

# COVID-19 Legislation Amendment (Emergency Measures) Act 2020 No 1

[2020-1]



New South Wales

## Status Information

### Currency of version

Repealed version for 25 March 2020 to 25 March 2020 (accessed 17 July 2024 at 18:24)

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

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

This Act was repealed by sec 30C of the [Interpretation Act 1987 No 15](#) with effect from 26.3.2020.

### 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](#).

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# COVID-19 Legislation Amendment (Emergency Measures) Act 2020 No 1



New South Wales

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# COVID-19 Legislation Amendment (Emergency Measures) Act 2020 No 1



New South Wales

An Act to amend a number of Acts to implement emergency measures as a result of the COVID-19 pandemic.

## 1 Name of Act

This Act is the *COVID-19 Legislation Amendment (Emergency Measures) Act 2020*.

## 2 Commencement

This Act commences on the date of assent to this Act.

## Schedule 1 Amendment of **Criminal Procedure Act 1986 No 209**

### [1] Chapter 7, Part 5

Insert after Part 4—

## **Part 5 Response to COVID-19 pandemic**

### **Division 1 Preliminary**

#### **353 Purpose of Part**

The purpose of this Part is to enable criminal trials in the State to be conducted in a way that is appropriate given the public health emergency caused by the COVID-19 pandemic.

### **Division 2 Pre-recorded evidence hearings**

#### **354 Definitions**

- (1) In this Division, a **relevant witness** means a person who is—
- (a) a complainant in prescribed sexual offence proceedings, or

- (b) a complainant in proceedings for a domestic violence offence within the meaning of section 11 of the *Crimes (Domestic and Personal Violence) Act 2007*, or
  - (c) a complainant in proceedings for a serious indictable offence that is an offence of violence, or
  - (d) a complainant or witness whom the court considers is at a significantly greater risk from the COVID-19 pandemic than the risk to members of the community generally, including because of the age or health of the complainant or witness.
- (2) The regulations may amend subsection (1)—
- (a) by inserting additional persons or classes of persons as relevant witnesses, or
  - (b) by removing or amending a person or offence, or a class of persons or offences, referred to in that subsection.

### **355 Proceedings to which Division applies**

This Division applies only to proceedings in the District Court or Supreme Court.

### **356 Pre-recorded evidence hearing**

- (1) A court may, on its own motion, order that the evidence of a relevant witness in a trial proceeding be given at a hearing (a **pre-recorded evidence hearing**) in the absence of the jury (if any).
- (2) The court may make an order under subsection (1) only if—
  - (a) the accused person has sought and received advice from an Australian legal practitioner, and
  - (b) both parties have been heard on the order, and
  - (c) all pre-trial disclosure and case management requirements under Division 3 of Part 3 of Chapter 3 have been complied with, and
  - (d) the court is satisfied it is in the interests of justice to do so.
- (3) In deciding whether to make the order, the court must consider—
  - (a) the wishes and circumstances of the witness, and
  - (b) the availability of court and other facilities needed for a pre-recorded evidence hearing to take place.
- (4) At a pre-recorded evidence hearing, a witness is entitled to—

- (a) give evidence in a way that the witness would otherwise be entitled to give evidence, and

**Note—**

See, for example, section 306S for the ways in which the evidence of a vulnerable person may be given and section 306W for alternative ways of giving evidence.

- (b) any entitlements the witness would otherwise have under this Act.

**Note—**

See, for example, section 306U that provides for a vulnerable person to give evidence in chief in the form of a recording.

- (5) Evidence given at a pre-recorded evidence hearing is to be recorded and subsequently viewed or heard (or both) by the court in the presence of the jury (if any).
- (6) In proceedings in which evidence given at a pre-recorded evidence hearing is viewed or heard, the court must warn the jury not to—
  - (a) draw any inference adverse to the accused person, or
  - (b) give the evidence any greater or lesser weight because the evidence was given in that way.
- (7) The Court may order that a transcript be supplied to the Court or jury (if any) of all or part of a recording made under this section if the Court considers a transcript would be likely to aid its or the jury's comprehension of the evidence.

### **357 Access to recorded evidence**

- (1) An accused person and the person's Australian legal practitioner (if any) are not entitled to be given possession of the recording of evidence taken at a pre-recorded evidence hearing under this Division, or a copy of the recording, if the evidence was given by—
  - (a) a complainant, or
  - (b) a special witness within the meaning of section 306A, or
  - (c) a vulnerable person within the meaning of section 306M.
- (2) The accused person and the person's Australian legal practitioner (if any) are to be given reasonable access, from time to time, to the recording of evidence taken at a pre-recorded evidence hearing under this Division to enable the person or practitioner to listen to or view the recording (or both).
- (3) If reasonable access to the recording of original evidence cannot be given to an accused person's Australian legal practitioner because of subsections (1) and (2), the prosecuting authority must, as soon as practicable, give the legal

practitioner reasonable access to the recording in the way the prosecuting authority considers appropriate.

- (4) For subsection (3), in deciding on the appropriate way in which access to the recording should be given the prosecuting authority must ensure that—
  - (a) there is no unauthorised reproduction or circulation of the recording, and
  - (b) the integrity of the recording is protected.
- (5) A person given access to a record of evidence under this Division must not, without the consent of the prosecuting authority—
  - (a) copy the recording, or
  - (b) give it to another person, or
  - (c) remove it from the custody of the prosecuting authority.
- (6) The regulations may provide for—
  - (a) the procedures to be followed in connection with the giving of access to a record of evidence under this section, and
  - (b) the way in which access is to be given to a record of evidence under this section, including the giving of access by other means.

### **358 Further evidence by witness whose evidence is pre-recorded**

- (1) A witness in a proceeding whose evidence is pre-recorded at a pre-recorded evidence hearing under this Division cannot give further evidence in the trial without the leave of the court.
- (2) An application for leave may be made by any party to the proceedings.
- (3) The court must not give leave unless it is satisfied—
  - (a) the witness or other party is seeking leave because of becoming aware of a matter of which the party could not reasonably have been aware at the time of the recording, or
  - (b) it is otherwise in the interests of justice to give leave.
- (4) The court is to ensure that the witness is questioned by a party to the proceedings only in relation to matters relevant to the matters mentioned in subsection (3).
- (5) This section applies despite anything to the contrary in this Act or the *Evidence Act 1995*.

## **Division 3 Use of recorded evidence in subsequent proceedings**

### **359 Definitions**

In this Division—

**best available record** has the meaning given by section 306E(2).

**hearsay rule** has the meaning given by the [Evidence Act 1995](#).

**original evidence**, of a witness, means all evidence, including pre-recorded evidence, given by the witness—

- (a) for a new trial resulting from a discontinued trial—in the discontinued trial, or
- (b) for a new trial resulting from an appeal against a conviction—in the proceedings from which the conviction arose.

