



Western Australia

COVID-19 Response and Economic Recovery Omnibus Act 2020

Compare between:

[12 Sep 2020, 00-b0-01] and [22 Dec 2021, 00-c0-00]



Western Australia

COVID-19 Response and Economic Recovery Omnibus Act 2020

An Act —

- **to provide for the amelioration of problems and impediments arising from the emergency response to the COVID-19 pandemic; and**
- **to facilitate aspects of the economic recovery from the emergency response to the pandemic; and**
- **to make related amendments to various Acts; and**
- **to validate certain actions taken during or following the state of emergency declared in relation to the pandemic on 16 March 2020; and**
- **for related purposes.**

Part 1 — Preliminary

1. Short title

This is the *COVID-19 Response and Economic Recovery Omnibus Act 2020*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

3. Primary purposes of Act

The primary purposes of this Act are —

- (a) to provide for the amelioration of problems in relation to compliance with statutory requirements, and of impediments to the processes of government, arising from the emergency response to the COVID-19 pandemic; and
- (b) to provide for the amelioration of problems arising from the emergency response to an outbreak, or the risk of an outbreak, of COVID-19 in the State; and
- (c) to facilitate aspects of the economic recovery from the emergency response to the COVID-19 pandemic.

4. Terms used

- (1) In this Act —

agency has the meaning given in the *Public Sector Management Act 1994* section 3(1);

authorisation includes an approval, licence or permit;

COVID emergency declaration means a declaration made under the *Emergency Management Act 2005* section 56, or the

Public Health Act 2016 section 167, in relation to the COVID-19 pandemic;

non-SES organisation has the meaning given in the *Public Sector Management Act 1994* section 3(1);

portfolio Minister, in relation to an Act, means the Minister to whom the administration of the whole or a part of the Act is committed;

prescribed means prescribed by regulations under this Act.

- (2) In this Act —
- (a) a reference to a thing done includes a reference to a thing omitted to be done; and
 - (b) a reference to a requirement under an Act includes a reference to the Act providing consequences for doing or not doing a thing; and
 - (c) a reference to the portfolio Minister in relation to an Act is, if the administration of the Act is committed to more than 1 Minister, a reference to any of those Ministers.

5. Act binds Crown

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

6. Relationship of this Act to other written laws

This Act has effect despite any other written law.

Part 2 — Provisions of general application

Division 1 — Fees and charges

Subdivision 1 — Preliminary

7. Terms used

In this Division —

chief employee has the meaning given in the *Public Sector Management Act 1994* section 3(1);

fee includes the following —

- (a) a due;
- (b) an amount of Metropolitan Region Improvement Tax under the *Planning and Development Act 2005* section 200;
- (c) a penalty for a late application under any of the following Acts —
 - (i) the *Auction Sales Act 1973*;
 - (ii) the *Debt Collectors Licensing Act 1964*;
 - (iii) the *Employment Agents Act 1976*;
 - (iv) the *Land Valuers Licensing Act 1978*;
 - (v) the *Motor Vehicle Dealers Act 1973*;
 - (vi) the *Real Estate and Business Agents Act 1978*.

Subdivision 2 — CEO and chief employee orders

8. CEOs or chief employees may reduce, waive or refund fees and charges

- (1) The chief executive officer or chief employee of an agency or non-SES organisation principally assisting in the administration of a relevant enactment may by order reduce, waive or refund a fee or charge under the enactment.

Note for this subsection:

See section 103 for provisions about orders.

- (2) Subsection (1) is in addition to and does not affect any power to reduce, waive or refund a fee or charge under a written law.
- (3) For the purposes of this section, the relevant enactments are —
- (a) the *Environmental Protection Act 1986*; and
 - (b) the *Firearms Act 1973*; and
 - (c) the *Government Railways Act 1904*; and
 - (d) the *Jetties Act 1926*; and
 - (e) the *Land Administration Act 1997*; and
 - (f) the *Land Information Authority Act 2006*; and
 - (g) the *Licensed Surveyors Act 1909*; and
 - (h) the *Planning and Development Act 2005*; and
 - (i) the *Public Transport Authority Act 2003*; and
 - (j) the *Road Traffic (Administration) Act 2008*; and
 - (k) the *Road Traffic (Authorisation to Drive) Act 2008*; and
 - (l) the *Road Traffic (Vehicles) Act 2012*; and
 - (m) the *Road Traffic (Vehicles) (Taxing) Act 2008*; and
 - (n) the *Rottnest Island Authority Act 1987*; and
 - (o) the *Security and Related Activities (Control) Act 1996*;
and
 - (p) the *Shipping and Pilotage Act 1967*; and
 - (q) the *Valuation of Land Act 1978*; and
 - (r) the *Western Australian Marine Act 1982*; and
 - (s) a prescribed enactment.

9. CEOs or chief employees may extend timeframes for payment of fees and charges

- (1) If a fee or charge under a relevant enactment needs to be paid before, by or at a particular time or within a particular period, the chief executive officer or chief employee of the agency or non-SES organisation principally assisting in the administration of the enactment, may by order —
- (a) postpone the particular time; or
 - (b) extend the particular period.

Note for this subsection:

See section 103 for provisions about orders.

- (2) For the purposes of this section, the relevant enactments are —
- (a) the *Environmental Protection Act 1986*; and
 - (b) a prescribed enactment.

10. Subdivision and orders cease to have effect

- (1) This Subdivision ceases to have effect at the end of 31 December 2021¹.
- (2) The cessation of this Subdivision may be postponed under section 27.
- (3) An order made under this Subdivision ceases to have effect when this Subdivision ceases to have effect.

[Note: The cessation of Pt. 2 Div. 1 Subdiv. 2 is postponed until the end of 31 December 2022 by the COVID-19 Response and Economic Recovery Omnibus Act 2020 Postponement Proclamation 2021 (see SL 2021/196).]

