

PUBLIC HEALTH AMENDMENT (COVID-19 RESPONSE) BILL 2020

Time Limits — Statement by Leader of the House

HON SUE ELLERY (South Metropolitan — Leader of the House) [2.11 pm]: I advise the house in respect of the Public Health Amendment (COVID-19 Response) Bill 2020 that maximum time limits for each stage of the bill, pursuant to the temporary standing order made on 31 March 2020, are: second reading, 140 minutes; Committee of the Whole, 200 minutes; adoption of report, five minutes; and third reading, 15 minutes.

Second Reading

Resumed from 12 August.

HON NICK GOIRAN (South Metropolitan) [2.12 pm]: I rise as the leader speaker for the opposition on the Public Health Amendment (COVID-19 Response) Bill 2020. I note that the second reading speech—I think the Parliamentary Secretary to the Minister for Health may have read in the bill in this place—read in by the minister in the other place indicates that on 29 May this year, the national cabinet agreed that states and territories could begin charging for quarantine costs. It is my understanding that that decision on 29 May this year is the genesis of the 16-clause bill currently before the house for consideration.

In my view, there are a number of important principles for members to consider as they contemplate a bill dealing with quarantine and charging people for those quarantine costs. These four principles are worthy of consideration. Firstly, what circumstances justify a government restricting the movement of its residents? Secondly, what circumstances justify infringing a person's freedom of association? Thirdly, what circumstances justify a government detaining a person involuntarily for a period of 14 days? Lastly, is it appropriate to charge a person for the cost of that detention; and, if so, what exemptions should apply? They are the four principles that I think are particularly worthy of members consideration as we contemplate the policy underpinnings of the bill presently before the house.

These principles have a very material effect on residents in Western Australia. They are no mere trite matters of theory. In the limited time we have to consider this matter this afternoon, I would like to draw to the attention of members an email that I received from some Western Australians on 30 July this year—within the last three weeks. I understand that in this case there has been some discussion by at least one of the two individuals on talkback radio. It may well be that the individuals are known publicly, but I am not sure about that. Therefore, as an abundance of caution, as I read from the email, where they identify their name, I will simply refer to the wife as X and the husband as Y. This email of 30 July 2020, with those changes that I have made, reads as follows —

To whom it may concern

My name is —

X —

... and my husband is —

Y —

... we are both law abiding, tax paying permanent residents of Western Australia. We are currently in mandatory motel isolation in the city of Perth. We are desperately seeking approval to self-isolate in our own home because of Mental Health and Medical reasons.

Our reason for being in isolation are as follows:

- Sunday 12th July, we received a phone call from our older brother in Victoria, advising our Mum / Mother in law was gravely ill and only had a matter of days left with us and we should attend her bedside ASAP. A letter was also received from hospital doctor, stating that we needed to attend for compassionate reasons.
- Monday 13th July flew from Perth to Victoria and drove directly to Latrobe Valley regional Hospital where there were **no Covid 19 cases**. We arrived at 10.05pm and our dear mother passed away 40 minutes after our arrival (we have supporting documentation of mums passing if req).

I interrupt the quoting of this email of 30 July 2020 to summarise that on 12 July, these people were advised that the mother or mother-in-law was gravely ill and dying. They flew out the very next day and some 40 minutes after arriving, the mother or mother-in-law passed away. The email goes on to refer to a day five days later, which was Saturday, 18 July, and states —

... Funeral held to farewell our Mum.

- Tuesday 21st July G2G approval received for us to return to WA (after 2 unsuccessful applications). Only through support from Victorian/Federal minister Darren Chester.

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- Thursday 23rd July boarded plane from Victoria to return to WA and arrived at our quarantine motel—Perth. This day was not counted as our 1st day of isolation, the following day Friday 24th was our 1st day.

Again, I interrupt the quoting of this email of 30 July this year to make the observation that these two residents of Western Australia began their isolation on 23 July, sometime within the last month. The email goes on to say —

We were both swab tested on our 2nd day (Saturday) of isolation and got our results the following day which were both negative of the virus. I was tested again on Tuesday 28th because of my asthma symptom's being similar to COVID—it once again was negative.

The email then goes on to describe their accommodation. In dot point format it states —

- Our room is 4m x 5m with no opening windows.
- Cost is \$120 for room and \$60 each per day for food = \$240 per day min = \$3,360 min for 14 days.
- Standard room—coffee/tea making/very small fridge/king bed/small table with 2 chairs and chaise.
- Sink in bathroom was blocked on arrival which we had to fix/unblock ourselves.
- On 2nd day we had some gift's dropped at our door at 4.45pm (flowers, 2 lts of milk, cooked chook and coffee pods) which were not meant for us. Rang reception and were instructed to place items back outside of door and they would be collected and delivered to correct room. The items weren't collected until the next morning at 8am. We felt for the poor person who was meant to be the recipient of these gifts.
- I have special dietary requirements and most meals since our arrival have been in-correct.
- We asked motel if we could get family to drop off meals and not eat their meals, they said that would be ok, but we would still be charged for motel meals weather we ate it or not. Could have saved us \$1,680 of what is a hefty price to pay, especially after the costs of laying our mother to rest.
- The whole Covid thing is meant to be about hygiene—what a joke. Our home is clean, this motel is not. There is no fresh air to breath. I am more concerned of contracting Covid 19 through the air conditioning system. Imagine eating every meal in your bedroom and then washing your plates in your ensuite, the same basin you wash your hands, brush your teeth and wash your clothes in (because I can simply not afford an addition \$25 a day for the motel to wash 10 items for us) and this basin being less than 300mm from the toilet?!
- I am asthmatic and the carpet and curtains contain dust. I'm now constantly on my Ventolin and preventor which I very rarely have to take in my own home surroundings.

Under the heading, "Mental Health", the email goes on to make these observations —

- I have various health issues that cannot be managed in this accommodation environment. It is stressing me out which is getting worse by the day and will not improve until I can get in to a clean environment where I can breathe (our own home).
- We have just laid our dear mother to rest and are still mourning the loss. Being stuck in this motel with no room to exercise or other activities is no good for our mental health and as a result we have way too much time to reflect. In our own clean home we have jobs to be carried out on internal walls, that will help pass time in the grieving of our mother.
- We wake up during the night anxious, heart beating fast and are sleep deprived. The only thing that will rectify these health issues is to be isolated in our own home. On top of this my husband has the added worry of listening to me coughing and reaching for my Ventolin during the night. He was with his mum when she took her last breath, this is adding to his mental well being.

Under the heading, "Attempts in reaching out for help", it continues —

- Have spoken to help line, health & wellbeing, nurse and doctor and have only received lip service and no action in regards to state of our mental health.
- We have sent letters to wa-government@dpc.wa.gov.au Minister.Cook@dpc.wa.gov.au and socc.covid19@police.wa.gov.au and had not response.

Y —

... spoke with Gareth Parker on 6PR talk back who showed ...

Y —

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... compassion and empathy and received further calls in support. I only wish the Government making these rules would show the same amount of compassion and empathy.

We all talk about mental health and that's all it is "TALK"—Lip service. If they were serious about mental health they would not put people through what they are putting us through.

Under the heading, "Financial Strain/Burden", it continues —

- The unexpected cost of a funeral (\$12,000) along with the costs of flying to and from Victoria and hire cars etc.
- We have mortgages—The additional cost of isolating in a small room of \$240 per day min is not assisting with our mental health. We are going to be charged \$3,360 min for a room that is making us sick and there is nothing we can do about it.

The government has double standards when it comes to isolation. Why are government officials allowed to isolate in their own home? Why did they allow rallies to be carried out without arrest? Why were criminal thugs allowed to travel from state to state without their knowledge? Why have movie stars and famous people been allowed to fly back from the worse effected country in the world (USA) and isolate in their own home. Why was Kerry Stokes allowed to only self-isolate for 10 days and then go out to dinner with the Premier? AFL—don't even start me!

When we the tax payers were paying for isolation of the eastern stater's, ex-pat's and so on, they were staying in apartments such as BE apartments in Fremantle. Fully self-contained apartments with balconies, but we are forced to pay a min of \$3,360 for sub-standard accommodation and food.

We are both law abiding tax paying citizens of Western Australia. We are being treated like criminals, the difference being that criminals have more rights than we do in isolation. If we are to be treated this way we would be prepared to wear ankle bracelets and provide access to our security system to see we don't leave or others enter our premises, if it's means we were able to isolated in our own home.

Any help to get us home would be appreciated.

The email ends with this bolded statement —

The only reason we wanted to go to Victoria was to farewell our mother

I read out the entirety of that email from 30 July—sometime in the last three weeks—subject to those couple of redactions that I have made so that the persons are not named. The wife is X and the husband is Y. I have done that to underscore that these principles that I raised at the start of my contribution are not mere trite theoretical matters, but they have a significant impact on Western Australians. Those principles are: What are the circumstances that justify a government restricting the movement of its residents? What are the circumstances that justify infringing a person's freedom of association? What are the circumstances that justify a government detaining a person involuntarily for a period of 14 days? Is it appropriate to charge a person for the cost of that detention; and, if so, what exemptions should apply? These are all matters that the government should provide a response to when it concludes the second reading debate. The opposition's position on this matter is that we support quarantine on public health grounds, but such quarantine must do all these three things: firstly, it should only be when no other safe option exists; secondly, it should be time limited and reviewable; and thirdly, it should be reasonable and, above all, compassionate. It is not apparent that any of these principles were followed in the case of the constituents who I have mentioned earlier this afternoon.

