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COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020

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**COVID-19 Disease Emergency (Miscellaneous Provisions)
Act 2020**

An Act to make provision to deal with certain risks, arising from the disease, known as coronavirus disease 2019 (COVID-19), to the effective performance and exercise of judicial, administrative or legislative functions and powers in relation to the State, to mitigate in certain circumstances the financial and social effects related to those risks, to amend the Emergency Management Act 2006 and the Residential Tenancy Act 1997 and for related purposes

[Royal Assent 27 March 2020]

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 - Preliminary

1. Short title

This Act may be cited as the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 .

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Objectives of Act

The objectives of this Act are to reduce the risks to the State, and the risk to, or hardship suffered by, members of the public, arising from, or related to, the presence of the disease in persons in the State or the risk of the spread of the disease between persons in the State.

4. Interpretation

In this Act, unless the contrary intention appears –

body of persons means –

- (a) a body of persons, whether incorporated or not; and
- (b) a corporation sole;

Committee has the same meaning as in the Subordinate Legislation Committee Act 1969 ;

Director of Public Health means the person appointed as the Director of Public Health under section 6 of the Public Health Act 1997 ;

disease means the disease, known as coronavirus disease 2019 (COVID-19), declared under section 40 of the Public Health Act 1997 to be a notifiable disease;

emergency cessation day means the day declared under section 27(2) ;

emergency manager means –

- (a) if there is a state of emergency, within the meaning of the Emergency Management Act 2006 , in relation to the disease – the State Controller; or
- (b) in any other case – the Director of Public Health;

entity means –

- (a) the holder of a statutory office; and
- (b) a body of persons;

instrument of a legislative character means –

- (a) a regulation, rule, by-law, or other instrument of a legislative character, made under an Act; and
- (b) any letters patent;

notice under this Act does not include a notice under section 27(1) ;

permit means –

- (a) a permit issued in accordance with the Land Use Planning and Approvals Act 1993 ; and
- (b) a permit, licence, certification, or other authority, that is –
 - (i) issued under a prescribed Act; or
 - (ii) within a class of permit, licence, certification, or other authority, that is prescribed;

relevant legislative instrument means –

- (a) an Act; or
- (b) an instrument of a legislative character;

State Controller has the same meaning as in the Emergency Management Act 2006 .

PART 2 - General Provisions in Relation to Notices

5. Circumstances in which certain notices may be issued

(1) A notice under this Act, other than –

- (a) a notice under section 22 or section 23 ; or
- (b) a notice under section 27 ; or
- (c) a notice revoking another notice under this Act –

may only be issued by a Minister if he or she is of the opinion that the relevant emergency circumstances exist in relation to the notice.

(2) For the purposes of this section, the relevant emergency circumstances exist in relation to the notice if the Minister issuing the notice is satisfied that it is necessary or desirable to issue the notice because of –

- (a) the presence of the disease in persons in the State; or
- (b) the risk of the contraction of the disease by persons in the State; or
- (c) a restriction on the movement of persons that is imposed, by or under a relevant legislative instrument, because of the presence of the disease or the risk of the spread of the disease amongst persons in the State; or
- (d) a reduction, in the numbers of persons available to carry out particular activities, relating to a relevant legislative instrument to which the notice relates, because of –
 - (i) the presence of the disease in persons in the State; or
 - (ii) the risk of the spread of the disease amongst persons in the State; or
 - (iii) circumstances related to the matters referred to in subparagraph (i) or (ii) ; or
- (e) the desirability of ensuring the supply of goods or services, the supply of which may be hindered because of a circumstance referred to in another paragraph of this subsection.

(3) A notice under section 22 or section 23 , other than a notice revoking another notice under either section, may only be issued by the Treasurer or the Minister, respectively, if he or she is of the opinion that the economic effects of the relevant emergency circumstances are such that it is necessary or desirable to issue the notice.

