

LEGISLATIVE ASSEMBLY

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

First Print

Proposed amendment

No. 1 **Retaliatory evictions**

Page 31, Schedule 1.28. Insert after line 17—

[1AA] Sections 115A and 115B

Insert after section 115—

115A Retaliatory evictions during COVID-19 pandemic

- (1) This section applies if, during the relevant period, the tenant makes an application under section 115.
- (2) Despite section 115, the Tribunal must, on application by a tenant or when considering an application for a termination order or in relation to a termination notice—
 - (a) declare that a termination notice has no effect, or
 - (b) refuse to make a termination order,if it is satisfied that a termination notice given or application made by the landlord was a retaliatory notice or a retaliatory application.
- (3) The Tribunal may find that a termination notice is a retaliatory notice or that an application is a retaliatory application if it is satisfied that the landlord was wholly or partly motivated to give the notice or make the application for any of the following reasons or any other reason the Tribunal considers relevant—
 - (a) the tenant had applied or proposed to apply to the Tribunal for an order,
 - (b) the tenant had taken or proposed to take any other action to enforce a right of the tenant under the residential tenancy agreement, this Act or any other law,
 - (c) an order of the Tribunal was in force in relation to the landlord and tenant.
- (4) In this section—

relevant period means the period—

 - (a) starting on the commencement of this section, and

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- (b) ending on 26 March 2021.

115B Limitation on no grounds termination during COVID-19 pandemic

- (1) A landlord must not give a termination notice to a tenant under section 85 within 12 months after the Tribunal has made an order under section 115 in relation to a termination notice given by the landlord to the tenant.

Maximum penalty—20 penalty units.

- (2) A termination notice that contravenes this section has no effect.

- (3) This section applies for the relevant period.

- (4) In this section—

relevant period means the period—

- (a) starting on the commencement of this section, and
(b) ending on 26 March 2021.