

Submission to the PAEC Inquiry into the Victorian Government's Response to the COVID-19 Pandemic

Tenants Victoria is a not-for-profit community organisation and the peak advocacy body for renters in Victoria. Tenants Victoria is also a specialist community legal centre, providing consumer information, advice, and legal representation to promote and protect the rights of Victorians who rent their homes. The organisation advocates on housing affordability issues in the state and federal spheres.

Introduction

Tenants Victoria welcomed the decision by National Cabinet, announced on 29 March 2020, for a temporary moratorium to prevent eviction for non-payment of rent due to effects of the COVID-19 pandemic.

On 15 April, Premier Daniel Andrews announced a \$500 million rental relief package for residential and commercial tenants. It included land tax relief for landlords to act as an incentive to enter negotiation with tenants. A particularly welcome key feature of the package was \$80 million apportioned to provide monetary relief (up to \$2000 per applicant) for tenants experiencing rental hardship – defined as paying 30 per cent or more of their income in rental payments.

On 23 April, the *COVID-19 Omnibus (Emergency Measures) Act 2020* was passed in a marathon sitting of the Victorian Parliament, giving effect to a moratorium on residential tenancy evictions (for rent arrears incurred due to COVID-19) for six-months from 29 March 2020 to 26 September 2020.

Significantly, the Act included a regulation-making power to modify provisions relating to the termination of a tenancy and to enable the establishment of any administrative process to support dispute resolution and appeals during the moratorium.

Renters under pressure

From early February, Tenants Victoria began receiving reports and requests for advice from a range of tenants impacted by the emerging COVID-19 crisis. From 17 March, Tenants Victoria began formally documenting stories from tenants about the challenges they faced. A chart showing the issues of greatest concern is at the end of this report.

On 22 March, Premier Andrews announced that over the next 48-hours Victoria would implement “a shutdown of all non-essential activity across our state to combat the spread of Coronavirus”. By this time, over a period of several weeks, Tenant

Victoria had been contacted by a stream of concerned renters worried about the viability of their tenancies. The challenges for renters intensified after the lockdown. Many, particularly young people and families with children, lacked a financial buffer to manage the economic effects of the crisis.

Those working in the service sector in particular, in areas such as hospitality, the travel industry and retail said they'd been stood down from jobs or had markedly reduced hours and could no longer pay their rent. In share houses, some people reported they could not find new house mates or co-tenants who could commit to join an existing household. In other instances, landlords had issued a *Notice to Vacate* after being informed that their tenants had lost jobs and income. As some landlords responded to the crisis by putting up their property for sale, there were also cases of 'open inspections' without observance of social distancing rules. Tenants were also being told that eviction notices were a first step to ensure landlords could claim on their insurance, sometimes with words of reassurance such as "but don't worry we won't make you leave".

Tenants reported that landlords refused to negotiate rent reductions (despite banks indicating they would adjust mortgage terms in response to hardship). Agents and landlords were also often only offering a deferral of rent, and often only after excessive demands for information or requiring that tenants apply for early superannuation release to pay rent. At this stage, as the media took up the issue, the financial regulator: Australian Securities and Investments Commission (ASIC) warned landlords and agents that giving unlicensed financial advice could result in prosecution. Some landlords and agents agreed to reduced rents (some, as little as \$10 per week) in exchange for tenants signing new fixed-terms leases or agreeing to waive any rights that would apply once the 2018 amendments to the Residential Tenancies Act are implemented.

Practical issues also arose at the Victorian Civil and Administrative Tribunal (VCAT), where the Residential Tenancies List was not equipped with appropriate technology to facilitate hearings remotely.

The 'canary' in the COVID-19 crisis

Early in February 2020, international students were among the first cohorts to contact Tenants Victoria for assistance due to the pandemic. A number emailed, including from mainland China, to say they were stranded overseas and facing ongoing lease obligations but unable to return to Australia to resume studies due to travel restrictions. They reported their cars were parked in the garages of their rented homes and personal effects remained in their bedrooms in Melbourne.

International students living in Victoria also contacted Tenants Victoria seeking guidance on how to deal with mounting unpaid bills, reporting they had lost work and had no recourse to income support offered by the Federal Government to other workers during the crisis.