**properly authenticated** has the meaning given by section 306E(4).

### **360 Application of Division**

This Division applies to proceedings in all courts.

### **361 Relationship with other laws or provisions**

- (1) This Division applies despite anything to the contrary in the [Evidence Act 1995](#) or any other Act or law.
- (2) To remove any doubt, nothing in this Division affects the operation of Divisions 3 and 4 of Part 5 of Chapter 6.

### **362 Use of recorded evidence**

- (1) This section applies if—
  - (a) a trial of an accused person is discontinued for any reason and, as a result, a new trial is listed, or
  - (b) a person is convicted of an offence and, on appeal against the conviction, a new trial is ordered.
- (2) The prosecutor may tender as evidence in the new trial proceedings a record of the original evidence of a witness.
- (3) A record of the original evidence of the witness is admissible in the new trial.
- (4) The hearsay rule does not prevent—

- (a) the admission of a record of the original evidence of the witness, or
  - (b) the use of the record to prove the existence of a fact that the witness intended to assert by a representation made in the original evidence.
- (5) The court may decline to admit a record of the original evidence of the witness if, in the court's opinion, the accused would be unfairly disadvantaged by the admission of the record, having regard to the following—
- (a) the completeness of the original evidence, including whether the witness has been cross-examined on the evidence,
  - (b) the effect of editing any inadmissible evidence from the original evidence,
  - (c) the availability of the witness to attend to give further evidence in relation to a matter that may be the subject of leave under section 364,
  - (d) the interests of justice,
  - (e) any other matter the court thinks relevant.
- (6) The court may give directions requiring the record of the original evidence to be altered or edited to remove statements that would not be admissible if the original evidence of the witness had been given orally before the court in accordance with the usual rules and practice of the court.
- (7) Also, a record of the original evidence may be altered or edited in accordance with an agreement between the prosecutor and the accused person and the person's counsel (if any).
- (8) The record of the original evidence of the witness tendered by the prosecution must be—
- (a) the best available record, or be comprised of the best available records, of the original evidence of the witness, and
  - (b) properly authenticated.
- (9) If a record of the original evidence of a witness is tendered by the prosecutor under this section, any exhibits tendered in the original proceedings on the basis of the original evidence of the witness and admitted in the original proceedings are also admissible in the new trial proceedings as if the original evidence of the witness had been given orally before the court hearing the new trial proceedings in accordance with the usual rules and practice of the court.
- (10) Subsection (9) does not prevent any other exhibits tendered in the original proceedings from being tendered and admitted in the new trial proceedings in accordance with the usual rules and practice of the court hearing the new trial



proceedings.

### **363 Access to recorded evidence**

- (1) An accused person and the person's Australian legal practitioner (if any) are not entitled to be given possession of the recording of evidence, or a copy of the recording, if the evidence was given by—
  - (a) a complainant in proceedings for a serious indictable offence that is an offence of violence, or
  - (b) a complainant in proceedings for a domestic violence offence within the meaning of section 11 of the *Crimes (Domestic and Personal Violence) Act 2007*, or
  - (c) a vulnerable person within the meaning of section 306M.

**Note—**

Part 5 of Chapter 6 deals with access to recordings of evidence in sexual offence proceedings.

- (2) The accused person and the person's Australian legal practitioner (if any) are to be given reasonable access, from time to time, to the recording of evidence to enable the person or practitioner to listen to or view the recording.
- (3) If reasonable access to the record of original evidence cannot be given to an accused person's Australian legal practitioner because of subsections (1) and (2), the prosecuting authority must, as soon as practicable, give the legal practitioner reasonable access to the recording in the way the prosecuting authority considers appropriate.
- (4) For subsection (3), in deciding on the appropriate way in which access to the recording should be given the prosecuting authority must ensure that—
  - (a) there is no unauthorised reproduction or circulation of the recording, and
  - (b) the integrity of the recording is protected.
- (5) A person given access to a record of evidence under this Division must not, without the consent of the prosecuting authority—
  - (a) copy the recording, or
  - (b) give it to another person, or
  - (c) remove it from the custody of the prosecuting authority.
- (6) The regulations may provide for—
  - (a) the procedures to be followed in connection with the giving of access to a

record of evidence under this section, and

- (b) the way in which access is to be given to a record of evidence under this section, including the giving of access by other means.

### **364 Further evidence**

- (1) If a record of the original evidence of a witness is admitted in proceedings under this Division, the witness cannot give further evidence without the leave of the court.
- (2) An application for leave under subsection (1) may be made by any party to the proceedings.
- (3) The court must not give leave under subsection (1) unless it is satisfied—
  - (a) the witness or other party is seeking leave because of becoming aware of a matter which the party could not reasonably have been aware of at the time of the recording, or
  - (b) it is otherwise in the interests of justice to give leave.
- (4) The court is to ensure that the witness is questioned by a party to the proceedings only in relation to matters relevant to the matters mentioned in subsection (3).

## **Division 4 Judge alone trials**

### **365 Judge alone trials**

- (1) A court may, on its own motion, order that an accused person be tried by a Judge alone.
- (2) A court may make an order under subsection (1) only if—
  - (a) the accused person consents to be tried by a Judge alone or, for a joint trial, all the accused persons consent to be tried by a Judge alone, and
  - (b) if the prosecutor does not agree to the accused person being tried by a Judge alone, the court considers it is in the interests of justice for the accused person to be tried by a Judge alone, and
  - (c) the court is satisfied the accused person has sought and received advice from an Australian legal practitioner in relation to the effect of an order that the person be tried by a Judge alone.
- (3) This section applies despite any other provision of this Act, including sections 132 and 132A.

## **Division 5 Regulation-making power for exceptional circumstances**

### **366 Regulation-making power**

- (1) The regulations under any relevant Act may provide for the following matters for the purposes of responding to the public health emergency caused by the COVID-19 pandemic—
  - (a) altered arrangements for criminal proceedings, including pre-trial proceedings, provided for by an Act or another law,
  - (b) altered arrangements for apprehended violence order proceedings, including provisional and interim orders, provided for by an Act or another law,
  - (c) matters relating to bail and sentencing,
  - (d) matters relating to the administration of sentences provided for by an Act or other law.
- (2) The Minister may recommend to the Governor that regulations be made under this section only if—
  - (a) Parliament is not currently sitting and is not likely to sit within 2 weeks after the day the regulations are made, and
  - (b) in the Minister's opinion—
    - (i) the arrangements made by the provisions of the regulations are in accordance with advice issued by the Minister for Health and Medical Research or the Chief Health Officer, and
    - (ii) the regulations are reasonable to protect the health, safety and welfare of persons in relation to the administration of justice, and
  - (c) for a matter mentioned in subsection (1)(a), (b) or (c), the following persons have consented to the recommendation being made—
    - (i) the Chief Justice,
    - (ii) if the regulations are relevant to a particular jurisdiction—the head of the particular jurisdiction.
- (3) Regulations made under this section—
  - (a) are not limited by the regulation-making power in a relevant Act, and
  - (b) may override the provisions of any Act or other law.