I will move on to examine the bill. It appears to me that the bill attempts to do six things. Firstly, it deals with directions for classes of people. As I understand it, the government has indicated that it is not reasonable to provide individual pandemic directions to persons, so it would be more convenient, expedient and efficient for the government for those directions to be placed upon classes of persons. The Public Health Amendment (COVID-19 Response) Bill 2020 deals with situations with regard to the notice provisions for those classes of people, and we will consider those in due course as I have some concerns about the notice provisions. As I understand it, the bill deals with or introduces the notion of an infectious disease extreme circumstance declaration. Of course, it deals with the issue of the recovery of costs for mandatory quarantine, and I have no doubt that we will examine that in detail during Committee of the Whole House. The bill also seeks to provide capacity for the recovery of costs for decontamination. Under clause 14, the bill deals with what the government has described as a narrowing of the circumstances in which compensation can be claimed; such claims will need to be considered further. Lastly, as I understand it, the bill seeks to deal with circumstances in which a person might provide false and misleading information to a government official handling the matters contained in this bill.

Apart from the matters I have outlined and the very real case of the constituent, how the government intends to deal with these matters into the future, and whether it is indeed appropriate for such people to be charged for their

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time in quarantine, I also note that I have received communication from at least one other stakeholder—that being the Australian Hotels Association. In essence, to paraphrase its concerns as I understand them and to clarify those matters for the record this afternoon, it is firstly concerned about whether the indemnification it understands to currently exist will be diluted by this bill. Secondly, it wants to clarify who has responsibility for mental health claims arising from the 14-day quarantine period—or, as some might not unreasonably call it, the detention period. Thirdly, it wants to know what protections are available to hotels that will be serving exempt arrivals into Western Australia.

Apart from the matters that have been raised by the AHA, a number of other issues require a response from government or we need to consider further in Committee of the Whole House, in the event that these matters are not addressed satisfactorily in the reply to the second reading debate. The first is: why should the obligation to pay be retrospective? As members will be aware, the bill will allow the government to issue an invoice to people. Although this bill will not commence immediately on assent or even necessarily the day after assent, but rather on the day of proclamation, the power of the government to be able to issue one of these invoices will begin only on the day the operative provisions are proclaimed. However, there will be in that power the ability for the invoice to effectively be, if you like, backdated to 17 July. The date of the invoice can only be a date on or after the operative provisions have received proclamation, but the service that is being provided—the period of mandatory quarantine or detention in a hotel—can be as far back as 17 July, as I understand it. The question is: why should that obligation to pay be retrospective?

The second issue that emerges is the issue of a direction to a class of person. It is very interesting. Under clauses 6 and 13, the government goes out of its way to expressly put provisions in the bill to state that the government does not need to comply with the Interpretation Act 1984. In other words, but for that provision under clauses 6 and 13, the government concedes that it would need to comply with the Interpretation Act. That is of particular importance because, as I understand the relevant provision, the idea is that the government will want to provide a direction to a class of persons. Let us imagine for a moment that the class of persons are all Western Australian parliamentarians. The government does not want to have to gazette that notice; instead, it would prefer a provision that, under clause 6, would leave the notice to be given to that class of person in a way that the minister considers suitable under the circumstances. At the moment, the government would need to provide a direction to an individual person. The government is saying, “That’s too inefficient; we would prefer to be able to provide the direction to a class of persons.” The opposition has no problem with that suggestion by the government. But the government is also saying, “We don’t want to have to gazette the notice for those classes of persons”, and the opposition does have a problem with that; we cannot see why the gazetting of the notice is such a stumbling block and such an impediment that it should not be complied with. In other words: why can section 41 of the Interpretation Act not apply under these circumstances, rather than leaving it to the minister to simply publish the matter in any way he or she deems suitable?

The third matter that warrants some explanation from the government—in fact, our concerns about this are sufficient such that I have given notice on the supplementary notice paper about it—is the question of whether the 30-day period within which a person has to pay the invoice should run from service of the invoice or from the day of the invoice. The bill currently before the house indicates that the time begins to run from the day of the invoice; that seems to me to be inconsistent with the notion of the state being a model citizen and a model litigant. Time should begin to run from the date that the person actually receives the invoice; otherwise, we could have the perverse set of circumstances in which the government prepares an invoice and dates it, but the recipient does not get it for, say, 29 days, or even after the 30-day period, and is therefore already overdue for payment of that debt. No doubt the government’s explanation will be, “That’s not what we intend”, and I have no doubt that that is the case. There will probably be some form of explanation from the government along the lines that it will undertake not to pursue recovery under such circumstances, or it might even say, “We undertake that we won’t even commence recovery action unless the person has definitely received the invoice within 30 days.” In fact, the government might even say, “We have a whole regime that we intend to follow with regard to follow-ups, reminders and the like.” All of that would be to say that there should be no objection to an amendment that will ensure that no-one is able to be pursued if they have not actually received the invoice within a period of 30 days.

In conclusion, the bill before the house was introduced into the other place last week, on 11 August, and passed all stages, including being third read, last week. It is now before this house. I am grateful for having had the opportunity to consider it over the last calendar week. I indicate that the opposition supports the principle of the bill on the basis that it is consistent with the national cabinet’s decisions; however, we have some concerns about the drafting of certain elements of it. I think that we can adequately unpack these matters in the Committee of the Whole House. I see no reason why these matters and issues cannot be addressed in that fashion and, indeed, the bill amended and improved and then third read and sent back to the other place.

HON MARTIN ALDRIDGE (Agricultural) [2.40 pm]: I rise as the lead speaker for the Nationals WA on the Public Health Amendment (COVID-19 Response) Bill 2020 and indicate that the Nationals will be supporting the bill, as we did through the Legislative Assembly on 11 August.

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As has already been said, this bill was introduced into and passed through the Legislative Assembly on 11 August 2020. We should always be suspicious of bills that have been introduced and first, second and third read in the other place all in one sitting day; nevertheless, we recognise that this is a COVID-19 response bill.

The passage of this bill has been delayed by the consideration of the Workers' Compensation and Injury Management Amendment (COVID-19 Response) Bill 2020, which, again, was another COVID-19 response bill to which the protection of the temporary order was applied. But the passage of this bill was also delayed by the Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Bill 2020. I raise that as a matter of interest and I do not want to dwell on this point for too long, but, last week, the standing orders of this place were suspended to allow for the consideration of the Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Bill 2020. The motion to suspend standing orders did not extend to the suspension of the temporary order of this place. The temporary order was in force and remained in force during that period of suspension. The temporary order states —

- 1) Any business then before the House, other than formal business, a matter of privilege, or a motion subject to SO 67 shall be adjourned to a later hour;

I hope this is something that the Standing Committee on Procedure and Privileges may further examine when it reviews the operation of the temporary order at the time of its completion, because my reading of the standing orders and temporary order suggests that this bill should have had priority under the temporary order, which remained in place and was not suspended, last sitting week. Obviously, that did not occur and the house continued with the consideration of the Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Bill 2020, despite the operation of the temporary order.

This bill, like other COVID-19 response bills, does a range of things. All the amendments will amend the Public Health Act 2016 and will enable mandatory fees to be imposed on persons arriving in WA who are directed to hotel quarantining. The amendments will allow the government to recover reasonable costs and expenses associated with the decontamination of premises, including vessels. Indeed, the parliamentary secretary, in her second reading speech, gave an example—I believe it to be the only example thus far—of the state having incurred expenses for the decontamination of the *Al Kuwait* vessel, which members would be quite familiar with.

The bill has a number of other ancillary amendments, which I summarise as enabling authorised and emergency officers to issue directions to a group or class of persons. The amendments narrow the circumstances in which compensation may be claimed by the general public. I understand, and hope to confirm during the course of this debate, that those provisions will be prospective and not retrospective, and will align the Public Health Act provisions with comparable provisions in the Emergency Management Act 2005, which are the two principal pieces of legislation that are being used throughout the state of emergency and public health response.

I want to summarise a number of issues from the second reading speech; that is, 10 540 people have completed hotel quarantine. I assume that is a Western Australian-specific number, but that was the number claimed in the parliamentary secretary's second reading speech. At the time of the parliamentary secretary delivering that speech last week, 1 199 people were in quarantine. It is not clear to me from the second reading speech whether that was hotel quarantine or quarantine of another type, such as home quarantine. That is something that I would like to have clarified. If that figure was for the number of people in hotel quarantine, it seems quite significant. On 30 June 2020, the state incurred costs of \$27.5 million for quarantining. I understand from my briefing that not all those costs will be recoverable by the state and nor do all those costs relate to accommodation and related expenses.

