

2022

THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY

TENTH ASSEMBLY

**Report on COVID-19 Measures - Report No. 15 (1 April to 30 June 2022)**

Tabled pursuant to *COVID-19 Emergency Response Act 2020, s3*

Presented by  
Mick Gentleman MLA  
Manager of Government Business  
29 July 2022



## **Background**

On 2 April 2020 the COVID-19 Emergency Response Bill 2020 was passed in the Legislative Assembly. The *COVID-19 Emergency Response Act 2020* (the Act) commenced on 8 April 2020.

The Act was subsequently amended by both the *COVID-19 Emergency Response Legislation Amendment Act 2020* which commenced on 14 May 2020 and the *COVID-19 Emergency Response Legislation Amendment Act 2021* (the Act 2021) which commenced on 20 February 2021. The Act 2021 contained amendments to the reporting requirements set out in the *COVID-19 Emergency Response Act 2020*, from monthly to quarterly, beginning from 2021.

The Act states that for each reporting period that a COVID-19 declaration is in force, the responsible Minister for a COVID-19 measure must prepare a report for the Legislative Assembly on the application of the measure.

## **Report No.15**

Report No.15, for the reporting period of 1 April – 30 June 2022, contains reporting on the measures contained in the *COVID-19 Emergency Response Act 2020*; and the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The measures are reflected in amendments to the following:

- *Bail Act 1992*
- *Children and Young People Act 2008*
- *Corrections Management Act 2007*
- *Court Procedures Act 2004*
- *COVID-19 Emergency Response Act 2020*
- *Crimes Act 1900*
- *Crimes (Sentence Administration) Act 2005*
- *Crimes (Sentencing) Act 2005*
- *Drugs of Dependence Act 1989*
- *Education Act 2004*
- *Evidence (Miscellaneous Provisions) Act 1991*
- *Family Violence Act 2016*
- *Financial Management Act 1996*

- *Firearms Act 1996*
- *Gaming Machine Act 2004*
- *Gaming Machine Regulation 2004*
- *Human Rights Commission Act 2005*
- *Leases (Commercial and Retail) Act 2001*
- *Long Service Leave (Portable Schemes) Act 2009*
- *Payroll Tax Act 2011*
- *Personal Violence Act 2016*
- *Powers of Attorney Act 2006*
- *Prohibited Weapons Act 1996*
- *Rates Act 2004*
- *Residential Tenancies Act 1997*
- *Taxation Administration Act 1999*

# COVID-19 EMERGENCY RESPONSE ACT 2020 QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Attorney-General

**Legislation:** *Bail Act 1992*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The legislative amendments that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:**

- Undertakings to appear given in court by audio visual link.

**Purpose of measure:**

- This measure supports the continued effective operations of the courts. These amendments will allow courts to receive undertakings via remote means as opposed to requiring an accused to appear in person.

**Alignment of measure:**

- ACT only initiative.

**Promotional and public awareness campaigns undertaken:**

- Nil.

**Stakeholder engagement undertaken:**

- Relevant stakeholders are aware of the changes in procedure.

**Cost of the measure:**

- Nil.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact:**

- The Court’s case management system does not currently collect data on this measure.

- As previously indicated, the manual collection and reporting of data on this measure would inappropriately divert resources away from court operations and therefore these details are not reported.

Approved for tabling in the ACT Legislative Assembly



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Shane Rattenbury MLA  
Attorney-General

Date: 21/7/22

### Amendments:

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

##### [1.3] New section 28 (2A)

*insert*

- (2A) During a COVID-19 emergency, an undertaking—
- (a) may be in writing or given before the court; and
  - (b) if given before the court, must be recorded by the court.

##### [1.4] New section 28 (6) and (7)

*insert*

- (6) In this section:
- COVID-19 emergency** means—
- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
  - (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).
- (7) This subsection and subsections (2A) and (6) expire on the day the [COVID-19 Emergency Response Act 2020](#), expires.

##### [1.5] Dictionary, definition of *undertaking to appear*

*after*

section 28 (1)

*insert*

or (2A)

##### [1.6] Dictionary, definition of *undertaking to appear*

*omit*

or (2A)

## COVID-19 Emergency Response Legislation Amendment Act 2021

Date notified: 19 February 2021

### [1.3] Section 28 (7)

*substitute*

- (7) This subsection and subsections (2A) and (6) expire on the day the *COVID-19 Emergency Response Act 2020* expires.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio:** Assistant Minister for Families and Community Services

**Legislation:** *Children and Young People Act 2008*

This Act was amended by the *COVID-19 Emergency Response Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:** Amend s 149 to allow the DG to declare that an emergency exists in relation to a detention place for the period of not more than the duration of the COVID-19 emergency. Safeguards include review every 28 days and advice to Minister.

### **Purpose of measure:**

- The measure allows a declaration of emergency at Bimberi Youth Justice Centre if the Director-General, Community Services Directorate believes that an emergency exists in relation to COVID-19 that threatens or is likely to threaten:
  - Good order or security at the place; or
  - The safety of anyone at the place or elsewhere.
- This measure would enable certain actions to occur, namely:
  - restrict any activity at the place;
  - restrict access in, or to or from, the place or any part of the place;
  - restrict communications between a young detainee and anyone else; and
  - authorise a police officer or public servant to exercise any function exercisable by a youth detention officer under the criminal matters' chapters in accordance with any direction by the Director-General.
- In taking any action the Director-General must ensure that the action taken is necessary and reasonable in the circumstances.

### **Alignment of measure**

- ACT only initiative

### **Promotional and public awareness campaigns undertaken**

- N/A

### **Stakeholder engagement undertaken**

- Should a declaration of emergency at Bimberi Youth Justice Centre be imposed, the families for young people in detention along with oversight agencies would be notified. Those oversight agencies include :
  - Children and Young People Commissioner
  - Public Advocate
  - Inspectorate of Correctional Services and
  - Official Visitors for Children and Young People.
- Engagement will also occur with Justice Health Services and the Education Directorate who provide services to Bimberi.

### Cost of the measure

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

### Where measurable, provide details on the monthly and cumulative impact

- This provision has not been enacted during the reporting period.

Approved for tabling in the ACT Legislative Assembly



Emma Davidson MLA  
Assistant Minister for Families and Community Services

Date: 11/7/22

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Attachment A

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

##### [1.1] New section 149 (2A)

*insert*

- (2A) However, if the emergency relates to a COVID-19 emergency, the director-general may declare that an emergency exists in relation to the detention place for a period of not more than the duration of the COVID-19 emergency.

##### [1.2] New section 149 (3A) to (3D)

*insert*

- (3A) If 1 or more declarations under subsection (2A) are in force for a consecutive period of 28 days or more, the director-general must—
- (a) at least every 28 days, conduct a review of whether there are reasonable grounds for continuing the declaration; and
  - (b) as soon as practicable after a review, advise the Minister in writing about any measures taken in response to the emergency under the declaration.
- (3B) The first annual report prepared by the director-general under the [Annual Reports \(Government Agencies\) Act 2004](#) after an emergency declaration ends must include information about the measures taken in response to the emergency while the declaration was in force.
- (3C) A failure by the director-general to comply with subsection (3A) or (3B) does not affect the validity of the declaration.
- (3D) A declaration made under subsection (2A) must be revoked if the director-general no longer believes there are reasonable grounds for the declaration.

##### [1.3] New section 149 (8) and (9)

*after the note, insert*

- (8) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

(9) The following provisions expire 12 months after the day this subsection commences:

- (a) this subsection;
- (b) subsection (2A);
- (c) subsections (3A) to (3D);
- (d) subsection (8).

# COVID-19 EMERGENCY RESPONSE ACT 2020 QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio:** Assistant Minister for Families and Community Services

**Legislation:** *Children and Young People Act 2008*

This Act was amended by the *COVID-19 Emergency Response Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A, beginning with the amendments made in the *COVID-19 Emergency Response Act 2020* followed by subsequent amendments made in the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

**Measure:** New s 241A (COVID-19 local leave permit) and amend s 242 (COVID-19 interstate leave). These amendments allows leave to be granted to young detainees for the duration of the COVID-19 emergency to ensure the health and safety of young detainees, other detainees and staff.

Consequential amendments to align the language of how a COVID-19 emergency and expiry of the amendments is described.

**Purpose of measure:**

- Should a declaration of emergency at Bimberi Youth Justice Centre be imposed, the families for young people in detention along with oversight agencies would be notified. Those oversight agencies include :
  - Children and Young People Commissioner
  - Public Advocate
  - Inspectorate of Correctional Services and
  - Official Visitors for Children and Young People.
- Engagement will also occur with Justice Health Services and the Education Directorate who provide services to Bimberi.

**Alignment of measure**

- ACT only initiative

**Promotional and public awareness campaigns undertaken**

- N/A

**Stakeholder engagement undertaken**

- If a COVID-19 leave permit is to be granted, consultation will occur with the young person’s family and care team, in their best interests to plan for adequate community-based supports.
- General information will be provided to oversight bodies, through the Bimberi Oversight Group.

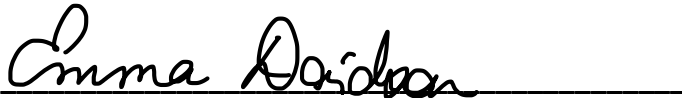
**Cost of the measure**

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

- This measure has not been enacted in the reporting period.

**Approved for tabling in the ACT Legislative Assembly**



**Emma Davidson MLA  
Assistant Minister for Families and Community Services**

Date: 11/7/22

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

#### [1.4] New section 241A

*in division 6.8.1, insert*

#### 241A Local leave permits—COVID-19 emergency response

- (1) The director-general may, during the COVID-19 emergency period, give a young detainee a written permit to be absent from a detention place, and to be in another place in the ACT, because of the COVID-19 emergency (a **COVID-19 local leave permit**).

*Note* The power to make an instrument includes the power to amend or repeal the instrument (see Legislation Act, s 46).

- (2) A COVID-19 **local leave permit** may be given for the period the director-general considers appropriate, but not longer than 7 days after the day the COVID-19 emergency period ends.
- (3) A COVID-19 **local leave permit** must state the following:
  - (a) that the permit is given because of the COVID-19 emergency;
  - (b) the period for which the leave is granted;
  - (c) any conditions to which the leave is subject.
- (4) A COVID-19 **local leave permit** is subject to the following conditions:
  - (a) any condition prescribed by regulation;
  - (b) any other condition, consistent with the conditions (if any) prescribed by regulation, that—
    - (i) the director-general believes on reasonable grounds is necessary and reasonable; and
    - (ii) is stated in the permit.

#### **Example—condition stated in permit**

a condition prohibiting association with a particular person or being near a particular place

- (5) A COVID-19 local leave permit authorises the young detainee to be absent from the detention place in accordance with the permit unescorted.
- (6) In this section:

**COVID-19 emergency period** means the period during which the [Public Health \(Emergency\) Declaration 2020 \(No 1\)](#) (NI2020-153), as extended or further extended, is in force.

- (7) This section expires 7 days after the day the COVID-19 emergency period ends.

**[1.5] New section 242 (3A)**

*insert*

- (3A) Despite subsection (3) (e), during the COVID-19 emergency period, the director-general may give a young detainee an interstate leave permit for the period the director-general considers appropriate, but not longer than 7 days after the day the COVID-19 emergency period ends, if—
- (a) the purpose of the leave is related to the COVID-19 emergency; and
  - (b) the period for which the leave is granted is stated in the permit.

**[1.6] New section 242 (6A)**

*insert*

- (6A) Despite subsections (4) to (6), if an interstate leave permit will, or is likely to, expire during the COVID-19 emergency period, the director-general may extend the permit for the period the director-general considers appropriate.

**[1.7] New section 242 (7A)**

*insert*

- (7A) However, subsection (7) (a) does not apply to an interstate leave permit if—
- (a) the permit is given during the COVID-19 emergency period; and
  - (b) the purpose of the leave is related to the COVID-19 emergency.

**[1.8] New section 242 (9) and (10)**

*insert*

- (9) In this section:

**COVID-19 emergency period** means the period during which the [Public Health \(Emergency\) Declaration 2020 \(No 1\)](#) (NI2020-153), as extended or further extended, is in force.

- (10) The following subsections expire 7 days after the day the COVID-19 emergency period ends:
- (a) this subsection;
  - (b) subsection (3A);
  - (c) subsection (6A);



- (d) subsection (7A);
- (e) subsection (9).

### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

#### [1.7] Section 241A (1)

*omit*

the COVID-19 emergency period

*substitute*

a COVID-19 emergency period

#### [1.8] Section 241A (6)

*substitute*

(6) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

**COVID-19 emergency period** means a period during which a COVID-19 emergency is in force.

#### [1.9] Section 241A (7)

*omit*

7 days after the day the COVID-19 emergency period ends

*substitute*

at the end of a 7-day period during which no COVID-19 emergency has been in force

#### [1.10] Section 242 (3A)

*omit*

during the COVID-19 emergency period

*substitute*

during a COVID-19 emergency period

**[1.11] Section 242 (6A)**

*omit*

the COVID-19 emergency period

*substitute*

a COVID-19 emergency period

**[1.12] Section 242 (7A) (a)**

*omit*

the COVID-19 emergency period

*substitute*

a COVID-19 emergency period

**[1.13] Section 242 (9)**

*substitute*

(9) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

**COVID-19 emergency period** means a period during which a COVID-19 emergency is in force.

**[1.14] Section 242 (10)**

*omit*

7 days after the day the COVID-19 emergency period ends

*substitute*

at the end of a 7-day period during which no COVID-19 emergency has been in force

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio:** Assistant Minister for Families and Community Services

**Legislation:** *Children and Young People Act 2008*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in [Attachment A](#).

**Measure:** Consequential amendment to s245 (Lawful temporary absence from detention place).

### **Purpose of measure:**

- Under the COVID-19 leave scheme, a young person, who is in custody at Bimberi Youth Justice Centre, either on remand or sentenced, may be granted approval, via a COVID-19 local or interstate leave permit to be in the community under conditions of the leave permit.
- This will allow some young people in Bimberi to return home if further lockdown or isolation measures are required. This ensures they can keep connected with their family and fulfil their social distancing obligations. Young people on leave will continue to be supervised in the community during this time.
- The primary purpose of this option is to provide leave permits for lower risk and vulnerable young people, rather than for young people who are high risk and have committed serious offences.

### **Alignment of measure**

- ACT only initiative

### **Promotional and public awareness campaigns undertaken**

- N/A

### **Stakeholder engagement undertaken**

- If a COVID-19 leave permit is to be granted, consultation will occur with the young person's family and care team, in their best interests to plan for adequate community-based supports.
- General information will be provided to oversight bodies, through the Bimberi Oversight Group.

### Cost of the measure

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
Net Operating Impact	-	-	-	-

### Where measurable, provide details on the monthly and cumulative impact

- This provision has not been enacted in the reporting period.

Approved for tabling in the ACT Legislative Assembly



Emma Davidson MLA

Assistant Minister for Families and Community Services

Date: 1/17/22

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Attachment A

### Amendments:

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

##### [1.15] New section 245 (1) (ba)

*insert*

(ba) a COVID-19 local leave permit under section 241A;

##### [1.16] New section 245 (5)

*insert*

(5) This subsection and subsection (1) (ba) expire at the end of a 7-day period during which no COVID-19 emergency has been in force.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio:** Assistant Minister for Families and Community Services

**Legislation:** *Children and Young People Act 2008*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in [Attachment A](#).

**Measure:** Amend s 287 (Meaning of behaviour breach) to include contravention of a COVID-19 permit.

### **Purpose of measure:**

- Under the COVID-19 leave scheme a young person who is in custody at Bimberi Youth Justice Centre, either on remand or sentenced, may be granted approval via a COVID-19 local or interstate leave permit to be in the community, under conditions of the leave permit.
- This will allow some young people in Bimberi to return home if further lockdown or isolation measures are required. This ensures they can keep connected with their family and fulfil their social distancing obligations. Young people on leave will continue to be supervised in the community during this time.
- The primary purpose of this option to provide leave permits for lower risk and vulnerable young people, rather than for young people who are high risk and have committed serious offences.

### **Alignment of measure**

- ACT only initiative

### **Promotional and public awareness campaigns undertaken**

- N/A

### **Stakeholder engagement undertaken**

- If a COVID-19 leave permit is to be granted, consultation will occur with the young person's family and care team, in their best interests to plan for adequate community-based supports.
- General information will be provided to oversight bodies, through the Bimberi Oversight Group.

### Cost of the measure

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
Net Operating Impact	-	-	-	-

### Where measurable, provide details on the monthly and cumulative impact

- This provision has not been enacted in the reporting period.

Approved for tabling in the ACT Legislative Assembly



Emma Davidson MLA

Assistant Minister for Families and Community Services

Date: 11/7/22

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Attachment A

### Amendments:

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

**[1.17] New section 287 (1) (sa)**

*insert*

(sa) contravening a condition of a COVID-19 local leave permit under section 241A;

**[1.18] New section 287 (3)**

*insert*

(3) This subsection and subsection (1) (sa) expire at the end of a 7-day period during which no COVID-19 emergency has been in force.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio: Families and Community Services**

**Legislation:** *Children and Young People Act 2008*

This Act was amended by the *COVID-19 Emergency Response Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A, beginning with the amendments made in the *COVID-19 Emergency Response Act 2020* followed by subsequent amendments made in the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

**Measure:** Amend s 384 (Appraisal Orders) to allow the Childrens Court to determine the most appropriate timeframe for an appraisal order in the circumstances of a public health emergency.

Consequential amendments to align the language of how a COVID-19 emergency and expiry of the amendments is described.

**Purpose of measure:**

- This measure provides time for gathering information and conducting appraisals and acknowledges that there is likely to be a reduction in critical staff available for this work.

**Alignment of measure**

- ACT only initiative

**Promotional and public awareness campaigns undertaken**

- N/A

**Stakeholder engagement undertaken**

- N/A

**Cost of the measure**

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

- This provision has not been enacted in the reporting period.

**Approved for tabling in the ACT Legislative Assembly**

*Emma Davidson*

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Acting for  
**Rachel Stephen-Smith MLA**  
**Minister for Families and Community Services**

**Date:** 11 / 07 / 2022

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

##### [1.9] New section 384 (3) to (5)

*after the notes, insert*

- (3) However, for an appraisal order made during the COVID-19 emergency period—
  - (a) the length of the appraisal order is to be decided by the Childrens Court; and
  - (b) the length of any temporary parental responsibility provision in the appraisal order is to be decided by the Childrens Court.
- (4) In this section:

**COVID-19 emergency period** means the period during which the *Public Health (Emergency) Declaration 2020 (No 1)* (NI2020-153), as extended or further extended, is in force.
- (5) This subsection and subsections (3) and (4) expire 6 months after the day the COVID-19 emergency period ends.

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

##### [1.19] Section 384 (3)

*omit*

during the COVID-19 emergency period

*substitute*

during a COVID-19 emergency

##### [1.20] Section 384 (4)

*substitute*

- (4) In this section:

**COVID-19 emergency** means—

  - (a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or

- (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

**[1.21] Section 384 (5)**

*omit*

6 months after the day the COVID-19 emergency period ends

*substitute*

at the end of a 6-month period during which no COVID-19 emergency has been in force

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio: Families and Community Services**

**Legislation:** *Children and Young People Act 2008*

This Act was amended by the *COVID-19 Emergency Response Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in [Attachment A](#), beginning with the amendments made in the *COVID-19 Emergency Response Act 2020* followed by subsequent amendments made in the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

**Measure:** New s 400A (Voluntary care agreements extension) (VCAs). VCAs due to end during the emergency are extended until 3 months after the day the COVID-19 emergency period ends. To remove any doubt, s 401 (enabling a party to a VCA to end the agreement) still applies.

Consequential amendments to align the language of how a COVID-19 emergency and expiry of the amendments is described.

**Purpose of measure:**

- This measure will allow voluntary care agreements to remain in place during a public health emergency, and for this time not to count towards the maximum amount of time that a voluntary care agreement can be in place.

**Alignment of measure**

- ACT only initiative

**Promotional and public awareness campaigns undertaken**

- N/A

**Stakeholder engagement undertaken**

- N/A

**Cost of the measure**

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

- This provision has not been enacted in the reporting period.

**Approved for tabling in the ACT Legislative Assembly**

*Emma Davidson*

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Acting for

**Rachel Stephen-Smith MLA**

**Minister for Families and Community Services**

**Date:** 11 / 07 /2022

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

##### [1.10] New section 400A

*insert*

##### 400A Voluntary care agreements—extension—COVID-19 emergency response

- (1) This section applies if a voluntary care agreement will, or is likely to, end (other than because of section 401) during the COVID-19 emergency period.
- (2) The voluntary care agreement is extended until 3 months after the day the COVID-19 emergency period ends.
- (3) A period of extension under subsection (2) is not to be considered in working out—
  - (a) the total length of a voluntary care agreement and proposed extension under section 400 (1) (a); or
  - (b) how long a child or young person has been cared for under a voluntary care agreement under section 400 (1) (b).
- (4) In this section:

**COVID-19 emergency period** means the period during which the [Public Health \(Emergency\) Declaration 2020 \(No 1\)](#) (NI2020-153), as extended or further extended, is in force.
- (5) This section expires 3 months after the day the COVID-19 emergency period ends.

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

##### [1.22] Section 400A (1)

*omit*

the COVID-19 emergency period

*substitute*

a COVID-19 emergency period

**[1.23] Section 400A (4)**

*substitute*

(4) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

**COVID-19 emergency period** means a period during which a COVID-19 emergency is in force.

**[1.24] Section 400A (5)**

*omit*

3 months after the day the COVID-19 emergency period ends

*substitute*

at the end of a 3-month period during which no COVID-19 emergency has been in force

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio: Families and Community Services**

**Legislation:** *Children and Young People Act 2008*

This Act was amended by the *COVID-19 Emergency Response Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A, beginning with the amendments made in the *COVID-19 Emergency Response Act 2020* followed by subsequent amendments made in the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

**Measure:** Amend s 410 (Emergency Action) to allow the DG to apply to the Childrens Court for a two working day extension of the period for which the DG has parental responsibility following Emergency Action. This is to allow the DG to file relevant material when seeking an interim child protection order.

Consequential amendments to align the language of how a COVID-19 emergency and expiry of the amendments is described.

**Purpose of measure:**

- This measure can only be granted by the Childrens Court and provides for additional time for the Director-General to file relevant material to the Court when seeking an interim child protection order during a public health emergency.

**Alignment of measure**

- ACT only initiative

**Promotional and public awareness campaigns undertaken**

- N/A

**Stakeholder engagement undertaken**

- N/A

**Cost of the measure**

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

- This provision has not been enacted in the reporting period.

**Approved for tabling in the ACT Legislative Assembly**

*Emma Davidson*

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Acting for

**Rachel Stephen-Smith MLA**

**Minister for Families and Community Services**

**Date:** 11 / 07 / 2022

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

##### [1.11] New section 410 (2) to (5)

*insert*

- (2) However, the director-general may apply to the Childrens Court for an extension of the period mentioned in subsection (1) (a) or (b) if—
  - (a) the period for which the director-general has daily care responsibility for the child or young person will, or is likely to, end during—
    - (i) the COVID-19 emergency period; or
    - (ii) the 6 months following the COVID-19 emergency period; and
  - (b) there are exceptional circumstances justifying the extension.
- (3) The Childrens Court may extend the period mentioned in subsection (1) (a) or (b) for up to 2 more days.
- (4) In this section:

**COVID-19 emergency period** means the period during which the [Public Health \(Emergency\) Declaration 2020 \(No 1\)](#) (NI2020-153), as extended or further extended, is in force.
- (5) This subsection and subsections (2) to (4) expire 6 months after the day the COVID-19 emergency period ends.

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

##### [1.25] Section 410 (2) (a) (i) and (ii)

*omit*

the COVID-19 emergency period

*substitute*

a COVID-19 emergency

##### [1.26] Section 410 (4)

*substitute*

- (4) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

**[1.27] Section 410 (5)**

*omit*

6 months after the day the COVID-19 emergency period ends

*substitute*

at the end of a 6-month period during which no COVID-19 emergency has been in force

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio: Families and Community Services**

**Legislation:** *Children and Young People Act 2008*

This Act was amended by the *COVID-19 Emergency Response Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A, beginning with the amendments made in the *COVID-19 Emergency Response Act 2020* followed by subsequent amendments made in the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

**Measure:** Amend s 423 (Offence provision - care and protection orders) to prevent a person from being subject to the offence provision where it is not reasonably practical for a person to comply with a care and protection order because of the impact of the COVID 19 emergency. This amendment means that parties will not be penalised where they are unable to fulfil their obligations under a care and protection order due to the public health emergency.

Consequential amendments to align the language of how a COVID-19 emergency and expiry of the amendments is described.

**Purpose of measure:**

- This measure means parents and staff will not be penalised if it is not possible to comply with all of the requirements of a Care and Protection Order due to the public health emergency.

**Alignment of measure**

- ACT only initiative

**Promotional and public awareness campaigns undertaken**

- N/A

**Stakeholder engagement undertaken**

- N/A

**Cost of the measure**

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

- This provision has not been enacted in the reporting period.

**Approved for tabling in the ACT Legislative Assembly**

*Emma Davidson*

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Acting for

**Rachel Stephen-Smith MLA**

**Minister for Families and Community Services**

**Date:** 11/ 07 /2022

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Attachment A

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

##### [1.12] New section 423 (2) to (4)

*after the notes, insert*

- (2) This section does not apply if—
- (a) the contravention happened during—
    - (i) the COVID-19 emergency period; or
    - (ii) the 3 months following the COVID-19 emergency period; and
  - (b) it was not reasonably practicable for the person to comply with the order because of the COVID-19 emergency.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (2) (see Criminal Code, s 58).

- (3) In this section:

**COVID-19 emergency period** means the period during which the *Public Health (Emergency) Declaration 2020 (No 1)* (NI2020-153), as extended or further extended, is in force.

- (4) This subsection and subsections (2) and (3) expire 3 months after the day the COVID-19 emergency period ends.

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

##### [1.28] Section 423 (2) (a) (i) and (ii)

*omit*

the COVID-19 emergency period

*substitute*

a COVID-19 emergency

##### [1.29] Section 423 (3)

*substitute*

- (3) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

**[1.30] Section 423 (4)**

*omit*

3 months after the day the COVID-19 emergency period ends

*substitute*

at the end of a 3-month period during which no COVID-19 emergency has been in force

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio: Families and Community Services**

**Legislation:** *Children and Young People Act 2008*

This Act was amended by the *COVID-19 Emergency Response Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A, beginning with the amendments made in the *COVID-19 Emergency Response Act 2020* followed by subsequent amendments made in the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

**Measure:** Amend s 454 (Assessment Orders) to allow the Childrens Court to determine the most appropriate length of an order for the assessment of a family's situation and a child's needs in the public health emergency.

Consequential amendments to align the language of how a COVID-19 emergency and expiry of the amendments is described.

