

2021

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

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

A Bill for

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 **1 Name of Act**

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

4 **2 Commencement**

5 (1) Section 5, so far as it inserts the following provisions, commences
6 30 days after this Act's notification day:

- 7 • section 2D
8 • section 2E (1) to (3)
9 • section 2G (1) and (2).

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

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

14 **3 Legislation amended**

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

16 **4 New part 1 heading**

17 *before section 1, insert*

18 **Part 1 Preliminary**

- 1 **5** **New section 2 etc**
- 2 *insert*
- 3 **2** **Dictionary**
- 4 The dictionary at the end of this Act is part of this Act.
- 5 *Note 1* The dictionary at the end of this Act defines certain terms used in this
6 Act.
- 7 *Note 2* A definition in the dictionary applies to the entire Act unless the
8 definition, or another provision of the Act, provides otherwise or the
9 contrary intention otherwise appears (see [Legislation Act](#), s 155 and
10 s 156 (1)).
- 11 **2A** **Notes**
- 12 A note included in this Act is explanatory and is not part of this Act.
- 13 **2B** **Offences against Act—application of Criminal Code etc**
- 14 Other legislation applies in relation to offences against this Act.
- 15 *Note 1* *Criminal Code*
- 16 The [Criminal Code](#), ch 2 applies to all offences against this Act (see
17 Code, pt 2.1).
- 18 The chapter sets out the general principles of criminal responsibility
19 (including burdens of proof and general defences), and defines terms used
20 for offences to which the Code applies (eg *conduct*, *intention*,
21 *recklessness* and *strict liability*).
- 22 *Note 2* *Penalty units*
- 23 The [Legislation Act](#), s 133 deals with the meaning of offence penalties
24 that are expressed in penalty units.

1 **Part 2** **Check-in information**

2 **2C** **Definitions—pt 2**

3 In this part:

4 *authorised collector* means—

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

9 *authorised person*—see the *Public Health Act 1997*, section 121 (4).

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

13 *check-in information*—

- 14 (a) means information about the presence of a person at a place in
15 the ACT, collected for the purpose of contact tracing; but
16 (b) does not include—
17 (i) information collected in the ordinary course of carrying on
18 a business, activity or undertaking if the information
19 would have been collected in any case for a purpose other
20 than contact tracing; or
21 (ii) personal health information within the meaning of the
22 *Health Records (Privacy and Access) Act 1997*; or
23 *Note* Requirements for handling personal health information are
24 set out in the *Health Records (Privacy and Access)*
25 *Act 1997*.
26 (iii) information relating to the registration of a business,
27 activity or undertaking to use the Check In CBR app; or

1 (iv) statistical or summary information.

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

4 (a) may be or may have been a source of COVID-19 infection; or

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

7 **Examples—direct contact**

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

11 **Examples—indirect contact**

- 12 • having attended a takeaway coffee shop during a period of time that a
13 person with COVID-19 also attended the shop
14 • having attended the same screening of a movie at a cinema as, although
15 not sitting near, a person with COVID-19

16 (c) if a person mentioned in paragraph (a) or (b) is a child—is a
17 parent or guardian of the child.

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

20 **permitted purpose** means any of the following:

21 (a) undertaking contact tracing;

22 (b) assisting an entity administering a law of a State that provides
23 for contact tracing to undertake contact tracing, including
24 sharing information with the entity;

25 (c) another purpose related to undertaking contact tracing;

26 **Examples**

- 27 • to assess the integrity or security of check-in information
28 • to provide support services in relation to the Check In CBR app

29 (d) a purpose mentioned in section 2F (2);

1 (e) deriving statistical or summary information.

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

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

8 ***use***, in relation to information includes—

9 (a) communicate, publish or otherwise do something to disclose the
10 information; and

11 (b) make a record of the information.