On 29 May 2020, according to the parliamentary secretary's second reading speech, national cabinet agreed that states and territories would pursue cost recovery. I want to get this time line right because the only thing that I have found is a media statement of national cabinet on 10 July 2020. Obviously, that is quite some weeks after 29 May. A very small section of this media statement—in fact, two sentences of this two-and-a-half-page media statement—relates to this matter. It states —

States and territories are moving toward a model of charging for hotel quarantine. Further details will be provided by states and territories in the coming days, with National Cabinet agreeing to work toward a uniform model across the country.

It will be quite interesting to understand the time frames involved and how we in Western Australia are working toward a uniform model of hotel quarantine and the recovery of associated expenses in line with the statement of the national cabinet on 10 July 2020.

On 26 June, the WA Security and Emergency Committee of Cabinet approved the drafting of this bill, some aspects of which will have retrospective application to 17 July. It is not clear to me why 17 July is significant. I suggest that perhaps it is as simple as the national cabinet media statement occurred on 10 July, so it was seven days thereafter. That is probably my best stab in the dark, but it would be good to get some understanding of why 17 July is significant.

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We understand that between 17 July and 9 August, some 1 973 people entered hotel quarantine in Western Australia and, according to the second reading speech, there is the potential for the state to recover \$3.87 million. The parliamentary secretary's disclaimer in her second reading speech was that that was a very basic calculation of the total number of people subjected to hotel quarantining times \$180 times 14 nights. Obviously, that number will be much less when factored in are persons who were under six years of age, who I understand to be free of charge, and those who might have been sharing with another person and will pay a reduced rate, which I understand to be \$60 a person thereafter. Obviously, that would be the absolute maximum that the state could recover between 17 July and 9 August. I have particular concerns about the retrospective application of this cost recovery mechanism. By far, my preference is that the recovery of these costs occur following the passage of the legislation in its final form through both houses. By far, that would be my preference.

During the recess, members would be aware—in fact I tuned into the press conference and listened to the Premier myself; I did not write down the date but I think it was about 6 July—that the Premier, at his daily press conference, announced with quite some fanfare that he was going to recall Parliament. Members might not remember this—he was going to recall Parliament to deal with this urgent legislation. Probably no more than 24 hours after that press conference, the state abandoned that position. To be generous, it might have been 48 hours, but it was shortly after that statement that the state abandoned that position. I understand from my colleagues in the Legislative Assembly that the Leader of the House—I think it is the manager of government business or whatever they are called down there—was readying the troops to recall the Assembly and deal with this, until they were told their services were no longer required. I am told that the reason their services were not required was that we could simply do this when we got back, with retrospective application to 17 July.

Given the time that had elapsed between that press reference in early July and early August, I received my briefing on this bill on Monday of last week, prior to its introduction on Tuesday of last week. Cabinet only considered the bill on Monday of last week. I received a briefing after cabinet had approved the bill; I think it was about 5.15 pm on Monday of last week. I had a copy of the bill shortly prior to my briefing and it was marked “consultation draft”. I am not sure whether there were any material changes between the consultation draft of the bill and the bill that was presented to the Legislative Council by the parliamentary secretary. It appears unusual to me that the Premier was going to recall the Parliament to deal with emergency legislation and yet, on Monday of last week, prior to its introduction on Tuesday, cabinet had not even considered the bill. Something went wrong in the recess that caused this matter to lapse; maybe it was more difficult than first envisaged or perhaps there were some other factors which I am not aware of.

I cannot locate any official government media statement in respect of its policy on hotel quarantine cost recovery, nor its retrospective application. That may be because the media statements website is not the best website I have ever used. Its search capacity is not that great, but I would be interested to know whether there was an official media statement about the state's position on this matter, given the Premier's press conference on or about 6 July. One of my concerns about the retrospectivity of this cost recovery mechanism is: what information was provided to persons directed to hotel quarantine on 17 July and thereafter with regard to their financial liability and at the same time their ability to seek an exemption from hotel quarantine on particular grounds? I was told at the briefing that that information was available on the Department of the Premier and Cabinet's website. I am interested to know what that information was. Even if that information were fulsome, I am not sure that that satisfies my concern that somebody from a non-English speaking background who had arrived in Perth on a Qatar flight—as we saw yesterday—would know to look at the DPC website and know where to navigate to after being directed to quarantine at Crown or the Duxton for 14 days. Would they know they have a right to seek an exemption under the regime that would mean if they had suitable accommodation to quarantine at home, they could save themselves \$2 500? Those were all questions that I was not able to get answers to at the briefing. I want us to be clear about this matter before we proceed because we are effectively going to be invoicing these people back to 17 July.

I do not oppose the policy of the bill. I agree with the government that \$2 520 per person, particularly when added up over a time, will become a significant amount, and there would be a greater need for that money in terms of the state's health or economic response. However, I am concerned about the transparency associated with the operation of quarantine arrangements. The Leader of the Opposition asked a question on Tuesday last week and I asked one on Thursday of last week. In answering both questions, the government made it clear that it was not able to provide the data that we sought beyond some very high level numbers of people entering Western Australia and those people who were subject to hotel quarantine. It was very difficult to get some good data through the parliamentary question process. Hon Nick Goiran has already highlighted a number of high-profile cases of exemptions from quarantine. I think this is where we need to be clear with our terminology. I understand that an exemption is required to enter Western Australia and then it is a matter of whether a person is exempt from quarantine, and, if they are not—perhaps it needs to be called something other than an exemption—they require a further exemption from hotel quarantine which requires them to stay at home for 14 days or something like that. I want some confidence in the policy and the regime that is being applied by the government and its agencies with

respect to quarantine and exemptions from quarantine. It may be the case at the moment that out of two people, one person is subject to quarantine and the other is not, but the passage of this bill will financially discriminate one person versus another who is not subject to quarantine. We need to be very clear, confident and transparent about the regime and the powers that are applied to quarantine and who is exempt and who is not.

On Monday of last week, while driving to Perth for committee business, I was listening to ABC talkback radio. I am sure members would agree that whenever this issue comes up, talkback radio melts down with people calling in with their stories. I must say I have not dealt with too many constituent cases with regard to people seeking entry into Western Australia but I know some of my colleagues have dealt with a significant number. I was listening to a lady from Western Australia whose son, who is living in Melbourne, was having a mental health crisis. Her story went something like this. She had been contacted by an agency in Victoria to say that they were about to force entry into the residence of this young man. She was involved, obviously, as the mother of this young man. She said to them, “Just wait. I’m on my way. Don’t do that. It may well heighten the situation or lead to some other circumstances. Let me get on a plane.” She said on radio that she rang the COVID hotline. She was reassured, basically, that she should go and deal with the immediate concerns of her son and family, and that when it was time for her to come back, all would be good. I am recalling this from memory, so I am sorry if I do not get this exactly right. It was quite a compelling story, so I paid really close attention to it. She said that she submitted an application through the G2G pass process for an exemption to re-enter Western Australia as a resident of Western Australia but was denied. Like many others who go through this process, applications are either accepted or denied. There is no feedback about applications. It is either accepted conditional upon providing further information, or it is denied “subject to this further information; we will review the case”. She just got a simple rejection. Obviously, the people manning the COVID hotline had given this lady the confidence to go and said that it would be sorted out when she came back, but that did not come true. This was somebody who was just trying to re-enter. She had not even got to the point of arguing about whether she would quarantine in a hotel or at home, or how suitable her home was; given that she was coming back from Victoria, she probably would have been subject to hotel quarantine and therefore have this charge applied. I think there needs to be some confidence or explanation given by the government to the Legislative Council on the application of the regime, and that it has significant rigour and independence to ensure that it does not become a question of who you know. It was said at my briefing, and I am sure that the parliamentary secretary might take a similar line in response this afternoon, that these matters relate to the police. This is a public health bill under the portfolio of the Minister for Health, so we are talking about different ministers and different portfolios. If the government does not see the link between these two issues, we will have a bit of a problem when we get to the committee stage of this bill.

On Sunday evening, hoping to expedite the consideration of this bill, I submitted a list of questions to the parliamentary secretary, copied to the Minister for Health’s chief of staff. I wanted to do so to help alleviate an extended debate in the committee stage of the bill; obviously, it has had a delayed passage as a result of the events of last week. At the time of my rising this afternoon, I have not yet received a response from the government to the questions I gave notice of. I want to provide those questions for the record now, so that either they can be examined through the parliamentary secretary’s second reading reply, or, indeed, we will seek the answers to those questions during the committee stage.

There are 11 questions in total. The first question is: since 17 July 2020, which is the date of effect for mandatory fees, how many people have been directed to hotel quarantine? Secondly, of those identified in question 1, what information was provided to them at the time on their requirement to pay for their hotel and related costs in due course and their ability to seek an exemption from hotel quarantine, and how was this information conveyed to persons with English as a second language? Thirdly, what is the status of regulation drafting and when will the government be in a position to gazette regulations? Fourthly, has anyone been directed to hotel quarantine outside of the Perth metropolitan area? Fifthly, why did WA not adopt a model similar to other states where meals were optional, therefore reducing the cost of accommodation? Sixthly, which hotels have been used for quarantine purposes? Seventhly, how have these hotels charged the state for quarantine purposes; that is, what rate has the state paid per night of accommodation?

