

COVID-19 LEGISLATION AMENDMENT (EMERGENCY MEASURES—MISCELLANEOUS)
BILL 2020

Schedule of the amendments referred to in the Legislative Council's message of 13 May 2020.

No. 1 **OPP No. 1 [c2020-039B]**

Page 3, Schedule 1. Insert after line 2—

[1A] Section 5A

Insert after section 5—

5A COVID-19 pandemic—protection of annual holiday entitlements

(1) The annual holidays of a worker who is stood down by an employer without pay during the prescribed period as a direct or indirect result of the COVID-19 pandemic continue to accrue while the worker is stood down during that period.

(2) This section extends to annual holidays or annual leave under an award, agreement or contract of employment or any other Act.

(3) In this section—

prescribed period means the period—

(a) starting on 25 March 2020, and

(b) ending on—

(i) 26 September 2020, or

(ii) a later day, not later than 26 March 2021, prescribed by the regulations.

Explanatory note

The proposed section ensures that a worker's annual leave or annual holidays continue to accrue during any period in the prescribed period (as defined in the proposed section) in which the worker is stood down without pay as a direct or indirect result of the COVID-19 pandemic.

No. 2 **OPP No. 1 [c2020-060]**

Page 3, Schedule 1.1, proposed section 14A(3)(b), lines 18–20. Omit all words on those lines.

No. 3 **OPP No. 2 [c2020-060]**

Page 3, Schedule 1.1, proposed section 14A(5), lines 26–31. Omit all words on those lines. Insert instead—

- (5) An employer and worker may agree on a worker taking a specified period of annual holiday at double pay only if, after taking the holiday, the worker will have an accrued annual holiday entitlement of not less than 4 weeks.

No. 4 **OPP No. 1 [c2020-035C]**

Page 14, Schedule 1.11[1], line 16. Omit “7 years”. Insert instead “5 years”.

No. 5 **OPP No. 2 [c2020-035C]**

Page 15, Schedule 1.11[2], line 3. Omit “7 years”. Insert instead “5 years”.

No. 6 **GOVT No. 1 [c2020-062]**

Pages 15 and 16, Schedule 1.11[6], line 34 on page 15 to line 2 on page 16. Omit all words on those lines. Insert instead—

[6] Section 7.17 Directions by Minister

Insert at the end of section 7.17(1)(f)—

, and

- (g) how money paid under this Division for different purposes in accordance with the conditions of development consents is to be pooled and applied progressively for those purposes, and
- (h) the time at which a monetary contribution or levy is to be paid.
- (1A) A direction under subsection (1)(h) may be given only during the prescribed period within the meaning of section 10.17.
- (1B) A provision of a development consent granted before and inconsistent with a direction under subsection (1)(h) is taken to be modified so as to be consistent with the direction, but only for a contribution or levy (or a component of a contribution or levy) that has not been paid before the direction is given.

No. 7 **OPP No. 1 [c2020-037D]**

Page 20, Schedule 1.16. Insert after line 1—

413 COVID-19 pandemic—deferral of elections

Despite section 412 but without limiting the operation of that section, the Industrial Registrar may, on application by a State organisation, defer an election for an office of the organisation for a period of up to 12 months if the Electoral Commission is unable to conduct the election because of the COVID-19 pandemic.

No. 8 **SFF No. 1 [c2020-054]**

Page 21, line 16, “election.”. Omit those words. Insert instead—

election, or

- (c) a period under the *Biodiversity Conservation Act 2016*.

- No. 9 **GRNS No. 1 [c2020-049A]**
Page 24, Schedule 1.19[1], lines 13 and 14. Omit all words on those lines.
- No. 10 **GRNS No. 2 [c2020-049A]**
Page 24, Schedule 1.19[4], lines 28 and 29. Omit all words on those lines.
- No. 11 **GRNS No. 3 [c2020-049A]**
Page 25, Schedule 1.19[8], proposed section 747AC, lines 17–26. Omit all words on those lines.
- No. 12 **GRNS No. 4 [c2020-049A]**
Page 25, Schedule 1.19[8], proposed section 747AD, lines 27–33. Omit all words on those lines.
- No. 13 **OPP No. 1 [c2020-042C]**
Page 28, Schedule 1.24. Insert after line 43—
- [1] Section 232**
- Insert after section 231—
- 232 Use of Property Services Compensation Fund to assist residential landlords and tenants suffering hardship**
- (1) Parliament recommends that this Act be amended to allow the Secretary to establish a scheme to provide financial assistance from money held in the Property Services Compensation Fund to landlords who are suffering financial hardship caused directly or indirectly by the COVID-19 pandemic, being a scheme that provides for the following—
- (a) the landlord demonstrating that a tenant—
- (i) has suffered a loss of income of 25% or more, and
- (ii) has less than \$5,000 in savings, and
- (iii) is paying more than 30% of the tenant’s income in rent to the landlord,
- (b) a maximum payment of \$2,500 per landlord per tenancy is available to a landlord,
- (c) the landlord being required to reduce the tenant’s rent by the amount of any payment under the scheme.
- (2) Terms used in this section that are not defined in this Act have the same meanings as they have in the *Residential Tenancies Act 2010*.
- No. 14 **OPP No. 1 [c2020-055]**
Page 33, Schedule 1.28, lines 7–9. Omit all the words on those lines. Insert instead—

- (5) If the Tribunal makes the termination order, the Tribunal may also order the impacted tenant pay compensation to the landlord of an amount of not more than 2 weeks rent.

