



Australian Capital Territory

# **COVID-19 Emergency Response Act 2020**

**A2020-11**

**Republication No 4**

**Effective: 22 September 2021 – 20 October 2021**

Republication date: 22 September 2021

Last amendment made by [A2021-20](#)

## About this republication

### The republished law

This is a republication of the *COVID-19 Emergency Response Act 2020* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 22 September 2021. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 22 September 2021.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# COVID-19 Emergency Response Act 2020

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22/09/21 Effective: 22/09/21-20/10/21

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Australian Capital Territory

# COVID-19 Emergency Response Act 2020

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An Act to provide for emergency measures in response to the COVID-19 emergency, and for other purposes

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *COVID-19 Emergency Response Act 2020*.

### 2 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act.

*Note 2* A definition in the dictionary applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

### 2A Notes

A note included in this Act is explanatory and is not part of this Act.

### 2B Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1* *Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2* *Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 2 Check-in information

### 2C Definitions—pt 2

In this part:

***authorised collector*** means—

- (a) a person who may or must collect check-in information under a public health direction; or
- (b) a person who has registered with the Territory to use the Check In CBR app in relation to a place.

***authorised person***—see the [Public Health Act 1997](#), section 121 (4).

***Check In CBR app*** means the mobile application, known as ‘Check In CBR’, developed and operated by the Territory to allow people to record their presence at a place using a mobile device.

***check-in information***—

- (a) means information about the presence of a person at a place in the ACT, collected for the purpose of contact tracing; but
- (b) does not include—
  - (i) information collected in the ordinary course of carrying on a business, activity or undertaking if the information would have been collected in any case for a purpose other than contact tracing; or
  - (ii) personal health information within the meaning of the [Health Records \(Privacy and Access\) Act 1997](#); or

*Note* Requirements for handling personal health information are set out in the [Health Records \(Privacy and Access\) Act 1997](#).

- (iii) information relating to the registration of a business, activity or undertaking to use the Check In CBR app; or
- (iv) statistical or summary information.

**contact tracing** means the process of identifying, notifying, communicating with, managing or directing a person who—

- (a) may be or may have been a source of COVID-19 infection; or
- (b) may have been in contact, directly or indirectly, with a person who is or may have been a source of COVID-19 infection; or

**Examples—direct contact**

- living in the same house as a person with COVID-19
- having sat near a person who may have been a source of COVID-19 infection during the screening of a movie at a cinema

**Examples—indirect contact**

- having attended a takeaway coffee shop during a period of time that a person with COVID-19 also attended the shop
  - having attended the same screening of a movie at a cinema as, although not sitting near, a person with COVID-19
- (c) if a person mentioned in paragraph (a) or (b) is a child—is a parent or guardian of the child.

**court** includes a tribunal, authority or person having power to require the production of documents or the answering of questions.

**permitted purpose** means any of the following:

- (a) undertaking contact tracing;
- (b) assisting an entity administering a law of a State that provides for contact tracing to undertake contact tracing, including sharing information with the entity;



- (c) another purpose related to undertaking contact tracing;

**Examples**

- to assess the integrity or security of check-in information
- to provide support services in relation to the Check In CBR app

- (d) a purpose mentioned in section 2F (2);

- (e) deriving statistical or summary information.

**public health direction** means a direction given by the chief health officer under the *Public Health Act 1997*, section 120 in relation to the COVID-19 declaration.

**statistical or summary information** means statistical or summary information that could not reasonably be expected to lead to the identification of an individual.

**use**, in relation to information includes—

- (a) communicate, publish or otherwise do something to disclose the information; and
- (b) make a record of the information.

**2E Use of check-in information**

- (4) An authorised person may use check-in information only for a permitted purpose.

**2F Check-in information not admissible in court**

- (1) Check-in information is not admissible in evidence in a court proceeding, other than in accordance with subsection (2).
- (2) Check-in information may be used for the purpose of investigating or prosecuting—
  - (a) an offence against this part; or

- (b) an offence for failing to comply with a public health direction in relation to contact tracing; or
- (c) an offence for giving false or misleading information in compliance or purported compliance with a public health direction in relation to contact tracing.