- (4) To remove any doubt, subsection (3) does not apply to allow regulations to be made under this section that amend or override this Division.
- (5) Regulations made under this section expire on—
- (a) the day that is 6 months after the day on which the regulation commences, or
  - (b) the earlier day decided by Parliament by resolution of either House of Parliament.
- (6) In this section—
- relevant Act** means any of the following—
- (a) this Act,
  - (b) the *Crimes (Administration of Sentences) Act 1999*,
  - (c) the *Crimes (Domestic and Personal Violence) Act 2007*,
  - (d) the *Bail Act 2013*,
  - (e) the *Crimes (Sentencing Procedure) Act 1999*,
  - (f) the *Children (Detention Centres) Act 1987*,
  - (g) the *Young Offenders Act 1997*,
  - (h) the *Evidence (Audio and Audio Visual Links) Act 1998*,
  - (i) another Act administered by the Attorney General.

## Division 6 Repeal

### 367 Repeal of Part

This Part is repealed—

- (a) on the day that is 6 months after its commencement, or
- (b) on a later day, not more than 12 months after its commencement, prescribed by the regulations.

### [2] Schedule 2 Savings, transitional and other provisions

Insert after Part 37—

## Part 38 Provisions consequent on enactment of COVID-19

## Legislation Amendment (Emergency Measures) Act 2020

### 111 Use of pre-recorded evidence in particular circumstances

- (1) If, before the commencement of this clause, relevant evidence was given and recorded at a hearing in the absence of the jury (if any), the evidence is taken to have been given at a pre-recorded evidence hearing under Division 2 of Part 5 of Chapter 7.
- (2) Evidence given at a pre-recorded evidence hearing under Division 2 of Part 5 of Chapter 7 may be heard or viewed, in accordance with that Division, at a hearing that takes place after the Division is repealed as if it were still in force.
- (3) In this clause—

**relevant evidence** means evidence of a relevant witness in a trial proceeding that, if given after the commencement of this clause, would be evidence given at a pre-recorded evidence hearing under Division 2 of Part 5 of Chapter 7.

### 112 Use of original evidence in particular circumstances

- (1) The original evidence of a witness recorded in a proceeding before the commencement of this clause is, for the purposes of Division 3 of Part 5 of Chapter 7, to be treated in the same way as the original evidence of a witness recorded after the commencement.
- (2) The original evidence of a witness may be heard or viewed, in accordance with Division 3 of Part 5 of Chapter 7, at a hearing that takes place after the Division is repealed as if it were still in force.

## Schedule 2 Amendment of other Acts

### 2.1 Child Protection (Working with Children) Act 2012 No 51

#### Section 54

Insert after section 53—

#### 54 Duration of clearances—response to COVID-19 pandemic

- (1) Despite section 22(1), the period for which a working with children check clearance is in force may be extended at the discretion of the Children's Guardian.
- (2) This section is repealed—
  - (a) on the day that is 6 months after its commencement, or

(b) on a day, not more than 12 months after its commencement, prescribed by the regulations.

(3) An extension granted under this section is not affected by the repeal of the section.

## 2.2 Children (Detention Centres) Act 1987 No 57

### Section 110

Insert after section 109—

#### **110 Visits to detention centres during COVID-19 pandemic**

- (1) During the prescribed period, the Secretary may prohibit or otherwise restrict any person, or any class of persons, from entering or visiting, or visiting a particular person within, a detention centre.
- (2) The Secretary may take action under this section—
  - (a) only if satisfied it is reasonably necessary to protect the health of a detainee, any other person or the public from the public health risk posed by the COVID-19 pandemic, and
  - (b) despite any other provision of this Act or the regulations or any other Act or law.
- (3) This section does not extend to a visit to a detention centre by the Ombudsman or the Inspector of Custodial Services.
- (4) To avoid doubt, this section does not affect any communication between detainees and other persons by post, telephone, email, audio visual link or other means as provided for under this Act.
- (5) In this section—

**prescribed period** means the period—

  - (a) starting on the commencement of this section, and
  - (b) ending on—
    - (i) the day that is 6 months after the commencement, or
    - (ii) the later day, not more than 12 months after the commencement, prescribed by the regulations.

## 2.3 Civil and Administrative Tribunal Act 2013 No 2

### Schedule 1 Savings, transitional and other provisions

Insert after Part 4—

## Part 5 Provisions for COVID-19 pandemic

### Division 1 Interpretation

#### 22 Definitions

In this Part—

**appeal** against a decision of the Tribunal includes an application made to a court for a judicial review or any other review of the decision.

**guardianship function** means a substantive Division function within the meaning of Schedule 6.

**modification** includes addition, exception, omission or substitution.

**prescribed period** means the period—

- (a) starting on the commencement of this Part, and
- (b) ending on—
  - (i) the day that is 6 months after the commencement, or
  - (ii) the later day, not more than 12 months after the commencement, prescribed by the regulations.

**public health function** means a substantive Division function within the meaning of Schedule 3 exercised for the purposes of the *Public Health Act 2010*.

### Division 2 Exercise of guardianship functions

#### 23 Constitution of Tribunal for certain guardianship functions

- (1) This clause applies to the exercise of a guardianship function if Schedule 6 would otherwise require the function to be exercised by the Tribunal constituted by 3 members.
- (2) During the prescribed period, the Tribunal may, when exercising a guardianship function to which this clause applies, be constituted by 2 members assigned to the Guardianship Division of the Tribunal instead of 3 members.

