



Northern
Territory
Government

Consumer Affairs
Northern Territory



A Guide to Renting in the Northern Territory

Your Rights and Responsibilities as a

Landlord

or

Tenant

under the Northern Territory's

"Residential Tenancies Act"

Department of Justice



Northern
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The Manager, Client Services
Consumer Affairs
GPO Box 1722
Darwin NT 0801.

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Disclaimer: This guide summarises the law relating to residential tenancies, however, it is not the Residential Tenancies Act, 1999. The Act and any tenancy agreement are the legal documents relating to any tenancy. The information in this guide is provided for information and clarification purposes and is not intended as legal advice. If there are inconsistencies between the information set out in this guide and the Act, the Act prevails.

PREAMBLE

This booklet is to give landlords and tenants an overview of their rights and responsibilities under the Northern Territory Residential Tenancies Act 1999. It is important to note that it is not the Act itself – see disclaimer inside the front cover of this booklet. Reference to sections of the Act contained in the blue banner headings are a guide for those who wish to look up the relevant provisions of the Act.

Copies of the Residential Tenancies Act can be purchased from the Government Printing Office, Railway Terrace, Parap NT. Phone 8999 4031.

Alternatively, the Residential Tenancies Act can be viewed and downloaded from the NT Government's website: <http://www.nt.gov.au/lant/hansard>

Additional information on selected topics is contained in Fact Sheets available from Consumer Affairs.

A range of pro-forma notices are available to assist landlords and tenants, these include:

- Application to the Commissioner to resolve a dispute,
- Application to the Commissioner to declare rent excessive,
- Notices of termination,
- Notice of landlord's intention to retain security deposit,
- Notice of entry,
- Notice of tenant of rent and/or security deposit increase,
- Notices to remedy breaches

These are available from Consumer Affairs or from the Consumer Affairs Website.

For further information contact Consumer Affairs

DARWIN

GPO Box 1722
Darwin NT 0801

Ph: 08 8999 1999
Fax: 08 8935 7727

ALICE SPRINGS

PO Box 1745
Alice Springs NT 0871

Ph: 08 8999 1999
Fax: 08 8951 5442

1800 019 319 SMS 040 111 6801

EMAIL: consumer@nt.gov.au

CONSUMER AFFAIRS WEBSITE: www.consumeraffairs.nt.gov.au

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INTRODUCTION

The Residential Tenancies Act (the Act) is the legislation that covers most residential tenancy agreements (tenancy agreements) in the Northern Territory.

This Act commenced on 1 March 2000 and applies to most tenancy agreements entered into after that date.

The Act provides a framework that allows the parties to a tenancy agreement to interact within clear and consistent guidelines, and aims to reduce disputes between the parties.

The Act also contains appropriate penalties for breaches of the key provisions (which may be enforced either by the Commissioner of Tenancies (the Commissioner) instigating court action or issuing an infringement notice).

The Act applies to most types of tenancies including:

- private tenants who rent directly from a landlord;
- private tenants who rent through a real estate agent;
- boarders and lodgers where there are three or more in the premises;
- tenants in accommodation provided by their employer;
- caravans or mobile homes rented on private property; and
- public housing tenants who rent from Territory Housing (although some sections of the Act do not apply to such tenancy agreements - see section 7 of the Act).

The Act does not apply to tenancies such as:

- holiday accommodation;
- boarders or lodgers where there are less than three residing in the premises;
- caravans or mobile homes that are in caravan parks; and
- emergency or charitable accommodation.

Other tenancy agreements to which the Act does not apply are set out in section 6 of the Act.

This guide attempts to address the main issues affecting the majority of tenants and landlords. The guide is cross referenced to the corresponding sections of the Act. In some cases additional sections of the Act will also be applicable.

If you have a tenancy problem or question that isn't explained in this guide, contact your legal advisor; your real estate agent (if you have one), the Darwin Community Legal Service Tenant's Advice Service or Consumer Affairs, for more information.

EXPLANATION OF TERMS USED

Agent

An agent is anyone who looks after property on behalf of a landlord. An agent may be a friend, family member or real estate agent.

For the purposes of this guide the term landlord includes agent.

Landlords are generally responsible for the actions of their appointed agent and must choose their agent carefully.

Ancillary property

Includes such things as fixtures, furniture, household effects, the garden and garden watering systems.

Commissioner

The Commissioner of Tenancies.

Condition report

A written record of the premises' condition at the beginning or end of a tenancy.

Landlord

A landlord is the person who grants the right to occupy premises.

Premises

Residential premises or part of residential premises to which a tenancy agreement relates.

Public tenant

A person who rents premises from Territory Housing.

Security deposit

A payment made by the tenant to the landlord at the start of a tenancy that is held in trust for the tenant for the duration of the tenancy, this is often referred to as a bond.

EXPLANATION OF TERMS USED

Tenancy agreement

A written agreement between landlord and tenant in regard to residential premises which establishes the terms of the tenancy, (commonly known as a lease).

- **Fixed Term agreement** - A tenancy agreement where the tenant agrees to rent premises for a fixed amount of time (such as 6 or 12 months).
- **Periodic agreement** - A tenancy agreement where the tenant lives in the premises for an indefinite period.
- **Prescribed agreement** - The agreement prescribed in the Residential Tenancies Regulations, that will apply if there is no signed, written agreement between landlord and tenant.

Tenant

A person who pays rent to a landlord in exchange for a right to occupy premises.

STARTING A TENANCY

The landlord/tenant relationship begins when a landlord agrees to rent premises to a tenant.

THE TENANCY AGREEMENT

Section 19-21

Generally a tenancy agreement is in writing, however if there is no written agreement the prescribed agreement applies.

THE PRESCRIBED AGREEMENT

The prescribed agreement specifies the terms and conditions of the tenancy which will apply whenever there is no written tenancy agreement or where the written agreement is not signed by both parties.

The prescribed agreement can be found in the Residential Tenancies Regulations, Schedule 2, Regulation 10 (obtainable from the Northern Territory Government Printing Office, phone 8999 4931 or download from the legislation area in the Northern Territory Government Website, <http://www.nt.gov.au/dcm/legislation/current.html>)

Where a landlord has entered into a verbal agreement with a tenant and no written tenancy agreement exists, both parties will be bound by the prescribed agreement. This may not suit either the landlord or the tenant's particular requirements but it is legally binding.

