

RESIDENTIAL TENANCIES ACT: RIGHT TO GROW FOOD



WHAT IS THE RIGHT TO GROW FOOD AND WHY IS IT BEING CONSIDERED?

The ACT Government is considering whether to amend the *Residential Tenancies Act 1997* (the Act) to create a presumption that landlords will permit renters to compost and grow food. Reducing organic waste from households is part of the [ACT Climate Change Strategy 2019-2025](#). The proposal would also strengthen tenants' rights, in line with the [ACT Housing Strategy](#), by giving tenants greater say in how they use their homes.

WHAT IS CURRENT LAW IN RELATION TO GROWING FOOD AND COMPOSTING WHILE RENTING?

- Tenants can grow food or compost in portable containers or above-ground garden beds without needing their landlord's consent. Tenants remain liable for any damage these activities cause to the property.
- Tenants must seek consent from the landlord for any planting or composting that involves modifications to the property.
- Where the proposed change is minor and can be undone (e.g. planting herbs among existing plants), the landlord cannot refuse consent without an order from the ACT Civil and Administrative Tribunal (ACAT).
- For more significant changes (e.g. digging up existing garden beds or removing existing plants), the landlord can refuse consent (without going to ACAT) as long as that is reasonable.

WHAT IS THE POTENTIAL CHANGE?

- Make it clear that any activities (including more significant changes) to grow food or compost are a 'special modification' – meaning that the tenant must still seek consent but the landlord can only refuse if it is reasonable to do so and they get an ACAT order endorsing the refusal.
- Where the tenant does make changes they are required to restore the property to (substantially the same as) its original condition at the end of the tenancy (unless the landlord agrees to changes remaining).

WHAT WE WANT TO KNOW

- Do you think the law should be amended to introduce more rights for tenants to grow food and to compost?
- Are there any safeguards that should be introduced to support this change?
- What do you think about the obligation to 'make good' on any modifications (that is, the obligation to return the property in substantially the same condition as it was originally) in the context of gardening? Do you think there should be a modified obligation in acknowledgement that gardens are living and impacted by seasonal and climatic conditions?
- Are there any other issues you would like to raise for consideration in relation to the right to grow food and to compost?

Please send your feedback to civilconsultation@act.gov.au by **15 October 2021**.