



2020

# **Parliament of Tasmania**

**JOINT PARLIAMENTARY STANDING COMMITTEE**

## **SUBORDINATE LEGISLATION**

### **REPORT 11**

**SCRUTINY OF NOTICE ISSUED UNDER SECTIONS 14 and 16 OF THE  
*COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020*  
(*PROPERTY AGENTS AND LAND TRANSACTIONS ACT 2016*)**

**SCRUTINY OF NOTICE ISSUED UNDER SECTION 22 OF THE  
*COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020*  
(*RESIDENTIAL TENANCY ACT 1997*)**

**SCRUTINY OF NOTICE ISSUED UNDER SECTION 13 OF THE  
*COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020*  
(*GAMING CONTROL ACT 1993*)**

#### **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 weekly until further notice (as resolved by the Committee on 2 July 2020);
- 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 sections 14 and 16 of the Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Property Agents and Land Transactions Act 2016)**

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 16 July 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 Building and Construction, all correspondence and Minutes of Proceedings relevant to the Notice are attached to this Report for completeness.

**Notice under section 22 of the Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Residential Tenancy Act 1997)**

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 16 July 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* and the intent of the Parliament.

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

**Notice under Section 13 of the Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Gaming Control Act 1993)**

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 16 July 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 Treasurer and Minutes of Proceedings relevant to the Notice are attached to this Report for completeness.



Tania Rattray MLC  
**CHAIR**

21 July 2020

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](mailto:Minister.Archer@dpac.tas.gov.au)



26 JUN 2020

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

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

*Tania*

Dear Ms Rattray

Please find enclosed a copy of a Notice (the Notice) issued by the Premier pursuant to section 14 and 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*.

The Notice was signed on 17 June 2020 and was published in *Gazette* No 21999 on 19 June 2020.

The Notice extends the expiry date of current Property Agent Licences for a further three months to reduce the regulatory burden on the property agent's industry due to hardship experienced during this emergency period.

The Notice:

- replaces the current expiry of 30 June 2020 with 30 September 2020 as the date on which current licences granted under the Property Agents and Land Transactions Act 2016 expires; and
- validates the extension of current licences for a further three months, until 30 September 2020.

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

Hon Elise Archer MP  
Minister for Building and Construction

Attachments –

- Signed Notice
- Fact Sheet
- OPC Advice

TASMANIA

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

**NOTICE UNDER SECTIONS 14 AND 16**

I, PETER CARL GUTWEIN, the Premier, being of the opinion that the relevant emergency circumstances exist in relation to this notice and with the approval of the emergency manager –

- (a) in pursuance of section 14 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*, amend, for the period for which this notice has effect under that Act, a provision of any licence granted in accordance with, and in force under, the *Property Agents and Land Transactions Act 2016* ("the Act"), that specifies 30 June 2020 as the end of the term of the licence, by omitting that date and substituting 30 September 2020 as the date on which the licence expires; and
- (b) in pursuance of section 16(1)(b) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*, as a result of the amendment of a licence in accordance with paragraph (a), declare that, despite section 21 of the Act, the period that the licence is valid, as determined in accordance with that section of the Act, is extended by a further period of 3 months.

Dated: 17.6.20

Signed: 

Premier

**MINISTERIAL NOTICE - FACT SHEET**

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

The attached Ministerial Notice is issued pursuant to section 14 and 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (the COVID-19 Act) in relation to the *Property Agents and Land Transactions Act 2016*. 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)(e) 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 14 of the COVID-19 Act allows the Minister (Premier) to, by Notice, amend or revoke, for the period specified in the notice, a provision, specified in the notice, of:

- (a) a permit that is specified in the notice; or
- (b) any permit that is within a class of permits specified in the notice.

Section 16(1)(b) of the COVID-19 Act allows the Minister (Premier) to, by Notice, extend for a specified period –

- (b) the period during which an authority, under a relevant legislative instrument, to carry out an activity –
  - (i) on behalf of the Crown; or
  - (ii) under a provision, of a relevant statutory instrument, specified in the notice; or
  - (iii) under a document issued under a provision, of a relevant legislative instrument, specified in the notice –

is to remain in force.

