

# COVID-19 and Other Legislation Amendment (Regulatory Reforms) Act 2022 No 5

[2022-5]



New South Wales

## Status Information

### Currency of version

Historical version for 25 March 2022 to 1 April 2022 (accessed 3 July 2024 at 20:30)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

### Notes—

- **Does not include amendments by**  
Sec 3(5) of this Act (sec 3(5) repeals sec 3 on 31.1.2024)
- **Note**  
Amending Acts and amending provisions are subject to automatic repeal pursuant to sec 30C of the [Interpretation Act 1987 No 15](#) once the amendments have taken effect.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 25 March 2022

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New South Wales

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# COVID-19 and Other Legislation Amendment (Regulatory Reforms) Act 2022 No 5



New South Wales

An Act to amend a number of Acts to permanently implement regulatory reforms relating to particular measures previously implemented temporarily as a result of the COVID-19 pandemic; to amend the *Constitution Act 1902* and the *Constitution (COVID-19 Emergency Measures) Regulation 2020* to extend particular provisions; and to amend the *Interpretation Act 1987* to clarify the requirements for tabling documents in a House of Parliament.

## 1 Name of Act

This Act is the *COVID-19 and Other Legislation Amendment (Regulatory Reforms) Act 2022*.

## 2 Commencement

- (1) Subject to subsections (2) and (3), this Act commences on the date of assent to this Act.
- (2) Schedules 1.6 and 1.8 commence on 1 April 2022.
- (3) Schedules 1.3[3]–[10], 1.11[5], 1.12[1], [2] and [4] and 1.17[3]–[10] commence on a day or days to be appointed by proclamation.

## 3 Report on effectiveness of amendments under COVID-19 and Other Legislation Amendment (Regulatory Reforms) Act 2022

- (1) The Treasurer must, within 18 months after the commencement of this Act, conduct a review of the amendments made by this Act, other than the amendments made by Schedule 1.4, 1.5, 1.10 and 1.15 of this Act.
- (2) The purpose of the review is to determine whether the amendments continue to—
  - (a) operate effectively and efficiently, and
  - (b) achieve the intended policy objectives underlying the amendments.
- (3) The Treasurer must, by 31 December 2023, give a report about the review to the Presiding Officer of each House of Parliament.

(4) A copy of a report given to the Presiding Officer of a House of Parliament under subsection (3) must be laid before the House within 5 sitting days of the House after it is received by the Presiding Officer.

(5) This section is repealed on 31 January 2024.

## **Schedule 1 Amendments**

### **1.1, 1.2**

(Repealed)

### **1.3 Community Land Management Act 2021 No 7**

#### **[1], [2] (Repealed)**

#### **[3] Section 234 Persons who may keep seals of associations**

Insert after section 234(2)—

(2A) The seal of the association may be kept in electronic form.

#### **[4] Section 234(3)**

Insert “, or to keep an electronic copy of the seal,” after “association”.

#### **[5] Section 234(5)**

Insert after section 234(4)—

(5) The regulations may make provision about keeping and storing the seal of an association in electronic form.

#### **[6] Section 235 Affixing of seal of association**

Insert after section 235(3)—

(3A) The seal of the association may be affixed physically or electronically.

(3B) If the seal is affixed electronically—

(a) subsections (1)–(3) do not apply in relation to affixing the seal, and

(b) the seal must be affixed in accordance with any requirements prescribed by the regulations under subsection (7).

(3C) An instrument or document to which the seal has been electronically affixed has effect as if the seal had been physically affixed to the instrument or document.

**[7] Section 235(7) and (8)**

Insert after section 235(6)—

- (7) The regulations may make provision about the following—
  - (a) any requirements for affixing the seal electronically,
  - (b) alternatives to affixing the seal of the association, including—
    - (i) requirements for witnessing or attesting to the alternatives, and
    - (i) records relating to the alternatives,
  - (c) records required to be kept relating to the electronic seal or any prescribed alternative to affixing the seal.
- (8) A reference in subsections (4)–(6) to affixing the seal of an association to an instrument or document is taken to include a reference to an alternative to affixing the seal in accordance with any regulations made under subclause (7).

**[8] Section 238 Regulation-making power for COVID-19 pandemic**

Omit the section.

