

CONSUMER AFFAIRS

BUSINESS TENANCIES (Fair Dealings Act)

The *Business Tenancies (Fair Dealings) Act* commenced on 1 July 2004.

This legislation has been introduced to give small retailers a more balanced bargaining position when they negotiate their leases with landlords.

KEY FEATURES OF THE ACT ARE:

A ban on ratchet clauses

Ratchet clauses mean rents can go up but never down, which sometimes maintains rents at unrealistic levels. Banning ratchet clauses means rents should reflect market value by rising and falling in line with the economy.

Mandatory disclosure statements

Mandatory disclosure statements will keep dealings between tenants and landlords open and fair. The statements will include details such as costs and expenses for tenants, rent calculations and reviews, and outgoings to be paid by the tenant.

Five-year leases

The introduction of minimum five-year leases brings the Northern Territory into line with other jurisdictions. Five-year leases will improve security of tenure for tenants, and provide certainty to landlords.

Mediation

The new Act introduces an impartial Commissioner of Business Tenancies to mediate disputes between tenants and landlords. Both parties will be able to avoid costly court action by using the Commissioner to mediate disputes.

Compensation claims

If landlords disturb or disrupt trading – for example carrying out renovations without adequate notice – tenants may be able to claim compensation.

The legislation covers most businesses providing retail goods or services. The Act applies only to:

- Leases for less than 1000m²
- Leases lasting between six months and 25 years
- Leases entered into after the Act begins on 1 July 2004
- Leases where the tenant is not a listed Corporation.

The Act was introduced after extensive consultation with small businesses, retailers, landlords and representative bodies around the Territory.

The *Business Tenancies (Fair Dealings) Act* delivers on Government's commitment to introduce contemporary retail tenancy legislation to give small business operators a fair go.

For further information contact Consumer Affairs

Old Admiralty Towers, 68 The Esplanade, GPO Box 1722, Darwin NT 0801
Ph: 08 8999 1999 - Fax: 08 8935 7727

or

Level 1, Belvedere House, Parsons Street, PO Box 1745 Alice Springs NT 0871
Telephone: 08 8951 8606 Fax: 08 8951 5442

or phone 1800 019 319

Email: consumer@nt.gov.au

Web site: consumeraffairs.nt.gov.au

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