

COVID-19 (Temporary Measures) (Amendment No. 4) Bill

Bill No. 25/2021 [Urgent Bill].

Read the first time on 13 September 2021.

A BILL

intituled

An Act to amend the COVID-19 (Temporary Measures) Act 2020.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the COVID-19 (Temporary Measures) (Amendment No. 4) Act 2021 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 79F

2. Section 79F of the COVID-19 (Temporary Measures) Act 2020 (called in this Act the principal Act) is amended by inserting, immediately after subsection (2), the following subsection:

10 “(2A) For the purpose of subsection (2)(c), different fees may be prescribed for different applications.”.

Amendment of section 79H

3. Section 79H of the principal Act is amended by inserting, immediately after subsection (1), the following subsection:

15 “(1A) An application under subsection (1) by a party to the initial determination must be accompanied by the prescribed fee.”.

New Part 12

4. The principal Act is amended by inserting, immediately after section 84, the following Part:

20 “PART 12

RENTAL WAIVER DUE TO COVID-19 EVENT IN 2021

Division 1 — Preliminary

Purpose of this Part

25 **85.** The purpose of this Part is to mitigate the impact of COVID-19 events, occurring during the period starting on 5 August 2021 and ending on 18 August 2021, on eligible lessees and licensees of non-residential properties by providing them waiver of rent and licence fees under their leases and licences in specified situations.

Interpretation of this Part

86. In this Part, unless the context otherwise requires —

“assessor’s determination” means a determination by a rental waiver assessor under section 97 on an application made under section 95;

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“Authority” means the Authority mentioned in section 87(1);

“Division 4 determination” means a determination by a rental waiver assessor under section 102, on an application made under section 100, that it is just and equitable in the circumstances of the case for a notice of rental waiver to be issued even though the lease agreement does not satisfy section 91(2);

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“IRAS” means the Inland Revenue Authority of Singapore established by the Inland Revenue Authority of Singapore Act;

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“landlord”, for any property, includes a lessor, sub-lessor, licensor or sub-licensor for that property, but excludes a person or class of persons prescribed as not being a landlord or landlords;

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“lease agreement”, for any property, means an agreement for leasing or licensing the property that is in writing or evidenced in writing, and includes a lease or a licence;

“notice of rental waiver” means a notice issued by the Authority under section 92(1);

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“occupier” includes such person as may be prescribed;

“prescribed tenant-occupier” or “PTO” means a tenant of any prescribed property who is an occupier of that property;

“PTO chain”, for a prescribed property, means a chain of landlords and tenants of the property ending with a PTO;

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“PTO’s landlord” means the landlord of a PTO;

“Registrar” means the Registrar of rental waiver assessors appointed under section 88(1), and includes any Deputy Registrar of rental waiver assessors performing the functions of the Registrar;

5 “rent” means the total amount payable by a tenant for the lease or licence of the property concerned, and includes any service charge and maintenance charge, and any other thing that is prescribed as being rent, but excludes any thing that is prescribed as not being rent;

10 “rental waiver assessor” means a person appointed to the panel of rental waiver assessors under section 89;

15 “tenant”, for any property, includes a lessee, sub-lessee, licensee or sub-licensee for that property, but excludes a person or class of persons prescribed as not being a tenant or tenants.

Authority for this Part and delegation by Authority

87.—(1) The Minister charged with the responsibility for law is the Authority for this Part.

20 (2) The Authority is responsible for the administration of this Part.

(3) The Authority may delegate any function or power of the Authority in or under any provision of this Part (except sections 88 and 89, and the power of delegation conferred by this subsection) to any of the following persons (called in this section a delegate), subject to any condition or restriction the Authority specifies:

(a) a public officer;

(b) a public body.

30 (4) Where the responsible Minister for a public body is not the Minister charged with the responsibility for law, any delegation under subsection (3) to that public body may only be made after consultation with the responsible Minister for the public body.

(5) Where the Authority delegates any function or power under subsection (3) to a delegate, a reference to the Authority in this Part in relation to that function or power includes (subject to any condition or restriction mentioned in that subsection) a reference to that delegate. 5

(6) In this section, “public body” and “responsible Minister” (in relation to a public body) have the meanings given by section 2(1) of the Public Sector (Governance) Act 2018.

Registrar of rental waiver assessors

88.—(1) The Authority is to appoint a Registrar of rental waiver assessors. 10

(2) The Authority may, in addition, appoint Deputy Registrars of rental waiver assessors.

(3) Subject to regulations made under section 107, all the powers and duties conferred and imposed on the Registrar may be exercised and performed by a Deputy Registrar. 15

Panel of rental waiver assessors

89. For the purposes of this Part, the Authority must appoint a panel of rental waiver assessors comprising such number of persons who satisfy the requirements prescribed for the purposes of this section. 20

Lease agreement to which this Part applies

90.—(1) This Part applies to a lease agreement, between a PTO and the PTO’s landlord for a prescribed property, that is in force during the relevant period and — 25

(a) is entered into, or renewed, before 20 July 2021; or

(b) is entered into before 20 July 2021, and is renewed (either automatically or in exercise of a right of renewal in the lease agreement) on or after that date.