6. Emergency manager to approve making of notices

A notice under this Act, other than –

- (a) a notice under section 20 that relates to a court other than a court of petty sessions or the Magistrates Court; or
- (b) a notice under section 22 or section 23 ; or
- (c) a notice under section 27 –

may only be issued with the approval of the emergency manager.

7. Scrutiny of notices

(1) If a Minister issues a notice under this Act, he or she is to ensure that a copy of the notice is laid before each House of Parliament within 3 sitting-days after the notice is issued.

(2) The Minister is to ensure that a copy of a notice given to the Minister under section 27(1) is laid before each House of Parliament within 3 sitting-days after the notice is given to the Minister under that section.

(3) If a Minister issues a notice under this Act, other than a notice under section 27 , he or she, within 14 days, is to send to the Committee a copy of the notice.

(4) Sections 7(4) , 8 and 9 of the Subordinate Legislation Committee Act 1969 apply to a copy of a notice sent to the Committee under subsection (3) as if the notice were regulations.

(5) Section 47(3), (3A), (4), (5), (6) and (7) of the Acts Interpretation Act 1931 applies to a notice (other than a notice under section 27(1)) as if the notice were regulations within the meaning of that Act.

8. When notice takes effect and duration of notice

(1) A notice under this Act only takes effect from the day on which notice of the making of the notice is published in the *Gazette* or, if a later day is specified in the notice, from that later day.

(2) A notice under this Act, other than a notice revoking or amending another notice under this Act, only remains in effect, unless it is sooner revoked or subsection (3) applies, for –

(a) 12 months from the day on which the notice takes effect; or

(b) if a shorter period is specified in the notice, that shorter period from the day on which the notice takes effect.

(3) A notice under this Act is taken to be revoked 60 days after the emergency cessation day.

9. Notices may be re-issued

Nothing in this Act is to be taken to prevent more than one notice under this Act, that is in the same or substantially similar terms as another such notice, from being issued under this Act.

10. Effect of notices

A notice under this Act has effect in accordance with its terms.

11. Amendment and revocation of notices

(1) A Minister, by notice, may amend or revoke a notice (other than a notice revoking another notice) that the Minister may issue under this Act.

(2) The amendment or revocation of a notice under this Act is not to be taken to –

(a) render invalid any action taken under a provision of an Act while the notice was in force; or

(b) render invalid or unlawful any subsequent action that is taken, under that Act or another Act, in reliance on the first-mentioned action not being, because of the operation of this Act, invalid; or

(c) have the effect of rendering a person liable to any requirement, under a relevant legislative instrument, to which he or she was not subject when the notice was in force.

(3) Nothing in subsection (2)(c) is to be taken to prevent a provision of a relevant legislative instrument applying in relation to a requirement, under an Act, that only arises in relation to a person, prospectively, under that provision, after the revocation of a notice under this Act.

12. No notices may be issued after emergency cessation day

A notice under this Act, other than a notice amending or revoking another notice under this Act, may not be issued after the emergency cessation day.

PART 3 - Continuance of Public Administration

13. Extension of statutory timelines

(1) The Minister may, by notice, declare that a period by which –

- (a) an action specified in the notice; or
- (b) an action that is within a class of actions specified in the notice –

must be taken by a person, or a body of persons, under a provision, of a relevant legislative instrument, that is specified in the notice, is reduced or extended by the period specified in the notice.

(2) For the avoidance of doubt, a notice under subsection (1) may relate to a provision, of a relevant legislative instrument, that specifies a period after which proceedings for prosecution of an offence may not occur, but may not extend the period for more than 6 months.

(3) A reference in this section to an extension of a period or a reduction of a period is to be taken to include a reference to altering a date to a later date, or an earlier date, respectively.

14. Amendment of planning and other permits

Despite any other relevant legislative instrument, the Minister may, by notice, amend or revoke, for the period specified in the notice, a provision, specified in the notice, of –

- (a) a permit that is specified in the notice; or
- (b) any permit that is within a class of permits specified in the notice.

