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as at 1 October 2023



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

Public Act 2020 No 14
Date of assent 15 May 2020
Commencement see section 2

COVID-19 Response (Requirements For Entities—Modifications and Exemptions) Act 2020:
repealed, on the close of 30 September 2023, by section 43(2).

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Business, Innovation, and Employment.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the COVID-19 Response (Requirements For Entities—Modifications and Exemptions) Act 2020.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1 Preliminary

Overview

3 Overview of Act

- (1) This Act provides processes for an entity affected by COVID-19—
 - (a) to, in some circumstances, use electronic means for doing things if its constitution or rules would otherwise prevent this; and
 - (b) to modify certain requirements or restrictions in its constitution or rules if it is not reasonably practicable to comply with them.
- (2) The processes are in Part 2.
- (3) Modifications made to constitutions or rules under section 13 or 13A are temporary. However, an entity may make lasting amendments to its constitution or rules through electronic voting (*see* sections 10, 10A, and 11).
- (4) This Act also provides, in Part 3,—
 - (a) powers for responsible Registrars and Ministers to exempt classes of persons from certain provisions of specified enactments; and
 - (b) powers for the Chief Judge of the Māori Land Court to grant relief from compliance with terms of certain orders made under Te Ture Whenua Maori Act 1993.
- (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.
- (4B) Amendments to this Act made by the COVID-19 Response (Management Measures) Legislation Act 2021 broadly revive the processes and powers during 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).
- (5) This section is only a guide to the general scheme and effect of this Act.

Section 3(3): amended, on 3 November 2021, by Schedule 4 clause 4(1)(a) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 3(3): amended, on 3 November 2021, by Schedule 4 clause 4(1)(b) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 3(4A): inserted, on 3 November 2021, by Schedule 4 clause 4(2) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 3(4B): inserted, on 3 November 2021, by Schedule 4 clause 4(2) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Interpretation

4 Meaning of entity

- (1) In this Act, **entity** means any of the following:
 - (a) assembled owners under Part 9 of Te Ture Whenua Maori Act 1993:
 - (b) a building society:
 - (c) a charitable trust board:
 - (d) a company:
 - (e) a credit union:
 - (f) a firm:
 - (g) a friendly society:
 - (h) an incorporated society:
 - (i) an industrial and provident society:
 - (j) a limited partnership:
 - (k) a mandated iwi organisation:
 - (l) a Māori association:
 - (m) a Māori land trust:
 - (n) a Māori incorporation:
 - (o) a body corporate or the trustees of a trust appointed to administer a Māori reservation:
 - (p) a Māori Trust Board.
- (2) For the purposes of Part 2, **entity** also includes any post-settlement governance entity of a type not listed in subsection (1).
- (3) *See* section 7 for definitions.

5 Meaning of specified Act

In this Act, **specified Act** means any of the following Acts:

- (a) the Building Societies Act 1965:
- (b) the Charitable Trusts Act 1957:
- (c) the Companies Act 1993:
- (d) the Friendly Societies and Credit Unions Act 1982:
- (e) the Incorporated Societies Act 1908:
- (f) the Industrial and Provident Societies Act 1908:
- (g) the Limited Partnerships Act 2008:
- (h) the Maori Community Development Act 1962:

- (i) the Maori Fisheries Act 2004:
- (j) the Maori Trust Boards Act 1955:
- (k) the Partnership Law Act 2019:
- (l) Te Ture Whenua Maori Act 1993.

6 Definitions relating to responsible Registrars, agencies, and Ministers

- (1) This section defines,—
- (a) for the purposes of Part 2, in relation to an entity, the responsible Registrar or agency:
 - (b) for the purposes of Part 3, in relation to specified enactments, the responsible Registrar or Minister.

Responsible Registrar or agency

- (2) **Responsible Registrar or agency**,—
- (a) if the entity is listed in any of section 4(1)(b) to (e) or (g) to (j), means the Registrar who acts under the specified Act under which the entity is registered or incorporated:
 - (b) if the entity is listed in any of section 4(1)(a) or (m) to (o), means the Chief Registrar of the Māori Land Court:
 - (c) if the entity is a Māori association or a Māori Trust Board, means the chief executive of Te Puni Kōkiri:
 - (d) if the entity is a mandated iwi organisation, means Te Ohu Kai Moana Trustee Limited.
- (3) For the purposes of Part 2, some entities have more than 1 responsible Registrar or agency.
- (4) There is no responsible Registrar or agency in relation to—
- (a) a firm (within the meaning of the Partnership Law Act 2019):
 - (b) a post-settlement governance entity of a type not listed in section 4(1).

