

House of Representatives

Supplementary Order Paper

Tuesday, 26 October 2021

COVID-19 Response (Management Measures) Legislation Bill

Proposed amendments for the consideration of the Committee of the whole House

Key:

- **this is inserted text**
- **~~this is deleted text~~**

Note: This Supplementary Order Paper shows amendments to the Bill that are being proposed by the Minister for the purposes of consideration in Committee of the whole House. This document does—

- **NOT have official status in terms of unamended text**
- **NOT have the status of an as-reported version of the Bill.**

Explanatory note

This Supplementary Order Paper sets out amendments to the COVID-19 Response (Management Measures) Legislation Bill. The amendments are for the following purposes:

Commencement (clauses 2 and 3, and Schedules 4 and 8, of Bill)

- The whole Bill will commence on or after 28 October 2021 (which is the date on which most of the Legislation Act 2019 commences). *Clauses 2(2) and 3(2) and Schedule 8* are therefore deleted, and the Legislation Act 2019 amendments in *Schedule 8* are included, and commence, with other amendments (see *clause 21 in Schedule 4, new section 26A(5) and (6)*):

Gambling Act 2003 (Part 1 of Schedule 1 of Bill)

- Section 4A(2)(b) and (4) is amended so that section 4A applies, and is in force, until the close of 31 October (not 2023, but) 2024:
- *New section 4A(3)* simplifies (but does not change in substance from the Bill as introduced) the modification to the definition of remote interactive gambling:

Local Electoral Act 2001 (Part 2 of Schedule 1 of Bill)

- *Part 2 of Schedule 1*, which amends section 73A (which relates to adjournment of electoral processes), is removed from the Bill:

Rating Valuations Act 1998 (Schedule 2 of Bill)

- *New section 9(4) to (7)* allows the Valuer-General, if requested by a territorial authority, to—
 - determine that the authority is not required to undertake the general revaluation by the due date (usually every 3 years); and
 - require the authority to undertake the general revaluation by a date not later than 1 year after the due date:
- The Valuer-General may make a determination only if satisfied that the 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—
 - the practicality of carrying out physical inspections; or
 - the availability and reliability of market evidence or other information that the Valuer-General may require under section 10:
- *New section 9(5)* is amended to require those constraints to be caused by factors that are or include the effects of COVID-19, or official requirements imposed, or guidance issued, to support a public health response to COVID-19, or both:

COVID-19 Response (Requirements For Entities—Modifications and Exemptions) Act 2020 (Part 2 of Schedule 4 of Bill)

- Minor drafting changes are made to *new section 13A(1)(b)* (inserted by *clause 10 in Schedule 4*):

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- *New section 42A* (inserted by *clause 26 in Schedule 4*) 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. *New section 42A(4)* requires the joint Ministers' reasons for recommending the making of the regulations to be published together with the regulations:

Credit Contracts and Consumer Finance Act 2003 (Part 3 of Schedule 4 of Bill)

- Section 9G (as amended on 28 October 2021 by the Secondary Legislation Act 2021) is amended to insert in it provisions like those that *clauses 28 and 29 in Schedule 4* insert in section 9H (repealed on 28 October 2021 by the Secondary Legislation Act 2021):

Residential Tenancies Act 1986 (Schedule 5 of Bill)

