

New laws to provide support for commercial and residential tenants and landlords

Tuesday, 14 April 2020

Urgent legislation to address commercial and residential tenancies impacted by rental distress due to COVID-19 to be introduced into State Parliament
New laws to implement a moratorium on evictions for residential tenancies and provide urgent support measures for tenants and landlords in response to pandemic

Urgent legislation to implement a range of measures to minimise financial impacts of the COVID-19 pandemic on tenants and landlords of both commercial and residential tenancies will be introduced into State Parliament this week.

The Commercial Tenancies (COVID-19 Response) Bill 2020 will introduce a moratorium on evictions for small commercial tenancies and provide a range of other measures to offer support for tenants in response to COVID-19, including the introduction of a code of conduct for landlords and tenants.

In addition to providing legislation for commercial tenancies, the State Government has acted swiftly to prepare further measures that are necessary to alleviate the impact of the pandemic on residential tenants and landlords.

The Residential Tenancies (COVID-19 Response) Bill 2020 will introduce:

- a moratorium on eviction for six months except in limited circumstances including, for example: if a tenant is causing serious damage to the property or injury to the landlord or a person in adjacent premises; the landlord or tenant is experiencing undue hardship; a tenant is experiencing family violence and the perpetrator needs to be evicted; the tenant abandons the premises; or the agreement is frustrated;
- a prohibition on rent increases during the emergency period;
- that any fixed term tenancy agreement due to expire during the emergency period will continue as a periodic agreement;
- relieving lessors of the obligation to conduct ordinary repairs if the reason they cannot do so is COVID-19 related financial hardship or a lawful restriction on movement; and
- enabling a tenant to end a fixed term tenancy prior to its end date without incurring break lease fees (tenants will still be liable for damage and rent arrears).

The laws will apply equally to tenants in public and private housing, park homes as well as boarders and lodgers.

Updated information relating to these changes is available on the Consumer Protection website.

Residential Tenancy

<https://www.commerce.wa.gov.au/consumer-protection/covid-19-coronavirus-consumer-protection-faq#Tenancy>

Commercial Tenancy

<https://www.commerce.wa.gov.au/consumer-protection/covid-19-coronavirus-consumer-protection-faq#CommercialTenancy>

Comments attributed to Premier Mark McGowan:

"If you are a tenant who cannot pay rent due to the impact of the pandemic you will have protection under the law.

"It is important for residential tenants to understand that what we're introducing is a moratorium on eviction, not a moratorium on rent.

"Under the proposed reforms, tenants must continue to pay rent. If a tenant can't pay their rent they will still have to pay it later, so continuing to pay rent will increase your chances of keeping debt to a manageable level.

"Tenants in financial distress due to COVID-19 should contact their landlord or property manager to try and make an arrangement. This could include a reduction to the amount paid for a period of time, for example.

"What we're introducing are sensible amendments to help landlords and tenants to work together during these challenging and uncertain times."

Comments attributed to Commerce Minister John Quigley:

"We expect that as a consequence of the impact of the pandemic, there will be a spike in disputes during the emergency period.

"As a result of these concerns, the legislation will provide a mandatory conciliation step in the dispute resolution process.

"This will act as a buffer between complainants and the Magistrates Court and the State Administrative Tribunal (SAT) protecting the Magistrates Court and SAT from being flooded by residential tenancy dispute applications.

"We will also be introducing a code of conduct that will apply broadly to all tenancies for small to medium enterprises that are suffering financial stress or hardship as a result of the pandemic.

"The code of conduct is consistent with the principles announced by the Prime Minister following the National Cabinet meeting earlier this month and creates a framework for good-faith negotiations between landlords and tenants to encourage rent relief and other cost-sharing arrangements."

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