Responsible Registrar or Minister

- (5) For the purposes of the powers to grant exemptions under Part 3 in relation to the specified Acts (and the specified enactments made under them), **responsible Registrar or Minister** means,—
- (a) in relation to each specified Act listed in section 5(a) to (g), the Registrar as defined in the specified Act:
 - (b) in relation to the Partnership Law Act 2019, the Registrar of Companies:
 - (c) in relation to the Maori Community Development Act 1962, the Maori Trust Boards Act 1955, and Te Ture Whenua Maori Act 1993, the Minister for Māori Development:
 - (d) in relation to the Maori Fisheries Act 2004, the Minister of Fisheries.

7 Interpretation

In this Act, unless the context otherwise requires,—

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)

building society has the same meaning as in section 2(1) of the Building Societies Act 1965

charitable trust board means any trustees or society incorporated as a board under Part 2 of the Charitable Trusts Act 1957

commencement date means the commencement date of this Act

company has the same meaning as in section 2(1) of the Companies Act 1993

constitution or rules means,—

- (a) in the case of a company, the constitution of the company; and
- (b) in the case of any other entity, the documents or instruments constituting or defining the constitution or rules of the entity

credit union has the same meaning as in section 2 of the Friendly Societies and Credit Unions Act 1982

electronic has the same meaning as in section 209 of the Contract and Commercial Law Act 2017

electronic communication has the same meaning as in section 209 of the Contract and Commercial Law Act 2017

entity has the meaning set out in section 4

firm means a firm within the meaning of the Partnership Law Act 2019

friendly society means a society that—

- (a) is of the kind specified in section 11(1)(a) of the Friendly Societies and Credit Unions Act 1982; and
- (b) is registered under Part 2 of that Act

further period, in relation to a matter, means a period (if any) that starts on 1 May 2022 and ends on the close of the day specified in an Order in Council made under section 42B that relates to the matter

give, in relation to information, includes—

- (a) to send, post, serve, lodge, provide, or present; and
- (b) any of the other actions specified in section 224(4) of the Contract and Commercial Law Act 2017

governing body means,—

- (a) in relation to a company, the board;
- (b) in relation to a firm, the partners;

- (c) in relation to a limited partnership, the general partners:
- (d) in relation to a body corporate or unincorporate, other than a company, firm, or limited partnership, the committee or other governing body by whatever name called

governing officer means,—

- (a) in relation to a company, any person occupying the position of a director of the company by whatever name called:
- (b) in relation to a firm, any partner:
- (c) in relation to a limited partnership, any general partner:
- (d) in relation to a body corporate or unincorporate, other than a company, firm, or limited partnership, any person occupying a position in the body that is comparable with that of a director of a company

incorporated society means a society incorporated under the Incorporated Societies Act 1908

industrial and provident society means a society registered under the Industrial and Provident Societies Act 1908

information includes notices, communications, and documents

initial 2021/22 period means the period that starts on the amendment date and ends with 30 April 2022

initial period means the period from the commencement date until 30 November 2020

joint Ministers means the Minister of Finance and the Minister of Commerce and Consumer Affairs, acting jointly

limited partnership means a limited partnership that is registered under section 51 of the Limited Partnerships Act 2008

mandated iwi organisation has the same meaning as in section 5 of the Maori Fisheries Act 2004

Māori association has the same meaning as in section 2 of the Maori Community Development Act 1962

Māori incorporation means a Māori incorporation under Part 13 of Te Ture Whenua Maori Act 1993

Māori land trust means a trust constituted under Part 12 of Te Ture Whenua Maori Act 1993

Māori reservation means a Māori reservation set apart under section 338 of Te Ture Whenua Maori Act 1993 or the corresponding provisions of any former Act

Māori Trust Board has the same meaning as in section 2 of the Maori Trust Boards Act 1955

modify, in relation to a requirement or restriction, includes disapplying or suspending the requirement or restriction

post-settlement governance entity means an entity established by an iwi or a hapū or any other group of Māori and approved by the Crown for the purpose of receiving redress in the settlement of the historical Treaty of Waitangi claims of that iwi or hapū or other group

Registrar of Companies means the Registrar of Companies appointed in accordance with section 357(1) of the Companies Act 1993

relevant period,—

- (a) in Part 2, in relation to an entity, means the period described in section 9(a) and (b):
- (b) in Part 3, in relation to powers to grant exemptions and relief, means the period described in section 25(a) and (b)

responsible Registrar or agency has the meaning set out in section 6

responsible Registrar or Minister has the meaning set out in section 6

specified Act has the meaning set out in section 5

specified enactment—

- (a) means a specified Act and any enactments made under the specified Act; and
- (b) in the case of the Maori Fisheries Act 2004, includes rules made by Te Ohu Kai Moana Trustee Limited under section 54(1)(b) of that Act.

