

TASMANIA

**COVID-19 DISEASE EMERGENCY
(MISCELLANEOUS PROVISIONS) BILL 2020**

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**COVID-19 DISEASE EMERGENCY
(MISCELLANEOUS PROVISIONS) BILL 2020**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
25 March 2020

*(Brought in by the Premier, the Honourable Peter Carl
Gutwein)*

A BILL FOR

An Act to make provision to deal with certain risks, arising from the disease, known as coronavirus disease 2019 (COVID-19), to the effective performance and exercise of judicial, administrative or legislative functions and powers in relation to the State, to mitigate in certain circumstances the financial and social effects related to those risks, to amend the *Emergency Management Act 2006* and the *Residential Tenancy Act 1997* and for related purposes

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*.

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2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Objectives of Act

The objectives of this Act are to reduce the risks to the State, and the risk to, or hardship suffered by, members of the public, arising from, or related to, the presence of the disease in persons in the State or the risk of the spread of the disease between persons in the State.

4. Interpretation

In this Act, unless the contrary intention appears –

body of persons means –

- (a) a body of persons, whether incorporated or not; and
- (b) a corporation sole;

Committee has the same meaning as in the *Subordinate Legislation Committee Act 1969*;

Director of Public Health means the person appointed as the Director of Public Health under section 6 of the *Public Health Act 1997*;

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disease means the disease, known as coronavirus disease 2019 (COVID-19), declared under section 40 of the *Public Health Act 1997* to be a notifiable disease;

emergency cessation day means the day declared under section 27(2);

emergency manager means –

- (a) if there is a state of emergency, within the meaning of the *Emergency Management Act 2006*, in relation to the disease – the State Controller; or
- (b) in any other case – the Director of Public Health;

entity means –

- (a) the holder of a statutory office;
and
- (b) a body of persons;

instrument of a legislative character means –

- (a) a regulation, rule, by-law, or other instrument of a legislative character, made under an Act;
and
- (b) any letters patent;

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notice under this Act does not include a notice under section 27(1);

permit means –

- (a) a permit issued in accordance with the *Land Use Planning and Approvals Act 1993*; and
- (b) a permit, licence, certification, or other authority, that is –
 - (i) issued under a prescribed Act; or
 - (ii) within a class of permit, licence, certification, or other authority, that is prescribed;

relevant legislative instrument means –

- (a) an Act; or
- (b) an instrument of a legislative character;

State Controller has the same meaning as in the *Emergency Management Act 2006*.

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Part 2 – General Provisions in Relation to Notices

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**PART 2 – GENERAL PROVISIONS IN RELATION TO
NOTICES**

5. Circumstances in which certain notices may be issued

(1) A notice under this Act, other than –

- (a) a notice under section 22 or section 23;
or
- (b) a notice under section 27; or
- (c) a notice revoking another notice under this Act –

may only be issued by a Minister if he or she is of the opinion that the relevant emergency circumstances exist in relation to the notice.

(2) For the purposes of this section, the relevant emergency circumstances exist in relation to the notice if the Minister issuing the notice is satisfied that it is necessary or desirable to issue the notice because of –

- (a) the presence of the disease in persons in the State; or
- (b) the risk of the contraction of the disease by persons in the State; or
- (c) a restriction on the movement of persons that is imposed, by or under a relevant legislative instrument, because of the

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Part 2 – General Provisions in Relation to Notices

- presence of the disease or the risk of the spread of the disease amongst persons in the State; or
- (d) a reduction, in the numbers of persons available to carry out particular activities, relating to a relevant legislative instrument to which the notice relates, because of –
- (i) the presence of the disease in persons in the State; or
 - (ii) the risk of the spread of the disease amongst persons in the State; or
 - (iii) circumstances related to the matters referred to in subparagraph (i) or (ii); or
- (e) the desirability of ensuring the supply of goods or services, the supply of which may be hindered because of a circumstance referred to in another paragraph of this subsection.
- (3) A notice under section 22 or section 23, other than a notice revoking another notice under either section, may only be issued by the Treasurer or the Minister, respectively, if he or she is of the opinion that the economic effects of the relevant emergency circumstances are such that it is necessary or desirable to issue the notice.

