



2020

Parliament of Tasmania

JOINT PARLIAMENTARY STANDING COMMITTEE

SUBORDINATE LEGISLATION

REPORT 9

**SCRUTINY OF NOTICE ISSUED UNDER SECTION 23 OF THE
COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020
(WAIVE LAND TAX IN 2019-20 FOR LAND TAX LIABILITIES UNDER \$150)**

**SCRUTINY OF NOTICE ISSUED UNDER SECTION 17 OF THE
COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020
(MAGISTRATES COURT – ELECTRONIC SERVICE AND WITNESSING)**

**SCRUTINY OF NOTICE ISSUED UNDER SECTION 23 OF THE
COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020
(FREEZE FIRE SERVICE CONTRIBUTION AND MOTOR VEHICLE LEVY)**

**SCRUTINY OF NOTICE ISSUED UNDER SECTION 23 OF THE
COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020
(VEHICLE AND TRAFFIC ACT 1999)**

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

Table of Contents

Introduction.....	5
Notice under Section 23 of the <i>Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020</i> (Waive Land Tax in 2019-20 for Land Tax Liabilities under \$150)	5
Notice under Section 17 of the <i>Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020</i> (Magistrates Court – Electronic Service and Witnessing).....	5
Notice under Section 23 of the <i>Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020</i> (Freeze Fire Service Contribution and Motor Vehicle Levy)	5
Notice under Section 23 of the <i>Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020</i> (Vehicle and Traffic Act 1999).....	6

Appendices

Notice under Section 23 of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Waive Land Tax in 2019-20 for Land Tax Liabilities under \$150)

Supporting documentation dated 17 June 2020 from Mr Tony Ferrall, Secretary, Department of Treasury and Finance	7
---	---

Outgoing Correspondence

Letter dated 23 June to the Treasurer, the Hon Peter Gutwein MP advising an Inquiry had commenced and further extending an invitation to the Treasurer and Department representatives to attend a public hearing.....	11
Transcript of Evidence	12
Minutes of Proceedings relevant to the Notice.....	17

Notice under Section 17 of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Magistrates Court – Electronic Service and Witnessing)

Supporting documentation dated 24 June 2020 from the Attorney-General, the Hon Elise Archer MP	21
Minutes of Proceedings relevant to the Notice.....	30

Notice under Section 23 of the Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Freeze Fire Service Contribution and Motor Vehicle Levy)

Supporting documentation dated 15 May 2020 from the Minister for Police, Fire and Emergency Management, the Hon Mark Shelton MP 33

Outgoing and Incoming Correspondence

Letter dated 23 June 2020 to the Treasurer, the Hon Peter Gutwein MP regarding the outstanding Notice 38

Email dated 24 June 2020 from Emma Fitzpatrick, Senior Adviser – Police, Fire & Emergency Management, Office of the Hon Mark Shelton MP advising the supporting documentation had been sent on 15 May 2020 39

Letter dated 26 June 2020 to the Premier and Treasurer, the Hon Peter Gutwein MP (*Cc Minister for Police, Fire & Emergency Management, the Hon Mark Shelton MP*) apologising for an administrative oversight..... 41

Minutes of Proceedings relevant to the Notice..... 42

Notice under Section 23 of the Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Vehicle and Traffic Act 1999)

Supporting documentation dated 23 June 2020 from the Minister for Infrastructure and Transport, the Hon Michael Ferguson MP 47

Minutes of Proceedings relevant to the Notice..... 51

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.

Notice under Section 23 of the Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Waive Land Tax in 2019-20 for Land Tax Liabilities under \$150)

The Committee resolved at its meeting on 23 June 2020 to commence an Inquiry in relation to this Notice to seek clarification, amongst other things, why the amount of the waiver was set to apply to a \$150 land tax liability. The Committee invited the

Treasurer and Department representatives to attend a public hearing on 26 June 2020. The invitation was accepted and the following Department of Treasury and Finance representatives attended —

- Tony Ferrall, Secretary; and
- Jonathon Root, Deputy Secretary.

The Committee noted the Notice had not been tabled and was not outside the prescribed statutory time-frame under section 7(1) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*. Further, in light of the Parliament not back in session until towards the end of August 2020 and the need for the Committee to publish a Report on this Notice in a timely manner.

Following consideration of the evidence provided throughout the Inquiry, the Committee concluded its examination of the Notice at its meeting on 26 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 Secretary of the Department of Treasury and Finance, relevant correspondence, the Transcript of Evidence and Minutes of Proceedings relevant to the Notice are attached to this Report for completeness.

Notice under Section 17 of the Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Magistrates Court – Electronic Service and Witnessing)

At its meeting on 26 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 Attorney-General and Minutes of Proceedings relevant to the Notice are attached to this Report for completeness.

Notice under Section 23 of the Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Freeze Fire Service Contribution and Motor Vehicle Levy)

At its meeting on 26 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 Minister for Police, Fire and Emergency Management, relevant correspondence and Minutes of Proceedings relevant to the Notice are attached to this Report for completeness.

Notice under Section 23 of the Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Vehicle and Traffic Act 1999)

The Committee noted the Notice had not been tabled and was not outside the prescribed statutory time-frame under section 7(1) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*. Further, in light of the Parliament not back in session until towards the end of August 2020 and the need for the Committee to publish a Report on this Notice in a timely manner.

At its meeting on 26 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 Minister for Infrastructure and Transport and Minutes of Proceedings relevant to the Notice are attached to this Report for completeness.



Tania Rattray MLC
CHAIR

2 July 2020

Department of Treasury and Finance

The Treasury Building
21 Murray Street HOBART TAS 7000
GPO Box 147 HOBART TAS 7001 Australia
Telephone (03) 6166 4444 Facsimile (03) 6173 0219
Email secretary@treasury.tas.gov.au Web www.treasury.tas.gov.au



Doc reference 20/102661
Your reference

Hon Tania Rattray MLC
Chair
Parliamentary Standing Committee on Subordinate Legislation
By email: subleg@parliament.tas.gov.au

Dear Ms Rattray

COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 - Notice under section 23 to waive land tax in 2019-20 for land tax liabilities under \$150

In accordance with section 7(3) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*, please find enclosed for the Committee's consideration:

- a notice made under section 23 of that Act, notified in the Tasmanian Government Gazette on 17 June 2020, to waive land tax in 2019-20 for land tax liabilities under \$150;
- advice provided by the Chief Parliamentary Counsel relating to the notice; and
- a fact sheet outlining the reasons why the economic effects of the current COVID-19 emergency circumstances are such that it is necessary to issue the notice.

Should you have any queries or require any further information regarding this matter, please contact Damien Jarvis on (03) 6166 4268 or email damien.jarvis@treasury.tas.gov.au.

