



COVID-19 Response (Management Measures) Legislation Bill

Legislative statement

J.17

First reading

Overview

The COVID-19 Response (Management Measures) Legislation Bill delivers amendments to 14 Acts of Parliament and one set of regulations to address issues created by COVID-19 and exacerbated by the community outbreak of the Delta variant that began in August 2021.

It is an omnibus bill, introduced under Standing Order 267(a). Two similar bills were passed in 2020.

Description of amendments

The bill is structured with the amendments in schedules organised by originating agency, a structure that this statement mirrors.

Department of Internal Affairs

Gambling Act 2003

Charitable organisations such as the Heart Foundation, Plunket, Kids Can and Coastguard conduct lotteries to raise funds, regulated under the Class 3 gambling provisions in the Gambling Act 2003. Class 3 operators are prohibited from conducting remote interactive gambling (i.e. online or by phone), which drastically reduces their ability to raise funds.

In 2020 the Act was amended to enable three specified operators to offer lottery tickets by email or by phone; issue tickets electronically, and receive payment via a communication device (for example through a banking app). Those temporary provisions will expire on 31 October 2021.

The bill extends the expiry date by two years to 31 October 2023; and expands the number of operators who qualify for the modified definition of remote interactive gambling to include any Class 3 operator with a licence to run a lottery.

Local Electoral Act 2001

The next triennial local elections are scheduled to take place on 8 October 2022. The Minister of Local Government proposes amending section 73A of the Local Electoral Act 2001 to extend the ability for the Governor-General, by Order in Council, to specify a later date or dates for key points in the process for triennial local elections in an emergency situation.

Currently section 73A of the Local Electoral Act 2001 only allows for an Order in Council to move key election dates up to 6 weeks after the date that would have otherwise applied. The Bill will allow one key election date dates to be extended further by up to 6 weeks at a time.

Land Information New Zealand

Rating Valuations Act 1998

Between July 2021 and March 2022, 22 councils are scheduled to undertake general revaluations for rating purposes. If COVID-19 alert levels increase, then the movement restrictions may again require councils to shift the date of their revaluation. The Bill allows affected councils to extend the three-year requirement for general revaluations. The Valuer General will adapt the existing 2020 operational guidelines to guide the assessment of applications for a delay to a revaluation, before inviting applications from affected councils.

Ministry for the Environment

Climate Change Response Act 2002

Under the Climate Change Response Act 2002, the Minister for Climate Change must set periodic emissions budgets for the amount of greenhouse gases than can be emitted in New Zealand over prescribed periods ('emissions budgets'), and corresponding plans to achieve them ('emissions reduction plans'). Currently the first three emissions budgets and the first emissions reduction plan must be set no later than 31 December 2021.

The Bill extends the statutory deadlines for the first three emissions budgets and the first emissions reduction plan to 31 May 2022. The extension of statutory deadline does not change the commencement date for the first emissions budget period, which remains 1 January 2022.

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

The Bill extends the repeal date for the COVID-19 Recovery (Fast-track Consenting) Act 2020 by one year from 8 July 2022 to 8 July 2023. Continuing the FTCA will promote employment and contribute to the economic recovery from COVID-19. It will also continue to provide consents for project that deliver significant public benefit such as housing and public and active transport.

Resource Management Act 1991

The Bill defers the mandatory requirement for the 10-year review of regional policy statements and regional and district plans from commencement to 30 September 2024. Plans and policy statements whose review would otherwise commence within this three-year timeframe (including those overdue for review commencement) will now be able to defer the commencement of review until 30 September 2024.

It also amends the RMA to provide the Minister with the ability to defer the requirement for regional policy statements to be updated in accordance with National Planning Standards from May 2022 to May 2024.

Ministry of Business, Innovation, and Employment

Contract and Commercial Law Act 2017

The Bill amends the Contract and Commercial Law Act 2017 to reinstate the ability of businesses to sign certain commercial lending documents electronically.

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

The Bill amends the COVID-19 Response (Requirements For Entities—Modifications and Exemptions) Act 2020 to reinstate the modification and exemption provisions in that Act for a further period of 6 months (which is able to be extended to the close of 30 October 2022).

Credit Contracts and Consumer Finance Act 2003

The Bill amends section 9H of the Credit Contracts and Consumer Finance Act. The effect of section 9H of the Act is that any changes to the Responsible Lending 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. This will allow for the issue of guidance about how lenders can support borrowers affected by COVID-19.

Consumer Information Standards (Origin of Food) Regulations 2021

The Bill delays the commencement of the Consumer Information Standards (Origin of Food) Regulations 2021 from 12 November 2021 to 12 February 2022. This addresses difficulties faced by food retailers and suppliers preparing for implementation of the country of origin regulations, due to their response to the recent changes in alert levels and the need to reprioritise resources.