15. Protection from offence against planning law

(1) The Minister may, by notice, declare that a person does not commit an offence against the Land Use Planning and Approvals Act 1993 in relation to an area of land specified in the notice, if –

- (a) there is, or was, a state of emergency in effect, in relation to the disease, under the Emergency Management Act 2006 ; and
- (b) in order for a requirement, direction or authorisation under the Emergency Management Act 2006 or the Public Health Act 1997 to be effectively implemented, or complied with, it is necessary for a development, or use, of the land, that, but for this section, would ordinarily require a permit or would not be authorised under the Land Use Planning and Approvals Act 1993 , to be authorised to be carried out.

(2) If a notice under subsection (1) applies in relation to an area of land, the Land Use Planning and Approvals Act 1993 does not apply in relation to –

- (a) the development, or use, of the land, that is specified in the notice; or
- (b) the subsequent demolition of a structure to which the development or use applies.

(3) If a notice under subsection (1) that applied in relation to an area of land is revoked, a development referred to in the notice is to be taken to have been, and to be, authorised under the Land Use Planning and Approvals Act 1993 and a planning scheme within the meaning of that Act, unless the Minister determines otherwise.

16. Extension of period of appointment, employment and certain authorities for benefit of Crown

(1) Despite the provisions of any relevant legislative instrument, including the State Service Act 2000 , the Minister may, by notice, extend, for the period specified in the notice –

- (a) the period of appointment, including appointment to a statutory office, or of employment of a person, under a provision, of a relevant legislative instrument, specified in the notice; or
- (b) the period during which an authority, under a relevant legislative instrument, to carry out an activity –
 - (i) on behalf of the Crown; or
 - (ii) under a provision, of a relevant statutory instrument, specified in the notice; or

(iii) under a document issued under a provision, of a relevant legislative instrument, specified in the notice –

is to remain in force.

(2) A notice under subsection (1) may apply to –

(a) a particular person, a particular office, or a class of persons or holders of offices, specified in the notice; or

(b) a particular authority, or a class of authorities, specified in the notice.

17. Authorisation to take actions electronically

(1) The Minister may, by notice, declare that, despite the provision of any relevant legislative instrument, any action that is required, by virtue of a provision, of a relevant legislative instrument, that is specified in the notice, to be –

(a) taken by means of a physical action such as signature or personal service; or

(b) evidenced in a document that is not an electronic document –

may be taken or evidenced, respectively, by the electronic means specified, in the notice, in relation to that provision, if the conditions, if any, specified in the notice are complied with.

(2) Without limiting the generality of subsection (1), the conditions that may be imposed in a notice under that subsection may include a condition that the electronic means referred to in the notice is only authorised by the notice to occur if a person who may receive the relevant electronic communication by the electronic means agrees to receive the communication by that means.

(3) Despite the provision of any relevant legislative instrument or law, including but not limited to the Acts Interpretation Act 1931, a notice under subsection (1) may relate to a requirement for a notice to be published in the *Gazette*, but only if the electronic means, specified in the notice, by which the *Gazette* is to be published consists of the publication of the *Gazette* at a website specified, or referred to, in the notice.

PART 4 - Reduction of Public Physical Contact

18. Authorisation for meetings not to be held in person

(1) A reference in this section to meetings does not include a reference to meetings of a court or Tribunal for the purposes of proceedings before a court or Tribunal.

(2) The Minister may, by notice, declare that, despite any provision of a relevant legislative instrument, meetings, of a body of persons, specified in the notice, that are held for the purposes of a relevant legislative instrument that is specified in the notice, may be held in the approved manner, specified in the notice, in relation to such meetings.

