

I hereby certify that this PUBLIC BILL has finally passed the  
Legislative Assembly of Queensland.

Legislative Assembly Chamber,  
Brisbane,

The Clerk of the Parliament.

4th December 20 20

In the name and on behalf of the Queen, I assent to this Bill.

*Paul de Jersey*

Government House,

Brisbane,

4th December 20 20



Queensland

No. 38 of 2020

**A BILL for**

**An Act to amend the Acts Interpretation Act 1954, the COVID-19 Emergency Response Act 2020, the Domestic and Family Violence Protection (COVID-19 Emergency Response) Regulation 2020, the Explosives Legislation (COVID-19 Emergency Response) Regulation 2020, the Electoral Act 1992, the Gaming Machine Act 1991, the Liquor Act 1992, the Local Government Act 2009, the Local Government Electoral Act 2011, the Retail Shop Leases and Other Commercial Leases (COVID-19 Emergency Response) Regulation 2020, the Youth Justice Act 1992 and the other legislation mentioned in sections 37 and 38 and schedule 1 for particular purposes**



Queensland

# COVID-19 Emergency Response and Other Legislation Amendment Bill 2020

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# 2020

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## A Bill

for

**An Act to amend the *Acts Interpretation Act 1954*, the *COVID-19 Emergency Response Act 2020*, the *Domestic and Family Violence Protection (COVID-19 Emergency Response) Regulation 2020*, the *Explosives Legislation (COVID-19 Emergency Response) Regulation 2020*, the *Electoral Act 1992*, the *Gaming Machine Act 1991*, the *Liquor Act 1992*, the *Local Government Act 2009*, the *Local Government Electoral Act 2011*, the *Retail Shop Leases and Other Commercial Leases (COVID-19 Emergency Response) Regulation 2020*, the *Youth Justice Act 1992* and the other legislation mentioned in sections 37 and 38 and schedule 1 for particular purposes**

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[s 1]

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## **The Parliament of Queensland enacts—**

# **Part 1 Preliminary**

## **1 Short title**

This Act may be cited as the *COVID-19 Emergency Response and Other Legislation Amendment Act 2020*.

## **2 Commencement**

- (1) Part 2, division 3 is taken to have commenced on 2 December 2020.
- (2) Section 4(2) commences on the day after the COVID-19 legislation expiry day.
- (3) Section 39 and schedule 1 commence on 1 March 2021.
- (4) Section 45(2) commences on a day to be fixed by proclamation.

# **Part 2 Amendments related to extending the expiry of COVID-19 emergency response legislation**

## **Division 1 Amendment of Acts Interpretation Act 1954**

### **3 Act amended**

This division amends the *Acts Interpretation Act 1954*.

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**4 Amendment of sch 1 (Meaning of commonly used words and expressions)**

(1) Schedule 1—

*insert—*

*COVID-19 legislation expiry day* see the *COVID-19 Emergency Response Act 2020*, section 4A.

(2) Schedule 1, definition *COVID-19 legislation expiry day*—

*omit.*

**Division 2 Amendment of COVID-19  
Emergency Response Act 2020**

**5 Act amended**

This division amends the *COVID-19 Emergency Response Act 2020*.

**6 Amendment of s 4 (Application of Act)**

Section 4(2), ‘or 6(3)’—

*omit, insert—*

, 6(3) or 25(3)

**7 Insertion of new s 4A**

After section 4—

*insert—*

**4A Meaning of *COVID-19 legislation expiry day***

In an Act or statutory instrument, *COVID-19 legislation expiry day* means the earlier of—

(a) 30 April 2021; or

- (b) another day prescribed by regulation as the COVID-19 legislation expiry day.

**8 Amendment of s 5 (Extraordinary regulations)**

Section 5—

*insert—*

- (7A) An extraordinary regulation must be made before, and expires on, the COVID-19 legislation expiry day.

**9 Amendment of s 12 (Power of entity to modify statutory time limit)**

Section 12(7), ‘31 December 2020’—

*omit, insert—*

the COVID-19 legislation expiry day

**10 Amendment of s 13 (Regulation-making power to modify statutory time limit)**

Section 13(4), ‘31 December 2020’—

*omit, insert—*

the COVID-19 legislation expiry day

**11 Amendment of s 15 (Regulation-making power, and power of court, to modify statutory time limit relating to proceeding)**

Section 15(4), ‘31 December 2020’—

*omit, insert—*

the COVID-19 legislation expiry day

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**12 Amendment of s 19 (Appointment of commissioner)**

Section 19(7)—

*omit.*

**13 Amendment of s 23 (Regulation-making power for retail leases and other prescribed leases)**

Section 23(6)—

*omit, insert—*

- (6) A regulation under this section must be made before, and expires on, the COVID-19 legislation expiry day.

**14 Amendment of s 24 (Regulation-making power for residential tenancies and rooming accommodation etc.)**

Section 24(8)—

*omit, insert—*

- (8) A regulation under this section must be made before, and expires on, the COVID-19 legislation expiry day.