- *New section 145(2)* provides for the special COVID-19 provisions that are contained in *Schedule 5* of the Act as replaced by the Bill (**Schedule 5 of the Act**) to self-repeal. The Bill as introduced proposed repeal after 3 years. This Supplementary Order Paper proposes repeal at the same time as the COVID-19 Public Health Response Act 2020 is repealed:
- *New clause 3(9A) of Schedule 5 of the Act* provides for 7 days' notice of the revocation or amendment of a COVID-19 tenancies order:
- *Clause 4(3)(c) of Schedule 5 of the Act* relates to the notice period when a landlord seeks to terminate a boarding house tenancy under section 66U(1)(a) or (b)(ii) of the Act. The Bill as introduced proposed that the landlord must give at least 28 days' notice (which is longer than existing law, which provides for termination immediately or on 48 hours' notice). This Supplementary Order Paper proposes instead that the landlord must give at least 7 days' notice:
- *New clause 4(6) of Schedule 5 of the Act* makes it clear that landlords commit an unlawful act if they give or purport to give a termination notice, or make or purport to make an application to terminate the tenancy, if they know that, under that schedule, they are not entitled to give the notice or make the application. The unlawful act carries a penalty of \$6,500 under the Act:
- *Clause 5(3)(a) of Schedule 5 of the Act* is amended to clarify that circumstances of family violence are an example of the circumstances referred to in that provision (which applies when the Tenancy Tribunal makes an order terminating a tenancy on the ground of anti-social behaviour). This is intended as clarification and for the avoidance of doubt, and not to change the meaning of the existing termination for anti-social behaviour provisions (in section 55A of the Act), where family violence is equally within the circumstances to be considered by the Tenancy Tribunal:
- *Clause 10(1)(c) of Schedule 5 of the Act* is amended to clarify and limit the grounds on which a landlord may terminate a tenancy that was formerly fixed-term but that has become periodic as a result of a COVID-19 tenancies order applying to the area:

- *New clause 10A of Schedule 5 of the Act* clarifies the position if the termination restrictions in that schedule apply to an area more than once. If a further COVID-19 tenancies order is made, the termination restrictions and notice periods under the schedule would reapply afresh. However, landlords would have only 1 consecutive 28-day period to serve a termination notice under *clause 10(2)* of the schedule, and tenants would have only 1 consecutive 14-day period to serve a termination notice under *clause 6(3)* of the schedule. Consequential changes are made to amend or delete equivalent provisions in the Bill as introduced, namely, *clauses 7(4), 8(4), and 10(3) and (4) of Schedule 5 of the Act*:
- *New clause 11A of Schedule 5 of the Act* provides 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. The new protections are similar to those provided in *clause 11 of Schedule 5 of the Act* in the Bill as introduced, which protects incoming tenants who are due to move into a property that is no longer vacant. *New clause 11A* gives the tenant the option of terminating the new tenancy, with 2 days' notice:
- Other minor or technical changes are made to *Schedule 5 of the Bill* (for example, to clarify the effect of provisions and simplify drafting, and to remove *clauses 3(1) and 5 of Schedule 5 of the Bill*, which are no longer needed now that the Bill will commence on or after 28 October 2021):

Criminal Procedure Act 2011 (Part 2 of Schedule 6 of Bill)

- Section 68 requires a High Court Judge to determine whether the trial of a protocol offence is to be held in the District Court or the High Court and make an order accordingly. *New section 68A* enables a High Court Judge to reconsider orders made under section 68 in certain circumstances. *New section 68A* is clarified. Related consequential amendments are also made to sections 4(1)(i) and (m) and 69:

Epidemic Preparedness Act 2006 (Part 3 of Schedule 6 of Bill)

- Section 24 applies while an epidemic notice is in force, and authorises a Judge to whom section 24(2) applies (whether permanently appointed or temporary) to in any particular case modify any rule of court, and to any extent, that he or she thinks necessary in the interests of justice to take account of the effects of the quarantinable disease stated in the notice. The amendments to section 24—
 - make clearer and extend the Judges to whom section 24(2) applies; and
 - clarify the meaning of rules of court:
- *New section 24A* applies while an epidemic notice is in force, and authorises a Head of Bench (whether permanently appointed or temporary), for any category of proceedings in or before that Judge's court, to modify any rule of court, and to any extent, that he or she thinks necessary in the interests of justice to take account of the effects of the quarantinable disease stated in the notice. *New section 24A*, and the amendments to Part 2 of Schedule 3 of the

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Legislation (Publication) Regulations 2021, also ensure that the modification is, and is accessible as, secondary legislation:

Property Law Act 2007 (Part 4 of Schedule 6 of Bill)