For example, in a situation where a security deposit has been paid, the landlord must comply with the provisions with the Act and hold the security deposit in trust for the tenant, despite verbal agreements to the contrary.

WRITTEN TENANCY AGREEMENTS

The landlord and tenant should ensure that there is a written tenancy agreement that contains all of the conditions required under the Act as well as terms that have been agreed upon.

There is no single required format for a written tenancy agreement. To assist landlords, the Real Estate Institute of the Northern Territory have produced a standard tenancy agreement that is available for purchase.

Landlords and real estate agents may use any form of written tenancy agreement as long as the agreement used complies fully with the Act.

STARTING A TENANCY

The written tenancy agreement must include:

- the standard terms and conditions set out in the Act;
- the name and address of the landlord and tenant (and the agent if there is one);
- details of the premises;
- start and end dates of the tenancy (or just the start date for a periodic tenancy);
- details about the amount of rent payable and how rent should be paid; and
- any other terms agreed to by the landlord and tenant (these terms must not conflict with the Act).

If the landlord agrees to replace or repair something before the tenant moves in, this should be noted in the tenancy agreement.

Any tenancy agreement prepared by a landlord must comply with the provisions of the Act.

A landlord faces a penalty for attempting to exclude, modify or restrict the operation of the Act. Also, a tenancy agreement which is inconsistent with the Act is not valid in regard to those inconsistencies.

PRESCRIBED PENALTIES APPLY

The landlord needs to:

- organise the tenancy agreement;
- provide a copy of the agreement to the tenant;
- complete a condition report in the presence of the tenant;
- provide a copy of the condition report to the tenant;
- sign the tenancy agreement once it has been signed by the tenant and returned; and
- provide the tenant with a copy signed by both parties within 7 days.

The tenant needs to:

- read the proposed agreement carefully, and understand it fully;
- ensure that any information provided to the landlord is accurate and truthful;
- negotiate any special terms required;
- ensure any additional terms agreed upon by the parties are included;
- sign the agreement if all the terms are agreed upon;
- return the agreement to the landlord; and
- ensure they receive a copy of the signed tenancy agreement within 7 days of them signing and returning it to the landlord.

STARTING A TENANCY

THE INGOING CONDITION REPORT

Sections 25-28

Important: if the landlord does not complete a condition report at the commencement of the tenancy and comply with Part 5 of the Act, there can be no claim against the tenant, either from the security deposit or by way of a claim for compensation, at the end of the tenancy for cleaning, damage or lost ancillary property.

Within three days of the tenant taking possession of the premises, the landlord should provide the tenant with a copy of a completed and signed condition report.

The condition report must be completed in the presence of the tenant (unless it is not practical to do so, or the tenant does not appear at the agreed time).

It is also a good idea to take photographs or a video of the condition of the premises. This will assist in interpretation of the condition report if there is a dispute at the end of the tenancy.

Within 5 business days of receiving the copy of the condition report the tenant must either:

- accept the report by signing and returning it to the landlord; or
- mark any changes thought to be appropriate and return it to the landlord.

Note: If the tenant takes no action then they are deemed to have accepted the report.

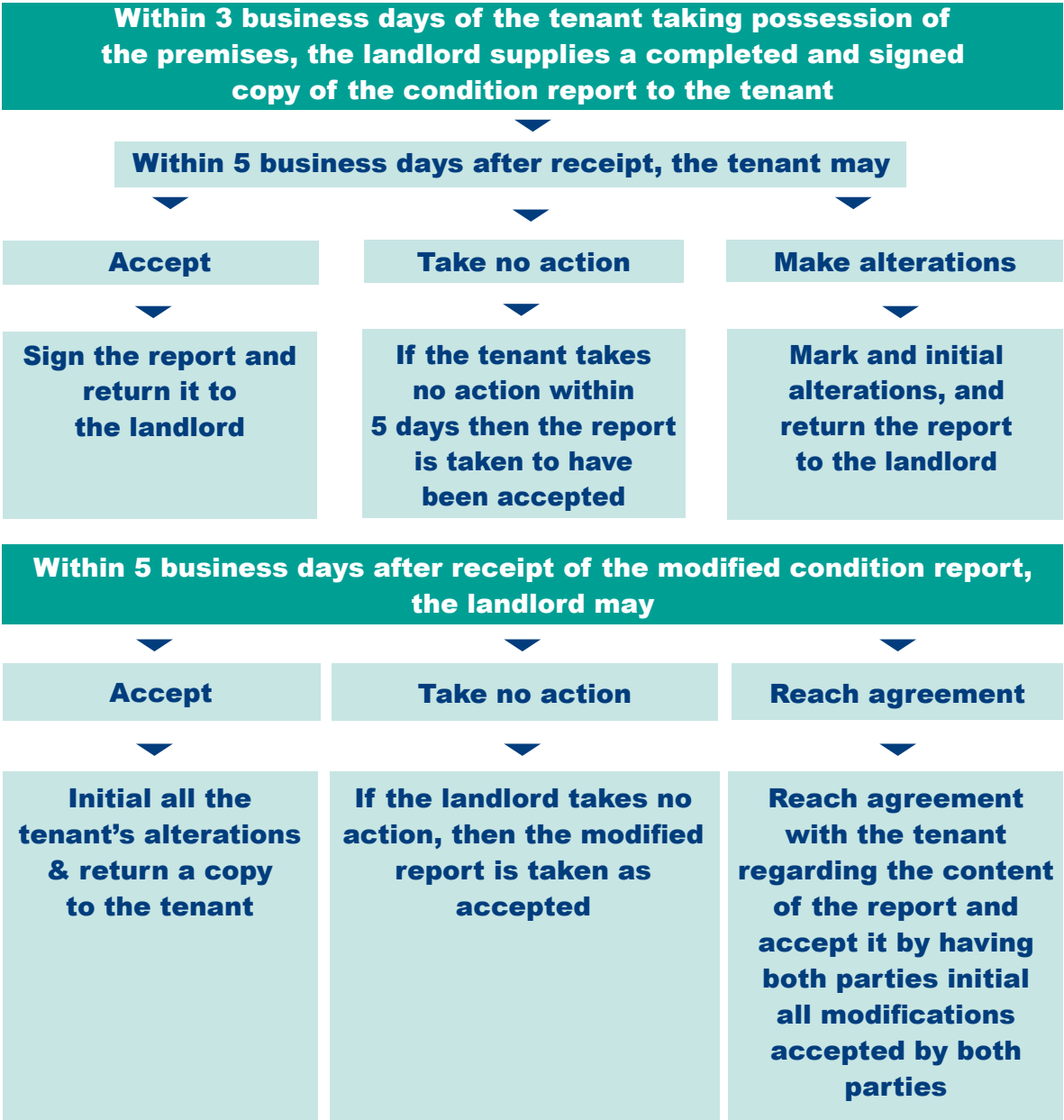
If a tenant modifies a condition report and gives it back to the landlord, the landlord may within 5 business days:

- accept the report by initialling the modifications and returning a copy to the tenant
- reach agreement with the tenant as to the contents of the report and accept the report by having both parties initial all modifications that are accepted by them; or
- apply to the Commissioner to resolve the problem.