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6. Emergency manager to approve making of notices

A notice under this Act, other than –

- (a) a notice under section 20 that relates to a court other than a court of petty sessions or the Magistrates Court; or
- (b) a notice under section 22 or section 23; or
- (c) a notice under section 27 –

may only be issued with the approval of the emergency manager.

7. Scrutiny of notices

- (1) If a Minister issues a notice under this Act, he or she is to ensure that a copy of the notice is laid before each House of Parliament within 3 sitting-days after the notice is issued.
- (2) The Minister is to ensure that a copy of a notice given to the Minister under section 27(1) is laid before each House of Parliament within 3 sitting-days after the notice is given to the Minister under that section.
- (3) If a Minister issues a notice under this Act, other than a notice under section 27, he or she, within 14 days, is to send to the Committee a copy of the notice.
- (4) Sections 7(4), 8 and 9 of the *Subordinate Legislation Committee Act 1969* apply to a copy

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of a notice sent to the Committee under subsection (3) as if the notice were regulations.

- (5) Sections 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to a notice (other than a notice under section 27(1)) as if the notice were regulations within the meaning of that Act.

8. When notice takes effect and duration of notice

- (1) A notice under this Act only takes effect from the day on which notice of the making of the notice is published in the *Gazette* or, if a later day is specified in the notice, from that later day.
- (2) A notice under this Act, other than a notice revoking or amending another notice under this Act, only remains in effect, unless it is sooner revoked or subsection (3) applies, for –
- (a) 12 months from the day on which the notice takes effect; or
 - (b) if a shorter period is specified in the notice, that shorter period from the day on which the notice takes effect.
- (3) A notice under this Act is taken to be revoked 60 days after the emergency cessation day.

9. Notices may be re-issued

Nothing in this Act is to be taken to prevent more than one notice under this Act, that is in

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the same or substantially similar terms as another such notice, from being issued under this Act.

10. Effect of notices

A notice under this Act has effect in accordance with its terms.

11. Amendment and revocation of notices

- (1) A Minister, by notice, may amend or revoke a notice (other than a notice revoking another notice) that the Minister may issue under this Act.
- (2) The amendment or revocation of a notice under this Act is not to be taken to –
 - (a) render invalid any action taken under a provision of an Act while the notice was in force; or
 - (b) render invalid or unlawful any subsequent action that is taken, under that Act or another Act, in reliance on the first-mentioned action not being, because of the operation of this Act, invalid; or
 - (c) have the effect of rendering a person liable to any requirement, under a relevant legislative instrument, to which he or she was not subject when the notice was in force.

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- (3) Nothing in subsection (2)(c) is to be taken to prevent a provision of a relevant legislative instrument applying in relation to a requirement, under an Act, that only arises in relation to a person, prospectively, under that provision, after the revocation of a notice under this Act.

12. No notices may be issued after emergency cessation day

A notice under this Act, other than a notice amending or revoking another notice under this Act, may not be issued after the emergency cessation day.

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Part 3 – Continuance of Public Administration

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**PART 3 – CONTINUANCE OF PUBLIC
ADMINISTRATION**

13. Extension of statutory timelines

- (1) The Minister may, by notice, declare that a period by which –
 - (a) an action specified in the notice; or
 - (b) an action that is within a class of actions specified in the notice –

must be taken by a person, or a body of persons, under a provision, of a relevant legislative instrument, that is specified in the notice, is reduced or extended by the period specified in the notice.

- (2) For the avoidance of doubt, a notice under subsection (1) may relate to a provision, of a relevant legislative instrument, that specifies a period after which proceedings for prosecution of an offence may not occur, but may not extend the period for more than 6 months.
- (3) A reference in this section to an extension of a period or a reduction of a period is to be taken to include a reference to altering a date to a later date, or an earlier date, respectively.

14. Amendment of planning and other permits

Despite any other relevant legislative instrument, the Minister may, by notice, amend or revoke,

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for the period specified in the notice, a provision, specified in the notice, of –

- (a) a permit that is specified in the notice; or
- (b) any permit that is within a class of permits specified in the notice.