- *New section 245F(2)* is amended to extend the retrospective application of the amendments by ensuring that the affected period, as defined in *new section 245F(2)*, starts on (not 28 September 2021, but instead) 18 August 2021 (and the mandatory relevant consideration in *clause 4A(4)* of Schedule 3 is consequentially deleted):
- *New section 245F(2)* is also amended to clarify the scope of the definition of enforcement action:
- *New section 245F(2)* is also amended to make clear that, in *new sections 245F to 245I* and *new clause 4A* of Schedule 3, a lessee includes a sublessee under a sublease (and to delete other references to sublessees accordingly):
- *New section 245I(1A)* makes clear how *new section 245I* applies to a proceeding commenced before, and not finally determined on, its commencement:
- *New clause 4A(2)(aaa)* of Schedule 3 ensures that the fair proportion deduction applies to a rental period only to the extent that the rental period is in the affected period (as defined in *new section 245F(2)*):
- *New clause 4A(4A)* of Schedule 3 ensures that, 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 (as defined in *new section 245F(2)*) related to the epidemic:
- *New clause 4A(5A)* of Schedule 3 requires the lessor or lessee to take all reasonable steps to respond to a communication from the other about the operation of *new clause 4A*, or about a dispute arising under *new clause 4A*, within 10 working days (as defined in section 4 of the Act) after receiving the communication:
- *New clause 4A(7)* of Schedule 3 ensures that *new clause 4A(6)* is subject to section 16 (contracting out prohibited) of the Disputes Tribunal Act 1988, and does not prevent the lessor or lessee, before a referral to arbitration under *new clause 4A(6)*, from—
 - agreeing with the other party to use non-binding mediation to try to resolve the dispute; or
 - using any other available non-binding or binding dispute-resolution procedure or jurisdiction to resolve the dispute (for example, expert determination).

Land Transport Act 1998 (Schedule 7 of Bill)

- The temporary extensions owing to COVID-19 in *new sections 139(8) to (13) and 210(4) to (7)* are amended to—
 - delete outdated references to sending notices by fax; and
 - make the presumptions in *new sections 139(9) and 210(5)* of service of a notice by email subject to an exception if the contrary is shown (that the person to whom the notice was sent by email did *not* receive the notice).

Departmental disclosure statement

The Department of the Prime Minister and Cabinet considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.

Regulatory impact statement

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

The Honourable Chris Hipkins, in Committee, to propose the amendments shown in the following document.

Hon Chris Hipkins

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Government Bill

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Proposed amendments to
COVID-19 Response (Management Measures)
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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

- (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.
- (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

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~~2024~~”.
- (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”.
- (3) In section 4A(3), replace “specified operator” with “gambling operator”.
- (2) Replace section 4A(3) with:
 - (3) While this section applies, paragraph (b) of the definition of **remote interactive gambling** in section 4(1) must be read as if “; or” and the following subparagraph were inserted after subparagraph (iv):
“(v) class 3 gambling in the form of a lottery conducted by any gambling operator that holds a class 3 operator’s licence that allows them to conduct a lottery.”
- (4) In section 4A(4), replace “2021” with “2023~~2024~~”.

Part 2 Local Electoral Act 2001

3 Amendments to Local Electoral Act 2001

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—
 - (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:

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- (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.~~
- (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.
- (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.

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
 - (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, caused by factors that are or include the effects of COVID-19, or official requirements imposed, or guidance issued, to support a public health response to COVID-19, or both, on—
- (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.
- (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.

Schedule 3
Ministry for the Environment

s 3(1)

Part 1
Climate Change Response Act 2002**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”.
- (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.

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

Replace section 5ZG(1) with:

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

- (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:
- (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:

- (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.
- 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

- 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:
- (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).
- 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—
- (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:
- (a) a regional policy statement;
 - (b) a regional plan;
 - (c) a district plan.

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- (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) 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

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

- (1) Despite section 218(2)(d) and paragraph (e) of Part 3 of Schedule 5, this sub-part 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**.
- (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.

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—
 - (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.

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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.
- (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.
- (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).
- (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)**

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.
- (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.
- (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.

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

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

4 Section 3 amended (Overview of Act)

- (1) In section 3(3),—
 - (a) after “13”, insert “or **13A**”; and
 - (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.
 - (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 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)

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**”.

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

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Schedule 4

- (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:

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
- (ii) the entity’s constitution or rules are silent about whether a matter in **subsection (2)** may be done by electronic means; and
- (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;
- (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;
- (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,—
- (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)**—
- (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.
- (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**”.

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**”.

