



Australian Capital Territory

Operational Efficiencies (COVID-19) Legislation Amendment Act 2021

A2021-24

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
2	Commencement 2
3	Legislation amended 2
Part 2	Associations Incorporation Act 1991
4	General meetings—procedure during COVID-19 emergency Section 70AA (7) 3
5	Extensions of time for applications etc Section 120 (6) 3

J2021-885

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	Page	
Part 3	Bail Act 1992	
6	Undertakings to appear Section 28 (1)	4
7	Section 28 (2A)	4
8	Section 28 (6) and (7)	4
Part 4	Children and Young People Act 2008	
9	Declaration of emergency New section 149 (2A)	5
10	New section 149 (3A) to (3D)	5
11	New section 149 (8) and (9)	6
Part 5	Corrections Management Act 2007	
12	Local leave permits Section 205 (2A)	7
13	Section 205 (5) (b) and (c)	7
Part 6	Crimes Act 1900	
14	Section 194A heading	8
15	Section 194A (1), (6) and (7)	8
Part 7	Crimes (Sentencing) Act 2005	
16	Good behaviour orders Section 13 (2)	9
17	Section 13 (2A)	9
18	Section 13 (9) and (10)	9
19	Good behaviour—consequences of failure to sign undertaking Section 105	9
Part 8	Drugs of Dependence Act 1989	
20	Section 187A heading	10
21	Section 187A (1), (4) and (5)	10

	Page
Part 9	Human Rights Commission Act 2005
22	Expiry—vulnerable person complaint provisions Section 105B
	11
Part 10	Public Trustee and Guardian Act 1985
23	Section 9A
	12
Part 11	Retirement Villages Act 2012
24	Meetings of residents—methods of communication Section 112A (1)
	13
25	Meetings of operators—methods of communication Section 261A (1)
	13
26	Expiry—COVID-19 Emergency Response Act 2020 amendments Section 265 (2) (b) and (d)
	13
Part 12	Taxation Administration Act 1999
27	Purpose of Act and relationship with other tax laws Section 6 (3) (k)
	14
28	Section 6 (4) to (6)
	14
29	Division 11.5A heading
	14
30	Section 137A
	14
31	Application—div 11.5A Section 137B
	15
32	Ministerial considerations for determining a scheme—div 11.5A Section 137C
	15
33	Section 137D heading
	15
34	Section 137D (1) to (7)
	15
35	Section 137E heading
	15
36	Section 137E (1)
	16
37	Section 137E (2) and (3)
	16
38	Section 137E (4)
	16
39	Section 137F heading
	16
40	Section 137F (1) to (5)
	16
41	Expiry—div 11.5A Section 137G
	17

Contents

	Page	
42	New part 21	17
43	Dictionary, new definitions	18



Australian Capital Territory

Operational Efficiencies (COVID-19) Legislation Amendment Act 2021

A2021-24

An Act to amend legislation to permanently adopt certain legislative measures taken during the COVID-19 emergency and provide for other emergency measures

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2021-885

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1 Preliminary

1 Name of Act

This Act is the *Operational Efficiencies (COVID-19) Legislation Amendment Act 2021*.

2 Commencement

- (1) This Act (other than section 3 and part 2) commences on the day after its notification day.
- (2) Section 3 and part 2 commence, or are taken to have commenced, on the earlier of—
 - (a) the day after this Act's notification day; and
 - (b) 8 October 2021.

3 Legislation amended

This Act amends the following legislation:

- *Associations Incorporation Act 1991*
- *Bail Act 1992*
- *Children and Young People Act 2008*
- *Corrections Management Act 2007*
- *Crimes Act 1900*
- *Crimes (Sentencing) Act 2005*
- *Drugs of Dependence Act 1989*
- *Human Rights Commission Act 2005*
- *Public Trustee and Guardian Act 1985*
- *Retirement Villages Act 2012*
- *Taxation Administration Act 1999*.

Part 2 Associations Incorporation Act 1991

4 General meetings—procedure during COVID-19 emergency Section 70AA (7)

substitute

- (7) This section expires at the end of a 12-month period during which no COVID-19 emergency has been in force.