- (3) Each of the 2 members must—
  - (a) be an Australian lawyer or have a qualification referred to in clause 4(1)(b) or (c) of Schedule 6, and
  - (b) not have the same qualification (including that of an Australian lawyer) as the other member.
- (4) The following provisions apply to a decision made by the Tribunal constituted in accordance with this clause if it is a decision the Tribunal is subsequently required to review under the *Guardianship Act 1987*—
  - (a) the decision must be reviewed in accordance with the requirements of that Act,
  - (b) if clause 4(2) of Schedule 6 would otherwise apply to the constitution of the Tribunal—the Tribunal is to be constituted as provided by clause 4(1) of that Schedule rather than clause 4(2).
- (5) If the Tribunal constituted in accordance with this clause makes a financial management order under Division 1 of Part 3A of the *Guardianship Act 1987*, the order is to be reviewed by the Tribunal constituted as provided by clause 4(1) of Schedule 6 within 12 months of the making of the order.
- (6) Division 2 of Part 3A of the *Guardianship Act 1987* applies to a review of a financial management order for the purposes of subclause (5) as if the Tribunal had made an order for the financial management order to be reviewed within 12 months.
- (7) Subclauses (4)–(6) apply regardless of whether or not the prescribed period has ended.
- (8) This clause does not prevent the Tribunal being constituted by 3 members in accordance with Schedule 6.

## 24 Giving of reasons

- (1) The following provisions do not apply during the prescribed period in respect of a decision of the Tribunal made in exercise of a guardianship function (a **guardianship decision**)—
  - (a) section 62,
  - (b) clause 11 of Schedule 6.
- (2) During the prescribed period, the following provisions apply to the Tribunal in respect of any guardianship decision it makes—
  - (a) the Tribunal must—



- (i) provide an oral statement of reasons at the time the decision is made or within 30 days after the decision is made, and
- (ii) record the oral statement of reasons,
- (b) the Tribunal may provide a written statement of reasons instead of an oral statement of reasons if it does so within 30 days after the decision is made,
- (c) paragraphs (a) and (b) do not prevent the Tribunal from providing a later written statement of reasons for a decision in respect of which it has already provided an oral statement of reasons even if it is after 30 days of the decision,
- (d) the statement of reasons is to be provided to each party as follows—
  - (i) if the statement is given orally—by providing a copy of the recording of the statement,
  - (ii) if the statement is in writing—by providing a copy of the written statement.

## **Division 3 Exercise of public health functions**

### **25 Constitution of Tribunal for certain public health functions**

- (1) This clause applies to the exercise of a public health function if Schedule 3 would otherwise require the function to be exercised by the Tribunal constituted by 3 members.
- (2) During the prescribed period, the Tribunal may, when exercising a public health function to which this clause applies, be constituted by 2 members assigned to the Administrative and Equal Opportunity Division of the Tribunal instead of 3 members.
- (3) For this purpose, the Tribunal is to be constituted by—
  - (a) a member assigned to the Division who is a registered medical practitioner with experience in public health matters, and
  - (b) a member assigned to the Division who is an Australian lawyer.
- (4) This clause does not prevent the Tribunal being constituted by 3 members in accordance with Schedule 3.

## **Division 4 Modification of certain other requirements**

### **26 Regulations may modify certain provisions**

The regulations may make provision for or with respect to the modification of any of

the following during the prescribed period—

- (a) the periods of time within which anything may or must be done in connection with the Tribunal for the purposes of this Act, enabling legislation or any other legislation, including (without limitation) in respect of—
  - (i) applications for decisions by the Tribunal, or
  - (ii) appeals against, or reviews of, decisions of the Tribunal (whether made to the Tribunal or a court),
- (b) the practice and procedure of the Tribunal for the purposes of this Act, enabling legislation or any other legislation.

## **27 Time to provide written statement of reasons extended**

If, during the prescribed period, the Tribunal is requested to provide a written statement of reasons under section 62, the Tribunal is to provide the statement within 90 days (or any other period of time prescribed by the regulations) after the request is made instead of within 28 days.

## **28 Extension of time periods by Tribunal and courts**

- (1) During the prescribed period, the Tribunal may, of its own motion or on application, extend the period of time for the doing of anything in connection with the Tribunal (including for an application for a decision by the Tribunal or an internal appeal) for which legislation specifies a period of time within which it is to be done.
- (2) During the prescribed period, a court to which an appeal against a decision of the Tribunal can be made may, of its own motion or on application, extend the period of time for making the appeal (or making an application for leave to appeal) for which legislation specifies a period of time within which it is to be done.
- (3) The Tribunal or a court may extend a period of time under this clause only if it considers that it is necessary or just to do so because of the COVID-19 pandemic.
- (4) A period of time may be extended under this clause even though the relevant period of time has expired.
- (5) This clause does not limit any power that the Tribunal or a court has apart from this clause to extend a period of time.

## **29 Application to periods of time under Division**

To avoid doubt, a reference in this Division to a period of time specified by legislation

within which something is to be done includes a period of time specified by or under this Part.

## **Division 5 General**

### **30 When Minister may recommend making of regulation**

The Minister is not to recommend the making of a regulation for the purposes of a provision of this Part unless the Minister certifies that the Minister—

- (a) is satisfied that the provisions of the regulation are necessary for the purpose of countering the impact of the COVID-19 pandemic and ensuring decisions by the Tribunal can continue to be made in a timely way, and
- (b) has consulted the President about whether the provisions are necessary for the purpose referred to in paragraph (a).

### **31 Continued legal effect after prescribed period of things done during period**

Anything done, or omitted to be done, during the prescribed period pursuant to a provision of this Part (or of a regulation made for the purposes of this Part) remains as legally effective after the prescribed period as it was during that period.

### **32 Relationship of Part with this Act and other legislation**

- (1) This Part applies despite anything to the contrary in this Act, the regulations, the Tribunal rules, enabling legislation or any other legislation.
- (2) To avoid doubt, subclause (1) applies despite anything in a Division Schedule for a Division of the Tribunal.

## **2.4 Constitution Act 1902 No 32**

### **Schedule 8**

Insert after the Seventh Schedule—

## **Schedule 8 Special provisions for COVID-19 pandemic**

### **1 Definitions**

In this Schedule—

***prescribed period*** means the period—

- (a) starting on the commencement of this Schedule, and

(b) ending on—

- (i) the day that is 6 months after the commencement, or
- (ii) the later day, not more than 12 months after the commencement, prescribed by the regulations.

## **2 Assent to Bills**

For the purposes of section 8A, the regulations may prescribe the ways and forms in which—

- (a) a Bill may be presented to the Governor for Her Majesty's assent, and
- (b) a Bill may be assented to by the Governor in the name and on behalf of Her Majesty.

## **3 Meetings of Executive Council**

For the purposes of section 35D, the regulations may prescribe the ways and forms in which meetings of the Executive Council are to be held during the prescribed period, including the ways and forms in which the Governor may preside at meetings.

## **4 Regulations**

The Governor may make regulations, not inconsistent with this Schedule, for or with respect to any matter that by this Schedule is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Schedule.

## **5 Repeal of Schedule**

This Schedule and any regulations made under this Schedule are repealed 12 months after the commencement of this Schedule.