I will pause there and reflect on the statement I referred to earlier about national cabinet seeking consistency between states and territories when charging for hotel quarantine. I note that only three, maybe four, other jurisdictions have a regime in place, and, from my briefing, I do not think one of them is the same. I believe that some jurisdictions, such as New South Wales, Queensland and the Northern Territory, have implemented cost recovery for accommodation—I am not sure whether they did that retrospectively—but others have taken a different approach to this, not only in terms of the rates, but also in allowing people subject to hotel quarantine to pick and choose the services they need. I thought that Hon Nick Goiran’s contribution was interesting. He quoted a letter from a constituent referring to laundry services, which is an additional cost. I think \$25 per 10 pieces of laundry was the amount mentioned. My understanding from my briefing is that this is going to be an all-inclusive charge of \$180 per person, which includes accommodation, meals, laundry and cleaning. If this constituent was directed into

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hotel quarantine after 17 July and told they had to pay \$25 for 10 pieces of laundry, how does that align with the state's claim that the \$180 charge per person includes accommodation, meals, laundry and cleaning? I think there needs to be some clarity around that. This is the problem with pursuing these things retrospectively.

Another thing that concerns me is that there is no ability for people to carve out meals from their charge. I understand that another state—I did not write down which one—provides a lesser charge, in the order of \$130 per night for accommodation, if it does not include meals. My understanding of the hotel quarantine arrangements in Western Australia is that, similar to other jurisdictions, it allows people subject to hotel quarantine to get meals delivered by either family, Uber Eats or Pizza Hut delivery, or by whichever companies can deliver food to a room; there is no restriction on that occurring. Why are we insisting that people subject to hotel quarantine have no choice but to be charged for meals regardless of whether they accept them? Why can we not be more flexible on that account?

My list of questions continues with the seventh question: how have these hotels charged the state for quarantine purposes; that is, what rate has the state paid per night of accommodation? I have read that one out, but that reminds me of another point: how are we going to ensure that we do not over-recover the costs? Are we certain that \$180 is so far below the cost the state will incur for accommodation, meals and laundry that it will not become a fee above cost recovery and therefore a tax? Because, as I understand it, there is no taxing power associated with this bill.

Question 8 is: has a hardship policy or definition been developed to guide the Chief Health Officer's decision at proposed section 202J? I ask this question because, again, this bill has retrospective application to 17 July, and the parliamentary secretary's second reading speech referred to 92 people who have already been granted full waivers and 53 who have been granted partial waivers. A partial waiver is 50 per cent of the amount to be invoiced. Given that the government or somebody within government has already made an assessment on full and partial waivers, I hope that we will get a very fulsome explanation of the hardship provisions and how they will be applied, because they are being applied now. The ninth question relates to the second reading speech, which referred to 92 full waivers and 53 partial waivers to date. On what basis were these waivers assessed and granted? This is the issue that I have just spoken about.

Question 10 is: can the Chief Health Officer's power under part 12B be delegated to another officer?

The last question concerns the mention in the second reading speech of an information pack that is provided to hotel quarantine guests. Can the government please provide a copy of this pack? Again, that goes to my concern about what information, if any, was provided to persons who will be subject to the application of this bill with retrospective charging for mandatory hotel quarantine from 17 July onwards.

I was hopeful that, given I had transmitted that list of questions to the government on Sunday night, although it was very late, we might have seen something before the commencement of the debate today. Either way, it is something that I think we all need to consider. I will certainly seek answers to all those questions and potentially others in the committee stage of this bill.

I think my allocated time is running short, and I do not want to cut other members from contributing to this bill, but the bill gives effect to other ancillary amendments, and I will run through them briefly. The legislation will allow the Chief Health Officer to be an authorised officer to exercise serious public health incident powers and a person authorised to exercise emergency powers. My understanding is that the Chief Health Officer can appoint people to exercise those powers, but there is some uncertainty about whether the Chief Health Officer can exercise those powers himself or herself, which is rather unusual. The legislation will expand the powers of authorised officers and emergency powers to allow directions to be issued to a group or class of persons and not be limited to any person. The bill will introduce a new concept—an infectious disease extreme circumstance, or an IDEC declaration. This will remove the requirement for the Chief Health Officer to review a detainment decision every 24 hours, which presents practical challenges during a pandemic, which I think is understandable. It will also narrow the circumstances under which compensation can be payable. Again, I raised the concern earlier about whether that will apply retrospectively or prospectively. I understand that a new offence of giving false or misleading information relates to the government's requirement to effectively recover hotel quarantine costs. It will need to have some confidence about who is in quarantine for the purpose of seeking to recover those costs. With those words, I look forward to the committee stage of the bill.

HON RICK MAZZA (Agricultural) [3.10 pm]: I rise to make a few comments on the Public Health Amendment (COVID-19 Response) Bill 2020, which is another COVID bill that has come in under the emergency suspension of standing orders. Primarily, the bill seeks to provide for the recovery of costs when people are required to undertake mandatory quarantine within a hotel and also for the recovery of reasonable costs of decontamination if any cleaning of premises or a vessel is required.

As has been pointed out by previous speakers, some definitions are being changed. The term "emergency officer" will be amended to include the Chief Health Officer. A new definition of "quarantine direction" is being added to the act—that is, a direction indicating that the person must stay at a premises or in an area for quarantine reasons. The

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Chief Health Officer will be able to delegate their functions to a public service officer. An authorised officer will be able to direct any person to close any premises as part of their power. Instead of a direction being given to a person, the direction can apply to a class of persons. Of course, the minister will need to publish a notice of declaration as soon as possible in a way that is considered to be appropriate and then publish it in the *Government Gazette* as soon as possible. The requirement to review every 24 hours a decision to detain a person will be changed so that it can be for the 14-day quarantine period. That will take away a lot of the administration work involved in reviewing that detention decision every day.

It is very clear that a person's health and welfare will need to be looked after during the quarantine period. We have been quite fortunate in Western Australia that we have had a low number of COVID-19 cases, unlike what has unfolded in Victoria. I heard on the radio today that we had one new case today, taking us to five cases. Where those infections have come from has not been revealed in the news, but it has been taken seriously enough by the government that the Perth Royal Show has been cancelled. There will not be a Royal Show this year, just to make sure that we do not have an outbreak of COVID-19 within the state. It might seem to be a bit extreme; this is the first time that the Royal Show has been cancelled since World War II, so it has been a very long time. However, it is for the overall health of the state and to make sure that we do not get into a situation like that in Victoria. Every time we turn on the TV or open the newspaper, there is a lot about the effects of COVID-19 and what is happening in Victoria.

There will be the recovery of fees payable by people who have to go into quarantine. I do not object to that idea. In the first instance back in March when COVID hit, people returning to the state from interstate or overseas were a bit uncertain about what was taking place with quarantine. There was a lot of uncertainty about it, so it was appropriate at the time for the state to recover those costs—some \$21.5 million. Since then, people have a pretty clear picture of what is required. If people come back to Western Australia from overseas or the east, they have to have a quarantine period when they return.

The proposal at this time is to charge \$180 per person per room and another \$60 for every additional person in that room. An individual in quarantine will be up for \$2 520 for the 14-day stay. If it is an individual and one other person, that equates to \$3 360 for the state. The only negative thing about that is that people will have an incentive to try to avoid the cost. We have already seen a young woman stow away on a truck to try to beat the quarantine requirement.

Hon Alison Xamon: She had permission to come in anyway.

Hon RICK MAZZA: Yes, she did, but she did not want to pay the quarantine charges. There is that issue. I heard on the news today that somebody who came in through the airport decided not to stay in quarantine and did a runner. Fortunately, she has been apprehended. That is one of the negative things about the charges that people will have to pay for quarantine. For some, it is quite a considerable amount of money.

Some of the issues that have been raised with me relate to decontamination and the recovery of costs for decontamination. When I had my telephone briefing—the health department representatives do not really want to see people; they would rather speak to people on the phone, because obviously they see this stuff going on all the time —

Hon Martin Aldridge: It's just you!

Hon RICK MAZZA: Maybe it is just me; the member might be right!

During that briefing, they referred to the *Al Kuwait* and I was told that it cost \$400 000 to decontaminate that vessel. However, in the other place, the minister referred to \$174 000 for decontamination, so maybe the parliamentary secretary can clarify which figure is correct.

The government has contracts for quarantine services with the Novotel Perth Langley, the Westin Perth, the InterContinental Perth City Centre, the Mercure Perth and the Hyatt Regency Perth. To date, about 10 500 people have been required to quarantine in a hotel, with 282 of those staying on Rottnest Island. During the briefing, I was assured that if there was an outbreak at a hotel, the government would decontaminate it at its cost because it is part of its responsibility under the contract with the quarantine hotel. One of the things that concerns me is that essential service workers are entering the state, particularly east-west truck drivers, and they may stay overnight in Perth in a non-quarantine hotel. If there is an outbreak in that hotel and there is a requirement for decontamination, would the government cover that cost or would the hotel be responsible for those costs? In the briefing, I was told that most hotels have their own cleaning services et cetera, but I do not know what the extent of the contamination may involve. I think it is a risk that there could be an outbreak in hotels where people from interstate stay overnight. I made an inquiry with an insurance company and, unfortunately, hotel owners cannot insure against a pandemic, so those hotel owners may have some difficulty in recovering costs. I am not quite sure what the financial impact would be. The parliamentary secretary might be able to elaborate a little bit on that, but if it cost somewhere between \$174 000 and \$400 000 to decontaminate the *Al Kuwait*, it could be quite expensive if a hotel is contaminated and the health department is required to assist in decontaminating it. It would be of great concern to hotel owners if they cannot insure against that.