Subdivision 3 — Validation of reductions, waivers and refunds**11. Validation of reductions, waivers and refunds**

- (1) In this section —
validation period means the period —
- (a) beginning on 1 April 2020; and
 - (b) ending on the last day of the period of 6 months beginning on the day on which this section comes into operation.
- (2) Any fee or charge under a relevant Act purportedly reduced, waived or refunded during the validation period is taken to be, and to have always been, validly reduced, waived or refunded.
- (3) Anything done, or purportedly done, as a result or consequence of, or in reliance on or in relation to, a reduction, waiver or refund validated under subsection (2) (a *validated reduction, waiver or refund*) is as valid and effective, and is taken to have always been as valid and effective, as it would have been if the validated reduction, waiver or refund had been valid at the time the thing was done or purportedly done.
- (4) For the purposes of subsection (2), the relevant Acts are —
- (a) the *Associations Incorporation Act 2015*; and
 - (b) the *Auction Sales Act 1973*; and
 - (c) the *Building Services (Registration) Act 2011*; and
 - (d) the *Co-operatives Act 2009*; and
 - (e) the *Dangerous Goods Safety Act 2004*; and
 - (f) the *Debt Collectors Licensing Act 1964*; and
 - (g) the *Electricity Act 1945*; and
 - (h) the *Employment Agents Act 1976*; and
 - (i) the *Gas Standards Act 1972*; and
 - (j) the *Government Railways Act 1904*; and

- (k) the *Jetties Act 1926*; and
- (l) the *Land Valuers Licensing Act 1978*; and
- (m) the *Limited Partnerships Act 2016*; and
- (n) the *Mines Safety and Inspection Act 1994*; and
- (o) the *Motor Vehicle Dealers Act 1973*; and
- (p) the *Motor Vehicle Repairers Act 2003*; and
- (q) the *Occupational Safety and Health Act 1984*; and
- (r) the *Plumbers Licensing Act 1995*; and
- (s) the *Public Transport Authority Act 2003*; and
- (t) the *Real Estate and Business Agents Act 1978*; and
- (u) the *Settlement Agents Act 1981*; and
- (v) the *Shipping and Pilotage Act 1967*.

Division 2 — Meetings

Subdivision 1 — Meetings

12. Term used: body

In this Subdivision —

body includes a Development Assessment Panel as defined in the *Planning and Development Act 2005* section 4(1).

13. Meetings under relevant enactments may occur by instantaneous communication

- (1) If, under a relevant enactment, a board, committee or other body is required or permitted to hold a meeting, the meeting may be held in whole or in part using —
 - (a) a telephone; or
 - (b) audiovisual communication; or
 - (c) any other means of instantaneous communication.

- (2) If, under a relevant enactment, a person is required or permitted to attend or be present at a meeting, the person may participate in the meeting in whole or in part using —
- (a) a telephone; or
 - (b) audiovisual communication; or
 - (c) any other means of instantaneous communication.
- (3) A person who participates in a meeting in reliance on subsection (1) or (2) is taken to have attended and been present at the meeting and, if the person votes at the meeting, the person is taken to have voted in person.
- (4) For the purposes of this section, the relevant enactments are —
- (a) the *Aboriginal Affairs Planning Authority Act 1972*; and
 - (b) the *Aboriginal Heritage Act 1972*; and
 - (c) the *Conservation and Land Management Act 1984*; and
 - (d) the *Environmental Protection Act 1986*; and
 - (e) the *Land Administration Act 1997*; and
 - (f) the *Litter Act 1979*; and
 - (g) the *Planning and Development Act 2005*; and
 - (h) the *Rottnest Island Authority Act 1987*.

14. Public meetings

- (1) A requirement under a relevant enactment that a meeting be open to the public is satisfied if members of the public can observe the meeting using audiovisual communication.
- (2) For the purposes of this section, the relevant enactment is the *Planning and Development Act 2005*.

15. Locations of meetings

- (1) A requirement under a relevant enactment that the location of a meeting be published or given is satisfied if the following are published or given —
 - (a) if the meeting is a public meeting — details of how a person may observe the meeting using audiovisual communication;
 - (b) if the meeting is not a public meeting — details of how a person may participate in the meeting in reliance on section 13(2).
- (2) For the purposes of this section, the relevant enactment is the *Planning and Development Act 2005*.

16. Venues for meetings

- (1) A requirement under a relevant enactment that a venue for a meeting be provided to a board, committee or other body is satisfied if suitable arrangements are made that enable the board, committee or other body to hold the meeting using audiovisual communication.
- (2) For the purposes of this section, the relevant enactment is the *Planning and Development Act 2005*.

17. Subdivision ceases to have effect

- (1) This Subdivision ceases to have effect at the end of 31 December 2021¹.
- (2) The cessation of this Subdivision may be postponed under section 27.

[Note: The cessation of Pt. 2 Div. 2 Subdiv. 1 is postponed until the end of 31 December 2022 by the COVID-19 Response and Economic Recovery Omnibus Act 2020 Postponement Proclamation 2021 (see SL 2021/196).]

Subdivision 2 — Validation of meetings and decisions

18. Validation of meetings and decisions

- (1) Any meeting held or purportedly held, or decision made or purportedly made, under a relevant Act during the period beginning on 16 March 2020 and ending immediately before the day on which this section comes into operation is taken to be, and to have always been, as validly held or made as it would have been if Subdivision 1, and any regulations made under that Subdivision, had been in effect at the time of the meeting or decision.
- (2) Anything done, or purportedly done, as a result or consequence of, or in reliance on or in relation to, a meeting or decision validated under subsection (1) (a *validated meeting or decision*) is as valid and effective, and is taken to have always been as valid and effective, as it would have been if the validated meeting or decision had been valid at the time the thing was done or purportedly done.
- (3) For the purposes of subsection (1), the relevant Acts are —
 - (a) the *Aboriginal Heritage Act 1972*; and
 - (b) the *Conservation and Land Management Act 1984*; and
 - (c) the *Environmental Protection Act 1986*; and
 - (d) the *Litter Act 1979*; and
 - (e) the *Planning and Development Act 2005*; and
 - (f) the *Rottneest Island Authority Act 1987*.

Division 3 — Public availability of documents

Subdivision 1 — Public availability of documents

19. Public availability of documents

- (1) A requirement under a relevant enactment that any document be made available for public inspection at a physical location (whether or not for a fee) is satisfied if the document is instead made available (free of charge) on a website maintained by, or on behalf of —
 - (a) the person subject to the requirement; or
 - (b) if there is no website maintained by, or on behalf of, that person — the agency or non-SES organisation principally assisting in the administration of the relevant enactment.
- (2) For the purposes of this section, the relevant enactments are —
 - (a) the *Forrest Place and City Station Development Act 1985*; and
 - (b) the *Hope Valley-Wattleup Redevelopment Act 2000*; and
 - (c) the *Metropolitan Redevelopment Authority Act 2011*; and
 - (d) the *Planning and Development Act 2005*; and
 - (e) the *Waste Avoidance and Resource Recovery Act 2007*; and
 - (f) the *Water Services Act 2012*; and
 - (g) the *Western Australian Land Authority Act 1992*.

20. Subdivision ceases to have effect

- (1) This Subdivision ceases to have effect at the end of 31 December 2021¹.
- (2) The cessation of this Subdivision may be postponed under section 27.

[Note: The cessation of Pt. 2 Div. 3 Subdiv. 1 is postponed until the end of 31 December 2022 by the COVID-19 Response and Economic Recovery Omnibus Act 2020 Postponement Proclamation 2021 (see SL 2021/196).]

