



Australian Capital Territory

COVID-19 Emergency Response (Check-in Information) Amendment Act 2021

A2021-20

An Act to amend the *COVID-19 Emergency Response Act 2020*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2021-948

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 Name of Act

This Act is the *COVID-19 Emergency Response (Check-in Information) Amendment Act 2021*.

2 Commencement

- (1) Section 5, so far as it inserts the following provisions, commences 30 days after this Act's notification day:
- section 2D
 - section 2E (1) to (3)
 - section 2G (1) and (2).

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) Section 5 remainder and the remaining provisions of this Act commence on the day after this Act's notification day.

3 Legislation amended

This Act amends the *COVID-19 Emergency Response Act 2020*.

4 New part 1 heading

before section 1, insert

Part 1 Preliminary

5 New section 2 etc

insert

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act.

Note 2 A definition in the dictionary applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

2A Notes

A note included in this Act is explanatory and is not part of this Act.

2B Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 *Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Part 2 Check-in information

2C Definitions—pt 2

In this part:

authorised collector means—

- (a) a person who may or must collect check-in information under a public health direction; or
- (b) a person who has registered with the Territory to use the Check In CBR app in relation to a place.

authorised person—see the [Public Health Act 1997](#), section 121 (4).

Check In CBR app means the mobile application, known as ‘Check In CBR’, developed and operated by the Territory to allow people to record their presence at a place using a mobile device.

check-in information—

- (a) means information about the presence of a person at a place in the ACT, collected for the purpose of contact tracing; but
- (b) does not include—
 - (i) information collected in the ordinary course of carrying on a business, activity or undertaking if the information would have been collected in any case for a purpose other than contact tracing; or
 - (ii) personal health information within the meaning of the [Health Records \(Privacy and Access\) Act 1997](#); or

Note Requirements for handling personal health information are set out in the [Health Records \(Privacy and Access\) Act 1997](#).

- (iii) information relating to the registration of a business, activity or undertaking to use the Check In CBR app; or

(iv) statistical or summary information.

contact tracing means the process of identifying, notifying, communicating with, managing or directing a person who—

- (a) may be or may have been a source of COVID-19 infection; or
- (b) may have been in contact, directly or indirectly, with a person who is or may have been a source of COVID-19 infection; or

Examples—direct contact

- living in the same house as a person with COVID-19
- having sat near a person who may have been a source of COVID-19 infection during the screening of a movie at a cinema

Examples—indirect contact

- having attended a takeaway coffee shop during a period of time that a person with COVID-19 also attended the shop
 - having attended the same screening of a movie at a cinema as, although not sitting near, a person with COVID-19
- (c) if a person mentioned in paragraph (a) or (b) is a child—is a parent or guardian of the child.

court includes a tribunal, authority or person having power to require the production of documents or the answering of questions.

permitted purpose means any of the following:

- (a) undertaking contact tracing;
- (b) assisting an entity administering a law of a State that provides for contact tracing to undertake contact tracing, including sharing information with the entity;
- (c) another purpose related to undertaking contact tracing;

Examples

- to assess the integrity or security of check-in information
 - to provide support services in relation to the Check In CBR app
- (d) a purpose mentioned in section 2F (2);

- (e) deriving statistical or summary information.

public health direction means a direction given by the chief health officer under the *Public Health Act 1997*, section 120 in relation to the COVID-19 declaration.

statistical or summary information means statistical or summary information that could not reasonably be expected to lead to the identification of an individual.

use, in relation to information includes—

- (a) communicate, publish or otherwise do something to disclose the information; and
- (b) make a record of the information.

2D Collection of check-in information

- (1) An authorised collector must not collect information at a place that, on collection, would be check-in information other than in 1 or both of the following ways:
 - (a) through the direct entry of the information into the Check In CBR app;
 - (b) in a way permitted under a public health direction, including any exemption given by the chief health officer under a direction.

