COVID-19 Response (Urgent Management Measures) Legislation Act 2020

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Commencement	see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the COVID-19 Response (Urgent Management Measures) Legislation Act 2020.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Amendment to Education Act 1989

3 Amendment to Education Act 1989

This Part amends the Education Act 1989.

4 New Part 34 inserted

After Part 33, insert:

Part 34
Directions relating to COVID-19

477 Application and purpose of Part

(1) This Part applies while an epidemic notice is in force for COVID-19 under section 5 of the Epidemic Preparedness Act 2006.

(2) The purpose of this Part is to provide a response to the outbreak of COVID-19, and a recovery from it, that—

(a) avoids, remedies, or mitigates the actual or potential adverse effects of the outbreak; and

(b) facilitates co-ordinated processes and planning.

478 Interpretation

In this Part, unless the context otherwise requires,—

education entity means—

(a) a registered school (as defined in section 2(1)):

(b) a service provider (as defined in section 309):

(c) a hostel (as defined in section 2(1)):

(d) a private training establishment (as defined in section 159(1)):

(e) an institution (as defined in section 159(1)):

(f) an educational body (as defined in section 320)

governing authority, in relation to an education entity, means the body that is primarily responsible for the governance of the education entity.

479 Power for Secretary to direct institutions in relation to COVID-19 measures

The Secretary may, for the purpose of this Part, direct the governing authority of an education entity (or the governing authorities of a class of education entities) to comply with any specified requirements—

(a) to close or open the education entity or any part of it (including in relation to all, or any specified category, class, or year group, of students):

(b) for the operation, control, or management of the education entity:

(c) to provide education or instruction through the education entity in any specified ways (for example, through distance or online learning).

480 Effect of directions

(1) Every education entity to which a direction applies must give effect to the direction on the date on which the direction is given or on any later date that is specified in the direction.

(2) A direction overrides every other provision of this Act (apart from the provisions in this Part).

481 Publication and review of directions

(1) As soon as practicable after a direction is given, the Secretary must ensure that it is published in the *Gazette* and on an Internet site maintained by or on behalf of the Ministry.

(2) A direction expires on the earlier of—

(a) its expiry date:

(b) the end of the period for which the epidemic management notice for COVID-19 is in force.

482 Academic freedom unaffected

Nothing in this Part limits the academic freedom of institutions set out in section 161.

Part 2
Amendment to Epidemic Preparedness Act 2006

5 Amendment to Epidemic Preparedness Act 2006

This Part amends the Epidemic Preparedness Act 2006.

6 Section 24 amended (Judges may modify rules of court during epidemic)

After section 24(2)(b), insert:

(ba) a District Court Judge:

Part 3
Amendment to Local Government Act 2002

7 Amendment to Local Government Act 2002

This Part amends the Local Government Act 2002.

8 Schedule 7 amended

In Schedule 7, after clause 25A, insert:

25B Modifications to clause 25A while epidemic notice in force for COVID-19

(1) Subclauses (2) to (4) apply instead of clause 25A(1).

(2) A member of a local authority, or of a committee of a local authority, has, unless lawfully excluded, the right to attend any meeting of the local authority or committee by means of audio link or audiovisual link.

(3) To that end, a member may attend a meeting by means of audio link or audiovisual link despite—

(a) clause 27(5)(a); and

(b) any limitation or condition on the use of an audio link or audiovisual link that is contained in the local authority's standing orders; and

(c) anything else to the contrary in the local authority's standing orders.

(4) For a Civil Defence Emergency Management Group, the reference in subclause (3) to a local authority's standing orders includes any standing orders that apply to the Group under section 19 of the Civil Defence Emergency Management Act 2002.

(5) Subclause (6) applies instead of clause 25A(4).

(6) A member of the local authority or committee who attends a meeting by means of audio link or audiovisual link, in accordance with this clause, is to be counted as present for the purposes of clause 23.

(7) This clause is repealed when the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked.

