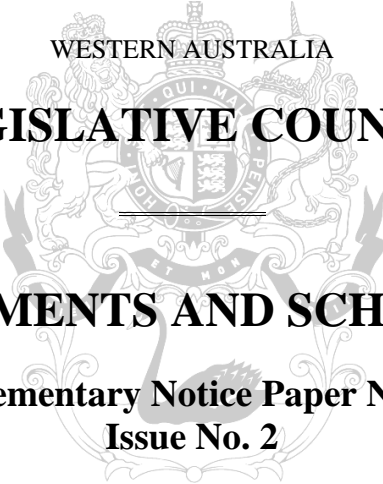


WESTERN AUSTRALIA



**LEGISLATIVE COUNCIL**

**AMENDMENTS AND SCHEDULES**

**Supplementary Notice Paper No. 186**  
**Issue No. 2**

**FRIDAY, 17 APRIL 2020**

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***COMMERCIAL TENANCIES (COVID-19 RESPONSE) BILL 2020 [186-1]***

When in committee on the *Commercial Tenancies (COVID-19 Response) Bill 2020*:

**Clause 2**

**Hon Nick Goiran:** To move –

1/2 Page 2, line 10 — To delete “30 March” and insert:

7 April

**Clause 3**

**Minister for Regional Development representing the Minister for Commerce:** To move –

5/3 Page 5, after line 2 — To insert:

*Tribunal* means the State Administrative Tribunal.

**Clause 8**

**Minister for Regional Development representing the Minister for Commerce:** To move –

6/8 Page 6, after line 4 — 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;

**Clause 9**

**Minister for Regional Development representing the Minister for Commerce:** To move –

7/9 Page 7, after line 17 — To insert:

- (2) Nothing in this section prevents a landlord from making an application to the Tribunal under section 12A for 1 or more orders under section 12B.

**New Clause 12A**

**Minister for Regional Development representing the Minister for Commerce:** To move –

8/NC12A Page 9, after line 10 — To insert:

**12A. Non-payment of rent or other amounts of money not resulting from financial hardship**

- (1) This section applies if —
- (a) during the emergency period, a tenant breaches a 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 breach is 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.
- (2) The landlord under the small commercial lease may apply to the Tribunal for 1 or more orders under section 12B.
- (3) The application must be made during the emergency period.
- (4) A copy of an application under this section that is required to be given under the *State Administrative Tribunal Act 2004* section 45(1) must be given in the manner and time (if any) prescribed by regulations for the purposes of this subsection.

**New Clause 12B**

**Minister for Regional Development representing the Minister for Commerce:** To move –

9/NC12B Page 9, after line 10 — To insert:

**12B. Tribunal's powers to make orders on application under s. 12A**

- (1) Without limiting any power to make an order that is conferred by the *State Administrative Tribunal Act 2004*, the Tribunal may, on an application under section 12A, make 1 or more of the following —
- (a) an order terminating the small commercial lease;
  - (b) an order for the tenant to perform the tenant's obligations under the small commercial lease to pay rent or any other amount of money payable to the landlord;
  - (c) an order dismissing the application;

- (d) any other order that it considers appropriate, including any ancillary order that it considers necessary for the purpose of enabling an order under this section to have full effect.
- (2) The Tribunal cannot make an order under subsection (1)(a) or (b) unless satisfied that the tenant's breach was not a result of the tenant suffering financial hardship.
- (3) The Tribunal must make an order under subsection (1)(c) if satisfied that the tenant's breach was a result of the tenant suffering financial hardship.
- (4) In proceedings under this Part, the Tribunal may allow any equitable claim or defence, and give any equitable remedy, that the Supreme Court may allow or give.

### Clause 13

**Hon Nick Goiran:** To move –

2/13 Page 10, line 5 — To delete “commercial leasing” and insert:

small commercial lease

**Hon Nick Goiran:** To move –

3/13 Page 10, line 28 — To insert before “lease”:

small commercial

### Clause 14

**Minister for Regional Development representing the Minister for Commerce:** To move –

10/14 Page 12, line 18 — To delete the line.

### Clause 16

**Minister for Regional Development representing the Minister for Commerce:** To move –

11/16 Page 13, line 22 — To delete “Act” and insert:

Part

**Minister for Regional Development representing the Minister for Commerce:** To move –

12/16 Page 14, line 15 — To delete “Act” and insert:

Part

**Hon Nick Goiran:** To move –

4/16 Page 14, lines 20 and 21 — To delete “if relevant in accordance with the adopted code of conduct —”.

**Minister for Regional Development representing the Minister for Commerce:** To move –  
**13/16** Page 14, line 25 — To delete “Act,” and insert:

Part,

**Minister for Regional Development representing the Minister for Commerce:** To move –  
**14/16** Page 15, line 1 — To delete “Act,” and insert:

Part,

