

**2020**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**Pursuant to s 3 of the COVID-19 Emergency Response Act 2020  
Report on COVID-19 Measures**

**Report No. 6**

**Reporting Period 1-30 September 2020**

**Mick Gentleman MLA  
Manager of Government Business  
December 2020**

## **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* commenced on 8 April 2020.

The Act states that for each month 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.

The Act was subsequently amended by the *COVID-19 Emergency Response Legislation Amendment Act 2020* which commenced on 14 May 2020.

## **Report No.6**

Report No.6, for the reporting period of 1-30 September 2020, 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*
- *Public Trustee and Guardian Act 1985*
- *Rates Act 2004*
- *Residential Tenancies Act 1997*
- *Taxation Administration Act 1999*
- *Terrorism (Extraordinary Temporary Powers) Act 2006*
- *Working with Vulnerable People (Background Checking) Act 2011*

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Attorney-General

**Legislation:** *Bail Act 1992*

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:** 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:

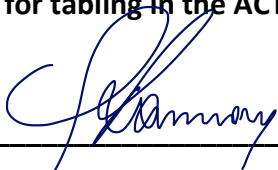
- Nil.

	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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**Gordon Ramsay MLA  
Attorney-General**

**Date:** 14/10/20

### 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 12 months after the day the [COVID-19 Emergency Response Act 2020](#), section 4 commenced.

##### [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 ACT 2020

## MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**Portfolio: Children, Youth and Families**

**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:**

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

Approved for tabling in the ACT Legislative Assembly



Rachel Stephen-Smith MLA  
Minister for Children, Youth and Families

Date: 15/10/20



# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Attachment A

### 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);



# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

- (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

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Children, Youth and Families

**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



**Rachel Stephen-Smith MLA**  
**Minister for Children, Youth and Families**

Date: 15/10/20

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY 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

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Children, Youth and Families

**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
<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**



**Rachel Stephen-Smith MLA**  
**Minister for Children, Family and Youth**

**Date:** 15/10/20



# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY 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

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Children, Youth and Families

**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**

	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>
	\$'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**



**Rachel Stephen-Smith MLA**  
**Minister for Children, Youth and Families**

**Date:** 15/10/20

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY 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 MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Children, Youth and Families

**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



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Rachel Stephen-Smith MLA  
Minister for Children, Youth and Families

Date: 15/10/20



# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Attachment A

### 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 MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Children, Youth and Families

**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
Net Operating Impact	-	-	-	-

**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



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Rachel Stephen-Smith MLA  
Minister for Children, Youth and Families

Date: 15/10/20



# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Attachment A

### 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 MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Children, Youth and Families

**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**



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**Rachel Stephen-Smith MLA**  
**Minister for Children, Youth and Families**

Date: 15/10/20

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Attachment A

### 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

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Children, Youth and Families

**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**



**Rachel Stephen-Smith MLA**  
**Minister for Children, Youth and Families**

**Date:** 15/10/20

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY 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 MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Children, Youth and Families

**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**



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**Rachel Stephen-Smith MLA  
Minister for Children, Youth and Families**

**Date:** 15 / 10 / 20

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Attachment A

### 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 MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Children, Youth and Families

**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 that 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**

- ACT Together, who are delegated to assess carers and issue Approved Carer Approvals are aware of the legislative 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**

- Carer Approvals are continuing as per business as usual. Where a carer approval cannot be completed ahead of their expiry date during this period, their carer approval has been extended.
- For the reporting period 1 to 30 September 2020, eight Carer Approvals have been extended.

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



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**Rachel Stephen-Smith MLA**  
**Minister for Children, Youth and Families**

**Date:** 15/10/20



# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Attachment A

### 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

## MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**Portfolio: Corrections and Justice Health**

**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 – amendment not yet utilised.

**Stakeholder engagement undertaken**

- The Commissioner, ACTCS, is providing weekly notices to update staff, detainees and oversight bodies on the situation and the measures taken in response to ensure the safety and wellbeing of staff, detainees and offenders.
- The weekly update to oversight bodies is provided to:
  - 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 has not yet been commenced by Ministerial notice.

Approved for tabling in the ACT Legislative Assembly

**Shane Rattenbury MLA**  
**Minister for Corrections and Justice Health**

Date: 14/10/20

### 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 ACT 2020

## MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**Portfolio:** Corrections and Justice Health

**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, 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 – amendment not yet utilised.

### **Stakeholder engagement undertaken**

- The ACT Bar Society, ACT Policing and the Human Rights Commission have been consulted on the development of guidelines under this amendment.
- The Commissioner, ACTCS, is providing weekly notices to update staff, detainees and oversight bodies on the situation and the measures taken in response to ensure the safety and wellbeing of staff, detainees and offenders.
- The weekly update to oversight bodies is provided to:
  - 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 has not yet been commenced by Ministerial notice.

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

**Shane Rattenbury MLA  
Minister for Corrections and Justice Health**

Date: 14/10/20

### 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

## MONTHLY 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**.



**ACT**  
Government

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY 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 ACT 2020

## MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**Portfolio: Corrections and Justice Health**

**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**

- The Commissioner, ACTCS, is providing weekly notices to update staff, detainees and oversight bodies on the situation and the measures taken in response to ensure the safety and wellbeing of staff, detainees and offenders.
- The weekly update to oversight bodies is provided to:
  - 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**

**Shane Rattenbury MLA  
Minister for Corrections and Justice Health**

Date: 14/10/20

### 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 ACT 2020

## MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**Portfolio: Corrections and Justice Health**

**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 appointment 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**

- The Commissioner, ACTCS, is providing weekly notices to update staff, detainees and oversight bodies on the situation and the measures taken in response to ensure the safety and wellbeing of staff, detainees and offenders.
- The weekly update to oversight bodies is provided to:
  - 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**

**Shane Rattenbury MLA  
Minister for Corrections and Justice Health**

Date: 14 / 10 / 20

### 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 ACT 2020

## MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**Portfolio: Corrections and Justice Health**

**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**

- The Commissioner, ACTCS, is providing weekly notices to update staff, detainees and oversight bodies on the situation and the measures taken in response to ensure the safety and wellbeing of staff, detainees and offenders.
- The weekly update to oversight bodies is provided to:
  - 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.

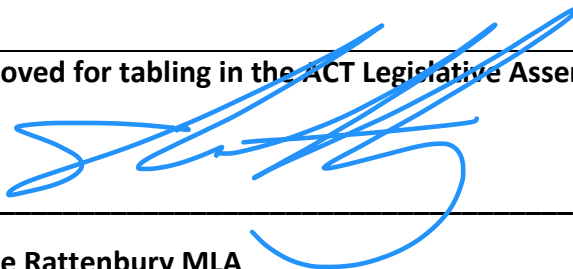
**Cost of the measure**

	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**



**Shane Rattenbury MLA  
Minister for Corrections and Justice Health**

Date: /4 / 10 / 20

### 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 ACT 2020

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

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 to this Act 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:**

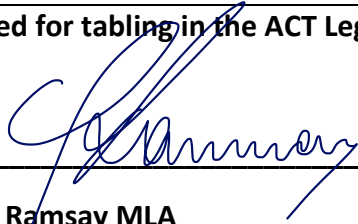
- Nil.

	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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**Gordon Ramsay MLA  
Attorney-General**

**Date:** 17 / 10 / 20

### 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 MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

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 to this Act 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 first sitting day after notification, instead of within 6 sitting days as provided for in the [Legislation Act](#), section 64 (1).

**Alignment of measure:**

- Not applicable.

**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 1–30 September 2020 four disallowable instruments 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.

All are due to be presented on the first sitting day of the 10th Assembly.

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



# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Approved for tabling in the ACT Legislative Assembly

A handwritten signature in blue ink, appearing to read "Andrew Barr".

**Andrew Barr MLA**  
**Chief Minister**

Date: 30 / 10 / 20

A handwritten signature in blue ink, appearing to read "Gordon Ramsay".

