

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

Legislative Assembly Chamber,  
Brisbane,

The Clerk of the Parliament.

19 March 2020

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

*Paul de Jersey*

Government House,

Brisbane,

19 March 2020



Queensland

No. 11 of 20

**A BILL for**

**An Act to amend the City of Brisbane Act 2010, the Constitution of Queensland 2001, the Economic Development Act 2012, the Electoral Act 1992, the Local Government Act 2009, the Local Government (Dissolution of Ipswich City Council) Act 2018, the Local Government Electoral Act 2011, the Local Government Regulation 2012, the Planning Act 2016, the Public Health Act 2005 and the State Penalties and Enforcement Regulation 2014 for particular purposes**



Queensland

# Public Health and Other Legislation (Public Health Emergency) Amendment Bill 2020

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# 2020

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## A Bill

for

***An Act to amend the *City of Brisbane Act 2010*, the *Constitution of Queensland 2001*, the *Economic Development Act 2012*, the *Electoral Act 1992*, the *Local Government Act 2009*, the *Local Government (Dissolution of Ipswich City Council) Act 2018*, the *Local Government Electoral Act 2011*, the *Local Government Regulation 2012*, the *Planning Act 2016*, the *Public Health Act 2005* and the *State Penalties and Enforcement Regulation 2014* 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 *Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020*.

#### **2 Commencement**

Part 11, division 3 commences 1 year after the date of assent of this Act.

### **Part 2 Amendment of City of Brisbane Act 2010**

#### **3 Act amended**

This part amends the *City of Brisbane Act 2010*.

#### **4 Insertion of new ch 7, pt 5A**

Chapter 7—

*insert—*

#### **Part 5A Provisions for 2020 quadrennial election**

##### **240A Minister may give directions about filling vacancies in office of councillors**

(1) This section applies—



- (a) if the 2020 quadrennial election is not held in March 2020 under the *Local Government Electoral Act 2001*, part 9A; and
  - (b) until the day before the 2020 quadrennial election is held.
- (2) Section 163(2), (3) and (6) does not apply to the council.
  - (3) The Minister may give a direction to the council about whether or not a vacant office of a councillor (including the mayor) must be filled.
  - (4) If the vacant office must be filled, the Minister may, by notice to the council, extend the period within which the council must fill the vacancy under section 163(4).
  - (5) If the Minister extends the period under subsection (4), the Governor in Council may appoint a qualified person under section 163(5) to fill the vacant office only if the council has not filled the vacancy within the extended period.

#### **240B Regulation-making power for 2020 quadrennial election**

- (1) This section applies if the 2020 quadrennial election is not held in March 2020.
- (2) A regulation may make provision about a matter for which this Act does not make provision or sufficient provision as a result of the 2020 quadrennial election not being held in March 2020.
- (3) The regulation may have retrospective operation to a day not earlier than the day of commencement.
- (4) This section and the regulation expire 1 year after the day of commencement.

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## 5 Amendment of sch 2 (Dictionary)

Schedule 2—

*insert—*

**2020 quadrennial election** means the quadrennial election for 2020.

# Part 3 Amendment of Constitution of Queensland 2001

## 6 Act amended

This part amends the *Constitution of Queensland 2001*.

## 7 Amendment of s 50 (Meetings of Executive Council)

Section 50—

*insert—*

- (4) A meeting of Executive Council may be held using any technology that enables reasonably continuous and contemporaneous communication between participants.
- (5) A person who participates in a meeting under subsection (4) is taken to be present at the meeting.
- (6) In this section—  
***participants***, in a meeting of Executive Council, means the Governor or member presiding at the meeting and the members present at the meeting.



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### **171D Definitions for part**

In this part—

*applicable event* means an applicable event declared under the *Planning Act 2016*, section 275E(2).

*applicable event notice* see the *Planning Act 2016*, section 275E(2).

*applicable event period* see the *Planning Act 2016*, section 275E(3)(a).

*relevant change* see section 171F(1).

*temporary use licence* see section 171F(1).

## **Division 2      Temporary use licences**

### **171E Application of division**

This division applies in relation to the following premises if an applicable event notice for an applicable event applies to the part of the State in which the premises is located—

- (a) premises in a priority development area;
- (b) premises that are PDA-associated land for a priority development area.

### **171F Applications for temporary use licences**

- (1) A person may apply to MEDQ for a licence (a *temporary use licence*) in relation to the premises that does any of the following (each a *relevant change*)—
  - (a) if a PDA development approval for a material change of use is in effect for the premises—changes a PDA development

- condition of the PDA development approval;
- (b) otherwise—changes the existing lawful use of the premises, including, for example, by—
    - (i) increasing the intensity or scale of the existing lawful use; or
    - (ii) adding a new use; or
    - (iii) replacing the existing lawful use with a new use.
  - (2) The application must—
    - (a) be in the approved form; and
    - (b) include the matters prescribed by regulation.
  - (3) To remove any doubt, it is declared that the application may relate to multiple premises.

### **171G Decisions on applications**

- (1) MEDQ must consider an application for a temporary use licence made under section 171F and decide—
  - (a) to give the temporary use licence, with or without conditions; or
  - (b) to refuse to give the temporary use licence.
- (2) MEDQ may give the temporary use licence only if satisfied that, having regard to the nature of the applicable event, there are reasonable grounds for the relevant change the subject of the licence applying during the applicable event period for the applicable event notice.

### **171H Notices of decisions**

- (1) MEDQ must give the applicant notice of MEDQ's

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decision.

- (2) If the decision is to give the temporary use licence—
  - (a) the notice must state—
    - (i) the day the notice is given; and
    - (ii) the premises to which the licence relates; and
    - (iii) details of the relevant change; and
    - (iv) any conditions imposed on the licence; and
    - (v) any other matter prescribed by regulation; and
  - (b) MEDQ must give a copy of the notice to the relevant local government for the premises.
- (3) If the decision is to refuse to give the temporary use licence, the notice must state the reasons for the decision.

