



MESSAGE No. 119

Mr Speaker

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Commercial Tenancies (COVID-19 Response) Bill 2020* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

A handwritten signature in blue ink, appearing to read "K Doust".

Hon Kate Doust
President of the Legislative Council

Legislative Council Chamber
Perth, 17 April 2020

Schedule indicating the amendments made by the Legislative Council in the Commercial Tenancies (COVID-19 Response) Bill 2020

No. 1

Clause 13, page 10, line 5 — To delete “commercial leasing” and insert:

small commercial lease

No. 2

Clause 13, page 10, line 28 — To insert before “lease”:

small commercial

No. 3

Clause 14, page 12, line 15 — To delete the line and insert:

- (b) includes —
 - (i) a code of conduct dispute; and
 - (ii) a financial hardship dispute;

No. 4

Clause 14, page 12, after line 15 — To insert:

financial hardship, in relation to a tenant, means financial hardship suffered by the tenant as a result of 1 or more of the following —

- (a) a restriction imposed under a written law in response to the COVID-19 pandemic;
- (b) changes in societal behaviour in response to the COVID-19 pandemic;
- (c) any other consequences of the COVID-19 pandemic;

No. 5

Clause 14, page 12, after line 18 — To insert:

- (2) For the purposes of this Part, a *financial hardship dispute* is a dispute between the parties to a small commercial lease in the following situation —
- (a) during the emergency period, the tenant has breached the small commercial lease by failing to pay rent or any other amount of money payable by the tenant to the landlord under the small commercial lease (including, without limitation, a requirement under the lease to pay all or any of the landlord’s operating expenses); and
 - (b) the landlord claims that the breach was not a result of the tenant suffering financial hardship; and
 - (c) the landlord has not granted the tenant a waiver, deferral or reduction in respect of the unpaid rent or other unpaid amount of money.

No. 6

New Clause 14A, page 12, after line 18 — To insert:

14A. Relationship with s. 9

Nothing in section 9 prevents a landlord from making a request to the Commissioner under section 17, or an application to the Tribunal under section 15, in relation to a financial hardship dispute.

No. 7

Clause 16, page 14, after line 10 — To insert:

- (ca) if the proceedings relate to a financial hardship dispute — an order terminating the small commercial lease;

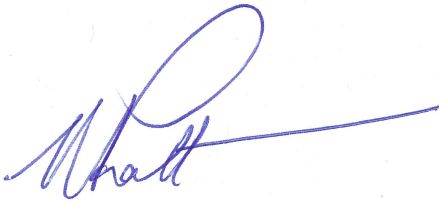
No. 8

Clause 16, page 14, lines 20 and 21 — To delete “if relevant in accordance with the adopted code of conduct —”.

No. 9

Clause 16, page 14, after line 24 — To insert:

- (4A) In proceedings relating to a financial hardship dispute, the Tribunal —
- (a) cannot make an order under subsection (3)(ca), or any other order to the disadvantage of the tenant, unless satisfied that the tenant's breach was not a result of the tenant suffering financial hardship; and
 - (b) must make an order under subsection (3)(d) if satisfied that the tenant's breach was a result of the tenant suffering financial hardship.



Clerk of the Legislative Council