



2020

# **Parliament of Tasmania**

**PARLIAMENTARY JOINT STANDING COMMITTEE**

## **SUBORDINATE LEGISLATION**

### **REPORT 8**

**SCRUTINY OF NOTICE ISSUED UNDER SECTION 22 OF THE  
*COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020*  
(RESIDENTIAL TENANCIES)**

**SCRUTINY OF NOTICE ISSUED UNDER SECTION 16 OF THE  
*COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020*  
(POISONS ACT 1971)**

**SCRUTINY OF NOTICE ISSUED UNDER SECTION 16 OF THE  
*COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020*  
(FOOD ACT 1993 and PUBLIC HEALTH ACT 1997)**

#### **Members of the Committee**

**Ms Tania Rattray MLC (*Chair*)**  
**Ms Ruth Forrest MLC (*Deputy Chair*)**  
**Ms Meg Webb MLC**

**Ms Alison Standen MP**  
**Mr Nic Street MP**  
**Mr John Tucker MP**

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## Introduction

The Committee was appointed under the provisions of Section 3 of the *Subordinate Legislation Committee Act 1969* (No. 44 of 1969). Section 8 of the Act outlines the functions of the Committee, as follows –

- (a) to examine the provisions of every regulation, with special reference to the question whether or not –
  - (i) the regulation appears to be within the regulation-making power conferred by, or in accord with the general objects of, the Act pursuant to which it is made;
  - (ii) the form or purport of the regulation calls for elucidation;
  - (iii) the regulation unduly trespasses on personal rights and liberties;
  - (iv) the regulation unduly makes rights dependent on administrative decisions and not on judicial decisions; or
  - (v) the regulation contains matters that, in the opinion of the Committee, should properly be dealt with by an Act and not by regulation; and
- (b) to make such reports and recommendations to the Legislative Council and the House of Assembly as it thinks desirable as the result of any such examination.

## **COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020 – SCRUTINY OF NOTICES**

The Parliament of Tasmania passed the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (the Act) on 26 March 2020. The Act prescribes a role for the Joint Standing Committee on Subordinate Legislation in the scrutiny of certain notices under the Act.

In response to this new scrutiny role, the Committee has given extensive consideration to an appropriate mechanism for it to report upon its deliberations on all notices gazetted under the Act in the interest of public transparency. The Committee will:

- Meet twice weekly on Tuesdays and Fridays until further notice;
- Publish a list of the notices to be discussed by the Committee, and documentation relating to notices to be examined by the Committee, to be published on the Committee website prior to each meeting; and
- Present regular reports to Parliament, which will contain further information in relation to the completed examinations of notice.

The Committee notes the Notices in this Report have not been tabled within the statutory time-frame under Section 7(1) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*. However, in light of the need to publish the Report on these Notices in a timely manner, the Committee resolved to examine the Notices and publish the Report.

### **Notice under Section 22 (Residential Tenancies)**

The Committee resolved at its meeting on Tuesday 12 May 2020 to commence an Inquiry in relation to this Notice to seek clarification, amongst other things, why there was a delay of twenty days in issuing this Notice. The Committee invited the Attorney-General and her Departmental representatives to appear at a public hearing.

The Attorney-General accepted the invitation to attend on Friday 22 May 2020, also in attendance was Peter Graham, Executive Director, Consumer, Building and Occupational Services, Department of Justice.

In addition, the Tenants' Union of Tasmania was invited to appear at a public hearing and accepted the invitation to appear before the Committee on Friday 22 May 2020. Due to current arrangements in place within the Parliament of Tasmania, these witnesses appeared via videoconference.

The Committee during the public hearing sought advice from the Minister as to the decision to issue a Notice.

The Attorney-General stated:

*... I think it's really important to remember that the amendment in the House of Assembly only enabled a notice to be given. It didn't commit the Government to doing so. The Government didn't commit to a notice...<sup>1</sup>*

In correspondence from the Attorney-General to the Committee regarding the time-lapse in issuing the Notice, she stated:

*I would like to make it clear that the Notice of 23 April 2020 was issued to act as an additional safeguard for residential tenants during these difficult times.*

*It was not originally deemed necessary for this Notice to be issued due to the mechanisms that already existed to deal with unreasonable rent increases through the Residential Tenancy Commissioner (the Commissioner). Under the Residential Tenancy Act 1997, a tenant can seek an Order from the Commissioner (RTC) for a rent increase to be deemed unreasonable.*

*Given the current economic climate, the Commissioner would not likely accept any rent increase as reasonable. In fact, the Commissioner had not received any applications since 1 March 2020 relating to unreasonable residential rent increases. As I have mentioned though, to make it abundantly clear to both tenants and landlords, the Government issued the Notice on 23 April 2020 regarding residential rent increases.<sup>2</sup>*

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<sup>1</sup> The Attorney-General, the Hon Elise Archer MP, *Transcript of Evidence – 22 May 2020*, p. 22.

<sup>2</sup> Letter dated 13 May 2020 from the Attorney-General to the Joint Standing Committee on Subordinate Legislation regarding Section 22 Notice under *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*, pp. 1-2.

The Committee sought clarification of the implications of the timing of the issuing of the Notice.

In evidence to the Committee, the Tenants' Union of Tasmania raised the following concerns regarding the Notice, Mr Benedict Bartl, Acting Principal Solicitor stated:

*For residential tenancies, the order freezing rental increases was only introduced on 23 April, a number of weeks later, and it was not backdated. Something we would recommend to the committee is that the freeze on rental increases for residential property should be backdated until 1 April. That would ensure consistency with commercial tenancies...<sup>3</sup>*

Mr Bartl provided context to these concerns:

*Looking through our records, 13 tenants, ... had called us. So that is tenants calling between 27 March and 23 April, to say there was a rent increase...*

*...*

*All those people were tenants who between 27 March and 23 April were going to have rent increases commence...The Rental Deposit Authority provides us with quarterly data that shows how many tenants have entered into new lease agreements over that quarter. What we were able to do... is establish that a year ago, so between 27 March 2019 and 23 April 2019, so exactly a year ago, 526 households entered into new lease agreements. The reason that data is important is because most of those tenants, in our opinion, would have extended their lease. Those 526 households would have received 60 days before their rent increase a notice to say their rent will be increasing.*

*Some of them may not have a rent increase, but generally speaking every year your rent does go up, so approximately 500 households would have received rent increase notices and would have been affected because the order only come into effect on 23 April.<sup>4</sup>*

In evidence to the Committee, the Attorney-General, the Hon Elise Archer MP stated why the Notice cannot be back-dated:

*... subordinate legislation like this notice can't be retrospective unless the enabling act specifically allows for that. That is the reason why there's no retrospectivity.<sup>5</sup>*

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<sup>3</sup> Mr Benedict Bartl, Acting Principal Solicitor, Tenants' Union of Tasmania, *Transcript of Evidence – Friday 22 May 2020*, p. 2.

<sup>4</sup> *Ibid.*, p. 3.

<sup>5</sup> The Attorney-General, the Hon Elise Archer MP, *Transcript of Evidence – Friday 22 May 2020*, p. 14.

Further, Mr Graham stated:

*No, it wasn't provided for – had the original COVID-19 act provided the ability for retrospectivity, a notice could have had retrospective effect. It didn't so as it is, it cannot go backwards.*<sup>6</sup>

The Committee clarified the powers of the Residential Tenancy Commissioner to reduce the rent for tenants.

Mr Bartl stated:

*... the Residential Tenancy Act does not allow the Tenancy Commissioner to reduce the rent below what the tenant is already paying.*<sup>7</sup>

The Residential Tenancy Commissioner confirmed; the following question:

**Ms FORREST** - ... one of their [The Tenants' Union] comments was that you don't have the power to recommend - you can recommend that rent not be increased or that it be partway, meet in the middle-type of thing - a lower rate of rent if you believe that the market is really flat or has declined.

**Mr GRAHAM** - That's correct. The power relates to increases only so the most you can do is say no increase.<sup>8</sup>

The Committee sought to examine the implication of this Notice expiring on 30 June 2020.

The Tenants' Union of Tasmania raised an associated matter impacting on tenants in relation to the expiry date, Mr Bartl stated:

*... we would like to see an extension of the emergency period for a further three months so that tenants who may fall into rental arrears are given more time to pay the arrears.*<sup>9</sup>

Policy Analyst Alex Bomford, Tenants' Union of Tasmania stated:

*I think the problem with the rental arrears moratorium is that no exit plan has been put in here. As soon as the period ends, it just goes back to normal and there's no capacity - there's nothing - in the act that mandates the landlord has to enter a repayment plan. There's nothing in the act that allows a magistrate, if the matter goes to court, to enforce a repayment plan. Either the tenant is evicted or they're not evicted, and if the tenant is in rent arrears, prima facie they have to be evicted. As well as the emergency period being extended as long as possible, there also needs to be consideration as to*

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<sup>6</sup> Mr Peter Graham, Executive Director, Consumer, Building and Occupational Services, Department of Justice. *Transcript of Evidence – Friday 22 May 2020*, p. 27.

<sup>7</sup> Mr Benedict Bartl, *Op. cit.*, p. 8.

<sup>8</sup> Mr Peter Graham, *Op. cit.*, p. 14.

<sup>9</sup> Mr Benedict Bartl, *Op. cit.*, p. 2.

*how we prevent a flood of evictions or a bunch of people being in debt at the end of this.*<sup>10</sup>

The Attorney-General provided comment regarding the extension of the emergency period:

*...- we are very willing and prepared to look at extending should we need to do so. We will need to be looking at the public health advice at the time, how that is impacting this. All of those things need to be taken into account. We are starting to review all of that and obviously as we get closer to those time periods, we will be in a much better position to know whether an extension may or may not be needed. I cannot give anything definitive at this stage, other than to say it is certainly our intention to review and extend that if it is necessary.*<sup>11</sup>

Finally, the Committee examined the issue of resourcing to support tenants impacted during the COVID-19 pandemic.

Mr Bartl described the additional resourcing pressures that COVID-19 has placed on the Tenants' Union of Tasmania, he stated:

*... in April, we had about a 120 per cent increase in the number of calls we received over the same period last year. Off the top of my head, we had approximately 150 calls in April last year -so that's calls where we've provided legal advice - and in April this year it was about 310.*

*We have made clear to the Government that we require some additional resources.*<sup>12</sup>

The Attorney-General undertook to provide a response to the following question taken on notice (a response is attached to this Report) –

- What communication has been provided by the Government to landlords and agents regarding rent increases following the passing of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Bill 14 of 2020*.

In addition, the Tenants' Union of Tasmania undertook to provide a response to the following question taken on notice (a response is attached to this Report) –

- The number of private residential tenancies in Tasmania?

Following consideration of the evidence provided throughout the Inquiry, the Committee concluded its examination of the Notice at its meeting on 16 June 2020 and **RESOLVED** the Notice be examined, noting that it was consistent with the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*.

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<sup>10</sup> Mr Alex Bomford, Policy Analyst, Tenants' Union of Tasmania, *Transcript of Evidence – Friday 22 May 2020*, p. 5.

<sup>11</sup> The Attorney-General, the Hon Elise Archer MP, *Transcript of Evidence – Friday 22 May 2020*, p. 26.

<sup>12</sup> Mr Benedict Bartl, Op. cit., p. 7.



The supporting documentation provided by the Attorney-General, along with all relevant correspondence, the Tabled Document from the Tenants' Union of Tasmania, the Transcript of Evidence and Minutes of Proceedings relevant to the Notice are attached to this report for completeness.

**Notice under Section 16 of the (Poisons Act 1971)**

The Committee resolved at its meeting on 26 May 2020 to commence an Inquiry in relation to the Notice. The Committee invited the Minister for Health and Departmental representatives to appear at a public hearing on Friday 5 June 2020. The Minister accepted the invitation to appear before the Committee along with the following Department of Health representatives —

- Kathrine Morgan-Wicks, Secretary, Department of Health;
- Sam Halliday, Chief Pharmacist, Department of Health; and
- Megan Sperring, General Manager - Legal Services, Department of Health.

The Secretary of the Department of Health, Kathrine Morgan-Wicks provided the following detailed explanatory statement on behalf of the Minister for Health:

*... I appreciate the opportunity to address the committee on behalf of the minister, on the Government's efforts to support continuity of primary care and government services in the face of COVID-19.*

*As members of the committee will be aware, coronavirus was declared to be a notifiable disease three months ago. The Government's focus since then has been to ensure the health and wellbeing of Tasmanians, while continuing to support business, jobs, families and the community through a period of significant social and economic upheaval.*

*The COVID act was introduced to facilitate a range of measures to reduce the risk to the state and to the community as a result of the spread of coronavirus in our state. The ability for the Premier to make declarations by public notice to adjust the operation of statutory requirements in legislation, is one of these measures. The notice that we are talking about today, is consistent with the COVID act. It was issued by the Premier with approval of the emergency manager, and following an assessment by the Premier that it was necessary or desirable to issue the notice because of a reduction in the number of persons available to carry out particular activities because of the risk of the spread of COVID-19 amongst people in Tasmania.*

*The Premier's notice that we are here to discuss today, is an example of action taken by the Government to support the continuity of primary care and government services, and to reduce hardships to the community resulting from COVID-19.*

*Section 59E of the Poisons Act regulates the circumstances in which a prescriber may make a narcotic substance, or specified substance, available to a person. The process set out in section 59E of the Poisons Act anticipates*

*the secretary issuing an authority on receipt of a written application to do so. Almost all applications are made by medical practitioners and relate to narcotic substances. As committee members may know, a narcotic substance is a substance that is specified in Schedule 8 of the poisons list. This includes strong opioid pain medication and psychostimulants. The section 59E process imposes a considerable workload burden on applicants, predominantly general practitioners, and on pharmacists working in the state's Pharmaceutical Services Branch, who act as delegates of the secretary when considering applications, issuing, advising and monitoring supplies and risks in relation to those substances.*

*To be considered, applications need to confirm whether the person for whom the authority is sought is drug dependent, or is exhibiting drug-seeking behaviour. Applications also need to say whether the person has a history of obtaining a notifiable restricted substance, a narcotic substance or a prohibited substance for a non-medical purpose, or of unlawful possession or unlawful supply of a notifiable restricted substance, narcotic substance or prohibited substance.*

*This is important because of the nature of the drugs for which authorities are usually issued. Applications are carefully assessed by experienced pharmacists within the pharmaceutical services branch and consideration is given to the risks and benefits of authorising a doctor to prescribe the relevant substance for the specific patient. In complex cases, the advice of relevant specialist medical practitioners, including pain medicine specialists, addiction medicine specialists and psychiatrists, is also sought.*

*For patients at high risk of harm based on objective documented evidence, authorities are generally issued for six months or less. Authorities of six months duration or more are generally only issued when the risk of harm to the patient from the proposed regimen is lower. The notice relates to this group of authorities. We know that as the dose of opioids increases, so does the risk of harm. Tasmania's clinical regulatory approach to the regulation of high-risk medicines has contributed to a demonstrable reduction in the average daily dose of opioids per patient prescribed for persistent pain in Tasmania.*

*This has been achieved through a multi-disciplinary collaboration between our addiction medicine doctors, our pain medicine doctors, GPs and regulatory pharmacists. The Pennington Institute's annual overdose report 2019 for Australia showed that unintentional drug overdose deaths significantly increased across Australia between 2001 and 2017. Tasmania, however, experienced a much lower percentage increase in unintentional drug-induced deaths compared with the rest of Australia between 2001 and 2017.*

*Approximately 13 500 authorities were issued under section 59E of the Poisons Act during 2019. Around 9000 of these relate to lower risk authorities with around half of these due to expire in the period May to October 2020.*

*This equates to potentially more than 4000 authorities that would otherwise need to be applied for and issued in a six-month period. The notice itself was progressed for two main reasons. The first reason was to enable resources that would otherwise be focused on renewing these lower-risk authorities to instead focus on responding to COVID-19. The second reason was to mitigate the risk of reduced general practitioner and/or departmental availability due to widespread COVID-19 transmission.*

*A very similar approach has been taken in Victoria, which is the only other jurisdiction to require the use of a real-time prescription monitoring system. The situation as it relates to COVID-19 in Tasmania has changed significantly since mid-April 2020 when the notice was first initiated. Fortunately, the number of people testing positive in Tasmania to COVID-19 has decreased and the need for pharmacists acting as delegates for the secretary to divert from their usual roles to assist with the Government's response to COVID-19 has not been as significant as initially anticipated.*

*Authorities may be varied or revoked by delegates under section 59E of the Poisons Act at any time without an application, regardless of whether an application has been received. While the notice enables authorities to be extended beyond their expiry automatically, the practice of the Pharmaceutical Services Branch since the notice took effect has to be vary authorisations to extend the period during which they are to remain in force without the requirement for application, taking into account the risk of harm to the particular patient.*

*While this approach does require input from Pharmaceutical Services Branch, it has removed a burden on GPs who are no longer required to complete an application during the period of notice. This has only been possible because of the Tasmanian Government's successful approach to flattening the curve with respect to COVID-19 infection. The situation as it relates to COVID-19 in Tasmania may change rapidly at any time. Should this occur, the ability to rely on the notice as a means of enabling ongoing authority for medical practitioners and others to make a narcotic substance or specified substance available automatically in relevant circumstances, will be invaluable.*

*Thank you for the opportunity to provide this statement on behalf of the minister.<sup>13</sup>*

Following consideration of the evidence provided at the hearing, the Committee concluded its examination of the Notice at its meeting on 16 June 2020 and **RESOLVED** the Notice be examined, noting that it was consistent with the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*.

The supporting documentation provided by the Department of Health, all relevant correspondence, Transcript of Evidence and Minutes of Proceedings relevant to the Notice are attached to this Report for completeness.

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<sup>13</sup> Kathrine Morgan-Wicks, Secretary, Department of Health, *Transcript of Evidence – 5 June 2020*, pp. 2-4.

**Notice under Section 16 (Food Act 1993 and Public Health Act 1997)**

At its meeting on 16 June 2020, the Committee concluded its examination of the Notice and ***RESOLVED*** the Notice be examined, noting that it was consistent with the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*.

The supporting documentation provided by the Department of Health and Minutes of Proceedings relevant to the Notice are attached to this Report for completeness.

A handwritten signature in black ink, reading "Tania Rattray". The script is cursive and fluid, with the first name "Tania" and last name "Rattray" clearly distinguishable.

Tania Rattray MLC  
**CHAIR**

16 June 2020

Attorney-General  
Minister for Justice  
Minister for Corrections  
Minister for Building and Construction  
Minister for the Arts  
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12 MAY 2020

Ms Tania Rattray  
Chair  
Parliamentary Standing Committee on Subordinate Legislation  
Parliament House  
HOBART TAS 7000

Tania

Dear Ms Rattray

The *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (the COVID-19 Act) requires that any Notice be provided to the Subordinate Legislation Committee for review and scrutiny. I apologise that this has not been provided within the required timeframe due to pressing legislative and other commitments I am sure you will understand at this time.

On 23 April 2020, the Premier issued a Notice under section 22 of the COVID-19 Act to prevent rent increases under any lease that is a residential tenancy agreement for the purposes of the *Residential Tenancy Act 1997* (the RT Act). The Notice was published in the Government Gazette on 23 April 2020 (No. 21978) (see Attachment 1).

The Notice applies to any rent increase, including a rent increase where notice had been given under section 20(1) of the RT Act, where the rent increase had not taken effect prior to 23 April 2020.

The Notice is in place until 30 June 2020, at which time it is revoked. This timeframe is consistent with other protections provided for residential tenants via a Notice under the COVID-19 Act.

The Notice was prepared by the Office of Parliamentary Counsel. I attach the advice of the Deputy Chief Parliamentary Counsel as required under section 7(2) of the *Subordinate Legislation Act 1992* (see Attachment 2).

I further enclose a fact sheet to provide further information on the Notice and its effects (see Attachment 3). Should you have any queries or require further information regarding this matter, please do not hesitate to contact Peter Graham on (03) 6165 4757 or [peter.j.graham@justice.tas.gov.au](mailto:peter.j.graham@justice.tas.gov.au).

Yours sincerely

Hon Elise Archer MP  
Attorney-General  
Minister for Building and Construction

INQUIRIES: Kate Woodward  
TELEPHONE: (03) 6232 7285  
OUR REF:  
YOUR REF:

22 April, 2020

Secretary  
Department of Justice

**Attention:**

***Notice under 22 of the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020***

I enclose an electronic copy of this statutory rule and a Deputy Chief Parliamentary Counsel's advice.

Please arrange for the Premier to make the statutory rule at the first available opportunity (by signing and dating one of the copies and initialling or stamping the others).

After the statutory rule has been made, this Office will cause notification of its making to be given in the Gazette as required by the *Acts Interpretation Act 1931*. It will only take effect after this has occurred. To enable this to be done, you must ensure that the signed and dated copy of the statutory rule is returned to this Office as soon as possible after it has been made (together with one initialled or stamped copy).

Please note that the Premier must ensure that this statutory rule is tabled in both Houses of Parliament in accordance with section 7(2) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*, within 3 sitting-days after the notice is issued. If you have any queries on the tabling procedure, please contact the relevant Parliamentary Clerk; this Office has no responsibilities in that regard.

The Premier is required under section 7(3) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* to send to the Subordinate Legislation Committee a copy of the notice within 14 days of signing it. **This requirement must be complied with.** If you have any queries on the tabling procedure, please contact the relevant Parliamentary Clerk; this Office has no responsibilities in that regard.



Katherine Woodward  
**Deputy Chief Parliamentary Counsel**

**ADVICE OF DEPUTY CHIEF PARLIAMENTARY COUNSEL*****Notice under section 22 of the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020***

I advise that this statutory rule –

- (a) appears to be within the powers conferred by the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (b) does not appear, without clear and express authority being provided by any Act, to –
  - (i) have any retrospective effect; or
  - (ii) impose any tax, fee, fine, imprisonment or other penalty; or
  - (iii) sub-delegate powers delegated by the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (c) appears to be within the general objectives of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (d) is expressed in as clear and unambiguous language as is reasonably possible.

Dated 22 April, 2020.



Katherine Woodward  
**Deputy Chief Parliamentary Counsel**

**Fact sheet – Notice under section 22 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* to prevent rent increases for residential tenancies**

**Background:**

- Section 22 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (the COVID-19 Act) provides for the relevant Minister, by Notice, to prevent rent increases or terminations for a lease or class of leases.
- On 23 April, the Premier issued a Notice (the Notice) under section 22 of the COVID-19 Act to prevent rent increases for residential tenancies until 30 June 2020.

**Scope of the Notice:**

- The Notice applies to all leases that are residential tenancy agreements for the purposes of the *Residential Tenancy Act 1997* (the RT Act).
- The Notice prevents an increase of rent under a residential tenancy agreement. This includes a rent increase for which notice had been given under section 20(1) of the RT Act, which had yet to take effect prior to 23 April 2020.
- The Notice will be revoked on 30 June 2020.





# TASMANIAN GOVERNMENT GAZETTE

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## COVID-19 Disease Emergency

TASMANIA

COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020

NOTICE UNDER SECTION 22

I, PETER CARL GUTWEIN, the Premier, in pursuance of section 22 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*, declare that –

- (a) despite any provision of a lease that is a residential tenancy agreement to which the *Residential Tenancy Act 1997* (“the Act”) applies, rent payable under that agreement may not be increased under section 20 of the Act; and
- (b) for the avoidance of doubt, a notice to a tenant in accordance with section 20(1) of the Act is of no effect if the notice has been given to the tenant and the increase, of the amount of rent payable by the tenant under the agreement to which the notice applies, specified in the notice has not yet taken effect; and
- (c) this notice is revoked on 30 June 2020.

Dated this 23rd day of April 2020.

PETER GUTWEIN  
Premier

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## Joint Standing Committee Subordinate Legislation

8 May 2020

The Hon Elise Archer MP  
Minister for Building and Construction  
10<sup>th</sup> Floor  
15 Murray Street  
HOBART 7000

Dear Attorney-General

**Notice issued under section 22 of the  
COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020  
(residential tenancies- Gazetted 23 April 2020)**

The Joint Standing Committee on Subordinate Legislation is currently considering the above Notice. At the Committee's meeting on 8 May 2020 it was noted that the required documentation has not been received under section 7(3) of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020*.

