

TASMANIA

**RESIDENTIAL TENANCY AMENDMENT
(COVID-19) BILL 2020**

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RESIDENTIAL TENANCY AMENDMENT (COVID-19) BILL 2020

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
13 October 2020

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

A BILL FOR

An Act to amend the *Residential Tenancy Act 1997*

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:

1. Short title

This Act may be cited as the *Residential Tenancy Amendment (COVID-19) Act 2020*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

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3. Principal Act

In this Act, the *Residential Tenancy Act 1997** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by inserting after the definition of *social housing provider* the following definition:

subsequent COVID-19 emergency period
means a period specified in an order
under section 3B;

5. Section 3B inserted

After section 3A of the Principal Act, the following section is inserted in Part 1:

3B. Declaration of subsequent COVID-19 emergency periods

- (1) The Minister may, by order, declare a period specified in the order to be a subsequent COVID-19 emergency period.
- (2) The Minister may only declare a period to be a subsequent COVID-19 emergency period if the Minister is of the opinion that it is necessary to declare the period so as to reasonably mitigate any significant, widespread hardship that is

*No. 82 of 1997

caused, or is likely to be caused, to a significant number of tenants by the effect of –

- (a) the presence in the State of the socially-dislocating disease; and
 - (b) the risk of its spread amongst persons in the State.
- (3) A period specified in an order under subsection (1) to be a subsequent COVID-19 emergency period may not be a period of more than 90 days.
- (4) The Minister may make as many orders under subsection (1) as the Minister thinks fit.

6. Sections 24A and 24B inserted

After section 24 of the Principal Act, the following sections are inserted in Division 2:

24A. Repayment of rent arrears accrued during period relating to COVID-19

- (1) A tenant who is in arrears of rent payable in respect of residential premises during the emergency period or a subsequent COVID-19 emergency period may apply to the Commissioner for a rent arrears payment order in relation to the arrears of rent.
- (2) An application under subsection (1) is to be in the approved form.

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- (3) The Commissioner, as soon as practicable after receiving an application under subsection (1) in relation to premises, is to notify the owner of the premises.
- (4) The Commissioner may make an order (a ***rent arrears payment order***) in relation to a tenant from whom the Commissioner has received an application under subsection (1), if the Commissioner is satisfied that the tenant –
 - (a) is in arrears of rent that was payable during the emergency period or a subsequent COVID-19 emergency period; and
 - (b) has experienced financial hardship as a result of the economic effects of the socially-dislocating disease; and
 - (c) has the financial capacity to comply with the order.
- (5) A rent arrears payment order is to specify –
 - (a) the total amount, of rent that is in arrears, to which the order relates; and
 - (b) a schedule setting out parts of the total amount and the periods within which each such part of the total amount is to be paid; and

- (c) any conditions to which the order is subject; and
 - (d) that, unless an appeal is made under this section, the order takes effect on the day after the end of the 7-day period beginning on the day after the day on which notice of the order was given under subsection (6).
- (6) The Commissioner, within 3 days of making a rent arrears payment order under subsection (4) in relation to a tenant, is to notify the tenant, and the owner of the premises to which the order relates, of the making of the order.

24B. Appeal against order under section 24A

- (1) An owner or tenant in relation to residential premises who is aggrieved by an order made by the Commissioner under section 24A(4) may appeal to the Court within the 7-day period beginning on the day after the day on which notice of the order was given under section 24A(6).
- (2) An appeal is to be heard as a minor civil claim under the *Magistrates Court (Civil Division) Act 1992* and, subject to this section, is to be instituted, heard and determined as prescribed.
- (3) An appeal is to be by way of rehearing.

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- (4) On the hearing of an appeal, the Court may –
- (a) confirm the order of the Commissioner under section 24A(4) with the amendments, if any, that the Court thinks fit, and direct that the order of the Commissioner is to take effect from a specified date; or
 - (b) set aside the order of the Commissioner.

7. Section 32 amended (General repairs and maintenance)

Section 32 of the Principal Act is amended by omitting subsection (4) and substituting the following subsections:

- (4) This section –
- (a) does not apply during the emergency period, unless a period is determined under subsection (5)(a) during the emergency period, in which case this section does not apply during the period so determined; or
 - (b) does not apply during a subsequent COVID-19 emergency period, unless a period is determined under

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subsection (5)(b) during the
subsequent COVID-19
emergency period, in which case
this section does not apply during
the period so determined.

- (5) The Commissioner, by notice in the *Gazette*, may, for the purposes of subsection (4), determine –
- (a) a period, specified in the notice, that ends before the end of the emergency period; or
 - (b) a period, specified in the notice, that ends before the end of a subsequent COVID-19 emergency period.

8. Section 42 amended (Notice to vacate by owner)

Section 42(4A)(b) of the Principal Act is amended as follows:

- (a) by inserting in subparagraph (i) “or a subsequent COVID-19 emergency period” after “period”;
- (b) by inserting in subparagraph (ii) “, or before the day on which a subsequent COVID-19 emergency period begins,” after “emergency day”.

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9. Section 43 amended (Effect of notice to vacate)

Section 43 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (2A) A notice to vacate on the grounds of failure to pay rent is of no effect if –
- (a) the arrears of rent to which the notice to vacate relates are arrears in rent to which a rent arrears payment order made under section 24A(4) relates; and
 - (b) the rent arrears payment order has not been set aside under section 24B(4)(b); and
 - (c) no condition of the rent arrears payment order has been contravened; and
 - (d) each part of the total amount, of rent in arrears, that is required under the rent arrears payment order to be paid within a period, specified in the order, that has expired has been paid before the end of that period.

10. Section 56 amended (Right of entry)

Section 56 of the Principal Act is amended by omitting subsections (6), (7) and (8) and substituting the following subsections:

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- (6) Subsections (3) and (5) do not apply in relation to residential premises during –
- (a) the emergency period, unless a period is determined under subsection (9)(a) during the emergency period, in which case subsections (3) and (5) do not apply to residential premises during the period so determined; or
 - (b) a subsequent COVID-19 emergency period, unless a period is determined under subsection (9)(b) during the subsequent COVID-19 emergency period, in which case subsections (3) and (5) do not apply to residential premises during the period so determined.
- (7) Subsection (6) does not apply to residential premises in relation to an entry for the purposes of repairs referred to in subsection (3)(e) if the repairs are emergency repairs or urgent repairs.
- (8) Subsections (2)(b), (4), (4A) and (4C) do not apply during –
- (a) the emergency period, unless a period is determined under subsection (9)(a) during the emergency period, in which case those subsections do not apply

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during the period so determined;
or

- (b) a subsequent COVID-19 emergency period, unless a period is determined under subsection (9)(b) during the subsequent COVID-19 emergency period, in which case those subsections do not apply during the period so determined.

- (9) The Commissioner, by notice in the *Gazette*, may, for the purposes of subsection (6) or (8), determine –

- (a) a period, specified in the notice, that ends before the end of the emergency period; or
- (b) a period, specified in the notice, that ends before the end of a subsequent COVID-19 emergency period.

11. Repeal of Act

This Act is repealed on the first anniversary of the day on which this Act commenced.