

ATTORNEY GENERAL AND MINISTER  
RESPONSIBLE FOR HOUSING

## BILL 7 – 2021

### TENANCY STATUTES AMENDMENT ACT, 2021

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

#### *Manufactured Home Park Tenancy Act*

**1** *Section 32 (4) of the Manufactured Home Park Tenancy Act, S.B.C. 2002, c. 77, is amended by striking out “with a term in a tenancy agreement” and substituting “with a term, other than a standard term or other material term, in a tenancy agreement”.*

**2** *The following section is added to Part 4:*

#### **Notice of rent increase has no effect**

- 36.1** (1) For the purposes of this section, a date that applies under section 83 (a), (b), (c) or (d), or that is prescribed under section 89 (2) (r), as the date a notice is deemed to be received is the date that applies regardless of whether the notice is received earlier or later than that date.
- (2) A notice given under this Part for an increase based on a calculation made under section 36 (1) (a) has no effect if the notice
- (a) is received before September 30, 2021, as determined under subsection (1) of this section, and
  - (b) has an effective date that is after March 30, 2020 and before January 1, 2022.

**3** *Section 48 is amended by adding the following subsection:*

- (1.1) If an application referred to in subsection (1) is in relation to a landlord’s notice to end a tenancy under section 39 [*landlord’s notice: non-payment of rent*], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the director must grant an order requiring the payment of the unpaid rent.

**4 Section 51 is amended**

**(a) by repealing subsection (2) and substituting the following:**

- (2) Except as provided in subsection (4) (a), the director must not determine a dispute if
  - (a) the amount claimed, excluding any amount claimed under section 44 (1) or (2) or 44.1, for debt or damages is more than the monetary limit for claims under the *Small Claims Act*,
  - (b) the application for dispute resolution was not made within the applicable time period specified under this Act, or
  - (c) the dispute is linked substantially to a matter that is before the Supreme Court. ,

**(b) in subsection (3) by striking out “subsection (4)” and substituting “subsection (4) or (4.1)”, and**

**(c) by repealing subsection (4) and substituting the following:**

- (4) The Supreme Court may, on an application regarding a dispute referred to in subsection (2) (a) or (c),
  - (a) order that the director hear and determine the dispute, or
  - (b) hear and determine the dispute.
- (4.1) If the Supreme Court hears and determines a dispute under subsection (4) (b), the Supreme Court may make any order that the director may make under this Act.

**5 Section 55 (1) is amended by striking out “The director has” and substituting “Subject to section 51, the director has”.**

**6 Section 72 is amended**

**(a) by adding the following subsection:**

- (1.1) The director may, on the director’s own initiative, review the director’s decisions or orders. ,

**(b) in subsection (2) (a) by striking out “the original hearing” and substituting “the original hearing or part of the original hearing” and by striking out “and that were beyond” and substituting “and were beyond”,**

**(c) in subsection (2) (b) by striking out “original hearing” and substituting “original hearing and that materially affects the decision”, and**

**(d) in subsection (2) by adding the following paragraphs:**

- (b.1) a party, because of circumstances that could not be anticipated and were beyond the party's control, submitted material evidence after the applicable time period expired but before the original hearing, and that evidence was not before the director at the original hearing;
- (b.2) a person who performed administrative tasks for the director made a procedural error that materially affected the result of the original hearing;
- (b.3) a technical irregularity or error occurred that materially affected the result of the original hearing;
- (d) in the original hearing, the director did not determine an issue that the director was required to determine;
- (e) in the original hearing, the director determined an issue that the director did not have jurisdiction to determine.

**7 Section 80.2 is amended**

**(a) in subsection (1) by striking out “being investigated under this Part” and by striking out “related to the investigation in any way” and substituting “related in any way to an investigation”, and**

**(b) in subsections (1) and (2) by striking out “documents” and substituting “records”.**

**8 Section 80.3 (1) (a) and (b) is repealed and the following substituted:**

- (a) contravened a provision of this Act or the regulations,
- (b) failed to comply with a decision or order of the director, or a demand issued by the director for production of records, or
- (c) given false or misleading information in a dispute resolution proceeding or an investigation.