(2) Where subsection (1) is satisfied in respect of a lease agreement between a PTO and the PTO’s landlord in a PTO chain for a prescribed property, this Part also applies to a lease 30

agreement between a tenant (not being the PTO) and the tenant's landlord in the PTO chain for the prescribed property.

(3) This Part does not apply to any property owned by the Government.

(4) In this section, "relevant period" means the period starting on 5 August 2021 and ending on 18 August 2021.

Division 2 — Rental waiver

PTO's eligibility for rental waiver under this Part

91.—(1) A PTO of a prescribed property is eligible for waiver of rent for the property under this Part if the PTO satisfies the prescribed criteria for the waiver (called in this Part the prescribed criteria for rental waiver).

(2) Subject to Division 4, where the lease agreement between a PTO and the PTO's landlord for a prescribed property is chargeable with stamp duty under the Stamp Duties Act, the lease agreement must be duly stamped (within the meaning of that Act) on or before 2 August 2021.

Notice of rental waiver

92.—(1) The Authority may issue to each PTO of a prescribed property a notice of rental waiver for the property if —

(a) the PTO's lease agreement for the property satisfies sections 90(1) and 91(2); or

(b) the PTO's lease agreement for the property satisfies section 90(1) but not section 91(2), but a determination has been made under section 102 that it is just and equitable in the circumstances of the case to issue the notice of rental waiver.

(2) The notice may be in such form and contain such information as the Authority thinks necessary, but must contain sufficient particulars of the PTO and the prescribed property, for the purposes of this Part.

Service of notice of rental waiver and prescribed documents on landlord

93.—(1) A PTO of a prescribed property who receives a notice of rental waiver must, if the PTO wishes to enjoy waiver of rent for the property under this Part, serve on the PTO’s landlord in the PTO chain, within the prescribed time —

- (a) a copy of the notice; and
- (b) the prescribed documents (or copies of those documents) pertaining to the PTO’s eligibility for the waiver under section 91(1) (called in this section the PTO’s supporting documents).

(2) A tenant of the prescribed property (not being a PTO) that is part of the PTO chain mentioned in subsection (1) and is served a copy of a notice of rental waiver and the PTO’s supporting documents (or copies of those documents) under subsection (1) or this subsection must, if the tenant wishes to enjoy waiver of rent for the property under this Part, serve on the tenant’s landlord in the PTO chain, within the prescribed time —

- (a) a copy of the notice; and
- (b) the PTO’s supporting documents (or copies of those documents).

(3) Different times may be prescribed under subsections (1) and (2).

Rental waiver

94.—(1) Subject to Division 3 and regulations made under section 107, the following (called in this Part the rental waiver) are treated as waived for a tenant (whether or not a PTO) in a PTO chain for a prescribed property on the date (called in this section the service date) mentioned in subsection (2):

- (a) the prescribed amount of rent payable for a prescribed period under the lease agreement for the prescribed property between the tenant and the tenant’s landlord in the PTO chain;

(b) any interest or other charge (however described) payable under the lease agreement on the amount waived under paragraph (a).

5 (2) For a tenant mentioned in subsection (1), the service date is —

(a) where the documents required to be served on the tenant's landlord in the PTO chain under section 93 are served on the tenant's landlord on the same date — that date; or

10 (b) where the documents required to be served on the tenant's landlord in the PTO chain under section 93 are served on the tenant's landlord on different dates — the date on which the last of the documents is served on the tenant's landlord.

15 (3) If subsection (1) applies to a tenant in a PTO chain for a prescribed property, then, despite any law or anything in the lease agreement for the prescribed property between the tenant and the tenant's landlord in the PTO chain —

20 (a) the tenant is not liable for rent that is payable under the lease agreement for the prescribed period of an amount up to the prescribed amount, and for any interest or other charge payable under the lease agreement on that amount;

25 (b) if the tenant has already paid to the tenant's landlord any rent for all or any part of the prescribed period (including any interest or other charge on such rent) under the lease agreement, then the rent payable by the tenant for the remaining period of the lease agreement is reduced by the amount paid up to the amount waived for the tenant under subsection (1) (called in this subsection the deductible amount), in
30 the order described in paragraph (c);

(c) for the purposes of paragraph (b), the rent payable for the earliest period of time under the lease agreement is

reduced first, followed by the rent payable for the next earliest period and so on; and

- (d) if paragraph (b) is inapplicable, or there is any balance of the deductible amount remaining after any reduction under that paragraph, the tenant's landlord must immediately refund to the tenant the deductible amount or the balance, and the deductible amount or the balance is recoverable from the tenant's landlord as a debt due to the tenant.

Division 3 — Reversal or reduction of rental waiver

Application for assessor's determination

95.—(1) This section applies to a landlord and the landlord's tenant (whether or not a PTO) in a PTO chain for a prescribed property when the landlord's tenant serves on the landlord the documents mentioned in section 93.

