

## **Local Government – Emergency Measures – COVID-19**

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The [Local Government \(Public Health Emergency\) Amendment Bill 2020](#) has passed both Houses of Parliament. Upon receiving assent, it will be recognised as an Act.

It is totally different in its approach to anything that has been circulating by way of proposed change to the *Local Government Act 1999* (LG Act). It is a simple piece of legislation which operates at a high and strategic level by leaving the detail to the Minister who, in turn, will be able to assist councils in these unique and challenging times, by way of notice in the Gazette. It is this notice that will contain details of the provisions of the LG Act that are to be modified as a result of any declared emergency situation. The legislation has a ‘sunset provision’ and will cease to operate from 31 December 2021. Let’s hope the emergency does not last that long!

The powers that the Parliament has given to the Minister are, where he is satisfied that it is necessary as a result of the emergency, to vary or suspend the operation of provisions of the LG Act, save for imposing any restrictions or limitations on the power to impose rates and charges (i.e. there is no ability to cap rates by default!). A variation or suspension may be subject to conditions and will operate for the period specified in the notice or, if no period is specified, and subject to any action by the Minister to revoke the specified period, from the date of Gazettal until 28 days after all relevant declarations relating to the emergency have ceased operation.

An ‘emergency’, as envisaged by the Bill for the purposes of invoking the Minister’s powers to vary or suspend provisions of the LG Act, is when either a declaration of a public health emergency is made under the *South Australian Public Health Act 2011* or under the *Emergency Management Act 2004* in respect of an emergency already declared as a public health emergency. We are pleased that in this regard, the Minister appears to have had regard to some of the suggestions that we provided in preparing draft Regulations for his consideration to achieve this same result.

As readers will appreciate, there is not much further we can explain or advise upon in these matters until the Minister’s notice is prepared and published in the Gazette. We are awaiting advance notification of the same. However, rest assured that the multitude of queries we are receiving from councils in relation to matters that, in our view, must fall to be addressed in the notice, are being and will be provided to the Minister, for the purposes of ensuring that the first notice is as comprehensive as possible.

For further information please contact:

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