

Public Health Amendment (COVID-19 Response) Bill 2020

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Western Australia

LEGISLATIVE ASSEMBLY

**Public Health Amendment (COVID-19
Response) Bill 2020**

A Bill for

**An Act to amend the *Public Health Act 2016* in response to the
COVID-19 pandemic.**

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Public Health Amendment (COVID-19 Response)*
3 *Act 2020*.

4 **2. Commencement**

5 This Act comes into operation as follows —

- 6 (a) sections 1 and 2 — on the day on which this Act
7 receives the Royal Assent;
8 (b) the rest of the Act — on a day fixed by proclamation.

9 **3. Act amended**

10 This Act amends the *Public Health Act 2016*.

11 **4. Section 4 amended**

12 (1) In section 4(1) delete the definition of *emergency officer*.

13 (2) In section 4(1) insert in alphabetical order:

14
15 *emergency officer* means —

- 16 (a) the Chief Health Officer; or
17 (b) an authorised officer or other person who is
18 authorised by the Chief Health Officer under
19 section 174(2);

20 *IDEC declaration* has the meaning given in
21 section 202A(1);

22 *quarantine direction*, in relation to a person, means a
23 direction under Part 11 Division 2 or Part 12
24 Division 5, or under the *Emergency Management*
25 *Act 2005* Part 6 Division 1, the effect of which is that
26 the person must remain —

- 27 (a) at premises for quarantine-related purposes; or
28 (b) in an area for quarantine-related purposes; or

1 (c) quarantined from other persons;

2

3 (3) After section 4(2)(a) insert:

4

5 (ab) includes a reference to the Chief Health
6 Officer; and

7

8 (4) In section 4(2)(b) after “includes” insert:

9

10 a reference to

11

12 **5. Section 9 amended**

13 After section 9(5) insert:

14

15 (6) Without limiting subsection (1), the Chief Health
16 Officer may, under this section, delegate any function
17 of the Chief Health Officer under Part 12B to a public
18 service officer employed in a department of the Public
19 Service.

20

21 **6. Section 157 amended**

22 (1) In section 157(1)(a) after “any” insert:

23

24 premises, or direct any person to close any

25

26 (2) After section 157(3) insert:

27

28 (4) A direction under subsection (1)(a), (b), (c), (i), (j)
29 or (k) may be given to a class of person or in respect of
30 a class of premises.

s. 7

- 1 (5) A direction under subsection (1)(a), (b), (c), (i) or (k)
2 that is given to a class of person or in respect of a class
3 of premises —
4 (a) need not be given directly to the persons to
5 whom it applies; and
6 (b) despite the *Interpretation Act 1984* section 41
7 (to the extent to which it applies), need not be
8 published in the *Gazette*; and
9 (c) must be published in the manner that the
10 Minister considers suitable in the circumstances
11 of the serious public health incident.
12

13 **7. Section 159 amended**

14 After section 159(4) insert:
15

- 16 (5) Despite subsection (1), if a direction under
17 section 157(1)(c) or (i) is given to a class of person, the
18 explanation required by subsection (1) may be set out
19 in the direction.
20

21 **8. Section 160 amended**

22 After section 160(2) insert:
23

- 24 (3) This section does not apply to a direction under
25 section 157(1)(c) or (i) given to an IDEC-directed
26 person.

- 27 (4) In subsection (3) —

28 ***IDEC-directed person*** means a person who is subject
29 to a quarantine direction in respect of an urgently
30 notifiable infectious disease specified in an IDEC

1 declaration at the time the person became subject to the
2 direction.
3

4 **9. Section 180 amended**

5 (1) In section 180(c) delete “area.” and insert:
6

7 area; or
8

9 (2) After section 180(c) insert:
10

11 (d) direct that any road, access route or area of
12 water in or leading to the emergency area be
13 closed.
14

15 **10. Section 184 amended**

16 After section 184(2) insert:
17

18 (3) A direction under subsection (1) may be given to a
19 class of person.
20

21 **11. Section 186 amended**

22 After section 186(4) insert:
23

24 (5) Despite subsection (1), if a direction under
25 section 184(1)(a) or (b) is given to a class of person,
26 the explanation required by subsection (1) may be set
27 out in the direction.
28

s. 12

1 **12. Section 187 amended**

2 After section 187(2) insert:

3

4 (3) This section does not apply to a direction under
5 section 184(1)(a) or (b) given to an IDEC-directed
6 person.

7 (4) In subsection (3) —

8 ***IDEC-directed person*** means a person who is subject
9 to a quarantine direction in respect of an urgently
10 notifiable infectious disease specified in an IDEC
11 declaration at the time the person became subject to the
12 direction.

13

14 **13. Section 200 amended**

15 After section 200(2) insert:

16

17 (2A) A direction under section 180 or 184(1)(a) or (b) that is
18 given to a class of person —

19 (a) need not be given directly to the persons to
20 whom it applies; and

21 (b) despite the *Interpretation Act 1984* section 41
22 (to the extent to which it applies), need not be
23 published in the *Gazette*; and

24 (c) must be published in the manner that the
25 Minister considers suitable in the circumstances
26 of the public health emergency.