Subdivision 2 — Validation of things done

21. Validation of things done

A failure to comply with a public availability requirement described in section 19(1) during the period commencing on 16 March 2020 and ending immediately before the day on which this section comes into operation does not affect the validity of anything required or permitted to be done or arising in relation to or as a consequence of the public availability requirement.

Division 4 — Presence and dealing with documents by audiovisual communication

22. Presence by audiovisual communication

- (1) For the purposes of a relevant enactment under which a person (*person A*) is required or permitted to do something before or in the presence of another person (the *witness*), person A does the thing before or in the presence of the witness if, by audiovisual communication at the time that person A does the thing —
 - (a) person A and the witness are able to see and hear each other; and
 - (b) the witness observes person A do the thing.
- (2) For the purposes of a relevant enactment under which something is required or permitted to be done before or in the presence of a person (the *witness*), the thing is done before or in the presence of the witness if, by audiovisual communication at the time a person (*person A*) does the thing —

- (a) person A and the witness are able to see and hear each other; and
 - (b) the witness observes person A do the thing.
- (3) For the purposes of a relevant enactment a witness is present at the same time as another witness if they are able to see and hear each other, whether by audiovisual communication or in person.

23. Signing documents witnessed by audiovisual communication

- (1) In this section —
sign, in relation to a document, includes —
- (a) attest or subscribe the document; and
 - (b) affix or make a seal, mark or thumbprint on the document; and
 - (c) initial or make any other writing on the document.
- (2) If section 22 applies and under the relevant enactment the witness is required to sign a document signed or otherwise dealt with by person A, the requirement is satisfied if the witness —
- (a) satisfies themselves that the document they are about to sign is the document signed or otherwise dealt with by person A or a counterpart or copy of that document; and
 - (b) signs the document or the counterpart or copy as required under the relevant enactment; and
 - (c) endorses the document or the counterpart or copy with a statement that it was dealt with in accordance with this section.
- (3) The witness must comply with subsection (2)(a) to (c) —
- (a) if the relevant enactment imposes a requirement as to the presence of the witness — in accordance with the requirement; or
 - (b) if paragraph (a) does not apply —

- (i) while the witness and person A are still able to see and hear each other by audiovisual communication; or
- (ii) if it is not practicable to comply with subparagraph (i) — as soon as practicable after the witness and person A cease to be able to see and hear each other by audiovisual communication.

24. Relevant enactments

For the purposes of this Division, the relevant enactments are —

- (a) the *Coroners Act 1996*; and
- (b) the *Family Court Act 1997*; and
- (c) the *Heritage Act 2018*; and
- (d) the *Land Information Authority Act 2006*; and
- (e) the *Litter Act 1979*; and
- (f) the *Metropolitan Redevelopment Authority Act 2011*; and
- (g) the *Mining Act 1978*; and
- (h) the *National Trust of Australia (W.A.) Act 1964*; and
- (i) the *Oaths, Affidavits and Statutory Declarations Act 2005*; and
- (j) the *Petroleum Act 1936*; and
- (k) the *Planning and Development Act 2005*; and
- (l) the *Public Transport Authority Act 2003*; and
- (m) the *Water Agencies (Powers) Act 1984*; and
- (n) the *Water Corporations Act 1995*; and
- (o) the *Western Australian Land Authority Act 1992*; and
- (p) a prescribed enactment.

25. Relationship with other laws relating to electronic processes

- (1) Except as provided in subsection (2), this Division is in addition to, and not in substitution for —
 - (a) the *Electronic Transactions Act 2011*; and
 - (b) the *Oaths, Affidavits and Statutory Declarations Act 2005*; and
 - (c) a provision of any other written law (including a provision of a relevant enactment) that authorises or permits the use of electronic processes for the purposes of a relevant enactment.
- (2) The *Electronic Transactions Regulations 2012* regulations 3 and 4 do not apply in circumstances in which this Division applies.

26. Division ceases to have effect

- (1) This Division ceases to have effect at the end of 31 December 2021¹.
- (2) The cessation of this Division may be postponed under section 27.

[Note: The cessation of Pt. 2 Div. 4 is postponed until the end of 31 December 2022 by the COVID-19 Response and Economic Recovery Omnibus Act 2020 Postponement Proclamation 2021 (see SL 2021/196).]

Division 5 — General provisions

27. Postponing cessation of Divisions and Subdivisions

- (1) If, under a provision of this Part, the cessation of a Division or Subdivision may be postponed, the Governor, on the recommendation of the Minister, may postpone the cessation of the Division or Subdivision until the end of a day specified in a proclamation made before the Division or Subdivision ceases.

- (2) The Minister cannot make a recommendation for the purposes of subsection (1) unless satisfied that postponing the cessation of the Division or Subdivision is necessary or expedient for a purpose in section 3.
- (3) The Governor may postpone the cessation of a Division or Subdivision more than once, but cannot specify a day that is after 30 June 2025.
- (4) Each postponement of a Division or Subdivision cannot be for longer than 12 months beginning on the day after the most recent day at the end of which the Division or Subdivision would have ceased.
- (5) The *Interpretation Act 1984* section 42 applies to and in relation to a proclamation as if the proclamation were a regulation.

Part 3 — Provisions affecting obligations or authorisations under Acts

Division 1 — Preliminary

28. Terms used

In this Part —

operative period, for a provision of this Part, means the period —

- (a) beginning on the day on which this section comes into operation; and
- (b) ending on 31 December 2021, or a later day specified under section 34;

region planning scheme has the meaning given in the *Planning and Development Act 2005* section 4(1);

Transport CEO means the chief executive officer of the department of the Public Service principally assisting in the administration of the *Road Traffic (Administration) Act 2008*.

Division 2 — Authorisations generally

29. Decision-maker may set new expiry day for authorisations during operative period

- (1) In this section —

Environment CEO means the CEO as defined in the *Environmental Protection Act 1986* section 3(1);

expire, for a relevant authorisation, includes the authorisation expiring, ceasing to have effect, lapsing or otherwise ending at the end of a period of time;

original expiry day, for a relevant authorisation, means the day on which the authorisation is to expire under the Act;

relevant authorisation means an authorisation, under an Act, listed in column 1 of the Table to subsection (2).

- (2) A person (the *decision-maker*) listed in column 2 of the Table opposite a relevant authorisation may specify, by order made during the operative period² for this section, a new day (the *new expiry day*) on which the authorisation expires if —
- (a) the decision-maker is satisfied that the order is necessary or expedient for a purpose in section 3(a) or (b); and
 - (b) the order is made before the original expiry day for the authorisation; and
 - (c) the new expiry day is —
 - (i) after the original expiry day for the authorisation; and
 - (ii) before the day that is 12 months after the original expiry day for the authorisation; and
 - (iii) before 30 June 2025.