Section 7 **amendment date**: inserted, on 3 November 2021, by Schedule 4 clause 5(1) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 7 **further period**: amended, on 3 November 2021, by Schedule 4 clause 5(2)(a) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 7 **further period**: amended, on 3 November 2021, by Schedule 4 clause 5(2)(b) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 7 **initial 2021/22 period**: inserted, on 3 November 2021, by Schedule 4 clause 5(1) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Act binds the Crown

8 Act binds the Crown

This Act binds the Crown.

Part 2

Electronic means and modifications relating to constitution or rules

Application

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
- (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.

Section 9: replaced, on 3 November 2021, by Schedule 4 clause 6 of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 9(b): in relation to all entities, the application of sections 10A and 13A is extended for a further period that starts on 1 May 2022 and ends on the close of 30 October 2022, on 30 April 2022, by clause 4(a) of the COVID-19 Response (Requirements For Entities—Modifications and Exemptions) (Extension) Order 2022 (SL 2022/103).

Electronic means

10 When electronic means permitted despite constitution or rules

[Repealed]

Section 10: repealed, on 1 April 2021, by section 43(1).

10A When electronic means permitted despite constitution or rules

[Repealed]

Section 10A: repealed, on 1 November 2022, by section 43(1A)

11 Electronic voting

- (1) No vote may be taken or received (wholly or partly) by electronic means in reliance on section 10A, and no other part of a voting process may be done in reliance on that section, unless a majority of the entity's governing officers (or the entity's governing officer, if it has only 1)—
 - (a) believe, on reasonable grounds, that the provisions in the entity's constitution or rules that relate to the integrity of the voting process—
 - (i) are or will be substantively complied with; and
 - (ii) will not be substantively compromised as a consequence of the vote; and
 - (b) sign a certificate certifying as to their beliefs under paragraph (a) and recording the reasons why, and keep that certificate with the entity's records.
- (2) In forming their beliefs under subsection (1)(a), the matters to which the governing officers must have regard include—
 - (a) whether, if a vote or other part of a voting process is done (wholly or partly) by electronic means, all persons who are entitled to vote will have a reasonable opportunity to vote and participate in the process; and
 - (b) whether any person who is entitled to vote may suffer a material detriment.

Section 11(1): amended, on 3 November 2021, by Schedule 4 clause 8 of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

12 Conditions

- (1) The conditions that permit a matter to be done in reliance on section 10A are as follows:
 - (a) to the extent that doing the matter by electronic means relates to—
 - (i) having information in electronic form (instead of in writing), section 222 of the Contract and Commercial Law Act 2017 must be complied with:
 - (ii) recording information in electronic form (instead of in writing), section 223 of that Act must be complied with:
 - (iii) giving information in electronic form (instead of giving it in writing), section 224 of that Act must be complied with:
 - (iv) an electronic signature (instead of a non-electronic signature), section 226 or 227 of that Act must be complied with:
 - (v) retaining an electronic form of information (instead of retaining the information in paper or any other non-electronic form), section 229 of that Act must be complied with:
 - (vi) providing or producing information in electronic form (instead of providing or producing the information in paper or any other non-electronic form), section 232 of that Act must be complied with:
 - (vii) providing access to information in electronic form (instead of providing access to the information in paper or any other non-electronic form), section 234 of that Act must be complied with; and
 - (b) the entity must keep a record of—
 - (i) the electronic communications used to do the matter (if any); and
 - (ii) the reasons for the belief of the majority of its governing officers referred to in section 10A(1)(b) (and section 10A(1)(a), if relevant); and
 - (c) the entity must make reasonable efforts to notify all members and governing officers of the matter for which section 10A has been, or will be, relied on; and
 - (d) the entity must give to the responsible Registrar or agency a written notice that—
 - (i) identifies the matter for which section 10A has been, or will be, relied on; and
 - (ii) contains, or is accompanied by, a copy of the record referred to in paragraph (b)(ii).
- (2) For the purposes of meeting any conditions in subsection (1)(a) to (c), an entity may treat a person as having consented to use, provide, accept, or receive information and electronic signatures by email if—

