

**COVID-19 RESPONSE LEGISLATION AMENDMENT  
(EXTENSION OF EXPIRING PROVISIONS) BILL 2020**

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by **Hon Stephen Dawson (Minister for Environment)**, read a first time.

*Second Reading*

**HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment)** [5.40 pm]: I move —

That the bill be now read a second time.

In April this year, during extremely challenging times, urgent amendments were passed by this house to strengthen the state's capacity to respond to the COVID-19 pandemic and safeguard the health and safety of the Western Australian community. The amendments included those made by the Emergency Management Amendment (COVID-19 Response) Act 2020 and the Criminal Code Amendment (COVID-19 Response) Act 2020. I will refer to these collectively as the COVID-19 response amendment acts.

These amendments have been vital to the state's management of COVID-19. The amendments strengthened Western Australia's legislative framework to respond to and deal with the unprecedented challenges of the COVID-19 emergency. The amendments have supported emergency and frontline workers, who have been doing an incredible job on the front line of the health crisis to keep our community safe. The COVID-19 response amendment acts introduced extraordinary measures to respond to the pandemic hazard. These amendments appropriately included sunset provisions to ensure that those measures were limited to the pandemic hazard. The amendments introduced by the COVID-19 response amendment acts will cease operation on 4 April 2021. COVID-19 is still a threat to the community. This bill will extend the operation of the operative provisions of the COVID-19 response amendment acts by a further six months to 4 October 2021.

Before I turn to the detail of the bill, I will outline specific provisions that are subject to the sunset clauses and explain why it is important that the operation of each is extended to ensure that the state can continue to respond appropriately to COVID-19.

The Emergency Management Amendment (COVID-19 Response) Act 2020, among other things, introduced new section 72A into the Emergency Management Act 2005. This provides a catch-all power that enables a hazard management officer or authorised officer to effectively manage the response to an emergency. It includes being able to direct a person or a class of persons to take any action the officer considers to be reasonably necessary to prevent, control or abate risks associated with the emergency. Section 72A also contains important information-gathering powers. Several directions have been made in reliance, or partial reliance, on this section. Those directions include, but are not limited to, the current versions of the Closure and Restriction (Limit the Spread) Directions, the Quarantine (Closing the Border) Directions, the Presentation for Testing Directions, the Isolation (Diagnosed) Directions and the Remote Aboriginal Communities Directions.

Pursuant to section 2(c) and section 10 of the Emergency Management Amendment (COVID-19 Response) Act 2020, section 72A will be deleted from the Emergency Management Act 2005 on 4 April 2021. The intent of the sunset clause is to ensure that section 72A powers are applied only in the circumstances of an appropriate emergency response to the COVID-19 pandemic. On the sunset date, any existing directions that rely solely on section 72A will no longer be valid as there are no transitional provisions to continue the operation of those directions. Further, section 72A will not be able to be relied upon for making new directions. It is vital to ensure that these provisions endure in the act for a further six months. Continuation of the state of emergency will continue to be based on expert advice from the State Emergency Coordinator and the deliberations of the State Disaster Council. However, it is essential that every tool that has served our state so well to this point remains available to keep us safe in these difficult and uncertain times.

The arrival of ships carrying crew infected with COVID-19 has continued to be one of the greatest risks to our way of life in Western Australia. The powers under section 72A have been vital to effectively direct the isolation and testing of crew members on affected ships, and we must have the capability to continue to make such directions as and when ships arrive on our shores. Across Australia, some states and territories continue to grapple with community outbreaks of COVID-19 and we have witnessed the devastating impact on those communities. At the same time, Australians who are located overseas are returning home. Many are returning from countries that are severely impacted by the pandemic. We support the return of Australians and others to Western Australia for family, health, work and other purposes. It is important, however, based on the current health advice and Western Australia's susceptibility to a COVID-19 outbreak, that we cautiously manage the opening of our borders and ensure that appropriate strategies are in place. This is vital as we transition from a hard border to a controlled border on 14 November.

The continuation of these provisions does not mean that the hard border will be reinstated in the future or presuppose any particular course of action. The government's decisions will continue to be based on the best available health advice. However, the directions relating to contact tracing and quarantine that rely on section 72A will be integral in the short to medium term in any plausible scenario. It will ensure that our emergency management personnel will have the powers to continue to help us overcome this deadly pandemic and to maintain a responsible and flexible framework that has served the state so well up to this point.

The powers under section 72A have supported the closed borders and the issuing of directed presentations for health testing, isolation and hotel quarantining. They have been, and continue to be, critical to this strategy. Section 72A has also supported the government's implementation of social distancing measures that has been appropriate to the health advice. It has supported the gradual easing of restrictions for social venues—such as theatres, concert halls and cinemas—to reopen. It has been used to facilitate Western Australia hosting the Australian Football League at Optus Stadium. As we move forward, and in the event of the state of emergency continuing, it is anticipated that section 72A will continue to be relied on to facilitate community-based events in a COVID-safe manner.

I now turn to the Criminal Code Amendment (COVID-19 Response) Act 2020. That act amended the Criminal Code to increase the maximum penalties for the offences of serious assault and threats committed in the context of COVID-19. The increased penalties sought to reflect the seriousness of assaults against public officers such as frontline workers, particularly in the context of the pandemic. The amendments to the offences under sections 318 and 338B of the code were made in response to several distressing reports of people across the country and internationally claiming that they had COVID-19 and deliberately coughing or spitting on innocent people who were just trying to do their jobs. This was particularly occurring, or at the risk of occurring, in the context of frontline essential staff who work tirelessly around the clock at great personal risk to themselves to keep our community safe and to stop the spread of this disease. The increased penalties reflect the seriousness of this conduct and will send a clear message that the government and, indeed, the Western Australian community at large does not and will not accept it. The increased penalties have not been widely used; however, that may indicate that they are having an appropriate deterrent effect. Regardless of their uptake, it is important that they continue to be available to reflect the seriousness of the conduct.

The Criminal Code Amendment (COVID-19 Response) Act 2020 has a sunset date of 12 months after the day on which the act received royal assent. It came into operation on 4 April 2020 and will, therefore, cease operation on 4 April 2021 when the increased maximum penalties for the offences committed in the context of the COVID-19 pandemic will be deleted. As we continue to live with COVID-19 and expect so much of our frontline essential staff, it is critical to ensure that people who assault them or threaten them with COVID-19 can be dealt with appropriately. The bill before us today will extend the operation of the respective sunset clauses under the COVID-19 response amendment acts for a further six months, with a new effective sunset date of 4 October 2021. It will ensure that the powers under section 72A of the Emergency Management Act 2005 will be available should the state of emergency in respect of the COVID-19 pandemic continue and will ensure that higher penalties continue to apply to serious assaults and threats against public officers that are committed in the context of COVID-19.

As legislators, there is a need to address the sunset clauses now, because the current date of 4 April 2021 follows the next state election and the dissolution of Parliament. If the state of emergency in response to the COVID-19 pandemic continues beyond the state election, it is unlikely that Parliament will have resumed in enough time after the election to enable the passage of this important legislation prior to the sunset date. Any gap in these laws in response to the COVID-19 pandemic will potentially present an unacceptable risk to the health, safety and financial security of Western Australians.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and I table the explanatory memorandum.

[See paper [4568](#).]

Debate adjourned, pursuant to standing orders.