The licence period for all property agents licenced with the Property Agents Board (PAB) is for a 12 month period from 1 July to 30 June. Under section 21(a) of the Property Agents and Land Transactions Act, a licence is only valid for a maximum of twelve months. Each year, the renewal process commences in April, during which time licence holders can apply to renew before their licence expires on 30 June.

The Property Agents Board has requested a Notice be issued to extend the timeframe for renewing licences to reduce the regulatory burden on the property agent's industry due to hardship experienced during this emergency period.



The Notice will enable additional time for current licence holders to consider if they will seek to renew their licence.

### **Effect of Notice**

The Notice:

- replaces the current expiry of 30 June 2020 with 30 September 2020 as the date on which current licences granted under the *Property Agents and Land Transactions Act 2016* expires; and
- validates the extension of current licences for a further three months, until 30 September 2020.

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**ADVICE OF DEPUTY CHIEF PARLIAMENTARY COUNSEL*****Notice under sections 14 and 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 9 June, 2020.



Kate Woodward  
**Deputy Chief Parliamentary Counsel**



## Joint Standing Committee Subordinate Legislation

7 July 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 sections 14 and 16 of the  
*COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*  
(*Property Agents and Land Transactions Act 2016*)**

The Joint Parliamentary Standing Committee on Subordinate Legislation is currently considering the above Notice. At its meeting on 2 July 2020, the Committee resolved that I write to clarify and provide more detail related to hardship experienced by property agents during the COVID-19 pandemic, particularly whether this refers to a financial hardship or hardship related to additional workload for property agents? Please provide further detail regarding the impact of the hardship experienced.

It would be appreciated if you would provide a response 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)

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](mailto:Minister.Archer@dpac.tas.gov.au)



15 JUL 2020

Hon Tania Rattray MLC  
Chair  
Parliamentary Standing Committee on Subordinate Legislation

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

*Tania*

Dear Ms Rattray

Thank you for your correspondence dated 7 July 2020 requesting further detail regarding hardship experienced by property agents during the COVID-19 pandemic.

The Property Agents Board (the Board) initiated the request for the licence extension. As a result of COVID-19, the Board considered it appropriate to postpone its annual licence renewal due to public health and safety restrictions imposed. The renewal process was due to commence in April 2020, however, at that time there was a significant amount of uncertainty regarding COVID-19 and its impact on the property market.

The rationale was to reduce any regulatory burden on the property agents' industry at that time. Deferring the renewal date to July 2020 was intended to allow time and a better context and understanding for those working in the industry as to whether they would renew their licence, and the Government supported the Board's position.

Significant financial hardship experienced by the industry has been from both property sales and residential tenancies. The challenges due to COVID-19 have resulted in reduced property sales, increased time properties are on the market and an overall reduction in the number of properties on the market.

Under the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* and the *Residential Tenancy Act 1997*, a number of emergency protections have been put in place, restricting the functions of property agents in terms of tenancy inspections, open homes, auctions, rent increases and evictions. The real estate industry responded to the introduction of these protections by amending practices accordingly, however concerns were raised with the Government as to the significant negative impact of COVID-19 on property owners and those managing properties on their behalf.

I trust this information provides sufficient detail to the Committee on the hardship experienced by property agents.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Elise Archer', with a long, sweeping underline that extends to the right.

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

**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  
(additional since  
last meeting)**

That the following Notices be held-over —

1. Notice under Sections 14 and 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Property Agents and Land Transactions Act 2016)*.

**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

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

That the following Notices be held-over —

1. Notice under Sections 14 and 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Property Agents and Land Transactions Act 2016).

### **MONDAY 29 JUNE 2020**

#### **COMMENCEMENT**

The Committee met at 2.03 pm in Committee Room 2, Parliament House, Hobart and via Webex.