Part 4
Amendments to Local Government Official Information and Meetings Act 1987

9 Local Government Official Information and Meetings Act 1987

This Part amends the Local Government Official Information and Meetings Act 1987.

10 New section 46B inserted (Modifications to section 46A while epidemic notice in force for COVID-19)

After section 46A, insert:

46B Modifications to section 46A while epidemic notice in force for COVID-19

(1) Despite section 46A(2), (3), and (10), an agenda and any associated report referred to in that section may be made available free of charge on the local authority's Internet site (instead of at the locations referred to in that section).

(2) A member of the public may still request a copy of the agenda or report in accordance with section 46A(5) (and that copy must be provided by post).

(3) This section is repealed when the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked.

11 New section 47A inserted (Modifications to section 47 while epidemic notice in force for COVID-19)

After section 47, insert:

47A Modifications to section 47 while epidemic notice in force for COVID-19

(1) For the purposes of section 47, **open to the public** means that the local authority,—

(a) if it is reasonably practicable, enables access to the meeting by broadcasting live the audio or video of the meeting (for example, by broadcasting it on an Internet site); and

(b) does 1 or both of the following as soon as practicable after the meeting ends:

(i) makes an audio or a video recording of the meeting available on its Internet site:

(ii) makes a written summary of the business of the meeting available on its Internet site.

(2) The local authority must provide the live broadcast, and make the recording or summary available, free of charge.

(3) This section is repealed when the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked.

12 New section 51AA inserted (Modifications to section 51 while epidemic notice in force for COVID-19)

After section 51, insert:

51AA Modifications to section 51 while epidemic notice in force for COVID-19

(1) Despite section 51(1), meeting minutes referred to in that section may be made available free of charge on the local authority's Internet site (instead of at the local authority's office).

(2) A member of the public may still request a copy of the minutes in accordance with section 51(2) (and, subject to section 51(3), that copy must be provided by post).

(3) This section is repealed when the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked.

Part 5
Amendments to Residential Tenancies Act 1986

13 Residential Tenancies Act 1986

This Part amends the Residential Tenancies Act 1986.

14 New section 145 inserted (Provisions relating to outbreak of COVID-19)

After section 144, insert:

145 Provisions relating to outbreak of COVID-19

The provisions of Schedule 5 have effect according to their terms.

15 New Schedule 5 inserted

After Schedule 4, insert the Schedule 5 set out in the Schedule of this Act.

Schedule
New Schedule 5 inserted into Residential Tenancies Act 1986

s 15

Schedule 5
Provisions relating to outbreak of COVID-19

s 145

1 Interpretation

In this schedule,—

commencement date means the date on which this schedule comes into force

initial period means the period described in clause 3(1)(a).

2 Schedule applies despite any other provision of Act, etc

This schedule applies—

(a) to a tenancy to which this Act applies; and

(b) despite any other provision in this Act or any other enactment, or any rule of law or agreement.

Termination of tenancies

3 Application of clauses 4 to 8

(1) Clauses 4 to 8 apply—

(a) for a period of 3 months starting on the commencement date:

(b) if extended by Order in Council under subclause (2), for a further period of up to 3 months starting immediately after the conclusion of the initial period.

(2) The Governor-General may, by Order in Council made on the recommendation of the Minister, extend the application of clauses 4 to 8 for a period of up to 3 months after the initial period.

(3) The period may be extended under this clause only once.

(4) The Minister must not recommend the making of an order under subclause (2) unless the Minister is satisfied that it is necessary or desirable to support measures taken to contain or mitigate the outbreak of COVID-19 or its effects.

(5) The Minister's reasons for making the recommendation (including why the order is necessary or desirable) must be published together with the order.

(6) An order made under this clause must be notified in the *Gazette* at least 7 days before the conclusion of the initial period.