(2) The landlord or the landlord's tenant (called in this Division the applicant) may, within the prescribed time, apply in the prescribed form and manner to the Registrar to appoint a rental waiver assessor to make any of the determinations mentioned in subsection (3) or (5), as applicable.

(3) If the applicant is the landlord, the determinations are —

- (a) whether the PTO in the PTO chain for the prescribed property satisfies the prescribed criteria for rental waiver;
- (b) whether the landlord's tenant complied with the requirements of section 93(1) or (2), as applicable to the tenant, and (in the event of any non-compliance) whether the non-compliance was material in the circumstances of the case;
- (c) where the applicant is the owner of the prescribed property — whether the prescribed criteria for reversal of rental waiver are satisfied; and

(d) whether it is just and equitable in the circumstances of the case —

(i) where the applicant is the owner of the prescribed property — for the rental waiver to be reversed; and

(ii) where the applicant is the owner or other landlord of the prescribed property — for the rental waiver to be reduced, and (if it is to be reduced) the amount of the reduction.

(4) However, the landlord may not apply for a determination under subsection (3)(a) if a Division 4 determination had earlier been made in relation to the PTO.

(5) If the applicant is either the landlord or the landlord's tenant, the determinations are —

(a) the actual amount of the rent under the lease agreement between the landlord and the landlord's tenant; and

(b) the actual amount of any component of the formula used to compute the prescribed amount of rent that is waived for the landlord's tenant under section 94(1).

(6) An application for a determination in subsection (5) may not be made if —

(a) proceedings before a court or an arbitral tribunal have commenced in relation to the matter in question; or

(b) a judgment of a court, an arbitral award, a compromise or a settlement has been given or made in relation to the matter in question.

(7) A copy of the application in subsection (2) must be served within the prescribed time on all the landlords and tenants in the PTO chain for the prescribed property and such other person as may be prescribed.

Powers of Registrar

96.—(1) The Registrar may, for the purposes of deciding whether to appoint a rental waiver assessor to determine an application made under section 95, request the applicant to provide further information within the time specified by the Registrar. 5

(2) The Registrar may reject an application if —

(a) the application is incomplete or otherwise not made in accordance with section 95(2);

(b) where the application is for a determination mentioned in section 95(3)(a) — the application is made in breach of section 95(4); 10

(c) where the application is for a determination mentioned in section 95(5) — it appears to the Registrar, from the application or any information provided by the applicant, that the application is made in breach of section 95(6); 15

(d) the applicant fails to satisfy the Registrar that section 95(7) is complied with;

(e) the applicant fails to comply with the Registrar's request under subsection (1); 20

(f) the Registrar reasonably suspects that any information provided by the applicant to the Registrar is false or misleading in a material particular; or 25

(g) it appears to the Registrar, from the application or any information provided by the applicant, that the application is frivolous or an abuse of process.

(3) Unless the Registrar rejects an application under subsection (2), the Registrar must appoint a rental waiver assessor to determine the application and must serve a notice of the appointment on the applicant and the persons mentioned in section 95(7). 30

Assessor's determination

97.—(1) On an application made under section 95 by an applicant in a PTO chain for a prescribed property, the rental waiver assessor must make a determination —

- 5 (a) in the case mentioned in section 95(3)(a) — whether the PTO in the PTO chain for the prescribed property satisfies the prescribed criteria for rental waiver;
- (b) in the case mentioned in section 95(3)(b) —
- (i) whether the applicant's tenant in the PTO chain for the prescribed property complied with the requirements of section 93(1) or (2), as applicable to the tenant; and
- (ii) where the applicant's tenant did not comply with any of those requirements — whether the non-compliance was material in the circumstances of the case;
- 10 (c) in the case mentioned in section 95(3)(c) — whether the prescribed criteria for reversal of rental waiver are satisfied;
- (d) in the case mentioned in section 95(3)(d)(i) — whether it is just and equitable in the circumstances of the case for the rental waiver to be reversed;
- (e) in the case mentioned in section 95(3)(d)(ii) — whether it is just and equitable in the circumstances of the case for the rental waiver to be reduced, and (if it is to be reduced) the amount of the reduction;
- 15 (f) in the case mentioned in section 95(5)(a) — as to the actual amount of the rent under the lease agreement for the prescribed property between the applicant and the applicant's tenant or landlord (as the case may be) in the PTO chain; or
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(g) in the case mentioned in section 95(5)(b) — as to the actual amount of the component of the formula in question.

(2) For the purpose of subsection (1)(d) or (e), the rental waiver assessor may take into account relevant circumstances including (but not limited to) the following:

(a) any payment, or deduction of any amount due to the applicant from the applicant's tenant in the PTO chain under the lease agreement for the prescribed property between the applicant and the applicant's tenant, given by the applicant to the applicant's tenant during the period from 1 August 2020 to 15 May 2021 (both dates inclusive) for the sole purpose of providing relief from economic hardship arising from a COVID-19 event;

(b) any financial hardship faced or is likely to be faced by the applicant (whether or not as a result of the rental waiver).