#### **MEMBERS PRESENT**

##### **Legislative Council**

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

##### **House of Assembly**

Ms Standen (via Webex)  
Mr Street  
Mr Tucker

#### **SUPPORTING CORRESPONDENCE (NOTICES)**

**RESOLVED**, the following supporting correspondence be received —

2. Letter dated 26 June 2020 from the Attorney-General regarding Notice under Sections 14 and 16 under *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Property Agent Licences).

### **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)

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

That the following Notice be held-over —

1. Notice under Sections 14 and 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Property Agents and Land Transactions Act 2016)*.

The Committee **RESOLVED** —

The *Chair* write to the Minister seeking clarification and further detail related to the reference to hardship (financial or additional workload) for property agents?

## **JOINT PARLIAMENTARY STANDING COMMITTEE**

### **SUBORDINATE LEGISLATION**

**TUESDAY 7 JULY 2020 AND WEDNESDAY 8 JULY 2020**

#### **COMMENCEMENT**

The Committee met at 1.32 pm 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 CORRESPONDENCE TO THE MINISTER FOR BUILDING AND CONSTRUCTION REGARDING NOTICE UNDER SECTIONS 14 AND 16 OF THE COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020 (PROPERTY AND LAND TRANSACTIONS ACT 2016)**

The Committee considered the draft correspondence.

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

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

That the following Notices be held-over —



1. Notice under sections 14 and 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Property Agents and Land Transactions Act 2016)*.

## **JOINT PARLIAMENTARY STANDING COMMITTEE**

### **SUBORDINATE LEGISLATION**

**THURSDAY 16 JULY 2020**

#### **COMMENCEMENT**

The Committee met at 2.00 pm 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**

Mr Street (via Webex)

Mr Tucker (via Webex)

#### **APOLOGY**

Ms Standen

#### **OUTWARDS CORRESPONDENCE**

***RESOLVED***, the following outwards correspondence be endorsed —

1. Letter dated 7 July 2020 to the Minister for Building and Construction, the Hon Elise Archer MP regarding Notice under sections 14 and 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Property Agents and Land Transactions Act 2016)*.

#### **GENERAL CORRESPONDENCE**

***RESOLVED***, the following general correspondence be received —

1. Letter dated 15 July 2020 from the Minister for Building and Construction, the Hon Elise Archer MP providing a response regarding Notice under sections 14 and 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Property Agents and Land Transactions Act 2016)*.

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

The Committee noted the following Notices had not been tabled and were 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 following Notices be examined.

1. Notice under sections 14 and 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Property Agents and Land Transactions Act 2016)*.

The Committee **RESOLVED** that the Acting Secretary prepare a draft report.

## **JOINT PARLIAMENTARY STANDING COMMITTEE**

### **SUBORDINATE LEGISLATION**

**TUESDAY 21 JULY 2020**

#### **COMMENCEMENT**

The Committee met at 1.32 pm 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**

Mr Street (*CR2*)

Mr Tucker (*CR2*)

Ms Standen (*via webex*)

#### **DRAFT REPORT**

##### **No. 11**

##### **COVID-19 DISEASE**

##### **EMERGENCY**

##### **(MISCELLANEOUS**

##### **PROVISIONS)**

##### **ACT 2020**

##### **NOTICE UNDER**

##### **SECTIONS 14 & 16**

##### **(PROPERTY AGENTS**

##### **AND LAND**

##### **TRANSACTIONS**

##### **ACT 2016);**

##### **SECTION 22**

##### **(RESIDENTIAL**

##### **TENANCY**

##### **ACT 1997); and**

##### **SECTION 13**

##### **(GAMING CONTROL**

##### **ACT 1993)**

The Committee considered Draft Report No. 11.

The Committee amended Draft Report No. 11.

The Committee **RESOLVED** —

1. Draft Report No. 11 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](mailto:Minister.Archer@dpac.tas.gov.au)



8 JUL 2020

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

By email: [subleg@parliament.tas.gov.au](mailto: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 22(2) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*.