# **2.5 Crimes (Administration of Sentences) Act 1999 No 93**

## **Part 15**

Insert after section 273—

## **Part 15 Special provisions for COVID-19 pandemic**

### **274 Definitions**

In this Part—

**correctional premises** means any of the following—

- (a) a correctional complex,
- (b) a correctional centre,
- (c) a residential facility,
- (d) a transitional centre.

**prescribed period** means the period—

- (a) starting on the commencement of this Part, and
- (b) ending on—
  - (i) the day that is 6 months after the commencement, or
  - (ii) the later day, not more than 12 months after the commencement, prescribed by the regulations.

## **275 Visits to correctional premises during COVID-19 pandemic**

- (1) During the prescribed period, the Commissioner may prohibit or otherwise restrict any person, or any class of persons, from entering or visiting, or visiting a particular person within, correctional premises.
- (2) The Commissioner may take action under this section—
  - (a) only if satisfied that it is reasonably necessary to protect the health of an inmate, any other person or the public from the public health risk posed by the COVID-19 pandemic, and
  - (b) despite any other provision of this Act or the regulations or any other Act or law.
- (3) This section does not extend to a visit to correctional premises by the Ombudsman or the Inspector of Custodial Services.
- (4) To avoid doubt, this section does not affect any communication between inmates and other persons by post, telephone, email, audio visual link or other means as provided for under this Act.

## **276 Commissioner may grant parole during COVID-19 pandemic**

- (1) Despite any other provision of this Act or the regulations or any other Act or law, the Commissioner may, during the prescribed period, make an order (a **Commissioner's order**) releasing an inmate on parole if—
  - (a) the inmate belongs to a class of inmates prescribed by the regulations, and

- (b) the Commissioner is satisfied that releasing the inmate on parole is reasonably necessary because of the risk to public health or to the good order and security of correctional premises arising from the COVID-19 pandemic.
- (2) A class of inmates may be prescribed according to any of the following—
- (a) the offence committed by an inmate,
  - (b) the period remaining before the expiry of an inmate’s sentence or non-parole period,
  - (c) an inmate’s age,
  - (d) an inmate’s health or vulnerability,
  - (e) any other matter.
- (3) However, the Commissioner may not make a Commissioner’s order in respect of any of the following inmates—
- (a) an inmate serving a sentence of imprisonment for any of the following offences—
    - (i) murder,
    - (ii) a serious sex offence or an offence of a sexual nature (within the meaning of the *Crimes (High Risk Offenders) Act 2006*),
    - (iii) a terrorism offence (within the meaning of Division 3A of Part 6 of this Act),
  - (b) an inmate serving a sentence of imprisonment for life,
  - (c) a serious offender,
  - (d) an inmate kept in custody in relation to an offence against a law of the Commonwealth,
  - (e) a Commonwealth post sentence terrorism inmate,
  - (f) a NSW post sentence inmate.
- (4) Before making a Commissioner’s order in respect of an inmate, the Commissioner must consider the following—
- (a) the risks to community safety of releasing the inmate,
  - (b) the impact of the release of the inmate on any victim whose name is recorded in the Victims Register in relation to the inmate,

- (c) in the case of an inmate who has previously been convicted of a domestic violence offence (within the meaning of the *Crimes (Domestic and Personal Violence) Act 2007*)—the protection of the victim of the domestic violence offence and any person with whom the inmate is likely to reside if released,
  - (d) the availability of suitable accommodation for the inmate if released,
  - (e) any other matter the Commissioner considers relevant.
- (5) A Commissioner’s order is subject to the standard conditions imposed by this Act or the regulations.
- (6) During the prescribed period, the Commissioner may—
  - (a) impose, vary or revoke an additional condition on a Commissioner’s order in the same way as the Parole Authority may under section 128 in respect of a parole order made under Part 6, and
  - (b) revoke the parole of an inmate under this section for any reason.
- (7) Subject to any necessary modifications and any modifications provided for by this section or the regulations—
  - (a) this Act applies, during the prescribed period, to and in respect of an inmate released on parole under a Commissioner’s order in the same way as it applies to an offender released on parole under Part 6, and
  - (b) the Parole Authority, during the prescribed period, is to deal with an inmate released on parole under a Commissioner’s order in the same way as it deals with an offender released on parole under Part 6.
- (8) Divisions 4 and 5 of Part 7 do not apply in relation to a revocation of an inmate’s parole by the Commissioner under this section.
- (9) To avoid doubt, the Parole Authority may issue a warrant under section 181 in respect of an inmate whose parole is revoked by the Commissioner under this section or by the Parole Authority under this Act.
- (10) The regulations may make further provision for and with respect to—
  - (a) the functions of the Commissioner under this section and the application of this Act in respect of an inmate released on parole under a Commissioner’s order during the prescribed period, and
  - (b) the application of this section and this Act to an inmate released on parole under a Commissioner’s order who remains on parole at the end of the prescribed period.
- (11) Nothing in this section requires the Commissioner to consider making a

Commissioner's order in respect of an inmate who belongs to a class of inmates prescribed by the regulations.

## 2.6 Crimes (Domestic and Personal Violence) Act 2007 No 80

### Section 29 Provisional order taken to be application for court order

Insert after section 29(3)—

- (4) During the prescribed period, the reference to 28 days in subsection (3)(b) is taken to be a reference to 6 months.
- (5) In this section—

***prescribed period*** means the period—

  - (a) starting on the commencement of subsection (4), and
  - (b) ending on—
    - (i) the day that is 6 months after the commencement, or
    - (ii) the later day, not more than 12 months after the commencement, prescribed by the regulations.

## 2.7 Electronic Transactions Act 2000 No 8

### Part 4

Insert after section 16—

## Part 4 Special provisions for COVID-19 pandemic

### 17 Regulation-making power

- (1) The regulations under any relevant Act may provide for the following matters for the purposes of responding to the public health emergency caused by the COVID-19 pandemic—
  - (a) altered arrangements for the signature of documents provided for by an Act or another law,
  - (b) altered arrangements for witnessing signatures, including requirements for certification of certain matters by witnesses and verification of identity, provided for by an Act or another law,
  - (c) altered arrangements for the attestation of documents.