Yours sincerely

for Tony Ferrall
Secretary

17 June 2020

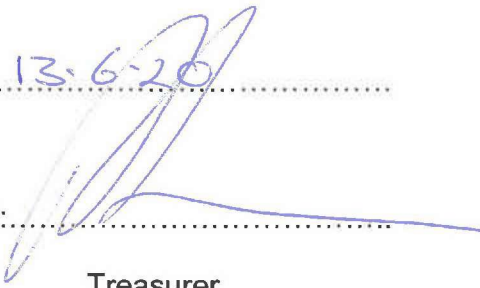
TASMANIA

COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020

NOTICE UNDER SECTION 23

I, PETER CARL GUTWEIN, the Treasurer, in pursuance of section 23(1) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*, being of the opinion that the economic effects of the relevant emergency circumstances are such that it is necessary or desirable to issue this notice, direct that, despite section 10 of the *Land Tax Act 2000*, land tax, within the meaning of that Act, is not payable under that provision in respect of land, by the person who is the owner of the land for the purposes of that Act, for the financial year beginning on 1 July 2019, if the total amount of land tax assessed under that Act as being payable by that person is less than \$150 for that financial year.

Dated: 13.6.20

Signed: 

Treasurer

ADVICE OF CHIEF PARLIAMENTARY COUNSEL***Notice under section 23 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 May, 2020.



Robyn Webb
Chief Parliamentary Counsel

Legislation Fact Sheet

Notice under section 23 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* - waiver of land tax payable for prescribed taxpayers in 2019-20

- The *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* provides measures to reduce the risk and hardship associated with the COVID-19 pandemic, including allowing the Treasurer to temporarily waive fees or charges imposed under legislative instruments.
- The *Land Tax Act 2001* imposes land tax on various types of land. Land tax is assessed based on the usage of land as at 1 July each financial year.
- In response to the COVID-19 pandemic, the Government has agreed to waive land tax in 2019-20 for taxpayers that have a land tax liability of less than \$150.00.
- The Notice gives effect to the Government's land tax waiver policy, by prescribing that, despite the provisions of the Land Tax Act, land tax is not payable by taxpayers in 2019-20 where the land tax liability is less than \$150.00.
- It is expected that the waiver will assist over 3 300 taxpayers. Taxpayers that have already paid their land tax liability of less than \$150.00 in 2019-20 will be able to apply to the Commissioner of State Revenue for a refund, while any unpaid 2019-20 land tax liabilities of less than \$150.00 will be waived.



Joint Standing Committee Subordinate Legislation

23 June 2020

The Peter Gutwein MP
Treasurer
c/o email

Dear Premier and Treasurer

**Notice issued under Section 23 of the
COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020
(Waive Land Tax in 2019-20 for Land Tax liabilities under \$150)**

The Joint Standing Committee on Subordinate Legislation is currently considering the above Notice. At the Committee's meeting today, 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 next meeting on **Friday 26 June 2020 at 11.00 am in Committee Room 2, Parliament House or via Webex.**

It would be appreciated if you could 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 subleg@parliament.tas.gov.au

Yours sincerely

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

TANIA RATTRAY MLC

CHAIR

w. 03 6212 2320 f. 03 6212 2345 m. 0488 060 687 e. subleg@parliament.tas.gov.au

PUBLIC

THE PARLIAMENTARY JOINT STANDING COMMITTEE ON SUBORDINATE LEGISLATION MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON FRIDAY 26 JUNE 2020

INQUIRY INTO NOTICE UNDER SECTION 23 COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020 (WAIVE LAND TAX IN 2019-20 FOR LAND TAX LIABILITIES UNDER \$150).

TONY FERRALL, SECRETARY, AND **JONATHON ROOT**, DEPUTY SECRETARY, DEPARTMENT OF TREASURY AND FINANCE MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR (Ms Rattray) - Good morning. Thank you very much for joining us.

On my right is Nic Street, John Tucker, Tania Rattray, Ruth Forrest, Meg Webb and Alison Standen. Julie Thompson, our secretary is at the back there.

I welcome you to the public hearing and they are being broadcast. All evidence taken at this hearing is protected by parliamentary privilege. I remind you that any comments you make outside of the hearing may not be afforded such privilege.

The committee is looking at the notice under section 23 of the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Waive Land Tax in 2019-20 for Land Tax Liabilities under \$150).

I invite you to give the committee an overview of this particular Notice.

Mr FERRALL - Thank you. I will make a few introductory comments and then I am happy to take questions from the committee.

Under the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020, the notice simply relieves the land tax obligations of the owners of low value land who might otherwise have had a land tax bill of up to \$150. The majority of the affected taxpayers won't have to do anything. Effectively, the State Revenue Office will not issue notices to that cohort, but there are a small number of taxpayers who may seek a refund, i.e. some of those who have already paid their tax obligation for 2019-20. There will be a process that is facilitated by our revenue office to ensure that those refunds get passed as well.

The affected properties are those land values above the current tax-free threshold of \$25 000 and less than \$43 190. Often they're properties in regional and rural areas. These are not significant properties in terms of value. These are at the very low end. There's a relatively small number of individuals or properties that are affected. From a revenue perspective it is of the order of about \$300 000 plus, depending on the refunds, would probably push that to about \$350 000 in terms of revenue loss.

I'm happy to take questions. As I said it is a relatively simple and straightforward Notice and it's dealing with a small cohort of taxpayers at the lower end in terms of tax paid.

CHAIR - Do you have anything to add to that?

**SUBORDINATE LEGISLATION, 22/5/20
(FERRALL/ROOT)**

PUBLIC

Mr ROOT - No, I am happy to take questions.

CHAIR - Thank you. Over to you, Ruth.

Ms FORREST - Thanks, Tony. I'm interested in how the decision was made to contain it to this cohort of people who are obviously paying a land tax. You said they are low value properties. Why and how was that decision made?

Mr FERRALL - Land tax notices are put out progressively through the year. When the COVID-19 emergency started this cohort hadn't been issued, and so they're a late issue. From, I guess, a government perspective, the Government's position was effectively at that point announcing a range of supports across the community in terms of refunds, waiving revenues, in various areas. The thought process was that this was a very small number, a small cohort, and it is quite inconsistent to be pushing out these demands at that point in time. So the decision was made to effectively hold the demands and then put the notice through to waive them.

Ms FORREST - How was the threshold of under \$150 considered a liability?

Mr FERRALL - They were the ones that hadn't been issued.

Ms FORREST - Okay, right. So, with regards to the others that had been issued, there would be no refunds for them?

Mr FERRALL - Only if they fall within that value.

Ms FORREST - So how was that limit determined then? You could have made a decision that was up to a \$300 liability, and then maybe have to pay a few more back because they had already been issued. Or am I misunderstanding what you're saying?

Mr FERRALL - Look you could have, but effectively we had the last cohort to be issued which did have that threshold, they were the ones that hadn't been issued, and so they were the ones that at that point the Government said that they would waive. We also recognise, though, given that threshold, that some taxpayers had already paid who were under that threshold. The threshold was really driven by the cohort that hadn't had a land tax notice issued to. That is how the threshold was reached.

Ms FORREST - Okay. When these were due to be issued, this cohort of customers, if you like, or people with a tax liability, it was apparent by this time that a lot of people were experiencing financial hardship because of COVID, whereas prior to that the ones that had been issued before possibly weren't and could have paid. Is that the thinking here? Am I not quite sure what the thinking was in terms of who are we trying to help here?