If the landlord takes no action within the 5 business days and the tenant doesn't apply to the Commissioner to resolve the problem, the landlord is taken to have accepted the condition report as modified by the tenant.

Both the tenant and the landlord should keep a copy of the condition report in a safe place, as it will be used as conclusive evidence of the condition of the premises at the commencement of the tenancy.

STARTING A TENANCY



If a dispute arises between the landlord and tenant over the acceptance of the condition report, either party can apply to the Commissioner of Tenancies to prepare a report.

STARTING A TENANCY

THE SECURITY DEPOSIT

Sections 29, 31-32

The tenant may have to pay a security deposit at the commencement of a tenancy.

The maximum security deposit that a landlord can ask for is the equivalent of four weeks rent. When a security deposit is paid by cash, cheque or credit card, the landlord must immediately give the tenant a receipt.

The landlord holds the security deposit in trust for the tenant and must pay it back to the tenant at the end of the tenancy (provided there are no claims against the security deposit).

A tenant can request details of the account where the security deposit is held, such requests must be made in writing to the landlord.

At the end of the tenancy agreement the landlord may claim the following from the security deposit:

- unpaid rent;
- damage to the premises or ancillary property;
- cleaning of premises left unreasonably dirty;
- replacing lost ancillary property; or
- other amounts owed to the landlord under the agreement such as electricity, gas and water.

These are the main items that can be claimed. Please refer to pg. 28 of this booklet for a complete list.

SECURITY DEPOSITS BETWEEN CO-TENANTS Section 33

Where there are two or more tenants, the tenancy agreement must specify the amount of security deposit paid by each, otherwise it is taken that each tenant paid equal amounts.

INTEREST ON THE SECURITY DEPOSIT Section 114

If the tenancy agreement does not specify who is to receive interest on the security deposit, then interest must be paid to the party who is entitled to receive the greater part of the security deposit at the end of the tenancy.

The exception is where the security deposit is held by a real estate agent - under these circumstances the real estate agent retains the interest.

PAYING RENT

KEEPING RECORDS

Sections 35 - 37 & 39

A tenant should keep all records/receipts for rent in a safe place as they are proof that rent was paid.

The details of how, where and how often the rent will be paid must be in the tenancy agreement. If rent is paid in cash, the landlord must immediately provide a receipt.

If rent is paid by cheque, the landlord must give the tenant a receipt within three days of the tenant requesting one. If rent is paid by direct credit into the landlord's account, the landlord is not required to provide a receipt.

PRESCRIBED PENALTIES APPLY

The landlord must keep a written record (which may be in an electronic form) of each instalment of rent received. The landlord must at the request of a tenant, permit the tenant to examine the record of rent received.

PRESCRIBED PENALTIES APPLY

The landlord, or any other person, must not make a false entry of a record of rent received or falsify the record in any other way.

PRESCRIBED PENALTIES APPLY

A landlord cannot require a tenant to pay rent in advance of more than one rental period.

PRESCRIBED PENALTIES APPLY

PAYING RENT

RENT INCREASES

Sections 30, 41-42

Rent can only be increased during a tenancy if the right to do so is specified in the tenancy agreement. The tenancy agreement must also state the amount of the increase or the method of calculation of the increase.

The landlord must give at least 30 days notice in writing before increasing the rent. The date from which the increase is to take effect must be at least six months after the date the tenancy commenced or six months from the last increase.

If the rent is increased, the landlord may ask the tenant to increase the security deposit. The tenant must receive notice in writing from the landlord, and the total security deposit held by the landlord must not be greater than four weeks rent. Notice to increase the security deposit can only be issued two years after a security deposit was paid or last increased.

In circumstances where the original agreement does not provide for an increase in rent and does not specify the amount of the increase in rent or method of calculation, rent can be increased during the term of a tenancy agreement or during any extension of the original term by mutual agreement between tenant and landlord.

RENT REDUCTIONS

Section 46

Rent may decrease, either by a specific inclusion of a term in the tenancy agreement or by agreement between the landlord and tenant. An agreement to reduce the rent should be put in writing and signed by both parties.

EXCESSIVE RENT

Section 42

The tenant may apply to the Commissioner for a declaration that rent payable is excessive. Such a declaration can be made only under limited circumstances. For further information on this matter contact Consumer Affairs.

(This provision does not apply to public housing tenancy agreements.)

PAYING RENT

OTHER EXPENSES

Sections 23 - 24, 117, 118, 121

The landlord must not require or receive from a tenant a payment for the preparation, renewal or extension of a tenancy agreement.

PRESCRIBED PENALTIES APPLY

The tenant generally has to pay for any costs associated with connecting services to the property for which the tenant will be billed, such as, gas, electricity, and telephone.

Tenants moving into new properties should check if a telephone line has been installed. If it hasn't, then the tenant should request the landlord pay to have one installed, otherwise the tenant may find him/herself paying the high cost of doing so.

RENT NOT PAID ON TIME

Section 96A

If rent or any part of the rent has been in arrears for not less than 14 days the landlord may give the tenant a notice to remedy breach. This notice will stipulate the amount of rent outstanding and will give the tenant at least 8 days in which to pay it.

Failure on the part of the tenant to remedy the breach could result in the landlord applying to either the Commissioner or a court for an order of termination of the tenancy and possession of the property.

For further information regarding the requirements of this notice please refer to Termination if Breach Not Remedied on pg. 25 of this booklet.

RIGHTS AND RESPONSIBILITIES

LANDLORD'S RESPONSIBILITIES

Sections 47-50, 64-66

The landlord must ensure that the premises and ancillary property are habitable and meet all relevant health and safety requirements.

