

# BREAKING THE CYCLE

breaking the cycle of alcohol abuse,  
violence and anti-social  
behaviour

## Q&A

### *Antisocial Behaviour (Miscellaneous Amendments) Act 2005*

These questions and answers give some further information about restricted premises, and the changes to tenancy laws as a result of the Antisocial Behaviour (Miscellaneous Amendments) Act 2005. It should be read with the other fact sheets (2 and 3) about this legislation, which are available at [www.justice.nt.gov.au](http://www.justice.nt.gov.au).

The Antisocial Behaviour (Miscellaneous Amendments) Act 2005 introduces a new form of restricted (or dry) premises, and makes some changes to tenancy laws in relation to antisocial behaviour.

#### **Restricted premises**

***Q Will the new restricted premises law replace the 2 km law?***

***A*** The new restricted premises law will apply to private premises, including homes, shopping centres, churches and schools. The 2 km law only applies to public places within a 2 kilometre radius of places that sell alcohol. The two laws will complement each other.

***Q What is the difference between the new dry areas and the existing dry area declarations that are used particularly in bush communities?***

***A*** An application under the new restricted premises law can be made by the owner or occupier of private premises, or in the case of properties open to and used by the public, an interested person. The consultation process that the Licensing Commission is required to do when an application is made under the restricted premises law is limited to the owners, occupiers, Police and the applicant.

The existing dry area legislation generally applies to whole communities, while the restricted premises law is designed for individual homes and premises. Once a restricted premises declaration is made by the Licensing Commission, drinking or possessing alcohol at the premises will no longer be permitted. There will be no exceptions to a restricted premises declaration.

***Q Can the Commission make a declaration in relation to a home against the wishes of people living at the premises?***

***A*** No. Only home owners and renters will be able to apply to the Commission for a declaration over their own home.

When the Commission receives an application for a declaration over a home it must consult with all the people who live there. The Commission can only make a declaration in relation to homes where the majority of the people who live at the premises agree that the home should become a dry area, and the declaration would be practicable in all the circumstances. The Commission cannot make a home a dry area against the wishes of the majority of the people who live at the house.

***Q Can a party other than an owner or occupier apply for a declaration over a home?***

***A*** No – only the owner or the occupier can apply for a declaration over a home.



***Q What about declarations over places like shopping centres, schools and health centres? Who can apply for a declaration over these premises?***

*A* An interested person can make an application for a restricted premises declaration over private premises that are open to, and used by the public. This would include places like shopping centres, schools and health clinics. Interested person means someone who lives or works in the neighbourhood, or a community organisation involved in the neighbourhood or the police. When the Commission makes a decision about an application brought by an interested person it can only make a declaration when it is in the public interest, and would be practicable in all the circumstances.

***Q How will restricted premises be policed?***

*A* The police are responsible for enforcing restricted premises declarations. Under the new law if police believe that someone is contravening a restricted premises declaration they can enter premises covered by the declaration, search people at the premises, and seize any alcohol found at the premises. They can also issue an infringement notice for failing to comply with the declaration, or take a person to court for failing to comply with the declaration.

***Q What are the penalties for contravening a declaration of restricted premises?***

*A* The penalty for contravening a declaration under the new provision will be forfeiture of the alcohol found at the premises. In addition the police may issue a complaint for court proceedings, or an infringement notice. The maximum penalty that can be imposed by a court for contravention of a declaration is \$500.

***Q How will people know whether a place is a dry area?***

*A* When a declaration of restricted premises is made the Licensing Commission must arrange for a sign to be placed at the premises within 14 days of the declaration being made. Once the Commission places the sign at the premises the declaration is in force.

The sign will contain information about the declaration and the offence and penalty for failure to comply with the declaration.

A home owner or tenant who applies under the new legislation does not have to put up a sign – but of course can do so if they wish.

***Q Can the declaration be cancelled or changed?***

*A* The Licensing Commission can revoke the declaration at the request of the person who originally sought the declaration. The Commission can also revoke the declaration without any request being made.

A declaration also lapses if the property is sold, or the lease over the premises comes to an end.

***Q Does it cost anything to make an application for a declaration for restricted premises?***

*A* No.


## Tenancy Laws

***Q Do the new acceptable behaviour agreements only apply to public housing tenants?***

*A* Yes – the legislation only allows Territory Housing to require tenants to enter into acceptable behaviour agreements.

***Q When can Territory Housing require a tenant to enter into an acceptable behaviour agreement?***

*A* A tenant can only be required to make an agreement when Territory Housing believes that the tenant, or other people at the house, are likely to engage in antisocial behaviour. This belief has to be based on the history of the tenant's lease with Territory Housing.



***Q If a third party applies for a termination of a tenancy on the grounds of unacceptable behaviour what processes will be conducted before the tenant is evicted? What right of reply is open to a tenant?***

***A*** The landlord and the tenant must be served with a copy of the application. Both the landlord and the tenant will have an opportunity to be heard by the Court on the question of whether the tenancy should be terminated.

***Q Will tenants be able to use acceptable behaviour agreements to avoid eviction for bad behaviour? Is an acceptable behaviour agreement a prerequisite for an eviction?***

***A*** A public housing tenant will not be able to use acceptable behaviour agreements to avoid, or delay, eviction proceedings when they have breached their tenancy agreement or there are grounds for asking the court to terminate the tenancy because of illegal or unacceptable behaviour. An acceptable behaviour agreement is not a prerequisite for an eviction on the grounds of unacceptable behaviour.

***Q If a tenant is evicted because they failed to comply with an acceptable behaviour agreement will they be precluded from later applying to go back into public housing? Will acceptable behaviour agreements have an impact on survivors of domestic violence who are seeking housing?***

***A*** The policy of Territory Housing is that when a tenant has been evicted because of noise and/or nuisance they are not eligible to apply for public housing for a period of two years. However this rule does not apply to survivors of domestic violence who need urgent housing.