**15 Replacement of pt 9 (Expiry of Act)**

Part 9—

*omit, insert—*

**Part 9 Transitional provisions**

**Division 1 Transitional regulation-making power**

**25 Transitional regulation-making power**

- (1) A regulation (the *transitional regulation*) may

make provision about a matter for which—

- (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of an affected law, as modified by a COVID-19 law, to the operation of the affected law after the expiry of the COVID-19 law; and
  - (b) this Act or the affected law does not make provision or sufficient provision.
- (2) The transitional regulation may have retrospective operation to a day not earlier than the day the COVID-19 law expires.
  - (3) The transitional regulation may be inconsistent with the affected law, and any other Act, to the extent necessary to achieve the transition mentioned in subsection (1).
  - (4) The transitional regulation must declare it—
    - (a) is a transitional regulation; and
    - (b) is made under this section.
  - (5) The transitional regulation for a COVID-19 law expires 2 years after the day the COVID-19 law expires.
  - (6) In this section—

***affected law*** means—

    - (a) an Act under which an extraordinary regulation has been made; or
    - (b) the *Residential Tenancies and Rooming Accommodation Act 2008*; or
    - (c) the *Retail Shop Leases Act 1994*; or
    - (d) another Act of which a COVID-19 law is a provision or was a provision before it expired.

***COVID-19 law*** means—

- (a) an extraordinary regulation, or a provision of an extraordinary regulation, even if the extraordinary regulation or provision expired before the commencement; or
- (b) a regulation made under section 23 or 24, or a provision of a regulation made under section 23 or 24, even if the regulation or provision expired before the commencement; or
- (c) a provision of an Act mentioned in schedule 1AA, even if the provision expired before the commencement.

*expiry* includes repeal.

## **Division 2            Transitional provision for COVID-19 Emergency Response and Other Legislation Amendment Act 2020**

### **26 Appointment of small business commissioner**

- (1) This section applies in relation to a person who, immediately before commencement, held office as the commissioner.
- (2) The person's appointment has effect despite the term of appointment stated in the person's instrument of appointment.

### **16 Insertion of new sch 1AA**

Before schedule 1—

*insert—*

## **Schedule 1AA COVID-19 laws**

section 25(6) definition *COVID-19 law*, paragraph (c)

the *Acts Interpretation Act 1954*, sections 15DB and 15DC

the *Body Corporate and Community Management Act 1997*, chapter 7,  
part 3

the *Building and Construction Industry (Portable Long Service Leave) Act  
1991*, part 7A

the *Building Units and Group Titles Act 1980*, part 6A

the *Contract Cleaning Industry (Portable Long Service Leave) Act 2005*,  
part 6A

the *Corrective Services Act 2006*, chapter 6, part 15A

the *Disability Services Act 2006*, part 8, division 2A

the *Disaster Management Act 2003*, part 12A

the *Environmental Protection Act 1994*, chapter 11A

the *Forensic Disability Act 2011*, chapter 12, part 2A

the *Gaming Machine Act 1991*, part 11A

the *Liquor Act 1992*, part 10A

the *Manufactured Homes (Residential Parks) Act 2003*, section 146A

the *Mental Health Act 2016*, chapter 18B

the *Police Powers and Responsibilities Act 2000*, chapter 18B

the *Private Health Facilities Act 1999*, part 11A

the *Public Health Act 2005*, chapter 8, to the extent that chapter relates to  
the COVID-19 emergency

the *Statutory Instruments Act 1992*, section 56B

the *Youth Justice Act 1992*, section 264A

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**Division 3**                      **Amendment of Domestic and Family  
Violence Protection (COVID-19  
Emergency Response) Regulation  
2020**

**17**      **Regulation amended**

This division amends the *Domestic and Family Violence Protection (COVID-19 Emergency Response) Regulation 2020*.

**18**      **Replacement of ss 11–13**

Sections 11 to 13—

*omit, insert—*

**11**      **Transitional provision for COVID-19  
Emergency Response and Other Legislation  
Amendment Act 2020**

- (1) This section applies in relation to an application made under section 32 or 86 of the Act during the period—
  - (a) starting on 4 December 2020; and
  - (b) ending immediately before the enactment of the *COVID-19 Emergency Response and Other Legislation Amendment Act 2020*.
- (2) To remove any doubt, it is declared that sections 7 and 8 apply, and are taken always to have applied, in relation to the requirement under section 32 or 86 of the Act for the applicant to verify the application.

**12**      **Expiry**

This regulation expires on the COVID-19 legislation expiry day.



## **Division 4                      Amendment of Explosives Legislation (COVID-19 Emergency Response) Regulation 2020**

### **19            Regulation amended**

This division amends the *Explosives Legislation (COVID-19 Emergency Response) Regulation 2020*.

### **20            Insertion of new s 2A**

After section 2—

*insert—*

#### **2A    Definition**

In this regulation—

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

- (a) starting on the day this regulation commenced; and
- (b) ending on the COVID-19 legislation expiry day.

### **21            Amendment of s 3 (Modification of the Explosives Act 1999, s 19 (Term of authority))**

- (1) Section 3(2), ‘31 December 2020’—

*omit, insert—*

the COVID-19 legislation expiry day

- (2) Section 3(3)—

*omit.*

### **22            Amendment of s 4 (Modification of the Explosives Regulation 2017, s 33 (Shotfirer licence))**

Section 4, ‘emergency period’—

*omit, insert—*

response period

**23 Amendment of s 5 (Modification of the Explosives Regulation 2017, s 37 (Shotfirer licence))**

Section 5, ‘emergency period’—

*omit, insert—*

response period

**24 Amendment of s 12 (Expiry)**

Section 12, ‘31 December 2020’—

*omit, insert—*

the COVID-19 legislation expiry day

**Division 5 Amendment of Gaming Machine Act 1991**

**25 Act amended**

This division amends the *Gaming Machine Act 1991*.

