

Disclaimer: This is guidance material only and does not replace reading the legislation.

COVID-19 Legislation Amendment (Emergency Measures—Treasurer) Act 2020

At a glance

- NSW legislation contains finite dates by when certain requirements are to be met, including tabling of the Budget (and appropriation bill) and other reporting activities that need to take place.
- The *COVID-19 Legislation Amendment (Emergency Measures – Treasurer) Act 2020* ('COVID-19 Measures Act') makes various amendments to the State's financial management and reporting legislation to:
 - allow for the deferral of the 2020-21 NSW Budget,
 - ensure agency funding is available until the NSW Budget (and appropriation bill) is passed and,
 - to extend various reporting deadlines in alignment with the deferred Budget.
- The amendments came into effect on 14 May 2020. The amendments (with the exception of the changes to s4.11 of the GSF Act) are temporary measures that are repealed on 1 November 2021.
- This factsheet does not cover the amendments to the *Payroll Tax Act 2007* included in the *COVID-19 Legislation Amendment (Emergency Measures—Treasurer) Act 2020*.

What legislation does the COVID-19 Measures Act amend?

The COVID-19 Measures Act amends the following legislation administered by the Treasurer:

- the *Government Sector Finance Act 2018* ("GSF Act") and the *Government Sector Finance Regulation 2018*, which governs budget and appropriation related matters.
- the *Public Finance & Audit Act 1983* ("PF&A Act") and the *Public Finance and Audit Regulation 2015*, which currently governs financial reporting related matters for the Treasurer and agencies.
- the *Annual Reports (Departments) Act 1985* and the *Annual Reports (Statutory Bodies) Act 1984*, which currently governs agency annual reporting related matters.

What are some of the key outcomes of the COVID-19 Measures Act?

The COVID-19 Measures Act delivers six key outcomes:

1. **Allows for the deferral of tabling the 2020-21 NSW Budget:**
 - the Act extends the time for the presentation of the 2020-21 NSW Budget to Parliament up to 31 December 2020 (instead of by 30 June 2020).
2. **Provides a contingency to ensure funding is available for agencies until the Budget is tabled, if a temporary supply bill is not tabled in Parliament by 30 June 2020:**
 - the Act extends the length of time the Treasurer can authorise payments out of the Consolidated Fund to agencies and increases the maximum amount payable, prior to an appropriation bill being tabled.

3. **Provides greater flexibility for the Treasurer to use funds received late in the financial year by the Commonwealth, in the next budget period:**
 - the Act clarifies the circumstances in which the Treasurer is authorised to issue certificates confirming variations in appropriations for Commonwealth specific purpose payments.
4. **Acknowledges the impact on the ability of the Treasurer, Ministers and agencies to comply with current reporting requirements given the nature of the COVID-19 pandemic:**
 - the Act defers the statutory deadlines of when reports are required to be provided to the Treasurer, the Auditor-General, tabled in Parliament or published in alignment with the deferral of the Budget.
5. **Provides some flexibility in statutory deadlines if needed:**
 - the Act allows for a different statutory deadline to be prescribed by the regulations in relation to delivery of the Budget, consolidated financial statements, general government sector financial statements, financial reports by statutory bodies and Departments, and annual reports.
6. **Provides the planned relief for certain agencies in having to prepare financial statements for 2019-20:**
 - agency exemptions were underway as part of the broader financial management framework transition to the *Government Sector Finance 2018 Act* - scheduled to be in place for 2019-20.
 - with the deferral of the scheduled commencement of financial reporting under the *Government Sector Finance 2018 Act* as a result of the COVID-19 pandemic, agencies will continue to prepare their 2019-20 financial reports under the *Public Finance and Audit Act 1983*.
 - the Act makes amendments that relieves certain departments and statutory bodies from having to prepare financial statements for 2019-20 including certain small agencies, crown land managers, special purpose staff agencies and retained state interests.

What are new statutory reporting deadlines as a result of the COVID-19 Measures Act?

The COVID-19 Measures Act extends the statutory deadlines of various reporting requirements for the Treasurer, Ministers and agencies, to align with the deferral of the 2020-21 NSW Budget.

