

COVID-19 Response (Management Measures) Legislation Bill

Government Bill

Explanatory note

General policy statement

This Bill is an omnibus Bill that amends more than 1 Act. The single broad policy of the Bill is to make amendments relating to matters that are aimed at assisting the Government and New Zealanders to more effectively manage, and recover from, the impacts of COVID-19 (for example, permitting remote participation, extending statutory deadlines, addressing court backlogs, and restricting the terminations of tenancies).

The Bill amends or modifies the following legislation:

- Climate Change Response Act 2002:
- Consumer Information Standards (Origin of Food) Regulations 2021:
- Contract and Commercial Law Act 2017:
- Coroners Act 2006:
- COVID-19 Recovery (Fast-track Consenting) Act 2020:
- COVID-19 Response (Requirements For Entities—Modifications and Exemptions) Act 2020:
- Credit Contracts and Consumer Finance Act 2003:
- Criminal Procedure Act 2011:
- Epidemic Preparedness Act 2006:
- Gambling Act 2003:
- Land Transport Act 1998:
- Local Electoral Act 2001:
- Property Law Act 2007:

- Rating Valuations Act 1998:
- Residential Tenancies Act 1986:
- Resource Management Act 1991:
- Secondary Legislation Act 2021.

Department of Internal Affairs

Schedule 1 amends legislation administered by the Department of Internal Affairs.

Part 1 amends the Gambling Act 2003. Class 3 lotteries are used to raise funds for charitable or non-commercial purposes. The amendments allow, for a period of 2 years, all class 3 gambling operators licensed to conduct a lottery to—

- offer lottery tickets by email or by phone, and receive payment via a communication device; and
- issue tickets electronically.

Previously, only Countdown Kids Charitable Trust, the National Heart Foundation of New Zealand, and Royal New Zealand Coastguard Incorporated were covered by a provision allowing this, and that provision was set to expire on 31 October 2021. Without these changes, class 3 gambling operators would face significant constraints in their ability to run their lotteries at alert level 3, as face-to-face sales would not be possible, and they would be unable to operate them at all under alert level 4. These lotteries provide income for important work in our communities. Extending this provision will therefore enable all class 3 lotteries to be resilient in any future outbreaks. Expanding it to include all class 3 gambling operators licensed to conduct a lottery reflects that they will also be impacted by potential changes to alert levels.

Part 2 amends the Local Electoral Act 2001 to provide more flexibility to delay triennial local elections..

Land Information New Zealand

Schedule 2 amends the Rating Valuations Act 1998.

COVID-19 alert level changes could potentially mean that some territorial authorities would not be able to complete a credible general rating revaluation on schedule. This could be due to restrictions on movement affecting the staff of valuation service providers in safely travelling and inspecting properties.

COVID-19 movement restrictions may again require flexibility of the scheduling provisions of the Rating Valuations Act 1998 to allow affected territorial authorities to extend the 3-year revaluation requirement. Council chief executives would then apply to the Valuer-General, who would make the final decision about whether a proposed extension was warranted.

The Valuer-General will adapt the existing operational guidelines to guide the assessment of applications for a delay to a revaluation, before inviting applications from territorial authorities.

Ministry for the Environment

Schedule 3 amends legislation administered by the Ministry for the Environment.

Part 1 amends the Climate Change Response Act 2002 by extending statutory time frames for key climate change policy decisions. This is necessary because of delays to consultation and engagement on the first emissions reduction plan caused by the current COVID-19 outbreak.

The outbreak has impacted businesses, organisations, Māori/iwi, individuals, and communities that are expected to make submissions on the emissions reduction plan proposal. The extension of statutory time frames for the emissions reduction plan (and corresponding emissions budgets decisions) will enable greater participation by New Zealanders in the consultation and engagement process.

The statutory decisions and extensions are as follows:

- the statutory deadline for the first emissions budget (for the period 2022–2025) will be extended from 31 December 2021 to 31 May 2022;
- the statutory deadline for the second emissions budget (for the period 2026–2030) will be extended from 31 December 2021 to 31 May 2022;
- the statutory deadline for the third emissions budget (for the period 2031–2035) will be extended from 31 December 2021 to 31 May 2022;
- the statutory deadline for the first emissions reduction plan (to achieve the first emissions budget) will be extended from 31 December 2021 to 31 May 2022.

The extension of time frames for the first emissions budget has consequences for the setting of auctioning limits and price controls for the New Zealand Emissions Trading Scheme through annual regulations. The regulations can only be made following Climate Change Commission advice (which itself can only happen after the relevant emissions budget is set) and public consultation. The Minister of Climate Change must consider the relevant emissions budget before recommending the regulations, and they are ordinarily subject to a 3-month delay before coming into force.

In 2022, the extension of the first emissions budget's time frame means there is not enough time for the full process to happen. Accordingly, for the regulations due to be made in 2022 (after the first emissions budget is set), this Bill disapplies the usual 3-month delay to commencement. The three-month delay will continue to apply to regulations made in subsequent years.

Part 2 amends the COVID-19 Recovery (Fast-track Consenting) Act 2020 by extending the current repeal date of 8 July 2022 to 8 July 2023, which will assist economic development while uncertainty in respect of COVID-19 persists.

Part 3 amends the Resource Management Act 1991 by deferring the requirement for local authorities to initiate 10-year reviews of regional policy statements and regional and district plans by the close of 30 September 2024, and providing a more streamlined process for the Minister for the Environment to extend the requirement for regional councils and unitary authorities to update regional policy statements in accordance with national planning standards to May 2024. These changes are neces-

sary to alleviate pressures on local authorities due to the COVID-19. They are to be repealed on 1 October 2024.

Ministry of Business, Innovation, and Employment

Schedules 4 and 8 amend legislation administered by the Ministry of Business, Innovation, and Employment. The purpose of the amendments is to—

- mitigate problems with legislative compliance due to physical presence requirements and other technological impediments. A number of entities are operating remotely in order to comply with COVID-19 restrictions, which has highlighted problems with the current requirements for physical presence. The amendments will enable alternative methods of compliance while New Zealand is responding to COVID-19:
- enable the deferment of statutory deadlines and other minor exemptions where compliance is not possible or unreasonably burdensome. A number of entities have statutory and other deadlines that cannot be met, or where compliance presents an unjustifiable burden when balanced against the focus on other COVID-19 related matters. The amendments provide deferrals or exemptions from those requirements if the matters are not significant and the deferral or exemption is needed to facilitate the response to COVID-19 or to mitigate the impact of COVID-19:
- defer new regulatory requirements that would increase burdens or where the Government or businesses may no longer be ready to start by the planned date. The amendments are intended to address the difficulty government agencies or businesses would face in implementing new legislation or requirements that are due to come into force while New Zealand is responding to COVID-19.

Ministry of Housing and Urban Development

Schedule 5 amends the Residential Tenancies Act 1986.

The purpose of the amendments is to support tenants to stay at their rental homes during outbreaks of COVID-19. The current legal rules for tenancy terminations in the Residential Tenancies Act 1986 are not consistent with government measures requiring people to stay at home during outbreaks of COVID-19. Even during COVID-19 alert level 4, which generally restricts people from moving house, tenancy terminations can proceed and fixed-term tenancies may come to an end. The amendments—

- allow a responsible Minister to make a COVID-19 tenancies order to restrict tenancy terminations. An order may apply to a specified area when necessary or desirable to support an order under the COVID-19 Public Health Response Act 2020 that generally restricts people from moving house (as has been the case when New Zealand, or a part of New Zealand, is at COVID-19 alert level 4). Empowering the Minister to make an order means it can be made quickly in response to changes in alert levels:
- set out the tenancy termination restrictions that will apply when a COVID-19 tenancies order is in force, including enabling termination in a few specified

circumstances (for example, where the tenant has engaged in anti-social behaviour or is in more than 60 days' rent arrears):

- provide for circumstances where a notice for termination has been given, but has not yet taken effect, when the COVID-19 tenancies order comes into force. Where a tenant has initiated a termination or discontinuation of a tenancy, they can elect to reverse or defer it. Most terminations or discontinuations initiated by the landlord are cancelled or deferred, unless the tenant agrees to the termination or expiry:
- provide that, if a fixed term tenancy expires during the period a COVID-19 tenancies order is in place, unless otherwise agreed, it becomes a periodic tenancy and the tenant can remain in the tenancy:
- enable the Tenancy Tribunal to conduct proceedings as it sees fit (including on the papers) for a period of 12 months after commencement of *Schedule 5* to assist in addressing the backlog of applications due to the current outbreak of COVID-19:
- provide that, if a tenant remains in a premises as a consequence of a COVID-19 tenancies order, an incoming or prospective tenant has no right to occupy the premises.

Ministry of Justice

Schedule 6 makes the following amendments to assist New Zealand in responding to the wide-ranging effects of COVID-19:

- amending the Coroners Act 2006 to enable coroners to hold hearings remotely and to provide clarity regarding the ability for coroners to use remote means (for example, audio-visual links or teleconferences) to conduct hearings. Restrictions on the conduct of hearings in person as a result of COVID-19 make this clarification more urgent and remote means will continue to need to be available for use by coroners:
- amending the Criminal Procedure Act 2011 to enable the High Court to revisit its earlier decisions about whether to accept a transfer of a District Court case under the Court of Trial Protocol. This increased flexibility will significantly improve the ability of the High Court to respond to pressures exacerbated by COVID-19 (for example, enabling greater use of the High Court to help reduce District Court backlogs):
- amending the Epidemic Preparedness Act 2006 to remove uncertainty about the ability of the heads of the bench to modify court rules for all matters in their court during an epidemic:
- amending the Property Law Act 2007 to—
 - support commercial tenants and landlords to come to agreements to adjust the rent (including outgoings) due under their leases, so that the parties share the financial burden of the COVID-19 response, enabling more businesses to remain solvent through the COVID-19 epidemic; and

- provide a way to resolve disputes if no agreement can be reached.

Ministry of Transport

Schedule 7 amends the Land Transport Act 1998. Processing and serving infringement and reminder notices and regulatory notices under the Land Transport Act 1998 faces disruption when alert levels change (particularly under levels 3 and 4). There are safety implications if those notices have not been served properly. The procedural step of serving a notice, and providing evidence of service, is crucial to taking enforcement action in the land transport system. Adding electronic service provides flexibility to safeguard the safety of the system and its participants. This Bill amends the Land Transport Act 1998 to respond to the disruption caused by the resurgence of COVID-19 by permitting the service of regulatory and infringement notices by electronic means (via fax and email).

Departmental disclosure statement

The Department of the Prime Minister and Cabinet is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2021&no=77>

Regulatory impact statement

The Treasury has determined that this is a direct COVID-19 response and has suspended the RIA requirements (in accordance with CAB-20-MIN-0138).

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides that the Bill comes into force on the day after the date on which it receives the Royal assent. However, *section 3(2)* and *Schedule 8* come into force on 28 October 2021 to address a timing issue.

Clause 3 makes all the amendments to the enactments amended by *Schedules 1 to 8* of this Bill.

Amendments in Schedules 1 to 8

Organisation of amendments

The amendments set out in *Schedules 1 to 8* are grouped by instructing agency. This approach has been taken to facilitate consideration of the Bill by select committee and the House.

Schedule 1: Department of Internal Affairs*Part 1: Amendments to Gambling Act 2003*

Clause 1 provides that *Part 1* amends the Gambling Act 2003.

Clause 2 amends section 4A of the Act to extend from 31 October 2021 to 31 October 2023 the duration of the temporary exclusion from the general prohibition on remote interactive gambling and the application of the temporary exclusion to lotteries conducted by gambling operators that hold class 3 operator's licences.

Part 2: Amendments to Local Electoral Act 2001

Clause 3 provides that *Part 2* amends the Local Electoral Act 2001.

Clause 4 amends section 73A, which provides for the adjournment of electoral processes. The amendments—

- provide that the relevant orders must be made in the year in which a triennial general election is held or in the year after it; and
- provide that 1 or more further orders may be made specifying a later date for a matter that has been the subject of an earlier order; and
- define several terms used in the section.

Schedule 2: Land Information New Zealand

Clause 1 provides that *clause 2* amends the Rating Valuations Act 1998.

Clause 2 amends section 9 of the Act to provide that the Valuer-General may, under certain conditions, determine whether territorial authorities may undertake their general revaluations up to a year after they are due.

Schedule 3: Ministry for the Environment*Part 1: Amendments to Climate Change Response Act 2002*

Clause 1 provides that *Part 1* amends the Climate Change Response Act 2002.

Clause 2 amends section 5X to defer by 5 months the deadline for setting emissions budgets for the first 3 emissions budget periods.

Clause 3 amends section 5ZG to clarify that an emissions reduction plan is prepared for each emissions budget and may include policies and strategies for meeting the 2 later emissions budgets.

Clause 4 amends section 5ZI to change the deadline for publishing the emissions reduction plan for the first emissions budget period. The deadline is deferred by 5 months and the plan cannot be published before the relevant emissions budget is set.