**Purpose of measure:**

- This measure provides time for gathering information and undertaking assessments and acknowledges that there is likely to be a reduction in critical staff and specialist health and therapeutic professionals available to complete this work.

**Alignment of measure**

- ACT only initiative

**Promotional and public awareness campaigns undertaken**

- N/A

**Stakeholder engagement undertaken**

- N/A

**Cost of the measure**

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

- This provision has not been enacted in the reporting period.

**Approved for tabling in the ACT Legislative Assembly**

*Emma Davidson*

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Acting for

**Rachel Stephen-Smith MLA**

**Minister for Families and Community Services**

**Date:** 11 / 07 / 2022

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

##### [1.13] New section 454 (3) to (5)

*after the notes, insert*

- (3) Also, during the COVID-19 emergency period, the Childrens Court may extend an assessment order for any period the court considers necessary for the assessment to be properly completed.
- (4) In this section:  
**COVID-19 emergency period** means the period during which the [Public Health \(Emergency\) Declaration 2020 \(No 1\)](#) (NI2020-153), as extended or further extended, is in force.
- (5) This subsection and subsections (3) and (4) expire 6 months after the day the COVID-19 emergency period ends.

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

##### [1.31] Section 454 (3)

*omit*

the COVID-19 emergency period

*substitute*

a COVID-19 emergency

##### [1.32] Section 454 (4)

*substitute*

- (4) In this section:  
**COVID-19 emergency** means—
  - (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
  - (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

**[1.33] Section 454 (5)**

*omit*

6 months after the day the COVID-19 emergency period ends

*substitute*

at the end of a 6-month period during which no COVID-19 emergency has been in force

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio: Families and Community Services**

**Legislation:** *Children and Young People Act 2008*

This Act was amended by the *COVID-19 Emergency Response Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A, beginning with the amendments made in the *COVID-19 Emergency Response Act 2020* followed by subsequent amendments made in the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

**Measure:** New s 514EAA so that 'Approved Carer' approvals that are due to expire during the emergency are extended until 6 months after the COVID-19 emergency period ends.

Consequential amendments to align the language of how a COVID-19 emergency and expiry of the amendments is described.

**Purpose of measure:**

- This change will ensure children can remain in safe, stable and secure care arrangements with a foster or kinship carer during the time of the public health emergency.

**Alignment of measure**

- ACT only initiative

**Promotional and public awareness campaigns undertaken**

- N/A

**Stakeholder engagement undertaken**

- N/A

**Cost of the measure**

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

- This change will ensure children can remain in safe, stable and secure care arrangements with a foster or kinship carer during the time of the public health emergency.
- For the reporting period 1 April to 30 June 2022, 58 Carer Approvals have been extended.

**Approved for tabling in the ACT Legislative Assembly**

*Emma Davidson*

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Acting for

**Rachel Stephen-Smith MLA**

**Minister for Families and Community Services**

**Date:** 11/ 07 /2022

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

**[1.14] New section 514EAA**

*after section 514E, insert*

**514EAA Approved carers—extension of approvals—COVID-19 emergency response**

- (1) This section applies if an approved carer approval will, or is likely to, expire during—
  - (a) the COVID-19 emergency period; or
  - (b) the 6 months following the COVID-19 emergency period.
- (2) The approval is extended until 6 months after the day the COVID-19 emergency period ends.
- (3) In this section:

**COVID-19 emergency period** means the period during which the *Public Health (Emergency) Declaration 2020 (No 1)* (NI2020-153), as extended or further extended, is in force.
- (4) This section expires 6 months after the day the COVID-19 emergency period ends.

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

**[1.34] Section 514EAA (1) (a) and (b)**

*omit*

the COVID-19 emergency period

*substitute*

a COVID-19 emergency period

**[1.35] Section 514EAA (3)**

*substitute*

- (3) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

**COVID-19 emergency period** means a period during which a COVID-19 emergency is in force.

**[1.36] Section 514EAA (4)**

*omit*

6 months after the day the COVID-19 emergency period ends

*substitute*

at the end of a 6-month period during which no COVID-19 emergency has been in force

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Corrections

**Legislation:** *Corrections Management Act 2007*

This Act was amended by the *COVID-19 Emergency Response Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:** Amend s26 to allow the Director-General to declare that an emergency exists in relation to the correctional centre for a period associated with a COVID-19 Public Health Emergency Declaration.

### **Purpose of measure:**

- To ensure that the Commissioner, ACT Corrective Services (ACTCS), as delegate of the Director-General, has the power to declare an emergency at the Alexander Maconochie Centre where required in order to enable appropriate responses to be enacted within an extended timeframe to manage the risks associated with COVID-19.

### **Alignment of measure**

- ACT only initiative.

### **Promotional and public awareness campaigns undertaken**

- N/A – amendment not yet utilised.

### **Stakeholder engagement undertaken**

- Following the ACT going into lockdown on 12 August 2021, the Commissioner, ACTCS, has been providing staff, detainees and stakeholders with updated COVID-19 related information as needed. The frequency of messaging is dependant on the situation and is reviewed as the situation changes.
- Updates are provided to the following stakeholders:
  - ACTCOSS
  - Aboriginal and Torres Strait Islander Elected Body
  - Legal Aid ACT
  - ACT Ombudsman
  - Aboriginal Legal Services NSW/ACT
  - Human Rights Commission

- Corrections Official Visitors
- Winnunga Nimmityjah Aboriginal Health and Community Services
- Inspector of Correctional Services
- Prisoner Aid ACT
- Women’s Centre for Health Matters.

**Cost of the measure**

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

- This measure has not been used to date and no declaration has been made under this amendment.

**Approved for tabling in the ACT Legislative Assembly**



**Mick Gentleman MLA  
Minister for Corrections**

**Date:** 21 / 7 / 2022

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

##### [1.15] New section 26 (2A)

*insert*

- (2A) However, if the emergency relates to a COVID-19 emergency, the director-general may declare that an emergency exists in relation to the correctional centre for a period of not more than the duration of the COVID-19 emergency.

##### [1.16] New section 26 (3A) to (3D)

*insert*

- (3A) If 1 or more declarations under subsection (2A) are in force for a consecutive period of 28 days or more, the director-general must—
- (a) at least every 28 days, conduct a review of whether there are reasonable grounds for continuing the declaration; and
  - (b) as soon as practicable after a review, advise the Minister in writing about any measures taken in response to the emergency under the declaration.
- (3B) The first annual report prepared by the director-general under the [Annual Reports \(Government Agencies\) Act 2004](#) after an emergency declaration ends must include information about the measures taken in response to the emergency while the declaration was in force.
- (3C) A failure by the director-general to comply with subsection (3A) or (3B) does not affect the validity of the declaration.
- (3D) A declaration made under subsection (2A) must be revoked if the director-general no longer believes there are reasonable grounds for the declaration.

##### [1.17] New section 26 (6) and (7)

*insert*

- (6) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

- (7) The following provisions expire 12 months after the day this subsection commences:
- (a) this subsection;
  - (b) subsection (2A);
  - (c) subsections (3A) to (3D);
  - (d) subsection (6).

## COVID-19 Emergency Response Legislation Amendment Act 2021

Date notified: 19 February 2021

### [1.4] Section 26 (7)

*omit*

12 months after the day this subsection commences

*substitute*

on the day the [COVID-19 Emergency Response Act 2020](#) expires.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Corrections

**Legislation:** *Corrections Management Act 2007*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:** Allow a person to be detained in a police cell for up to 48 hours (increased from 36 hours).

### Purpose of measure:

- To allow a person to be detained in a police cell for up to 48 hours to reduce the risk of infection within the Alexander Maconochie Centre.

### Alignment of measure

- ACT only initiative.

### Promotional and public awareness campaigns undertaken

- N/A - this amendment has not yet been utilised.

### Stakeholder engagement undertaken

- The amendment has not yet been utilised.

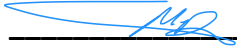
### Cost of the measure

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

### Where measurable, provide details on the monthly and cumulative impact

- This measure has not been used to date and has not yet been commenced by Ministerial notice.

**Approved for tabling in the ACT Legislative Assembly**



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**Mick Gentleman MLA  
Minister for Corrections**

**Date:** *21 / 7 / 2022*

### Amendments:

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

##### [1.37] New section 30 (2A)

*insert*

- (2A) Despite subsection (2) (a), during a COVID-19 emergency, a detainee (other than a young detainee) may be detained continuously at a police cell for a period not longer than 48 hours (the **allowed period**).

##### [1.38] New section 30 (6) and (7)

*insert*

- (6) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).
- (7) This subsection and subsections (2A) and (6) expire 12 months after the day the [COVID-19 Emergency Response Act 2020](#), section 4 commenced.

#### COVID-19 Emergency Response Legislation Amendment Act 2021

Date notified: 19 February 2021

##### [1.5] Section 30 (7)

*substitute*

This subsection and subsections (2A) and (6) expire on the day the [COVID-19 Emergency Response Act 2020](#) expires.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Corrections

**Legislation:** *Corrections Management Act 2007*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in [Attachment A](#).

**Measure:** Leave for COVID-19

### Purpose of measure:

- To allow the Commissioner, ACT Corrective Services (ACTCS), to grant a COVID-19 leave permit to a detainee where necessary to manage the risks of COVID-19 in a correctional centre, by granting leave to a detainee according to strict risk assessment with primary consideration to community safety.

### Alignment of measure

- ACT only initiative.

### Promotional and public awareness campaigns undertaken

- N/A – this amendment has not yet been utilised.

### Stakeholder engagement undertaken

- The ACT Bar Society, ACT Policing and the Human Rights Commission were consulted on the development of guidelines under this amendment.

### Cost of the measure

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

### Where measurable, provide details on the monthly and cumulative impact

- This measure has not been used to date and has not yet been commenced by Ministerial notice.

**Approved for tabling in the ACT Legislative Assembly**



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**Mick Gentleman MLA  
Minister for Corrections**

**Date:** *21 / 7 / 2022*

### Amendments:

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

[1.39] New part 12.3

*insert*

### Part 12.3 COVID-19 leave

#### 216A Application—pt 12.3

- (1) This part applies to a full-time detainee—
  - (a) if the detainee is serving a sentence of imprisonment for a relevant offence; and
  - (b) if a nonparole period has been set for the detainee—whether or not the nonparole period has ended.

- (2) In this section:

**family violence offence**—see the [Family Violence Act 2016](#), dictionary.

**nonparole period**—see the [Crimes \(Sentence Administration\) Act 2005](#), dictionary.

**relevant offence** means an offence other than the following:

- (a) a serious violent offence;
- (b) a sexual offence;
- (c) a family violence offence.

**serious violent offence** means an offence against—

- (a) any of the following provisions of the [Crimes Act 1900](#), punishable by a maximum term of imprisonment of 10 years or more:
  - (i) part 2 (Offences against the person);
  - (ii) part 2A (Industrial manslaughter); or
- (b) the [Criminal Code](#), section 310 (Aggravated robbery).

**sexual offence** means an offence against any of the following provisions of the [Crimes Act 1900](#):

- (a) part 3 (Sexual offences);
- (b) part 4 (Female genital mutilation);
- (c) part 5 (Sexual servitude).

**216B Definitions—pt 12.3**

In this part:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

**COVID-19 leave permit**—see section 216C (1).

**216C COVID-19 leave permit**

- (1) The director-general may, during a COVID-19 emergency, give the detainee a written permit (a **COVID-19 leave permit**) to be absent from the correctional centre.
- (2) However, the director-general must only give a COVID-19 leave permit to a detainee if—
  - (a) the director-general considers that giving the permit—
    - (i) would support the security and good order of the correctional centre; and
    - (ii) would reduce the likelihood of an outbreak or spread of the coronavirus disease 2019 (COVID-19) in the correctional centre; and
    - (iii) is otherwise appropriate; and
  - (b) the detainee agrees in writing to the permit and any conditions to which the permit is subject.
- (3) In considering the matters mentioned in subsection (2) (a), the director-general must have regard to—
  - (a) any guidelines under section 216G; and
  - (b) in relation to subsection (2) (a) (iii)—the following matters:
    - (i) the likelihood that any victim of the detainee, or the victim’s family, will be subject to violence or harassment by the detainee, having regard to the detainee’s conduct while serving their sentence of imprisonment;
    - (ii) whether, if given a COVID-19 leave permit, the detainee will have a suitable place to stay during their absence from the correctional centre.
- (4) For subsection (3), the director-general may have regard to any information available to the director-general in relation to the detainee and any victim of the detainee, including any victim impact statement.



# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

(5) If the director-general gives a COVID-19 leave permit to a detainee, the director-general must take reasonable steps to give written notice of the permit to a victim of the detainee.

(6) In this section:

**victim**, of a detainee, means a person who suffers harm because of an offence by the detainee.

### **216D COVID-19 leave permit—duration**

(1) A COVID-19 leave permit may be given for the period the director-general considers appropriate.

(2) However, the period must not begin earlier than—

(a) if the detainee's sentence of imprisonment is shorter than 1 year—60 days before the day the term of the detainee's sentence ends; or

(b) if the detainee's sentence of imprisonment is 1 year or longer—120 days before the day the term of the detainee's sentence ends.

### **216E COVID-19 leave permit—content**

A COVID-19 leave permit must state the following:

(a) that the permit is given because of a COVID-19 emergency;

(b) the period for which the leave is granted;

(c) any conditions to which the leave is subject;

(d) that, if the permit is cancelled for breach of a condition, the detainee may be arrested without warrant.

*Note* A police officer may, without warrant, arrest a person who is a prisoner unlawfully at large (see [Crimes Act 1900](#), s 214).

### **216F COVID-19 leave permit—conditions**

(1) A COVID-19 leave permit is subject to the following conditions:

(a) that the detainee live at a stated place;

(b) that the detainee must not commit—

(i) an offence against a territory law, or a law of the Commonwealth, a State or another Territory, that is punishable by imprisonment; or

(ii) an offence outside Australia against a law of a place outside Australia that, if it had been committed in Australia, would be punishable by imprisonment;

(c) that the detainee comply with any reasonable direction given to them by the director-general;

(d) that the detainee otherwise be of good behaviour;

- (e) any condition prescribed by regulation;
- (f) any other condition, consistent with the conditions (if any) prescribed by regulation, that—
  - (i) the director-general believes on reasonable grounds is necessary and reasonable; and
  - (ii) is stated in the permit.

**Example—condition stated in permit**

a condition prohibiting association with a particular person or being near a particular place

- (2) The director-general may cancel a detainee's COVID-19 leave permit if the director-general believes on reasonable grounds that the detainee has breached a condition of the permit.

**216G Guidelines for COVID-19 leave permits**

- (1) The director-general must make guidelines in relation to the operation of this part.
- (2) A guideline must include a statement that human rights have been considered in making the guideline.
- (3) A guideline—
  - (a) must be available for inspection by anyone at each correctional centre; and
  - (b) may be made available for inspection at any other place decided by the director-general.
- (4) A guideline is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

**216H Effect—pt 12.3**

Nothing in this part—

- (a) requires the director-general to consider giving a COVID-19 leave permit in relation to a detainee; or
- (b) prevents a detainee from applying for, or being granted, a parole order under the [Crimes \(Sentence Administration\) Act 2005](#).

**216I Expiry—pt 12.3**

The following provisions expire 120 days after the day the [COVID-19 Emergency Response Act 2020](#) expires:

- (a) this part;
- (b) dictionary, definitions of **COVID-19 emergency** and **COVID-19 leave permit**.



# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

### [1.40] Dictionary, new definitions

*insert*

**COVID-19 emergency**, for part 12.3 (COVID-19 leave)—see section 216B.

**COVID-19 leave permit**, for part 12.3 (COVID-19 leave)—see section 216C (1).

### COVID-19 Emergency Response Legislation Amendment Act 2021

Date notified: 19 February 2021

### [1.7] Section 216I

*omit*

120 days after the day

*substitute*

on the day

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio: Corrections**

**Legislation:** *Corrections Management Act 2007*

This Act was amended by the *COVID-19 Emergency Response Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:** Amend s205 to extend leave permit to 28 days. A permit may be cancelled for breach of a condition or if no longer required.

### **Purpose of measure:**

- To support the operations of ACT Corrective Services (ACTCS) in responding to, or managing, the risks associated with COVID-19 in a correctional centre, particularly in the event of a positive test result for one or more detainees.
- Extending the duration of a leave permit under the *Corrections Management Act 2007* in these circumstances from seven days provides a reasonable duration for leave that would allow a response to a positive case of COVID-19.

### **Alignment of measure**

- ACT only initiative.

### **Promotional and public awareness campaigns undertaken**

- The *Corrections Management (COVID-19 Temporary Leave) Operating Procedure 2020* has been notified and is available at:  
<https://www.legislation.act.gov.au/ni/2020-256/>

### **Stakeholder engagement undertaken**

- Following the ACT going into lockdown on 12 August 2021, the Commissioner, ACTCS, has been providing staff, detainees and stakeholders with updated COVID-19 related information as needed. The frequency of messaging is dependant on the situation and is reviewed as the situation changes.
- Updates are provided to the following stakeholders:
  - ACTCOSS
  - Aboriginal and Torres Strait Islander Elected Body
  - Legal Aid ACT
  - ACT Ombudsman

- Aboriginal Legal Services NSW/ACT
- Human Rights Commission
- Corrections Official Visitors
- Winnunga Nimmityjah Aboriginal Health and Community Services
- Inspector of Correctional Services
- Prisoner Aid ACT
- Women’s Centre for Health Matters.

**Cost of the measure**

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

- This measure has not been used to date.

**Approved for tabling in the ACT Legislative Assembly**



**Mick Gentleman MLA  
Minister for Corrections**

**Date:** 24 / 7 / 2022

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

##### [1.18] New section 205 (2A)

*insert*

- (2A) Despite subsection (2) (b), while this provision is in force, the permit must include the period for which leave is granted, being—
- (a) not longer than 28 days; or
  - (b) if the permit is granted for the purpose of receiving long-term medical treatment or palliative care and on the advice of a doctor appointed under section 21—not longer than 3 months.

##### [1.19] New section 205 (4) and (5)

*insert*

- (4) The director-general may cancel a detainee's local leave permit if—
- (a) the detainee breaches a condition of the permit; or
  - (b) the leave is no longer needed for the purpose for which the permit was granted.
- (5) The following provisions expire 12 months after the day this subsection commences:
- (a) this subsection;
  - (b) subsection (2A);
  - (c) subsection (4).

#### COVID-19 Emergency Response Legislation Amendment Act 2021

Date notified: 19 February 2021

##### [1.6] Section 205 (5)

*omit*

12 months after the day this subsection commences

*substitute*

on the day the [Covid-19 Emergency Response Act 2020](#) expires

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Corrections

**Legislation:** *Corrections Management Act 2007*

This Act was amended by the *COVID-19 Emergency Response Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:** Amend s205 to permit up to 3 months leave for medical/palliative care on the advice of a doctor appointed under s21 of the *Corrections Management Act 2007* (CM Act). A permit may be cancelled for breach of a condition or if no longer required.

### Purpose of measure:

- To support the operations of ACT Corrective Services (ACTCS) in responding to, or managing, the risks associated with COVID-19 in a correctional centre, particularly in the event of a positive test result for one or more detainees.
- Extending the duration of a leave permit under the CM Act in these circumstances from seven days provides a reasonable duration for leave that would allow a response to a positive case of COVID-19.

### Alignment of measure

- ACT only initiative

### Promotional and public awareness campaigns undertaken

- The *Corrections Management (COVID-19 Temporary Leave) Operating Procedure 2020* has been notified and is available at:  
<https://www.legislation.act.gov.au/ni/2020-256/>

### Stakeholder engagement undertaken

- Following the ACT going into lockdown on 12 August 2021, the Commissioner, ACTCS, has been providing staff, detainees and stakeholders with updated COVID-19 related information as needed. The frequency of messaging is dependant on the situation and is reviewed as the situation changes.
- Updates are provided to the following stakeholders:
  - ACTCOSS
  - Aboriginal and Torres Strait Islander Elected Body
  - Legal Aid ACT

- ACT Ombudsman
- Aboriginal Legal Services NSW/ACT
- Human Rights Commission
- Corrections Official Visitors
- Winnunga Nimmityjah Aboriginal Health and Community Services
- Inspector of Correctional Services
- Prisoner Aid ACT
- Women’s Centre for Health Matters.

**Cost of the measure**

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

- The measure has not been used to date.

**Approved for tabling in the ACT Legislative Assembly**



**Mick Gentleman MLA  
Minister for Corrections**

**Date:** 21 / 7 / 2021

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

##### [1.18] New section 205 (2A)

*insert*

- (2A) Despite subsection (2) (b), while this provision is in force, the permit must include the period for which leave is granted, being—
- (a) not longer than 28 days; or
  - (b) if the permit is granted for the purpose of receiving long-term medical treatment or palliative care and on the advice of a doctor appointed under section 21—not longer than 3 months.

##### [1.19] New section 205 (4) and (5)

*insert*

- (4) The director-general may cancel a detainee's local leave permit if—
- (a) the detainee breaches a condition of the permit; or
  - (b) the leave is no longer needed for the purpose for which the permit was granted.
- (5) The following provisions expire 12 months after the day this subsection commences:
- (a) this subsection;
  - (b) subsection (2A);
  - (c) subsection (4).

#### COVID-19 Emergency Response Legislation Amendment Act 2021

Date notified: 19 February 2021

##### [1.6] Section 205 (5)

*omit*

12 months after the day this subsection commences

*substitute*

on the day the [Covid-19 Emergency Response Act 2020](#) expires.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Attorney-General

**Legislation:** *Court Procedures Act 2004*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The legislative amendments that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:**

- Allow timeframes to be decided by the court when adjourning or dismissing a youth justice matter on care and protection grounds.

**Purpose of measure:**

- To allow flexibility in the otherwise strict timeframe for reports such as in cases where a young person in need of care and protection presents at court with flu-like symptoms and needs to be tested for COVID-19.
- In this circumstance, it is unlikely that results would be available quickly to determine whether it is safe to engage directly with the young person and their family.

**Alignment of measure:**

- ACT only initiative.

**Promotional and public awareness campaigns undertaken:**

- Nil.

**Stakeholder engagement undertaken:**

- Relevant stakeholders are aware of the changes.

**Cost of the measure:**

- Nil.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact:**

- The Court's case management system does not currently collect data on this measure.
- As previously indicated, the manual collection and reporting of data on this measure would inappropriately divert resources away from court operations and therefore these details are not reported.

Approved for tabling in the ACT Legislative Assembly



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Shane Rattenbury MLA  
Attorney-General

Date: 21 / 7 / 22

### Amendments:

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

**[1.41] New section 74LA**

*insert*

**74LA Alteration of time periods during COVID-19 emergency**

- (1) This section applies during a COVID-19 emergency period.
- (2) For section 74K (1) (b), the court may adjourn the proceeding for a period longer than 15 days if the court considers it appropriate in the circumstances.
- (3) For section 74K (2), the period of 2 working days does not apply but the court must give a statement of reasons as soon as practicable in the circumstances.
- (4) For section 74L (2), the court may determine a period longer than 15 days for the director-general to tell the public advocate and the court about action taken or proposed (or that no action is proposed) if the court considers it appropriate in the circumstances.
- (5) In this section:  
**COVID-19 emergency** means—
  - (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
  - (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).  
**COVID-19 emergency period** means the period—
  - (a) beginning on the day this section commences; and
  - (b) ending at the end of a 1-month period when no COVID-19 emergency has been in force.
- (6) This section expires at the end of the COVID-19 emergency period.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolios: Chief Minister  
Attorney-General

**Legislation:** *COVID-19 Emergency Response Act 2020*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The legislative amendments that give effect to the measures being reported on in this document are listed in [Attachment A](#).

**Measure:**

- COVID-19 measures that are subordinate laws and disallowable instruments must be presented on the first sitting day after notification.

**Purpose of measure:**

- To require COVID-19 measures that are subordinate laws and disallowable instruments to be presented on the second sitting day after notification, instead of within 6 sitting days as provided for in the [Legislation Act](#), section 64 (1).

**Alignment of measure:**

- ACT initiative.

**Promotional and public awareness campaigns undertaken:**

- Nil.

**Stakeholder engagement undertaken:**

- Nil.

**Cost of the measure:**

- Nil.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

## **Where measurable, provide details on the monthly and cumulative impact:**

- For the period 1 April–30 June 2022 no instruments to which s 3A applies were made.
- For the period 1 January–31 March 2022 one instrument to which s 3A applies was made.
  - The Taxation Administration (Off the Plan Unit Duty Exemption Scheme) Determination 2022 was notified on 24 March 2022 and was presented by 6 April 2022.
- For the period 1 October–31 December 2021 two instruments to which s 3A applies were made.
  - The Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2021 (No 2) was notified on 6 December 2021 and was presented by 9 February 2022.
  - The Leases (Commercial and Retail) COVID-19 Emergency Response Declaration Revocation 2021 was notified on 16 December 2021 and was presented by 9 February 2022.
- For the period 1 July–30 September 2021 three instruments to which s 3A applies were made.
  - The Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2021 was notified on 31 August 2021 and was presented on 16 September 2021.
  - The Residential Tenancies (COVID-19 Emergency Response) Declaration 2021 (No 3) and the Leases (Commercial and Retail) COVID-19 Emergency Response Declaration 2021 were notified on 1 September 2021 and were presented on 16 September 2021.
  - The two instruments for presentation from the preceding period were presented on 3 August 2021.
- For the period 1 April–30 June 2021 three instruments to which s 3A applies were made.
  - The Residential Tenancies (COVID-19 Emergency Response) Declaration 2021 was notified on 22 April 2021 and was presented on 11 May 2021.
  - The Residential Tenancies (COVID-19 Emergency Response) Declaration 2021 (No 2) and the Taxation Administration (Payroll Tax) COVID-19 Exemption Scheme Determination 2021 (No 2) were notified on 30 June 2021 and must be presented by no later than 4 August 2021.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

- For the period 1 January–31 March 2021 two disallowable instruments to which s 3A applies were made:
  - the Taxation Administration (Payroll Tax—Businesses Not Permitted to Operate) COVID-19 Exemption Scheme Determination 2021; and
  - the Taxation Administration (Payroll Tax) COVID-19 Exemption Scheme Determination 2021 were notified on 20 January 2021.

Both were presented in accordance with section 3A (Presentation of subordinate laws and disallowable instruments) on 9 February 2021.

- For the period 1–31 December 2020 no instruments to which s 3A applies were made.
- For the period 1–30 November 2020 no instruments to which s 3A applies were made.
- For the period 1–31 October 2020 no instruments to which s 3A applies were made.
- For the period 1–30 September 2020 four disallowable instruments to which section 3A applies were made.
  - The Residential Tenancies (COVID-19 Emergency Response) Declaration 2020 (No 3) was notified on 4 September 2020.
  - The Taxation Administration (Payroll Tax) COVID-19 Exemption Scheme Determination 2020 and the Taxation Administration (Payroll Tax—Businesses Not Permitted to Operate) COVID-19 Exemption Scheme Determination 2020 were notified on 9 September 2020.
  - The Leases (Commercial and Retail) COVID-19 Emergency Response Declaration 2020 (No 2) was notified on 10 September 2020.