15. Protection from offence against planning law

- (1) The Minister may, by notice, declare that a person does not commit an offence against the *Land Use Planning and Approvals Act 1993* in relation to an area of land specified in the notice, if –
 - (a) there is, or was, a state of emergency in effect, in relation to the disease, under the *Emergency Management Act 2006*; and
 - (b) in order for a requirement, direction or authorisation under the *Emergency Management Act 2006* or the *Public Health Act 1997* to be effectively implemented, or complied with, it is necessary for a development, or use, of the land, that, but for this section, would ordinarily require a permit or would not be authorised under the *Land Use Planning and Approvals Act 1993*, to be authorised to be carried out.
- (2) If a notice under subsection (1) applies in relation to an area of land, the *Land Use*

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Planning and Approvals Act 1993 does not apply
in relation to –

- (a) the development, or use, of the land, that is specified in the notice; or
 - (b) the subsequent demolition of a structure to which the development or use applies.
- (3) If a notice under subsection (1) that applied in relation to an area of land is revoked, a development referred to in the notice is to be taken to have been, and to be, authorised under the *Land Use Planning and Approvals Act 1993* and a planning scheme within the meaning of that Act, unless the Minister determines otherwise.

16. Extension of period of appointment, employment and certain authorities for benefit of Crown

- (1) Despite the provisions of any relevant legislative instrument, including the *State Service Act 2000*, the Minister may, by notice, extend, for the period specified in the notice –
- (a) the period of appointment, including appointment to a statutory office, or of employment of a person, under a provision, of a relevant legislative instrument, specified in the notice; or
 - (b) the period during which an authority, under a relevant legislative instrument, to carry out an activity –

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- (i) on behalf of the Crown; or
- (ii) under a provision, of a relevant statutory instrument, specified in the notice; or
- (iii) under a document issued under a provision, of a relevant legislative instrument, specified in the notice –

is to remain in force.

- (2) A notice under subsection (1) may apply to –
 - (a) a particular person, a particular office, or a class of persons or holders of offices, specified in the notice; or
 - (b) a particular authority, or a class of authorities, specified in the notice.

17. Authorisation to take actions electronically

- (1) The Minister may, by notice, declare that, despite the provision of any relevant legislative instrument, any action that is required, by virtue of a provision, of a relevant legislative instrument, that is specified in the notice, to be –
 - (a) taken by means of a physical action such as signature or personal service; or
 - (b) to be evidenced in a document that is not an electronic document –

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may be taken or evidenced, respectively, by the electronic means specified, in the notice, in relation to that provision, if the conditions, if any, specified in the notice are complied with.

- (2) Without limiting the generality of subsection (1), the conditions that may be imposed in a notice under that subsection may include a condition that the electronic means referred to in the notice is only authorised by the notice to occur if a person who may receive the relevant electronic communication by the electronic means agrees to receive the communication by that means.
- (3) Despite the provision of any relevant legislative instrument or law, including but not limited to the *Acts Interpretation Act 1931*, a notice under subsection (1) may relate to a requirement for a notice to be published in the *Gazette*, but only if the electronic means, specified in the notice, by which the *Gazette* is to be published consist of the publication of the *Gazette* at a website specified, or referred to, in the notice.

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Part 4 – Reduction of Public Physical Contact

**PART 4 – REDUCTION OF PUBLIC PHYSICAL
CONTACT**

18. Authorisation for meetings not to be held in person

- (1) A reference in this section to meetings does not include a reference to meetings of a court or Tribunal for the purposes of proceedings before a court or Tribunal.
- (2) The Minister may, by notice, declare that, despite any provision of a relevant legislative instrument, meetings, of a body of persons, specified in the notice, that are held for the purposes of a relevant legislative instrument that is specified in the notice, may be held in the approved manner, specified in the notice, in relation to such meetings.
- (3) For the purposes of subsection (2), the approved manner, specified in a notice, in relation to meetings means –
 - (a) the conduct of such meetings –
 - (i) by telephone; or
 - (ii) by electronic communication (including but not limited to by the transmission of electronic mail); or
 - (iii) by another method –

as determined by a notice in writing, that is, by a means specified in one of the

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above paragraphs, delivered, by the person who ordinarily presides over such meetings of the body of persons, to each other member of the body of persons, unless it is not reasonably practicable to do so; and

