

**EMERGENCY MANAGEMENT AMENDMENT (COVID-19 RESPONSE) BILL 2020**

*Committee*

Resumed from an earlier stage of the sitting. The Chair of Committees (Hon Simon O'Brien) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

**Clause 2: Commencement —**

Progress was reported after the clause had been partly considered.

**Hon AARON STONEHOUSE:** Just a moment ago, I was explaining that a clarification of provisions is fine—we do not need a sunset clause for those that are not extraordinary in any way. I think they are things that we can quickly glance at and approve. However, we have not had the time or the luxury to properly scrutinise the extraordinary measures in this legislation. Indeed, many of us received our briefings this afternoon or yesterday and saw the bill in its final state only yesterday. When the normal level of scrutiny cannot be afforded, we absolutely should insist on a sunset clause. We need to have an opportunity to come back to these provisions and look at them in finer detail when we have the luxury of time on our hands.

The minister has said that some provisions contain measures that may be used in other emergencies and that they therefore do not need a sunset clause because they are not necessarily specific to COVID-19. If that is the case, we could either forgo them for now—we could excise them from the bill—and leave them to be considered and scrutinised properly when we do have the luxury of time on our hands, or subject them to a sunset clause if they are necessary for the management of the COVID-19 emergency. We do not have an opportunity to scrutinise them now. We have 45 minutes remaining on the clock to go over a bill that could have some rather serious implications. We do not have an opportunity to properly scrutinise it. The inclusion of a sunset clause for the provisions on electronic monitoring would not interfere with emergency services and the emergency coordinator carrying out their duties in this emergency. It would merely mean that 12 months from now, the Parliament would consider the renewal of those provisions. If they are good provisions that prove to be worthy through this emergency and on the other side of it, I am sure the legislators at that time—I do not wish to pre-empt their vote or their wishes—would be more than happy for those provisions to continue if they are appropriate. I know that I did not really have a question in there; I merely wanted to make that point.

Members will see that I have a number of amendments on the supplementary notice paper. These are all a little hard for members to get their heads around, and that is because of the complicated way in which the commencement of the various clauses of this bill are arranged. Clause 2, which is the commencement clause, states —

...

- (a) sections 1 and 2 come into operation on the day on which this Act receives the Royal Assent (*assent day*);
- (b) sections 5, 7, 11 and 12(1) and (2) are deemed to have come into operation on 16 March 2020;

They are retrospective. It continues —

- (c) section 10 comes into operation on the day after the period of 12 months beginning on the day after assent day;
- (d) the rest of the Act comes into operation on the day after assent day.

It is a little confusing, but the staggered approach allows clause 10, which will delete proposed section 72A and make some subsequent changes, to come into effect 12 months after assent. My amendments seek to achieve the same outcome by inserting new clause 6A, which would delete proposed section 70A. In case members have forgotten, proposed section 70A deals with electronic monitoring. My amendment to clause 2 would allow the commencement of new clause 6A, which I am sure we will deal with very soon, to come into effect 12 months after royal assent, at the same time as clause 10. It would allow for a sunset clause to delete proposed section 70A after 12 months. I do not think it is controversial. We will be giving the government what it wants. All we will be doing is ensuring that in 12 months' time, electronic monitoring will cease unless the Parliament renews those provisions and amends the act again. If it is a good provision—if it has merit and is worthy—the new Parliament can renew that provision; it can amend the act and keep that provision. At that time, it will have an opportunity to properly scrutinise those provisions and ensure that they function as intended and have no unintended consequences. If it turns out that we have made a mistake and we do not need those provisions in the future for new emergencies, they will cease to exist—problem solved. It would achieve what a statutory review would not achieve. It would force Parliament's hand to properly scrutinise those provisions if the government wished to continue to use them, and it would ensure that Parliament carried out its proper function and duty in 12 months' time. I will move my amendment and then if members have questions or want to seek clarification of it and how it would function, I will be happy to answer those questions. I understand that it is a little confusing when we look at the different parts on their own. I move —

Page 2, line 10 — To delete “section” and substitute —  
sections 6A and

**The CHAIR:** I will give the call to the minister if he wishes to take it. He may even suggest that we defer consideration of this clause until we have considered new clause 6A. However, that is a matter for the chamber.

**Hon STEPHEN DAWSON:** Thank you, Mr Chair; I am happy to deal with the issue now. I indicate to Hon Aaron Stonehouse that the government does not support his amendment or the insertion of new clause 6A. As previously indicated, a plague or an epidemic is recognised as a hazard under the emergency management framework. Although COVID-19 is one of the most severe occurrences of this hazard that we have experienced and is unprecedented, there is always the possibility that there may be a similar occurrence in the future. As I have previously indicated, across the world in recent years we have seen the SARS, MERS, swine flu and H1N1 epidemics, which could well have needed an emergency response under this framework. The Emergency Management Act exists to provide the necessary tools for emergency management personnel to deal with hazards when there are escalated emergencies such as this current one, so we will not support the member's amendment.

**Hon TJORN SIBMA:** I have a great degree of sympathy for the underlying motivation and the precautionary principle that undergirds the honourable member's amendment, but my appreciation of this amendment bill is that, in effect, there is an inbuilt safety mechanism or restriction anyway, as it is contingent on the declaration of a state of emergency. I want to clarify that that is absolutely the case, because that would lead me to not support the amendment because there is an inbuilt safety mechanism. I seek clarity on that.

**Hon STEPHEN DAWSON:** The answer is yes, with the exception of the provision in proposed section 72A, which also applies to a declared emergency. The others apply only to a declared state of emergency.

**Progress reported and leave granted to sit again, pursuant to standing orders.**

[Continued on 1924.]