It would be appreciated if you would please forward the required documentation at your early convenience.

Yours sincerely

A handwritten signature in black ink, reading 'Tania Rattray'.

TANIA RATTRAY MLC

CHAIR

w. 03 6212 2250 f. 03 6212 2345 m. 0488 009 642 e. [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)



## Joint Standing Committee Subordinate Legislation

12 May 2020

The Hon Elise Archer MP  
Minister for Building and Construction  
10<sup>th</sup> Floor  
15 Murray Street  
HOBART 7000

Dear Minister

**Notice issued under section 22 of the  
COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020  
(residential tenancies- Gazetted 23 April 2020)**

I refer to my previous correspondence of 8 May 2020 regarding the outstanding paperwork associated with this Notice

At its meeting today, the Committee noted that you have not complied with the requirement to provide a copy of the Notice to the Committee within 14 days in accordance with section 7 of the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (the Act) as it relates to the role of the Committee. The Committee is therefore unable to perform its role and functions in the current circumstances and as a consequence, has resolved to commence an Inquiry in relation to the Notice. Subsequent to the meeting today, I can confirm receipt of paperwork from your office regarding the Notice at 2.48 pm today.

You are invited with Departmental representatives to appear before the Committee to provide verbal evidence at a public hearing to be held via Webex on Friday 15 or 22 May at 12 noon. It would be appreciated if you would please confirm attendances with the Committee Secretariat – [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)

The Committee has requested that I also take the opportunity to confirm that, amongst other things, it is seeking clarification as to why there was a delay of 20 days in issuing the Notice (Gazette No. 21978) of 23 April 2020. The initial Gazette Notice No. 21961 was issued on 3 April 2020.

Thank you for your assistance.

Yours sincerely

A handwritten signature in black ink, reading "Tania Rattray". The script is cursive and fluid, with the first name "Tania" and last name "Rattray" clearly distinguishable.

TANIA RATTRAY MLC

CHAIR

w. 03 6212 2250 f. 03 6212 2345 m. 0488 009 642 e. [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)

Attorney-General  
Minister for Justice  
Minister for Corrections  
Minister for Building and Construction  
Minister for the Arts  
Minister for Heritage

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13 MAY 2020

Hon Tania Rattray MLC  
Chair  
Parliamentary Standing Committee on Subordinate Legislation  
Parliament House  
HOBART TAS 7000

Tania

Dear Chair

Thank you for your correspondence dated 12 May 2020 regarding the Notice issued on 23 April 2020, pursuant to section 22 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*, and your request for me to appear before the Subordinate Legislation Committee (the Committee).

I am willing to appear before the Committee, along with my Departmental officials, to provide verbal evidence on the abovementioned Notice. My office will make contact with the Committee Secretariat to make arrangements to appear on Friday, 22 May 2020 at 12 noon.

As stated in my letter to you dated 12 May 2020, I apologise that this paperwork was not sent to you within the required 14 day timeframe. This was only due to pressing and significant legislative and other commitments of both myself and my Departmental officials who were dealing with all of these matters, during this very challenging time.

While I am willing to provide evidence in person, I am a little perplexed that the Committee has not simply sought further written information from me and my Department in the first instance, particularly considering the current challenges faced due to the COVID-19 pandemic.

Whilst I welcome any questions you may have, immediately calling an enquiry requiring the attendance of those dealing with urgent matters is unfortunate given current unprecedented circumstances.

I note that the Committee has requested clarification as to why there was a delay of 20 days in issuing the Notice of 23 April 2020 (Gazette Notice No. 21978), when the first Notice relating to residential tenancies was issued on 3 April 2020 (Gazette Notice No. 21961).

I would like to make it clear that the Notice of 23 April 2020 was issued to act as an additional safeguard for residential tenants during these difficult times.

It was not originally deemed necessary for this Notice to be issued due to the mechanisms that already existed to deal with unreasonable rent increases through the Residential Tenancy Commissioner (the

Commissioner). Under the *Residential Tenancy Act 1997*, a tenant can seek an Order from the Commissioner (RTC) for a rent increase to be deemed unreasonable.

Given the current economic climate, the Commissioner would not likely accept any rent increase as reasonable. In fact, the Commissioner had not received any applications since 1 March 2020 relating to unreasonable residential rent increases. As I have mentioned though, to make it abundantly clear to both tenants and landlords, the Government issued the Notice on 23 April 2020 regarding residential rent increases.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Elise Archer', with a stylized flourish at the end.

Hon Elise Archer MP  
**Minister for Building and Construction**



Parliament of Tasmania, Hobart, TAS, 7000  
[www.parliament.tas.gov.au](http://www.parliament.tas.gov.au)

## Joint Standing Committee Subordinate Legislation

25 May 2020

The Hon Elise Archer MP  
Attorney-General  
10<sup>th</sup> Floor  
15 Murray Street  
HOBART 7000

Dear Attorney-General

### **NOTICE UNDER SECTION 22 OF THE COVID-19 DISEASE EMERGENCY (MISCELLEANEOUS PROVISIONS) ACT 2020 (RESIDENTIAL TENANCIES)**

Thank you for attending the public hearing on Friday 22 May, in relation to the above Notice.

I confirm that you undertook to provide the following information on notice:

- What communication has been provided by the Government to landlords and agents regarding rent increases following the passing of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Bill 14 of 2020*.

It would be appreciated if a response would be provided at your early convenience.

Yours sincerely

A handwritten signature in black ink, reading 'Tania Rattray'.

**TANIA RATTRAY MLC**

CHAIR

w. 03 6212 2250 f. 03 6212 2345 m. 0488 009 642 e. [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)





Parliament of Tasmania, Hobart, TAS, 7000  
[www.parliament.tas.gov.au](http://www.parliament.tas.gov.au)

## Joint Standing Committee Subordinate Legislation

25 May 2020

Mr Benedict Bartl  
Acting Principal Solicitor  
Tenants' Union of Tasmania  
E: [tenants@netspace.net.au](mailto:tenants@netspace.net.au)

Dear Mr Bartl

### **NOTICE UNDER SECTION 22 OF THE COVID-19 DISEASE EMERGENCY (MISCELLEANEOUS PROVISIONS) ACT 2020 (RESIDENTIAL TENANCIES)**

Thank you for attending the public hearing today, in relation to the above Notice.

I confirm that you undertook to provide the following information on notice:

- The number of private residential tenancies in Tasmania?

It would be appreciated if a response would be provided at your early convenience.

Yours sincerely

**TANIA RATTRAY MLC**

CHAIR

w. 03 6212 2250 f. 03 6212 2345 m. 0488 009 642 e. [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)



27 May 2020

To the Chair  
Parliamentary Standing Committee on Subordinate Legislation  
Parliament House  
Hobart TAS 7000  
attn: Secretary

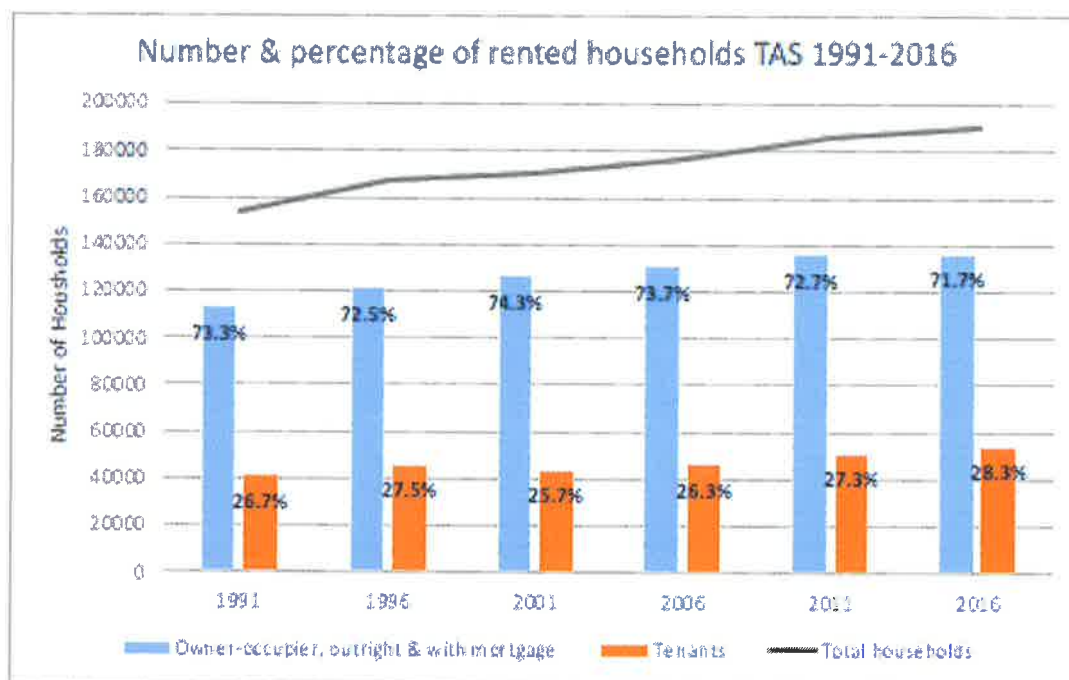
via email: [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)

To the Honourable Tania Rattray MLC,  
**Re: Residential Tenancies Notice issued pursuant to section 22 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020***

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Thank you for the opportunity to appear before the Subordinate Legislation Committee on Friday 22<sup>nd</sup> May 2020.

We were asked a question about the number of private residential tenants in Tasmania and agreed to provide a response as soon as practicable. As the following graph from the Australian Bureau of Statistics demonstrates, there has been an increase in the number of residential properties being rented in Tasmania over the last twenty-five years.



In raw numbers, the Productivity Commission *Report on Government Services 2019* found that between 2006-2016 the number of households renting in Tasmania has increased by 18 per cent from 45,600 in 2006 to over 54,000 in 2016.<sup>1</sup> While that has been offset by the growth of the community housing sector, resulting in a net increase of social housing stock,<sup>2</sup> it has not been proportionate to the growth of the rental market overall.

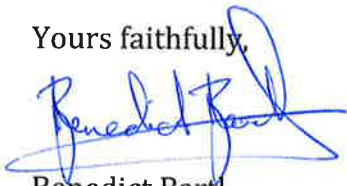
In answer to the query asked of the Committee, in 2016 when the last Australian Bureau of Statistics Census took place, there were approximately 39,300 households in Tasmania who were renting privately.

More recent data from the Australian Bureau of Statistics is not available. However, the strongest indication that the number of residential tenants has increased is the acknowledgement that it is becoming increasingly difficult for first-home buyers to purchase a home and rents are skyrocketing resulting from a lack of supply.

For example, according to *Smart Property Investment* property prices over the last five years have increased by 64 per cent in central Hobart, 33 per cent in Launceston and 22 per cent in Devonport.<sup>3</sup> At the same time, as we noted in our submission to the Committee last week, over the last three years the median rent for a three bedroom house in Glenorchy has increased by 40 per cent, by 38 per cent on the Eastern Shore and by 36 per cent in Hobart City. In the north of Tasmania, inner Launceston has seen an increase of 17 per cent and outer Launceston an increase of 14 per cent whilst on the north-west coast there has been a 15 per cent increase in Greater Burnie and 15 per cent on the West Coast.<sup>4</sup>

If you have any further queries, please do not hesitate to contact us.

Yours faithfully,



Benedict Bartl  
Acting Principal Solicitor  
**Tenants' Union of Tasmania**

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<sup>1</sup> Productivity Commission, *Report on Government Services 2019*, Tables 2A.25, 2A.27.

<sup>2</sup> Ibid.

<sup>3</sup> Australian Property Investment data. As found at <https://www.smartpropertyinvestment.com.au/data/tas/7000/hobart>; <https://www.smartpropertyinvestment.com.au/data/tas/7250/east-launceston>; <https://www.smartpropertyinvestment.com.au/data/tas/7310/devonport> (Accessed 26 May 2020).

<sup>4</sup> Tenants' Union of Tasmania and the Rental Deposit Authority, 'Three year Rent Increases'. As found at <http://tutas.org.au/rents-rise-by-up-to-40-in-three-years/> (Accessed 26 May 2020).

Attorney-General  
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- 4 JUN 2020

The Hon Tania Rattray MLC  
Chair  
Joint Standing Committee on Subordinate Legislation  
Parliament House  
HOBART TAS 7000

Dear Ms Rattray

I am writing in response to your correspondence of 25 May 2020 regarding an undertaking I gave to the Joint Standing Committee on Subordinate Legislation (the Committee) at its public hearing on 22 May 2020.

The Committee requested information regarding the communication from the Government to landlords and property agents in relation to rent increases following passage of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (the Act).

As the Committee will appreciate, the Government provided a number of communications to individual landlords, agents and tenants regarding the legislation, including in relation to rent increases. Firstly, the Premier outlined the existing protections for 'unreasonable' rent increases in the House of Assembly on 25 March 2020 during passage of the Act. As part of his contribution, the Premier touched on the fact that given these protections, and the current market conditions, rents were highly unlikely to increase.

In the days following the passage of the legislation, the Government issued media releases, fact sheets, newspaper articles and 'frequently asked questions' documents for tenants and landlords regarding the protections in the Act and existing protections in the *Residential Tenancy Act 1997*, to ensure prompt public and stakeholder dissemination.

During this period, the Government communicated with the Tenants' Union of Tasmania and the Real Estate Institute of Tasmania among others, while also responding to many enquiries from individual tenants and landlords via telephone, email and letter. I have attached some relevant examples (with individual's names redacted where appropriate). Such communications were for the purposes of explaining how the protections were intended to work while also providing advice with regard to individual cases.

I can assure you that every enquiry to my office received a response by telephone, email or letter.

The Government updated its fact sheets and frequently asked questions documents on 3 April 2020 and 23 April 2020 in response to additional protections, including to prevent rent increases, being put in place via Notice under section 22 of the Act. These fact sheets and frequently asked questions documents were published on the CBOS website at [www.cbos.tas.gov.au](http://www.cbos.tas.gov.au) and the State Government Coronavirus website at [www.coronavirus.tas.gov.au](http://www.coronavirus.tas.gov.au).

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Elise Archer', with a checkmark to the right.

Hon Elise Archer MP  
**Minister for Building and Construction**

**Example of newspaper advertisement text published in Tasmanian newspapers (full page) on Thursday 30 April 2020.**

**Are you a rental tenant, real estate agent or landlord?**

The Tasmanian Government advises that no rent increases for residential tenancies can take place until after **30 June 2020**.

This applies to:

- Any rent increase that was due to take place between 23 April 2020 and 30 June 2020
- Any rent increase where notice was given prior to 23 April 2020, if that rent increase is yet to take place.

This measure will be reviewed prior to 30 June 2020 and may be extended.

A number of other changes have been introduced as a result of COVID-19. If you are a tenant, agent or landlord we recommend you visit <https://www.cbos.tas.gov.au/> for full detail on all residential tenancy changes.

You can also call 1300 654 499.

## Media Release



*Elise Archer, Minister for Building and Construction*

### *Rent increase freeze in place for residential tenants during COVID-19 crisis*

The Tasmanian Government is committed to keeping Tasmanians safe and secure through the challenges faced by the COVID-19 pandemic.

The Government has today issued a further Notice under Section 22 of the *COVID-19 Disease (Emergency Provisions) Act 2020* to prevent residential rent increases.

This will mean that rent increases cannot occur until at least 30 June 2020.

This is in addition to the Notice already issued on 2 April 2020 preventing residential rental evictions until at least 30 June 2020.

Under the *Residential Tenancy Act 1997*, a tenant can seek an Order from the Residential Tenancy Commissioner (RTC) for a rent increase to be deemed unreasonable.

Given the current climate, the RTC would not likely accept any rent increase as reasonable, and has not received any applications since 1 March 2020 relating to unreasonable residential rent increases.

However, this Notice has been issued to act as a further safeguard for residential tenants during these difficult times.

Any rent increase given would be of no effect until the end of the period covered by the Notice.

For detailed information on all emergency changes that have been implemented in relation to residential tenancies, visit the State Government Coronavirus website at <https://www.coronavirus.tas.gov.au/>

## Example of letters to concerned landlords

Thank you for your recent correspondence to the Premier, the Hon Peter Gutwein MP, regarding your concerns with recent residential tenancy amendments due to the COVID-19 pandemic. As residential tenancy legislation falls within my portfolio responsibilities as the Minister for Building and Construction, I am responding on behalf of the Premier.

The amendments to residential tenancy legislation have been created to assist both landlords and tenants in reducing the spread of COVID-19 within the community. Tenants have been strongly advised by our Government to continue to pay rent where they are able to do so as the emergency period amendments do not provide for a rent holiday.

At the end of the emergency period, landlords will be able to issue a notice to vacate and recover the rent in arrears if the tenant is still in breach of their agreement. Landlords will be able to recover any outstanding rent from the tenant's bond or in the event the amount exceeds the bond, through civil proceedings.

If landlords or tenants continue to experience severe COVID-19 related hardship during the emergency period, they can apply to the Residential Tenancy Commissioner for an Order to terminate a fixed-term residential tenancy agreement. Whether hardship applies is likely to be a balancing act, weighing up protecting the interests of one party against the burden it will impose on the other. It will be a matter of fairness, with the goal of preventing, insofar as is possible, an increase in homelessness among Tasmanians due to the impacts of COVID-19. More information is available at the Consumer, Building and Occupational Services (CBOS) website [www.cbos.tas.gov.au](http://www.cbos.tas.gov.au) or by contacting 1300 654 499.

Further, the Tasmanian Government is also now providing further financial assistance to residential tenants through a support fund for tenants who may be experiencing significant hardship with rental payments during the COVID-19 emergency period, namely the COVID-19 Rent Relief Fund. Importantly, this fund will help to minimise the financial impacts on landlords as a result of tenants not being able to meet their rental payment obligations. Further details and fact sheets are available at <https://www.communities.tas.gov.au/housing/rental-services>.

Thank you for bringing this matter to the Government's attention. I trust this information is of assistance to you.



Thank you for your recent correspondence regarding your concerns with the changes to residential tenancy legislation during the COVID-19 emergency period.

The Tasmanian Government was the first government in Australia to legislate protections for residential property owners and tenants, through the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*. The amendments have been created to assist both landlords and tenants in reducing the spread of COVID-19 within the community, and to address the economic impacts of the pandemic on parties to a residential tenancy agreement.

The Government is confident that the protections introduced through the legislative amendments are balanced and provide support for all parties. If a landlord is experiencing severe hardship, the Residential Tenancy Commissioner (the Commissioner) will consider an application to have an Order to terminate the lease agreement. Where the Commissioner is satisfied there is a case of severe COVID-19 related hardship, compensation may also be awarded. Compensation will be assessed, weighing up the parties' circumstances.

I note your concerns regarding the condition of your property. The COVID-19 amendments do not prevent a landlord or their agent from performing inspections during the emergency period. Inspections may be carried out during the emergency period for the following reasons, namely where:

- it is reasonably believed that the tenant is ill, injured or unable to give permission; or
- denial of immediate access is likely to result in damage to all or part of the premises; or
- there is a risk to the tenant or another person present on the premises; or
- damage has occurred to the premises; or
- it is reasonably believed that the premises have been abandoned; or
- with 24 hours' notice to the tenant, to ensure that repairs have been appropriately carried out; or
- it is agreed by the tenant.

Further, the Tasmanian Government does not consider it necessary to impose an obligation on a landlord to reduce the rent payable under a residential tenancy agreement. A reduction in rent is through mutual agreement between the parties. Such agreement should be in writing and signed by both parties, and any agreement reached is taken to form part of the residential tenancy agreement.

MIN/20/507

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A landlord is only required to consider a reduction in rent if the tenant makes application. Whilst the Tasmanian Government has not stipulated whether evidence to support a tenant's rent reduction application can or cannot be requested by a landlord, a landlord is entitled to discuss the tenant's circumstances, with a view of establishing a reasonable outcome for both parties.

The Tasmanian Government is also now providing further financial assistance to residential tenants through a support fund for tenants who may be experiencing significant hardship with rental payments during the COVID-19 emergency period, namely the COVID-19 Rent Relief Fund. Importantly, this fund will help to minimise the financial impacts on landlords as a result of tenants not being able to meet their rental payment obligations. Further details and fact sheets are available at <https://www.communities.tas.gov.au/housing/rental-services>.

Thank you for bringing your concerns to my attention. I trust this information is of assistance to you.

Thank you for your correspondence to the Premier, the Hon Peter Gutwein MP, dated 6 April 2020 regarding your concerns with the changes to the residential tenancy legislation. I am responding on behalf of the Premier as this matter falls within my portfolio responsibilities as Minister for Building and Construction.

Your correspondence raises a number of concerns regarding changes implemented as a result of the introduction of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*. Under this legislation, there is a suspension of evictions relating to rent in arrears during the emergency period. This emergency period has been implemented to assist in the fight against the global COVID-19 pandemic, and is only temporary.

At the end of the emergency period, a landlord will be able to issue a notice to vacate and recover the rent in arrears, if the tenant is still in breach of their agreement. Landlords will be able to recover any outstanding rent from the tenant's bond or, in the event that the amount exceeds the bond, through civil proceedings should they need to, just as they are able to now.

Further, to assist in these difficult times, landlords and tenants can reach a mutual agreement to reduce rent during the emergency period. Any agreement reached should be in writing, signed by both parties, and is taken to form part of the residential tenancy agreement.

However, should landlords or tenants continue to be affected by COVID-19, either party can apply to the Residential Tenancy Commissioner (the Commissioner) for an Order to terminate a residential tenancy agreement due to severe COVID-19 related hardship. When assessing these applications, the Commissioner will weigh up protecting the interests of one party against the burden it would impose on the other. The Commissioner also has the ability to award compensation to parties when issuing an Order for termination of an agreement.

I trust this information is of assistance to you. More information can be found on the Consumer, Building and Occupational Services (CBOS) website at <https://cbos.tas.gov.au/>.

## Tenants' Union of Tasmania correspondence

Attorney-General  
Minister for Justice  
Minister for Corrections  
Minister for Building and Construction  
Minister for the Arts  
Minister for Heritage

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- 7 MAY 2020

Mr Benedict Bartl, Ms Pattie Chugg, Ms Jane Hutchison, Dr Chris Jones & Ms Nic McBride  
C/: Tenants' Union of Tasmania

By email c/: [tenants@netspace.net.au](mailto:tenants@netspace.net.au)

Dear all

Thank you for your joint correspondence dated 24 April 2020 to the Premier, the Hon Peter Gutwein MP seeking an extension of rent reductions proposed in the commercial leases legislation to residential tenants. I am responding to you on behalf of the Premier as residential tenancy legislation falls within my portfolio responsibilities as the Minister for Building and Construction.

The Government took swift action to protect residential tenants affected by the impact of COVID-19, including a halt on rental evictions, restrictions on inspections to support social distancing and a ban on rental increases during the emergency period. The current expiry date for these measures is 30 June 2020, but the Government will, as we have said we would, review this over coming weeks to determine if this needs to be extended by a further Notice.

I hope you will agree these measures have been substantial and have assisted many tenants throughout Tasmania who have been affected by the impact of COVID-19.

The Government, however, does not support your proposal on the basis of:

- the level of financial support provided to households by way of State and Commonwealth packages (especially JobKeeper and increased JobSeeker payments) to help them meet their obligations;
- the impact of COVID-19 on the turnover of many businesses;
- the existing protections for residential tenants being appropriate and nationally consistent; and
- there must be a balance between protecting tenants while not unjustifiably penalising landlords.

I would also note that the commercial tenancy Code of Conduct has been developed to ensure, to the extent possible, that businesses are able to survive and are well placed to resume trade, and drive growth and prosperity when the current restrictions are relaxed. It follows that this will also allow the resumption of permanent employment arrangements for many Tasmanians, a great deal of whom will be residential tenants.

The financial support from the Commonwealth Government for those who have lost their jobs, been stood down or had their hours of work reduced is significant and deliberately so. As a result of these programs, many individuals will qualify for between \$1100 and \$1500 a fortnight. The purpose of these payments is to ensure that people can continue to meet their household expenses during the period they are unable to work or are working reduced hours. This includes paying their rent.

However, we do recognise that these forms of assistance may not be providing the assistance required for some renters. That is why the Tasmanian Government has committed to providing further financial assistance to residential tenants through a support fund for tenants who may be experiencing significant hardship with rental payments during the COVID-19 emergency period.