- (b) the conduct of such meetings in accordance with the other conditions that are specified in the notice under subsection (2) in relation to such meetings.
- (4) Without limiting the generality of subsection (3)(b), a reference in subsection (3)(b) to conditions includes a reference to any of the following conditions:
- (a) a condition as to what number, of members of the body of persons, specified in the notice, will constitute a quorum in relation to such meetings;
 - (b) a condition as to whether a person is able to nominate another person to act in the place of the person at such meetings.
- (5) The Minister may only issue a notice under subsection (2) in relation to a body of persons if one or more members of the body of persons, or a person who is nominated by the body of persons or is approved by the Minister to give the request on behalf of the body of persons, have requested that the notice be given in

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Part 4 – Reduction of Public Physical Contact

relation to the body of persons and the Minister is of the opinion that –

- (a) members of the body of persons will be unwilling or unable to attend meetings of the body because of the disease or the risk of transmission of the disease; and
 - (b) it is necessary or desirable for the safe and effective functioning of the body of persons that the body of persons be able to meet otherwise than in person.
- (6) The Minister may, by notice, declare that, despite a provision, of a relevant legislative instrument, meetings required to be held by or under a provision, of a relevant legislative instrument, that is specified in the notice –
- (a) if the meetings are to be held in public – may only be held in accordance with the conditions, specified in the notice, that are reasonably required to protect public health and reduce or mitigate the risk of transmission of the disease; or
 - (b) are not required to be held in public if the conditions specified in the notice are complied with.
- (7) A notice under subsection (6)(b) in relation to meetings –
- (a) must, if reasonably practicable, include a condition that will allow persons to view the meeting by electronic means; and

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- (b) may include other conditions that the Minister thinks sufficient to allow the public an appropriate means of contributing to, or observing, such meetings.

19. Public exhibition of certain documents

- (1) The Minister may, by notice, declare that the requirements, specified in a provision, of a relevant legislative instrument, that is specified in the notice, for public exhibition of documents or information at a place or in a manner specified in the provision, are taken to be satisfied if the public exhibition of the documents or information occurs in the approved manner in relation to the requirements of the provision.
- (2) For the purposes of subsection (1), the approved manner in relation to the requirements of the provision –
 - (a) is the place and manner, specified in the notice; and
 - (b) must allow persons to view, at an electronic address, of a website, that is specified in the notice, the documents or information to which the requirements relate; and
 - (c) must, where the relevant legislative instrument allows persons to make submissions in relation to the documents

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or information, allow persons to make such submissions by electronic means or by document delivered to a place specified in the notice.

20. Proceedings of courts, Tribunals, &c., may be authorised to not be required to be held in public

- (1) The Attorney-General may, by notice, declare that, despite any provision of a relevant legislative instrument, any proceedings conducted, by a court, a Tribunal, or another entity, that is specified in the notice, may be held in the approved manner in relation to such proceedings.
- (2) For the purposes of subsection (1), the approved manner specified in a notice in relation to proceedings by a court, Tribunal or entity means the manner determined from time to time by –
 - (a) if the court is a court of petty sessions or the Magistrates Court – the Chief Magistrate; or
 - (b) if the court is a court other than a court of petty sessions or the Magistrates Court – the Chief Justice of the Supreme Court; or
 - (c) in the case of a Tribunal – the President, Chair, or other head, of the Tribunal; or
 - (d) in the case of an entity – the entity or a person nominated by the entity.

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- (3) The Attorney-General may only issue a notice under subsection (1) in relation to a court, Tribunal or entity if –
- (a) where the notice relates to a court of petty sessions or the Magistrates Court – the Chief Magistrate has requested the Attorney-General to issue under subsection (1) a notice in relation to the court, or the Magistrates Court, respectively; or
 - (b) where the notice relates to a court other than a court of petty sessions or the Magistrates Court – the Chief Justice of the Supreme Court has requested the Attorney-General to issue under subsection (1) a notice in relation to the court; or
 - (c) in the case of a Tribunal – the President, Chair, or other head, of the Tribunal has requested the Attorney-General to issue under subsection (1) a notice in relation to the Tribunal; or
 - (d) in the case of an entity – the entity, or a person nominated by the entity, has requested the Attorney-General to issue under subsection (1) a notice in relation to the entity.