Clause 5 amends clause 7(2) of Schedule 1AA, which deals with the regulations about limits and price control settings that are made when the first emissions budget is set. The amendment removes the requirement for those regulations to commence at least 3 months after they are notified in the *Gazette*.

Part 2: Amendment to COVID-19 Recovery (Fast-track Consenting) Act 2020

Clause 6 provides that *Part 2* amends the COVID-19 Recovery (Fast-track Consenting) Act 2020.

Clause 7 amends section 3(1) to change the date of repeal of the Act from 8 July 2022 to 8 July 2023.

Part 3: Amendments to Resource Management Act 1991

Clause 8 provides that *Part 3* amends the Resource Management Act 1991.

Clause 9 amends section 58H to provide that the Minister may, by notice in the *Gazette* and on a specified Internet site, change the compliance period specified in standards 17.2.a and 17.8.a of the National Planning Standards 2019 from 3 years to 5 years.

Clause 10 inserts *new section 79AA*, which provides that local authorities may, rather than must, commence reviews of any provisions of policy statements and plans. The provision is temporary and is to be repealed on 1 October 2024.

Schedule 4: Ministry of Business, Innovation, and Employment

Part 1: Amendment to Contract and Commercial Law Act 2017

Clause 1 provides that *Part 1* amends the Contract and Commercial Law Act 2017.

Clause 2 inserts *new sections 240A to 240E*.

New section 240A modifies subpart 3 of Part 4 of the Contract and Commercial Law Act 2017 so that that subpart applies to deeds that create a power of attorney in connection with a security interest. That subpart provides for certain legal requirements relating to documents to be met by electronic means. The effect of the change will be to enable such deeds to be executed remotely without the need for execution in the physical presence of witnesses.

New sections 240B to 240D provide for the modification to apply for 6 months initially with the possibility of an extension of up to 6 months. The modification can also be ended early in certain circumstances.

New section 240E repeals the new provisions on 30 November 2022.

*Part 2: Amendments to COVID-19 Response (Requirements For Entities—
Modifications and Exemptions) Act 2020*

Clause 3 provides that *Part 2* amends the COVID-19 Response (Requirements For Entities—Modifications and Exemptions) Act 2020.

Clause 4 amends section 3, which contains an overview of the Act. *New section 3(4A)* explains that processes and powers in the Act applied for an earlier period (which started in May 2020, after the March 2020 outbreak of COVID-19 and move to alert level 4) and *new section 3(4B)* explains that this Bill broadly revives the processes and powers to apply for another period.

Clause 5 amends section 7, which relates to interpretation, to insert new definitions of amendment date and initial 2021/22 period, and to adjust the definition of further period.

Clause 6 replaces section 9. *New section 9* defines the period for which *new sections 10A and 13A* will apply. That period (the **relevant period**) starts on the day after the date on which this Bill receives the Royal assent (which is the date on which *this Part* commences) and ends with 30 April 2022, but may be extended for a further period (ending no later than the close of 30 October 2022) by Order in Council.

Clause 7 inserts *new section 10A*. *New section 10A* relates to the use of electronic means (for example, email) where an entity's constitution or rules would prevent its use or are silent on the matter. Subject to meeting the requirements of *new section 10A*, electronic means may be used for matters such as calling and holding meetings, making and keeping new records, and voting (with some restrictions on voting). *New section 10A(2)* lists these matters. An entity that wishes to rely on *new section 10A* must comply with certain conditions (*see new section 10A(4)*).

Clauses 8 and 9 consequentially amend sections 11 and 12 respectively.

Clause 10 inserts *new section 13A*. *New section 13A* allows an entity to make certain temporary modifications to requirements and restrictions in its constitution or rules by notice in writing signed by a majority of its governing officers (or signed by its governing officer, if it has only 1). A modification does not actually amend the text of an entity's constitution or rules, but has the same legal effect. Subject to meeting the requirements of *new section 13A*, under that section an entity may, for example, defer or waive a requirement to hold a meeting, modify a dispute resolution process, or reduce fees payable by members (*see section 14* for the full list of permitted matters). No modification can be made relating to the entity's purpose or objects, the entity's powers (other than procedural or administrative powers), any voting rights, or any other matters listed in section 15. Among other things, *new section 13A* protects against modifications being inconsistent with statutory requirements or rules of law or equity (disregarding provisions and rules that relate to compliance with, or making amendments to, constitutions or rules). It also requires that the majority of the entity's governing officers believe, on reasonable grounds, that the modification goes no further than is, or is likely to be, reasonably necessary in the circumstances.

Clauses 11 and 12 consequentially amend sections 14 and 15 respectively.

Clause 13 amends section 16 to allow modifications to be made retrospective to the day after the date on which this Bill receives the Royal assent. However, after 3 months, no retrospective modifications can be made.

Clause 14 amends section 17 to ensure that modifications are temporary. They must have an express expiry date within the relevant period. Further, a vote taken in accordance with a voting process that has been modified by an entity under *new section 13A* cannot make an amendment to the text of the entity's constitution or rules that would last beyond the relevant period (*see section 20* as amended by *clause 17*).

Clauses 15 to 18 consequentially amend sections 18 to 21.

Clause 19 amends section 23, which relates to an entity's obligations to keep records on and from a relevant date. Because the date on and from which the existing obligation under section 23 applies is now known (and the term relevant period re-purposed) *clause 19(1)* inserts that date. *Clause 19(2)* makes a small amendment to distinguish between records that exist in relation to past use of processes under Part 2 of the Act, and records that will be created in reliance on *new section 10A or 13A*. *Clause 19(3)* inserts *new section 23(2)*, which contains record-keeping obligations for entities that rely on *new section 10A or 13A*.

Clause 20 replaces section 25, which is in Part 3. *New section 25* defines the period for which the powers under *new sections 26A and 30A* may be exercised. That period starts on the day after the date on which this Bill receives the Royal assent (which is the date on which *Part 2* commences) and ends with the close of 30 April 2022, but may be extended for a further period (ending no later than the close of 30 October 2022) by Order in Council.

Clause 21 inserts *new section 26A*. Under *new section 26A*, certain Registrars and Ministers (*see* section 6) are given powers to grant class exemptions from provisions in various Acts (*see* section 5) and legislation made under those Acts.

Clause 22 updates cross-references in section 29.

Clause 23 inserts *new section 30A*. Under *new section 30A*, the Chief Judge of the Māori Land Court may grant individual or class relief, with or without an application being made, from the terms of certain orders made under Te Ture Whenua Maori Act 1993 that relate to any matters described in *new section 30A(1)*.

Clause 24 replaces section 31, which provides that exemptions under Part 3 may be retrospective. *New section 31* allows exemptions or relief to be granted retrospectively for acts or omissions that occurred on or after the day after the date on which this Bill receives the Royal assent.

Clause 25 updates terms and cross-references in section 33 to ensure that exemptions or relief does not last beyond the period for which the exemption or relief power applies.

Clause 26 inserts *new sections 42A and 42B*. *New section 42A* reinstates the regulation-making powers in repealed section 41. *New section 42B* allows for Orders in Council, referred to above in relation to *clauses 6 (new section 9)* and *20 (new section 25)*, to extend the period for which *new sections 10A and 13A* apply, and to extend the period for which powers apply to grant exemptions and relief under *new sections 26A and 30A*.

Clause 27 amends section 43, which relates to repeals. *New sections 10A, 13A, 26A, 30A, 42A, and 42B* are repealed on 1 November 2022. The rest of the Act is repealed on the close of 30 September 2023.

Part 3: Amendment to Credit Contracts and Consumer Finance Act 2003

Clause 28 provides that *Part 3* amends the Credit Contracts and Consumer Finance Act 2003.

Clause 29 amends section 9H. The Responsible Lending Code (the **Code**) is issued under the Act. Its purpose is to elaborate on lender responsibility principles specified in section 9C(2) and to offer guidance on how lenders may implement those principles. The effect of section 9H is that any changes to the Code cannot come into force sooner than 28 days after the changes are notified in the *Gazette*. To give effect to urgent updates to the Code, the amendment provides that changes to the Code that are notified in the *Gazette* on or before 31 December 2021 can come into effect sooner than 28 days after they are notified in the *Gazette*. After 31 December 2021, the 28-day requirement will apply again.

Part 4: Amendment to Consumer Information Standards (Origin of Food) Regulations 2021

Clause 30 provides that *Part 4* amends the Consumer Information Standards (Origin of Food) Regulations 2021.

Clause 31 amends clause 2, which provides that the regulations come into force on 12 November 2021. The amendment changes the commencement date to 12 February 2022.

Schedule 5: Ministry of Housing and Urban Development

Clause 1 provides that *clauses 2 to 4 of Schedule 5* amend the Residential Tenancies Act 1986 (the **RTA**).

Clause 2 amends section 145, which provides that the provisions of *new Schedule 5* of the RTA (which relates to COVID-19) have effect according to their terms. Under *new section 145(2)*, section 145 and *new Schedule 5* of the RTA are repealed 3 years after *Schedule 5* of this Bill comes into force.

Clause 3 inserts 2 new Parts into Schedule 1AA of the RTA, which contains transitional, savings, and related provisions.

Clause 4 replaces Schedule 5 of the RTA. Broadly, *new Schedule 5*—

- sets out provisions that can be “switched on” by ministerial order if New Zealand, or a part of New Zealand, is put into a lockdown under a COVID-19 public health order under which people are generally restricted from moving house, including on a permanent or long-term basis. These provisions relate to tenancy terminations in the relevant area:
- allows the Tenancy Tribunal (the **Tribunal**) to conduct its proceedings (whether they relate to *new Schedule 5* or otherwise) as it sees fit, including on the papers, for a period of 12 months from the commencement of *Schedule 5* of this Bill.

Clause 1 of new Schedule 5 provides some definitions for the schedule.

Clause 2 of new Schedule 5 provides that the schedule applies to a tenancy to which the RTA applies and that the schedule applies despite any other provision in the RTA or any other enactment, or any rule of law or agreement.

COVID-19 tenancies orders

Clause 3 of new Schedule 5 empowers the Minister responsible for the administration of the RTA to make orders “switching on” *clauses 4 and 5* of that schedule, on and from a specified date, in relation to an area (a **COVID-19 tenancies order**). Under *clause 1(2)* of that schedule, *clauses 4 and 5* would then apply in relation to tenancies of premises located in that area. *Clauses 4 and 5* contain provisions restricting tenancy terminations while an order applies to the area, and are explained in more detail below.

The criteria that apply before the Minister may make an order are set out in *clause 3(3) and (7) of new Schedule 5*. These include being satisfied that a COVID-19 order is, or will be, made under the COVID-19 Public Health Response Act 2020 containing measures that generally restrict people in the area from moving (including on a permanent or long-term basis) to a new home or place of residence, and being satisfied that the COVID-19 tenancies order is necessary or desirable to support those measures.

A COVID-19 tenancies order must be kept under review. *Clause 3(8)(b)* requires the Minister to revoke or amend it, as soon as is reasonably practicable, if satisfied the criteria described above are no longer met in relation to an area, so that it ceases to apply to the area.

A COVID-19 tenancies order will be secondary legislation. If an order is made before the main commencement date under the Legislation Act 2019, it must be published under Part 2 of the Legislation Act 2012 and presented to the House of Representatives under section 41 of that Act. *See* Part 3 of the Legislation Act 2019 for publication requirements on and after that date.

Tenancy terminations restricted while COVID-19 tenancies order is in force

Clause 4 of new Schedule 5 provides that while *clause 4* applies to an area, no tenancy in the area terminates except in the circumstances listed in *clause 4(1)*. It also provides that, except in those listed circumstances, every fixed-term tenancy in the area (including one of 90 days or less) that would otherwise expire during that period is treated as continuing as a periodic tenancy in accordance with section 60A(1) of the RTA.

The circumstances listed in *clause 4(1)* are—

- if the tenancy is terminated or discontinued on the tenant’s initiative or with their agreement; or
- if the tenancy is terminated on the landlord’s initiative, but only under a subset of the usual provisions for terminating a tenancy (some of which apply with modifications); or
- if the tenancy is terminated by the Tribunal under *clause 5 of new Schedule 5*, because of the tenant’s (or a visitor’s) anti-social behaviour (as defined in *clause 5(6) of new Schedule 5*); or

- if the tenancy is a fixed-term tenancy and the landlord and tenant have taken certain steps under section 60A(2); or
- if the tenant no longer resided in the premises on the switching-on date and the tenancy is terminated or discontinued under a provision of the RTA.

Clause 4 of new Schedule 5 also provides that a landlord cannot take steps to terminate a tenancy (by notice or by application to the Tribunal) unless it is in one of the listed circumstances. *See also—*

- section 60AA of the RTA, which provides that if a landlord takes steps to terminate a tenancy (by serving a notice or applying to the Tribunal), knowing that they are not entitled to do so, that is an unlawful act for which the Tribunal may order the landlord to pay exemplary damages of up to \$6,500;
- section 109B of the RTA, under which the Tribunal may impose a pecuniary penalty of up to \$50,000 on landlords of boarding houses or of 6 or more tenancies.

