

DRAFT SECOND READING SPEECH

HON ELISE ARCHER MP

RESIDENTIAL TENANCY AMENDMENT (COVID-19) BILL 2020

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Madam Speaker, I move that the Bill now be read a second time.

This Bill amends the *Residential Tenancy Act 1997*. It provides for amendments to that Act to diminish the effects of the COVID-19 pandemic on landlords and tenants. It incorporates issues that have been identified since amendments were made to the Act by the first *COVID-19 Disease Emergency (Miscellaneous Provisions) Act* in March 2020.

On 4 September 2020 I announced that the Tasmanian Government would extend the emergency period under the Residential Tenancy Act until 1 December 2020.

At the same time, I announced that the Tasmanian Government would bring legislation to the Parliament to introduce repayment plans for tenants in rent arrears at the end of the emergency period.

This Bill acquits that commitment and makes further changes to the Residential Tenancy Act to:

- enable the Minister to declare a subsequent emergency period should it be required; and
- allow general repairs to be undertaken during a subsequent emergency period, should it be safe to do so.

Before I turn to the specific provisions of the Bill, I would like to outline the protections and support which have been put in place for tenants and landlords during the COVID-19 pandemic.

Tasmania was the first state to put in place protections for tenants as a result of COVID-19.

These protections included:

- preventing tenants in rent arrears from being evicted;
- allowing tenants and landlords to negotiate reductions in rent; and
- allowing tenants and landlords to apply to the Residential Tenancy Commissioner to break a lease where its continuation would cause severe hardship.

Further protections were subsequently introduced by Notice. These protections prevent rent increases and further restrict evictions.

The Tasmanian Government has also provided financial support to tenants and landlords. This financial support is the most generous of any state or territory in the country and includes:

- the COVID-19 Rent Relief Fund, which provides up to four weeks rent to a maximum of \$2000 to support rent reductions for tenants experiencing rental stress as a result of COVID-19. On 4 September, I announced that tenants could apply for a second payment from this fund, bringing the maximum support available of \$4000 per tenant; and
- the COVID-19 Landlord Support Fund, which provides up to \$2000 to landlords who have tenants in rent arrears as a result of non-payment of rent.

These protections and support have been significant. They have enabled Tasmanian tenants to stay in their homes, particularly when the health aspects of the COVID-19 pandemic were most acute. I would like to acknowledge the efforts of tenants, landlords, property agents and the Office of the Residential Tenancy Commissioner who have worked together during this period to support these outcomes.

The purpose of this Bill is to make amendments to the Act to support tenants in rent arrears at the end of the emergency period and to future-proof the Act in the event that COVID-19 returns to Tasmania.

I now turn to the specific provisions of this Bill.

Rent arrears payment orders

The first matter I would like to draw members attention to is the rent arrears payment orders, included in Clause 6 and Clause 9 of the Bill.

These provisions allow for tenants in rent arrears because of COVID-19 to be able to apply to the Residential Tenancy Commissioner for a 'rent arrears payment order'.

On receipt of an application for a rent arrears payment order, the Bill requires the Residential Tenancy Commissioner to notify the owner of the property as soon as practicable.

The Bill also provides for the Residential Tenancy Commissioner to make a rent arrears payment order. To make a rent arrears payment order, the Residential Tenancy Commissioner must be satisfied that the tenant:

- is in arrears for rent that was payable during the emergency period;
- has experienced financial hardship as a result of the economic effects of COVID-19;
- and

- has the financial capacity to comply with the order.

Making an order will mean the tenant is obliged to pay the rent they owe according to the terms, conditions and duration of the order. The landlord is advised of the tenant's application for an order and once an order is made, both parties receive a copy of it, so each party clearly knows their obligations.

Making this order will then protect tenants against eviction for unpaid rent if the rent referred to in a notice to vacate is related to rent in the Commissioner's order. However, tenants who do not comply with the conditions of an order, will lose this protection against eviction for unpaid rent.

Appeal rights are provided regarding the Commissioner's decision to either grant or refuse an order.

Declaring a Subsequent Emergency Period

The second matter I would like to draw the House's attention to is the ability to reinstitute the emergency protection provisions that were incorporated into the Act in March this year should they be required.

Therefore 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 which will reinstate the COVID-19 protections for vulnerable tenants.

The conditions when it may be reasonably necessary to declare this extended emergency period are to mitigate any significant, widespread hardship caused, or is likely to be caused, to a significant number of tenants, by the effects of COVID-19 and the risk of its spread.

If an order is made declaring this period, the current emergency protections for tenants in the Act would be reinstated.

These protections include a ban on a landlord enforcing a notice to a tenant to vacate premises for unpaid rent (as found in Clauses 8 and 9), and the restrictions in s.56 of the Act, on a landlord's right of entry to premises (as found in Clause 10).

Performing or inspecting General Repairs

Clause 7 of the Bill modifies the rights of parties regarding the performance of general repairs to rented premises. This is distinct from a landlord's right to carry out emergency or urgent repairs.

Section 32 of the Act provides that tenants are obliged to maintain the premises and to allow the landlord to inspect any repair work performed. However, to enforce physical distancing for public health reasons, the tenant protection powers inserted in the Act in March 2020 restricted landlords' access to premises. As a consequence, section 32 ceased to apply at all during the declared "emergency period."

An unforeseen effect of that amendment was that most general repairs required by the tenant, or are necessary to protect the landlord's investment, may not be carried out during the emergency period, even though the initial strict physical distancing restrictions have now been relaxed.

The amendment overcomes this problem by allowing 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 be "ended early." This is similar to powers the Residential Tenancy Commissioner has and has used for property inspections which, as a result of a Notice by the Residential Tenancy Commissioner, resumed on 1 July 2020.

If that notice is made, section 32 will then apply again and operate normally, even though the declared COVID-19 emergency period has not been ended. This would allow general repairs to be performed or checked, with a prior notice to a tenant of any intended entry for inspection of repairs.

Madam Speaker, we have kept Tasmanians safe and secure during the COVID-19 pandemic and are well-prepared for the challenges of the future.

The Tasmanian Government recognises the daily challenges faced by landlords and tenants during this time of financial hardship, and we have monitored these throughout the emergency period to date.

By supporting Tasmanians who rent, or own rental properties, this Bill will ensure tenants and landlords have suitable protections in addition to offering a path forward, coming out of the COVID-19 emergency period without the need for court proceedings.

I commend the Bill to the House.