Tenants in their own words: COVID-19 impacts

“My husband's hours were reduced by 60 per cent and we asked our real estate agency to provide a rental reduction for us for this period. We asked to pay \$1500 per month, instead of \$2300. They sent us a form to fill out, and we filled this out and sent it to them, then they wrote back after receiving our form and said our rent reduction has been accepted for the next six-months which we were happy about...A few days later, they sent us a separate form asking us to sign and this form was about how we would be paying back the reduced amount after the six-months is up.”

“I was served a 60-day notice to vacate... The owner will move in on the 31st March. I live in Orbost, and am having difficulty finding a place to rent and difficulty finding assistance in moving. I am also feeling unwell... I have rented this property for the last two years, and diligently paid the rent. I believe the owner will be travelling from ACT or Sydney to move in at the beginning of next week. Is there anything I can do to extend my stay as I do not have a place to move myself and possessions to?”

“I was made redundant with no payout... I emailed my property manager that I would struggle to continue paying rent and requested a rent reduction, while letting them know I had applied for Jobseeker. My property manager responded by asking me to sign up for Jobseeker (I had already told I was going through this process), they also directed me to web links about how to access my super. ASIC then sent out a letter asking to stop advising tenants on how to access their super. My property manager then asked me to fill out a hardship form asking for my bank statements, separation certificate and my Centrelink reference number...”

“I am Cabin Crew for the international sector at Virgin Australia and as a result of the Federal Government's travel restrictions due to the impact of the COVID-19 crisis (I) have been grounded... with the uncertainty of the return date to my role as Cabin Crew and level of salary and the limited job availabilities, I have been forced to consider breaking my lease at my current rental and move to my parents' home... The Swiss cheese effect from this pandemic has left me jumping from the pan to the fire. I have no way out of this financial hardship- no matter what I choose. I can't afford to pay for rent because of being stood down with next to no notice, I can't look for a job because I'm in self-quarantine.”

“I am an international-visa holder studying in Melbourne. I can legally work for 40 hours fortnightly which has been enough for me to pay my rent on time. But because of COVID-19, my shifts have slowly reduced since February and it’s totally zero at the end of March... I do not know what I can do: give up my study and leave?”

“I was given notice to vacate by the end of my lease on June 12th... but I'm feeling bullied by (the real estate agency) for me to get out earlier! Due to COVID-19, I can't go to inspections, I'm on my own with no family or assistance. I'm on a DSP [Disability Support Pension] & kept my rent up to date & in advance by 4-6 weeks at all times. The (real estate agency) keeps telling me that I don't qualify for anything regarding the COVID-19 moratorium... I'm isolated in a little town of 300 people. I'm worried I won't find something in time and become homeless.”

COVID-19 emergency measures legislation

This Victorian legislation (passed on 24 April 2020 with retroactive effect to commence 29 March 2020) was designed to deal with many of the issues faced by those in the rental market.

The law supports residential tenants by establishing a scheme for:

1. a moratorium on evictions for rental arrears incurred as a result of COVID-19
2. tenants and landlords to enter an agreement for rent reduction
3. binding arbitration where tenants and landlords cannot reach agreement on a rent reduction.
4. a moratorium on any rent increases, including for those in social housing
5. renters to terminate a rental contract that is no longer viable and causing hardship, without being burdened with unfair debts or penalties.

The Victorian Government has also introduced direct financial support for tenants who, after genuine rent reductions have been applied, would struggle to afford their rent.

Due to a legislative drafting error, for a short period, it appeared tenants were locked into fixed-term leases as they were prevented from giving notice to end a fixed-term tenancy (unless for COVID related reason). Some people contacting Tenants Victoria explained that this meant they could not move to houses they had purchased or even to move in with family (not for financial reasons) or even elect to move to a better property.

Tenants Victoria is pleased that this drafting error has been amended by the regulations supporting the legislation.

Since the regulations were made

The regulations made on 12 May 2020 have filled out the scheme and created welcome detail and clarity on how the scheme will be managed.