This is in addition to the \$3 million the Tasmanian Government has previously announced and made available to those experiencing hardship, such as migrants and temporary visa holders.

The Government has committed to consulting with and seeking information from the Tenants' Union and receiving advice from the Residential Tenancy Commissioner on how this support fund can be best established to achieve an outcome that is reasonable and fair.

Once again, I thank you for your correspondence and look forward to further engagement on the development of the support fund.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Elise Archer', with a stylized flourish at the end.

Hon Elise Archer MP  
Minister for Building and Construction

Attorney-General  
Minister for Justice  
Minister for Corrections  
Minister for Building and Construction  
Minister for the Arts  
Minister for Heritage

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17 APR 2020

Mr Benedict Bartl  
Acting Principal Solicitor  
Tenants Union of Tasmania

By email: [ben@tenantstas.org.au](mailto:ben@tenantstas.org.au)

Dear Mr Bartl

Thank you for your recent correspondence to the Premier, the Hon Peter Gutwein, regarding residential tenancies in Tasmania. I am responding on behalf of the Premier as rental services falls within my portfolio responsibilities as Minister for Building and Construction.

I understand that you have spoken with Consumer, Building and Occupational Services (CBOS), and would be aware of the *COVID-19 Disease (Emergency Provisions) Act 2020* which came into effect as of 27 March 2020. This Act introduced amendments to the *Residential Tenancy Act 1997* including two provisions regarding notices to vacate.

The first is in relation to suspension of evictions specifically regarding rent in arrears during the emergency period. The emergency period has been in place since 27 March 2020 and extends for 120 days, with the ability to be further extended if required. Any notice to vacate given for rent in arrears prior to this date, where the tenant has not yet vacated, has no effect.

The second provision gives the Tasmanian Government power to issue a Notice which can suspend all evictions under section 42 of the *Residential Tenancy Act 1997*. On 2 April 2020, the Premier issued a Notice to suspend all evictions for 90 days. Any notice to vacate issued by an owner to a tenant has no effect until 30 June 2020.

This applies to all notices to vacate which have been issued to a tenant, where the tenant is yet to vacate, except:

- by agreement with the tenant; or
- if it is a non-fixed term tenancy and the notice to vacate has been served prior to 3 April 2020 because the property is to be sold; or
- where the notice to vacate has been served due to the tenant using the property for an unlawful purpose; or
- in the circumstance where it is terminated for severe hardship by the Commissioner.

An owner or tenant can also apply to the Magistrates Court of Tasmania to terminate the agreement as a result of violence or damage caused by willful behaviour. Notices to vacate can still be issued before 30 June 2020 but will have no effect until after this date. This measure will be reviewed after 90 days and may be extended.

Further, both State and Federal Governments have announced stimulus packages that will support Tasmanians as we tackle the impact of the COVID-19 pandemic. These packages include household assistance for casual workers, sole traders, retirees, businesses and countless families who may have lost their incomes as a result of the economic downturn caused by the global pandemic.

In addition, the Tasmanian Government has provided support over the next three months to organisations including the Salvation Army, Red Cross and Rural Business Tasmania, who play a vital role in assisting vulnerable Tasmanians who are impacted by the virus.

Yours sincerely



Hon Elise Archer MP  
Minister for Building and Construction

## Examples of further communications with constituents (last page is specific to a rent increase)

Thank you for your recent correspondence regarding the emergency residential tenancy/legislative amendments and the Tenants' Union of Tasmania's proposal recommending the introduction of a proportional reduction in rent for residential tenancies in line with the commercial leasing mandatory Code of Conduct.

The Tasmanian Government was the first Government in Australia to initiate protections for landlords and tenants alike, through the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (the Act).

As you are aware, there was a proposal from the Tenants' Union and Greens that Government should consider extending the mandatory Code of Conduct for commercial tenancies to residential tenancies. This would have allowed for a reduction in rent proportionate to a tenant's loss of income.

The Government, however, opposed this move in Parliament. We do not consider the proposal as necessary given the level of financial support currently offered to tenants from both the Tasmanian and Commonwealth Governments. The financial packages are intended to ensure household expenses, including rental obligations, continue to be met during the emergency period.

Further, the Tasmanian Government has also recently announced the establishment of the COVID-19 Rent Relief Fund for tenants experiencing significant hardship and unable to meet their rental payments. This is particularly, though not exclusively, for those tenants who cannot access the jobkeeper and jobseeker schemes. Importantly, this fund will also help to minimise the financial impacts on landlords as a result of tenants not being able to meet their rental payment obligations. Funds for eligible tenants are paid directly to their landlords and then a commensurate rent reduction is passed on. Further details are available at <https://www.communitiestas.gov.au/housing/rental-services>.

I would also like to point out that if a landlord is experiencing severe hardship, the Residential Tenancy Commissioner (the Commissioner) will consider an application to have an Order to terminate the lease agreement. Where the Commissioner is satisfied there is a case of severe COVID-19 related hardship, compensation may also be awarded. Compensation will be assessed, weighing up the parties' circumstances.

The Consumer, Building and Occupational Services (CBOS) website at [www.cbos.tas.gov.au](http://www.cbos.tas.gov.au) has recently been updated to include information and guidance regarding the legislative amendments, including what points are considered in assessing an application for severe hardship. Some of these points include landlords or tenants having lost employment or being subject to reduced hours of work, as highlighted as a key concern in your correspondence.

The Tasmanian Government understands this is a difficult and unprecedented time for landlords and tenants, and that there is a great deal of uncertainty moving forward.

Thank you for writing to me on this matter. I trust this information is of assistance to you.

Yours sincerely

Elise

**Hon Elise Archer MP**

Attorney-General

Minister for Justice

Minister for Corrections

Minister for Building and Construction

Minister for the Arts

Minister for Heritage

Liberal Member for Clark



Thank you for contacting me on this matter. I have sought urgent advice from the Residential Tenancy Commissioner (the Commissioner) regarding your increase in rent and I believe you may have also been in contact.

In order to accept an Unreasonable Rent Increase application, the application needs to be lodged with the Commissioner within 60 days of the rent increase notification. This is in accordance with section 23 of the *Residential Tenancy Act 1997*. As your rent increase notice was received on or around 29 January 2020, the Commissioner is unable to receive or assess your application lodged in May 2020.

The Tasmanian Government acted swiftly to implement measures to support and assist Tasmanian tenants. Tasmania was the first State to introduce emergency legislation to ensure that tenants have the ability to continue to live in their rental property throughout the COVID-19 pandemic. We will continue to monitor the rental sector, and should further need arise, will consider measures as appropriate into the future.

I encourage you to make contact with your landlord or property agent to see if your rent is able to be reduced to assist you during the pandemic. Any mutual agreement should be in writing and signed by both parties.

I hope this information is of assistance to you. Please don't hesitate to seek further advice through my office or the Commissioner.

Kind regards

Elise

**Hon Elise Archer MP**

Attorney-General  
Minister for Justice  
Minister for Corrections  
Minister for Building and Construction  
Minister for the Arts  
Minister for Heritage  
Liberal Member for Clark

Level 10, 15 Murray Street HOBART TAS 7000

e-mail: [elise.archer@tas.gov.au](mailto:elise.archer@tas.gov.au)





## Joint Standing Committee Subordinate Legislation

9 June 2020

The Hon Elise Archer MP  
Attorney General  
10<sup>th</sup> Floor  
15 Murray Street  
HOBART 7000

Dear Attorney General

**Notice issued under Section 22 of the  
COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020  
(Residential Tenancies- Gazetted 23 April 2020)**

The Joint Standing Committee on Subordinate Legislation is currently considering the above Notice. At the Committee's meeting on 5 June it was noted that the Notice is yet to be tabled as required under Section 7(1) of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020*.

It would be appreciated if you would please ensure that the Notice is tabled at your earliest convenience.

Yours sincerely

A handwritten signature in black ink, reading "Tania Rattray".

**TANIA RATTRAY MLC**

CHAIR

w. 03 6212 2250 f. 03 6212 2345 m. 0488 009 642 e. [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)



21 May 2020

To the Chair  
Parliamentary Standing Committee on Subordinate Legislation  
Parliament House  
Hobart TAS 7000  
attn: Secretary

via email: [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)

To the Honourable Tania Rattray MLC,  
**Re: Residential Tenancies Notice issued pursuant to section 22 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020***

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The Tenants' Union of Tasmania welcomes the opportunity to appear before the Subordinate Legislation Committee in relation to the Residential Tenancies Notice issued pursuant to section 22 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*.

The Tenants' Union of Tasmania is a not for profit community organisation providing information, advice and representation to residential tenants. We also offer community legal education and training and advocate for the improvement of residential tenants' rights.

We strongly support the measures introduced in the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* to protect residential tenants against evictions and rent increases. However, we recommend consistency in the commencement date for the freezing of rental increases between commercial and residential tenancies. We also recommend that the emergency period be extended for at least another three months, and that general repairs be required to be carried out with the tenant's consent.

***COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020***

On 25 March 2020 the Premier, the Honourable Peter Gutwein MP tabled the *COVID-19 Disease Emergency (Miscellaneous Provisions) Bill 2020* to the House of Assembly. The significance of the Bill was noted in his second reading speech in which he observed:<sup>1</sup>

*The Bill I am introducing today is essential to support the continuity of government services, and key regulatory functions, during what is likely to be a period of significant social and economic upheaval for all Tasmanians.*



166 Macquarie St Hobart TAS 7000 T: (03) 6223 2591 F: (03) 6223 2510 E: [tenants@netspace.net.au](mailto:tenants@netspace.net.au) [www.tutas.org.au](http://www.tutas.org.au) ABN: 90 027 237 500

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<sup>1</sup> The Honourable Peter Gutwein MP, Hansard, *COVID-19 Disease Emergency (Miscellaneous Provisions) Bill 2020*, Second Reading Speech, Wednesday 25 March 2020 at 15.

During debate of the Bill, a number of amendments were put forward, including a broadening of the grounds under which tenants would not be able to be evicted as well as an extension of the freeze on rental increases to include residential tenancies. After unanimous support from both the House of Assembly and the Legislative Council, the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* ('the Act') became law and took effect on 27 March 2020.

Relevantly, section 22 of the Act provided the ability to issue a notice declaring that during the emergency period there could be no termination of a lease agreement or a rent increase:

**22. Provisions restricting rent increases or termination of commercial tenancies**

*(1) In this section –*

***emergency period*** has the same meaning as in the Residential Tenancy Act 1997 as amended by this Act.

*(2) The Minister may, by notice, declare that, despite any provision of a lease, a lease that is within a class of leases specified in the notice must not, within the emergency period, be terminated, and the rent payable under the lease may not be increased, in the circumstances set out in the notice.*

*(3) A termination of a lease, or an increase in rent in relation to a lease, to which a notice under subsection (2) applies is void and of no effect if it is in contravention of the notice.*

On 9 April 2020, the Premier declared that within the emergency period commercial landlords would not be able to increase rent for those commercial tenants who could establish a decrease in turnover of more than 30 per cent in one continuous month.<sup>2</sup>

On 23 April 2020, the Premier declared that residential landlords would not be able to increase rent for residential tenants.<sup>3</sup>

Expressed in another way, the Premier declared that there would be a retrospective rent freeze for commercial tenants from 1 April 2020 but did not freeze rents for residential tenants until 23 April 2020 and with no retrospectivity.

In our opinion, a rent freeze for both commercial and residential tenancies should have been declared from the 1 April 2020. It was clearly the intent of Parliament that both commercial and residential tenancies would receive protection against rent increases during the emergency period. We do not believe there is any strong ground in policy to explain why commercial and residential tenancies should not have been afforded back-dated protection against rent increases on the same day.

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<sup>2</sup> Tasmanian Government Gazette, 'COVID-19 Disease Emergency' Special Gazette 21971, Thursday 9 April 2020.

<sup>3</sup> Tasmanian Government Gazette, 'COVID-19 Disease Emergency' Special Gazette 21978, Thursday 23 April 2020.

Between 27 March 2020 when the Act was passed and 23 April 2020 when the Premier ordered that there would be no further rent increases for residential tenants our office received a number of queries as the following table demonstrates:

<b>Tenant's Call</b>	<b>Tenant's Issue</b>
27 March 2020	Tenant's rent increasing \$410p/w to \$460p/w from 1 April 2020. Wanting to know if they have to pay increase due to COVID-19.
27 March 2020	Tenant's rent increasing \$265p/w to \$300p/w from 3 April 2020. Wanting to know if they have to pay increase due to COVID-19.
31 March 2020	Tenant's rent increasing \$310p/w to \$380p/w from 14 April 2020. Wanting to know if they have to pay increase due to COVID-19.
1 April 2020	Tenant's rent increasing from \$150p/w to \$180p/w from 7 April 2020. Wanting to know if they have to pay increase due to COVID-19.
1 April 2020	Tenant's rent increasing from \$270p/w to \$420p/w. Former NRAS property. Wanting to know if they have to pay increase due to COVID-19.
2 April 2020	Tenant's rent increasing from \$290p/w to \$320p/w. Wanting to know if they have to pay increase due to COVID-19.
3 April 2020	Tenant's rent increasing from \$300p/w to \$420p/w. Wanting to know if they have to pay increase due to COVID-19.
9 April 2020	Landlord provided lease extension to Tenant increasing rent from \$300p/w to \$400p/w. Told that if they do not want to pay the increased rent they will have to move out.
14 April 2020	Lease expires on 26 May 2020. Tenant provided with lease extension including notice that rent will be increasing from \$320p/w to \$450p/w. Tenant has lost job due to COVID-19 and unable to pay rent.
18 April 2020	Tenant's rent increasing from \$260p/w to \$300p/w. Wanting to know if they have to pay increase due to COVID-19.
20 April 2020	Tenant's rent increasing \$250p/w to \$260/w from 20 April 2020. Wanting to know if they have to pay increase due to COVID-19.
21 April 2020	Tenant provided with rent increase notice from Real Estate Agent. Will take effect in 60 days' time. Cannot afford rent increase so will be moving out.
21 April 2020	Tenant's rent increasing from \$235p/w to \$300p/w. Wanting to know if they have to pay increase due to COVID-19.

None of the tenant case studies noted above would have had their rent increase if the Premier had ordered that from 1 April 2020 there would be no increase in rent for residential tenants.

We would also emphasise that these case studies are only those tenants who called our office. Many tenants would have made their own enquiries either by viewing our website or the Department of Justice's Consumer, Building and Occupational Services website or researching the topic through other sources. To illustrate, according to data provided to us by the Rental Deposit Authority, 526 new bonds were lodged between 27 March and 23 April last year – meaning that around 526 new leases began in that period. A landlord is permitted to increase rent after 12 months, so, many of those leases may have been renewed with rent increases that took effect during the gap between the Act being passed and the notice being issued on 23 April. The same would apply to any lease that was entered into during March/April in the proceeding years, and has subsequently been renewed.

Given that the Premier backdated the commencement date for a freeze on rent increases for commercial tenancies we believe it should similarly be backdated for residential tenancies.

### ***Extension of Emergency Period***

Sections 3 and 3A of the *Residential Tenancy Act 1997* (Tas) clearly provide that the emergency period can be extended.

***emergency period*** means the period –

(a) beginning on the COVID-19 emergency day; and

(b) ending on whichever is the last occurring of the following:

(i) the day 120 days after the COVID-19 emergency day;

(ii) a day to which the emergency period is extended by one or more orders under section 3A(1);

(iii) the day on which an order is made under section 3A(4) declaring that the emergency period has ended;

### ***3A. Extension of emergency period for COVID-19 emergency***

(1) The Minister may, by order, extend the emergency period to a day specified in the order.

(2) The Minister may, in an order under subsection (1), only extend the emergency period for a period of 90 days.

(3) The Minister may make as many orders under subsection (1) as the Minister thinks are necessary to reasonably mitigate any significant, widespread, hardship caused, or likely to be caused, to a significant number of tenants by the effect of the

*presence in the State of the socially-dislocating disease and the risk of its spread amongst persons in the State.*

*(4) The Minister must, by order, declare that the emergency period has ended, if the Minister is satisfied that the amendments to the operation of this Act made by the COVID-19 Emergency Act are no longer required to reasonably mitigate any significant, widespread, hardship caused, or likely to be caused, to a significant number of tenants by the effect of the presence in the State of the socially-dislocating disease and the risk of its spread in the State.*

Currently, notices are in place so that no tenant can be evicted for any reason other than violence or wilful property damage<sup>4</sup> and that there can be no increase in rent.<sup>5</sup> Both notices expire on 30 June 2020. The amendments to the *Residential Tenancy Act 1997 (Tas)* that prevent evictions for rental arrears will expire at the end of July unless the emergency period is extended.

In our opinion, both of these notices, and the emergency period, should be extended for at least another 90 days for the following reasons:

- From the end of July residential landlords will be able to serve a Notice to Vacate for rental arrears. The tenant will have 14 days to repay all arrears accrued during the emergency period otherwise on the landlord will be able to apply to the Magistrates Court for an eviction order. By extending the emergency period by another three months, tenants will have more time to pay off the arrears.
- The JobKeeper program will be reviewed by the Commonwealth Government in June 2020. As a result of the review some employees may lose their eligibility for the payment. A tenant who loses their eligibility for the JobKeeper payment but does not have employment to return to or is not offered the same number of hours work as pre COVID-19 may have difficulty paying the rent.
- The Reserve Bank of Australia has stated that it is very unlikely that Australia's economic recovery will be swift.<sup>6</sup> If the moratorium on evictions for rental arrears, in particular, is lifted too soon, before employment recovers, it could create a flood of evictions, and put many tenants in significant debt, making it hard for them to secure a new tenancy. Any hardship caused to landlords as a result should be addressed by mandating mortgage freezes, reductions, or waivers.
- Over the last three years the median rent for a three-bedroom house in Glenorchy has increased by 40 per cent, by 38 per cent on the Eastern Shore and by 36 per cent in Hobart City. In the north of Tasmania, inner Launceston has seen an

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<sup>4</sup> Tasmanian Government Gazette, 'COVID-19 Disease Emergency' Special Gazette 21961, Friday 3 April 2020.

<sup>5</sup> Tasmanian Government Gazette, 'COVID-19 Disease Emergency' Special Gazette 21978, Thursday 23 April 2020.

<sup>6</sup> Peter Ryan, 'Coronavirus to leave Australian economy in the doldrums for some time, says Reserve Bank' ABC News, 17 March 2020. As found at <https://www.abc.net.au/news/2020-03-17/coronavirus-covid-19-to-keep-australian-economy-in-the-doldrums/12063078> (accessed 21 May 2020).

increase of 17 per cent and outer Launceston an increase of 14 per cent whilst on the north-west coast there has been a 15 per cent increase in Greater Burnie and 15 per cent on the West Coast.<sup>7</sup>

- Rents in Tasmania are already extraordinarily high. Hobart is Australia's least affordable city with tenants in Hobart have to spend around 30 per cent of their income on rent – placing the median tenant in rental stress.<sup>8</sup> And outside Hobart, regional Tasmania is the most expensive region relative to income in Australia.<sup>9</sup>
- It is unlikely that COVID-19 will be eradicated from Tasmania on 1 July 2020. For public health reasons an extension of the emergency period will ensure less movement as tenants remain in their properties.

In respect to the emergency changes to the *Residential Tenancy Act 1997 (Tas)*, we ask that section 32(4), which excuses landlords from their responsibility to carry out general repairs during the emergency period, be deleted. As the Residential Tenancy Commissioner considers structural mould to be a general repair, we are concerned that tenants may be exposed to significant health risks during the coming winter months if they are unable to apply for repair orders, or terminate their tenancies. Further, we suggest that it is unreasonable for tenants to potentially have to wait seven months for general repairs – which can include pest control, and defective stove elements if half of the stove is otherwise functional – to be carried out without any remedy.

In summary, we recommend consistency in the commencement date for the freezing of rental increases between commercial and residential tenancies. We also recommend that the emergency period be extended for at least another three months and that general repairs be required to be carried out with the tenant's consent.

Yours faithfully,



Benedict Bartl  
Acting Principal Solicitor  
**Tenants' Union of Tasmania**

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<sup>7</sup> Tenants' Union of Tasmania and the Rental Deposit Authority, 'Three year Rent Increases'. As found at <http://tutas.org.au/rents-rise-by-up-to-40-in-three-years/> (Accessed 21 May 2020).

<sup>8</sup> National Shelter and SGS Economics & Planning, *Rental Affordability Index* (November 2018). As found at <https://www.shelertas.org.au/wp-content/uploads/2018/11/RAI-Nov-2018-high-quality.pdf> (Accessed 21 May 2020).

<sup>9</sup> Ibid.

**THE PARLIAMENTARY JOINT STANDING COMMITTEE ON SUBORDINATE  
LEGISLATION MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON  
FRIDAY 22 MAY 2020**

**INQUIRY INTO NOTICE UNDER SECTION 22 OF THE COVID-19 DISEASE  
EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020 (RESIDENTIAL  
TENANCIES)**

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**BEN BARTL**, ACTING PRINCIPAL SOLICITOR, AND **ALEX BOMFORD**, POLICY OFFICER, THE TENANTS' UNION ON TASMANIA MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

**CHAIR** (Ms Rattray) - Good morning; I welcome you to the hearing and broadcast.

Before we start, I remind you that all evidence taken in this hearing is protected by parliamentary privilege but I remind you that any comments you make outside the hearing may not be afforded such privilege. Do you have a copy of the information for witnesses?

**Mr BARTL** - Yes, we do, thank you.

**CHAIR** - The evidence you present will be recorded by Hansard and then published on the committee's website when it becomes available.

At the table I have with me the member for Murchison, Ruth Forrest, and the member for Nelson, Meg Webb. We have Nic Street, the member for Franklin; John Tucker, the member for Lyons; and Alison Standen, the member for Franklin. I am Tania Rattray, MLC for McIntyre.

**Mr BARTL** - To begin, we would like to make an introductory statement. First of all, thank you very much for agreeing to hear from us this morning.

My name is Ben Bartl, I am the acting principal solicitor at the Tenant's Union and I have with me Alex Bomford, our policy expert.

Our first point is that we are very appreciative of the measures the Government has taken in relation to COVID-19 and the protections that they have introduced for residential tenants. I am not sure if the committee is aware that Tasmania was the first jurisdiction in Australia to ban evictions for residential tenants. It was originally just for rental arrears but following the debate on the Floors of parliament, that was extended to all evictions, which was a really good move by the Tasmanian Parliament. We welcomed it at the time and we continue to welcome it.

In relation to section 22 notices, again we are supportive of both of the notices that have been introduced. We believe that there should be a freeze on rental increases and we also believe that the emergency period should be extended.

Dealing first with the freezing of rental increases for residential properties: as we pointed out in our discussion paper, commercial tenancies - we could establish there was a 30 per cent reduction in turnover and their rent was frozen from 1 April, which was backdated because the order was actually made on 9 April.



For residential tenancies, the order freezing rental increases was only introduced on 23 April, a number of weeks later, and it was not backdated. Something we would recommend to the committee is that the freeze on rental increases for residential property should be backdated until 1 April. That would ensure consistency with commercial tenancies. We encourage the committee to introduce or recommend that matter.

Second, in relation to the extension of the emergency period, like you, we are not sure how long COVID-19 is going to be in our communities. We do not know whether it will be eradicated in a month or two or whether it might be six months or a year. Given that, and acknowledging the fact that the median renter in Hobart and indeed the median renter in Tasmania was already in rental stress before COVID-19, we would like to see an extension of the emergency period for a further three months so that tenants who may fallen into rental arrears are given more time to pay the arrears.

They are probably the two most significant recommendations we would like to see introduced. There is a further one in relation to general repairs, which Alex will to speak to quickly.

**Mr BOMFORD** - Currently, one of the changes made to the Residential Tenancy Act as part of the disease emergency act was that landlords would not be compelled to carry out general repairs during the emergency period. That can include things like rectifying mould, doing pest control, fixing up a stove element, provided that the stove otherwise works. It is only minor things that can be quite significant things, especially mould coming into winter.