No. 15 **PHON No. 10 [sheet 23]**

Schedule 1.32, lines 35-43 on page 36 and lines 1-12 on page 37. Omit all words on those lines.

No. 16 **GRNS No. 1 [c2020-031B as amended]**

Page 38, Schedule 1. Insert after line 43—

1.35 Workers Compensation Act 1987 No 70

[1] Section 19B

Insert after section 19A—

19B Presumptions relating to certain employment in relation to COVID-19

- (1) If a worker, during a time when the worker is engaged in prescribed employment, contracts the disease COVID-19 (also known as Novel Coronavirus 2019), then for the purposes of this Act, it is presumed (unless the contrary is established)—
 - (a) that the disease was contracted by the worker in the course of the employment, and
 - (b) the employment—
 - (i) in the case of a person to whom clause 25 of Part 19H of Schedule 6 applies—was a substantial contributing factor to contracting the disease, or
 - (ii) in any other case—was the main contributing factor to contracting the disease.
- (2) A worker is taken to have contracted COVID-19 for the purposes of this Act if the result of a medical test—
 - (a) that complies with requirements prescribed by the regulations in relation to the disease, and
 - (b) that was carried out for the purpose of determining if the worker has contracted the disease, is a result prescribed by the regulations in respect of the disease.
- (3) A worker is taken to have contracted COVID-19 for the purposes of this Act if the worker is classified by a medical practitioner as having COVID-19, having satisfied the epidemiological or clinical criteria (or both) prescribed by the regulations for the purpose of making that classification.
- (4) For the purposes of this Act, the date of the injury in relation to COVID-19 is the date of whichever of the following occurs first—
 - (a) the worker is diagnosed by a medical practitioner as having COVID-19 following a prescribed test result, as referred to in subsection (2),

- (b) the worker is classified by a medical practitioner as having COVID-19, as referred to in subsection (3),
 - (c) the worker dies as a result of COVID-19.
- (5) For the purposes of this Act, it is presumed (unless the contrary is established) that a worker the subject of a presumption under subsection (1) is incapable of work as a result of COVID-19 for the period starting on the date of the injury and ending (unless sooner ended by the death of the worker)—
- (a) on a date established in accordance with the regulations, or
 - (b) if no regulations are made under paragraph (a)—on a date that is 7 days after the date on which a medical practitioner certifies that the worker no longer has the disease.
- (6) This section applies to a casual worker in prescribed employment only if the worker has performed casual work in the employment on 1 or more of the 21 days preceding the date of the injury.
- (7) The regulations may make provision for or with respect to any matter relating to the application of this Act to or in respect of workers who have or are suspected of having COVID-19.
- (8) In particular, the regulations may make provision for or with respect to the following matters—
- (a) the modification of the provisions of this Act in their application to or in respect of workers who have COVID-19,
 - (b) (without limitation) the application of the Act to workers who suffer permanent impairment as a result of COVID-19,
 - (c) the use of employers' claims histories relating to COVID-19-related claims in calculating premiums payable under the Act,
 - (d) the sharing of the financial risk arising out of COVID-19 between all insurers under the Act, including through the imposition and enforcement of risk equalisation arrangements for that purpose,
 - (e) (without limiting clause 1 of Part 20 of Schedule 6) transitional provisions for or with respect to claims relating to confirmed or cases of COVID-19 arising before the commencement of this section.
- (9) In this section—

prescribed employment means employment in any of the following—

- (a) the retail industry (other than businesses providing only on-line retail),
- (b) the health care sector, including ambulance officers and public health employees,
- (c) disability and aged care facilities,

- (d) educational institutions, including pre-schools, schools and tertiary institutions (other than establishments providing only on-line teaching services),
- (e) police and emergency services (including fire brigades and rural fire services),
- (f) refuges, halfway houses and homeless shelters,
- (g) passenger transport services,
- (h) libraries,
- (i) courts and tribunals,
- (j) correctional centres and detention centres,
- (k) restaurants, clubs and hotels,
- (l) the construction industry,
- (m) places of public entertainment or instruction (including cinemas, museums, galleries, cultural institutions and casinos),
- (n) the cleaning industry,
- (o) any other type of employment prescribed by the regulations for the purposes of this definition.

[2] Schedule 6 Savings, transitional and other provisions

Insert before Part 20, with appropriate Part numbering—

Part Provisions consequent on enactment of COVID-19 Legislation Amendment (Emergency Measures—Miscellaneous) Act 2020

1 Definition

In this Part—

amending Act means the *COVID-19 Legislation Amendment (Emergency Measures—Miscellaneous) Act 2020*.

2 Application of amendments

- (1) The amendments made to this Act by the amending Act extend to a worker who has confirmed COVID-19 before the commencement of the amending Act and, in that case, subclause (3) applies in substitution for section 19B(2) and (3) (as inserted by the amending Act) and references to those subsections in section 19B are taken to be modified accordingly.
- (2) Subclause (3) also applies in substitution for section 19B(2) and (3) (with necessary modifications to section 19B) until such time as regulations are made under those subsections.
- (3) For the purposes of this Act, a worker is taken to have contracted COVID-19 if the worker is determined to have the disease on the basis of medical opinion.

Explanatory note

Item [1] of the proposed amendments establishes presumptive rights to compensation under the *Workers Compensation Act 1987* in respect of the disease COVID-19 for workers in certain prescribed employment that involves an elevated risk of exposure to COVID-19.

Item [2] of the proposed amendments inserts consequential provisions of a savings or transitional nature.