**Gordon Ramsay MLA**  
**Attorney-General**

Date: 14 / 10 / 20

**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 ACT 2020

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: 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 to this Act 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 practitioners 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:

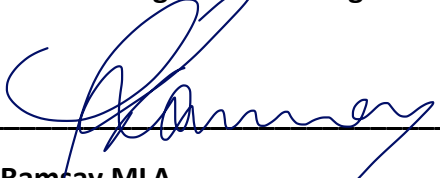
- Nil.

	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 basis.
- For the period 1–30 September 2020, not possible to measure the impact of the measure.
- For the period 1–31 August 2020, not possible to measure the impact of the measure.
- For the period 1–31 July 2020, not possible to measure the impact of the measure.
- For the period 1–30 June 2020, not possible to measure the impact of the measure.
- For the period 1–31 May 2020, not possible to measure the impact of the measure.

Approved for tabling in the ACT Legislative Assembly



Gordon Ramsay MLA  
Attorney-General

Date: 14/10/20

### 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

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Attorney-General  
Corrections and Justice Health

**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 *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**

- The Commissioner, ACTCS, is providing weekly notices to update staff, detainees and oversight bodies on the situation and the measures taken in response to ensure the safety and wellbeing of staff, detainees and offenders.
- The weekly update to oversight bodies is provided to:
  - 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 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:

Date	Credit	Hrs Worked
April 2020	COVID-19 Hours Credited	16
May 2020	COVID-19 Hours Credited	22



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

June 2020	COVID-19 Hours Credited	0
July 2020	COVID-19 Hours Credited	0
August 2020	COVID-19 Hours Credited	0
<b>Total</b>	<b>COVID-19 Hours Credited</b>	<b>38</b>

Approved for tabling in the ACT Legislative Assembly

A handwritten signature in blue ink, appearing to read "G Ramsay".

**Gordon Ramsay MLA**  
**Attorney-General**

Date: 14/10/20

A handwritten signature in blue ink, appearing to read "Shane Rattenbury".

**Shane Rattenbury MLA**  
**Minister for Corrections and Justice Health**

Date: 14/10/20

**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 ACT 2020

## MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**Portfolio:** Corrections and Justice Health

**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**

- The ACT Bar Society, Sentence Administration Board and Human Rights Commission have been consulted on the development of guidelines under this amendment.
- The Commissioner, ACTCS, is providing weekly notices to update staff, detainees and oversight bodies on the situation and the measures taken in response to ensure the safety and wellbeing of staff, detainees and offenders.
- The weekly update to oversight bodies is provided to:
  - 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.

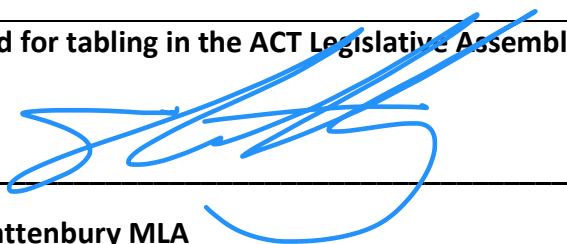
### Cost of the measure

	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



Shane Rattenbury MLA  
Minister for Corrections and Justice Health

Date: 14/10/20

### 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;



# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

- (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



# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

- (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 ACT 2020

## MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**Portfolio:** Corrections and Justice Health

**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:** Sentence Administration Board - amend s182 and s185 to permit single judicial officer to exercise a supervisory function (except cancellation of ICO or parole).

### **Purpose of measure:**

- To ensure the business continuity of the Sentence Administration Board during the COVID-emergency, where the usual three members that usually make up the Board are not able to convene.

### **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.

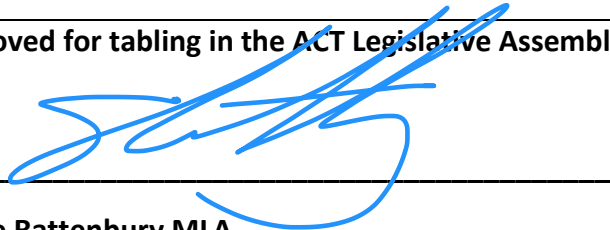
### Cost of the measure

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

### 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



Shane Rattenbury MLA  
Minister for Corrections and Justice Health

Date: 14/10/20

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

##### [1.25] New section 182 (2A) and (2B)

*insert*

- (2A) Despite subsection (2), the chair may, during a COVID-19 emergency, assign 1 judicial member to a division if it is not reasonably practicable to assign more than 1 member.
- (2B) A division constituted by 1 judicial officer may—
- (a) exercise a supervisory function of the board in relation to—
    - (i) intensive correction orders (other than cancellation of an intensive correction order under section 64 (2) (c)); or
    - (ii) parole (other than cancellation of parole under section 148 (2) (e)); and
  - (b) in exercising a function mentioned in paragraph (a)—
    - (i) conduct an inquiry; or
    - (ii) if satisfied the offender understands the matter is being dealt with by 1 judicial officer—hold a hearing.

##### [1.26] New section 185 (1A)

*insert*

- (1A) However, during a COVID-19 emergency, business may be carried out at a meeting of the board by 1 judicial member—
- (a) if it is not reasonably practicable for 3 members to be present; or
  - (b) in exercising a supervisory function as a division of the board constituted under section 182 (2A).

*Note* A meeting may be held other than in person (see s 187).



# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**Portfolios:** Attorney-General

Corrections and Justice Health

**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 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

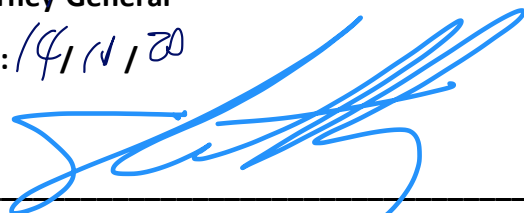
- Since its commencement the amendment has been used on five occasions.
- The measure was used once in the current reporting period of 1-30 September 2020.
- The measure was used once in the reporting period of 1-31 August 2020.
- The measure was not used in the reporting period of 1 – 31 July 2020.
- The measure was not used in the reporting period of 1 – 30 June 2020.
- The measure was used for one person appearing before the Sentence Administration Board between 1 -31 May 2020.
- The measure was used for two persons appearing before the Sentence Administration Board between 8 -30 April 2020.
- 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**



**Gordon Ramsay MLA  
Attorney-General**

Date: 14/11/20



**Shane Rattenbury MLA  
Minister for Corrections and Justice Health**

Date: 14/10/20



# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Attachment A

### 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 ACT 2020

## MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**Portfolio:** Corrections and Justice Health

**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 SAB to refuse a parole order without a full hearing (s126) and to permit shorter notice period during 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
Net Operating Impact	-	-	-	-

## 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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Shane Rattenbury MLA  
Minister for Corrections and Justice Health

Date: 14/10/20

### 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 ACT 2020

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Attorney-General

**Legislation:** *Crimes (Sentencing) 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:** Amend 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 Proescutions, ACT Legal Aid and the private legal profession were made aware of this measure.

### Cost of the measure:

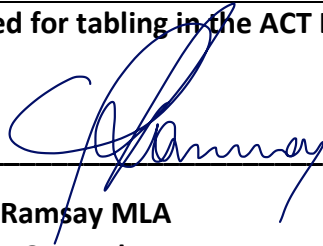
- Nil.

	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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**Gordon Ramsay MLA  
Attorney-General**

**Date:** 14/10/20



# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Attachment A

### 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 ACT 2020

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Attorney-General

**Legislation:** *Crimes (Sentencing) 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:** 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:**

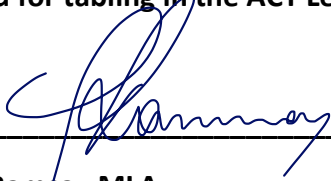
- Nil.