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

- (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
 - (b) in the case of **paragraph (a)(i)**, the ~~time for complying~~ last date by which the person must comply with the requirement ~~ends~~ falls during the period that starts on the amendment date and ends when the relevant period ends; and
 - (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—

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- (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—
 - (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
 - (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
 - (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
 - (g) the entity complies with the conditions in section 18.
- (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).
- (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) *See* section 16 in relation to retrospective modifications.
- (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)**”.

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)**”.

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”.

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
 - (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**”.

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)**”.

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**”.

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- (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**”.

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”.

- (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**.

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—

- (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)

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).
- (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.

- (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)**.
- (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 (including why the exemption is appropriate) must be published with the exemption.

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

- (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)

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):
 - (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).
- (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.
- (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—
 - (a) references to exemptions are treated as references to relief under this section:

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- (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.

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.

25 Section 33 amended (Exemption in force for not longer than relevant period)

- (1) In the heading above section 33(1), replace “*initial period*” with “*initial 2021/22 period*”.
- (2) In section 33(1), replace “initial period” with “initial 2021/22 period” in each place.
- (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
 - (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:
 - (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):
 - (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):

- (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.
- (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).
- (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.
- (4A) The joint Ministers' reasons for making the recommendation under **subsection (1)** (including why the regulations are necessary or desirable) must be published together with the regulations.
- (5) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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:
 - (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—
 - (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):
 - (c) make different provision (including prescribing different periods) for different cases on any differential basis.

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- (4) The power to make an order under **subsection (1)** may be exercised once only in respect of each section listed in that subsection.
- (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—
 - (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.
- (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:
 - (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.
- (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.
- (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)

- (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

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)

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.

29 Section 9G amended (Preparation and issue of Responsible Lending Code)

After section 9G(3) (as inserted by the Secondary Legislation Act 2021), insert:

(3A) ~~Despite subsection (3), any Code that is published on or before 31 December 2021 may specify 1 or more commencement dates for different provisions of the Code that are before the 28th day after the date on which the Code is published.~~

(3B) **Subsection (3A)** and this subsection are repealed on 1 January 2022.

Part 4

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.

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.**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** on the repeal of the COVID-19 Public Health Response Act 2020.~~

3 Schedule 1AA amended

(1) In Schedule 1AA, after Part 4, insert:

Part 4A
Provisions relating to ~~Legislation Act 2019~~

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.~~

(2) In Schedule 1AA, after Part 5, insert:

Part 5A6
Provisions relating to COVID-19 Response (Management Measures)
Legislation Act 2021

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

39 Transitional provision relating to repeal of Schedule 5

- (1) Any order that is made under ~~section 3(2) clause 3 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 11A 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		s 145(1)
Provisions relating to COVID-19		
<u>Contents</u>		
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2	Schedule applies despite any other provision of Act, etc	24
	<i>COVID-19 tenancies orders</i>	
3	Minister may make COVID-19 tenancies order applying clauses 4 and 5 to an <u>for</u> area	25
	<i>Tenancy terminations restricted while COVID-19 tenancies order is in force <u>applies</u></i>	
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<i>Other effects of COVID-19 tenancies order</i>		
10	Landlord may terminate certain periodic tenancies that were formerly fixed-term tenancies once clauses 4 and 5 no longer apply <u>COVID-19 tenancies order no longer applies</u>	33
<u>10A</u>	<u>Position if COVID-19 tenancies orders apply to area more than once</u>	<u>33</u>
<i>Consequences of movement restrictions for new tenancies</i>		
11	Consequences of tenant remaining in premises	34
<u>11A</u>	<u>Consequences if new tenant restricted by COVID-19 public health order from moving to premises</u>	<u>35</u>
<i>Tribunal proceedings</i>		
12	Application of clause 13	35
13	Tribunal proceedings	36
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 (<i>see</i> 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 for an area , means the date specified in the order as the date on and from which those clauses apply <u>the order applies</u> to the area.	
(2)	In this schedule,—	
(a)	references to a clause's application to an area <u>the application of a COVID-19 tenancies order to an area</u> are references to its <u>the order's</u> 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.