(3) For the purposes of subsection (2), the approved manner, specified in a notice, in relation to meetings means –

(a) the conduct of such meetings –

(i) by telephone; or

(ii) by electronic communication (including but not limited to by the transmission of electronic mail); or

(iii) by another method –

as determined by a notice in writing, that is, by a means specified in one of the above paragraphs, delivered, by the person who ordinarily presides over such meetings of the body of persons, to each other member of the body of persons, unless it is not reasonably practicable to do so; and

(b) the conduct of such meetings in accordance with the other conditions that are specified in the notice under subsection (2) in relation to such meetings.

(4) Without limiting the generality of subsection (3)(b), a reference in subsection (3)(b) to conditions includes a reference to any of the following conditions:

(a) a condition as to what number, of members of the body of persons, specified in the notice, will constitute a quorum in relation to such meetings;

(b) a condition as to whether a person is able to nominate another person to act in the place of the person at such meetings.

(5) The Minister may only issue a notice under subsection (2) in relation to a body of persons if one or more members of the body of persons, or a person who is nominated by the body of persons or is approved by the Minister to give the request on behalf of the body of persons, have requested that the notice be given in relation to the body of persons and the Minister is of the opinion that –

(a) members of the body of persons will be unwilling or unable to attend meetings of the body because of the disease or the risk of transmission of the disease; and

(b) it is necessary or desirable for the safe and effective functioning of the body of persons that the body of persons be able to meet otherwise than in person.

(6) The Minister may, by notice, declare that, despite a provision, of a relevant legislative instrument, meetings required to be held by or under a provision, of a relevant legislative instrument, that is specified in the notice –

(a) if the meetings are to be held in public – may only be held in accordance with the conditions, specified in the notice, that are reasonably required to protect public health and reduce or mitigate the risk of transmission of the disease; or

(b) are not required to be held in public if the conditions specified in the notice are complied with.

(7) A notice under subsection (6)(b) in relation to meetings –

(a) must, if reasonably practicable, include a condition that will allow persons to view the meeting by electronic means; and

(b) may include other conditions that the Minister thinks sufficient to allow the public an appropriate means of contributing to, or observing, such meetings.

19. Public exhibition of certain documents

(1) The Minister may, by notice, declare that the requirements, specified in a provision, of a relevant legislative instrument, that is specified in the notice, for public exhibition of documents or information at a place or in a manner specified in the provision, are taken to be satisfied if the public exhibition of the documents or information occurs in the approved manner in relation to the requirements of the provision.

(2) For the purposes of subsection (1), the approved manner in relation to the requirements of the provision –

- (a) is the place and manner, specified in the notice; and
- (b) must allow persons to view, at an electronic address, of a website, that is specified in the notice, the documents or information to which the requirements relate; and
- (c) must, where the relevant legislative instrument allows persons to make submissions in relation to the documents or information, allow persons to make such submissions by electronic means or by document delivered to a place specified in the notice.

20. Proceedings of courts, Tribunals, &c., may be authorised to not be required to be held in public

(1) The Attorney-General may, by notice, declare that, despite any provision of a relevant legislative instrument, any proceedings conducted, by a court, a Tribunal, or another entity, that is specified in the notice, may be held in the approved manner in relation to such proceedings.

(2) For the purposes of subsection (1), the approved manner specified in a notice in relation to proceedings by a court, Tribunal or entity means the manner determined from time to time by –

- (a) if the court is a court of petty sessions or the Magistrates Court – the Chief Magistrate; or
- (b) if the court is a court other than a court of petty sessions or the Magistrates Court – the Chief Justice of the Supreme Court; or
- (c) in the case of a Tribunal – the President, Chair, or other head, of the Tribunal; or
- (d) in the case of an entity – the entity or a person nominated by the entity.