## **2G Protecting and destroying check-in information**

- (3) The director-general responsible for administering the *Public Health Act 1997* must take reasonable steps to destroy check-in information held by the directorate—
  - (a) if the information is used for a permitted purpose—as soon as reasonably practicable after the director-general no longer needs the information for the purpose; or
  - (b) in any other case—at the end of the contact tracing period.
- (4) In this section:
  - contact tracing period* means—
    - (a) a period of 28 days beginning on the day the check-in information is collected; or
    - (b) if another period is prescribed by regulation—the other period.

## **3 Reports for Legislative Assembly**

- (1) For each reporting period that a COVID-19 declaration is in force, the responsible Minister for a COVID-19 measure must prepare a report for the Legislative Assembly on the application of the measure.
- (2) The Minister must present the report to the Legislative Assembly—
  - (a) 1 month after the end of the reporting period to which the report applies; or

- (b) if the 1-month period coincides with part of the pre-election period for a general election of members of the Assembly—on the second sitting day after the election is held.
- (3) If a report to which subsection (2) (a) applies has not been presented to the Legislative Assembly before the last 7 days of the 1-month period, and there are no sitting days of the Legislative Assembly during those 7 days—
- (a) the responsible Minister must give the report, and a copy for each member of the Legislative Assembly, to the Speaker before the end of the 1-month period; and
  - (b) the Speaker must arrange for a copy of the report to be given to each member of the Legislative Assembly on the day the responsible Minister gives it to the Speaker; and
  - (c) the responsible Minister must present the report to the Legislative Assembly—
    - (i) on the next sitting day after the end of the 1-month period; or
    - (ii) if the next sitting day is the first meeting of the Legislative Assembly after a general election of members of the Assembly—on the second sitting day after the election.
- (4) In this section:

***COVID-19 measure***—each of the following is a ***COVID-19 measure***:

- (a) an amendment of another Act or regulation made by this Act;

*Note* These amendments can be found in the '[as notified](#)' version of this Act on the ACT legislation register.

- (b) an amendment of another Act or regulation made by the *COVID—19 Emergency Response Legislation Amendment Act 2020*.

*Note* These amendments can be found in the ‘as notified’ version of that Act on the ACT legislation register.

*pre-election period*—see the *Electoral Act 1992*, dictionary.

*reporting period* means—

- (a) for a period in 2020—a month; and  
(b) for a period in 2021 or later—a quarter.

*responsible Minister*, for a COVID-19 measure, means the Minister allocated responsibility for the Act in which the measure is made under the administrative arrangements under the *Public Sector Management Act 1994*.

*Speaker* includes—

- (a) if the Speaker is unavailable—the Deputy Speaker; and  
(b) if both the Speaker and Deputy Speaker are unavailable—the clerk of the Legislative Assembly.

*unavailable*—the Speaker or Deputy Speaker is *unavailable* if—

- (a) he or she is absent from duty; or  
(b) there is a vacancy in the office of Speaker or Deputy Speaker.

### **3A Presentation of subordinate laws and disallowable instruments**

- (1) This section applies to a subordinate law or disallowable instrument made after the commencement of this section under a power given under a COVID-19 measure.

- (2) The [Legislation Act](#), section 64 (1) applies in relation to the subordinate law or disallowable instrument as if the reference in that subsection to 6 sitting days were a reference to the second sitting day.
- (3) In this section:  
*COVID-19 measure*—see section 3 (4).