**9 Section 80.8 is repealed and the following substituted:**

**Review of administrative penalty**

- 80.8** (1) A person who receives a notice under section 80.5 may apply to the director for a review of the matters set out in the notice.
- (2) The director may, on the director's own initiative, review the matters set out in the notice.
- (3) Subject to subsection (4), Division 2 [*Review of Decisions and Orders*] of Part 6 applies to a review under this section.

- (4) For the purposes of this section, section 72 (2) is to be read as if it provided that a decision or order of the director may be reviewed only on one or more of the following grounds:
- (a) the person was unable to be heard because of circumstances that could not be anticipated and were beyond the person’s control;
  - (b) the person has new and relevant evidence that was not available before the director imposed the administrative penalty and that materially affects the decision to impose the administrative penalty;
  - (c) a person who performed administrative tasks for the director made a procedural error that materially affected the decision to impose the administrative penalty or the amount of the administrative penalty;
  - (d) a technical irregularity or error occurred that materially affected the decision to impose an administrative penalty or the amount of the administrative penalty;
  - (e) the director did not determine an issue that the director was required to determine.

**10 Section 83 is amended**

- (a) in paragraph (a) by striking out “5th” and substituting “fifth”, and**
- (b) in paragraphs (b), (c) and (d) by striking out “3rd” and substituting “third”.**

**11 Section 89 (2) is amended**

- (a) by repealing paragraph (m) and substituting the following:**

- (m) respecting
  - (i) the procedures a landlord must follow to establish, change or repeal a park rule, and
  - (ii) the frequency with which a landlord may establish, change or repeal a park rule; ,

- (b) by repealing paragraph (q) and substituting the following:**

- (q) respecting rent increases that may be approved by the director under section 62 [*director’s orders: rent increases*] on application under section 36 (3) [*amount of rent increase*], including, without limitation,
  - (i) prescribing circumstances for the purposes of section 36 (3),
  - (ii) prescribing calculations for rent increases under section 62,
  - (iii) prescribing rules respecting the application of rent increases under section 62, and
  - (iv) respecting the maximum rent increase that may be approved by the director under section 62; , **and**

***(c) in paragraph (r.1) by striking out “limiting this” and substituting “limitation” and by adding the following subparagraph:***

- (i.1) establishing procedures for providing an opportunity to object to a demand for production of records, .

***Residential Tenancy Act***

***12 Part 3 of the Residential Tenancy Act, S.B.C. 2002, c. 78, is amended by adding the following section:***

**Notice of rent increase has no effect**

- 43.1** (1) For the purposes of this section, a date that applies under section 90 (a), (b), (c) or (d), or that is prescribed under section 97 (2) (p), as the date a notice is deemed to be received is the date that applies regardless of whether the notice is received earlier or later than that date.
- (2) A notice given under this Part for an increase based on a calculation made under section 43 (1) (a) has no effect if the notice
- (a) is received before September 30, 2021, as determined under subsection (1) of this section, and
  - (b) has an effective date that is after March 30, 2020 and before January 1, 2022.

***13 Section 49 (6) (b) is repealed.***

***14 The following section is added:***

**Director’s orders: renovations or repairs**

- 49.2** (1) Subject to section 51.4 [*tenant’s compensation: section 49.2 order*], a landlord may make an application for dispute resolution requesting an order ending a tenancy, and an order granting the landlord possession of the rental unit, if all of the following apply:
- (a) the landlord intends in good faith to renovate or repair the rental unit and has all the necessary permits and approvals required by law to carry out the renovations or repairs;
  - (b) the renovations or repairs require the rental unit to be vacant;
  - (c) the renovations or repairs are necessary to prolong or sustain the use of the rental unit or the building in which the rental unit is located;
  - (d) the only reasonable way to achieve the necessary vacancy is to end the tenancy agreement.

- (2) In the case of renovations or repairs to more than one rental unit in a building, a landlord must make a single application for orders with the same effective date under this section.
- (3) The director must grant an order ending a tenancy in respect of, and an order of possession of, a rental unit if the director is satisfied that all the circumstances in subsection (1) apply.
- (4) An order granted under this section must have an effective date that is
  - (a) not earlier than 4 months after the date the order is made,
  - (b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, and
  - (c) if the tenancy agreement is a fixed term tenancy agreement, not earlier than the date specified as the end of the tenancy.