These were presented in accordance with section 3A (Presentation of subordinate laws and disallowable instruments) on the first sitting day of the Tenth Assembly.

- For the period 1–31 August 2020 two disallowable instruments to which section 3A applies were made.
  - The Rates (Instalment Dates) Determination 2020 was notified on the 11 August 2020 and was presented in accordance with section 3A (Presentation of subordinate laws and disallowable instruments) on 13 August 2020.
  - The Gaming Machine (Emergency Community Purpose Contribution – Local Live Performance Industry) Declaration 2020 was notified on 26 August 2020 and was presented in accordance with section 3A (Presentation of subordinate laws and disallowable instruments) on 27 August 2020.

- For the period 1–31 July 2020 two disallowable instruments to which section 3A applies were made.
  - The Taxation Administration (Owner Occupier Duty) COVID-19 Exemption Scheme Determination 2020 was notified on the 2 July 2020; and
  - The Residential Tenancies (COVID-19 Emergency Response) Declaration 2020 (No 2) was notified on the 21 July 2020.

Both were presented in accordance with section 3A (Presentation of subordinate laws and disallowable instruments) on 23 July 2020.

- For the period 1–30 June 2020 one disallowable instrument to which section 3A applies was made.
  - The Gaming Machine (Emergency Community Purpose Contribution – Club Employees) Declaration 2020 was notified on 11 June 2020 and presented in accordance with section 3A (Presentation of subordinate laws and disallowable instruments) on 18 June 2020.
- For the period 1–31 May 2020 one disallowable instrument to which section 3A applies was made.
  - The Long Service Leave (Portable Schemes) COVID-19 Emergency Leave Determination 2020 (No 1) was notified on the 20 May 2020 presented in accordance with section 3A (Presentation of subordinate laws and disallowable instruments) on 21 May 2020.

**Approved for tabling in the ACT Legislative Assembly**



**Andrew Barr MLA  
Chief Minister**

Date: 21 / 7 / 22



**Shane Rattenbury MLA  
Attorney-General**

Date: 21 / 7 / 22

### Amendments:

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

##### [1.44] New section 3A

*insert*

##### 3A Presentation of subordinate laws and disallowable instruments

- (1) This section applies to a subordinate law or disallowable instrument made after the commencement of this section under a power given under a COVID-19 measure.
- (2) The [Legislation Act](#), section 64 (1) applies in relation to the subordinate law or disallowable instrument as if the reference in that subsection to 6 sitting days were a reference to the first sitting day.
- (3) In this section:  
*COVID-19 measure*—see section 3 (4).

#### COVID-19 Emergency Response Legislation Amendment Act 2021

Date notified: 19 February 2021

##### [1.11] Section 3A (2)

*omit*

first sitting day

*substitute*

second sitting day

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April– 30 June 2022

Portfolio: Chief Minister

**Legislation:** *COVID-19 Emergency Response Act 2020*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The legislative amendments that give effect to the measures being reported on in this document are listed in [Attachment A](#).

### Measure:

- The amendment introduces a mechanism to allow the witnessing of wills, powers of attorney, health directions and affidavits by audiovisual link, as an alternative to in-person witnessing of these documents.

### Purpose of measure:

- The measure was introduced to address concerns raised by the legal profession about the difficulties that had arisen in ensuring that important legal documents could be witnessed given social distancing and movement restrictions arising from the COVID-19 emergency.
- In particular, there were concerns about at-risk or vulnerable individuals who were not able to attend a practitioner's office but had a need to make, vary or revoke a will or powers of attorney during the COVID-19 public health emergency.
- The amendment provides a way for wills, powers of attorney, health directions and affidavits to be witnessed by audiovisual link, while including a range of procedural safeguards to ensure that the integrity of the signing and witnessing process is maintained while using the audiovisual link.

### Alignment of measure:

- The measure aligns with the approach taken in NSW and adopts the procedures used in that jurisdiction to verify audiovisual witnessing.

### Promotional and public awareness campaigns undertaken:

- JACS notified the ACT Law Society, Legal Aid ACT and the Public Trustee and Guardian about the commencement and effect of the measure.
- The ACT Law Society has published guidelines on the electronic witnessing of documents for the use of its members on 13 May 2020 (content available to members only). It is considering revising the guidelines to include more detailed guidance for legal practitioners.

**Stakeholder engagement undertaken:**

- The measure was taken in response to representations from the ACT Law Society and the legal profession.
- The Law Society’s Elder Law and Succession Law Committee was consulted about this amendment.

**Cost of the measure:**

- Nil.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact:**

- The measure provides an additional pathway for the witnessing of wills, powers of attorney, health directions and affidavits by audiovisual link.
- As these documents are not necessarily required to be registered or monitored by the ACT Government, it is not possible to directly measure the use of this method of witnessing on a monthly or cumulative basis.

**Approved for tabling in the ACT Legislative Assembly**



**Andrew Barr MLA  
Chief Minister**

Date: 21 / 7 / 22

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

### Attachment A

#### Amendments:

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

#### [1.45] New sections 4 and 5

*insert*

#### 4 Witnessing and attestation of certain documents

- (1) This section applies during the COVID-19 emergency period.
- (2) Despite any other territory law—
  - (a) if the signature of a relevant document is required under a territory law to be witnessed, the signature may be witnessed by audiovisual link; and
  - (b) arrangements in relation to witnessing signatures and the attestation of documents, including the following, may be made by audiovisual link:
    - (i) certifying matters required under a territory law;
    - (ii) swearing or affirming the contents of an affidavit; and
  - (c) a requirement in a territory law for the presence of a witness, signatory or other person is satisfied if the witness, signatory or other person is present by audiovisual link.
- (3) A person witnessing the signing of a relevant document by audiovisual link (the **witness**) must—
  - (a) observe the person signing the document (the **signatory**) sign the document in real time; and
  - (b) confirm the signature was witnessed by signing the document or a copy of the document; and
  - (c) be reasonably satisfied the document the witness signs is the same document, or a copy of the document, signed by the signatory; and
  - (d) endorse the document, or the copy of the document, with a statement—
    - (i) of the method used to witness the signature of the signatory; and
    - (ii) that the document was witnessed in accordance with this section.
- (4) Without limiting how a witness may confirm a signature was witnessed for subsection (3) (b), the witness may—
  - (a) sign a counterpart of the document as soon as practicable after witnessing the signing of the document; or

- (b) if the signatory scans and sends the witness a copy of the signed document electronically—countersign the document as soon as practicable after witnessing the signing of the document.

(5) In this section:

**audiovisual link** means a system of 2-way communication linking different places so that a person at any of them can be seen and heard at the other places.

**COVID-19 emergency** means—

- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

**COVID-19 emergency period** means the period—

- (a) beginning on the day this section commences; and
- (b) ending at the end of a 3-month period during which no COVID-19 emergency has been in force.

**relevant document** means—

- (a) an affidavit; or
- (b) a will; or
- (c) a health direction under the [Medical Treatment \(Health Directions\) Act 2006](#); or
- (d) a general power of attorney or an enduring power of attorney under the [Powers of Attorney Act 2006](#).

(6) This section expires at the end of the COVID-19 emergency period.

## 5 Expiry—Act

(1) This Act expires at the end of a 12-month period during which no COVID-19 declaration has been in force.

(2) In this section:

**COVID-19 declaration**—see section 3 (4).

# COVID-19 EMERGENCY RESPONSE ACT 2020 QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Attorney-General

**Legislation:** *Crimes Act 1900*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2021*. The legislative amendments that give effect to the measures being reported on in this document are listed in [Attachment A](#).

**Measure:**

- Sworn warrants applied for and transmitted electronically.

**Purpose of measure:**

- These amendments were necessary to ensure the ongoing operation of the courts and ACT Policing, by ensuring that the physical presence of police officers at the court is not required for the purpose of obtaining a warrant.

**Alignment of measure:**

- ACT only initiative.

**Promotional and public awareness campaigns undertaken:**

- Nil.

**Stakeholder engagement undertaken:**

- Relevant stakeholders are aware of the changes in procedure.

**Cost of the measure:**

- Nil.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

### **Where measurable, provide details on the monthly and cumulative impact:**

- From the commencement of the measure until 31 May 2020 thirty seven (37) warrants were applied for.
- For the period 1–30 June 2020 seventy (70) warrants were applied for.
- From 6 July 2020 the court resumed in person warrant appointments but continued to accept and process electronic applications in exceptional circumstances.
- For the period 1–31 July 2020 seven (7) warrants were applied for and processed electronically.
- For the period 1–31 August 2020 three (3) warrants were applied for and processed electronically.
- For the period 1–30 September 2020 zero (0) warrants were applied for and processed electronically.
- For the period 1–31 October 2020 zero (0) warrants were applied for and processed electronically.
- For the period 1–30 November 2020 zero (0) warrants were applied for and processed electronically.
- For the period 1–31 December 2020 zero (0) warrants were applied for and processed electronically.
- For the period 1 January 2021 – 31 March 2021 zero (0) warrants were applied for and processed electronically.
- For the period 1 April 2021 – 30 June 2021 zero (0) warrants were applied for and processed electronically.
- For the period 1 July 2021 – 30 September 2021 thirty four (34) warrants were applied for and processed electronically.
- For the period 1 October 2021 – 31 December 2021 seventy five (75) warrants were applied for and processed electronically.
- For the period 1 January 2022 – 31 March 2022 zero (0) warrants were applied for and processed electronically.
- For the period 1 April 2022 – 30 June 2022 zero (0) warrants were applied for and processed electronically.



**ACT**  
Government

# COVID-19 EMERGENCY RESPONSE ACT 2020 QUARTERLY REPORT ON MEASURES

Approved for tabling in the ACT Legislative Assembly

Shane Rattenbury MLA  
Attorney-General

Date: 21 / 7 / 22

**Amendments:**

**COVID-19 Emergency Response Legislation Amendment Act 2020**

**Date notified: 13 May 2020**

**[1.46] New section 194A**

*insert*

**194A Additional provisions during COVID-19 emergency**

- (1) This section applies if a COVID-19 emergency is in force.
  - (2) For section 194 (1) and (2), an information on oath may be given by—
    - (a) giving the issuing officer an electronic version of an affidavit that includes the signature of the person making the affidavit and the signature of the person taking the affidavit; or
    - (b) giving the issuing officer—
      - (i) an electronic version of an affidavit that includes in any place where a signature appears in the original affidavit, the name of the person whose signature it is; and
      - (ii) an undertaking that the person making the affidavit has possession of the original affidavit, signed in accordance with law; or
    - (c) giving the issuing officer—
      - (i) an electronic version of an affidavit that includes the signature of the person making the affidavit; and
      - (ii) a statement, under oath by telephone or other electronic audiovisual means, by the person making the affidavit that every statement in the affidavit is true.
- Note* **Oath** includes affirmation (see [Legislation Act](#), dict, pt 1).
- (3) For section 194 (1) and (2), a warrant may be issued by giving the applicant for the warrant an electronic version of the warrant.
  - (4) For section 205 (Warrants by telephone or other electronic means)—
    - (a) an issuing officer may complete and sign an electronic version of the warrant; and
    - (b) if an issuing officer completes and signs an electronic version of the warrant—
      - (i) the applicant need not complete a form of warrant and give or transmit it to the issuing officer; but

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

- (ii) if the information required to be provided in the application was not sworn, the applicant must give or transmit the information, duly sworn, to the issuing officer before the day after the warrant expired or was executed, whichever is the earlier.
- (5) For subsection (4), a warrant is taken to be signed by the issuing officer if the issuing officer's name is written in the place where the signature is required.
- (6) In this section:

**COVID-19 emergency** means—

  - (a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or
  - (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).
- (7) This section expires on the first day no COVID-19 emergency is in force.

### COVID-19 Emergency Response Legislation Amendment Act 2021

Date notified: 19 February 2021

**[1.12] Section 194A (7)**

*substitute*

- (7) This section expires on the day the *COVID-19 Emergency Response Act 2020* expires.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April– 30 June 2022

Portfolio: Corrections

**Legislation:** *Crimes (Sentence Administration) Act 2005*

This Act was amended by the *COVID-19 Emergency Response Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:** Insert a provision in part 5.3 and part 6.2 to allow the Director-General to take an offender to have performed community service work in accordance with a direction for the work period under section 46 and section 91. These provisions will apply during the COVID-19 emergency.

### Purpose of measure:

- To enable community based offenders to be compliant with their Community Service Work Condition and comply with COVID 19 restrictions.

### Alignment of measure

- ACT only initiative

### Promotional and public awareness campaigns undertaken

- The ACT Corrective Services (ACTCS) *Community Service Work Credit Scheme Policy 2020* and *COVID-19 Community Service Work Credit Scheme Community Instruction 2020* has been published on the ACT Government Open Access Register here:
  - [http://202.47.4.18/resources/uploads/ACTCS/publications/Signed\\_-\\_Community\\_Service\\_Work\\_Credit\\_Scheme\\_Policy\\_2020.PDF](http://202.47.4.18/resources/uploads/ACTCS/publications/Signed_-_Community_Service_Work_Credit_Scheme_Policy_2020.PDF)
  - [http://202.47.4.18/resources/uploads/ACTCS/publications/Signed\\_-\\_Community\\_Service\\_Work\\_Credit\\_Scheme\\_Community\\_Instruction\\_2020.PDF](http://202.47.4.18/resources/uploads/ACTCS/publications/Signed_-_Community_Service_Work_Credit_Scheme_Community_Instruction_2020.PDF)
- Offenders who are eligible for this Scheme have been verbally contacted and directed not to attend their community service work site.

### Stakeholder engagement undertaken

- Following the ACT going into lockdown on 12 August 2021, the Commissioner, ACTCS, has been providing staff, detainees and stakeholders with updated COVID-19 related information as needed. The frequency of messaging is dependant on the situation and is reviewed as the situation changes.
- Updates are provided to the following stakeholders:
  - ACTCOSS

- Aboriginal and Torres Strait Islander Elected Body
- Legal Aid ACT
- ACT Ombudsman
- Aboriginal Legal Services NSW/ACT
- Human Rights Commission
- Corrections Official Visitors
- Winnunga Nimmityjah Aboriginal Health and Community Services
- Inspector of Correctional Services
- Prisoner Aid ACT
- Women’s Centre for Health Matters.

**Cost of the measure**

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

- For the period 1 April to 30 June 2022, no offenders were granted COVID-19 Community Service Scheme hours as community service work gradually resumed in late October 2021.
- For the period 1 January - 31 March 2022, no offenders were granted COVID-19 Community Service Scheme hours as community service work gradually resumed in late October 2021.
- For the period 1-31 December 2021, one offender was granted a total of three COVID-19 Community Service Scheme hours for the reason stated above.
- For the period 1-30 November 2021, two offenders were granted a total of 11 COVID-19 Community Service Scheme hours for the reason stated above.
- All Community Service Work operations ceased at the commencement of the ACT-wide COVID-19 lockdown on 12 August 2021. The lockdown meant that offenders were unable to access any community service scheme hours, and



# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

would have been unfairly penalised for such, if they were not credited hours automatically each week.

- For the period 1-31 October 2021, 41 offenders were granted a total of 486 COVID-19 Community Service Scheme hours for the reason stated above.
- For the period 1-30 September 2021, 17 offenders were granted a total of 422 COVID-19 Community Service Scheme hours for the reason stated above.
- For the period 1-31 August 2021, 16 offenders were granted a total of 296 COVID-19 Community Service Scheme hours for the reason stated above.
- For the period 1-31 July 2021, no offenders were granted COVID-19 Community Service Scheme hours.
- For the period 1 to 30 June 2021, no offenders have been granted COVID-19 Community Service Scheme hours.
- For the period 1 to 31 May 2021, no offenders have been granted COVID-19 Community Service Scheme hours.
- For the period 1 to 30 April 2021, no offenders have been granted COVID-19 Community Service Scheme hours.
- For the period 1 to 31 March 2021, no offenders have been granted COVID-19 Community Service Scheme hours.
- For the period 1 to 28 February 2021, no offenders have been granted COVID-19 Community Service Scheme hours.
- For the period 1 to 31 January 2021, no offenders have been granted COVID-19 Community Service Scheme hours.
- For the period 1 to 31 December 2020, no offenders have been granted COVID-19 Community Service Scheme hours.
- For the period 1 to 30 November 2020, no offenders have been granted COVID-19 Community Service Scheme hours.
- For the period 29 September to 31 October 2020, no offenders have been granted COVID-19 Community Service Scheme hours.
- For the period 28 August to 28 September 2020, no offenders have been granted COVID-19 Community Service Scheme hours.
- For the period 1-27 August 2020, no offenders have been granted COVID-19 Community Service Scheme hours.
- For the period 1-31 July 2020, no offenders have been granted COVID-19 Community Service Scheme hours.

- For the period 8 April 2020 to 30 June 2020, one offender was granted COVID-19 Community Service Scheme hours. This offender was deemed a vulnerable person due to their age and has been granted a total of 38 hours.
- The total breakdown is included below:

<b>Date</b>	<b>Credit</b>	<b>Hrs Worked</b>
April 2020	COVID-19 Hours Credited	16
May 2020	COVID-19 Hours Credited	22
June 2020	COVID-19 Hours Credited	0
July 2020	COVID-19 Hours Credited	0
August 2020	COVID-19 Hours Credited	0
September 2020	COVID-19 Hours Credited	0
October 2020	COVID-19 Hours Credited	0
November 2020	COVID-19 Hours Credited	0
December 2020	COVID-19 Hours Credited	0
January 2021	COVID-19 Hours Credited	0
February 2021	COVID-19 Hours Credited	0
March 2021	COVID-19 Hours Credited	0
April 2021	COVID-19 Hours Credited	0
May 2021	COVID-19 Hours Credited	0
June 2021	COVID-19 Hours Credited	0
July 2021	COVID-19 Hours Credited	0
August 2021	COVID-19 Hours Credited	296
September 2021	COVID-19 Hours Credited	422
October 2021	COVID-19 Hours Credited	486
November 2021	COVID-19 Hours Credited	11
December 2021	COVID-19 Hours Credited	3
January 2022	COVID-19 Hours Credited	0
February 2022	COVID-19 Hours Credited	0



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March 2022	COVID-19 Hours Credited	0
April 2022	COVID-19 Hours Credited	0
May 2022	COVID-19 Hours Credited	0
June 2022	COVID-19 Hours Credited	0
<b>Total</b>	<b>COVID-19 Hours Credited</b>	<b>1,256</b>

Approved for tabling in the ACT Legislative Assembly

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**Mick Gentleman**  
**Minister for Corrections**

Date: 21 / 7 / 2022

**Amendments:**

**COVID-19 Emergency Response Act 2020**

**Date notified: 7 April 2020**

**[1.20] New section 47A**

*insert*

**47A Intensive correction orders—community service work—failure to report etc—COVID-19 emergency**

- (1) This section applies if—
  - (a) an offender fails to report to do community service work for a period (a **work period**) in accordance with a direction under section 46; and
  - (b) the failure happens during the COVID-19 emergency, whether before, on or after the commencement of this section; and
  - (c) the director-general is satisfied that the offender’s failure to report for the work period is because of the COVID-19 emergency.
- (2) The offender is taken to have done the community service work in accordance with the direction for the period, not more than 8 hours for each week or part of a week during the work period, decided by the director-general.

**[1.22] New section 92A**

*insert*

**92A Good behaviour orders—community service work—failure to report etc—COVID-19 emergency**

- (1) This section applies if—
  - (a) an offender fails to report to do community service work for a period (a **work period**) in accordance with a direction under section 91; and
  - (b) the failure happens during the COVID-19 emergency, whether before, on or after the commencement of this section; and
  - (c) the director-general is satisfied that the offender’s failure to report for the work period is because of the COVID-19 emergency.
- (2) The offender is taken to have done the community service work in accordance with the direction for the period, not more than 8 hours for each week or part of a week during the work period, decided by the director-general.

### COVID-19 Emergency Response Legislation Amendment Act 2021

Date notified: 19 February 2021

**[1.15] Section 322A**

*substitute*

**322A Expiry—COVID-19 emergency amendments**

The following provisions expire on the day the [COVID-19 Emergency Response Act 2020](#) expires:

- (a) this section;
- (b) section 47A;
- (c) section 59A;
- (d) section 62 (2) (d);
- (e) section 64 (3A);
- (f) section 92A;
- (g) section 102A;
- (h) section 126 (2A) and (2B);
- (i) section 127 (2A);
- (j) section 143A;
- (k) section 322AA;
- (l) dictionary, definition of *COVID-19 emergency*.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Corrections

**Legislation:** *Crimes (Sentence Administration) Act 2005*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in [Attachment A](#).

**Measure:** Administrative sanctions imposed by DG for minor breaches by community based offenders.

### Purpose of measure:

- To allow Community Corrections Officers to take actions in relation to minor breaches of orders during the public health emergency to reduce the burden on the Sentence Administration Board and Courts during this time.

### Alignment of measure

- ACT only initiative

### Promotional and public awareness campaigns undertaken

- The *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020* has been notified and is available at: <https://www.legislation.act.gov.au/ni/2020-611/>

### Stakeholder engagement undertaken

- Engagement has occurred directly with the Sentence Administration Board (SAB) who have a stake in the utilisation of this amendment. Arrangements have been put in place to address SAB input.
- Following the ACT going into lockdown on 12 August 2021, the Commissioner, ACT Corrective Services, has been providing staff, detainees and stakeholders with updated COVID-19 related information as needed. The frequency of messaging is dependent on the situation and is reviewed as the situation changes.
- Updates are provided to the following stakeholders:
  - ACTCOSS
  - Aboriginal and Torres Strait Islander Elected Body
  - Legal Aid ACT
  - ACT Ombudsman
  - Aboriginal Legal Services NSW/ACT
  - Human Rights Commission

- Corrections Official Visitors
- Winnunga Nimmityjah Aboriginal Health and Community Services
- Inspector of Correctional Services
- Prisoner Aid ACT
- Women’s Centre for Health Matters.

### Cost of the measure

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

### Where measurable, provide details on the monthly and cumulative impact

- For the period 1 April to 24 June 2022, thirteen formal warnings were given under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*. Due to data migration to the new ACTCS record system CORIS, extraction of formal warnings are provided up to 24 June 2022. ACTCS anticipates minimal variations in data after this date.
- For the period 1 to 31 March 2022, two formal warnings were given under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*.
- For the period 1 to 28 February 2022, four formal warnings were given under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*.
- For the period 1 to 31 January 2022, three formal warnings were given under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*.
- For the period 1 to 31 December 2021, no formal warnings were given and no applications of discretion were applied under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*.
- For the period 1 to 30 November 2021, no formal warnings were given and no applications of discretion were applied under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*.
- For the period 1 to 31 October 2021, one formal warning was given and two applications of discretion were applied under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*, representing a total of two unique offenders.

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## QUARTERLY REPORT ON MEASURES

- For the period 1 to 30 September 2021, two formal warnings were given out, and two applications of discretion were applied under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*, representing a total of three unique offenders.
- For the period 1 to 31 August 2021, three formal warnings were given out, and three applications of discretion were applied under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*, representing a total of three unique offenders.
- For the period 1 to 31 July 2021, one formal warning was given out, and two applications of discretion were applied under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*, representing a total of three unique offenders.
- For the period 1 to 30 June, one formal warning was given out, and two applications of discretion were applied under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*, representing a total of three unique offenders.
- For the period 1 to 31 May, one formal warning was given out under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*.
- For the period 1 to 30 April 2021, six formal warnings were given out, and four applications of discretion were applied under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*, representing a total of seven unique offenders.
- For the period 1 to 31 March 2021, 11 offenders received a formal warning, and six offenders had discretion applied under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*, representing a total of 14 unique offenders.
- For the period 1 to 28 February 2021, seven offenders received a formal warning, and nine offenders had discretion applied under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*, representing a total of nine unique offenders.
- For the period 1 to 31 January 2021, three offenders received a formal warning, and seven offenders had discretion applied under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*, representing a total of eight unique offenders.
- For the period 1 to 31 December 2020, four offenders received a formal warning under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*.
- For the period 1 to 30 November 2020, eight offenders received a formal warning under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020*.
- For the period 1 to 30 November 2020, a further six offenders were considered under the *Crimes (Sentence Administration) COVID-19 Emergency Guidelines 2020* with no further action taken.

**Approved for tabling in the ACT Legislative Assembly**



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**Mick Gentleman MLA  
Minister for Corrections**

**Date:** *21 / 7 / 2022*

### Amendments:

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

#### [1.47] New section 59A

*insert*

#### **59A Corrections officer's actions for breach of intensive correction order obligations—COVID-19 emergency**

- (1) This section applies if, during a COVID-19 emergency, a corrections officer believes on reasonable grounds that an offender has breached any of the offender's intensive correction order obligations (an ***alleged breach***).
- (2) The corrections officer may take any 1 of the following actions in relation to the alleged breach:
  - (a) record the alleged breach and take no further action;
  - (b) give the offender, or arrange for the offender to be given, a warning that further alleged breaches may result in a report to the board under section 59;
  - (c) report the alleged breach to the board.

*Note* The director-general may also give an offender a direction in relation to an intensive correction order (see s 46 and s 54).

- (3) In considering whether to take any action under subsection (2) and, if so, what action to take, the corrections officer—
  - (a) must have regard to the following matters:
    - (i) the nature and circumstances of the offence;
    - (ii) the personal circumstances of the offender;
    - (iii) the offender's history of compliance with the intensive correction order;
    - (iv) the likelihood that any victim of the offender, and the victim's family, will be subject to violence or harassment by the offender, having regard to the offender's conduct under the intensive correction order;
    - (v) the purposes of sentencing under the *Crimes (Sentencing) Act 2005*, section 7 (c) and (d); and
  - (b) may have regard to any action previously taken in relation to the alleged breach or any earlier breaches or alleged breaches of the order.

- (4) If the corrections officer proposes to take action under subsection (2), the corrections officer must tell the offender, orally or in writing—
  - (a) the nature of the alleged breach; and
  - (b) that the corrections officer proposes to take action in relation to the alleged breach and the action proposed to be taken; and
  - (c) that the offender may request that the board deal with the alleged breach; and
  - (d) the offender may make submissions, orally or in writing, to the corrections officer about the alleged breach and the action proposed to be taken within 7 days after being told about the alleged breach.
- (5) If an offender makes a request under subsection (4) (c), the corrections officer must report the alleged breach to the board.
- (6) If an offender makes any submissions under subsection (4) (d), the corrections officer must—
  - (a) if the submissions are made orally—make a record of the submissions; and
  - (b) consider the submissions before taking the proposed action.
- (7) If a corrections officer gives an offender, or arranges for an offender to be given, a warning under subsection (2) (b), the officer must notify the board, in writing, of the warning.