The landlord must also:

- ensure the premises are reasonably clean and in a reasonable state of repair when the tenancy commences;
- maintain the premises and ancillary property in a reasonable state of repair;
- ensure there are sufficient locks or security devices; and
- take reasonable steps to provide and maintain locks and other security devices that are necessary to ensure the premises and ancillary property are reasonably secure.

The landlord must not cause interference with the reasonable peace and privacy of a tenant in the tenant's use of the premises (except in accordance with the Act) or force or attempt to force the tenant to vacate the premises except in accordance with the Act.

The landlord must not, without reasonable excuse, alter, remove or add a lock or security device without the consent of the tenant.

PREScribed PENALTIES APPLY

TENANT'S RESPONSIBILITIES

Sections 51 - 56, 58

The tenant must not, without reasonable excuse, alter, remove or add a lock or security device without the consent of the landlord.

PREScribed PENALTIES APPLY

If the tenant does change a lock, the tenant must provide keys to the landlord within 2 business days.

PREScribed PENALTIES APPLY

RIGHTS AND RESPONSIBILITIES

The tenant must also:

- notify the landlord if repairs or maintenance are required;
- notify the landlord of any damage or potential damage to the premises; and
- notify the landlord if premises are to be vacant for more than 30 days.

The tenant must not:

- maintain the premises in an unreasonably dirty condition;
- cause or permit damage to the premises;
- use the premises for any illegal purpose;
- cause or permit a nuisance;
- cause interference with the reasonable peace or privacy of another person within the vicinity; and
- alter the premises without written consent of the landlord.

WHEN THE LANDLORD CAN VISIT

Sections 68 - 77

(Remember: the term landlord includes an agent)

The landlord can only enter the premises during a tenancy in accordance with the Act.

The landlord is only allowed to enter the premises between 7am and 9pm and must give the tenant the amount of notice prescribed under the Act.

The landlord can enter premises for the following reasons with the stated amount of notice:

• To collect rent

At least 7 days notice must be given and the collection time previously arranged.

• To complete a condition report

24 hours notice must be given.

• To inspect the premises

At least 7 days notice must be given and the landlord can only enter once every 3 months (unless the tenancy agreement states a longer period).

• To carry out or inspect repairs or maintenance on the property

24 hours notice must be given (refer to section 71).

RIGHTS AND RESPONSIBILITIES

- **In an emergency or if significant damage to the premises is threatened**
No prior notice required (refer to section 72).
- **To show property to prospective tenant**
24 hours notice must be given and entry can only be given 28 days before the termination of the tenancy agreement. The landlord must be reasonable about the number of inspections sought.
- **To show property to prospective purchaser**
24 hours notice must be given. The landlord must be reasonable about the number of inspections sought.
- **If premises have been abandoned by the tenant and rent is owing**
No notice required.
- **If the landlord suspects premises have been abandoned by the tenant, but no rent is owing**
Order from the Commissioner required.

Any inspection must be carried out in the presence of the tenant, unless:

- the tenant has refused to be present;
- the tenant has, in writing, waived the right to appear or be represented at the inspection;
- the tenant is not at the premises at the time previously arranged for the inspection; or
- it is an emergency.

Both parties may mutually agree to the landlord entering the premises outside of the prescribed frequency and times specified in the Act. In these situations, entry can then take place in accordance with the arrangements that have been mutually agreed.

If (under the terms of the Act) the landlord has the right to enter the premises and a tenant tries to prevent the landlord from entering, the landlord may make an application to the Commissioner for an order permitting entry.

REPAIRS

LANDLORD & TENANT'S RESPONSIBILITIES Sections 57-58

It is the landlord's obligation to ensure that the premises and ancillary property are in a reasonable state of repair at the beginning of the tenancy and the landlord must maintain the premises and ancillary property in a reasonable state of repair (having regard to their age, character and prospective life) during the period of the tenancy.

This does not apply to repairs that the tenant knew were required at the start of the tenancy and agreed, in writing, to waive the right to have those particular repairs made.

The tenant must notify the landlord orally or in writing that repairs are required. Notification should be given as soon as practicable after the tenant becomes aware that repairs are needed.

If the landlord requests the tenant to put the notification of repairs required in writing, the tenant will not be taken to have given notice unless it is given to the landlord in writing. This is important for the following sections.

WHEN THE TENANT CAN ARRANGE REPAIRS Sections 59-61

The provisions of the Act that permit the tenant to arrange repairs can be complex. It is recommended a tenant seek advice from the Tenants Advice Service, a legal practitioner or Consumer Affairs before arranging to carry out repairs under these provisions.

Under certain circumstances the Act allows a tenant to arrange to have the premises or ancillary property repaired and seek reimbursement from the landlord.

This can only occur:

- when the premises are uninhabitable or the premises and ancillary property are unsafe; or
- if the repairs are not made there is a reasonable possibility of damage occurring to the premises or ancillary property; or
- that the premises or ancillary property are likely to become unsafe, uninhabitable and insecure.

The tenant must first notify the landlord in writing that repairs are required.

If within 7 business days of being given written notice the landlord has either not made the repairs, or notified the tenant of arrangements made to carry out the repairs, the tenant may have the repairs carried out subject to certain conditions.

REPAIRS

If the landlord notifies the tenant of arrangements made to carry out the repairs, but the repairs have not been made within 21 days of the tenant's original notice to the landlord that the repairs are required, the tenant can have the repairs carried out.

If the tenant is permitted to make repairs under these provisions and the landlord has nominated a particular repairer for that type of repair, the tenant must take all reasonable steps to engage the nominated repairer to make the permitted repairs.

The tenant can only claim costs that are less than or equal to 2 weeks rent.

To claim the cost of the repairs from the landlord the tenant must notify the landlord of the costs and provide appropriate documentation to prove the costs of repairs.

The tenant may request the landlord to:

- pay the cost directly to the repairer;
- reimburse the costs; or
- deduct the costs from the rent.

THE LANDLORD CAN NOMINATE REPAIRERS Section 62

A landlord may nominate specific repairers to be used for various types of repairs. This can be stated in the tenancy agreement or by written notice to the tenant. Where there is a nominated repairer the tenant can only use this repairer if the tenant is permitted under section 60 of the Act to have repairs carried out (see previous section on repairs).

To have repairs completed by a person who isn't the nominated repairer the tenant must be able to show:

- that they couldn't engage the nominated repairer to complete the repairs in a reasonable time; and
- they obtained quotes from two other repairers and have chosen the lowest quotation.