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I also had some correspondence from the Australian Hotels Association about a couple of its concerns. Apparently, the circumstances under which compensation for damage can be payable is being narrowed. That is a question that I will ask during Committee of the Whole.

Overall, I think that we should support the provisions for the recovery of costs at this time. However, we are going to be very diligent about people trying to avoid paying those costs. Hopefully, we will be able to make sure that we do not have an outbreak within the state.

HON ALISON XAMON (North Metropolitan) [3.19 pm]: I rise as the lead speaker for the Greens on the Public Health Amendment (COVID-19 Response) Bill 2020. This, of course, is yet another COVID bill that has not received a huge amount of time before coming on for debate, yet it deals with a lot of issues that have been brought to the attention of a number of our offices, mine included, by concerned constituents and affected people. We received a consultation draft of the bill and the explanatory memorandum on Monday, 10 August, and a briefing the next day. The final version of the bill plus the EM and the second reading speech were introduced in the other place only a matter of hours later.

I note that the bill is obviously a response to COVID, but it needs to be pointed out that it is not drafted to apply only to COVID and it does not contain a sunset clause for when this pandemic is finally over. It is a bill that will apply more generally if it is passed. Having said that, I really hope that the community will never again have to face such a thing as the current pandemic, certainly not within my or my children's lifetime.

The bill does a few different things, all of which will commence upon proclamation. It introduces the concept of an infectious disease extreme circumstance, or IDEC, declaration, which will be written. It can be made by the minister if, having considered advice from the Chief Health Officer, the minister is satisfied that a potentially notifiable infectious disease will constitute a severe and immediate threat or will cause harm to human health on a significant scale, and it is reasonably necessary as a result to quarantine people for more than 24 hours to make sure they are preventing or controlling its entry into or spread within Western Australia. An IDEC declaration, as prescribed within the bill, can apply to all the state, or any part or parts of the state. The effect of an IDEC declaration is that if a person is given a direction to quarantine themselves due to the particular disease, that direction is not reviewable 24-hourly, which is something the act normally requires the Chief Health Officer to do whenever a quarantine direction is made. However, there is no change to a person's rights to seek a review of their health and welfare needs.

At the briefing, I asked what exactly that right is, and I was told that people have a natural right of review to the Supreme Court on those matters. I note that it is very expensive to go to the Supreme Court; in fact, it is pretty much beyond the means of most people, so I am not quite sure how effective that is as a measure. I note that this right is separate from their right to complain to the government or, of course, to their local member, the media or anyone else as they see fit. An IDEC declaration lasts for three months and is extendible in three-month bursts, effectively indefinitely. The grounds for extension are the same as for the original making of the declaration. I note also that an IDEC declaration is revocable at any time by the minister.

The minister is required, as soon as practicable, to publish notice twice each time an IDEC declaration is made, extended or revoked. The purpose of the first publication is to get the information out into the community and can be via whatever method the minister considers appropriate in all the circumstances. The additional publication will be in the *Government Gazette*, which will provide both a formal record and a repository. I note that failure to publish notice does not affect the declaration's validity. An IDEC declaration or extension is judicially reviewable for jurisdictional error, but a court or tribunal cannot order an interim stay of its effects. I ask the minister, or the parliamentary secretary in this instance, to please provide examples of jurisdictional error in this context. I also ask for an explanation of what will happen if a court or tribunal finds that jurisdictional error has occurred. Will the court set it aside or will the minister be asked to revoke it?

This bill will also enable the various public health directions that can be issued under the act to individuals or concerning particular premises to be made to classes of people or premises. Normally, when a direction is made to a person, it is made individually, and the person to whom it applies must be given an explanation in language that they are likely to understand about why the direction has been made, their right to seek legal advice and their right to seek review of the direction by the State Administrative Tribunal. However, under this bill, if the direction is made to a class of persons, it does not have to be given to each person directly accompanied by an explanation unless it is a direction to undergo medical observation, examination, treatment or vaccination. I note that that sort of direction will still need a personal explanation. I ask the parliamentary secretary to confirm that my understanding of that is correct. Instead, the direction must be published in whatever way the minister considers suitable in the circumstances. I ask the parliamentary secretary to confirm that all directions will be published by the Department of the Premier and Cabinet website and that the explanation can be set out in the direction itself. I recognise that giving and explaining directions in this general way rather than to each person is much more practicable because we are talking about a lot of people. However, I hold some concerns that there may be people amongst the class of peoples who have been prescribed who do not effectively receive that message. I am particularly concerned, for example, that

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non-English speakers will probably not receive an accurate and complete version of it unless efforts are explicitly made to provide the direction in their own language. I understand from the briefing that those efforts will be made to ensure that an adequate explanation will be provided in all appropriate languages. I understand that interpreters will be at the airport and hotels to convey the message when people arrive in Western Australia. I understand that interpreters will be made available at other premises where a class direction is made—for example, at aged-care facilities or a block of apartments. However, I ask the parliamentary secretary to please confirm for the record that that is the case. These are the assurances that I was given in the briefing and I would like to have that on the record, please—certainly that that is the expectation—because if at a later date people seek to appeal certain decisions, I would like to know that this is one of the grounds on which it is expected that people would be able to do that.

When a direction is breached and contravention proceedings are brought, the act provides for a defence of reasonable excuse. If a person was not reasonably able to understand a direction, they should be able to—I understand they may be able to—attract that particular defence, so I ask the parliamentary secretary to confirm that for the record. Of course, it is far better that people understand the direction in the first place, because it is important for everyone's safety that they comply with the direction. Unlike IDEC declarations, a direction to a class does not need to also be published in the *Government Gazette*.

I think the reform in the bill that has been most publicised and the one that I initially expressed the most concern about when I was advised that this bill would be forthcoming is the one that transfers liability for the cost of hotel quarantine from the state to the person who is quarantined. It applies to people who enter Western Australia from outside the state on or after 17 July this year, being the date specified when the reform was announced on 10 July, and who are directed to go into hotel quarantine. At the moment, not all arrivals are directed to go into hotel quarantine; there is still some capacity for people to self-quarantine if they arrive from interstate, with the notable exception of Victoria. People arriving from Victoria or from overseas will be directed to go into hotel quarantine. This part of the bill does not provide for people to be removed from where they are currently living in our community and put into a hotel and charged fees. It will apply only to people who enter this state from elsewhere. I think that limitation is appropriate. The bill allows the definition of “hotel” to be expanded by regulations, but the second reading speech made clear—this is really important—that it will not be expanded to include hospitals, and people will not be charged under this provision for their hospital or medical services. I, obviously, welcome that distinction, which would have been an absolute deal-breaker for the Greens.

The bill will make people liable to pay a fee prescribed by regulations, and no cap or calculation method for the fee has been specified in the bill. I note the previous speaker's concerns about how the figures that have been arrived at have been calculated. I understand the intention is that the regulations will provide for a flat fee, which I have been advised will not be for full cost recovery. The fee will be \$180 a day for each room with an additional \$60 a day for each person who is aged over six years who is sharing that room. I think it is important that any children under the age of six years who are sharing a room will not be charged. The state will initially pay the full cost of accommodation and meals during quarantine. It will be responsible for that up-front cost and will seek to recover the flat fee from the persons afterwards as a debt due to the state.

I note that the fee will be waivable, in whole or part, on the grounds of financial hardship—I have some questions about that—or other reasons that the Chief Health Officer considers appropriate. The nature of those other reasons is not stated in the bill, but I understand from the briefing that the grounds will be matters such as low income, financial hardship, whether that person is an asylum seeker, and whether that person has suffered domestic violence. I further understand that this is not intended to be a closed list of reasons for a waiver. I am pleased to hear that waivers will be able to be made on a case-by-case basis in other meritorious circumstances. I need to make it clear that, in principle, the Greens do not have a problem with the idea of cost recovery for compulsory quarantine in many cases. Certainly, if people decide that they want to go on a holiday overseas at this time, I think it is fair and reasonable that they should have to factor in that, upon their return to Australia, they will be expected to accept the costs of two weeks of hotel quarantine. Likewise, I recognise that many people in the community are well-placed to be able to afford coming back and paying for their own quarantine measures. It is broadly understood, I think, globally and not just here in Western Australia, that quarantine is becoming a fairly normal occurrence in many countries. I recognise that, but like other members, I am aware of individual cases in which it is not clear that exemptions to those fees will be applied, but I think that any fair reading would make one think that they should be. I also have heard many of the cases that have been reported on the radio. Some of them raise a great deal of concern about the number of personal reasons that people need to go interstate or overseas and then come back. Sometimes they are dire circumstances. It is greatly concerning that we would be adding to their distress and stress levels by charging them for hotel quarantine when, effectively, they have had to address emergency situations.