Table

Authorisation	Decision-maker
A clearing permit under the <i>Environmental Protection Act 1986</i> Part V Division 2	The Environment CEO
A licence under the <i>Environmental Protection Act 1986</i> Part V Division 3	The Environment CEO
A works approval under the <i>Environmental Protection Act 1986</i>	The Environment CEO
A licence under the <i>Jetties Act 1926</i>	The chief executive officer as defined in the <i>Jetties Act 1926</i> section 3

COVID-19 Response and Economic Recovery Omnibus Act 2020

Part 3 Provisions affecting obligations or authorisations under Acts

Division 2 Authorisations generally

s. 29

Authorisation	Decision-maker
A permit under regulations made under the <i>Jetties Act 1926</i>	The chief executive officer as defined in the <i>Jetties Act 1926</i> section 3
A driver's licence under the <i>Road Traffic (Authorisation to Drive) Act 2008</i>	The Transport CEO
A learner's permit under the <i>Road Traffic (Authorisation to Drive) Act 2008</i> Part 2 Division 2	The Transport CEO
A vehicle licence under the <i>Road Traffic (Vehicles) Act 2012</i>	The Transport CEO
A licence under the <i>Tobacco Products Control Act 2006</i>	The CEO as defined in the <i>Health Legislation Administration Act 1984</i> section 3
A licence under the <i>Water Services Act 2012</i> Part 2 Division 2	The Economic Regulation Authority established by the <i>Economic Regulation Authority Act 2003</i> section 4
A prescribed authorisation	A prescribed person who grants a prescribed authorisation

Note for this subsection:

See section 103 for provisions about orders.

- (3) An order may —
- (a) apply to a relevant authorisation that has been the subject of a previous order under this section; and
 - (b) specify a new expiry day by —
 - (i) specifying a particular day; or
 - (ii) referring to a period of time after the original expiry day for the relevant authorisation.

Example for this subsection:

An order may specify new expiry days for a class of relevant authorisations by stating that the new expiry day for each authorisation in the class is the day that is 6 months after the original expiry day for the authorisation.

- (4) A relevant authorisation the subject of an order —
- (a) does not expire on the original expiry day for the authorisation; but
 - (b) expires at the end of the new expiry day for the authorisation under the order.
- (5) However —
- (a) a relevant authorisation the subject of an order may be —
 - (i) suspended, cancelled or otherwise ended (other than by expiring) under a written law; or
 - (ii) the subject of a decision under section 31 that the order no longer applies to the authorisation;and
 - (b) if a person is disqualified under a written law from holding a relevant authorisation, an order under this section does not affect the disqualification.

[Note: The end of the operative period for section 29 is postponed until the end of 31 December 2022 by the COVID-19 Response and Economic Recovery Omnibus Act 2020 Postponement Proclamation 2021 (see SL 2021/196).]

30. Decision-maker may modify or remove conditions of authorisations during operative period

(1) In this section —

meter has the meaning given in the *Rights in Water and Irrigation Act 1914* Schedule 1 clause 46(5);

relevant authorisation means an authorisation listed in column 1 of the Table to subsection (2).

(2) If a relevant authorisation is subject to a condition of a type listed in column 2 of the Table, a person (the *decision-maker*) listed in column 3 of the Table opposite the authorisation may determine, by order made during the operative period² for this section, that the condition —

- (a) no longer applies; or
- (b) applies with the modifications set out in the order.

Table

Authorisation	Condition	Decision-maker
A clearing licence under the <i>Country Areas Water Supply Act 1947</i> section 12C	Any condition of the licence imposed under the <i>Country Areas Water Supply Act 1947</i>	The portfolio Minister for the <i>Country Areas Water Supply Act 1947</i>
A licence under the <i>Rights in Water and Irrigation Act 1914</i> section 5C	A condition about meters imposed on the licence by regulations made under the <i>Rights in Water and Irrigation Act 1914</i>	The portfolio Minister for the <i>Rights in Water and Irrigation Act 1914</i>

Authorisation	Condition	Decision-maker
A prescribed authorisation	A prescribed class of conditions in relation to the prescribed authorisation	A prescribed person who grants the prescribed authorisation

Note for this subsection:

See section 103 for provisions about orders.

- (3) The decision-maker cannot make the order unless satisfied that the order is necessary or expedient for a purpose in section 3(a) or (b).
- (4) An order may apply to a relevant authorisation that has been the subject of a previous order under this section.
- (5) An order ceases to have effect at the end of —
 - (a) the 1st anniversary of the day on which the order comes into operation; or
 - (b) if an earlier day is specified in the order — that day.
- (6) Subject to section 31, during the period an order is in effect a person is taken to have satisfied a condition of a relevant authorisation the subject of the order if, under the order, the condition —
 - (a) no longer applies to the authorisation; or
 - (b) applies with modifications and the modified condition is satisfied.

[Note: The end of the operative period for section 30 is postponed until the end of 31 December 2022 by the COVID-19 Response and Economic Recovery Omnibus Act 2020 Postponement Proclamation 2021 (see SL 2021/196).]

31. Decision-maker may decide order no longer applies to relevant authorisation if condition of order breached

- (1) If a condition of an order made under section 29 or 30 is not satisfied in relation to a relevant authorisation, the decision-maker for the relevant authorisation may decide that the order no longer applies to the authorisation.
- (2) Before making a decision under subsection (1), the decision-maker must —
 - (a) give the holder of the relevant authorisation a written notice stating that —
 - (i) a condition of the order has not been satisfied in relation to the relevant authorisation; and
 - (ii) because the condition of the order has not been satisfied, the decision-maker may make a decision under subsection (1); and
 - (iii) the holder may make a written submission about the decision during a period (of not less than 28 days from the day on which the notice is received by the holder) stated in the notice;and
 - (b) consider any submissions received under paragraph (a)(iii).
- (3) After making a decision under subsection (1), the decision-maker must give the holder of the relevant authorisation a written notice setting out —
 - (a) the decision; and
 - (b) if the decision is that the order no longer applies to the relevant authorisation — the reasons for the decision.

Division 3 — Specific provisions

32. Exemption from local planning scheme taken to be exemption from region planning scheme

(1) In this section —

clause 78H notice means a notice made under the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 clause 78H(1) or (6).

(2) This section applies if —

- (a) a person does something (whether before or after the day on which this section comes into operation) pursuant to an exemption from a planning requirement in a clause 78H notice in force when the thing is done; and
- (b) the thing done contravenes a requirement or provision of a region planning scheme.

(3) Despite the requirement or provision of the region planning scheme, the thing done is, and is taken to always have been, done pursuant to an exemption from the requirement or provision.

33. Extension of certain time limits under relevant schemes

(1) In this section —

development approval means an approval granted under a relevant scheme;

relevant scheme means an improvement scheme as defined in the *Planning and Development Act 2005* section 4(1) or a region planning scheme.