**26 Amendment of s 367E (Gaming tax notices)**

Section 367E(3), ‘31 December 2020’—

*omit, insert—*

the COVID-19 legislation expiry day

**27 Amendment of s 367F (Expiry of part)**

Section 367F, ‘31 December 2020’—

*omit, insert—*

the COVID-19 legislation expiry day

**28 Amendment of s 491 (Application of Acts Interpretation Act 1954, s 20A)**

Section 491(1), note, ‘31 December 2020’—

*omit, insert—*

the COVID-19 legislation expiry day

**29 Insertion of new pt 12, div 23**

Part 12—

*insert—*

<b>Division 23</b>	<b>Transitional provision for COVID-19 Emergency Response and Other Legislation Amendment Act 2020</b>
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**493 Expiry of gaming tax notices**

Section 367E, as in force from the commencement, applies to a gaming tax notice whether the notice was made before or after the commencement.

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**Division 6**                      **Amendment of Retail Shop Leases  
and Other Commercial Leases  
(COVID-19 Emergency Response)  
Regulation 2020**

**30**            **Regulation amended**

This division amends the *Retail Shop Leases and Other Commercial Leases (COVID-19 Emergency Response) Regulation 2020*.

**31**            **Amendment of s 2 (Declaration)**

Section 2, note, ‘31 December 2020’—

*omit, insert—*

the COVID-19 legislation expiry day

**32**            **Amendment of s 12 (Lessor under affected lease must  
not take prescribed action on particular grounds)**

Section 12(1), after ‘must not’—

*insert—*

, during or after the response period or extension period,

**33**            **Amendment of s 14 (Parties must renegotiate rent  
payable and other conditions)**

Section 14(1), ‘the rent payable’—

*omit, insert—*

any or all of the rent payable during the response period or extension period

**34 Amendment of s 16 (Further rent negotiations)**

Section 16(2), after ‘reduction in rent’—

*insert—*

payable

**Division 7 Amendment of Youth Justice Act  
1992**

**35 Act amended**

This division amends the *Youth Justice Act 1992*.

**36 Amendment of s 264A (Appointment of temporary  
detention centre employees—COVID-19 emergency)**

(1) Section 264A(5) and (8), ‘31 December 2020’—

*omit, insert—*

the COVID-19 legislation expiry day

(2) Section 264A—

*insert—*

(7A) The chief executive may delegate the chief executive’s powers under this Act to an appropriately qualified temporary detention centre employee.

(3) Section 264A(9)—

*insert—*

*appropriately qualified* see section 312(2).

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## Division 8                      Amendment of other legislation

### 37            Amendment of various Acts

- (1) Each of the following Acts is amended by, in the provision of the Act mentioned, omitting ‘31 December 2020’ and inserting ‘the COVID-19 legislation expiry day’—
- the following provisions of the *Body Corporate and Community Management Act 1997*—
    - section 323C, definition *relevant period*, paragraph (b)
    - section 323I
    - section 445(1), note
    - section 446(3), definition *expiry day*
  - the *Building Units and Group Titles Act 1980*, sections 134E and 142(1), note
  - the *Casino Control Act 1982*, section 57A(2)
  - the *Corrective Services Act 2006*, section 351E
  - the *Disaster Management Act 2003*, section 138B
  - the *Environmental Protection Act 1994*, section 547L
  - the *Keno Act 1996*, section 116A(2)
  - the *Liquor Act 1992*, sections 235D(5) and 235J
  - the *Lotteries Act 1997*, section 99A(2)
  - the *Manufactured Homes (Residential Parks) Act 2003*, section 146A(8)
  - the *Mental Health Act 2016*, sections 800I(3)(b) and 800P
  - the *Public Health Act 2005*, section 362Q.
- (2) The *Body Corporate and Community Management Act 1997*, section 323F(1)(b), example is amended by omitting ‘1 February 2021’ and inserting ‘1 June 2021’.

- (3) The *Justice and Other Legislation (COVID-19 Emergency Response) Amendment Act 2020*, section 2(1) is amended by omitting ‘1 January 2021’ and inserting ‘the day after the COVID-19 legislation expiry day’.

### **38 Amendment of various statutory instruments**

- (1) Each of the following statutory instruments is amended by, in the provision of the instrument mentioned, omitting ‘31 December 2020’ and inserting ‘the COVID-19 legislation expiry day’—
- the *Body Corporate and Community Management (Accommodation Module) Regulation 2008*, section 43A
  - the *Body Corporate and Community Management (Commercial Module) Regulation 2008*, section 18A
  - the *Body Corporate and Community Management Regulation 2008*, section 3A(4)
  - the *Body Corporate and Community Management (Small Schemes Module) Regulation 2008*, section 18A
  - the *Body Corporate and Community Management (Standard Module) Regulation 2008*, section 43A
  - the *Building Units and Group Titles Regulation 2008*, section 16A
  - the *Corrective Services (COVID-19 Emergency Response) Regulation 2020*, section 8
  - the *Economic Development (COVID-19 Emergency Response) Regulation 2020*, sections 3, definition *response period*, paragraph (b) and 8
  - the *Education Legislation (COVID-19 Emergency Response) Regulation 2020*, sections 8(2), 11(2), 12(1) and 14
  - the *Family Responsibilities Commission (COVID-19 Emergency Response) Regulation 2020*, sections 3, definition *response period*, paragraph (b) and 15