#### **4 Witnessing and attestation of certain documents**

- (1) This section applies during the COVID-19 emergency period.
- (2) Despite any other territory law—
  - (a) if the signature of a relevant document is required under a territory law to be witnessed, the signature may be witnessed by audiovisual link; and
  - (b) arrangements in relation to witnessing signatures and the attestation of documents, including the following, may be made by audiovisual link:
    - (i) certifying matters required under a territory law;
    - (ii) swearing or affirming the contents of an affidavit; and
  - (c) a requirement in a territory law for the presence of a witness, signatory or other person is satisfied if the witness, signatory or other person is present by audiovisual link.
- (3) A person witnessing the signing of a relevant document by audiovisual link (the *witness*) must—
  - (a) observe the person signing the document (the *signatory*) sign the document in real time; and
  - (b) confirm the signature was witnessed by signing the document or a copy of the document; and
  - (c) be reasonably satisfied the document the witness signs is the same document, or a copy of the document, signed by the signatory; and

- (d) endorse the document, or the copy of the document, with a statement—
  - (i) of the method used to witness the signature of the signatory; and
  - (ii) that the document was witnessed in accordance with this section.
- (4) Without limiting how a witness may confirm a signature was witnessed for subsection (3) (b), the witness may—
  - (a) sign a counterpart of the document as soon as practicable after witnessing the signing of the document; or
  - (b) if the signatory scans and sends the witness a copy of the signed document electronically—countersign the document as soon as practicable after witnessing the signing of the document.

- (5) In this section:

***audiovisual link*** means a system of 2-way communication linking different places so that a person at any of them can be seen and heard at the other places.

***COVID-19 emergency*** means—

- (a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

***COVID-19 emergency period*** means the period—

- (a) beginning on the day this section commences; and
- (b) ending at the end of a 3-month period during which no COVID-19 emergency has been in force.

*relevant document* means—

- (a) an affidavit; or
  - (b) a will; or
  - (c) a health direction under the *Medical Treatment (Health Directions) Act 2006*; or
  - (d) a general power of attorney or an enduring power of attorney under the *Powers of Attorney Act 2006*.
- (6) This section expires at the end of the COVID-19 emergency period.

## **Part 3                      Miscellaneous**

### **4A                      Regulation-making power**

The Executive may make regulations for this Act.

### **5                      Expiry—Act**

This Act expires at the end of a 12-month period during which no COVID-19 declaration has been in force.



## Dictionary

(see s 2)

*Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

*Note 2* For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACT
- child
- may (see s 146)
- must (see s 146)
- penalty unit (see s 133).

***authorised collector***, for part 2 (Check-in information)—see section 2C.

***authorised person***, for part 2 (Check-in information)—see the [Public Health Act 1997](#), section 121 (4).

***Check In CBR app***, for part 2 (Check-in information)—see section 2C.

***check-in information***, for part 2 (Check-in information)—see section 2C.

***contact tracing***, for part 2 (Check-in information)—see section 2C.

***court***, for part 2 (Check-in information)—see section 2C.

***COVID-19*** means the coronavirus disease 2019 (COVID-19) caused by the novel coronavirus SARS-CoV-2.

***COVID-19 declaration*** means—

- (a) a declaration of a state of emergency under the [Emergencies Act 2004](#), section 156 because of COVID-19; or
- (b) a declaration of an emergency under the [Public Health Act 1997](#), section 119 (including any extension or further extension) because of COVID-19.

*permitted purpose*, for part 2 (Check-in information)—see section 2C.

*public health direction*, for part 2 (Check-in information)—see section 2C.

*statistical or summary information*, for part 2 (Check-in information)—see section 2C.

*use*, for part 2 (Check-in information)—see section 2C.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **COVID-19 Emergency Response Act 2020 A2020-11**

notified LR 7 April 2020

s 1, s 2 commenced 7 April 2020 (LA s 75 (1))

amdt 1.35 commenced 8 April 2020 (s 2 (2))

remainder commenced 8 April 2020 (s 2 (1))

*Note* Act exp at the end of a 12-month period during which no COVID-19 declaration has been in force (s 5)

as amended by

#### **COVID-19 Emergency Response Legislation Amendment Act 2020 A2020-14 sch 1 pt 1.6**

notified LR 13 May 2020

s 1, s 2 taken to have commenced 30 March 2020 (LA s 75 (2))

sch 1 pt 1.6 commenced 14 May 2020 (s 2 (1))

#### **COVID-19 Emergency Response Legislation Amendment Act 2021 A2021-1 sch 1 pt 1.4**

notified LR 19 February 2021

s 1, s 2 commenced 19 February 2021 (LA s 75 (1))

sch 1 pt 1.4 commenced 20 February 2021 (s 2 (1))