5 Extensions of time for applications etc Section 120 (6)

substitute

- (6) This subsection and subsections (3) to (5) expire at the end of a 12-month period during which no COVID-19 emergency has been in force.

Part 3 Bail Act 1992

6 Undertakings to appear Section 28 (1)

omit

a written undertaking

substitute

an undertaking

7 Section 28 (2A)

omit everything before paragraph (a), substitute

(2A) An undertaking—

8 Section 28 (6) and (7)

omit

Part 4 Children and Young People Act 2008

9 Declaration of emergency New section 149 (2A)

insert

- (2A) However, if the emergency relates to a COVID-19 emergency, the director-general may declare that an emergency exists in relation to the detention place for a period of not more than the duration of the COVID-19 emergency.

10 New section 149 (3A) to (3D)

insert

- (3A) If 1 or more declarations under subsection (2A) are in force for a consecutive period of 28 days or more, the director-general must—
- (a) at least every 28 days, conduct a review of whether there are reasonable grounds for continuing the declaration; and
 - (b) as soon as practicable after a review, advise the Minister in writing about any measures taken in response to the emergency under the declaration.
- (3B) The first annual report prepared by the director-general under the *Annual Reports (Government Agencies) Act 2004* after an emergency declaration ends must include information about the measures taken in response to the emergency while the declaration was in force.
- (3C) A failure by the director-general to comply with subsection (3A) or (3B) does not affect the validity of the declaration.
- (3D) A declaration made under subsection (2A) must be revoked if the director-general no longer believes there are reasonable grounds for the declaration.

11 New section 149 (8) and (9)

after the note, insert

(8) In this section:

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).
- (9) The following provisions expire on the day the *COVID-19 Emergency Response Act 2020* expires:
- (a) this subsection;
 - (b) subsection (2A);
 - (c) subsections (3A) to (3D);
 - (d) subsection (8).

Part 5 Corrections Management Act 2007

12 Local leave permits Section 205 (2A)

substitute

- (2A) Despite subsection (2) (b), if the permit is granted for the purpose of receiving long-term medical treatment or palliative care and on the advice of a doctor appointed under section 21, the permit must include the period for which leave is granted, being not longer than 3 months.
- (2B) Despite subsection (2) (b), and while this provision is in force, if the permit is granted for a purpose other than the purpose in subsection (2A), the permit must include the period for which leave is granted, being not longer than 28 days.

13 Section 205 (5) (b) and (c)

substitute

- (b) subsection (2B).

Part 6 Crimes Act 1900

14 Section 194A heading

substitute

194A Electronic versions of affidavits and warrants

15 Section 194A (1), (6) and (7)

omit

Part 7 Crimes (Sentencing) Act 2005

16 Good behaviour orders Section 13 (2)

after

sign

insert

or give

17 Section 13 (2A)

omit everything before paragraph (a), substitute

(2A) An undertaking—

18 Section 13 (9) and (10)

omit

19 Good behaviour—consequences of failure to sign undertaking Section 105

after

sign

insert

or give

Part 8 Drugs of Dependence Act 1989

20 Section 187A heading

substitute

187A Electronic versions of affidavits and warrants

21 Section 187A (1), (4) and (5)

omit

Part 9 **Human Rights Commission
Act 2005**

22 **Expiry—vulnerable person complaint provisions
Section 105B**

omit

Part 10 Public Trustee and Guardian Act 1985

23 Section 9A

substitute

9A Delegation by public trustee and guardian

- (1) The public trustee and guardian may delegate to a member of the public trustee and guardian's staff any function under this Act or another territory law.

Note 1 For laws about delegations, see the [Legislation Act](#), pt 19.4.

Note 2 **Function** includes authority, duty and power (see [Legislation Act](#), dict, pt 1)

- (2) However, a function may be delegated to a person only if the public trustee and guardian is satisfied that—
- (a) the function is of a kind that is appropriate to be exercised by the person; and
 - (b) the person has the qualifications, knowledge and experience appropriate for the function to be properly exercised; and
 - (c) the person will comply with the [Guardianship and Management of Property Act 1991](#), section 4 when exercising the functions of the public trustee and guardian under that Act; and
 - (d) the person will comply with the obligations of the public trustee and guardian under the [Human Rights Act 2004](#).