Clause 5 of new Schedule 5 provides for the Tribunal to terminate a tenancy (on application by the landlord) on the ground of the tenant's or a visitor's anti-social behaviour. The definition of anti-social behaviour in *new Schedule 5* is different from that in section 55A of the RTA and requires harassment, or an intentional act. The process in *new Schedule 5* is also different (for example, it does not require 3 separate occasions of anti-social behaviour and written notice to the tenant).

Effect on tenancy terminations initiated before COVID-19 tenancies order came into force

Clause 6 of new Schedule 5 addresses what happens if, before a switching-on date, a tenant of premises in the relevant area initiated or agreed to a tenancy terminating or being discontinued, including if the tenant has a termination order from the Tribunal. If the tenancy has not yet terminated or expired, the tenant may elect (after the switching-on date and while *clauses 4 and 5* still apply to the area) to continue the tenancy by giving notice to the landlord.

Clause 6 also gives a tenant who makes that election on the basis of having a termination order from the Tribunal a short window (14 days) to terminate the tenancy, after *clauses 4 and 5* no longer apply to the area, by giving the landlord at least 14 days' notice.

Clauses 7 and 8 of new Schedule 5 address what happens if, before the switching-on date, it was the landlord who initiated a tenancy termination and, on the switching-on date, the tenant still resides in the premises. (These clauses will not apply in circumstances where the termination is in accordance with a provision listed in *clause 4(1)(d)* (as modified by *clause 4(3)*) or in accordance with *clause 5 of new Schedule 5*.)

If the landlord gave notice to terminate the tenancy (and the termination would take effect on or after the switching-on date), under *clause 7,—*

- the tenant may elect to terminate the tenancy on the termination date provided for by the landlord's notice, by giving notice to the landlord before that date:
- if the tenant does not make that election, and the landlord's notice was given under section 51 of the RTA (termination by notice) or 53B(1)(b)(iii) of the RTA (which relates to social housing providers transferring tenants to different social housing provided by that provider), the termination takes effect on the termination date provided for by the notice but only if that date is at least 28 days after *clauses 4 and 5* have no application to the area. Otherwise, the termination is suspended until the first date the start of which is at least 28 days clear of *clauses 4 and 5* applying to the area:
- if the tenant does not make that election, and the landlord's notice was given under a provision other than section 51 or 53B(1)(b)(iii) of the RTA, the notice is of no effect.

Clause 8 applies if the landlord has a Tribunal order that would terminate the tenancy on a date on or after the switching-on date. In that case,—

- the tenant may elect to terminate the tenancy on the termination date provided for in the termination order, by giving notice to the landlord before that date:
- if the tenant does not make that election, termination under the order takes effect on the termination date provided for in the order but only if that date is at least 14 days after *clauses 4 and 5* have no application to the area. Otherwise, the termination is suspended until the first date the start of which is at least 14 days clear of *clauses 4 and 5* applying to the area.

Clause 9 of new Schedule 5 relates to fixed-term tenancies in circumstances where, before the switching-on date, the landlord gave a notice under section 60A(2) of the RTA that would have prevented the tenancy from continuing under section 60A(1) of the RTA as a periodic tenancy, but for the “switching-on” of *clauses 4 and 5* in relation to the relevant area. If the tenant still resides in the premises on the switching-on date,—

- the tenant may elect not to continue with the tenancy, by giving notice to the landlord before the end of the fixed term:
- if the tenant does not make that election, the tenancy continues under section 60A(1) as a periodic tenancy in accordance with *clause 4(1) of new Schedule 5* (and see *clause 10 of new Schedule 5*).

None of *clauses 6 to 10 of new Schedule 5* operate to restrict termination of a tenancy under any other termination provision that may apply (for example, the parties agreeing to terminate the tenancy).

Other effects of COVID-19 tenancies order

Clause 10 of new Schedule 5 contains savings provisions that relate to fixed-term tenancies that continue under section 60A(1) as a periodic tenancy in accordance with *clause 4(1) of new Schedule 5* solely because of the application of *clauses 4 and 5* of that schedule. The landlord has a window of 28 days after *clauses 4 and 5* cease to

apply to the area to terminate the tenancy by giving the tenant at least 28 days' notice. The 28-day window for giving notice may restart if *clauses 4 and 5* are switched on again before those 28 days elapse. *Clause 10(3)* provides for a termination under *clause 10* to take effect on the termination date provided for by the notice but only if that date is at least 28 days after *clauses 4 and 5* have no application to the area. Otherwise, the termination is suspended until the first date the start of which is at least 28 days clear of *clauses 4 and 5* applying to the area.

Clause 11 of new Schedule 5 sets out the consequences of a tenant remaining in premises by virtue of the operation of *new Schedule 5*. An incoming or prospective tenant would have no right to occupy the premises.

Tribunal proceedings

Clause 12 of new Schedule 5 provides that *clause 13* of that schedule applies for 12 months from the date on which *Schedule 5* of this Bill comes into force.

Clause 13 of new Schedule 5 relates to Tribunal proceedings in those 12 months. It allows the Tribunal to conduct proceedings, whether they relate to *new Schedule 5* or otherwise, as it sees fit, including on the papers.

Clause 5 of Schedule 5 of the Bill repeals items in the Secondary Legislation Act 2021 that become redundant as a consequence of *Schedule 5* of the RTA being replaced.

Schedule 6: Ministry of Justice

Part 1: Amendment to Coroners Act 2006

Clause 1 provides that *Part 1* amends the Coroners Act 2006.

Clause 2 inserts *new section 102A*, which provides that coroners may, if satisfied that it is in the interests of justice to do so, permit remote participation through the use of audio or audio-visual links.

Part 2: Amendments to Criminal Procedure Act 2011

Clause 3 provides that *Part 2* amends the Criminal Procedure Act 2011.

Clause 4 inserts *new section 68A*, which provides that High Court Judges may, on their own motion, reconsider orders made under section 68 in certain circumstances.

Clause 5 consequentially amends section 135 to refer to *new section 68A*.

Part 3: Amendment to Epidemic Preparedness Act 2006

Clause 6 provides that *Part 3* amends the Epidemic Preparedness Act 2006.

Clause 7 amends section 24. The amendment inserts a provision that clarifies that a specified Judge may exercise the power to modify any rule of the specified Judge's court in relation to proceedings, or category of cases, before that court. The amendment also provides a definition of specified Judge.

Part 4: Amendments to Property Law Act 2007

Clause 8 provides that *Part 4* amends the Property Law Act 2007.

Clauses 9 and 11 insert *new sections 245F to 245I* and *new clause 4A* of Schedule 3. Those new provisions imply a covenant into certain leases in operation in the affected period.

The affected period, as defined in *new section 245F(2)*, means all or any of the period that—

- starts on 28 September 2021; and
- ends on the repeal by *new clause 2 of Schedule 1AA* (on the date on which the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked) of *new sections 245F to 245I* and *new clause 4A* of Schedule 3.

New section 245F(1) ensures that *new sections 245G to 245I* apply only to a lease—

- to which section 245 applies under section 206; and
- in operation in the affected period (even if it came into operation, was varied, or both, before or in that period); and
- that does not include any no access in an emergency clause (as defined in *new section 245F(2)*) that covers an epidemic (as so defined).

New section 245G(1) ensures that the lease contains the implied covenant set out in *new clause 4A* of Schedule 3. This implied covenant applies (*new clause 4A(1)*) to a lease of the kind specified in *new section 245F(1)*—

- only if, in a rental period all or any of which is in the affected period,—
 - there is an epidemic; and
 - the lessee, or any sublessee of the lessee, is unable to gain access to all or any part of the leased premises to conduct fully their operations in all or any part of the leased premises, because of reasons of health or safety (as defined in *new section 245F(2)*) related to the epidemic; and
- only to the extent that no pre-commencement rent variation agreement (as defined in *new clause 4A(5)*) has been made that determines the rent that is payable by the lessee for that rental period.

The implied covenant ensures (*new clause 4A(2) and (3)*) that a fair proportion, agreed by the lessor and lessee, of the rent otherwise payable by the lessee for that rental period will cease to be payable for the period—

- starting on the date when—
 - there is an epidemic; and
 - the lessee, or any sublessee of the lessee, is unable to gain access to all or any part of the leased premises to conduct fully their operations from all or any part of the leased premises, because of reasons of health or safety related to the epidemic; and
- ending when the inability ceases.

In the implied covenant, rent payable by a lessee for a rental period includes any contribution to the outgoings on the leased premises payable by the lessee for that rental period.

New clause 4A(4) provides that, in determining the fair proportion, the matters that the lessor and lessee will consider must include whether and, if so, what, variations were made to rent payable by a lessee for a rental period all or any of which is on or after 18 August 2021 and before the start of the affected period, and were made for reasons that are or include that—

- there is an epidemic; and
- the lessee, or any sublessee of the lessee, is unable to gain access to all or any part of the leased premises to conduct fully their operations in all or any part of the leased premises, because of reasons of health or safety related to the epidemic.

New clause 4A(5) defines the following terms for the purposes of *new clause 4A*: affected period, agreement, epidemic, leased premises, lessee, pre-commencement rent variation agreement, reasons of health or safety, and rent.

Any dispute arising under the implied covenant (for example, a dispute about whether *new clause 4A* applies to a lease) will be referred to arbitration under the Arbitration Act 1996 (*new clause 4A(6)*). *New clause 4A(6)*, like clause 4(5) of Schedule 3, is not intended to prevent use (as well as, or instead of, referral to arbitration) of other processes such as mediation or expert determination to avoid or resolve a dispute under these implied covenants.

New section 245G(3) ensures that the implied covenant may, in accordance with sections 217 and 279(2), be negatived, varied, or extended—

- by the express terms of the lease; or
- by a written memorandum executed, as the lease was required to be executed, by the parties to the lease; or
- if implied in a short-term lease not made in writing, by the express or implied agreement of the parties.

New section 245G(4) ensures that the implied covenant is not negatived, varied, or extended by any terms, memorandum, or agreement,—

- applying to all or any implied covenants, conditions, or powers set out in Schedule 3; and
- agreed to or made before the start of the affected period.

However, *new section 245G(4)* does not limit *new clause 4A(1)(b)* of Schedule 3 (which relates to a pre-commencement rent variation agreement, as defined in *new clause 4A(5)* of Schedule 3).

New section 245H ensures that enforcement action must be considered not to comply with sections 244 and 245 if the action is to be, or has been, taken before the lessor and lessee have agreed a fair proportion under *new clause 4A* of Schedule 3.

New section 245I specifies how the implied covenant affects proceedings.

Clause 10 inserts, in Schedule 1AA, a *new Part 2* that—

- repeals *new sections 245F to 245I* and *new clause 4A* of Schedule 3 on the date on which the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked; and
- ensures that the repeal of those new provisions does not affect an existing right under them, or their previous operation or anything done or suffered under them.

Schedule 7: Ministry of Transport

Clause 1 provides that *clauses 2 and 3* amend the Land Transport Act 1998.

Clause 2 amends section 139 to provide that, while the Epidemic Preparedness (COVID-19) Notice 2020 is in force, infringement notices and reminder notices may be served on a person by sending them to the person's fax number or email address.

Clause 3 amends section 210, which relates to service of notices other than infringement notices. The amendment provides that, while the Epidemic Preparedness (COVID-19) Notice 2020 is in force, notices may be given to a person by sending them to the person's fax number or email address.

Schedule 8: Ministry of Business, Innovation, and Employment (amendment commencing 28 October 2021)

Clause 1 provides that *Schedule 8* amends the COVID-19 Response (Requirements For Entities—Modifications and Exemptions) Act 2020 (the **CRRA**).

Clause 2 amends *section 26A*, which is inserted into the CRRA by *Part 2 of Schedule 4* of this Bill. The amendment adds to that section provisions relating to the status of exemptions and the publication of reasons for granting exemptions. The amendment comes into force on 28 October 2021. It is consequential on the coming into force of most of the Legislation Act 2019 and the item in Schedule 10 of the Secondary Legislation Act 2021 that replaces sections 35 to 39 of the CRRA (which are the sections that currently deal with the status of exemptions and publication of reasons for granting exemptions under the principal Act). Orders in Council specify 28 October 2021 as the commencement date for most of the Legislation Act 2019 and for that item in that Secondary Legislation Act 2021 schedule (*see* the Legislation Act 2019 Commencement Order 2021 and the Secondary Legislation Act Commencement Order 2021).