- 
- the *Gaming Tax Notice 2020*, section 2, note
  - the *Gaming Tax Notice (No. 2) 2020*, section 2, note
  - the *Health Legislation (COVID-19 Emergency Response) Regulation 2020*, sections 4 and 15
  - the *Justice Legislation (COVID-19 Emergency Response—Community Titles Schemes and Other Matters) Regulation 2020*, sections 14(1) and (3) and 15
  - the *Justice Legislation (COVID-19 Emergency Response—Documents and Oaths) Regulation 2020*, section 27
  - the *Justice Legislation (COVID-19 Emergency Response—Proceedings and Other Matters) Regulation 2020*, sections 4, definition *relevant period*, paragraph (b) and 22
  - the *Local Government (COVID-19 Emergency Response) Regulation 2020*, section 4
  - the *Planning (COVID-19 Emergency Response) Regulation 2020*, sections 7(4), definition *response period*, paragraph (b) and 8
  - the *Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Regulation 2020*, section 3, note
  - the *Youth Justice (COVID-19 Emergency Response) Regulation 2020*, sections 4(4), definition *response period*, paragraph (b) and 5.
- (2) The *Economic Development (COVID-19 Emergency Response) Regulation 2020*, section 6(2)(b)(ii) is amended by omitting ‘18 December 2020’ and inserting ‘30 April 2021’.
- (3) The *Family Responsibilities Commission (COVID-19 Emergency Response) Regulation 2020*, section 13 is amended by omitting ‘2020 if the members hold a board meeting in 2020’ and inserting ‘a year if the members hold a board meeting in that year’.



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- (4) The *Justice Legislation (COVID-19 Emergency Response—Community Titles Schemes and Other Matters) Regulation 2020*, section 5(1)(b) is amended by omitting ‘when the COVID-19 emergency period ends’ and inserting ‘on the COVID-19 legislation expiry day’.
- (5) The *Justice Legislation (COVID-19 Emergency Response—Community Titles Schemes and Other Matters) Regulation 2020*, sections 12(1) and 13(1) are amended by omitting ‘during the COVID-19 emergency period’ and inserting ‘on or before the COVID-19 legislation expiry day’.

**39 Amendments to body corporate and community management regulation modules commencing on 1 March 2021**

Schedule 1 amends the regulation modules under the *Body Corporate and Community Management Act 1997* it mentions.

**Part 3 Amendment of Electoral Act 1992**

**40 Act amended**

This part amends the *Electoral Act 1992*.

**41 Amendment of s 197 (Definitions)**

Section 197, definition *by-election*—  
*omit.*

**42 Insertion of new pt 12C**

After part 12B—  
*insert—*

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## Part 12C      **By-elections held during COVID-19 emergency period**

### **392ZB Purpose of part**

- (1) The purpose of this part is to facilitate the holding of a by-election to which this part applies in a way that helps minimise serious risks to the health and safety of persons caused by the COVID-19 emergency.
- (2) In this section—

***COVID-19 emergency*** means—

- (a) the declared public health emergency under the *Public Health Act 2005*, section 319(2) for COVID-19 declared on 29 January 2020 as extended and further extended under that Act; or
- (b) another declared public health emergency under the *Public Health Act 2005*, section 319(2) for COVID-19.

### **392ZC Application of part**

This part applies—

- (a) in relation to each by-election for which the writ is issued on or before the COVID-19 legislation expiry day; and
- (b) despite any other provision of this Act about the holding of a by-election.

### **392ZD Definitions for part**

- (1) In this part—

***postal vote*** means a declaration vote made by an

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elector, using a ballot paper and declaration envelope sent to the elector, and posted or sent to the commission or the returning officer.

- (2) In this part, a reference to the returning officer in relation to a by-election is a reference to the returning officer for the electoral district for which the by-election is being held.

### **392ZE Time limits in writ**

- (1) This section applies in relation to the writ issued for a by-election.
- (2) The cut-off day for electoral rolls stated in the writ may be a day earlier than the day provided for under section 84(1)(b).
- (3) The cut-off day for the nomination of candidates stated in the writ may be a day earlier than the day provided for under section 84(1)(c).
- (4) Despite anything in this Act, the Governor or Speaker, whoever issued the writ, may by gazette notice—
  - (a) postpone the polling day stated in the writ to—
    - (i) a later day stated in the notice; or
    - (ii) another day to be fixed by a further gazette notice under this paragraph; or
  - (b) substitute a later day stated in the notice for a day stated in the writ under section 84(1)(b), (c), (d) or (e).
- (5) A gazette notice under subsection (4) may be made before, on or after the day stated in the writ.

### **392ZF Adjournment of poll**

- (1) This section applies if the poll for a by-election is

adjourned under section 99B(3) or 100(1).

- (2) Section 100 applies in relation to the poll as if the reference in section 100(3) to a day not later than 34 days after the polling day were a reference to the earliest Saturday on which the commission is satisfied the poll may practicably and safely be taken or resumed.
- (3) To remove any doubt, it is declared that the commission may act under section 100, as applied under this section, as occasion requires.

