



# COVID-19 Emergency Response Act 2020

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## Reprint note

Amendments included in 2022 Act No. 6 s 38 sch 1 pt 1 were not incorporated in a previous version of this reprint.

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Queensland

# COVID-19 Emergency Response Act 2020

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# COVID-19 Emergency Response Act 2020

**An Act to protect the health, safety and welfare of persons affected by the COVID-19 emergency, to facilitate the continuance of public administration, judicial process, small business and other activities disrupted by the COVID-19 emergency, including by easing regulatory requirements and establishing an office of small business commissioner, to provide for matters related to residential, retail and prescribed leases affected by the COVID-19 emergency and to support the Queensland rental sector during the COVID-19 emergency period**

## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *COVID-19 Emergency Response Act 2020*.

### 2 Main purposes

The main purposes of this Act are—

- (a) to protect the health, safety and welfare of persons affected by the COVID-19 emergency; and
- (b) to facilitate the continuance of public administration, judicial process, small business and other activities disrupted by the COVID-19 emergency, including by easing regulatory requirements and establishing an office of small business commissioner; and

[s 3]

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- (c) to provide for matters related to residential, retail and prescribed leases affected by the COVID-19 emergency; and
- (d) to support the Queensland rental sector during the COVID-19 emergency period.

### 3 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

### 4 Application of Act

- (1) This Act applies despite any other Act or law other than the *Human Rights Act 2019*.
- (2) A reference in section 25(3) to being inconsistent with an Act does not include a reference to being inconsistent with the *Human Rights Act 2019*.

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

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

- (a) 30 April 2022; or
- (b) another day prescribed by regulation as the COVID-19 legislation expiry day.

## Part 6 Small business commissioner

### 19 Appointment of commissioner

- (1) There is to be a small business commissioner.
- (2) The commissioner is appointed by the Governor in Council on the recommendation of the Minister (small business).

- (3) The Minister (small business) may recommend a person for appointment only if the Minister is satisfied the person is appropriately qualified.
- (4) The commissioner is to be paid the remuneration and allowances decided by the Governor in Council.
- (5) A person holds office as the small business commissioner on the conditions decided by the Governor in Council.
- (6) The commissioner must be appointed under this Act and not the *Public Service Act 2008*.

## 20 Functions and powers of commissioner

- (1) The functions of the commissioner are—
  - (a) to provide information and advisory services to the public about matters relevant to small businesses, particularly in relation to the COVID-19 response measures; and
  - (b) to assist small businesses in reaching an informal resolution for disputes relating to small business leases; and
  - (c) to administer a mediation process prescribed by regulation under section 23(1)(g) in relation to small business tenancy disputes.
- (2) The commissioner has all the powers necessary for performing the commissioner's functions.
- (3) In this section—

***small business lease*** means a lease of premises used wholly or predominantly for carrying on a small business.

***small business tenancy dispute*** means a dispute about a small business lease, or about the use or occupation of the leased premises, regardless of when the lease was entered into.

## **21 Preservation of rights of commissioner**

- (1) This section applies if a person who is a public service officer is appointed as commissioner.
- (2) The person keeps all rights accrued or accruing to the person as a public service officer as if service as the commissioner were a continuation of service as a public service officer.
- (3) At the end of the person's term of office or resignation as commissioner, the person's service as the commissioner is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

## **22 Reporting**

The commissioner must—

- (a) keep the Minister (small business) reasonably informed about the performance of the commissioner's functions; and
- (b) comply with a reasonable request by the Minister (small business) to give the Minister stated information at a stated time about the performance of the commissioner's functions.