(2) This section applies to a development approval that —

- (a) is valid on 8 April 2020; or
- (b) is granted on or after 8 April 2020 if, at the time it is granted, a COVID emergency declaration is in effect.

- (3) Despite anything provided in a development approval or in the relevant scheme under which it is granted, the development approval —
 - (a) remains valid until the day which is 2 years after the day on which, but for this section, it would have ceased to be valid; and
 - (b) lapses if the development has not been substantially commenced before that day.
- (4) A development which has been substantially commenced by the day provided by subsection (3)(a) is taken to have been substantially commenced within the time required under the development approval and the relevant scheme under which it is granted.
- (5) This section does not prevent the time until which a development approval remains valid or the time within which a development is required to be substantially commenced from being varied by an amendment to the development approval made under the *Planning and Development Act 2005*.

Division 4 — End of operative periods for provisions of Part

34. Postponing ending of operative periods for provisions of this Part

- (1) The Governor, on the recommendation of the Minister, may, by proclamation made before the operative period for a provision of this Part ends, postpone the end of the operative period until a day specified for the provision in the proclamation.
- (2) The Minister cannot make a recommendation for the purposes of subsection (1) unless satisfied that postponing the end of the operative period for a provision is necessary or expedient for a purpose in section 3.

- (3) The Governor may postpone the end of an operative period more than once, but cannot specify a day that is after 30 June 2025.
- (4) Each postponement of the operative period for a provision cannot be for longer than 12 months beginning on the day after the most recent day on which the operative period would have ended.
- (5) The *Interpretation Act 1984* section 42 applies to and in relation to a proclamation as if the proclamation were a regulation.

35. End of operative period does not affect things done during period

The ending of the operative period for a provision of this Part does not affect anything done during the operative period in reliance on the provision.

36. Orders cease to have effect at the end of 30 June 2025

An order made under this Part that has not ceased to have effect on or before 30 June 2025 ceases to have effect at the end of that day.

Part 4 — Modification of Acts

Division 1 — *Bail Act 1982* modified

37. Act modified

- (1) The *Bail Act 1982* applies as if modified as set out in this Division.
- (2) Subsection (1) ceases to have effect at the end of 31 December 2021¹.
- (3) The cessation of subsection (1) may be postponed under section 52.

[Note: The cessation of section 37(1) is postponed until the end of 31 December 2022 by the COVID-19 Response and Economic Recovery Omnibus Act 2020 Postponement Proclamation 2021 (see SL 2021/196).]

38. Section 43A modified

Delete section 43A(2) and insert:

- (2) This section applies if —
 - (a) a proposed surety is in another State or a Territory; or
 - (b) it is impracticable for the proposed surety to enter into a surety undertaking in person before a relevant official.

Division 2 — *Mental Health Act 2014* modified

39. Term used: Mental Health Infection Control Directions

For the purposes of this Division —

Mental Health Infection Control Directions means the directions, referred to as the Mental Health Infection Control Directions —

- (a) made under the *Public Health Act 2016* sections 157 and 190 on 6 April 2020; and
- (b) that provide for infection control measures, relating to the COVID-19 pandemic, to be followed when conducting assessments and examinations under the *Mental Health Act 2014*.

40. Act modified

- (1) The *Mental Health Act 2014* applies as if modified as set out in this Division.
- (2) Subsection (1) has effect while the Mental Health Infection Control Directions, or any replacement directions, have effect.

41. Section 48 modified

After section 48(4) insert:

- (5) Despite any other provision of this section, an assessment may be conducted using audiovisual communication if the practitioner is satisfied that it is necessary or expedient to do so to comply with the requirements of the Mental Health Infection Control Directions or any replacement directions.

42. Section 79 modified

- (1) Delete section 79(3)(c) and insert:
 - (c) a health professional and the person being examined —

- (i) are in one another's physical presence;
or
 - (ii) if that is not practicable — are able to hear one another without using a communication device (for example, by being able to hear one another through a door).

- (2) After section 79(6) insert:
 - (7) Despite any other provision of this section, an examination may be conducted using audiovisual communication if the psychiatrist or practitioner is satisfied that it is necessary or expedient to do so to comply with the requirements of the Mental Health Infection Control Directions or any replacement directions.

43. Validation of assessments and examinations

- (1) This section applies to an assessment or examination under the *Mental Health Act 2014* Part 6 Division 2 or 3 conducted —
 - (a) using audiovisual communication; and
 - (b) on or after 7 April 2020 (the day on which the Mental Health Infection Control Directions commenced to have effect) and before the day on which this section comes into operation.

- (2) The assessment or examination, and any referral or order made as a result, is as valid and effective, and is to be taken to have always been as valid and effective, as it would have been if —
 - (a) the modifications set out in this Division had been in effect at the time of the assessment or examination; and

- (b) the psychiatrist or practitioner had been satisfied as described in those modifications.

Division 3 — Oaths, Affidavits and Statutory Declarations Act 2005 modified

44. Act modified

- (1) The *Oaths, Affidavits and Statutory Declarations Act 2005* applies as if modified as set out in this Division.
- (2) Subsection (1) ceases to have effect at the end of 31 December 2021¹.
- (3) The cessation of subsection (1) may be postponed under section 52.

[Note: The cessation of section 44(1) is postponed until the end of 31 December 2022 by the COVID-19 Response and Economic Recovery Omnibus Act 2020 Postponement Proclamation 2021 (see SL 2021/196).]

45. Section 9 modified

Before section 9(6)(a) insert:

- (aa) if the affidavit is made at the time a COVID emergency declaration as defined in the *COVID-19 Response and Economic Recovery Omnibus Act 2020* section 4(1) is in effect — a person prescribed by the regulations for the purpose of this paragraph;

Division 4 — Sentencing Act 1995 modified and consequential modification

Subdivision 1 — Sentencing Act 1995 modified

46. Act modified

- (1) The *Sentencing Act 1995* applies as if modified as set out in this Subdivision.
- (2) Subsection (1) ceases to have effect at the end of 31 December 2021¹.
- (3) The cessation of subsection (1) may be postponed under section 52.

[Note: The cessation of section 46(1) is postponed until the end of 31 December 2022 by the COVID-19 Response and Economic Recovery Omnibus Act 2020 Postponement Proclamation 2021 (see SL 2021/196).]

47. Section 14 modified

In section 14(1) delete “section 14A.” and insert:

section 14A or audio link under section 14B.

48. Section 14B inserted

After section 14A insert:

14B. Use of audio link for sentencing

- (1) In this section —
audio link means facilities, including telephones, that enable, at the same time, a court at one place to hear a person at another place and vice versa;

non-custodial sentence means a sentence imposed under Part 7, 8, 8A, 9 or 10;

video link has the meaning given in section 14A(4).