COVID-19 tenancies orders

- 3 Minister may make COVID-19 tenancies order ~~applying clauses 4 and 5 to an~~ for area**
- (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~~ for the purpose of restricting the termination of residential tenancies in an area (a COVID-19 tenancies order).
- (3) However, the Minister may make ~~a COVID-19 tenancies~~ the 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
 - (b) the COVID-19 tenancies order is necessary or desirable to support those measures.
- (3A) A COVID-19 tenancies order must specify—
- (a) the area to which it applies; and
 - (b) the date on and from which it applies to the area.
- (4) A COVID-19 tenancies order may also specify a date or period after which ~~**clauses 4 and 5** it will no longer apply to the~~ an area.
- (5) ~~**Clauses 4 and 5** cease~~ A COVID-19 tenancies order ceases to apply to an area on the earlier of—
- (a) the close of the date or period specified for the area under **subclause (4)** (if any); and
 - (b) the revocation of the order, or the amendment of the order so that it ceases to ~~relate~~ apply to the area.
- (6) A COVID-19 tenancies order may—
- (a) ~~relate~~ apply to 1 or more areas; and
 - (b) specify different dates or periods for different areas.
- (7) Before making or amending a COVID-19 tenancies order, the Minister must consult—

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- (a) the Prime Minister; and
 - (b) the Minister responsible for the administration of the COVID-19 Public Health Response Act 2020.
- (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~~ applies, revoke the order, or amend it so that it ceases to ~~relate-apply~~ apply 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.
- (9A) Despite **subclauses (8) and (9)**, any revocation by the Minister of a COVID-19 tenancies order, or amendment by the Minister of a COVID-19 tenancies order so that it ceases to apply to an area, must not come into force until at least 7 days after the revocation or amendment—
- (a) is published on the legislation website; and
 - (b) has its making notified in the *Gazette*.
- (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
applies*

4 Restrictions on termination of tenancy

- (1) While ~~this clause~~ a COVID-19 tenancies order 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
 - (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):
 - (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

- (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
 - (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.
- (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):
 - (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:
 - (c) a landlord seeking to terminate a boarding house tenancy under section 66U(1)(a) or (b)(ii) must give at least ~~28~~ 7 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.
- (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.
- (5) While ~~this clause~~ a COVID-19 tenancies order 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
 - (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.

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(6) See section 60AA (which has the effect that a landlord commits an unlawful act if they breach **subclause (5)** knowing that they are not entitled, under this Act, to give the notice or to make the application).

5 Termination for anti-social behaviour

- (1) While ~~this clause~~ a COVID-19 tenancies order 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.
- (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—
- (a) doing so would be unfair because of the circumstances in which the behaviour occurred (for example, circumstances of family violence) 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, 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).
- (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.
- (6) In this clause, **anti-social behaviour** means—
- (a) harassment; or
 - (b) any intentional act that reasonably causes significant alarm, distress, or nuisance.

*Effect on tenancy terminations initiated before COVID-19 tenancies order
came into force began to apply*

- 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~~ for an area; and
 - (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
 - (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.
- (2) The tenant may, before ~~**clauses 4 and 5** cease~~ the COVID-19 tenancies order ceases to apply to the area, give the landlord written notice of their intention to remain in the premises, in which case—
- (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.
- (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 within 14 days after the COVID-19 tenancies order ceases to apply to the area.
- (4) **Subclause (5)** applies in relation to a fixed-term tenancy in an area if—
- (a) a COVID-19 tenancies order is made ~~applying **clauses 4 and 5** to~~ for the area; and
 - (b) before the switching-on date,—
 - (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.

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- (5) The tenant may, before ~~clauses 4 and 5~~ cease the COVID-19 tenancies order ~~ceases~~ to apply to the area, give the landlord written notice of their intention to remain in the premises, in which case—
- (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.
- (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—
- (a) a COVID-19 tenancies order is made ~~applying clauses 4 and 5 to~~ for 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
 - (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.
- (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 on the later of—
- (a) ~~on the termination date provided for by the termination notice, as long as that would not result in the termination occurring—~~
 - (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~~
 - (ii) ~~the period of 28 days beginning with the day after the date on which clauses 4 and 5 last applied to the area.~~
- (a) the termination date provided for by the termination notice; and

- (b) 28 days after the COVID-19 tenancies order ceases to apply 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
- (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.
- (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