Hon Chris Hipkins

COVID-19 Response (Management Measures) Legislation Bill

Government Bill

Contents

	Page
1 Title	2
2 Commencement	2
3 Amendments to enactments	2
Schedule 1	3
Department of Internal Affairs	
Schedule 2	5
Land Information New Zealand	
Schedule 3	6
Ministry for the Environment	
Schedule 4	9
Ministry of Business, Innovation, and Employment	
Schedule 5	22
Ministry of Housing and Urban Development	
Schedule 6	34
Ministry of Justice	
Schedule 7	41
Ministry of Transport	
Schedule 8	43
Ministry of Business, Innovation, and Employment (amendment commencing 28 October 2021)	

**COVID-19 Response (Management Measures)
Legislation Bill**

cl 1

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the COVID-19 Response (Management Measures) Legislation Act **2021**.

2 Commencement

5

- (1) This Act comes into force on the day after the date on which it receives the Royal assent.
- (2) However, **section 3(2)** and **Schedule 8** come into force on 28 October 2021.

3 Amendments to enactments

- (1) Amend the enactments specified in **Schedules 1 to 7** of this Act as set out in those schedules. 10
- (2) Amend the enactment specified in **Schedule 8** of this Act as set out in that schedule.

Schedule 1
Department of Internal Affairs

s 3(1)

Part 1
Gambling Act 2003

5

1 Amendments to Gambling Act 2003

This Part amends the Gambling Act 2003.

2 Section 4A amended (Modification of definition of remote interactive gambling during specified period due to effects of COVID-19)

- (1) In section 4A(2)(b), replace “2021” with “2023”. 10
- (2) In section 4A(3), replace “raffle conducted by Countdown Kids Charitable Trust, the National Heart Foundation of New Zealand, or Royal New Zealand Coastguard Incorporated (a **specified operator**)” with “lottery conducted by any gambling operator that holds a class 3 operator’s licence that allows them to conduct a lottery”. 15
- (3) In section 4A(3), replace “specified operator” with “gambling operator”.
- (4) In section 4A(4), replace “2021” with “2023”.

Part 2
Local Electoral Act 2001

3 Amendments to Local Electoral Act 2001 20

This Part amends the Local Electoral Act 2001.

4 Section 73A amended (Adjournment of electoral processes)

- (1) Replace section 73A(2) with:
- (2) The Order in Council must be made in the year— 25
- (a) in which the triennial general election is to be held; or
- (b) after which the triennial general election was to be held.
- (2) After section 73A(5), insert:
- (5A) One or more further orders may be made under this section specifying a later date for a matter that has been the subject of an earlier order. 30
- (3) After section 73A(8), insert:
- (9) In subsections (3) and (4), **the date that would otherwise have applied**, for a further order relating to a matter that has been the subject of an earlier order, means the date that was specified in that earlier order.

COVID-19 Response (Management Measures)
Legislation Bill

Schedule 1

(10) In subsection (6)(a), **emergency** includes an epidemic or a pandemic.

Schedule 2
Land Information New Zealand

s 3(1)

- 1 Amendment to Rating Valuations Act 1998**
- Clause 2** amends the Rating Valuations Act 1998. 5
- 2 Section 9 amended (General revaluation of rolls at 3-yearly intervals)**
- After section 9(3), insert:
- (4) Despite subsection (1), the Valuer-General may, at the request of the chief executive of a territorial authority,—
- (a) determine, in accordance with **subsection (5)**, that the territorial authority is not required to undertake the general revaluation by the due date; and 10
- (b) require the territorial authority to undertake the general revaluation by a date not later than 1 year after the due date.
- (5) The Valuer-General may make a determination under **subsection (4)(a)** only if satisfied that the territorial authority is unlikely or is not reasonably able to revise its district valuation roll so that it represents values current as at the date of the revaluation because of constraints on— 15
- (a) the practicality of carrying out physical inspections; or
- (b) the availability and reliability of market evidence or other information that the Valuer-General may require under section 10. 20
- (6) In this section, **due date** means the last day by which a territorial authority must undertake the general revaluation in accordance with the time frame in subsection (1).
- (7) **Subsections (4) to (6)** and this subsection are repealed on 30 June 2022. 25

Schedule 3

Ministry for the Environment

s 3(1)

Part 1

Climate Change Response Act 2002 5

1 Amendments to Climate Change Response Act 2002

This Part amends the Climate Change Response Act 2002.

2 Section 5X amended (Duty of Minister to set emissions budgets and ensure they are met)

(1) In section 5X(2), replace “31 December 2021” with “31 May 2022”. 10

(2) In section 5X(3)(a), (b), and (c), replace “31 December 2021” with “31 May 2022”.

(3) After section 5X(4), insert:

(5) To avoid doubt, the emissions budget for the first emissions budget period applies to that whole period, commencing on 1 January 2022, even if it is set and notified after that. 15

3 Section 5ZG amended (Requirement for emissions reduction plan)

Replace section 5ZG(1) with:

(1) For each emissions budget period, the Minister— 20

(a) must prepare and make publicly available a plan setting out the policies and strategies for meeting the relevant emissions budget; and

(b) may include in the plan policies and strategies for meeting any emissions budgets that have been notified under section 5ZD for the 2 emissions budget periods after that.

4 Section 5ZI amended (Minister to prepare and make emissions reduction plan publicly available) 25

(1) In section 5ZI(2A)(b), replace “before the commencement of the budget period” with “at the same time as, or after, that emissions budget is notified under section 5ZD, but no later than 31 May 2022”.

(2) After section 5ZI(3), insert: 30

(4) To avoid doubt, the plan for the first emissions budget period applies to that whole period, commencing on 1 January 2022, even if it is published, made available, and presented after that.

5 Schedule 1AA amended

In Schedule 1AA, after clause 7(2)(b), insert: 35

- (c) section 30H(3) does not apply to those regulations.

Part 2

COVID-19 Recovery (Fast-track Consenting) Act 2020

- 6 Amendment to COVID-19 Recovery (Fast-track Consenting) Act 2020**
This Part amends the COVID-19 Recovery (Fast-track Consenting) Act 2020. 5
- 7 Section 3 amended (Repeal of this Act)**
Replace section 3(1) with:
- (1) This Act is repealed on 8 July 2023.

Part 3

Resource Management Act 1991 10

- 8 Amendments to Resource Management Act 1991**
This Part amends the Resource Management Act 1991.
- 9 Section 58H amended (Changing, replacing, or revoking national planning standards)**
After section 58H(2), insert: 15
- (2A) The Minister may change the period for compliance specified in standards 17.2.a and 17.8.a of the National Planning Standards 2019 from 3 years to 5 years without following the process set out in sections 58D and 58E, other than to give notice of the change in the *Gazette* and on the Internet site referred to in section 58F(2). 20
- 10 New section 79AA inserted (Application of temporary provisions in respect of section 79)**
After section 79, insert:
- 79AA Application of temporary provisions in respect of section 79**
- (1) The temporary provisions set out in subsections (2) and (3) apply instead of section 79(1) during the period— 25
- (a) beginning on the commencement date; and
- (b) ending with the close of 30 September 2024.
- (2) A local authority may commence a review of a provision of any of the following documents it has: 30
- (a) a regional policy statement:
- (b) a regional plan:
- (c) a district plan.

**COVID-19 Response (Management Measures)
Legislation Bill**

Schedule 3

- (3) However, any review of a provision that would have taken place under section 79(1) (as it read immediately before the commencement date) if it had not been temporarily suspended must be commenced no later than the close of 30 September 2024.
- (4) In this section, **commencement date** means the date on which **Schedule 3** of the COVID-19 Response (Management Measures) Legislation Act **2021** comes into force. 5
- (5) This section is repealed on 1 October 2024.

Schedule 4
Ministry of Business, Innovation, and Employment

s 3(1)

Part 1

Contract and Commercial Law Act 2017 5

1 Amendment to Contract and Commercial Law Act 2017

This Part amends the Contract and Commercial Law Act 2017.

2 New sections 240A to 240E inserted

After section 240, insert:

240A Temporary modification relating to powers of attorney and COVID-19 10

(1) Despite section 218(2)(d) and paragraph (e) of Part 3 of Schedule 5, this subpart applies to a deed—

(a) that creates a power of attorney in connection with a security interest; and

(b) that is made during the period specified in **section 240B**. 15

(2) In **subsection (1)**, **security interest** means an interest in property created or provided for by a transaction that, in substance, secures payment or performance of an obligation, without regard to—

(a) the form of the transaction; and

(b) the identity of the person who has title to the property that is subject to the security interest. 20

240B Period for which temporary modification applies

(1) The modification in **section 240A(1)**—

(a) applies on and from the day on which this section comes into force; and

(b) ceases to apply— 25

(i) immediately after the expiry of the 6-month period that starts on the day on which this section comes into force; or

(ii) if an Order in Council is made under **section 240C**, immediately after the expiry of the period specified in that order.

(2) Despite **subsection (1)(b)**, if an Order in Council is made under **section 240D**, the modification ceases to apply on the date appointed in that order. 30

240C Order in Council may extend application period

- (1) The Governor-General may, by Order in Council made on the recommendation of the Ministers, extend the application period by up to 6 months from the end of the initial period.
- (2) The application period may be extended under this section only once. 5
- (3) The Ministers must not recommend the making of an order under this section unless the Ministers are satisfied that the extension—
- (a) is necessary or desirable to address the effects of COVID-19; and
- (b) is no longer than is reasonably necessary to address those effects.
- (4) The Ministers' reasons for making the recommendation (including why the order is necessary or desirable) must be published together with the order. 10
- (5) An order made under this section must be notified in the *Gazette* at least 7 days before the end of the initial period.
- (6) An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 15
- (7) In this section and **section 240D**,—
- application period** means the period during which the modification in **section 240A(1)** applies
- initial period** means the initial 6-month period during which the modification applies in accordance with **section 240B(1)(a) and (b)(i)** 20
- Ministers** means the Minister of Finance and the Minister of Commerce and Consumer Affairs.

240D Order in Council may provide for modification to cease to apply

- (1) The Governor-General may, by Order in Council made on the recommendation of the Ministers, appoint a date (within the initial period or, if an order is made under **section 240C**, within the further period) on which the modification ceases to apply. 25
- (2) The Ministers must not recommend the making of an order under this section unless the Ministers are satisfied that the modification is no longer necessary or desirable to address the effects of COVID-19. 30
- (3) An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

240E Repeal of temporary modification provisions

This section and **sections 240A to 240D** are repealed on the close of 30 November 2022. 35

Part 2
**COVID-19 Response (Requirements For Entities—Modifications
and Exemptions) Act 2020**

- 3 Amendments to COVID-19 Response (Requirements For Entities—
Modifications and Exemptions) Act 2020** 5
- This Part amends the COVID-19 Response (Requirements For Entities—Modi-
fications and Exemptions) Act 2020.
- 4 Section 3 amended (Overview of Act)**
- (1) In section 3(3),—
- (a) after “13”, insert “or **13A**”; and 10
- (b) after “10”, insert “, **10A**”.
- (2) After section 3(4), insert:
- (4A) The ability to use the processes in Part 2, and to exercise the powers in Part 3,
applied for an initial period and was extended, by Order in Council made under
section 42, until the close of 31 March 2021. 15
- (4B) Amendments to this Act made by the COVID-19 Response (Management
Measures) Legislation Act **2021** broadly revive the processes and powers dur-
ing a period (the **initial 2021/22 period**) that starts on the amendment date and
ends with 30 April 2022 (unless extended for a further period by Order in
Council made under **section 42B**). 20
- 5 Section 7 amended (Interpretation)**
- (1) In section 7, insert in their appropriate alphabetical order:
- amendment date** means the day after the date on which the COVID-19
Response (Management Measures) Legislation Act **2021** receives the Royal
assent (which is the date on which this definition is inserted) 25
- initial 2021/22 period** means the period that starts on the amendment date and
ends with 30 April 2022
- (2) In section 7, definition of **further period**,—
- (a) replace “1 December 2020” with “1 May 2022”; and
- (b) replace “42” with “**42B**”. 30
- 6 Section 9 replaced (Sections 10 and 13 apply for relevant period)**
- Replace section 9 with:
- 9 Sections 10A and 13A apply for relevant period**
- Each of **sections 10A and 13A** applies in relation to an entity—
- (a) for the initial 2021/22 period; and 35

- (b) if its application is extended by an Order in Council made under **section 42B** in relation to the type of entity, for the further period.