**15 Section 50 (1) is amended**

- (a) by striking out** “notice to end a periodic tenancy under section 49 [*landlord’s use of property*] or 49.1 [*landlord’s notice: tenant ceases to qualify*]” **and substituting** “notice to end a periodic tenancy under section 49 [*landlord’s use of property*] or 49.1 [*landlord’s notice: tenant ceases to qualify*] or the tenant receives a director’s order ending a periodic tenancy under section 49.2 [*director’s orders: renovations or repairs*]”, **and**
- (b) in paragraph (a) by striking out** “landlord’s notice” **and substituting** “landlord’s notice or director’s order”.

**16 Section 51 is amended**

- (a) in subsection (1.2) by striking out** “gives notice under section 50 before withholding the amount referred to in that subsection, the landlord must refund that amount” **and substituting** “paid rent before giving a notice under section 50, the landlord must refund the amount paid”,
- (b) by repealing subsection (2) and substituting the following:**
  - (2) Subject to subsection (3), the landlord or, if applicable, the purchaser who asked the landlord to give the notice must pay the tenant, in addition to the amount payable under subsection (1), an amount that is the equivalent of 12 times the monthly rent payable under the tenancy agreement if the landlord or purchaser, as applicable, does not establish that
    - (a) the stated purpose for ending the tenancy was accomplished within a reasonable period after the effective date of the notice, and

- (b) the rental unit, except in respect of the purpose specified in section 49 (6) (a), has been used for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice. , *and*

***(c) by repealing subsection (3) and substituting the following:***

- (3) The director may excuse the landlord or, if applicable, the purchaser who asked the landlord to give the notice from paying the tenant the amount required under subsection (2) if, in the director's opinion, extenuating circumstances prevented the landlord or the purchaser, as applicable, from
  - (a) accomplishing, within a reasonable period after the effective date of the notice, the stated purpose for ending the tenancy, and
  - (b) using the rental unit, except in respect of the purpose specified in section 49 (6) (a), for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

**17 Section 51.2 (1) is amended by striking out “a notice under section 49 (6) (b)” and substituting “an order under section 49.2”.**

**18 The following section is added:**

**Tenant's compensation: section 49.2 order**

- 51.4** (1) A tenant who receives an order ending a tenancy under section 49.2 [*director's orders: renovations or repairs*] is entitled to receive from the landlord on or before the effective date of the director's order an amount that is the equivalent of one month's rent payable under the tenancy agreement.
- (2) A tenant referred to in subsection (1) may withhold the amount authorized from the last month's rent and, for the purposes of section 50 (2), that amount is deemed to have been paid to the landlord.
  - (3) If a tenant referred to in subsection (1) paid rent before giving a notice under section 50, the landlord must refund the amount paid.
  - (4) Subject to subsection (5), the landlord must pay the tenant, in addition to the amount payable under subsection (1), an amount that is the equivalent of 12 times the monthly rent payable under the tenancy agreement if the landlord does not establish that the renovations or repairs have been accomplished within a reasonable period after the effective date of the order.
  - (5) The director may excuse the landlord from paying the tenant the amount required under subsection (4) if, in the director's opinion, extenuating circumstances prevented the landlord from accomplishing the renovations or repairs within a reasonable period after the effective date of the order.

**19 Section 55 is amended by adding the following subsection:**

- (1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end a tenancy under section 46 [*landlord's notice: non-payment of rent*], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the director must grant an order requiring the payment of the unpaid rent.

**20 Section 56 (1) is repealed and the following substituted:**

- (1) A landlord may make an application for dispute resolution requesting
  - (a) an order ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and
  - (b) an order granting the landlord possession of the rental unit.

**21 Section 56.1 (1) is repealed and the following substituted:**

- (1) A landlord may make an application for dispute resolution requesting
  - (a) an order ending a tenancy because
    - (i) the rental unit is uninhabitable, or
    - (ii) the tenancy agreement is otherwise frustrated, and
  - (b) an order granting the landlord possession of the rental unit.