**[9] Schedule 1 Meeting procedures of associations**

Omit clause 27. Insert instead—

**27 Way of voting**

- (1) A vote at a meeting by a person entitled to vote or by a proxy must be cast—
  - (a) in person, or
  - (b) if another way is specified in the notice given for the meeting—in the other way.
- (2) If a way of voting has been specified in the notice under subclause (1)(b), the secretary of the association or, if a managing agent is exercising the functions of the secretary, the managing agent must take reasonable steps to ensure each person entitled to vote at the meeting can participate in and vote at the meeting.
- (3) The regulations may provide for the following—
  - (a) the ways of voting that may be specified under subclause (1)(b),
  - (b) the circumstances in which a particular way of voting may be specified

- under subclause (1)(b),
- (c) without limiting paragraph (a), procedures for voting in a way specified under subclause (1)(b),
- (d) restricting, prohibiting or requiring the use of specified ways of voting,
- (e) what may or may not constitute reasonable steps taken by the secretary of the association for the purposes of subclause (2).

**[10] Schedule 2 Meeting procedures of association committees**

Omit clause 8. Insert instead—

**8 Ways of voting**

- (1) A vote at a meeting by a person entitled to vote may be cast—
  - (a) in person, or
  - (b) if another way is specified in the notice given for the meeting—in the other way.

**Note—**

A person may be present at a meeting even if not actually at the meeting. See the Dictionary, definition of **person present**.

- (2) If a way of voting has been specified in the notice under subclause (1)(b), the secretary of the association or, if a managing agent is exercising the functions of the secretary, the managing agent must take reasonable steps to ensure each person entitled to vote at the meeting can participate in and vote at the meeting.
- (3) The regulations may provide for the following—
  - (a) the ways of voting that may be specified under subclause (1)(b),
  - (b) the circumstances in which a particular way of voting may be specified under subclause (1)(b),
  - (c) without limiting paragraph (a), procedures for voting in a way specified under subclause (1)(b),
  - (d) restricting, prohibiting or requiring the use of specified ways of voting,
  - (e) what may or may not constitute reasonable steps taken by the secretary of the association or managing agent for the purposes of subclause (2).

## **1.4, 1.5**

(Repealed)

## **1.6 Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010 No 122**

### **[1] Section 63 Entitlement to pro rata payment instead of leave in limited circumstances**

Omit “20 weeks” from Section 63(1)(b). Insert instead “10 weeks, or a shorter period prescribed by the regulations,”.

### **[2] Section 63(1)(c)**

Omit “20-week period”.

Insert instead “10-week period or the shorter period prescribed under subsection (1)(b)”.

### **[3] Section 118 Special provision for pro rata payment during COVID-19 pandemic**

Omit the section.

## **1.7**

(Repealed)

## **1.8 Environmental Planning and Assessment Act 1979 No 203**

### **[1] Sections 10.17 and 10.18**

Omit the sections.

### **[2] Schedule 2 Provisions relating to planning bodies**

Omit clause 3(3)(b). Insert instead—

(b) the time and date of the public hearing,

### **[3] Schedule 2, clause 3(3)(b1)**

Insert after Schedule 2, clause 3(3)(b)—

(b1) the place at which the public hearing is to be held or, if the hearing is to be held by audio link, audio visual link or other electronic means, information about how a member of the public may hear or view the hearing,

### **[4] Schedule 2, clause 3(5)**

Insert after clause 3(4)—

- (5) A requirement to conduct a public hearing is taken to be satisfied if—
  - (a) the hearing is held wholly or partly by audio link, audio visual link or other electronic means, and
  - (b) the hearing, or the part of the hearing, held by audio link, audio visual link or other electronic means is able to be heard or viewed by electronic means by a member of the public at the time the hearing, or part of the hearing, is held.

**[5] Schedule 2, clause 25(4) and (5)**

Omit clause 25(4). Insert instead—

- (4) A planning body may carry out any of the planning body's business at a meeting held wholly or partly by audio link, audio visual link or other electronic means, but only if a member who speaks on a matter before the meeting or the part of the meeting can be heard by the other members.
- (5) A meeting, or a part of a meeting, held in accordance with subclause (4) is taken to be conducted in public if—
  - (a) the meeting, or the part of the meeting, is recorded, and
  - (b) the record of the meeting or part is made publicly available as required under subclause (3).

**1.9, 1.10**

(Repealed)

**1.11 Long Service Leave Act 1955 No 38**

**[1]-[4] (Repealed)**

**[5] Section 8**

Omit the section. Insert instead—

**8 Records to be kept by employer**

- (1) An employer must ensure a long service leave record is kept in relation to each worker employed by the employer.
- (2) The employer must keep the long service leave records in the way prescribed by the regulations.



- (3) The employer must ensure the long service leave record in relation to a worker is kept for a period of at least 6 years after the day on which the worker ceases to be employed by the employer.
- (4) The regulations may make provision about the transfer of a long service leave record relating to a worker, or copies of the record, to the successor of an employer.