### **392ZG Procedure for voting**

- (1) A regulation may declare for a by-election that, despite section 107, the electors in the by-election, or of a stated class, must vote in the by-election by postal vote.
- (2) The regulation may—
  - (a) provide for the commission to post, deliver or otherwise send a ballot paper and declaration envelope to each elector to whom the declaration applies; and
  - (b) permit electors to whom the declaration applies to vote in the by-election other than by postal vote, including, for example—
    - (i) by making an electronically assisted vote; or
    - (ii) voting in another stated way approved by the commission.
- (3) A regulation made under this section applies in relation to voting in a by-election despite any other provision of this part.

### **392ZH Pre-poll ordinary voting**

An elector may make a pre-poll ordinary vote for

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a by-election, by following the procedures set out in section 112, during the period—

- (a) beginning 12 days before the polling day for the by-election; and
- (b) ending at 6p.m. on the day before the polling day for the by-election.

### **392ZI Making a declaration vote using posted voting papers**

- (1) The commission may, for a by-election, by notice published on the commission's website, fix a time and day by which an elector may make a postal vote request under section 119 that is—
  - (a) earlier or later than the time and day mentioned in section 119(2)(b); but
  - (b) before the polling day for the by-election.
- (2) Section 119 applies for the by-election as if the reference in section 119(2)(b) to 7p.m. on the day that is 12 days before the polling day for the election were a reference to the time and day fixed under subsection (1).

### **392ZJ Electoral visitor voting**

- (1) This section applies if the commission is satisfied, for a by-election, that it would pose a risk to the health and safety of an issuing officer to visit, under section 120—
  - (a) a particular elector who has given a request to vote as an electoral visitor voter under section 120; or
  - (b) electors in the by-election; or
  - (c) electors in the by-election of a particular class.

- (2) The commission or the returning officer may direct issuing officers not to visit the elector or electors.
- (3) The commission or returning officer must, to the extent practicable, have an issuing officer make alternative arrangements to enable an elector affected by the direction to vote in the by-election.
- (4) Subject to the direction, section 120 applies to issuing officers giving effect to the arrangements.

### **392ZK Electronically assisted voting**

- (1) This section applies if the commission is satisfied that, having regard to the purpose of this part, it would be in the public interest to allow electors of a class not mentioned in section 121A to make an electronically assisted vote in a by-election.
- (2) The commission may, by notice published on the commission's website, declare that electors of the class may make an electronically assisted vote in the by-election.
- (3) An elector of a class declared under subsection (2) may make an electronically assisted vote in the by-election.
- (4) For the by-election, the commission's procedures under section 121B apply in relation to electors of a class declared under subsection (2).
- (5) The commission may make procedures about how electors may make electronically assisted votes in a by-election.
- (6) The procedures—
  - (a) must be published on the commission's website; and

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- (b) take effect when they are published on the commission's website or any later day stated in the procedures.
- (7) If the commission makes procedures under subsection (5)—
  - (a) the procedures apply in relation to electors who may make an electronically assisted vote for a by-election under section 121A or subsection (3); and
  - (b) if there is any inconsistency between the procedures under subsection (5) and the procedures under section 121B, the procedures under subsection (5) prevail to the extent of the inconsistency; and
  - (c) for a by-election, a reference in this Act or another document to procedures approved under section 121B(3) is taken to include a reference to the procedures in effect under subsection (6).

### **392ZL Distribution or display of how-to-vote cards or other election material**

- (1) This section applies if the commission is satisfied that, having regard to the purpose of this part, it would be in the public interest to regulate, limit or prohibit the distribution or display of how-to-vote cards or other election material at a polling booth for a by-election.
- (2) The commission may give a direction—
  - (a) about how, where or when how-to-vote cards may be distributed or displayed at a polling booth for the by-election; or
  - (b) prohibiting the distribution or display of how-to-vote cards or other election material at a polling booth for the by-election; or

- (c) prohibiting a person from canvassing for votes in or near polling booths; or
  - (d) permitting the display of political statements at a place mentioned in section 190(1).
- (3) The direction must be published on the commission's website.
- (4) A person must not contravene the direction, unless the person has a reasonable excuse.
- Maximum penalty—10 penalty units.
- (5) Section 190 does not apply in relation to the display of a political statement permitted under the direction.

### **392ZM Directions about candidates or scrutineers at particular places**

- (1) The commission may give a direction for a by-election—
- (a) regulating the number of scrutineers each candidate may have at a polling booth or another place where a scrutineer is entitled to be present under this Act; or
  - (b) prohibiting a candidate or scrutineer from being present at a polling booth or another place where the candidate or scrutineer would otherwise be entitled to be present under this Act.

*Example of another place—*

a place where votes for the by-election are to be counted

*Example of a direction that may be given under paragraph (b)—*

a direction prohibiting a scrutineer from accompanying an issuing officer under section 109

- (2) However, the commission may give a direction under subsection (1) only if the commission is



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satisfied that, having regard to the purpose of this part, it would be in the public interest to give the direction.

- (3) The direction must be published on the commission's website.
- (4) A person must not contravene the direction, unless the person has a reasonable excuse.  
Maximum penalty—20 penalty units.
- (5) The direction applies despite section 104 or any other provision of this Act that allows a candidate or scrutineer to be present at a polling booth or another place.
- (6) Section 189(d) does not apply to the extent a scrutineer is prevented from entering a polling place under the direction.