### **171I Period of temporary use licences**

A temporary use licence has effect from the day the notice mentioned in section 171H(1) is given to the applicant until the end of the applicable event period for the applicable event notice.

### **171J Effect of temporary use licences**

- (1) If a temporary use licence changes a PDA development condition of a PDA development approval, the PDA development approval is taken, for the period the licence is in effect—
  - (a) to be changed in the way stated in the licence; and
  - (b) to be subject to the conditions of the licence.

- (2) If a temporary use licence changes the existing lawful use of premises, a person does not, during the period the licence is in effect, commit an offence against section 73 or 76 in relation to the changed use, unless the person contravenes a condition of the licence.
- (3) Despite section 120(2), an infrastructure agreement under the *Planning Act 2016* does not apply instead of a part of a PDA development approval changed under subsection (1).
- (4) Despite anything else in this Act or the *Planning Act 2016*, development, other than a material change of use, does not stop being PDA assessable development, or prohibited development or assessable development under the *Planning Act 2016*, merely because a temporary use licence has been given.

### **171K Delegations**

MEDQ may delegate MEDQ's functions or powers under this division to an appropriately qualified public service officer.

## **Division 3            Effect of particular                                   declarations under                                   Planning Act 2016**

### **171L Effect of declarations under Planning Act 2016, s 275O**

- (1) This section applies if—
  - (a) a declaration is made under the *Planning Act 2016*, section 275O in relation to a use or class of uses; and

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- (b) any of the following has the effect of limiting the hours of operation of the use or a use of the class or restricting the movement of goods in relation to the use or a use of the class—
- (i) a provision of this Act;
  - (ii) a PDA development condition of a PDA development approval.
- (2) For the period the declaration is in effect, the provision or condition does not apply in relation to the carrying out of the use, or a use of the class, on premises in the area to which the declaration applies.

## **Division 4            Extending and suspending periods under Act**

### **171M Application of division**

This division applies in relation to an applicable event notice for an applicable event.

### **171N Extension of periods for doing things under Act**

- (1) This section applies if MEDQ is satisfied that, because of the applicable event, it is necessary to extend a period under this Act for the doing of a thing (the *relevant period*).

*Examples of periods under this Act for the doing of a thing—*

- the period mentioned in section 36E(1) for the making of a provisional land use plan
  - the period mentioned in section 83A(1)(b) for giving requested information
- (2) MEDQ may, by notice published on the



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department's website (an *extension notice*), extend the relevant period by a stated period.

- (3) The extension notice—
  - (a) must be published before the day that is 30 business days after the end of the applicable event period for the applicable event notice; and
  - (b) has effect from the day the extension notice is published until the expiry day stated in the notice, unless the notice is earlier revoked.
- (4) MEDQ may, by notice published on the department's website (a *further extension notice*), further extend the relevant period by a stated period.
- (5) The further extension notice—
  - (a) must be published before the day mentioned in subsection (3)(a) and before the day the extension notice stops having effect; and
  - (b) has effect from the day the extension notice stops having effect until the expiry day stated in the further extension notice, unless the further extension notice is earlier revoked.
- (6) An extension notice or a further extension notice applies in relation to a relevant period only if—
  - (a) the relevant period starts during the period the notice is in effect; or
  - (b) the relevant period had started, but not ended, before the notice took effect.
- (7) If a relevant period is extended under an extension notice or a further extension notice, the extension continues to have effect even if the notice stops having effect.
- (8) An extension notice and a further extension notice

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are statutory instruments.

### **1710 Suspension of periods for doing things under Act**

- (1) This section applies if MEDQ is satisfied that, because of the applicable event, it is necessary to suspend a period under this Act for the doing of a thing (the *relevant period*).
- (2) MEDQ may, by notice published on the department's website (a *suspension notice*), suspend the relevant period for the period the notice is in effect.
- (3) The suspension notice—
  - (a) must be published before the day that is 30 business days after the end of the applicable event period for the applicable event notice; and
  - (b) has effect from the day the suspension notice is published until the expiry day stated in the notice, unless the notice is earlier revoked.
- (4) MEDQ may, by notice published on the department's website (a *further suspension notice*), further suspend the relevant period for the period the notice is in effect.
- (5) The further suspension notice—
  - (a) must be published before the day mentioned in subsection (3)(a) and before the day the suspension notice stops having effect; and
  - (b) has effect from the day the suspension notice stops having effect until the expiry day stated in the further suspension notice, unless the further suspension notice is earlier revoked.
- (6) A suspension notice or further suspension notice

- applies in relation to a relevant period only if—
- (a) the relevant period starts during the period the notice is in effect; or
  - (b) the relevant period had started, but not ended, before the notice took effect.
- (7) If a suspension notice or further suspension notice is in effect in relation to the relevant period for the doing of a thing—
- (a) the relevant period is suspended; and
  - (b) the doing of the thing has no effect.
- (8) A suspension notice and a further suspension notice are statutory instruments.

## 12 Amendment of sch 1 (Dictionary)

Schedule 1—

*insert—*

***applicable event***, for chapter 5, part 3B, see section 171D.

***applicable event notice***, for chapter 5, part 3B, see the *Planning Act 2016*, section 275E(2).

***applicable event period***, for chapter 5, part 3B, see the *Planning Act 2016*, section 275E(3)(a).

***relevant change***, for chapter 5, part 3B, see section 171F(1).

***temporary use licence***, for chapter 5, part 3B, see section 171F(1).



### **392D Change of time limits in writ**

- (1) This section applies in relation to the writ issued for a by-election.
- (2) 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 a day to be fixed by a further gazette notice under paragraph (b); or
  - (b) substitute a later day for a day stated in the writ under section 84(1), any of paragraphs (a) to (e).
- (3) A gazette notice under subsection (2)(b) may be made before, on or after the day stated in the writ.
- (4) To remove any doubt, it is declared that a gazette notice under this section may be made as occasion requires.