Mr FERRALL - These are relatively low value and low dollars, so it wasn't necessarily, I suppose, a consistent program of trying to identify right across the land tax base who we may or may not target. This is a very small group, low numbers -

Ms FORREST - How many are there do you think?

Mr ROOT - In this cohort?

PUBLIC

Ms FORREST - Yes.

Mr ROOT - There's a little over 3000 total, and that's out of an account base of about 65 000 across the land tax base, of which, by this time, over 90 per cent of it had been paid already. We commenced the issue in October, so this was right at the end by the time the emergency hit and the restrictions came in.

Ms FORREST - This is the total annual liability? You can pay it quarterly, can't you?

Mr ROOT - No, accounts over \$1000 are issued in three instalments. Below \$1000 it is just a one-off.

Ms FORREST - Okay.

Ms WEBB - Just to clarify, say the 3000 or so that will come into this category, although you have described that the land that's relevant is of low value and therefore the tax liabilities is at that lower level, we don't know anything about the cohort of the people who own the land who are having this amount waived. We don't know whether they are in the at risk or vulnerable categories during COVID-19 for financial difficulty. Would that be fair comment?

Mr FERRALL - It would be a fair comment. We don't know the characteristics -

Ms WEBB - So we are providing the relief -

Mr FERRALL - of those individuals.

Ms WEBB - of the people who will benefit from this?

Mr FERRALL - No.

Ms FORREST - So, correct me if I'm wrong here, but primary production land is zero. A primary residence is zero. Investment properties are ones that pick this up. So we're talking about giving relief to people who have a tax liability because they have assets beyond a primary residence, and are not in primary production.

Mr FERRALL - Possibly, yes, in some cases. They're low value properties as well, they're not -

CHAIR - They are a block at South Mt Cameron.

Mr FERRALL - Could be, yes.

Ms WEBB - That could be part of a portfolio of many properties in a sense. The owners of these properties, we have no particular way, I presume, of knowing what their characteristics would be in terms of income, in terms of wealth, in terms of property portfolio, and the need for relief?

Mr FERRALL - That is correct. When you look at the support measures across the board, you always have those challenges. There's no doubt that some support measures that have been introduced support people who really need support, because they are done as a program, as a

PUBLIC

standard across a whole group of people. There would be some people in other areas who didn't need the support for some of the reasons you've outlined.

Mr ROOT - Just to pick up on one point. There are grouping provisions within the Land Tax Act, so someone with multiple properties, they would be grouped in most cases. It would be very unusual to have someone with multiple properties the cumulative value of which were less than \$43 000.

CHAIR - Would it be expected that most of the ones that this would apply to would be just blocks of land? You wouldn't get very many properties worth less than \$43 000 with something on it.

Ms FORREST - You would in my electorate on the west coast.

Mr FERRALL - It's the value of the land, so the capital improvement is not included, places in the north-west, the west coast and so on.

CHAIR - Yes, I suppose.

Ms STANDEN - The discussion about investment properties answered my questions, thank you.

Ms WEBB - This may be not something you can answer because it maybe that it is a political question rather than a question that relates to the technicalities of this. But in some other instances the relief that's been provided through particular measures, or the assistance that's been provided has been linked to demonstration of need, in some sense. I'm thinking around the commercial rents and those sorts of arrangements, so a case can be made that there's been a particular impact, and difficulty faced and therefore the initiative or the measure applies. Was that sort of approach contemplated in terms of land tax? Knowing that if that was the beginning point, has there been a detriment to that person, a broader category of people and perhaps a better targeted category of people may have been captured through this sort of assistance?

Mr FERRALL - I think it is into that political area so I can't really comment in terms of what the Treasurer's broader consideration was in terms of identifying this particular group. As I said, it was quite literally a timing issue in one sense, and they hadn't been issued, and we literally got to the point where the State and the Commonwealth were introducing a whole range of supports, and it was quite incongruous to be sending out these relatively low-dollar value demands for land tax. So the broader considerations were things, I guess, the Treasurer may have had in mind. But I cannot comment on -

Ms FORREST - Just on that, and you may not be able to answer this; I imagine Jonathon might, if anyone can. In terms of these roughly 3000 properties, how many of them would be incoming earning properties like housing that is being tenanted and things like that? Do you have any idea?

Mr ROOT - No, it would very difficult to say. We would have to do some pretty deep analysis to pull that out.

Ms FORREST - It would be fair to say there would be some?

PUBLIC

Mr ROOT - There would be some, yes, certainly -

Ms FORREST - Who may still be getting the income that they were accustomed to? This is going back to the point that Tony made that there are winners and losers in all of this.

Mr ROOT - There would be some who will, and there would be others who wouldn't. You might have some tourist accommodation for example, maybe strata titled-type properties that are at that lower value that obviously wouldn't be getting income. It would be variable. Some of these properties would be things that wouldn't have a commercial income either. They may be blocks that people are holding speculatively, or whatever.

Ms FORREST - They should build on them then.

Ms STANDEN - Going back to the question that Meg asked, I was aware of a document that ACOSS put out in early or mid-April, I think. It was an interesting assessment across jurisdictions of various hardship provisions. I think land tax relief was delivered in most jurisdictions. I'm interested whether you know whether this emerged from a National Cabinet-type decision, or whether it was a case of Tasmania entirely kind of acting?

Mr FERRALL - This didn't emerge from a National Cabinet decision. It was a Tasmania-specific issue, this decision.

Ms STANDEN - Okay. Are you aware of whether or not it was roughly consistent with other jurisdictions approach to land tax?

Mr FERRALL - I can't comment across other jurisdictions on where they're at.

Ms STANDEN - Okay. Thanks.

CHAIR - Are there any other questions, members?

Ms FORREST - I just want to understand the rationale behind this.

CHAIR - We thought it was such a low base that we were really interested in who it was going to help and where it came from.

Thank you very much, gentlemen.

THE WITNESSES WITHDREW.

JOINT STANDING COMMITTEE

SUBORDINATE LEGISLATION

FRIDAY 19 JUNE 2020

COMMENCEMENT

The Committee met at 11.03 am 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 (CR2)

House of Assembly

Ms Standen (via Webex)

Mr Street (via Webex)

Mr Tucker (via Webex)

**SUPPORTING
CORRESPONDENCE**

(Notice)

Resolved, that the following supporting correspondence be received —

1. Letter dated 17 June 2020 from Tony Ferrall, Secretary, Department of Treasury and Finance regarding Notice under Section 23 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Waive land tax in 2019-20 for land tax liabilities under \$150).

**NOTICES UNDER
COVID-19 DISEASE
EMERGENCY
(MISCELLEANEOUS
PROVISIONS)
ACT 2020
(additional since last
meeting)**

That the following Notices be held-over —

1. Notice under Section 23 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Waive land tax in 2019-20 for land tax liabilities under \$150)

JOINT PARLIAMENTARY STANDING COMMITTEE

SUBORDINATE LEGISLATION

TUESDAY 23 JUNE 2020

COMMENCEMENT

The Committee met at 1.33 pm in Committee Room 2, Parliament House, Hobart and via Webex.