The below table provides an overview of the amendments made to the statutory deadlines by the COVID-19 Measures Act. It is important to note that these dates remain as the statutory deadlines and should not be interpreted as a representation of anticipated timeframes.

Report	Who	Previous statutory deadline	Amended statutory deadline
Amendments to support extension in Treasurer reporting requirements			
Consolidated Government Reporting	Treasurer & Auditor-General	On or before 15 September 2020 (Treasurer to provide to Auditor-General)	On or before 15 March 2021 (Treasurer to provide to Auditor-General)
<i>Public Finance and Audit Act 1983</i>		On or before 22 October 2020 (Auditor-General to provide statements and opinion(s) to the Treasurer)	On or before 22 April 2021 (Auditor-General to provide statements and opinion(s) to the Treasurer)
		Not later than 31 October 2020	Not later than 30 April 2021

		(Treasurer table in Parliament statements and Auditor-General opinion(s))	(Treasurer table in Parliament statements and Auditor-General opinion(s))
Half-Year Review <i>Public Finance and Audit Act 1983</i>		by 31 December 2020 (publish)	by 28 February 2021 (publish)
Monthly Statements <i>Public Finance and Audit Act 1983</i>		End of the following month (publish)	End of the following month, unless not reasonably practicable (publish)
Amendments to support delay in Agency and Minister reporting requirements			
Agency Annual Financial Statements <i>Public Finance and Audit Act 1983</i>	Agency	Within the period of 6 weeks after the end of each financial year: currently by 11 August 2020 (Agency to provide to Auditor-General and Minister) <i>Note: Treasury requires agencies provide financial information by dates earlier than the statutory deadline, as set out in Treasurer Direction and other instructions.</i>	Within the period of 6 weeks after 31 December 2020: by 11 February 2021 (Agency to provide to Auditor-General and Minister) <i>Note: Treasury requires agencies provide financial information by dates earlier than the statutory deadline, as set out in Treasurer Direction and other instructions.</i>
Agency Annual Reports <i>Annual Reports (Statutory Bodies) Act 1984 and Annual Reports (Departments) Act 1985</i>	Agency & Minister	Not later than 4 months after the end of each financial year: currently by 31 October 2020 (Agency provide to Minister and Treasurer) <i>Note: Minister must table to Parliament within a period of 1 month after the receipt by that Minister: currently by 30 November 2020</i>	Not later than 4 months after 31 December 2020: proposed by 30 April 2021 (Agency provide to Minister and Treasurer) <i>Note: Minister must table to Parliament within a period of 1 month after the receipt by that Minister: will now occur by 31 May 2021</i>

How does the COVID-19 Measures Act amend the legislation (i.e. how are the amendments made)?

The COVID-19 Measures Act makes the amendments to various legislation by:

1. Inserting a new Schedule to the *Government Sector Finance Act 2018* for the temporary amendments:
 - *Schedule 2 Provisions for COVID-19 pandemic* makes the amendments to the GSF Act, the PF&A Act and the two annual reporting Acts.

2. Changing section 4.11(3) of the *Government Sector Finance Act 2018* for the ongoing amendment:
 - New section 4.11(3) replaced the original 4.11(3) provision of the GSF Act to provide greater flexibility for Treasurer to use funds received late in financial year by the Commonwealth, in the next budget period.
3. Inserting a new clause in the *Government Sector Finance Regulation 2018*:
 - New clause 12A provides for consumer price adjustments for payments authorised on lapse of appropriation for the purposes of section 4.10 GSF Act.
4. Changing sections 39 and 45A of the *Public Finance and Audit Act 1983* (PF&A Act) for the temporary amendments:
 - New sections 39(3A-3D) and 45A(4A-4D) enables the creation of regulations under the PF&A Act to exempt kinds of Departments and statutory bodies from PF&A Act reporting requirements for 2019-20 financial reporting.
5. Inserting a new Schedule to the *Public Finance and Audit Regulation 2015* for the temporary amendments:
 - *Schedule 2 Special provisions for COVID-19 pandemic concerning financial reporting* inserts new clauses to the Regulation that provides relief for certain statutory bodies and Departments from financial reporting requirements for 2019-20.

Need more information?

Email the legislation team at Legislation@treasury.nsw.gov.au