At the moment, a tenant who has a general repair that needs doing cannot compel a landlord to carry out that general repair by seeking an order from the Residential Tenancy Commissioner and they cannot issue a notice to terminate their tenancy in response to a general repair not being carried out. If the emergency period is extended without the RTA being amended, that moratorium on general repairs will continue for a further three months. We think that is probably a bit unreasonable, especially given, as I said, mould over winter can cause its own health issues, respiratory health issues, and it is probably unreasonable for tenants to have to put up with that aspects of their property not being repaired for up to seven months. We ask that the committee recommend that be amended, if the emergency period is extended.

**CHAIR** - Thank you. I will now open up for questions, thank you, members.

**Ms STANDEN** - Thank you for appearing before the committee. You mentioned a discussion paper, but I have not received one.

**CHAIR** - Can we check with you to see if there was something to be distributed to members?

**Mr BARTL** - I sent an email to Stuart yesterday at lunchtime, and I asked him to pass it on to the committee.

**CHAIR** - We will track it down, thank you.

**Ms STANDEN** - We haven't received it yet. I suppose you've covered the ground that presumably your discussion paper covers in terms of recommendations, but are there any other gaps you'd like us to be aware of now? I am sure your paper will be circulated; it's not too late for that. Is there anything else at this stage you wanted to flag before we get into our questions?

**Mr BARTL** - Probably the most important factor that we were able to point out in the discussion paper is that because the freeze on rental increases for residential premises only commenced on 23 April, there was a gap between 27 March when the omnibus bill became law and 23 April, so approximately a month, when the order was made.

One of the things we did was look through our records. One of the services the Tenants' Union provides is that any residential tenant can call our service for legal information and advice. Looking through our records, 13 tenants, off the top of my head, had called us. So that is tenants calling between 27 March and 23 April, to say there was a rent increase -

**Mr TUCKER** - Can you just repeat how many rental people you are talking about there? Thirteen is that correct?

**Mr BARTL** - There were 13 and those details are all listed in our submission.

**CHAIR** - We have received the document now. It went to the Subordinate Legislation Committee, but everyone has been under a bit of pressure around here. We have it now so thank you.

**Mr BARTL** - That's great. All those details are on page 3 of our paper. All those people were tenants who between 27 March and 23 April were going to have rent increases commence. Our point is that if the order had been made on 1 April, those tenants would have been protected so they wouldn't have had rent increases brought into effect, but as well as that, as you would be aware, not every tenant calls our service for advice. Many tenants will look on our website; they'll look on the Consumer, Building and Occupational Services website; they'll read the newspapers; they'll watch the news. In a lot of those cases those tenants are not going to get in contact with our office. The Rental Deposit Authority provides us with quarterly data that shows how many tenants have entered into new lease agreements over that quarter. What we were able to do - and this is just at the top of page 4 of our submission - is establish that a year ago, so between 27 March 2019 and 23 April 2019, so exactly a year ago, 526 households entered into new lease agreements. The reason that data is important is because most of those tenants, in our opinion, would have extended their lease. Those 526 households would have received 60 days before their rent increase a notice to say their rent will be increasing.

Some of them may not have a rent increase, but generally speaking every year your rent does go up, so approximately 500 households would have received rent increase notices and would have been affected because the order only come into effect on 23 April.

**Ms STANDEN** - That is very helpful data. Thank you very much indeed for that.

To be clear, in your view, if the notice had been backdated like the commercial tenancies one, if I were a tenant and my lease anniversary was 1 April, even if I was issued with a notice 60 days prior to that, had the COVID-19 notice been dated 1 April, even if I had a notice of increase, it would have been illegal for that to go through - is that right?

**Mr BARTL** - That is right.

**Ms STANDEN** - I wanted to be clear on that. Have you data on the approximate number of private residential tenants in Tasmania?

**Mr BARTL** - You are putting me on the spot there. Hopefully between the two of us we can work it out. It is approximately -

**Ms STANDEN** - I think 40 000-ish.

**Mr BARTL** - I am not sure if it is quite that high.

**Ms STANDEN** - If you are happy, Chair, we might put that question on notice if the Tenants' Union has data on the number of private residential tenants.

I am satisfied that social housing tenants seem to have been covered through other measures, public and community housing providers, so it is really the private residential tenants we need to look to concerning safeguards through this notice.

Do you know whether those tenants and landlords covered under the existing National Rental Affordability Scheme - NRAS - agreement, whether those tenants would be covered by this notice? I am not sure whether they would be protected by the Residential Tenancy Act in Tasmania.

**Mr BARTL** - I will start; if Alex has anything to add, I am sure he will put his two cents worth in.

It all depends on how long the NRAS lease has been in place. We have received a number of forms this year from tenants who are coming off the NRAS. Members may be aware the federal government does not intend at this stage to extend the NRAS.

One of the 13 tenants whose data is provided in our document was on the NRAS. It is the fifth one down. They rang on 1 April; their rent had been \$270, which was under market rent because the landlord was receiving the NRAS supplement, and their rent is going up to \$420, so a \$150 a week increase.

I am aware this committee is not here to talk about the benefits or the management of the NRAS but there are definitely tenants who are affected because the NRAS is winding up, and some of them have been impacted.

**Ms STANDEN** - I am aware the Government has announced a rent relief grant scheme and I am aware of your advocacy in relation to that. Applications open next week for that, which will allow up to \$2000 or four weeks rent relief for tenants and landlords. Do you think now that there is an even playing ground for residential and commercial tenants and landlords?

You talked about the timing period, but if this notice could be made retrospective, in particular I am aware that the commercial tenancy arrangements are out to 1 April next year and you're arguing now for a three-month extension.

**Mr BARTL** - Well, I wasn't aware of that. What we're suggesting or recommending is that it's at least three months so we hope it could be reconsidered after that.

Our view is that commercial tenancies seem to have upended the urban residential tenancies. The freeze for them commenced on 1 April. We are hearing today that it's for a year whereas where for residential tenancies, it started on 23 April and will be ending soon unless the Government acts to amend that.

It's not a level playing field but that said, we welcome the initiatives that the Government has introduced. One of the reasons we want the emergency period extended is because the COVID-19 rent relief scheme is a maximum of four weeks rent and many tenants are going to be unable to pay their rent for longer than four weeks. Quite possibly a number of tenants - a significant number of tenants - will be in rental arrears even after they receive the moneys from the rent relief fund. The longer residential tenants are given to pay back the arrears means the more likely it is they'll be able to keep a roof over their heads.

**Ms STANDEN** - At the end of the emergency period landlords can ask tenants to repay all arrears and evict them if the arrears are not paid within 14 days: is that right?

**Mr BARTL** - That's right. The point we make in the paper is that if landlords know when the emergency period ends, they can serve notice to vacate 14 days before the emergency period ends.

**CHAIR** - Alex, do you want to add something?

**Mr BOMFORD** - No, I just want to clarify that it is not strictly true - notices to vacate for rental arrears are just completely ineffective until the emergency period ends. It's not the same for notices to vacate for other reasons that have been temporarily put on hold through the section 22 notice. They can be issued during the moratorium, but they just won't take effect until after that period ends so there is a bit of difference there.

I think the problem with the rental arrears moratorium is that no exit plan has been put in here. As soon as the period ends, it just goes back to normal and there's no capacity - there's nothing - in the act that mandates the landlord has to enter a repayment plan. There's nothing in the act that allows a magistrate, if the matter goes to court, to enforce a repayment plan. Either the tenant is evicted or they're not evicted, and if the tenant is in rent arrears, prima facie they have to be evicted. As well as the emergency period being extended as long as possible, there also needs to be consideration as to how we prevent a flood of evictions or a bunch of people being in debt at the end of this.

**Ms WEBB** - I have a straightforward question. In terms of the backdating and the lack of backdating of this notice to 1 April to give that consistency, have you engaged in communications with the Government and received any rationale for that or any reason for not backdating it for that consistency?

**Mr BARTL** - We haven't received any correspondence from the Government, but what we would say is that when the omnibus bill became law on 27 March, the intention of parliament was that a notice would be given for commercial and residential tenancies. We can't understand why the Government would have introduced one on 1 April just for commercial tenancies but then wait approximately three weeks, or a just over two weeks, to introduce one for residential tenancies.

As I said, we think the intent of parliament was that it was to flow so the order really should have been for both as well.

**Ms WEBB** - To be fair, administratively there was a lot going on at that time and the delay may well have been because of a lot of different elements having to come into play. However, you are making the point that even if it was 23 April, it could, in the same way commercial tenancies

on 9 April were backdated to 1 April, also have been backdated to 1 April. It is not so much the delay in bringing it and it arriving on 23 April, it is that it does not contain a backdate?

**Mr BARTL** - Yes. No criticism of the Government. We totally understand there was, and continues to be, a lot on their plate.

**CHAIR** - Ben, I have been listening to media reports, as everyone does, but particularly us, and Airbnb has had a significant challenge. I have heard a lot more homes are available for rent, particularly in and around the pressure areas - and they are probably right across Tasmania - around Hobart. Have you seen any increase in people being able to access housing because of Airbnb and the shared house economy not doing so well at the moment, and probably not for quite some time?

**Mr BARTL** - Anecdotally, a lot of the properties available on realestate.com.au are smaller properties, so one- and two-bedroom houses or units, and in many cases they are furnished, which is not suitable for a lot of tenants.

Generally they also are at the higher end of the market so they are targeted more at the middle class rather than people generally who need them at the affordable end of the market. Yes, in some cases tenants have been able to access those properties but, in many cases, they are either not affordable or they are for short periods of time.

I have seen a lot of Airbnb hosts waiting to see how long this pandemic is likely to last. The sooner the Government comes out to say that the lockdown is lifted and the borders will open again, the more likely it is that Airbnb hosts will continue to have the tenants they have brought in on short-term lease agreements. In some cases, they remain keeping them empty in the hope that the Government acts soon to open the borders so they can get those domestic and international tourists back in.

**Mr BOMFORD** - I would add that the line Airbnb and similar companies always pushed was that the short-term accommodation market and the long-term rental market did not impact on each other and did not take away from the long-term rental market. Since tourism has basically shutdown it has been definitively proven that is not true and was never true. Now we know that is not true, we should go back to the status quo after this is finished.

**CHAIR** - The definition of 'short term': is that like a three-month contract or is a six-month contract is considered the more regular or the normal of a short-term agreement?

**Mr BARTL** - No, many properties on realestate.com.au are by the week or by the month. We are not talking about a long period of time. The standard lease agreement in Tasmania is 12 months. Six months is short, but generally speaking, the agreements we are seeing on realestate.com.au are for very short periods. These are a week or perhaps a month.

**CHAIR** - So they are really not that useful for anyone looking for some long-term residence.

**Mr BOMFORD** - I also know that SQM Research put out statistics last week saying that the vacancy rate had doubled in Hobart over the previous month, but it was still significantly below the national average; it was still very low.

**CHAIR** - Do you have any data or any information around areas outside Hobart and into the more rural areas?

**Mr BARTL** - No, sorry, we don't. I generally have looked just in Hobart and Launceston because they're the two bigger population centres.

**CHAIR** - Members might have some data on that. We get them through our offices; it's pretty sad at times to have to listen to their stories. Thank you, appreciate that.

**Ms STANDEN** - I have certainly had some representations from people on the east coast - Mr Tucker might have had the same, I suspect - where there's been a high proportion of short stay and quite a bit of pressure on the residential rental market. It will be interesting to see how that shakes down.

A further question on resourcing: earlier in the piece there was a period of probably a couple of weeks when people were just dealing with the health emergency and their income support and so on, but by early May, when I spoke with you, Alex, you said that resourcing was starting to be a problem for the Tenants' Union. Where are you at in terms of being able to cope? Have you noticed an increase? Do you have some data on the number of calls? How are you coping generally in terms of supporting your constituency?

**Mr BARTL** - Thank you for the question. We provided information to the Department of Justice that in April, we had about a 120 per cent increase in the number of calls we received over the same period last year. Off the top of my head, we had approximately 150 calls in April last year -so that's calls where we've provided legal advice - and in April this year it was about 310.

We have made clear to the Government that we require some additional resources. I am not sure if members are aware but the federal government has also made some funding available to the legal assistance sector, so that is Legal Aid and the Community Legal Centres.

The state Government has received applications from all the legal assistance sector providers in Tasmania this week, and it's likely that a decision will be made within the next week. At the moment, yes, we are quite stressed and there is a lot of work, but we're hopeful that in the coming week we may receive some additional resourcing.

**Mr TUCKER** - Coming back to Airbnb because, as Alison has mentioned, yes, I've had a few people talk to me about this sort of thing. I've spoken to the local council at Break O'Day and they've found that Airbnb rentals have decreased in the last 12 months in our area. It's interesting talking to the general manager up there; he mentioned to me that a lot of Airbnb houses up there are holiday houses used by people for holidays. If they didn't use them as Airbnb or short stay, they wouldn't rent them at all because they use them themselves. Do you find that in Hobart or is that a different situation?

**Mr BARTL** - No, it's a different situation in Hobart. They would have been former bed and breakfasts in Battery Point and those sorts of areas that would have converted to Airbnb because they've left regulation and red tape around Airbnbs. Off the top of my head, we know that more than 1000 properties in the greater Hobart region have been turned into Airbnbs and in most of those cases they were not previously bed and breakfasts.

Yes, I appreciate the Break O'Day situation. A lot of those properties would have been holiday houses and B&Bs, but that is not the case in greater Hobart.

**Ms STANDEN** - In relation to the timing of the notice, I spoke with the minister's office - and we will be seeing the minister later today - and I think there was a sentiment in the first instance that the Government was reluctant to issue the notice. We will find that out.

The basis put to me was that there were enough safeguards in the RTA to protect tenants from rent increases; that in the event a landlord increases rent which the tenant believes is unreasonable, they can apply to the Residential Tenancy Commissioner who has the power to strike out or even reduce the rent; that the Residential Tenancy Commissioner, under the circumstances, would take a grim view of any landlord seeking an unreasonable rent increase; and, finally, that the Government believes that in current market rents are flat or falling.

I invite you respond to those reasons outlined concerning the delay in issuing the notice. Are those things true, in your assessment, or do they resonate with you?

**Mr BARTL** - First of all, we would say that probably at least 500 households across Tasmania are directly affected because the Government did not act sooner or did not backdate the order to 1 April. When we say 500, it could well be more because the data we have provided is only those households who paid bonds, so entered into new lease agreements, one year ago, but a lot of households would have been in their rental properties for more than a year. There would be properties from two years or three years ago or even longer.

By the same token, there would be people who have moved out of those properties, so there would not be any rent increases. Therefore, I would say there is roughly 500.

In relation to the rental increases, if you make an application to the Residential Tenancy Commissioner to say that you think the rent increase is unreasonable, it is true that the Residential Tenancy Commission can reduce the amounts of the increase.

If, for example, a tenant's rent was \$400 and the landlord wanted to put it up to \$500, the Residential Tenancy Commissioner can either find one of three things: they can find that it is totally unreasonable and should stay at \$400; they can find that it is reasonable and it should be \$500; or they can find that it should be somewhere in between. What they cannot do is reduce the rent below what the tenant is already paying.

I do not think we have hit rock-bottom. Yes, a lot of people are out of work and we are probably in a recession, but even with house prices going backwards, we are not yet at a situation where rents are going backwards. In any event, the Residential Tenancy Act does not allow the Tenancy Commissioner to reduce the rent below what the tenant is already paying.

That is another amendment we think should be looked at, because property prices are not always going to go up and there may be a time when property prices go backwards and, in that situation, we would say the rent should also be able to be reduced.

**Ms FORREST** - Ben, can I clarify that point: it's related to the Residential Tenancy Act, not as much as this notice. It's a separate argument at this point?

**Mr BARTL** - Yes.

**Mr BOMFORD** - Assuming a rent increase, it's also incumbent on the tenant to make that application, which is quite a bit of work because the onus is on the tenant to prove that the rent

increase would be unreasonable. It is quite hard to do that at the moment, where intuitively you know that the market is going to drop, but the statistics still say that the median rent is \$500 a week. You have to wait until the market drops to show that drop, and people are also reluctant to lodge these applications because they do not want to jeopardise their relationship with their landlord. They ultimately prioritise the security of their tenure more than maybe having to pay more rent. If it's automatic, they wouldn't have to worry about that.

**Ms WEBB** - Following from the comments from the Government in correspondence to Ms Standen, that of the tenants you dealt with - the 13 you put in a table in the document you provided to us - who contacted you between 27 March and 23 April, would those tenants have been able to take those rent increases through that process to the Residential Tenancy Commissioner and seek a determination about whether it was reasonable? Do you know if any of those did in fact go through that process? How were they dealt with by the commissioner in terms of a determination being made that, given the COVID-19 circumstances, the rent increases proposed were unreasonable?

**Mr BARTL** - Yes, in some cases we would have recommended to the tenants that they go through that process because we thought that something might happen. The Residential Tenancy Commissioner doesn't make decisions in a couple of days; it takes at least a couple of weeks for the decision to be handed down. In some cases we would have recommended that tenants do challenge it. That said, just because you suggest to someone that they should follow a course of action doesn't mean that they necessarily do.

**Mr BOMFORD** - And that also relates to our funding in some respects because in an ideal world we would be able to take on all these tenants as clients and do it for them. We just don't have the capacity to do that so we have to advise these tenants about what they can do but it's complicated and it's a lot of work, and some people just aren't capable of doing that or don't feel they're capable of doing that. If we had more capacity, we could have done it for them.

**Ms WEBB** - That's an interesting point. I think the capacity to actually engage with the process that's there to protect tenants and whether unassisted people have an opportunity to do that -

**Ms STANDEN** - To even know that that's an option. You mention that at least 500 households are potentially affected. Would that be only 12-month leases? Do you have any data on how many people would be on shorter term leases?

**Mr BOMFORD** - We don't have that data available offhand. I think the average length in Tasmania is 12 months. Anecdotally you see that in 90 per cent of cases, I'd say at least. I'd say the number of leases -

**Ms STANDEN** - There may be some say six-month leases that have rolled around and an increase would be -

**Mr BARTL** - Yes, but an increase can only be after 12 months so even with some six-month leases, the rent can't be increased at that period.

**Ms STANDEN** - You mentioned in your opening statements that landlords are not being compelled to undertake general repairs, mould et cetera. In the scenario that the emergency period and the notice are extended, in your view - I think inspections of properties are also included within all this remit - would there be adequate protection say if the Government was of a mind to extend this particular notice to 1 April, to line up with the commercial tenancy legislation? What additional



protections in that space around inspections and maintenance of properties and so on should be considered?

**Mr BOMFORD** - The changes made to the act in regard to inspections and right of entry are pretty good. I do not think we would challenge anything about that, except that they be committed to carry out general repairs as well, not just emergency urgent repairs.

We have had a few real estate agents trying to flout those protections but they have been addressed. Otherwise, the issue of general repairs is the only one we are really worried about. Unfortunately, that would require the act to be amended.

**Ms STANDEN** - Yes, I had a public housing tenant, an elderly woman, who was self-isolating because of her vulnerability to COVID-19. She complained to me that Housing Tasmania had allowed contractors to come in and install her reverse cycle air-conditioned. Under normal circumstances, people would be delighted about, but the family was quite distraught because at that stage, social distancing was an issue.

**Ms FORREST** - I had the opposite where they said they would not do it. They did though, eventually.

**Mr STREET** - To be clear, Alex, are you advocating that landlords should still be restricted in doing inspections, but you would like the provision for emergency, general maintenance and other works to be carried out if the emergency period is extended?

**Mr BOMFORD** - Yes, that is the case. Emergency and urgent repairs are already still required, but we would like that to be broadened a little bit to include general repairs.

**Mr STREET** - Would you not concede that if you are going to make general repairs not mandatory, but able to be carried out, that you would also need to extend the same provisions to landlords to carry out inspections during the emergency period if it is extended?

**Mr BOMFORD** - Not necessarily. I would say that not all inspections are made equal. In the current changes, landlords are still able to enter the property if there is an emergency, and that would include serious damage to property that they have become aware of.

A lot of regular and routine inspections are fairly unnecessary, I would say, relative to general and emergency repairs that have to be carried out for the tenants to be able to live there. It is also the case that those changes in relation to inspections can be amended or withdrawn by a notice. The act does not have to be amended to change that so the emergency period could be extended and those changes could be withdrawn before the emergency period ends. We could still have a moratorium on rent arrears eviction, but those restrictions on inspections could be lifted.

We are concerned, especially in relation to showing properties - people being shown through for sales and if the property is being re-tenanted - real estate agents often put a lot of pressure on tenants to have open homes even though it is illegal to have one of those without consent even at normal times. We are worried that once that is lifted, if that is lifted, a lot of people will be shoved through the door without any proper checks in place regarding their health and safety.

**Mr BOMFORD** - ... their health and safety.

**Mr STREET** - So that I'm clear in my mind and we can be clear on the record, where a tenant wanted some general maintenance to be carried out on their property by the landlord, the landlord should be able to do an inspection to ensure that it's actually necessary in both the landlord's and the tenant's minds. I guess that is where I'm at.

**Mr BOMFORD** - Yes, I don't see any issue with that. It pays to sensible about that. I think most of that could be done by photos and videos at the moment. If it requires an inspection, yes, then.

**Mr STREET** - No worries, thank you.

**CHAIR** - Thank you very much. I think we are all done. The committee very much appreciates your time. We know it's as you said, the increase in traffic into your office or by phone and email has been significant. We know that you're very busy and very much thank you for your time today and we'll continue on our inquiry journey. Thank you very much.

**Messrs BARTL and BOMFORD** - Thank you.

**THE WITNESSES WITHDREW.**

**Ms ELISE ARCHER**, ATTORNEY-GENERAL, PARLIAMENT OF TASMANIA.

**Mr PETER GRAHAM**, EXECUTIVE DIRECTOR, CONSUMER, BUILDING AND OCCUPATIONAL SERVICES WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** - Attorney-General, thank you very much for making yourself available to the committee at this really busy time for this particular hearing about the residential tenancies notice the committee is examining. There is no need for you to be sworn.

Mr Graham, you have received all the information in regard to witnesses. You obviously know this hearing is being recorded and is being streamed live and also that you don't have privilege outside this hearing.

**Mr GRAHAM** - Yes.

**CHAIR** - Attorney-General, you're well aware of all those things, and I don't believe there is any need to introduce members - you know everybody at the table.

**Ms ARCHER** - No, I know you all.

**CHAIR** - Minister, we always provide an opportunity for you to provide an overview to the committee or any brief statement you might like to provide. We are happy to commence so thank you very much.

**Ms ARCHER** - Good, well, thank you - the good old days - I used to be on the Subordinate Legislation Committee so you have my deepest sympathy. No, it's a great committee to be on so thank you for the opportunity.

First, we apologise for not being able to comply with the 14-day time limit. I know if I can refer to Mr Graham as Peter, it's going to be easier throughout this hearing. I know you will accept that Peter was extraordinarily busy that week, as was I, with the COVID-19 Disease Emergency (Commercial Leases) Bill 2020 (No. 19) that we took through parliament. A lot of work was involved in that; not least of all, Peter was tied up with a lot of briefings, including with upper House members. It was actually ready for Peter to settle, but for obvious reasons he couldn't get to it on time. I hope the committee understands that our being unable to comply with the 14-day time limit was not intentional. Of course, we do our best to try to comply, and it was simply an oversight and an inability to get to it on time.

Members may not be aware that our Government was the first jurisdiction to recognise the need to take urgent action to prevent residential tenants from experiencing the worst economic impacts as a result of COVID-19. We did that in that first COVID-19 disease emergency bill, ensuring that residents could not be evicted for rent in arrears.

Subsequently the notice issued on 3 April, which has previously gone through this committee, and the detailed important residential tenancy changes for at least 90 days were not make lightly. We realised they would also have an impact on landlords and property agents, and we thank them for their understanding.

We are here today because of the notice issued on 23 April to prevent residential rent increases. In between that period, though, it is important to note that safeguards were already in place to prevent such rent increase actions. Peter is available in his capacity as the Residential Tenancy Commissioner to explain that period, and why people were still protected then and, indeed, would still be protected in that period had we not provided this additional safeguard.

The notice of 23 April was really to provide comfort and surety of an already existing mechanism that is available under the Residential Tenancy Act, where a tenant can seek an order from the Residential Tenancy Commissioner for a rent increase to be deemed unreasonable. Peter again will be able to confirm any statistics for committee members in that regard as well.

