

TASMANIA

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**COVID-19 DISEASE EMERGENCY  
(COMMERCIAL LEASES) BILL 2020**

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**CONTENTS**

**PART 1 – PRELIMINARY**

1. Short title
2. Commencement
3. Objectives of this Act

**PART 2 – INTERPRETATION**

4. Interpretation
5. Protected leases and protected lessees
6. Eligible person
7. Meaning of prohibited lessor action

**PART 3 – APPLICATION OF ACT**

8. Act binds Crown
9. Application of Act
10. Effect of actions taken in relation to protected lease before commencement day
11. Certain acts or omissions, relating to legal requirements in relation to disease, are authorised

**PART 4 – TAKING OF CERTAIN ACTIONS IN RELATION TO PROTECTED LEASES**

12. Parties to protected leases take certain actions during financial hardship period
13. Prohibited lessor action not to be taken in relation to protected lease during financial hardship period
14. Lessor not to punish protected lessee for ceasing normal trading during financial hardship period
15. Lessor, on lessee request, to extend protected lease during financial hardship period
16. Communication or provision of information

**PART 5 – RENT, COSTS AND BENEFITS**

17. Rent payable under protected lease not to be increased during financial hardship period
18. Rent payable under protected lease to be renegotiated
19. Parties to bear own costs in relation to preparation of protected lease, &c., during financial hardship period

**PART 6 – MEDIATION AND ARBITRATION**

20. Mediation Provider
21. Delegation by Mediation Provider
22. Parties to protected leases to attempt to resolve disputes
23. Party to protected lease may apply for mediation of dispute
24. Mediation Provider may require information to be provided if application for mediation made
25. Costs of mediation
26. Arbitration
27. Immunity from liability, &c.

**PART 7 – COMMERCIAL CODE ADMINISTRATION COMMITTEE**

28. Commercial Code Administration Committee
29. Functions of Code Committee
30. Procedure of Code Committee
31. Financial hardship cessation day

**PART 8 – MISCELLANEOUS**

- 32. Regulations
- 33. Administration of Act



**COVID-19 DISEASE EMERGENCY  
(COMMERCIAL LEASES) BILL 2020**

*(Brought in by the Minister for Building and Construction, the  
Honourable Elise Nicole Archer)*

**A BILL FOR**

**An Act to provide for special measures, related to the  
social and financial effects of the COVID-19 disease in the  
State, in relation to commercial leases**

Be it enacted by Her Excellency the Governor of Tasmania, by  
and with the advice and consent of the Legislative Council and  
House of Assembly, in Parliament assembled, as follows:

**PART 1 – PRELIMINARY**

**1. Short title**

*This Act may be cited as the COVID-19 Disease  
Emergency (Commercial Leases) Act 2020.*

**2. Commencement**

The provisions of this Act commence on a day  
or days to be proclaimed.

**3. Objectives of this Act**

The objectives of this Act are –

- (a) to implement measures that may assist  
the continued functioning of the

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

s. 3

Part 1 – Preliminary

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economy during the financial hardship period and the recovery of the economy after the end of the period; and

- (b) to enable an appropriate apportioning, between parties to a protected lease, of the financial burden caused to the parties by, or relating to, the disease-related factors.

## PART 2 – INTERPRETATION

### 4. Interpretation

(1) In this Act, unless the contrary intention appears –

*business purposes* means purposes related to the carrying on, for profit, of any business, trade or profession and includes purposes related to the carrying on of an undertaking (whether or not carried on wholly, or only partly, with a view to profit) involving the manufacture, sale or supply of goods or services;

*Code Committee* means the Commercial Code Administration Committee established by section 28;

*commencement day*, in relation to a provision of this Act, means the day on which the provision commences;

*commercial lease* means –

- (a) a lease of premises to which Schedule 1 to the *Fair Trading (Code of Practice for Retail Tenancies) Regulations 1998* applies; and
- (b) a lease of premises occupied, or to be occupied, wholly or predominantly for business purposes –

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

s. 4

Part 2 – Interpretation

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but does not include a lease that is within a class of leases that is prescribed;