*Note* The board may conduct an inquiry to decide whether an offender has breached an intensive correction order obligation (see s 62).

**[1.48] New section 62 (2) (d)**

*insert*

- (d) after receiving a report from a corrections officer under section 59A (5) (Corrections officers' actions for breach of intensive correction order obligations—COVID-19 emergency).

**[1.49] New section 102A**

*insert*

**102A Corrections officer's actions for breach of good behaviour obligations—COVID-19 emergency**

- (1) This section applies if, during a COVID-19 emergency, a corrections officer believes, on reasonable grounds, that an offender has breached any of the offender's good behaviour obligations (an *alleged breach*).
- (2) The corrections officer may take any 1 of the following actions in relation to the alleged breach:
  - (a) record the alleged breach and take no further action;



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- (b) give the offender, or arrange for the offender to be given, a warning that further alleged breaches may result in referral to the sentencing court;
- (c) report the alleged breach to the sentencing court.

*Note* The director-general may also give an offender a direction in relation to a good behaviour order under s 87.

- (3) In considering whether to take any action under subsection (2) and, if so, what action to take, the corrections officer—
  - (a) must have regard to the following matters:
    - (i) the nature and circumstances of the offence;
    - (ii) the personal circumstances of the offender;
    - (iii) the offender’s history of compliance with the good behaviour order;
    - (iv) the likelihood that any victim of the offender, or the victim’s family, will be subject to violence or harassment by the offender, having regard to the offender’s conduct under the good behaviour order;
    - (v) the purposes of sentencing under the *Crimes (Sentencing) Act 2005*, section 7 (c) and (d); and
  - (b) may have regard to any action previously taken in relation to the alleged breach or any earlier breaches or alleged breaches of the order.
- (4) If the corrections officer proposes to take action under subsection (2), the corrections officer must tell the offender, orally or in writing—
  - (a) the nature of the alleged breach; and
  - (b) that the corrections officer proposes to take action in relation to the alleged breach and the action proposed to be taken; and
  - (c) that the offender may request the alleged breach is dealt with by the sentencing court; and
  - (d) the offender may make submissions, orally or in writing, to the corrections officer about the alleged breach and the action proposed to be taken within 7 days after being told about the alleged breach.
- (5) If an offender makes a request under subsection (4) (c), the corrections officer must arrange for the offender to be brought before the sentencing court to have the alleged breach dealt with.
- (6) If an offender makes any submissions under subsection (4) (d), the corrections officer must—
  - (a) if the submissions are made orally—make a record of the submissions; and
  - (b) consider the submissions before taking the proposed action.
- (7) In this section:

**offender**—see section 102 (4).

**[1.50] New section 143A**

*insert*

**143A Corrections officer's actions for breach of parole obligations—COVID-19 emergency**

- (1) This section applies if, during a COVID-19 emergency, a corrections officer believes on reasonable grounds that an offender has breached any of the offender's parole obligations (an **alleged breach**).
- (2) The corrections officer may take any 1 of the following actions in relation to the alleged breach:
  - (a) record the alleged breach and take no further action;
  - (b) give the offender, or arrange for the offender to be given, a warning that further alleged breaches may result in a report to the board under section 143;
  - (c) report the alleged breach to the board.

*Note* The director-general may also give an offender a direction in relation to parole (see s 138).

- (3) In considering whether to take any action under subsection (2) and, if so, what action to take, the corrections officer—
  - (a) must have regard to the following matters:
    - (i) the nature and circumstances of the offence;
    - (ii) the personal circumstances of the offender;
    - (iii) the offender's history of compliance with the parole order;
    - (iv) the likelihood that any victim of the offender, or the victim's family, will be subject to violence or harassment by the offender, having regard to the offender's conduct under the parole order;
    - (v) the purposes of sentencing under the *Crimes (Sentencing) Act 2005*, section 7 (c) and (d); and
  - (b) may have regard to any action previously taken in relation to the alleged breach or any earlier breaches or alleged breaches of the order.
- (4) If the corrections officer proposes to take action under subsection (2), the corrections officer must tell the offender, orally or in writing—
  - (a) the nature of the alleged breach; and
  - (b) that the corrections officer proposes to take action in relation to the alleged breach and the action proposed to be taken; and



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- (c) that the offender may request that the board deal with the alleged breach; and
  - (d) the offender may make submissions, orally or in writing, to the corrections officer about the alleged breach and the action proposed to be taken within 7 days after being told about the alleged breach.
- (5) If an offender makes a request under subsection (4) (c), the corrections officer must report the alleged breach to the board.
- (6) If an offender makes any submissions under subsection (4) (d), the corrections officer must—
- (a) if the submissions are made orally—make a record of the submissions; and
  - (b) consider the submissions before taking the proposed action.
- (7) If a corrections officer gives an offender, or arranges for an offender to be given, a warning under subsection (2) (b), the officer must notify the board in writing of the warning.

*Note* The board may, at any time, conduct an inquiry to decide whether an offender has breached a parole obligation (see s 146).

### [1.51] **New section 322AA**

*before section 322A, insert*

#### **322AA Guidelines for corrections officer's actions for certain breaches—COVID-19 emergency**

- (1) The director-general must make guidelines in relation to the operation of the following provisions:
- (a) section 59A (Corrections officers' actions for breach of intensive correction order obligations—COVID-19 emergency);
  - (b) section 102A (Corrections officers' actions for breach of good behaviour obligations—COVID-19 emergency);
  - (c) section 143A (Corrections officers' actions for breach of parole obligations—COVID-19 emergency).
- (2) A guideline must include a statement that human rights have been considered in making the guideline.
- (3) A guideline—
- (a) must be available for inspection by anyone at each correctional centre; and
  - (b) may be made available for inspection at any other place decided by the director-general.
- (4) A guideline is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

**[1.52] New section 322A (ba) and (bb)**

*insert*

(ba) section 59A;

(bb) section 62 (2) (d);

**[1.53] New section 322A (da)**

*insert*

(da) section 102A;

**[1.54] New section 322A (fa)**

*insert*

(fa) section 143A;

**[1.55] New section 322A (ha)**

*insert*

(ha) section 322AA;

**COVID-19 Emergency Response Legislation Amendment Act 2021**

**Date notified: 19 February 2021**

**[1.15] Section 322A**

*substitute*

**322A Expiry—COVID-19 emergency amendments**

The following provisions expire on the day the [COVID-19 Emergency Response Act 2020](#) expires:

(a) this section;

(b) section 47A;

(c) section 59A;

(d) section 62 (2) (d);

(e) section 64 (3A);

(f) section 92A;

(g) section 102A;

(h) section 126 (2A) and (2B);

(i) section 127 (2A);

(j) section 143A;



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- (k) section 322AA;
- (l) dictionary, definition of *COVID-19 emergency*.

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## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolios: Corrections

**Legislation:** *Crimes (Sentence Administration) Act 2005*

This Act was amended by the *COVID-19 Emergency Response Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in [Attachment A](#).

**Measure:** Intensive Corrections Orders - amend s64 to allow Sentence Administration Board (SAB) to give more than 3 warnings in a 12-month period during the public health emergency.

**Purpose of measure:**

- To avoid placing persons who breach an Intensive Corrections Order into prison for short periods of time such as three or seven days where other preferable options are available in the community.

**Alignment of measure**

- ACT only initiative.

**Promotional and public awareness campaigns undertaken**

- Nil.

**Stakeholder engagement undertaken**

- ACT Corrective Services is aware of this emergency option.
- The measure is a publicly available legislative amendment and can be found on the relevant government websites. It is accessible there by legal practitioners, advocates and persons subject to Orders.

**Cost of the measure**

- Nil.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

## Where measurable, provide details on the monthly and cumulative impact

- Since its commencement the amendment has been used on a total of 12 occasions as per the table below.

Reporting period	No of times the provision was used
1 April – 30 June 2022	0
1 January – 31 March 2022	0
1 October – 31 December 2021	0
1 July – 30 September 2021	2
1 April – 30 June 2021	2
1 January – 31 March 2021	0
1 – 31 December 2020	1
1 – 30 November 2020	0
1 – 31 October 2020	2
1 – 30 September 2020	1
1 – 31 August 2020	1
1 – 31 July 2020	0
1 – 30 June 2020	0
1 – 31 May 2020	1
8 – 30 April 2020	2

- It has reduced short-term prison sanctions for example three or seven days for persons subject to community corrections during the emergency.

Approved for tabling in the ACT Legislative Assembly



**Mick Gentleman MLA**  
**Minister for Corrections**

Date: 21 / 7 / 2022

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

[1.21] New section 64 (3A)

*insert*

(3A) Subsection (3) does not apply to a warning given during a COVID-19 emergency.

#### COVID-19 Emergency Response Legislation Amendment Act 2021

Date notified: 19 February 2021

[1.15] Section 322A

*substitute*

#### 322A Expiry—COVID-19 emergency amendments

The following provisions expire on the day the [COVID-19 Emergency Response Act 2020](#) expires:

- (a) this section;
- (b) section 47A;
- (c) section 59A;
- (d) section 62 (2) (d);
- (e) section 64 (3A);
- (f) section 92A;
- (g) section 102A;
- (h) section 126 (2A) and (2B);
- (i) section 127 (2A);
- (j) section 143A;
- (k) section 322AA;
- (l) dictionary, definition of *COVID-19 emergency*.



# COVID-19 EMERGENCY RESPONSE ACT 2020 QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Corrections

**Legislation:** *Crimes (Sentence Administration) Act 2005*

This Act was amended by the *COVID-19 Emergency Response Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:** Parole - amendments to allow the Sentence Administration Board to refuse a parole order without a full hearing (s126) and to permit a shorter notice period during the public health emergency (s127).

## Purpose of measure:

- Business continuity and workload management by the Sentence Administration Board during the emergency by allowing parole applications without merit to be rejected on the papers at the first step, ie the Inquiry step.

## Alignment of measure

- ACT only initiative

## Promotional and public awareness campaigns undertaken

- Nil.

## Stakeholder engagement undertaken

- ACT Corrective Services is aware of this emergency option.
- The measure is a publicly available legislative amendment and can be found on the relevant government websites. It is accessible there by legal practitioners, advocates and persons subject to Orders.

## Cost of the measure

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

- The measure has not been used by the Sentence Administration Board to date.

**Approved for tabling in the ACT Legislative Assembly**



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**Mick Gentleman MLA  
Minister for Corrections**

**Date:** *21 / 7 / 2022*

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

##### [1.23] New section 126 (2A) and (2B)

*insert*

- (2A) Despite subsection (2) (b), for an inquiry conducted during a COVID-19 emergency, the board may refuse to make a parole order for an offender if the board is satisfied that the application has no reasonable prospects of success.
- (2B) If the board refuses to make a parole order under subsection (2A), the board must—
- (a) give the offender written notice of the decision, including reasons for the decision; and
  - (b) if requested by the offender at least 14 days after the offender is given notice under paragraph (a)—
    - (i) set a time for a hearing by the board about the offender’s parole; and
    - (ii) give notice under section 127 of the hearing.

##### [1.24] New section 127 (2A)

*insert*

- (2A) Despite subsection (2) (c), for a hearing held in whole or in part during a COVID-19 emergency, the board may give an offender less than 7 days to tell the board a thing mentioned in that subsection if the board—
- (a) considers it is in the public interest to do so; and
  - (b) is satisfied the offender understands the effect of shortening the notice period under this section.

#### COVID-19 Emergency Response Legislation Amendment Act 2021

Date notified: 19 February 2021

##### [1.15] Section 322A

*substitute*

##### 322A Expiry—COVID-19 emergency amendments

The following provisions expire on the day the [COVID-19 Emergency Response Act 2020](#) expires:

- (a) this section;
- (b) section 47A;
- (c) section 59A;
- (d) section 62 (2) (d);
- (e) section 64 (3A);
- (f) section 92A;
- (g) section 102A;
- (h) section 126 (2A) and (2B);
- (i) section 127 (2A);
- (j) section 143A;
- (k) section 322AA;
- (l) dictionary, definition of ***COVID-19 emergency***.

# COVID-19 EMERGENCY RESPONSE ACT 2020 QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Attorney-General

**Legislation:** *Crimes (Sentencing) Act 2005*

This Act was amended by the *COVID-19 Emergency Response Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2021*. The legislative amendments that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:**

- Amends s13 to require the offender to 'give an undertaking before the court' or sign an undertaking to comply with the offender's good behaviour obligations.

**Purpose of measure:**

- To allow an offender appearing before the court by audio visual link or telephone during the COVID-19 emergency to give an oral undertaking to the court. An undertaking given this way is noted on the court records including through the transcript for the proceeding.

**Alignment of measure:**

- ACT only initiative.

**Promotional and public awareness campaigns undertaken:**

- Nil.

**Stakeholder engagement undertaken:**

- The ACT Director of Public Prosecutions, ACT Legal Aid and the private legal profession were made aware of this measure.

**Cost of the measure:**

- Nil.

	2020- \$'000	2021- \$'000	2022- \$'000	2023-24 \$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

- The Court's case management system does not currently collect data on this measure.
- As previously indicated, the manual collection and reporting of data on this measure would inappropriately divert resources away from court operations and therefore these details are not reported.

Approved for tabling in the ACT Legislative Assembly



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Shane Rattenbury MLA  
Attorney-General

Date: 21 / 7 / 22

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

##### [1.29] New section 13 (2A)

*insert*

- (2A) During a COVID-19 emergency, an undertaking—
- (a) may be signed or given before the court; and
  - (b) if given before the court, must be recorded by the court.

#### COVID-19 Emergency Response Legislation Amendment Act 2021

Date notified: 19 February 2021

##### [1.16] Section 13 (10)

*substitute*

- (10) This subsection and subsections (2A) and (9) expire on the day the [COVID-19 Emergency Response Act 2020](#) expires.

# COVID-19 EMERGENCY RESPONSE ACT 2020 QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Attorney-General

**Legislation:** *Crimes (Sentencing) Act 2005*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2021*. The legislative amendments that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:**

- Streamline Intensive Correction Orders (ICO) assessment reports as part of a Pre-Sentence Report (PSR).

**Purpose of measure:**

- The measure streamlines the pre-sentence process into a single stage to allow the court to consider the appropriate sentence for an offender.
- This will streamline the process for an ICO which will support fewer court/corrections contacts for offenders and reduce delays in the court's consideration of an alternative to full-time detention.

**Alignment of measure:**

- ACT only initiative.

**Promotional and public awareness campaigns undertaken:**

- Nil.

**Stakeholder engagement undertaken:**

- Relevant stakeholders are aware of the changes in procedure.

**Cost of the measure:**

- Nil.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and culmulative impact:**

- The Court's case management system does not currently collect data on this measure.
- As previously indicated, the manual collection and reporting of data on this measure would inappropriately divert resources away from court operations and therefore these details are not reported.

**Approved for tabling in the ACT Legislative Assembly**



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**Shane Rattenbury MLA**  
**Attorney-General**

Date: 21 / 7 / 22

### Amendments:

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

##### [1.56] New section 46C (7) to (9)

*insert*

- (7) During a COVID-19 emergency, the court may order that the intensive correction assessment form part of a pre-sentence report.
- (8) In this section:
- COVID-19 emergency** means—
- (a) a state of emergency declared under the *Emergencies Act 2004* section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).
- (9) The following provisions expire 12 months after the day the *COVID-19 Emergency Response Act 2020*, section 4 commenced:
- (a) this subsection;
- (b) subsections (7) and (8);
- (c) section 78 (1), note 2.

##### [1.57] Section 78 (1), new note

*insert*

*Note 2* An intensive correction assessment ordered during a COVID-19 emergency may form part of a pre-sentence report (see s 46C (7)).

#### COVID-19 Emergency Response Legislation Amendment Act 2021

Date notified: 19 February 2021

##### [1.17] Section 46C (9)

*omit*

12 months after the day the *COVID-19 Emergency Response Act 2020*, section 4 commenced

*substitute*

on the day the *COVID-19 Emergency Response Act 2020* expires



# COVID-19 EMERGENCY RESPONSE ACT 2020 QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Attorney-General

**Legislation:** *Drugs of Dependence Act 1989*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2021*. The legislative amendments that give effect to the measures being reported on in this document are listed in [Attachment A](#).

**Measure:**

- Sworn warrants applied for and transmitted electronically.

**Purpose of measure:**

- These amendments were necessary to ensure the ongoing operation of the courts and ACT Policing, by ensuring that the physical presence of police officers at the court is not required for the purpose of obtaining a warrant.

**Alignment of measure:**

- ACT only initiative.

**Promotional and public awareness campaigns undertaken:**

- Nil.

**Stakeholder engagement undertaken:**

- Relevant stakeholders are aware of the changes in procedure.

**Cost of the measure:**

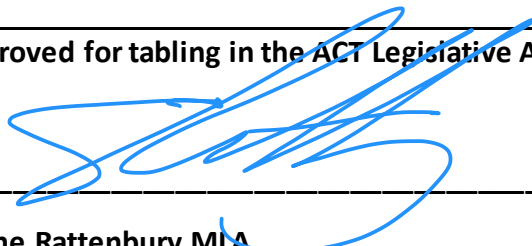
- Nil.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact:**

- For the period 1–31 May 2020, four (4) warrants were applied for.
- For the period 1 June 2020 – 31 December 2020 no warrants were applied for.
- For the period 1 January 2021 – 31 March 2021 no warrants were applied for.
- For the period 1 April 2021 – 30 June 2021 no warrants were applied for.
- For the period 1 July 2021 – 30 September 2021 no warrants were applied for.
- For the period 1 October 2021 – 31 December 2021 no warrants were applied for.
- For the period 1 January 2022 – 31 March 2022 no warrants were applied for.
- For the period 1 April 2022 – 30 June 2022 no warrants were applied for.

**Approved for tabling in the ACT Legislative Assembly**



Shane Rattenbury MLA  
Attorney-General

Date: 21 / 7 / 22

### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

**[1.58] New section 187A**

*insert*

**187A Search warrants—additional provisions during COVID-19 emergency**

- (1) This section applies if a COVID-19 emergency is in force.
- (2) For section 187 (2) and (3), an information on oath may be given by—
  - (a) giving the issuing officer an electronic version of an affidavit that includes the signature of the person making the affidavit and the signature of the person taking the affidavit; or
  - (b) giving the issuing officer—
    - (i) an electronic version of an affidavit that includes in any place where a signature appears in the original affidavit, the name of the person whose signature it is; and
    - (ii) an undertaking that the person making the affidavit has possession of the original affidavit, signed in accordance with law; or
  - (c) giving the issuing officer—
    - (i) an electronic version of an affidavit that includes the signature of the person making the affidavit; and
    - (ii) a statement, under oath by telephone or other electronic audiovisual means, by the person making the affidavit that every statement in the affidavit is true.

*Note* **Oath** includes affirmation (see [Legislation Act](#), dict, pt 1).

- (3) For section 187 (2) and (3), a warrant may be issued by giving the applicant for the warrant an electronic version of the warrant.
- (4) In this section:

**COVID-19 emergency** means—

  - (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
  - (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).
- (5) This section expires on the first day no COVID-19 emergency is in force.

## COVID-19 Emergency Response Legislation Amendment Act 2021

Date notified: 19 February 2021

### [1.18] Section 187A (5)

*substitute*

- (5) This section expires on the day the *COVID-19 Emergency Response Act 2020* expires.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio: Education & Youth Affairs**

**Legislation:** *Education Act 2004*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:** Extend in-principle approval for provisional registration, provisional registration of a school at an additional campus and provisional registration of a school at an additional educational level

### **Purpose of measure:**

The purpose of this measure is to extend the in-principle approval of a non-government school if the in-principle approval will, or is likely to, lapse while COVID-19 emergency is in force and the school is unable to meet the requirements for registration.

The Minister may, in writing, extend the period of the in-principle approval for not longer than 12 months.

### **Alignment of measure**

- ACT only initiative

### **Promotional and public awareness campaigns undertaken**

- N/A

### **Stakeholder engagement undertaken**

- N/A

### **Cost of the measure**

- N/A

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

This provision has not been enacted in the reporting period.

**Approved for tabling in the ACT Legislative Assembly**

A handwritten signature in blue ink, consisting of several overlapping loops and curves, positioned above a horizontal dashed line.

**Yvette Berry MLA**

**Minister for Education and Youth Affairs**

Date **08/07/22**

### Amendments:

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

[1.59] **New section 84A**

*insert*

**84A Extending in-principle approval—COVID-19 emergency**

- (1) This section applies if—
  - (a) a declaration under section 153B (2) is in force; and
  - (b) an in-principle approval will, or is likely to, lapse while the declaration is in force.
- (2) The Minister may, in writing, extend the period of the in-principle approval for not longer than 12 months.
- (3) This section expires 12 months after the day the [COVID-19 Emergency Response Act 2020](#), section 4 commenced.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio: Education & Youth Affairs**

**Legislation:** *Education Act 2004*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:** Extend registration of a non-government school.

### **Purpose of measure:**

The purpose of this measure is to extend the registration of a non-government school if the registration of a school will, or is likely to, end while COVID-19 emergency is in force and the school is unable to meet the requirements for registration renewal.

The Minister may, in writing, extend the period of the school's registration for not longer than 12 months.

### **Alignment of measure**

- ACT only initiative

### **Promotional and public awareness campaigns undertaken**

- N/A

### **Stakeholder engagement undertaken**

- N/A

### **Cost of the measure**

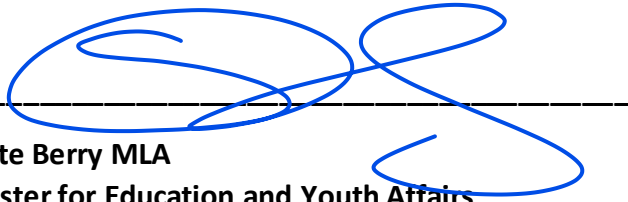
- N/A

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

This provision has not been enacted in the reporting period.

**Approved for tabling in the ACT Legislative Assembly**

A handwritten signature in blue ink, consisting of several loops and curves, positioned above a horizontal dashed line.

**Yvette Berry MLA  
Minister for Education and Youth Affairs**

Date: 08/07/22

### Amendments:

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

**[1.60] New section 88AA**

*after section 88, insert*

**88AA Extending registration—COVID-19 emergency**

- (1) This section applies if—
  - (a) a declaration under section 153B (2) is in force; and
  - (b) the registration of a school will, or is likely to, end while the declaration is in force.
- (2) The Minister may, in writing, extend the period of the school's registration for not longer than 12 months.
- (3) This section expires 12 months after the day the [COVID-19 Emergency Response Act 2020](#), section 4 commenced.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio: Education & Youth Affairs**

**Legislation:** *Education Act 2004*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:** Declaration: Compulsory education requirements relating to attendance and participation. Keeping a register of or and enrolment and attendances, and procedures to encourage attendance at Government and Non-Government schools.

### **Purpose of measure:**

These measures:

- disapply the sections relating to the requirement for school attendance and participation at government and non-government schools;
- disapply the requirement to keep a register and records of enrolments and attendances, and to have procedures to encourage school attendance at government schools; and
- disapply the requirement to keep records of enrolment and attendances, and to have procedures to encourage school attendance at non-government schools.

These measures change the circumstances that would require students to participate in learning. The requirements for physically attending and participating in school do not apply and the requirement for the school to keep a register and record of attendances and enrolments also do not apply.

### **Alignment of measure**

- ACT only initiative

### **Promotional and public awareness campaigns undertaken**

- N/A

### **Stakeholder engagement undertaken**

- N/A

### **Cost of the measure**

- N/A

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

- This provision has not been enacted in the reporting period.

Approved for tabling in the ACT Legislative Assembly



Yvette Berry MLA  
Minister for Education and Youth Affairs

Date: 08/07/22

### Amendments:

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

#### [1.61] New section 153B

*insert*

#### 153B Declaration—COVID-19 emergency

- (1) This section applies if a COVID-19 emergency is in force.
- (2) The Minister may declare that 1 or more of the following provisions do not apply:
  - (a) section 10A (Child of compulsory education age—school attendance requirement);
  - (b) section 10D (Child of compulsory education age—participation requirement);
  - (c) section 32 (Keeping register of enrolments and attendances for government schools);
  - (d) section 33 (Keeping records of enrolment and attendances for government schools);
  - (e) section 35 (Procedures to encourage school attendance at government schools);
  - (f) section 100 (1) (b) (Keeping records of enrolment and attendances for non-government schools);
  - (g) section 102 (Procedures to encourage attendance at non-government schools);
  - (h) a provision prescribed by regulation.

*Note* Power to make a statutory instrument includes power to make different provision in relation to different matters or different classes of matters, and to make an instrument that applies differently by reference to stated exceptions or factors (see [Legislation Act](#), s 48).

- (3) However, the Minister may only make a declaration if satisfied on reasonable grounds that it is necessary to do so because of a COVID-19 emergency.

#### **Example**

a COVID-19 emergency prevents students from physically attending school

- (4) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (5) A declaration has effect for the period, not longer than 6 months, stated in the declaration.
- (6) In this section:  
**COVID-19 emergency** means—
  - (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
  - (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).
- (7) This section expires 12 months after the day the [COVID-19 Emergency Response Act 2020](#), section 4 commenced.

# COVID-19 EMERGENCY RESPONSE ACT 2020 QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio: Attorney-General**

**Legislation:** *Evidence (Miscellaneous Provisions) Act 1991*

This Act was amended by the *COVID-19 Emergency Response Act 2020*, the *COVID-19 Emergency Response Legislation Amendment Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2021*.

The legislative amendments that give effect to the measures being reported on in this document are listed in [Attachment A](#).

**Measure:** A new regulation-making power was created to allow the Executive to permit the use of pre-recorded evidence for all complainants and witnesses for the duration of the COVID-19 pandemic.

**Purpose of measure:**

- To allow a regulation to be made to enable the ACT's courts to collect witness evidence through audio-visual recording during the COVID-19 public health emergency.
- This measure was intended to allow flexibility in court procedures, in the event normal court functioning was disrupted for an extended period of time.

**Alignment of measure:**

- ACT only initiative.

**Promotional and public awareness campaigns undertaken:**

- N/A.

**Stakeholder engagement undertaken:**

- The Justice and Community Safety Directorate consulted with key justice sector stakeholders before the passage of Part 12. If a regulation is required, the Justice and Community Safety Directorate will consult with justice stakeholders.

**Cost of the measure:**

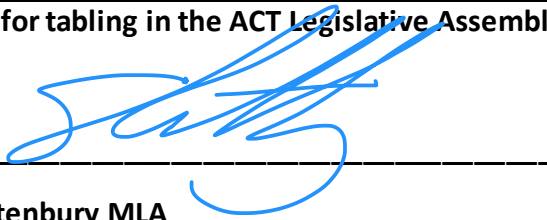
- Nil.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact:**

- The measure has not been used to date.