- (2) The Minister may recommend to the Governor that regulations be made under this section only if—
- (a) Parliament is not currently sitting and is not likely to sit within 2 weeks after the day the regulations are made, and
  - (b) in the Minister’s opinion—
    - (i) the arrangements made by the provisions of the regulations are in accordance with advice issued by the Minister for Health and Medical Research or the Chief Health Officer, and
    - (ii) the regulations are reasonable to protect the health, safety and welfare of persons, and
  - (c) for regulations being made under a relevant Act administered by another Minister, with the concurrence of the other Minister.
- (3) Regulations made under this section—
- (a) are not limited by the regulation-making power in a relevant Act, and
  - (b) may override the provisions of any Act or other law.
- (4) Regulations made under this section expire on—
- (a) the day that is 6 months after the day on which the regulation commences, or
  - (b) the earlier day decided by Parliament by resolution of either House of Parliament.
- (5) In this section—
- relevant Act** means any of the following—
- (a) this Act,
  - (b) the *Oaths Act 1900*,
  - (c) the *Guardianship Act 1987*,
  - (d) the *Succession Act 2006*,
  - (e) the *Powers of Attorney Act 2003*,
  - (f) the *Conveyancing Act 1919*,
  - (g) another Act administered by the Attorney General.

## **18 Repeal of Part**

This Part is repealed—

- (a) on the day that is 6 months after its commencement, or
- (b) on a later day, not more than 12 months after its commencement, prescribed by the regulations.

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

### **Sections 10.17 and 10.18**

Insert after section 10.16—

#### **10.17 COVID-19 pandemic—Ministerial orders**

- (1) During the prescribed period, the Minister may, by order published in the Gazette, authorise development to be carried out on land without the need for any approval under the Act or consent from any person.
- (2) An order has effect despite any environmental planning instrument or development consent.
- (3) The making of an order under this section for development is taken to be a grant of development consent for the development and any conditions of the order are taken to be conditions of the development consent.
- (4) A single order may relate to a class of development and in that case the order is taken to be a separate development consent for each development carried out under the order.
- (5) The Minister may make an order under this section only if the Minister—
  - (a) has consulted the Minister for Health and Medical Research, and
  - (b) is reasonably satisfied that the making of the order is necessary to protect the health, safety and welfare of members of the public during the COVID-19 pandemic.
- (6) For the purpose of enabling development to be carried out in accordance with an order, the order may provide that, to the extent necessary to serve that purpose, a regulatory instrument specified in the order does not apply to the development or applies subject to the modifications specified in that order.
- (7) In this section—

***prescribed period*** means the period—

- (a) starting on the commencement of this section, and
- (b) ending on—
  - (i) the day that is 6 months after the commencement, or
  - (ii) the later day, not more than 12 months after the commencement, prescribed by the regulations.

**regulatory instrument** has the same meaning as in section 3.16.

### **10.18 COVID-19 pandemic—public inspection of documents**

During the prescribed period within the meaning of section 10.17, a requirement in this Act or the regulations that any document be made available for inspection (however described) at a physical location is satisfied if the document is instead made available on the NSW planning portal or any other website approved by the Planning Secretary.

## **2.9 Evidence (Audio and Audio Visual Links) Act 1998 No 105**

### **Section 22C**

Insert after section 22B—

#### **22C COVID-19 pandemic—special provisions**

- (1) This section has effect for the prescribed period and prevails to the extent of any inconsistency with any other provision of this Act or any rules of court.
- (2) The appearance of an accused person in any proceedings relating to bail is to take place by way of audio visual link unless the court otherwise directs.
- (3) The appearance of an accused person in any physical appearance proceedings (other than proceedings relating to bail or proceedings prescribed by the regulations) may take place by way of audio visual link if the court directs.
- (4) The appearance in any proceedings (other than proceedings prescribed by the regulations) of a witness (including a government agency witness) or legal practitioner representing a party may take place by way of audio visual link if the court directs.
- (5) A direction under subsection (3) or (4) may be made on the court's own motion or following the application of a party but only after the parties have had an opportunity to be heard on the matter.
- (6) A direction under this section can be given only if it is in the interests of justice and it is not inconsistent with advice given by the Chief Health Officer of the

Ministry of Health relating to the COVID-19 pandemic.

- (7) If an audio visual link is used the court must be satisfied that a party is able to have private communication with the legal representative of the party and has had a reasonable opportunity to do so.
- (8) Nothing in this section requires or permits the use of an audio visual link if the necessary audio visual facilities are unavailable or cannot reasonably be made available.

(9) In this section—

**prescribed period** means the period—

- (a) starting on the commencement of this section, and
- (b) ending on—
  - (i) the day that is 6 months after the commencement, or
  - (ii) the later day, not more than 12 months after the commencement, prescribed by the regulations.

## **2.10 Health Practitioner Regulation (Adoption of National Law) Act 2009 No 86**

### **Schedule 1 Modification of Health Practitioner Regulation National Law**

Insert after clause 7 in Schedule 5F in Schedule 1[25]—

#### **7A Exemption for State Vaccine Centres [NSW]**

- (1) The Secretary of the Ministry of Health may, by notice published in the Gazette, exempt a State Vaccine Centre from some or all of the provisions of this Schedule for the period specified in the notice.
- (2) An exemption granted under this clause is subject to any conditions specified in the notice published in the Gazette.
- (3) The Secretary must not grant an exemption under this clause unless the Secretary is satisfied that it is in the public interest to do so.
- (4) In this clause—

**State Vaccine Centre** means premises designated by the Secretary of the Ministry of Health for the storage and distribution of vaccines or medicines, or both.

## **2.11 Jury Act 1977 No 18**

### **Section 25 Selection of jurors by sheriff**

Insert after section 25(3)—

- (4) The sheriff may, on the sheriff's own motion, exempt a person from selection to be summoned for trials or coronial inquests if, in the sheriff's opinion, there is good cause for the exemption.
- (5) Without limiting subsection (4), the sheriff may decide there is good cause if there are safety or welfare considerations relating to the person or the community at large.
- (6) This subsection and subsections (4) and (5) are repealed—
  - (a) on the day that is 6 months after this subsection commences, or
  - (b) on the later day, not more than 12 months after this section commences, prescribed by the regulations.

## **2.12 Local Government Act 1993 No 30**

### **[1] Section 318B Postponement of elections**

Insert before section 318B(1)(a)—

- (a1) the Minister believes that, having regard to the COVID-19 pandemic, it is reasonable in the circumstances to order the postponement, or

### **[2] Section 318B(8)**

Insert after section 318B(7)—

- (8) Subsection (1)(a1) and this subsection are repealed on the date that is 12 months after the commencement of subsection (1)(a1). For the avoidance of doubt, the repeal of subsection (1)(a1) does not affect the validity of any order made under that paragraph.