If the repairer with the lowest quote isn't available to make the repairs within a reasonable time another repairer may be engaged.

REPAIRS

EMERGENCY REPAIRS

Section 63

There are a number of repairs that are considered emergency repairs, these include work needed to repair:

- a water service that provides water to the premises that has burst;
- a blocked or broken lavatory system on the premises;
- a serious roof leak;
- a gas leak;
- a dangerous electrical fault;
- flooding or serious flood damage;
- serious storm, fire or impact damage;
- a failure or breakdown of the gas, electricity or water supply to the premises;
- a failure or breakdown of an essential service or appliance on the premises for water or cooking;
- a fault or damage that makes the premises unsafe or insecure;
- a fault or damage that is likely to injury a person, damage property or unduly inconvenience a resident of premises; or
- a serious fault in a staircase or lift or other area of premises that unduly inconveniences a resident in gaining access to or using the premises.

A tenant must notify the landlord in writing that emergency repairs are required.

If within 5 business days of giving written notice to the landlord that emergency repairs are required, the landlord has either:

- not made the repairs; or
- not notified the tenant of arrangements made to carry out the repairs, the tenant may apply to the Commissioner for an order that the repairs be carried out.

If the landlord does notify the tenant of arrangements made to carry out the repairs, but the repairs have not been carried out within 14 days of the tenant giving notice to the landlord that the repairs are required, the tenant may apply to the Commissioner for an order that the repairs be carried out.

MOVING OUT

ENDING A TENANCY AGREEMENT

Section 82

A tenancy is terminated:

- if the landlord or tenant terminates the tenancy under the Act;
- if a Court or the Commissioner terminates the tenancy;
- if the premises are abandoned before the end of the tenancy agreement;
- if a tenant gives up possession of the premises with the landlord's consent; or
- if a sole tenant dies without leaving a spouse, defacto, partner or dependents whose details are known to the landlord prior to the death, occupying the premises.

(If the tenancy is a tenancy under the Housing Act the tenancy is terminated when the sole tenant dies whether or not a spouse, defacto, partner or dependent of the sole tenant is left in occupation of the premises).

THE END OF A FIXED TERM TENANCY

Section 83, 90 & 95

If the tenant or the landlord wishes to end the tenancy at the end of the fixed term either must give the other notice of termination, in writing, at least 14 days prior to the end of the fixed term. The notice must be in accordance with section 101 of the Act.

If a fixed term agreement is not terminated by either the landlord or the tenant at the end of the agreed term, the tenancy continues as a periodic agreement.

NOTE - these provisions do not give the landlord or the tenant the right to terminate a fixed term tenancy during the period of the tenancy ie. 14 day notice can only be given to terminate the tenancy on the last day specified in the agreement.

Should either a landlord or tenant wish to terminate a fixed term agreement prior to the end they should contact their legal advisor, Consumer Affairs or the Tenant's Advice Service before taking any action.

MOVING OUT

TERMINATION BY LANDLORD

Sections 86, 88A, 89, 91

This is a summary only - the Act should be checked for more complete information.

PREMISES UNINHABITABLE

The landlord can terminate the tenancy agreement by giving the tenant 2 days written notice in accordance with section 101 of the Act in the following circumstances:

- if access to the premises has not been available for more than three days because of flooding; or
- if continued occupation of the premises is a threat to the health or safety of the tenant or members of the public or a threat to the safety of the landlord's property; or
- if the premises have become uninhabitable.

DRUG HOUSE ORDER MADE

A landlord of drug premises within the meaning of the *Misuse of Drugs Act* may terminate a tenancy in respect of the premises by giving 14 days notice in accordance with section 101.

PERIODIC TENANCY - NO GROUNDS REQUIRED FOR TERMINATION

The landlord may terminate a periodic tenancy by giving 42 days notice in accordance with section 101.

MOVING OUT

EMPLOYEE RELATED HOUSING

If an employee is provided with premises as a condition or benefit associated with employment, and the employer (landlord) has terminated the employment, the landlord can terminate the tenancy agreement by giving the tenant notice (in accordance with section 101).

The amount of notice to be given:

- if the employment was terminated because of a breach of the employment agreement
 - 2 days notice;
- in any other case
 - 14 days notice.

TERMINATION BY TENANT

Sections 92, 94, 96

PREMISES UNINHABITABLE

The tenant can terminate the tenancy agreement by giving the landlord 2 days written notice in accordance with section 101 of the Act in the following circumstances:

- if access to the premises has not been available for more than 3 days because of flooding; or
- if continued occupation of the premises is a threat to the health or safety of the tenant or members of the public or a threat to the safety of the landlord's property; or
- if the premises have become uninhabitable.

PERIODIC TENANCY - NO GROUNDS REQUIRED FOR TERMINATION

The tenant may terminate a periodic tenancy by giving 14 days notice in accordance with section 101.

IF PUBLIC HOUSING FOUND

If a tenant is offered accommodation from Territory Housing under the Housing Act, the tenancy may be terminated by giving 14 days notice to the landlord (in accordance with section 101), provided the tenant:

- had applied for housing under the Housing Act before entering into the tenancy agreement; and
- had advised the landlord of the application before signing the tenancy agreement.

MOVING OUT

REPOSSESSION OF PREMISES

Sections 103 - 107

If a tenant does not move out on or before the date the tenancy terminates (this is the date in the notice of termination), the landlord can apply to the Commissioner or the Court for an order for possession which will allow them to enter the premises.

The landlord cannot use force to make a tenant leave the premises, and the landlord cannot enter the premises to recover possession of the property without an order from either the Commissioner or the Court.

If the landlord obtains an order for possession the tenant will be given up to a maximum of 5 business days to move out.

If leaving the premises will cause severe hardship to the tenant, and they can demonstrate this to the Commissioner or the Court, the order of possession may be suspended for up to 90 days.

In making such an order the Commissioner or the Court will take the following matters into account:

- whether the tenant has caused a nuisance to neighbouring residents or damage to neighbouring property;
- any incidents relating to the tenancy that have occurred whilst the tenant was there;
- the seriousness of the breach which entitles the landlord to the order of possession; and
- whether the tenant is able to pay the rent under the tenancy agreement.

If the order of possession is suspended and the tenant does not pay rent within 7 days, the landlord must give the tenant another 7 days notice before the tenancy agreement is terminated.