- (a) the person has previously notified the entity of an electronic address that the person uses; and
 - (b) the entity has no reason to believe that the address is incorrect; and
 - (c) the entity believes, on reasonable grounds, that the use of email to give the information or signature will not materially disadvantage the person; and
 - (d) the person has not expressly told the entity that the person wants to use, provide, accept, or receive the particular information or signature by some means other than by email.
- (3) If subsection (1)(c) or (d) is not complied with before the matter is done, it must be complied with as soon as reasonably practicable after the matter is done.
- (4) If there is more than 1 responsible Registrar or agency, the entity must give the notice under subsection (1)(d) to each of them.
- (5) Subsection (1)(d) does not apply to a firm (within the meaning of the Partnership Law Act 2019) or to a post-settlement governance entity of a type not listed in section 4(1).

Section 12(1): amended, on 3 November 2021, by Schedule 4 clause 9(1) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 12(1)(b)(ii): amended, on 3 November 2021, by Schedule 4 clause 9(2) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 12(1)(c): amended, on 3 November 2021, by Schedule 4 clause 9(3) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 12(1)(d)(i): amended, on 3 November 2021, by Schedule 4 clause 9(3) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Modifications to constitution or rules

13 Process for modifying certain requirements or restrictions in constitution or rules

[Repealed]

Section 13: repealed, on 1 April 2021, by section 43(1).

13A Process for modifying certain requirements or restrictions in constitution or rules

[Repealed]

Section 13A: repealed, on 1 November 2022, by section 43(1A)

14 Matters that may be modified under section 13A

- (1) Section 13A allows modifications relating to the following:
- (a) calling or holding meetings (including procedures at meetings):
 - (b) a method or form of voting:

- (c) giving or receiving information:
 - (d) making or keeping new records:
 - (e) a method or form of dispute resolution:
 - (f) a method or form of disciplinary procedure:
 - (g) a waiver, suspension, deferral, or reduction of fees or other amounts payable by members of the entity to the entity:
 - (h) a deferral of auditing, assurance, or financial reporting or review requirements:
 - (i) use of electronic means to do any matter listed in section 10A(2):
 - (j) other procedural or administrative processes.
- (2) However, the list in subsection (1) is subject to regulations made under section 42A(1)(a)(i) or (iii) (which may restrict, or add to, the list).
- (3) If there is any inconsistency between this section and section 15(a) to (j), that section prevails.

Section 14 heading: amended, on 3 November 2021, by Schedule 4 clause 11(1) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 14(1): amended, on 3 November 2021, by Schedule 4 clause 11(2) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 14(1)(i): amended, on 3 November 2021, by Schedule 4 clause 11(3) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 14(2): amended, on 3 November 2021, by Schedule 4 clause 11(4) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

15 Matters that may not be modified under section 13A

Section 13A does not allow modifications that relate to the following:

- (a) the purpose or objects of the entity:
- (b) the powers of the entity (other than a procedural or an administrative power):
- (c) the sale, transfer, or other disposition of real or personal property:
- (d) voting rights or rights to a dividend or other distribution:
- (e) the number, or need, for a quorum:
- (f) rights of access to courts, tribunals, or arbitral tribunals:
- (g) the duties of the governing body or governing officers (other than a procedural or an administrative duty):
- (h) fees or other payments (other than a waiver, suspension, deferral, or reduction of fees or other amounts payable by members of the entity to the entity):
- (i) an alteration or addition made to the constitution or rules by an order of a court:

- (j) any matter if the modification to that matter has a material detrimental effect (direct or indirect) on the substantive rights or powers of any creditor or other person:
- (k) any matter that is prescribed by regulations made under section 42A(1)(a)(ii):
- (l) any other matter that is not listed in section 14.

Section 15 heading: amended, on 3 November 2021, by Schedule 4 clause 12(1) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 15: amended, on 3 November 2021, by Schedule 4 clause 12(2) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 15(k): amended, on 3 November 2021, by Schedule 4 clause 12(3) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

16 Retrospective modifications

- (1) This section applies to the extent that a modification made under section 13A relates to either of the following:
 - (a) omitting to do a required act by a due date that is before the date on which the modification is made:
 - (b) an act done in an attempt to do an act required to be done by a due date that is before the date on which the modification is made.
- (2) The modification is treated as validly made on or immediately before the due date if—
 - (a) the due date is no earlier than the amendment date; and
 - (b) the modification is made by the entity no later than 3 months after the amendment date.
- (3) To the extent that the modification relates to a due date earlier than the amendment date, the modification is of no effect.

