

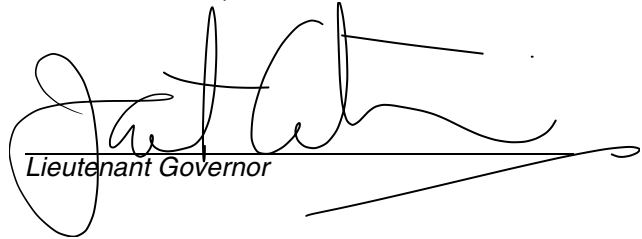
PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 579

, Approved and Ordered

November 9, 2020



Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that

- (a) the COVID-19 (*Residential Tenancy Act* and *Manufactured Home Park Tenancy Act*) (No. 3) Regulation, attached as Appendix 1, is made, and
- (b) the *COVID-19 Related Measures Act*, S.B.C. 2020, c. 8, is amended as set out in the attached Appendix 2, effective on the dates set out in that Appendix.



Attorney General



Minister of Municipal Affairs and Housing



Minister of Public Safety and Solicitor General



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Emergency Program Act*, R.S.B.C. 1996, c. 111, ss. 10.1 (1) and 10.2;
COVID-19 Related Measures Act, S.B.C. 2020, c. 8, s. 3 (5) and (8)

Other: OIC 449/2020; OIC 475/2020

R10454533

APPENDIX 1

COVID-19 (RESIDENTIAL TENANCY ACT AND MANUFACTURED HOME PARK TENANCY ACT) (NO. 3) REGULATION

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PART 1 – DEFINITIONS AND INTERPRETATION

Definitions

- 1 (1) In this regulation:
 - “**affected rent**” means
 - (a) rent that becomes due to be paid by a tenant in accordance with a tenancy agreement during the specified period, and

- (b) utility charges that become due to be paid by a tenant during the specified period, if a tenancy agreement requires the tenant to pay utility charges to the landlord;

“COVID-19 pandemic” has the same meaning as in section 1 of the *COVID-19 Related Measures Act*;

“prior agreement” means an agreement between a landlord and a tenant that

- (a) is in writing,
- (b) was entered into before July 16, 2020, and
- (c) addresses affected rent that is overdue after July 16, 2020;

“repayment plan” means a repayment plan within the meaning of Division 1 of Part 2 or Division 1 of Part 3 of this regulation, as applicable;

“specified period” means the period that starts March 18, 2020 and ends on the earlier of the following:

- (a) August 17, 2020;
- (b) the date on which the last extension of the declaration of a state of emergency made March 18, 2020 under section 9 (1) of the *Emergency Program Act* expires or is cancelled.

- (2) In the definitions of **“affected rent”** and **“prior agreement”** in subsection (1), **“landlord”**, **“rent”**, **“tenancy agreement”** and **“tenant”** have the same meaning as the following, as applicable:

- (a) in the case of a reference to **“affected rent”** in Part 2 of this regulation, section 1 [definitions] of the *Residential Tenancy Act*;
- (b) in the case of a reference to **“affected rent”** in Part 3 of this regulation, section 1 [definitions] of the *Manufactured Home Park Tenancy Act*.

- (3) The definitions established in section 1 of the *Residential Tenancy Act* apply to Part 2 of this regulation.

- (4) The definitions established in section 1 of the *Manufactured Home Park Tenancy Act* apply to Part 3 of this regulation.

How to give repayment plan

- 2 In this regulation, a requirement to give a repayment plan to another person means to give the repayment plan in one of the ways set out in section 89 (1) [special rules for certain documents] of the *Residential Tenancy Act* or in section 82 (1) [special rules for certain documents] of the *Manufactured Home Park Tenancy Act*, as applicable.

PART 2 – RESIDENTIAL TENANCY ACT

Division 1 – Landlord’s Notice: Non-Payment of Rent

Non-payment of affected rent

- 3 (1) As an exception to sections 44 (1) (a) (ii) and 46 [landlord’s notice: non-payment of rent] of the *Residential Tenancy Act* and any other provision of the *Residential Tenancy Act* and the Residential Tenancy Regulation, a landlord must not give a

tenant notice to end a tenancy under section 46 (1) of the *Residential Tenancy Act* in respect of affected rent that is unpaid and instead this Division applies.

