

# COVID-19 update

## COVID-19 Legislation Amendment (Emergency Measures) Bill 2020

The **COVID-19 Legislation Amendment (Emergency Measures) Bill 2020 (Bill)** was passed by both houses of the NSW State Parliament last night and received royal assent today. The Bill deals with a number of emergency measures, but in particular introduces a new Part 11 into the *Retail Leases Act 1994 (Act)*.

The amendment enables regulations to be enacted in response to the pandemic:

- a. prohibiting the recovery of possession of premises by a lessor in particular circumstances;
- b. prohibiting the termination of a lease by a lessor in particular circumstances;
- c. regulating or preventing the exercise or enforcement of another right of a lessor in particular circumstances;
- d. exempting a lessee, or a class of lessees, from the operation of a relevant Act or any agreement relating to the leasing of premises.

The regulations can only be made if Parliament is not sitting, and is unlikely to sit within 2 weeks after the regulation is made and, in the Minister's opinion, the regulation is reasonable to protect the health, safety and welfare of lessees under the Act.

Regulations made under the power expire 6 months after the regulation commences, unless Parliament resolves an earlier expiry.

So far, no regulations have been drafted or tabled. Watch this space.

Part 11 does not just apply to retail leases, but also to "*any other Act relating to the leasing of premises or land for commercial purposes*". The amendment may therefore facilitate regulation under, for example, the *Conveyancing Act 1919 (NSW)*, which deals with restrictions on, and relief against, forfeiture of both retail and commercial leases.

In addition, supermarkets are exempted from the requirement under the *Retail Trading Act 2008* to be closed on Good Friday, Easter Sunday, and before 1pm on Anzac Day, for 2020.

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