# **Part 7 Retail leases and other prescribed leases**

## **23 Regulation-making power for retail leases and other prescribed leases**

- (1) A regulation under this Act or the *Retail Shop Leases Act 1994* may, for responding to the COVID-19 emergency—
  - (a) prohibit the recovery of possession of premises under a relevant lease by a lessor of the premises from a lessee of the premises; or
  - (b) prohibit the termination of a relevant lease by a lessor or owner of premises; or



- (c) regulate or prevent the exercise or enforcement of another right of a lessor of premises under a relevant lease or other agreement relating to the premises; or
  - (d) exempt a lessee, or a class of lessees, from the operation of a provision of an Act, relevant lease or other agreement relating to the leasing of premises; or
  - (e) require parties to a relevant lease to have regard to particular matters or principles, or a prescribed standard, code or other document, in negotiating or disputing a matter under or in relation to the relevant lease; or
  - (f) require a mediator, conciliator, arbitrator, tribunal, court or other decision-maker to have regard to particular matters or principles, or a prescribed standard, code or other document, in mediating, conciliating, hearing or deciding a matter or proceeding relating to a relevant lease; or
  - (g) provide for a dispute resolution process for disputes relating to relevant leases, including, for example, by providing for the following—
    - (i) who may apply for dispute resolution;
    - (ii) how the dispute resolution process is started;
    - (iii) the appointment and jurisdiction of mediators to mediate disputes;
    - (iv) the conduct of mediations;
    - (v) the conferral of jurisdiction on a tribunal to hear and decide disputes;
    - (vi) the referral of disputes to a court or tribunal; or
  - (h) prescribe any other matter necessary for, or incidental to, facilitating a matter mentioned in paragraphs (a) to (g).
- (2) A regulation under this section may—
- (a) be inconsistent with an Act or law, other than the *Human Rights Act 2019*, to the extent necessary to achieve a purpose of the regulation and this Act; and

- (b) have retrospective operation to a day not earlier than the commencement of this Act; and
  - (c) provide for a maximum penalty of not more than 20 penalty units for a contravention of the regulation.
- (3) Without limiting subsection (2)(a), to the extent a person's act or omission complies with a regulation made under this section that is inconsistent with an Act or law, the person does not incur civil or criminal liability under the Act or law for the act or omission.
- (4) A regulation under this section must declare it is made under this section.
- (5) This section does not limit a regulation-making power under the *Retail Shop Leases Act 1994*.
- (6) A regulation under this section—
- (a) must be made before the COVID-19 legislation expiry day; and
  - (b) expires 2 years after the COVID-19 legislation expiry day, unless it is sooner repealed.
- (7) The *Statutory Instruments Act 1992*, section 49(1) applies to the tabling of a regulation made under this section as if the reference to 14 sitting days were a reference to 14 days.
- (8) In this section—
- lease** includes a lease, sub-lease, licence or other agreement under which a person grants a right to another person to occupy premises, other than as a residence.
- premises** includes land.
- relevant lease** means—
- (a) a retail shop lease under the *Retail Shop Leases Act 1994*; or
  - (b) a lease prescribed by regulation for this definition.

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## Part 8AA Expiry

### 24AA Expiry

- (1) Parts 2 to 5 and 8 expire on the COVID-19 legislation expiry day.
- (2) This Act expires on the day that is 2 years after the COVID-19 public health legislation expiry day.

## Part 8A Validation provision

### 24A Validation of particular regulations

- (1) This section applies to each of the following regulations—
  - (a) the *Justice Legislation (COVID-19 Emergency Response—Wills and Enduring Documents) Amendment Regulation 2020*;
  - (b) the *Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Regulation 2020*.
- (2) The regulation is taken—
  - (a) to have been validly made, notified and tabled in the Legislative Assembly; and
  - (b) not to have ceased having effect under the *Statutory Instruments Act 1992*, section 49, as modified under this Act, section 5(9) or 24(9).
- (3) All acts, matters and things done before the commencement in reliance on the regulation are taken to be as lawfully done as they would have been if the regulation had not ceased having effect as mentioned in subsection (2)(b).
- (4) To remove any doubt, it is declared that—
  - (a) the limitation for passing a resolution disallowing the regulation under the *Statutory Instruments Act 1992*, section 50(1) continues to apply in relation to the day

the regulation was tabled in the Legislative Assembly;  
and

- (b) the *Statutory Instruments Act 1992*, section 51 does not apply to the regulation; and
- (c) a document made before the commencement in compliance with the regulation is taken to be as valid as it would have been if the regulation had not ceased having effect as mentioned in subsection (2)(b).