Section 16(1): amended, on 3 November 2021, by Schedule 4 clause 13(1) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 16(2)(a): amended, on 3 November 2021, by Schedule 4 clause 13(2) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 16(2)(b): amended, on 3 November 2021, by Schedule 4 clause 13(3) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 16(3): amended, on 3 November 2021, by Schedule 4 clause 13(2) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

17 Modifications must expire

Modifications made in initial 2021/22 period

- (1) A modification made under section 13A in the initial 2021/22 period must have an express expiry date that is no later than the end of the initial 2021/22 period.
- (2) However, subsection (3) applies if—

- (a) a modification made by an entity is in force immediately before the end of the initial 2021/22 period; and
 - (b) an Order in Council is made under section 42B(1)(b) for a further period in relation to the type of entity.
- (3) The modification does not expire at the end of the initial 2021/22 period but is treated as having an expiry date that is the end of the further period.
- (4) Subsection (3) does not apply if the modification expressly states that it will not apply in any further period.

Modifications made in further period

- (5) A modification made by an entity under section 13A in the further period (if any) must have an express expiry date that is no later than the end of the further period.

Section 17(1) heading: amended, on 3 November 2021, by Schedule 4 clause 14(1) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 17(1): amended, on 3 November 2021, by Schedule 4 clause 14(2)(a) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 17(1): amended, on 3 November 2021, by Schedule 4 clause 14(2)(b) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 17(2)(a): amended, on 3 November 2021, by Schedule 4 clause 14(3) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 17(2)(b): amended, on 3 November 2021, by Schedule 4 clause 14(4) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 17(3): amended, on 3 November 2021, by Schedule 4 clause 14(3) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 17(5): amended, on 3 November 2021, by Schedule 4 clause 14(5) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

18 Conditions

- (1) An entity that relies on section 13A must do all of the following:
- (a) keep a written record of—
 - (i) the notice of the modification; and
 - (ii) its reasons as to how the requirements of section 13A were satisfied in respect of the modification; and
 - (iii) the reasons for the beliefs of the majority of its governing officers referred to in section 13A(2)(c), (e), and (f); and
 - (b) as soon as practicable after making the modification, make reasonable efforts to notify all members and governing officers of the entity of the modification; and
 - (c) as soon as practicable after making the modification, give to the responsible Registrar or agency a written notice that—
 - (i) states that the entity is relying on section 13A of this Act; and

- (ii) contains, or is accompanied by, a copy of the written record referred to in paragraph (a); and
 - (iii) contains, or is accompanied by, a certificate by a governing officer of the entity certifying that, in making the modification, all requirements of this Act were complied with.
- (2) If there is more than 1 responsible Registrar or agency, the entity must give the notice under subsection (1)(c) to each of them.
- (3) Subsection (1)(c) does not apply to a firm (within the meaning of the Partnership Law Act 2019) or to a post-settlement governance entity of a type not listed in section 4(1).

Section 18(1): amended, on 3 November 2021, by Schedule 4 clause 15(1) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 18(1)(a)(ii): amended, on 3 November 2021, by Schedule 4 clause 15(2) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 18(1)(a)(iii): amended, on 3 November 2021, by Schedule 4 clause 15(3) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 18(1)(c)(i): amended, on 3 November 2021, by Schedule 4 clause 15(2) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

19 Electronic means permitted for doing certain things to make modification

- (1) This section applies if,—
- (a) because of a restriction or requirement in an entity’s constitution or rules, 1 or more matters in subsection (2) may not be done by electronic means, or a majority of an entity’s governing officers, in good faith, believe that there is uncertainty as to whether the matter may be done by electronic means; and
 - (b) the majority of the entity’s governing officers believe, in good faith, that it is not reasonably practicable to do the matter by non-electronic means.
- (2) The matters relate to a modification under section 13A and are—
- (a) making and signing the written notice of modification;
 - (b) recording the beliefs under section 13A(2)(c), (e), and (f);
 - (c) compliance with any condition in section 18.
- (3) If this section applies,—
- (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) is subject to the conditions in section 12(1)(a) and (b)(i) being complied with (and section 12 applies for this purpose with the necessary modifications).

(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.