### **392ZN Direction about movement of candidates or scrutineers**

- (1) This section applies if the returning officer or a member of the commission's staff in charge of a polling booth is satisfied for a by-election that, having regard to the purpose of this part, it would be in the public interest to give a direction under this section.
- (2) The returning officer or member may give a direction to a candidate or scrutineer at a place (a *relevant place*) that is a polling booth or another place where the candidate or scrutineer is entitled to be present under this Act.
- (3) The direction may be about—
  - (a) the movement of the candidate or scrutineer at a relevant place; or
  - (b) an area in a relevant place in which the candidate or scrutineer may or may not be; or

- (c) the maximum number of scrutineers who may be in a particular area in a relevant place.
- (4) A candidate or scrutineer must comply with the direction, unless the candidate or scrutineer has a reasonable excuse.

Maximum penalty—20 penalty units.

- (5) A candidate or scrutineer does not commit an offence against subsection (4) unless the person giving the direction has warned the candidate or scrutineer that it is an offence not to comply with the direction unless the candidate or scrutineer has a reasonable excuse.

### **392ZO Counting of votes**

- (1) The returning officer may direct a member of the commission's staff to carry out the counting of votes for a by-election at a stated place.
- (2) Votes may be counted at the place stated in the direction, despite any procedures approved under section 130A or any other provision of this Act relating to the counting of votes at a polling booth or another place.
- (3) The returning officer may arrange for the counting of votes for a by-election to be filmed by a member of the commission's staff.

### **392ZP Restriction on directions**

- (1) This section applies in relation to a provision of this part authorising the commission, the returning officer or a member of the commission's staff to give a direction.
- (2) The commission, returning officer or member must not give a direction under the provision—

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- (a) of a kind prescribed by regulation under section 392ZQ as a kind of direction that may not be given under the provision; or
- (b) in circumstances prescribed by regulation under section 392ZQ as circumstances in which a direction may not be given under the provision.

### **392ZQ Regulation about by-election**

A regulation may make provision about a matter to facilitate the holding of a by-election in the way stated in section 392ZB, including, for example, by providing for any of the following—

- (a) a matter about voting in the by-election by postal vote other than as provided under section 392ZG, including—
  - (i) permitting electors of a class not mentioned in section 119(1) to make a postal vote; and
  - (ii) the availability and distribution of how-to-vote cards for electors making postal votes;
- (b) the commission, the returning officer or a member of the commission's staff who has a stated function in relation to the by-election to give a direction about any matter necessary to facilitate the holding of the by-election in the way stated in section 392ZB;
- (c) a matter about directions that may be given under a provision of this part or the regulation, including—
  - (i) a kind of direction that may not be given under the provision; and

- (ii) circumstances in which a direction may not be given under the provision;
- (d) the commission to make procedures for the application of a provision of this part or the regulation for the by-election.

### **392ZR Matters about regulation under this part**

- (1) This section applies in relation to a regulation made under this part.
- (2) The regulation may—
  - (a) create an offence and prescribe a maximum penalty of not more than 20 penalty units for the offence; and
  - (b) other than for creating an offence, have retrospective operation to a day not earlier than the commencement; and
  - (c) be inconsistent with this Act, including, for example, by modifying the application of part 7 in relation to a by-election, to the extent necessary to achieve the purpose of this part.
- (3) The Minister may recommend to the Governor in Council the making of a regulation under this part only if the Minister is satisfied the regulation is necessary to achieve the purpose of this part.
- (4) Also, the Minister must consult with the commission before recommending to the Governor in Council the making of a regulation under section 392ZG.
- (5) The regulation must declare that it is made under this part.

### **392ZS Expiry**

This part and any regulation made under this part

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expire on the later of the following—

- (a) the COVID-19 legislation expiry day;
- (b) 1 year after the name of the candidate elected in the last by-election to which this part applies is published in the gazette under section 132(2).

#### **43 Amendment of sch 1 (Dictionary)**

Schedule 1, definition *by-election*—  
*omit, insert—*

***by-election*** means an election of a member of the Legislative Assembly between general elections.

## **Part 4 Amendment of Liquor Act 1992**

#### **44 Act amended**

This part amends the *Liquor Act 1992*.

#### **45 Amendment of s 75 (Restriction on sale of liquor under producer/wholesaler licence)**

(1) Section 75—

*insert—*

- (4A) Also, this section does not apply to the holder of a producer/wholesaler licence who produces spirits on the licensed premises—
  - (a) if, in any financial year, the licensee produces more than 400 litres, but no more than 450,000 litres, of spirits on the licensed premises; and
  - (b) to the extent the licensee sells the spirits produced by the licensee.

- 
- (2) Section 75(4A)—  
*omit.*

## **Part 5                      Amendment of Local Government Act 2009**

### **46      Act amended**

This part amends the *Local Government Act 2009*.

### **47      Amendment of s 161 (What this division is about)**

Section 161(2)—

*omit, insert—*

- (2) The way in which a vacancy is to be filled depends on—
- (a) whether the vacancy is in the office of mayor or of another councillor; and
  - (b) whether the office becomes vacant during the beginning, middle or final part of the local government's term.

### **48      Insertion of new s 164**

After section 163—

*insert—*

#### **164 Filling vacancy in office of mayor**

A vacancy in the office of mayor must be filled by—

- (a) if the office becomes vacant during the beginning or middle of the local government's term—a by-election; or

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- (b) if the office becomes vacant during the final part of the local government's term—the local government appointing, by resolution, another councillor to the office.