***Director*** has the same meaning as in the *Consumer Affairs Act 1988*;

***disease*** means the disease, known as coronavirus disease 2019 (COVID-19), declared under section 40 of the *Public Health Act 1997* to be a notifiable disease;

***disease-related factors*** means factors arising from, or related to –

- (a) the disease; or
- (b) actions taken, or attempts made, to reduce the risk of the spread of the disease, whether or not taken under the *Public Health Act 1997* or the *Emergency Management Act 2006* and whether or not the actions taken, or attempts made, occur within the State or outside the State or relate to matters within the State; or
- (c) actions taken, or attempts made, to reduce the social and financial effects of the disease, whether or not the actions taken, or attempts made, occur within the State or outside the State or relate to matters within the State; or



*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

Part 2 – Interpretation

s. 4

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- (d) a failure to take, or to attempt to take, actions referred to in paragraph (a), (b) or (c);

***eligible person*** – see section 6;

***financial hardship cessation day*** means the day declared under section 31(1) to be the financial hardship cessation day;

***financial hardship period*** means the period –

- (a) beginning on 1 April 2020; and
- (b) ending at the end of the financial hardship cessation day;

***Jobkeeper Act*** means the *Coronavirus Economic Response Package (Payments and Benefits) Act 2020* of the Commonwealth;

***Jobkeeper Rules*** means the *Coronavirus Economic Response Package (Payments and Benefits) Rules 2020* of the Commonwealth made under the Jobkeeper Act;

***jobkeeper scheme*** means the scheme set out in Part 2 of the Jobkeeper Rules;

***lease*** means a lease of, or an agreement in relation to, premises, whether the lease or agreement is legal or equitable, and includes a lease or agreement, whether legal or equitable, under which a person grants, or agrees to grant, to another

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

s. 4

Part 2 – Interpretation

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person, a right to occupy (for a term, periodically or at will) premises –

- (a) whether or not the right is a right of exclusive possession; and
- (b) whether the agreement is express or implied; and
- (c) whether the agreement is oral or in writing or partly oral and partly in writing –

and includes any agreement that modifies, varies or adds to the provisions of an agreement referred to in this definition but does not include a lease, or an agreement, that is a member of a class of leases or agreements that is prescribed;

*lessee*, in relation to a commercial lease or protected lease, means a person who, under the lease, is granted a right to occupy the premises to which the lease relates, but does not include a person who is a member of a prescribed class of persons;

*lessor*, in relation to premises to which a commercial lease relates, or in relation to a commercial lease, means a person who, under the lease, grants, or agrees to grant, a right to another person to occupy the premises but does not include a person who is a member of a prescribed class of persons;

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

Part 2 – Interpretation

s. 4

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***Mediation Provider*** means the person who is the Mediation Provider under section 20 and includes a person to whom a delegation under section 21 relates;

***National Code of Conduct*** means the document (as amended from time to time), entitled the National Cabinet Mandatory Code of Conduct, released on 7 April 2020 by the National Cabinet that was constituted by the Commonwealth, the States and the Territories in response to the disease;

***party***, in relation to a protected lease, means the lessor or lessee under the lease;

***person*** includes the Crown and an agency or instrumentality of the Crown;

***premises*** means premises or land in Tasmania and includes, but is not limited to including –

- (a) a part of premises or land; and
- (b) premises or land, or part of premises or land, that are or is used as a shop, an office, a factory, a warehouse, or that is specified in Appendix C to Schedule 1 to the *Fair Trading (Code of Practice for Retail Tenancies) Regulations 1998*;

***prohibited lessor action*** – see section 7;

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

s. 4

Part 2 – Interpretation

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***protected lease*** – see section 5;

***protected lessee*** means a person who is a lessee of premises under a protected lease but does not include a person, or a member of a class of persons, who or that is prescribed to not be a protected lessee;

***relevant Act*** means –

- (a) the *Australian Consumer Law (Tasmania) Act 2010*; and
- (b) the *Conveyancing and Law of Property Act 1884*; and
- (c) the *Fair Trading (Code of Practice for Retail Tenancies) Regulations 1998*; and
- (d) the *Landlord and Tenant Act 1935*; and
- (e) the *Land Titles Act 1980*; and
- (f) the *Property Agents and Land Transactions Act 2016*; and
- (g) the *Residential Tenancy Act 1997*;

***rent***, in relation to a protected lease, includes any amount, goods, services, or other valuable consideration, in the nature of rent to be paid or supplied under a lease by the lessee.