MEMBERS PRESENT

Legislative Council

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

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 23 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Waive land tax in 2019-20 for land tax liabilities under \$150).

The Committee **RESOLVED** —

1. To commence an Inquiry into this Notice; and
2. The Treasurer be invited to attend a public hearing at the Committee's next meeting on Friday 26 June 2020 at 11.00 am.

JOINT PARLIAMENTARY STANDING COMMITTEE

SUBORDINATE LEGISLATION

FRIDAY 26 JUNE 2020 & MONDAY 29 JUNE 2020

COMMENCEMENT

The Committee met at 11.03 am in Committee Room 2, Parliament House, Hobart.

MEMBERS PRESENT

Legislative Council

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

House of Assembly

Ms Standen
Mr Street
Mr Tucker

**PUBLIC HEARING
NOTICE UNDER
SECTION 23
OF THE
COVID-19 DISEASE
EMERGENCY
(MISCELLENEOUS
PROVISIONS)
ACT 2020
(WAIVE LAND
TAX IN 2019-20
FOR LAND TAX
LIABILITIES UNDER
\$150)**

At 11.03 am Mr Tony Ferrall, Secretary and Mr Jonathon Root, Deputy Secretary, Department of Treasury and Finance took the statutory declaration and were examined.

The witnesses withdrew at 11.19 am.

**OUTWARDS
CORRESPONDENCE**

RESOLVED, the following outwards correspondence be endorsed —

1. Letter dated 23 June 2020 to the Premier and Treasurer, the Hon Peter Gutwein MP advising an inquiry had commenced into the Notice under Section 23 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Waive Land Tax in 2019-20 for Land Tax liabilities under \$150) and further, inviting the Premier to attend a public hearing on Friday 26 June 2020.

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

1. Notice under Section 23 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Waive land tax in 2019-20 for land tax liabilities under \$150).

The Committee noted the abovementioned Notice had not been tabled and was not outside the prescribed statutory time-frame under section 7(1) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*. However, due to the Parliament not back in session until towards the end of August 2020 and the need to publish the Report on this Notice in a timely manner. The Committee **RESOLVED**, that the Notice be examined.

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

JOINT PARLIAMENTARY STANDING COMMITTEE

SUBORDINATE LEGISLATION

THURSDAY 2 JULY 2020

COMMENCEMENT

The Committee met at 11.03 am via Webex and in Committee Room 2, Parliament House, Hobart.

MEMBERS PRESENT

Legislative Council

Ms Rattray (Chair) (via Webex)
Ms Forrest (Deputy Chair) (via Webex)
Ms Webb (CR2)

House of Assembly

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

DRAFT REPORT
No. 9
SCRUTINY OF
NOTICES
UNDER THE
COVID-19 DISEASE
EMERGENCY
(MISCELLEANEOUS
PROVISIONS)
ACT 2020
(WAIVE LAND
TAX IN 2019-20
FOR LAND TAX
LIABILITIES
UNDER \$150);
(MAGISTRATES
COURT -
ELECTRONIC
SERVICE AND
WITNESSING);
(FREEZE FIRE
SERVICE
CONTRIBUTION
AND MOTOR
VEHICLE LEVY); and
(VEHICLE AND
TRAFFIC ACT 1999)

The Committee considered Draft Report No. 9.

The Committee amended Draft Report No. 9

The Committee ***RESOLVED*** —

1. Draft Report No 9 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*.

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

Level 10 15 Murray Street HOBART TAS 7000 Australia
GPO Box 123 HOBART TAS 7001 Australia
Ph: +61 3 6165 7739
Email Minister.Archer@dpac.tas.gov.au



24 JUN 2020

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

Email: subleg@parliament.tas.gov.au

Dear Ms Rattray

Please find enclosed a copy of a Notice (the Notice) issued by the Premier pursuant to section 17 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*.

The Notice was signed on 8 June 2020 and was published in *Gazette* No 21998 on 17 June 2020.

The Notice provides for the following:

1. Service of certain documents to be served through electronic communication, subject to the consent of the person to be served

Generally service of a legal document is subject to section 29AB of the *Acts Interpretation Act 1931* and allows the service of documents by giving it to the person (if a natural person) or by leaving it, or sending it through the post to the person's last known address.

However, a number of legislative provisions require the personal service of documents to the relevant person. Personal service generally involves the relevant person (e.g. Police officer, applicant, process server) giving a document to a person, or leaving it in front of them. Courts will generally require personal service, or alternatively a very high level of confidence, that a person has been effectively served before imposing adverse consequences on a person.

In addition, a number of other legislative provisions require the serving of documents on a person, including those subject to home detention orders, to be served within a limited number of days. While the provision may not specify 'personal service', the timeframe implies that the person is served "personally".

The Notice has been based on section 78 of the unproclaimed *Magistrates Court (Criminal and General Division) Act 2019* that provides for the electronic service of documents for pre-hearing procedures. The Notice, like section 78 of the *Magistrates Court Act*, requires the consent of the defendant. Consent is taken to have been provided if the defendant has provided an email address or telephone number to the prosecutor or other relevant person.

This Notice does not impose any requirement to undertake service by electronic means. Service may be conducted through the normal process, which may include person to person service where it is deemed that electronic service is not appropriate, or where the relevant person has not consented to electronic service.

2. Certain documents may be witnessed through electronic communication, specifically through real time audio visual link.

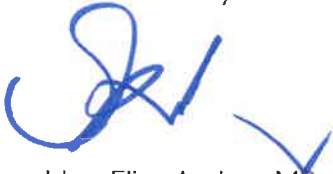
The Magistrates Court has implemented measures to reduce the potential risk of exposure to COVID-19 through persons being present at the court. This includes, amongst other things, that court proceedings are now occurring as far as possible remotely, by way of telephone or audio visual link (the Court building remains open in a restricted capacity).

To assist in maintaining court processes, while also maintaining social distancing, the Notice allows for witnessing to occur through electronic communication. The Notice requires that this can only occur via an audio-visual link and subject to the following conditions:

- The witness observes, in real time, the action being taken;
- The witness is satisfied that the document the witness signs is the same document, or a copy of the document signed by the signatory;
- The witness attest to the observation by signing the document, or a copy of the document and endorsing the document with a statement specifying that the document was sworn, made or signed and witnessed.

I enclose a fact sheet to provide further information on the Notice and the Advice provided by the Office of Parliamentary Counsel (OPC) under section 7(2) of the *Subordinate Legislation Act 1992*.