- (2) The landlord must give the tenant a repayment plan if
 - (a) the tenant has overdue affected rent, and
 - (b) subject to subsection (3), the landlord and tenant did not enter into a prior agreement.
- (3) If the landlord and tenant entered into a prior agreement and the prior agreement does not address the full amount of overdue affected rent, the landlord must give the tenant a repayment plan in respect of the amount of overdue affected rent that is not addressed in the prior agreement.
- (4) The landlord may cancel a prior agreement by giving the tenant a repayment plan for the full amount of the overdue affected rent.
- (5) The tenant may cancel a prior agreement by giving the landlord a repayment plan for the full amount of the overdue affected rent whether or not the landlord has given the tenant a repayment plan under subsection (3).

Terms of repayment plan

- 4 (1) The following are terms of each repayment plan:
 - (a) the repayment period starts on the date the repayment plan is given by the landlord to the tenant and ends on July 10, 2021;
 - (b) the payment of the overdue rent must be in equal instalments;
 - (c) each instalment must be paid on the same date that rent is due under the tenancy agreement;
 - (d) the date the first instalment must be paid must be at least 30 days after the date the repayment plan is given by the landlord to the tenant.
- (2) A repayment plan must be in writing and include all of the following:
 - (a) the date the repayment period starts as determined under subsection (1) (a);
 - (b) the total amount of the affected rent that is overdue;
 - (c) the date on which each instalment must be paid;
 - (d) the amount that must be paid in each instalment.
- (3) If a repayment plan given by the landlord to the tenant under section 3 (2), (3) or (4)
 - (a) does not comply with a requirement set out in subsection (1) of this section,
 - (b) does not include the information described in subsection (2), or
 - (c) includes information that is inaccurate or incomplete,the landlord must give the tenant another repayment plan that complies with this section and includes accurate and complete information.
- (4) If a repayment plan given by the tenant to the landlord under section 3 (5)
 - (a) does not comply with a requirement set out in subsection (1) of this section,
 - (b) does not include the information described in subsection (2), or
 - (c) includes information that is inaccurate or incomplete,

the tenant must give the landlord another repayment plan that complies with this section and includes accurate and complete information.

- (5) A prior agreement is not cancelled under section 3 (4) or (5) unless the repayment plan complies with this section and includes accurate and complete information.

Amendments of terms of repayment plan

- 5 The landlord and tenant may agree in writing to amend the terms of a repayment plan but only as follows:
- (a) to extend the repayment period described in section 4 (1) (a);
 - (b) to change the amount payable in each instalment if the amount payable in earlier instalments is less than the amount payable in later instalments;
 - (c) to change the dates of instalments as long as the date of the first instalment is not earlier than the date the first instalment must be paid described in section 4 (1) (d).

Notice to end tenancy for non-payment of affected rent

- 6 (1) Despite section 3 (1), a landlord may end a tenancy if affected rent is unpaid in the circumstances set out in subsection (2) of this section by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives notice.
- (2) For the purposes of subsection (1), the circumstances are as follows, as applicable:
- (a) the tenant fails to pay an instalment on the date it is due as set out in the applicable repayment plan;
 - (b) the tenant fails to make a payment as set out in a prior agreement.
- (3) For certainty, subsection (2) (b) of this section only applies in respect of a prior agreement that is not cancelled under section 3 (4) or (5).
- (4) Sections 46 (2) to (5), 53 [*incorrect effective dates automatically changed*], 55 [*order of possession for the landlord*] and 88 [*how to give or serve documents generally*] of the *Residential Tenancy Act* apply in respect of a notice under this section.