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

Part 2 – Interpretation

s. 5

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- (2) A reference in this Act to a lease, a lessor or a lessee includes a reference to a sublease, a sublessor or a sublessee, respectively.

**5. Protected leases and protected lessees**

- (1) For the purposes of this Act, a lease is a protected lease at a time if –
- (a) the lease is a commercial lease; and
  - (b) the time is any time, during the financial hardship period, after which the lessee has become –
    - (i) an eligible person; or
    - (ii) a member of a class of persons that is prescribed –whether or not subparagraph (i) or (ii) ceases to apply to the person during the financial hardship period.
- (2) Despite subsection (1), a lease is not a protected lease if it is a lease, or a member of a class of leases, that is prescribed for the purposes of this subsection.
- (3) Despite subsection (1), a lease ceases to be a protected lease when, in accordance with any regulations, including regulations for the purposes of subsection (2) or section 4, the lease ceases to be a protected lease or the lessee in relation to the lease ceases to be a protected lessee.

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

s. 6

Part 2 – Interpretation

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**6. Eligible person**

(1) For the purposes of this Act, a person is an eligible person at a time if the time occurs after –

(a) the person –

(i) becomes entitled, under the Jobkeeper Rules, for a jobkeeper payment or becomes qualified, under the Jobkeeper Rules, for the Jobkeeper scheme; and

(ii) becomes an SME entity for the purposes of the *Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Act 2020* of the Commonwealth; or

(b) the person satisfies the criteria, if any, prescribed for the purposes of this paragraph –

whether or not paragraph (a) or (b) ceases to apply to the person during the financial hardship period.

(2) For the purposes of this Act, and despite the provisions of this section, a lessee is also an eligible person if the person is a member of a class of eligible persons, if any, that is prescribed for the purposes of this subsection.

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

Part 2 – Interpretation

s. 7

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**7. Meaning of prohibited lessor action**

(1) For the purposes of this Act, a reference to a prohibited lessor action is a reference to a lessor –

- (a) exercising, or attempting to exercise, in relation to a protected lease, any right, power or remedy, whether under an Act, a law or a term or condition of a protected lease; or
- (b) seeking orders or issuing proceedings in a court in relation to a protected lease –

during the financial hardship period, in connection with any breach of the protected lease by the protected lessee.

(2) Without limiting the generality of subsection (1), a prohibited lessor action includes doing, or attempting to do, any of the following:

- (a) evicting the lessee from the premises to which a protected lease relates;
- (b) exercising a right of re-entry to the premises to which a protected lease relates;
- (c) recovering land;
- (d) distraining goods;
- (e) seeking forfeiture;
- (f) seeking or recovering damages;

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

s. 7

Part 2 – Interpretation

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- (g) requiring a payment of interest, or any other fee or charge, on unpaid rent otherwise payable by the lessee;
- (h) recovering the whole or part of a security bond, or bank guarantee, under, or in relation to, the lease;
- (i) requiring the performance of obligations by the lessee, or any other person, pursuant to a guarantee, or indemnity, relating to the lessee's obligations under the lease;
- (j) taking possession;
- (k) terminating the lease;
- (l) seeking or applying any other remedy otherwise available to a lessor against a lessee under an Act or the law of this State.



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**PART 3 – APPLICATION OF ACT**

**8. Act binds Crown**

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

**9. Application of Act**

- (1) The provisions of this Act apply, according to their terms, in relation to a commercial lease, despite any provision of the lease or of any Act or law.
- (2) Despite subsection (1), this Act does not apply in relation to a commercial lease in relation to premises being occupied wholly or predominantly for business purposes by a lessee on behalf of the lessor.
- (3) The provisions of this Act apply, according to their terms, in relation to a commercial lease, whether entered into before or during the financial hardship period and whether or not the lease is –
  - (a) entered into pursuant to an option, contained in another commercial lease, for a further lease; or
  - (b) a renewal of a commercial lease.
- (4) The provisions of a protected lease are taken to be modified to the extent necessary to give effect to the operation of this Act.