- (1) This clause applies if—
- (a) a COVID-19 tenancies order is made ~~applying **clauses 4 and 5** to~~ for 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
- (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.
- (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.
- (4) If the tenant does not make an election under **subclause (2)**, the termination order takes effect on the later of—
- (a) ~~on the termination date provided for by the termination order, as long as that would not result in the termination occurring—~~
- (i) ~~while **clauses 4 and 5** apply to the area; or~~

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- (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:
 - (a) the termination date provided for by the termination order; and
 - (b) 14 days after the COVID-19 tenancies order ceases to apply to the area.
 - (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.
 - (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—
 - (a) a COVID-19 tenancies order is made ~~applying **clauses 4 and 5** to~~ for 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**~~ the COVID-19 tenancies order had not applied to the area, have prevented the tenancy from continuing under section 60A(1) as a periodic tenancy (a **discontinuation notice**); and
 - (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)**,—
 - (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.~~

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~~ COVID-19 tenancies order no longer applies**
- (1) **Subclause (2)** ~~This clause applies if—~~
- (a) a COVID-19 tenancies order is made ~~applying clauses 4 and 5 to~~ for an area; and
 - (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 the~~ COVID-19 tenancies order had not applied to the area, that continuation would not have occurred, ~~whether because—~~
 - (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.~~
- (2) ~~Within 28 days after clauses 4 and 5 cease to apply to the area, the~~ The landlord may terminate the tenancy by giving at least 28 days' notice to the tenant within 28 days after the COVID-19 tenancies order ceases to apply to the area.
- (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—~~
 - (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
 - (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.~~
- 10A Position if COVID-19 tenancies orders apply to area more than once**
- (1) **Clauses 4 to 10** apply afresh if another COVID-19 tenancies order (a **subsequent order**) applies to the same area as an earlier order.

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- (2) Nothing done under **clauses 6 to 10** before the switching-on date of a subsequent order limits a tenant's fresh rights under **clauses 6 to 10** after that date (for example, a tenant's fresh right to continue with a tenancy trumps any termination decision of the tenant made under those clauses before that date (for example, under **clause 6(3), 7(2), 8(2), or 9(2)**)).
- (3) However,—
- (a) a tenant may not give notice to terminate a tenancy under **clause 6(3)** (a **clause 6(3)** termination notice) if—
- (i) the tenant was previously entitled to give a **clause 6(3)** termination notice but did not do so; and
- (ii) there was a period of at least 14 consecutive days that commenced on the first day on which the tenant first became so entitled and ended with the close of the day immediately before the switching-on date of a subsequent order:
- (b) a landlord may not give notice to terminate a tenancy under **clause 10(2)** (a **clause 10(2)** termination notice) if—
- (i) the landlord was previously entitled to give a **clause 10(2)** termination notice but did not do so; and
- (ii) there was a period of at least 28 consecutive days that commenced on the first day on which the landlord first became so entitled and ended with the close of the day immediately before the switching-on date of a subsequent order.
- (4) For the purposes of any fresh application of **clause 6** as a result of a subsequent order, an election by a tenant under **clause 7(2), 8(2), or 9(2)** must be treated as being an agreement to which **clause 6(1)(b)(iii)** applies.

Consequences of movement restrictions for new tenancies

11 Consequences of tenant remaining in premises

If, as a consequence of the operation of ~~this schedule or anything done under it~~ **clauses 4 to 10A** or anything done under them, vacant possession of any premises cannot be provided to an incoming or prospective tenant,—

- (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
- (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
- (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).

11A Consequences if new tenant restricted by COVID-19 public health order from moving to premises

- (1) An incoming or prospective tenant who is restricted by a COVID-19 public health order from moving to the premises may terminate the tenancy by giving at least 2 days' notice to the landlord.
- (2) **Subclause (1)** applies regardless of whether—
 - (a) the tenancy has commenced; or
 - (b) any other tenant under the tenancy is restricted from moving to the premises; or
 - (c) the tenant or premises are in an area to which a COVID-19 public health order applies.
- (3) If a tenant terminates a tenancy under this clause,—
 - (a) the landlord must, as soon as practicable, refund—
 - (i) any amount paid to the landlord (or to any person on the landlord's behalf) by way of rent in advance that is attributable to the period after the tenancy is terminated; and
 - (ii) 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 tenant and lodged with the chief executive.