### **[3] Chapter 18, Part 1A**

Insert after Part 1—

#### **747A COVID-19 pandemic—special provisions**

- (1) For the prescribed period—

- (a) a requirement in the Act or the regulations that members of a council or other persons attend a meeting is satisfied if the meeting is held in whole or in part—
    - (i) remotely using audio visual links, or
    - (ii) in any other manner approved by the Minister but only if audio visual links are not reasonably available, and
  - (b) a requirement in the Act or the regulations that a meeting be open to members of the public is satisfied if—
    - (i) a webcast of the meeting is made public, or
    - (ii) members of the public are informed of what occurred at the meeting in any other manner approved by the Minister but only if a webcast is not practicable in the circumstances.
- (2) The regulations may prescribe that subsection (1) does not apply to—
- (a) a particular council, or
  - (b) a particular class of meeting.
- (3) In this section—
- prescribed period*** means the period—
- (a) starting on the commencement of this section, and
  - (b) ending on—
    - (i) the day that is 6 months after the commencement, or
    - (ii) the later day, not more than 12 months after the commencement, prescribed by the regulations.

**747B COVID-19 pandemic—regulation-making power**

- (1) The regulations under this Act may modify the application of this Act for the purposes of responding to the public health emergency caused by the COVID-19 pandemic.
- (2) The Minister may recommend to the Governor that regulations be made under this section only if—
  - (a) Parliament is not currently sitting and is not likely to sit within 2 weeks after the day the regulations are made, and
  - (b) in the Minister’s opinion—

- (i) the arrangements made by the provisions of the regulations are in accordance with advice issued by the Minister for Health and Medical Research or the Chief Health Officer, and
  - (ii) the regulations are reasonable to protect the health, safety and welfare of persons.
- (3) Regulations made under this section—
  - (a) are not limited by the regulation-making power in this Act, and
  - (b) may override the provisions of this Act.
- (4) Regulations made under this section expire on—
  - (a) the day that is 6 months after the day on which the regulation commences, or
  - (b) the earlier day decided by Parliament by resolution of either House of Parliament.
- (5) This section is repealed—
  - (a) on the day that is 6 months after its commencement, or
  - (b) on a later day, not more than 12 months after its commencement, prescribed by the regulations.

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

### **Section 202**

Insert after section 201—

#### **202 COVID-19 pandemic—special provisions**

- (1) This section has effect for the prescribed period and prevails to the extent of any inconsistency with any other provision of this Act.
- (2) An assessable person, or any other person, may for the purposes of a mental health inquiry and with the approval of the Tribunal be brought or appear before the Tribunal by way of telephone.
- (3) The Tribunal may adjourn a mental health inquiry for up to 28 days.
- (4) The Tribunal may by order extend the period of a community treatment order that is in force by a period of up to 3 months even if that results in the order being in force for more than 12 months.

(5) The Tribunal may exercise a function under this section only if the Tribunal considers that it is necessary to do so because of the COVID-19 pandemic.

(6) In this section—

**prescribed period** means the period—

(a) starting on the commencement of this section, and

(b) ending on—

(i) the day that is 6 months after the commencement, or

(ii) the later day, not more than 12 months after the commencement, prescribed by the regulations.

## **2.14 Motor Accident Injuries Act 2017 No 10**

### **Section 3.15 Requirements for evidence as to fitness for work**

Omit section 3.15(3)(a). Insert instead—

(a) for a first certificate given by the injured person to the insurer—be a certificate given by a treating medical practitioner in accordance with the Motor Accident Guidelines, and

(a1) for a second or subsequent certificate given by the injured person to the insurer—be a certificate that complies with the requirements specified in the Motor Accident Guidelines, including the form of the certificate, and

## **2.15 Private Health Facilities Act 2007 No 9**

### **Section 70**

Insert after section 69—

#### **70 Exemptions during COVID-19 pandemic**

(1) The Secretary may, by order published in the Gazette, exempt a licensee or a class of licensees from the following—

(a) a condition imposed under section 12(2),

(b) a requirement under section 39.

(2) The Secretary must not make an order under this section unless the Secretary is satisfied that—

(a) it is reasonably necessary to do so because of the COVID-19 pandemic, and



(b) patient care and safety at the private health facility or facilities are to be properly maintained.

(3) This section is repealed on the day that is 12 months after its commencement.

## **2.16 Public Health Act 2010 No 127**

### **[1] Section 63 Duration of public health order**

Insert after section 63(2)—

(2A) Subsection (2) does not apply to a public health order based on the COVID-19 pandemic (including a public health order made in relation to a person referred to in section 62(1)(b) in relation to the COVID-19 pandemic).

(2B) For the avoidance of doubt, a public health order made in relation to a person referred to in section 62(1)(b) in relation to the COVID-19 pandemic expires at the end of the period specified in the order.

(2C) Subsections (2A) and (2B) and this subsection are repealed on the day that is 12 months after the commencement of subsection (2A).

### **[2] Section 64 NCAT may confirm certain public health orders**

Insert after section 64(6)—

(7) This section does not apply to a public health order made in relation to a person referred to in section 62(1)(b) in relation to the COVID-19 pandemic.

(8) Subsection (7) and this subsection are repealed on the day that is 12 months after the commencement of subsection (7).

### **[3] Section 71A**

Insert after section 71—

#### **71A Arrest of persons who contravene public health order relating to COVID-19 pandemic**

(1) A police officer may arrest a person if the police officer suspects on reasonable grounds that the person is contravening a public health order relating to the COVID-19 pandemic.

(2) On being arrested, the person may be returned to—

(a) the person's home or usual place of residence, or

(b) the place specified in the public health order that the person has been ordered to reside, or

(c) if the person is a public health detainee, the person's place of detention.

(3) Nothing in this section affects the operation of section 71, 72 or 73.

(4) This section is repealed on the day that is 12 months after its commencement.

**[4] Section 112 Power of authorised officers to direct name and address to be provided**

Insert at the end of the section—

(2) In this section, **authorised officer** includes a police officer.

(3) Subsection (2) and this subsection are repealed on the day that is 12 months after the commencement of subsection (2).

**[5] Section 118 Penalty notices**

Insert after section 118(5)—

(6) In this section, **authorised officer** includes a police officer.

(7) The Minister may, by order published on the NSW legislation website, impose conditions on the exercise of any function under this section.

(8) Subsections (6) and (7) and this subsection are repealed on the day that is 12 months after the commencement of subsection (6).