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

s. 10

Part 3 – Application of Act

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- (5) In the event of an inconsistency between a provision of a protected lease and a provision of this Act that applies in relation to the protected lease during the financial hardship period, the provision of this Act applies, and the provision of the protected lease does not apply, to the extent of the inconsistency.

**10. Effect of actions taken in relation to protected lease before commencement day**

If, during the period before the commencement day –

- (a) a lessor has taken or commenced, but not yet completed or finalised, a prohibited lessor action (including a prohibited lessor action that has a periodic or ongoing effect), or any other measure, in relation to a protected lessee, that the lessor would not have been able to undertake or commence during the financial hardship period by virtue of the provisions of this Act; or
- (b) the operation of the terms and conditions of a protected lease has had effect, or has a periodic or ongoing effect, contrary to the provisions of this Act –

the action, operation or effect, insofar as it remains incomplete or ongoing, or has a periodic or ongoing effect, is to be taken to be stayed or suspended until the end of the financial hardship period.

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

Part 3 – Application of Act

s. 11

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**11. Certain acts or omissions, relating to legal requirements in relation to disease, are authorised**

An act or omission, of a lessee, or a lessor, in relation to a commercial lease (whether or not it is a protected lease), that is an act, or omission, that, during or before the financial hardship period, is –

- (a) required, in response to the disease or the disease-related factors, under the laws of the State or the Commonwealth; or
- (b) reasonably required, in response to the disease or the disease-related factors, in order for the lessee to comply with the laws of the State or the Commonwealth –

does not, either during or after the financial hardship period, amount to a breach of the lease and does not constitute grounds for the taking of any prohibited lessor action by the lessor or the taking of any action by the lessee against the lessor.

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

s. 12

Part 4 – Taking of Certain Actions in Relation to Protected Leases

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**PART 4 – TAKING OF CERTAIN ACTIONS IN  
RELATION TO PROTECTED LEASES**

**12. Parties to protected leases take certain actions during financial hardship period**

(1) A party to a protected lease –

(a) must, as soon as possible after the commencement day, continue to conduct, or enter into and conduct, negotiations during the financial hardship period in relation to –

(i) the rent payable under the lease;  
or

(ii) if the lessee requests, the renewal of the lease; or

(iii) if the lessee requests, the exercise by the lessee of an option –

during the financial hardship period; and

(b) must not, during the financial hardship period, engage in misleading or deceptive conduct in negotiations in relation to –

(i) the rent payable under the lease;  
or

(ii) the renewal of the lease; or

(iii) the exercise by the lessee of an option –

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

during the financial hardship period; and

- (c) must, during the financial hardship period, at the request of another party to the protected lease, provide to the other party information that is accurate and that is sufficient to enable negotiations, on the basis of reliable information, to occur for the purposes of reaching agreements as to –
  - (i) the rent payable under the lease; or
  - (ii) the rent payable under another commercial lease –

which agreements may assist both parties to continue, during the financial hardship period, to be able to continue to conduct operations for business purposes in relation to the premises to which the protected lease relates; and

- (d) must, during the financial hardship period, provide to the other party to the lease other information that is reasonably necessary –
  - (i) to allow the other party to conduct negotiations in relation to; or
  - (ii) to obtain information in relation to; or

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

s. 12

Part 4 – Taking of Certain Actions in Relation to Protected Leases

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- (iii) to apply for, or to enable the determination of eligibility for –  
  
financial assistance, or any form of financial accommodation, to be obtained from a person or entity; and
  - (e) must not make use of, except for a purpose set out in this section, any information provided by the other party to the lease for the purposes of this Act; and
  - (f) must not provide to any other person, except another party to the lease, a court, a person acting in a professional capacity as an adviser to either party, the Mediation Provider, or for the purposes of the application of the *Commercial Arbitration Act 2011* to a party to the lease, any information provided by the other party in accordance with negotiations referred to in this section.
- (2) All negotiations in relation to the terms of a protected lease are to be conducted with regard to the individual circumstances of the protected lessee and of the lessor, taking into account such matters as –
  - (a) the degree of financial hardship of the lessee and of the lessor; and
  - (b) whether the lease has expired and the lease is being held over or whether the lease is about to expire; and

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

- (c) whether the lessee, or the lessor, is in administration or receivership or is about to, or reasonably likely to, become insolvent or enter into administration or receivership.
- (3) A party to a protected lease must not make a representation to another party to the protected lease that the party knows is misleading or deceptive at the time it is made by the party.

