

Tenancy: Tenancy and COVID-19

Getting Help

It is always a good idea to speak with a lawyer about tenancy issues, particularly during times of unprecedented change. Legal Aid ACT provides free legal advice that anyone can access regardless of income.

Contact the **Tenancy Advice Service** at:

1300 402 512 or TAS@legalaidact.org.au

We also have an online chat service that will connect you to our staff:

<https://tawk.to/tasact>

What's New in the ACT Tenancy Landscape?

The ACT Government has passed legislation and made the *Residential Tenancies (COVID-19 Emergency Response) Declaration 2020* to support you and your landlord during the COVID-19 pandemic. The following provides legal information on some of the changes, but does not constitute legal advice. Some of the key changes relate to 'Impacted Households'.

What is an 'Impacted Household'?

An Impacted Household is a household that:

- Has at least one rent-paying member who has had a reduction or stoppage in income related to the COVID-19 pandemic, and as a result the household's gross weekly income has reduced by at least 25%; and/or
- Has at least one member who became eligible for a JobSeeker or JobKeeper payment from the Commonwealth on or after 20 March 2020.

Temporary Prohibition on Evictions

If you are a tenant in an Impacted Household, you cannot be evicted for the duration of the moratorium period for your failure to pay rent.

The moratorium period started on 22 April 2020 and runs for 3 months, but the ACT Government can extend it for up to 3 months beyond that date.

For Impacted Households, this eviction moratorium applies even if your failure to pay rent occurred prior to the new ACT laws commencing on 22 April 2020.

Please note that under the new laws landlords still have a right to evict you for other reasons, such as damaging the property or severely disturbing the quiet enjoyment of neighbours. Note also that this prohibition does not apply to occupancy agreements.

If you receive a Notice to Vacate, contact our **Tenancy Advice Service** for urgent assistance!

Difficulties Paying Rent

Whether or not you are an Impacted Household, and whether you are a tenant or an occupant, if your ability to pay rent has been impacted by COVID-19, you can ask your landlord or property manager for a temporary rent reduction. To do so, it would be reasonable and helpful to provide your landlord or property manager with some type of evidence that COVID-19 has directly impacted your ability to pay rent and ask to negotiate a temporary rent reduction clause. An example of reasonable evidence would be written correspondence from an employer that you have been stood down, made redundant or had your hours reduced. Another example would be a signed statutory declaration by yourself detailing your change in circumstances and why you are now unable to pay full rent.

Tenancy: Tenancy and COVID-19

You should be sure to let your landlord or property manager know that if they agree to reduce your rent by a minimum of 25% for up to six months, and they provide evidence of the reduction to the ACT Government (e.g. a written variation to your tenancy agreement), they are entitled to rebates from the ACT Government on their rates and land tax.

Note that if your landlord claims the land tax rebate, they are not entitled to claim the difference from you at a later point in time.

If your landlord or property manager refuses to agree to a rent reduction, you can alternatively ask them for a rent freeze until you have increased access to income. Rent which is unpaid during the period of the freeze will become an interest-free debt owed to the landlord once the freeze finishes.

If you have concerns about negotiating a rent reduction or freeze, please contact the **Tenancy Advice Service** for assistance.

Restriction on Rent Increases

If you are in an Impacted Household, the ACT Government has prohibited landlords and property managers from imposing rent increases to residential tenancy agreements during the moratorium period.

Repairs

The laws around urgent repairs remain the same during the moratorium period. Your landlord still has an obligation to make urgent repairs as soon as necessary once notified, and your landlord or property manager may still enter the premises to undertake urgent repairs.

However, the time in which a landlord or property manager must attend to non-urgent repairs has changed from 4 weeks to “within a reasonable period” as agreed with you. Factors in determining a reasonable time period include the nature of the repair, the extent of access required to the premises to do the repair and the hardship you would suffer if repairs are not completed.

Should repairs be necessary, landlords or property managers should comply with ACT Government recommendations to practice proper physical distancing and observe good hygiene.

Blacklisting

If you are a member of an Impacted Household, the ACT Government has prohibited landlords and real estate agents from listing your personal information in a tenancy database if the information is about you failing to pay full rent during the moratorium period.

House Inspections

If you are in a residential tenancy agreement, the new laws provide that during the moratorium period a landlord or property manager may only physically access your premises: (a) to complete urgent repairs; (b) with your written consent; or (c) in accordance with an ACAT order.

All other inspections of the premises must only be done by electronic means, and you are required to provide reasonable assistance to the landlord or agent to allow electronic inspections to take place.

Some inspections allowed for under the Standard Tenancy Terms in the *Residential Tenancies Act 1997* include: one routine inspection in the first month of the tenancy, one inspection in the last month of the tenancy, and no more than two routine inspections per year of tenancy.

Tenancy: Tenancy and COVID-19

If you consent to a physical inspection, landlords and property managers should comply with ACT Government recommendations to practice proper physical distancing and good hygiene during the inspection. They still must give one week's written notice prior to inspection, and you are entitled to negotiate the proposed inspection time.

Can I Move House During the COVID-19 Outbreak?

While you can move house during the COVID-19 outbreak, open house inspections are no longer permitted in the ACT.

Under new ACT laws a lessor is also not permitted to enter your property during your tenancy to conduct private in-person inspections for prospective buyers and prospective tenants without your consent or an ACAT order. However, you are required to provide reasonable assistance to lessors to allow audio-visual or other types of electronic inspections to take place.

The Public Health Emergency Directions forbid non-essential gatherings of more than two people at any one place and time. For residential premises, this two people limit does not include people who ordinarily live on the premises. Therefore, if you are currently moving house, please be aware all parties involved should comply with ACT Government directions.

Could the COVID-19 Outbreak Change my Rights and Obligations Again?

Yes. Throughout the COVID-19 outbreak the ACT Government may make changes to the laws and regulations governing the Territory, including your rights and obligations as a tenant.

If you have any questions arising out of the information provided in this fact sheet, contact the **Tenancy Advice Service** at:

1300 402 512 or TAS@legalaidact.org.au