TERMINATION BY COURT

Sections 97-100

SERIOUS BREACH OF THE TENANCY AGREEMENT

If either the landlord or tenant has seriously breached the tenancy agreement, the other party may apply to the Court for an order terminating the tenancy.

MOVING OUT

CONDUCT OF TENANT UNACCEPTABLE

The landlord or an interested person may apply to the Court for an order terminating the tenancy, if the tenant has used the premises for illegal purpose, repeatedly caused a nuisance, or repeatedly caused or permitted interference with the reasonable peace or privacy of nearby resident.

A court may also terminate a tenancy if a public housing tenant breaches an acceptable behaviour agreement.

HARDSHIP

Either the landlord or the tenant may apply to the Court for an order terminating the tenancy on the grounds that continuation of the tenancy agreement would result in undue hardship to the landlord or tenant.

TERMINATION IF BREACH NOT REMEDIED

Sections 96A, 96B, 96C

TENANT'S FAILURE TO PAY RENT

If a tenant breaches a tenancy agreement by failing to pay rent or any part of the rent in accordance with the agreement and the rent has been in arrears for at least 14 days, the landlord may give the tenant a "notice to remedy breach".

The notice must:

- be in accordance with section 96A and give the tenant at least 8 days in which to remedy the breach;
- state that if the breach is not remedied then the landlord intends to apply to the Commissioner or a Court for an order for termination of the tenancy and possession of the premises.

The notice must also contain other information set out in the Act and Regulations and it is important that landlords familiarise themselves with these requirements before issuing a notice.

OTHER BREACH BY TENANT AND BREACH BY LANDLORD

If a tenant or landlord breaches a term of a tenancy agreement (other than a term relating to the tenants obligation to pay rent) that -

- is a term of the agreement by virtue of the Act, or
- is specified to be a term a breach of which permits the other party to terminate the agreement, the other party may give a "notice to remedy breach".

MOVING OUT

This notice must:

- be in accordance with section 96B or 96C and give at least 8 days in which to remedy the breach;
- state that if the breach is not remedied then an application will be made to the Commissioner or a court for an order for termination of the tenancy and possession of the premises.

FAILURE TO REMEDY BREACH AFTER NOTICE GIVEN

If a tenant or landlord does not remedy the breach as required by a notice issued under sections 96A, 96B, or 96C, an application can be made to the Commissioner or a court seeking termination of the tenancy and an order for the landlord to take possession of the premises or permission for the tenant to give up possession of the premises (depending on which party makes the application).

An application of this nature must be made no later than 14 days after the date specified in the notice to remedy breach.

MOVING OUT

THE OUTGOING CONDITION REPORT

Sections 110 - 111

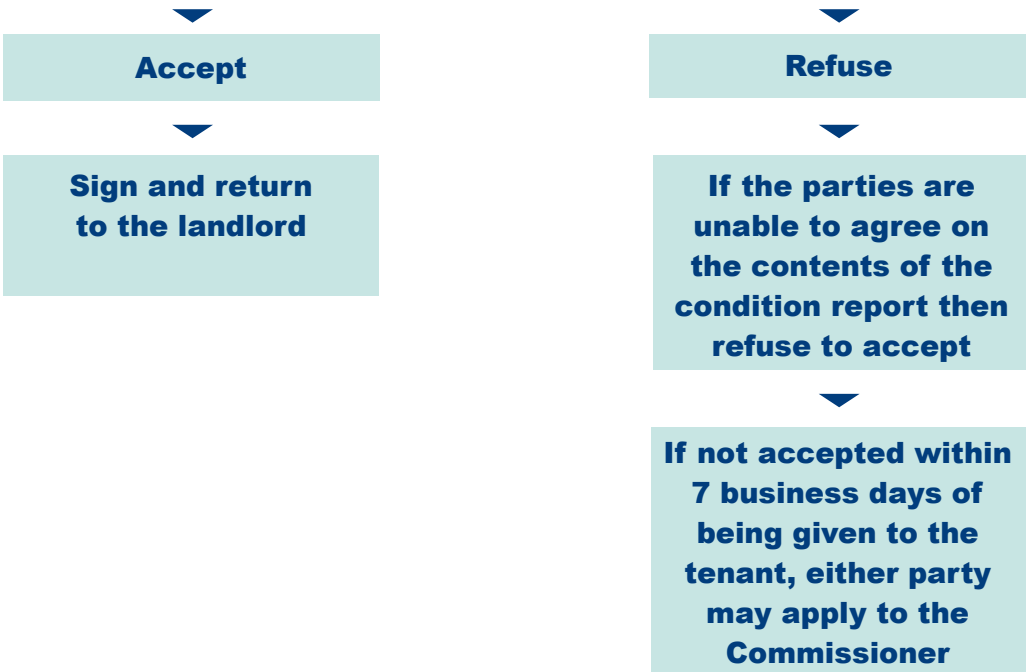
Important: if the landlord does not complete an ingoing condition report and comply with Part 5 of the Act, and complete an outgoing condition report and comply with Part 12 of the Act, then no claim can be made against the security deposit at the end of the tenancy for cleaning, damages or lost ancillary property.

Within three days of the tenant giving up vacant possession of the premises, the landlord should provide a copy of a completed outgoing condition report to the tenant.

The condition report must be completed in the presence of the tenant (unless it is not practical to do so, or the tenant does not appear at the agreed time).

The tenant may accept the report by signing and returning it to the landlord. If a dispute occurs over the contents of the condition report which has not been resolved within 7 business days, either party may refer the matter to the Commissioner.

Within 3 days of vacant possession, the landlord may complete & sign the outgoing condition report and give a copy to the tenant, who may



RETURNING THE SECURITY DEPOSIT

The tenant is entitled to have the security deposit returned at the end of the tenancy.

Failure to comply with the provisions of the Act relating to the return of the security deposit can jeopardise the landlord's rights to retain any amount from the security deposit.

The landlord must return the security deposit (less any amount they are entitled to retain) to the tenant within 7 business days of the tenant vacating the premises.

If there are no claims against the security deposit then the full amount is to be returned to the tenant.