- (2) A court sentencing an offender may, on an application by the offender, direct that the offender appear before it by audio link from a place in this State.
- (3) The court must not make a direction under subsection (2) unless all of the following circumstances apply —
 - (a) the offender has been convicted of an offence on a plea of guilty;
 - (b) the court proposes to impose a non-custodial sentence on the offender in respect of the offence;
 - (c) the court is satisfied that —
 - (i) the audio link is available or can reasonably be made available; and
 - (ii) the direction is in the interests of justice.
- (4) The place where an offender attends for sentencing by audio link is taken to be part of the court for the purposes of the sentencing.
- (5) An audio link must not be used under this section if a video link is available or can reasonably be made available.

49. Section 34 modified

In section 34(1) delete “section 14A,” and insert:

section 14A or audio link under section 14B,

**Subdivision 2 — *Criminal Procedure Act 2004* modified
consequentially**

50. Act modified

- (1) The *Criminal Procedure Act 2004* applies as if modified as set out in this Subdivision.
- (2) Subsection (1) ceases to have effect when section 46(1) ceases to have effect.

51. Section 77 modified

In section 77(7) delete “section 14A.” and insert:

section 14A or 14B.

Division 5 — Postponing cessation of modifying provisions

52. Postponing cessation of modifying provisions

- (1) If, under this Part, the cessation of a provision that provides for the modification of an Act may be postponed, the Governor, on the recommendation of the portfolio Minister, may postpone the cessation of the provision to a day specified in a proclamation made before the provision ceases.
- (2) The portfolio Minister cannot make a recommendation for the purposes of subsection (1) unless satisfied that postponing the cessation of the provision is necessary or expedient for a purpose in section 3.
- (3) The Governor may postpone the cessation of a provision more than once, but cannot specify a day that is after 30 June 2025.
- (4) Each postponement of the cessation of a provision cannot be for longer than 12 months beginning on the day after the most recent day at the end of which the provision would have ceased.

- (5) The *Interpretation Act 1984* section 42 applies to and in relation to a proclamation as if the proclamation were a regulation.

Part 5 — Acts amended: facilitating electronic transactions

Division 1 — Extending the application of the *Courts and Tribunals (Electronic Processes Facilitation) Act 2013*

53. *Administration Act 1903* amended

- (1) This section amends the *Administration Act 1903*.
- (2) At the end of Part 1 insert:

3A. *Courts and Tribunals (Electronic Processes Facilitation) Act 2013 Pt. 2* applies

The *Courts and Tribunals (Electronic Processes Facilitation) Act 2013* Part 2 applies to this Act.

54. *Coroners Act 1996* amended

- (1) This section amends the *Coroners Act 1996*.
- (2) At the end of Part 1 insert:

4A. *Courts and Tribunals (Electronic Processes Facilitation) Act 2013 Pt. 2* applies

The *Courts and Tribunals (Electronic Processes Facilitation) Act 2013* Part 2 applies to this Act.

55. *Courts and Tribunals (Electronic Processes Facilitation) Act 2013* amended

- (1) This section amends the *Courts and Tribunals (Electronic Processes Facilitation) Act 2013*.

- (2) In section 6(1):
- (a) before paragraph (a) insert:
 - (aa) the *Administration Act 1903*;
 - (b) after paragraph (c) insert:
 - (ca) the *Coroners Act 1996*;
 - (c) after paragraph (e) insert:
 - (ea) the *Criminal Investigation Act 2006*;
 - (eb) the *Criminal Investigation (Extra-territorial Offences) Act 1987*;
 - (ec) the *Criminal Investigation (Identifying People) Act 2002*;
 - (d) after paragraph (j) insert:
 - (ja) the *Family Court Act 1997*;
 - (e) after paragraph (k) insert:
 - (ka) the *Juries Act 1957*;
 - (f) after paragraph (n) insert:
 - (na) the *Sentence Administration Act 2003*;

56. Criminal Investigation Act 2006 amended

- (1) This section amends the *Criminal Investigation Act 2006*.

(2) After section 5 insert:

5A. *Courts and Tribunals (Electronic Processes Facilitation) Act 2013 Pt. 2 applies*

The *Courts and Tribunals (Electronic Processes Facilitation) Act 2013* Part 2 applies to this Act.

57. *Criminal Investigation (Extra-territorial Offences) Act 1987 amended*

(1) This section amends the *Criminal Investigation (Extra-territorial Offences) Act 1987*.

(2) At the end of Part 1 insert:

3B. *Courts and Tribunals (Electronic Processes Facilitation) Act 2013 Pt. 2 applies*

The *Courts and Tribunals (Electronic Processes Facilitation) Act 2013* Part 2 applies to this Act.

58. *Criminal Investigation (Identifying People) Act 2002 amended*

(1) This section amends the *Criminal Investigation (Identifying People) Act 2002*.

(2) After section 4 insert:

4A. *Courts and Tribunals (Electronic Processes Facilitation) Act 2013 Pt. 2 applies*

The *Courts and Tribunals (Electronic Processes Facilitation) Act 2013* Part 2 applies to this Act.

59. *Family Court Act 1997* amended

- (1) This section amends the *Family Court Act 1997*.
- (2) At the end of Part 1 insert:

9B. *Courts and Tribunals (Electronic Processes Facilitation) Act 2013 Pt. 2* applies

The *Courts and Tribunals (Electronic Processes Facilitation) Act 2013* Part 2 applies to this Act.

60. *Juries Act 1957* amended

- (1) This section amends the *Juries Act 1957*.
- (2) At the end of Part 1 insert:

3B. *Courts and Tribunals (Electronic Processes Facilitation) Act 2013 Pt. 2* applies

The *Courts and Tribunals (Electronic Processes Facilitation) Act 2013* Part 2 applies to this Act.

61. *Sentence Administration Act 2003* amended

- (1) This section amends the *Sentence Administration Act 2003*.
- (2) At the end of Part 1 insert:

4A. *Courts and Tribunals (Electronic Processes Facilitation) Act 2013 Pt. 2* applies

The *Courts and Tribunals (Electronic Processes Facilitation) Act 2013* Part 2 applies to this Act.

Division 2 — Amendment of environmental and water related legislation

Subdivision 1 — *Contaminated Sites Act 2003* amended

62. Act amended

This Subdivision amends the *Contaminated Sites Act 2003*.

63. Schedule 2 amended

After Schedule 2 item 1 insert:

- 1A. Providing for notices, reports, approvals or other documents to be given, sent or served under this Act by electronic communication (as defined in the *Electronic Transactions Act 2011* section 5(1)) and providing for the proof of that giving, sending or service.

Subdivision 2 — *Litter Act 1979* amended

64. Act amended

This Subdivision amends the *Litter Act 1979*.