**13. Prohibited lessor action not to be taken in relation to protected lease during financial hardship period**

A lessor in relation to a protected lease must not, during or after the financial hardship period, take, or continue, any prohibited lessor action in relation to the lease on the grounds of a breach of the lease during the financial hardship period consisting of –

- (a) a failure to pay rent, fees, levies or charges; or
- (b) a failure to meet criteria based on sales performance or another prescribed factor; or
- (c) a failure to pay outgoings that are payable by the lessee to the lessor or another person; or
- (d) the business operating under the lease not being open for business during the hours, or on the days, specified in the lease; or

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

s. 14

Part 4 – Taking of Certain Actions in Relation to Protected Leases

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- (e) any other act or omission of a kind prescribed by the regulations for the purposes of this subsection.

**14. Lessor not to punish protected lessee for ceasing normal trading during financial hardship period**

- (1) A lessor in relation to a protected lease –
  - (a) must not, at any time during or after the end of the financial hardship period –
    - (i) exercise, in relation to the protected lessee, any right, for a relevant reason; or
    - (ii) make any claim, for a relevant reason; and
  - (b) does not, during or after the end of the financial hardship period, have a cause of action, or any remedy, in relation to a relevant reason; and
  - (c) must not, during or after the end of the financial hardship period, levy any penalty, that, but for this section, would be payable by the lessee because of a relevant reason.
- (2) For the purposes of subsection (1), a relevant reason is that the lessee has, during all or any part of the financial hardship period –
  - (a) ceased to trade or indicated that the lessee may cease to trade; or



*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

- (b) ceased to carry on a business, trade or profession or indicated that the lessee may cease to carry on a business, trade or profession; or
  - (c) ceased to remain open to the public or customers for the purposes of trading or carrying on a trade or profession; or
  - (d) indicated that the lessee may cease to remain open to the public or customers for the purposes of trading or carrying on a trade or profession.
- (3) A lessor in relation to a protected lease must not, during or after the end of the financial hardship period –
- (a) apply, to a protected lessee, any prohibition; or
  - (b) levy any penalty –

that, but for this section, would apply or be payable by the lessee because the lessee has ceased, or indicated that the lessee may cease, during all or any part of the financial hardship period –

- (c) to remain open for trading; or
- (d) to carry on a business, trade or profession –

during any or all of the hours or days on which the lessee, but for this section, would be required under the lease to remain open for those

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

s. 15

Part 4 – Taking of Certain Actions in Relation to Protected Leases

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purposes or to carry on a business, trade or profession.

**15. Lessor, on lessee request, to extend protected lease during financial hardship period**

- (1) During the financial hardship period a lessor in relation to a protected lease must, at the request of the protected lessee, extend the period of the lease –
  - (a) until the end of the financial hardship period, or, if agreed between the parties, a longer period; and
  - (b) on terms and conditions, that are to apply until the end of the financial hardship period, or, if agreed between the parties, a longer period, that –
    - (i) are in accordance with this Act; and
    - (ii) except as prescribed, are not less favourable to the lessee than the terms or conditions of the protected lease, as modified by the application of this Act; and
    - (iii) may be modified as required in order to comply with changes to the law that occurred after the protected lease was entered into.
- (2) Subsection (1) does not apply in relation to the lessor in relation to a protected lease if –

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

- (a) the protected lease is a sublease and the lease, in relation to which the sublessor has granted the sublease, has ceased or will cease to apply before the end of the financial hardship period; or
- (b) the lessor has entered into, or agreed to enter into, with another person a lease, in relation to the premises to which the protected lease relates, that is to take effect on the expiry of the lease of the protected lessee; or
- (c) the lessor intends to occupy the premises to which the protected lease relates for the purposes of carrying on a business of the lessor (other than the business of leasing premises) and there is evidence of the establishment of, or intention to continue, in or from the premises, such a business by the lessor and of steps taken by the lessor in furtherance of that intention; or
- (d) the prescribed circumstances apply in relation to the protected lease, the lessor or the protected lessee.