Section 19(2): amended, on 3 November 2021, by Schedule 4 clause 16(1) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 19(2)(b): amended, on 3 November 2021, by Schedule 4 clause 16(2) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

20 Modified method or form of voting may not be used for certain matters

(1) A vote may not be taken or received (wholly or partly) in reliance on a modification made under section 13A to a method or form of voting if the vote relates to any of the following matters (and, to the extent they are purportedly voted on in reliance on the modification, the vote is of no effect):

(a) an amendment to an entity's constitution or rules (other than an amendment described in subsection (2)); or

(b) any matter listed in section 15.

(2) Subsection (1)(a) does not prevent a vote being taken or received (wholly or partly) in reliance on a modification made under section 13A to a method or form of voting if the amendment expires in accordance with section 17 (which applies with all necessary modifications as if the amendment were a modification referred to in that section).

Section 20(1): amended, on 3 November 2021, by Schedule 4 clause 17 of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 20(2): amended, on 3 November 2021, by Schedule 4 clause 17 of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

21 Variation and revocation

(1) An entity that desires to vary a modification made under section 13A may do so only under that section (with this Part applying with all necessary modifications).

(2) A modification made by an entity under section 13A may be revoked by a notice in writing that is signed by the majority of the entity's governing officers (or signed by its governing officer, if it has only 1).

(3) An entity must comply with section 18 (with all necessary modifications), other than section 18(1)(a)(ii) and (iii) and (c)(i), in relation to a revocation.

Section 21(1): amended, on 3 November 2021, by Schedule 4 clause 18 of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 21(2): amended, on 3 November 2021, by Schedule 4 clause 18 of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

*Records***22 Responsible Registrar or agency's obligations to register or publish**

- (1) This section applies when a responsible Registrar or agency receives a written notice under this Part.
- (2) A Registrar receiving the notice—
 - (a) must arrange for particulars about the notice (including particulars about information contained in, or accompanying, the notice) to be registered on the relevant register; and
 - (b) may otherwise make the particulars available to the public in any way the Registrar thinks fit (for example, by publishing them on an Internet site).
- (3) An agency receiving the notice must make particulars about the notice (including particulars about information contained in, or accompanying, the notice) available to the public, but may do so in any way the agency thinks fit (for example, by publishing them on an Internet site).

23 Entity's obligations to keep records

- (1) On and from 1 April 2021, 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 10 or 13.
- (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.

Section 23(1): amended, on 3 November 2021, by Schedule 4 clause 19(1) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 23(1): amended, on 3 November 2021, by Schedule 4 clause 19(2) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 23(2): inserted, on 3 November 2021, by Schedule 4 clause 19(3) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Part 3**Exemption powers and power to grant relief***Purpose and application***24 Purpose**

The purpose of this Part is to enable the modification or relaxation of described procedural or administrative matters in specified enactments and certain orders that—

- (a) are unduly onerous or burdensome because of the effects of COVID-19; or
- (b) may not be reasonably capable of being complied with, or complied with fully, because of the effects of COVID-19.

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—

- (a) during the initial 2021/22 period; and
- (b) if extended by an Order in Council made under section 42B, during the further period.

Section 25: replaced, on 3 November 2021, by Schedule 4 clause 20 of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 25(b): all powers to grant exemptions under section 26A are extended for a further period that starts on 1 May 2022 and ends on the close of 30 October 2022, on 30 April 2022, by clause 4(b) of the COVID-19 Response (Requirements For Entities—Modifications and Exemptions) (Extension) Order 2022 (SL 2022/103).

Section 25(b): the power to grant relief under section 30A is extended for a further period that starts on 1 May 2022 and ends on the close of 30 October 2022, on 30 April 2022, by clause 4(c) of the COVID-19 Response (Requirements For Entities—Modifications and Exemptions) (Extension) Order 2022 (SL 2022/103).

Powers

26 Responsible Registrar or Minister may grant class exemptions

[Repealed]

Section 26: repealed, on 1 April 2021, by section 43(1).

26A Responsible Registrar or Minister may grant class exemptions

[Repealed]

Section 26A: repealed, on 1 November 2022, by section 43(1A)

27 Restrictions on exemption powers

- (1) A responsible Registrar or Minister must not grant an exemption under this Part unless—
 - (a) the responsible Registrar or Minister is satisfied that—
 - (i) granting the exemption is necessary or desirable for the purpose of this Part as set out in section 24; and
 - (ii) the extent of the exemption is not broader than is reasonably necessary to address the matters that gave rise to the exemption; and
 - (iii) the exemption is the most appropriate way of addressing those matters at the time; and

- (b) the responsible Registrar or Minister has complied with section 28.
- (2) Additionally, if the exemption relates to rules made by Te Ohu Kai Moana Trustee Limited under section 54 of the Maori Fisheries Act 2004, the Minister of Fisheries (as the responsible Registrar or Minister) must have consulted Te Ohu Kai Moana Trustee Limited on the proposed exemption.