Division 2 – Landlord’s Notice: Cause

Notices to end tenancy

- 7 (1) As an exception to sections 44 (1) (a) (iii) and 47 (1) [*landlord’s notice: cause*] of the *Residential Tenancy Act* and any other provision of the *Residential Tenancy Act* and the Residential Tenancy Regulation, a landlord must not give a tenant notice to end a tenancy under section 47 (1) of the *Residential Tenancy Act* in respect of a reason that relates to the affected rent being unpaid, including one or more of the following reasons:
- (a) one or more payments of the affected rent are late;
 - (b) the lawful right or interest of the landlord is the right or interest to receive the affected rent;

- (c) the affected rent being unpaid is what put the landlord's property at significant risk;
 - (d) the material term with which the tenant failed to comply is the payment of the affected rent;
 - (e) the order of the director with which the tenant has not complied is a monetary order for the affected rent.
- (2) For certainty, the payments in subsection (1) (a) of this section do not include an instalment to be paid under a repayment plan.

Division 3 – General

Rent increases – Residential Tenancy Act

- 8** (1) In this section, “rent increase” does not include an increase in rent that is
- (a) for one or more additional occupants, and
 - (b) authorized under the tenancy agreement by a term referred to in section 13 (2) (f) (iv) [*requirements for tenancy agreements*] of the *Residential Tenancy Act*.
- (2) As an exception to Part 3 [*What Rent Increases Are Allowed*] of the *Residential Tenancy Act* and any other provision of the *Residential Tenancy Act* and the Residential Tenancy Regulation, if a landlord gives a notice of rent increase under the *Residential Tenancy Act* and the effective date of the rent increase is after March 30, 2020, the rent increase does not take effect until July 10, 2021.
- (3) If a landlord collects a rent increase that does not comply with this section, the tenant may deduct the increase from rent or otherwise recover the increase.

Tenant's right of access restricted

- 9** (1) If a landlord has terminated or restricted access to common areas of a residential property and one or more of the circumstances set out in subsection (2) applies, the director must not grant an order that reduces the rent or any other order for monetary compensation resulting from the termination or restriction of access.
- (2) For the purposes of subsection (1), the circumstances are as follows:
- (a) to protect the health, safety or welfare of the landlord, the tenant, an occupant or a guest of the residential property due to the COVID-19 pandemic;
 - (b) to comply with an order of a federal, British Columbia, regional or municipal government authority, including orders made by the Provincial Health Officer or under the *Emergency Program Act*;
 - (c) to follow the guidelines of the British Columbia Centre for Disease Control or the Public Health Agency of Canada.
- (3) Subsection (1) of this section applies to any application for dispute resolution unless the director has already held a hearing before June 24, 2020 on an application for dispute resolution.
- (4) Subsections (1) and (3) of this section are exceptions to sections 27 [*terminating or restricting services or facilities*], 28 [*protection of tenant's right to quiet*

enjoyment], 30 [*tenant's right of access protected*], 62 (3) [*director's authority respecting dispute resolution proceedings*], 65 (1) [*director's orders: breach of Act, regulations or tenancy agreement*] and 67 [*director's orders: compensation for damage or loss*] of the *Residential Tenancy Act*.

Administration fee

- 10** (1) As a limit on section 7 (1) (d) [*non-refundable fees charged by landlord*] and (2), as it relates to subsection (1) (d) of that section, of the Residential Tenancy Regulation, a landlord must not charge an administration fee for late payment of affected rent.
- (2) If a landlord has charged a fee described in subsection (1) and a tenant has paid the fee, the tenant may deduct the amount of the fee from rent or otherwise recover the amount.

Enforcement

- 11** A failure to comply with a provision of this Part is to be treated as though it were a failure to comply with the *Residential Tenancy Act*.