#### **COVID-19 Emergency Response (Check-in Information) Amendment Act 2021 A2021-20**

notified LR 21 September 2021

s 1, s 2 commenced 21 September 2021 (LA s 75 (1))

s 5, so far as it inserts s 2D, s 2E (1)-(3), s 2G (1), (2) awaiting commencement

remainder commenced 22 September 2021 (s 2 (2))

## 4 Amendment history

### Preliminary

pt 1 hdg ins [A2021-20](#) s 4

### Dictionary

s 2 om LA s 89 (4)  
ins [A2021-20](#) s 5

### Notes

s 2A ins [A2021-20](#) s 5

### Offences against Act—application of Criminal Code etc

s 2B ins [A2021-20](#) s 5

### Check-in information

pt 2 hdg ins [A2021-20](#) s 5

### Definitions—pt 2

s 2C ins [A2021-20](#) s 5  
 def **authorised collector** ins [A2021-20](#) s 5  
 def **authorised person** ins [A2021-20](#) s 5  
 def **Check In CBR app** ins [A2021-20](#) s 5  
 def **check-in information** ins [A2021-20](#) s 5  
 def **contact tracing** ins [A2021-20](#) s 5  
 def **court** ins [A2021-20](#) s 5  
 def **permitted purpose** ins [A2021-20](#) s 5  
 def **public health direction** ins [A2021-20](#) s 5  
 def **statistical or summary information** ins [A2021-20](#) s 5  
 def **use** ins [A2021-20](#) s 5

### Use of check-in information

s 2E (4) ins [A2021-20](#) s 5

### Check-in information not admissible in court

s 2F ins [A2021-20](#) s 5

### Check-in information not admissible in court

s 2G (3), (4) ins [A2021-20](#) s 5

### Reports for Legislative Assembly

s 3 am [A2020-14](#) amdt 1.42, amdt 1.43; [A2021-1](#) amdts 1.8-1.10;  
[A2021-20](#) s 6

### Presentation of subordinate laws and disallowable instruments

s 3A ins [A2020-14](#) amdt 1.44  
am [A2021-1](#) amdt 1.11

### Witnessing and attestation of certain documents

s 4 om LA s 89 (3)  
ins [A2020-14](#) amdt 1.45  
exp at the end of the COVID-19 emergency period (s 4 (6))

## Endnotes

### 4 Amendment history

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#### Miscellaneous

pt 3 hdg ins [A2021-20](#) s 7

#### Regulation-making power

s 4A ins [A2021-20](#) s 7

#### Expiry—Act

s 5 ins [A2020-14](#) amdt 1.45  
am [A2021-20](#) s 8

#### COVID-19 emergency response—Amendments

sch 1 om LA s 89 (3)

#### Dictionary

dict ins [A2021-20](#) s 9  
def **authorised collector** ins [A2021-20](#) s 9  
def **authorised person** ins [A2021-20](#) s 9  
def **Check In CBR app** ins [A2021-20](#) s 9  
def **check-in information** ins [A2021-20](#) s 9  
def **contact tracing** ins [A2021-20](#) s 9  
def **court** ins [A2021-20](#) s 9  
def **COVID-19** ins [A2021-20](#) s 9  
def **COVID-19 declaration** ins [A2021-20](#) s 9  
def **permitted purpose** ins [A2021-20](#) s 9  
def **public health direction** ins [A2021-20](#) s 9  
def **statistical or summary information** ins [A2021-20](#) s 9  
def **use** ins [A2021-20](#) s 9

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 8 Apr 2020	8 Apr 2020– 13 May 2020	not amended	new Act
R2 14 May 2020	14 May 2020– 19 Feb 2021	<a href="#">A2020-14</a>	amendments by <a href="#">A2020-14</a>
R3 20 Feb 2021	20 Feb 2021– 21 Sept 2021	<a href="#">A2021-1</a>	amendments by <a href="#">A2021-1</a>

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