

# Family and domestic violence tenancy legislation

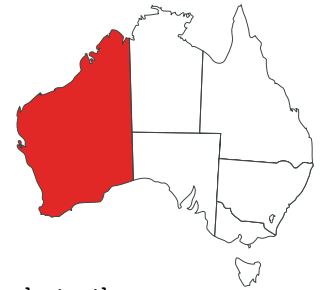
**State by state**

EBM RentCover, in keeping with the General Insurance Code of Practice, takes domestic and family violence (DFV) very seriously. We are here to help landlords and agents with claims resulting from losses incurred through DFV incidents at the rental. In addition, we provide education to our clients so they can ensure they are managing their properties in line with the law. To help, here is a state-by-state breakdown of family and domestic violence tenancy legislation.

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# Western Australia



In April 2019, the Western Australian State Government amended the *Residential Tenancies Act 1987* to provide greater protections for survivors of family and domestic violence.

A review of the new tenancy law was undertaken in 2022. At the time of writing (December 2023), a final review report had not been released.

## What landlords and agents need to know:

- › Survivor tenants can leave a tenancy without going to court and provide you with seven days' notice (Notice of Termination of Tenant's Interest in Residential Tenancy Agreement on Grounds of Family Violence and provide evidence of FDV). Tenants can leave right away for their own safety but will need to pay rent until the end of the notice period. You cannot challenge a tenant's request to break the agreement if the notice and supporting evidence have been properly completed and at least seven days' notice has been given.
- › If there are co-tenants, you must give the co-tenant a copy of the notice to terminate on grounds of family violence, but you must not include the evidence or disclose that information to the co-tenant (you can be prosecuted if you do). You must give the co-tenant seven days to decide if they want to continue with the tenancy agreement. If a co-tenant wants to stay, you must let the lease continue. You cannot tell them they have to leave. If the co-tenant decides to leave, they must give you 21 days' notice.

- › Survivor tenants can apply to the Magistrates Court to have a perpetrator's name removed from a lease. You will receive notice from the Court and you have the right to participate in the proceedings if you wish.
- › In the case of damage to the premises or unpaid rent because of family and domestic violence, the magistrate can assign liability to the alleged perpetrator. Either a vacating or remaining tenant will need to apply for this court order. If there is no court order, all tenants remain jointly liable for any damages and/or debt. This provision can only be used if a tenant's interest in the tenancy has been terminated due to family and domestic violence circumstances.
- › Your tenant can change the locks without your permission but must give you a set of keys within seven days.
- › Your tenant can install security such as CCTV or external lighting at their own cost without your permission.
- › You cannot place the survivor tenant on a tenancy database ('blacklist') or prejudice their future renting opportunities in any way.

## More info:

- › [Safe Tenancy WA](#)
- › [Consumer Protection](#)
- › [Magistrates Court](#)
- › [Residential Tenancies Act 1987](#)
- › [Circle Green Community Legal \(formerly Tenancy WA\)](#)



# South Australia



In November 2015, the South Australian State Government passed the *Residential Tenancies (Domestic Violence Protections) Amendment Act 2015* to provide protection against financial penalties for survivors of family and domestic violence who are renting their homes.

In 2023, the **Residential Tenancies (Miscellaneous) Amendment Bill 2023** was passed. The legislation includes changes to the current domestic abuse protections, which will come into effect after supporting regulations are developed.

## What landlords and agents need to know:

- › Once an intervention order has been issued by the court or domestic abuse has occurred, survivor tenants can apply to SACAT to terminate the tenancy and not be financially liable after leaving.
- › You can dispute your tenant's application, but the tribunal will only reject termination if it decides you would suffer more hardship than the tenant.
- › Survivor tenants can apply to SACAT to remain at the rental but have the alleged perpetrator leave. The tribunal will decide if this is acceptable. The tribunal will consider if the survivor tenant will be able to continue to meet their obligations (e.g. pay the rent) and also any views you put forward.
- › Where a residential tenancy is terminated because of an intervention order or due to domestic abuse, and the tribunal finds that not all co-tenants under the lease

are responsible for damage caused to the premises, the tribunal may make an order for payment of compensation against those co-tenant(s) responsible..

- › The tribunal also has the power to make an order for compensation to you for loss and inconvenience where termination of a residential tenancy agreement has been because of an intervention order.
- › Where an order has been made for payment for damage or compensation, the tribunal can also make orders for payment of the bond to you and any co-tenant who has been found not liable.
- › You cannot place the survivor tenant on a tenancy database ('blacklist').