7 New section 10A inserted (When electronic means permitted despite constitution or rules)

Before section 11, insert:

5

10A When electronic means permitted despite constitution or rules

- (1) In the relevant period, this section applies in relation to an entity—
 - (a) if,—
 - (i) because of a restriction or requirement in the entity’s constitution or rules, a matter in **subsection (2)** may not be done by electronic means, or a majority of the entity’s governing officers, in good faith, believe that there is uncertainty as to whether the matter may be done by electronic means; or 10
 - (ii) the entity’s constitution or rules are silent about whether a matter in **subsection (2)** may be done by electronic means; and 15
 - (b) if a majority of the entity’s governing officers believe, in good faith, that because of the effects of an outbreak of COVID-19 it is not reasonably practicable to do the matter by non-electronic means.
- (2) The matters are—
 - (a) having or recording information in writing: 20
 - (b) calling or holding meetings, including for the purpose of establishing a quorum:
 - (c) voting:
 - (d) giving or receiving information:
 - (e) making or keeping new records: 25
 - (f) providing access to records or information held by or on behalf of the entity:
 - (g) signing any instrument:
 - (h) retaining any information.
- (3) If this section applies,— 30
 - (a) the matter may be done, wholly or partly, by electronic means; and
 - (b) if done by electronic means, the matter has legal effect to the same extent as if it had been done by non-electronic means in accordance with the constitution or rules.
- (4) However, **subsection (3)**— 35
 - (a) is subject to the conditions in section 12 being, or having been, complied with as required by that section; and

(b)	in the case of voting, is subject also to section 11.	
(5)	In order to do the matter by electronic means, it is not necessary to comply with a paper-based format requirement within the meaning of section 225 of the Contract and Commercial Law Act 2017.	
(6)	This section does not affect any legal requirement to the extent that the requirement relates to the content of information.	5
(7)	Nothing in this section prevents section 13A from being used to make modifications to allow things to be done by electronic means.	
8	Section 11 amended (Electronic voting)	
	In section 11(1), replace “section 10” with “ section 10A ”.	10
9	Section 12 amended (Conditions)	
(1)	In section 12(1), replace “on section 10”, with “on section 10A ”.	
(2)	In section 12(1)(b)(ii), replace “section 10(1)(b) (and section 10(1)(a)” with “ section 10A(1)(b) (and section 10A(1)(a) ”.	
(3)	In section 12(1)(c) and (d)(i), replace “section 10” with “ section 10A ”.	15
10	New section 13A inserted (Process for modifying certain requirements or restrictions in constitution or rules)	
	Before section 14, insert:	
13A	Process for modifying certain requirements or restrictions in constitution or rules	20
(1)	In the relevant period, this section applies to an entity if—	
(a)	the entity’s constitution or rules contain a provision that (directly or indirectly)—	
(i)	requires a person to comply with a requirement; or	
(ii)	restricts the manner or form in which a person may exercise a power or right, or perform a function, that the person wishes to exercise or perform; and	25
(b)	in the case of paragraph (a)(i) , the time for complying with the requirement ends during the period that starts on the amendment date and ends when the relevant period ends; and	30
(c)	in the case of paragraph (a)(ii) , the time at which the person wishes to exercise or perform the power, right, or function is during the period that starts on the amendment date and ends when the relevant period ends.	
(2)	The entity may, by a notice in writing that is signed by the majority of its governing officers (or signed by its governing officer if it has only 1), modify the requirement or restriction if—	35

- | | |
|--|----|
| (a) the modification relates to a matter in section 14 and does not relate to a matter in section 15; and | |
| (b) the modification is not inconsistent with any enactment or rule of law or equity; and | |
| (c) a majority of the entity's governing officers believe, on reasonable grounds, that— | 5 |
| (i) because of the effects of an outbreak of COVID-19, it is not, or is not likely to be, reasonably practicable for the person referred to in subsection (1) to comply (or comply fully) with the requirement or restriction; and | 10 |
| (ii) the modification goes no further than is, or is likely to be, reasonably necessary in the circumstances; and | |
| (d) the modification— | |
| (i) complies with section 17 (which relates to expiry); and | |
| (ii) if it relates to dispute resolution or disciplinary proceedings, complies with the principles of natural justice; and | 15 |
| (e) the majority of the entity's governing officers believe, on reasonable grounds, that the modification is not oppressive, unfairly discriminatory, or unfairly prejudicial to any member, creditor, or other person; and | |
| (f) if the modification relates to a method or form of voting, the majority of the entity's governing officers believe, on reasonable grounds, that the requirements or restrictions in the entity's constitution or rules that relate to the integrity of the voting process are substantively maintained or enhanced (and section 11(2) applies to the forming of this belief with all necessary modifications); and | 20 |
| (g) the entity complies with the conditions in section 18. | 25 |
| (3) A modification made by an entity in accordance with this section has legal effect to the same extent as if it were made in accordance with the constitution or rules (and the procedures for amending the constitution or rules in any enactment). | 30 |
| (4) A modification does not actually amend the text of the constitution or rules (but has legal effect under subsection (3) as if the text were amended). | |
| (5) To the extent that the modification is inconsistent with any enactment or rule of law or equity, the modification is of no effect. | |
| (6) <i>See</i> section 16 in relation to retrospective modifications. | 35 |
| (7) For the purposes of subsections (2)(b) and (5) , provisions in other enactments (and any rules of law or equity) that relate to amending, or require compliance with, constitutions or rules are disregarded. | |

- 11 Section 14 amended (Matters that may be modified under section 13)**
- (1) In the heading to section 14, replace “**section 13**” with “**section 13A**”.
 - (2) In section 14(1), replace “Section 13” with “**Section 13A**”.
 - (3) In section 14(1)(i), replace “section 10(2)” with “**section 10A(2)**”.
 - (4) In section 14(2), replace “section 41(1)(a)(i) or (iii)” with “**section 42A(1)(a)(i) or (iii)**”. 5
- 12 Section 15 amended (Matters that may not be modified under section 13)**
- (1) In the heading to section 15, replace “**section 13**” with “**section 13A**”.
 - (2) In section 15, replace “Section 13” with “**Section 13A**”.
 - (3) In section 15(k), replace “section 41(1)(a)(ii)” with “**section 42A(1)(a)(ii)**”. 10
- 13 Section 16 amended (Retrospective modifications)**
- (1) In section 16(1), replace “section 13” with “**section 13A**”.
 - (2) In section 16(2)(a) and (3), replace “21 March 2020” with “the amendment date”.
 - (3) In section 16(2)(b), replace “commencement date” with “amendment date”. 15
- 14 Section 17 amended (Modifications must expire)**
- (1) In the heading above section 17(1), replace “*initial period*” with “*initial 2021/22 period*”.
 - (2) In section 17(1),—
 - (a) replace “section 13” with “**section 13A**”; and 20
 - (b) replace “initial period” with “initial 2021/22 period” in each place.
 - (3) In section 17(2)(a) and (3), replace “initial period” with “initial 2021/22 period”.
 - (4) In section 17(2)(b), replace “section 42(1)(b)” with “**section 42B(1)(b)**”.
 - (5) In section 17(5), replace “section 13” with “**section 13A**”. 25
- 15 Section 18 amended (Conditions)**
- (1) In section 18(1), replace “relies on section 13” with “relies on **section 13A**”.
 - (2) In section 18(1)(a)(ii) and (c)(i), replace “section 13” with “**section 13A**”.
 - (3) In section 18(1)(a)(iii), replace “section 13(2)(c), (e), and (f)” with “**section 13A(2)(c), (e), and (f)**”. 30
- 16 Section 19 amended (Electronic means permitted for doing certain things to make modification)**
- (1) In section 19(2), replace “modification under section 13” with “modification under **section 13A**”.

- (2) In section 19(2)(b), replace “section 13(2)(c), (e), and (f)” with “**section 13A(2)(c), (e), and (f)**”.
- 17 Section 20 amended (Modified method or form of voting may not be used for certain matters)**
In section 20(1) and (2), replace “section 13” with “**section 13A**”. 5
- 18 Section 21 amended (Variation and revocation)**
In section 21(1) and (2), replace “section 13” with “**section 13A**”.
- 19 Section 23 amended (Entity’s obligations to keep records)**
- (1) In section 23, replace “the end of the relevant period” with “1 April 2021”.
- (2) In section 23, after “Part”, insert “in reliance on section 10 or 13”. 10
- (3) In section 23, insert as subsection (2):
- (2) On and from the end of the relevant period, the obligations that an entity has under other enactments in relation to the keeping of entity records apply to all written records and electronic communications made by or under this Part in reliance on **section 10A or 13A**. 15
- 20 Section 25 replaced (Powers may only be exercised during relevant period)**
Replace section 25 with:
- 25 Powers may only be exercised during relevant period**
Every power to grant exemptions under **section 26A**, and the power under **section 30A**, may only be exercised— 20
- (a) during the initial 2021/22 period; and
- (b) if extended by an Order in Council made under **section 42B**, during the further period.
- 21 New section 26A inserted (Responsible Registrar or Minister may grant class exemptions)** 25
Before section 27, insert:
- 26A Responsible Registrar or Minister may grant class exemptions**
- (1) A responsible Registrar or Minister in relation to a specified Act may exempt classes of persons from compliance with any provision of the specified Act, or of a specified enactment made under the specified Act, that relates to any matter described in section 29(1). 30
- (2) An exemption may be granted on the terms and conditions (if any) that the responsible Registrar or Minister thinks fit.
- (3) An exemption must state the provision or provisions of the specified enactment to which the exemption applies. 35

- (4) To avoid doubt, an exemption may extend to exempt from compliance with any provision that is implied into a deed or an agreement by or under any provision referred to in **subsection (1)**.

22 Section 29 amended (Description of provisions from which exemptions may be granted) 5

- (1) In section 29(1)(i), replace “section 41(1)(b)(i)” with “**section 42A(1)(b)(i)**”.
(2) In section 29(2), replace “section 41(1)(b)(ii)” with “**section 42A(1)(b)(ii)**”.

23 New section 30A inserted (Chief Judge of Māori Land Court may grant relief without application) 10
Before the cross-heading above section 31, insert:

30A Chief Judge of Māori Land Court may grant relief without application

- (1) The Chief Judge of the Māori Land Court may, with or without an application being made, grant relief for any person or class of persons from compliance with any of the following that relate to any matter described in section 29(1): 15
- (a) the terms of a trust set out by order under section 219 of Te Ture Whenua Maori Act 1993 (relating to a Māori land trust):
 - (b) the terms of an order under Part 13 of that Act incorporating a Māori incorporation:
 - (c) the terms of a trust set out by order under section 338(7) and (8) of that Act (or the corresponding provisions of any former Act) (relating to a Māori reservation). 20
- (2) Before granting relief, the Chief Judge must be satisfied that—
- (a) the relief is necessary or desirable for the purpose of this Part as set out in section 24; and
 - (b) the extent of the relief is not broader than is reasonably necessary to address the matters that gave rise to the relief. 25
- (3) Relief may be granted on the terms and conditions (if any) that the Chief Judge thinks fit.
- (4) Sections 29, 31 to 34, and 40 apply to relief granted under this section with all necessary modifications, including that— 30
- (a) references to exemptions are treated as references to relief under this section:
 - (b) references to a responsible Registrar or Minister are treated as references to the Chief Judge.
- (5) This section does not limit any powers of the court. 35

24 Section 31 replaced (Exemptions may be retrospective to 21 March 2020)
Replace section 31 with:

31 Exemptions may be retrospective to amendment date	
(1) An exemption under this Part may be granted in respect of past acts or omissions.	
(2) However, no exemption may relate to an act or omission that occurred before the amendment date.	5
25 Section 33 amended (Exemption in force for not longer than relevant period)	
(1) In the heading above section 33(1), replace “ <i>initial period</i> ” with “ <i>initial 2021/22 period</i> ”.	
(2) In section 33(1), replace “initial period” with “initial 2021/22 period” in each place.	10
(3) In section 33(2)(a) and (3), replace “initial period” with “initial 2021/22 period”.	
(4) In section 33(2)(b),—	
(a) replace “section 42” with “ section 42B ”; and	15
(b) replace “section 26” with “ section 26A ”.	
26 New sections 42A and 42B inserted	
Before section 43, insert:	
42A Regulations may change Part 2 or Part 3 matters	
(1) The Governor-General may, by Order in Council made on the recommendation of the joint Ministers, make regulations that do all or any of the following:	20
(a) prescribe, for the purposes of section 13A ,—	
(i) matters additional to those listed in section 14(1) (matters that may be modified):	
(ii) matters additional to those listed in section 15 (matters that may not be modified):	25
(iii) matters listed in section 14(1) that may no longer be modified (in whole or in part):	
(b) prescribe, for the purposes of section 26A or 30A , or both,—	
(i) matters additional to those listed in section 29(1) (matters in respect of which exemptions or relief may be granted):	30
(ii) matters listed in section 29(1) in respect of which exemptions or relief may no longer be granted (in whole or in part):	
(c) provide for anything incidental that is necessary for carrying out, or giving full effect to, this Act.	35
(2) Regulations made under this section may—	
(a) relate to 1 or more classes of persons:	