(3) The assessor's determination is binding on all the landlords and tenants in the PTO chain for the prescribed property and all parties claiming under or through them, and such other person as may be prescribed.

(4) There is no appeal from an assessor's determination.

Subsequent determinations

98.—(1) This section applies after a rental waiver assessor has made an assessor's determination or a Division 4 determination.

(2) After a rental waiver assessor makes an assessor's determination, any rental waiver assessor may, either on his or her own motion or on the application of any of the persons to whom the determination relates —

(a) vary or replace the determination if —

5 (i) one of those persons adduces further information or documents after the determination which would have had a material influence on the determination but which the person could not have with reasonable diligence obtained for use at the proceedings before the firstmentioned rental waiver assessor prior to the determination; and

10 (ii) it is just and equitable for the variation or replacement of the determination to be made; or

(b) undertake a further review of the matter and make any further determination as is appropriate to achieve a just and equitable outcome.

15 (3) After a rental waiver assessor makes a Division 4 determination, any rental waiver assessor may, either on his or her own motion or on the application of any of the persons to whom the Division 4 determination relates, reverse the determination made under section 102(2) (called in this subsection the subject determination) that the PTO in the PTO chain for the prescribed property satisfies the prescribed criteria for rental waiver, if —

20 (a) one of those persons adduces further information or documents after the Division 4 determination which would have had a material influence on the subject determination but which the person could not have with reasonable diligence obtained for use at the proceedings before the firstmentioned rental waiver assessor prior to the Division 4 determination; and

30 (b) it is just and equitable for the subject determination to be reversed.

(4) However, a reversal under subsection (3) of the determination made under section 102(2) does not affect the validity of a notice of rental waiver issued pursuant to the Division 4 determination.

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(5) In considering whether it is just and equitable to vary or replace an assessor's determination under subsection (2)(a) or to reverse (under subsection (3)) a determination made under section 102(2), or whether to make any further determination under subsection (2)(b), the rental waiver assessor must take into account the following factors:

- (a) whether there has been any undue delay in the making of the application for a subsequent determination under subsection (2) or (3);
- (b) whether any person has taken any action in reliance on the assessor's determination.

(6) Subsections (3) and (4) of section 97 apply to a subsequent determination (whether a variation, replacement or reversal of a determination, or a further determination) under this section as they apply to an assessor's determination.

Reversal or reduction of rental waiver

99.—(1) If a rental waiver assessor determines under section 97(1)(a) (or section 98(2), where applicable) that the PTO in a PTO chain for a prescribed property does not satisfy the prescribed criteria for rental waiver, or reverses (under section 98(3)) a determination made under section 102(2) that the PTO satisfies such criteria, then —

- (a) every tenant of the property in the PTO chain is liable to the tenant's landlord in the PTO chain for the amounts waived for the tenant under section 94(1) with effect from the date such amounts would have been due under, and to the extent provided by, the lease agreement for the prescribed property between the tenant and the tenant's landlord as if that provision did not apply; and
- (b) any amount received by the tenant from the tenant's landlord under section 94(3)(d) is recoverable from the tenant as a debt due to the tenant's landlord.

(2) If a rental waiver assessor determines under section 97(1)(b) (or section 98(2), where applicable) that a tenant in a PTO chain for a prescribed property did not comply with any of the requirements of section 93(1) or (2), as applicable to the tenant, and that such non-compliance was material in the circumstances of the case —

(a) where the tenant is the PTO in the PTO chain —

(i) every tenant of the property in the PTO chain is liable to the tenant's landlord in the PTO chain for the amounts waived for the tenant under section 94(1) with effect from the date such amounts would have been due under, and to the extent provided by, the lease agreement for the prescribed property between the tenant and the tenant's landlord as if that provision did not apply; and

(ii) any amount received by the tenant from the tenant's landlord under section 94(3)(d) is recoverable from the tenant as a debt due to the tenant's landlord; or

(b) where the tenant (called in this paragraph *Z*) is not the PTO in the PTO chain —

(i) *Z* is liable to *Z*'s landlord in the PTO chain for the amounts waived for *Z* under section 94(1) with effect from the date such amounts would have been due under, and to the extent provided by, the lease agreement for the prescribed property between *Z* and *Z*'s landlord as if that provision did not apply;

(ii) any amount received by *Z* from *Z*'s landlord under section 94(3)(d) is recoverable from *Z* as a debt due to *Z*'s landlord;

- (iii) every tenant of the property above Z in the PTO chain is liable to the tenant's landlord in the PTO chain for the amounts waived for the tenant under section 94(1) with effect from the date such amounts would have been due under, and to the extent provided by, the lease agreement for the prescribed property between the tenant and the tenant's landlord as if that provision did not apply; and 5
- (iv) any amount received by the tenant from the tenant's landlord under section 94(3)(d) is recoverable from the tenant as a debt due to the tenant's landlord. 10