I would like to bring the house's attention to the matter of a person I know who has been battling with this situation. This is a friend of mine, who I am very pleased will finally be coming back this Saturday. She has been living overseas with her family, undertaking a work contract. She is the sole breadwinner for the family. She needs to come back

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to Australia because the contract has finished and her husband does not have dual citizenship so was looking at having to be deported and returning. Apart from the fact that it was an incredible headache for the family to get permission to come back to Western Australia, where they have a home that they are paying the mortgage on and that they are Australian citizens and are no longer able to stay in the country where she has been working for the last 18 months, by the time she finally got permission to come back in, this provision had been announced. She realised with horror that when she came back, she would have to look at a compulsory quarantining and having to pay for the privilege. I point out that when she booked to return to Australia, no announcement of any sort had been made suggesting that people were going to have to pay for quarantine. Members might think that it is tough luck and that she signed up for it by coming back to her home country when she was going to get kicked out of the other one anyway. However, even if members decided to be that callous, which I suspect members would not because members, of course, are not callous, they would have to acknowledge that that was not an expense that was factored in by her family. I have already mentioned that she is the sole breadwinner. When her husband is in Australia, he is ordinarily on a disability pension. She is a recognised carer with one dependent child. She has another child who is back in Western Australia now, who is studying at university and will join the family. The question remains whether this family will be eligible for a hardship exemption. Ordinarily, they would be in receipt of a partial Centrelink benefit and would have a Health Care Card and all those things, but because they have been out of the country for 18 months they are no longer in the Centrelink system. When the family comes back, the first thing they will do is apply for that, but at the moment I am not even sure whether the family will be considered under any sort of hardship provision. As someone who knows them, I can confirm that this family does not have a lot of money. They are not wealthy people, and have a home that they want to return to. Worse than that, because of the husband's disability, he will struggle with being in hotel quarantine. I will say that post-traumatic stress disorder is directly related to his disability. However, they have not been able to get any comfort that they will be given the opportunity to quarantine in their own home, which will be sitting vacant, and not be charged for staying at a hotel.

I am picking up on the concerns that other members have raised. We are looking at implementing a legislative change that is retrospective. The criteria for how people will get exemptions or how people will be determined to be suffering hardship are spectacularly unclear. From what I can tell, it has, effectively, been devolved to a public servant. The level of opaqueness around how those decisions will be made is absolutely baffling. I have tried to find out the answers that pertain to this family's situation. I would like to know whether there is a clear hardship policy. If there is, can it please be tabled? I and other people would like to know what will be involved. It is very concerning that people will be kept in hotel quarantine when they may be better suited to quarantine in their own homes, and will also be charged for the privilege when they cannot afford it. I want to get some clarity around that. At the same time, I cannot make it clearer that I and the Greens completely support the need for people to quarantine and to have a strict quarantine arrangement for those 14 days or, indeed, longer if anyone is subsequently found to have COVID-19. There is no question about that. However, we need to know exactly how this will impact on people.

As I said, I note that the bill will give the Chief Health Officer the power to delegate functions regarding hotel quarantine cost recovery to a public servant in a department. I understand that it is intended that assessment of waivers will be delegated to the Department of Communities. I would like to ask the parliamentary secretary whether, if an application for a waiver is refused, she can please explain for the record what review process there will be. As the bill is currently presented to us, no review process is outlined. I understand the process will be that the fee may not always be charged, and that it is discretionary. It is indicated on page 6 of the explanatory memorandum that even without a waiver, fees may not be charged at all for small, localised incidents in which hotel quarantine numbers are negligible. It is also indicated that upon arrival at a hotel, people will be advised that they can apply for a waiver and that they can make that application immediately. In the absence of any waiver, an invoice for the fee will be issued and each adult will be jointly and severally liable to pay it within 30 days. For children in hotel quarantine, their parents or guardians will be liable for the cost of that invoice. A person can still apply for the waiver after they have received an invoice, but they will also need to apply for an extension of time to pay while their application is being decided. I note that the time for payment is extendable, that there is no limit on how many times it can be extended, and that the regulation-making power allows regulations to be made to allow for payments to be made by instalments. It also allows for regulations to be made for interest to be paid in the event of late payment or non-payment.

I turn now to the issue of recovery of cleaning and disinfection costs. The Public Health Amendment (COVID-19 Response) Bill 2020 also provides for the recovery of any costs incurred by the state for the cleaning and disinfection of premises, in accordance with a direction made under this legislation or the Emergency Management Act. Like other members, the example that was given to me was the cleaning and disinfection of the *Al Kuwait* live animal export vessel, on which there were COVID-infected crew members. I certainly concur that it is disappointing that the vessel was not charged for the cleaning that was involved. Such a direction, however, can apply to any premises. It could, for example, apply to a restaurant or shopping centre in which there has been a COVID-19 outbreak, but there will always be the option for those responsible for the premises to arrange themselves for cleaning and

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disinfection rather than having the state carry it out and then repaying the cost. Again, during the course of the briefing, the example used was of the Perth Concert Hall after a COVID-infected patron had attended a West Australian Symphony Orchestra concert. I ask the parliamentary secretary to please confirm, for the record, that this option is always going to apply and that, in the first instance, a premises will be able to determine for itself whether it is best placed to take on responsibility for cleaning or whether it will need to be charged by the state.

Unlike hotel quarantine fees, these decontamination costs are recoverable in full, and we are not talking about a flat fee. There is no waiver process in the bill, but the Chief Health Officer is given discretion over whether to recover the costs. I note that the bill has at least allowed some wriggle room in that regard. In particular, it is made clear in the second reading speech that the state will not seek to recover decontamination costs from hotels that provide hotel quarantine services. As with hotel quarantine cost recovery, the Chief Health Officer's functions are delegable to a public servant in a department. Those costs and expenses are recoverable jointly and severally from various parties, including the owner, the occupier or the person in possession at the time, unless the premises are a vehicle. If the premises are a vehicle, it includes the owner, the operator, the lessee or the charterer.

I suspect that, in practice, this could result in quite some debate about how much each party should be expected to pay. I anticipate that we will see court cases to decide the proportion that each should bear, particularly if we are looking at very large costs. Under the hotel quarantine fee scenario, people who are jointly and severally liable to pay a particular invoice are likely to be from the same family, but under the cleaning and disinfection scenario, those who are jointly and severally liable to pay are most likely to be in commercial relationships with each other. I imagine that their contracts may not resolve the question of proportion. For example, if it is a situation of a commercial landlord and a tenant at a shopping centre, some parties may not be Western Australian or even Australian, as could be the case with a ship. I ask the parliamentary secretary to please explain how the government anticipates these sorts of issues to be resolved.

The definitions of "emergency officer" and "authorised officer" are expanded in the bill to personally include the Chief Health Officer. Currently, those terms refer to people who are authorised by the Chief Health Officer, but not the Chief Health Officer personally. I understand the policy reason behind this reform is that because other parts of the bill allow emergency officers and emergency officers to make directions in respect of whole classes of persons or premises, making the Chief Health Officer one such officer will enable those powers to be exercised personally, or directly overseen, by the Chief Health Officer.

Currently, section 203 of the Public Health Act allows for "just and reasonable" compensation to be payable for any loss or damage a person suffers as a result of the exercise of its powers, except insofar as the loss or damage would have happened anyway, can be compensated via insurance or has been contributed to by the person. This bill will narrow that entitlement so that it will apply only to loss or damage from directions for the destruction or disposal of something; an emergency officer taking control of, or making use of, premises or property; the removal or destruction of an animal, vegetation, substance or thing; or the removal, dismantling, demolishing or destruction of any premises. Amongst other things, that means that compensation will no longer be claimable, which authorises the use of reasonable force to ensure compliance with the direction. Of course, I expect confirmation for the record that the use of excessive force will not be captured by clause 15 and will continue to be compensable. Lastly, the bill creates a general offence of knowingly giving false or misleading information, with a maximum penalty of a fine of \$50 000.

The Greens have a lot of questions on this bill, particularly about how it is intended for certain provisions to operate. As I said, we recognise that these are extraordinary times that require extraordinary measures, but we also recognise that a lot of people in the community are doing it really tough, and we want to make sure that people who otherwise would and should not incur these sorts of costs for the management of this public health crisis will not be in even worse financial straits than they are now. We also recognise that a lot of businesses are doing it tough, and the lack of clarity in the bill unfortunately opens the door for a number of commercial operations to potentially be liable for a range of costs that they otherwise would not necessarily incur, and in fairness should not incur.

I hope we can get answers to those questions. I, like others, will further examine the bill through the course of Committee of the Whole House.

HON ALANNA CLOHESY (East Metropolitan — Parliamentary Secretary) [3.47 pm] — in reply: I thank all honourable members for their contributions today and for those contributions having been delivered so speedily. I would like to provide a brief response to the broad range of issues that have been raised by members, because I indicate that there will be considerably more detail in the Committee of the Whole.

A number of members raised the issue of the implementation of quarantine and some issues relating to quarantine in state health incident control centre hotels. It will not be possible to respond to those matters individually, other than to say, as the Minister for Health said in the other place, the early days of managing COVID-19 in this state were very challenging; that is simply the case. In a sense, because of that, a lot of the arrangements that we have in place

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are not perfect. They emerged out of our growing understanding of both the disease and its impacts on our community. In large part, the hotel quarantining arrangements have worked well. Of course, members have provided examples of exceptions to that, but we have seen that it is working really well, just by virtue of how well Western Australia is managing COVID-19 in comparison with other states and jurisdictions.