	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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**Gordon Ramsay MLA  
Attorney-General**

**Date:** 14/10/20

### 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 ACT 2020

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Attorney-General

**Legislation:** *Crimes Act 1900*

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:** 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:

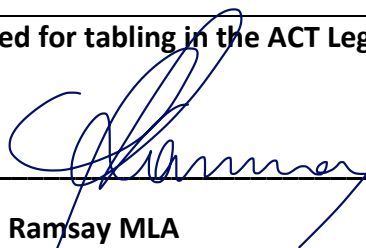
- Nil.

	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.
- 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.
- From 6 July 2020 the court resumed in person warrant appointments but continued to accept and process electronic applications in exceptional circumstances.

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



**Gordon Ramsay MLA  
Attorney-General**

**Date:** 14/10/20

### 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

- (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 ACT 2020

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Attorney-General

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

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:** 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:**

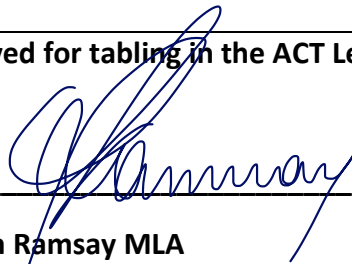
- Nil.

	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- 30 September 2020 no warrants have been applied for.
- For the period 1- 31 August 2020 no warrants have been applied for.
- For the period 1- 31 July 2020 no warrants have been applied for.
- For the period 1-30 June 2020 no warrants have been applied for.
- For the period 1-31 May 2020, 4 warrants have been applied for.

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



**Gordon Ramsay MLA  
Attorney- General**

**Date:** 14 / 10 / 20

### Amendments:

#### 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.
- (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).

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

(5) This section expires on the first day no COVID-19 emergency is in force.



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

Reporting period: 1 - 30 September 2020

Portfolio: Education & Early Childhood Development

**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**

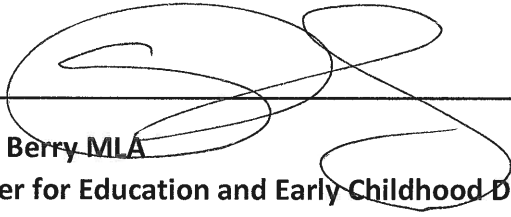
N/A

	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 large, stylized handwritten signature in black ink, consisting of several overlapping loops and curves, positioned above a horizontal line.

**Yvette Berry MLA**

**Minister for Education and Early Childhood Development**

**Date:** 14/10/20



# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Attachment A

### 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 MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**Portfolio: Education & Early Childhood Development**

**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**

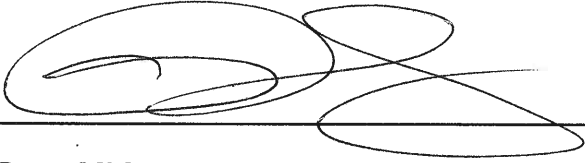
N/A

	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 black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

**Yvette Berry MLA**

**Minister for Education and Early Childhood Development**

**Date:** 14/10/20



# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Attachment A

### 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

## MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**Portfolio: Education & Early Childhood Development**

**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**

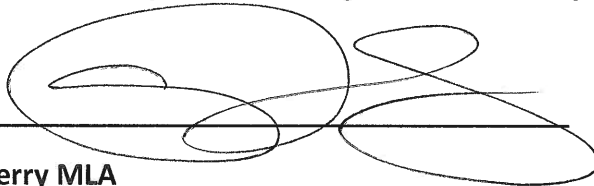
N/A

	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 Early Childhood Development**

**Date:** 14/10/20

### 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

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Attorney-General

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

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:** A new Part 12 regulation 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.

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

### **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 procedure, in case 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:**

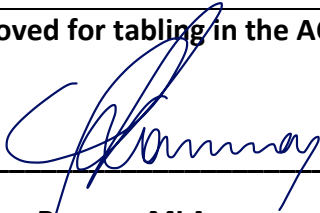
- Nil.

	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



Gordon Ramsay MLA  
Attorney-General

Date: 14 / 10 / 20

### 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 ACT 2020

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Attorney-General

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

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:** 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. This amendment 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:**

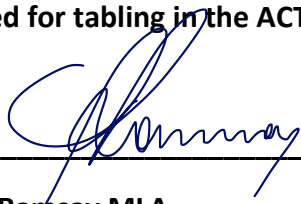
- Nil.

	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 is being manually collected.
- Under section 206 (extending general interim orders) no family violence general interim orders have been extended since the last reporting period.
- Between 1 June 2020 and 30 September 2020, a cumulative total of two (2) family violence general interim orders were extended.

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



**Gordon Ramsay MLA  
Attorney-General**

**Date:** 14 / 10 / 20

### 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.

**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 ACT 2020

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

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) - s18.

**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 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:** It is not possible to provide Treasurer's Advance during the supply period. On this basis, there will be no expenditure of Treasurer's Advance funding until after the Appropriation Act 2020-2021 and the Appropriation (Office of the Legislative Assembly) Act 2020-2021 are passed in the Legislative Assembly in the 2021 calendar year.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
Net Operating Impact	0	0	0	0

Where measurable, provide details on the monthly and cumulative impact: N/A

Approved for tabling in the ACT Legislative Assembly



Andrew Barr MLA  
Treasurer

Date: 15 / 10 / 20

**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.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Treasurer

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

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:** Increase the period from 3 to 4 months to provide the audit opinion - section 24(3).

**Purpose of measure:** To allow for additional time to compile reporting in the COVID-19 working environment.

**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>	n/a	n/a	n/a	n/a

Where measurable, provide details on the monthly and cumulative impact

- N/A

Approved for tabling in the ACT Legislative Assembly



Andrew Barr MLA  
Treasurer

Date: 15 / 10 / 20

**Amendments:**

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

**Date notified: 13 May 2020**

**[1.64] Section 24 (3)**

*substitute*

- (3) Despite subsections (1) and (2), if an ordinary election is to be held in the year after the end of the financial year—
  - (a) the under treasurer must give the auditor-general the annual financial statements of the Territory for the financial year in sufficient time for the auditor-general to give an audit opinion about the statements within—
    - (i) for the 2019-20 financial year—4 months after the end of the financial year; or
    - (ii) in any other case—3 months after the end of the financial year; and
  - (b) the auditor-general must give an audit opinion to the Treasurer within—
    - (i) for the 2019-20 financial year—4 months after the end of the financial year; or
    - (ii) in any other case—3 months after the end of the financial year.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Treasurer

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

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:** Increase the days for reporting from 45 to 60 days - section 26(1).

**Purpose of measure:** To allow for additional time to compile reporting in the COVID-19 working environment.

**Alignment of measure:** This change is consistent with the acknowledgement from all States and Territories that flexibility will be required in meeting financial reporting obligations during the COVID-19 crisis.

**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
Net Operating Impact	n/a	n/a	n/a	n/a

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

- The Quarterly Consolidated Financial Report - June 2020 was circulated to Legislative Assembly members on 26 August 2020 (57 days) and tabled on 27 August 2020. It is anticipated that the Quarterly Consolidated Financial Report - September 2020 will be circulated to members out of session and tabled in the Legislative Assembly after the new Legislative Assembly is formed.

Approved for tabling in the ACT Legislative Assembly



Andrew Barr MLA  
Treasurer

Date: 15/10/20

Attachment A

**Amendments:**

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

**Date notified: 13 May 2020**

**[1.65] Section 26 (1)**

*substitute*

- (1) Within 45 days after the end of each quarter of a financial year (other than the 2019-20 and 2020-21 financial years), the Treasurer must prepare financial statements for—
  - (a) the quarter; and
  - (b) the period from the beginning of the financial year until the end of the quarter.
- (1A) Within 60 days after the end of each quarter of the 2019-20 and 2020-21 financial years, the Treasurer must prepare financial statements for—
  - (a) the quarter; and
  - (b) the period from the beginning of the financial year until the end of the quarter.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Treasurer

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

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:** Increase the days for reporting from 45 to 60 days - section 26(1).