I will leave it at that for the opening because I am sure you have further questions about that. If I cover it all in my opening statement, you may not have any further questions. I am very happy for you to ask questions and we will do our best to answer them.

**CHAIR** - Thank you.

**Ms STANDEN** - Thank you very much, Attorney-General, and Mr Graham - if I can call you Peter as well - for making yourselves available to the committee.

I certainly understand the pressure you have been under and appreciate the measures the Government has taken to provide protections for residential and commercial tenancies at this time, including the more recent announcement about the rent relief package, which goes some way to addressing a number of concerns.

I invite you to go further in exploring the time frame. Earlier today we met with representatives from the Tenants' Union. In their view, there is a concern about the 23 April notice not providing retrospectivity. The commercial leases are dealt with legislation, not by notice, but that did provide for some retrospectivity from 9 April back to 1 April. Then there is the matter of the end period, and 30 June is the end of the current notice for residential tenants, but for commercial tenants and landlords under the legislation, that is now pushed out to 1 April next year.

I invite you to make some comments about that, whether you feel there is an even playing field, as it were, for residential and commercial tenants and landlords in the current environment, and any anomalies that you see.

**Ms ARCHER** - I do not see there are anomalies because commercial leases are quite distinctly different. I can get Peter to explain the difference in nature for commercial leases and how they had to be dealt with, not least of all whether they are fixed term or not, because there are some differences there.

We also need to remember that in terms of residential tenancy, packages have been available from both state and federal governments, not least of all the JobKeeper and Jobseeker payments, that have assisted tenants to meet their obligations.

Obviously, the rent relief fund is a further additional measure. I have not had any negative feedback about it other than correcting some things that people have thought it mightn't cover and it does, so there are mechanisms in place to ensure that those people, even when they are receiving Jobkeeper or Jobseeker, are eligible for that relief fund.

I will put that aside because I am very aware of what we are here to talk about today. Unlike an act, which, as you have correctly said, is how the commercial leasing is dealt with and needed to be dealt, subordinate legislation like this notice can't be retrospective unless the enabling act specifically allows for that. That is the reason why there's no retrospectivity.

I will give Peter an opportunity to explain that. I am not quite sure what the Tenants' Union is basing its figures on. I totally understand it has had an increase in inquiries, which is understandable and expected, but as to the nature of those inquiries, it may include questions about this, but I don't think it's solely about this. I think Peter in his role as the commissioner has now received five applications only. I might get Peter to explain that there has been minimal impact in relation to rent increases.

**Mr GRAHAM** - At the time the notice was made on 23 April, we had not received any unreasonable rent increase applications from 1 March. Since that time we have received five applications during the period from 1 March to 23 April. That's because tenants have up to 60 days to make an application after a rent increase is given. We are considering those applications at the moment. Each application is to be considered on a case-by-case basis. The fact is that you tend to have regard to including rents currently in the marketplace.

**Ms FORREST** - On that point, one of the representatives from the Tenants' Union talked about the issue of looking at the current rental market is that there's generally a lag before the market shows the impact of something like this, which has been so rapid. Do you have a view about that? I know you don't have a crystal ball - well, I assume you haven't; I don't think any of us have. It would be nice to have one.

**Ms ARCHER** - I wish we did.

**Ms FORREST** - Correct. That's the thing - one of their comments was that you don't have the power to recommend - you can recommend that rent not be increased or that it be partway, meet in the middle-type of thing - a lower rate of rent if you believe that the market is really flat or has declined.

**Mr GRAHAM** - That's correct. The power relates to increases only so the most you can do is say no increase.

With regard to your question about what's going on in the market, we do collect data through our rental bonds system and other kinds of things. I don't have an up-to-date report, but even from the early days of COVID-19 - sort of late March to early April - we've seen significant additional properties come into the market as a result of the collapse of short stay accommodation.

I can't speak for the whole state, but in general rents at that time were flat or falling, and we've seen that kind of maintained. We do collect this data and analyse it and can -

**Ms FORREST** - Seeing that, you would apply it to the determination?

**Mr GRAHAM** - Definitely. When I would look at an individual application, say, for a three-bedroom house in Glenorchy, I would look at the rent charged for a similar property in a similar area and we would focus on currency of information, so the most recent as opposed to being necessarily close by. So, yes, you try to get a closer sense of what the alternative would be in the marketplace on the day on which the order is made.

**Ms WEBB** - Just to be absolutely clear that the only factor you can take into account in determining whether a proposed rent increase is reasonable is market comparison. You can't take into account the fact that COVID-19 is happening or any circumstances relating to the tenant themselves or anything like that - it's simply market comparison?

**Mr GRAHAM** - No, it is under section 23 of the act.

**Ms WEBB** - Can you outline that?

**Mr GRAHAM** - Section 23(2): the first bit is the general level of rents for a comparable property and the second is any relevant matter. I focus on the market because that is the way in which the most part -

**Ms WEBB** - Under normal circumstances, you would use that?

**Mr GRAHAM** - Individuals are able, when they make an application, to set out their circumstances and any part of that can be considered.

**Ms WEBB** - In relation to that, given that you have had five applications made that relate to that particular in between period - and certainly without any specifics that may identify those - are you taking into account material presented to you that relates to the personal circumstances of a COVID-19-related circumstances in those cases beyond your more normal regular comparison of the market?

**Mr GRAHAM** - Every application is treated on a case-by-case basis, and it is treated in the entirety of information put forward.

**Ms ARCHER** - I can add to that: the Government has been at pains to point out throughout this process, and this is on the advice of Peter in this role, that he would not be likely to accept any rent increase as reasonable, given a tenant's circumstances in the current climate. We are really focused on that discretionary part of the section in the act.

**Mr GRAHAM** - While not prejudging any individual application, in general rents are flat or falling and that would be enough not to agree a rent increase is reasonable.

**Ms WEBB** - I accept you are saying that is the intention and that is very positive.

My concern this relates to a concern raised by the Tenants' Union. It provided information to us that, for example, of inquiries made for assistance from them in that period, 13 relevant inquiries related to rent increases during that period in between. The Tenants' Union then cannot actually assist those people to come to you. It can advise them that they are able to and point them towards making a complaint to you as the commissioner, but it cannot undertake that or provide much material assistance towards that because of its limited resources and role.

What is your response to the fact that while technically people impacted by a proposed rent increase during that in between time had an avenue to bring it to you for consideration and perhaps have it negated or not deemed to be reasonable, many tenants who may have encountered that situation simply either would not necessarily have been aware of that opportunity or, even if they been - as the 13 who went to the Tenants Union were made aware of it - they may not have been in

a position to make the complaint to you? Therefore, given that there was not a blanket coverage in that in between time, we will have people out there who potentially have been pretty adversely affected.

**Mr GRAHAM** - Can I answer that in two parts? Definitely, there is an awareness issue. Unless you know these protections exist, you cannot take steps to act on them. There is accessible information on our website and the Tenants' Union plays an important role, and other community centres, to make people aware, but there is definitely that issue if you are not aware.

**Ms ARCHER** - It is on [coronavirus.tas.gov.au](https://coronavirus.tas.gov.au). Sorry for butting in, Peter, but it is really important that if anybody is experiencing hardship in any particular area, the answers and the links are available there. The Government is trying to push out as much information as possible so people know what they can do, or they can ring the minister's office or ring members of parliament, and we will try to sort it out that way. Largely everybody has been very cooperative in that regard.

We are ensuring that people do have the information. All we can do is encourage people to contact us, which the Premier does on a daily basis through his media conferences, as we all have as local members, encouraging people to come forward.

Apart from that, what else can we do except try to assist in that circumstance? Particularly in relation to the Tenants' Union, they know that under the new national legal partnership arrangements and my discussions through Council of Attorneys-General we will be providing funding for community legal services that have had an increase in or influx of inquiries or business or advice that they've needed to give during the COVID-19 period. That's through federal government assistance funding; we have communicated that.

As for the amount, we are just nutting out how much each community legal service gets so I just want to cover that off. It's not that the Government is not willing to provide some additional funding.

**Ms WEBB** - There wasn't a suggestion of that. We heard that quite clearly from the Tenants' Union; when we spoke with them earlier, they said that too.

While that's very positive, by the time it actually comes through, we will have had at least the first two months of this period during which the biggest flurry - I would have thought - of activity around this may have occurred. We heard from the Tenants' Union of a 120 per cent increase during April, for example.

For people who may be impacted, the capacity of the Tenants' Union to provide assistance was constrained so that they weren't able to help them through.

**Ms ARCHER** - Except that they can advise every single person to contact the Residential Tenancy Commissioner.

**Ms WEBB** - Of course, and of course they did was their advice to us. Did you want to continue answering the rest of that question, Peter?

**Mr GRAHAM** - All I would say is that the application process is relatively simple. It just requires information regarding the tenant and landlord, a copy of the residential tenancy agreement

and a copy of the rent increase notice. There's not a huge onus on an applicant to demonstrate their own circumstances or other kind of things because it really relates to the increase itself.

I would say that process is relatively simple. It does require people to be able to do that and definitely some people have difficulty accessing services due to language or literacy and other challenges, but there are things in place that can help people do that.

**Mr TUCKER** - The issue of general repairs came up today with the Tenants' Union, and also with Nic Street, who asked questions about landlords being given access to inspect a property. They were talking about mould and faulty stoves, general maintenance like that. What is the situation with that at the moment?

**Ms ARCHER** - I will get Peter to explain that. Generally, as a principle we obviously want people not only to be able to observe social distancing and increased hygiene measures - in terms of people visiting the property and those residing in the property - and that any visits to their property weren't unnecessary and were only in circumstances of wilful damage and things like that, but also to allow some form of inspection by property agents. I might just get Peter to address the detail of that.

**Mr GRAHAM** - The Residential Tenancy Act has three types of maintenance under it. The first is emergency, which is your burst pipe kind of example. The second is urgent, which relates to an essential service, so your heater, your cooking equipment and those kind of things. The third is general repairs, which are all other repairs that are to keep the property as it was when you let it.

**CHAIR** - Do you class mould as general or emergency and urgent?

**Ms ARCHER** - It depends how bad it is, probably.

**Mr GRAHAM** - It would be general in the first instance, but if it became more of a problem -

**CHAIR** - It's quite harmful, though.

**Ms ARCHER** - That's what I was thinking.

**Mr GRAHAM** - The emergency period changes make no changes to emergency or urgent repairs. Those need to be done and done in line with the time frames in the act. The changes did switch off the general repairs provisions for the emergency period. Again that was done because we looked both at the right of entry provisions and the repairs provisions. We had received a lot of anxiety from tenants regarding third parties accessing their home. This was when there was uncertainty with regard to -

**Ms ARCHER** - I think it was property inspections.

**Mr GRAHAM** - Those kind of things, so we tried to have a balanced set of provisions that switched off those things and gave people comfort that, except for in circumstances that are really necessary, such as emergencies or urgent repairs and things related to those, there wouldn't be third parties in their home without their consent or invitation. That was really the basis of those changes.

What does that mean for someone who has a general repair? They still can raise that with their landlord. If there's mutual agreement, it still can be fixed. These tend to be things that ensure that



the fabric of the property is maintained and other kinds of things. I am aware that many landlords have undertaken general repairs at the request of tenants because we have definitely had contact from people asking that if the tenant agrees, are they allowed to do it.

**Ms ARCHER** - There was a bit of misunderstanding that it was banned altogether, but, as Peter said, if it is by mutual agreement, that is perfectly okay as long as they comply with social distancing and other measures.

**Mr GRAHAM** - As we said, a general repair left incomplete may become an urgent or emergency repair at some point. At that point, the provisions of the act dealing with urgent or emergency repairs switch on. Where a landlord does not undertake those, the tenant can seek an order from the Residential Tenancy Commissioner that they be done within a certain period.

We have not had much complaint from tenants regarding general repairs. Most of the contact we have had is from landlords checking that if the tenant wants something done, the landlord would not be in trouble for facilitating that to happen. I am not aware of complaints from tenants regarding general repairs.

**CHAIR** - Is that process relatively easy, where they might contact you directly, with an email or a phone call to seek information?

**Mr GRAHAM** - There is information regarding repairs on our website. In most part, we have nothing to do with this because tenants and landlords sort it out for themselves and other kinds of things. Where we get involved is general advice to either party about their rights or obligations and then in disputes. In the event a tenant has what they consider a needed repair, they can get us involved. We typically try to talk to the landlord to get it dealt with, but if we cannot, I can issue an order making that happen. It is not a big part of what we do.

**Ms ARCHER** - If I can assist there, too: what has been very helpful in this time, as you can imagine, across industries with all issues to do with COVID-19, the principal or peak membership bodies - in this instance, the Real Estate Institute of Tasmania - have been incredibly helpful in disseminating this sort of information to all their members.

I even noticed on my Facebook this week, in announcing the rent relief fund, that a lot of property management agents have been sharing that information via their networks and through social media as well. The information is managing to get out there because a lot of landlords' properties are managed by property agents and the Real Estate Institute has been incredibly helpful in ensuring that property agents - i.e. those representing landlords - know what their rights are and what they can and cannot do, and that the Residential Tenancy Commissioner is there to provide any further information or settle any anomalies or questions they need answered. That type of system is working well.

**Ms STANDEN** - The Tenants' Union this morning cited some data from the Rental Deposit Authority from 27 March to 23 April 2019. They said 526 households had entered new lease agreements. We have been talking about relatively low numbers that have come to you and to the Tenants' Union for assistance. I certainly have had a number of tenants come to me for clarity in this period. too.

They concede that might not be all, but that there may have been people who are on longer term lease agreements that have rolled over and rent increases might be in the frame there, and shorter term leases too. It is uncertain.

**Ms ARCHER** - Do you mean where it is built into their agreement?

**Ms STANDEN** - Standard lease agreements, as I understand it, in the residential sector are for 12 months. There are some that are longer and some that are shorter.

According to the Tenants' Union at least, there are, say, potentially 500 households statewide that could have been up for, in terms of the anniversary of their lease, rent increases. Given that, why did you not issue the notice at the same time as you issued the notice for the banning of evictions?

**Ms ARCHER** - I addressed that in my opening statement. We already believed, and I still believe, that the protection was there. This notice was issued to provide greater surety and clarity to ensure rent increases would not happen. As minister, I was very satisfied that through the Residential Tenancy Commissioner rent increases that were unreasonable just wouldn't be approved. Given the flexibility allowed in the act itself for the commissioner to take into account the specific circumstances of the tenant that Ms Webb's question went to during COVID-19, all of those relevant circumstances would render or deem a rent increase unreasonable. I'm quite happy for you to address this after me, Peter.

**Mr GRAHAM** - The only thing I would say is that first notice matched exactly the commitment the Government made in the Legislative Council, and that didn't cover rent increases so we did it as quickly as we could and it was just like, 'This is the commitment of the Government.'

**Ms STANDEN** - But the two provisions were in the same clause of the same bill.

**Mr GRAHAM** - Sorry, do you mean they both relate to section 22 of the COVID-19 act?

**Ms STANDEN** - Yes.

**Mr GRAHAM** - That's right, but as soon as we were through the passage of the first COVID-19 bill, we turned our mind to drafting a notice that gave effect to the commitment the Government made in the Legislative Council during the bill's passage. It matched that identically so we didn't consider other issues because we wanted to make it quickly.

**Ms STANDEN** - Sorry, there was a clear commitment in the House of Assembly debate to issue not just a ban on rental evictions but also rent increases. That was the amendment to the bill agreed to in the House of Assembly so I don't understand.

When this came about, I contacted your office, Minister, and I was told the Government had decided not to issue a notice at all in relation to this matter.

**Ms ARCHER** - The commitment in the House of Assembly was certainly to ensure that there wouldn't be rent increases. We as a Government satisfied ourselves that a notice wasn't required and I'm still of the view, knowing the commissioner's powers, that we didn't need to issue a further notice. However, if you like we did that to provide that certainty because people were calling for a notice but in effect the notice itself simply does what the commissioner's powers are already.

I think we need to look at that period as well. We haven't had people, and the figures demonstrated that, between 3 and 23 April, come forward about rent increases so I am not quite sure why you're hung up on that period.

**Ms STANDEN** - But, as I've just said, because potentially up to 500 households are in the situation where the anniversary - that's probably not the right term, is it, Peter? - for their lease agreement has rolled over. For a lot of people in that circumstance a rent increase would be ordinarily due. I've certainly spoken with a number of constituents who have been caught up in that period and have been told they have to increase their rent and they've accepted that.

I think the problem I see with this anomaly of the three-week window or so, is that it puts the onus on the tenant to know what avenues there are to explore this. I think in the majority of the cases of those 500 or so households it's likely a lot of tenants would have just accepted a rent increase where it was demanded and coughed up, as it were.

**Ms ARCHER** - We also need to come back to the underlying principle of all the measures we've taken in relation to residential tenancies, which is that it doesn't provide a rental holiday and where people can still afford to pay their rent, please do so. With the rent relief fund we still want to ensure that where a landlord and their tenant can in good faith enter into an agreement for rent reduction, they do so if there's hardship. We then obviously look at providing that relief through the other criteria we've announced, which are very reasonable and extensive and also include migrants and temporary visa holders, to ensure we're capturing those who are suffering extreme hardship.

During in this period, I accept - myself and others who have been able to continue working are excluded from this - that a significant number of people have suffered hardship, but we also need to come back to that principle of where you can afford to pay your rent, please do so. The reason we have provided this rent relief fund is that if you are paying more than 30 per cent of your income in your rent and your household savings are less than \$5000, largely you are going to be eligible for this fund because you are under extreme hardship. They are the people we want to ensure are captured as well.

I accept that everybody is in different circumstances and we have tried to capture those who are experiencing hardship as a result of these measures. I think that with that latest announcement, we have largely captured everyone, as many as possible.

**Ms FORREST** - To clarify a point: Peter said earlier that you have 60 days to lodge a complaint or review, whatever it is called, and you have only had five cases relating to that period. Because 60 days have not passed yet -

**Mr GRAHAM** - Not quite.

**Ms FORREST** - You could still get a few more, potentially.

**Mr GRAHAM** - Yes. Really, 60 days would be sometime around 23 June. That would be the period so we could get more, definitely. The ones I understand we do have relate mostly to early March, the kind of 60-day period. I don't think we have not seen any from April, but I cannot 100 per cent say that.

**Ms FORREST** - Following on from that, Minister: with your announcement a few days ago, has that made people more aware of the support available? Obviously, there is financial support here but the fact the process of appeal. Alison made the point that it is up to the tenant to seek redress, if you like. Is that likely to make people more aware?

**Ms ARCHER** - Every time we announce something in this space, particularly residential tenancy, and I thank the media as well, there has been pretty good coverage of all the measures we have taken in the tenancy space, whether it is commercial or residential. We certainly get correspondence as and when things are announced - people wanting clarification and fact sheets, and that is why we, as soon as possible, issue those facts sheets as well. They take a lot of effort as well, but as much as possible they are done either on the day or within 24 hours so people can get their hands on that information and hopefully the answers to their immediate questions.

There are always going to be follow-up questions so we always have that people to contact CBOS in that regard. Certainly in relation to the rent relief fund, we are connecting in with Communities Tasmania through Housing Connect because they have expertise in administering these sorts of schemes. That means that Peter does not have to administer the scheme, but answers all the queries and it is well balanced there.

Again, it is disseminating that information. Because people are connected more than ever through social media and other mechanisms, the word is spreading out there. For example, when I made the announcement this week and, on the day, put up something on my own Facebook, I was getting questions that I was answering that night, or the next morning with specific questions. There was one person I asked to email me to deal with their specific query.

We are trying to take the approach where we assist as quickly and as immediately as possible. People have realised that if they contact the minister direct, or a member of parliament, we will try to address their questions as quickly as we can.

**Ms WEBB** - I would like to follow up on a couple of areas. To return to the passage of that initial legislation through parliament, it would have been my interpretation, based on what happened in the lower House -

**Ms ARCHER** - Is that the first one that the Premier took through?

**Ms WEBB** - Yes, in late March. When initially there was discussion around the protection from evictions and the rent increase matter, which was inserted in the lower House to apply to residential tenancies, was it the Government's intention at that point that there would be no rental increases for residential tenants across the emergency period? That is the way it appeared from the discussion in the two Houses. Can you clarify if that was the intention?

**Ms ARCHER** - We were certainly confident through the measures Peter referred to in his previous answers under section 22, that rent increases were not going to be an issue because of the deeming unreasonable provision, and that COVID-19 was a pretty sufficient reason for someone to apply and it being able to be deemed unreasonable.

As I've said, the notice has now created a lot more certainty about that. When we look at that period, I have every faith in Peter in his role as commissioner that he's not going to make a decision about a rent increase that will not adequately take those things into consideration.

**Ms WEBB** - I don't think there's an issue around how that might be dealt with should an issue come to the commissioner. I think the discrepancy here, and the consternation we may have heard from the Tenants' Union on behalf of tenants they have heard from, and perhaps from some of us as members who have been contacted directly by people who have been impacted by this, is that there is a difference between the Government's stated intention during the passage of that initial legislation that rental increases shouldn't occur in the residential space and that wouldn't be deemed to be appropriate versus some of the measures people can take to protect themselves from unreasonable rental increases, but those are two quite distinctly different things.

In not issuing a notice promptly that put a hold on it, I am just wondering about the distinction there because -

**Ms ARCHER** - Can I just clarify something? I'll address that. I think it's really important to remember that the amendment in the House of Assembly only enabled a notice to be given. It didn't commit the Government to doing so. The Government didn't commit to a notice. It committed to that general commitment. I think members are getting hung up on whether you do it by notice or whether you do it by some other means. We did it by some other means. We've subsequently done it by notice, if you like, largely so that people weren't hung up on this notice issue, which is what we're experiencing now, but either way tenants have been afforded the protection and that commitment has been kept. Whether you do it by notice or not, we haven't breached any undertaking.

**Ms WEBB** - That's probably also a matter for interpretation, but I guess the thing is that if the commitment was that residential rents wouldn't increase during the emergency period, that's not what's transpired. If the commitment was that there would be -

**Ms ARCHER** - Sorry, on what basis?

**Ms WEBB** - Because many tenants have experienced an increase in rent during the emergency period. I accept what you're saying -

**Ms ARCHER** - I'll get Peter to address that because I think you're accepting evidence that we certainly don't have.

**Ms WEBB** - Absolutely.

**Ms ARCHER** - I would love to be proven wrong on that, but I'm not going to accept something on face value -

**Ms WEBB** - If I can come to a question -

**CHAIR** - We need one person speaking at a time.

**Ms ARCHER** - I am not going to accept being verballed on something that doesn't have evidentiary value.

**Ms WEBB** - I am certainly not intending to verbal you, Minister. I am putting forward that we've heard both in documentation from the Tenants' Union, specific cases where rents were being increased during the emergency period, and I have personally heard from constituents about it, and I believe other members would also have heard. I am just putting that forward to you that evidence

would readily be available to us that would say some residential tenants experienced rent increases during this emergency period.

What I'm interested in, and I absolutely accept what you've asserted - it is true an avenue has remained for people to bring that to the commissioner for assessment as to reasonableness - but in terms of if there was an initial intent that there shouldn't be residential rent increases during the emergency period, that hasn't been able to be given effect without a notice being more promptly issued by the Government. I guess that's the point I'm making.

What communications were made to landlords and real estate agents representing landlords at the very outset after the initial passage of the legislation about government intent around residential rent increases? Was something communicated to the sector about an expectation that increases wouldn't occur during the emergency period, based on what went on through the House?

**Ms ARCHER** - I do not want to misrepresent anything to the committee, but I would need to check if anything in writing was issued. Know that my office had discussions with the Real Estate Institute of Tasmania and that I had a personal meeting with them. They were very accepting of the fact that they realised that landlords needed to work with tenants in these extraordinary circumstances. They understood that the no evictions we were going to introduce were necessary. They did not want people to be homeless, those sorts of issues.