(3) If a rental waiver assessor determines under section 97(1)(c) (or section 98(2), where applicable), in relation to a PTO chain for a prescribed property, that the prescribed criteria for reversal of rental waiver are satisfied, then — 15

- (a) every tenant of the property in the PTO chain is liable to the tenant's landlord in the PTO chain for the amounts waived for the tenant under section 94(1) with effect from the date such amounts would have been due under, and to the extent provided by, the lease agreement for the prescribed property between the tenant and the tenant's landlord as if that provision did not apply; and 20
- (b) any amount received by the tenant from the tenant's landlord under section 94(3)(d) is recoverable from the tenant as a debt due to the tenant's landlord. 25

(4) If a rental waiver assessor determines under section 97(1)(d) (or section 98(2), where applicable) for an applicant in a PTO chain for a prescribed property that it is just and equitable in the circumstances of the case for the rental waiver to be reversed, then — 30

- (a) every tenant of the property in the PTO chain is liable to the tenant's landlord in the PTO chain for the 35

amounts waived for the tenant under section 94(1) with effect from the date such amounts would have been due under, and to the extent provided by, the lease agreement for the prescribed property between the tenant and the tenant's landlord as if that provision did not apply; and

(b) any amount received by the tenant from the tenant's landlord under section 94(3)(d) is recoverable from the tenant as a debt due to the tenant's landlord.

(5) If a rental waiver assessor determines under section 97(1)(e) (or section 98(2), where applicable) for an applicant that it is just and equitable in the circumstances of the case for the rental waiver to be reduced, then the prescribed amount in section 94(1)(a) that applies to the applicant is reduced by the amount determined by the rental waiver assessor and section 94(1)(b) and (3) is to apply accordingly.

Division 4 — Unstamped lease agreements

Application for issue of notice of rental waiver

100.—(1) This section applies where —

(a) the lease agreement of a PTO for a prescribed property does not satisfy section 91(2); but

(b) the PTO wishes to be issued a notice of rental waiver.

(2) The PTO (called in this Division the PTO applicant) may, before the prescribed date, apply in the prescribed form and manner to the Registrar to appoint a rental waiver assessor to make a determination mentioned in subsection (3).

(3) The determination is that it is just and equitable in the circumstances of the case for a notice of rental waiver to be issued to the PTO applicant even though the lease agreement does not satisfy section 91(2).

(4) A copy of the application in subsection (2) must be served within the prescribed time on all the landlords and tenants in the

PTO chain for the prescribed property and such other person as may be prescribed.

Powers of Registrar

101.—(1) The Registrar may, for the purposes of deciding whether to appoint a rental waiver assessor to determine an application made under section 100, request the PTO applicant to provide further information within the time specified by the Registrar.

(2) The Registrar may reject an application if —

(a) the application is incomplete or otherwise not made in accordance with section 100(2);

(b) the PTO applicant fails to satisfy the Registrar that section 100(4) is complied with;

(c) the PTO applicant fails to comply with the Registrar's request under subsection (1);

(d) the Registrar reasonably suspects that any information provided by the PTO applicant to the Registrar is false or misleading in a material particular; or

(e) it appears to the Registrar, from the application or any information provided by the PTO applicant, that the application is frivolous or an abuse of process.

(3) Unless the Registrar rejects an application under subsection (2), the Registrar must appoint a rental waiver assessor to determine the application and must serve a notice of the appointment on the PTO applicant and the persons mentioned in section 100(4).

Determinations by assessor

102.—(1) On an application made under section 100 by a PTO applicant, the rental waiver assessor must make a determination whether it is just and equitable in the circumstances of the case for a notice of rental waiver to be issued to the PTO applicant

even though the PTO applicant's lease agreement does not satisfy section 91(2).

(2) Subsection (1) applies only if the rental waiver assessor has first determined that the PTO applicant satisfies the prescribed criteria for rental waiver.

(3) The determinations made under subsections (1) and (2) are binding on all the landlords and tenants in the PTO chain for the prescribed property and all parties claiming under or through them, and such other person as may be prescribed.

(4) There is no appeal from a determination made under this section.

Division 5 — Miscellaneous provisions

Application of Part 2 provisions

103.—(1) Sections 14, 15 and 15A apply to proceedings before a rental waiver assessor under this Part as if a reference to an assessor in those sections is a reference to a rental waiver assessor.

(2) Sections 16 and 17 apply to the Registrar or a rental waiver assessor when carrying out his or her functions and duties under this Part as they apply to the Registrar of assessors or an assessor mentioned in Part 2 when carrying out his or her functions and duties under Part 2.

Administrative support services, etc.

104.—(1) IRAS has the functions and duties of assisting the Authority in, or otherwise facilitating, the performance of the Authority's functions under section 92.

(2) IRAS, when carrying out any function or duty under subsection (1), is taken to be carrying out a function or duty under the Inland Revenue Authority of Singapore Act.