**Purpose of measure:** To allow for additional time to compile reporting in the COVID-19 working environment.

**Alignment of measure:** This change is consistent with the acknowledgement from all States and Territories that flexibility will be required in meeting financial reporting obligations during the COVID-19 crisis.

**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
Net Operating Impact	n/a	n/a	n/a	n/a

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

- The Quarterly Consolidated Financial Report - June 2020 was circulated to Legislative Assembly members on 26 August 2020 (57 days) and tabled on 27 August 2020. It is anticipated that the Quarterly Consolidated Financial Report - September 2020 will be circulated to members out of session and tabled in the Legislative Assembly after the new Legislative Assembly is formed.

Approved for tabling in the ACT Legislative Assembly



Andrew Barr MLA  
 Treasurer

Date: 15 / 10 / 20

**Amendments:**

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

**Date notified: 13 May 2020**

**[1.66] Section 26 (3)**

*after*

subsection (1)

*insert*

or subsection (1A)

**[1.67] Section 26 (4)**

*substitute*

- (4) Subsection (5) applies if—
- (a) for financial statements prepared under subsection (1)—the first sitting day mentioned in subsection (3) does not fall within 45 days after the end of the relevant quarter; or
  - (b) for financial statements prepared under subsection (1A)—the first sitting day mentioned in subsection (3) does not fall within 60 days after the end of the relevant quarter.
- (5) The Treasurer must give copies of the financial statements to each member of the Legislative Assembly—
- (a) for statements prepared under subsection (1)—within the 45 days; or
  - (b) for statements prepared under subsection (1A)—within the 60 days.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**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:** 8 / 10 / 2020

### 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

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Attorney-General

**Legislation:** *Gaming Machine 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:** 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 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*.
- The *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2020* [DI2020-252], also made 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 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, will be provided after the caretaker period to assist licensees in understanding the detail 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:

- 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 will become evident as clubs report on community purpose contributions they have made.



**ACT**  
Government

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

Approved for tabling in the ACT Legislative Assembly

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**Gordon Ramsay MLA**  
**Attorney-General**

Date: 14/10/20

**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

## MONTHLY REPORT ON MEASURES

**Reporting period: 1–30 September 2020**

**Portfolio: Attorney-General**

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

This Act and Regulation were 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 and Regulation 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 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 Attorney-General 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 Attorney-General’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, will be provided after the caretaker period to assist licensees in understanding the detail 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:

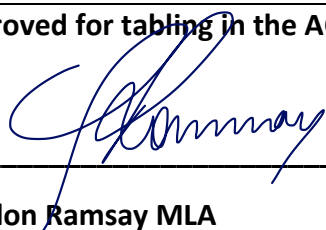
- Applying the formula at section 163H of the *Gaming Machine Act 2004*, 12 months of contributions to the DSSF was estimated at approximately \$1.1 million. The cumulative impact of the measure will be reported to the Assembly after the end of the 12 month period (that is, May 2021), noting that this impact is subject to changes in the number of authorisations held by clubs, including reductions due to the surrender of authorisations under the COVID-19 Economic Survival Package.
- In relation to the community contributions measures:
  - The *Gaming Machine (Emergency Community Purpose Contribution—Club Employees) Declaration 2020* [DI2020-139], made 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*.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

- The *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2020* [DI2020-252], also made 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).
- 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', including contributions made in accordance with an emergency community purpose contribution declaration.
- The impact of these measures will become evident as clubs report on community purpose contributions they have made.

Approved for tabling in the ACT Legislative Assembly



**Gordon Ramsay MLA**  
**Attorney-General**

Date: 14/10/20

**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.

- (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)

*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

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**Portfolio:** Justice, Consumer Affairs & Road Safety

**Legislation:** *Human Rights Commission 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:**

- 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, HRC's E-newsletter, website updated.
- Media release and doorstop 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, AFP, ACT Health, Legal Aid & OPALS, Canberra Community Law, Disability Legal Service, ACT Housing, AFP, 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 of 1-31 May 2020 there were no complaints received noting the jurisdiction commenced on 14 May and is not retrospective.
- 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 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 1-31 August 2020, the Human Rights Commission received 2 vulnerable person complaints and 3 enquiries regarding a vulnerable person complaint.
- For the period 1-30 September 2020, the Human Rights Commission received 3 vulnerable person complaints and 5 enquiries regarding a vulnerable person complaint.
- Since the commencement of these provisions on 14 May 2020 the Human Rights Commission has received 12 enquiries and 7 complaints (noting that the provisions are not retrospective). HRC has initiated one Commission Initiated Consideration regarding claims of abuse of a person with a disability.



**ACT**  
Government

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

Approved for tabling in the ACT Legislative Assembly

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Shane Rattenbury MLA

Minister for Justice, Consumer Affairs and Road Safety

Date: 14/10/20

**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

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

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.
  - The *Leases (Commercial and Retail) COVID-19 Emergency Response Declaration 2020* (the first Declaration) was notified on 11 May 2020.
  - The first Declaration requires 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 Declaration applies to SME commercial tenants that are suffering financial stress or hardship as a result of the COVID-19 pandemic, as defined by qualification for the Commonwealth Government's JobKeeper program, and which have an annual turnover of up to \$50 million.
- Initially, the Commonwealth Government's JobKeeper scheme was set to conclude at the end of September 2020. However, on 21 July 2020, the Commonwealth Government announced an extension of the JobKeeper scheme until 28 March 2021. On 7 August 2020 the Commonwealth Government announced new requirements for the extended JobKeeper scheme to operate from 28 September 2020.
- Under section 177 of the the Leases Act, the *Leases (Commercial and Retail) COVID-19 Emergency Response Declaration 2020 (No. 2) (DI2020-283)* (the new Declaration) was notified on 10 September 2020. The new Declaration is a disallowable instrument.
- The new Declaration reflects the amended operation of the Commonwealth Government's JobKeeper scheme from 28 September 2020. It retains the

requirement from the first Declaration for landlords to negotiate in good faith with an impacted tenant.

- The new Declaration revokes the first Declaration and takes effect from 28 September 2020.
- The new Declaration expires on the earliest of: either the first day no COVID-19 emergency is in force in the ACT or any later date notified by the Minister, or 31 January 2021.
- Under the new Declaration an “impacted tenant” is a tenant that qualifies for JobKeeper from 28 September 2020 at any time during the prescribed period and has a turnover of less than \$50 million for the 2018-19 financial year.
- Tenants who were impacted tenants under the first Declaration who do not qualify for JobKeeper from 28 September 2020 (former impacted tenants) will no longer receive protections under the new Declaration.
  - The first Declaration will continue to apply where former impacted tenants have committed a prescribed breach from 1 April 2020 to 27 September 2020 under the repealed declaration
- 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 current or future 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.
- A new Declaration was necessary to reflect the changes in the requirements under the extension of the JobKeeper scheme announced by the Commonwealth Government to operate from 28 September 2020.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

### 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 commercial tenancy agreement during, and for the recovery period following, the COVID-19 pandemic.
- The new Declaration also reflects the changes to and extension of the Commonwealth Jobkeeper payment.

### Promotional and public awareness campaigns undertaken

- Mr Brendan Smyth has been appointed as the COVID-19 Local Business Commissioner and has been engaging with landlords and tenants in the ACT on the application of the first Declaration and from 28 September 2020 onwards, of the application of the new Declaration to continue to encourage in good faith negotiations.
- The ACT Government has established a Commercial Tenancies Administration Committee comprised of industry representatives and an independent chair to provide guidance on the implementation of the first Declaration and from 28 September 2020 onwards, of the new Declaration and to raise awareness of the new Declaration and its associated arrangements within the commercial tenancies sector.
- Updated guidance material became live on 28 September 2020, which is available on the ACT Government COVID-19 website to assist commercial tenants and landlords to understand how the new Declaration and its changes will be implemented in the ACT.
- Updates to the commercial tenancies text on the ACT Government COVID-19 website were made live on 10 September 2020, signalling an intention to extend the Declaration on 28 September 2020 and to reflect changes in the new Declaration.