## Changes set to come into effect:

- › Survivor tenants will no longer need to apply to SACAT to terminate a tenancy. Supporting evidence prescribed by regulation will be required instead.
- › SACAT will be allowed to refund a survivor tenant's portion of a rental bond.
- › SACAT will be able to hold a co-tenant (listed on the lease) responsible for any damages they caused, even when the amount of compensation owed to you is greater than this tenant's portion of the bond.
- › SACAT will be able to strike out your termination notice if the tenant has been subject to domestic abuse and the termination was due to the perpetrator's domestic abuse.





- › Survivor tenants with prescribed evidence, will be allowed to alter any lock or security device without your permission. A key will need to be given to you or your agent.
- › People who are protected by an intervention order and normally reside at the premises, but aren't listed on the tenancy agreement, will be able to apply to SACAT so they can remain at the premises without the perpetrator.

### **More info:**

- › **Domestic violence protections for renters**
- › **Review of SA renting laws**
- › **SACAT**
- › **Residential Tenancies (Domestic Violence Protections) Amendment Act 2015**
- › **Residential Tenancies (Miscellaneous) Amendment Bill 2023**
- › **RentRight SA**



# Northern Territory



In July 2020, the Northern Territory Government passed the *Justice Legislation Amendment (Domestic and Family Violence) Act 2020*.

In November 2023, the Residential Tenancies Legislation Amendment Bill 2023 was passed which includes changes to family and domestic violence protections. The changes are expected to come into effect in early 2024.

## What landlords and agents need to know:

- › Survivor tenants can apply to the Magistrates Court for a Domestic Violence Order (DVO).
- › The Court may, in the DVO, make:
  - an order terminating the tenancy agreement; or
  - an order terminating the tenancy agreement and creating a new tenancy agreement (the replacement agreement) for the benefit of:
    - the protected person and anyone else who was a party to the terminated agreement other than the defendant or
    - the defendant and anyone else who was a party to the terminated agreement.
- › You can refuse consent, but if the Court is satisfied the refusal is unreasonable, the order will be made.
- › Survivor tenants remain legally responsible for rent and upkeep at the property unless they get their name taken off the lease. This removal can be via mutual agreement, via a DVO issued by the Court or through a ruling by NTCAT to terminate the lease due to family and domestic violence.
- › Your survivor tenant can ask you to remove their name from the lease or relieve them of accountability under the lease due to their domestic violence experience. If you agree, you need to put this in writing and agree on a date after which the survivor tenant will no longer be responsible under the lease.
- › Survivor tenants can apply to the NTCAT and request their lease be terminated due to domestic violence. The NTCAT will consider the effect ending the lease will have on you and the survivor tenant's partner.
- › You must take reasonable steps to provide and maintain locks and security devices to ensure the rental is reasonably secure. If the locks become faulty or damaged, this is considered an emergency repair.
- › Your survivor tenant cannot change the locks or fit security devices without a reasonable excuse or your permission. If they do change the locks, they must give you a set of the new keys within two business days.
- › If your rental is damaged during the course of family and domestic violence, your survivor tenant may not be held liable for that damage.





## Changes set to come into effect:

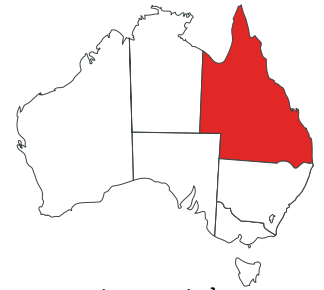
- › Survivor tenants will be able to 'conclusively establish the presence of family and domestic violence, so that they can access the additional protections in the Bill', ensuring that they do not 'face the risk of further harm through having to retell their story every time they seek protection'.
- › Survivor tenants will be able to immediately terminate their interest in a tenancy by giving written notice to you and any co-tenants in the approved form.
- › Survivor tenants will not be liable for family and domestic violence-related acts or omissions of a non tenant that would otherwise result in the survivor tenant breaching the tenancy agreement. You can seek redress for any loss you have suffered because of that breach of the tenancy agreement directly from the alleged perpetrator.
- › You will need to obtain the tenant's permission to use images or video of the premises when advertising the premises for rent or sale, where that image or video might identify the tenant or another occupant.
- › Scope of undue hardship will be expanded to specifically include financial hardship and situations where the applicant cites risk to physical, psychological or mental health and safety as grounds constituting undue hardship.
- › Survivor tenants will be able to apply to NTCAT to have their personal information removed from a tenancy database ('blacklist').

