

**COVID-19 RESPONSE LEGISLATION AMENDMENT  
(EXTENSION OF EXPIRING PROVISIONS) BILL (NO. 2) 2021**

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by **Hon Sue Ellery (Leader of the House)**, read a first time.

*Second Reading*

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [6.43 pm]: As Australia continues to face an unprecedented emergency with COVID-19, we are back to extend the sunset provisions that provide the state government with the powers to manage the pandemic.

Earlier this year, this house recognised that these provisions continue to be integral to ensuring the safety of the community of Western Australia and provided a six-month extension to 4 January 2022. This house agreed that the COVID response provisions support our emergency management personnel, who continue to do an incredible job on the front line managing the ongoing health crisis. We moved to ensure that the state had access to the necessary powers to continue to manage the COVID-19 pandemic, which still poses a risk to Western Australians. It remains integral that our legislative framework can deal with this emergency, as the threat of COVID-19 continues into the immediate future.

The Delta variant is a serious threat to the community, as we have seen over east. Due to the virulent nature of this strain, Western Australia is under threat of an outbreak and we continue to require the powers to issue directions to protect Western Australia and to limit and reduce the risk of spread.

The government has released the safe transition plan in line with expert health advice. It outlines the state's path forward to ease WA's controlled border for international and interstate travel from all jurisdictions, with testing and vaccination requirements. It provides certainty on how businesses and WA's way of life can continue safely with the introduction of public health and social measures once COVID-19 enters our community. The provisions being extended in this bill are vital to that plan.

The bill before the house will extend the operative provisions of the COVID-19 response amendment acts by a further six months to 4 July 2022. I will now outline the provisions that are subject to the sunset clauses. These are the same as those considered earlier this year. The Emergency Management Amendment (COVID-19 Response) Act 2020, among other things, introduced section 72A into the Emergency Management Act 2005. Section 72A provides a catch-all power that enables a hazard management officer or authorised officer to effectively manage the response to an emergency. It includes the ability to direct a person or class of persons to take any action the officer considers reasonably necessary to prevent, control or abate risks associated with the emergency. Section 72A also contains important information-gathering powers. Over the course of the pandemic, a large number of directions have been made in reliance, or partial reliance, on this section. Those directions include, but are not limited to, current versions of the Contact Register Directions, Controlled Border for Western Australia Directions, Isolation (Diagnosed) Directions, Exposure Site (Western Australia) Directions, Exposure Sites (outside Western Australia) Directions, Quarantine (Undiagnosed) Directions and Presentation for Testing Directions.

Pursuant to sections 2(c) and 10 of the Emergency Management Amendment (COVID-19 Response) Act 2020, as amended by the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Act 2020 and the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Act 2021, section 72A will be deleted from the Emergency Management Act 2005 on 4 January 2022. The intent of this sunset clause was to ensure that the section 72A powers were applied only to 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 on for making any new directions. Ensuring that these provisions endure in the act for another six months is vital. Extension 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 uncertain times.

The powers under section 72A have been vital to effectively direct the isolation and testing of people arriving in Western Australia and we must have the capability to continue to make such directions. Western Australians are still returning home. Many are returning from countries that are severely impacted by the pandemic. In doing so, it is important that we effectively manage the risk. We are witnessing our own Australian states and territories grappling with community outbreaks of the Delta variant and its devastating impact. In response to these outbreaks, Western Australia has issued directions, which were supported by section 72A powers. We need to be able to respond to outbreaks in other jurisdictions and we require this power to put restrictions into place as required. It is important that, based on the current health advice and Western Australia's susceptibility to a COVID-19 outbreak, we have in place measures to manage our borders and to ensure that appropriate strategies are in place.

The powers under section 72A have supported our border management and the issuing of directed presentation for health testing, isolation and hotel quarantining. They have been and continue to be critical to this strategy. Section 72A powers are also essential for the government's implementation of physical distancing measures, when appropriate to the health advice. It allows for appropriate directions to be made for gatherings and activities. Western Australia currently has an easing of restrictions for social venues, such as theatres, concert halls and cinemas. Moving forward, section 72A powers will be needed to facilitate community-based events in a COVID-safe manner and for the safe movement of people in general, while having the agility to swiftly respond to any need to put in place temporary restrictions as and when required. The powers are also relied on for face-covering directions when necessary. As we move forward and border controls are further eased in line with the safe transition plan and in the event the state of emergency continues, section 72A will continue to be relied on. The powers will be needed to facilitate community-based events in a COVID-safe manner and for the safe movement of people in general, while having the agility to swiftly respond to any need to put in place temporary restrictions.

As outlined to this house last time, one of the key directions using section 72A information-gathering powers is the Contact Register Directions. Contact records and the continued use of the SafeWA app are integral to the state's ability to efficiently respond to and control ongoing pandemic risks. Although the subject of complacency is a concern, the SafeWA app remains the best measure for gathering contact information.

The government's decisions in responding to and managing the COVID-19 pandemic will continue to be based on the best available health advice. COVID-19 directions issued under the Emergency Management Act require the state of emergency to remain in place before the powers can be utilised. Directions relating to contact tracing and quarantine that rely on section 72A are integral in any ongoing scenario in which the state of emergency continues. Section 72A powers ensure that our emergency management personnel have the powers available to continue to help us respond to this pandemic and maintain a responsible and flexible framework that has served the state so well to this point.

I turn now to the Criminal Code Amendment (COVID-19 Response) Act 2020, which 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 reflect the seriousness of such assaults and threats against public officers, including frontline workers, in the context of the pandemic. Our frontline workers have been outstanding during the state of emergency. This house has already recognised that these amendments send a strong message of support to these officers for their sustained efforts in such challenging circumstances. As members may recall, the amendments were originally made in response to several concerning reports of people here, across the country and internationally claiming they have COVID-19, deliberately coughing or spitting on, or worse, public officers doing their jobs. This was happening, and is still at risk of occurring, to frontline essential staff who work tirelessly to keep our community safe and to stop the spread of this disease. The increased penalties reflect the seriousness of this unacceptable conduct and conveyed that the government and the Western Australian community do not accept such conduct. The Criminal Code Amendment (COVID-19 Response) Act 2020, as amended by the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Act 2020 and the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Act 2021, has a sunset date of 4 January 2022. Unless extended, the increased maximum penalties for the offences committed in the context of COVID-19 will be deleted.

As we continue to live with COVID-19 and rely so much on our frontline essential staff, it is critical that people who assault or threaten them with COVID-19 can be dealt with appropriately. The bill 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 July 2022. It will ensure that the powers under section 72A of the Emergency Management Act 2005 will be available if the state of emergency in respect of the COVID-19 pandemic continues and will ensure that higher penalties remain available for serious assaults and threats against public officers committed in the context of COVID-19.

We are still facing uncertain times. Although Western Australia has been fortunate, it is due to our strong response and ability to manage the pandemic. This bill will help us maximise certainty that we have the tools in place to do everything we can to protect our state, our people and our economy, both with the short-term response to the risk of the Delta variant and for the government's safe transition plan.

It is vital that the bill be passed before Parliament rises for the year, as the sunset date for these provisions is 4 January 2022. The further extension will allow the McGowan government to respond to the challenges of the pandemic in the short term, while vaccination rates increase, and the longer term, as we navigate a way forward. 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 [866](#).]

Debate adjourned, pursuant to standing orders.

*House adjourned at 6.55 pm*

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