65. Section 33 amended

Before section 33(2)(a) insert:

- (aa) providing for notices or other documents to be given, sent or served under this Act by electronic communication (as defined in the *Electronic Transactions Act 2011* section 5(1)) and providing for the proof of that giving, sending or service; and

Subdivision 3 — *Rights in Water and Irrigation Act 1914* amended

66. Act amended

This Subdivision amends the *Rights in Water and Irrigation Act 1914*.

67. Section 6 amended

Delete section 6(6)(b)(iii) and insert:

- (iii) indicating how submissions may be provided.

68. Section 26GZB amended

Delete section 26GZB(b) and insert:

- (b) by giving them to the Minister, in a manner designated by the Minister, and so that they are received within that period.

69. Section 26GZG amended

Delete section 26GZG(4)(b) and insert:

- (b) by giving them to the Minister, in a manner designated by the Minister, and so that they are received within that period.

70. Section 26N amended

Delete section 26N(3)(b)(iii) and insert:

- (iii) indicating how submissions may be provided.

71. Section 27 amended

After section 27(1)(f) insert:

- (fa) giving, sending or serving by electronic communication (as defined in the *Electronic Transactions Act 2011* section 5(1)) notices or other documents to be given, sent or served under this Act and how that giving, sending or service may be proven; and

72. Section 66 amended

(1) In section 66(1):

- (a) in paragraph (c) delete “abode.” and insert:

abode;

- (b) after paragraph (c) insert:

- (d) by sending the same by electronic communication (as defined in the *Electronic Transactions Act 2011* section 5(1)) in the manner provided for in the regulations.

- (2) In section 66(4) delete the passage that begins with “partnership, by” and ends with “State.” and insert:

partnership by —

- (a) being delivered to, left at, or posted in a prepaid letter to the registered office or principal place of business in the State of the corporation, company, or partnership; or
- (b) being sent by electronic communication (as defined in the *Electronic Transactions Act 2011* section 5(1)) in the manner provided for in the regulations.

**Subdivision 4 — Waste Avoidance and Resource Recovery Act 2007
amended**

73. Act amended

This Subdivision amends the *Waste Avoidance and Resource Recovery Act 2007*.

74. Section 28 amended

Delete section 28(b) and insert:

- (b) by —
 - (i) delivering or posting them so that they are received within that period at the offices of the Waste Authority; or
 - (ii) sending them by electronic communication (as defined in the *Electronic Transactions Act 2011* section 5(1)) in the manner provided for in the regulations so that they are

received by the Waste Authority within that period.

75. Section 47 amended

Delete section 47(4)(b) and insert:

(b) by —

- (i) delivering or posting them so that they are received within that period at the offices of the Waste Authority; or
- (ii) sending them by electronic communication (as defined in the *Electronic Transactions Act 2011* section 5(1)) in the manner provided for in the regulations so that they are received by the Waste Authority within that period.

76. Schedule 3 amended

After Schedule 3 item 2 insert:

- 2A. Without limiting item 1 or 2, providing for notices, directions or other documents to be given, sent or served under this Act by electronic communication (as defined in the *Electronic Transactions Act 2011* section 5(1)) and providing for the proof of that giving, sending or service.

Subdivision 5 — *Water Agencies (Powers) Act 1984* amended

77. Act amended

This Subdivision amends the *Water Agencies (Powers) Act 1984*.

78. Section 36 amended

In section 36(4):

- (a) in paragraph (e) delete “verified.” and insert:

verified; and

- (b) after paragraph (e) insert:

- (f) without limiting paragraph (e), may provide for notices to be given, sent or served under this Act by electronic communication (as defined in the *Electronic Transactions Act 2011* section 5(1)) and for the proof of that giving, sending or service.

Subdivision 6 — *Water Services Act 2012* amended

79. Act amended

This Subdivision amends the *Water Services Act 2012*.

80. Section 222 amended

After section 222(2)(j) insert:

- (ja) without limiting paragraph (j), provide for notices and other instruments and documents to be given, sent or served under this Act by electronic communication (as defined in the *Electronic Transactions Act 2011* section 5(1)) and providing for the proof of that giving, sending or service;

Part 6 — Acts amended: miscellaneous matters

Division 1 — *Bail Act 1982* amended

81. Act amended

This Division amends the *Bail Act 1982*.

82. Various provisions amended

Amend the provisions listed in the Table as set out in the Table.

Table

Provision	Delete
s. 13B(1)(c)	in urgent cases or with the accused's consent,
s. 32(1)(c)	in urgent cases or with the accused's consent,
s. 45(1)(c)(ii)	in urgent cases or with the surety's consent,

Division 2 — *Constitution Acts Amendment Act 1899* amended

83. Act amended

This Division amends the *Constitution Acts Amendment Act 1899*.

84. Section 45A inserted

At the end of Part II insert:

45A. Executive Council meetings

- (1) In this section —
remote communication, in relation to a meeting,
means any technology that enables all the persons

taking part in the meeting to communicate with each other at the same time in a reasonably continuous way.

- (2) A meeting of the Executive Council may be held —
 - (a) in person; or
 - (b) using remote communication; or
 - (c) by a mix of those 2 ways of meeting.
- (3) A person (including the Governor or any member who is presiding) who participates in a meeting of the Executive Council using remote communication is taken to be present at the meeting.
- (4) This section applies despite anything in any Letters Patent relating to the office of Governor.

Division 3 — *Criminal Procedure Act 2004* amended

85. Act amended

This Division amends the *Criminal Procedure Act 2004*.

86. Section 21 amended

Delete section 21(3) and insert:

- (3) A prosecution is commenced on the day on which a prosecution notice, signed in accordance with section 23, is lodged with the court in which the prosecution is being commenced, whether or not the notice has been served on the accused.

87. Section 23 amended

- (1) In section 23(2)(d) delete “in accordance with subsection (3) and, if necessary, subsection (4).” and insert:

by the person who is commencing the prosecution.

- (2) Delete section 23(3), (4) and (5).

88. Schedule 1 clause 3 amended

In Schedule 1 clause 3(2) delete “section 23(3).” and insert:

section 23.

Division 4 — Evidence Act 1906 amended

89. Act amended

This Division amends the *Evidence Act 1906*.

90. Section 106K amended

- (1) Delete section 106K(3)(a) and insert:
- (a) the accused must not be in the same room as the affected child when the child’s evidence is being taken but must be able to —
 - (i) observe the proceedings by means of a closed circuit television system and at all times have the means of communicating with the accused’s counsel; or

- (ii) in accordance with subsection (3A),
listen to the proceedings by means of an
audio link and at all times have the
means of communicating with the
accused's counsel;

and

(2) After section 106K(3) insert:

- (3A) Subsection (3)(a)(ii) applies to the accused if, in the opinion of the judge, it is not desirable for the accused to attend court due to the accused's health or another reason the judge thinks fit.
- (3B) If the accused hears the proceedings by means of an audio link under subsection (3)(a)(ii), the accused must be provided with a reasonable opportunity to view a copy of the visually recorded evidence before the evidence is presented to the court.