28 Engagement about proposed exemption

- (1) For the purposes of section 27(1)(b), the responsible Registrar or Minister must—
 - (a) make available a document referred to in subsection (2) to—
 - (i) the persons or representatives of persons that the responsible Registrar or Minister considers appropriate given the proposed effect of the exemption; or
 - (ii) the public generally; and
 - (b) invite those persons to make written comments on the document; and
 - (c) give those persons 3 working days from the making of the invitation within which to make their comments to the responsible Registrar or Minister (or any longer time allowed by the responsible Registrar or Minister); and
 - (d) have regard to those comments that are received within the 3-working-day period (or within the longer time allowed by the responsible Registrar or Minister).
- (2) The document must include—
 - (a) an explanation of what the exemption is intended to achieve; and
 - (b) a description of the proposed effect of the exemption; and
 - (c) an explanation of why the responsible Registrar or Minister considers that the exemption is necessary or desirable for the purpose of this Part and why the exemption is appropriate.
- (3) Subsection (1) and section 27(1)(b) do not apply, or do not apply to a person or class of persons, if the responsible Registrar or Minister is satisfied that—
 - (a) engagement is not reasonably practical in the circumstances; or
 - (b) the urgency of the situation requires that the exemption be made as soon as practicable without that engagement; or
 - (c) the exemption benefits the persons referred to in subsection (1)(a)(i) and does not materially detrimentally affect any person; or
 - (d) in the circumstances, engagement is clearly disproportionate to the nature, size, significance, and effect of the exemption.
- (4) If subsection (3) is relied on, the responsible Registrar or Minister's reasons for relying on that subsection must be published together with the exemption.

29 Description of provisions from which exemptions may be granted

- (1) For the purposes of this Act, the provisions of specified enactments for which exemptions may be granted are provisions that relate to any of the following matters:
 - (a) calling or holding meetings (including procedures at meetings):
 - (b) a method or form of voting:
 - (c) giving or receiving information:
 - (d) making or keeping new records:
 - (e) rights to inspect or access information or records:
 - (f) a method or form of dispute resolution (excluding rights of access to courts, tribunals, or arbitral tribunals):
 - (g) a method or form of disciplinary procedures:
 - (h) auditing, assurance, or financial reporting or review requirements:
 - (i) any other matter specified by regulations made under section 42A(1)(b)(i).
- (2) However, the list in subsection (1) is subject to regulations made under section 42A(1)(b)(ii) (which may restrict the list) and subsections (3) to (5).
- (3) No exemption may be granted that results in a process for dispute resolution or a disciplinary procedure that is contrary to the rules of natural justice.
- (4) No exemption may dilute voting rights.
- (5) No exemption may dilute the number or need for a quorum.

Section 29(1)(i): amended, on 3 November 2021, by Schedule 4 clause 22(1) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 29(2): amended, on 3 November 2021, by Schedule 4 clause 22(2) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

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

[Repealed]

Section 30: repealed, on 1 April 2021, by section 43(1).

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

[Repealed]

Section 30A: repealed, on 1 November 2022, by section 43(1A)

Time frames relevant to exemptions and relief

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.

Section 31: replaced, on 3 November 2021, by Schedule 4 clause 24 of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

32 Exemptions that relate to periods of time

An exemption granted under this Part in relation to a requirement that relates to a period of time (for example, a requirement to prepare and lodge financial statements for an accounting period) may, if the responsible Registrar or Minister thinks fit, apply to a period that commenced before the exemption is granted (including a period that ended before the exemption is granted) if—

- (a) the exemption is granted before the requirement would otherwise need to be complied with under the specified enactment; or
- (b) section 31 applies.

33 Exemption in force for not longer than relevant period

Exemptions granted in initial 2021/22 period

- (1) An exemption granted in the initial 2021/22 period may continue in force until the end of the initial 2021/22 period (and, at that point, the exemption must be treated as having been revoked unless it is sooner revoked or expires, or subsection (3) applies).
- (2) Subsection (3) applies if—
- (a) an exemption is in force immediately before the end of the initial 2021/22 period; and
- (b) an Order in Council is made under section 42B for a further period in relation to section 26A and the specified enactment to which the exemption relates.
- (3) The exemption is not revoked at the close of the initial 2021/22 period but continues in force until the end of the further period (unless it is sooner revoked or expires).
- (4) Subsection (3) does not apply if the exemption expressly states that it will not apply in any further period.