### **392E 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 affected by this section, as occasion requires.

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

- (1) The commission may, by notice published on the

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commission's website, fix a time and day, later than the time and day mentioned in section 119(2)(b), by which an elector may make a postal vote request under section 119 for a by-election.

- (2) Section 119 applies as if a 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).

### **392G Electoral visitor voting**

- (1) This section applies if the commission is satisfied it would pose a risk to the health and safety of an issuing officer to visit, under section 120—
  - (a) an elector who has given a request to vote as an electoral visitor voter to the commission or returning officer under section 120; or
  - (b) electors of a particular class; or
  - (c) any electors.
- (2) The commission or returning officer may direct issuing officers not to visit the elector, or electors of the class, or any electors.
- (3) Section 120 applies to issuing officers subject to the direction.
- (4) 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 election.

### **392H Electronically assisted voting**

- (1) This section applies if—
  - (a) the commission is satisfied that, having regard to the purpose of this part, it would be in the public interest to allow a class of

electors, other than electors mentioned in section 121A, to make an electronically assisted vote in a by-election; and

- (b) a procedure about how an elector may make an electronically assisted vote has been made under section 121B.
- (2) The commission may, by notice published on the commission's website, declare the class of electors who may vote electronically.
- (3) An elector of the stated class may make an electronically assisted vote in the by-election under part 7, division 5, subdivision 3A.

### **392I 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 prevent 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.

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- (4) A person must not contravene the direction.  
Maximum penalty—10 penalty units.
- (5) Section 190 does not apply to the display of a political statement permitted under the direction.

### **392J Regulation-making power**

- (1) A regulation may make provision about a matter for which—
  - (a) it is necessary to make provision to allow or facilitate the holding of a by-election in the way stated in section 392A; and
  - (b) this Act does not make provision or sufficient provision.
- (2) The regulation may—
  - (a) have retrospective operation to a day not earlier than the commencement; and
  - (b) be inconsistent with this Act to the extent necessary to achieve the purpose of this part.
- (3) This section and the regulation expire 1 year after the commencement.

## **Part 6**

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

### **15 Act amended**

This part amends the *Local Government Act 2009*.

### **16 Insertion of new ch 7, pt 5A**

Chapter 7—  
*insert—*



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## **Part 5A                      Provisions for 2020 quadrennial election**

### **260AA Minister may give directions about filling vacancies in office of councillors**

- (1) This section applies—
  - (a) if the 2020 quadrennial election is not held in March 2020 under the *Local Government Electoral Act 2001*, part 9A; and
  - (b) until the day before the 2020 quadrennial election is held.
- (2) Section 163(2) and (5) does not apply to a local government.
- (3) The Minister may give a direction to the local government about whether or not a vacant office of a councillor (including the mayor) must be filled.
- (4) If the vacant office must be filled, the Minister may, by notice to the local government, extend the period within which the local government must fill the vacancy under section 163(3).
- (5) If the Minister extends the period under subsection (4), the Governor in Council may appoint a qualified person under section 163(4) to fill the vacant office only if the local government has not filled the vacancy within the extended period.

### **260AB Regulation-making power for 2020 quadrennial election**

- (1) This section applies if the 2020 quadrennial election is not held in March 2020.
- (2) A regulation may make provision about a matter for which this Act does not make provision or

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sufficient provision as a result of the 2020 quadrennial election not being held in March 2020.

- (3) The regulation may have retrospective operation to a day not earlier than the day of commencement.
- (4) This section and the regulation expire 1 year after the day of commencement.

## 17 Amendment of sch 4 (Dictionary)

Schedule 4—

*insert—*

*2020 quadrennial election* means the quadrennial election for 2020.

# Part 7 Amendment of Local Government (Dissolution of Ipswich City Council) Act 2018

## 18 Act amended

This part amends the *Local Government (Dissolution of Ipswich City Council) Act 2018*.

## 19 Amendment of s 9 (Expiry)

Section 9, '30 June 2020'—

*omit, insert—*

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website.

- (4) The election is suspended from the day the notice is published until the Minister ends the suspension under section 200C or terminates the election under section 200D.
- (5) The *City of Brisbane Act 2010*, chapter 3, part 5 or the *Local Government Act 2009*, chapter 3, part 5 continues to apply to a local government during the period of the suspension.

### **200C Ending suspension**

- (1) This section applies if the election is suspended under section 200B and the Minister is not required to terminate the election under section 200D.
- (2) The Minister must, as soon as practicable after the withdrawal of the notice of election, in consultation with the electoral commission and having regard to the purpose of this part, end the suspension of the election by notice published on the electoral commission's website.
- (3) The notice—
  - (a) must fix a day that is a Saturday for the holding of the election; and
  - (b) may be accompanied by an amended notice of election under section 25 for the election; and
  - (c) may state that any votes cast in the election before it was suspended are to be disregarded.
- (4) The day fixed under subsection (3) must be decided by the Minister, in consultation with the electoral commission and having regard to the purpose of this part.

- (5) If the notice is accompanied by an amended notice of election under subsection (3)(b), a reference in part 4 to the nomination day is taken to be a reference to the nomination day stated in the amended notice of election.
- (6) If the notice states that votes cast in the election before the suspension are to be disregarded, on the publication of the notice under subsection (2), the following must be destroyed—
  - (a) declaration envelopes;
  - (b) ballot papers in ballot boxes;
  - (c) all books and papers, other than the voters roll, used by each presiding officer.
- (7) The *City of Brisbane Act 2010*, chapter 3, part 5 or the *Local Government Act 2009*, chapter 3, part 5 applies to a local government from the day the Minister publishes the notice under subsection (2).