(3) The Attorney-General may only issue a notice under subsection (1) in relation to a court, Tribunal or entity if –

- (a) where the notice relates to a court of petty sessions or the Magistrates Court – the Chief Magistrate has requested the Attorney-General to issue under subsection (1) a notice in relation to the court, or the Magistrates Court, respectively; or
- (b) where the notice relates to a court other than a court of petty sessions or the Magistrates Court – the Chief Justice of the Supreme Court has requested the Attorney-General to issue under subsection (1) a notice in relation to the court; or
- (c) in the case of a Tribunal – the President, Chair, or other head, of the Tribunal has requested the Attorney-General to issue under subsection (1) a notice in relation to the Tribunal; or
- (d) in the case of an entity – the entity, or a person nominated by the entity, has requested the Attorney-General to issue under subsection (1) a notice in relation to the entity.

21. Alteration of certain restrictions to shop trading hours

(1) The Minister may, by notice, declare that, despite section 5 of the Shop Trading Hours Act 1984, that section does not apply, in relation to a day specified in the notice, to any shop, to any shop specified in the notice, or to a class of shops specified in the notice.

(2) If there is any inconsistency between the effect of a notice issued under subsection (1) and a provision, or condition or restriction, of any permit issued in accordance with the Land Use Planning and Approvals Act 1993, the provision, or condition or restriction, of the permit does not have effect to the extent of the inconsistency.

PART 5 - Financial Hardship Provisions

22. Provisions restricting rent increases or termination of commercial tenancies

(1) In this section –

emergency period has the same meaning as in the Residential Tenancy Act 1997 as amended by this Act.

(2) The Minister may, by notice, declare that, despite any provision of a lease, a lease that is within a class of leases specified in the notice must not, within the emergency period, be terminated, and the rent payable under the lease may not be increased, in the circumstances set out in the notice.

(3) A termination of a lease, or an increase in rent in relation to a lease, to which a notice under subsection (2) applies is void and of no effect if it is in contravention of the notice.

23. Waiver or refund of certain fees, &c.

(1) The Treasurer may, by notice, declare that, despite a provision of a relevant legislative instrument, a rate, fee, tax, impost, charge or other amount payable under the provision –

(a) is not payable by each member of a class specified in the notice; or

(b) is not payable, by each member of a class specified in the notice, in the circumstances specified in the notice; or

(c) is not payable, by each member of a class specified in the notice, until a date specified in the notice; or

(d) may, at the discretion of the Secretary of the Department that is responsible for the relevant legislative instrument, be waived, in relation to each member of a class specified in the notice, by the Secretary of that Department.

(2) The Treasurer may, by notice, direct that –

(a) the method, or a component of a calculation, that is used to calculate the amount of a rate, fee, tax, impost, charge, or other amount, payable under a provision of a relevant legislative instrument; or

(b) the rate, or a component of a rate, used to determine the amount of a fee, tax, impost, charge, or other amount, payable under a relevant legislative instrument; or

(c) the amount of a fixed fee, or of a fixed charge, payable under a provision of a relevant legislative instrument or of a contract entered into under such a provision –

may not be altered otherwise than with the approval of the Treasurer.

24. Alteration of decision in relation to when fees payable in relation to taxis, &c.

(1) The Commission, within the meaning of the Taxi and Hire Vehicle Industries Act 2008, may determine a later date, for the purposes of section 13, 29, 47 or 75 of that Act, than the date specified by the Commission that, but for this section, would apply in relation to that section for the year 2020.

(2) If the Commission determines a later date under subsection (1) in relation to a section of the Taxi and Hire Vehicle Industries Act 2008 –

(a) it may, in its discretion, refund to a person any amount paid under that section before the date determined under subsection (1); and

(b) the specification of the date under the provision of the Taxi and Hire Vehicle Industries Act 2008 before this section commenced is to be taken to never have occurred; and

(c) a person is not liable to any sanction under that Act by reason of having failed to pay the fee before the date by which, but for the determination, the amount would have been required to be paid.