## More info:

- › [Renting in the NT](#)
- › [Darwin Community Legal Service](#)
- › [NTCAT](#)
- › [Justice Legislation Amendment \(Domestic and Family Violence\) Act 2020](#)
- › [Residential Tenancies Legislation Amendment Bill 2023](#)



# Queensland



In October 2021, the *Residential Tenancies and Rooming Accommodation Act 2008* was amended to provide options for people experiencing family and domestic violence who need to leave a tenancy.

## What landlords and agents need to know:

- › A person who experiences family and domestic violence in a rental property has rights under the *Domestic and Family Violence Protection Act 2012*, even if they are not named on the tenancy agreement.
- › Survivor tenants can vacate immediately but must provide seven days' notice and pay rent until the end of the seven-day notice period.
- › Your tenant must give you a completed Notice Ending Tenancy (domestic and family violence) form and provide relevant evidence.
- › Survivor tenants are not responsible for costs relating to ending a tenancy agreement, goods left behind in the rental premises or re-letting costs.
- › Survivor tenants are not required to repair or compensate you for damage to the premises or inclusions caused by an act of family and domestic violence experienced by a tenant.
- › Your tenant is still responsible for costs associated with breaching terms of an agreement which are not related to the family and domestic violence (for example, rent arrears or damage to the property by a pet).

- › You or your tenant can request a rental bond refund for the tenant's bond contribution where the tenant has vacated due to family and domestic violence. You can ask any remaining tenants to top up the rental bond within one month by issuing remaining tenants with a Continuing Interest Notice strictly between seven and 14 days only after a vacating tenant's interest in the agreement ends.
- › Your tenant can change the locks to the property without your permission but must provide copies of keys or access codes to you as soon as practicable.
- › You must maintain the privacy of a tenant who is experiencing family and domestic violence to ensure their safety. Penalties apply if the legislative requirements are not followed.

## More info:

- › [Residential Tenancies Authority](#)
- › [Domestic and family violence information for tenants fact sheet](#)
- › [Residential Tenancies and Rooming Accommodation Act 2008](#)
- › [Domestic and Family Violence Protection Act 2012](#)
- › [QCAT](#)
- › [Tenants Queensland](#)





# New South Wales



In February 2019, the *Residential Tenancies Amendment (Circumstances of Domestic Violence) Regulation 2018* came into effect in New South Wales. The reforms provide greater protections for survivors of family and domestic violence living in a rented property.

## What landlords and agents need to know:

- › Your survivor tenant can give you a domestic violence termination notice and end their tenancy immediately without penalty (e.g. the survivor tenant will not be liable to pay a break fee, loss of rent, advertising and a re-letting fee or an occupation fee for abandoned goods). The notice must include evidence of violence.
- › You must not disclose information in the domestic violence termination notice and supporting evidence.
- › You can dispute the validity of the notice by applying to NCAT.
- › After a survivor tenant gives a domestic violence termination notice, a co-tenant who remains in the tenancy may apply to the tribunal to end their tenancy, and is entitled to a two-week period to only pay a portion of the rent and is not required to cover the departing survivor tenant's share. This only applies if the remaining co-tenant is not the alleged perpetrator of the violence.
- › Alleged perpetrator co-tenants who remain in the rental are required to pay the full amount of rent as specified in the tenancy agreement from the date the domestic violence termination notice is provided.

- › If an Apprehended Violence Order (AVO) is granted that excludes a co-tenant (perpetrator) from accessing the property, then the perpetrator's co-tenancy automatically ends and the tenancy transfers to any remaining co-tenant(s) named on the agreement.
- › If an AVO has not been obtained or does not include an exclusion order and the perpetrator is a co-tenant, the survivor tenant can apply to the tribunal to end the perpetrator's tenancy.
- › If the survivor tenant is not named on the agreement, they can ask you to put the agreement in their name. If you don't agree, the tenant can apply to NCAT for an order to be recognised as a tenant under the original agreement.
- › Your survivor tenant cannot change the locks without your prior consent or reasonable excuse. If your tenant does change the locks, they must give you a set of the new keys within seven days.
- › Survivor tenants or non-perpetrator co-tenants cannot be held responsible for any damage to the property caused by the violence perpetrator.
- › You cannot place the survivor tenant on a tenancy database ('blacklist').

## More info:

- › [Fair Trading](#)
- › [NCAT](#)
- › [Residential Tenancies Amendment \(Circumstances of Domestic Violence\) Regulation 2018](#)
- › [Tenant's Union of NSW](#)



# Australian Capital Territory



Tenancy reforms in the ACT's *Residential Tenancies Amendment Bill 2018* came into effect in November 2019. The new legislation included protection for survivors of family and domestic violence.