(7) The order is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

4 Restrictions on termination of tenancy

(1) No tenancy terminates, and every fixed-term tenancy that expires continues under section 60A(1) as a periodic tenancy, unless—

(a) the tenancy is terminated, or the tenancy is not continued as a periodic tenancy, on the initiative of the tenant in accordance with a provision of this Act (including by a notice given, or an application made, before, on, or after the commencement date); or

(b) the tenancy is terminated with the written agreement of the landlord and the tenant or section 60A(2)(a) applies; or

(c) the termination is in accordance with section 50A, 55, 59A, 61, 66U(1)(a) or (b), or 66W (but *see* subclause (3)); or

(d) the termination is in accordance with clause 5 (anti-social behaviour).

(2) Subclause (1) applies to a fixed-term tenancy of 90 days or less as if it were a fixed-term tenancy of more than 90 days.

(3) For the purposes of subclause (1)(c),—

(a) section 55(1)(a) must be treated as if it referred to rent being at least 60 days in arrear (rather than at least 21 days in arrear):

(b) on an application referred to in section 55(1)(a), the Tribunal may refuse to make an order, if—

(i) satisfied that the tenant is making reasonable endeavours to pay rent; and

(ii) after balancing the interests of the tenant and landlord, the Tribunal considers that an order terminating the tenancy is not justified:

(c) a landlord seeking to terminate a boarding house tenancy under section 66U(1)(a) or (b)(ii) must give at least 28 days' notice:

(d) a landlord seeking to terminate a boarding house tenancy under section 66U(1)(b)(i) must apply to the Tribunal for an order terminating the tenancy and, for the purposes of the application, section 55 applies (as modified by paragraphs (a) and (b)) as if the boarding house tenancy were not a boarding house tenancy.

(4) Subclause (3) does not apply for the purposes of clause 9 or 10.

(5) A landlord must not give a notice or make an application for termination of a tenancy except in accordance with a provision specified in subclause (1)(c) or in accordance with clause 5.

5 Termination for anti-social behaviour

(1) A landlord may apply to the Tribunal for an order terminating a tenancy on the ground of anti-social behaviour.

(2) The Tribunal may make the order if satisfied that the tenant, or a person in the premises with the tenant's permission (other than the landlord or a person acting on the landlord's behalf or with the landlord's authority), has engaged in anti-social behaviour in connection with the tenancy.

(3) However, the Tribunal must not make the order if satisfied that—

(a) doing so would be unfair because of the circumstances in which the behaviour occurred or the impact that terminating the tenancy would have on the tenant; or

(b) in making the application, the landlord was motivated wholly or partly by the exercise or proposed exercise by the tenant of any right, power, authority, or remedy conferred on the tenant by the tenancy agreement or by this or any other Act or any complaint by the tenant against the landlord relating to the tenancy (unless the Tribunal is satisfied that the purported exercise or the complaint was or would be vexatious or frivolous to such an extent that the landlord was justified in making the application).

(4) In deciding whether to make an order under subclause (2), the Tribunal must take into account the impact that terminating the tenancy would have on the tenant.

(5) For the purposes of subclause (2), if a tenant is in the premises at the time that the other person engages in the anti-social behaviour, the tenant is presumed to have permitted the person to be in the premises unless the tenant proves that they took all reasonable steps to prevent the person from entering the premises or to eject the person from the premises.

(6) In this clause, **anti-social behaviour** means—

(a) harassment; or

(b) any intentional act that reasonably causes significant alarm, distress, or nuisance.

6 Taking steps to terminate tenancy without grounds an unlawful act

(1) A landlord commits an unlawful act if they give or purport to give a notice to terminate to the tenant or apply or purport to apply to the Tribunal for an order terminating the tenancy knowing that they are not entitled, under this Act,—

(a) to give the notice; or

(b) to make the application.

(2) The maximum amount that a person may be ordered to pay under section 109 for the unlawful act is $6,500.

7 Tenant may choose to remain in premises despite having given notice or obtained order for termination or agreed to termination

(1) Subclause (2) applies if,—

(a) before the commencement date, a tenant gave a notice to terminate a tenancy under a provision of this Act (a **termination notice**); and

(b) the tenancy has not yet terminated under the termination notice.

