

FACT SHEET

RESIDENTIAL TENANCY AMENDMENT (COVID-19) BILL 2020

This Bill amends the *Residential Tenancy Act 1997*.

- It provides for amendments of the Act to further reduce the effects of COVID-19 on landlords and tenants, identified since March 2020 when emergency amendments to the Act were implemented to initially deal with the pandemic.
- The Bill is urgent as the Act's emergency powers and protections dealing with the pandemic are due to expire on 1 December 2020.

Clauses 4 and 5 introduce the concept of a "subsequent COVID-19 emergency period". If certain conditions are evident, the Minister by issuing an order, may declare a subsequent emergency period, to reinstate during that period the COVID-19 protections given to vulnerable tenants by the Act.

- The conditions when it may be reasonably necessary to declare this period, are to mitigate any significant, widespread, hardship caused, or likely to be caused, to a significant number of tenants by the effect of the presence in the state of COVID-19 and the risk of its spread.
- If an order is issued declaring this period, it will continue in force emergency protections in the Act affecting tenants. This includes a ban on a landlord enforcing a notice to a tenant to vacate premises for unpaid rent (Clauses 8 and 9) and the restriction in s.56 on a landlord's right of entry to premises (Clause 10).

Clause 6 of the Bill provides that tenants suffering hardship and unable to pay their rent, may apply to the Residential Tenancy Commissioner for a rent arrears payment order. That is to implement a plan to repay the money owed.

- The tenant is then obliged to pay the rent owed according to the specific terms, conditions and duration of the order. The landlord is advised of the tenant's application for an order. Once an order is made, both parties will receive a copy.
- Making an order protects tenants against eviction for unpaid rent, if that rent is referenced by the Commissioner's order.
- There are appeal rights against the Commissioner's decision to grant or refuse that order.

Clause 7 of the Bill clarifies the rights of parties regarding general repairs (as distinct from carrying out of emergency or urgent repairs).

Section 32 of the Act provides that tenants are to maintain the premises and to allow the landlord to visit to inspect repair work.

- However, for public health reasons to enforce social/ physical distancing, tenant protection powers in the Act have restricted landlords' access to premises. Therefore, section 32 has ceased to apply during the "emergency period".

- However, an unforeseen effect is that general repairs required by the tenant, or necessary to protect the landlord's investment, may not be carried out during the emergency period, even though strict physical distancing restrictions have now been significantly relaxed.
- The amendment allows the Residential Tenancy Commissioner to decide, by publishing a notice in the Gazette, whether the prohibition in the Act on performing or inspecting general repairs, will end early. If that notice is made, s.32 will then reapply, even though the declared COVID-19 emergency period, or a subsequent emergency period, has not yet ended.
- This is to allow general repairs to be performed or checked, with notice to a tenant of an intended entry to the premises for an inspection of repairs.