The interval between the legislation and regulations being enacted has resulted in a backlog of tenants seeking help first from Consumer Affairs Victoria (as the mediation first step requires contact with CAV), and also from the Department of Health and Human Services (which is administering the rental subsidy). In addition, as all matters must now go to CAV before going to VCAT, some tenants have been unable to get urgent matters (such as family violence matters) dealt with promptly by the tribunal.

The next challenge will arise at the end of September when the protections afforded by the Omnibus legislation end. At this point, tenants may be faced by an immediate reversion to their pre-COVID-19 rental and an end to the protections given to keep Victorian tenants safe in their homes.

Tenants Victoria has worked closely with relevant Ministers and their agencies to give an accurate and real-time picture of the experience of residential tenants during this pandemic.

We commend the Victorian Government on its consultation with us and other organisations supporting tenants, and the supports it has provided to tenants through the DHHS subsidy. We look forward to further consideration of support to ensure that tenants can make their best case to protect their financial and domestic security during mediation and if needed, before VCAT.

In a challenging scenario, Victoria has responded effectively to protect tenants grappling with an unprecedented crisis.



For more information contact:

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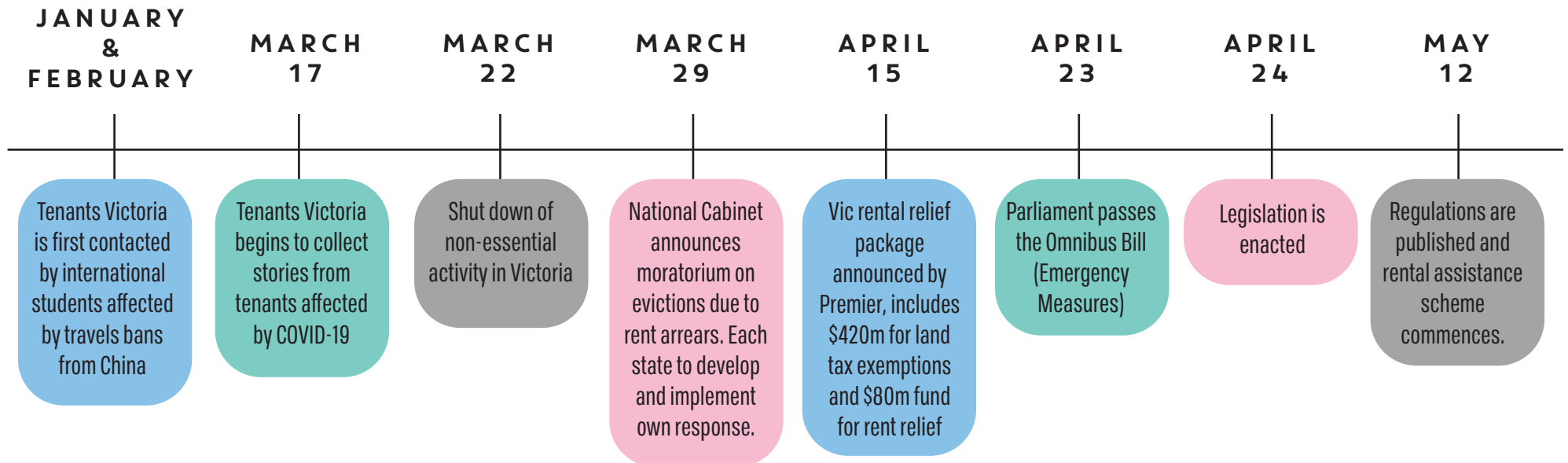
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Tenants Victoria

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COVID-19 Timeline

JANUARY - MAY 2020



COVID-19 Tell Your Story

17 MARCH - 13 MAY 2020

- Sought rent reduction (13.1%)
- No rent reduction or insufficient reduction (10.1%)
- Household income loss / cannot pay current rent (39.7%)
- Notice to vacate received (13.2%)
- Property for sale (5.1%)
- Open for inspection (4.5%)
- Health issue - self or other (10.1%)
- Student (4.2%)

A total of 919 issues collated from 521 submissions to Tenants Victoria Website from 17 March to 13 May 2020.