### Stakeholder engagement undertaken

- Ongoing consultation with the Commercial Tenancies Administration Committee:
  - Renee Leon PSM – Chair
  - Alfonso del Rio – Member
  - Adina Cirson – Member
  - Anthony Brierley – Member

Consultation with State and Territory counterparts.

Consultation with the Local Business Commissioner.

- Prior to notification, a draft of the new Declaration was circulated to the Commercial Tenancies Administration Committee and takes into account their comments.

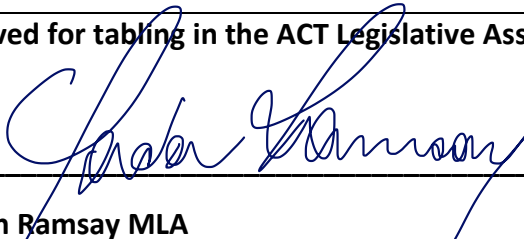
## Cost of the measure

- Minor costs have been incurred in relation to the creation and administration of the arrangements under the new Declaration. These costs have been met from the Chief Minister, Treasury and Economic Development Directorate's existing budget allocation.

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

- The new Declaration is linked to the extension of the commercial tenancy rates relief assistance to 31 December 2020, provided by the Government as an incentive for landlords and tenants to continue to negotiate revised leasing arrangements in good faith.
  - As at 25 September 2020, the ACT received 441 applications under the rates relief assistance measure.
    - This is a drop in comparison to the August reporting period which recorded 454 applications as at 21 August. This drop is due to data cleansing which resulted in the removal of duplicate applications.
- As at 30 September 2020 the Local Business Commissioner has had 167 requests for assistance, with 160 having been resolved and 7 remaining active.

Approved for tabling in the ACT Legislative Assembly



Gordon Ramsay MLA  
Attorney-General

Date: 15/10/20

### 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](#).

(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

## MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**Portfolio:** Employment 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 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 current provisions for access to portable long service leave entitlements require a recognised period of service (eligibility period) before these entitlements can be accessed. It does not allow workers to access these entitlements early in cases of hardship such as is currently being experienced as a result of the impacts of COVID-19. Temporary amendments will 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 in June 2020. 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 September 2020.

### 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.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

- 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.
- 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 September 2020 to 30 September 2020:
  - 9 early access claims were made;
  - 4 early access claims were paid by the ACT Long Service Leave Authority; and
  - total amounts paid from 1 September 2020 to 30 September 2020 by the ACT Long Service Leave Authority for early access claims was \$8,982.
- Total impact of the measure to 30 September 2020 is:
  - a total of 116 early access claims have been made;
  - a total of 111 early access claims have been paid by the ACT Long Service Leave Authority;
  - a total of \$244,306 has been paid up to 30 September 2020 by the ACT Long Service Leave Authority for early access claims.

Approved for tabling in the ACT Legislative Assembly



Suzanne Orr MLA  
Minister for Employment and Workplace Safety

Date: 28/10/20

**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

## MONTHLY 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](#).



# COVID-19 EMERGENCY RESPONSE ACT 2020

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### [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

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- (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

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(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

## MONTHLY 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

## MONTHLY 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

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

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 COVID-19 website, **Economic Survival Package page**: <https://www.covid19.act.gov.au/business-hub/economic-survival-package/supporting-local-businesses-and-the-economy>; 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 subject to consultation with other Australian jurisdictions.

## Cost of the measure

	2019-20	2020-21	2021-22	2022-23
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	<b>- 2,000</b>	<b>- 4,200</b>	<b>-</b>	<b>-</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 will result 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 over 12 months. This cost estimate is 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.

Approved for tabling in the ACT Legislative Assembly



Andrew Barr MLA  
Treasurer

Date: 15/10/20

### 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

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Attorney-General

**Legislation:** *Personal Violence Act 2016*

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:** 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. This amendment 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:**

- Nil to date.

### **Stakeholder engagement undertaken:**

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

**Cost of the measure:**

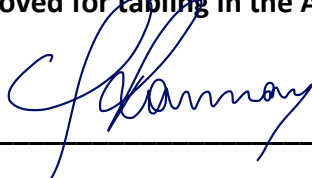
- Nil.

	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 is being manually collected.
- Under section 205 (extending interim orders) no personal violence general interim orders have been extended since the last reporting period.
- Between 1 June 2020 and 30 September 2020, a cumulative total of five (5) personal violence general interim orders were extended.

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



**Gordon Ramsay MLA  
Attorney-General**

**Date:** 14/10/20

### 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.

**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 ACT 2020

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Attorney-General

### **Legislation:** *Powers of Attorney Act 2006*

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:**

- The amendment provides enhanced obligations for attorneys in relation to record keeping and separation of the principal's property from the property of the attorney, which will apply where the principal has capacity to manage their affairs as well as when the principal has lost capacity.

### **Purpose of measure:**

- The COVID-19 emergency is expected to increase reliance by vulnerable individuals on their attorneys (as they may be more isolated and need assistance to conduct transactions). This may also lead to an increased risk of elder abuse and misuse of powers of attorney.
- This measure is intended to strengthen requirements for attorneys to keep records of all transactions conducted and to maintain separation of their own property from the property of the principal, whether or not the principal still has capacity.
- These requirements aim to ensure greater transparency regarding the use of a power of attorney and to facilitate investigation of any concerns.

### **Alignment of measure:**

- The measure is consistent with the approach taken in Victoria.

### **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 for its members on 13 May 2020 about the additional obligations of attorneys around COVID-19 emergency (content available to members only).
- The measure will also be promoted by the Older Persons ACT Legal Service (OPALS) which provides advice and assistance to older people at risk of elder abuse.

### Stakeholder engagement undertaken:

- In developing this amendment, consultation occurred with the ACT Law Society and OPALS, which is a part of Legal Aid ACT.

### Cost of the measure

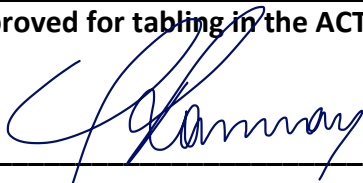
- Nil

	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 imposes additional obligations on attorneys in relation to record keeping and separation of property during COVID-19 emergency and the 12-month period thereafter.
- The Government does not have visibility of how each attorney complies with their statutory obligations, and therefore it is not possible to directly measure its impact cumulatively or on a monthly basis.

Approved for tabling in the ACT Legislative Assembly



Gordon Ramsay MLA  
Attorney-General

Date: 14 / 10 / 20

### Amendments:

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

Date notified: 13 May 2020

##### [1.110] New section 45 (1A)

*insert*

- (1A) Also, this section applies in relation to an enduring power of attorney—
- (a) during the COVID-19 emergency period; and
  - (b) whether or not the principal has impaired decision-making capacity.

##### [1.111] New section 45 (5) and (6)

*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).

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

- (a) beginning on the day this section commences; and
  - (b) ending at the end of a 12-month period when no COVID-19 emergency has been in force.
- (6) This subsection and subsections (1A) and (5) expire at the end of the COVID-19 emergency period.

##### [1.112] New section 47 (2) to (4)

*insert*

- (2) Also, during the COVID-19 emergency period, an attorney for a property matter under an enduring power of attorney must, whether or not the principal has impaired decision-making capacity, keep accurate records and accounts of all dealings and transactions made by the attorney under the power.

(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 the period—

- (a) beginning on the day this section commences; and
  - (b) ending at the end of a 12-month period when no COVID-19 emergency has been in force.
- (4) This subsection and subsections (2) and (3) expire at the end of the COVID-19 emergency period.