The State Health Incident Control Centre has done a phenomenal job in making sure we manage the really hard stance that we have around infection control. But this bill, in particular, is about making improvements to the Public Health Act 2016 and should the state decide that further decisions are needed to be made under the act, such as quarantine, that we are in the best and most efficient place to make those decisions. It is forward thinking and critical to the long-term management of COVID. We have learnt from the experiences of the initial implementation and this is the next phase, if you like.

As members have identified, the bill allows for the imposition of flat fees on people arriving in WA, who are required to enter and remain at a state quarantine facility. As most members have indicated, the fee will reduce the financial burden on WA taxpayers and help offset the cost of providing quarantine service to travellers.

Why are the changes occurring? Hon Nick Goiran in particular posed that question. As I said, the quarantine fee will reduce the financial burden on taxpayers. Given the considerable and continued COVID growth in other states, and globally, it is probable that our international border restrictions will be one of the last restrictions to be lifted and it is necessary to have a sustainable mechanism in place to manage the costs associated with quarantine arrangements. We do not know how long this will go on for, but it is important that we work to manage the costs however long it continues. The fee also reflects the service provided in those quarantine situations, including food and cleaning services.

Hon Nick Goiran also asked who will pay, and a number of other members also asked that question. As I said, a flat fee will be applied to international arrivals and some interstate arrivals who are without suitable premises at which to self-quarantine. It will also apply to those people who are declined entry to the state and who the WA Police Force consider at-risk. As such, they may be directed to remain in quarantine until they leave the state. Of course, as members know, as of 31 July, all arrivals from Victoria must hotel quarantine.

A number of members asked for information on the provision of information for arrivals and provision of information about the process through which arrivals can receive a waiver. I think it is best if I go through that whole process when we are in the Committee of the Whole House, and, I alert members that I have information to table on the information provided to people who have been directed to quarantine.

Hon Martin Aldridge asked how many people have been directed to hotel quarantine so far. As at 9 August, which is the latest date that the State Health Incident Control Centre is able to provide figures for, 1 973 people entered quarantine in SHICC hotels between 17 July and 9 August. Hon Martin Aldridge also asked some specific questions about the direction of people to quarantine outside of the metropolitan area. I will come to that when we get to the Committee of the Whole. Hon Martin Aldridge also asked about WA's comparison with other states in relation to the model of the costs. I think the honourable member assumed that WA's model was not similar to the models of other states. I also have information to table in the committee stage on that. Although most of the cost of meals in Queensland has been listed separately to accommodation costs, those meals cannot be opted out of. Both the Northern Territory and New South Wales have inclusive costs—that is, accommodation, meals and cleaning have not been separated out.

Hon Rick Mazza raised a question about who is liable if an exempt person stays at a hotel and there is an outbreak. It is not possible to provide general information to a specific situation about who would be liable at a hotel because it would depend on the specific circumstances of the case and there may be no liability at all in that circumstance, so it would depend. Currently, all quarantine directions are made under the Emergency Management Act 2005, which is administered by the Minister for Emergency Services.

There were a significant number of questions about the cost of cleaning, which we can go into more detail in the committee stage.

That pretty much sums up the range of issues raised so far. I am aware that members have other specific questions that they want to ask and that there are some proposed amendments on the supplementary notice paper. With that, I commend the bill to the house.

Question put and passed.

Bill read a second time.

Committee

The Chair of Committees (Hon Simon O'Brien) in the chair; Hon Alanna Clohesy (Parliamentary Secretary) in charge of the bill.

Hon Sue Ellery; Hon Nick Goiran; Hon Martin Aldridge; Hon Rick Mazza; Hon Alison Xamon; Hon Alanna Clohesy; Hon Colin Tincknell

The CHAIR: Members, we are considering the Public Health Amendment (COVID-19 Response) Bill 2020, bill 203–1, in committee. I draw members’ attention to supplementary notice paper 203, issue 1, dated today, Tuesday, 18 August 2020. I also point out that under the temporary order, we, as a house, have allocated 200 minutes maximum for this committee stage.

Clause 1: Short title —

Hon NICK GOIRAN: The second reading speech states —

... some interstate arrivals undertake their quarantine period in a designated metropolitan hotel.

What criteria determines whether an interstate arrival undertakes their quarantine period in a designated metropolitan hotel?

Hon ALANNA CLOHESY: I mentioned this in my reply to the second reading, but, essentially, it is all people arriving from Victoria as of 31 July 2020, all international arrivals, particular interstate arrivals who may not have suitable premises to self-quarantine in, or people who have been declined entry to the state and who WA police consider a risk to remain in quarantine until they leave the state. The exceptions to the Victorian category of quarantine are: certain government officials; active military personnel; members of the commonwealth Parliament or their staff; a person carrying out functions under the law of the commonwealth; a person coming to WA at the request of the Chief Health Officer; a person responsible for transport, freight or logistics; flight crew; and an aircraft passenger transiting through WA to leave the state. That is the complete summary at the moment.

Hon NICK GOIRAN: The second reading speech states that this would apply to “some” international arrivals rather than to “all” international arrivals. I am just trying to get a copy of the second reading speech, which I am sure I had before—here we go.

Hon Alanna Clohesy interjected.

Hon NICK GOIRAN: Yes. It says —

An amendment is proposed to enable fees to be imposed from 17 July 2020 on persons arriving from interstate or overseas who undertake quarantine or are detained in hotels in Western Australia pursuant to powers under the Public Health Act and the Emergency Management Act.

Earlier in the second reading speech, it states —

Western Australia’s quarantine model operates under a system in which the majority of incoming international and some interstate arrivals undertake their quarantine period in a designated metropolitan hotel.

Is it the majority of incoming international arrivals or all international arrivals?

Hon ALANNA CLOHESY: It is the majority, with the exceptions that I have already laid out.

Hon NICK GOIRAN: In the exceptions that the parliamentary secretary laid out earlier, she was talking about interstate arrivals—that there would be some exceptions with regard to the Victorian rule. What are the exceptions with regard to international arrivals?

Hon ALANNA CLOHESY: As I said before, they are the same—Victorian and international are the same.

Hon NICK GOIRAN: One of the circumstances that the parliamentary secretary indicated would be a criterion to determine whether quarantine must happen in a designated metropolitan hotel was if officials considered that a person did not have suitable premises. How is “suitable premises” defined?

Hon ALANNA CLOHESY: That is really outside the scope of this bill before us, but it is—to answer the question—assessed by police.

Hon NICK GOIRAN: If the person is considered not to have suitable premises and not attract one of these exemptions, would they then have to mandatorily serve a time in a designated hotel and be subject to a possible invoice from the state?

Hon ALANNA CLOHESY: If a quarantine is ordered, yes.

Hon NICK GOIRAN: That is why we need to get to the bottom of how “suitable premises” is defined. It is easy to say it is not in the scope of the bill, but obviously it is exactly in the scope of the bill because if a person has suitable premises, they will not be up for a bill from the state. I ask again, parliamentary secretary: how is “suitable premises” defined and how are prospective residents of Western Australia to be made aware whether their premises are suitable or not?

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Hon ALANNA CLOHESY: The direction around “suitable premises” is available through the Department of the Premier and Cabinet website. It is the “Quarantine (Closing the Border) Directions” that were made under the Emergency Management Act. I am quoting from that document. Direction 42 states —

Suitable premises means residential premises that:

- (a) are suitable for the person to reside in for a period ending fourteen (14) days after the day on which the person is given a self-quarantine direction or a self-quarantine (unaccompanied child) direction or is otherwise required to self-quarantine; and
- (b) are not being used by anyone else to self-quarantine at the time when the person is given the self-quarantine direction or the self-quarantine (unaccompanied child) direction, or is otherwise required to self-quarantine.

Hon ALISON XAMON: Further to this line of questioning, because I would like to get some clarity around this as well, I will talk specifically about international arrivals now. If an international arrival does not fit within a certain class of people that the parliamentary secretary has already defined as automatically attracting an exemption, they will be taken to a hotel, but is it possible for them, once they are in that hotel, to make an application to leave that hotel to go to a suitable premises? I am trying to get an understanding of how much flexibility there is, particularly for residents who might have a home here that is vacant and that they are paying a mortgage on, to be able to get back to their home. Examples have been cited in this chamber of people who have been denied that opportunity.

Hon ALANNA CLOHESY: I am advised that it is unusual for international arrivals to quarantine anywhere other than in a SHICC—State Health Incident Coordination Centre—hotel. That is a public health measure to ensure that there is no spread of the virus. I am advised, however, that if there are particular circumstances, international arrivals may make an application to the onsite doctor for consideration or may also make an application through WA police; but there is an onsite hotel doctor. I reinforce that the whole purpose of this is public health management, but there is the option that the member has just kind of outlined.

Hon ALISON XAMON: Of course, everyone in this chamber is aware that it is about public health management, which is why we are debating this matter urgently. I want to ask about the particular circumstances to get some idea of the breadth of circumstances in which people might be able to make an application. For example, if someone is likely to experience financial hardship as a result of hotel quarantine, would that attract the possibility of being able to reside in a suitable premises? If there is a risk of mental health issues as a result of —

[Interruption.]