## What landlords and agents need to know:

- › Survivor tenants can apply to the Magistrates Court for a domestic violence order. Once they have this, they can apply to ACAT for a 'no cause' termination of the lease.
- › You will be given a copy of the application by ACAT and advised of the hearing date and time.
- › You can provide ACAT with documents seven days before the hearing.
- › ACAT can make an order to end the existing tenancy agreement.
- › ACAT can also require you to enter into a new tenancy agreement with the survivor tenant.
- › ACAT will decide the liabilities of the survivor tenant, the alleged perpetrator and any other tenants to the existing tenancy about the bond.
- › ACAT may determine that the survivor tenant is not liable for any penalties for ending their lease such as advertising or re-letting fees.
- › Your survivor tenant can change the locks (at their expense) without your permission and must give you a set of the new keys as soon as possible.

- › If the property is damaged as a result of family and domestic violence, survivor tenants can apply to ACAT to determine who is liable to pay for the damage. If the alleged perpetrator is found responsible for damaging the property by a Court, the Court may order that they pay restitution to cover to cost of the items damaged.

## More info:

- › **Justice and Community Safety**
- › **Renting Handbook**
- › **ACAT**
- › **Residential Tenancies Amendment Bill 2018**



# Victoria



The Victorian Parliament passed the *Residential Tenancies Amendment Act 2018* in September 2018. The new laws include reforms concerning family and domestic violence.

## What landlords and agents need to know:

- › Survivor tenants can apply to the police for a family violence safety notice or to the Magistrates Court for a family violence intervention order. Once they have this, they can change the locks (at their expense) without your permission, but they must give you a set of the new keys.
- › Your survivor tenant needs your written consent to make any other changes to the property like installing permanent security measures. They do not need permission to install removable devices. Unless you agree otherwise, they will need to restore the property to the condition it was in before the changes were made or compensate you for restoring the condition when they leave.
- › If your survivor tenant has a periodic (month-by-month) lease, they can end the lease at any time by giving you 28 days' notice in writing.
- › Your survivor tenant or alleged perpetrator tenant can apply to VCAT to end a fixed-term lease early.
- › You can negotiate with your survivor tenant to end a fixed-term lease early if they want to leave, or have the lease changed into their name if they want to stay. You can also negotiate with the alleged perpetrator tenant to end a lease.
- › If your survivor tenant has a final intervention order and wants to stay in the rental without the alleged perpetrator tenant, they can apply to VCAT to end the existing lease and start a new lease, even if they are not currently listed as a renter.
- › VCAT can decide to end the lease early if your survivor tenant (or the alleged perpetrator tenant) would suffer severe hardship if the lease continued, greater than any hardship you would suffer.
- › VCAT will decide if you should be compensated due to the lease being ended early – and who will pay the compensation.
- › VCAT will decide how a bond (if any) will be refunded and who will be responsible for paying any outstanding expenses on the existing lease (e.g. repairs or bills).
- › If VCAT makes an order to break the lease, you cannot charge your survivor tenant any break-lease fees.
- › If VCAT decides in favour of a new tenancy agreement, you can arrange a property inspection and ask for a new condition report.
- › If your tenants have left behind goods, you need to advise Consumer Affairs, and tell them family and domestic violence occurred so they can arrange for the goods to be removed.





- › Renters are responsible for damage to the property caused by family and domestic violence. Your survivor tenant can apply to VCAT to determine who is responsible for paying for any damage to the property. VCAT may decide that the costs should be paid by the survivor tenant, the alleged perpetrator tenant or other renters.
- › You cannot place the survivor tenant on a tenancy database ('blacklist').

### **More info:**

- › **Consumer Affairs**
- › **VCAT**
- › **Residential Tenancies Amendment Act 2018**
- › **Tenants Victoria**



# Tasmania



The *Tasmanian Residential Tenancies Act 1997* was amended in May 2019 with new additional provisions to protect survivors of family and domestic violence.

## What landlords and agents need to know:

- › Survivor tenants can apply to the Magistrates Court for a Family Violence Order. Once they have this, your survivor tenant can apply to have the Court make an order to:
  - terminate the lease
  - end the alleged perpetrator’s lease (i.e. take their name off the lease) – your permission is not required
  - make a new lease in the survivor tenant’s name or
  - remove the survivor tenant from the lease agreement (the agreement with the alleged perpetrator tenant would continue).
- › Your survivor tenant can change the locks or add security without your permission but must provide you with a set of the new keys as soon as practicable.

## More info:

- › **Consumer Building and Occupational Services**
- › **Magistrates Court**
- › **Residential Tenancies Act 1997**
- › **Family Violence Act 2004**
- › **Tenants’ Union of Tasmania**





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