

COVID-19 Emergency Response Bill 2020

Amendments during consideration in detail to be moved by
Michael Berkman, Member for Maiwar

1 Before clause 24

Page 22, before line 27—

insert—

Division 1 Regulation-making power

2 Clause 24 (Regulation-making power for residential tenancies and rooming accommodation etc.)

Page 24, after line 2—

insert—

(2A) However, a regulation under this section may not—

- (a) provide that a moratorium on evictions of tenants or residents in relation to residential tenancy agreements or rooming accommodation agreements ending on or before 29 September 2020 applies to circumstances requiring a tenant or resident to prove or otherwise show that the circumstances, or any part of the circumstances, apply to the tenant or resident; or
- (b) alter the grounds on which notices to leave may be given by creating a ground that—
 - (i) a lessor or provider is preparing to sell the premises and the preparation requires the premises to be vacant; or
 - (ii) a lessor or provider has entered into a contract to sell the premises with vacant possession; or
- (c) provide that the suspension of a lessor's, lessor's agent's or provider's right to enter premises applies to circumstances requiring

- a tenant or resident to prove or otherwise show that the circumstances, or any part of the circumstances, apply to the tenant or resident; or
- (d) limit the amount a tenant or resident is liable to pay for costs incurred by a lessor or provider in reletting premises on a ground that requires the tenant or resident to prove or otherwise show loss or damage of a threshold higher than excessive hardship due to the COVID-19 emergency; or
 - (e) authorise the tribunal to make an order about reduced rent for excessive hardship due to the COVID-19 emergency that requires a tenant or resident to pay more than 30% of their income; or
 - (f) allow a tenant or resident to accrue debt for unpaid rent for the period of a conciliation or tribunal proceeding about rent reduction that is greater than the total rent payable as agreed in conciliation or decided by a tribunal; or
 - (g) allow for the deferral of rental payments that are the subject of a rent reduction under—
 - (i) an amendment of a residential tenancy agreement or rooming accommodation agreement under the regulation; or
 - (ii) an order of a tribunal; or
 - (h) provide for a matter that is inconsistent with division 2.

3 After clause 24

Page 25, after line 9—

insert—

Division 2 Modified application of Residential Tenancies and Rooming Accommodation Act 2008

Subdivision 1 Preliminary

24A Application of RTRA Act during COVID-19 emergency

- (1) The RTRA Act applies subject to this division until the end of the COVID-19 emergency period.
- (2) For subsection (1), a provision of this division restricting or prohibiting the giving of a notice requiring a tenant or resident to leave premises or terminating a rooming accommodation agreement is taken to have commenced on 29 March 2020.

24B Interpretation of division

- (1) In this division, a reference to the RTRA is a reference to the *Residential Tenancies and Rooming Accommodation Act 2008*.
- (2) Words used in this division that are defined in the RTRA have the same meaning the words have in the RTRA, subject to a contrary intention in this division.
- (3) In this division, a reference to a provision, designated by a number, that does not mention an Act or instrument, is a reference to the provision of that number of the RTRA.
- (4) To remove any doubt, it is declared that subsection (3) does not apply to a reference to ‘this division’, ‘this subdivision’ or ‘this section’.

Subdivision 2 Residential tenancies

24C Interpretation of subdivision

In this subdivision, a reference to a relevant provision is a reference to the following provisions—

- (a) section 281;
- (b) section 286;
- (c) sections 288 to 290;
- (d) section 291.

24D No entry on particular grounds

- (1) A lessor or lessor's agent may not enter premises under a ground mentioned in section 192(1)(a), (c), (f) or (g).
- (2) Subsection (1) applies even if an entry notice was given to the tenant under section 193 before the commencement.

24E No notices to leave under relevant provisions

A notice to leave may not be given under a relevant provision.

24F No applications for termination orders

- (1) Subsection (2) applies if—
 - (a) before the commencement—
 - (i) a notice to leave was given under a relevant provision in relation to a residential tenancy agreement; and
 - (ii) no application had been made to a tribunal under section 293 for a

termination order to terminate the residential tenancy agreement; and

- (b) on the commencement the residential tenancy agreement has not ended.
- (2) No application for a termination order may be made under section 293 to terminate the residential tenancy agreement.

24G No termination orders

- (1) This section applies if—
 - (a) before the commencement an application was made under section 293 in relation to a residential tenancy agreement; and
 - (b) on the commencement—
 - (i) the tribunal has not decided the application; and
 - (ii) the residential tenancy agreement has not ended.
- (2) The tribunal may continue to hear, and decide, the application as if this division had not been enacted.
- (3) However, if the tribunal makes a termination order terminating the residential tenancy agreement, the order takes effect on the later of the following—
 - (a) the day stated in the order;
 - (b) the day after the period for which this division applies ends.

Subdivision 3 Rooming accommodation

24H No entry under s 258

- (1) A provider may not enter a resident's room under

section 258.

- (2) Subsection (1) applies even if notice was given to the resident under section 258 before the commencement.

24I No entry under s 259

- (1) A provider may not enter a resident's room under a ground mentioned in section 259(1)(d) or (e).
- (2) Subsection (1) applies even if notice was given to the resident under section 259 before the commencement.

24J No notice to leave or termination of agreement under ss 369, 372 or 374

- (1) A provider may not give a resident—
 - (a) a notice under section 369 or 374 requiring the resident to leave rental premises; or
 - (b) a notice under section 372 terminating a rooming accommodation agreement.
- (2) To remove any doubt, it is declared that section 373 continues to apply in relation to a notice terminating a rooming accommodation agreement given before 29 March 2020.