(3) The Singapore Land Authority, established by section 3 of the Singapore Land Authority Act, has the functions and duties of —

- (a) assisting the Authority in, or otherwise facilitating, the Authority's appointment of the Registrar of rental waiver assessors, Deputy Registrars of rental waiver assessors and the panel of rental waiver assessors; and
- (b) establishing the registry through which the Registrar of rental waiver assessors, Deputy Registrars of rental waiver assessors and rental waiver assessors may carry out their functions and duties under this Part, and providing administrative support services to enable those persons to carry out, or otherwise to facilitate their carrying out of, those functions and duties.

(4) The Singapore Land Authority, when carrying out any function or duty under subsection (3), is taken to be carrying out a function or duty under the Singapore Land Authority Act.

Disapplication of section 6 of Income Tax Act

105. Section 6 of the Income Tax Act does not apply to the following:

- (a) the disclosure by the Comptroller of Income Tax to the chief executive officer of IRAS, or an officer duly authorised by the chief executive officer —
 - (i) of any information required for the performance of any of the Authority's functions, or the exercise of any of the Authority's powers, under this Part; or
 - (ii) of any information that pertains to whether a PTO satisfies the prescribed criteria for rental waiver, or whether the prescribed criteria mentioned in section 95(3)(c) for reversal of rental waiver are satisfied;
- (b) the disclosure by the chief executive officer, or the officer authorised under paragraph (a), of any information mentioned in paragraph (a)(i) to the Authority;

- (c) the disclosure by the chief executive officer, or the officer authorised under paragraph (a), to the Registrar or a rental waiver assessor of any information mentioned in paragraph (a)(ii).

5 **False declaration, etc.**

106.—(1) A person who —

- (a) makes any declaration or statement, or provides any information or document, under or for the purposes of this Part that is false or misleading in a material particular; and
- (b) knows or ought reasonably to know that, or is reckless as to whether, the declaration, statement, information or document is false or misleading in a material particular,

10 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) Subsection (1) does not affect any right of recovery under section 94(3)(d) or 99.

20 **Regulations for this Part**

107.—(1) The Minister may make regulations for or with respect to any matter that is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Part.

25 (2) Without limiting subsection (1), the regulations may —

- (a) provide for different amounts of the rental waiver for different tenants (or classes of tenants) and different prescribed properties (or classes of prescribed properties);

- (b) prescribe the methods for computing the rental waiver, including by providing different methods for computing such waiver for different tenants (or classes of tenants) and different prescribed properties (or classes of prescribed properties); 5
- (c) prescribe the forms to be used and the information or documents to be provided for the purposes of this Part;
- (d) provide for the procedure and practice for a proceeding before a rental waiver assessor, including requiring the proceedings to be held in private and the treatment of confidential information; 10
- (e) require a party to a proceeding before a rental waiver assessor to make a statutory declaration in support of any matter for the purpose of the proceeding; 15
- (f) provide for the manner in which the Registrar or a rental waiver assessor is to exercise his or her functions or perform his or her duties;
- (g) provide for the extension by the Registrar or a rental waiver assessor of any time within which any document is to be filed or provided; and 20
- (h) provide for the manner of issue or service of any document and when a document is deemed served or received.

(3) Any regulation made under this section may make provision for or in relation to a matter by applying, adopting or incorporating by reference, with or without modification, any regulations made under section 19 or a part of any such regulations, as in force at a particular time or from time to time. 25

(4) Regulations made under this section may provide that any contravention of any provision of the regulations shall be an offence punishable with a fine not exceeding \$5,000 or with imprisonment for a term not exceeding 12 months or with both. 30

(5) Regulations made under this section for the purpose of prescribing the amount of rent waived under section 94(1)(a) in relation to any prescribed property, or the prescribed criteria for rental waiver, may be made to operate retrospectively to a date before the service date mentioned in section 94(1) for a tenant of that property.

(6) Regulations made under this section may, in respect of any retrospective regulations in subsection (5), also provide for the recovery by a party to a lease agreement of an amount from the other party that was paid to or withheld by the other party in reliance on section 94 and the regulations in force before the date the retrospective regulations were made.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the COVID-19 (Temporary Measures) Act 2020 to provide for the waiver of rent and licence fees in order to mitigate the impact of COVID-19 events, occurring during the period starting on 5 August 2021 and ending on 18 August 2021, on qualifying lessees and licensees of certain non-residential properties, and to make minor amendments to Part 10A of the Act.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 79F (under Part 10A on reliefs for construction contracts affected by an increase in foreign manpower salary costs) to make clear that different fees may be prescribed for different applications to a Part 10A Registrar to appoint a Part 10A assessor to make a determination under Part 10A.

Clause 3 amends section 79H (also under Part 10A) to provide for the payment of fees for applications for subsequent determinations made under that section.

Clause 4 inserts a new Part 12 which provides for rental waiver for qualifying lessees and licensees of certain non-residential properties, and related measures.

The new Part 12 comprises 5 Divisions.

