

The Residential Tenancies Act (RTA) reforms became law on 11 August 2020 with passage of the Residential Tenancies Amendment Bill 2020. The reforms modernise New Zealand's rental laws and align them with present day realities of renting in New Zealand. **IMPORTANT NOTE:** The Ministry of Housing and Urban Development are currently developing regulations for two provisions relating to family violence and physical assault. Landlords and tenants can't use these provisions until the regulations take effect.

The commencement dates for these law changes are:

- › 12 August 2020 – The new provision that certain transitional and emergency housing is not covered by the RTA takes effect.
- The limitation on rent increases to once every 12 months takes effect.
- › 11 February 2021 – Most of the remaining reforms take effect.
- › Dependent on regulations – Reforms relating to family violence and physical assault of a landlord. These provisions can't be used until the regulations have taken effect.



SECURITY OF RENTAL TENURE

Most of these provisions will take effect from 11 February 2021.

The new provision for situations when a tenant physically assaults a landlord relies on regulations currently being developed. This provision can't be used until the regulations take effect.

- › **New termination grounds will be available to landlords under a periodic tenancy and timeframes have changed.**
- › **Some new grounds are additional to existing grounds in the RTA and some details of existing grounds have changed.**
- › **The provision allowing landlords to terminate a tenancy without cause by providing 90 days' notice will no longer apply.**

It is essential to refer to the new provisions of the Residential Tenancies Amendment Act 2020 to fully understand all of the grounds that may enable tenancies to be terminated by the landlord with notice. Specific requirements apply, and all aspects of the requirements must be fulfilled for the notice of termination to be lawful. The below is a brief overview only.

- › Landlords will be able to end a periodic tenancy without application to the Tenancy Tribunal when specific grounds apply. Different notice periods are applicable in different situations.
- › For both periodic and fixed-term tenancies, landlords can issue a **14-day notice** to terminate the tenancy if:
 - › Police have laid a charge against the tenant in respect of an assault against the landlord, the owner, a member of their family, or the landlord's agent. This provision can't be used until the regulations have taken effect.
 - › Tenants can challenge this notice in the Tenancy Tribunal and in that situation, the landlord will be required to prove the physical assault occurred and that their notice met the requirements.
- › For periodic tenancies, notice periods for termination notices issued by a landlord without Tenancy Tribunal involvement will increase to either 63 or 90 days (depending on the grounds for the notice). Some of these grounds include:
 - › **63 days**
 - › the owner or a member of the owner's family¹ requires the property as their principal place of residence
 - › the property is required for occupation by employees or contractors of the landlord.
 - › **90 days**
 - › the property is to be sold
 - › extensive alterations or redevelopment are to be carried out
 - › the premises are to be converted into commercial premises, or demolished.
- › Notice periods for tenants to terminate a periodic tenancy will increase from 21 to 28 days.

For some situations, termination of the tenancy can only be ordered by the Tenancy Tribunal.

- › New grounds for tenancy terminations will apply, including some repeated instances of rent arrears and anti-social behaviour.
- › The landlord may apply to the Tenancy Tribunal to end a periodic tenancy if:
 - › the landlord has issued a tenant three notices for separate anti-social acts within any 90-day period; or
 - › the landlord has given notice that a tenant has been at least five working days late with their rent payment on three separate occasions within a 90-day period.
- › The following list is not comprehensive, but provides some examples of existing provisions in the RTA that will continue to apply:
 - › The tenant has been given a 14-day or longer notice to remedy a breach capable of being remedied and has failed to remedy the breach.
 - › The tenant is at least 21 days in rent arrears.
 - › The tenant has caused or threatened to cause significant damage.
 - › The tenant has assaulted or threatened to assault specified persons.
 - › The tenant has used the premises for unlawful activity.
 - › The tenant has abandoned the property and the rent is in arrears.

Please note that the information provided in this document is a summary only of changes to the Residential Tenancies Act. It is important to be aware of all aspects of each of these changes to the law before taking any related action. Further information is provided at www.hud.govt.nz/RTA-reforms. Future updates will be provided on the Tenancy Services website at www.tenancy.govt.nz.



CHANGES FOR FIXED-TERM TENANCIES

These provisions will take effect from 11 February 2021.

Some important changes will apply to fixed-term tenancies.

- › Fixed-term tenancies signed on or after 11 February will convert to periodic tenancies unless:
 - › a landlord gives notice using the reasons listed in the RTA for periodic tenancies
 - › a tenant gives notice for any reason at least 28 days before the end of the tenancy
 - › the parties agree to extend, renew or end the fixed-term tenancy.
- › For some fixed-term tenancies, 63 days' notice will be required from the landlord, and for other situations, 90 days' notice will be required.



TENANTS EXPERIENCING FAMILY VIOLENCE

These provisions rely on regulations currently being developed and can't be used until the regulations take effect.

Once regulations take effect, tenants experiencing family violence will be able to withdraw from a tenancy without financial penalty.

- › In this situation, the tenant must give two days' notice accompanied by appropriate evidence of the family violence. The tenant who experienced violence must notify the co-tenants of their withdrawal no later than one day after the termination date. The co-tenants will receive a proportionally reduced rent for two weeks and if the withdrawing tenant is the only tenant the tenancy terminates.
- › Regulations will be created to specify what constitutes appropriate evidence.



MAKING A MINOR CHANGE

These provisions will take effect from 11 February 2021.

Tenants can request permission to make a change to the property and landlords must not decline if the change is minor.