27

1 **14. Parts 12A and 12B inserted**

2 After section 202 insert:

3

4 **Part 12A — Infectious disease extreme**
5 **circumstance declarations**

6 **202A. Minister may make IDEC declaration**

7 (1) In this section —

8 *IDEC declaration* means an infectious disease extreme
9 circumstance declaration under subsection (2).

10 (2) The Minister may, in writing, make a declaration that
11 an infectious disease extreme circumstance exists in the
12 whole of the State or in any area or areas of the State.

13 (3) The Minister cannot make an IDEC declaration unless
14 the Minister —

15 (a) has considered the advice of the Chief Health
16 Officer; and

17 (b) is satisfied that an urgently notifiable infectious
18 disease is posing a severe and immediate threat,
19 or is causing harm, to human health on a
20 significant scale; and

21 (c) is satisfied that the quarantine of persons for
22 periods of more than 24 hours is reasonably
23 necessary as part of preventing or
24 controlling —

25 (i) the entry of the disease into the State; or

26 (ii) the emergence, establishment or spread
27 of the disease in the State.

s. 14

- 1 (4) An IDEC declaration must —
- 2 (a) specify the urgently notifiable infectious
- 3 disease to which it relates; and
- 4 (b) include —
- 5 (i) details of the infectious disease extreme
- 6 circumstance that is the basis of the
- 7 declaration; and
- 8 (ii) the time when, and date on which, the
- 9 declaration is made.
- 10 (5) The making of an IDEC declaration does not prevent
- 11 the making of further IDEC declarations in relation to
- 12 the same or a different infectious disease extreme
- 13 circumstance.

14 **202B. Duration of IDEC declaration**

- 15 An IDEC declaration —
- 16 (a) has effect on and from the time it is made, or
- 17 any later time specified in the declaration; and
- 18 (b) if it is not extended under section 202C or
- 19 sooner revoked under section 202D, remains in
- 20 force until the end of the period of 3 months
- 21 commencing on the day on which it first has
- 22 effect.

23 **202C. Extension of IDEC declaration**

- 24 (1) The Minister may by written declaration extend, or
- 25 from time to time further extend, the duration of an
- 26 IDEC declaration.
- 27 (2) Section 202A(3) applies in relation to a declaration
- 28 extending, or further extending, the duration of an
- 29 IDEC declaration in the same way that it applies to the
- 30 original IDEC declaration.

-
- 1 (3) A declaration extending, or further extending, the
2 duration of an IDEC declaration —
- 3 (a) must state the period by which the duration of
4 the IDEC declaration is extended; and
- 5 (b) must include the time when, and date on which,
6 it is made; and
- 7 (c) remains in force until the end of the period
8 stated under paragraph (a) unless the IDEC
9 declaration is sooner revoked under
10 section 202D.
- 11 (4) Each extension, or further extension, of the duration of
12 an IDEC declaration cannot exceed 3 months, but there
13 is no limit on the number of extensions as long as
14 subsection (2) is complied with.
- 15 (5) A declaration extending, or further extending, the
16 duration of an IDEC declaration has effect on and from
17 the time it is made.

18 **202D. Revocation of IDEC declaration**

- 19 (1) The Minister may, by written declaration, revoke an
20 IDEC declaration at any time.
- 21 (2) The revocation must include the time when, and date
22 on which, it is made.
- 23 (3) A declaration under this section has effect at the time it
24 is made, or any later time specified in the declaration.
- 25 (4) Despite any other written law, the revocation of an
26 IDEC declaration does not affect —
- 27 (a) any penalty or punishment incurred or imposed,
28 or liable to be incurred or imposed, before the
29 revocation; or
- 30 (b) any investigation or legal proceedings in
31 respect of a penalty or punishment of that kind.

s. 14

- 1 **202E. Notice of declaration**
- 2 (1) The Minister must publish notice of a declaration made
- 3 under section 202A, 202C or 202D.
- 4 (2) The notice must be —
- 5 (a) published for general information as soon as is
- 6 practicable after the declaration is made in any
- 7 manner that the Minister considers to be
- 8 appropriate having regard to the circumstances
- 9 and what is practicable; and
- 10 (b) published in the *Gazette* as soon as is
- 11 practicable after the declaration is made.
- 12 (3) A failure to publish notice of the declaration does not
- 13 affect the validity of the declaration.

14 **202F. Limitation of stay of operation of IDEC declaration**

- 15 (1) In any proceedings for judicial review or in any other
- 16 proceedings, a court or tribunal is not authorised to
- 17 make an interlocutory order that has the effect of
- 18 staying the operation of an IDEC declaration.
- 19 (2) This section does not limit judicial review for
- 20 jurisdictional error.