Exemptions granted in further period

- (5) An exemption granted in the further period (if any) may continue in force until the end of the further period (and, at that point, the exemption must be treated as having been revoked unless it is sooner revoked or expires).

Compare: 2013 No 69 s 558

Section 33(1) heading: amended, on 3 November 2021, by Schedule 4 clause 25(1) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 33(1): amended, on 3 November 2021, by Schedule 4 clause 25(2) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 33(2)(a): amended, on 3 November 2021, by Schedule 4 clause 25(3) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 33(2)(b): amended, on 3 November 2021, by Schedule 4 clause 25(4)(a) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 33(2)(b): amended, on 3 November 2021, by Schedule 4 clause 25(4)(b) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 33(3): amended, on 3 November 2021, by Schedule 4 clause 25(3) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Breach

34 Breach of exemption conditions

The breach of a term or condition of an exemption granted under this Part is a breach of the provision to which the exemption relates (unless the terms of the exemption otherwise provide).

Compare: 2013 No 69 s 559

Drafting of exemptions

Heading: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

35 Drafting of exemptions

- (1) Before granting an exemption, the responsible Registrar or Minister must—
 - (a) consider whether the exemption should be drafted by the PCO; and
 - (b) if they consider that it should be, notify the Chief Parliamentary Counsel of that decision.
- (2) In performing that duty, the responsible Registrar or Minister must have regard to—
 - (a) the nature of the exemption; and
 - (b) how significant the exemption is; and
 - (c) the number and nature of the persons to whom the exemption will apply; and
 - (d) the consequences of a failure to comply with a condition of the exemption; and
 - (e) the complexity of the exemption; and
 - (f) the purposes of the Legislation Act 2019; and
 - (g) any other relevant matters.
- (3) If the Chief Parliamentary Counsel is given a notice under subsection (1)(b) in relation to an exemption, for the purposes of section 67(d) of the Legislation Act 2019, they are taken to have agreed with the administering agency that the PCO will draft the exemption.

- (4) In this section, **Chief Parliamentary Counsel** and **PCO** have the same meanings as in the Legislation Act 2019.

Section 35: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

36 Exemption is legislative instrument if notice is given

[Repealed]

Section 36: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

37 All exemptions are disallowable instruments

[Repealed]

Section 37: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

38 Publication of exemptions that are not legislative instruments

[Repealed]

Section 38: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

39 Exemptions must contain reasons

[Repealed]

Section 39: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Variation and revocation

40 Variation and revocation

- (1) A responsible Registrar or Minister may vary or revoke an exemption in the same way as the responsible Registrar or Minister may grant the exemption (with the provisions relating to the granting of the exemption applying with all necessary modifications).

- (2) However, a notice must be given under section 35(1)(b) for a variation or revocation of an exemption that was drafted by the PCO.

Compare: 2013 No 69 s 572

Section 40(2): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

**Part 4
Miscellaneous**

41 Regulations may change Part 2 or Part 3 matters

[Repealed]

Section 41: repealed, on 1 April 2021, by section 43(1).

42 Order in Council may prescribe further period

[Repealed]

Section 42: repealed, on 1 April 2021, by section 43(1).

42A Regulations may change Part 2 or Part 3 matters

[Repealed]

Section 42A: repealed, on 1 November 2022, by section 43(1A)

42B Order in Council may prescribe further period

[Repealed]

Section 42B: repealed, on 1 November 2022, by section 43(1A)

43 Repeals

- (1) Sections 10, 13, 26, 30, 41, and 42 are repealed on 1 April 2021.
- (1A) Sections 10A, 13A, 26A, 30A, 42A, and 42B are repealed on 1 November 2022.
- (2) The rest of this Act is repealed on the close of 30 September 2023.

Section 43(1A): inserted, on 3 November 2021, by Schedule 4 clause 27(1) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 43(2): amended, on 3 November 2021, by Schedule 4 clause 27(2) of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Notes

1 *General*

This is a consolidation of the COVID-19 Response (Requirements For Entities—Modifications and Exemptions) Act 2020 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

COVID-19 Response (Requirements For Entities—Modifications and Exemptions) (Extension) Order 2022 (SL 2022/103): clause 4

COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42): Schedule 4 Part 2
Secondary Legislation Act 2021 (2021 No 7): section 3

COVID-19 Response (Requirements For Entities—Modifications and Exemptions) Act 2020 (2020 No 14): section 43