(3) After section 106K(4) insert:

- (4A) A person must not make a copy of, or otherwise reproduce, the proceedings, or any part of the proceedings, heard by means of an audio link under subsection (3)(a)(ii).
Penalty for this subsection: a fine of \$5 000.
- (4B) A person must not play, supply or offer to supply any copy of, or reproduction of, the proceedings, or any part of the proceedings, heard by means of an audio link under subsection (3)(a)(ii).
Penalty for this subsection: a fine of \$5 000.

- (4C) A person must not broadcast the proceedings, or any part of the proceedings, heard by means of an audio link under subsection (3)(a)(ii).

Penalty for this subsection: imprisonment for 1 year and a fine of \$100 000.

91. Section 106N amended

In section 106N(2)(a) delete “outside the courtroom but within the court precincts,” and insert:

at a place, other than the courtroom, that is approved by the court,

Division 5 — Interpretation Act 1984 amended and consequential amendments

Subdivision 1 — Interpretation Act 1984 amended

92. Act amended

This Subdivision amends the *Interpretation Act 1984*.

93. Section 3 amended

In section 3(3) delete “45.”

94. Section 45 amended

Delete section 45(3).

Subdivision 2 — Consequential amendments

95. Auction Sales Act 1973 amended

- (1) This section amends the *Auction Sales Act 1973*.

(2) Delete section 37(2).

96. *Debt Collectors Licensing Act 1964* amended

(1) This section amends the *Debt Collectors Licensing Act 1964*.

(2) Delete section 26(2).

97. *Employment Agents Act 1976* amended

(1) This section amends the *Employment Agents Act 1976*.

(2) Delete section 52(4).

98. *Finance Brokers Control Act 1975* amended

(1) This section amends the *Finance Brokers Control Act 1975*.

(2) Delete section 95(3).

99. *Land Valuers Licensing Act 1978* amended

(1) This section amends the *Land Valuers Licensing Act 1978*.

(2) Delete section 36(3).

100. *Motor Vehicle Dealers Act 1973* amended

(1) This section amends the *Motor Vehicle Dealers Act 1973*.

(2) Delete section 56(3).

101. *Real Estate and Business Agents Act 1978* amended

(1) This section amends the *Real Estate and Business Agents Act 1978*.

(2) Delete section 145(3).

102. *Transfer of Land Act 1893* amended

(1) This section amends the *Transfer of Land Act 1893*.

(2) Delete section 181(3).

Part 7 — Miscellaneous

103. Provisions about orders made under Act

- (1) This section applies to an order made under this Act.

Note for this subsection:

Orders may be made under sections 8, 9, 29 and 30.

- (2) The order is subsidiary legislation for the purposes of the *Interpretation Act 1984*.
- (3) The *Interpretation Act 1984* section 43(1) and (6) do not apply to the order, however, the order must not be inconsistent with this Act.
- (4) The order must, while in effect, be published on a website maintained by, or on behalf of —
- (a) the person who made the order; or
 - (b) if there is no website maintained by, or on behalf of, that person — the agency or non-SES organisation principally assisting in the administration of the Act in relation to which the order is made.
- (5) A failure to comply with subsection (4) does not affect the validity of the order.

104. Effect of provisions of this Act, certain regulations and orders ceasing to have effect

When a provision of this Act or an order made under this Act, ceases to have effect, the *Interpretation Act 1984* section 37 applies as if the provision, regulation or order had been repealed.

105. Regulations

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act.
- (2) The regulations may deal with all matters of a savings or transitional nature arising as a result of —
 - (a) a provision of this Act ceasing to have effect; or
 - (b) an order made under this Act ceasing to have effect.
- (3) Regulations made for the purposes of subsection (2) may —
 - (a) have effect despite any other written law; or
 - (b) provide that a specified provision of another written law does not apply, or applies with specified modifications, to or in relation to a matter.
- (4) If regulations made for the purposes of subsection (2) provide that a specified state of affairs is taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations come into operation (but not earlier than the day on which the relevant provision or order ceased to have effect), the regulations have effect according to their terms.
- (5) If regulations made for the purposes of subsection (2) contain a provision referred to in subsection (4), the provision does not operate so as to —
 - (a) affect, in a manner prejudicial to any person (other than the State or a public authority), rights of that person existing before the day on which the regulations come into operation; or
 - (b) impose liabilities on any person (other than the State or a public authority) in respect of anything done or omitted to be done before the day on which the regulations come into operation.

s. 105

- (6) Regulations made for the purposes of subsection (2) must be made within a period that is reasonably and practicably necessary to deal with the savings or transitional matter, and cannot be made after 30 June 2025.
- (7) Regulations made for the purposes of subsection (2) are additional to any relevant provisions of the *Interpretation Act 1984*.
- (8) In subsection (5) —
public authority means —
 - (a) a Minister of the State; or
 - (b) an agency, authority or instrumentality of the State; or
 - (c) a body, whether incorporated or not, that is established or continued for a public purpose by or under a written law; or
 - (d) a local government or regional local government.

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Notes

This is a compilation of the *COVID-19 Response and Economic Recovery Omnibus Act 2020*. For provisions that have come into operation see the compilation [table](#). For [provisions that have not yet come into operation see the uncommenced provisions table](#).

Compilation table

Short title	Number and year	Assent	Commencement
<i>COVID-19 Response and Economic Recovery Omnibus Act 2020</i>	34 of 2020	11 Sep 2020	Pt. 1: 11 Sep 2020 (see s. 2(a)); Act other than Pt. 1: 12 Sep 2020 (see s. 2(b))

[Uncommenced provisions table](#)

[To view the text of the uncommenced provisions see *Acts as passed on the WA Legislation website*.](#)

Short title	Number and year	Assent	Commencement
Aboriginal Cultural Heritage Act 2021 s. 347	27 of 2021	22 Dec 2021	To be proclaimed (see s. 2(e))

Other notes

- ¹ The *COVID-19 Response and Economic Recovery Omnibus Act 2020 Postponement Proclamation 2021* (SL 2021/196) provides that the cessation of Pt. 2 Div. 1 Subdiv. 2, Pt. 2 Div. 2 Subdiv. 1, Pt. 2 Div. 3 Subdiv. 1, Pt. 2 Div. 4 and sections 37(1), 44(1) and 46(1) is postponed until the end of 31 December 2022.
- ² The *COVID-19 Response and Economic Recovery Omnibus Act 2020 Postponement Proclamation 2021* (SL 2021/196) provides that the end of the operative periods for sections 29 and 30 is postponed until the end of 31 December 2022.