Approved for tabling in the ACT Legislative Assembly



Shane Rattenbury MLA  
Attorney-General

Date: 21/7/22

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

**[1.31] New part 12**

*insert*

### Part 12 COVID-19 emergency response

#### 164 Regulation-making power—COVID-19 emergency response

- (1) A regulation may make provision in relation to the following matters for the purpose of responding to the public health emergency caused by the COVID-19 pandemic:
  - (a) permitting the recording by the court of evidence given by a witness in a proceeding;
  - (b) how the evidence must or may be given and recorded for the proceeding;
  - (c) how the evidence may be used in the proceeding;
  - (d) any procedural or other matter relating to paragraphs (a) to (c).
- (2) This part and any regulation made under it expires on the day the [Public Health \(Emergency\) Declaration 2020 \(No 1\)](#) (NI2020-153), as extended or further extended, ends.

*Note* Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

**[1.62] New section 164 (1A)**

*insert*

- (1A) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or

- (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

**[1.63] Section 164 (2) and note**

*substitute*

- (2) This chapter and any regulation made under it expires on the first day no COVID-19 emergency is in force.

**COVID-19 Emergency Response Legislation Amendment Act 2021**

**Date notified: 19 February 2021**

**[1.20] Section 164 (2)**

*substitute*

- (2) This chapter and any regulation made under it expires on the day the *COVID-19 Emergency Response Act 2020* expires.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Attorney-General

**Legislation:** *Family Violence Act 2016*

This Act was amended by the *COVID-19 Emergency Response Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2021*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:** Inserts a new Part 22 to (a) extend general interim orders that are due to expire during the COVID-19 emergency, (b) allow appearances at a proceeding to be undertaken by audio visual means during the COVID-19 emergency, (c) allow consent to be given by audio visual means during the COVID-19 emergency, and (d) allow an acknowledgement to be given 'in writing or before the court' and to be 'recorded by the court' during the COVID-19 emergency.

**Purpose of measure:**

- This measure allows the court to extend an interim order during a COVID-19 emergency which ensures that protections remain in place for applicants until both parties are able to attend a hearing.
- This measure also allows for a person to be considered 'present' or give consent at court if they appear by telephone or an audio visual link.
- The measure provides that an acknowledgement may be given in writing or before the court. It also requires that an acknowledgement must be recorded by the court.
- These measures support the continued operations of the court.

**Alignment of measure:**

- ACT only initiative

**Promotional and public awareness campaigns undertaken:**

- N/A

**Stakeholder engagement undertaken:**

- Relevant stakeholders were made aware of the changes in procedure.

**Cost of the measure:**

- Nil.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

### Where measurable, provide details on the monthly and cumulative impact

- The Court's case management system does not currently collect data on this measure.
- As previously indicated in respect of the measures under s 207, 208 and 209, the manual collection and reporting of data on these measures would inappropriately divert resources away from court operations and will not be reported.
- Data in respect of the measure under s206 (extending general interim orders) is being manually collected.
- Between 1 June 2020 and 31 December 2020, a cumulative total of four (4) family violence general interim orders were extended.
- Between 1 January 2021 and 31 March 2021, zero (0) family violence general interim orders were extended.
- Between 1 April 2021 and 30 June 2021 zero (0) family violence general interim orders were extended.
- Between 1 July 2021 and 30 September 2021 zero (0) family violence general interim orders were extended.
- Between 1 October 2021 and 31 December 2021 zero (0) family violence general interim orders were extended.
- Between 1 January 2022 and 31 March 2022 zero (0) family violence general interim orders were extended.
- Between 1 April 2022 and 30 June 2022 zero (0) family violence general interim orders were extended.



**ACT**  
Government

# COVID-19 EMERGENCY RESPONSE ACT 2020 QUARTERLY REPORT ON MEASURES

Approved for tabling in the ACT Legislative Assembly

Shane Rattenbury MLA  
Attorney-General

Date: 21 / 7 / 22

**Amendments:**

**COVID-19 Emergency Response Act 2020**

**Date notified: 7 April 2020**

**[1.32] New part 22**

*insert*

**Part 22 COVID-19 emergency response**

**205 Meaning of *COVID-19 emergency*—pt 22**

In this part:

***COVID-19 emergency*** means—

- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

**206 Extending general interim orders**

- (1) This section applies if a general interim order ends, will end or is likely to end during a COVID-19 emergency.
- (2) The court may extend the general interim order for a stated period of not more than 6 months.

**207 Requirement for party to be present**

- (1) This section applies if a provision in this Act (other than section 43 (1) (a))—
  - (a) requires a party to a proceeding, or the party's legal representative, to be present in court; or
  - (b) is conditional on the party, or the party's legal representative, being present in court.
- (2) Unless the court otherwise orders, during a COVID-19 emergency the party, or the party's legal representative, may be present by telephone or other electronic audio-visual means.
- (3) For section 43 (1) (a), unless the court otherwise orders, during a COVID-19 emergency it is sufficient for the person's legal representative to be present when the family violence order was made.



# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

### **208 Requirement for party to give consent**

- (1) This section applies if a party's consent is required under a provision in this Act.
- (2) Unless the court otherwise orders, during a COVID-19 emergency the party, or the party's legal representative, may give consent by telephone or other electronic audio-visual means.

### **209 Acknowledgment of undertaking by respondent**

For section 64, during a COVID-19 emergency an acknowledgment—

- (a) may be given in writing or before the court; and
- (b) if given before the court, must be recorded by the court.

### **210 Expiry—pt 22**

This part expires 12 months after the day it commences.

## **COVID-19 Emergency Response Legislation Amendment Act 2021**

**Date notified: 19 February 2021**

### **[1.21] Section 210**

*substitute*

### **210 Expiry — pt 22**

This part expires on the day the *COVID -19 Emergency Response Act 2020* expires.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Treasurer

**Legislation:** *Financial Management Act 1996*

This Act was amended by the *COVID-19 Emergency Response Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:** Changes to the amount (from 1% to 5% of total appropriation) of available Treasurer's Advance) – section 18.

**Purpose of measure:** To facilitate greater flexibility in addressing COVID-19 related funding needs and operational impacts.

**Alignment of measure:** ACT only initiative, but similar changes have previously been made by other States and the Commonwealth.

**Promotional and public awareness campaigns undertaken:** N/A

**Stakeholder engagement undertaken:** N/A

**Cost of the measure:** The amendment facilitated additional appropriation being provided through the *Appropriation Bill 2021-22* for the purpose of Treasurer's Advance, but does not itself increase costs. The Treasurer's Advance provided under section 18 of the *Financial Management Act 1996* for 2021-22 is outlined below:

	2021-22	2022-23	2023-24	2024-25
	\$'000	\$'000	\$'000	\$'000
<b>Treasurer's Advance drawn</b>	<b>155,131,000</b>	-	-	-

Where measurable, provide details on the monthly and cumulative impact

DEPARTMENT	APPROPRIATION TYPE	PURPOSE DETAILED	AMOUNT
ACT Health Directorate	Controlled recurrent payments	Additional appropriation for cash requirements to 30 June 2022, consistent with additional funding approved through the 2021-22 Budget Review for COVID-19 Response - Stage 2.	\$20,917,000

ACT Local Hospital Network	Controlled recurrent payments	Additional appropriation to meet cash requirements for 2021-22 Budget Review initiatives, the payment to Calvary Private Hospital Bruce and other cost pressures related to a shortfall in Commonwealth funding and increased costs at Canberra Health Services.	\$64,342,000
Chief Minister, Treasury and Economic Development Directorate	Controlled recurrent payments	Additional appropriation for cost pressures related to 2021-22 Budget Review initiatives, the payment of interstate quarantine costs for ACT residents and the acceleration of administration costs for the Sustainable Household Scheme.	\$36,744,000
Chief Minister, Treasury and Economic Development Directorate	Capital Injection	Additional appropriation for the acceleration of payments under the Sustainable Household Scheme.	\$13,004,000
Education Directorate	Controlled recurrent payments	Additional appropriation for costs relating to enrolment pressures and an increase in workerscompensation premiums.	\$9,937,000
Justice and Community Safety Directorate	Payments on behalf of Territory	Additional appropriation for cost pressures related to 2021-22 Budget Review initiatives and to meet increased demand for Victims of Crime Financial Assistance Scheme payments.	\$6,187,000
Justice and Community Safety Directorate	Controlled recurrent payments	Additional appropriation for cash requirements to 30 June 2022, relating to additional COVID-19 cost pressures.	\$2,600,000
Major Projects Canberra	Controlled recurrent payments	Additional appropriation for cash requirements to 30 June 2022 related to the ACT GovernmentCladding Program.	\$1,400,000
<b>TOTAL</b>			<b>\$155,131,000</b>

**Approved for tabling in the ACT Legislative Assembly**



**Andrew Barr MLA**

**Treasurer**

**Date:** 14 / 7 / 2022

### Attachment A

#### Amendments:

#### **COVID-19 Emergency Response Act 2020**

**Date notified: 7 April 2020**

#### **[1.33] Section 18 (2)**

*substitute*

- (2) The amount appropriated for Treasurer's advances must not exceed—
- (a) for the 2019-20 or 2020-21 financial years—5% of the total amount appropriated by all Appropriation Acts for the year; or
  - (b) for any other financial year—1% of the total amount appropriated by all Appropriation Acts for the year.

#### **Financial Management Act 1996**

**Date notified: 22 September 2021**

#### **Section 18 (2)**

*substitute*

- (2) The amount appropriated for Treasurer's advances must not exceed—
- (a) for the 2021-22 financial year—5% of the total amount appropriated by all Appropriation Acts for the year; or
  - (b) for any other financial year—1% of the total amount appropriated by all Appropriation Acts for the year.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio: Police & Emergency Services**

**Legislation:** *Firearms Act 1996*

The *Firearms Act 1996* (the Act) was amended by the *COVID-19 Emergency Response Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

The legislative amendments to the Act that give effect to the measures being reported on in this document are listed in Attachment A, beginning with the amendments made in the *COVID-19 Emergency Response Act 2020* followed by subsequent amendments made in the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

**Measure:** Amend the Act to allow the Minister to make a declaration to prohibit or limit the sale of firearms, parts and ammunition, and to cease the issue of new firearms licences and permits to acquire a firearm with certain exceptions for essential activities.

**Purpose of measure:**

- The purpose of the amendments to the Firearms Act is to allow the Minister to place certain controls on the operation of the Act to ensure essential firearms related activities can continue during the COVID-19 public health emergency; and
- Amendments made through the *COVID-19 Emergency Response Legislation Amendment Act 2020*, which commenced on 13 May 2020, are technical amendments to align the definition of COVID-19 emergency to ensure consistency across COVID-19 legislation.

**Alignment of measure**

- ACT initiative only.

**Promotional and public awareness campaigns undertaken**

- Nil.

**Stakeholder engagement undertaken**

- ACT Firearms Advisory Committee.
- ACT Firearms Registry.

**Cost of the measure**

- Nil.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

- The measure has not been used to date.

**Approved for tabling in the ACT Legislative Assembly**



-----  
**Mick Gentleman MLA**  
**Minister for Police and Emergency Services**

**Date:** 11/7/2022

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

[1.34] New part 26

*insert*

### Part 26 COVID-19 emergency response

#### 417 Declaration—COVID-19 emergency response

(1) The Minister may make a declaration in relation to the following matters for the purpose of responding to the public health emergency caused by the COVID-19 pandemic:

- (a) preventing the registrar from issuing a licence under this Act;
- (b) preventing the registrar from issuing a permit to acquire a firearm under this Act;
- (c) prohibiting or limiting the sale of firearms, firearms parts or ammunition.

*Note* Power to make a statutory instrument includes power to make different provision in relation to different matters or different classes of matters, and to make an instrument that applies differently by reference to stated exceptions or factors (see [Legislation Act](#), s 48).

(2) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

(3) A declaration expires on—

- (a) the day the [Public Health \(Emergency\) Declaration 2020 \(No 1\)](#) (NI2020-153), as extended or further extended, ends (the **declaration end date**); or
- (b) if the Minister considers that the effect of the COVID-19 pandemic justifies a later day, being a day not later than 3 months after the declaration end date—a later day notified by the Minister before the declaration end date.

(4) A notification under subsection (3) (b) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

#### 418 Expiry—pt 26

This part expires on the day the [Public Health \(Emergency\) Declaration 2020 \(No 1\)](#) (NI2020-153), as extended or further extended, ends.

## COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

### [1.68] Section 417 (3) (a)

*omit*

the day the [Public Health \(Emergency\) Declaration 2020 \(No 1\)](#) (NI2020-153), as extended or further extended, ends

*substitute*

the first day no COVID-19 emergency is in force

### [1.69] New section 417 (5) and (6)

*after the note, insert*

(5) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

(6) This part expires at the end of a 3-month period during which no COVID-19 emergency has been in force.

### [1.70] Section 418

*omit*

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio: Minister for Gaming**

**Legislation:** *Gaming Machine Act 2004*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The legislative amendments that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:** To include a requirement for clubs to report on emergency community purpose contributions in their annual reports.

**Purpose of measure:**

- This measure is consequential to amendments made in the *COVID-19 Emergency Response Act 2020*. Those amendments allow clubs to make community purpose contributions for the purpose of ‘providing relief or assistance to the community in relation to a COVID-19 emergency’, including contributions made in accordance with an emergency community purpose contribution declaration.
- The *Gaming Machine (Emergency Community Purpose Contribution—Club Employees) Declaration 2020* [DI2020-139], made by the former Attorney-General under new section 166A of the *Gaming Machine Act 2004*, allows clubs to claim as emergency community purpose contributions wages or salary paid to club employees and payments made to emergency-affected club employees between 24 March 2020 and 23 March 2021 (inclusive). These payments must be equal to, or more than, the relevant minimum wage (including allowances) under the *Registered and Licensed Clubs Award 2010*. This declaration expired on 23 March 2021, however, in accordance with section 84 of the *Legislation Act 2001*, the benefit of the declaration remains and clubs can continue to count contributions made during the relevant 12-month period towards meeting their community purpose contribution obligations.
- The *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2020* [DI2020-252] (the 2020 Declaration), also made by the former Attorney-General under new section 166A of the *Gaming Machine Act*, allows clubs to claim a contribution of money or in kind contribution made to, or for the benefit of, a member of the local live performance industry for the purpose of providing music or other live entertainment (other than sport) for club members and patrons as an emergency community purpose contribution. The declaration applies to contributions made between 27 August 2020 and 31 August 2021 (inclusive).
- The *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2021* [DI2021-214] (the 2021 Declaration) extended the measures in the 2020 declaration to 30 November 2021.

- The *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2021 (No 2)* [DI2021-273] (the Declaration) extended the measures until 30 June 2022 to assist economic recovery for clubs and the local live performance industry.
- The measure requires clubs to set out in their annual report the percentage of their net gaming machine revenue that has been contributed for ‘providing relief or assistance to the community in relation to a COVID-19 emergency’, in line with the reporting requirements for the other community purposes set out in section 166 (1) of the Gaming Machine Act.
- Since not all clubs report on a standard financial year (July-June) basis, this provision applies to club reporting years that end after 23 March 2020 (after which clubs ceased normal operations due to COVID-19).

#### **Alignment of measure:**

- ACT only initiative.

#### **Promotional and public awareness campaigns undertaken:**

- No promotional and public awareness campaigns were undertaken as the measure is specific to clubs’ community contribution reporting requirements.

#### **Stakeholder engagement undertaken:**

- Direct engagement has been undertaken with clubs and club representatives through existing communication channels.
- Revised *Community Contribution Scheme Guidelines*, incorporating this measure and a range of other measures introduced by Government, are available on the [Gambling and Racing Commission website](#).

#### **Cost of the measure:**

- Nil.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

### Where measurable, provide details on the monthly and cumulative impact:

- Under changes to the community contributions scheme that commenced on 1 July 2019, clubs are required to report on their community purpose contributions as part of annual reporting requirements, and this information must be made publicly available.
- For clubs with gross gaming machine revenue of \$200,000 or more per annum, an audited community purpose contribution statement must be prepared. Otherwise, the information must be set out in a written statement attached to the club's certified income and expenditure statement.
- As noted above, this measure provides for reporting on community purpose contributions made in connection with a COVID-19 emergency.
- The impact of this measure is becoming apparent as clubs report on community purpose contributions in their annual reports. (See material at [Licensee Annual Reports and Community Purpose Contributions - ACT Gambling and Racing Commission](#)).

Approved for tabling in the ACT Legislative Assembly



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Shane Rattenbury MLA

Minister for Gaming

Date: 16/7/22

**Amendments:**

**COVID-19 Emergency Response Legislation Amendment Act 2020**

**Date notified: 13 May 2020**

**[1.78] New section 172 (2A)**

*insert*

- (2A) For subsection (1) (d), the annual report for a reporting year that ends after 23 March 2020 must set out the percentage of the licensee's net revenue for all authorised premises for the reporting year that was made for providing relief or assistance to the community in relation to a COVID-19 emergency.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio: Minister for Gaming**

**Legislation:** *Gaming Machine Act 2004* and *Gaming Machine Regulation 2004*

This Act and Regulation were amended by the *COVID-19 Emergency Response Act 2020*, the *COVID-19 Emergency Response Legislation Amendment Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2021*.

The legislative amendments that give effect to the measures being reported on in this document are listed in [Attachment A](#).

### **Measure:**

- The amendments made in the *COVID-19 Emergency Response Act 2020*:
  - suspend the obligation of clubs to make payments to the Diversification and Sustainability Support Fund (DSSF) for a 12-month period;
  - enable the responsible Minister to declare that a contribution by a club is a community purpose contribution, despite anything else in the *Gaming Machine Act 2004* or *Gaming Machine Regulation 2004*, where an emergency declaration (for a state of emergency or public health emergency) has been made – the Minister for Gaming’s declaration will be a disallowable instrument;
  - provide that clubs can claim \$2 per \$1 of contribution where the club is providing charitable support by preparing or providing food for emergency-affected people.
- The amendments made in the *COVID-19 Emergency Response Legislation Amendment Act 2020* are technical and consequential amendments to changes made by the *COVID-19 Emergency Response Act 2020*, to align the definition of COVID-19 emergency, to correct a cross reference, and to align with expiry provisions.

### **Purpose of measure:**

- Part of emergency financial relief measures to support clubs in retaining staff and in providing assistance to the community.

### **Alignment of measure:**

- ACT only initiative.

### Promotional and public awareness campaigns undertaken:

- No promotional and public awareness campaigns were undertaken as the measures are specific to clubs' DSSF payment obligations and community contribution reporting requirements.

### Stakeholder engagement undertaken:

- Direct engagement with clubs and club representatives through existing communication channels.
- Revised *Community Contribution Scheme Guidelines*, incorporating this measure and a range of other measures introduced by Government, are available on the [ACT Gambling and Racing Commission](#) website.

### Cost of the measure:

- Nil

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

### Where measurable, provide details on the monthly and cumulative impact:

- Applying the formula at section 163H of the *Gaming Machine Act 2004*, 12 months of contributions to the DSSF was estimated at approximately \$1.1 million.
- Based on the available data, \$1.06 million in DSSF contributions were actually foregone as part of the COVID-19 relief package for community clubs.
- In relation to the community contributions measures:
  - The *Gaming Machine (Emergency Community Purpose Contribution—Club Employees) Declaration 2020* [DI2020-139], made by the former Attorney-General under new section 166A of the *Gaming Machine Act*, allows clubs to claim as emergency community purpose contributions wages or salary paid to club employees and payments made to emergency-affected club employees between 24 March 2020 and 23 March 2021 (inclusive). These payments must be equal to, or more than, the relevant minimum wage (including allowances) under the *Registered and Licensed Clubs Award 2010*. This declaration expired on 23 March 2021, however, in accordance with section 84 of the *Legislation Act 2001*, the benefit of the declaration remains



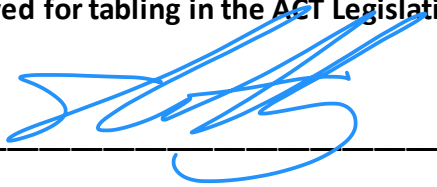
# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

and clubs can continue to count contributions made during the relevant 12-month period towards meeting their community purpose contribution obligations.

- The *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2020* [DI2020-252] (the 2020 Declaration), also made by the former Attorney-General under new section 166A of the Gaming Machine Act, allows clubs to claim a contribution of money or in kind contribution made to, or for the benefit of, a member of the local live performance industry for the purpose of providing music or other live entertainment (other than sport) for club members and patrons as an emergency community purpose contribution. The first declaration applies to contributions made between 27 August 2020 and 31 August 2021 (inclusive).
- The *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2021* [DI2021-214] (the 2021 Declaration) extended the measures in the 2020 declaration to 30 November 2021.
- The *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2021 (No 2)* [DI2021-273] (the Declaration) extended the measures in the 2021 Declaration until 30 June 2022 to assist economic recovery for clubs and the local live performance industry, which continues to be affected by COVID-19.
- Under changes to the community contributions scheme that commenced on 1 July 2019, clubs are required to report on their community purpose contributions as part of annual reporting requirements, and this information must be made publicly available.
- For clubs with gross gaming machine revenue of \$200,000 or more per annum, an audited community purpose contribution statement must be prepared. Otherwise, the information must be set out in a written statement attached to the club's certified income and expenditure statement.
- Through amendments made by the *COVID-19 Emergency Response Legislation Amendment Act 2020*, this reporting must include the percentage of net gaming machine revenue contributed for the purpose of 'providing relief or assistance to the community in relation to a COVID-19 emergency'.
- The impact of these measures is becoming apparent as clubs report on community purpose contributions in their annual reports. (See material at [Licensee Annual Reports and Community Purpose Contributions - ACT Gambling and Racing Commission](#)).

Approved for tabling in the ACT Legislative Assembly

A handwritten signature in blue ink, appearing to be 'S. Rattenbury', written over a horizontal line.

Shane Rattenbury MLA

Minister for Gaming

Date: 16 / 7 / 22

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

##### [1.35] Section 161A (4)

*substitute*

(4) In this section:

**required amount** means the amount payable by the licensee under section 163H.

##### [1.36] New section 163H (4A) and (4B)

*insert*

(4A) Despite subsection (3), the required amount for a tax period that begins after 23 March 2020 and ends before 8 April 2021 is \$0.

(4B) This subsection and subsection (4A) expire 2 years after the day this subsection commences.

*Note* Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

##### [1.37] Section 164, new definition of *emergency declaration*

*insert*

**emergency declaration** means a declaration under—

(a) the [Emergencies Act 2004](#), section 156 (Declaration of state of emergency);  
or

(b) the [Public Health Act 1997](#), section 119 (Emergency declarations).

##### [1.38] Section 166 (1), definition of *community purpose*, new paragraph (ca)

*insert*

(ca) providing relief or assistance to the community in relation to an emergency to which an emergency declaration applies; or

**[1.39] Section 166 (1), definition of *community purpose contribution*, paragraph (b)**

*substitute*

(b) includes—

- (i) a contribution prescribed by regulation to be a community purpose contribution; and
- (ii) an emergency community purpose contribution.

**[1.40] Section 166 (2)**

*after*

***community purpose contribution***

*insert*

(other than an emergency community purpose contribution)

**[1.41] New section 166 (4)**

*insert*

(4) In this section:

***emergency community purpose contribution*** means a contribution declared under section 166A to be a community purpose contribution.

**Example**

a contribution to people employed by a club for remuneration, allowances or other entitlements mentioned in an emergency community purpose contribution declaration under s 166A

**[1.42] New section 166A**

*insert*

**166A Emergency community purpose contribution declaration**

(1) Despite anything else in this Act, if an emergency declaration is in force or was in force at any time in the previous 12 months, the Minister may declare (an ***emergency community purpose contribution declaration***) that a contribution by a licensee that is a club is a community purpose contribution.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

(2) An emergency community purpose contribution declaration may apply to anything that happens at any time during the reporting year for the licensee in which that declaration is made.

(3) An emergency community purpose contribution declaration—

- (a) has effect for the period stated in the declaration; and
- (b) may be subject to any conditions declared by the Minister.



# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

- (4) An emergency community purpose contribution declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

### [1.43] Dictionary, new definition of emergency declaration

*insert*

**emergency declaration**, for part 12 (Community contributions)—see section 164.

### [1.44] Section 69 (1) (c), new note

*insert*

*Note* Under an emergency community purpose contribution declaration, a contribution to people employed by a club for remuneration, allowances or other entitlements may be declared to be a community purpose contribution (see [Act](#), s 166 (2), def **community purpose contribution** and s 166A).

### [1.45] New section 69DA

*insert*

#### 69DA Providing food to emergency-affected people

- (1) This section applies to a community purpose contribution to support a charitable cause.

*Note* See the [Act](#), s 166 (1), def **community purpose**, par (a) (i).

- (2) This section only applies to a reporting year of a licensee that is a club if an emergency declaration applies for all or part of the reporting year.

*Note* **Emergency declaration**—see the [Act](#), s 164.

- (3) For every \$1 that a licensee that is a club contributes under a written arrangement or agreement to provide food to an emergency-affected person as part of a defined program, the licensee's minimum community purpose contribution must be worked out as if the licensee had contributed \$2.

- (4) In this section:

**emergency-affected person** means a person adversely affected by an emergency to which an emergency declaration applies.

## COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

### [1.71] Section 164, new definition of *COVID-19 emergency*

*insert*

**COVID-19 emergency** means—

- (a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

### [1.72] Section 164, definition of *emergency declaration*

*omit*

### [1.73] Section 166 (1), definition of *community purpose*, paragraph (d)

*omit*

an emergency to which an emergency declaration applies

*substitute*

a COVID-19 emergency

### [1.74] Section 166 (2)

*omit*

(other than an emergency community purpose contribution)

### [1.75] New section 166 (2A)

*insert*

(2A) Subsection (2) does not apply to an emergency community purpose contribution.

### [1.76] Section 166A (1)

*omit*

an emergency declaration

*substitute*

a COVID-19 emergency

### [1.77] Section 172 (2) (i)

*omit*

paragraph (d)



# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

*substitute*

paragraph (e)

**[1.80] Dictionary, new definition of *COVID-19 emergency***

*insert*

**COVID-19 emergency**, for part 12 (Community contributions)—see section 164.

**[1.81] Dictionary, definition of *emergency declaration***

*omit*

**[1.82] Section 69DA (2)**

*omit*

an emergency declaration applies

*substitute*

a COVID-19 emergency is in force

**[1.83] Section 69DA (2), note**

*substitute*

*Note* **COVID-19 emergency**—see the [Act](#), s 164.

**[1.84] Section 69DA (4)**

*omit*

an emergency to which an emergency declaration applies

*substitute*

a COVID-19 emergency

**[1.85] New section 69L**

*in division 9.5, insert*

**69L Expiry—COVID-19 emergency amendments**

The following provisions expire at the end of a 12-month period during which no COVID-19 emergency has been in force:

- (a) this section;
- (b) section 69 (1) (c), note;
- (c) section 69DA.