- › Tenants are responsible for any costs associated with the installation and reversal of a minor change that they request.
- › Landlords can place reasonable conditions around how the minor change is carried out. Tenants must remove the minor changes and restore the property to substantially the previous condition when the tenancy ends if the landlord does not agree to the changes staying.
- › Landlords must respond to requests in writing within 21 days.
- › Landlords can decline a request for a minor change for a range of reasons, which include:
 - › the change is not low risk for installation and removal
 - › substantial restoration of the property to its previous condition is not reasonably possible
 - › the change will pose a health and safety risk, disturb hazardous materials or compromise the structural integrity, waterproofing or fundamental safety or character of the building
 - › the change will require a regulatory consent or breach an obligation such as a body corporate rule
- › Examples of minor changes are:
 - › visual fire alarms and doorbells, where they have low impacts
 - › securing furniture to baby-proof or protect against earthquake risk
 - › installing a baby gate
 - › curtains.

¹A member of the landlord's family must be related by blood; through marriage, a civil union or de facto relationship; through adoption; be a member of the landlord's whānau or other culturally recognised family group; or be a child who is cared for on a continual basis by the landlord or landlord's spouse.



FIBRE BROADBAND

These provisions will take effect from 11 February 2021.

Tenants can request to install fibre broadband and landlords must agree if it can be installed at no cost to them.

- › The Ultra-Fast Fibre Broadband Scheme offers fibre installation for free.
- › Landlords can decline a request for fibre installation where:
 - › it will materially compromise the weathertightness or character of the building
 - › it will compromise the structural integrity of the building
 - › it will breach an obligation relevant to the premises e.g. a body corporate rule
 - › the landlord intends to begin or take material steps towards extensive renovations within 90 days of the fibre request and installation would impede that work.
- › Tenants remain liable for ongoing costs of the fibre service.



RENTAL BIDDING AND INCREASES

The provisions on rent increases will take effect from 12 August 2020, while the provisions on rental bids will take effect from 11 February 2021.

Landlords and agents cannot seek rental bids and rent can only be increased every 12 months.

- › Landlords and agents may not advertise rental properties with no rental price listed. They also may not organise a rental auction or otherwise invite or encourage bids for rent. Prospective tenants are still allowed to offer to pay more for a property if they want.
- › From 12 August 2020, rent increases are limited to once every 12 months. The temporary freeze on rent increases under the COVID-19 Legislation (Urgent Management Measures) Act 2020 still applies until 26 September 2020. Any rent increase notices given to tenants from 12 August 2020 must comply with the new 12-month rule.



PRIVACY AND ACCESS TO JUSTICE

These provisions will take effect from 11 February 2021.

A suppression order can remove names and identifying details from Tenancy Tribunal decisions.

- › A party can apply for, or the Tribunal can separately decide to put in place, a suppression order including removing names and identifying details from decisions.
- › A new default position exists to remove identifying details if a party applies for this and they have been wholly or substantially successful in Tribunal proceedings.



ASSIGNMENT OF A TENANCY

These provisions will take effect from 11 February 2021.

Requests to assign a tenancy must be considered and landlords must not decline unreasonably.

- › Requests to assign a fixed-term tenancy agreement must also be considered.
- › A provision in a tenancy agreement that prohibits assignment is of no effect, unless it relates to a social housing tenancy.
- › This does not apply to a tenancy granted before 11 February 2021 if the tenancy agreement prohibits assignment.



LANDLORD RECORDS

These provisions will take effect from 11 February 2021.

Landlords must provide new types of information to tenants.

- › A landlord who does not provide a tenancy agreement in writing will be committing an unlawful act or an infringement offence and may be liable for exemplary damages or an infringement fee.
- › Landlords must provide tenants with a breakdown of any fees charged on agreement to assignment, subletting or ending a tenancy (break lease fees). This will give tenants an opportunity to consider if the fees are reasonable.
- › On request, landlords will also have an obligation to provide the records relating to healthy homes standards.
- › Landlords will have to retain documents and provide them to the Regulator (MBIE) if required, such as records of building work that requires a building consent, prescribed electrical work, gas fitting, and sanitary plumbing, or any advertisement for the tenancy. These documents (or copies) must be retained during the tenancy and 12 months after the termination of the tenancy.
- › The full list of documents is listed in the RTA at Section 123A(1).



ENFORCEMENT OF THE RTA

These provisions will take effect from 11 February 2021.

Enforcement measures are strengthened.

- › Penalty levels for exemplary damages and fines will increase by between 50 and 80 per cent.
- › The Regulator (MBIE) continues to be able to enter into voluntary agreements for parties to comply with RTA obligations. Enforceable Undertakings will carry a penalty if not complied with.
- › The Regulator (MBIE) can issue Improvement Notices to correct a breach of the RTA – these carry a penalty if not complied with.
- › Breaches that can result in an infringement offence are now classified as unlawful acts.



CHANGES FOR THE TRIBUNAL

These provisions will take effect from 11 February 2021.

The Tenancy Tribunal's jurisdiction and administrative powers are broadened.

- › The Tenancy Tribunal can hear cases and make awards up to \$100,000 (previously \$50,000).
- › The Regulator (MBIE) can take a single application to the Tribunal to cover multiple breaches across multiple properties.
- › Civil pecuniary penalties and higher infringement fees are available for landlords with six or more tenancies², including boarding house landlords.



TRANSITIONAL AND EMERGENCY HOUSING

These provisions will take effect from 12 August 2020.

The RTA does not apply to transitional and emergency housing.

- › The RTA does not apply to transitional and emergency housing that is provided under the Special Needs Grant Programme or that is funded wholly or partly by a government department.

² In determining whether a landlord is classed as having six or more tenancies, consideration must be given to any tenancies held by an associated person. An "associated person" is defined in section 2 of the RTA.