

Australian Capital Territory

# Supreme Court Regulation 2020

Subordinate law SL2020-46

made under the

Supreme Court Act 1933

## EXPLANATORY STATEMENT

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This explanatory statement relates to the *Supreme Court Regulation 2020* as made by the Executive. It has been prepared to assist the reader of the regulation. It does not form part of the regulation.

This explanatory statement must be read in conjunction with the regulation. It is not, and not intended to be, a comprehensive description of the regulation. What is written about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

## PURPOSE OF THE REGULATION

The purpose of the *Supreme Court Regulation 2020* is to prescribe the day on which the COVID-19 emergency period ends, for the purpose of section 68B (3A) of the *Supreme Court Act 1933* (the Supreme Court Act), as permitted by section 68B (4)(b) of that Act.

## OVERVIEW OF THE REGULATION

The regulation prescribes the 31 March 2021 as the day the COVID-19 emergency period ends for the purposes of the defined term '*COVID-19 emergency period*' used in section 68B(3A) of the Supreme Court Act. The effect is to extend the operation of section 68B (3A) which permits an accused person to elect trial by judge alone for offences that would otherwise be excluded.

The amendments in this regulation will commence on the day after its notification day.

## CONSISTENCY WITH HUMAN RIGHTS

Section 68B of the Supreme Court Act was amended by the *COVID-19 Emergency Response Act 2020* to introduce subsections 68B (3A), (4) and (5). A detailed human rights analysis of those amendments can be found in the explanatory statement to the COVID-19 Emergency Response Bill 2020.

A Bill to extend these provisions was introduced in the ACT Legislative Assembly on 2 December. If passed, the COVID-19 Emergency Response Legislation Amendment Bill 2020 (No 3) will extend the operation of section 68B (3A) of the Supreme Court Act to 30 June 2021. A human rights analysis relating to the extension of the measure can be found in the explanatory statement to this Bill.

The regulation is necessary to support the administration of justice in a COVID-safe manner, promoting the right to be tried without reasonable delay. To the extent the regulation may otherwise engage and limit the right to a fair trial and rights in criminal proceedings, it is justified for the reasons explained in the Explanatory Statements to the COVID-19 Emergency Response Legislation Amendment Bill 2020 (No 3) and COVID-19 Emergency Response Bill 2020.

### **Summary of clauses**

#### **Clause 1 Name of regulation**

This clause provides the name of the regulation as the *Supreme Court Regulation 2020*.

#### **Clause 2 Commencement**

This clause provides that the regulation commences on the day after its notification day.

#### **Clause 3 Prescribed day - Act, s 68B (4), def COVID-19 emergency period, par (b)**

This clause provides that the prescribed day is 31 March 2021.