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Part 4 – Reduction of Public Physical Contact

21. Alteration of certain restrictions to shop trading hours

- (1) The Minister may, by notice, declare that, despite section 5 of the *Shop Trading Hours Act 1984*, that section does not apply, in relation to a day specified in the notice, to any shop, to any shop specified in the notice, or to a class of shops specified in the notice.
- (2) If there is any inconsistency between the effect of a notice issued under subsection (1) and a provision, or condition or restriction, of any permit issued in accordance with the *Land Use Planning and Approvals Act 1993*, the provision, or condition or restriction, of the permit does not have effect to the extent of the inconsistency.

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Part 5 – Financial Hardship Provisions

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PART 5 – FINANCIAL HARDSHIP PROVISIONS

22. Provisions restricting rent increases or termination of commercial tenancies

(1) In this section –

emergency period has the same meaning as in the *Residential Tenancy Act 1997* as amended by this Act.

(2) The Minister may, by notice, declare that, despite any provision of a lease, a lease that is within a class of leases specified in the notice must not, within the emergency period, be terminated, and the rent payable under the lease may not be increased, in the circumstances set out in the notice.

(3) A termination of a lease, or an increase in rent in relation to a lease, to which a notice under subsection (2) applies is void and of no effect if it is contravention of the notice.

23. Waiver or refund of certain fees, &c.

(1) The Treasurer may, by notice, declare that, despite a provision of a relevant legislative instrument, a rate, fee, tax, impost, charge or other amount payable under the provision –

(a) is not payable by each member of a class specified in the notice; or

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- (b) is not payable, by each member of a class specified in the notice, in the circumstances specified in the notice; or
 - (c) is not payable, by each member of a class specified in the notice, until a date specified in the notice; or
 - (d) may, at the discretion of the Secretary of the Department that is responsible for the relevant legislative instrument, be waived, in relation to each member of a class specified in the notice, by the Secretary of that Department.
- (2) The Treasurer may, by notice, direct that –
- (a) the method, or a component of a calculation, that is used to calculate the amount of a rate, fee, tax, impost, charge, or other amount, payable under a provision of a relevant legislative instrument; or
 - (b) the rate, or a component of a rate, used to determine the amount of a fee, tax, impost, charge, or other amount, payable under a relevant legislative instrument; or
 - (c) the amount of a fixed fee, or of a fixed charge, payable under a provision of a relevant legislative instrument or of a contract entered into under such a provision –

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may not be altered otherwise than with the approval of the Treasurer.

24. Alteration of decision in relation to when fees payable in relation to taxis, &c.

- (1) The Commission, within the meaning of the *Taxi and Hire Vehicle Industries Act 2008*, may determine a later date, for the purposes of section 13, 29, 47 or 75 of that Act, than the date specified by the Commission that, but for this section, would apply in relation to that section for the year 2020.
- (2) If the Commission determines a later date under subsection (1) in relation to a section of the *Taxi and Hire Vehicle Industries Act 2008* –
 - (a) he or she may, in his or her discretion, refund to a person any amount paid under that section before the date determined under subsection (1); and
 - (b) the specification of the date under the provision of the *Taxi and Hire Vehicle Industries Act 2008* before this section commenced is to be taken to never have occurred; and
 - (c) a person is not liable to any sanction under that Act by reason of having failed to pay the fee before the date by which, but for the determination, the amount would have been required to be paid.

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Part 6 – Continuance of Certain Legislative Instruments

**PART 6 – CONTINUANCE OF CERTAIN
LEGISLATIVE INSTRUMENTS**

25. Postponement of repeal of certain regulations and rules

- (1) In this section, a reference to a relevant instrument is a reference to any of the regulations or rules that are specified in Schedule 1.
- (2) The repeal of a relevant instrument that, but for this section, would have been effected under section 11 of the *Subordinate Legislation Act 1992* is postponed until the first anniversary of the day on which, but for this section, the relevant instrument would have been repealed under section 11 of the *Subordinate Legislation Act 1992*.
- (3) Subsection (2) does not prevent a relevant instrument being rescinded before the date on which, by virtue of that subsection, the relevant instrument is to be repealed.

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Part 7 – Miscellaneous

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PART 7 – MISCELLANEOUS

26. Section 18 of *Public Health Act 1997* not to apply

Section 18 of the *Public Health Act 1997* does not apply in relation to any loss or damage suffered as a result of anything done under Division 2 of Part 2 of that Act in relation to the disease.