PREScribed PENALTIES APPLY

WHAT THE LANDLORD CAN RETAIN THE SECURITY DEPOSIT FOR

Section 112

The landlord is entitled to retain so much of the security deposit as is necessary to:

- make good any damage to the premises or ancillary property that was caused by the tenant, other than reasonable wear and tear;
- replace ancillary property lost or destroyed by the tenant;
- clean the premises and ancillary property left unreasonably dirty;
- replace locks which were altered, removed or added by the tenant without the landlord's consent;
- pay for unpaid rent or for any unpaid electricity, gas or water charges payable by the tenant to the landlord;
- pay compensation to the landlord if the tenant remained in the property after they were required to hand over; and
- pay money ordered by the Commissioner or the Court to be paid by a tenant but not paid.

If a tenant breaches a fixed term agreement by abandoning the premises prior to the end of the term, the landlord can continue to hold on trust as much of the security deposit

RETURNING THE SECURITY DEPOSIT

as is necessary to ensure that the deposit will be available for payment to the landlord as compensation for;

- loss of the rent that the tenant would have been liable to pay if the premises had not been abandoned; and
- loss caused to the landlord in securing new tenants for the premises.

Once the landlord has established the loss caused by the tenant breaching the agreement, they must make an application to the Commissioner for compensation under section 122.

The landlord must make this claim as soon as practicable after the loss can be calculated or in any case within 3 months from the date the tenant abandoned the premises.

NOTICE REQUIRED TO RETAIN THE SECURITY DEPOSIT Sections 112-113

For the landlord to retain any or all of the security deposit they must give a notice to the tenant within 7 business days of them leaving the premises.

The notice must set out how much the landlord wishes to retain, what it is for and attach receipts and other supporting documentation. This supporting documentation includes a statutory declaration attesting to the truth of the claims being made and that the receipts, invoices and other documents attached to the declaration relate to the matters in respect of which part or all of the security deposit being withheld. The landlord must also return the portion of the security deposit not being claimed.

Failure to comply with section 112 of the Act will jeopardise the landlord's right to retain amounts from the security deposit. The landlord also faces a fine for failure to comply with section 112.

PRESCRIBED PENALTIES APPLY

If the tenant disputes the landlord's claim they should first attempt to resolve the issue directly with the landlord. If the dispute is not able to be resolved, either party can refer the matter to the Commissioner for the dispute to be determined.

Subject to section 113(2) of the Act, if the landlord has not returned the security deposit to the tenant or made a claim against the security deposit within 7 business days of the end of the tenancy, the landlord is required to return the security deposit to the tenant in full.

ABANDONED PREMISES AND GOODS

ABANDONED PREMISES

Section 108

If the landlord believes the premises have been abandoned they may apply to the Commissioner for an order for possession of the premises.

If the landlord believes that the premises have been abandoned and there is rent outstanding the landlord may take immediate possession.

ABANDONED GOODS

Section 109

This section does not apply to goods that are perishable or that are of a value less than the fair estimate of their removal and sale. In such cases the landlord may remove, destroy or dispose of such goods.

If goods are left at premises at the end of a tenancy the landlord must store the goods in a safe place and manner until they are reclaimed by the owner.

Within 14 days of storing the goods, the landlord must send a notice to the tenant in the prescribed form (or to another person who may have an interest in the goods).

The landlord must also publish, in a newspaper that circulates throughout the Northern Territory, a notice in the prescribed form regarding the storage of the goods.

A fact sheet with examples of the prescribed form can be obtained from Consumer Affairs.

PRESCRIBED PENALTIES APPLY

Any person entitled to possession of the goods may reclaim the goods by paying to the landlord:

- the reasonable cost of their removal and storage; and
- the cost of publishing the newspaper notice.

If the goods are not reclaimed within 30 days the landlord must sell the goods at public auction.

PRESCRIBED PENALTIES APPLY

ABANDONED PREMISES AND GOODS

From the sale proceeds, the landlord can retain any costs set out above as well as the cost of selling the goods and any amounts owed to the landlord under the tenancy agreement.

PRESCRIBED PENALTIES APPLY

Any amounts left over must be returned to the owner of the goods or if their identity and address are not known the amount left over must be paid to the Commissioner.

NOTICES

SERVICE OF NOTICES

Section 154

If a landlord or tenant wishes to give the other party to a tenancy agreement any notice required by or under the Act to be given, then it must be served in accordance with the Act.

This requires the notice to be delivered personally to the person or sent by post addressed to the person's last known place of business, residence or postal address.

If the recipient of the notice is a body corporate then the notice must be served in accordance with relevant provisions of the Corporations Act.

NOTICE TO MORE THAN ONE PARTY

Section 155

If 2 or more persons are the landlords or tenants under a tenancy agreement, a notice or document is deemed to be served if given to any one of them.

CHANGE OF LANDLORD'S NAME OR ADDRESS

Section 156

If the name or address of a landlord or agent specified in a tenancy agreement changes, the tenant must be notified in writing accordingly within 14 days after the change.

If a person succeeds another as the landlord under a tenancy agreement, the new landlord must ensure that the tenant is notified in writing within 14 days of the full name and address for service of the new landlord or, if an agent has been engaged, the full name and address of the agent.

RESOLVING DISPUTES

The landlord or the tenant may apply to the Commissioner if a breach of the tenancy agreement or a provision of the Act is alleged, or if a tenancy dispute has arisen between the parties or between tenants.

If the landlord and tenant have a dispute about something, they should discuss the problem and try to come to an agreeable solution. If the parties agree on a solution to the problem, then the tenancy agreement will continue and there is no need to go through the formal dispute resolution process described below.

Applications must be in writing, setting out the details of the breach or dispute.

Written applications should be

Forwarded to:
The Commissioner of Tenancies
GPO Box 1722
DARWIN NT 0801
Fax: 8935 7727

Delivered to:
The Commissioner of Tenancies
Old Admiralty House
The Esplanade
DARWIN NT 0800

PO Box 1745
ALICE SPRINGS NT 0871
Fax: 8951 5442

Belvedere House
Parsons Street
ALICE SPRINGS NT 0870

The Commissioner will determine whether the dispute should be resolved through a preliminary conciliation conference, a conciliation conference or by proceeding directly to an inquiry.

PRELIMINARY CONCILIATION CONFERENCE Section 131

At a preliminary conciliation conference, the Commissioner will:

- give information to each party so that they are aware of their rights and obligations under the Act;
- encourage full and open communication between the parties about the dispute; and
- encourage parties to propose solutions and resolve the dispute.

RESOLVING DISPUTES

CONCILIATION CONFERENCE

Section 132

The objective of a conciliation conference is for the parties to, between themselves and with the assistance of the Commissioner, attempt to achieve a negotiated settlement.

