

COVID-19 Response (Urgent Management Measures) Legislation Bill

The Residential Tenancies Act 1986 (RTA) is amended as a result of Covid-19. The purpose of the amendments is to provide a response to the outbreak of Covid -19 and recovery from it that avoids, remedies and mitigates the actual adverse effects of the outbreak and facilitates coordinated processes and planning.

The RTA changes are intended to last for a period of three months but could be extended for a further three months. There are some provisions that apply for 6 months.

Please read the changes to the RTA carefully.

<http://www.legislation.govt.nz/bill/government/2020/0239/latest/whole.html#LMS327064>

<http://www.legislation.govt.nz/act/public/2020/0009/latest/LMS327064.html>

The following is a general summary of the changes.

Rental Freeze:

- No rent increases for six months.
- If a notice to increase the rent was given before the commencement date and the rent increase has not occurred, then the notice has no effect.
- Increasing rent is an unlawful act with a fine of \$6,500.

Restrictions on Terminations of Tenancy:

- No termination of tenancies for three months. This may be extended by government as it manages its response to Covid-19. If a fixed term tenancy was in place for 90 days, the changes apply as if it were a fixed term tenancy of more than 90 days.
- No tenancy terminates and any fixed term tenancy that otherwise expires continues on as a periodic tenancy unless:

- the tenancy is terminated, or the tenancy is not continued as a periodic tenancy on the initiative of the tenant by giving notice in accordance with the Act either before, on or after the commencement date; or
- The tenancy agreement is terminated with the written agreement of the landlord and the tenant or the parties enter into a new tenancy agreement or agree to extend the existing tenancy agreement; or
- The tenant is at least 60 days behind in rent (previously was 21 days in arrears); or
- The tenant has caused, or has permitted any other person to cause, or has threatened to cause, substantial damage to the premises; or
- The tenant has assaulted, or has threatened to assault, or has caused or permitted any person to assault, or to threaten to assault, any of the following persons - the landlord or any member of the landlord's family, the owner of the premises or any member of the owner's family, any agent of the landlord, any occupier of any building of which the premises constitute a part, any neighbour of the premises; or
- The landlord terminates following death of sole tenant (also applicable to boarding house tenancies); or
- The premises are uninhabitable; or
- The premises are abandoned; or
- The termination is as a result of a Tribunal determination of antisocial behavior (*see definition and process below*).

Tenant may choose to remain in premises:

- The Tenant may choose to remain in premises despite having given notice or obtained an order for termination or agreed to termination.
- This applies if a tenant gave notice to terminate a tenancy and the tenancy has not yet terminated under that notice.
- The tenant may give the landlord written notice of their intention to remain in the premises and if they do, then the tenancy continues (as though the notice was not given).

Consequences of tenant remaining in premises:

If, as a consequence of a notice, vacant possession of premises cannot be delivered to an incoming or prospective tenant, then -

- The incoming or prospective tenant has no right to occupy the premises; and
- The landlord and the incoming or prospective tenant are released from any obligations owed to each other in relation to the tenancy (except as provided that the landlord must, as soon as practicable, advise any incoming or prospective tenant that the premises are no longer available).

Anti- social behavior:

Anti-social behaviour means harassment; or any intentional act that reasonably causes significant alarm, distress, or nuisance.

A landlord may apply to the Tribunal for an order terminating a tenancy on the ground of anti-social behaviour.

The Tribunal may make the order if satisfied that the tenant, or a person in the premises with the tenant's permission (other than the landlord or a person acting on the landlord's behalf or with the landlord's authority), has engaged in anti-social behaviour in connection with the tenancy.

- The Tribunal must not make the order if satisfied that in doing so would be unfair because of the circumstances in which the behaviour occurred or the impact that terminating the tenancy would have on the tenant; or
- in making the application, the landlord was motivated wholly or partly by the tenant exercising any right/power/authority (e.g. retaliatory by landlord).

If a tenant is in the premises at the time that the other person engages in the anti-social behaviour, the tenant is presumed to have permitted the person to be in the premises unless the tenant proves that they took all reasonable steps to prevent the person from entering the premises or to eject the person from the premises.

Attempting to Terminate Tenancies:

Taking steps to terminate tenancy without grounds is an **unlawful act**.

A landlord commits an unlawful act if they give or purport to give a notice to terminate to the tenant or apply or purport to apply to the Tribunal for an order terminating the tenancy knowing that they are not entitled, under the Act

- to give the notice; or
- to make the application.

The maximum amount that a person may be ordered to pay for the unlawful act is \$6,500.