27. Emergency cessation day

- (1) The Director of Public Health must notify the Minister as soon as reasonably practicable after he or she is of the opinion that the relevant emergency circumstances referred to in section 5(2) no longer exist to such an extent that a notice under Part 4 (other than a notice amending or revoking such a notice) may be required to be issued under this Act so as to assist in the reduction of the risk of infection by the disease.
- (2) The Minister, by notice, within 90 days after a notice is issued to the Minister under subsection (1), must declare a day specified in the notice to be the emergency cessation day.

28. Delegation

The Minister, Attorney-General or Treasurer may delegate any of that Minister's powers under this Act to another Minister.

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Part 7 – Miscellaneous

29. Regulations

The Governor may make regulations for the purposes of this Act.

30. Consequential Amendments

The legislation specified in Schedule 2 is amended as specified in that Schedule.

31. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Premier; and
- (b) the department responsible to the Premier in relation to the administration of this Act is the Department of Premier and Cabinet.

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SCHEDULE 1 – RELEVANT INSTRUMENTS

Section 25

1. *The Dangerous Goods (Road and Rail Transport) Regulations 2010.*
2. *The Dog Control Regulations 2010.*
3. *The Economic Regulator Regulations 2010.*
4. *The Fair Trading (Code of Practice for Retail Tenancies) Regulations 2010.*
5. *The First Home Owner Grant Regulations 2010.*
6. *The Fisheries (Processing and Handling) Rules 2010.*
7. *The Forensic Procedures Regulations 2010.*
8. *The General Fire Regulations 2010.*
9. *The Health Practitioners Tribunal (Fees) Regulations 2010.*
10. *The Land Tax Regulations 2010.*

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11. *The Legal Profession (Board of Legal Education) Rules 2010.*
12. *The Legal Profession (Disciplinary Tribunal) Rules 2010.*
13. *The Occupational Licensing (Gas-fitting Work) Regulations 2010.*
14. *The Occupational Licensing (Plumbing Work) Regulations 2010.*
15. *The Pharmacy Control (Fees) Regulations 2010.*
16. *The Police Powers (Assumed Identities) (Corresponding Laws) Regulations 2010.*
17. *The Police Powers (Controlled Operations) (Corresponding Laws) Regulations 2010.*
18. *The Police Powers (Surveillance Devices) (Corresponding Laws) Regulations 2010.*
19. *The Right to Information Regulations 2010.*
20. *The Seeds Regulations 2010.*
21. *The Taxation Administration Regulations 2010.*

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- 22.** *The Vehicle and Traffic (Driver Licensing and Vehicle Registration) Regulations 2010.*
- 23.** *The Vehicle and Traffic (Review of Decisions) Regulations 2010.*
- 24.** *The Victims of Crime Assistance Regulations 2010.*
- 25.** *The Wildlife (Deer Farming) Regulations 2010.*
- 26.** *The Wildlife (Exhibited Animals) Regulations 2010.*
- 27.** *The Wildlife (General) Regulations 2010.*
- 28.** *The Witness (Identity Protection) (Corresponding Laws) Regulations 2010.*

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SCHEDULE 2 – CONSEQUENTIAL AMENDMENTS

Section 30

Emergency Management Act 2006

1. Section 3 is amended by inserting after the definition of *community risk* the following definition:

COVID-19 state of emergency means the state of emergency in relation to the disease known as coronavirus disease 2019 (COVID-19);

2. Section 40 is amended as follows:

- (a) by inserting the following subsections after subsection (4):

(4A) Subsection (4) does not apply in relation to an authorisation in relation to the COVID-19 state of emergency.

(4B) An authorisation may not be made, in relation to the COVID-19 state of emergency, so as to have effect for a period exceeding 12 weeks.

(4C) An authorisation, in relation to the COVID-19 state of emergency, that was in effect immediately before the commencement of the *COVID-19*

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specified to apply for a period of
12 weeks, but the period may be
extended under this Act.