Hon ALISON XAMON: Sorry, Siri was responding to me talking. Go away! I referred to mental health issues and Siri automatically thought I was talking to her; I was not.

What about if someone is likely to experience mental health issues as a result of staying in hotel quarantine for an extended time, or if somebody has a disability and needs to be able to get back to their home, which might already be appropriately set up for their needs? Can I please get an idea of the scope of matters that are contemplated under this legislation that would enable people to be moved out of hotel quarantine and into quarantine in suitable premises?

Hon ALANNA CLOHESY: I cannot comment on individual cases. However, generally speaking, for the category of people wanting to quarantine at home for financial reasons—for example, because they have a mortgage—not being able to pay is not a reason to not quarantine. However, they may make an application to waive the fees.

Hon Alison Xamon: I will come to that.

Hon ALANNA CLOHESY: That is right; we will get to waivers later. People with disability need to make an application to the WA Police Force, and WA police will seek health advice on the activities of daily living and managing disability in the home versus in quarantine situations. It is very individual based. Advice will be sought from the Department of Health, but the application goes to WA police.

Hon ALISON XAMON: I asked specifically whether mental health issues would be grounds for consideration and also whether I could get an indication of the scope of other potential considerations that could be undertaken to enable people to move into suitable premises.

Hon ALANNA CLOHESY: Mental illness is considered part of the overall health assessment and would be included on the application to WA police, which will seek Department of Health advice on individual applications. Other factors might include compassionate grounds such as whether there were dependents at home. It is not possible to give a definitive list because everybody’s circumstances are different. Grounds for consideration would fall under compassionate grounds or health, including mental health.

Hon COLIN TINCKNELL: I am seeking a bit of information on the State Health Incident Coordination Centre hotels. Can the parliamentary secretary give me some idea of the requirements for those hotels? I want to understand

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the sorts of hotels that are on that list, and whether it includes any backpacker or other sorts of shared accommodation hotels. I am just trying to work out whether we have learnt from possible previous mistakes made elsewhere. Are pretty strong requirements needed for those hotels?

Hon ALANNA CLOHESY: The hotels that are being used as quarantine hotels under the State Health Incident Coordination Centre—the SHICC hotels—currently are Novotel Perth Murray Street, the Westin Perth, InterContinental Perth City Centre, the Mercure Perth and the Hyatt Regency Perth. In the past, SHICC has also used the Holiday Inn Perth City Centre, the Duxton Hotel Perth, the Crown hotel, the Pan Pacific Perth, and, of course, very early on, Rottne Island was used for quarantine as well.

Hon COLIN TINCKNELL: Just to add to that, it may be quite a while until we are through this situation, and there may be a change of circumstances. A whole lot of people could need quarantining. Does the government have a plan to increase that capacity? What is the capacity?

The CHAIR: Just before I give the call to the parliamentary secretary, I mention that the question is that clause 1 stand as printed. This gives capacity for members to range across a range of issues covered by the bill, but, of course, it all still needs to relate to the bill. Sometimes we can go off into matters related to the subject that are not actually the purpose of this bill. In a time-limited debate, members no doubt have that on their minds. But while members are using clause 1 to ask a series of questions, they might want to keep those things in mind, not, of course, that the honourable member was not. I hope that assists the parliamentary secretary, who now has the call.

Hon ALANNA CLOHESY: Thank you, Chair. I welcome your advice.

Briefly, to answer the honourable member, because I note his interest, SHICC is constantly monitoring the situation; in particular, it monitors repatriation flights, marine operations, passenger transfers and accommodation. Of course, there is currently a limit on the number of international arrivals. All that goes into the mix and consideration of what quarantine hotel requirements might be needed.

Hon RICK MAZZA: When this bill passes into legislation, there will be new risks for businesses with the possibility of charges for decontamination. Has the government sought any advice from the Insurance Council of Australia Ltd on whether any of these risks can be underwritten?

Hon ALANNA CLOHESY: I want to clarify whether the honourable means only the SHICC hotels or all hotels, because for all hotels, the arrangement is between SHICC and the hotel. Therefore, those discussions happen at that level.

In terms of insurance advice on this bill, no, we did not seek advice from the insurance agency in the same way that the member did. I am not sure why he has asked the question. What particular example does he have that shows it might be a problem?

Hon RICK MAZZA: I will clarify this to make it crystal clear for the parliamentary secretary. During the briefing, the advice I had was that if there was an outbreak or an issue at a government-contracted quarantine hotel, the government would cover the cost of decontamination. That is fine; I am all right with that.

Hon Alanna Clohesy: So you're talking about cleaning.

Hon RICK MAZZA: Decontamination was the term used—the deep clean, if you like, that is required should there be an outbreak in a hotel. I was assured that if there was an issue at a government-contracted quarantine hotel, the government would cover it. I am concerned about a non-government-contracted hotel or, in the case of the *Al Kuwait*, a vessel requiring decontamination. When the parliamentary secretary provides me with an answer to this question, perhaps she can also clarify—I do not recall her answering the question I asked in my contribution to the second reading debate—whether the cost to decontaminate the *Al Kuwait* was \$174 000 or \$400 000, because I was given two figures. I am talking about a non-contracted hotel, nightclub, premises, restaurant or any business being required to be decontaminated by the health department and then the business owner being charged by the department. Has there been any discussion with the Insurance Council of Australia about whether that risk can be underwritten?

Hon ALANNA CLOHESY: In terms of non-State Health Incident Coordination Centre hotels, we are not aware of any discussions about insurance for cleaning, which is really quite different.

The total actual cost for the *Al Kuwait* was around \$331 000, noting that a small number of actuals still have to be factored into that. Some of it does not get invoiced separately to the state. As a result, the forecast is around \$390 000.

The CHAIR: Members, we are considering clause 1. I wonder whether, by way of an example, the detail that is being discussed now might be better discussed under clause 14, rather than simply being canvassed broadly under clause 1. The question remains that clause 1 stand as printed.

Hon MARTIN ALDRIDGE: I have a number of questions, most of which relate to further clauses of the bill, but I do have a few questions on clause 1. I received a copy of the bill for the first time on Monday last week. It was marked “consultation draft”. Were any material changes made between the bill that I received and the bill that we are now considering, and on what date did cabinet approve the printing of the bill?

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Hon ALANNA CLOHESY: I am advised that there were no changes from the draft that members received with the “consultation draft” watermark. Cabinet approved the printing of the bill on 10 August.

Hon MARTIN ALDRIDGE: With regard to the consultation draft, who was consulted prior to introduction?

Hon ALANNA CLOHESY: The consultation draft that the member received was for circulation to MPs. Prior to that, formal consultation on a number of the amendments in the bill was undertaken with the Department of the Premier and Cabinet; the State Solicitor’s Office; the Department of Communities, particularly about the hardship exemptions; the Department of Fire and Emergency Services about the interaction of the proposed amendments with directions made under the Emergency Management Act; the Department of Treasury; the Department of Finance; the Western Australia Police Force; and necessary public health specialists within the Department of Health, including the state health incident controller and the Chief Health Officer.

Hon MARTIN ALDRIDGE: It is quite an extensive list, but I note that they were all effectively government agencies or public servants that were consulted. The Premier committed on or about 6 July to recall Parliament to deal with this matter. Why did the recall of Parliament not occur?

Hon ALANNA CLOHESY: I do not know the answer to that. I am not privy to cabinet. Obviously, it was a cabinet decision and a decision by the Premier.

Hon MARTIN ALDRIDGE: One of the questions that I gave notice of on Sunday evening and in my second reading contribution is: what is the status of regulation drafting and when will the government be in a position to gazette regulations in relation to this bill?

Hon ALANNA CLOHESY: Regulations are anticipated to be drafted within a few weeks of the bill passing. I am advised that the Department of Health has already commenced liaising with the Parliamentary Counsel’s Office on the matter, but as is the proper process, the regulations will need approval by the Governor in Executive Council and the Joint Standing Committee on Delegated Legislation. That is the status. I cannot give the member a time line because of all of that.

Hon MARTIN ALDRIDGE: Given that it is now 18 August and regulations are still a few weeks away, under some provisions of the bill, we are going to be effectively invoicing persons directed to quarantine some months after they were subject to that quarantine. That is just a point that I make; it is not a question, and I will come to that when we get to proposed part 12B.

During the parliamentary secretary’s reply, she mentioned at least in two respects that she was going to table some papers. I wonder whether now is an opportune time for that to occur so that we can consider those matters ahead of the further clauses.

Hon ALANNA CLOHESY: With respect, I would prefer to table them in the context of the discussion rather than tabling them out of context because I may like to provide information in relation to each of them.

Hon MARTIN ALDRIDGE: Obviously, that is a matter for the parliamentary secretary. One of the answers I was seeking was the information pack that has been provided to hotel quarantined guests. If that is a substantive document, I would like some time to consider it during the debate, which is time limited. I therefore ask that the parliamentary secretary give that consideration when we are interrupted for conducting of other business.

Committee interrupted, pursuant to standing orders.

[Continued on page 5088.]