**Date notified: 19 February 2021**

**[1.22] New section 69 (3)**

*insert*

- (3) This subsection and subsection (1)(c), note expire when the Act, section 166A expires.

**[1.23] Section 69L**

*substitute*

**69L Expiry—COVID - 19 emergency amendments**

This section and section 69DA expire at the end of a 12-month period during which no COVID-19 emergency has been in force.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April - 30 June 2022

Portfolio: Human Rights

**Legislation:** *Human Rights Commission Act 2005*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The legislative amendments that give effect to the measures being reported on in this document are listed in Attachment A.

### Measure:

- Vulnerable person complaint.

### Purpose of measure:

- To provide an accessible complaint mechanism for vulnerable people to deal with claims about abuse, neglect or exploitation of older people and adults with a disability in the ACT.
- Providing an alternative resolution focused mechanism for people to resolve family disputes that may give rise to claims of abuse, neglect or exploitation.

### Alignment of measure

- ACT only initiative.

### Promotional and public awareness campaigns undertaken

- Direct contact with relevant stakeholders working with older people, people with a disability and in elder abuse to advise of new complaint provisions as an option for addressing abuse of vulnerable people in the ACT.
- Contact with community through social media, media, the Human Rights Commission (HRC) E-newsletter, and website updates.
- Media release and doorstep by Minister Rattenbury and Minister Ramsay. Additional media by Discrimination, Health Services, Disability and Community Services Commissioner.

### Stakeholder engagement undertaken

- As above, direct contact with relevant stakeholders working with older vulnerable people and people with a disability including ACTCOSS, ADACAS, COTA, Office for Disability, ACT Policing, ACT Health, Public Guardian, Legal Aid & OPALS, Canberra Community Law, Disability Legal Service, ACT Housing, WWDACT, Official Visitors etc.

## Cost of the measure

- No additional funds have been provided to promote this measure at this time.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

## Where measurable, provide details on the monthly and cumulative impact

- For the period 1 April to 30 June 2022, the Human Rights Commission received 13 vulnerable person complaints and 14 enquiries regarding a vulnerable person complaint.
- For the period 1 January to 31 March 2022, the Human Rights Commission received 10 vulnerable person complaints and 5 enquiries regarding a vulnerable person complaint.
- For the period 1 October to 31 December 2021, the Human Rights Commission received 10 vulnerable person complaints and 12 enquiries regarding a vulnerable person complaint.
- For the period 1 July to 30 September 2021, the Human Rights Commission received 8 vulnerable person complaints and 16 enquiries regarding a vulnerable person complaint.
- For the period 1 April to 30 June 2021, the Human Rights Commission received 6 vulnerable person complaints and 7 enquiries regarding a vulnerable person complaint.
- For the period 1 January to 31 March 2021, the Human Rights Commission received 5 vulnerable person complaints and 13 enquiries regarding a vulnerable person complaint.
- For the period 1-31 December 2020, the Human Rights Commission received 1 vulnerable person complaint and 3 enquiries regarding a vulnerable person complaint.
- For the period 1-30 November 2020, the Human Rights Commission received 3 vulnerable person complaints and 4 enquiries regarding a vulnerable person complaint.
- For the period 1-31 October 2020, the Human Rights Commission received 1 vulnerable person complaints and 4 enquiries regarding a vulnerable person complaint.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

- For the period 1-30 September 2020, the Human Rights Commission received 3 vulnerable person complaints and 5 enquiries regarding a vulnerable person complaint.
- For the period 1-31 August 2020, the Human Rights Commission received 2 vulnerable person complaints and 3 enquiries regarding a vulnerable person complaint.
- For the period of 1-31 July 2020, the Human Rights Commission received 3 vulnerable person complaints and 4 enquiries regarding a vulnerable person complaint.
- For the period 1 – 30 June 2020, the Human Rights Commission received 2 vulnerable person complaints and 5 enquiries regarding a vulnerable person complaint.
- For the period 1 – 31 May 2020 there were no complaints received noting the jurisdiction commenced on 14 May and was not retrospective.
- Since the commencement of these provisions on 14 May 2020, the Human Rights Commission has received a total of 67 vulnerable person complaints and 95 enquiries regarding a vulnerable person complaint and of those complaints 37 are Commission Initiated Considerations regarding claims of abuse, neglect or exploitation of a person with a disability or older person.

**Approved for tabling in the ACT Legislative Assembly**



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**Andrew Barr MLA**  
**A/g Minister for Human Rights**

Date: 12 / 7 / 22

Attachment A

**Amendments:**

**COVID-19 Emergency Response Legislation Amendment Act 2020**

**Date notified: 13 May 2020**

**[1.86] New section 21 (1) (c) (iv)**

*insert*

- (iv) a vulnerable person complaint;

**[1.87] New section 41B**

*insert*

**41B When may someone complain about treatment of vulnerable people?**

- (1) A person may complain to the commission about the treatment of a vulnerable person if the person believes on reasonable grounds that the vulnerable person is subject to or at risk of abuse, neglect or exploitation.

- (2) In this section:

***vulnerable person*** means an adult who—

- (a) has a disability within the meaning of the [Disability Services Act 1991](#); or

- (b) is at least 60 years old and—

- (i) has a disorder, illness or disease that affects the person's thought processes, perception of reality, emotions or judgement or otherwise results in disturbed behaviour; or

- (ii) has an impairment that—

- (A) is intellectual, psychiatric, sensory or physical in nature; and

- (B) results in a substantially reduced capacity of the person for communication, learning or mobility; or

- (iii) for any other reason is socially isolated or unable to participate in the life of the person's community.

**[1.88] New section 42 (1) (ea)**

*insert*

- (ea) a vulnerable person complaint;



**[1.89] New section 52B**

*in division 4.2, insert*

**52B Dealing with vulnerable person complaints**

- (1) Before taking either of the following actions in relation to a vulnerable person complaint, the commission must obtain the consent of the vulnerable person the subject of the complaint:
  - (a) telling the person complained about, in writing, that the complaint is to be considered under section 45 (2) (c);
  - (b) referring a complaint to a statutory office holder under section 52A.
- (2) However, consent is not required—
  - (a) if the person is not capable of giving consent, even with appropriate support; or
  - (b) if it is not appropriate to obtain consent because of the seriousness of the complaint or the risk to the personal safety of the vulnerable person.

**[1.91] New section 105B**

*insert*

**105B Expiry—vulnerable person complaint provisions**

- (1) The following provisions expire at the end of a 12-month period during which no COVID-19 emergency has been in force:
  - (a) this section;
  - (b) section 21 (1) (c) (iv);
  - (c) section 41B;
  - (d) section 42 (1) (ea);
  - (e) section 52B;
  - (f) section 99A;
  - (g) dictionary, definition of *vulnerable person complaint*.
- (2) In this section:

**COVID-19 emergency** means—

  - (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
  - (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

**[1.92] Dictionary, new definition of *vulnerable person complaint***

*insert*

***vulnerable person complaint*** means a complaint about the treatment of a vulnerable person that may be made, or is made, under section 41B.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April - 30 June 2022

Portfolio: Attorney-General

### **Legislation:** *Leases (Commercial and Retail) Act 2001*

This Act was amended by the *COVID-19 Emergency Response Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A, beginning with the amendments made in the *COVID-19 Emergency Response Act 2020* followed by subsequent amendments made in the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

### **Measure:**

- The amendment under the COVID-19 Emergency Response Act 2020 created a head of power in the Leases (Commercial and Retail) Act 2001 (the Leases Act) that allows the Minister to respond quickly and flexibly to the impacts of COVID-19 on commercial tenancies by making a Declaration. A Declaration is a disallowable instrument.
- The Minister has made three Declarations under this head of power. The Declarations require landlords and tenants to negotiate in good faith before seeking to evict a tenant or exercise a right of enforcement under a commercial lease, to which the Leases Act applies. Negotiations must have regard to the leasing principles in the National Code of Conduct (the National Code) as agreed by National Cabinet.
- The first and second Declarations applied to SME commercial tenants that were suffering financial stress or hardship as a result of the COVID-19 pandemic, as defined by the qualification requirements of the Commonwealth Government's JobKeeper program (JobKeeper), and which had an annual turnover of up to \$50 million for 2018-2019.
  - The Leases (Commercial and Retail) COVID-19 Emergency Response Declaration 2020 (DI2020-92) (the first Declaration) was notified on 11 May 2020.
  - The Leases (Commercial and Retail) COVID-19 Emergency Response Declaration 2020 (No. 2)(DI2020-283) (the second Declaration) was notified on 10 September 2020. The second Declaration revoked the first Declaration and took effect from 28 September 2020. The second Declaration expired as planned on 31 January 2021.
- The Leases (Commercial and Retail) COVID-19 Emergency Response Declaration 2021 (DI2021-218) (the third Declaration) was notified on 1 September 2021. It

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

introduced a new test for financial stress or hardship for an ‘impacted tenant’. This change was given effect through a new definition of an impacted tenant who:

- is an SME entity; and
  - satisfies the decline in turnover test set out in section 5 of the third Declaration.
- The third Declaration was revoked under the Leases (Commercial and Retail) COVID-19 Emergency Response Declaration Revocation 2021 (DI2021-283) on 1 January 2022.
  - The third Declaration has been revoked as most of the measures that were put in place for the August 2021 lockdown which restricted business activity and trading capacity have now been eased under the ACT Government’s Pathway Forward.
  - While no Declaration is currently in force, each Declaration continues to have effect where a prescribed breach occurred during a prescribed period under each of the Declarations. Where a prescribed breach occurred during the relevant prescribed periods, landlords must still negotiate in good faith before taking action against an impacted tenant.
  - The COVID-19 Emergency Response Legislation Amendment Act 2020 made consequential technical amendments to the Leases Act to clarify that a COVID-19 emergency may be declared under the Emergencies Act 2004 as well as the Public Health Act 1997. This aligns the language of the declaration-making power in relation to what is a COVID-19 emergency across several related measures, as well as when a declaration would expire after a COVID-19 emergency ends.
  - These amendments made by the COVID-19 Emergency Response Legislation Amendment Act 2020 are technical amendments rather than substantive measures. As such, these provisions will not be reported on in reporting to the ACT Legislative Assembly.

### **Purpose of measure:**

- The amendment under the COVID-19 Emergency Response Act 2020 was necessary so that the Minister could respond quickly to the impacts of the COVID-19 pandemic on leasing issues, including in relation to commercial tenancies. If the measure had not been implemented, the Minister would not have had the ability to support COVID-19 pandemic affected commercial tenants in a timely fashion.

### **Alignment of measure**

- The amendment under the COVID-19 Emergency Response Act 2020 and the Declarations align with National Cabinet’s decision to implement the National Code in respect of those tenants unable to meet their financial obligations under a

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

commercial tenancy agreement during, and for the recovery period following, the COVID-19 pandemic.

- The second Declaration reflected the changes to and extension of the Commonwealth Jobkeeper payment from 28 September 2020 to 28 March 2021.
- The third Declaration reflected that the Commonwealth's JobKeeper scheme had expired and could no longer be used to determine an impacted tenant's financial hardship.

### **Promotional and public awareness campaigns undertaken**

- Mr Brendan Smyth was first appointed on 14 April 2020 as the COVID-19 Local Business Commissioner. He engaged with commercial landlords and tenants in the ACT on the application of the first and second Declarations to encourage in good faith negotiations.
  - Mr Smyth continued to provide support for tenants and landlords seeking to come to an agreement up until the expiry of his term on 31 July 2021.
- On 6 September 2021, Mr Smyth was re-appointed as the COVID-19 Local Business Commissioner until 31 July 2022, to continue working with commercial landlords and tenants under the third Declaration to resolve issues and refer parties for mediation.
- The ACT Government procured professional mediation services, to provide free mediation support services for commercial tenants and landlords to support in-good-faith negotiations, from Conflict Resolution Services Inc., a Canberra-based service.
- Commercial tenants and landlords accessed mediation by contacting the COVID-19 Local Business Commissioner referred the parties to Conflict Resolution Service.
- The contract between the ACT Government and Conflict Resolution Service Inc ended on 27 March 2022. The COVID-19 Local Business Commissioner continues in his role to 31 July 2022 providing support to commercial landlords and tenants. The need for ongoing mediation services beyond the support offered by Mr Smyth will be monitored by Government.
- The ACT Government established a Commercial Tenancies Administration Committee (the first Committee) in May 2020 comprised of industry representatives and an independent chair to provide guidance on the implementation of the first Declaration. The first Committee also provided guidance on implementation of the second Declaration and raised awareness of the second Declaration from 28 September 2020 until its revocation on 31 January 2021.
  - The first Committee last met in mid-January 2021 and agreed for meetings to be convened if any future issues arise out of the 31 January 2021 ending of the second Declaration.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

- The ACT Government created a new Commercial Tenancies Administration Committee (the second Committee) in August 2021, comprised of new industry representatives and an independent facilitator to provide guidance on the implementation of the third Declaration.
- The second Committee held its last meeting in mid-November 2021. Members of the second Committee were consulted regarding the future of the third Declaration. The second Committee supported the revocation of the third Commercial Leases Declaration on 1 January 2022.
- A public awareness campaign on the ending of the third Declaration included the following components:
  - The development of FAQ's detailing further information on the ending of the third Declaration made available on the ACT Government COVID-19 Commercial Tenancy Support Measures FAQs [webpage](#); and
  - Letters sent to members of the second Committee advising them of the ending of the third Declaration and thanking them for their participation.

### Stakeholder engagement undertaken

- Consultations with the second Committee occurred with:
  - Sam Engele CMTEDD - Facilitator
  - Adina Cirson – Member
  - Alfonso de Rio – Member
  - Angus Nardi – Member
  - Anthony Brierley – Member
  - Dominique Lamb – Member
  - Graham Catt – Member
  - Sheena Ireland – Member
- Consultation with the Local Business Commissioner.

### Cost of the measure

- The ACT Government has allocated \$250,000 for free professional mediation for commercial tenants and landlords to support in-good-faith negotiations.
- Minor costs were incurred in relation to the creation and administration of the arrangements under the third Declaration. These costs have been met from the Chief Minister, Treasury and Economic Development Directorate's existing budget allocation.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

### Where measurable, provide details on the monthly and cumulative impact

- The third Declaration was linked to the commercial tenancy rates relief assistance. This measure is provided by the Government as an incentive for commercial landlords and tenants to continue to negotiate revised leasing arrangements in good faith.
- The commercial rates credit operated in the same way as the rates assistance measure that was offered by the Government in 2020. Applications for commercial rates rebates have now closed.
- As at 30 June 2022, under the third Declaration the Local Business Commissioner has had 214 requests for assistance, with 210 having been resolved and 4 remaining active.

Approved for tabling in the ACT Legislative Assembly



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Shane Rattenbury MLA  
Attorney-General

Date: 16/7/22

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

[1.46] New part 17

*insert*

### Part 17 COVID-19 emergency response

#### 177 Declaration—COVID-19 emergency response

- (1) The Minister may make a declaration in relation to the following matters for the purpose of responding to the public health emergency caused by the COVID-19 pandemic:
  - (a) prohibiting the termination of a lease to which this Act applies by a lessor in stated circumstances;
  - (b) prohibiting the recovery of possession of premises under the lease by the lessor in stated circumstances;
  - (c) changing any period under the lease or this Act in which someone must or may do something;
  - (d) changing, limiting or preventing the exercise or enforcement of any other right of the lessor under the lease or this Act in stated circumstances;
  - (e) exempting a tenant or lessor, or class of tenant or lessor, from the operation of a provision of this Act, a lease to which this Act applies or any other agreement relating to the lease of the premises.

- (2) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (3) A declaration expires on—

- (a) the day the [Public Health \(Emergency\) Declaration 2020 \(No 1\)](#) (NI2020-153), as extended or further extended, ends (the **declaration end date**); or
- (b) if the Minister considers that the effect of the COVID-19 pandemic justifies a later day, being a day not later than 3 months after the declaration end date—a later day notified by the Minister before the declaration end date.

- (4) A notification under subsection (3) (b) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).



# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

(5) In this section:

*lease to which this Act applies* includes a lease prescribed under section 12 (2) (a) and (b).

### 178 Expiry—pt 17

This part expires on the day the *Public Health (Emergency) Declaration 2020 (No 1)* (NI2020-153), as extended or further extended, ends.

## COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

### [1.93] Section 177 (3) (a)

*omit*

the day the *Public Health (Emergency) Declaration 2020 (No 1)* (NI2020-153), as extended or further extended, ends

*substitute*

the first day no COVID-19 emergency is in force

### [1.94] Section 177 (5), new definition of *COVID-19 emergency*

*insert*

***COVID-19 emergency*** means—

- (a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

### [1.95] New section 177 (6)

*insert*

- (6) This part expires at the end of a 3-month period during which no COVID-19 emergency has been in force.

### [1.96] Section 178

*omit*

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April - 30 June 2022**

**Portfolio:** Industrial Relations and Workplace Safety

**Legislation:** *Long Service Leave (Portable Schemes) Act 2009*

This Act was amended by the *COVID-19 Emergency Response Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

The legislative amendments to this Act that give effect to the measures being reported in this document are listed in Attachment A, beginning with the amendments made in the *COVID-19 Emergency Response Act 2020* followed by amendments made in the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

**Measure:** The current provisions for access to portable long service leave require a recognised period of service (eligibility period) before these entitlements can be accessed. It does not allow workers to access entitlements early in cases of hardship such as from the impacts of COVID-19. Temporary amendments allow eligible registered workers early access to long service leave entitlements during the COVID-19 pandemic. Eligibility for early access and the amount of long service leave that may be accessed are to be determined by the Minister for Employment and Workplace Safety by disallowable instrument.

These amendments supersede amendments in the *COVID-19 Emergency Response Act 2020* by omitting and replacing those amendments with the same amendments with consequential changes to align with a consistent definition of the COVID-19 emergency and expiry of COVID-19 measures.

### **Purpose of measure:**

- The purpose of this measure is to enable eligible workers whose employment has been negatively impacted because of the COVID-19 emergency to access long service leave.
- The amendments will support workers who have suffered hardship because of the COVID-19 emergency and cannot work and earn as a result.
- The amendments will temporarily allow:
  - eligible workers to access leave earlier than is currently allowed under the portable schemes legislation; and
  - eligible workers who have exited the industry during the COVID-19 emergency before they become entitled to portable long service leave, to access a payment instead of leave for their recognised service.
- The amendments will also temporarily allow workers who have exited the industry permanently to be able to apply for a payment instead of leave without having to wait for 20 weeks to pass.
- Eligibility was determined under the *Long Service Leave (Portable Schemes) COVID-19 Emergency Leave Determination 2020 (No 1)* and commenced on 21 May

2020 to allow workers to be able to apply from this date to access the temporary entitlements. Eligible workers are workers who have:

- 18 months or more recognised service in a covered industry in the ACT; and
- recognised service in the last 12 months; and
- suffered hardship because they are unable to work and unable to earn because of COVID-19.

### Alignment of measure

- ACT only initiative

### Promotional and public awareness campaigns undertaken

- As the measure was implemented in May 2020, noting the activities reported in the May 2020 report for this measure, no further promotional and public awareness campaigns have been undertaken during April – June 2022. Information on the measure continues to be available on the ACT Long Service Leave Authority website at: <https://actleave.act.gov.au/early-access/>.

### Stakeholder engagement undertaken

- As this measure has now been implemented, no further stakeholder engagement was required in the period from April – June 2022.

### Cost of the measure

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

- The financial impact of the measure is budget neutral for the ACT Budget.
- The financial impact of this measure will impact the funding of the schemes managed by the ACT Long Service Leave Authority and funded from levies paid by employers covered under the portable leave schemes.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

- As a reliable estimate of the net financial impact of the measure on funding of the portable leave schemes will be impacted by the period for which the COVID-19 emergency remains in force, it is not appropriate to provide an estimate in this section, noting the level of reporting provided in the following section.

### Where measurable, provide details on the monthly and cumulative impact

- From 21 May 2020, eligible workers were able to apply for access to the temporary early access COVID-19 leave.
- For the period 1 April – 30 June 2022:
  - 1 early access claim was made and paid by the ACT Long Service Leave Authority; and
  - the total amounts paid from 1 April – 30 June 2022 by the ACT Long Service Leave Authority for this early access claim was \$2,702.
- Total impact of the measure to 30 June 2022 is:
  - a total of 167 early access claims<sup>1</sup> have been made (an increase of 1 from the previous quarter);
  - a total of 167 early access claims have been paid by the ACT Long Service Leave Authority (an increase of 1 from the previous quarter);
  - the accumulated total of \$387, 417 has been paid up to 30 June 2022 by the ACT Long Service Leave Authority for early access claims.

**Approved for tabling in the ACT Legislative Assembly**



**Mick Gentleman MLA**  
**Minister for Industrial Relations and Workplace Safety**

**Date:** 15 / 7 / 2022

<sup>1</sup> The total number of early access claims does not include early access claims made and subsequently withdrawn.

**Amendments:**

**COVID-19 Emergency Response Act 2020**

**Date notified: 7 April 2020**

**[1.48] Schedule 1, new section 1.6 (3) and (4)**

*insert*

- (3) A registered worker for the building and construction industry is entitled to the number of days of workers long service leave worked out in accordance with the criteria determined by the Minister if—
- (a) a state of emergency, declared under the [Emergencies Act 2004](#), section 156, exists; or
  - (b) an emergency declaration made under the [Public Health Act 1997](#), section 119 (including any extension or further extension) is in force.
- (4) A determination under subsection (3) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**[1.49] Schedule 1, new section 1.8 (1A) and (1B)**

*insert*

- (1A) However, subsection (1) (b) and (c) does not apply to a registered worker if—
- (a) the worker has permanently left the building and construction industry; and
  - (b) the worker has not been credited with service in the workers register for any of the days after the worker permanently left the building and construction industry; and
  - (c) either—
    - (i) a state of emergency, declared under the [Emergencies Act 2004](#), section 156, exists; or
    - (ii) an emergency declaration made under the [Public Health Act 1997](#), section 119 (including any extension or further extension) is in force.
- (1B) Also, this section applies to a registered worker for the building and construction industry if the worker—
- (a) has left the industry during—
    - (i) a state of emergency declared under the [Emergencies Act 2004](#), section 156; or

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

(ii) a public health emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension); and

(b) satisfies the criteria determined by the Minister.

### [1.50] Schedule 1, section 1.8 (3)

*substitute*

(3) If the governing board is satisfied that this section applies to the worker, the worker is entitled to payment instead of long service leave for—

(a) if subsection (1) or (2) applies to the worker—the amount of long service leave credited to the worker in the workers register; or

(b) if subsection (1B) applies to the worker—the amount of long service leave determined by the Minister.

(3A) A determination under this section is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

### [1.51] Schedule 2, new section 2.6 (3) and (4)

*insert*

(3) A registered worker for the contract cleaning industry is entitled to the number of days of workers long service leave worked out in accordance with the criteria determined by the Minister if—

(a) a state of emergency, declared under the [Emergencies Act 2004](#), section 156, exists; or

(b) an emergency declaration made under the [Public Health Act 1997](#), section 119 (including any extension or further extension) is in force.

(4) A determination under subsection (3) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

### [1.52] Schedule 2, new section 2.8 (1A) and (1B)

*insert*

(1A) However, subsection (1) (b) and (c) does not apply to a registered worker if—

(a) the worker has permanently left the contract cleaning industry; and

(b) the worker has not been credited with service in the workers register for any of the days after the worker permanently left the contract cleaning industry; and

(c) either—

- (i) a state of emergency, declared under the [Emergencies Act 2004](#), section 156, exists; or
  - (ii) an emergency declaration made under the [Public Health Act 1997](#), section 119 (including any extension or further extension) is in force.
- (1B) Also, this section applies to a registered worker for the contract cleaning industry if the worker—
  - (a) has left the industry during—
    - (i) a state of emergency declared under the [Emergencies Act 2004](#), section 156; or
    - (ii) a public health emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension); and
  - (b) satisfies the criteria determined by the Minister.

**[1.53] Schedule 2, section 2.8 (3)**

*substitute*

- (3) If the governing board is satisfied that this section applies to the worker, the worker is entitled to payment instead of long service leave for—
  - (a) if subsection (1) or (2) applies to the worker—the number of weeks long service leave worked out in accordance with the long service leave formula; or
  - (b) if subsection (1B) applies to the worker—the amount of long service leave determined by the Minister.
- (3A) A determination under this section is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**[1.54] Schedule 3, new section 3.7 (3) and (4)**

*insert*

- (3) A registered worker for the community sector industry is entitled to the number of days of workers long service leave worked out in accordance with the criteria determined by the Minister if—
  - (a) a state of emergency, declared under the [Emergencies Act 2004](#), section 156, exists; or
  - (b) an emergency declaration made under the [Public Health Act 1997](#), section 119 (including any extension or further extension) is in force.
- (4) A determination under subsection (3) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).



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## QUARTERLY REPORT ON MEASURES

### [1.55] Schedule 3, new section 3.9 (1A)

*insert*

- (1A) Also, this section applies to a registered worker for the community sector industry if the worker—
- (a) has left the industry during—
    - (i) a state of emergency declared under the [Emergencies Act 2004](#), section 156; or
    - (ii) a public health emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension); and
  - (b) satisfies the criteria determined by the Minister.

### [1.56] Schedule 3, section 3.9 (2)

*substitute*

- (2) If the governing board is satisfied that this section applies to the worker, the worker is entitled to payment instead of long service leave for—
- (a) if subsection (1) applies to the worker—the number of weeks long service leave worked out in accordance with the long service leave formula; or
  - (b) if subsection (1A) applies to the worker—the amount of long service leave determined by the Minister.
- (2A) A determination under this section is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

### [1.57] Schedule 4, new section 4.7 (3) and (4)

*insert*

- (3) A registered worker for the security industry is entitled to the number of days of workers long service leave worked out in accordance with the criteria determined by the Minister if—
- (a) a state of emergency, declared under the [Emergencies Act 2004](#), section 156, exists; or
  - (b) an emergency declaration made under the [Public Health Act 1997](#), section 119 (including any extension or further extension) is in force.
- (4) A determination under subsection (3) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**[1.58] Schedule 4, new section 4.9 (1A)**

*insert*

- (1A) Also, this section applies to a registered worker for the security industry if the worker—
- (a) has left the industry during—
    - (i) a state of emergency declared under the [Emergencies Act 2004](#), section 156; or
    - (ii) a public health emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension); and
  - (b) satisfies the criteria determined by the Minister.