**[1.113] New section 48 (1A)**

*insert*

- (1A) Also, during the COVID-19 emergency period, an attorney for a property matter under an enduring power of attorney must, whether or not the principal has impaired decision-making capacity, keep the attorney's property separate from the principal's property.

**[1.114] New section 48 (3) and (4)**

*insert*

(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 the period—

- (a) beginning on the day this section commences; and
  - (b) ending at the end of a 12-month period when no COVID-19 emergency has been in force.
- (4) This subsection and subsections (1A) and (3) expire at the end of the COVID-19 emergency period.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**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: 8 / 10 / 2020

### 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

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Attorney-General

**Legislation:** *Public Trustee and Guardian Act 1985*

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:** Public Trustee and Guardian delegation of functions.

### **Purpose of measure:**

- To provide the Public Trustee and Guardian (PTG) the flexibility to delegate more functions to his staff members during the COVID-19 emergency.
- To safeguard the well-being of the people under the guardianship or management of the PTG.
- To address the limited capacity of the PTG during the COVID-19 emergency.

### **Alignment of measure:**

- This amendment was made in response to a request from the Public Trustee and Guardian.

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

- Nil.

### **Stakeholder engagement undertaken:**

- Public Trustee and Guardian

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

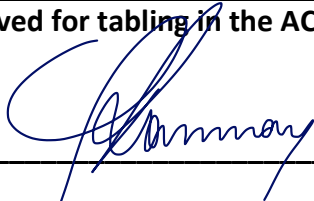
- Nil.

	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:**

- On 30 September 2020, the Public Trustee and Guardian reported that the measure has not been used to date.

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



**Gordon Ramsay MLA  
Attorney-General**

Date: 14/10/20

### Amendments:

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

Date notified: 13 May 2020

#### [1.119] New section 9A (3) to (5)

*insert*

- (3) During the COVID-19 emergency period—
- (a) subsection (2) does not apply; but
  - (b) the public trustee and guardian may only delegate the following functions in relation to an appointment by the ACAT of the public trustee and guardian as a guardian or manager, to a person exercising the functions of a deputy public trustee and guardian:
    - (i) making a decision in relation to medical treatment involving treatment, care or support under the [Mental Health Act 2015](#);
    - (ii) buying, selling, realising or mortgaging real property, or granting a lease of real property;
    - (iii) borrowing money, with or without security.
- (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 19 (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 12-month period when no COVID-19 emergency has been in force.
- (5) This subsection and subsections (3) and (4) expire at the end of the COVID-19 emergency period.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Attorney-General

**Legislation:** *Public Trustee and Guardian Act 1985*

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:** Public Trustee and Guardian requirement to provide information or documents.

**Purpose of measure:**

- The measure responds to present circumstances resulting from the COVID-19 emergency to remove doubt in relation to the powers and functions of the Public Trustee and Guardian (PTG).
- The amendment to section 66 of the *Public Trustee and Guardian Act 1985* (PTG Act) will enable the PTG to require an individual to provide it with information or documents relevant to exercise its functions under the PTG Act or another Territory law. Without this amendment, the power to obtain documents in the provision would be limited to entities that are not individuals.
- In the PTG's role as examiner, it is required to verify expenditure, income, assets and liabilities as reported by a financial manager in relation to a protected person. The amendment gives the PTG the power to require an individual to provide this information, in order to reduce any potential difficulty it may have obtaining it from the financial manager during the COVID-19 emergency period. This is essential as it helps to reduce delay in the enforcement of the protected person's rights that may otherwise occur e.g. elder financial abuse. It also assists the PTG's validation of information provided by individuals relating to expense claims incurred.

**Alignment of measure:**

- This is an ACT-only initiative, as other jurisdictions' legislation does not contain such a limitation.

**Promotional and public awareness campaigns undertaken:**

- N/A

**Stakeholder engagement undertaken:**

- Public Trustee and Guardian.

## Cost of the measure

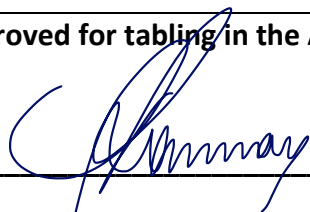
- Nil

	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

- This section commenced on 11 August 2020.
- Since that date, the Public Trustee and Guardian has exercised this power to seek documentation in processing unclaimed money claims, in dealing with external financial managers, and estate administration. However, specific data on the use of this measure is not collected by the Public Trustee and Guardian's current record keeping systems and manual collection and reporting of data on this measure would inappropriately divert resources.
- For the periods 1–31 July 2020, 1–30 June 2020 and 1–31 May 2020, and from 1-10 August, the measure had not been used because it had not commenced.
- For the period 11–31 August 2020, the measure was used but specific data was not collected.
- For the period 1-30 September the measure was used, but specific data was not collected.

Approved for tabling in the ACT Legislative Assembly



Gordon Ramsay MLA  
Attorney-General

Date: 14/10/20

### Amendments:

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

Date notified: 13 May 2020

##### [1.120] New section 66 (1A)

*insert*

- (1A) Also, during the COVID-19 emergency period, the public trustee and guardian may, by written notice given to an individual, require the individual to give the public trustee and guardian stated information or documents relevant to the exercise of the public trustee and guardian's functions under this Act or another territory law.

##### [1.121] New section 66 (3) and (4)

*insert*

- (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 19 (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 12-month period when no COVID-19 emergency has been in force.
- (4) This subsection and subsections (1A) and (3) expire at the end of the COVID-19 emergency period.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

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, **Rates page** (contains information on the delay of quarter 4 rates assessments): <https://www.revenue.act.gov.au/rates>;
- 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, **Economic Survival Package page**:
  - Information on **Commercial rates**: <https://www.covid19.act.gov.au/business-hub/economic-survival-package/supporting-local-businesses-and-the-economy>; and
  - Information on **Residential rates**: <https://www.covid19.act.gov.au/business-hub/economic-survival-package/families-and-households>

### Stakeholder engagement undertaken

- Nil.

### Cost of the measure

- Nil – consequential 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 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 has determined the due dates of rates instalments for each quarter of the 2020-21 financial year that are under 3 months apart but at least separated by 2 months and 3 weeks. This is 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/>.
  - Information of the exemption scheme has been published on the following sites:
    - ACT Revenue Office website, **COVID-19 Assistance page**: <https://www.revenue.act.gov.au/covid-19-assistance>; and
    - ACT Government’s COVID-19 website, **Economic Survival Package page – Families and Households**: <https://www.covid19.act.gov.au/business-and-work/economic-survival-package/families-and-households>.

Approved for tabling in the ACT Legislative Assembly



Andrew Barr MLA  
Treasurer

Date: 15 / 10 / 20

### 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

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

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 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 creates 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.

A consequential amendment was also made to align the language of how a COVID-19 emergency and expiry of the amendments is described.