- (b) by omitting from subsection (6) “7 days”
and substituting “12 weeks”.
3. The penalty under section 60 is amended by
omitting “3 months” and substituting “6
months”.
4. After section 60, the following sections are
inserted in Part 4:
- 60A. *Personal Information Protection Act 2004 not
to apply in certain circumstances***
- (1) In this section –
- personal information* has the same
meaning as in the *Personal
Information Protection Act 2004*;
- relevant Act* means –
- (a) this Act; or
- (b) the *Public Health Act
1997*; or
- (c) any other Act of the State,
the Commonwealth,

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another State, or a Territory, that relates to management of an emergency or public health;

relevant body or person means a body of persons, whether or not incorporated, or a person, performing or exercising a function or power under a relevant Act;

relevant information means personal information that is, for the purposes of a relevant Act, requested, required, obtained, disclosed, or used, during a state of emergency, by a person under a relevant Act;

relevant purposes means –

- (a) for the purposes of a relevant Act; or
 - (b) for the purposes of the performance or exercise of the functions or powers, of a relevant body or person, conferred by a relevant Act.
- (2) The *Personal Information Protection Act 2004* does not apply, in relation to the disclosure, collection, exchange or use of

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relevant information, for the relevant purposes, by a relevant body or person.

60B. Powers of arrest under this Act and *Public Health Act 1997*

A police officer who believes on reasonable grounds that a person is committing, has committed or is about to commit an offence against –

- (a) section 60; or
- (b) a provision in Division 2 of Part 2, or in Part 1 of Part 3, of the *Public Health Act 1997* –

may, using such reasonable force as may be necessary, arrest the person.

5. Clause 1(3) of Schedule 1 is amended by inserting “other than the power under paragraph (1)(m) in relation to the disease known as coronavirus 2019 (COVID-19),” after “premises,”.

Residential Tenancy Act 1997

1. Section 3(1) is amended as follows:
- (a) by inserting the following definitions after the definition of *Court*:

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COVID-19 Emergency Act means the
*COVID-19 Disease (Emergency
Provisions) Act 2020*;

COVID-19 emergency day means the
day on which the Covid-19
Emergency Act commences;

- (b) by inserting the following definition after
the definition of *eligible person*:

emergency period means the period –

- (a) beginning on the COVID-19 emergency day; and
- (b) ending on whichever is the last occurring of the following:
 - (i) the day 120 days after the COVID-19 emergency day;
 - (ii) a day to which the emergency period is extended by one or more orders under section 3A(1);
 - (iii) the day on which an order is made under section 3A(4)

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declaring that the
emergency period
has ended;

- (c) by inserting the following definition after the definition of *security deposit*:

socially-dislocating disease means the
disease, known as coronavirus
disease 2019 (COVID-19);

2. After section 3, the following section is inserted in Part 1:

3A. Extension of emergency period for COVID-19 emergency

- (1) The Minister may, by order, extend the emergency period to a day specified in the order.
- (2) The Minister may, in an order under subsection (1), only extend the emergency period for a period of 90 days.
- (3) The Minister may make as many orders under subsection (1) as the Minister thinks are necessary to reasonably mitigate any significant, widespread, hardship caused, or likely to be caused, to a significant number of tenants by the effect of the presence in the State of the socially-dislocating disease and the risk

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of its spread amongst persons in the State.

- (4) The Minister must, by order, declare that the emergency period has ended, if the Minister is satisfied that the amendments to the operation of this Act made by the Covid-19 Emergency Act are no longer required to reasonably mitigate any significant, widespread, hardship caused, or likely to be caused, to a significant number of tenants by the effect of the presence in the State of the socially-dislocating disease and the risk of its spread in the State.

3. After section 12, the following section is inserted in Division 1:

12A. Variation

A residential tenancy agreement may be varied by agreement of the owner and each tenant.

4. Section 32 is amended by inserting after subsection (3) the following subsection:
 - (4) This section does not apply during the emergency period.
5. Section 37(1)(d) is amended by inserting “, or order of the Commissioner under section 38A,” after “Court”.