- (b) relate to 1 or more specified Acts (and specified enactments made under them):
 - (c) make different provision for different cases on any differential basis.
 - (3) Before making a recommendation for regulations under **subsection (1)(a)(i)**, the joint Ministers must be satisfied that the regulations will not be inconsistent with the matters listed in section 15(a) to (j). 5
 - (4) Before making a recommendation for regulations under **subsection (1)(b)**, the joint Ministers must be satisfied that the regulations are necessary or desirable for the purpose of Part 3 set out in section 24.
 - (5) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 10
- 42B Order in Council may prescribe further period**
- (1) The Governor-General may, by Order in Council made on the recommendation of the joint Ministers, extend all or any of the following for a further period prescribed by the order: 15
 - (a) the application of **section 10A**;
 - (b) the application of **section 13A**;
 - (c) any or all powers to grant exemptions under **section 26A**;
 - (d) the power to grant relief under **section 30A**.
 - (2) Every further period must— 20
 - (a) start on 1 May 2022; and
 - (b) end no later than the close of 30 October 2022.
 - (3) An order under **subsection (1)** may—
 - (a) relate to 1 or more classes of persons;
 - (b) relate to 1 or more specified Acts (and specified enactments made under them): 25
 - (c) make different provision (including prescribing different periods) for different cases on any differential basis.
 - (4) The power to make an order under **subsection (1)** may be exercised once only in respect of each section listed in that subsection. 30
 - (5) However, the Governor-General may, by Order in Council made on the recommendation of the joint Ministers,—
 - (a) revoke an order made under **subsection (1)** (in whole or in part);
 - (b) amend an order made under **subsection (1)** to reduce any period.
 - (6) The joint Ministers may make a recommendation for an order under **subsection (1)** only if they are satisfied that— 35

- (a) the order is necessary or desirable to address the effects of COVID-19; and
- (b) the period of the extension or each extension recommended for that order is no longer than is reasonably necessary to address the matters that gave rise to it. 5
- (7) **Subsection (8)** applies to the extent that a proposed recommendation relates to any of the following in relation to a specified Act for which a joint Minister is not the responsible Minister:
- (a) extending the application of **section 10A or 13A** to a type of entity that is registered, incorporated, or regulated under the specified Act: 10
- (b) extending a power to grant exemptions or relief in relation to the specified Act.
- (8) Before making the recommendation, the joint Ministers must consult the responsible Minister for the specified Act.
- (9) The joint Ministers' reasons for making the recommendation (including why the order is necessary or desirable) must be published together with the order. 15
- (10) An order made under **subsection (1)** must be made at least 7 days before the end of the initial 2021/22 period.
- (11) In this section, **responsible Minister**, in relation to a specified Act, means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the specified Act. 20
- (12) An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- 27 Section 43 amended (Repeals)** 25
- (1) After section 43(1), insert:
- (1A) **Sections 10A, 13A, 26A, 30A, 42A, and 42B** are repealed on 1 November 2022.
- (2) In section 43(2), replace “31 May 2022” with “30 September 2023”.

Part 3

30

Credit Contracts and Consumer Finance Act 2003

28 Amendment to Credit Contracts and Consumer Finance Act 2003

This Part amends the Credit Contracts and Consumer Finance Act 2003.

29 Section 9H amended (Responsible Lending Code comes into force by notice in *Gazette*) 35

After section 9H(2), insert:

- (2A) Despite subsection (2), a notice that is published in the *Gazette* on or before 31 December 2021 may state 1 or more dates that are sooner than the 28th day after the date on which the notice is published in the *Gazette*.
- (2B) **Subsection (2A)** and this subsection are repealed on 1 January 2022.

Part 4

5

Consumer Information Standards (Origin of Food) Regulations 2021

30 Amendment to Consumer Information Standards (Origin of Food) Regulations 2021

This Part amends the Consumer Information Standards (Origin of Food) Regulations 2021.

10

31 Regulation 2 amended (Commencement)

In regulation 2, replace “12 November 2021” with “12 February 2022”.

Schedule 5

Ministry of Housing and Urban Development

s 3(1)

1	Amendments to Residential Tenancies Act 1986	
	Clauses 2 to 4 amend the Residential Tenancies Act 1986.	5
2	Section 145 amended (Provisions relating to outbreak of COVID-19)	
(1)	In the heading to section 145, delete “ outbreak of ”.	
(2)	In section 145, insert as subsection (2):	
(2)	This section and Schedule 5 are repealed 3 years after the coming into force of Schedule 5 of the COVID-19 Response (Management Measures) Legislation Act 2021 .	10
3	Schedule 1AA amended	
(1)	In Schedule 1AA, after Part 4, insert:	
	Part 4A	
	Provisions relating to Legislation Act 2019	15
22A	Application of Part	
	This Part applies until the main commencement date (as defined in clause 2 of Schedule 1 of the Legislation Act 2019).	
22B	Status of orders made under Schedule 5	
	An order made under clause 3 of Schedule 5 must be published under Part 2 of the Legislation Act 2012 and presented to the House of Representatives under section 41 of that Act.	20
(2)	In Schedule 1AA, after Part 5, insert:	
	Part 5A	
	Provisions relating to COVID-19 Response (Management Measures) Legislation Act 2021	25
38	Order may be prepared before enactment or commencement of COVID-19 Response (Management Measures) Legislation Act 2021	
	Any action taken before the enactment or commencement of the COVID-19 Response (Management Measures) Legislation Act 2021 by or on behalf a Minister of the Crown or the Government in relation to an order under clause 3(2) of Schedule 5 of this Act must be treated as having been taken by that Minister or the Government under and for the purposes of the COVID-19	30

Response (Management Measures) Legislation Act **2021** (as if that Act was already enacted and in force).

39 Transitional provision relating to repeal of Schedule 5

- (1) Any order that is made under **section 3(2) of Schedule 5**, and that is in force when **Schedule 5** is repealed, is revoked on that repeal.
- (2) The repeal of **Schedule 5** does not affect the application of **clauses 6 to 11 of Schedule 5** in relation to any tenancy affected, before the repeal, by the operation of **Schedule 5** or by anything done under **Schedule 5**.

4 Schedule 5 replaced

Replace Schedule 5 with:

Schedule 5
Provisions relating to COVID-19

s 145(1)

1 Interpretation

- (1) In this schedule,—
- area** means a geographical area comprising all or part of New Zealand
- COVID-19 public health order** means a COVID-19 order within the meaning of the COVID-19 Public Health Response Act 2020 (*see* section 5(1) of that Act)
- COVID-19 tenancies order** has the meaning given in **clause 3(2)**
- switching-on date**, in relation to the application of **clauses 4 and 5** to an area by reason of a COVID-19 tenancies order, means the date specified in the order as the date on and from which those clauses apply to the area.
- (2) In this schedule,—
- (a) references to a clause’s **application to an area** are references to its application to tenancies of premises located in the area; and
- (b) references to a **tenancy in an area** are references to a tenancy of premises located in the area; and
- (c) references to section 60A are, in relation to any fixed-term tenancy granted before 11 February 2021, references to that section as in force immediately before that date.
- (3) In this schedule, a tenant of any premises **resides** in the premises if the tenant has not permanently vacated them.

2 Schedule applies despite any other provision of Act, etc

This schedule applies—

- (a) to a tenancy to which this Act applies; and

	(b) despite any other provision in this Act, or any other enactment, or any rule of law or agreement.	
	<i>COVID-19 tenancies orders</i>	
3	Minister may make COVID-19 tenancies order applying clauses 4 and 5 to an area	5
(1)	Clauses 4 and 5—	
	(a) apply to an area on and from a date specified by an order under subclause (2) ; and	
	(b) cease to apply to the area in accordance with subclause (5) .	
(2)	The Minister may make an order specifying a date on and from which clauses 4 and 5 apply to an area specified in the order (a COVID-19 tenancies order).	10
(3)	However, the Minister may make a COVID-19 tenancies order only if satisfied that—	
	(a) a COVID-19 public health order is or will be made containing measures that, subject to any exceptions specified in the order, restrict people in the area from moving (including on a permanent or long-term basis) to a new home or other place of residence; and	15
	(b) the COVID-19 tenancies order is necessary or desirable to support those measures.	20
(4)	A COVID-19 tenancies order may also specify a date or period after which clauses 4 and 5 will no longer apply to the area.	
(5)	Clauses 4 and 5 cease to apply to an area on the earlier of—	
	(a) the close of the date or period specified under subclause (4) (if any); and	25
	(b) the revocation of the order, or the amendment of the order so that it ceases to relate to the area.	
(6)	A COVID-19 tenancies order may—	
	(a) relate to 1 or more areas; and	
	(b) specify different dates or periods for different areas.	30
(7)	Before making or amending a COVID-19 tenancies order, the Minister must consult—	
	(a) the Prime Minister; and	
	(b) the Minister responsible for the administration of the COVID-19 Public Health Response Act 2020.	35
(8)	The Minister must—	
	(a) keep every COVID-19 tenancies order under review; and	

- (b) if satisfied that the criteria in **subclause (3)(a) and (b)** are no longer met in relation to an area to which a COVID-19 tenancies order relates, revoke the order, or amend it so that it ceases to relate to the area, as soon as is reasonably practicable.
- (9) **Subclause (8)(b)** does not limit the Minister’s ability to revoke or amend a COVID-19 tenancies order at any time. 5
- (10) An order made under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- Tenancy terminations restricted while COVID-19 tenancies order is in force*
- 4 Restrictions on termination of tenancy** 10
- (1) While this clause applies to an area, no tenancy in the area terminates, and every fixed-term tenancy in the area that expires continues under section 60A(1) as a periodic tenancy, unless—
- (a) the tenancy is terminated, or the tenancy is not continued as a periodic tenancy, on the initiative of the tenant in accordance with a provision of this Act (including by a notice given, or an application made, before, on, or after the switching-on date); or 15
- (b) the tenancy is terminated with the written agreement of the landlord and the tenant; or
- (c) the tenancy is a fixed-term tenancy, and the landlord and the tenant have done any of the following in accordance with section 60A(2): 20
- (i) renewed, extended, or agreed to extend the existing tenancy agreement;
- (ii) entered into a new tenancy agreement;
- (iii) agreed not to continue with the tenancy; or 25
- (d) the termination is in accordance with section 50A, 53(4), 55(1)(a), (b), or (c), 59A, 61, 66U(1)(a) or (b), 66W, or 66X (but *see subclause (3)*); or
- (e) the termination is in accordance with **clause 5** (anti-social behaviour); or 30
- (f) the tenant no longer resided in the premises on the switching-on date, and the termination or discontinuation is in accordance with a provision of this Act.
- (2) **Subclause (1)** applies to a fixed-term tenancy of 90 days or less as if it were a fixed-term tenancy of more than 90 days. 35
- (3) For the purposes of **subclause (1)(d)**,—
- (a) section 55(1)(a) must be treated as if it referred to rent being at least 60 days in arrear (rather than at least 21 days in arrear):

**COVID-19 Response (Management Measures)
Legislation Bill**

Schedule 5

- (b) on an application referred to in section 55(1)(a), the Tribunal may refuse to make an order—
 - (i) if satisfied that the tenant is making reasonable endeavours to pay rent; and
 - (ii) if, after balancing the interests of the tenant and landlord, the Tribunal considers that an order terminating the tenancy is not justified: 5
- (c) a landlord seeking to terminate a boarding house tenancy under section 66U(1)(a) or (b)(ii) must give at least 28 days' notice:
- (d) a landlord seeking to terminate a boarding house tenancy under section 66U(1)(b)(i) must apply to the Tribunal for an order terminating the tenancy and, for the purposes of the application, section 55 applies (as modified by **paragraphs (a) and (b)** of this subclause) as if the boarding house tenancy were not a boarding house tenancy. 10
- (4) For the purposes of this clause, a termination under **clause 7(3), 8(3), or 9(3)** must be treated as being with the written agreement of the landlord and the tenant. 15
- (5) While this clause applies to an area, a landlord must not give a notice, or make an application, for termination of a tenancy in the area unless—
 - (a) the notice is given, or the application is made, in accordance with a provision specified in **subclause (1)(d)** (as modified by **subclause (3)**); or 20
 - (b) the application is made in accordance with **clause 5**; or
 - (c) the tenant no longer resided in the premises on the switching-on date, and the notice is given, or the application is made, in accordance with a provision of this Act. 25
- 5 Termination for anti-social behaviour**
- (1) While this clause applies to an area, a landlord of a tenancy in the area may apply to the Tribunal for an order terminating the tenancy on the ground of anti-social behaviour. 30
- (2) The Tribunal may make the order if satisfied that the tenant, or a person in the premises with the tenant's permission (other than the landlord or a person acting on the landlord's behalf or with the landlord's authority), has engaged in anti-social behaviour in connection with the tenancy.
- (3) However, the Tribunal must not make the order if satisfied that— 35
 - (a) doing so would be unfair because of the circumstances in which the behaviour occurred or the impact that terminating the tenancy would have on the tenant; or
 - (b) in making the application, the landlord was motivated wholly or partly by the exercise or proposed exercise by the tenant of any right, power, 40

	authority, or remedy conferred on the tenant by the tenancy agreement or by this or any other Act or any complaint by the tenant against the landlord relating to the tenancy (unless the Tribunal is satisfied that the exercise or proposed exercise or the complaint was or would be vexatious or frivolous to such an extent that the landlord was justified in making the application).	5
(4)	In deciding whether to make an order under subclause (2) , the Tribunal must take into account the impact that terminating the tenancy would have on the tenant.	
(5)	For the purposes of subclause (2) , if a tenant is in the premises at the time that another person engages in anti-social behaviour, the tenant is presumed to have permitted the person to be in the premises unless the tenant proves that they took all reasonable steps to prevent the person from entering the premises or to eject the person from the premises.	10
(6)	In this clause, anti-social behaviour means—	15
	(a) harassment; or	
	(b) any intentional act that reasonably causes significant alarm, distress, or nuisance.	
	<i>Effect on tenancy terminations initiated before COVID-19 tenancies order came into force</i>	20
6	Tenant may choose to remain in premises despite having initiated or agreed to termination	
(1)	Subclause (2) applies if—	
	(a) a COVID-19 tenancies order is made applying clauses 4 and 5 to an area; and	25
	(b) before the switching-on date,—	
	(i) a tenant gave notice to terminate a tenancy in the area under a provision of this Act (a termination notice); or	
	(ii) a tenant made an application for, and was granted, an order providing for the termination of a tenancy in the area (a termination order); or	30
	(iii) a tenant and a landlord agreed to terminate a tenancy in the area with effect on or after the switching-on date; and	
	(c) the tenancy has not yet terminated under the termination notice, termination order, or agreement.	35
(2)	The tenant may, before clauses 4 and 5 cease to apply to the area, give the landlord written notice of their intention to remain in the premises, in which case—	