**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): Modifies 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 provide 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 enables 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 introduces a moratorium period from 22 April 2020 to 22 July 2020 (and allows the Minister to extend that period up to a further three (3) months). The moratorium period applies to households impacted by the COVID-19 pandemic (for example, if one or more rent-paying household members have stopped earning income or their income has been reduced and the household's weekly gross income has reduced by at least 25% or if a member of the household became eligible for JobSeeker or JobKeeper). If tenants in an impacted household are unable to meet their financial commitments during this period, lessors are 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 are subject to an existing ACT Civil and Administrative Tribunal (ACAT) application for termination for failure to pay rent, the ACAT is prohibited from making any order until after the moratorium period has ended. If COVID-19 impacted households have already had a termination order or warrant issued against them but have not yet vacated the property, this part allows 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 restricts a lessor from physically accessing premises under a residential tenancy agreement unless the lessor: has obtained the tenant's consent, has applied to the ACAT (in accordance with an order by the ACAT) or is required to do urgent repairs to the premises. Subject to limited exceptions, the lessor may only inspect a premises by audio-visual or other electronic means.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

- 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 extends the provisions in the First Declaration by three (3) months (to 22 October 2020) and provides that the Minister may extend the moratorium period 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 will 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 will be 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 would still be 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. The measures in the Third Declaration are intended to support tenants and landlords transition out of the moratorium period and will operate between 23 October 2020 and 31 January 2021 (with the exception of one support measure (s 5) which commenced operation on 14 September 2020).
- The new support measures in the Third Declaration include:
  - Part 2 – Rent paid in advance (s 5): Modifies 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 to manage cost of living pressures. All other fixed term and periodic tenancies are already able to pay just 2 weeks' rent in advance.
  - Part 3 – Protection of households impacted by COVID-19 pandemic (ss 7-9, 14): Introduces a transitional period which will provide 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 will provide tenants with more time to recover financially and allow them to enter into a payment plan with their landlords. This measure will only apply if tenants who have been COVID-19 impacted pay their rent after 23 October 2020 as and when it falls due. Accordingly, this will ensure that the tenancy remains sustainable.
  - Part 3 – Protection of households impacted by COVID-19 pandemic (s 10): A tenant may apply to ACAT to vary or set aside an order made by ACAT before the moratorium period. This measure applies 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 is unable to meet their rent payments as they fall due during the transitional period, ACAT will be required to consider making a payment order for COVID-19 impacted tenants in rent arrears rather than ordering an eviction.
- The Declaration will also extend 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 will be 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.

### **Alignment of measure:**

- The measure (specifically, new section 177(1)(a)-(b)) and the Second Declaration (Part 3) aligns 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. The Second Declaration extended the initial 3 month moratorium period for COVID-19 impacted residential tenants for a further 3 months until 22 October 2020. The Government had publicly indicated its intention to extend the moratorium to the full 6 month period agreed to by National Cabinet.
- 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 have introduced additional measures for residential tenancies in response to COVID-19. The additional measures introduced in the ACT (limits on tenancy database listings, limits on rental increases, and limits on access to premises), 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 CRS to provide a restorative free residential tenancy mediation service (the Service). On 11 May 2020, the Service commenced operation and at this stage, will continue to operate until 31 January 2021. The Service aims to resolve rental disputes between tenants and

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

landlords in the ACT who are impacted by COVID-19, including in relation to reaching agreements to reduce rent. Information about the Service is provided on the JACS 'information for tenants and occupants' webpage and the CRS website:

<https://crs.org.au/about-crs/residential-tenancy/>

### Stakeholder engagement undertaken:

- Real Estate Institute of the ACT
- Legal Aid ACT (Tenancy Advice Service)
- ACAT
- Canberra Community Law
- Care Financial Counselling Service
- Consumer Law Centre
- Insurance Council of Australia 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>	-	-	-	-

- The Conflict Resolution Service has been provided with up to \$60,000.00 (excluding GST) to provide the Residential Tenancy Mediation Service for the period to 31 January 2021.

### 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

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**Gordon Ramsay MLA  
Attorney-General**



**Date:** 14/10/20

### 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

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

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

- 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/>.
- Any future tax relief measures will be 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>; and
  - ACT Government's COVID-19 website, **Economic Survival Package page**: <https://www.covid19.act.gov.au/business-hub/economic-survival-package>.

### Stakeholder engagement undertaken

- Nil.

## Cost of the measure

- *Taxation Administration (Owner Occupier Duty) COVID-19 Exemption Scheme Determination 2020* will result in an estimated conveyance duty loss of \$11.3 million in 2020-21. See below for further details.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	<b>- 11,300</b>	-	-	-

- *Taxation Administration (Payroll Tax) COVID-19 Exemption Scheme Determination 2020* will result in an estimated payroll tax loss of \$0.15 million in 2020-21. See below for further details.

	2020-21	2021-22	2022-23	2023-24
	\$'000	\$'000	\$'000	\$'000
<b>Net Operating Impact</b>	<b>- 150</b>	-	-	-

- The cost of *Taxation Administration (Payroll Tax—Businesses Not Permitted to Operate) COVID-19 Exemption Scheme Determination 2020* will be negligible. See below for further details.

	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 Government has introduced an owner-occupier duty exemption scheme pursuant to section 137E of the *Taxation Administration Act 1999*. Under the *Taxation Administration (Owner Occupier Duty) COVID-19 Exemption Scheme Determination 2020* (DI2020-205), a duty exemption is provided to owner-occupiers on the purchase of residential dwelling blocks during the period of 4 June 2020 to 30 June 2021. Conveyance duty is reduced to zero for new vacant residential blocks,

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

and for off-the-plan units (apartments and townhouses) up to \$500,000. For off-the-plan units between \$500,000 and \$750,000, duty is reduced by \$11,400.

- The estimated revenue from conveyance duty will be reduced by \$11.3 million in 2020-21.
- The disallowable instrument is available on the legislation register: See: <https://www.legislation.act.gov.au/di/2020-205/>.
- Information of the exemption scheme has been published on the following sites:
  - ACT Revenue Office website, **COVID-19 Assistance page**: <https://www.revenue.act.gov.au/covid-19-assistance/>; and
  - ACT Government's COVID-19 website, **Economic Survival Package page**: <https://www.covid19.act.gov.au/business-and-work/economic-survival-package/supporting-local-businesses-and-the-economy#New-stamp-duty-concessions-for-owner-occupiers->.
- The Government has introduced a payroll tax exemption scheme targeting apprentices and trainees pursuant to section 137E of the Taxation Administration Act 1999. The *Taxation Administration (Payroll Tax) COVID-19 Exemption Scheme Determination 2020* (DI2020-276) exempts wages paid or payable to eligible apprentices or trainees for the period 1 August 2020 to 31 January 2021. 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 revenue from payroll tax will be reduced by \$0.15 million in 2020-21.
  - The disallowable instrument is available on the legislation register. See: <https://www.legislation.act.gov.au/di/2020-279/>.
  - Information of the exemption scheme has been published on the following sites:
    - ACT Revenue Office website, **COVID-19 Assistance page**: <https://www.revenue.act.gov.au/covid-19-assistance/>; and
    - ACT Government's COVID-19 website, **Economic Survival Package page**: <https://www.covid19.act.gov.au/business-and-work/economic-survival-package/supporting-local-businesses-and-the-economy>.
- The Government has introduced a payroll tax exemption scheme pursuant to section 137E of the *Taxation Administration Act 1999*. The *Taxation Administration (Payroll Tax—Businesses Not Permitted to Operate) COVID-19 Exemption Scheme Determination 2020* (DI2020-279) exempts wages paid or payable by eligible employers whose businesses not permitted to operate due to an emergency

direction or action under section 120 of the *Public Health Act 1997*. The exemption will apply on a month-by-month basis, to payroll tax ordinarily payable in October to December 2020, relating to wages paid between 1 September and 30 November 2020.

- Based on current circumstances, the cost of this exemption scheme is nil as there are no businesses not permitted to operate due to the Government's public health directions.
- The disallowable instrument is available on the legislation register. See: <https://www.legislation.act.gov.au/di/2020-279/>.
- Information of the exemption scheme has been published on the following sites:
  - ACT Revenue Office website, **COVID-19 Assistance page**: <https://www.revenue.act.gov.au/covid-19-assistance>; and
  - ACT Government's COVID-19 website, **Economic Survival Package page**: <https://www.covid19.act.gov.au/business-and-work/economic-survival-package/supporting-local-businesses-and-the-economy>.

Approved for tabling in the ACT Legislative Assembly



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Andrew Barr MLA  
Treasurer

Date: 15/10/20

### 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.



# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

- (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.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Reporting period: 1-30 September 2020

Portfolio: Attorney-General

**Legislation:** *Terrorism (Extraordinary Temporary Powers) Act 2006*

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:** Extension of time for statutory review of the Act.

**Purpose of measure:**

- To allow an extension of time to complete and table the statutory review of the Act if the Minister believes, because of the COVID-19 pandemic, that it is not reasonably possible to present the report of the review by 19 November 2020.