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6. After section 38, the following sections are inserted in Division 1:

38A. Order allowing for termination in case of severe COVID-19 related hardship

- (1) An owner or tenant of residential premises to which a fixed term lease applies may apply to the Commissioner for an order declaring that the lease is terminated.
- (2) An owner or tenant of residential premises to which a fixed term lease applies may only apply under subsection (1) for an order on the grounds that the continuation of the lease would result in severe hardship to the owner, or tenant, respectively, related to the effect of the presence in the State of the socially-dislocating disease and the risk of its spread amongst persons in the State.
- (3) If the Commissioner is satisfied that the continuation of a fixed term lease to which an application under subsection (1) relates would result in severe hardship to the owner, or tenant, respectively, related to the effect of the presence in the State of the socially-dislocating disease and the risk of its spread amongst persons in the State, the Commissioner may make an order

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declaring that the lease is terminated from a date specified in the order.

- (4) An order under subsection (3) may specify that compensation is payable by the owner or tenant in relation to the termination of the lease.
- (5) The Commissioner, within 3 days of making an order under subsection (3) in relation to residential premises, is to notify the owner and the tenant of the residential premises of the making of the order.
- (6) An order made under subsection (3) in relation to residential premises is to specify that, unless an appeal is made under this section, the order takes effect on the day after the end of the 7-day period after the day on which notice of the order was given under subsection (5).

38B. Appeal against order under section 38A

- (1) An owner or tenant in relation to residential premises who is aggrieved by an order made by the Commissioner under section 38A(3) may appeal to the Court within the 7-day period after the day on which notice of the order was given under section 38A(5).
- (2) An order made under section 38A(3) in relation to residential premises may be enforced in the same manner as an order

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made by a magistrate under the *Magistrates Court (Civil Division) Act 1992*, if –

- (a) no appeal has been made under subsection (1) by a tenant in relation to the residential premises within the 7-day period after the day on which notice of the order was given under section 38A(5); or
 - (b) where an appeal has been made under by a tenant in relation to the residential premises – the order has been confirmed by the Court under subsection (5)(a).
- (3) An appeal is to be heard as a minor civil claim under the *Magistrates Court (Civil Division) Act 1992* and, subject to this section, is to be instituted, heard and determined as prescribed.
- (4) An appeal is to be by way of rehearing.
- (5) On the hearing of an appeal the Court may –
- (a) confirm the order of the Commissioner under section 38A(3) and direct that the order of the Commissioner is to take effect from a specified date; or

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- (b) set aside the order of the Commissioner.
- (6) If –
 - (a) an order is made under section 38A(3) in relation to residential premises; and
 - (b) an appeal has not been made under subsection (1) by an owner or tenant in relation to the residential premises within the 7-day period after the day on which notice of the order is given under section 38A(5) –

the lease to which the order relates is terminated on the date specified in the order of the Court.

7. Section 42 is amended as follows:

- (a) by inserting in subsection (1)(a) “, except if subsection (4A) applies in relation to the notice in respect of the premises” after “agreement”;
- (b) by inserting the following subsection after subsection (4):
 - (4A) Subsection (1)(a) does not apply in relation to a notice in respect of premises if –

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- (a) the failure to comply with a provision of the agreement in relation to the premises consists of a failure by the tenant to pay rent; and
- (b) either –
 - (i) the notice to vacate in relation to the premises is given within the emergency period; or
 - (ii) the notice to vacate in relation to the premises was given before the COVID-19 emergency day and the tenant has not before that day delivered vacant possession of the premises.

8. Section 53 is amended as follows:

- (a) by renumbering the section as subsection (1);
- (b) by inserting the following subsection after subsection (1):

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(2) A tenant is not to be taken to have failed to comply with subsection (1) in relation to premises if –

(a) the failure ought reasonably to be taken to have occurred for reasons related to the socially-dislocating disease, including but not limited to the effect of any other provision of this Act included by the COVID-19 Emergency Act; or

(b) it is not reasonably practicable to comply with that subsection on grounds reasonably related to the presence of that disease in the State.

9. Section 56 is amended by inserting after subsection (5) the following subsections:

(6) Subsection (3) does not apply in relation to residential premises during the emergency period, or a shorter period determined under subsection (8), except if the entry is for the purposes referred to in subsection (3)(e) and the repairs are emergency repairs or urgent repairs.

(7) Subsections (2)(b),(4), (4A), (4B), (4C) and (5) do not apply during the

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emergency period or a shorter period determined under subsection (8).

- (8) The Commissioner, by notice in the *Gazette*, may determine a shorter period, specified in the notice. for the purposes of this section.