

# Policy Options on Eviction Moratorium

## 1. Background

The public health emergency caused by COVID-19 has prompted uncertainty within the Island community. Many businesses are reducing operations or shutting down entirely, leaving workers with less income or none at all. With no clear end to the pandemic in sight, Islanders are desperately trying to reduce their spending to ensure they have the financial resources to survive the current economic downturn.

The provincial and federal governments have announced programs that seek to assist their residents, including income supplement programs. Other bodies, such as Canadian banks, have also stepped up by allowing customers to defer mortgage payments for six months.<sup>1</sup>

One policy option that the provincial government could implement to assist vulnerable Islanders is a moratorium on evictions. Some provinces have taken action in this direction. **BC** Housing announced that it would institute a temporary moratorium on evictions from affordable and subsidized housing, with an expanded suite of policy proposals expected this week.<sup>2</sup> **Nova Scotia** premier Stephen McNeil announced that no person whose income was impacted by COVID-19 would be evicted because they couldn't afford rent.<sup>3</sup> In **Ontario**, the provincial government will temporarily not issue any new eviction orders due to COVID-19 and will halt the enforcement of scheduled evictions scheduled for this week.<sup>4</sup> In **Quebec**, the provincial housing minister announced that Quebec's rental board is halting most eviction hearings, including those where a tenant cannot afford to pay rent. Only hearings dealing with the health and safety of a tenant or ones involving access to a rental unit will continue, along with those requiring exceptional intervention.<sup>5</sup>

## 2. How to implement an eviction moratorium

There are a few ways the PEI government could implement an eviction moratorium. The three methods discussed here are:

- A. Using emergency powers under the *Emergency Measures Act*
- B. Suspending IRAC hearings and enforcement action;
- C. Amending the *Rental of Residential Property Act* and the *Public Health Act*

---

<sup>1</sup> <https://www.ctvnews.ca/business/canadian-banks-move-to-help-customers-allow-deferral-of-mortgage-payments-1.4857800>

<sup>2</sup> <https://globalnews.ca/news/6703203/renters-homeowners-coronavirus/>

<sup>3</sup> <https://globalnews.ca/news/6701640/n-s-bans-evictions/>

<sup>4</sup> <https://toronto.ctvnews.ca/ontario-freezes-evictions-temporarily-halts-scheduled-orders-due-to-covid-19-1.4856404>

<sup>5</sup> <https://montrealgazette.com/news/local-news/coronavirus-quebec-rental-board-suspends-eviction-hearings>

### A. Use emergency powers under the Emergency Measures Act

Under the *Emergency Measures Act*, the Minister can declare a state of emergency when they are "satisfied that an emergency exists or may exist" (see section 9). Section 11 of the Act provides the government with broad powers once a state of emergency has been declared: "the Minister may, during the state of emergency, ... do everything necessary for the protection of property, the environment and the health or safety of persons..." While the section enumerates specific powers, it should be noted that this list is not exhaustive; they are simply powers that are *included* under the broad power to "do everything necessary".

Using these powers, government could order landlords to not evict tenants. However, these powers would cease at the end of the state of emergency.

### B. Suspend IRAC hearings and enforcement action

Another way an eviction moratorium could be implemented is through the suspension of IRAC hearings and enforcement actions in relation to eviction notices. This would be a *de facto* eviction moratorium and seems to be what is happening currently. However, government should keep in mind the following considerations:

Because IRAC is an arms-length public body, government should avoid interfering with its operations;

Despite a suspension of hearings and enforcement action, tenants would presumably remain liable beyond the pandemic period for any failure to pay rent, any other relevant ground for eviction, or a failure to vacate the property during the pandemic period;

There is a lack of clarity with respect to when hearings will recommence (the current date - April 6th - is likely a moving target);

A broad suspension on hearings and enforcement action might not be in the public interest. For example, Quebec's rental board has ceased hearings related to the non-payment of rent, but is continuing to hear a narrow set of cases, including ones dealing with health and safety, access to a rental unit, and exceptional cases. This appears to be a reasonable compromise, especially if there are instances in which a tenant is putting other tenants at risk through violence or other means, or if a landlord is unduly restricting a tenant from accessing their rental unit, as examples.

### C. Amend the Rental of Residential Property Act and the Public Health Act

The third way would be a bill to amend the *Rental of Residential Property Act* ("*RRPA*") and the *Public Health Act* ("*PHA*"). With respect to the *RRPA*, a section 12.1 could be added which states that a lessor cannot terminate a rental agreement where a public health emergency has been declared and, in the opinion of the Chief Public Health Officer, the eviction of tenants is contrary to the public interest or places the health and safety of the public at risk.

Similarly, and/or in a complementary way, the *PHA* could be amended in section 49(2) (Public health emergency) to grant the Minister of Health and Wellness additional powers to order the owner of a premises to not evict a tenant, whether broadly or specifically.

In both cases, consideration should be given to wording that extends the effect of an eviction moratorium beyond the public health emergency (i.e. up to 30 days) to allow tenants and landlords to prepare for the return to the regular tenancy framework.

Both amendments would require the Legislative Assembly to be recalled for an emergency sitting. If this were to be done, consideration should also be given to any other legislative amendments that might be needed to fully address the challenges created by COVID-19.

### 3. Further Considerations

In addition to the aforementioned three options to implement an eviction moratorium, the following items are worth government consideration:

A moratorium on evictions does not necessarily mean that the rent is not or will not be due. Government should be clear on whether landlords are entitled to lost/deferred revenue and whether tenants are still on the hook to pay rent during an eviction moratorium.

An interim measure that government should consider is issuing an eviction moratorium on any units that are involved in rent supplement agreement with the province.