**[1.59] Schedule 4, section 4.9 (2)**

*substitute*

- (2) If the governing board is satisfied that this section applies to the worker, the worker is entitled to payment instead of long service leave for—
- (a) if subsection (1) applies to the worker—the amount of long service leave worked out in accordance with the long service leave formula; or
  - (b) if subsection (1A) applies to the worker—the amount of long service leave determined by the Minister.
- (2A) A determination under this section is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**COVID-19 Emergency Response Legislation Amendment Act 2020**

**Date notified: 13 May 2020**

**[1.98] Schedule 1, section 1.6 (3) and (4)**

*substitute*

- (3) During a COVID-19 emergency, a registered worker for the building and construction industry is entitled to the number of days of workers long service leave worked out in accordance with the criteria determined by the Minister.
- (4) A determination under subsection (3) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (5) In this section:

**COVID-19 emergency** means—



# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

- (a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or
  - (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).
- (6) This subsection and subsections (3) to (5) expire on the first day no COVID-19 emergency is in force.

### [1.99] Schedule 1, section 1.8

*substitute*

#### **1.8 Entitlement to payment instead of leave—building and construction industry**

- (1) This section applies to a registered worker for the building and construction industry who has at least 7 years recognised service if—
- (a) the worker has permanently left the industry; and
  - (b) 20 weeks have passed since the day the worker permanently left the industry; and
  - (c) the worker has not been credited with service in the workers register for any of the days in the 20-week period.
- (2) Also, this section applies to a registered worker for the building and construction industry if the worker has 5 years recognised service and any of the following apply to the worker:
- (a) the worker has left the industry because of total incapacity;
  - (b) the worker has reached the prescribed retiring age;
  - (c) the worker has died.
- (3) If the governing board is satisfied that this section applies to the worker, the worker is entitled to payment instead of long service leave for the amount of long service leave credited to the worker in the workers register.
- (4) In this section:
- prescribed retiring age*** means—
- (a) in relation to a registered worker who has been granted a service pension under the *Veterans Entitlements Act 1986* (Cwlth), section 38 (Eligibility for partner service pension)—the age at which the worker first receives payment of the service pension; or
  - (b) in any other case—55 years.

**1.8A Entitlement to payment instead of leave—building and construction industry—COVID-19 emergency**

- (1) This section applies during a COVID-19 emergency to a registered worker for the building and construction industry who has at least 7 years recognised service if—
  - (a) the worker has permanently left the industry; and
  - (b) the worker has not been credited with service in the workers register for any of the days after the worker permanently left the building and construction industry.
- (2) Also, this section applies during a COVID-19 emergency to a registered worker for the building and construction industry if the worker—
  - (a) has left the industry during the COVID-19 emergency; and
  - (b) satisfies the criteria determined by the Minister.
- (3) If the governing board is satisfied that this section applies to the worker, the worker is entitled to payment instead of long service leave for the amount of long service leave determined by the Minister.
- (4) A determination under this section is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (5) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
  - (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).
- (6) This section and schedule 5, item 22A expire on the first day no COVID-19 emergency is in force.

**[1.100] Schedule 2, section 2.6 (3) and (4)**

*substitute*

- (3) During a COVID-19 emergency, a registered worker for the contract cleaning industry is entitled to the number of days of workers long service leave worked out in accordance with the criteria determined by the Minister.
- (4) A determination under subsection (3) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).



# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

(5) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or
  - (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).
- (6) This subsection and subsections (3) to (5) expire on the first day no COVID-19 emergency is in force.

### [1.101] Schedule 2, section 2.8

*substitute*

#### 2.8 Entitlement to payment instead of leave—contract cleaning industry

- (1) This section applies to a registered worker for the contract cleaning industry who has 5 years recognised service if—
- (a) the worker has permanently left the industry; and
  - (b) 20 weeks have passed since the day the worker permanently left the industry; and
  - (c) the worker has not been credited with service in the workers register for any of the days in the 20-week period.
- (2) Also, this section applies to a registered worker for the contract cleaning industry if the worker has 5 years recognised service and any of the following apply to the worker:
- (a) the worker has left the industry because of total incapacity;
  - (b) the worker has reached the prescribed retiring age;
  - (c) the worker has died.
- (3) If the governing board is satisfied that this section applies to the worker, the worker is entitled to payment instead of long service leave for the number of weeks long service leave worked out in accordance with the long service leave formula.
- (4) In this section:
- prescribed retiring age** means—
- (a) for a registered worker who has been granted a service pension under the *Veterans Entitlements Act 1986* (Cwlth), section 38 (Eligibility for partner service pension)—the age at which the worker first receives payment of the service pension; or
  - (b) in any other case—55 years.

**2.8A Entitlement to payment instead of leave—contract cleaning industry—COVID-19 emergency**

- (1) This section applies during a COVID-19 emergency to a registered worker for the contract cleaning industry who has at least 7 years recognised service if—
  - (a) the worker has permanently left the industry; and
  - (b) the worker has not been credited with service in the workers register for any of the days after the worker permanently left the contract cleaning industry.
- (2) Also, this section applies during a COVID-19 emergency to a registered worker for the contract cleaning industry if the worker—
  - (a) has left the industry during the COVID-19 emergency; and
  - (b) satisfies the criteria determined by the Minister.
- (3) If the governing board is satisfied that this section applies to the worker, the worker is entitled to payment instead of long service leave for the amount of long service leave determined by the Minister.
- (4) A determination under this section is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (5) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
  - (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).
- (6) This section expires on the first day no COVID-19 emergency is in force.

**[1.102] Schedule 3, section 3.7 (3) and (4)**

*substitute*

- (3) During a COVID-19 emergency, a registered worker for the community sector industry is entitled to the number of days of workers long service leave worked out in accordance with the criteria determined by the Minister.
- (4) A determination under subsection (3) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (5) In this section:

**COVID-19 emergency** means—



# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

- (a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or
  - (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).
- (6) This subsection and subsections (3) to (5) expire on the first day no COVID-19 emergency is in force.

### [1.103] Schedule 3, section 3.9

*substitute*

#### **3.9 Entitlement to payment instead of leave—community sector industry**

- (1) This section applies to a registered worker for the community sector industry if the worker has 5 years recognised service and any of the following apply to the worker:
- (a) the worker has left the industry because of total incapacity;
  - (b) the worker has reached the prescribed retiring age;
  - (c) the worker has died.
- (2) If the governing board is satisfied that this section applies to the worker, the worker is entitled to payment instead of long service leave for the number of weeks long service leave worked out in accordance with the long service leave formula.
- (3) In this section:

***prescribed retiring age*** means—

- (a) for a registered worker who has been granted a service pension under the *Veterans Entitlements Act 1986* (Cwlth), section 38 (Eligibility for partner service pension)—the age at which the worker first receives payment of the service pension; or
- (b) in any other case—55 years.

#### **3.9A Entitlement to payment instead of leave—community sector industry—COVID-19 emergency**

- (1) This section applies during a COVID-19 emergency to a registered worker for the community sector industry if the worker—
- (a) has left the industry during the COVID-19 emergency; and
  - (b) satisfies the criteria determined by the Minister.
- (2) If the governing board is satisfied that this section applies to the worker, the worker is entitled to payment instead of long service leave for the amount of long service leave determined by the Minister.

- (3) A determination under this section is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (4) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

- (5) This section expires on the first day no COVID-19 emergency is in force.

**[1.104] Schedule 4, section 4.7 (3) and (4)**

*substitute*

- (3) During a COVID-19 emergency, a registered worker for the security industry is entitled to the number of days of workers long service leave worked out in accordance with the criteria determined by the Minister.

- (4) A determination under subsection (3) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (5) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

- (6) This subsection and subsections (3) to (5) expire on the first day no COVID-19 emergency is in force.

**[1.105] Schedule 4, section 4.9**

*substitute*

**4.9 Entitlement to payment instead of leave—security industry**

- (1) This section applies if a registered worker for the security industry has 5 years recognised service and any of the following apply to the worker:

- (a) the worker has left the industry because of total incapacity;
- (b) the worker has reached the prescribed retiring age;



# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

- (c) the worker has died.
- (2) If the governing board is satisfied that this section applies to the worker, the worker is entitled to payment instead of long service leave for the amount of long service leave worked out in accordance with the long service leave formula.
- (3) In this section:
  - prescribed retiring age***—
    - (a) for a registered worker who has been granted a service pension under the [Veterans Entitlements Act 1986](#) (Cwlth), section 38 (Eligibility for partner service pension)—the age at which the worker first receives payment of the service pension; or
    - (b) in any other case—55 years.

### **4.9A Entitlement to payment instead of leave—security industry—COVID-19 emergency**

- (1) This section applies during a COVID-19 emergency to a registered worker for the security industry if the worker—
  - (a) has left the industry during the COVID-19 emergency; and
  - (b) satisfies the criteria determined by the Minister.
- (2) If the governing board is satisfied that this section applies to the worker, the worker is entitled to payment instead of long service leave for the amount of long service leave determined by the Minister.
- (3) A determination under this section is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (4) In this section:
  - COVID-19 emergency*** means—
    - (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
    - (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).
- (5) This section expires on the first day no COVID-19 emergency is in force.

**[1.106] Schedule 5, item 22**

*substitute*

22	sch 1, 1.8 (3), sch 2, 2.8 (3), sch 3, 3.9 (2), or sch 4, 4.9 (2)	not satisfied that section applies to applicant	applicant	governing board
22A	sch 1, 1.8A (3), sch 2, 2.8A (3), sch 3, 3.9A (2), or sch 4, 4.9A (2)	not satisfied that section applies to applicant	applicant	governing board

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Treasurer

### Legislation: *Payroll Tax Act 2011*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:** To exempt wages subsidised by JobKeeper program from application of payroll tax.

### Purpose of measure:

- To complement the Commonwealth Government’s JobKeeper program as part of its COVID-19 response to promote continued employment; and
- To facilitate the administration of tax relief measures in the ACT Government’s COVID-19 economic survival package to support businesses to manage cash flow challenges and retain employees.

### Alignment of measure

- With National Cabinet.

### Promotional and public awareness campaigns undertaken

- ACT Revenue Office website, **Payroll Tax page** (New item on top directing users to COVID-19 Assistance page): <https://www.revenue.act.gov.au/payroll-tax>;
- ACT Revenue Office website, **COVID-19 Assistance page** (sets out details of various tax relief measures in the ACT): <https://www.revenue.act.gov.au/covid-19-assistance>;
- ACT Government’s Business Hub website, **COVID-19 Economic Support for Business**: <https://www.act.gov.au/business/business-support/covid-19-economic-support-for-business>; and
- Media reported on the initiative on 7 May 2020 – see <https://www.canberratimes.com.au/story/6747862/act-to-waive-payroll-tax-on-jobkeeper-payments/>.

### Stakeholder engagement undertaken

- Matter was subject to consultation with other Australian jurisdictions.

## Cost of the measure

	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-

## Where measurable, provide details on the monthly and cumulative impact

- Amendments to the *Payroll Tax Act 2011* to exempt wages subsidised by the Commonwealth JobKeeper program resulted in an estimated payroll tax loss of \$2 million in 2019-20 and \$4.2 million in 2020-21, a total of \$6.2 million for the period 30 March 2020 to 28 March 2021. This cost estimate was based on an estimate of \$866 million JobKeeper payments in the ACT over the 12 month period, the assumption that 90 per cent of ACT businesses are already exempted from payroll tax normally and about 4 per cent of total payroll tax being exempted for the first 6 months under the economic survival packages.
- The Commonwealth JobKeeper program ended on 28 March 2021 and the exemption has not been operative since that time.

Approved for tabling in the ACT Legislative Assembly



Andrew Barr MLA  
Treasurer

Date: 14 / 7 / 2022

### Amendments:

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

##### [1.107] New section 66BA

*insert*

##### 66BA Wages—jobkeeper payments

- (1) Wages mentioned in schedule 2, part 2.7A are exempt wages.
- (2) This section expires 12 months after the day the prescribed period ends.
- (3) In this section:

**prescribed period**—see the [Coronavirus Economic Response Package \(Payments and Benefits\) Act 2020](#) (Cwlth), section 6.

##### [1.108] Schedule 2, new part 2.7A

*insert*

## Part 2.7A Jobkeeper payments

### 2.19A Jobkeeper payments

- (1) Wages that do not exceed the jobkeeper payment amount are exempt wages if they are paid or payable to an eligible employee.
- (2) The exemption does not apply to any part of wages paid or payable to the eligible employee that exceeds the jobkeeper payment amount.
- (3) In this section:

**eligible employee**—see the [Coronavirus Economic Response Package \(Payments and Benefits\) Rules 2020](#) (Cwlth), section 4.

**jobkeeper payment amount**, in relation to wages paid or payable to an eligible employee—

- (a) means an amount an employer is entitled to under the [Coronavirus Economic Response Package \(Payments and Benefits\) Act 2020](#) (Cwlth) for the employee; but
- (b) does not include an overpayment mentioned in the [Coronavirus Economic Response Package \(Payments and Benefits\) Act 2020](#) (Cwlth), section 9 for the employee.

**2.19C Expiry—pt 2.7A**

- (1) This part expires 12 months after the day the prescribed period ends.
- (2) In this section:

**prescribed period**—see the [Coronavirus Economic Response Package \(Payments and Benefits\) Act 2020](#) (Cwlth), section 6.

**[1.109] Schedule 2, new section 2.19B**

*insert*

**2.19B Notification offence—revocation of entitlement to jobkeeper payments**

- (1) An employer commits an offence if—
  - (a) the employer is the subject of a decision that the employer is entitled to a payment under the [Coronavirus Economic Response Package \(Payments and Benefits\) Act 2020](#) (Cwlth); and
  - (b) the decision is revoked under that [Act](#), section 14 (6); and
  - (c) the employer does not notify the commissioner of the revocation within 14 days after the revocation.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Attorney-General

**Legislation:** *Personal Violence Act 2016*

This Act was amended by the *COVID-19 Emergency Response Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2021*. The legislative amendments that give effect to the measures being reported on in this document are listed in Attachment A.

### Measure:

- Inserts a new Part 22 to (a) extend general interim orders that are due to expire during the COVID-19 emergency, (b) allow appearances at a proceeding to be undertaken by audio visual means during the COVID-19 emergency, (c) allow consent to be given by audio visual means during the COVID-19 emergency, and (d) allow an acknowledgement to be given 'in writing or before the court' and to be 'recorded by the court' during the COVID-19 emergency.

### Purpose of measure:

- This measure allows the court to extend an interim order during a COVID-19 emergency ensuring that protections remain in place for applicants until both parties are able to attend a hearing.
- This measure also allows for a person to be considered 'present' or give consent at court if they appear by telephone or an audio visual link.
- The measure provides that an acknowledgement may be given in writing or before the court. It also requires that an acknowledgement must be recorded by the court.
- These measures support the continued operations of the court.

### Alignment of measure:

- ACT only initiative.

### Promotional and public awareness campaigns undertaken:

- Nil to date.

### Stakeholder engagement undertaken:

- Relevant stakeholders were made aware of the changes in procedure.

### Cost of the measure:

- Nil.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

### Where measurable, provide details on the monthly and cumulative impact:

- The Court's case management system does not currently collect data on these measures.
- As previously indicated in respect of the measures under s 206, 207 and 208, the manual collection and reporting of data on these measures would inappropriately divert resources away from court operations and will not be reported.
- Data in respect of the measure under s205 (extending interim orders) is being manually collected.
- Between 1 June 2020 and 31 December 2020, a cumulative total of twelve (12) personal violence general interim orders were extended.
- Between 1 January 2021 and 31 March 2021, zero (0) personal violence general interim orders were extended.
- Between 1 April 2021 and 30 June 2021, zero (0) personal violence general interim orders were extended.
- Between 1 July 2021 and 30 September 2021, zero (0) personal violence general interim orders were extended.
- Between 1 October 2021 and 31 December 2021, zero (0) personal violence general interim orders were extended.
- Between 1 January 2022 and 31 March 2022, zero (0) personal violence general interim orders were extended.
- Between 1 April 2022 and 30 June 2022, zero (0) personal violence general interim orders were extended.



**ACT**  
Government

# COVID-19 EMERGENCY RESPONSE ACT 2020 QUARTERLY REPORT ON MEASURES

Approved for tabling in the ACT Legislative Assembly

Shane Rattenbury MLA  
Attorney-General

Date: 21 / 7 / 22

**Amendments:**

**COVID-19 Emergency Response Act 2020**

**Date notified: 7 April 2020**

**[1.62] New part 22**

*insert*

**Part 22 COVID-19 emergency response**

**204 Meaning of *COVID-19 emergency*—pt 22**

In this part:

***COVID-19 emergency*** means—

- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of COVID-19.

**205 Extending interim orders**

- (1) This section applies if an interim order ends, will end or is likely to end during a COVID-19 emergency.
- (2) The court may extend the interim order for a stated period of not more than 6 months.

**206 Requirement for party to be present**

- (1) This section applies if a provision in this Act (other than section 35 (1) (a))—
  - (a) requires a party to a proceeding, or the party's legal representative, to be present in court; or
  - (b) is conditional on the party, or the party's legal representative, being present in court.
- (2) Unless the court otherwise orders, during a COVID-19 emergency the party, or the party's legal representative, may be present by telephone or other electronic audio-visual means.
- (3) For section 35 (1) (a), unless the court otherwise orders, during a COVID-19 emergency it is sufficient for the person's legal representative to be present when the protection order was made.



# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

### 207 Requirement for party to give consent

- (1) This section applies if a party's consent is required under a provision in this Act.
- (2) Unless the court otherwise orders, during a COVID-19 emergency the party, or the party's legal representative, may give consent by telephone or other electronic audio-visual means.

### 208 Acknowledgment of undertaking by respondent

For section 58, during a COVID-19 emergency an acknowledgment—

- (a) may be given in writing or before the court; and
- (b) if given before the court, must be recorded by the court.

### 209 Expiry—pt 22

This part expires 12 months after the day it commences.

## COVID-19 Emergency Response Legislation Amendment Act 2021

Date notified: 19 February 2021

### [1.24] Section 209

*substitute*

### 209 Expiry — pt 22

This part expires on the day the COVID-19 *Emergency Response Act 2020* expires.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

**Reporting period: 1 April – 30 June 2022**

**Portfolio: Police & Emergency Services**

**Legislation:** *Prohibited Weapons Act 1996*

The *Prohibited Weapons Act 1996* (the Act) was amended by the *COVID-19 Emergency Response Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

The legislative amendments to the Act that give effect to the measures being reported on in this document are listed in [Attachment A](#), beginning with the amendments made in the *COVID-19 Emergency Response Act 2020* followed by subsequent amendments made in the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

**Measure:** The Minister may, for the purpose of responding to the public health emergency caused by the COVID-19 pandemic, make a declaration prohibiting the registrar from issuing a permit under the Act.

**Purpose of measure:**

- To allow the Minister to place certain controls on the operation of the Act to ensure essential activities can continue during the COVID-19 public health emergency; and
- Amendments made through the *COVID-19 Emergency Response Legislation Amendment Act 2020*, which commenced on 13 May 2020, are technical amendments to align the definition of COVID-19 emergency to ensure consistency across COVID-19 legislation.

**Alignment of measure**

- ACT initiative.

**Promotional and public awareness campaigns undertaken**

- Nil to date.

**Stakeholder engagement undertaken**

- ACT Firearms Registry.

**Cost of the measure**

- Nil.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

**Where measurable, provide details on the monthly and cumulative impact**

- The measure has not been used to date.

**Approved for tabling in the ACT Legislative Assembly**



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**Mick Gentleman MLA  
Minister for Police and Emergency Services**

**Date:** 11 / 7 / 2022

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

[1.63] New part 6

*insert*

### Part 6 COVID-19 emergency response

#### 55 Declaration—COVID-19 emergency response

- (1) The Minister may, for the purpose of responding to the public health emergency caused by the COVID-19 pandemic, make a declaration prohibiting the registrar from issuing a permit under this Act.

*Note* Power to make a statutory instrument includes power to make different provision in relation to different matters or different classes of matters, and to make an instrument that applies differently by reference to stated exceptions or factors (see [Legislation Act](#), s 48).

- (2) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (3) A declaration expires on—

- (a) the day the [Public Health \(Emergency\) Declaration 2020 \(No 1\)](#) (NI2020-153), as extended or further extended, ends (the **declaration end date**); or
- (b) if the Minister considers that the effect of the COVID-19 pandemic justifies a later day, being a day not later than 3 months after the declaration end date—a later day notified by the Minister before the declaration end date.

- (4) A notification under subsection (3) (b) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

#### 56 Expiry—pt 6

This part expires on the day the [Public Health \(Emergency\) Declaration 2020 \(No 1\)](#) (NI2020-153), as extended or further extended, ends.

## COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

### [1.115] Section 55 (3) (a)

*omit*

the day the [Public Health \(Emergency\) Declaration 2020 \(No 1\)](#) (NI2020-153), as extended or further extended, ends

*substitute*

the first day no COVID-19 emergency is in force

### [1.116] New section 55 (5) and (6)

*after the note, insert*

(5) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
  - (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).
- (6) This part expires at the end of a 3-month period during which no COVID-19 emergency has been in force.

### [1.117] Section 56

*omit*

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Treasurer

### Legislation: *Rates Act 2004*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:** Allow the Minister to make determinations of rates instalments dates to help transition back to the ordinary payment schedule following the 4-week delay of 2019-20 quarter 4 rates notices.

### Purpose of measure:

- To permit rates instalments to be transitioned back to a regular schedule over a period of 12 months to minimise the cash flow effect on all households.

### Alignment of measure

- ACT only initiative

### Promotional and public awareness campaigns undertaken

- ACT Revenue Office website, **COVID-19 Assistance page** (sets out details of various tax relief measures in the ACT): <https://www.revenue.act.gov.au/covid-19-assistance>; and
- ACT Government's COVID-19 website, **Family and Household Support**:
  - Information on **Residential rates**: <https://www.covid19.act.gov.au/community/families-and-households>.
- ACT Government's Business Hub website, **COVID-19 Economic Support for Business**:
  - Information on **Commercial rates**: <https://www.act.gov.au/business/business-support/covid-19-economic-support-for-business>.

### Stakeholder engagement undertaken

- Nil.

### Cost of the measure

- Nil – consequential measure.

	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-

### Where measurable, provide details on the monthly and cumulative impact

- The Government delayed issuing 2019-20 quarter 4 rates assessments by four weeks to provide cashflow support to households and businesses. Rates instalments were payable one month after the date of the delayed rates notice. Under the *Rates (Instalment Dates) Determination 2020*, the Minister had determined the due dates of rates instalments for each quarter of the 2020-21 financial year that were under 3 months apart but at least separated by 2 months and 3 weeks. This was required to gradually transition out of the delayed schedule, resulting from the temporary COVID-19 measure, and to bring the rates instalment payment dates back on schedule.
  - The disallowable instrument is available on the legislation register, see – <https://www.legislation.act.gov.au/di/2020-233/>.
  - Rates instalments for 2021-22 financial year have reverted to the normal schedule. Due dates for each quarter’s assessment and information on assessment notices can be found on our website, see – <https://www.revenue.act.gov.au/rates>.

Approved for tabling in the ACT Legislative Assembly



Andrew Barr MLA  
Treasurer

Date: 14 / 7 / 22

### Amendments:

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

#### [1.122] New section 19 (3) to (9)

*insert*

- (3) Despite subsection (1) (b), during the COVID-19 emergency period the date when an instalment is due for payment is the date determined for the instalment under subsection (4).
- (4) The Minister may determine a date when an instalment is due for payment that is earlier or later than when an instalment would ordinarily be due under subsection (1) (b).
- (5) A determination under subsection (4) must state whether, in the Minister's opinion, the determination is consistent with human rights.
- (6) The Minister must not make a determination under subsection (4) unless satisfied that the determination is reasonable and necessary to provide an economic response to a COVID-19 emergency.
- (7) A determination under subsection (4) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (8) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the [Emergencies Act 2004](#), section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

**COVID-19 emergency period** means the period—

- (a) beginning on the day the *COVID-19 Emergency Response Legislation Amendment Act 2020*, schedule 1, part 1.26 commences; and
  - (b) ending at the end of a 12-month period when no COVID-19 emergency has been in force.
- (9) This subsection and subsections (3) to (8) expire at the end of the COVID-19 emergency period.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Attorney-General

### Legislation: *Residential Tenancies Act 1997*

This Act was amended by the *COVID-19 Emergency Response Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

The legislative amendments that give effect to the measures being reported on in this document are listed in [Attachment A](#), beginning with the amendments made in the *COVID-19 Emergency Response Act 2020* followed by subsequent amendments made in the *COVID-19 Emergency Response Legislation Amendment Act 2020*.

### Measure:

- The measure created a head of power that allows the Minister to respond quickly and flexibly to the impacts of the COVID-19 response on residential tenancies. The head of power allows the Minister to make declarations about things such as a moratorium on evictions or limits on property inspections to support social distancing. The Minister is also able to make a declaration permitting tenants and landlords to re-negotiate the amount of rent payable during the COVID-19 public health emergency.