The Notice was signed on 29 June 2020 and was published in *Gazette* No 22003 on 30 June 2020.

The Notice extends some of the emergency provisions introduced as a result of COVID-19 relating to residential tenancies.

The Notice:

- prevents termination of leases within the emergency period, with some exceptional circumstances; and
- prevents increases in rent during the emergency period.

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



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

Attachments –

- Signed Notice
- Fact Sheet
- OPC Advice

## **MINISTERIAL NOTICE - FACT SHEET**

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

## **Extension of emergency period for residential tenancies**

The attached Notice is issued pursuant to section 22 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (the COVID-19 Act) to extend the emergency period for some protections put in place for residential tenancies.

### **Reason for Notice**

In response to the COVID-19 pandemic, emergency protections were put in place for residential tenancies, specifically:

- Preventing eviction of tenants for rent arrears;
- Allowing tenants and landlords to reduce rent by mutual agreement;
- Allowing tenants and landlords to apply to the Residential Tenancy Commissioner to break a lease if its continuation would cause severe hardship;
- Restricting right of entry provisions to limit property inspections; and
- Removing the obligation of landlords to undertake general repairs (no changes were made to emergency or urgent repairs).

A further notice was issued to provide additional protections relating to rent increases and terminations for a lease (or class of leases) during the emergency period.

These Notices were issued under section 22 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* and will expire on 30 June 2020 and 24 July 2020, unless extended.

The Notices provided for an extension of the period if deemed necessary to do so.

The purpose of this Notice is to extend the 'emergency period' in relation to these protections, with some further exceptions.

### **Extension period**

The emergency provisions will be extended until 30 September 2020.

### **Effect of Notice**

The Notice specifically will:

- Prevent the termination of leases within the emergency period if a notice to vacate that is served within that period on the tenant in relation to the premises; and
- Prevent rent increases

In terms of evictions, the Notice does include some exceptions, specifically, a lease may be terminated:

- by an order made by the Residential Tenancy Commissioner under section 38A of the Act; or
- if the lease not a fixed term lease, and –
  - the premises are to be sold or transferred to another person; or

- significant renovations are to be performed in respect of the premises; or
  - the premises are to be used as residence by a member of the family of the owner; or
- if the tenant uses or causes to be used the premises unlawfully, for any purpose other than residential tenancy; or
- with the agreement of the tenant.

TASMANIA

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

**NOTICE UNDER SECTION 22**

I, PETER CARL GUTWEIN, the Premier, in pursuance of section 22(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 this notice, declare that, despite any provision of a lease, in relation to premises, that is a residential tenancy agreement to which the *Residential Tenancy Act 1997* ("the Act") applies –

- (a) such a lease must not be terminated within the emergency period if there is, in relation to the premises, a notice to vacate that is served within that period on the tenant in relation to the premises, except –
  - (i) if the lease is terminated by an order under section 38A of the Act; or
  - (ii) if the lease is not a lease for a fixed period for the purposes of the Act, and the notice to vacate is served on the tenant because –
    - (A) the premises are to be sold or transferred to another person; or
    - (B) significant renovations are to be performed in respect of the premises; or
    - (C) the premises are to be used as a residence by a member of the family of the owner; or
  - (iii) if the notice to vacate is for the reason referred to in section 42(1)(a) of the Act and is served on the tenant in relation to a failure of the tenant to comply with section 52 of the Act; or
  - (iv) with the agreement of the tenant; and
- (b) the rent payable under such a lease may not be, during the emergency period, increased in accordance with section 20 of the Act, including by a notice to which that section refers that has not taken effect by the date on which this notice takes effect.

Dated 29 Apr 2020.

Signed.....

Premier

**ADVICE OF CHIEF PARLIAMENTARY COUNSEL*****Notice under s 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 26 June 2020.