### **200D Terminating election**

- (1) This section applies if—
  - (a) the election is suspended under section 200B; and
  - (b) in consultation with the electoral commission, the Minister is satisfied—
    - (i) the period of the suspension of the election is likely to compromise the outcome of the election; and
    - (ii) it would be practicable to hold a new election.
- (2) The Minister must, by notice published on the electoral commission's website, terminate the election.
- (3) On the publication of the notice—

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- (a) nominations for the election are taken to have been withdrawn; and
  - (b) the following items for the election must be destroyed—
    - (i) declaration envelopes;
    - (ii) ballot papers in ballot boxes;
    - (iii) unused ballot papers;
    - (iv) all books and papers, other than the voters roll, used by each presiding officer; and
  - (c) all deposits given to the returning officer under section 39 for the election must be refunded.
- (4) The Minister must, in consultation with the electoral commission and having regard to the purpose of this part, fix a day that is a Saturday for the holding of the quadrennial election for 2020.

### **200E Conduct of poll by postal ballot**

- (1) This section applies if the Minister is satisfied that, having regard to the purpose of this part, it would be in the public interest for the poll for the election to be conducted by postal ballot in—
  - (a) all of a local government’s area; or
  - (b) 1 or more divisions of a local government’s area; or
  - (c) a part of a local government’s area.
- (2) The Minister may direct that the poll for the local government’s area, or the division or part of the local government’s area, be conducted by postal ballot.
- (3) However, before giving the direction, the Minister must consult with the electoral

commission.

- (4) A direction under subsection (2) must—
  - (a) be published on the electoral commission’s website; and
  - (b) if the direction relates to a part of the local government’s area—be accompanied by a map showing the part of the local government’s area.
- (5) The local government must ensure the public may inspect the map mentioned in subsection (4)(b)—
  - (a) at the local government’s public office; and
  - (b) on the local government’s website.
- (6) Subsection (7) applies if—
  - (a) the election was suspended under section 200B and not terminated under section 200D; and
  - (b) an elector cast a vote in the election other than by postal vote before the election was suspended.
- (7) When the suspension of the election ends, the elector’s vote is taken to have been cast by postal vote for section 68(5).

## **200F Electors who may vote electronically**

- (1) This section applies if—
  - (a) the electoral commission is satisfied that, having regard to the purpose of this part, it would be in the public interest to allow a class of electors, other than an elector mentioned in section 68(5B), to cast an electronically assisted vote; and

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- (b) procedures about how an elector may cast an electronically assisted vote have been made under section 75A.
- (2) The electoral commission may, by notice published on the electoral commission's website, declare the class as electors who may vote electronically.
- (3) An elector of the stated class may cast an electronically assisted vote in the election under part 4, division 5.

### **200G Electoral visitor voting**

- (1) This section applies if the electoral commission is satisfied it would pose a risk to the health and safety of an issuing officer to visit, under section 77—
  - (a) an elector who has applied to vote as a visitor elector to the returning officer under section 77; or
  - (b) electors of a particular class; or
  - (c) any electors.
- (2) Section 77 applies to the issuing officer subject to the direction.
- (3) The returning officer may direct the issuing officer not to visit the elector, or electors of the class, or any electors.
- (4) The issuing officer must make alternative arrangements to enable an elector affected by the direction to vote in the election, including, for example, by casting an electronically assisted vote or postal vote.



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## 200H Extending time for particular applications to cast postal vote

- (1) If the Minister is satisfied that, having regard to the purpose of this part, it would be in the public interest, the Minister may extend the time and day mentioned in sections 79(2)(d) and 81(2A) for relevant electors.
- (2) However, before extending the time and day, the Minister must consult with the electoral commission.
- (3) If the Minister extends the time and day under subsection (1)—
  - (a) the Minister must give notice of the extension to the returning officer; and
  - (b) the Minister must ensure a notice about the extension, including the extended time and day, is published on the electoral commission's website; and
  - (c) section 79 or 81, as the case may be, applies in relation to a relevant elector as if the reference in section 79(2)(d) or 81(2A) to 7p.m. on the day that is 12 days before the polling day were a reference to the extended time and day.
- (4) This section applies in relation to an application even if the application was made before the Minister extends the time and day under subsection (1).
- (5) In this section—

***relevant elector*** means an elector—

  - (a) who is over 65 years; and
  - (b) for whom, as a result of an impairment or condition, the public health emergency involving COVID-19 poses a high risk to the elector's health and safety.

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### **200I Distribution or display of how-to-vote cards or other election material**

- (1) This section applies if the electoral commission is satisfied that, having regard to the purpose of this part, it would be in the public interest to regulate, limit or prevent the distribution or display of how-to-vote cards or other election material at a polling booth for the election.
- (2) The electoral 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 election; or
  - (b) prohibiting the distribution or display of how-to-vote cards or other election material at a polling booth for the 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 188(1).
- (3) The direction must be published on the electoral commission's website.
- (4) A person must not contravene the direction.  
Maximum penalty—10 penalty units.
- (5) Section 188 does not apply to the display of a political statement permitted under the direction.

### **200J Issuing officers for s 12**

Despite section 12, an issuing officer for the election—

- (a) need not be a member of the staff of the electoral commission under section 12(2); and

- (b) may be another appropriately qualified person.

### **200K Adjournment of poll under s 52A or 53**

- (1) This section applies if a poll for the election is adjourned under section 52A(3) or 53(1).
- (2) Section 53 applies in relation to the poll as if the reference in section 53(3) to a day no later than 34 days after the day on which the poll is adjourned were a reference to the earliest Saturday on which the returning officer is satisfied the poll may practicably and safely be taken or resumed.
- (3) To remove any doubt, it is declared that the returning officer or presiding officer for a polling booth may act under section 53, as affected by this section, as occasion requires.

