

LEGISLATIVE COUNCIL

COVID-19 Legislation Amendment (Emergency Measures—Miscellaneous) Bill 2020

First Print

Proposed amendment

No. 1 **Power of Tribunal to order rent reduction**

Page 33, Schedule 1.28. Insert after line 9—

[1A] Section 228F

Insert after section 228C—

228F Powers of Tribunal during COVID-19 pandemic

- (1) This section applies if, during the relevant period—
 - (a) a landlord makes an application to the Tribunal for a termination order in relation to an impacted household, or
 - (b) an impacted tenant makes an application to the Tribunal for an order to reduce the rent payable under a residential tenancy agreement.
- (2) If the Tribunal is satisfied that the landlord has not participated in good faith in negotiations to reduce the rent payable under the agreement, the Tribunal may make an order that—
 - (a) from a specified day, the rent payable must not exceed an amount, specified by the Tribunal, that the Tribunal considers reasonable in the circumstances, and
 - (b) the landlord must repay to the tenant any rent paid by the tenant since the specified day that is in excess of the specified amount.
- (3) The Tribunal must not make an order under subsection (2) if negotiations to reduce the rent have continued for fewer than 21 days.
- (4) In determining a reasonable rent for the residential premises, the Tribunal must have regard to the affordability of the rent for the impacted tenant.
- (5) For the purposes of determining the affordability of the rent for the impacted tenant, rent is taken to be affordable if the rent is no more than 30% of the impacted tenant's income.
- (6) For the purposes of dealing with the application, the Tribunal may have regard to the following—
 - (a) whether the impacted tenant has continued to make any payments towards the rent,

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- (b) the general financial position of the landlord and the impacted tenant,
 - (c) the availability and affordability of reasonable alternative accommodation for the impacted tenant,
 - (d) any special vulnerability of the impacted tenant,
 - (e) the public health objectives of—
 - (i) ensuring citizens remain in their homes, and
 - (ii) preventing avoidable movement of persons,
 - (f) any other matter the Tribunal considers relevant.
- (7) Despite section 228B, a household is impacted by the COVID-19 pandemic for the purposes of this section if any 1 or more rent-paying members of the household have—
- (a) lost employment or income as a result of the impact of the COVID-19 pandemic, or
 - (b) experienced a reduction in work hours or income as a result of the impact of the COVID-19 pandemic, or
 - (c) been required to stop working, or materially reduce work hours, because of—
 - (i) the member's illness with COVID-19, or
 - (ii) another member of the household's illness with COVID-19, or
 - (iii) the member's carer responsibilities for a family member ill with COVID-19.
- (8) In this section—
- impacted tenant*** means a tenant who is a member of a household impacted by the COVID-19 pandemic.
- negotiations*** includes attempts to negotiate.
- relevant period*** means the period—
- (a) starting on the commencement of this section, and
 - (b) ending on the day that is 12 months after the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order 2020* expires or is revoked.