**Alignment of measure:**

- ACT only initiative

**Promotional and public awareness campaigns undertaken:**

- N/A

**Stakeholder engagement undertaken:**

- N/A

**Cost of the measure:**

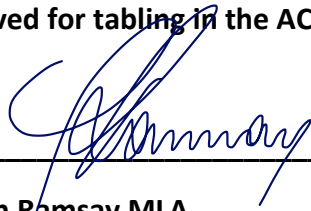
- Nil

	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:**

- On 9 September 2020, the Attorney-General decided that, because of the COVID-19 pandemic, it will not be reasonably possible to present a report of the review to the Legislative Assembly before 19 November 2020. The review has commenced and the report of the review will be presented to the Legislative Assembly no later than 19 May 2021 as required under section 100(2)(b).

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



**Gordon Ramsay MLA  
Attorney-General**

**Date:** 14/10/20

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

Attachment A

### Amendments:

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

Date notified: 13 May 2020

#### [1.135] New section 100 (2)

*insert*

- (2) However, if the Minister believes that, because of the COVID-19 pandemic, it is not reasonably possible to present a report of the review before 19 November 2020, the Minister must present a report of the review to the Legislative Assembly—
- (a) as soon as practicable after 19 November 2020; but
  - (b) not later than 19 May 2021.

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**Portfolio:** Community Services and Facilities

**Legislation:** *Working with Vulnerable People (Background Checking) Act 2011*

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:** Amendments to provide the Commissioner discretion to re-enliven expired WWVP registrations if the registration expired in the previous 12 months. This is to remove barriers to respond to the urgent need for health professionals whose registration has recently expired to re-engage with critical frontline work to support the COVID-19 response.

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

### **Purpose of measure:**

- To ensure that WWVP registration renewals are not a barrier to re-engaging front line health workers who are critical to supporting the response to COVID-19.

### **Alignment of measure**

- ACT only initiative

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

- Information about amended renewal arrangements has been placed on Access Canberra's website.
- [www.accesscanberra.act.gov.au/app/answers/detail/a\\_id/1804/kw/working%20with%20vulnerable%20people#!tabs-4](http://www.accesscanberra.act.gov.au/app/answers/detail/a_id/1804/kw/working%20with%20vulnerable%20people#!tabs-4)

### **Stakeholder engagement undertaken**

- Since 22 April 2020, Access Canberra has contacted 1,500 WWVP stakeholders by email advising of the changes to the *Working with Vulnerable People (Background Checking) Act 2011*.

### 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

- As at 30 September 2020, there have been two expired WWVP registrations renewed under this measure.
- Prior to renewing these two expired registrations, an assessment was undertaken that confirmed they were for health professionals requiring registration to re-engage in frontline services to support the COVID-19 response.

Approved for tabling in the ACT Legislative Assembly



Suzanne Orr MLA  
Minister for Community Services and Facilities

Date: 15/10/20

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

[1.69] New division 6.6

*insert*

#### Division 6.6 COVID-19 emergency response

##### 60A Meaning of *COVID-19 emergency period*—div 6.6

In this division:

*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.

##### 60B Extending registration—COVID-19 emergency period

- (1) This section applies if a person's registration 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 registration is extended until 6 months after the day the COVID-19 emergency period ends.

##### 60C Renewing expired registration—COVID-19 emergency period

- (1) The commissioner may, during the COVID-19 emergency period, renew a person's expired registration if—
  - (a) the registration expired during the 12 months before the COVID-19 emergency period; and
  - (b) the commissioner considers the renewal is appropriate because of the public health emergency caused by the COVID-19 emergency.
- (2) The renewal ends 6 months after the day the COVID-19 emergency period ends.
- (3) If the commissioner renews a person's registration, the commissioner must tell the person, in writing—
  - (a) that the person has been registered; and
  - (b) the person's unique identifying number; and
  - (c) the day the registration ends; and

(d) anything else prescribed by regulation.

**60D Expiry—div 6.6**

This division 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**

**[1.138] Section 60A**

*substitute*

**60A Definitions—div 6.6**

In this division:

**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.

**[1.139] Section 60B (1) (a) and (b)**

*omit*

the COVID-19 emergency period

*substitute*

a COVID-19 emergency period

**[1.140] Section 60C (1)**

*omit*

during the COVID-19 emergency period

*substitute*

during a COVID-19 emergency period

**[1.141] Section 60D**

*omit*

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



**ACT**  
Government

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

*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

## MONTHLY REPORT ON MEASURES

**Reporting period: 1-30 September 2020**

**Portfolio:** Community Services and Facilities

**Legislation:** *Working with Vulnerable People (Background Checking) Act 2011*

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:** Amendments to ensure that registrations held by critical workers, including health workers, social workers, teachers and NDIS workers can remain in force during a public health emergency and for a period of up to 6 months after the cessation of the emergency.

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

### **Purpose of measure:**

- To extend registrations set to expire on or after 16 March 2020, such that renewal is not required during the period of the current Public Health Emergency and 6 months after the cessation of the emergency.

### **Alignment of measure**

- ACT only initiative

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

- Information about amended renewal arrangements has been placed on Access Canberra's website.
- [www.accesscanberra.act.gov.au/app/answers/detail/a\\_id/1804/kw/working%20with%20vulnerable%20people#!tabs-2b](http://www.accesscanberra.act.gov.au/app/answers/detail/a_id/1804/kw/working%20with%20vulnerable%20people#!tabs-2b)

### **Stakeholder engagement undertaken**

- As at 30 September 2020, a total of 24,793 WWVP registration holders entitled to the automatic extension of their expiry dates have been sent an email confirming that their registrations have been extended.
- Additional WWVP registration holders with an expiry date on or after 16 March 2020 will continue to be contacted until the emergency period is ended.

### Cost of the measure

- There have been some modifications to the business system which relates to this measure. Costs associated with these modifications have not yet been quantified.

	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

- As at 30 September 2020, a total of 24,793 WWVP registration holders entitled to the automatic extension of their expiry dates have had their registrations extended.

Approved for tabling in the ACT Legislative Assembly



Suzanne Orr MLA  
Minister for Community Services and Facilities

Date: 15/10/20

### Amendments:

#### COVID-19 Emergency Response Act 2020

Date notified: 7 April 2020

[1.69] New division 6.6

*insert*

#### Division 6.6 COVID-19 emergency response

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In this division:

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##### 60B Extending registration—COVID-19 emergency period

- (1) This section applies if a person's registration 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 registration is extended until 6 months after the day the COVID-19 emergency period ends.

##### 60C Renewing expired registration—COVID-19 emergency period

- (1) The commissioner may, during the COVID-19 emergency period, renew a person's expired registration if—
  - (a) the registration expired during the 12 months before the COVID-19 emergency period; and
  - (b) the commissioner considers the renewal is appropriate because of the public health emergency caused by the COVID-19 emergency.
- (2) The renewal ends 6 months after the day the COVID-19 emergency period ends.
- (3) If the commissioner renews a person's registration, the commissioner must tell the person, in writing—
  - (a) that the person has been registered; and
  - (b) the person's unique identifying number; and
  - (c) the day the registration ends; and

(d) anything else prescribed by regulation.

**60D Expiry—div 6.6**

This division 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**

**[1.138] Section 60A**

*substitute*

**60A Definitions—div 6.6**

In this division:

**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.

**[1.139] Section 60B (1) (a) and (b)**

*omit*

the COVID-19 emergency period

*substitute*

a COVID-19 emergency period

**[1.140] Section 60C (1)**

*omit*

during the COVID-19 emergency period

*substitute*

during a COVID-19 emergency period

**[1.141] Section 60D**

*omit*

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



**ACT**  
Government

# COVID-19 EMERGENCY RESPONSE ACT 2020

## MONTHLY REPORT ON MEASURES

*substitute*

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