### **200L Regulation-making power for quadrennial election for 2020**

- (1) A regulation may make provision about a matter for which—
  - (a) it is necessary to make provision to allow or facilitate the holding of the quadrennial election for 2020; and
  - (b) this Act does not make provision or sufficient provision.
- (2) The regulation may—
  - (a) have retrospective operation to a day not earlier than the day of commencement; and
  - (b) be inconsistent with this Act to the extent necessary to achieve the purpose of this part.
- (3) This section and the regulation expire 1 year after the day of commencement.



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## Division 1 Preliminary

### 275D Definitions for part

In this part—

*applicable event* means an applicable event declared under section 275E(2).

*applicable event notice* see section 275E(2).

*applicable event period* see section 275E(3)(a).

*relevant change* see section 275H(1).

*temporary use licence* see section 275H(1).

## Division 2 Declaring applicable events

### 275E Declarations of applicable events

- (1) This section applies if the Minister is satisfied that—
  - (a) an event has taken place, is taking place or is likely to take place; and
  - (b) the event may affect a State interest.
- (2) The Minister may, by notice published on the department's website (an *applicable event notice*), declare that the event is an applicable event.
- (3) The applicable event notice must state—
  - (a) the period for which the notice has effect (the *applicable event period*); and
  - (b) the part of the State to which the notice applies.
- (4) The applicable event period must not start before

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the day the applicable event notice is published.

- (5) The applicable event notice is a statutory instrument.
- (6) In this section—  
*event* see the *Disaster Management Act 2003*, section 16.

### **275F Extensions of applicable event periods**

- (1) The Minister may, by notice published on the department's website (an *extension notice*), extend the applicable event period for an applicable event notice by a stated period if satisfied the extension is necessary having regard to—
  - (a) the nature of the applicable event; and
  - (b) the effect the applicable event may have on a State interest.
- (2) The extension notice must be published before the applicable event period would otherwise end.
- (3) The extension notice is a statutory instrument.

## **Division 3      Temporary use licences**

### **275G Application of division**

This division applies in relation to premises if an applicable event notice for an applicable event applies to the part of the State in which the premises is located.

### **275H Applications for temporary use licences**

- (1) A person may apply to the chief executive for a licence (a *temporary use licence*) in relation to

the premises that does any of the following (each a *relevant change*)—

- (a) if a development approval for a material change of use is in effect for the premises—changes a condition of the development approval;
  - (b) if the premises is designated premises—provides that a use of the premises is not required to comply with a requirement about the use stated in the designation for the premises;
  - (c) otherwise—changes the existing lawful use of the premises, including, for example, by—
    - (i) increasing the intensity or scale of the existing lawful use; or
    - (ii) adding a new use; or
    - (iii) replacing the existing lawful use with a new use.
- (2) The application must—
- (a) be in the approved form; and
  - (b) include the matters prescribed by regulation.
- (3) To remove any doubt, it is declared that the application may relate to multiple premises.

### **275I Decisions on applications**

- (1) The chief executive must consider an application for a temporary use licence made under section 275H and decide—
  - (a) to give the temporary use licence, with or without conditions; or
  - (b) to refuse to give the temporary use licence.
- (2) The chief executive may give the temporary use

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licence only if satisfied that, having regard to the nature of the applicable event, there are reasonable grounds for the relevant change the subject of the licence applying during the applicable event period for the applicable event notice.

### **275J Notices of decisions**

- (1) The chief executive must give the applicant notice of the chief executive's decision.
- (2) If the decision is to give the temporary use licence—
  - (a) the notice must state—
    - (i) the day the notice is given; and
    - (ii) the premises to which the licence relates; and
    - (iii) details of the relevant change; and
    - (iv) any conditions imposed on the licence; and
    - (v) any other matter prescribed by regulation; and
  - (b) the chief executive must give a copy of the notice to the local government for the local government area in which the premises are located.
- (3) If the decision is to refuse to give the temporary use licence, the notice must state the reasons for the decision.

### **275K Period of temporary use licences**

A temporary use licence has effect from the day the notice mentioned in section 275J(1) is given to the applicant until the end of the applicable event



period for the applicable event notice.

### **275L Effect of temporary use licences**

- (1) If a temporary use licence changes a condition of a development approval, the development approval is taken, for the period the licence is in effect—
  - (a) to be changed in the way stated in the licence; and
  - (b) to be subject to the conditions of the licence.
- (2) Subsection (3) applies if a temporary use licence provides that a use of designated premises is not required to comply with a requirement about the use stated in the designation for the premises.
- (3) A person does not, during the period the temporary use licence is in effect, commit an offence against section 165 in relation to the use merely because the use does not comply with the requirement, unless the person contravenes a condition of the licence.
- (4) If a temporary use licence changes the existing lawful use of premises, a person does not, during the period the licence is in effect, commit an offence against section 162, 163 or 165(a) in relation to the changed use, unless the person contravenes a condition of the licence.
- (5) Despite section 157(1), an infrastructure agreement does not apply instead of a part of a development approval changed under subsection (1).
- (6) Despite anything else in this Act or the *Economic Development Act 2012*, development, other than a material change of use, does not stop being prohibited development or assessable development, or PDA assessable development

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under the *Economic Development Act 2012*, merely because a temporary use licence has been given.

### **275M Delegations**

The chief executive may delegate the chief executive's functions under this division to an appropriately qualified public service officer.

## **Division 4      Declaring uses and                                  classes of uses**

### **275N Application of division**

This division applies in relation to an applicable event notice for an applicable event.