**49 Replacement of s 166 (Filling vacancy in office of mayor or other councillor)**

Section 166—

*omit, insert—*

**166 Filling vacancy in office of another councillor**

- (1) A vacancy in the office of a councillor, other than the mayor, must be filled—
  - (a) if the office becomes vacant during the beginning of the local government's term—in the way decided by the local government under subsection (2); or
  - (b) if the office becomes vacant during the middle of the local government's term—by a by-election; or
  - (c) if the office becomes vacant during the final part of the local government's term—by following the procedure under section 166B.
- (2) For subsection (1)(a), the local government must decide, by resolution, whether the vacancy is to be filled—
  - (a) by a by-election; or
  - (b) by following the procedure under section 166A.

**50 Amendment of s 166A (Filling vacancies during beginning of local government's term)**

- (1) Section 166A, heading, 'vacancies'—

*omit, insert—*

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**particular vacancies arising**

- (2) Section 166A(1)—

*omit, insert—*

- (1) This section applies if, under section 166(1)(a), a local government is to fill the vacant office of a councillor (the *former councillor*) by following the procedure under this section.

- (3) Section 166A(9), definition *deadline*, paragraph (b), ‘day and time as extended’—

*omit, insert—*

the day and time as extended

- (4) Section 166A(9), definition *runner-up*, ‘a mayor or other councillor’—

*omit, insert—*

a councillor

- (5) Section 166A(9), definition *runner-up*, paragraph (a), ‘mayor or other’—

*omit.*

- (6) Section 166A(9), definition *runner-up*, paragraph (b), ‘or mayor’—

*omit, insert—*

(including as the mayor)

- (7) Section 166A(9), definition *vacancy notice*, paragraph (a), ‘former mayor or other’—

*omit.*

**51 Amendment of s 166B (Filling vacancies during final part of local government’s term)**

- (1) Section 166B, heading, ‘vacancies’—

*omit, insert—*



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**particular vacancies arising**

(2) Section 166B(1) and (2)—

*omit, insert—*

- (1) This section applies if a local government is to fill the vacant office of a councillor (the **former councillor**) under section 166(1)(c).
- (2) The vacant office must be filled by the local government appointing, by resolution, a person who—
  - (a) is qualified to be a councillor; and
  - (b) if the former councillor was elected or appointed to office as a political party's nominee—is the political party's nominee.

(3) Section 166B(3), from 'For' to 'nominee,'—

*omit, insert—*

If subsection (2)(b) applies,

(4) Section 166B(5), from 'For' to 'nominee,'—

*omit, insert—*

If subsection (2)(b) does not apply,

**52 Insertion of new ch 9, pt 16**

Chapter 9—

*insert—*

**Part 16**

**Transitional provisions  
for COVID-19  
Emergency Response  
and Other Legislation  
Amendment Act 2020**

### **337 Definitions for part**

In this part—

*former*, for a provision of this Act, means the provision as in force from time to time before the commencement.

*new*, for a provision of this Act, means the provision as in force from the commencement.

*relevant period* means the period—

- (a) starting on 12 October 2020; and
- (b) ending immediately before the commencement.

### **338 Effect of particular things done under former s 166A**

- (1) This section applies if, during the relevant period—
  - (a) the office of mayor or of another councillor became vacant under former section 162; and
  - (b) anything was done under former section 166A for filling the vacant office.
- (2) From the commencement—
  - (a) former section 166A does not apply, and is taken never to have applied, for filling the vacant office; and
  - (b) anything done under former section 166A for filling the vacant office is taken never to have been done.
- (3) To remove any doubt, it is declared that if, during the relevant period, the local government filled the vacant office by appointing a runner-up under former section 166A(4)(b), on the commencement—

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- (a) the office is taken to be vacant, and to have always been vacant since it became vacant during the relevant period; and
  - (b) the runner-up is taken never to have been appointed.
- (4) However, this section does not affect any entitlement to remuneration or other benefits accrued or accruing under an Act, in respect of the appointment period, because of the runner-up's appointment under former section 166A.
- (5) For subsection (4), the *appointment period* is the period—
- (a) starting on the appointment of the runner-up under former section 166A(4)(b); and
  - (b) ending immediately before the commencement.
- (6) Subsections (2) and (3) apply despite the *Acts Interpretation Act 1954*, section 20.

### **339 Filling particular vacancies in office of mayor**

- (1) This section applies if—
- (a) during the relevant period, the office of mayor became vacant under former section 162; and
  - (b) either of the following applies—
    - (i) immediately before the commencement, the office had not been filled;
    - (ii) on the commencement, the office is taken, under section 338, to be vacant.
- (2) New chapter 6, part 2, division 3 applies for filling the vacant office.
- (3) However, despite new section 163(3), the local

government must fill the vacant office within 2 months after the commencement.

- (4) Subsections (2) and (3) apply despite the *Acts Interpretation Act 1954*, section 20.

### **340 Filling particular vacancies in office of another councillor generally**

- (1) This section applies if—
- (a) during the relevant period, the office of a councillor, other than the mayor, became vacant under former section 162; and
  - (b) either of the following applies—
    - (i) immediately before the commencement, the office had not been filled;
    - (ii) on the commencement, the office is taken, under section 338, to be vacant.
- (2) New chapter 6, part 2, division 3 applies for filling the vacant office.
- (3) However, despite new section 163(3), the local government must fill the vacant office within 2 months after the commencement.
- (4) Subsections (2) and (3) apply despite the *Acts Interpretation Act 1954*, section 20.
- (5) This section is subject to section 341.