21 **Part 12B — Recovery of certain costs relating to**

22 **exercise of powers**

23 **Division 1 — Fees payable by hotel-quarantined**

24 **persons**

25 **202G. Terms used**

- 26 In this Division —
- 27 *child* means a person who is under 18 years of age;

1 *guardian*, in relation to a child, means a person who is
2 a guardian (as defined in the *Guardianship and*
3 *Administration Act 1990* section 3(1)) of the child;

4 *hotel* includes any of the following —

- 5 (a) a motel;
- 6 (b) a hostel;
- 7 (c) a lodging house;
- 8 (d) a boarding house;
- 9 (e) a serviced apartment;
- 10 (f) any other premises prescribed by the
11 regulations;

12 *hotel-quarantined person* means a person who entered
13 the State from a place outside the State on or after
14 17 July 2020 and who —

- 15 (a) is or was subject to a quarantine direction in
16 relation to that entry that requires or required
17 the person to remain in a hotel for a specified
18 period; or
- 19 (b) while subject to the quarantine direction
20 referred to in paragraph (a) — is or was given a
21 subsequent quarantine direction that requires or
22 required the person to remain in a hotel for a
23 specified period;

24 *parent*, in relation to a child, includes any person who
25 has parental responsibility (as defined in the *Family*
26 *Court Act 1997* section 68) for the child.

27 **202H. Fee payable by hotel-quarantined person in relation**
28 **to cost of quarantine**

- 29 (1) A hotel-quarantined person is liable to pay the fee
30 prescribed by the regulations.

s. 14

- 1 (2) For the purposes of subsection (1), the Chief Health
2 Officer may issue to the person an invoice stating —
3 (a) the date of the invoice; and
4 (b) the name of the hotel-quarantined person to
5 whom the invoice relates; and
6 (c) the amount of the fee payable by the
7 hotel-quarantined person to whom the invoice
8 relates.
- 9 (3) If the hotel-quarantined person is a child —
10 (a) the Chief Health Officer may issue the invoice
11 to the child’s parent or guardian; and
12 (b) the child’s parent or guardian is liable to pay
13 the fee.
- 14 (4) The regulations may provide for a combined fee
15 for 2 or more hotel-quarantined persons who are
16 required or permitted to comply with a quarantine
17 direction in shared accommodation, in which case —
18 (a) the Chief Health Officer may issue a single
19 invoice; and
20 (b) each person (other than a child) is jointly and
21 severally liable for the combined fee.

22 **202I. Period for payment of fee**

- 23 (1) A person liable to pay a fee under section 202H must,
24 subject to section 202L, pay the fee within 30 days
25 after the date of the invoice for the fee.
- 26 (2) The Chief Health Officer may extend and further
27 extend the time for payment of the fee.

1 **202J. Fee may be waived**

2 The Chief Health Officer may waive the whole or part
3 of the fee payable by a hotel-quarantined person under
4 this Division if the Chief Health Officer —

- 5 (a) considers that payment of the whole or part of
6 the fee would cause financial hardship to the
7 person; or
8 (b) otherwise considers that it is appropriate in the
9 circumstances to do so.

10 **202K. Recovery of fees**

11 An amount not paid by a person in accordance with
12 this Division is recoverable in a court of competent
13 jurisdiction as a debt due to the State from the person.

14 **202L. Regulations**

15 For the purposes of this Division, the regulations may
16 provide for —

- 17 (a) the payment of fees by instalments; and
18 (b) the recovery of fees; and
19 (c) the payment of interest for the late payment or
20 non-payment of fees or instalments.

21 **Division 2 — Recovery of certain costs and expenses**

22 **202M. Recovery of costs and expenses of requiring**
23 **premises to be cleaned**

- 24 (1) The Chief Health Officer may recover the reasonable
25 costs and expenses incurred by the State as a
26 consequence of premises having been cleaned or
27 disinfected under a requirement under Part 11 or 12 or
28 under the *Emergency Management Act 2005* Part 6
29 Division 1.

s. 15

- 1 (2) The costs and expenses are recoverable jointly and
2 severally from —
- 3 (a) in relation to premises that are not a vehicle —
4 the owner, occupier or person in possession of
5 the premises at the time that the premises were
6 required to be cleaned or disinfected; and
- 7 (b) in relation to a vehicle — the owner, operator,
8 lessee or charterer (as is relevant) of the vehicle
9 at the time that the vehicle was required to be
10 cleaned or disinfected.
- 11 (3) The costs and expenses are recoverable in a court of
12 competent jurisdiction.
13

14 **15. Section 203 amended**

15 Delete section 203(1) and insert:
16

- 17 (1) Subject to this Division, a person who suffers loss or
18 damage because of the exercise, or purported exercise,
19 of a power under section 157(1)(h), 182 or 190(1)(f)
20 or (g) is entitled to be paid just and reasonable
21 compensation for the loss or damage.
22

23 **16. Section 297A inserted**

24 At the beginning of Part 19 Division 3 insert:
25

26 **297A. Offence of giving false or misleading information**

27 A person must not give information that the person
28 knows to be false or misleading in a material particular
29 to —

1
2
3
4
5
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7
8
9

(a) an authorised officer, emergency officer or police officer exercising a power under this Act; or

(b) a person assisting an authorised officer, emergency officer or police officer to exercise a power under this Act.

Penalty: a fine of \$50 000.

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