## **2.17 Residential Tenancies Act 2010 No 42**

### **Part 13**

Insert after Part 12—

## **Part 13 Response to COVID-19 pandemic**

### **229 Regulation-making power**

(1) The regulations under any relevant Act may provide for the following matters for the purposes of responding to the public health emergency caused by the COVID-19 pandemic—

(a) prohibiting the recovery of possession of premises by a landlord, owner or proprietor of premises from a tenant or resident of the premises under the relevant Act in particular circumstances,

- (b) prohibiting the termination of a residential tenancy agreement, occupancy agreement or site agreement by a landlord, proprietor of premises or operator of a community under the relevant Act in particular circumstances,
  - (c) regulating or preventing the exercise or enforcement of another right of a landlord, proprietor of premises or operator of a community by the landlord, proprietor or operator under the relevant Act or an agreement relating to the premises,
  - (d) exempting a tenant, resident or home owner, or a class of tenants, residents or home owners, from the operation of a provision of the relevant Act or any agreement relating to premises.
- (2) The Minister may recommend to the Governor that regulations be made under this section only if—
- (a) Parliament is not currently sitting and is not likely to sit within 2 weeks after the day the regulations are made, and
  - (b) in the Minister’s opinion, the regulations are reasonable to protect the health, safety and welfare of tenants or residents under the Act.
- (3) Regulations made under this section are not limited by the regulation-making power in a relevant Act.
- (4) Regulations made under this section expire on—
- (a) the day that is 6 months after the day on which the regulation commences, or
  - (b) the earlier day decided by Parliament by resolution of either House of Parliament.
- (5) In this section—
- occupancy agreement** has the same meaning as in the [Boarding Houses Act 2012](#).
- operator of a community** has the same meaning as in the [Residential \(Land Lease\) Communities Act 2013](#).
- proprietor** has the same meaning as in the [Boarding Houses Act 2012](#).
- relevant Act** means any of the following—
- (a) [Boarding Houses Act 2012](#),
  - (b) [Residential \(Land Lease\) Communities Act 2013](#),

- (c) *Residential Tenancies Act 2010*,
- (d) any other Act relating to the leasing of premises or land for residential purposes.

**site agreement** has the same meaning as in the *Residential (Land Lease) Communities Act 2013*.

## 2.18 Retail Leases Act 1994 No 46

### Part 11

Insert after Part 10—

## Part 11 Response to COVID-19 pandemic

### 87 Regulation-making power

- (1) The regulations under any relevant Act may provide for the following matters for the purposes of responding to the public health emergency caused by the COVID-19 pandemic—
  - (a) prohibiting the recovery of possession of premises by a lessor or owner of premises or land from a lessee or tenant of the premises or land under the relevant Act in particular circumstances,
  - (b) prohibiting the termination of a lease or tenancy by a lessor or owner of premises or land under the relevant Act in particular circumstances,
  - (c) regulating or preventing the exercise or enforcement of another right of a lessor or owner of premises or land under the relevant Act or an agreement relating to the premises or land in particular circumstances,
  - (d) exempting a lessee or tenant, or a class of lessees or tenants, from the operation of a provision of the relevant Act or any agreement relating to the leasing or licensing of premises or land.
- (2) The Minister may recommend to the Governor that regulations be made under this section only if—
  - (a) Parliament is not currently sitting and is not likely to sit within 2 weeks after the day the regulations are made, and
  - (b) in the Minister's opinion, the regulations are reasonable to protect the health, safety and welfare of lessees or tenants under the Act.
- (3) Regulations made under this section are not limited by the regulation-making power in a relevant Act.

- (4) Regulations made under this section expire on—
- (a) the day that is 6 months after the day on which the regulation commences, or
  - (b) the earlier day decided by Parliament by resolution of either House of Parliament.
- (5) In this section—
- relevant Act** means any of the following—
- (a) *Agricultural Tenancies Act 1990*,
  - (b) *Retail Leases Act 1994*,
  - (c) any other Act relating to the leasing of premises or land for commercial purposes.

## 2.19 Retail Trading Act 2008 No 49

### Section 8B

Insert after section 8A—

#### **8B COVID-19 pandemic—supermarkets exempt from trading restrictions on certain public holidays in 2020**

- (1) A supermarket (whether part of a chain or independent) is exempted from a requirement under this Act to be kept closed at the following times—
- (a) at all times on Good Friday 2020,
  - (b) at all times on Easter Sunday 2020,
  - (c) at all times before 1pm on Anzac Day 2020.
- (2) An exemption under subsection (1) is subject to the condition that, at the times concerned, the exempted supermarket is staffed only by persons who have freely elected to work on that day.
- (3) This section has effect despite any other Act or law.
- (4) Any prohibition, condition, limitation or restriction under the *Environmental Planning and Assessment Act 1979* (including under any environmental planning instrument or development consent under that Act) has no effect if it would prevent a supermarket—
- (a) opening at the times specified under subsection (1), or

(b) receiving freight and restocking shelves at or before those times to enable the supermarket to open and be open at those times.

(5) In this section, **supermarket** means any retail store or market selling food and other domestic goods, whether or not by self-service operation and regardless of size, but does not include a retail store or market commonly known as a department store.

## 2.20 Subordinate Legislation Act 1989 No 146

### Schedule 5 Further postponement of repeal of certain statutory rules

Insert after clause 11—

#### 12 Postponement of repeal of *Environmental Planning and Assessment Regulation 2000*

- (1) The *Environmental Planning and Assessment Regulation 2000* remains in force until 1 March 2021, unless sooner repealed.
- (2) A regulation under the *Environmental Planning and Assessment Act 1979* that primarily comprises or relates to matters under Part 6 or section 10.13(1)(d) of that Act may be made without the requirements of sections 5 and 6 of this Act having been complied with.
- (3) Subclause (2) is repealed on 1 March 2021.

#### 13 Postponement of repeal of other statutory rules due for repeal in 2020

The following statutory rules remain in force until 1 September 2021, unless sooner repealed—

- (a) *Animal Research Regulation 2010*,
- (b) *Building and Construction Industry Security of Payment Regulation 2008*,
- (c) *Coroners Regulation 2010*,
- (d) *Exhibited Animals Protection Regulation 2010*,
- (e) *Local Government (General) Regulation 2005*,
- (f) *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*,
- (g) *Passenger Transport (Drug and Alcohol Testing) Regulation 2010*,
- (h) *Protection of the Environment Operations (Clean Air) Regulation 2010*,

- (i) *Protection of the Environment Operations (General) Regulation 2009*,
- (j) *Tow Truck Industry Regulation 2008*,
- (k) *Water Industry Competition (Access to Infrastructure Services) Regulation 2007*,
- (l) *Water Industry Competition (General) Regulation 2008*.

## **2.21 Workers Compensation Act 1987 No 70**

### **Section 44B Evidence as to work capacity**

Omit section 44B(3)(a). Insert instead—

- (a) for a first certificate of capacity provided by a worker to the insurer—be a certificate given by a medical practitioner in a form approved by the Authority, and
- (a1) for a second or subsequent certificate of capacity provided by a worker to the insurer—be a certificate that complies with the requirements prescribed by the regulations, including the form of the certificate, and