**22 Section 58 is amended**

**(a) by repealing subsections (2) and (2.1) and substituting the following:**

- (2) Except as provided in subsection (4) (a), the director must not determine a dispute if any of the following applies:
  - (a) the amount claimed, excluding any amount claimed under section 51 (1) or (2) [*tenant's compensation: section 49 notice*], 51.1 [*tenant's compensation: requirement to vacate*] or 51.3 [*tenant's compensation: no right of first refusal*], for debt or damages is more than the monetary limit for claims under the *Small Claims Act*;
  - (b) the claim is with respect to whether the tenant is eligible to end a fixed term tenancy under section 45.1 [*tenant's notice: family violence or long-term care*];
  - (c) the application for dispute resolution was not made within the applicable time period specified under this Act;
  - (d) the dispute is linked substantially to a matter that is before the Supreme Court. ,

**(b) in subsection (3) by striking out "subsection (4)" and substituting "subsection (4) or (4.1)", and**



**(c) by repealing subsection (4) and substituting the following:**

(4) The Supreme Court may, on application regarding a dispute referred to in subsection (2) (a) or (c),

- (a) order that the director hear and determine the dispute, or
- (b) hear and determine the dispute.

(4.1) If the Supreme Court hears and determines a dispute under subsection (4) (b), the Supreme Court may make any order that the director may make under this Act.

**23 Section 62 (1) is amended by striking out “The director has” and substituting “Subject to section 58, the director has”.**

**24 Section 79 is amended**

**(a) by adding the following subsection:**

(1.1) The director may, on the director’s own initiative, review the director’s decisions or orders. ,

**(b) in subsection (2) (a) by striking out “the original hearing” and substituting “the original hearing or part of the original hearing”,**

**(c) in subsection (2) (b) by striking out “original hearing” and substituting “original hearing and that materially affects the decision”, and**

**(d) in subsection (2) by adding the following paragraphs:**

- (b.1) a party, because of circumstances that could not be anticipated and were beyond the party’s control, submitted material evidence after the applicable time period expired but before the original hearing, and that evidence was not before the director at the original hearing;
- (b.2) a person who performed administrative tasks for the director made a procedural error that materially affected the result of the original hearing;
- (b.3) a technical irregularity or error occurred that materially affected the result of the original hearing;
- (d) in the original hearing, the director did not determine an issue that the director was required to determine;
- (e) in the original hearing, the director determined an issue that the director did not have jurisdiction to determine.

**25 Section 87.2 is amended**

- (a) in subsection (1) by striking out “being investigated under this Part” and by striking out “related to the investigation in any way” and substituting “related in any way to an investigation”, and**
- (b) in subsections (1) and (2) by striking out “documents” and substituting “records”.**

**26 Section 87.3 (1) (a) and (b) is repealed and the following substituted:**

- (a) contravened a provision of this Act or the regulations,
- (b) failed to comply with a decision or order of the director, or a demand issued by the director for production of records, or
- (c) given false or misleading information in a dispute resolution proceeding or an investigation.

**27 Section 87.8 is repealed and the following substituted:**

**Review of administrative penalty**

- 87.8** (1) A person who receives a notice under section 87.5 may apply to the director for a review of the matters set out in the notice.
- (2) The director may, on the director’s own initiative, review the matters set out in the notice.
  - (3) Subject to subsection (4), Division 2 [*Review of Decisions and Orders*] of Part 5 applies to a review under this section.
  - (4) For the purposes of this section, section 79 (2) is to be read as if it provided that a decision or order of the director may be reviewed only on one or more of the following grounds:
    - (a) the person was unable to be heard because of circumstances that could not be anticipated and were beyond the person’s control;
    - (b) the person has new and relevant evidence that was not available before the director imposed the administrative penalty and that materially affects the decision to impose the administrative penalty;
    - (c) a person who performed administrative tasks for the director made a procedural error that materially affected the decision to impose the administrative penalty or the amount of the administrative penalty;
    - (d) a technical irregularity or error occurred that materially affected the decision to impose an administrative penalty or the amount of the administrative penalty;
    - (e) the director did not determine an issue that the director was required to determine.