Yours sincerely

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

Hon Elise Archer, MP
Attorney-General
Minister for Justice

Attachments –

- Signed Notice
- Fact Sheet
- OPC Advice

TASMANIA

COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020

NOTICE UNDER SECTION 17

I, PETER CARL GUTWEIN, the Premier, in pursuance of section 17(1) 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 any of the provisions specified in Schedule 1 to this notice, service of a document that is required to be served under those provisions may be performed by the electronic means specified to in paragraph (b) if the intended recipient of the document has agreed, in accordance with paragraph (c), to receive service of the document by that means; and
- (b) the electronic means by which service may be performed under paragraph (a) is specified to be email or facsimile; and
- (c) an intended recipient of a document referred to in paragraph (a) is taken to have agreed to service of the document by electronic means if the recipient has supplied an email address or telephone number for the purposes of receiving service of the document as specified in paragraph (b); and
- (d) despite any of the provisions specified in Schedule 2 to this notice, the physical action required, by virtue of those provisions, in making, taking or receiving, swearing, signing or witnessing the signing of an affidavit, declaration or other document, may be taken to be completed by the electronic means specified in paragraph (e); and
- (e) the electronic means by which a physical action referred to in paragraph (d) may be taken is specified to be an audio-visual link, provided that the person, before whom the action is taken, complies with all of the following conditions:
 - (i) the person observes, in real time, the action being taken;
 - (ii) the person satisfies himself or herself that the document in relation to which the action is taken in accordance with subparagraph (i) is the same document, or a copy of the document, to which the person is to apply his or her signature in accordance with subparagraph (iii);

- (iii) the person attests to the observation made under subparagraph (i) by signing the document, or a copy of the document, and endorsing the document, or the copy of the document, with a statement specifying that the document was sworn, made or signed, respectively, and witnessed, in accordance with this notice.

Dated: 8.6.20

Signed: _____

Premier

SCHEDULE 1

1. Section 65 of the *Children, Young Persons and Their Families Act 1997* in respect of sections 22(8), 26(4) and 50 of that Act
 2. Section 10B(6)(b) of the *Community Protection (Offender Reporting) Act 2005*
 3. Section 16(1) and (3) of the *Domestic Violence Orders (National Recognition) Act 2016*
 4. Sections 14(2) and 25(1)(b) of the *Family Violence Act 2004*
 5. Sections 106DA(12) and 106EA(b) of the *Justices Act 1959*
 6. Sections 35(3), 41(3), 42AH(2), 42AI(2), 42AU(2), 42AV(2), 57C(7), 57D(4) and 60(2) of the *Sentencing Act 1997*
 7. Sections 55(2), 56(2), 62(1), 67(2), 68(2), 76(2), 77(3), 93(2), 94(2), 99A(2) and 117(5) of the *Youth Justice Act 1997*
 8. Regulations 8(1) and 10(1)(b) of the *Bail Regulations 2014* in respect of section 20(a) of the *Bail Act 1994*
 9. Rules 6(2), (3), (5) and (10) and 9(1) and (3) of the *Justices (Restraint Orders) Rules 2013*
 10. Rules 54N(1), 54O(b) and 54Q(1) and (2) of the *Justices Rules 2003*
-

SCHEDULE 2

1. Schedule 4 of the *Children, Young Persons and Their Families Act 1997* in respect of the making of an affidavit
2. Section 14 of the *Oaths Act 2001*
3. Section 18(3)(i) of the *Vehicle and Traffic Act 1999*
4. Regulation 10(2) of the *Bail Regulations 2014*
5. Rules 4 and 7 of the *Justices (Restraint Orders) Rules 2013*
6. Rules 38 and 54L(b) of the *Justices Rules 2003*
7. Rules 29 and 48 of the *Magistrates Court (Children's Division) Rules 2012*
8. Rule 43 of the *Magistrates Court (Civil Division) Rules 1998* in respect of the making of an affidavit as proof of service of a document, if that document is an application made under the *Residential Tenancy Act 1997*

ADVICE OF DEPUTY CHIEF PARLIAMENTARY COUNSEL***Notice under section 17 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 28 May, 2020.



Kate Woodward
Deputy Chief Parliamentary Counsel

MINISTERIAL NOTICE - FACT SHEET

COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020

The attached Ministerial Notice is issued pursuant to section 17 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (the COVID-19 Act) in relation to the Magistrates Court. The Premier has issued the Notice, being of the opinion it was necessary and desirable to do so due to the presence of emergency circumstances set out in section 5(2)(b) of the COVID-19 Act.

Approval of the Emergency Manager (the State Controller) has been obtained in accordance with section 6 of the COVID-19 Act.

Reason for Notice

Section 17 of the Act allows the Minister (Premier) to, by Notice, declare that, despite the provision of any relevant legislative instrument, any action that is required to be:

- (a) taken by means of physical action such as signature or personal service; or
- (b) to be evidenced in a document that is not an electronic document;

may be taken or evidenced by the electronic means specified in the notice, provided any relevant condition specified in the notice are complied with.

The Magistrates Court of Tasmania has implemented measures, such as working remotely from the court house, to reduce the potential risk of exposure to COVID-19. There is concern that the requirement to personally serve certain documents and the witnessing of documents by authorised people may increase the risk of exposure.

The Magistrates Court of Tasmania requested a Notice be issued under section 17 of the Covid-19 Act declaring that, in relation to specific identified legislation:

- 1) Service of specific court documents can be carried out by electronic service; and
- 2) The witnessing of court documents, including affidavits, statutory declarations and prescribed forms to take place electronically subject to conditions.

The Notice will enable the Court to allow court processes to continue to be carried out in a way which reduces the risk of spread of COVID-19 in Tasmania.

Effect of Notice

The Notice will allow:

- that any action required to be taken by means of a physical action such as service under the provisions outlined within the Notice, may be taken to be served by means of electronic communication, such as by email, subject to consent by the person who is being served; and

- the witnessing of a document required for the Magistrates Court, relevant to the provisions outlined within the Notice, to be carried out through an audio-visual link, provided the witness:
 - Observes the person signing the document sign in real time;
 - Is reasonably satisfied that the document the witness signs is the same document, or a copy of the document signed by the signatory; and
 - Attests to the observation by signing the document, or a copy of the document and endorsing the document, or copy, with a statement specifying that the document was sworn, made, signed and witnessed in accordance with this Notice.

The measures requested by the Magistrates Court are considered proportionate in the circumstances and provide adequate safeguards to protect the integrity of the legal processes to the greatest extent possible.

JOINT STANDING COMMITTEE

SUBORDINATE LEGISLATION

FRIDAY 19 JUNE 2020

COMMENCEMENT

The Committee met at 11.03 am 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 (*CR2*)

House of Assembly

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

NOTICES UNDER
COVID-19 DISEASE
EMERGENCY
(MISCELLEANEOUS
PROVISIONS)
ACT 2020
(additional since last meeting)

That the following Notices be held-over —

2. Notice under Section 17 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*

JOINT PARLIAMENTARY STANDING COMMITTEE

SUBORDINATE LEGISLATION

TUESDAY 23 JUNE 2020

COMMENCEMENT

The Committee met at 1.33 pm in Committee Room 2, Parliament House, Hobart and via Webex.

MEMBERS PRESENT

Legislative Council

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

2. Notice under Section 17 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*

JOINT PARLIAMENTARY STANDING COMMITTEE

SUBORDINATE LEGISLATION

FRIDAY 26 JUNE 2020 & MONDAY 29 JUNE 2020

COMMENCEMENT

The Committee met at 11.03 am in Committee Room 2, Parliament House, Hobart.