We certainly had discussions around what measures needed to be taken. Specifically, in relation to rent increases, I would have to refresh my memory at what stage that issue came up. I don't know whether Peter has any recollection of this, but as to timing of all this -

**Ms WEBB** - I would be interested to know about any communications made to the sector, the landlords -

**Ms ARCHER** - We certainly had regular contact throughout this whole period.

**Ms WEBB** - Undoubtedly, I am sure.

**Ms ARCHER** - As to dates and things, I would not be able to -

**Ms WEBB** - If something that can be provided, if that can be looked at, it would be of interest to see what was communicated, given that we know rent increases were proposed to some tenants in the state. I say that without passing you a piece of evidence about it, but I am asking you to take it on faith because we have evidence from the Tenants' Union, and some of us have heard about it. Was something put to them in terms of information to the sector, the landlords and agents, about an expectation around rental increases?

**Ms ARCHER** - Members need to appreciate, and I am sure you do, that matters and how they progressed through this period happened in the earlier stages very quickly, exceptionally quickly. With the first few measures, I recall that the Real Estate Institute was a little surprised by the actions we needed to take. From that point on, the regular engagement was more frequent. I accept that we were not able, in a humanly possible way, to communicate those things before we needed to make those initial decisions. They were really required urgently so that people were not homeless.

People understood what the Government was trying to do in that early period and as things have evolved and as things have progressed, it is very evident that the Government has reacted by

trying to address situations as they have arisen. As issues have come forward, like rent increases, or needing the relief fund, where there have been groups we needed to capture, we are addressing them. We are providing funding and we are doing everything possible we can to address those issues as they arise.

In that earlier engagement, through the sheer speed at which that initial decision was made, we were not able to engage in writing. I recall we did not do anything in writing with the Real Estate Institute until we were able to meet with them and flesh out some of the issues they had. You can imagine from a landlord's perspective in those early days, they felt very hard done by and understandably so because a lot of it seemed to more pro-tenant than landlord.

Certainly, with the relief fund now, we have tried to make it so that it assists landlords as much as tenants. As we know, many people - who have contacted us all, I am sure - rely on income from tenants as part of their retirement plan, being an obvious example.

In all of this, yes, we have had to protect tenants, but I have been very mindful of ensuring we try to protect landlords and, in doing so, property agents as well because they have taken a massive hit.

**Ms WEBB** - I accept that and I am not so much interested in the discussion you might have had with them as that first bill was being developed, but in the immediate time afterwards when you certainly would have been communicating with all external relevant stakeholders about the things in that bill. I am interested, and perhaps you can provide the information at a later date for us, about anything in particular that was communicated to that sector at that time. I think given that this notice is about rent increases, it's not detrimental necessarily to a landlord not to have increased the rent. It's not asking them, as we have in other circumstances, to negotiate potentially even lesser rents. This is about the increases and the fact that tenants might have been subjected to them.

**Ms ARCHER** - I think we made it very clear publicly what the Residential Tenancy Commissioner's obligations were in assessing a rent increase and property agents know that, so I think it was fairly much reinforced in discussions. They understood to convey to members - I do recall this - that any rent increases that were going to be unreasonable would most unlikely ever to be approved. I think it's fair to say that.

A lot of these things happened in discussions. As and when we were developing things, we would ring up because that saves having correspondence back and forth. We will certainly look at what we can, but some of this is also that we provided so much information publicly on our website that a lot of the time property agents have been relying on the same information as tenants. We've had fact sheets for landlords, we've had fact sheets for tenants, and that's exactly the purpose of getting as much information out in the public as possible so that our engagement can be that way as well. With the bills, too, the consultation we would normally have as part of a bill process is very limited when you're dealing with things on an emergency level. You just don't have the time to consult as widely as you would on a usual bill, and so we are relying on getting a lot of this information out in the public so that everyone's aware.

**Mr TUCKER** - Minister, the Tenants' Union earlier this morning raised extensions for another three months in regards to this notice. Can the notice be extended? What is the process with that? They also talked about general repairs being extended and whether something is included in it in regards to that with the extension.

**Ms WEBB** - To clarify, they were talking about an extension in the Residential Tenancy Act to the element of the emergency period that's in the act now, not the notice itself.

**Mr GRAHAM** - They're relevant because the notices can only be made in the emergency period as well. The emergency period was for an initial 120 days so that, I think, 25 July is the day the emergency period ends. It can be extended by a further 90 days as many times as necessary and there's a criterion in the act that the minister would have regard to in extending that period.

At the moment the maximum period is really to 25 July, but then that can be extended by 90 days as many times as necessary. That is really how that works.

As far as the question about general repairs being extended, I think what you asking that if the emergency period is extended, is there a way to return the obligation around general repairs? Is that the question? That wouldn't be without legislation because that is switched off for the emergency period.

**Ms WEBB** - Given that the emergency period, if it were extended, would still exclude the general repairs category, it might potentially, though the sort of matters that typically might have been regarded as general repairs, because of the passage of time might be escalated into the urgent repairs category. Say, mould across the winter period. Could that be dealt with if it was brought to you and suggested that it was an urgent rather than a general matter?

**Mr GRAHAM** - Yes, a general repair can definitely become an urgent or even an emergency repair in the event that it's not dealt with.

**Ms ARCHER** - That's why I said that mould can actually be something that is quite an urgency because we know it's dangerous to your health.

**Ms WEBB** - It might typically be in the general because of its severity or that the time elapsing could be escalated.

**Mr GRAHAM** - If I received an application for an audit for repairs and there was a clear link to health and safety, that pretty clearly needs to be -

**Ms ARCHER** - I think we covered health and safety issues.

**Mr GRAHAM** - We did, but really when something becomes health- and safety-related, it is by definition an urgent or emergency repair, and we would ensure that -

**Ms ARCHER** - That's what I meant. The definition.

**Ms STANDEN** - The current notice says it's revoked on 30 June. Given that the emergency period currently is to 25 July, I invite you to speak to that and whether you would be of a mind to reissue a notice to extend that, particularly relating to the fact that commercial lease protections now are so much further out.

I have had representations from the housing sector that because the timing of JobSeeker and JobKeeper - and I appreciate that is the federal and not the state jurisdiction - is September, it would be a potentially disastrous circumstance for people to find that they come through the emergency



period, but the income protections drop out and they are potentially faced with loss of protections for rent in arrears, eviction and so on.

I am not sure whether the commercial lease protections have come into place yet. I think they have to be enacted through the regulations and I don't think they have been circulated yet.

**Ms ARCHER** - Certainly the intent of the code is currently operable. It is getting confusing having so many questions to address whether it's national or whatever.

It would be great if we had a crystal ball to show how all these things are going to fall into place, and dates and the like. I am sure the National Cabinet is having discussions about JobKeeper and JobSeeker and timing, and whether when they cease there is still some form of support et cetera. I know that by no means has that been settled. So I am limited in what I can comment about what the federal government might do in that regard, but it may well be that they still offer some support but through some sort of means testing. Some people will not have gone back to work and some people will, for example, so they might look at that.

In terms of what we might do as a government - and we have been very open about this - we are very willing and prepared to look at extending should we need to do so. We will need to be looking at the public health advice at the time, how that is impacting this. All of those things need to be taken into account. We are starting to review all of that and obviously as we get closer to those time periods, we will be in a much better position to know whether an extension may or may not be needed. I cannot give anything definitive at this stage, other than to say it is certainly our intention to review and extend that if it is necessary.

**Ms STANDEN** - The intent of the legislation was to provide protections for commercial and residential tenants and landlords and, in my view, equally. You have spoken to your interpretation of the debate. That is as it is. My understanding is that the Premier made a clear commitment to ensure that people are not homeless throughout this period and provide equal protections to residential tenants.

That is why I am pursuing the line of questioning around the different approaches. You have a notice for residential tenants and you have legislation for commercial tenants. You have said it is not possible for a notice to be retrospective, and I take that on face value. Is there any reason you issued the notice for 30 June and not at least the end of the emergency period at the moment, 25 July?

**Ms ARCHER** - Can we deal with the issue of how commercial leases were dealt with differently to residential? It is important we explain the difference in approaches and why that was necessary, and why commercial was legislation and not notice.

**Mr GRAHAM** - First, we legislated the commercial bill because we did not have it an enabling or existing statutory framework to use to be able give effect to that.

**CHAIR** - As other states had in place. That was made clear.

**Mr GRAHAM** - We have a code that sits under our consumer law, but it was not fit for purpose for achieving the objectives of the code of conduct that was required.

**Ms ARCHER** - It was a decision of National Cabinet through the Prime Minister.

**Ms STANDEN** - Yes, I understand that.

**Mr GRAHAM** - As far as issues with regard to timing in the COVID-19 commercial leases bill, the commitment regarding the code of conduct for commercial leases made by the Prime Minister is to 30 September, which may be extended. That is how that was framed.

We put the end of our commercial leases to be 12 months from commencement with the ability to end early. That was done really in response to feedback about not wanting to have open-ended time frames.

**Ms ARCHER** - That was specific feedback from the Legislative Council on first debate.

**Mr GRAHAM** - Yes. Then I suppose the design -

**Ms ARCHER** - They chronically had an issue with us having such a long period even though we were giving them what they asked for.

**CHAIR** - My amendment failed, Minister.

**Mr GRAHAM** - Instead of having a limit which then could be extended, it was we'll have a maximum that could be reduced

**Ms ARCHER** - I couldn't believe that debate.

**Ms WEBB** - I think it was partly because of the comparison that then ensued.

**Mr GRAHAM** - That was the reason. It was in response to feedback around wanting to have hard dates or needing to come back to the parliament, so a hard date with the ability to end early as opposed to an open-ended ability to commit. I suppose the thing is you can achieve the same outcome by virtue of notice by ending the commercial leases early or by extending the residential.

**Ms STANDEN** - Moving forward, it's possible for the protections for residential tenants to be the same as for commercial tenants provided the Government and you, Minister, are of a mind to extend the notices.

**Ms ARCHER** - What do you mean by the 'same'? Certainly in terms of time limits, and one being extended or one being brought forward, yes.

**Ms STANDEN** - Yes, but it is not possible to deal with retrospectivity now.

**Mr GRAHAM** - No, it wasn't provided for - had the original COVID-19 act provided the ability for retrospectivity, a notice could have had retrospective effect. It didn't so as it is, it cannot go backwards.

**Ms STANDEN** - I think there is an issue there in terms of the time frame, but I hope that for those 500 or so households, if that's the right data, that the rent relief fund will provide some protections there.

So I'm clear, though, the commercial leases protections - they're not in place until the regulations are: is that right?

**Ms ARCHER** - That's right, we were going to address that.

**Mr GRAHAM** - The bill has received royal assent but has yet to be proclaimed, which will happen shortly. We're working with tenants and landlords on the basis of that was approved by the parliament and implementing the intent of the COVID-19 [legislation] so it doesn't need the regulations to be in effect.

**Ms ARCHER** - That's the key answer. It is in effect. What the regulations do is, I suppose - or Peter can explain better than I can.

**Mr GRAHAM** - The regulations will deal with a couple of specific issues regarding - I think it's sections 5 and 6 of the act, which relate to the notion of protected leases and eligible persons - if they need to be adapted or added or added to give the full intent of the code.

The second part is really regarding rent, and that's around definitions and other kind of things so many of our stakeholders - I think the Property Council raised with the Legislative Council at least issues around gross versus net rents and other kinds of things. The regulations will really clarify those matter, so really quite technical interpretation matters.

**Ms STANDEN** - Those regulations will come to us eventually. Have they been circulated as draft?

**Mr GRAHAM** - They haven't been circulated as draft yet. I've written to stakeholders regarding the scope in which they intend to cover, and asked them for feedback on anything that they consider urgent, and we anticipate to be circulating the regulations shortly. They're being prepared.

**Ms STANDEN** - When do you reckon they'll be finalised?

**Mr GRAHAM** - It really will depend on -

**Ms ARCHER** - I'm giggling because I'm thinking of OPC's workload at the moment.

**Ms STANDEN** - I'm putting the heat on you, I know.

**Mr GRAHAM** - I think the process we're going through at the moment will really out whether there are complex issues we haven't dealt with adequately, so I wouldn't want to say within a fortnight or something like that.

I don't think they will be particularly complex. Regulations - I think it's clear those issues they need to deal with, so really subject to drafting and consultation with stakeholders.

**CHAIR** - We have one final question because I have negotiated with the Minister that she stays to answer this question.

**Ms STANDEN** - Chair, I have a follow-on question if that's all right.

**Ms WEBB** - Mine's a relatively quick one. If you want to follow on because it's related to that -

**Ms STANDEN** - No, mine's a quick one, but you go.

**Ms WEBB** - I am wondering on a practical level, given that notices don't have the ability to be retrospective, is there any way there's a record of rent increases that would have occurred in the window period between the first COVID-19 bill and this notice on 23 April? Most of you know that would have applied to leases that perhaps had come up for renewal and often that's at the time increases are applied. Do you keep records anywhere that would show us what had occurred in that window?

**Mr GRAHAM** - No. The records we keep are at the start of a tenancy because we collect bonds and at that point we also collect rent information. We would know the number of leases signed on any given day, and they are typically fixed term, but we would not know whether they are fixed term or not. We would know that the leases entered into 12 months ago from today -

**Ms WEBB** - Which are those 526 in that window 12 months ago.

**Mr GRAHAM** - Yes, but we would not know, first, whether the agreement made provision for a rent increase and, second, whether a landlord exercised their right to increase rent. We do not collect any information regarding a tenancy after its establishment unless there is a dispute, as in the Residential Tenancy Commission.

**Ms STANDEN** - Very quickly, we explored this with the Tenants' Union. A number of the 1500 or so households covered by National Rental Affordability Scheme are scheduled to drop off potentially within this window. Are they protected? Otherwise members will be aware that it is subsidised arrangement and potentially they are facing a 20 per cent jump in their rent if they do not have the protections under this notice.

**Ms ARCHER** - That it more into the area of housing, which is not my portfolio, NRAS.

**Mr GRAHAM** - It really would depend on the nature of the agreement, whether it is a rent increase or the withdrawal of a subsidy. If it were a rent increase, the potential to apply would exist and the prohibition on a rent increase would exist if it occurred during the period. If the rent agreement includes it as a subsidy, it is not actually a change in the rent amount.

I have not seen those agreements, but would be happy to look at them if someone was to provide them.

**Ms STANDEN** - The lease agreements are up to 10 years old for some of them and the issue is that once the scheme finishes, it is really up to the landlord as to whether they want to re-enter a new agreement.

**Ms ARCHER** - It is not my portfolio.

**Ms STANDEN** - It would be a residential lease, the same as any other.

**Mr GRAHAM** - As I said, I am not privy to the conditions of the lease, but we would be happy to look at any lease and provide a tenant with advice with regard to their circumstances.

We have had some contact and asked for leases, but I am not conscious whether we have received any to look at. My information may not be current though. If you do have tenants who are concerned, they can contact the Office of the Residential Tenancy Commissioner.

**Ms ARCHER** - That is probably the best thing to do in these circumstances. If in doubt, send people that way.

**Ms STANDEN** - My general concern there is that we are in an environment where the onus is on the tenant to be aware of what protections are available. I urge the Government to take that on board. The more we can advertise the availability of avenues through the Residential Tenancy Commissioner, the Tenants' Union, rent relief programs and the like, the better. Other things being equal, there will be vulnerable tenants who would not understand what options there are for support.

**CHAIR** - Thank you very much. Minister, we know how extremely busy you and Peter's area are, and we very much appreciate the opportunity to talk with you. I suggest the information provided through this hearing has been very valuable and on behalf of the committee, we sincerely thank you.

**THE WITNESSES WITHDREW.**

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**FRIDAY 1 MAY 2020**

**COMMENCEMENT**

The Committee at 11.02 am in Committee Room 2 and via Webex.

**MEMBERS PRESENT**

**Legislative Council**

*Ms Forrest (Deputy Chair)*  
*Ms Rattray (Chair)*  
*Ms Webb (via Webex)*

**House of Assembly**

*Ms Standen (via Webex)*  
*Mr Street*  
*Mr Tucker*

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLENEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over —

1. Notice under section 22 (residential tenancies)

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 5 MAY 2020**

**COMMENCEMENT**

The Committee at 11.02 am in Committee Room 2 and via Webex.

**MEMBERS PRESENT**

**Legislative Council**

*Ms Forrest (Deputy Chair)*  
*(via Webex)*  
*Ms Rattray (Chair) (via Webex)*  
*Ms Webb (via Webex)*

**House of Assembly**

*Ms Standen (via Webex)*  
*Mr Street (via Webex)*  
*Mr Tucker (via Webex)*

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLENEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over —

1. Notice under section 22 (residential tenancies)

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**FRIDAY 8 MAY 2020**

**COMMENCEMENT**

The Committee at 11.00 am in Committee Room 2 and via Webex.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (*Deputy Chair*)  
Ms Rattray (*Chair*)  
Ms Webb

**House of Assembly**

Ms Standen (*via Webex*)  
Mr Street  
Mr Tucker

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLEANEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over —

1. Notice under section 22 (residential tenancies)

The Committee **AGREED** that the *Chair* write to the relevant Minister regarding the outstanding associated paperwork.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 12 MAY 2020**

**COMMENCEMENT**

The Committee at 11.02 am via Webex.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (*Deputy Chair*) (*via Webex*)  
Ms Rattray (*Chair*) (*via Webex*)  
Ms Webb (*via Webex*)

**House of Assembly**

Ms Standen (*via Webex*)  
Mr Street (*via Webex*)  
Mr Tucker (*via Webex*)

**OUTWARDS  
CORRESPONDENCE**

***Resolved***, that the following correspondence be endorsed:

3. Letter dated 8 May 2020 to the Hon Elise Archer MP, Attorney General and Minister for Building and Construction regarding outstanding associated paperwork for a section 22 Notice under the *Covid-19*

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLENEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over —

2. Notice under section 22 (residential tenancies)

The Committee noted the outstanding paperwork had still not been received.

The Committee had a discussion.

The Committee **RESOLVED** that the *Chair* write to the Premier regarding the outstanding paperwork.

The Committee had a discussion.

The Committee **RESOLVED** that the *Chair* write to the Attorney General noting the following:

- The outstanding associated paperwork is not in compliance with the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020* and the Committee is therefore unable to undertake it's role and therefore hindering the role and functions of the Committee; and
- Seeking clarification as to why there was a delay of 20 days in issuing the Notice (Gazette No. 21978 23 April 2020). The initial Gazette Notice No. 21961 was issued on 3 April 2020.

The *Chair* moved the following MOTION:

*The Committee commence an inquiry into this Notice.*

The Committee voted on the MOTION.

Yes: The *Chair*, The *Deputy Chair*, Ms *Standen* and Ms *Webb*.

No: Mr *Street* and Mr *Tucker*.

The **MOTION** was carried.

The Committee **RESOLVED** to rescind the previous resolution to write to the Premier.



**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**FRIDAY 15 MAY 2020**

**COMMENCEMENT**

The Committee at 11.02 am in Committee Room 2 and via Webex.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (*Deputy Chair*) (via Webex)  
Ms Rattray (*Chair*)  
Ms Webb (via Webex)

**House of Assembly**

Mr Street (via Webex)  
Mr Tucker (via Webex)

**OUTWARDS**

**CORRESPONDENCE**

The *Deputy Chair* raised concern that the letter to the Hon Elise Archer MP dated 12 May 2020 did not accurately reflect the Minutes of the Meeting on 12 May 2020. The minutes record the decision to commence an Inquiry into the relevant Notice was a distinct decision to the failure to provide the necessary paperwork within the statutory timeframe.

The Committee discussed this correspondence.

The *Deputy Chair* moved the following motion:

*That the outwards correspondence be endorsed with the following note: that the letter dated 12 May 2020 to the Hon Elise Archer MP did not accurately reflect the Minutes of the Meeting dated 12 May 2020.*

The Committee voted on the MOTION.

Yes: The *Deputy Chair*, Ms Webb.

No: The *Chair*, Mr Street and Mr Tucker.

The **MOTION** was not carried.

The *Chair* indicated in light of the difference in views as to what was to be included in the correspondence to Minister Archer I will revert to arrangements confirmed in a previous resolution, hereby that all draft correspondence will be considered by the Committee at the next meeting.

**RESOLVED**, that the following outwards correspondence be endorsed:

1. Letter dated 12 May 2020 to the Hon Elise Archer MP, Attorney General and Minister for Building and Construction regarding outstanding paperwork, commencement of inquiry and invitation to attend public hearing on 15 or 22 May 2020 regarding section 22 Notice

under *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (residential tenancies).

Ms *Standen* took her place at 11.24 am.

**GENERAL  
CORRESPONDENCE**

***Resolved***, that the following general correspondence be received:

5. Letter dated 13 May 2020 from the Hon Elise Archer MP, Attorney General and Minister for Building and Construction confirming her appearance at a public hearing and providing information relating to the 20 day time lapse regarding section 22 Notice under *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (residential tenancies).

**SUPPORTING  
CORRESPONDENCE  
(NOTICE)**

***Resolved***, that the following supporting correspondence be received:

1. Letter dated 12 May 2020 from the Hon Elise Archer MP, Attorney General and Minister for Building and Construction providing associated paperwork for section 22 Notice under the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (residential tenancies).

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLEANEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over —

1. Notice under section 22 (residential tenancies)

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 19 MAY 2020**

**COMMENCEMENT**

The Committee at 9.28 am in Committee Room 2.

**MEMBERS PRESENT**

**Legislative Council**  
Ms *Forrest* (*Deputy Chair*)  
Ms *Rattray* (*Chair*)  
Ms *Webb*

**House of Assembly**  
Ms *Standen*  
Mr *Street*  
Mr *Tucker*

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLENEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notice be held-over —

1. Notice under section 22 (residential tenancies)

The *Secretary* advised that Minister Archer had accepted to attend via Webex and that the Minister may not be aware that she is able to attend in person.

The Committee **AGREED** to offer the Minister the opportunity to present in person.

Further, the Committee **RESOLVED**, that the Tenants Union be invited to attend a public hearing at 9.30 am on Friday 22 May 2020.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**FRIDAY 22 MAY 2020**

**COMMENCEMENT**

The Committee at 9.30 am in Committee Room 2.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (*Deputy Chair*)  
Ms Rattray (*Chair*)  
Ms Webb

**House of Assembly**

Ms Standen  
Mr Street  
Mr Tucker

**PUBLIC HEARING  
NOTICE UNDER  
SECTION 22 OF THE  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLENEOUS  
PROVISIONS)  
ACT 2020  
(RESIDENTIAL  
TENANCIES)**

At 9.32 am Mr Benedict Bartl, Acting Principal Solicitor and Mr Alex Bomford, Policy Officer, Tenants' Union of Tasmania took the statutory declaration and were examined via Webex.

**Tabled Document**

1. Letter dated 21 May 2020 from Benedict Bartl, Acting Principal Solicitor, Tenants' Union of Tasmania

regarding *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (residential tenancies).

#### **Question on Notice**

1. The number of private residential tenancies in Tasmania?

The witnesses withdrew at 10.26 am.

The Committee considered the wording of the question taken on notice.

The Committee **AGREED** to the wording of the question on notice.

**RESOLVED**, that the question on notice be sent today.

#### **NOTICES UNDER COVID-19 DISEASE EMERGENCY (MISCELLENEOUS PROVISIONS) ACT 2020 (held-over)**

That the following Notices be held-over —

1. Notice under section 22 (residential tenancies)

#### **PUBLIC HEARING NOTICE UNDER SECTION 22 OF THE COVID-19 DISEASE EMERGENCY (MISCELLENEOUS PROVISIONS) ACT 2020 (RESIDENTIAL TENANCIES)**

At 12.01 pm the Hon Elise Archer MP, Attorney General and Minister for Building and Construction and Mr Peter Graham, Executive Director - Consumer Building and Occupational Services, Peter Graham took the statutory declaration and were examined.

#### **Question on Notice**

- What communication has been provided by the Government to landlords and agents regarding rent increases following the passing of the COVID-19 Disease Emergency (Miscellaneous Provisions) Bill 14 of 2020

Ms *Forrest* left her seat at 12.58 pm.  
Ms *Forrest* resumed her seat at 1.01 pm.

The witnesses withdrew at 1.08 pm.

There was a discussion about the question on notice.

The Committee considered the wording of the above question on notice and **RESOLVED** the correspondence be sent.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 26 MAY 2020**

**COMMENCEMENT**

The Committee at 1.30 pm in Committee Room 2 and via Webex.