PART 3 – MANUFACTURED HOME PARK TENANCY ACT

Division 1 – Landlord's Notice: Non-Payment of Rent

Non-payment of affected rent

- 12** (1) As an exception to sections 37 (1) (a) (ii) and 39 [*landlord's notice: non-payment of rent*] of the *Manufactured Home Park Tenancy Act* and any other provision of the *Manufactured Home Park Tenancy Act* and the *Manufactured Home Park Tenancy Regulation*, a landlord must not give a tenant notice to end a tenancy under section 39 (1) of the *Manufactured Home Park Tenancy Act* in respect of affected rent that is unpaid and instead this Division applies.
- (2) The landlord must give the tenant a repayment plan if
- (a) the tenant has overdue affected rent, and
 - (b) subject to subsection (3), the landlord and tenant did not enter into a prior agreement.
- (3) If the landlord and tenant entered into a prior agreement and the prior agreement does not address the full amount of overdue affected rent, the landlord must give the tenant a repayment plan in respect of the amount of overdue affected rent that is not addressed in the prior agreement.
- (4) The landlord may cancel a prior agreement by giving the tenant a repayment plan for the full amount of the overdue affected rent.
- (5) The tenant may cancel a prior agreement by giving the landlord a repayment plan for the full amount of the overdue affected rent whether or not the landlord has given the tenant a repayment plan under subsection (3).

Terms of repayment plan

- 13** (1) The following are terms of each repayment plan:
- (a) the repayment period starts on the date the repayment plan is given by the landlord to the tenant and ends on July 10, 2021;
 - (b) the payment of the overdue rent must be in equal instalments;
 - (c) each instalment must be paid on the same date that rent is due under the tenancy agreement;
 - (d) the date the first instalment must be paid must be at least 30 days after the date the repayment plan is given by the landlord to the tenant.
- (2) A repayment plan must be in writing and include all of the following:
- (a) the date the repayment period starts as determined under subsection (1) (a);
 - (b) the total amount of the affected rent that is overdue;
 - (c) the date on which each instalment must be paid;
 - (d) the amount that must be paid in each instalment.
- (3) If a repayment plan given by the landlord to the tenant under section 12 (2), (3) or (4)
- (a) does not comply with a requirement set out in subsection (1) of this section,
 - (b) does not include the information described in subsection (2), or
 - (c) includes information that is inaccurate or incomplete,
- the landlord must give the tenant another repayment plan that complies with this section and includes accurate and complete information.
- (4) If a repayment plan given by the tenant to the landlord under section 12 (5)
- (a) does not comply with a requirement set out in subsection (1) of this section,
 - (b) does not include the information described in subsection (2), or
 - (c) includes information that is inaccurate or incomplete,
- the tenant must give the landlord another repayment plan that complies with this section and includes accurate and complete information.
- (5) A prior agreement is not cancelled under section 12 (4) or (5) unless the repayment plan complies with this section and includes accurate and complete information.

Amendments of terms of repayment plan

- 14** The landlord and tenant may agree in writing to amend the terms of a repayment plan but only as follows:
- (a) to extend the repayment period described in section 13 (1) (a);
 - (b) to change the amount payable in each instalment if the amount payable in earlier instalments is less than the amount payable in later instalments;
 - (c) to change the dates of instalments as long as the date of the first instalment is not earlier than the date the first instalment must be paid described in section 13 (1) (d).

Notice to end tenancy for non-payment of affected rent

- 15** (1) Despite section 12 (1), a landlord may end a tenancy if affected rent is unpaid in the circumstances set out in subsection (2) of this section by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives notice.
- (2) For the purposes of subsection (1) the circumstances are as follows, as applicable:
- (a) the tenant fails to pay an instalment on the date it is due as set out in the applicable repayment plan;
 - (b) the tenant fails to make a payment as set out in a prior agreement.
- (3) For certainty, subsection (2) (b) of this section only applies in respect of a prior agreement that is not cancelled under section 12 (4) or (5).
- (4) Sections 39 (2) to (5), 46 [*incorrect effective dates automatically changed*], 48 [*order of possession for the landlord*] and 81 [*how to give or serve documents generally*] of the *Manufactured Home Park Tenancy Act* apply in respect of a notice under this section.