**16. Communication or provision of information**

- (1) A person must not divulge or communicate confidential personal information, confidential information relating to business processes or confidential financial information (including information about a prescribed factor in relation

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

**s. 16**

Part 4 – Taking of Certain Actions in Relation to Protected Leases

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to a business) obtained in connection with the operation of this Act, except –

- (a) with the consent of the person to whom the information relates; or
- (b) in connection with the administration of this Act; or
- (c) to a person acting in a professional capacity as an adviser to the person; or
- (d) as authorised by the Mediation Provider or under the *Commercial Arbitration Act 2011*; or
- (e) for the purposes of legal proceedings; or
- (f) to a police officer, or a law enforcement officer, of this State, another State, a Territory or the Commonwealth.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 300 penalty units; or
  - (b) an individual, a fine not exceeding 50 penalty units.
- (2) A party to a protected lease must not provide to another party to the protected lease, or to the Mediation Provider, information that –
- (a) is false or misleading in any material particular; or

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

Part 4 – Taking of Certain Actions in Relation to Protected Leases

**s. 16**

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- (b) is likely to mislead the other party, or the Mediation Provider, unless other information, whether or not requested by the other party or the Mediation Provider, is also provided to the other party or the Mediation Provider.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 300 penalty units; or
- (b) an individual, a fine not exceeding 50 penalty units.

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

s. 17

Part 5 – Rent, Costs and Benefits

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**PART 5 – RENT, COSTS AND BENEFITS**

**17. Rent payable under protected lease not to be increased during financial hardship period**

(1) In this section –

*rent* does not include rent, or a component of rent, determined by reference to a factor that is prescribed.

(2) An amount of rent that, but for this section, is or would be, under a protected lease, an increase in the amount of rent payable during the financial hardship period (including by virtue of the terms and conditions of the lease that applied before the financial hardship period) is not payable during or after the financial hardship period if the increase occurs while the lease is a protected lease.

(3) Subsection (2) does not apply if the parties to a protected lease agree in writing that the subsection does not apply in relation to the lease.

**18. Rent payable under protected lease to be renegotiated**

(1) A party to a protected lease may request the other party to the lease to renegotiate the rent payable under the lease.

(2) A party to a protected lease must, if a request is made by a party to the lease to renegotiate the rent payable under the lease, renegotiate in good faith the rent payable under the lease.

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

Part 5 – Rent, Costs and Benefits

s. 19

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- (3) Each party to a protected lease is to renegotiate the rent payable under the lease, having regard to –
  - (a) the matters referred to in section 12(2); and
  - (b) the leasing principles set out in the National Code of Conduct; and
  - (c) any prescribed matters.
- (4) A lessee may, in writing, waive the application to the lessee of a provision of this section.
- (5) The regulations may prescribe that this section does not apply in relation to a prescribed lessee, or a member of a class of prescribed lessees, in the prescribed circumstances.

**19. Parties to bear own costs in relation to preparation of protected lease, &c., during financial hardship period**

A party to a protected lease must bear the party's own costs incurred in the preparation of a lease, or a variation of a lease, for the purposes of a provision of this Act.

## **PART 6 – MEDIATION AND ARBITRATION**

### **20. Mediation Provider**

The Director is the Mediation Provider.

### **21. Delegation by Mediation Provider**

The Mediation Provider may delegate to one or more persons any function or power, or all the functions and powers, conferred or imposed on the Mediation Provider by a provision of this Act.

### **22. Parties to protected leases to attempt to resolve disputes**

The parties to a protected lease must attempt to resolve by direct negotiation a dispute between the parties –

- (a) that arises during the financial hardship period; or
- (b) that, in the financial hardship period, relates to a right or obligation under this Act.