PART 6 - Continuance of Certain Legislative Instruments

25. Postponement of repeal of certain regulations and rules

- (1) In this section, a reference to a relevant instrument is a reference to any of the regulations or rules that are specified in Schedule 1 .
- (2) The repeal of a relevant instrument that, but for this section, would have been effected under section 11 of the Subordinate Legislation Act 1992 is postponed until the first anniversary of the day on which, but for this section, the relevant instrument would have been repealed under section 11 of the Subordinate Legislation Act 1992 .
- (3) Subsection (2) does not prevent a relevant instrument being rescinded before the date on which, by virtue of that subsection, the relevant instrument is to be repealed.

PART 7 - Miscellaneous

26. Section 18 of *Public Health Act 1997* not to apply

Section 18 of the *Public Health Act 1997* does not apply in relation to any loss or damage suffered as a result of anything done under Division 2 of Part 2 of that Act in relation to the disease.

27. Emergency cessation day

(1) The Director of Public Health must notify the Minister as soon as reasonably practicable after he or she is of the opinion that the relevant emergency circumstances referred to in section 5(2) no longer exist to such an extent that a notice under Part 4 (other than a notice amending or revoking such a notice) may be required to be issued under this Act so as to assist in the reduction of the risk of infection by the disease.

(2) The Minister, by notice, within 90 days after a notice is issued to the Minister under subsection (1), must declare a day specified in the notice to be the emergency cessation day.

28. Delegation

The Minister, Attorney-General or Treasurer may delegate any of that Minister's powers under this Act to another Minister.

29. Regulations

The Governor may make regulations for the purposes of this Act.

30.

See Schedule 2.

31. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Premier; and
- (b) the department responsible to the Premier in relation to the administration of this Act is the Department of Premier and Cabinet.

SCHEDULE 1 - Relevant Instruments

Section 25

1. *The Dangerous Goods (Road and Rail Transport) Regulations 2010.*
2. *The Dog Control Regulations 2010.*
3. *The Economic Regulator Regulations 2010.*
4. *The Fair Trading (Code of Practice for Retail Tenancies) Regulations 2010.*
5. *The First Home Owner Grant Regulations 2010.*
6. *The Fisheries (Processing and Handling) Rules 2010.*
7. *The Forensic Procedures Regulations 2010.*
8. *The General Fire Regulations 2010.*
9. *The Health Practitioners Tribunal (Fees) Regulations 2010.*
10. *The Land Tax Regulations 2010.*
11. *The Legal Profession (Board of Legal Education) Rules 2010.*
12. *The Legal Profession (Disciplinary Tribunal) Rules 2010.*
13. *The Occupational Licensing (Gas-fitting Work) Regulations 2010.*
14. *The Occupational Licensing (Plumbing Work) Regulations 2010.*
15. *The Pharmacy Control (Fees) Regulations 2010.*
16. *The Police Powers (Assumed Identities) (Corresponding Laws) Regulations 2010.*
17. *The Police Powers (Controlled Operations) (Corresponding Laws) Regulations 2010.*
18. *The Police Powers (Surveillance Devices) (Corresponding Laws) Regulations 2010.*
19. *The Right to Information Regulations 2010.*
20. *The Seeds Regulations 2010.*
21. *The Taxation Administration Regulations 2010.*
22. *The Vehicle and Traffic (Driver Licensing and Vehicle Registration) Regulations 2010.*
23. *The Vehicle and Traffic (Review of Decisions) Regulations 2010.*
24. *The Victims of Crime Assistance Regulations 2010.*
25. *The Wildlife (Deer Farming) Regulations 2010.*
26. *The Wildlife (Exhibited Animals) Regulations 2010.*
27. *The Wildlife (General) Regulations 2010.*
28. *The Witness (Identity Protection) (Corresponding Laws) Regulations 2010.*

SCHEDULE 2 - Consequential Amendments

The amendments effected by Section 30 and this Schedule have been incorporated into authorised versions of the following Acts:

- (a) Emergency Management Act 2006 ;
- (b) Residential Tenancy Act 1997 .