MEMBERS PRESENT

Legislative Council

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

House of Assembly

Ms Standen
Mr Street
Mr Tucker

**SUPPORTING
CORRESPONDENCE
(Notices)**

RESOLVED, the following supporting correspondence be received —

3. Letter dated 24 June 2020 from the Attorney-General, the Hon Elise Archer MP providing associated paperwork regarding Notice under Section 17 the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Magistrates Court — Electronic Service & Witnessing).

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

The Committee **RESOLVED**, that the following Notices be examined —

2. Notice under Section 17 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Magistrates Court - Electronic Service and Witnessing).

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

JOINT PARLIAMENTARY STANDING COMMITTEE

SUBORDINATE LEGISLATION

THURSDAY 2 JULY 2020

COMMENCEMENT

The Committee met at 11.03 am via Webex and in Committee Room 2, Parliament House, Hobart.

MEMBERS PRESENT

Legislative Council

Ms Rattray (*Chair*) (*via Webex*)
Ms Forrest (*Deputy Chair*) (*via Webex*)
Ms Webb (*CR2*)

House of Assembly

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

DRAFT REPORT

No. 9

SCRUTINY OF

NOTICES

UNDER THE

COVID-19 DISEASE

EMERGENCY

(MISCELLEANEOUS

PROVISIONS)

ACT 2020

(WAIVE LAND

TAX IN 2019-20

FOR LAND TAX

LIABILITIES

UNDER \$150);

(MAGISTRATES

COURT –

ELECTRONIC

SERVICE AND

WITNESSING);

(FREEZE FIRE

SERVICE

CONTRIBUTION

AND MOTOR

VEHICLE LEVY); and

(VEHICLE AND

TRAFFIC ACT 1999)

The Committee considered Draft Report No. 9.

The Committee amended Draft Report No. 9

The Committee ***RESOLVED*** —

1. Draft Report No 9 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.

**Minister for Police, Fire and Emergency Management
Minister for Local Government**

Level 5, 4 Salamanca Place, Parliament Square Building HOBART TAS 7000 Australia
GPO Box 123 HOBART TAS 7001 Australia
Ph: +61 3 6165 7770
Email: Mark.Shelton@dpact.tas.gov.au



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

Dear Ms Rattray

The *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (the COVID-19 Act) requires that any notice issued in accordance with this Act be provided to the Parliamentary Standing Committee on Subordinate Legislation for review and scrutiny.

On 7 May 2020, the Treasurer issued a Notice under section 23(2)(c) of the COVID-19 Act to give effect to the Government's decision to freeze the Fire Service Contribution and Motor Vehicle Levy for 2020-21 at the same level as was collected in 2019-20. The Notice was published in the *Government Gazette* on 13 May 2020.

I attach a copy of that notice and the advice of a Deputy Parliamentary Counsel for the Committee's review.

Yours sincerely

Hon Mark Shelton MP
Minister for Police, Fire and Emergency Management

15 May 2020

MINISTERIAL NOTICE - FACT SHEET

COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020

The attached Ministerial Notice is issued pursuant to section 23(2)(c) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* to give effect to the Government's decision to freeze the Fire Service Contribution and Motor Vehicle Levy for 2020-21 at the same level as was collected in 2019-20.

Reason for Notice

Section 23(2)(c) of the *COVID-19 Disease Emergency Act 2020* provides capacity for the Treasurer to issue a notice whereby the amount of a fixed fee, or of a fixed charge, payable under a provision of a relevant legislative instrument or of a contract entered into under such a provision – may not be altered otherwise than with the approval of the Treasurer.

On the 26 March 2020, the Premier announced, as part of a package of COVID-19 measures designed to ease the financial strain on households, that the Government will be freezing the Community Fire Service Contribution that is paid by households on their rates.

The Government committed to continue to invest in emergency and fire service capabilities by providing \$4 million to the State Fire Commission to cover the shortfall in revenue caused by the freezing of the Community Fire Service Contribution and Motor Vehicle Levy.

The formula for calculating the amounts to be collected in both the Fire Service Contribution and the Motor Vehicle Levy are defined in the *Fire Service Act 1979*.

The methodology for calculating the fire service contributions from local councils is defined in section 81 of *Fire Service Act 1979*. The methodology is prescriptive and incorporates variables outside of the control of the State Fire Commission, namely the value of land categories in the local council area and the State more broadly used to calculate the levy.

Similarly, the amount collected for the Motor Vehicle Levy is similarly prescriptive and is described in Section 77(L) of the *Fire Service Act 1979*.

Effect of Notice

The Notice prevents the amount of both the Fire Service Contribution and Motor Vehicle Levy from changing (from those amounts collected in 2019-20) without approval of the Treasurer.

ADVICE OF DEPUTY CHIEF PARLIAMENTARY COUNSEL

Notice under section 23 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 30 April, 2020.



Kate Woodward
Deputy Chief Parliamentary Counsel

TASMANIA

COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020

NOTICE UNDER SECTION 23

I, PETER CARL GUTWEIN, the Treasurer, in pursuance of section 23(2)(c) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*, being of the opinion that the economic effects of the relevant emergency circumstances are such that it is necessary or desirable to issue the notice, direct that despite any of the provisions specified in the Schedule to this notice, the amounts payable under those provisions for the 2020/2021 financial year are not to be altered from the amounts payable under those provisions in the 2019/2020 financial year, otherwise than with the approval of the Treasurer.

Dated: 7.5.20

Signed:

Treasurer

SCHEDULE 1

1. Section 77L of the *Fire Service Act 1979*
2. Section 81 of the *Fire Service Act 1979*



Joint Standing Committee Subordinate Legislation

23 June 2020

The Hon Peter Gutwein MP
Treasurer
via email

Dear Treasurer

**Notice issued under section 23 of the
COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020
(Freeze Fire Service Contribution and Motor Vehicle Levy)**

The Joint Standing Committee on Subordinate Legislation at its meeting on 19 June 2020 resolved to write to you noting the above Notice has been tabled in the Legislative Council on 3 June 2020 however, the Notice has not been provided to the Committee as required under section 7(3) of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020*. The other relevant documentation related to this Notice has also not been provided to the Committee.

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

Yours sincerely

A handwritten signature in cursive script, reading "Tania Rattray".

TANIA RATTRAY MLC
CHAIR

w. 03 6212 2320 f. 03 6212 2345 m. 0488 060 687 e. subleg@parliament.tas.gov.au

From: [Fitzpatrick, Emma \(DPaC\)](#)
To: [subleg](#)
Cc: [Joscelyne, William \(DPaC\)](#)
Subject: FW: Letter from Minister Shelton
Date: Wednesday, 24 June 2020 10:03:09 AM
Attachments: [image003.png](#)
[Letter from Minister Shelton to subordinate Legislation Committee.pdf](#)
[CPC advice_s23 COVID Fire Service_300420\(2\).PDF](#)
[SIGNED - Notice under Section ~motor vehicle levy for 2020-21.PDF](#)

Good morning

I understand that the Chair of the Subordinate Legislation Committee wrote to the Treasurer on 23 June 2020 regarding the Notice issued under section 23 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* to freeze the Fire Service Contribution and Motor Vehicle Levy. Please find attached the letter from Minister Shelton that was sent direct to Ms Rattray on 15 May 2020 with the intention to provide the Notice for the Committee's review. I apologise that the subleg@parliament.tas.gov.au was not the email used for this submission. We have corrected our office administrative process for future submissions.