Division 2 – Landlord’s Notice: Cause

Notices to end tenancy

- 16** (1) As an exception to sections 37 (1) (a) (iii) and 40 (1) of the *Manufactured Home Park Tenancy Act* and any other provision of the *Manufactured Home Park Tenancy Act* and the *Manufactured Home Park Tenancy Regulation*, a landlord must not give a tenant notice to end a tenancy under section 40 (1) [*landlord’s notice: cause*] of the *Manufactured Home Park Tenancy Act* in respect of a reason that relates to the affected rent being unpaid, including one or more of the following reasons:
- (a) one or more payments of the affected rent are late;
 - (b) the lawful right or interest of the landlord is the right or interest to receive the affected rent;
 - (c) the affected rent being unpaid is what put the landlord’s property at significant risk;
 - (d) the material term with which the tenant failed to comply is the payment of the affected rent;
 - (e) the order of the director with which the tenant has not complied is a monetary order for the affected rent.
- (2) For certainty, the payments in subsection (1) (a) of this section do not include an instalment to be paid under a repayment plan.

Division 3 – General

Rent increases – *Manufactured Home Park Tenancy Act*

- 17** (1) As an exception to Part 4 [*Rent Increases*] of the *Manufactured Home Park Tenancy Act* and any other provision of the *Manufactured Home Park Tenancy Act* and the *Manufactured Home Park Tenancy Regulation*, if a landlord gives a

notice of rent increase under the *Manufactured Home Park Tenancy Act* and the effective date of the rent increase is after March 30, 2020, the rent increase does not take effect until July 10, 2021.

- (2) If a landlord collects a rent increase that does not comply with this section, the tenant may deduct the increase from rent or otherwise recover the increase.

Tenant's right of access restricted

- 18** (1) If a landlord has terminated or restricted access to common areas of a manufactured home park and one or more of the circumstances set out in subsection (2) applies, the director must not grant an order that reduces the rent or any other order for monetary compensation resulting from the termination or restriction of access.
- (2) For the purposes of subsection (1), the circumstances are as follows:
 - (a) to protect the health, safety or welfare of the landlord, the tenant, an occupant or a guest of the manufactured home park due to the COVID-19 pandemic;
 - (b) to comply with an order of a federal, British Columbia, regional or municipal government authority, including orders made by the Provincial Health Officer or under the *Emergency Program Act*;
 - (c) to follow the guidelines of the British Columbia Centre for Disease Control or the Public Health Agency of Canada.
- (3) Subsection (1) of this section applies to any application for dispute resolution unless the director has already held a hearing before June 24, 2020 on an application for dispute resolution.
- (4) Subsections (1) and (3) of this section are exceptions to sections 21 [*terminating or restricting services or facilities*], 22 [*protection of tenant's right to quiet enjoyment*], 24 [*tenant's right of access protected*], 55 (3) [*director's authority respecting dispute resolution proceedings*], 58 (1) [*director's orders: breach of Act, regulations or tenancy agreement*] and 60 [*director's orders: compensation for damage or loss*] of the *Manufactured Home Park Tenancy Act*.

Administration fee

- 19** (1) As a limit on section 5 (1) (d) [*non-refundable fees charged by landlord*] and (2), as it relates to subsection (1) (d) of that section, of the *Manufactured Home Park Tenancy Regulation*, a landlord must not charge an administration fee for late payment of affected rent.
- (2) If a landlord has charged a fee described in subsection (1) and a tenant has paid the fee, the tenant may deduct the amount of the fee from rent or otherwise recover the amount.

Enforcement

- 20** A failure to comply with a provision of this Part is to be treated as though it were a failure to comply with the *Manufactured Home Park Tenancy Act*.

APPENDIX 2

- 1 *Effective on the date this regulation is deposited under the Regulations Act, item 28 in Schedule 2 of the COVID-19 Related Measures Act, S.B.C. 2020, c. 8, is repealed.*
- 2 *Effective on the date this regulation is deposited under the Regulations Act, Schedule 2 is amended by adding the following row after the row for item 28:*

| | | |
|----|----------------------------------------------------------------------------------------------|--|
| 29 | COVID-19 (Residential Tenancy Act and Manufactured Home Park Tenancy Act) (No. 3) Regulation | |
|----|----------------------------------------------------------------------------------------------|--|

- 3 *Effective July 10, 2021, item 29 in Schedule 2 is repealed.*