Maximum penalty: 40 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.

2E Use of check-in information

- (1) A person must not use check-in information unless the person is an authorised person.

Maximum penalty: 40 penalty units.

- (2) Subsection (1) does not apply to a person who uses check-in information for any of the following purposes:
- (a) collecting information in accordance with section 2D;
 - (b) for a purpose mentioned in section 2F (2);
 - (c) making a record of, disclosing (including to an authorised person on request) or otherwise using the information in accordance with a public health direction.
- (3) An offence against subsection (1) is a strict liability offence.
- (4) An authorised person may use check-in information only for a permitted purpose.

2F Check-in information not admissible in court

- (1) Check-in information is not admissible in evidence in a court proceeding, other than in accordance with subsection (2).
- (2) Check-in information may be used for the purpose of investigating or prosecuting—
- (a) an offence against this part; or
 - (b) an offence for failing to comply with a public health direction in relation to contact tracing; or
 - (c) an offence for giving false or misleading information in compliance or purported compliance with a public health direction in relation to contact tracing.

2G Protecting and destroying check-in information

- (1) An authorised collector must take reasonable steps to protect check-in information held by the authorised collector—
- (a) from misuse, interference or loss; and
 - (b) from unauthorised access, modification or disclosure.

Maximum penalty: 5 penalty units.

- (2) An authorised collector must take reasonable steps to destroy check-in information held by the authorised collector—
- (a) if the information is used for a purpose mentioned in section 2F (2)—as soon as reasonably practicable after the authorised collector no longer needs the information for the purpose; or
 - (b) in any other case—at the end of the contact tracing period.

Maximum penalty: 5 penalty units.

- (3) The director-general responsible for administering the *Public Health Act 1997* must take reasonable steps to destroy check-in information held by the directorate—
- (a) if the information is used for a permitted purpose—as soon as reasonably practicable after the director-general no longer needs the information for the purpose; or
 - (b) in any other case—at the end of the contact tracing period.

(4) In this section:

contact tracing period means—

- (a) a period of 28 days beginning on the day the check-in information is collected; or
- (b) if another period is prescribed by regulation—the other period.

6 **Reports for Legislative Assembly**
Section 3 (4), definition of *COVID-19 declaration*

omit

7 **New part 3 heading etc**

before section 5, insert

Part 3 **Miscellaneous**

4A **Regulation-making power**

The Executive may make regulations for this Act.

8 **Expiry—Act**
Section 5 (2)

omit

9 New dictionary

insert

Dictionary

(see s 2)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACT
- child
- may (see s 146)
- must (see s 146)
- penalty unit (see s 133).

authorised collector, for part 2 (Check-in information)—see section 2C.

authorised person, for part 2 (Check-in information)—see the [Public Health Act 1997](#), section 121 (4).

Check In CBR app, for part 2 (Check-in information)—see section 2C.

check-in information, for part 2 (Check-in information)—see section 2C.

contact tracing, for part 2 (Check-in information)—see section 2C.

court, for part 2 (Check-in information)—see section 2C.

COVID-19 means the coronavirus disease 2019 (COVID-19) caused by the novel coronavirus SARS-CoV-2.

COVID-19 declaration means—

- (a) a declaration of a state of emergency under the *Emergencies Act 2004*, section 156 because of COVID-19; or
- (b) a declaration of an emergency under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of COVID-19.

permitted purpose, for part 2 (Check-in information)—see section 2C.

public health direction, for part 2 (Check-in information)—see section 2C.

statistical or summary information, for part 2 (Check-in information)—see section 2C.

use, for part 2 (Check-in information)—see section 2C.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 4 August 2021.

2 Notification

Notified under the [Legislation Act](#) on 21 September 2021.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the COVID-19 Emergency Response (Check-in Information) Amendment Bill 2021, which was passed by the Legislative Assembly on 16 September 2021.

Clerk of the Legislative Assembly

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