Kind regards

Emma

Emma Fitzpatrick

Senior Adviser – Police, Fire and Emergency Management

Office of the Hon Mark Shelton MP
Minister for Police, Fire and Emergency Management
Minister for Local Government
Liberal Member for Lyons
Level 5, 4 Salamanca Place, Hobart Tas 7000

Phone: (03) 6165 7721 Mobile: 0404 758 944
Email: emma.fitzpatrick@dpac.tas.gov.au

www.premier.tas.gov.au



From: Shelton, Minister (DPaC)
Sent: Friday, 15 May 2020 9:49 AM
To: 'tania.rattray@parliament.tas.gov.au' <tania.rattray@parliament.tas.gov.au>
Subject: Letter from Minister Shelton

Dear Ms Rattray

Please find attached a letter and two attachments for your review.

Kind Regards

Emma Ford

Executive Officer

Office of the Hon Mark Shelton MP

Minister for Police, Fire and Emergency Management

Minister for Local Government

Liberal Member for Lyons

Level 5, Parliament Square

4 Salamanca Place, Hobart, TAS, 7000

Phone: (03) 6165 7693

Department of Premier & Cabinet

www.premier.tas.gov.au



CONFIDENTIALITY NOTICE AND DISCLAIMER

The information in this transmission may be confidential and/or protected by legal professional privilege, and is intended only for the person or persons to whom it is addressed. If you are not such a person, you are warned that any disclosure, copying or dissemination of the information is unauthorised. If you have received the transmission in error, please immediately contact this office by telephone, fax or email, to inform us of the error and to enable arrangements to be made for the destruction of the transmission, or its return at our cost. No liability is accepted for any unauthorised use of the information contained in this transmission.



Joint Standing Committee Subordinate Legislation

29 June 2020

The Hon Peter Gutwein MP
Treasurer
via email

Dear Treasurer

**Notice issued under section 23 of the
COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020
(Freeze Fire Service Contribution and Motor Vehicle Levy)**

Further to the Committee's correspondence dated 23 June 2020, the Joint Standing Committee on Subordinate Legislation at its meeting on 26 June received the associated paperwork regarding the abovementioned Notice and noted the advice that the associated paperwork had been sent via email to myself on 15 May 2020 and any future correspondence will be forwarded to the Subordinate Legislation email address.

I write to advise the associated paperwork was received via email to myself on 15 May 2020 however, an administrative oversight resulted in this email not being forwarded to the Committee. On behalf of the Committee, I apologise for this oversight.

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

Cc Minister for Police, Fire and Emergency Management, the Hon Mark Shelton MP

JOINT STANDING COMMITTEE

SUBORDINATE LEGISLATION

FRIDAY 19 JUNE 2020

COMMENCEMENT

The Committee met at 11.03 am 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 (*CR2*)

House of Assembly

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

**NOTICE UNDER
SECTION 23 OF THE
COVID-19 DISEASE
EMERGENCY
(MISCELLENEOUS
PROVISIONS)
ACT 2020 – (FREEZE
FIRE SERVICE
CONTRIBUTION
AND MOTOR
VEHICLE LEVY)**

The Acting Secretary advised the Notice was tabled in the Legislative Council on 3 June 2020. The Committee has not received the Notice as required under the Act.

The Committee ***RESOLVED*** —

The Chair write to the Treasurer noting the Notice was tabled in the Legislative Council, however, the Notice has not been provided to the Committee as required under Section 7(3) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*.

JOINT PARLIAMENTARY STANDING COMMITTEE

SUBORDINATE LEGISLATION

TUESDAY 23 JUNE 2020

COMMENCEMENT

The Committee met at 1.33 pm in Committee Room 2, Parliament House, Hobart and via Webex.

MEMBERS PRESENT

Legislative Council

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

House of Assembly

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

**DRAFT
CORRESPONDENCE**

The Committee considered the following draft correspondence

1. Letter dated 23 June 2020 to the Treasurer, the Hon Peter Gutwein MP regarding Notice under Section 23 of the *COVID Disease Emergency (Miscellaneous Provisions) Act 2020* (Freeze Fire Service Contribution and Motor Vehicle Levy).

The Committee **RESOLVED** —

1. The Draft Correspondence as amended be adopted and sent.

JOINT PARLIAMENTARY STANDING COMMITTEE

SUBORDINATE LEGISLATION

FRIDAY 26 JUNE 2020 & MONDAY 29 JUNE 2020

COMMENCEMENT

The Committee met at 11.03 am in Committee Room 2, Parliament House, Hobart.

MEMBERS PRESENT

Legislative Council

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

House of Assembly

Ms Standen
Mr Street
Mr Tucker

**OUTSTANDING
SUPPORTING
DOCUMENTATION
NOTICE UNDER
SECTION 23
OF THE
COVID-19
DISEASE
EMERGENCY
(MISCELLANEOUS
PROVISIONS)
ACT 2020
(FREEZE FIRE
SERVICE
CONTRIBUTION
AND
MOTOR VEHICLE
LEVY)**

The *Chair* advised the Notice and supporting documentation had been received by her office on 15 May 2020 however, an administrative oversight resulted in the email not being forwarded to the Committee. The *Chair* apologised for this oversight.

The Committee **RESOLVED** the *Chair* write apologising for this administrative oversight.

**OUTWARDS
CORRESPONDENCE**

RESOLVED, the following outwards correspondence be endorsed —

3. Letter dated 23 June 2020 to the Premier and Treasurer, the Hon Peter Gutwein MP advising the Notice had not been received under section 7(3) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* and further, the associated paperwork has not been received regarding the Notice under Section 23 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Freeze Fire Service Contribution and Motor Vehicle Levy).

**SUPPORTING
CORRESPONDENCE
(Notices)**

RESOLVED, the following supporting correspondence be received —

2. Email dated 24 June 2020 from Emma Fitzpatrick, Senior Adviser, Police, Fire and Emergency Management attaching the associated paperwork and advising the associated paperwork was sent via email on 15 May 2020 regarding Section 23 Notice under the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Freeze Fire Service Contribution and Motor Vehicle Levy).

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

The Committee **RESOLVED**, that the following Notices be examined —

3. Notice under Section 23 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Freeze Fire Service Contribution and Motor Vehicle Levy).

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

**DRAFT
CORRESPONDENCE
NOTICE UNDER
SECTION 23 OF THE
COVID-19 DISEASE
EMERGENCY
(MISCELLEANEOUS
PROVISIONS)
ACT 2020
(FREEZE FIRE
SERVICE**

**CONTRIBUTION
AND
MOTOR VEHICLE
LEVY]**

The Committee considered the draft correspondence.