Ministry of Housing and Urban Development

Residential Tenancies Act 1986

The amendments seek to restrict residential tenancy terminations during future Alert Level 4 lockdowns. The amended provisions allow the Minister responsible for the Act to make a COVID-19 tenancies order which applies to an area when necessary or desirable to support an order under the COVID-19 Public Health Response Act 2020 which generally restricts people from moving house. Unless certain exceptions apply, termination or expiry of a tenancy is not allowed while a COVID-19 tenancies order is in place. Landlords generally cannot initiate a tenancy termination while a COVID-19 tenancies order is in effect, except in specified circumstances.

Landlord-initiated tenancy terminations (including termination orders issued by the Tenancy Tribunal on application by the landlord) issued before the COVID-19 tenancies order came into effect are generally suspended or rendered to be of no effect. Tenants can still elect to terminate the tenancy on the set date by providing written notice to the landlord. Tenant-initiated tenancy terminations issued before the COVID-19 tenancies order came into effect are not automatically suspended or rendered to be of no effect, however, tenants can still elect to prevent the termination by providing written notice to the landlord. The amended provisions also provide that the Tenancy Tribunal may conduct its proceedings as it sees fit (including on the papers) for a 12-month period after the Act comes into force.

Ministry of Justice

Coroners Act 2006

There is a lack of clarity regarding the ability for coroners to use remote means (such as audio-visual or tele-conferences) to conduct hearings. In practice, coroners have been using methods such as video meeting rooms and teleconferences, but unlike other legislation the Coroners Act 2006 does not specifically authorise their use. Restrictions on the conduct of hearings in person as a result of COVID-19 make clarification more urgent. To provide clarity, the Bill enables coroners to hold hearings remotely.

Criminal Procedure Act 2011

The Bill enables 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 amendment would enable greater use of the High Court, to help reduce District Court backlogs which COVID-19 is contributing towards in a significant way.

In reconsidering a Protocol recommendation or decision, the Judge would be required still to take into account all the factors, and the defendant's and prosecutor's submissions, as are currently required to be considered under sections 67 and 68.

Epidemic Preparedness Act 2006

The Bill removes uncertainty about the ability of the heads of the bench to modify court rules for all matters in their court during an epidemic. The current provision suggests that judges can only modify court rules in specific cases, which is inefficient and could lead to inconsistencies. It also limits access for parties, and the profession, to guidance about modifications in advance of particular hearings, particularly in the District Court.

The amendment would ensure the courts can operate effectively, and that rules of procedure can be modified in a consistent and practically workable manner. The proposed amendment would set out the judges empowered to modify any court rule that applies in specified courts.

Property Law Act 2007

The Bill amends the Property Law Act 2007 to insert an implied clause in commercial leases requiring a rent reduction in emergency situations.

This change will apply retrospectively from the date of the Government's policy announcements, on 28 September 2021. This has the benefit of slightly extending the period in which tenants could negotiate for abated rent, by the length of time it takes for the Bill to be enacted.

Ministry of Transport

Land Transport Act 1998

This Bill amends section 139 of the Land Transport Act 1998 to allow for electronic service of infringement and reminder notices and amends section 210 to allow for electronic service of regulatory notices. Electronic service means the delivery of notices signed with electronic signature and delivered using an information system, such as fax or email. Regulatory notices include (but are not limited to) licence suspensions and revocations on medical grounds, medical notices, and demerit point suspensions.

Under the current sections 139 and 210 Land Transport Act 1998, Waka Kotahi NZ Transport Agency (Waka Kotahi) - and for section 139 Land Transport Act 1998 other enforcement authorities – are required to produce, print, sign, and deliver by post, any regulatory notice, infringement and infringement reminder notices. This requires Waka Kotahi staff physically working in the Palmerston North offices. Under COVID-19 Alert Levels three and four, Waka Kotahi staff are not in the office and therefore this work cannot take place. Under Delta Level Two, staff have returned to the office, but the general distancing and health measures apply. The delivery of notices to regions (e.g. Auckland) that are in a higher Alert Level creates additional (avoidable) risk to the postal workers and couriers that have to deliver the notices. It would be considerably simpler, safer, and more efficient if electronic service was enabled.

Ministry of Business, Innovation, and Employment (for commencement on 28 October 2021)

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

The Bill reactivates the provisions of the COVID-19 Response (Requirements For Entities—Modifications and Exemptions) Act 2020 to enable exemptions to be granted modifying or relaxing procedural or administrative requirements where that is necessary to address the effects of COVID-19.