## **Part 9**                      **Transitional provisions**

### **Division 1**                **Transitional regulation-making power**

#### **25**            **Transitional regulation-making power**

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

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- (6) The transitional regulation must also declare—
- (a) if it is made under this section—that it is made under this section; or
  - (b) if it is made under an affected law—that it is made under the affected law as modified by subsection (4).
- (7) The transitional regulation for a COVID-19 law expires on the earlier of the following days—
- (a) the day that is 2 years after the day the COVID-19 law expires;
  - (b) the day this Act expires under section 24AA(2).
- (8) In this section—

***affected law*** means—

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

***COVID-19 law*** means—

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

***expiry*** includes repeal.

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

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

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

## **Division 4**                      **Transitional provision for Public Health and Other Legislation (Extension of Expiring Provisions) Amendment Act 2022**

### **28**      **Application of s 25**

- (1) This section applies on the expiry of parts 2 to 5 and 8.  
*Note—*  
See section 24AA(1) in relation to the expiry of parts 2 to 5 and 8.
- (2) Section 25 applies as if—
  - (a) a reference in section 25(8), definitions *affected law*, paragraph (a) and *COVID-19 law*, paragraph (a) to an extraordinary regulation were a reference to—
    - (i) an extraordinary regulation within the meaning of former section 5; or
    - (ii) a regulation taken to be an extraordinary regulation under former section 16(3); and
  - (b) a reference in section 25(8), definition *COVID-19 law*, paragraph (b) to section 24 were a reference to former section 24.
- (3) In this section—

*former*, for a provision of this Act, means the provision as in force from time to time before its expiry under section 24AA(1).

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

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

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

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

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

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

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

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

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

the *Disaster Management Act 2003*, part 12A

the *Environmental Protection Act 1994*, chapter 11A

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

the *Gaming Machine Act 1991*, part 11A

the *Liquor Act 1992*, part 10A

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

the *Mental Health Act 2016*, chapter 18B

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

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

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

the *Statutory Instruments Act 1992*, section 56B



the *Youth Justice Act 1992*, section 264A

## Schedule 1 Dictionary

### section 3

*Act*, for part 4, see section 10.

*authorise*, for part 4, see section 10.

*commissioner* means the small business commissioner appointed under section 19.

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

*COVID-19 emergency period* means the period for which the COVID-19 emergency is in effect.

*COVID-19 response measures* means any measures (however called) under an Act, including, for example, under the *Public Health Act 2005*, chapter 8, part 7A—

- (a) to minimise the serious risks to the health and safety of persons caused by the COVID-19 emergency; or
- (b) to assist in responding to the COVID-19 emergency.

*document*, for part 4, see section 10.

*enabling Act*, for a proceeding before a relevant entity, for part 5, see section 14.

*extraordinary regulation* see section 5.

*Minister (small business)* means the Minister given responsibility for the public business of small business matters under the Administrative Arrangements.

*modify*, a period, includes extend or shorten the period.

*power*, for part 4, see section 10.

*proceeding*, before a relevant entity, for part 5, see section 14.

***relevant department***, for publishing a matter or doing another thing on a website, means the department administering the Act in relation to which the matter is published or thing is done.

***relevant entity***, for part 5, see section 14.

***relevant website***, for publishing a matter or doing another thing on a website, means—

- (a) if the entity publishing the matter or doing the thing is a local government—the local government’s website; or
- (b) if the entity publishing the matter or doing the thing is a Minister or the chief executive of a department—the relevant department’s website; or
- (c) otherwise—
  - (i) the whole-of-government website; or
  - (ii) the website of the entity publishing the matter or doing the thing; or
  - (iii) if the entity publishing the matter or doing the thing does not have a website—
    - (A) the relevant department’s website; or
    - (B) a website identified on the relevant department’s website as a website for the purpose of publishing the matter or doing the thing.

***whole-of-government website*** means—

- (a) [www.qld.gov.au](http://www.qld.gov.au); or
- (b) another website prescribed by regulation.