The Committee **RESOLVED** that the amended correspondence be adopted and sent.

JOINT PARLIAMENTARY STANDING COMMITTEE

SUBORDINATE LEGISLATION

THURSDAY 2 JULY 2020

COMMENCEMENT

The Committee met at 11.03 am via Webex and in Committee Room 2, Parliament House, Hobart.

MEMBERS PRESENT

Legislative Council

Ms Rattray (*Chair*) (*via Webex*)
Ms Forrest (*Deputy Chair*) (*via Webex*)
Ms Webb (*CR2*)

House of Assembly

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

**OUTWARDS
CORRESPONDENCE**

RESOLVED, the following outwards correspondence be endorsed —

1. Letter dated 29 June to the Treasurer (Cc Minister for Police, Fire and Emergency Management, the Hon Mark Shelton MP) advising of an administrative oversight regarding the supporting documentation for the section 23 Notice under the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Freeze Fire Service Contribution and Motor Vehicle Levy).

**DRAFT REPORT
No. 9
SCRUTINY OF
NOTICES
UNDER THE
COVID-19 DISEASE
EMERGENCY
(MISCELLEANEOUS
PROVISIONS)
ACT 2020
(WAIVE LAND
TAX IN 2019-20
FOR LAND TAX
LIABILITIES
UNDER \$150):
(MAGISTRATES
COURT –
ELECTRONIC
SERVICE AND**

WITNESSING):
(FREEZE FIRE
SERVICE
CONTRIBUTION
AND MOTOR
VEHICLE LEVY): and
(VEHICLE AND
TRAFFIC ACT 1999)

The Committee considered Draft Report No. 9.

The Committee amended Draft Report No. 9

The Committee ***RESOLVED*** —

1. Draft Report No 9 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*.

Minister for Finance
Minister for Infrastructure and Transport
Minister for State Growth
Minister for Science and Technology
Leader of the House



Level 5, 4 Salamanca Place, Hobart
Public Buildings, 53 St John Street, Launceston
GPO Box 123, HOBART TAS 7001
Phone: (03) 6165 7701; Email: Michael.Ferguson@dpac.tas.gov.au

23 JUN 2020

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

Dear Chair

The current COVID-19 restrictions have created difficulties for various elements of the Tasmanian economy and the Government has sought to ease the pressure on businesses and individuals through various measures.

Please find attached a Notice under section 23 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* to not apply the CPI increase to motor tax for the 2020-21 financial year. The Notice was approved by the Treasurer on 19 June 2020 and the notice is expected to be published in the Tasmanian Government Gazette on 24 June 2020.

I provide the Notice for the scrutiny of the Standing Committee as required under the *Subordinate Legislation Act 1992*.

Yours sincerely

Michael Ferguson MP
Minister for Infrastructure and Transport

Attachments:

1. Copy of Notice under s. 23 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*
2. Advice of the Deputy Chief Parliamentary Counsel
3. Fact Sheet

TASMANIA

COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020

NOTICE UNDER SECTION 23

I, PETER CARL GUTWEIN, the Treasurer, in pursuance of section 23(2) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*, being of the opinion that the economic effects of the relevant emergency circumstances are such that it is necessary or desirable to issue the notice, direct that, despite section 34 of the *Vehicle and Traffic Act 1999*, the amount of motor tax payable under that provision for the 2020/2021 financial year is not to be altered from the amount payable under that provision in the 2019/2020 financial year, otherwise than with the approval of the Treasurer.

Dated: 19.6.20

Signed:



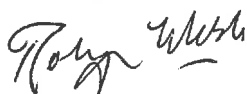
Treasurer

ADVICE OF CHIEF PARLIAMENTARY COUNSEL***Notice under section 23 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 26 May, 2020.



Robyn Webb
Chief Parliamentary Counsel

Standing Committee on Subordinate Legislation

FACT SHEET

Notice to not apply the CPI increase to motor tax for the 2020-21 financial year under the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*

The *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (COVID-19 Act) provides the power for the Treasurer to declare certain fees and charges not payable in order to provide relief from financial hardship resulting from the impacts of the coronavirus.

Consistent with the Government's Social and Economic Support Package, it is proposed to not apply the annual CPI increase to the motor tax component of a vehicle registration for the 2020-21 financial year. The increase is scheduled to take effect from 1 July 2020 and is based upon the CPI.

The attached Notice approved by the Treasurer was prepared by the Office of Parliamentary Counsel, and provides relief from the annual CPI increase to motor tax for the 2020-21 financial year under the *Vehicle and Traffic Act 1999*.

JOINT PARLIAMENTARY STANDING COMMITTEE

SUBORDINATE LEGISLATION

FRIDAY 26 JUNE 2020 & MONDAY 29 JUNE 2020

COMMENCEMENT

The Committee met at 11.03 am in Committee Room 2, Parliament House, Hobart.

MEMBERS PRESENT

Legislative Council

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

House of Assembly

Ms Standen
Mr Street
Mr Tucker

**SUPPORTING
CORRESPONDENCE**
(Notices)

RESOLVED, the following supporting correspondence be received —

1. Letter dated 23 June 2020 from the Minister for Infrastructure and Transport, the Hon Michael Ferguson MP providing associated paperwork regarding Notice under Section 17 the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Vehicle and Traffic Act 1999)*.

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

The Committee **RESOLVED**, that the following Notices be examined —

2. Notice under Section 23 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Vehicle and Traffic Act 1999)*.

The Committee noted the abovementioned Notice had not been tabled and was not outside the prescribed statutory time-frame under section 7(1) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*. However, due to the Parliament not back in session until towards the end of August 2020 and the need to publish the Report on this Notice in a timely manner. The Committee **RESOLVED**, that the Notice be examined.

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

JOINT PARLIAMENTARY STANDING COMMITTEE

SUBORDINATE LEGISLATION

THURSDAY 2 JULY 2020

COMMENCEMENT

The Committee met at 11.03 am via Webex and in Committee Room 2, Parliament House, Hobart.

MEMBERS PRESENT

Legislative Council

Ms Rattray (*Chair*) (*via Webex*)

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

Ms Webb (*CR2*)

House of Assembly

Ms Standen (*via Webex*)

Mr Street (*via Webex*)

Mr Tucker (*via Webex*)

DRAFT REPORT

No. 9

SCRUTINY OF

NOTICES

UNDER THE

COVID-19 DISEASE

EMERGENCY

(MISCELLEANEOUS

PROVISIONS)

ACT 2020

(WAIVE LAND

TAX IN 2019-20

FOR LAND TAX

LIABILITIES

UNDER \$150):

(MAGISTRATES

COURT –

ELECTRONIC

SERVICE AND

WITNESSING):

(FREEZE FIRE

SERVICE

CONTRIBUTION

AND MOTOR

VEHICLE LEVY): and

(VEHICLE AND

TRAFFIC ACT 1999)

The Committee considered Draft Report No. 9.

The Committee amended Draft Report No. 9

The Committee ***RESOLVED*** —

1. Draft Report No 9 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.