### **341 Filling particular vacancies in office of another councillor under new s 166A**

- (1) This section applies if a local government decides under new section 166(2), as applied under section 340, that a vacancy in the office of a councillor, other than the mayor, is to be filled by following the procedure under new section 166A.

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- (2) Despite section 338(2) and (3)(b) and new section 159(b)—
  - (a) anything done during the relevant period under former section 166A for filling the vacant office is taken to have been done under new section 166A; and
  - (b) if, during the relevant period, the local government filled the vacant office by appointing a runner-up under former section 166A(4)(b), the runner-up is taken—
    - (i) to have been appointed under new section 166A(4)(b) on the commencement; and
    - (ii) to have held office as a councillor continuously from that day.
- (3) Subsection (4) applies if—
  - (a) during the relevant period, the electoral commission gave a vacancy notice, under former section 166A(3), to a runner-up; and
  - (b) the deadline for the runner-up was a day after the end of the relevant period; and
  - (c) the runner-up did not, before the end of the relevant period, consent to being appointed to the vacant office.
- (4) The electoral commission must, under new section 166A(6), as applied under section 340, extend the day and time stated in the vacancy notice to a day and time after the day the decision mentioned in subsection (1) was made.

## **Part 6**                      **Amendment of Local Government Electoral Act 2011**

### **53 Act amended**

This part amends the *Local Government Electoral Act 2011*.

### **54 Amendment of s 24 (Date of by-elections)**

Section 24(2), ‘12 weeks’—

*omit, insert—*

2 months

# **Schedule 1      Amendments to body corporate and community management regulation modules commencing on 1 March 2021**

section 39

## **Body Corporate and Community Management (Accommodation Module) Regulation 2020**

### **1      After section 45—**

*insert—*

#### **45A Further exception to restricted issues for committee—COVID-19 public health directions [SM, s 53A]**

- (1) Despite section 44(1)(b), a decision changing rights, privileges or obligations of the owners of lots included in the community titles scheme is not a decision on a restricted issue for the committee if—
  - (a) the change is in relation to access to, or the use of, common property or body corporate assets; and
  - (b) the committee considers the change is reasonably necessary to ensure compliance with a COVID-19 public health direction; and
  - (c) the decision states it stops having effect on the earlier of the following—
    - (i) the day the COVID-19 public health direction stops having effect;

- 
- (ii) the COVID-19 legislation expiry day.
  - (2) This section expires on the COVID-19 legislation expiry day.
  - (3) In this section—  
*COVID-19 public health direction* means a public health direction given under the *Public Health Act 2005*, section 362B.

## Body Corporate and Community Management (Commercial Module) Regulation 2020

### 1 After section 17—

*insert—*

#### **17A Exception to restricted issues for committee— COVID-19 public health directions [SM, s 53A]**

- (1) Despite section 17(1)(a), a decision changing rights, privileges or obligations of the owners of lots included in the community titles scheme is not a decision on a restricted issue for the committee if—
  - (a) the change is in relation to access to, or the use of, common property or body corporate assets; and
  - (b) the committee considers the change is reasonably necessary to ensure compliance with a COVID-19 public health direction; and
  - (c) the decision states it stops having effect on the earlier of the following—
    - (i) the day the COVID-19 public health direction stops having effect;
    - (ii) the COVID-19 legislation expiry day.



- (2) This section expires on the COVID-19 legislation expiry day.
- (3) In this section—  
*COVID-19 public health direction* means a public health direction given under the *Public Health Act 2005*, section 362B.

## Body Corporate and Community Management (Small Schemes Module) Regulation 2020

### 1 After section 17—

*insert—*

#### **17A Exception to restricted issues for committee— COVID-19 public health directions [SM, s 53A]**

- (1) Despite section 17(1)(b), a decision changing rights, privileges or obligations of the owners of lots included in the community titles scheme is not a decision on a restricted issue for the committee if—
  - (a) the change is in relation to access to, or the use of, common property or body corporate assets; and
  - (b) the committee considers the change is reasonably necessary to ensure compliance with a COVID-19 public health direction; and
  - (c) the decision states it stops having effect on the earlier of the following—
    - (i) the day the COVID-19 public health direction stops having effect;
    - (ii) the COVID-19 legislation expiry day.
- (2) This section expires on the COVID-19 legislation

expiry day.

(3) In this section—

***COVID-19 public health direction*** means a public health direction given under the *Public Health Act 2005*, section 362B.

## **Body Corporate and Community Management (Standard Module) Regulation 2020**

**1 After section 53—**

*insert—*

### **53A Further exception to restricted issues for committee—COVID-19 public health directions**

- (1) Despite section 52(1)(b), a decision changing rights, privileges or obligations of the owners of lots included in the community titles scheme is not a decision on a restricted issue for the committee if—
- (a) the change is in relation to access to, or the use of, common property or body corporate assets; and
  - (b) the committee considers the change is reasonably necessary to ensure compliance with a COVID-19 public health direction; and
  - (c) the decision states it stops having effect on the earlier of the following—
    - (i) the day the COVID-19 public health direction stops having effect;
    - (ii) the COVID-19 legislation expiry day.
- (2) This section expires on the COVID-19 legislation expiry day.

(3) In this section—

***COVID-19 public health direction*** means a public health direction given under the *Public Health Act 2005*, section 362B.

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