**28 Section 90 is amended**

- (a) in paragraph (a) by striking out “5th” and substituting “fifth”, and*
- (b) in paragraphs (b), (c) and (d) by striking out “3rd” and substituting “third”.*

**29 Section 97 (2) is amended**

*(a) by repealing paragraph (o) and substituting the following:*

- (o) respecting rent increases that may be approved by the director under section 69 [*director’s orders: rent increases*] on application under section 43 (3) [*amount of rent increase*], including, without limitation,
  - (i) prescribing circumstances for the purposes of section 43 (3),
  - (ii) prescribing calculations for rent increases under section 69,
  - (iii) prescribing rules respecting the application of rent increases under section 69, and
  - (iv) respecting the maximum rent increase that may be approved by the director under section 69; , *and*

*(b) in paragraph (p.1) by striking out “limiting this” and substituting “limitation” and by adding the following subparagraph:*

- (i.1) establishing procedures for providing an opportunity to object to a demand for production of records, .

### **Transitional Provisions**

***Manufactured Home Park Tenancy Act transition –  
dispute resolution under section 48***

- 30** Section 48 of the *Manufactured Home Park Tenancy Act*, as that section read immediately before the date section 3 of this Act came into force, applies in relation to an application for dispute resolution under section 48 of that Act that was accepted by the director before the date section 3 of this Act came into force.

***Manufactured Home Park Tenancy Act transition –  
review of director’s decision or order under section 72***

- 31** The amendments made by section 6 of this Act apply with respect to a decision or order of the director made before the date section 6 comes into force, provided that the applicable time period under section 73 of the *Manufactured Home Park Tenancy Act* for an application for review of the decision or order has not expired.

**Manufactured Home Park Tenancy Act transition –  
production of records under section 80.2**

- 32 Section 80.2 of the *Manufactured Home Park Tenancy Act* as amended by section 7 of this Act applies in relation to an investigation under section 80.1 of that Act, provided that the investigation commenced before the date section 7 of this Act came into force.

**Manufactured Home Park Tenancy Act transition –  
application for review of director’s notice under section 80.8**

- 33 Section 80.8 of the *Manufactured Home Park Tenancy Act* as amended by section 9 of this Act applies with respect to a notice of the director given under section 80.5 of the *Manufactured Home Park Tenancy Act* before the date section 9 of this Act comes into force, provided that the applicable time period under section 73 (c) of the *Manufactured Home Park Tenancy Act* for an application for review of the matters set out in the notice has not expired.

**Residential Tenancy Act transition – landlord’s notice  
under section 49: landlord’s use of property**

- 34 A notice given under section 49 (6) (b) of the *Residential Tenancy Act* in accordance with section 49 of that Act before section 49 (6) (b) is repealed by section 13 of this Act is valid if the tenant receives the notice before July 1, 2021.

**Residential Tenancy Act transition –  
dispute resolution under section 55**

- 35 Section 55 of the *Residential Tenancy Act*, as that section read immediately before the date section 19 of this Act came into force, applies in relation to an application for dispute resolution under section 55 of that Act, provided that the application was accepted by the director before the date section 19 of this Act came into force.

**Residential Tenancy Act transition –  
review of director’s decision or order under section 80**

- 36 The amendments made by section 24 of this Act apply with respect to a decision or order of the director made before the date section 24 comes into force, provided that the applicable time period under section 80 of the *Residential Tenancy Act* for an application for review of the decision or order has not expired.

**Residential Tenancy Act transition –  
production of records under section 87.2**

- 37 Section 87.2 of the *Residential Tenancy Act* as amended by section 25 of this Act applies in relation to an investigation under section 87.2 of that Act, provided that the investigation commenced before the date section 25 of this Act came into force.

**Residential Tenancy Act transition – application for review of director’s notice under section 87.8**

**38** Section 87.8 of the *Residential Tenancy Act* as amended by section 27 of this Act applies with respect to a notice of the director given under section 87.5 of the *Residential Tenancy Act* before the date section 27 of this Act comes into force, provided that the applicable time period under section 80 (c) of the *Residential Tenancy Act* for an application for review of the matters set out in the notice has not expired.

**Commencement**

**39** The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 <b>Provisions of Act</b>	Column 2 <b>Commencement</b>
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Sections 6 and 9	By regulation of the Lieutenant Governor in Council
3	Sections 13 to 18	July 1, 2021
4	Sections 24 and 27	By regulation of the Lieutenant Governor in Council