Tribunal proceedings

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**.

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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.

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

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

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.

Part 2
Criminal Procedure Act 2011

3 Amendments to Criminal Procedure Act 2011

This Part amends the Criminal Procedure Act 2011.

3A Section 4 amended (Overview)

In section 4(1)(i) and (m), after “68”, insert “, 68A,”.

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

- (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)—

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- (i) the addition of a co-defendant to, or removal of a co-defendant from, the proceedings:
- (ii) an increase or a decrease in—
 - (A) the resources available to the court:
 - (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.
- (2) Before making a new order under ~~subsection (1)~~ section 68(1) after reconsideration under this section, 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)~~ section 68(1) after reconsideration under this section.
- (3A) A reference, in legislation or an administrative document, to an order made under section 68 or 68(1) includes, without limitation, a reference to an order of that kind made after reconsideration under this section.
- (4) If a conflict arises between this section and section 135, section 135 prevails.

4A Section 69 amended (Proceedings not invalid)

In section 69, insert as subsection (2):

- (2) No proceeding that relates to a protocol offence is invalid only because—
 - (a) the offence was identified as a protocol offence; and
 - (b) an order was made under section 68(1); and
 - (c) the order was reconsidered (with or without being replaced by a new order made under section 68(1)); but
 - (d) the order was not reconsidered in accordance with **section 68A**.

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”.
- (4) In section 135(3), replace “68 or 70” with “68, **68A**, or 70”.

Part 3 Epidemic Preparedness Act 2006

6 Amendments to Epidemic Preparedness Act 2006

This Part amends the Epidemic Preparedness Act 2006.

6A Section 4 amended (Interpretation)

In section 4(1), insert in their appropriate alphabetical order:

High Court Rules has the same meaning as in section 4(1) of the Senior Courts Act 2016

rules of court, in relation to a court,—

- (a) means rules (for example, the High Court Court Rules), or any secondary legislation (for example, regulations), regulating the practice and procedure of the court:
- (b) for the purposes of section 24, includes any applicable modifications made, and in force, under **section 24A**

7 Section 24 amended (Judges may modify rules of court during epidemic)

(1) In the heading to section 24, after “**Judges may modify rules of court during epidemic**”, insert “: **Judge modifications in particular cases**”.

(2) Replace section 24(2)(ba), (c), and (d) with:

- (c) a Judge of the Employment Court:
- (d) a District Court Judge (including a District Court Judge exercising jurisdiction of a Family Court Judge or Youth Court Judge):
- (e) a Judge of the Environment Court:
- (f) a Judge of the Māori Land Court.

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.

(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:
- (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.

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7A New section 24A inserted (Judges may modify rules of court during epidemic: Head of Bench modifications in categories of proceedings)

After section 24, insert:

24A Judges may modify rules of court during epidemic: Head of Bench modifications in categories of proceedings

- (1) While an epidemic notice is in force, a Head of Bench (whether permanently appointed or temporary) may, for any category of proceedings in or before that Judge's court, modify any rule of court, and to any extent, that he or she thinks necessary in the interests of justice to take account of the effects of the quarantinable disease stated in the notice.
- (2) A modification made under this section—
 - (a) may be absolute or subject to conditions; and
 - (b) may be made by stating alternative means of complying with a requirement or restriction imposed by the rules.
- (3) **Subsection (2) does not limit subsection (1).**
- (4) A modification made under this section—
 - (a) is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements); and
 - (b) if it relates to the High Court Rules, is not to be drafted by the PCO under section 67(d)(ii) of that Act.
- (5) In this section,—

District Court—

 - (a) includes the division of that court known as the Family Court; and
 - (b) includes the division of that court known as the Youth Court; but
 - (c) excludes the division of that court known as the Disputes Tribunal

Head of Bench 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 High Court Judge;
 - (d) in relation to the Employment Court, the Chief Judge of the Employment Court;
 - (e) in relation to the District Court, the Chief District Court Judge;
 - (f) in relation to the Environment Court, the Chief Environment Court Judge;
 - (g) in relation to the Māori Land Court, the Chief Judge of the Māori Land Court.