### **23. Party to protected lease may apply for mediation of dispute**

- (1) A party to a protected lease may apply to the Mediation Provider for mediation of a dispute, in relation to issues that arise from, or are related to, the operation of this Act, including the



*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

application to the lease of the provisions of this Act.

- (2) The Mediation Provider may, on receiving an application under subsection (1) for the mediation of a dispute in relation to a protected lease, mediate between the parties so as to assist the parties to determine the dispute.

**24. Mediation Provider may require information to be provided if application for mediation made**

- (1) If the Mediation Provider has received an application under section 23 in relation to a protected lease, the Mediation Provider may, by notice to a party to the protected lease, require the party to provide to the Mediation Provider, by the day specified in the notice, information that may be relevant to the mediation, by the Mediation Provider, of the dispute.
- (2) A person must not fail, without reasonable excuse, to provide to the Mediation Provider information specified in a request made to the person under subsection (1).

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 200 penalty units; or
- (b) an individual, a fine not exceeding 40 penalty units.

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

s. 25

Part 6 – Mediation and Arbitration

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**25. Costs of mediation**

- (1) Except as agreed in writing between the parties to a protected lease –
  - (a) each party to proceedings under this Act before the Mediation Provider is to bear the party's own costs; and
  - (b) the lessor and the lessee are jointly and severally liable for any fees payable by the parties under subsection (2).
- (2) The Mediation Provider may determine the fees payable to the Mediation Provider, by a lessor and a lessee, for the costs of any services provided to them under this Act by the Mediation Provider.

**26. Arbitration**

- (1) A party to a protected lease may, whether or not either party has applied under section 23 for mediation, seek to have a dispute arbitrated under the *Commercial Arbitration Act 2011* and that Act applies according to its terms.
- (2) Nothing in this Act is to be taken to prevent a party to a protected lease attempting to resolve a dispute between the parties as the parties agree.

**27. Immunity from liability, &c.**

No civil or criminal liability attaches to the Mediation Provider or to any person acting in

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

Part 6 – Mediation and Arbitration

s. 27

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good faith on behalf of the Mediation Provider,  
in respect of –

- (a) any acts or omissions in connection with the performance or exercise, or purported performance or exercise, of a function or power under this Act; or
- (b) any failure to perform or exercise a function or power under this Act.

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

s. 28

Part 7 – Commercial Code Administration Committee

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**PART 7 – COMMERCIAL CODE ADMINISTRATION  
COMMITTEE**

**28. Commercial Code Administration Committee**

- (1) There is established by this section a Commercial Code Administration Committee (“the *Code Committee*”).
- (2) The members of the Code Committee are to be the following members appointed by the Minister:
  - (a) one member, who is to be the chairperson of the Code Committee, who is the Director or a person nominated by the Director;
  - (b) at least one member, nominated by a body that, in the opinion of the Minister, represents the interests of lessees of premises to which commercial leases relate;
  - (c) at least one member, nominated by a body that, in the opinion of the Minister, represents the interests of lessors of premises to which commercial leases relate;
  - (d) at least one member, nominated by a body that, in the opinion of the Minister, represents the interests of small-to-medium-sized enterprises.

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

Part 7 – Commercial Code Administration Committee

s. 29

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- (3) A member of the Code Committee is entitled to be paid remuneration, including travelling and other allowances, that the Minister may determine.

**29. Functions of Code Committee**

The functions of the Code Committee are –

- (a) to promote awareness of the operation of this Act; and
- (b) to encourage the use of the provisions of this Act by lessees and lessors; and
- (c) to monitor the operation of this Act; and
- (d) to report to the Minister on the operation of this Act, or otherwise, as the Minister may require.

**30. Procedure of Code Committee**

- (1) The Code Committee is to meet as frequently as it thinks fit.
- (2) The practices and procedure of the Code Committee are, subject to the regulations, to be as determined by the Committee.

**31. Financial hardship cessation day**

- (1) The Treasurer, by notice, may declare a day to be the financial hardship cessation day.