### Purpose of measure:

- The purpose of the measure is to allow the Minister to respond efficiently and effectively to the impacts of the COVID-19 pandemic on residential tenancies and occupancies.
- It enables the Minister to put in place appropriate measures to reinforce public health social distancing during the COVID-19 response period by, for example, restricting access to premises under residential tenancy agreements for the purpose of undertaking physical inspections and non-urgent repairs.
- The measure will also enable the Minister to support tenants and occupants who are economically impacted by the COVID-19 pandemic by, for example, prohibiting the termination of a lease in circumstances where a tenant or an occupant is unable to pay rent or occupancy fees and is issued with a notice to vacate for rent or fee arrears.
- If the measure had not been implemented, the Minister would not have the ability to support COVID-19 pandemic affected tenants and occupants to remain in their households in circumstances where they might otherwise face homelessness. This could arise if a tenant or occupant's lease is terminated and/or the lessor recovers possession of a tenant or occupant's premises.
- Pursuant to the measure, the *Residential Tenancies (COVID-19 Emergency Response) Declaration 2020* (Disallowable instrument DI2020-46) (the **First Declaration**)

commenced on 22 April 2020. The First Declaration introduced a number of provisions to amend the operation of residential tenancies and occupancies during the period of the declaration as follows:

- Part 2 – Temporary reduction in rent or occupancy fees (ss 3,4): Modified section 8 (1) of the *Residential Tenancies Act 1997* (the Act) to allow a lessor and tenant to agree to include a COVID-19 temporary rent reduction clause in the residential tenancy agreement and provided that a reversion to a previous rental amount after a temporary reduction is not a rent increase for the purpose of the Act. It also enabled parties to an occupancy agreement to agree to a reduced occupancy fee for a stated period because of financial hardship arising from the COVID-19 pandemic.
- Part 3 – Moratorium on terminations, rent increases etc (ss 5-11): Part 3 introduced a moratorium period from 22 April 2020 to 22 July 2020 (and allowed the Minister to extend that period up to a further three (3) months). The moratorium period applied to households impacted by the COVID-19 pandemic (for example, if one or more rent-paying household members had stopped earning income or their income had reduced and the household's weekly gross income had reduced by at least 25% or if a member of the household became eligible for JobSeeker or JobKeeper). If tenants in an impacted household were unable to meet their financial commitments during this period, lessors were prohibited from issuing a termination notice, applying for certain orders (such as a termination and possession order), listing personal information about tenants in a residential tenancy database and from increasing the amount of rent payable under a residential tenancy agreement. In relation to impacted households that were subject to an existing ACT Civil and Administrative Tribunal (ACAT) application for termination for failure to pay rent, the ACAT was prohibited from making any order until after the moratorium period ended. If COVID-19 impacted households already had a termination order or warrant issued against them but had not vacated the property, this part allowed them to apply for suspension of those orders or a stay on the warrant for a period not longer than the moratorium.
- Part 4 – Access to premises (ss 12-13): Part 4 restricted a lessor from physically accessing premises under a residential tenancy agreement unless the lessor: had obtained the tenant's consent, had applied to the ACAT (in accordance with an order by the ACAT) or required access to do urgent repairs to the premises. Subject to limited exceptions, the lessor could only inspect a premises by audio-visual or other electronic means.
- The First Declaration was repealed on 21 July 2020 and the *Residential Tenancies (COVID-19 Emergency Response) Declaration 2020 (No 2)* (Disallowable instrument DI2020–216) (the **Second Declaration**) commenced on 22 July 2020. The Second Declaration extended the provisions in the First Declaration by three (3) months (to 22 October 2020) and provided that the Minister could extend the moratorium period

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

up to a further three (3) months. The Second Declaration also introduced an additional measure in Part 3:

- to allow a COVID-19 impacted household to terminate a fixed-term tenancy agreement early, without penalty, by providing their landlord with 3 weeks' notice. In these circumstances, a landlord is not be able to charge a tenant a 'break-lease' fee or seek compensation from a tenant. When providing a termination notice to their landlord, a tenant is required to provide evidence to their landlord that they have been impacted by COVID-19 (i.e. a statutory declaration attesting to status). If a tenant owes money to the landlord for outstanding rent or for property damage then this debt is still payable to the landlord at the end of the tenancy.
- The *Residential Tenancies (COVID-19 Emergency Response) Declaration 2020 (No 3)* (Disallowable instrument DI2020-267) (the **Third Declaration**) was notified on 4 September 2020 and the Second Declaration was repealed on 22 October 2020. The measures in the Third Declaration were put in place to support tenants and landlords transition out of the moratorium period and commenced on 23 October 2020 (with the exception of one support measure (s 5) which commenced operation on 14 September 2020).
- The Third Declaration was initially in place until 31 January 2021. However, section 14 of the Third Declaration allowed the Minister to extend the duration of the transitional period for a period of up to three (3) months by way of notifiable instrument. On 18 December 2020, the Attorney-General extended the transitional period for a further three (3) month period until 30 April 2021 (the *Residential Tenancies (COVID-19 Emergency Response) Declaration Extension 2020* (Notifiable instrument NI2020-808) was notified on 21 December 2020).
- The support measures in the Third Declaration included:
  - Part 2 – Rent paid in advance (s 5): Modified section 8(1)(a)(i) of the *Residential Tenancies Act 1997* (the Act) to allow tenants on pre-6 April 2020 fixed term tenancies to pay just two weeks' rent in advance to assist with managing cost of living pressures. All other fixed term and periodic tenancies were already able to pay just 2 weeks' rent in advance.
  - Part 3 – Protection of households impacted by COVID-19 pandemic (ss 7-9, 14): Introduced a transitional period which provided COVID-19 impacted tenants with a longer timeframe to pay their rental debts before they could face eviction on the basis of arrears that accrued before or during the moratorium period. This provided tenants with more time to recover financially and allows them to enter into a payment plan with their landlords. This measure only applied if tenants who were COVID-19 impacted during the moration paid their rent after 23 October 2020 as and when it falls due. Accordingly, this ensured the tenancy remained sustainable.

- Part 3 – Protection of households impacted by COVID-19 pandemic (s 10): This measure allowed a tenant to apply to ACAT to vary or set aside an order made by ACAT before the moratorium period. This measure applied to an order made in relation to a tenant’s failure to pay rent for a premises under a residential tenancy agreement where that order was suspended under a previous declaration.
- Part 3 – Protection of households impacted by COVID-19 pandemic (ss 7-8, 11): In circumstances where a tenant was unable to meet their rent payments as they fell due during the transitional period, ACAT was required to consider making a payment order for COVID-19 impacted tenants in rent arrears rather than ordering an eviction (the ‘payment order provision’).
- The Declaration also extended a range of measures implemented under the Second Declaration, including:
  - Part 2 – Temporary reduction in rent (s 6): a landlord and a tenant may agree to include a COVID-19 temporary rent reduction clause in their residential tenancy agreement.
  - Part 3 – Protection of households impacted by COVID-19 pandemic (s 12): a landlord, landlord’s agent or database operator are prohibited from listing personal information about a tenant in a residential tenancy database in relation to a failure to pay rent during the moratorium period.
  - Part 3 – Protection of households impacted by COVID-19 pandemic (s 13): a tenant in a COVID-19 impacted household may terminate their fixed-term tenancy agreement without penalty by providing their landlord with 3 weeks’ notice. A landlord will not be able to charge a tenant a ‘break-lease’ fee or seek compensation. However, if the tenant owes rent arrears or a property damage debt to their landlord, this will remain a debt payable at the end of the tenancy.
- The *Residential Tenancies (COVID-19 Emergency Response) Declaration 2021* (Disallowable instrument DI2021-55) (the **Fourth Declaration**) was notified on 23 April 2021. While the Fourth repealed the Third Declaration, it also extended all transitional measures contained in the Third Declaration (aside from section 10 of the Third Declaration) until 30 June 2021. As noted above, section 10 of the third declaration allowed tenants who had applied for a suspension of termination orders or a stay on a warrant for eviction during the moratorium to apply to ACAT for reconsideration of the order. To gain benefit from this section, an impacted household would have had to apply at the end of the moratorium period. As this measure was no longer of relevance after the end of the moratorium it was not extended in the Fourth Declaration.
- The *Residential Tenancies (COVID-19 Emergency Response) Declaration 2021 (No 2)* (Disallowable instrument DI2021-166) (the **Fifth Declaration**) was notified on 30 June 2021. The Fifth Declaration extended the ‘payment order provision’ until

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

30 September 2021. The payment order provision protected tenants in circumstances where the tenant was unable to meet their rent payments as they fell due during the transitional period, ACAT was required to consider making a payment order for COVID-19 impacted tenants in rent arrears rather than ordering an eviction. The Fifth Declaration was revoked by the *Residential Tenancies (COVID-19 Emergency Response) Declaration 2021 (No 3)* (see further below).

- The *Residential Tenancies (COVID-19 Emergency Response) Declaration 2021 (No 3)* (Disallowable instrument DI2021-216) (the **Sixth Declaration**) was notified on 1 September 2021. The Sixth Declaration was made in response to the ACT re-entering lockdown. The Sixth Declaration revoked the Fifth Declaration and re-introduced previous residential tenancy and occupancy response measures with amendments in response to stakeholder feedback and changed circumstances (such as the cessation of the Commonwealth JobKeeper payment) as well as introducing new measures to support those currently subject to a quarantine or self-isolation direction from needing to vacate during their quarantine period.
- The Sixth Declaration introduced the following support measures:
  - Part 2 –Protection of households impacted by COVID-19 pandemic – moratorium period (ss 8-12): (NB the measures in Part 2 ended on 24 November 2021) - Part 2 introduced a twelve (12) week moratorium period from 2 September– 24 November 2021 (and allowed the Minister to extend that period up to a further twelve (12) weeks, however this power was not utilised and the moratorium ended after 12 weeks). The moratorium period applied to households impacted by the COVID-19 pandemic (for example, if one or more rent-paying household members had stopped earning income due to losing 8 hours or more of work, or if their income, or their overall household income had reduced at least 20% or if a member of the household became eligible for the Commonwealth COVID-19 Disaster Payment or the ACT Government Business Support Grant). If tenants in an impacted household were in rent arrears, lessors were prohibited from issuing a termination notice, applying for certain orders (such as a termination and possession order). Lessors were also prohibited from increasing the amount of rent payable under a residential tenancy agreement during the moratorium period.
  - In relation to impacted households that were subject to an existing ACAT application for termination for failure to pay rent which was yet to be determined, the ACAT was prohibited from making any order until after the moratorium period ended. If COVID-19 impacted households already had a termination order or warrant issued against them prior to the commencement of the moratorium but had not vacated the property, this part allowed them to apply for suspension of those orders or a stay on the warrant for a period not longer than the moratorium.
  - Part 2 also contained measures to limit access to premises to support social distancing (ss 11-12): (NB the measures in Part 2 ended on 24 November 2021)

these measures restricted a lessor from physically accessing premises under a residential tenancy agreement unless the lessor: had obtained the tenant's consent, had applied to the ACAT (in accordance with an order by the ACAT) or required access to do urgent repairs to the premises. Subject to limited exceptions, a lessor was only able to inspect a premises by audio-visual or other electronic means.

- Part 3 –Protection of households impacted by COVID-19 pandemic – transitional period (ss 13 – 14) (the measures in Part 3 ended on 11 May 2022). Part 3 introduced measures that applied during the post moratorium transitional period. This part implemented a transitional period protection (s 13) which provided COVID-19 impacted tenants with a longer timeframe to pay their rental debts before facing eviction on the basis of arrears accrued before or during the moratorium period. This provided tenants with more time to recover financially and allowed them to enter into a payment plan with their landlords. This measure only applied to tenants who were COVID-19 impacted during the moratorium who paid their rent as and when it fell due during the transitional period.
- Part 3 –Protection of households impacted by COVID-19 pandemic (s 14): (ended 11 May 2022). This measure allowed a tenant to apply to ACAT to vary or set aside an order made in relation to a tenant's failure to pay rent for a premises under a residential tenancy agreement where that order was suspended during the moratorium period.
- Part 4 –Protection of households impacted by the COVID-19 pandemic – moratorium and transitional periods (ss 15 – 20): (ended 11 May 2022). This section contained additional protections that applied during both the moratorium and transitional periods:
  - Section 15 modified section 8 (1) of the Act to allow a lessor and tenant to agree to include a COVID-19 temporary rent reduction clause in the residential tenancy agreement and provided that a reversion to a previous rental amount after a temporary reduction is not a rent increase for the purpose of the Act. It also provided that if a rent reduction clause is agreed in a form other than that set out in the Sixth Declaration, it is taken to be a rent reduction clause as set in the Declaration.
  - Section 16 modified section 8 (1) of the Act to allow a lessor and tenant to agree to include a COVID-19 temporary rent deferral clause in the residential tenancy agreement and provided that a reversion to a previous rental amount after a temporary reduction is not a rent increase for the purpose of the Act. It also provided that unless otherwise agreed by the lessor in writing, the amount of deferred rent is arrears and is a debt due to the lessor. The Sixth Declaration set out a rent deferral clause and provided that if an agreement included a rent deferral clause in any other form, it is taken to be a COVID-19 temporary rent reduction clause.



## QUARTERLY REPORT ON MEASURES

- Section 17 enabled parties to an occupancy agreement to agree to a reduced occupancy fee for a stated period because of financial hardship arising from the COVID-19 pandemic.
  - Section 18 prevented a lessor or their agent or a database operator from listing personal information about a person in a residential tenancy database if the tenant breached the agreement by failing to pay rent and at the time of the breach the person was a member of an impacted household.
  - Section 19 allowed impacted households in a fixed term tenancy to terminate the tenancy early and without penalty by providing the lessor with 3 weeks' notice and evidence as to their impacted household status.
  - Section 20 continued the payment order provision from previous declarations. The payment order provision protected tenants in circumstances where the tenant was unable to meet their rent payments as they fell due during the transitional period, and required ACAT to consider making a payment order for COVID-19 impacted tenants in rent arrears rather than ordering an eviction. This measure applied to tenants who were in impacted households during the moratorium under the First and Second Declarations as well as those covered by the moratorium under the Sixth Declaration.
- Part 5 Protection of people subject to quarantine direction (ss 21 – 23): (ended 11 May 2022). Part 5 introduced measures to protect individuals subject to a quarantine or self-isolation direction from being required to vacate a rental premises during their quarantine or self-isolation period (section 21 provides the relevant definitions for this section).
- Section 22 provided that where a lessor had issued a notice to vacate that was due to take effect on a day in the quarantine period, the tenant was not required to vacate on the date specified in the notice and instead may nominate a date not later than 2 weeks after the end of their quarantine period on which they will vacate. If they did not nominate a date, they would be required to vacate 2 weeks after the end of their quarantine period. The section also provided that if the tenant was issued a notice of intention to vacate that falls due during the quarantine period, the tenant may withdraw their notice.
  - Section 23 gave ACAT the power to suspend a termination and possession order or stay a warrant if the order effected the tenant or a household member's ability to comply with a quarantine direction. The suspension or stay may be in place for up to two weeks after the end of the quarantine period.

- The eviction moratorium and other measures in Part 2 of the sixth declaration (outlined above) ended on **24 November 2021**. All other measures in the Declaration ended on **11 May 2022** after the initial 12 week transition period was extended by notifiable instrument for an additional 12 week period.

### **Alignment of measure:**

- The First and Second Declarations aligned with National Cabinet's decision (on 29 March 2020) to implement a six-month moratorium on evictions for those unable to meet their financial obligations under a residential tenancy agreement due to the impact of the COVID-19 pandemic.
- While the National Cabinet decision was limited to an eviction moratorium and encouragement for landlords and tenants to agree to rent reductions, all jurisdictions across Australia introduced additional measures for residential tenancies in response to COVID-19. The additional measures introduced in the ACT (limits on tenancy database listings and limits on rental increases), as well as those outlined above, are similar to provisions introduced in other jurisdictions.

### **Promotional and public awareness campaigns undertaken:**

- In May 2020, the ACT Government announced that it had engaged the Conflict Resolution Service (CRS) to provide a restorative free residential tenancy mediation service (the Service). The Service aimed to resolve rental disputes between tenants and landlords in the ACT who were impacted by COVID-19, including in relation to reaching agreements to reduce rent. The Service operated between 11 May 2020 and 31 January 2021.
- The ACT COVID-19 website alerted readers to the existence of residential tenancy and occupancy response measures and linked readers to more detailed information on the JACS website.
- JACS also provided information to the public on the measures contained in the six Declarations on its website.
  - Information for Tenants and Occupants: <https://www.justice.act.gov.au/renting-and-occupancy-laws/residential-tenancies-and-covid-19/information-tenants-and-occupants>
  - Information for Landlords and Agents: <https://www.justice.act.gov.au/renting-and-occupancy-laws/information-landlords-and-agents-impacted-covid-19>
- The Chief Minister, Attorney-General and Special Minister of State issued a joint press release announcing the commencement of the residential tenancies eviction moratorium and related support measures. The media release is available here: [https://www.cmtedd.act.gov.au/open\\_government/inform/act\\_government\\_media\\_releases/rattenbury/2021/supporting-tenants-and-landlords-affected-by-act-lockdown](https://www.cmtedd.act.gov.au/open_government/inform/act_government_media_releases/rattenbury/2021/supporting-tenants-and-landlords-affected-by-act-lockdown)

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

- In November 2021, the ACT Government announced a Rent Relief Fund to support renters who are experiencing rental stress or severe financial hardship which is impacting on their ability to sustain their tenancy. The fund provided grants of up to \$1000 to eligible households. The grants available under the Rent Relief Fund have now been expended.
  - A media release announcing the grant and informing the ACT community about the end of the eviction moratorium is available here: [https://www.cmtedd.act.gov.au/open\\_government/inform/act\\_government\\_media\\_releases/rattenbury/2021/new-rental-relief-fund-to-support-tenants-as-eviction-moratorium-ends](https://www.cmtedd.act.gov.au/open_government/inform/act_government_media_releases/rattenbury/2021/new-rental-relief-fund-to-support-tenants-as-eviction-moratorium-ends)
  - Information about the Rent Relief Fund is available here: <https://justice.act.gov.au/renting-and-occupancy-laws/rent-relief-fund>

### Stakeholder engagement undertaken:

- Real Estate Institute of the ACT
- Legal Aid ACT (Tenancy Advice Service)
- ACAT
- Housing ACT
- Canberra Community Law
- Tenant's Union ACT
- Care Financial Counselling Service
- Consumer Law Centre
- Insurance Council of Australia
- Better Renting ACT
- ACT Law Society
- State and Territory counterparts.

### Cost of the measure:

- Nil for the amendments and declarations

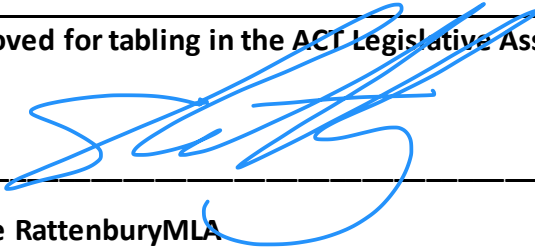
	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-	-

- CRS was provided with up to \$60,000.00 (excluding GST) to provide the Service.
  - In total \$35,600 (excl GST) was expended under this contract.
- The Rent Relief Grant scheme was allocated a funding pool of \$133,000.

**Where measurable, provide details on the monthly and cumulative impact:**

The ACT Government does not collect data on all of the residential tenancy agreements impacted by this measure.

Approved for tabling in the ACT Legislative Assembly



Shane Rattenbury MLA  
Attorney-General

Date: 21 / 7 / 22

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

1.64] New part 16

*insert*

### Part 16 COVID-19 emergency response

#### 156 Declaration—COVID-19 emergency response

- (1) The Minister may make a declaration in relation to the following matters for the purpose of responding to the public health emergency caused by the COVID-19 pandemic:
  - (a) prohibiting the termination of a residential tenancy agreement or an occupancy agreement by a lessor or grantor in stated circumstances;
  - (b) prohibiting the recovery of possession of premises under a residential tenancy agreement or an occupancy agreement in stated circumstances;
  - (c) changing any period under a residential tenancy agreement, an occupancy agreement or this Act in which someone must or may do something;
  - (d) changing, limiting or preventing the exercise or enforcement of any other right of a lessor or grantor under a residential tenancy agreement, an occupancy agreement or this Act;
  - (e) prohibiting or limiting the matters that may be included in a residential tenancy database;
  - (f) exempting a party, or class of party, to a residential tenancy agreement or an occupancy agreement from the operation of a provision of this Act, the agreement or any other agreement relating to the premises;
  - (g) modifying a provision of this Act (including a standard residential tenancy term) to allow parties to a residential tenancy agreement or an occupancy agreement to agree to temporary rent or fee reductions under the agreement.
- (2) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).
- (3) A declaration expires on—

- (a) the day the *Public Health (Emergency) Declaration 2020 (No 1)* (NI2020-153), as extended or further extended, ends (the **declaration end date**); or
  - (b) if the Minister considers that the effect of the COVID-19 pandemic justifies a later day, being a day not later than 3 months after the declaration end date—a later day notified by the Minister before the declaration end date.
- (4) A notification under subsection (3) (b) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

## 157 Expiry—pt 16

This part expires on the day the *Public Health (Emergency) Declaration 2020 (No 1)* (NI2020-153), as extended or further extended, ends.

# COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

## [1.123] Section 156 (3) (a)

*omit*

the day the *Public Health (Emergency) Declaration 2020 (No 1)* (NI2020-153), as extended or further extended, ends

*substitute*

the first day no COVID-19 emergency is in force

## [1.124] New section 156 (5) and (6)

*after the note, insert*

- (5) In this section:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or
  - (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).
- (6) This part expires at the end of a 3-month period during which no COVID-19 emergency has been in force.

## [1.125] Section 157

*omit*

# COVID-19 EMERGENCY RESPONSE ACT 2020

## QUARTERLY REPORT ON MEASURES

Reporting period: 1 April – 30 June 2022

Portfolio: Treasurer

**Legislation:** *Taxation Administration Act 1999*

This Act was amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The legislative amendments to this Act that give effect to the measures being reported on in this document are listed in Attachment A.

**Measure:** Include additional Ministerial powers to make determinations of rebate, exemption and deferral schemes.

### **Purpose of measure:**

- To provide a set of consistent powers across tax types to provide relief for households and businesses through rebates, exemptions and deferrals. Existing measures have not allowed for rebates to be applied consistently across revenue lines.
- The general power for the Minister to determine a scheme, and the details within the scheme to provide relief will also be beneficial to allow for flexibility to respond to changes in the COVID-19 situation.

### **Alignment of measure**

- ACT only initiative (any subsequent use of the additional Ministerial powers may relate to ACT only initiative, or align with National Cabinet or the NSW Government).

### **Promotional and public awareness campaigns undertaken**

- Tax relief measures are published on the following sites:
  - ACT Revenue Office website, **COVID-19 Assistance page** (sets out details of various tax relief measures in the ACT): <https://www.revenue.act.gov.au/covid-19-assistance>;
  - ACT Government's COVID-19 website, **Family and Household Support**: <https://www.covid19.act.gov.au/community/families-and-households>; and
  - ACT Government's Business Hub website, **COVID-19 Economic Support for Business**: <https://www.act.gov.au/business/business-support/covid-19-economic-support-for-business>.

### **Stakeholder engagement undertaken**

- Nil.

## Cost of the measure

- Nil.

	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	-	-	-

## Where measurable, provide details on the monthly and cumulative impact

- A payroll tax exemption scheme for apprentices and trainees was implemented under section 137E of the Taxation Administration Act 1999. The *Taxation Administration (Payroll Tax) COVID-19 Exemption Scheme Determination 2021 (No 2) (DI2021-177)* extends the operation of the payroll tax exemption for a further 12 months until 30 June 2022. It exempts wages paid or payable to eligible apprentices or trainees for the period 1 July 2021 to 30 June 2022. An eligible apprentice or trainee includes those who, on or after 1 August 2020, commence an approved training contract with an employer, or recommence a training contract that was suspended by an employer due to the COVID-19 emergency.
  - The estimated financial impact of continuing the initiative is negligible.
  - The disallowable instrument is available on the legislation register. See: <https://www.legislation.act.gov.au/di/2021-177/>.
- These Ministerial powers have been permanently adopted under Division 11.5A of the *Taxation Administration Act 1999*, following the *Operational Efficiencies (COVID-19) Legislation Amendment Act 2021* which commenced on 14 October 2021. The purpose of the amendment was to provide, on an ongoing basis and outside of the COVID-19 emergency period, a set of powers across tax types to provide relief for individuals, households and businesses through rebates, exemptions and deferrals.

Approved for tabling in the ACT Legislative Assembly



Andrew Barr MLA  
Treasurer

Date: 14 / 7 / 22

### Amendments:

#### COVID-19 Emergency Response Legislation Amendment Act 2020

Date notified: 13 May 2020

##### [1.133] New section 6 (4) to (6)

*insert*

- (4) This Act also includes general provisions in relation to revenue measures for the purpose of providing an economic response to a COVID-19 emergency.
- (5) In this section:
- COVID-19 emergency** means—
- (a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).
- (6) This subsection and subsections (4) and (5) expire at the end of a 2-year period during which no COVID-19 emergency has been in force.

##### [1.134] New division 11.5A

*insert*

#### Division 11.5A COVID-19 emergency response—revenue measures

##### 137A Definitions—div 11.5A

In this division:

**COVID-19 deferral scheme**—see section 137D (1).

**COVID-19 emergency** means—

- (a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

**COVID-19 exemption scheme**—see section 137E (1).

**COVID-19 rebate scheme**—see section 137F (1).

**COVID-19 scheme** means the following:

- (a) a COVID-19 deferral scheme;
- (b) a COVID-19 exemption scheme;
- (c) a COVID-19 rebate scheme.

**137B Application—div 11.5A**

If a COVID-19 scheme is determined under this division, the scheme applies in addition to any other provision in this Act and the other tax laws.

**137C Ministerial considerations for determining a scheme—div 11.5A**

The Minister must not determine a COVID-19 scheme under this division unless satisfied that the scheme is reasonable and necessary to provide an economic response to a COVID-19 emergency.

**137D COVID-19 deferral scheme**

- (1) The Minister may determine a scheme (a **COVID-19 deferral scheme**) for deferring the following:
  - (a) tax payable under a tax law;
  - (b) lodging a return required under a tax law.
- (2) The COVID-19 deferral scheme must include the following matters:
  - (a) who is eligible to participate in the scheme;
  - (b) the tax amount, or requirement to lodge a return, that may be deferred under the scheme;
  - (c) a statement about whether, in the Minister's opinion, the scheme is consistent with human rights.
- (3) The COVID-19 deferral scheme may include the following matters:
  - (a) how an application for deferral is to be made under the scheme;
  - (b) information that the commissioner may require to decide an application;
  - (c) conditions to which a deferral arrangement may be subject, including the rate of interest charged on the amount deferred.
- (4) The COVID-19 deferral scheme may provide for any other relevant matter to be determined by the commissioner by notifiable instrument.
- (5) The amount payable under a COVID-19 deferral scheme is a debt owing to the Territory.
- (6) If the tax deferred under a COVID-19 deferral scheme relates to the holding of a property—the tax deferred is the first charge on the person's interest in the property to which the deferred tax relates.

- (7) A COVID-19 deferral scheme determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**137E COVID-19 exemption scheme**

- (1) The Minister may determine a scheme to exempt a person who is required to pay tax under a tax law from the requirement to pay the tax (a **COVID-19 exemption scheme**).
- (2) The COVID-19 exemption scheme may include the following matters:
- (a) an exemption from the requirement to pay some or all the tax payable under a tax law;
  - (b) applying the exemption for a stated period;
  - (c) applying the exemption to a particular transaction;
  - (d) applying the exemption in stated circumstances;
  - (e) making the exemption conditional on stated actions.
- (3) The COVID-19 exemption scheme must include a statement about whether, in the Minister's opinion, the scheme is consistent with human rights.
- (4) A COVID-19 exemption scheme determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**137F COVID-19 rebate scheme**

- (1) The Minister may determine a scheme to provide a rebate to a person who is required to pay tax under a tax law (a **COVID-19 rebate scheme**).
- (2) The COVID-19 rebate scheme must include the following matters:
- (a) who is eligible to claim the rebate;
  - (b) the amount of the rebate, or the method of calculating the amount of the rebate, including any limits;
  - (c) a statement about whether, in the Minister's opinion, the scheme is consistent with human rights.
- (3) The COVID-19 rebate scheme may include the following matters:
- (a) if the rebate applies for a period—the period for which the rebate applies;
  - (b) if an application is required for the rebate—how the application is to be made;
  - (c) information that the commissioner may require to decide an application;
  - (d) conditions applying in relation to the rebate.

(4) The COVID-19 rebate scheme may provide for any other relevant matter to be determined by the commissioner by notifiable instrument.

(5) A COVID-19 rebate scheme determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**137G Expiry—div 11.5A**

This division expires at the end of a 2-year period during which no COVID-19 emergency has been in force.