(2) The tenant may give the landlord written notice of their intention to remain in the premises, in which case the tenancy continues as if the termination notice had not been given.

(3) Subclause (4) applies if,—

(a) before the commencement date, a tenant made an application for and was granted an order providing for the termination of the tenancy; and

(b) the tenancy has not yet terminated under that order.

(4) The tenant may give the landlord written notice of their intention to remain in the premises, in which case the order is of no effect and the tenancy continues as if the order had not been made.

(5) Subclause (6) applies if,—

(a) before the commencement date, the tenant and the landlord agreed to terminate the tenancy with effect on or after the commencement date; and

(b) the tenancy has not yet terminated under that agreement.

(6) The tenant may give the landlord written notice of their intention to remain in the premises, in which case the agreement is of no effect and the tenancy continues as if the agreement had not been entered into.

8 Consequences of tenant remaining in premises

(1) If, as a consequence of a notice under clause 7(2), (4), or (6), vacant possession of a premises cannot be delivered up to an incoming or prospective tenant,—

(a) the incoming or prospective tenant has no right to occupy the premises; and

(b) the landlord and the incoming or prospective tenant are released from any obligations owed to each other in relation to the tenancy (except as provided in subclause (2)).

(2) A landlord that receives a notice under clause 7(2), (4), or (6) must, as soon as practicable, advise any incoming or prospective tenant that the premises are no longer available.

9 Certain notices to terminate given before commencement date of no effect

(1) Subclause (2) applies if,—

(a) before the commencement date, a landlord gave notice to terminate a tenancy, or notice under section 60A(2)(b) of the landlord's intention not to continue with the tenancy; and

(b) the notice was given under a provision of the Act other than a provision specified in clause 4(1)(c); and

(c) on the commencement date, the tenant is still residing in the premises.

(2) The notice is of no effect.

10 Certain tribunal orders for termination made before commencement date suspended until clauses 4 to 8 no longer apply

(1) Subclause (2) applies if,—

(a) before the commencement date, the Tribunal made an order terminating a tenancy with effect on or after the commencement date (whether or not the order also covers any other matter); and

(b) the order was made other than under a provision specified in clause 4(1)(c); and

(c) on the commencement date, the tenant is still residing in the premises.

(2) The order is suspended until the 15th day after the end of the period in which clauses 4 to 8 apply.

(3) The order takes effect on that date—

(a) as if the order had provided for the termination to occur on that date; and

(b) with any other necessary modifications.

(4) This clause does not limit clause 4 (for example, the parties could agree to terminate the tenancy rather than wait for the order to take effect).

Rent increases

11 Application of clauses 12 and 13

Clauses 12 and 13 apply for a period of 6 months starting on the commencement date.

12 Rent increases

(1) The rent payable in respect of any tenancy may not be increased.

(2) If a notice to increase rent was given in accordance with this Act before the commencement date, and the rent increase has not taken effect before the commencement date, the notice is of no effect.

13 Increasing rent an unlawful act

(1) A landlord commits an unlawful act if they increase or purport to increase rent knowing they are not entitled under this Act to increase the rent.

(2) The maximum amount that a person may be ordered to pay under section 109 for the unlawful act is $6,500.

Tribunal proceedings

14 Application of clause 15

Clause 15 applies for a period of 6 months starting on the commencement date.

15 Tribunal proceedings

(1) The Tribunal may conduct its proceedings (whether they relate to this schedule or otherwise) as it sees fit, including on the papers.

(2) If the Tribunal decides to hold a hearing, it may hold the hearing in any manner that the Tribunal thinks fit (including by telephone or video conference).

Legislative history

25 March 2020	Introduction (Bill 239–1), first reading, second reading, third reading
25 March 2020	Royal assent

This Act is administered by the Department of the Prime Minister and Cabinet.

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