

CORONAVIRUS — G2G PASS

1847. Hon Ben Dawkins to the minister representing the Minister for Police:

I refer to a statement made by Hon Wilson Tucker, made during the debate on the motion by myself on the 15 November 2023, referring to police authority and power to implement COVID-19 measures, such as the G2G passes, and I ask:

- (a) how does police participation in measures such as the G2G pass directions correlate with their defined roles under both the *Police Act* in keeping Her Majesty's peace (section 10), and/or the *Emergency Management Act* ("EMA") and regulations regarding victim identity management for major emergencies, such as road crashes and terrorist acts (regulation 16);
- (b) what was the legal basis of police actions of arresting and prosecuting people for not wearing masks or being present in venues without proof of COVID-19 vaccination status;
- (c) were the police actions wholly legally founded and based on areas prescribed to the "Police Force of Western Australia" or "Police Service" by the EMA and regulations, especially regulations 16, 28 & 29, or the *Police Act 1892*; and
- (d) if no to (c), why not?

**Hon Stephen Dawson replied:**

The Western Australia Police Force advise:

- (a) In participating in enforcement of G2G pass directions, the WA Police Force was carrying out roles under the *Police Act 1892 (WA)* and *Emergency Management Act 2005 (WA)* and associated regulations.

Section 10 of the *Police Act 1892 (WA)* refers to a person appointed to the Police Force subscribing to an engagement to, inter alia:

Keep and preserve the peace;

Prevent offences; and

Faithfully discharge all duties according to law

Regulation 202 of the *Police Force Regulations 1979 (WA)* directs members of the Police Force to, inter alia, obey all lawful instructions, carry out all duties appertaining to their office; any duty they are lawfully directed to perform; and comply with all enactments and regulations.

Under section 10 of the *Emergency Management Act 2005 (WA)*, the Commissioner of Police holds the office of State Emergency Coordinator.

Under section 11 of the *Emergency Management Act 2005 (WA)*, the State Emergency Coordinator is responsible for coordinating the response to an emergency during a State of Emergency.

A State of Emergency was declared by the Minister for Emergency Services under section 58 of the *Emergency Management Act 2005 (WA)* on 15 March 2020 that applied to the entire State of Western Australia and was renewed periodically by the Minister or Acting Minister until it expired on 12am on 4 November 2022.

Part 6 of the *Emergency Management Act 2005 (WA)* outlines the powers available during a State of Emergency and how a direction may be given.

During the State of Emergency, the State Emergency Coordinator made directions pursuant to the *Emergency Management Act 2005 (WA)*, including directions that required persons seeking to enter Western Australia to use G2G Pass, and specified certain related functions of authorised officers as defined in the *Emergency Management Act 2005 (WA)*.

Section 86 creates an offence for failing to comply with a direction under the *Emergency Management Act 2005 (WA)* and indicates the penalty.

Further, on 17 March 2018, the State Emergency Coordinator had signed an *Authorisation of Persons to Act as Authorised Officers During a State of Emergency*, authorising any police officer carrying out emergency management duties in the area of, or who is otherwise involved in responding to, a state of emergency; and any employee of the Police Service tasked with an operational support role who is carrying out emergency management duties in response to the state of emergency, to act as authorised officers under section 61 of the *Emergency Management Act 2005 (WA)* in relation to any state of emergency made by the Minister for Emergency Services.

In participating in G2G pass enforcement, the WA Police Force was accordingly carrying out roles under the *Police Act 1892 (WA)* and *Emergency Management Act 2005 (WA)* and associated regulations.

The WA Police Force and Police Service would also have been combat agencies responsible for the emergency management activities of disaster victim identity management, pursuant to regulations 28 and 29 of the *Emergency Management Regulations 2006 (WA)*, to the extent those activities arose.

- (b) During the State of Emergency, the State Emergency Coordinator made directions pursuant to the *Emergency Management Act 2005 (WA)*, including directions in relation to the wearing of face masks and proof of vaccination, and specified certain related functions of authorised officers as defined in the *Emergency Management Act 2005 (WA)*.

The WA Police Force had roles in relation to those directions as explained in (a) above.

Further, as explained, s 86 of the *Emergency Management Act 2005 (WA)* creates an offence for failing to comply with a direction under the *Emergency Management Act 2005 (WA)* and indicates the penalty.

Section 128 of the *Criminal Investigation Act 2006* provides the arrest power for offences.

Part 3 Division 2 of the *Criminal Procedure Act 2004 (WA)* relevantly provides the basis for commencing a prosecution.

- (c) Yes, for the reasons given above.  
(d) Not applicable.