



Presented to the House of Representatives under Standing Order 272

J.17

COVID-19 Response (Management Measures) Legislation Bill

Legislative statement

Third 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.

Select committee consideration

At first reading, the bill was referred to the Finance and Expenditure Committee. [The committee reported to the House on 14 October 2021](#). The committee made a range of recommendations, some of which were incorporated into a supplementary order paper and approved at the committee stage. The details of these changes are described in the appropriate sections of this statement.

Description of amendments to principal Acts

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

Commencement

The commencement provision was simplified at the committee stage. The resulting Act will commence on the day after Royal assent is accorded to it.

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 three years to 31 October 2024 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.

At the committee stage the definition of remote interactive gambling was simplified.

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 may determine that the authority is not required to undertake the general revaluation by the due date, but require it to undertake it no later than a year after the due date.

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 that 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 projects 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).

New section 42A, inserted at the committee stage, authorises the making of regulations changing matters that may be modified or matters in respect of which exemptions or relief may, or may no longer, be granted. The joint Ministers' reasons for recommending the making of the regulations are required to be published, together with the regulations.

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.

Amendments agreed at the committee stage include—

- Providing for 7 days' notice of the revocation or amendment of a COVID-19 tenancies order;
- Reducing the period of notice for a boarding house tenancy under the Act to 7 days;
- Creating a penalty of \$6,500 for the issuing of a termination notice or application to terminate a tenancy that a landlord is not entitled to issue;
- Clarifications of certain issues such as what happens if the termination restrictions apply to an area more than once;
- Providing protections for incoming tenants who are due to move into a vacant property but who cannot because of movement restrictions in a COVID-19 public health order.

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. An amendment at the committee stage allows the reconsideration of such decisions in certain circumstances.

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 amendment sets 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 18 August 2021 (amended from 28 September 2021 at the committee stage).

Other amendments made at the committee stage include—

- that the fair proportion deduction applies to a rental period only to the extent that the rental period is in the affected period;
- in determining the fair proportion deduction, the matters that the lessor and lessee will consider must include any loss of income experienced by the lessee in respect of that rental period because, for all or any of that rental period there is an epidemic and 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;
- that the lessor or lessee, before a referral to arbitration under new clause may agree with the other party to use non-binding mediation to try to resolve the dispute; or use any other available non-binding or binding dispute-resolution procedure or jurisdiction to resolve the dispute (for example, expert determination).

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 email. Regulatory notices include (but are not limited to) licence suspensions and revocations on medical grounds, medical notices, and demerit point suspensions.