**COVID-19 Response (Management Measures)
Legislation Bill**

Schedule 5

- (a) the termination notice, termination order, or agreement to terminate the tenancy is of no effect; and
 - (b) the tenancy continues as if the termination notice had not been given, the termination order had not been made, or the agreement to terminate the tenancy had not been entered into. 5
- (3) If a termination order in relation to a tenancy becomes of no effect under **sub-clause (2)**, the tenant may, within 14 days after **clauses 4 and 5** cease to apply to the area, terminate the tenancy by giving at least 14 days' notice to the landlord.
- (4) **Subclause (5)** applies in relation to a fixed-term tenancy in an area if— 10
- (a) a COVID-19 tenancies order is made applying **clauses 4 and 5** to the area; and
 - (b) before the switching-on date,— 15
 - (i) the tenant and landlord agreed under section 60A(2) not to continue with the tenancy; or
 - (ii) the tenant gave the landlord notice under section 60A(2) (in relation to terminating or not continuing with the tenancy); and
 - (c) the tenancy has not yet expired.
- (5) The tenant may, before **clauses 4 and 5** cease to apply to the area, give the landlord written notice of their intention to remain in the premises, in which case— 20
- (a) the agreement or notice is of no effect; and
 - (b) on expiring, the fixed-term tenancy continues under section 60A as a periodic tenancy as if the agreement had not been entered into or the notice had not been given. 25
- (6) This clause does not limit any other provision of this Act under which (subject, while **clauses 4 and 5** apply, to **clause 4**) the tenancy may be terminated.
- 7 Certain notices to terminate given by landlord before switching-on date are suspended or of no effect**
- (1) This clause applies if— 30
- (a) a COVID-19 tenancies order is made applying **clauses 4 and 5** to an area; and
 - (b) before the switching-on date, a landlord of a tenancy in the area gave notice to terminate the tenancy with effect on or after the switching-on date (a **termination notice**); and 35
 - (c) the termination notice was given in accordance with a provision of this Act other than a provision specified in **clause 4(1)(d)** (as modified by **clause 4(3)**); and
 - (d) on the switching-on date, the tenant still resides in the premises.

- (2) The tenant may, by written notice given to the landlord before the termination date provided for by the termination notice, elect to terminate the tenancy on that date.
- (3) If the tenant makes an election under **subclause (2)**, the tenancy terminates on the termination date provided for by the termination notice. 5
- (4) If the tenant does not make an election under **subclause (2)** and the termination notice was given under section 51 or 53B(1)(b)(iii), the termination notice takes effect—
- (a) on the termination date provided for by the termination notice, as long as that would not result in the termination occurring— 10
- (i) while **clauses 4 and 5** apply to the area; or
- (ii) within 28 days after they last applied to it:
- (b) otherwise, at the start of the first date that is after—
- (i) the termination date provided for by the termination notice; and 15
- (ii) the period of 28 days beginning with the day after the date on which **clauses 4 and 5** last applied to the area.
- (5) A termination notice taking effect on the date provided for by **subclause (4)(b)** takes effect on that date—
- (a) as if the notice had provided for the termination to occur on that date; and 20
- (b) with any other necessary modifications.
- (6) If the tenant does not make an election under **subclause (2)** and the termination notice was given under a provision other than section 51 or 53B(1)(b)(iii), the termination notice is of no effect and the tenancy continues as if the termination notice had not been given. 25
- (7) Despite **subclause (1)**, this clause does not apply to a termination notice to which section 60A(2) applies (as to which, *see clause 9*).
- (8) This clause does not limit any other provision of this Act under which (subject, while **clauses 4 and 5** apply, to **clause 4**) the tenancy may be terminated.
- 8 Certain tribunal orders for termination obtained by landlord before switching-on date are suspended** 30
- (1) This clause applies if—
- (a) a COVID-19 tenancies order is made applying **clauses 4 and 5** to an area; and
- (b) before the switching-on date under the COVID-19 tenancies order, the Tribunal made an order terminating a tenancy in the area with effect on or after the switching-on date (a **termination order**) (whether or not the termination order also covers any other matter); and 35

**COVID-19 Response (Management Measures)
Legislation Bill**

Schedule 5

- (c) the termination order was made on the application of the landlord in accordance with a provision of this Act other than—
- (i) a provision specified in **clause 4(1)(d)** (as modified by **clause 4(3)**); and
 - (ii) **clause 5**; and
- (d) on the switching-on date, the tenant still resides in the premises. 5
- (2) The tenant may, by written notice given to the landlord before the termination date provided for by the termination order, elect to terminate the tenancy on that date.
- (3) If the tenant makes an election under **subclause (2)**, the tenancy terminates on the termination date provided for by the termination order. 10
- (4) If the tenant does not make an election under **subclause (2)**, the termination order takes effect—
- (a) on the termination date provided for by the termination order, as long as that would not result in the termination occurring— 15
 - (i) while **clauses 4 and 5** apply to the area; or
 - (ii) within 14 days after they last applied to it:
 - (b) otherwise, at the start of the first date that is after—
 - (i) the termination date provided for by the termination order; and
 - (ii) the period of 14 days beginning with the day after the date on which **clauses 4 and 5** last applied to the area. 20
- (5) A termination order taking effect on the date provided for by **subclause (4)(b)** takes effect on that date—
- (a) as if it had provided for the termination to occur on that date; and
 - (b) with any other necessary modifications. 25
- (6) This clause does not limit any other provision of this Act under which (subject, while **clauses 4 and 5** apply, to **clause 4**) the tenancy may be terminated.
- 9 Certain discontinuation notices given by landlord before switching-on date are of no effect**
- (1) This clause applies if— 30
- (a) a COVID-19 order is made applying **clauses 4 and 5** to an area; and
 - (b) before the switching-on date, a landlord of a fixed-term tenancy in the area gave notice under section 60A(2) that would, if **clauses 4 and 5** had not applied to the area, have prevented the tenancy from continuing under section 60A(1) as a periodic tenancy (a **discontinuation notice**); and 35
- (c) on the switching-on date, the tenant still resides in the premises.

- (2) The tenant may, by written notice given to the landlord before the end of the tenancy's term, elect not to continue with the tenancy.
- (3) If the tenant makes an election under **subclause (2)**, the tenancy terminates at the end of the fixed term.
- (4) If the tenant does not make an election under **subclause (2)**,— 5
 - (a) the discontinuation notice is of no effect; and
 - (b) the tenancy continues under section 60A(1) as a periodic tenancy, in accordance with **clause 4(1)**.
- (5) This clause does not limit any other provision of this Act under which (subject, while **clauses 4 and 5** apply, to **clause 4**) the tenancy may be terminated. 10

Other effects of COVID-19 tenancies order

10 Landlord may terminate certain periodic tenancies that were formerly fixed-term tenancies once clauses 4 and 5 no longer apply

- (1) **Subclause (2)** applies if—
 - (a) a COVID-19 tenancies order is made applying **clauses 4 and 5** to an area; and 15
 - (b) a fixed-term tenancy in the area has continued under section 60A(1) as a periodic tenancy, in accordance with **clause 4(1)**; and
 - (c) if **clauses 4 and 5** had not applied to the area, that continuation would not have occurred, whether because— 20
 - (i) the fixed-term tenancy was for a term of 90 days or less; or
 - (ii) before the switching-on date, the landlord gave notice under section 60A(2) that would have prevented the tenancy from continuing as a periodic tenancy; or
 - (iii) the landlord was prevented by the application of **clauses 4 and 5** from giving any such notice. 25
- (2) Within 28 days after **clauses 4 and 5** cease to apply to the area, the landlord may terminate the tenancy by giving at least 28 days' notice to the tenant.
- (3) A termination notice under **subclause (2)** takes effect—
 - (a) on the termination date provided for by the termination notice, as long as that would not result in the termination occurring— 30
 - (i) while **clauses 4 and 5** apply to the area; or
 - (ii) within 28 days after they last applied to it:
 - (b) otherwise, at the start of the first date that is after—
 - (i) the termination date provided for by the termination notice; and 35
 - (ii) the period of 28 days beginning with the day after the date on which **clauses 4 and 5** last applied to the area.

(4)	If, within 28 days of ceasing to apply to the area, clauses 4 and 5 begin to apply to the area again and the landlord has not given notice under subclause (2) to terminate the tenancy, subclause (2) applies on the next instance of clauses 4 and 5 ceasing to apply to the area.	
(5)	This clause does not limit any other provision of this Act under which (subject, while clauses 4 and 5 apply, to clause 4) the tenancy may be terminated.	5
11	Consequences of tenant remaining in premises	
	If, as a consequence of the operation of this schedule or anything done under it, vacant possession of any premises cannot be provided to an incoming or prospective tenant,—	10
(a)	the landlord must, as soon as practicable,—	
(i)	advise the incoming or prospective tenant that the premises are no longer available; and	
(ii)	refund the incoming or prospective tenant—	
(A)	any amount paid to the landlord (or to any person on the landlord's behalf) by way of rent in advance; and	15
(B)	any amount so paid by way of bond that has not been lodged with the chief executive; and	
(b)	the provisions of this Act that relate to payment of bonds lodged with the chief executive apply, with any necessary modifications, in relation to any bond that has been paid under the tenancy agreement with the incoming or prospective tenant and lodged with the chief executive; and	20
(c)	the incoming or prospective tenant has no right to occupy the premises; and	
(d)	the landlord and the incoming or prospective tenant are released from any obligations owed to each other in relation to the tenancy (except as provided by this clause).	25
	<i>Tribunal proceedings</i>	
12	Application of clause 13	
	Clause 13 applies for a period of 12 months starting with the coming into force of Schedule 5 of the COVID-19 Response (Management Measures) Legislation Act 2021 .	30
13	Tribunal proceedings	
	The Tribunal may conduct its proceedings (whether they relate to this schedule or otherwise) as it sees fit, including on the papers.	35

Consequential amendment to Secondary Legislation Act 2021

5 Secondary Legislation Act 2021 amended

In the Secondary Legislation Act 2021, Schedule 15, item relating to the Residential Tenancies Act 1986, repeal the items relating to Schedule 5.

Schedule 6
Ministry of Justice

s 3(1)

Part 1
Coroners Act 2006

5

1 Amendment to Coroners Act 2006

This Part amends the Coroners Act 2006.

2 New section 102A and cross-heading inserted

After section 102, insert:

Remote participation

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102A Use of audio-visual links

- (1) A coroner may, if satisfied that it is in the interests of justice to do so, permit remote participation through the use of audio or audio-visual links.
- (2) If a coroner permits remote participation in respect of a matter, the Courts (Remote Participation) Act 2010 applies as if—
- (a) the matter were a civil proceeding before a court; and
- (b) the coroner were a judge of that court.

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Part 2
Criminal Procedure Act 2011

3 Amendment to Criminal Procedure Act 2011

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This Part amends the Criminal Procedure Act 2011.

4 New section 68A inserted (High Court Judge may reconsider orders made under section 68 in certain circumstances)

After section 68, insert:

68A High Court Judge may reconsider orders made under section 68 in certain circumstances

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- (1) A High Court Judge may, on the Judge's own motion,—
- (a) reconsider an order made under section 68(1), if there has been any relevant change in circumstances, including (but not limited to)—
- (i) the addition or removal of a co-defendant from the proceedings:
- (ii) an increase or a decrease in—
- (A) the resources available to the court:

30

- (B) the complexity of the proceedings:
- (iii) a jury backlog arising out of particular circumstances (for example, compliance with rules to prevent the spread of COVID-19); and
- (b) make a new order under section 68(1) without seeking a recommendation from the District Court Judge under section 67. 5
- (2) Before making a new order under **subsection (1)**, the High Court Judge must consider the matters specified in sections 67(4) and 68(2)(a) and (b).
- (3) No party may appeal against an order made under **subsection (1)**.
- (4) If a conflict arises between this section and section 135, section 135 prevails. 10
- 5 Section 135 amended (Procedure if charge amended after order made under section 68 or 70)**
- (1) In the heading to section 135, replace “68 or 70” with “68, **68A**, or 70”.
- (2) In section 135(1), replace “68 or 70” with “68, **68A**, or 70”.
- (3) In section 135(2), replace “68 or 70” with “68, **68A**, or 70”. 15
- (4) In section 135(3), replace “68 or 70” with “68, **68A**, or 70”.