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

**s. 31**

Part 7 – Commercial Code Administration Committee

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- (2) The Treasurer may only declare under subsection (1) a day to be the financial hardship cessation day if he or she is reasonably of the opinion that the effects caused by, or relating to, the disease-related factors, and the deleterious economic effect of those factors, have sufficiently reduced, so that it is reasonable to cease to provide to lessees the protection intended to be provided to lessees by the provisions of this Act.
- (3) If the Treasurer has not declared under subsection (1) a day to be the financial hardship cessation day before the end of the 12-month period after the commencement day, the Treasurer is to be taken to have declared to be the financial hardship cessation day under that subsection the day 12 months after the commencement day.

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**PART 8 – MISCELLANEOUS**

**32. Regulations**

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may provide for –
  - (a) procedures for mediation under section 23 and the matters to which the Mediation Provider must have regard in mediating between parties to a protected lease; and
  - (b) mitigation of adverse impacts on a party to a protected lease caused by, or relating to, the disease-related factors, including by making provision for any measures to regulate the parties to such a lease or the provisions of such a lease; and
  - (c) modification of the operation of any provision of this Act, or a relevant Act, for a purpose related to any circumstances, arising either during or after the state of emergency declared under the *Emergency Management Act 2006* in relation to the disease, caused by, or relating to, the disease-related factors; and
  - (d) provisions making modifications to the provisions of a related Act consequent on the provisions of this Act; and

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

s. 32

Part 8 – Miscellaneous

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- (e) the keeping of records, or the making of any reports to the Minister, or another person or body specified in the regulations, in relation to any matter dealt with in this Act; and
  - (f) fees, levies and charges payable in respect of any matter under Part 6; and
  - (g) any notice, information or other document for the purposes of this Act or of regulations made for the purposes of a provision of this Act, to be verified by statutory declaration; and
  - (h) facilitation of proof of the commission of offences against this Act and the regulations and other evidentiary matters related to this Act and the regulations.
- (3) Regulations may –
- (a) apply or incorporate, wholly or partly and with or without modification, the National Code of Conduct, a code, standard, policy or other document prepared or published by the Minister or another specified person or body; and
  - (b) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited, according to the discretion of –
    - (i) the Minister; or



*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

Part 8 – Miscellaneous

s. 32

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- (ii) the State Controller within the meaning of the *Emergency Management Act 2006*; or
  - (iii) the Director, within the meaning of the *Public Health Act 1997*; or
  - (iv) any other person or body specified in the regulations.
- (4) A reference in this section to the National Code of Conduct, a code, standard, policy or other document includes a reference to an amendment of the National Code of Conduct, that code, standard, policy or other document, whether the amendment is made or published before or after the commencement day.
- (5) If the National Code of Conduct, or a code, standard, policy or another document is referred to or incorporated in the regulations –
  - (a) a copy of the National Code of Conduct, the code, the standard, the policy or the other document must be made and kept available for viewing, without charge, at a website of the department primarily responsible for the administration of the *Australian Consumer Law (Tasmania) Act 2010*; and
  - (b) evidence of the contents of the National Code of Conduct, the code, the standard, the policy or the other document may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

s. 32

Part 8 – Miscellaneous

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of the National Code of Conduct, the code, the standard, the policy or the other document.

- (6) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (7) The regulations may specify that the requirement, under section 4 or 5 of the *Subordinate Legislation Act 1992*, for compliance with guidelines, or for the preparation of a regulatory impact statement, in relation to regulations made under this Act, does not apply in relation to a regulation specified in a regulation, or all regulations.
- (8) The regulations may –
  - (a) provide that a contravention of any of the regulations is an offence; and
  - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 100 penalty units and, in the case of a continuing offence, a further fine not exceeding 20 penalty units for each day during which the offence continues.
- (9) The regulations may –
  - (a) include provisions of a savings or transitional nature consequent on the enactment of this Act or the making of any regulations under this Act; and

*COVID-19 Disease Emergency (Commercial Leases) Act 2020*  
*Act No. of 2020*

Part 8 – Miscellaneous

s. 33

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- (b) provide for any of those savings or transitional matters to take effect on the commencement day or on a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made.
- (10) Despite section 47(3)(c) of the *Acts Interpretation Act 1931*, all regulations made under this Act must be laid before each House of Parliament on the next sitting-day of that House after the regulations are made.

**33. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Building and Construction; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Justice.