Robyn Webb  
**Chief Parliamentary Counsel**



**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)

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

That the following Notices be held-over —

2. Notice under section 22 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (*Residential Tenancy Act 1997*).

**JOINT PARLIAMENTARY STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 7 JULY 2020 AND WEDNESDAY 8 JULY 2020**

**COMMENCEMENT**

The Committee met at 1.32 pm 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)

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

That the following Notices be held-over —

3. Notice under section 22 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (*Residential Tenancy Act 1997*).

**JOINT PARLIAMENTARY STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**THURSDAY 16 JULY 2020**

**COMMENCEMENT**

The Committee met at 2.00 pm 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**

Mr Street (via Webex)

Mr Tucker (via Webex)

**APOLOGY**

Ms Standen

**SUPPORTING  
CORRESPONDENCE  
(NOTICES)**

**RESOLVED**, the following supporting correspondence be received —

2. Letter dated 8 July 2020 from the Attorney-General, the Hon Elise Archer MP regarding Notice under section 22 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (*Residential Tenancy Act 1997*).

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

The Committee noted the following Notices had not been tabled and were 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 following Notices be examined.

2. Notice under section 22 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (*Residential Tenancy Act 1997*).

The Committee **RESOLVED** that the Acting Secretary prepare a draft report.

**JOINT PARLIAMENTARY STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 21 JULY 2020**

**COMMENCEMENT**

The Committee met at 1.32 pm 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**

Mr Street (CR2)

Mr Tucker (CR2)

Ms Standen (*via webex*)

**DRAFT REPORT**

**No. 11**

**COVID-19 DISEASE**

**EMERGENCY**

**(MISCELLANEOUS**

**PROVISIONS)**

**ACT 2020**

**NOTICE UNDER**

**SECTIONS 14 & 16**

**(PROPERTY AGENTS**

**AND LAND**

**TRANSACTIONS**

**ACT 2016);**

**SECTION 22**

**(RESIDENTIAL**

**TENANCY**

**ACT 1997); and**

**SECTION 13**

**(GAMING CONTROL**

**ACT 1993)**

The Committee considered Draft Report No. 11.

The Committee amended Draft Report No. 11.

The Committee ***RESOLVED*** —

1. Draft Report No. 11 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.



PREMIER OF TASMANIA

3 JUL 2020

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

Dear Ms Rattray

***COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 - Notice under section 13 to extend timeframe to complete the Social and Economic Impact Study of Gambling in Tasmania***

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 13 of that Act, notified in the *Tasmanian Government Gazette* on 1 July 2020, to extend the period for completion of the fifth SEIS by six months to 30 June 2021, with the notice taking effect on 1 July 2020.
- advice provided by the Chief Parliamentary Counsel relating to the Notice; and
- a fact sheet outlining the reasons why the effects of the current COVID-19 emergency circumstances are such that it is necessary to issue the notice.

Should you require any further information, please contact Melissa Ford on (03) 6166 4310 or email [melissa.ford@treasury.tas.gov.au](mailto:melissa.ford@treasury.tas.gov.au).

Yours sincerely

Peter Gutwein MP  
Premier  
Treasurer

TASMANIA

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

**NOTICE UNDER SECTION 13**

I, PETER CARL GUTWEIN, the Premier, in pursuance of section 13 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) the period by which an independent review must be carried out under section 151(5) of the *Gaming Control Act 1993* is extended by a period of 6 months;  
and

(b) this notice takes effect on 1 July 2020.

Dated: 24.6.20

Signed: 

Premier

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**ADVICE OF DEPUTY CHIEF PARLIAMENTARY COUNSEL*****Notice under section 13 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 23 June, 2020.