### **275O Declarations of uses and classes of uses**

- (1) The Minister may, by notice published on the department's website, declare—
  - (a) a use for the applicable event; or
  - (b) a class of uses for the applicable event.
- (2) The Minister may make the declaration only if satisfied the declaration is necessary having regard to the nature of the applicable event.
- (3) The declaration may be made in relation to all or part of the area to which the applicable event notice applies.
- (4) The declaration has effect from the day notice of the declaration is published until the end of the applicable event period for the applicable event notice.
- (5) The declaration is a statutory instrument.

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### **275P Effect of declarations under s 275O**

- (1) This section applies if—
  - (a) the Minister makes a declaration under section 275O in relation to a use or class of uses; and
  - (b) any of the following has the effect of limiting the hours of operation of the use or a use of the class or restricting the movement of goods in relation to the use or a use of the class—
    - (i) a provision of this Act;
    - (ii) a requirement of a designation;
    - (iii) a condition of a development approval.
- (2) For the period the declaration is in effect, the provision, requirement or condition does not apply in relation to the carrying out of the use, or a use of the class, on premises in the area to which the declaration applies.

## **Division 5            Extending and suspending periods under Act**

### **275Q Application of division**

This division applies in relation to an applicable event notice for an applicable event.

### **275R Extension of periods for doing things under Act**

- (1) This section applies if the Minister is satisfied that, because of the applicable event, it is necessary to extend a period under this Act for the doing of a thing (the *relevant period*).

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*Examples of periods under this Act for the doing of a thing—*

- the period mentioned in section 25(1)(a) for reviewing a planning scheme
  - a period for notifying an application stated in the development assessment rules under section 68
- (2) The Minister may, by notice published on the department's website (an ***extension notice***), extend the relevant period by a stated period.
- (3) The extension notice—
- (a) must be published before the day that is 30 business days after the end of the applicable event period for the applicable event notice; and
  - (b) has effect from the day the extension notice is published until the expiry day stated in the notice, unless the notice is earlier revoked.
- (4) The Minister may, by notice published on the department's website (a ***further extension notice***), further extend the relevant period by a stated period.
- (5) The further extension notice—
- (a) must be published before the day mentioned in subsection (3)(a) and before the day the extension notice stops having effect; and
  - (b) has effect from the day the extension notice stops having effect until the expiry day stated in the further extension notice, unless the further extension notice is earlier revoked.
- (6) An extension notice or a further extension notice applies in relation to a relevant period only if—
- (a) the relevant period starts during the period the notice is in effect; or

- (b) the relevant period had started, but not ended, before the notice took effect.
- (7) If a relevant period is extended under an extension notice or a further extension notice, the extension continues to have effect even if the notice stops having effect.
- (8) An extension notice and a further extension notice are statutory instruments.

### **275S Suspension of periods for doing things under Act**

- (1) This section applies if the Minister is satisfied that, because of the applicable event, it is necessary to suspend a period under this Act for the doing of a thing (the *relevant period*).
- (2) The Minister may, by notice published on the department's website (a *suspension notice*), suspend the relevant period for the period the notice is in effect.
- (3) The suspension notice—
  - (a) must be published before the day that is 30 business days after the end of the applicable event period for the applicable event notice; and
  - (b) has effect from the day the suspension notice is published until the expiry day stated in the notice, unless the notice is earlier revoked.
- (4) The Minister may, by notice published on the department's website (a *further suspension notice*), further suspend the relevant period for the period the notice is in effect.
- (5) The further suspension notice—

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- (a) must be published before the day mentioned in subsection (3)(a) and before the day the suspension notice stops having effect; and
  - (b) has effect from the day the suspension notice stops having effect until the expiry day stated in the further suspension notice, unless the further suspension notice is earlier revoked.
- (6) A suspension notice or further suspension notice applies in relation to a relevant period only if—
- (a) the relevant period starts during the period the notice is in effect; or
  - (b) the relevant period had started, but not ended, before the notice took effect.
- (7) If a suspension notice or further suspension notice is in effect in relation to the relevant period for the doing of a thing—
- (a) the relevant period is suspended; and
  - (b) the doing of the thing has no effect.
- (8) A suspension notice and a further suspension notice are statutory instruments.

## **27 Amendment of s 281 (Delegation)**

Section 281, after ‘Act’—

*insert—*

, other than a function under chapter 7, part 4B,

## **28 Amendment of sch 2 (Dictionary)**

Schedule 2—

*insert—*

*applicable event*, for chapter 7, part 4B, see section 275D.

*applicable event notice*, for chapter 7, part 4B, see section 275E(2).

*applicable event period*, for chapter 7, part 4B, see section 275E(3)(a).

*relevant change*, for chapter 7, part 4B, see section 275H(1).

*temporary use licence*, for chapter 7, part 4B, see section 275H(1).

## Part 11                      **Amendment of Public Health Act 2005**

### Division 1                      **Preliminary**

#### 29            **Act amended**

This part amends the *Public Health Act 2005*.

### Division 2                      **Amendments commencing on assent**

#### 30            **Amendment of s 315 (Definitions for ch 8)**

Section 315—

*insert—*

***COVID-19 emergency*** means the public health emergency declared by the Minister on 29 January 2020 under section 319(2), as extended and further extended under section 323.

*Editor's note—*

The public health emergency order that declared the COVID-19 emergency was published in the gazette on 31 January 2020 under section 321(1)(a).

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*public health direction* see section 362B(1).

**31 Amendment of s 339 (Powers)**

Section 339(1)—

*insert—*

- (c) if the declared public health emergency is the COVID-19 emergency—an emergency officer also has the powers stated in part 7A, division 3.

**32 Amendment of s 340 (Identity cards)**

Section 340—

*insert—*

- (3) Subsection (1) does not apply in relation to an emergency officer who is a police officer.