**[6] (Repealed)**

## **1.12 Mental Health Act 2007 No 8**

**[1] Section 27A Examinations by medical practitioners or accredited persons for purposes of detention**

Omit section 27A(1)(a) and (b). Insert instead—

- (a) by a medical practitioner using an audio visual link, or
- (b) by an accredited person authorised by the medical superintendent of the mental health facility to examine or observe the person or observe for that purpose—
  - (i) in person, or
  - (ii) using an audio visual link.

**[2] Section 27A(3)**

Omit the subsection. Insert instead—

- (3) A medical practitioner or accredited person must not carry out an examination or observation using an audio visual link under this section unless the medical practitioner or accredited person is satisfied that the examination or observation can be carried out in the circumstances with sufficient skill and care so as to form the required opinion about the person.

**[3] (Repealed)**

**[4] Section 203**

Omit the section.

## **1.13-1.16**

(Repealed)

## **1.17 Strata Schemes Management Act 2015 No 50**

### **[1], [2] (Repealed)**

### **[3] Section 271A Regulation-making power for COVID-19 pandemic**

Omit section 271A.

### **[4] Section 272 Persons who may keep seals of owners corporations**

Insert after section 272(2)—

(2A) The seal of the owners corporation may be kept in electronic form.

### **[5] Section 272(3)**

Insert “, or to keep an electronic copy of the seal,” after “corporation”.

### **[6] Section 272(5)**

Insert after section 272(4)—

(5) The regulations may provide for keeping and storing the seal in electronic form.

### **[7] Section 273 Affixing of seal of owners corporation**

Insert after section 273(3)—

(3A) The seal of the owners corporation may be affixed physically or electronically.

(3B) If the seal is affixed electronically—

(a) subsections (1)–(3) do not apply in relation to affixing the seal, and

(b) the seal must be affixed in accordance with any requirements prescribed by the regulations under subsection (7).

(3C) An instrument or document to which the seal has been electronically affixed has effect as if the seal had been physically affixed to the instrument or document.

### **[8] Section 273(7) and (8)**

Insert after section 273(6)—

(7) The regulations may provide for the following—

(a) any requirements for affixing the seal electronically,

- (b) alternatives to affixing the seal of the owners corporation, including any requirements for witnessing or attesting to the alternatives and records relating to the alternatives,
  - (c) records required to be kept relating to the electronic seal or any prescribed alternatives to affixing the seal.
- (8) A reference in subsections (4)–(6) to affixing the seal of an owners corporation to an instrument or document is taken to include a reference to an alternative to affixing the seal in accordance with the regulations made under subsection (7).

**[9] Schedule 1 Meeting procedures of owners corporation**

Omit clause 28. Insert instead—

**28 Ways of voting**

- (1) A vote at a meeting by a person entitled to vote or by a proxy must be cast—
  - (a) in person, or
  - (b) if another way is specified in the notice given for the meeting—in the other way.
- (2) If a way of voting has been specified in the notice under subclause (1)(b), the secretary of the owners corporation or, if a strata managing agent is exercising the functions of the secretary, the strata managing agent must take reasonable steps to ensure each person entitled to vote at the meeting can participate in and vote at the meeting.
- (3) The regulations may provide for the following—
  - (a) the ways of voting that may be specified under subclause (1)(b),
  - (b) the circumstances in which a particular way of voting may be specified under subclause (1)(b),
  - (c) without limiting paragraph (a), procedures for voting in a specified way,
  - (d) restricting, prohibiting or requiring the use of specified ways of voting,
  - (e) what may or may not constitute reasonable steps taken by the secretary of the owners corporation or strata managing agent for the purposes of subclause (2).

**[10] Schedule 2 Meeting procedures of strata committees**

Omit clause 10. Insert instead—

## 10 Way of voting

- (1) A vote at a meeting by a person entitled to vote may be cast—
  - (a) in person, or
  - (b) if another means has been specified in the notice—by the other means.

### Note—

A person may be present at a meeting even if not actually at the meeting. See section 4(1), definition of **person present**.

- (2) If a means of voting has been specified in the notice under subclause (1)(b), the secretary of the owners corporation or, if a strata managing agent is exercising the functions of the secretary, the strata managing agent must take reasonable steps to ensure that each person entitled to vote at the meeting can participate in, and vote at, the meeting by that means.
- (3) The regulations may make provision about the following—
  - (a) the means of voting that may be specified under subclause (1)(b),
  - (b) the circumstances in which a particular means of voting may be specified under subclause (1)(b),
  - (c) without limiting paragraph (a), procedures for voting by a specified means,
  - (d) restricting, prohibiting or requiring the use of specified means of voting,
  - (e) what may or may not constitute reasonable steps taken by the secretary of the owners corporation or strata managing agent for the purposes of subclause (2).

## 1.18

(Repealed)