Note The public trustee and guardian must ensure the delegated function is properly exercised (see [Legislation Act](#), s 238). Also, the public trustee and guardian may provide that the delegation has effect only in stated circumstances or subject to stated conditions, limitations or directions (see [Legislation Act](#), s 234 and s 239).

Part 11 Retirement Villages Act 2012

24 Meetings of residents—methods of communication Section 112A (1)

omit

, held during a COVID-19 emergency

25 Meetings of operators—methods of communication Section 261A (1)

omit

during a COVID-19 emergency

26 Expiry—COVID-19 Emergency Response Act 2020 amendments Section 265 (2) (b) and (d)

omit

Part 12 Taxation Administration Act 1999

27 Purpose of Act and relationship with other tax laws Section 6 (3) (k)

substitute

(k) miscellaneous matters, including, the service of documents, corporate criminal liability, evidence and tax deferral, exemption and rebate schemes.

28 Section 6 (4) to (6)

omit

29 Division 11.5A heading

substitute

Division 11.5A Revenue measures—deferral, exemption and rebate schemes

30 Section 137A

substitute

137A Definitions—div 11.5A

In this division:

deferral scheme—see section 137D (1).

exemption scheme—see section 137E (1).

rebate scheme—see section 137F (1).

scheme means the following:

- (a) a deferral scheme;
- (b) an exemption scheme;
- (c) a rebate scheme.

**31 Application—div 11.5A
Section 137B**

omit

COVID-19

**32 Ministerial considerations for determining a scheme—
div 11.5A
Section 137C**

omit

33 Section 137D heading

substitute

137D Deferral scheme

34 Section 137D (1) to (7)

omit

COVID-19

35 Section 137E heading

substitute

137E Exemption scheme

36 Section 137E (1)

omit

a **COVID-19**

substitute

an

37 Section 137E (2) and (3)

omit

COVID-19

38 Section 137E (4)

omit

A COVID-19

substitute

An

39 Section 137F heading

substitute

137F Rebate scheme

40 Section 137F (1) to (5)

omit

COVID-19

**41 Expiry—div 11.5A
Section 137G**

omit

42 New part 21

insert

**Part 21 Transitional—Operational
Efficiencies (COVID-19)
Legislation Amendment Act 2021****303 Definitions—pt 21**

In this part:

amendment Act means the *Operational Efficiencies (COVID-19) Legislation Amendment Act 2021*.

commencement day means the day the amendment Act, section 39 commences.

former section 137E means section 137E as in force immediately before the commencement day.

**304 Effect of Taxation Administration (Payroll Tax) COVID-19
Exemption Scheme Determination 2021 (No 2)**

- (1) Despite the amendment of section 137E by the amendment Act, the *Taxation Administration (Payroll Tax) COVID-19 Exemption Scheme Determination 2021 (No 2)* (DI2021-177) (the *determination*) made under former section 137E, is taken to continue to be effective on and after the commencement day until the determination expires on 31 July 2022 or is revoked.

- (2) Without limiting subsection (1) and to remove any doubt, an exemption under the determination, section 4, for an employer, from the requirement to pay payroll tax for taxable wages paid or payable to an eligible employee, on or after the commencement day is taken to be a valid exemption.

305 Expiry—pt 21

This part expires 12 months after the commencement day.

Note A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

43 Dictionary, new definitions

insert

deferral scheme, for division 11.5A (Revenue measures—deferral, exemption and rebate schemes)—see section 137D (1).

exemption scheme, for division 11.5A (Revenue measures—deferral, exemption and rebate schemes)—see section 137E (1).

rebate scheme, for division 11.5A (Revenue measures—deferral, exemption and rebate schemes)—see section 137F (1).

scheme, for division 11.5A (Revenue measures—deferral, exemption and rebate schemes)—see section 137A.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 16 September 2021.

2 Notification

Notified under the [Legislation Act](#) on 13 October 2021.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Operational Efficiencies (COVID-19) Legislation Amendment Bill 2021, which was passed by the Legislative Assembly on 7 October 2021.

Clerk of the Legislative Assembly

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