**33 Amendment of s 341 (Failure to return card)**

Section 341, after ‘A person’—

*insert—*

, other than a police officer,

**34 Amendment of s 342 (Production or display of identity card by emergency officer)**

- (1) Section 342, heading, after ‘identity card’—

*insert—*

**or supply of identifying details**

- (2) Section 342(1), after ‘An emergency officer’—

*insert—*

, other than an emergency officer who is a police officer,



(3) Section 342—

*insert—*

- (1A) An emergency officer who is a police officer in uniform may exercise a power in relation to another person under this chapter only if the officer first informs the person of his or her name, rank and station.
- (1B) An emergency officer who is a police officer but not in uniform may exercise a power in relation to another person under this chapter only if the officer first—
  - (a) informs the person—
    - (i) that he or she is a police officer; and
    - (ii) of his or her name, rank and station; and
  - (b) produces for inspection his or her identity card as a police officer.

(4) Section 342(2), after ‘subsection (1)’—

*insert—*

, (1A) or (1B)

(5) Section 342(2)—

*insert—*

- (d) if the emergency officer is a police officer—  
the officer’s identity card as a police officer.

### **35 Amendment of s 350 (Duration of order)**

Section 350(a), ‘96 hours from the time’—

*omit, insert—*

14 days after the day

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## **36 Insertion of new ch 8, pt 7A**

Chapter 8—

*insert—*

### **Part 7A Particular powers for COVID-19 emergency**

#### **Division 1 Preliminary**

##### **362A Purpose of part**

The purpose of this part is to confer additional powers for the COVID-19 emergency on—

- (a) the chief health officer; and
- (b) emergency officers.

#### **Division 2 Chief health officer**

##### **362B Power to give directions**

- (1) This section applies if the chief health officer reasonably believes it is necessary to give a direction under this section (a *public health direction*) to assist in containing, or to respond to, the spread of COVID-19 within the community.
- (2) The chief health officer may, by notice published on the department's website or in the gazette, give any of the following public health directions—
  - (a) a direction restricting the movement of persons;
  - (b) a direction requiring persons to stay at or in a stated place;

- (c) a direction requiring persons not to enter or stay at or in a stated place;
  - (d) a direction restricting contact between persons;
  - (e) any other direction the chief health officer considers necessary to protect public health.
- (3) A public health direction must state—
- (a) the period for which the direction applies; and
  - (b) that a person to whom the direction applies commits an offence if the person fails, without reasonable excuse, to comply with the direction.

### **362C When public health directions take effect**

- (1) A public health direction takes effect as soon as it is given.
- (2) If a public health direction is published on the department's website and in the gazette, it takes effect when it is first published.
- (3) As soon as reasonably practicable after a public health direction is given, the chief health officer must take reasonable steps to ensure that persons likely to be directly affected by the direction are made aware of the giving of the direction.

*Examples of steps that may be reasonable for subsection (3)—*

- placing signs at particular places
- advertising in newspapers, on radio and on television
- sending emails and text messages

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### **362D Failure to comply with public health directions**

A person to whom a public health direction applies must comply with the direction unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

### **362E When public health directions must be revoked**

The chief health officer must revoke a public health direction as soon as reasonably practicable after the chief health officer is satisfied the direction is no longer necessary to assist in containing, or to respond to, the spread of COVID-19 within the community.

### **362F Recommended actions in relation to facilities**

- (1) The chief health officer may, to respond to the COVID-19 emergency, publish a notice under this section directed to the owners or operators of businesses or undertakings of a stated class.
- (2) The notice may state the chief health officer's recommendation that the owners or operators should do 1 or more of the following, at a stated time, in a stated way or to a stated extent, in relation to any facility used by them in conducting the business or undertaking—
  - (a) open the facility;
  - (b) close the facility;
  - (c) limit access to the facility.

*Example of a notice for paragraphs (a) and (c)—*

a notice stating the chief health officer's recommendation that the owners of supermarkets should open for trade during stated hours and limit entry to customers holding a pensioner concession card

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- (3) The notice must—
- (a) state the period for which the recommendation applies; and
  - (b) be published on the department's website.
- (4) As soon as reasonably practicable after the notice is published under subsection (3)(b), the chief health officer must take reasonable steps to ensure that persons likely to be directly affected by the notice are made aware of it.

*Examples of steps that may be reasonable for subsection (4)—*

- placing signs at particular places
  - advertising in newspapers, on radio and on television
  - sending emails and text messages
- (5) A person does not commit an offence against any other Act if the act or omission that would otherwise constitute the offence was done or made in accordance with the recommendation in the notice.

*Example of the application of subsection (5)—*

If the owner of a supermarket trades at a time when a provision of the *Trading (Allowable Hours) Act 1990* would otherwise require the supermarket to be closed, the owner does not commit an offence against that Act if the supermarket was open in accordance with a recommendation given in a notice under this section.

## **Division 3      Emergency officers**

### **362G Power to give directions under this division**

- (1) An emergency officer may give a person a direction under this division if the emergency officer reasonably believes the direction is necessary to assist in containing, or to respond to,

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the spread of COVID-19 within the community.

- (2) Also an emergency officer may give the person 1 or more further directions under this division if the officer reasonably believes the further directions are necessary for a purpose mentioned in subsection (1).
- (3) A direction given under this division must—
  - (a) be in writing; and
  - (b) state that the person to whom the direction is given commits an offence if the person fails, without reasonable excuse, to comply with the direction; and
  - (c) state any other matters required under this division.
- (4) To the extent of any inconsistency between a public health direction given by the chief health officer and a direction given by an emergency officer under this division, the public health direction prevails.
- (5) In this section—

*reasonably believes* means believes on grounds that are reasonable in the circumstances.