**MEMBERS PRESENT**

**Legislative Council**

*Ms Forrest (Deputy Chair)(via Webex)*

*Ms Rattray (Chair) (via Webex)*

*Ms Webb (via Webex)*

**House of Assembly**

*Ms Standen (via Webex)*

*Mr Street (via Webex)*

*Mr Tucker (via Webex)*

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLENEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over—

1. Notice under section 22 (residential tenancies)

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**FRIDAY 29 MAY 2020**

**COMMENCEMENT**

The Committee at 11.00 am in Committee Room 2 and via Webex.

**MEMBERS PRESENT**

**Legislative Council**

*Ms Forrest (Deputy Chair)(via Webex)*

*Ms Rattray (Chair) (via Webex)*

**House of Assembly**

*Ms Standen (via Webex)*

*Mr Street (via Webex)*

*Mr Tucker (via Webex)*

*Ms Webb took her place at 11.05 am (via Webex)*

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLEANEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over—

1. Notice under section 22 (residential tenancies)

The Committee discussed the Draft Report.

The Committee **AGREED** to review the transcript when made available.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 2 JUNE 2020**

**COMMENCEMENT**

The Committee met at 1.30 pm in Committee Room 2, Parliament House, Hobart

**MEMBERS PRESENT**

**Legislative Council**

*Ms Forrest (Deputy Chair)*  
*Ms Rattray (Chair)*  
*Ms Meg Webb*

**House of Assembly**

*Ms Standen*  
*Mr Street*  
*Mr Tucker*

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLEANEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over—

1. Notice under section 22 (residential tenancies)

The Committee **RESOLVED** to publish the Hansard transcript of 22 May 2020 to the website.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**FRIDAY 5 JUNE 2020**

**COMMENCEMENT**

The Committee met at 9.00 am in Committee Room 2, Parliament House, Hobart.

## **MEMBERS PRESENT**

### **Legislative Council**

Ms Forrest (*Deputy Chair and took her seat at 10.54 am*)  
Ms Rattray (*Chair and took her seat at 10.54 am*)  
Ms Meg Webb

### **House of Assembly**

Ms Standen  
Mr Street  
Mr Tucker (*Temporary Chair from 9.00am-10.33am*)

## **GENERAL CORRESPONDENCE**

**Resolved**, that the following general correspondence be received:

- Letter dated 4 June 2020 from the Attorney General, the Hon Elise Archer MP providing a response to question on notice regarding Notice under section 22 *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (residential tenancies).

## **NOTICES UNDER COVID-19 DISEASE EMERGENCY (MISCELLEANEOUS PROVISIONS) ACT 2020 (held-over)**

That the following Notices be held-over—

- Notice under section 22 (residential tenancies)

The Committee had a discussion.

The Committee **AGREED** that the Secretary provide a draft report to Members.

Further, the Committee **RESOLVED**, that the *Chair* write to the Minister to follow-up on tabling.

## **JOINT STANDING COMMITTEE**

# **SUBORDINATE LEGISLATION**

**THURSDAY 11 JUNE 2020**

## **COMMENCEMENT**

The Committee met at 10.32 am via Webex and Committee Room 2, Parliament House, Hobart.

## **MEMBERS PRESENT**

### **Legislative Council**

Ms Forrest (*Deputy Chair*) (*via Webex*)  
Ms Rattray (*Chair*) (*via Webex*)  
Ms Meg Webb (*via Webex*)

### **House of Assembly**

Ms Standen (*via Webex*)  
Mr Street (*via Webex*)  
Mr Tucker (*via Webex*)

**OUTWARDS  
CORRESPONDENCE**

**Resolved**, that the following outwards correspondence be endorsed:

4. Letter dated 9 June 2020 to the Attorney General, the Hon Elise Archer MP regarding outstanding tabling requirement for Notice issued under Section 22 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (residential tenancies).

**DRAFT REPORT  
No. 8  
SECTION 22  
(RESIDENTIAL  
TENANCIES); AND  
SECTION 16 (FOOD  
ACT 1993 AND PUBLIC  
HEALTH ACT 1997)**

The Committee considered Report No 8.

The Committee amended Draft Report No. 8.

The *Chair* moved that the wording '*and the intent of the Parliament*' be deleted in the second last paragraph in relation to the Notice under Section 22 (residential tenancies).

The Committee voted on the **MOTION**.

Yes: The *Chair*, The *Deputy Chair*, Ms *Standen*, Mr *Street*, Mr *Tucker* and Ms *Webb*.

The **MOTION** was carried.

The Committee **RESOLVED** to hold over Draft Report No. 8.

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLEANEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over—

1. Notice under section 22 (residential tenancies)

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 16 JUNE 2020**

**COMMENCEMENT**

The Committee met at 1.30 pm via Webex and Committee Room 2, Parliament House, Hobart.



**MEMBERS PRESENT**

**Legislative Council**

Ms Rattray (*Chair*) (via Webex)  
Ms Forrest (*Deputy Chair*) (via Webex)  
Ms Meg Webb (via Webex)

**House of Assembly**

Ms Standen (via Webex)  
Mr Street (via Webex)  
Mr Tucker (via Webex)

**DRAFT REPORT**

**No. 8**

**SECTION 22**

**(RESIDENTIAL  
TENANCIES):**

**SECTION 16**

**(POISONS ACT 1971):**

**AND**

**SECTION 16 (FOOD  
ACT 1993 AND PUBLIC  
HEALTH ACT 1997)**

The Committee considered Draft Report No. 8.

The Committee amended Draft Report No. 8.

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLEANEOUS  
PROVISIONS)  
ACT 2020  
(examined)**

That the following Notices be examined—

1. Notice under section 22 (residential tenancies)

**DRAFT REPORT**

**No. 8**

**SECTION 22**

**(RESIDENTIAL  
TENANCIES):**

**SECTION 16**

**(POISONS ACT 1971):**

**AND**

**SECTION 16 (FOOD  
ACT 1993 AND PUBLIC  
HEALTH ACT 1997)**

The Committee considered Draft Report No. 8.

The Committee amended Draft Report No. 8.

The Committee ***RESOLVED*** —

1. Draft Report No. 8 as amended, be adopted with all relevant attachments including today's Minutes (once confirmed); and
2. Presented to the President out of session by Ms Webb and tabled by Mr Tucker in the House Assembly.

## Department of Health

GPO Box 125, HOBART TAS 7001, Australia  
Web: [www.health.tas.gov.au](http://www.health.tas.gov.au)



Contact: Anna Mayo  
E-mail: [anna.mayo@health.tas.gov.au](mailto:anna.mayo@health.tas.gov.au)  
WITS No: 115138

Mr Stuart Wright  
Secretary  
Parliamentary Standing Committee on Subordinate Legislation  
Parliament House  
HOBART TAS 7000

Dear Mr Wright

**Subject: Notice under section 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* to extend certain authorisations made under section 59E of the *Poisons Act 1971***

In accordance with the provisions of section 7 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (COVID Act), please find enclosed a copy of a notice issued by the Premier under section 16 of the COVID Act on 17 May 2020, a copy of the Deputy Chief Parliamentary Counsel's advice regarding the notice, and a Notice Statement.

Yours sincerely



Ross Smith  
Deputy Secretary  
Policy, Purchasing, Performance and Reform  
On behalf of the Secretary

19 May 2020

Enc: Notice issued under section 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*  
Deputy Chief Parliamentary Counsel's advice regarding the notice  
Notice Statement

TASMANIA

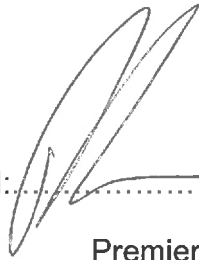
*COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*

**NOTICE UNDER SECTION 16**

I, PETER CARL GUTWEIN, the Premier, in pursuance of section 16(1)(b) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*, being of the opinion that the relevant emergency circumstances exist in relation to this notice and with the approval of the emergency manager, declare that, despite section 59E of the *Poisons Act 1971*, the period that an authority under that section is to remain in force, as specified in that authority, is extended by a further period of 6 months if the authority –

- (a) was in force immediately before the day on which notice of the making of this notice is published in the *Gazette*; and
- (b) specifies that the period during which the authority is to be in force is 6 months or more; and
- (c) is due to expire within the 6 month period immediately after the day on which notice of the making of this notice is published in the *Gazette*.

Dated:.....17.5.20.....

Signed:..........  
Premier

## ADVICE OF DEPUTY CHIEF PARLIAMENTARY COUNSEL

***Notice under section 16 of the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020***

I advise that this statutory rule –

- (a) appears to be within the powers conferred by the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (b) does not appear, without clear and express authority being provided by any Act, to –
  - (i) have any retrospective effect; or
  - (ii) impose any tax, fee, fine, imprisonment or other penalty; or
  - (iii) sub-delegate powers delegated by the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (c) appears to be within the general objectives of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (d) is expressed in as clear and unambiguous language as is reasonably possible.

Dated 29 April, 2020.



Katherine Woodward  
**Deputy Chief Parliamentary Counsel**

## **Standing Committee on Subordinate Legislation**

### **Notice Statement**

#### **Notice under section 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* to extend certain authorisations made under section 59E of the *Poisons Act 1971***

The Premier's notice under section 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* extends certain authorities issued under section 59E of the *Poisons Act 1971*.

Under section 59E of the *Poisons Act*, the Secretary, Department of Health may authorise a medical practitioner, dentist or other health professional to make narcotic substances available to patients with a history of drug seeking behaviour.

The notice extends the period for which an authority issued under section 59E of the *Poisons Act* that is for a period of six months or more and that is due to expire in the six month period immediately after the day on which the notice is made may remain in place for a further period of six months.

Section 59E of the *Poisons Act* provides for the Secretary to authorise the supply of narcotic substances or other specified addictive substances to patients with a history of drug seeking behaviour.

Approximately 13 500 section 59E authorities were issued in the last calendar year and approximately half of these will expire in the next six months.

The notice is needed to remove a considerable workload burden on the Pharmaceutical Services Branch within the Department of Health and on medical practitioners (predominantly General Practitioners) associated with renewing authorities which are due to expire in the coming months.

For pharmacists acting as delegates of the Secretary, removing the burden associated with renewing low-risk authorities is estimated to reduce workload by 15 to 20 per cent. The reduction in workload for General Practitioners is harder to quantify but nevertheless significant. Removing the administrative burden associated with renewing authorities will enable pharmacists to focus on other issues of concern to pharmacists in their response to COVID-19 and for General Practitioners will enable them to focus on patient treatment.

The notice extends the expiry of existing low risk authorities for a period of six months, unless prescribed medications are varied, objective high-risk events impacting on patient safety occur, treatment is ceased, or an authority is revoked. Current authorities in force that are for a duration of six months or more are viewed as low risk authorities and suitable for automatic extension.



## Joint Standing Committee Subordinate Legislation

27 May 2020

Hon Sarah Courtney MP  
Minister for Health  
via email: [sarah.courtney@parliament.tas.gov.au](mailto:sarah.courtney@parliament.tas.gov.au)

Dear Minister

**NOTICE UNDER SECTION 16 OF THE**  
**COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020**  
**(POISONS ACT 1971)**

The Joint Standing Committee on Subordinate Legislation is currently considering the above Notice. The Committee resolved to commence an inquiry into the above Notice.

Accordingly, the Committee has requested that a public hearing be arranged with yourself or Departmental Officers. It would be appreciated if this public hearing could take place at the Committee's meeting on **Tuesday 2 June 2020 at 1.30 pm in Committee Room 2 or via Webex** or alternatively, **Friday 5 June 2020 at 11.00 am in Committee Room 2 or via Webex**.

It would be appreciated if you would please confirm the availability of yourself or Departmental Officers who are available to attend to the Acting Secretary, Ms Julie Thompson on 0488 060 687 or via email at [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au).

Yours sincerely

A handwritten signature in black ink that reads "Tania Rattray".

**TANIA RATTRAY MLC**

CHAIR

w. 03 6212 2320 f. 03 6212 2345 m. 0488 060 687 e. [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)

Minister for Health  
Minister for Strategic Growth  
Minister for Women  
Minister for Small Business, Hospitality and Events

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Our Ref: MIN20/19998

Hon Tania Rattray MLC  
Chair  
Joint Standing Committee on Subordinate Legislation  
Email: [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)

Dear Ms Rattray

Thank you for your correspondence of 27 May 2020 regarding the Notice issued under Section 16 of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Poisons Act 1971)*, and your request for me to appear before the Subordinate Legislation Committee (the Committee).

I am pleased to confirm I will appear before the Committee, along with my Departmental Officials, to provide verbal evidence on the abovementioned Notice. My office will make contact with the Committee Secretariat to make arrangements to appear via webex on Friday, 5 June 2020 at 11.00am.

As the Committee would be aware, the priority of both Department and Public Health officials remains on responding to the COVID-19 emergency. Accordingly, it would be appreciated if the Committee could provide clarity at the earliest possible opportunity next week as to what specific information is being sought, which will greatly assist with the preparation of appropriate responses to the Committee's questions.

Thank you again for the opportunity to appear before the Subordinate Legislation Committee on this matter.

Yours sincerely

Hon Sarah Courtney MP  
**Minister for Health**





## Joint Standing Committee Subordinate Legislation

2 June 2020

Hon Sarah Courtney MP  
Minister for Health  
via email: [sarah.courtney@parliament.tas.gov.au](mailto:sarah.courtney@parliament.tas.gov.au)

Dear Minister

**NOTICE UNDER SECTION 16 OF THE**  
**COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020**  
**(POISONS ACT 1971)**

Thank you for your correspondence dated 29 May, advising of your availability to attend the public hearing on Friday, 5 June at 11.00 am via Webex.

Further, to your request regarding what particular area of interest the Committee wishes to inquire, I can advise the specific area is in relation to the following:

- Origin for the decision - where did the request come from?
- Further details on the rationale for the decision.
- Details of the risk assessment in relation to patients' welfare during this extension period.

The Committee looks forward to meeting with you this Friday.

Yours sincerely

A handwritten signature in cursive script that reads 'Tania Rattray'.

TANIA RATTRAY MLC

CHAIR

w. 03 6212 2320 f. 03 6212 2345 m. 0488 060 687 e. [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)



## Joint Standing Committee Subordinate Legislation

9 June 2020

The Hon Sarah Courtney MP  
Minister for Health  
c/o email

Dear Minister

**Notice issued under section 16 of the  
*COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*  
(*Poisons Act 1971* - Gazetted 19 May 2020)  
and**

**Notice issued under section 16 of the  
*COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*  
(*Food Health Act 1994 and Public Health Act 1997* - Gazetted 27 May 2020)**

The Joint Standing Committee on Subordinate Legislation is currently considering the above Notices. At the Committee's meeting on 5 June it was noted that the Notices have not been tabled as required under Section 7(1) of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020*.

It would be appreciated if you would please ensure that the Notices are tabled at your earliest convenience.

Yours sincerely

A handwritten signature in black ink, reading "Tania Rattray".

TANIA RATTRAY MLC

CHAIR

w. 03 6212 2250 f. 03 6212 2345 m. 0488 009 642 e. [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)

**THE JOINT STANDING COMMITTEE ON SUBORDINATE LEGISLATION MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON FRIDAY 5 JUNE 2020.**

**INQUIRY INTO NOTICE UNDER SECTION 16 OF THE COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020 (POISONS ACT 1971)**

**Ms KATHRINE MORGAN-WICKS**, SECRETARY, DEPARTMENT OF HEALTH, **Mr SAM HALLIDAY**, CHIEF PHARMACIST, DEPARTMENT OF HEALTH AND **Ms MEGAN SPERRING**, GENERAL MANAGER, LEGAL SERVICES, DEPARTMENT OF HEALTH WERE CALLED VIA WEBEX, MADE THE STATUTORY DECLARATION AND WERE EXAMINED. **THE HON. SARAH COURTNEY, MP**, MINISTER FOR HEALTH, WAS CALLED VIA WEBEX AND EXAMINED

**CHAIR** (Ms Rattray) - Thank you. Welcome to the hearing. All evidence at these hearings is protected by parliamentary privilege. I remind you that any comments you make outside the hearing may not be afforded such privilege. As soon as the evidence that is being recorded is available, the *Hansard* version will be published on the committee website and become available. Always the offer is if there is anything that you would like to share with the committee but you feel it needs to be taken in camera, then please make that request and the committee will consider that. Thank you very much.

Minister, we invite you to make an opening statement in regard to this particular notice under the COVID-19 Disease Emergency. Thank you.

**Ms COURTNEY** - Thank you, I appreciate that. Through my opening statement I touch on some of the areas that I know are of particular interest to the committee. Thank you for inviting us along today to this hearing. I appreciate the opportunity to address the committee on the Government's efforts to support the continuity of primary care and government services in the face of COVID-19.

As members of the committee will be aware, coronavirus was declared a notifiable disease three months ago. The Government's focus since then has been to ensure the health and wellbeing of Tasmanians, while continuing -

**CHAIR** - One moment, minister, we are having slight trouble hearing you. Do you have some more volume?

**Ms STANDEN** - Sorry, Chair, I think it is ours.

**CHAIR** - We apologise, it may well have been at our end, minister.

**Ms COURTNEY** - Is that better?

**CHAIR** - No, we have ours at maximum. Do you have any volume that you can increase at your end?

**Ms COURTNEY** - No, the only thing I can do is try to speak -

**Ms FORREST** - Do you have a headset?

**Ms COURTNEY** - I will go and grab one, I will not be a moment.

**Committee suspended at 11.05 a.m.**

**Committee resumed at 11.07 a.m.**

**CHAIR** - We will invite the Secretary of the Department of Health, Kathrine Morgan-Wicks, to read the statement on behalf of the minister. Thank you.

**Ms MORGAN-WICKS** - Thank you, Chair, thank you, minister, and thank you for the invitation to attend today's hearing. I appreciate the opportunity to address the committee on behalf of the minister, on the Government's efforts to support continuity of primary care and government services in the face of COVID-19.

As members of the committee will be aware, coronavirus was declared to be a notifiable disease three months ago. The Government's focus since then has been to ensure the health and wellbeing of Tasmanians, while continuing to support business, jobs, families and the community through a period of significant social and economic upheaval.

The COVID act was introduced to facilitate a range of measures to reduce the risk to the state and to the community as a result of the spread of coronavirus in our state. The ability for the Premier to make declarations by public notice to adjust the operation of statutory requirements in legislation, is one of these measures. The notice that we are talking about today, is consistent with the COVID act. It was issued by the Premier with approval of the emergency manager, and following an assessment by the Premier that it was necessary or desirable to issue the notice because of a reduction in the number of persons available to carry out particular activities because of the risk of the spread of COVID-19 amongst people in Tasmania.

The Premier's notice that we are here to discuss today, is an example of action taken by the Government to support the continuity of primary care and government services, and to reduce hardships to the community resulting from COVID-19.

Section 59E of the Poisons Act regulates the circumstances in which a prescriber may make a narcotic substance, or specified substance, available to a person. The process set out in section 59E of the Poisons Act anticipates the secretary issuing an authority on receipt of a written application to do so. Almost all applications are made by medical practitioners and relate to narcotic substances. As committee members may know, a narcotic substance is a substance that is specified in Schedule 8 of the poisons list. This includes strong opioid pain medication and psychostimulants. The section 59E process imposes a considerable workload burden on applicants, predominantly general practitioners, and on pharmacists working in the state's Pharmaceutical Services Branch, who act as delegates of the secretary when considering applications, issuing, advising and monitoring supplies and risks in relation to those substances.

To be considered, applications need to confirm whether the person for whom the authority is sought is drug dependent, or is exhibiting drug-seeking behaviour. Applications also need to say whether the person has a history of obtaining a notifiable restricted substance, a narcotic substance or a prohibited substance for a non-medical purpose, or of unlawful possession or unlawful supply of a notifiable restricted substance, narcotic substance or prohibited substance.

This is important because of the nature of the drugs for which authorities are usually issued. Applications are carefully assessed by experienced pharmacists within the pharmaceutical services

branch and consideration is given to the risks and benefits of authorising a doctor to prescribe the relevant substance for the specific patient. In complex cases, the advice of relevant specialist medical practitioners, including pain medicine specialists, addiction medicine specialists and psychiatrists, is also sought.

For patients at high risk of harm based on objective documented evidence, authorities are generally issued for six months or less. Authorities of six months duration or more are generally only issued when the risk of harm to the patient from the proposed regimen is lower. The notice relates to this group of authorities. We know that as the dose of opioids increases, so does the risk of harm. Tasmania's clinical regulatory approach to the regulation of high-risk medicines has contributed to a demonstrable reduction in the average daily dose of opioids per patient prescribed for persistent pain in Tasmania.

This has been achieved through a multi-disciplinary collaboration between our addiction medicine doctors, our pain medicine doctors, GPs and regulatory pharmacists. The Penington Institute's annual overdose report 2019 for Australia showed that unintentional drug overdose deaths significantly increased across Australia between 2001 and 2017. Tasmania, however, experienced a much lower percentage increase in unintentional drug-induced deaths compared with the rest of Australia between 2001 and 2017.

Approximately 13 500 authorities were issued under section 59E of the Poisons Act during 2019. Around 9000 of these relate to lower risk authorities with around half of these due to expire in the period May to October 2020. This equates to potentially more than 4000 authorities that would otherwise need to be applied for and issued in a six-month period. The notice itself was progressed for two main reasons. The first reason was to enable resources that would otherwise be focused on renewing these lower-risk authorities to instead focus on responding to COVID-19. The second reason was to mitigate the risk of reduced general practitioner and/or departmental availability due to widespread COVID-19 transmission.

A very similar approach has been taken in Victoria, which is the only other jurisdiction to require the use of a real-time prescription monitoring system. The situation as it relates to COVID-19 in Tasmania has changed significantly since mid-April 2020 when the notice was first initiated. Fortunately, the number of people testing positive in Tasmania to COVID-19 has decreased and the need for pharmacists acting as delegates for the secretary to divert from their usual roles to assist with the Government's response to COVID-19 has not been as significant as initially anticipated.

Authorities may be varied or revoked by delegates under section 59E of the Poisons Act at any time without an application, regardless of whether an application has been received. While the notice enables authorities to be extended beyond their expiry automatically, the practice of the Pharmaceutical Services Branch since the notice took effect has to be vary authorisations to extend the period during which they are to remain in force without the requirement for application, taking into account the risk of harm to the particular patient.

While this approach does require input from Pharmaceutical Services Branch, it has removed a burden on GPs who are no longer required to complete an application during the period of notice. This has only been possible because of the Tasmanian Government's successful approach to flattening the curve with respect to COVID-19 infection. The situation as it relates to COVID-19 in Tasmania may change rapidly at any time. Should this occur, the ability to rely on the notice as a means of enabling ongoing authority for medical practitioners and others to make a narcotic

substance or specified substance available automatically in relevant circumstances, will be invaluable.

Thank you for the opportunity to provide this statement on behalf of the minister.

**CHAIR** - Thank you very much for the very detailed explanatory statement, and very much appreciated. I will open it up to questions.

**Ms FORREST** - Minister, if you want the secretary to answer, I will leave that to you, of course. One of the reasons we needed a little bit more detail around this has been that a lot of it has been answering that statement that has been provided. I had some concerns about if there was almost like a blanket extension for, what I understand to be, up to 9000 lower risk applications here. The people who those authorisations were subject to, may just then not necessarily be followed up and checked. The positive action that Tasmania has seen in a reduction of accidental overdose is significant and to be commended.

I want some clarity around, I guess, that they are still being followed up. I note the comment you made that authorisations can be revoked at any time by the secretary, I believe it is, under the act. If you could just talk about the ongoing management of these people who are requiring opioids and other restricted substances to manage their medical conditions.

**CHAIR** - Minister, if you want to delegate that question, that would be fine.

**Ms COURTNEY** - I am very happy for Sam Halliday to talk about the background in terms of the decision-making around the provision, just making sure that we stay within the boundaries. That is something I am conscious of as well. I am more than happy, through the secretary, to see if there are further comments Sam might like to make on that.

**Mr HALLIDAY** - Irrespective of section 59E, the nature of narcotic substances and the requirements around prescriptions, particularly pertaining to federal funding requirements, is that patients need to be reviewed by the medical practitioner or prescriber, at a frequency that is greater than six months. Patients in this cohort will still be reviewed by their medical practitioner at a higher frequency than these lower risk authorities anyway.

