create a risk-free and harmonious tenancy, landlords must take the time to understand their obligations and the risks associated with non-compliance. We strongly encourage all landlords to seek help and assistance now in order to get ahead of the changes that are coming.

Where can landlords get help?

At Ray White, our well-versed property managers can help answer any immediate questions you may have by providing more specific, tailored advice, or copies of our free educational guides and resources. This assistance is available to all landlords, regardless of whether you are an existing Ray White client and can include:

- Comprehensive RTA Amendment Act Q&A document
- Landlord Compliance Checklist & Best Practice Guide
- Comprehensive Landlord, Tenant and Investment Information Guides
- Healthy Homes Standards Compliance Guide & Checklist
- Casual letting or inspection-only services
- Tenancy documentation packs and assistance

There are a number of other helpful sources of tenancy information available for landlords, and we encourage all landlords to investigate and research some of the following websites:

- <https://www.tenancy.govt.nz>
- <https://www.hud.govt.nz>
- <https://www.landlords.co.nz>

Disclaimer: The information contained in this document is of a general nature. It does not constitute legal advice, nor does it take into account the specificity of each tenancy situation. Before acting on any of the information you should consider its appropriateness, having regard to your own circumstances. All information presented is correct at the time of printing (November 2020).