12 **2D Collection of check-in information**

13 (1) An authorised collector must not collect information at a place that,
14 on collection, would be check-in information other than in 1 or both
15 of the following ways:

16 (a) through the direct entry of the information into the Check In
17 CBR app;

18 (b) in a way permitted under a public health direction, including any
19 exemption given by the chief health officer under a direction.

20 Maximum penalty: 40 penalty units.

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

1 **2E Use of check-in information**

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

4 Maximum penalty: 40 penalty units.

5 (2) Subsection (1) does not apply to a person who uses check-in
6 information for any of the following purposes:

7 (a) collecting information in accordance with section 2D;

8 (b) for a purpose mentioned in section 2F (2);

9 (c) making a record of, disclosing (including to an authorised
10 person on request) or otherwise using the information in
11 accordance with a public health direction.

12 (3) An offence against subsection (1) is a strict liability offence.

13 (4) An authorised person may use check-in information only for a
14 permitted purpose.

15 **2F Check-in information not admissible in court**

16 (1) Check-in information is not admissible in evidence in a court
17 proceeding, other than in accordance with subsection (2).

18 (2) Check-in information may be used for the purpose of investigating or
19 prosecuting an offence for—

20 (a) failing to comply with a public health direction in relation to
21 contact tracing; or

22 (b) giving false or misleading information in compliance or
23 purported compliance with a public health direction in relation
24 to contact tracing.

- 1 **2G Protecting and destroying check-in information**
- 2 (1) An authorised collector must take reasonable steps to protect check-in
- 3 information held by the authorised collector—
- 4 (a) from misuse, interference or loss; and
- 5 (b) from unauthorised access, modification or disclosure.
- 6 Maximum penalty: 5 penalty units.
- 7 (2) An authorised collector must take reasonable steps to destroy
- 8 check-in information held by the authorised collector—
- 9 (a) if the information is used for a purpose mentioned in
- 10 section 2F (2)—as soon as reasonably practicable after the
- 11 authorised collector no longer needs the information for the
- 12 purpose; or
- 13 (b) in any other case—at the end of the contact tracing period.
- 14 Maximum penalty: 5 penalty units.
- 15 (3) The director-general responsible for administering the *Public Health*
- 16 *Act 1997* must take reasonable steps to destroy check-in information
- 17 held by the directorate—
- 18 (a) if the information is used for a permitted purpose—as soon as
- 19 reasonably practicable after the director-general no longer needs
- 20 the information for the purpose; or
- 21 (b) in any other case—at the end of the contact tracing period.

- 1 (4) In this section:
2 *contact tracing period* means—
3 (a) a period of 28 days beginning on the day the check-in
4 information is collected; or
5 (b) if another period is prescribed by regulation—the other period.

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

8 *omit*

9 **7 New part 3 heading etc**

10 *before section 5, insert*

11 **Part 3 Miscellaneous**

12 **4A Regulation-making power**

13 The Executive may make regulations for this Act.

14 **8 Expiry—Act**
15 **Section 5 (2)**

16 *omit*

1 **9 New dictionary**

2 *insert*

3 **Dictionary**

4 (see s 2)

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

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

- 8 • ACT
- 9 • child
- 10 • may (see s 146)
- 11 • must (see s 146)
- 12 • penalty unit (see s 133).

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

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

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

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

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

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

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

- 1 **COVID-19 declaration** means—
- 2 (a) a declaration of a state of emergency under the *Emergencies*
- 3 *Act 2004*, section 156 because of COVID-19; or
- 4 (b) a declaration of an emergency under the *Public Health Act 1997*,
- 5 section 119 (including any extension or further extension)
- 6 because of COVID-19.
- 7 **permitted purpose**, for part 2 (Check-in information)—see
- 8 section 2C.
- 9 **public health direction**, for part 2 (Check-in information)—see
- 10 section 2C.
- 11 **statistical or summary information**, for part 2 (Check-in
- 12 information)—see section 2C.
- 13 **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 2021.

3 Republications of amended laws

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

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