Division 1 (comprising new sections 85 to 90) sets out preliminary provisions for the Part.

The new section 85 explains the purpose of the Part.

The new section 86 defines certain terms used in the Part, including the following:

- (a) the term “lease agreement” is defined as an agreement for leasing or licensing a prescribed property that is in writing or evidenced in writing, and includes a lease or a licence;
- (b) the term “PTO” is defined to mean a tenant of a prescribed property (i.e., a property prescribed in regulations to be made under the Part) who is an occupier of that property;
- (c) the term “PTO chain” is defined to mean a chain of landlords and tenants of a prescribed property that ends with a PTO.

The new section 87 designates the Minister charged with the responsibility for law as the Authority responsible for the administration of the Part. The Authority may delegate the Authority’s functions and powers under the Part (except the new sections 88 and 89, and the power of delegation) to a public officer or a public body.

The new section 88 requires the Authority to appoint a Registrar of rental waiver assessors (called the Registrar). The Authority may also appoint Deputy Registrars of rental waiver assessors.

The new section 89 requires the Authority to appoint a panel of rental waiver assessors.

The new section 90 sets out the lease agreements to which the Part applies.

As regards a PTO and the PTO’s landlord for a prescribed property, the Part applies to a lease agreement between them that is in force during the period starting on 5 August 2021 and ending on 18 August 2021, and —

- (a) is entered into, or renewed, before 20 July 2021; or
- (b) is entered into before 20 July 2021, and is renewed automatically or in exercise of a right of renewal in the lease agreement on or after that date.

As regards a tenant (not being a PTO) and the tenant’s landlord in a PTO chain for the prescribed property, the Part applies to a lease agreement between them if the Part applies to the lease agreement between the PTO and the PTO’s landlord in the PTO chain for the prescribed property.

The Part does not apply to any property owned by the Government.

Division 2 (comprising new sections 91 to 94) provides for rental waiver.

The new section 91 states that a PTO of a prescribed property is eligible for rental waiver under the Part if the PTO satisfies the prescribed criteria for rental waiver. The prescribed criteria will be specified in regulations to be made under the Part.

Further, the lease agreement between a PTO and the PTO's landlord must be duly stamped on or before 2 August 2021 if the lease agreement is chargeable with stamp duty under the Stamp Duties Act.

The new section 92 provides for a notice of rental waiver to be issued by the Authority to a PTO of a prescribed property. A notice of rental waiver will only be issued if the PTO's lease agreement is one to which the Part applies by virtue of the new section 90 and (if chargeable with stamp duty) is duly stamped. However, a notice of rental waiver may be issued even though the lease agreement is not duly stamped, if a determination has been made under Division 4 that it is just and equitable for a notice to be issued (called a Division 4 determination).

The new section 93 states that a PTO who receives a notice of rental waiver (under the new section 92) and wishes to receive rental waiver under the Part must serve a copy of the notice and the PTO's supporting documents on the PTO's landlord in the PTO chain, within the prescribed time.

A tenant (not being a PTO) in the PTO chain for the prescribed property who receives a copy of the notice of rental waiver and the PTO's supporting documents under the new section 93 must, in order to also enjoy rental waiver under the Part for the prescribed property, serve copies of the notice and PTO's supporting documents on the tenant's landlord in the PTO chain, within the prescribed time.

Regulations to be made under the Part will specify the prescribed times and the PTO's supporting documents that are required to be served.

The new section 94 provides that on the date that a tenant (whether or not a PTO) serves on the tenant's landlord in the PTO chain for the prescribed property the notice of rental waiver and the PTO's supporting documents, the following are waived:

- (a) rent payable by the tenant for the prescribed property of a prescribed amount and for a prescribed period;
- (b) interest or other charge on the waived rent mentioned in paragraph (a).

The tenant is, therefore, not liable for the rent for the prescribed period up to the prescribed amount and any interest or other charge on that amount. If any rent (including any interest or other charge on the rent) for the prescribed period has already been paid, the payment (up to the waived amount) will be offset against rent payable for future months of the lease agreement. If this is not possible or if there is any balance left after the offset, the tenant may recover the waived amount or the balance from the tenant's landlord.

The prescribed amount and prescribed period will be specified in regulations to be made under the Part.

Division 3 (comprising new sections 95 to 99) establishes a regime for determining the entitlement of a tenant for rental waiver, or reduction or reversal of rental waiver on certain grounds.

The new section 95 deals with an application for appointment of a rental waiver assessor, and applies to a landlord and the landlord's tenant (whether or not a PTO) in a PTO chain for a prescribed property when the landlord's tenant serves on the landlord the notice of rental waiver and the PTO's supporting documents mentioned in the new section 93.