**Ms FORREST** - The notice doesn't override any of those changes, any of those requirements - is what I believe you are saying? Is that correct?

**Mr HALLIDAY** - Yes, correct. The onus is still very heavily on the prescriber to build their clinical due diligence when managing these patients as well.

**Ms WEBB** - That picked up on the direction I was going to take with my question also. So, I am not sure that I have a further question to that at this time. I also appreciate the comprehensive opening statement that was made based on the indicated areas we sent through that we were interested in. It covered a lot of good information that we were seeking as extra detail, so thank you for that, minister.

Has there been input then from GPs around this, or did the initial proposal to make this notice include a request from GPs?

**Mr HALLIDAY** - Primarily consultation occurred with members of the RACGP and Australian Medical Association (Tasmania) branch, particularly our clinical advisers, internal and external to the department. They indicated that this was an extremely proactive move in lower risk scenarios to enable continuity of care.

**Ms FORREST** - I know, obviously, a little bit about this area. I was unaware of the level of consultation that goes on behind the scenes. It was interesting and informative to hear, minister, about the consultation with pain specialists and psychiatrists and other specialists in making these authorities. During this period, if the GPs are still to meet their obligations to the patient, as the chief pharmacist mentioned, does this then mean that they still may need to speak to these other specialists in meeting that obligation? The load on these other specialists would not completely disappear in this period.

**Ms COURTNEY** - That is my understanding. I am happy for Sam to elaborate further.

**Mr HALLIDAY** - Correct. The notice does not apply to higher risk or more complex clinical scenarios. Where applications are received, or patients are receiving treatment with narcotic substances and there is complexity or documented risk around that patient's care, they are still being actively assessed by the department.

**Ms FORREST** - Who assesses that level of risk? Is it the GP, or is there another assessment process around that?

**Mr HALLIDAY** - Our pharmacists are at the first level of assessment. Their triage, in some ways, was mentioned through the opening statement. Where complexity exists outside of a regulatory pharmacist's scope of practice, where they get an application and see that it may be a bit beyond their level of expertise, we refer it to a consultant medical officer. They will come in at a frequency often of weekly, sometimes a little bit more frequent, to review those triaged cases. That consultant medical officer may be an addiction medicine specialist or a general practitioner. Where they see there is complexity or require further input, there is an expert advisory panel, which consists of an addiction medicine specialist, a general practitioner and a pain medicine specialist. They provide advice to the delegate in higher risk scenarios about what would be good treatment recommendations for the general practitioner or caring practitioner to follow.

**Ms FORREST** - Through you, Chair, the risk is assessed when the first authorisation is sought, if I am correct. Once a patient is considered to be in the low-risk category, less complicated - I think most patients are a little bit complicated - it is up to the GP then to assess any emerging aspects of risk, if they start displaying drug-seeking behaviour, for example, or something like that? Is that how it works? During this period of the notice, I mean.

**Ms MORGAN-WICKS** - You are referring to a scan and your answer in relation to this notice and the types, it is applying notifications that are already in existence in terms of the extension. Sam, perhaps if you could touch on the process.

**Mr HALLIDAY** - Unfortunately the nature of treatment with these drugs is that people are often suffering from persistent pain and opioids may be an effective component of a multi-disciplinary pain management approach. For patients who are initiated on treatment, that assessment would form an initial or a new assessment once the authority application is received. In ongoing authorisation, as this notice applies to in the lower risk and longer term authorities, there is still active assessment occurring via pharmaceutical services branch regarding dispensing events.

We are very fortunate in that we have had a real-time prescription monitoring system for the last 10 years, and we have pharmacists monitoring dispensing events. Based on internal business rules, if you like, around the authority parameters, they trigger alerts. Where a patient, for example, might visit two or three doctors, then visit different pharmacies, there is an inbuilt alert within our system that tells the pharmacist that it is happening.

**Ms FORREST** - I am aware of that. Regardless of whether a new authorisation or one that was required to be extended or reassessed and is now being extended under this period, that process does not change.

**Mr HALLIDAY** - Our process does not, no. Our surveillance, if you like, does not either.

**CHAIR** - I have just gone around the room and there are no further questions. I think that that is probably reflected by the questions that have been asked, but certainly the detailed explanatory statement that was made at the beginning. It is very helpful information. It is useful to have it on the public record in relation to this. We thank you very much for your time this morning.

We remind those who took the statutory declaration that privilege is not afforded outside this committee hearing. We very much thank you, minister, and your team for your time this morning.

**Ms COURTNEY** - Thank you, Chair. Although you might not be able to hear me very well, I was happy to put on the record my thanks to the team. Obviously Kathrine Morgan-Wicks has worked incredibly hard over the last few months with regards to COVID-19. Sam and Megan have put in extraordinary strong efforts in making sure that we were as prepared as possible. Megan has been very busy working on many of the directions. I put on the record my thanks to them.

**CHAIR** - Thank you very much. We will make sure that that is reflected in the *Hansard* when it comes through for the draft. Thank you very much. If you can get to the shack, or get to your garden, or look at those weeds or whatever, please do so.

**THE WITNESSES WITHDREW**



**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**FRIDAY 22 MAY 2020**

**COMMENCEMENT**

The Committee at 9.30 am in Committee Room 2.

**MEMBERS PRESENT**

**Legislative Council**

*Ms Forrest (Deputy Chair)*

*Ms Rattray (Chair)*

*Ms Webb*

**House of Assembly**

*Ms Standen*

*Mr Street*

*Mr Tucker*

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLEANEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over —

3. Notice under section 16 (*Poisons Act 1971*)

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 26 MAY 2020**

**COMMENCEMENT**

The Committee at 1.30 pm in Committee Room 2 and via Webex.

**MEMBERS PRESENT**

**Legislative Council**

*Ms Forrest (Deputy Chair)(via Webex)*

*Ms Rattray (Chair) (via Webex)*

*Ms Webb (via Webex)*

**House of Assembly**

*Ms Standen (via Webex)*

*Mr Street (via Webex)*

*Mr Tucker (via Webex)*

**SUPPORTING  
CORRESPONDENCE  
(Notices)**

***Resolved***, that the following supporting correspondence be received:

1. Letter dated 19 May 2020 from Ross Smith, Deputy Secretary, Policy, Purchasing, Performance regarding Notice under section 16 (*Poisons Act 1971*).

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLENEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over—

3. Notice under section 16 (*Poisons Act 1971*)

The Committee had a discussion.

The *Deputy Chair* moved a **MOTION** to establish an inquiry into the Notice.

The Committee **RESOLVED**, that an inquiry be commenced.

Further, the Committee **RESOLVED**, that the Chair write to the Minister for Health inviting her or departmental officials to attend a public hearing on Tuesday 2 June 2020 at 1.30 pm or Friday 5 June 2020 at 11.00 am.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**FRIDAY 29 MAY 2020**

**COMMENCEMENT**

The Committee at 11.00 am in Committee Room 2 and via Webex.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (*Deputy Chair*) (via Webex)  
Ms Rattray (*Chair*) (via Webex)

**House of Assembly**

Ms Standen (via Webex)  
Mr Street (via Webex)  
Mr Tucker (via Webex)

Ms Webb took her place at 11.05 am (via Webex)

**OUTWARDS  
CORRESPONDENCE**

**Resolved**, that the following outwards correspondence be endorsed:

2. Letter dated 27 May 2020 to the Hon Sarah Courtney MP, Minister for Health advising her an inquiry had commenced and inviting her or departmental officials to attend a public hearing in relation to Notice under section 16 of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Poisons Act 1971)*.

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLENEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over—

4. Notice under section 16 (*Poisons Act 1971*)

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 2 JUNE 2020**

**COMMENCEMENT**

The Committee met at 1.30 pm in Committee Room 2, Parliament House, Hobart

**MEMBERS PRESENT**

**Legislative Council**

*Ms Forrest (Deputy Chair)*  
*Ms Rattray (Chair)*  
*Ms Meg Webb*

**House of Assembly**

*Ms Standen*  
*Mr Street*  
*Mr Tucker*

**GENERAL  
CORRESPONDENCE**

***Resolved***, that the following general correspondence be received:

2. Letter no date (email attaching letter received 29 May 2020) from the Minister for Health, the Hon Sarah Courtney MP providing confirmation of attendance at public hearing on Friday 5 June 2020 and further, seeking clarification around areas of interest to the Committee regarding section 16 Notice of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Poisons Act 1971)*.

The Committee discussed areas of interest.

The Acting Secretary drafted a letter.

The Committee ***AGREED*** that the letter be adopted and be sent.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**FRIDAY 5 JUNE 2020**

**COMMENCEMENT**

The Committee met at 9.00 am in Committee Room 2, Parliament House, Hobart

**MEMBERS PRESENT**

**Legislative Council**

*Ms Forrest (Deputy Chair and took her seat at 10.54 am)*  
*Ms Rattray (Chair and took her seat at 10.54 am)*  
*Ms Meg Webb*

**House of Assembly**

*Ms Standen*  
*Mr Street*  
*Mr Tucker (Temporary Chair from 9.00am-10.33am)*

**PUBLIC HEARING**  
**NOTICE UNDER**  
**SECTION 16 OF THE**  
**COVID-19 DISEASE**  
**EMERGENCY**  
**(MISCELLANEOUS**  
**PROVISIONS)**  
**Act 2020 (POISONS**  
**ACT 1971)**

At 10.59 am (via webex) the Minister for Health, the Hon Sarah Courtney MP, was called, and was examined. Kathrine Morgan-Wicks, Secretary, Department of Health, Sam Halliday, Chief Pharmacist, Department of Health and Megan Sperring, General Manager - Legal Services, Department of Health were called, made the statutory declaration and were examined.

The Committee suspended at 11.02 am.  
The Committee resumed at 11.05 am.

The witnesses withdrew at 11.25 am.

**OUTWARDS**  
**CORRESPONDENCE**

***Resolved***, that the following outwards correspondence be endorsed:

2. Letter sent 2 June 2020 to the Minister for Health, the Hon Sarah Courtney MP responding with specific areas of interest that the Committee wishes to investigate further at Friday's public hearing regarding Notice under section 16 *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Poisons Act 1971)*.

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLEANEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over—

2. Notice under section 16 (*Poisons Act 1971*)

The Committee **RESOLVED**, that the *Chair* write to the Minister to follow-up on tabling.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**THURSDAY 11 JUNE 2020**

**COMMENCEMENT**

The Committee met at 10.32 am via Webex and Committee Room 2, Parliament House, Hobart.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (*Deputy Chair*) (via Webex)  
Ms Rattray (*Chair*) (via Webex)  
Ms Meg Webb (via Webex)

**House of Assembly**

Ms Standen (via Webex)  
Mr Street (via Webex)  
Mr Tucker (via Webex)

**OUTWARDS  
CORRESPONDENCE**

**Resolved**, that the following outwards correspondence be endorsed:

5. Letter dated 9 June 2020 to Minister for Health, the Hon Sarah Courtney MP regarding outstanding tabling requirement for Notice issued under Section 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Poisons Act 1971)* and Section 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Food Act 1993 and Public Health Act 1997)*.

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLEANEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over—

2. Notice under section 16 (*Poisons Act 1971*)

The Committee **RESOLVED** that the Acting Secretary prepare a draft report.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 16 JUNE 2020**

**COMMENCEMENT**

The Committee met at 1.30 pm via Webex and Committee Room 2, Parliament House, Hobart.

**MEMBERS PRESENT**

**Legislative Council**

Ms Rattray (*Chair*) (via Webex)

Ms Forrest (*Deputy Chair*) (via Webex)

Ms Meg Webb (via Webex)

**House of Assembly**

Ms Standen (via Webex)

Mr Street (via Webex)

Mr Tucker (via Webex)

**DRAFT REPORT**

**No. 8**

**SECTION 22**

**(RESIDENTIAL  
TENANCIES):**

**SECTION 16**

**(POISONS ACT 1971);**

**AND**

**SECTION 16 (FOOD**

**ACT 1993 AND PUBLIC**

**HEALTH ACT 1997)**

The Committee considered Draft Report No. 8.

The Committee amended Draft Report No. 8.

**NOTICES UNDER**

**COVID-19 DISEASE**

**EMERGENCY**

**(MISCELLEANEOUS  
PROVISIONS)**

**ACT 2020**

**(examined)**

That the following Notices be examined—

2. Notice under section 16 (*Poisons Act 1971*)

**DRAFT REPORT**

**No. 8**

**SECTION 22**

**(RESIDENTIAL  
TENANCIES):**

**SECTION 16**

**(POISONS ACT 1971);**

**AND**

**SECTION 16 (FOOD**

**ACT 1993 AND PUBLIC**

**HEALTH ACT 1997)**

The Committee considered Draft Report No. 8.

The Committee amended Draft Report No. 8.

The Committee ***RESOLVED*** —

1. Draft Report No. 8 as amended, be adopted with all relevant attachments including today's Minutes (once confirmed); and
2. Presented to the President out of session by Ms *Webb* and tabled by Mr *Tucker* in the House Assembly.

## Department of Health

GPO Box 125, HOBART TAS 7001, Australia  
Web: [www.health.tas.gov.au](http://www.health.tas.gov.au)



Contact: Megan Sperring  
Phone: (03) 6166 3790  
E-mail: [megan.sperring@health.tas.gov.au](mailto:megan.sperring@health.tas.gov.au)  
WITS: 115385

Mr Stuart Wright  
Secretary  
Parliamentary Standing Committee on Subordinate Legislation  
Parliament House  
HOBART TAS 7000

Email: [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)

Dear Mr Wright

**Subject: Notice under section 16 of the COVID-19 Disease Emergency  
(Miscellaneous Provisions) Act 2020**

On 21 May 2020, the Premier issued a notice under section 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (the COVID Act) extending the licensing and registration period for certain food businesses and public health risk activities.

As required by section 7(3) of the COVID Act, I enclose the following documents for the Committee:

- a copy of the notice
- a copy of the Chief Parliamentary Counsel advice
- a Notice Statement.

Yours sincerely

Ross Smith  
Deputy Secretary  
Policy, Purchasing, Performance and Reform  
On behalf of the Secretary

28 May 2020

Enc: 1. Notice issued under section 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*  
2. Chief Parliamentary Counsel's Advice  
3. Notice Statement



TASMANIA

*COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*

**NOTICE UNDER SECTION 16**

I, PETER CARL GUTWEIN, the Premier, in pursuance of section 16(1)(b) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*, being of the opinion that the relevant emergency circumstances exist in relation to this notice and with the approval of the emergency manager, declare that –

- (a) despite section 90 of the *Food Act 2003*, the period that the registration of a food business is to remain in force, under that section, is extended by a further period of 6 months if the registration –
  - (i) was in force immediately before the day on which notice of the making of this notice is published in the *Gazette*; and
  - (ii) is due to expire within the 6 month period immediately after the day on which notice of the making of this notice is published in the *Gazette*; and
- (b) despite sections 100 and 101(9) of the *Public Health Act 1997*, the periods that the registration of premises where a public health risk activity may be carried out is to remain in force, under those sections, are extended by a further period of 6 months if the registration –
  - (i) was in force immediately before the day on which notice of the making of this notice is published in the *Gazette*; and
  - (ii) is due to expire within the 6 month period immediately after the day on which notice of the making of this notice is published in the *Gazette*; and
- (c) despite sections 108 and 110(9) of the *Public Health Act 1997*, the periods that a licence to carry out a public health risk activity is to remain in force, under those sections, are extended by a further period of 6 months if the licence –
  - (i) was in force immediately before the day on which notice of the making of this notice is published in the *Gazette*; and

- (ii) is due to expire within the 6 month period immediately after the day on which notice of the making of this notice is published in the *Gazette*.

Dated:.....

21/5-20

Signed:.....

Premier

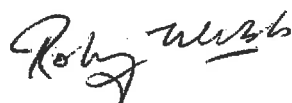
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**ADVICE OF CHIEF PARLIAMENTARY COUNSEL*****Notice under section 16 of the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020***

I advise that this statutory rule –

- (a) appears to be within the powers conferred by the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (b) does not appear, without clear and express authority being provided by any Act, to –
  - (i) have any retrospective effect; or
  - (ii) impose any tax, fee, fine, imprisonment or other penalty; or
  - (iii) sub-delegate powers delegated by the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (c) appears to be within the general objectives of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (d) is expressed in as clear and unambiguous language as is reasonably possible.

Dated 18 May, 2020.



Robyn Webb  
**Chief Parliamentary Counsel**

**Standing Committee on Subordinate Legislation  
Notice Statement**

**Notice under section 16 of the COVID-19  
Disease Emergency (Miscellaneous Provisions) Act 2020**

On 21 May 2020, the Premier issued the enclosed notice under section 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (the COVID Act).

The notice extends, by six months, the registration and licence periods for food businesses and public health risk activities which would otherwise expire in the next six months (following notice in the *Gazette*).

Food businesses and those carrying out public health risk activities have been significantly affected by the COVID-19 emergency directions issued by the Director of Public Health under section 16 of the *Public Health Act 1997*.

Restaurants, cafes, food courts, and workplace canteens have been restricted from operating unless providing takeaway food, or food to particular groups in certain circumstances.

Emergency directions also restricted the provision of beauty therapy, tanning, waxing, manicure and other nail treatments, tattoos, ear and body piercing, body modification and other similar services (many of which are public health risk activities).

Even if restrictions ease in coming months, these businesses may no longer be operating, or operating with fewer staff, or less than usual capacity due to the impact of COVID-19 and the emergency directions.

Many of these businesses and activities require council registration or licensing (or both) under the *Food Act 2003* or the *Public Health Act 1997*. The automatic extension of these authorities will alleviate the administrative burden and financial costs of renewal applications.

It is estimated the notice affects almost 5 500 food businesses, and around 90 premises registered for public health risk activities and 125 persons licensed to carry them out.

The notice was made with the support of the Local Government Association of Tasmania and the approval of the Acting State Commander as required by section 6 of the COVID Act.

The Office of Parliamentary Counsel has arranged for the making of the notice to be published in the *Gazette* as required by the *Acts Interpretation Act 1931* and section 7(5) of the COVID Act.



## Joint Standing Committee Subordinate Legislation

9 June 2020

The Hon Sarah Courtney MP  
Minister for Health  
c/o email

Dear Minister

**Notice issued under section 16 of the  
*COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*  
(*Poisons Act 1971* - Gazetted 19 May 2020)  
and**

**Notice issued under section 16 of the  
*COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*  
(*Food Health Act 1994 and Public Health Act 1997* - Gazetted 27 May 2020)**

The Joint Standing Committee on Subordinate Legislation is currently considering the above Notices. At the Committee's meeting on 5 June it was noted that the Notices have not been tabled as required under Section 7(1) of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020*.

It would be appreciated if you would please ensure that the Notices are tabled at your earliest convenience.

Yours sincerely

A handwritten signature in black ink that reads "Tania Rattray".

TANIA RATTRAY MLC

CHAIR

w. 03 6212 2250 f. 03 6212 2345 m. 0488 009 642 e. [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**FRIDAY 29 MAY 2020**

**COMMENCEMENT**

The Committee at 11.00 am in Committee Room 2 and via Webex.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (*Deputy Chair*)(via Webex)  
Ms Rattray (*Chair*) (via Webex)

**House of Assembly**

Ms Standen (via Webex)  
Mr Street (via Webex)  
Mr Tucker (via Webex)

Ms Webb took her place at 11.05 am (via Webex)

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLEANEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over—

7. Notice under section 16 (*Food Act 1993 and Public Health Act 1997*)

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 2 JUNE 2020**

**COMMENCEMENT**

The Committee met at 1.30 pm in Committee Room 2, Parliament House, Hobart.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (*Deputy Chair*)  
Ms Rattray (*Chair*)  
Ms Meg Webb

**House of Assembly**

Ms Standen  
Mr Street  
Mr Tucker

**SUPPORTING  
CORRESPONDENCE  
(Notice)**

***Resolved***, that the following supporting correspondence be received:

1. Letter dated 28 May 2020 from Ross Smith, Deputy Secretary, Policy, Purchasing, Performance and

Reform, Department of Health providing supporting paperwork regarding Notice under section 16 of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Food Act 1993 and Public Health Act 1997)*.

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLENEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over—

7. Notice under section 16 (*Food Act 1993 and Public Health Act 1997*)

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**FRIDAY 5 JUNE 2020**

**COMMENCEMENT**

The Committee met at 9.00 am in Committee Room 2, Parliament House, Hobart.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (*Deputy Chair and took her seat at 10.54 am*)  
Ms Rattray (*Chair and took her seat at 10.54 am*)  
Ms Meg Webb

**House of Assembly**

Ms Standen  
Mr Street  
Mr Tucker (*Temporary Chair from 9.00am-10.33am*)

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLENEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over—

3. Notice under section 16 (*Food Act 1993 and Public Health Act 1997*)

The Committee **AGREED** that the Secretary prepare a draft report.

The Committee **RESOLVED**, that the Chair write to the Minister to follow-up on tabling.

The Committee **AGREED**, with all three follow-ups regarding tabling, once cleared by the Chair that letter can be adopted and sent.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**THURSDAY 11 JUNE 2020**

**COMMENCEMENT**

The Committee met at 10.32 am via Webex and Committee Room 2, Parliament House, Hobart.

**MEMBERS PRESENT**

**Legislative Council**

*Ms Forrest (Deputy Chair) (via Webex)*  
*Ms Rattray (Chair) (via Webex)*  
*Ms Meg Webb (via Webex)*

**House of Assembly**

*Ms Standen (via Webex)*  
*Mr Street (via Webex)*  
*Mr Tucker (via Webex)*

**OUTWARDS  
CORRESPONDENCE**

***Resolved***, that the following outwards correspondence be endorsed:

5. Letter dated 9 June 2020 to Minister for Health, the Hon Sarah Courtney MP regarding outstanding tabling requirement for Notice issued under Section 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (*Poisons Act 1971*) and Section 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (*Food Act 1993* and *Public Health Act 1997*).

**DRAFT REPORT  
No. 8  
SECTION 23  
(RESIDENTIAL  
TENANCIES); AND  
SECTION 16 (FOOD  
ACT 1993 AND PUBLIC  
HEALTH ACT 1997)**

The Committee considered Report No 8.

The Committee amended Draft Report No. 8.

The Committee ***RESVOLVED*** to hold over Draft Report No. 8.

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLENEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over—

3. Notice under Section 16 (*Food Act 1993 and Public Health Act 1997*)



**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 16 JUNE 2020**

**COMMENCEMENT**

The Committee met at 1.30 pm via Webex and Committee Room 2, Parliament House, Hobart.

**MEMBERS PRESENT**

**Legislative Council**

*Ms Rattray (Chair) (via Webex)*

*Ms Forrest (Deputy Chair) (via Webex)*

*Ms Meg Webb (via Webex)*

**House of Assembly**

*Ms Standen (via Webex)*

*Mr Street (via Webex)*

*Mr Tucker (via Webex)*

**DRAFT REPORT**

**No. 8**

**SECTION 22**

**(RESIDENTIAL  
TENANCIES):**

**SECTION 16**

**(POISONS ACT 1971):**

**AND**

**SECTION 16 (FOOD**

**ACT 1993 AND PUBLIC  
HEALTH ACT 1997)**

The Committee considered Draft Report No. 8.

The Committee amended Draft Report No. 8.

**NOTICES UNDER**

**COVID-19 DISEASE**

**EMERGENCY**

**(MISCELLEANEOUS  
PROVISIONS)**

**ACT 2020**

**(examined)**

That the following Notices be examined—

3. Notice under section 16 (*Food Act 1993 and Public Health Act 1997*)

**DRAFT REPORT**

**No. 8**

**SECTION 22**

**(RESIDENTIAL  
TENANCIES):**

**SECTION 16**

**(POISONS ACT 1971):**

**AND**

**SECTION 16 (FOOD**

**ACT 1993 AND PUBLIC  
HEALTH ACT 1997)**

The Committee considered Draft Report No. 8.

The Committee amended Draft Report No. 8.

The Committee ***RESOLVED*** —

1. Draft Report No. 8 as amended, be adopted with all relevant attachments including today's Minutes (once confirmed); and
2. Presented to the President out of session by Ms *Webb* and tabled by Mr *Tucker* in the House Assembly.