7B Amendments to Legislation (Publication) Regulations 2021

Clause 7C amends the Legislation (Publication) Regulations 2021.

7C Schedule 3 amended

- (1) In Part 2 of Schedule 3, delete “There are no customised publication requirements in these regulations as made.”.
- (2) In Part 2 of Schedule 3, insert the following table:

<u>Empowering legislation</u>	<u>Empowering provisions</u>	<u>Customised publication requirement</u>
<u>Epidemic Preparedness Act 2006</u>	s 24A	<u>If a modification made under this section is to be, or is, in force,—</u> <u>(a) all information necessary or desirable to enable a user to access, using the legislation website (https://www.legislation.govt.nz), that modification must be forwarded, without delay, to the PCO; and</u> <u>(b) the PCO must indicate that fact in a suitable place on the legislation website.</u>

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

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.

Definitions

- (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~~ starts on 18 August 2021; and

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- (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

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~~ includes taking all or any of the following actions:

- (a) exercising a right to cancel the lease because of a breach of the covenant to pay rent under the lease (including, without limitation, serving a notice under section 245(1)(b) or (2)):
- (b) applying to a court for an order for possession of the land:
- (c) re-entering the land peaceably (and without committing forcible entry under section 91 of the Crimes Act 1961):
- (d) taking any other action—
- (i) under this Act; and
 - (ii) related to cancelling the lease

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

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)—~~

- (a) a person who is a sublessee under a sublease to which this section applies under section 206(1); and
- (b) 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,—

- (a) there is an emergency; 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 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 negated, 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 negated, 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—
 - (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.

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245I COVID-19 outbreak further measures: proceedings

- (1) This section applies to a proceeding—
 - (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)**.
- (1A) In particular, this section applies even if the proceeding—
 - (a) commenced before the commencement of this section; and
 - (b) is not finally determined (at first instance, or on any appeal) on the commencement of this section.
- (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 Schedule 1AA amended

In Schedule 1AA,—

- (a) insert the following Part as the last Part; and
- (b) make all necessary consequential amendments.

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

The following provisions are repealed on the date on which the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked:

- (a) **sections 245F to 245I**;
- (b) **clause 4A** of Schedule 3.

3 Effect of repeals

- (1) The repeals in **clause 2** do not affect—
 - (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:

- (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
 - (ii) otherwise the subject of a proceeding in or before a court or tribunal, or before a person acting judicially.

11 Schedule 3 amended

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,—
 - (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
 - (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—
 - (aaa) that is, or is in, that rental period (to the extent only that all or any of that rental period is in the affected period); and
 - (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
 - (b) ending when the inability ceases.
- (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~~

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~~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—~~

- ~~(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.~~

(4A) In determining the fair proportion, 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,—

- (a) there is an epidemic; and
- (b) 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.

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

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
- (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—
 - (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

reasons of health or safety and **rent** have the meanings given to them by **section 245F(2)**.

Disputes will be referred to arbitration

(5A) The lessor or lessee will take all reasonable steps to respond to a communication from the other about the operation of this clause, or about a dispute arising

under this clause, within 10 working days (as defined in section 4 of the Property Law Act 2007) after receiving the communication.

- (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.
- (7) **Subclause (6)** is subject to section 16 (contracting out prohibited) of the Disputes Tribunal Act 1988, and does not prevent the lessor or lessee, before a referral under that subclause, from—
- (a) agreeing with the other party to use non-binding mediation to try to resolve the dispute; or
 - (b) using any other available non-binding or binding dispute-resolution procedure or jurisdiction to resolve the dispute (for example, expert determination).

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.

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.
- (9) If an infringement notice is served under **subsection (8)** by sending it to a person by ~~fax or~~ email, unless the contrary is shown 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.
- (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.
- (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.

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.
- (5) If a notice is given under **subsection (4)** by sending it to a person by ~~fax or~~ email, unless the contrary is shown 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.
- (6) In **subsection (5), information system** means a system for producing, sending, receiving, storing, displaying, or otherwise processing electronic communications.

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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~~

~~**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)~~

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~~
~~(including why the exemption is appropriate) must be published with the~~
~~exemption.~~