The landlord may apply to the Registrar to appoint a rental waiver assessor to make a determination on any of the following:

- (a) whether the PTO in the PTO chain satisfies the prescribed criteria for rental waiver;
- (b) whether the landlord's tenant complied with the requirements of the new section 93(1) or (2) (as applicable to the tenant), and (in the event of any non-compliance) whether the non-compliance was material in the circumstances of the case;
- (c) where the landlord is the owner of the prescribed property — whether the prescribed criteria for reversal of rental waiver are satisfied (the prescribed criteria will be specified in regulations to be made under the Part);
- (d) where the landlord is the owner of the prescribed property — whether it is just and equitable in the circumstances of the case for the rental waiver to be reversed;
- (e) whether it is just and equitable in the circumstances of the case for the rental waiver to be reduced, and (if it is to be reduced) the amount of the reduction;
- (f) the actual amount of the rent under the lease agreement between the landlord and the landlord's tenant;
- (g) the actual amount of any component of the formula used to compute the prescribed amount of rent that is waived for the landlord's tenant under the new section 94(1).

However, the landlord cannot make an application for a determination under paragraph (a) above if a Division 4 determination had been made earlier in relation to the PTO. This is because a rental waiver assessor can only make a Division 4 determination in relation to a PTO if the rental waiver assessor has first determined (under the new section 102(2)) that the PTO satisfies the prescribed criteria for rental waiver.

The tenant may apply to the Registrar to appoint a rental waiver assessor to make a determination on any of the following:

- (a) the actual amount of the rent under the lease agreement between the tenant and the tenant's landlord;
- (b) the actual amount of any component of the formula used to compute the prescribed amount of rent that is waived for the tenant under the new section 94(1).

The new section 96 deals with the Registrar's powers in relation to an application made under the new section 95.

The new section 97 deals with the determinations that a rental waiver assessor may make on an application made under the new section 95.

The new section 98 empowers a rental waiver assessor to vary or replace a determination made under the new section 97, or make a further determination.

The new section 98 also empowers a rental waiver assessor to reverse a determination made under the new section 102(2) (in relation to a Division 4 determination) that a PTO satisfies the prescribed criteria for rental waiver.

The new section 99 provides the consequences for various determinations of a rental waiver assessor.

If a rental waiver assessor determines that a PTO in a PTO chain for a prescribed property does not satisfy the prescribed criteria for rental waiver, or reverses a determination made under the new section 102(2) that the PTO satisfies such criteria, then the rental waiver given to every tenant of the prescribed property in the PTO chain is reversed.

If a rental waiver assessor determines that a tenant (called the subject tenant) in a PTO chain for a prescribed property did not comply with any of the requirements of the new section 93(1) or (2) (as applicable to the subject tenant) and that the non-compliance was material in the circumstances of the case, then —

- (a) in the case where the subject tenant is the PTO — the rental waiver given to every tenant of the prescribed property in the PTO chain is reversed; or
- (b) in the case where the subject tenant is not the PTO — the rental waiver given to the subject tenant, and every tenant above the subject tenant in the PTO chain, is reversed.

If a rental waiver assessor determines, in relation to a prescribed property, that the prescribed criteria for reversal of rental waiver are satisfied, then the rental waiver given to every tenant of the prescribed property in the PTO chain is reversed.

If a rental waiver assessor determines that it is just and equitable in the circumstances of the case, in relation to the owner of a prescribed property, for the

rental waiver to be reversed, then the rental waiver given to every tenant of the prescribed property in the PTO chain is reversed.

If a rental waiver assessor determines that it is just and equitable in the circumstances of the case, in relation to a landlord, for the rental waiver to be reduced, then the rental waiver applicable to the landlord is reduced by the amount determined by the rental waiver assessor.

Division 4 (comprising new sections 100, 101 and 102) provides for the manner in which a PTO with an unstamped lease agreement may obtain rental waiver under the Part.

The new section 100 provides that a PTO of a prescribed property whose lease agreement does not satisfy the stamp duty requirement under the new section 91(2) may apply to the Registrar to appoint a rental waiver assessor to make a Division 4 determination.

The new section 101 deals with the Registrar's powers in relation to an application made under the new section 100.

The new section 102 enables a rental waiver assessor to make a determination, on an application by a PTO (PTO applicant) under the new section 100, whether it is just and equitable in the circumstances of the case for a notice of rental waiver to be issued to the PTO applicant even though the PTO's lease agreement has not been duly stamped. The rental waiver assessor can only make a determination on the application if the rental waiver assessor has first determined that the PTO applicant satisfies the prescribed criteria for rental waiver.

Division 5 (comprising new sections 103 to 107) provides for miscellaneous matters.

The new section 103 applies certain provisions in Part 2 to proceedings before a rental waiver assessor, and to the Registrar and rental waiver assessors.

The new section 104 deals with administrative support services to be provided by the Inland Revenue Authority of Singapore and Singapore Land Authority for the purposes of the Part.

The new section 105 disapplies the duty of secrecy under section 6 of the Income Tax Act so that the relevant information obtained pursuant to that Act may be disclosed to the Authority, Registrar and rental waiver assessors.

The new section 106 criminalises the making of a false declaration or statement under or for the purposes of the Part.

The new section 107 empowers the Minister charged with the responsibility for law to make regulations.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