Robyn Webb  
**Chief Parliamentary Counsel**

## Legislation Fact Sheet

### **COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 - Notice under section 13 to extend the timeframe to complete the Social and Economic Impact Study of Gambling in Tasmania**

- The *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* provides measures to reduce risk to the State arising from or related to the coronavirus pandemic, including allowing the Premier to extend statutory timelines imposed under legislative instruments.
- Section 151(5) of the *Gaming Control Act 1993* requires the Minister for Finance to commission an independent review of the social and economic impact of gambling in Tasmania every three years. The fourth SEIS was finalised in December 2017 and the fifth SEIS was due to be completed by 31 December 2020.
- As part of the public health restrictions, all terrestrial gaming venues in Tasmania, including casinos, hotels, and clubs, were closed from 23 March 2020, with TAB retail outlets closing on 28 March. Concurrently, major sporting codes such as AFL and NRL suspended their scheduled sporting seasons.
- These closures effectively removed most forms of popular gambling products and services from the market, and presented difficulties in undertaking meaningful stakeholder consultation for the SEIS research while COVID-19 restrictions have been in place.
- While most restrictions on gambling activities have been lifted and a number of major sporting codes have resumed competitions, the COVID restrictions have resulted in the terrestrial gambling industry in Tasmania being closed for approximately three months. This has affected commencement of the SEIS, which will affect the completion of the study within the statutory timeframe.
- Work has now commenced on the SEIS following engagement of a consortium led by the South Australian Centre for Economic Studies (University of Adelaide).
- The consortium reflects an experienced multidisciplinary team with recognised expertise in gambling research. In the last two years, it has undertaken prevalence surveys on gambling harm for South Australia, Victoria and New South Wales.
- The current study will reflect contemporary best practice and take into consideration previous feedback regarding sampling methods. It will consider changes in behaviour before, during and after the industry closure due to COVID-19 restrictions.
- The time required to thoroughly complete the SEIS research and report is estimated to be at least nine months and it is important that the study is done carefully and not rushed.
- The section 13 notice extends the period for completion of the fifth SEIS by six months (ie to 30 June 2021), with the notice taking effect on 1 July 2020.

**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)

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

That the following Notices be held-over —

3. Notice under section 13 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (*Gaming Control Act 1993*).

**JOINT PARLIAMENTARY STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 7 JULY 2020 AND WEDNESDAY 8 JULY 2020**

**COMMENCEMENT**

The Committee met at 1.32 pm 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)

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

That the following Notices be held-over —



4. Notice under section 13 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (*Gaming Control Act 1993*).

## **JOINT PARLIAMENTARY STANDING COMMITTEE**

### **SUBORDINATE LEGISLATION**

**THURSDAY 16 JULY 2020**

#### **COMMENCEMENT**

The Committee met at 2.00 pm 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**

Mr Street (*via Webex*)

Mr Tucker (*via Webex*)

#### **APOLOGY**

Ms Standen

#### **SUPPORTING CORRESPONDENCE (NOTICES)**

**RESOLVED**, the following supporting correspondence be received —

1. Letter dated 3 July 2020 from the Premier, the Hon Peter Gutwein MP regarding Notice under section 13 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (*Gaming Control Act 1993*).

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

The Committee noted the following Notices had not been tabled and were 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 following Notices be examined.

3. Notice under section 13 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (*Gaming Control Act 1993*).

The Committee **RESOLVED** that the Acting Secretary prepare a draft report.

**JOINT PARLIAMENTARY STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 21 JULY 2020**

**COMMENCEMENT**

The Committee met at 1.32 pm 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**

Mr Street (CR2)

Mr Tucker (CR2)

Ms Standen (*via webex*)

**DRAFT REPORT**

**No. 11**

**COVID-19 DISEASE**

**EMERGENCY**

**(MISCELLANEOUS  
PROVISIONS)**

**ACT 2020**

**NOTICE UNDER**

**SECTIONS 14 & 16**

**(PROPERTY AGENTS  
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**TRANSACTIONS**

**ACT 2016);**

**SECTION 22**

**(RESIDENTIAL**

**TENANCY**

**ACT 1997); and**

**SECTION 13**

**(GAMING CONTROL  
ACT 1993)**

The Committee considered Draft Report No. 11.

The Committee amended Draft Report No. 11.

The Committee ***RESOLVED*** —

1. Draft Report No. 11 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.