### **362H Directions to stay at particular places**

- (1) An emergency officer may give a person a direction to—
  - (a) stay at or in a stated place for a stated period of not more than 14 days (the *isolation period*) unless the person is permitted under the direction to leave the place for stated purposes or in stated circumstances; and
  - (b) comply with stated conditions during the isolation period.
- (2) For subsection (1)(a), the place may be the

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person's home or another place decided by the emergency officer.

*Examples of another place—*

a hospital, an isolation area established under section 352

- (3) For subsection (1)(b), the conditions may provide for matters including—
- (a) whether other persons may enter the place; and
  - (b) how the person's contact with other persons is restricted; and
  - (c) the purposes for which the person may leave the place.

*Examples of purposes—*

- to obtain medical care or medical supplies
- to avoid an emergency situation

### **362I Directions given in relation to particular facilities**

- (1) An emergency officer may give the owner or operator of any business or undertaking a direction under subsection (2).
- (2) A direction may require the owner or operator to do 1 or more of the following, at a stated time, in a stated way or to a stated extent, in relation to any facility used in conducting the business or undertaking—
  - (a) open the facility;
  - (b) close the facility;
  - (c) limit access to the facility.

*Example of a direction for paragraph (c)—*

a direction requiring the operator of a facility to restrict the access of visitors to the facility

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- (3) A direction given under this section must be in writing and state the period for which it applies.

### **362J Failure to comply with direction**

A person to whom a direction is given under this division must comply with the direction unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

### **362K When particular directions must be revoked**

An emergency officer must revoke a direction given under section 362I as soon as reasonably practicable after the officer is satisfied the direction is no longer necessary to assist in containing, or to respond to, the spread of COVID-19 within the community.

## **Division 4          Enforcement of directions**

### **362L Enforcement**

- (1) This section applies if a person fails to comply with a requirement or direction under—
  - (a) a public health direction; or
  - (b) a direction given under division 3.
- (2) An emergency officer may, with necessary and reasonable force, take action to enforce the requirement or direction.

## **Division 5          Relationship with parts 6 and 7**



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### **362M Relationship with pts 6 and 7**

- (1) Nothing in this part limits the powers an emergency officer may exercise under part 6, or an emergency officer (medical) may exercise under part 7, to respond to the COVID-19 emergency.
- (2) Also, nothing in part 6 or 7 limits the powers an emergency officer may exercise under this part.

### **37 Amendment of s 366 (Entitlement to compensation)**

Section 366—

*insert—*

- (2) However, the person is not entitled to be paid any compensation for the loss or damage if the power was exercised, or purportedly exercised, in relation to the COVID-19 emergency.

### **38 Insertion of new ch 12, pt 6**

Chapter 12—

*insert—*

## **Part 6 Transitional provisions for Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020**

### **497 Application of s 366**

Section 366(2) applies, and is taken to have applied from 16 March 2020, in relation to loss or damage suffered on or after 16 March 2020.

[s 39]

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**39 Amendment of sch 2 (Dictionary)**

Schedule 2—

*insert—*

*COVID-19 emergency*, for chapter 8, see section 315.

*public health direction*, for chapter 8, see section 362B(1).

**Division 3 Amendments commencing 1 year after assent**

**40 Amendment of s 339 (Powers)**

Section 339(1)(c)—

*omit.*

**41 Amendment of s 340 (Identity cards)**

Section 340(3)—

*omit.*

**42 Amendment of s 341 (Failure to return card)**

Section 341, ‘, other than a police officer,’—

*omit.*

**43 Amendment of s 342 (Production or display of identity card by emergency officer)**

(1) Section 342, heading, ‘or supply of identifying details’—

*omit.*

(2) Section 342(1), ‘, other than an emergency officer who is a police officer,’—

*omit.*

- (3) Section 342(1A) and (1B)—

*omit.*

- (4) Section 342(2), ‘, (1A) or (1B)’—

*omit.*

- (5) Section 342(2)(d)—

*omit.*

**44 Amendment of s 350 (Duration of order)**

Section 350(a), ‘14 days after the day’—

*omit, insert—*

96 hours from the time

**45 Omission of ch 8, pt 7A (Particular powers for COVID-19 emergency)**

Chapter 8, part 7A—

*omit.*

**46 Insertion of new s 498**

After section 497, as inserted by this Act—

*insert—*

**498 Proceedings against repealed s 362D or 362J**

- (1) This section applies in relation to an offence against repealed section 362D or repealed section 362J committed by a person before the commencement.
- (2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person may be convicted of and punished for the offence, as if

[s 47]

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the amendment Act, section 45 had not commenced.

(3) Subsection (2) applies despite the Criminal Code, section 11.

(4) In this section—

*amendment Act* means the *Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020*.

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

#### **47 Amendment of sch 2 (Dictionary)**

Schedule 2, definition *public health direction*—  
*omit.*

## **Part 12 Amendment of State Penalties Enforcement Regulation 2014**

#### **48 Regulation amended**

This part amends the *State Penalties Enforcement Regulation 2014*.

#### **49 Amendment of sch 1 (Infringement notice offences and fines for nominated laws)**

(1) Schedule 1, entry for *Public Health Act 2005*—  
*insert—*

s 346(1)	10	50
s 362D	10	50

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s 362J

10

50

- (2) Schedule 1, entry for *Public Health Act 2005*, authorised person for service of infringement notices entry—

*omit, insert—*

**Authorised person for service of infringement notices—**

- (a) for an offence against section 346(1), 362D or 362J—
- (i) an authorised person appointed under the *Public Health Act 2005*, section 377; or
  - (ii) an emergency officer (general) appointed under the *Public Health Act 2005*, section 333; or
  - (iii) an emergency officer (medical) appointed under the *Public Health Act 2005*, section 335; or
  - (iv) a police officer; or
- (b) for an offence against section 23(4), 409(1), 419(1) or 420—an authorised person appointed under the *Public Health Act 2005*, section 377.

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