A conciliation conference will generally be private, and will be confidential. Any agreement reached between the parties at a conference will be binding.

INQUIRIES

Sections 136 - 139

An inquiry may be held if:

- the Commissioner decides a matter should be determined at inquiry; or
- the parties are unable to negotiate a settlement at a conciliation conference.

An inquiry will be conducted by the Commissioner with a minimum of formality, and the rules of evidence will not apply. An inquiry will be open to the public.

The Commissioner has broad powers in conducting an inquiry, including summoning persons to attend or requiring the production of books and records, or entering land or buildings. A person who fails to comply with a summons to attend or produce books or records, or misbehaves or interrupts proceedings at an inquiry faces a fine.

PRESCRIBED PENALTIES APPLY

A landlord may be represented by an agent during the proceedings, as long as the agent is the person who manages the property and the Commissioner is satisfied that the tenant will not be disadvantaged.

Legal representation at an inquiry is not permitted unless the other party agrees and the Commissioner is satisfied that neither party will be disadvantaged.

Representation of either party by a person who is not a legal practitioner may also be allowed under certain circumstances, for example, if the Commissioner is satisfied that a party to the dispute needs assistance to present their case.

RESOLVING DISPUTES

At an inquiry, the Commissioner may:

- declare that all or part of money paid by the tenant as a security deposit be returned or retained by the landlord;
- order that an amount for rent be paid by the tenant;
- order that repairs or maintenance be carried out by the landlord;
- declare that the tenant abandoned the premises on a particular date;
- declare that a tenancy has, or has not, been validly terminated;
- require the tenant to give up possession of the premises to the landlord or require the landlord to give up possession of the premises to the tenant; or
- do anything else necessary or desirable to resolve a matter to which an application relates.

The landlord and the tenant will usually bear their own costs, eg cost of legal or expert advice. If the Commissioner considers the application frivolous or vexatious, the Commissioner may make an order for costs.

APPEALS

Section 150

If either the tenant or the landlord disagree with a decision or order of the Commissioner they may appeal to the Court.

FURTHER INFORMATION

The following organisations may be able to provide information in regard to specific issues relating to the Northern Territory Residential Tenancies Act.

| | Telephone | Facsimile |
|---|------------------------------|-----------|
| Consumer Affairs | | |
| 1800 019 319 | | |
| Darwin | 8999 1999 | 8935 7727 |
| Alice Springs | 8999 1999 | 8951 5442 |
| Tenants' Advice Service | | |
| Darwin Community Legal Service | | |
| 1800 812 953 | 8982 1111 | 8982 1112 |
| Legal Advice | | |
| NT Legal Aid Commission (Darwin) | 8999 3000 | 8999 3099 |
| North Australian Aboriginal Justice Agency (NAAJA) | | |
| Darwin | 1800 898 251 | |
| Katherine | 1800 897 728 | |
| Nhulunbuy | 1800 022 823 | |
| Central Australian Aboriginal Legal Aid Service Inc | 8950 9300 | 8953 0784 |
| Top End Women's Legal Service | 8982 3000 | 8941 9935 |
| 1800 234 441 | | |
| Property Services | | |
| Real Estate Institute of the NT | 8981 8905 | 8981 3683 |
| Public Housing | | |
| Territory Housing | 8999 8853 1300 301 167 | 8999 8867 |
| Complaints about real estate agents | | |
| Agent Licensing Board | 8999 1309 | 8999 1888 |
| Interpreter Services | | |
| Interpreting and Translating Service NT (ITSNT) | 8999 8506 | 8999 8877 |
| 1800 676 254 | | |
| Aboriginal Interpreter Service — Alice Springs | 8951 5576 | 8951 5244 |
| Darwin | 8999 8353 | 8999 8855 |
| Discrimination or Harassment | | |
| Anti Discrimination Commission | 1800 813 846 or 8999 1444 | 8981 3812 |

FURTHER INFORMATION

If you are a Tenant or a Landlord it is most important that you know how the *Residential Tenancies Act* will affect you.

If you do not understand any part of the *Act*, need an interpreter or a copy of the booklet “A Guide to Renting in the Northern Territory” contact Consumer Affairs on telephone 8999 1999 or toll free 1800 019 319.

GREEK

Αν είστε Ενοικιαστής ή Ιδιοκτήτης είναι πολύ σημαντικό να γνωρίζετε πώς θα σας επηρεάσει ο Νόμος Περί Ενοικίασης Κατοικίας.

Αν δεν καταλαβαίνετε οποιοδήποτε μέρος αυτού του Νόμου, αν χρειάζεστε διερμηνέα ή αντίγραφο του βιβλιαρίου «Οδηγός για Ενοικίαση στη Βόρεια Επικράτεια» επικοινωνήστε με την υπηρεσία Υποθέσεων Καταναλωτών – Consumer Affairs – στο τηλέφωνο 8999 1999 ή στο δωρεάν τηλέφωνο 1800 019 319.

PORTUGUESE

Se é um Inquilino ou um Senhorio é muito importante que saiba como a *Lei de Inquilinato Residencial (Residential Tenancies Act)* irá afectá-lo.

Se não entender alguma parte da *Lei*, se precisar de um intérprete ou de uma cópia do folheto “Um Guia para Arrendar no Território do Norte” (A Guide to Renting in the Northern Territory), contacte Consumer Affairs no telefone 8999 1999 ou chamada grátis 1800 019 319.

ITALIAN

Se sei un inquilino o un padrone di casa, è molto importante che tu sappia in quale modo sei interessato dalla *Residential Tenancies Act*, cioè dalla legge di disciplina in materia di contratti d'affitto residenziale.

Se non comprendi qualche parte di tale legge, se hai bisogno di un interprete o se desideri una copia dell'opuscolo intitolato “A Guide to Renting in the Northern Territory” (“Guida ai contratti d'affitto nel Northern Territory”) chiama il Consumer Affairs al numero telefonico 8999 1999 o al numero verde 1800 019 319.

CHINESE

如果您是一位租戶或是一位房東，了解**住宅租賃法**會如何影響您對您來說是非常重要的。

如果您對此一法規的任何一部分有不明之處，需要一位傳譯員，或者需要一本「北領地租屋指南」的小冊子，都可以聯絡消費者事務處，電話是8999 1999，或者撥免付費電話：1800 019 319。