Part 3

Epidemic Preparedness Act 2006

- 6 Amendment to Epidemic Preparedness Act 2006** 20
- This Part amends the Epidemic Preparedness Act 2006.
- 7 Section 24 amended (Judges may modify rules of court during epidemic)**
- After section 24(4), insert:
- (5) To avoid doubt, a specified Judge may exercise the power specified in subsection (1) to modify any rule of the specified Judge’s court in relation to any particular proceedings, or any category of proceedings, before that court. 25
- (6) For the purposes of **subsection (5)**, **specified Judge** means,—
- (a) in relation to the Supreme Court, the Chief Justice:
- (b) in relation to the Court of Appeal, the President of the Court of Appeal:
- (c) in relation to the High Court, the Chief Judge of the High Court:
- (d) in relation to the District Court, the Chief District Court Judge: 30
- (e) in relation to the Employment Court, the Chief Judge of the Employment Court:
- (f) in relation to the Māori Land Court, the Chief Judge of the Māori Land Court.

Part 4

Property Law Act 2007

8 Amendments to Property Law Act 2007

This Part amends the Property Law Act 2007.

9 New sections 245F to 245I inserted

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After section 245E, insert:

245F COVID-19 outbreak further measures: application

Leases to which sections 245G to 245I apply

(1) Sections 245G to 245I apply only to a lease—

- (a) to which section 245 applies under section 206; and
- (b) in operation in the affected period (even if it came into operation, was varied, or both, before or in that period); and
- (c) that does not include any no access in an emergency clause that covers an epidemic.

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Definitions

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(2) In this section, **sections 245G to 245I**, and **clause 4A** of Schedule 3,— **affected period** means all or any of the period that—

- (a) starts on 28 September 2021; and
- (b) ends on the repeal (on the date on which the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked) of this section and **sections 245G to 245I** and **clause 4A** of Schedule 3

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enforcement action, for a lease, if the rent has been in arrears, means exercising a right, or applying for a remedy, in respect of non-payment of rent

epidemic means an outbreak of a quarantinable disease in respect of which an epidemic notice has been given, and is in force, under section 5(1) of the Epidemic Preparedness Act 2006

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leased premises includes all land comprised in the lease

lessee includes a person who has accepted a transfer or assignment of a lease (see sections 239 to 242)

no access in an emergency clause means any terms that provide expressly (whatever their form or wording) for a reduction of rent payable for a rental period, or of any contribution to the outgoings on the leased premises payable by the lessee for a rental period, or of both, because, for all or any part of that rental period,—

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- (a) there is an emergency; and

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(b) the lessee, or any sublessee of the lessee, is unable to gain access to all or any part of the leased premises to conduct fully their operations from all or any part of the leased premises, because of reasons of health or safety

reasons of health or safety include, without limitation, any health or safety restriction imposed by any competent authority on occupation by any person of all or any part of the leased premises

rent, payable by a lessee for a rental period, includes any contribution to the outgoings on the leased premises payable by the lessee for that rental period.

245G COVID-19 outbreak further measures: covenant implied

(1) The lease contains the implied covenant set out in **clause 4A** of Schedule 3.

(2) Despite section 218(1), that implied covenant is implied only into a lease of the kind specified in **section 245F(1)**.

(3) The implied covenant may, in accordance with sections 217 and 279(2), be negatived, varied, or extended—

(a) by the express terms of the lease; or

(b) by a written memorandum executed, as the lease was required to be executed, by the parties to the lease; or

(c) if implied in a short-term lease not made in writing, by the express or implied agreement of the parties.

(4) However, the implied covenant is not negatived, varied, or extended by any terms, memorandum, or agreement,—

(a) applying to all or any implied covenants, conditions, or powers set out in Schedule 3; and

(b) agreed to or made before the start of the affected period.

(5) **Subsection (4)** does not limit **clause 4A(1)(b)** of Schedule 3 (which relates to a pre-commencement rent variation agreement, as defined in **clause 4A(5)** of Schedule 3).

245H COVID-19 outbreak further measures: enforcement

(1) Enforcement action must be considered not to comply with sections 244 and 245 if that enforcement action is—

(a) taken in respect of the affected period; and

(b) inconsistent with **section 245G**.

(2) In particular, enforcement action taken in respect of the affected period is inconsistent with **section 245G** if the action is to be, or has been, taken before the lessor and lessee have agreed a fair proportion under **clause 4A** of Schedule 3.

(3) However, nothing in this section affects—

<ul style="list-style-type: none"> (a) section 184 (which provides protection to a person who purchases mortgaged property from a mortgagee or receiver); and (b) section 51 of the Land Transfer Act 2017 (which provides, in the case of a transfer of an estate or interest in land, for title by registration except as provided for by that section); and (c) any other enactment or law that protects, or protects a person claiming through, a person who acquires property for valuable consideration and in good faith. 	5
245I COVID-19 outbreak further measures: proceedings	
<ul style="list-style-type: none"> (1) This section applies to a proceeding— <ul style="list-style-type: none"> (a) in or before a court or tribunal, or before a person acting judicially; and (b) about, or about matters that include, a lease to which this section applies under section 245F(1). (2) Any relief granted in the proceeding (for example, on an application made under section 244(1)(a) for an order for possession of the land, or otherwise in exercise of the powers conferred by sections 253 to 264) must be not inconsistent with sections 245G and 245H. 	10 15
10 Schedule 1AA amended	
In Schedule 1AA,—	
<ul style="list-style-type: none"> (a) insert the following Part as the last Part; and (b) make all necessary consequential amendments. 	20
Part 2	
Provisions relating to Part 4 of Schedule 6 of COVID-19 Response (Management Measures) Legislation Act 2021	
2 Repeals of COVID-19 outbreak further measures	25
The following provisions are repealed on the date on which the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked:	
<ul style="list-style-type: none"> (a) sections 245F to 245I; (b) clause 4A of Schedule 3. 	
3 Effect of repeals	30
<ul style="list-style-type: none"> (1) The repeals in clause 2 do not affect— <ul style="list-style-type: none"> (a) an existing right under the repealed legislation; (b) the previous operation of the repealed legislation or anything done or suffered under it. 	

- (2) In particular, the repealed legislation continues to apply, despite those repeals, to the following:
- (a) the implied covenant set out in **clause 4A** of Schedule 3 if, immediately before those repeals, and under **sections 245F and 245G**, a lease contains that implied covenant: 5
 - (b) agreements made, before or after those repeals, by the lessor and lessee under that implied covenant:
 - (c) any dispute arising under **clause 4A** of Schedule 3, for example, one that is—
 - (i) referred, before or after those repeals, and as required by **clause 4A(6)** of Schedule 3, to arbitration under the Arbitration Act 1996; or 10
 - (ii) otherwise the subject of a proceeding in or before a court or tribunal, or before a person acting judicially.

11 Schedule 3 amended 15

In Schedule 3, after clause 4, insert:

4A COVID-19 outbreak further measures: payment of fair proportion of rent

Leases to which this implied covenant applies

- (1) This clause applies to a lease of the kind specified in **section 245F(1)**—
- (a) only if, in a rental period all or any of which is in the affected period,— 20
 - (i) there is an epidemic; and
 - (ii) the lessee, or any sublessee of the lessee, is unable to gain access to all or any part of the leased premises to conduct fully their operations in all or any part of the leased premises, because of reasons of health or safety related to the epidemic; and 25
 - (b) only to the extent that no pre-commencement rent variation agreement has been made that determines the rent that is payable by the lessee for that rental period.

Fair proportion of rent otherwise payable will cease to be payable

- (2) A fair proportion of the rent otherwise payable by the lessee for that rental period will cease to be payable for the period— 30
- (a) starting on the date when—
 - (i) there is an epidemic; and
 - (ii) the lessee, or any sublessee of the lessee, is unable to gain access to all or any part of the leased premises to conduct fully their operations from all or any part of the leased premises, because of reasons of health or safety related to the epidemic; and 35
 - (b) ending when the inability ceases.

**COVID-19 Response (Management Measures)
Legislation Bill**

Schedule 6

- (3) The fair proportion will be agreed by the lessor and lessee.
- (4) In determining the fair proportion, the matters that the lessor and lessee will consider must include whether, and, if so, what variations were made to rent payable by the lessee for a rental period all or any of which is on or after 18 August 2021 and before the start of the affected period, and were made for reasons that are or include that— 5
- (a) there is an epidemic; and
 - (b) the lessee, or any sublessee of the lessee, is unable to gain access to all or any part of the leased premises to conduct fully their operations in all or any part of the leased premises, because of reasons of health or safety related to the epidemic. 10
- Definitions*
- (5) In this clause,—
- affected period** has the meaning given to it by **section 245F(2)**
- agreement** includes a contract that does not comply with section 24 15
- epidemic** has the meaning given to it by **section 245F(2)**
- leased premises** and **lessee** have the meanings given to them by **section 245F(2)**
- pre-commencement rent variation agreement** means an agreement that—
- (a) is about what rent is payable by the lessee for a rental period all or any of which is in the affected period; and 20
 - (b) may, but need not, be also a variation of a lease about any other matter; and
 - (c) is made before the commencement of this clause, and is made for reasons that are or include that— 25
 - (i) there is an epidemic; and
 - (ii) the lessee, or any sublessee of the lessee, is unable to gain access to all or any part of the leased premises to conduct fully their operations in all or any part of the leased premises, because of reasons of health or safety related to the epidemic 30
- reasons of health or safety** and **rent** have the meanings given to them by **section 245F(2)**.
- Disputes will be referred to arbitration*
- (6) Any dispute arising under this clause (for example, a dispute about whether this clause applies to a lease) will be referred to arbitration under the Arbitration Act 1996. 35

Schedule 7
Ministry of Transport

s 3(1)

- 1 Amendments to Land Transport Act 1998**
- Clauses 2 and 3** amend the Land Transport Act 1998. 5
- 2 Section 139 amended (Issue of infringement notice)**
- After section 139(7), insert:
- Temporary extension owing to COVID-19*
- (8) An infringement notice may also be served by sending the notice by fax or email to a person referred to in subsection (2)(c) or (d) at the person's fax number or email address. 10
- (9) If an infringement notice is served under **subsection (8)** by sending it to a person by fax or email, the notice is treated as being served on the person at the time the fax or email first enters an information system that is outside the control of the enforcement officer. 15
- (10) In **subsection (9), information system** means a system for producing, sending, receiving, storing, displaying, or otherwise processing electronic communications.
- (11) A reminder notice may be served by sending the reminder notice by fax or email to a person referred to in subsection (2)(c) or (d) at the person's fax number or email address. 20
- (12) **Subsection (11)** overrides section 24(1)(e) of the Summary Proceedings Act 1957.
- (13) This subsection, **subsections (8) to (12)**, and the heading above **subsection (8)** are repealed when the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked. 25
- 3 Section 210 amended (Service of notices)**
- After section 210(3), insert:
- Temporary extension owing to COVID-19*
- (4) A notice referred to in subsection (1) may also be given by sending the notice by fax or email to the person's fax number or email address. 30
- (5) If a notice is given under **subsection (4)** by sending it to a person by fax or email, the notice is treated as being served on the person at the time the fax or email first enters an information system that is outside the control of the person giving the notice. 35
- (6) In **subsection (5), information system** means a system for producing, sending, receiving, storing, displaying, or otherwise processing electronic communications.

COVID-19 Response (Management Measures)
Legislation Bill

Schedule 7

- (7) This subsection, **subsections (4) to (6)**, and the heading above **subsection (4)** are repealed when the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked.

Schedule 8
**Ministry of Business, Innovation, and Employment (amendment
commencing 28 October 2021)**

s 3(2)

- 1 Amendment to COVID-19 Response (Requirements For Entities—
Modifications and Exemptions) Act 2020** 5
- Clause 2** amends the COVID-19 Response (Requirements For Entities—
Modifications and Exemptions) Act 2020.
- 2 Section 26A amended (Responsible Registrar or Minister may grant class
exemptions)** 10
- After **section 26A(4)** (as inserted by **Part 2** of **Schedule 4** of this Act),
insert:
- (5) An exemption made under this section is secondary legislation (*see* Part 3 of
the Legislation Act 2019 for publication requirements).
- (6) The responsible Registrar or Minister’s reasons for granting the exemption 15
(including why the exemption is appropriate) must be published with the
exemption.