

## EXPLANATORY MEMORANDUM

### EMERGENCY MANAGEMENT AMENDMENT (TEMPORARY COVID-19 PROVISIONS) BILL 2022

#### Overview of the Bill

The Emergency Management Amendment (Temporary COVID-19 Provisions) Bill 2022 (**the Bill**):

- amends the *Emergency Management Act 2005* to provide for a temporary scheme, to be in operation for 2 years, under which the State Emergency Coordinator may make a COVID-19 declaration in relation to the whole or any areas of the State, and if a COVID-19 declaration is in force, powers can be exercised by authorised COVID-19 officers for the purposes of COVID-19 management;
- section 72A of the *Emergency Management Act 2005* will operate for the 2-year period that the temporary scheme for the management of COVID-19 is in place, and will be restricted to only apply to a state of emergency for COVID-19;
- makes consequential amendments to the *Emergency Management Amendment (COVID-19 Response) Act 2020*, *First Home Owner Grant Act 2000*, *Local Government Act 1995*, *Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Act 2021*, *Public Health Act 2016* and the *Taxation Administration Act 2003*, which account for the temporary scheme for a COVID-19 declaration and powers for the management of COVID-19.

The Bill is divided into three Parts:

- Part 1. Preliminary;
- Part 2. Amendments commencing on day fixed by proclamation; and
- Part 3. Amendments commencing 2 years after day fixed by proclamation.

## **PART 1. PRELIMINARY**

### **Clause 1 - Short Title**

Clause 1 provides that the Bill, once enacted, will be known as the *Emergency Management Amendment (Temporary COVID-19 Provisions) Act 2022 (the Act)*.

### **Clause 2 - Commencement**

Clause 2 provides for the commencement of the Act and specifies when the Parts come into operation.

Part 1 comes into operation on the day the Act receives Royal Assent.

Part 2 comes into operation on a day fixed by proclamation.

The rest of the Act will come into operation on the day after the period of 2 years beginning on the day fixed by proclamation for Part 2 of the Act.

## **PART 2. AMENDMENTS COMMENCING ON DAY FIXED BY PROCLAMATION**

### **Division 1 – Emergency Management Act 2005 amended**

#### **Clause 3 - Act amended**

Clause 3 provides that Division 1 amends the *Emergency Management Act 2005*.

#### **Clause 4 – Long title amended**

Clause 4 amends the long title to insert “and the management of COVID-19” after “management”.

#### **Clause 5 – Part 6 Division 1A heading inserted**

Clause 5 inserts a new Division heading before section 72A, which will state “Division 1A – Temporary powers during state of emergency in relation to COVID-19”. The amendment is to reflect the changes to section 72A made by clause 6 of this Bill, which restricts the operation of that section to a state of emergency for COVID-19. The emergency powers under section 72A will no longer apply to emergency situation declarations, or emergencies that are not related to COVID-19.

#### **Clause 6 – Section 72A amended**

Section 72A was inserted into the *Emergency Management Act 2005* by the *Emergency Management Amendment (COVID-19 Response) Act 2020*. It provides a “catch-all” power that allows authorised officers and hazard management officers to direct a person or class of persons to take any action the officer considers reasonably necessary to prevent, control or abate the risks associated with the emergency. Section 72A also contains information gathering powers.

Clause 6 proposes to amend section 72A to restrict its operation so that the general powers under that section may only be relied on if a state of emergency declaration is in force declaring that a state of emergency exists in relation to COVID-19. The amendment to section 72A deletes references to emergency situation declaration and hazard management officer.

Subclause (6) is inserted to clarify that nothing in section 72A limits the powers that may be exercised under Part 6 Divisions 1 and 2 in relation to a state of emergency for COVID-19.

In practice, a COVID-19 declaration and temporary powers for the management of COVID-19 (under proposed Part 6A) will be relied on for the response to COVID-19. However, if there is an escalation in community infections and there is a need for a significant and coordinated response, and extraordinary measures to control the spread of COVID-19, such as implementation of a controlled interstate border, then a state of emergency for COVID-19 may also be declared.

Section 72A is proposed to be subject to a sunset clause (clause 29), so that it will be deleted 2 years after the temporary provisions for the management of COVID-19 come into effect (commencement by proclamation).

### **Clause 7 – Part 6A inserted**

Clause 7 proposes to insert new Part 6A into the *Emergency Management Act 2005*, which identifies temporary provisions for the management of COVID-19.

The following details the sections introduced through Part 6A.

#### **Division 1 - Preliminary**

Division 1 includes an overview of Part 6A and sets out new defined terms.

#### **Section 77A. Overview of Part**

Section 77A provides an overview of Part 6A, which conveys the intent of the temporary provisions for the management of COVID-19.

It states that Part 6A provides a temporary scheme, to be in operation for a period of 2 years, under which -

- (a) the State Emergency Coordinator may make a COVID-19 declaration in relation to the whole or any area or areas of the State; and
- (b) if a COVID-19 declaration is in force powers can be exercised by authorised COVID-19 officers for the purposes of COVID-19 management.

The note to this section clarifies that, pursuant to sections 2(c) and 30 of the Act, Part 6A will be deleted immediately after it has been in operation for 2 years.

## **Section 77B. Terms used**

Section 77B sets out new defined terms which are required for the purposes of the new Part 6A.

**‘authorised COVID-19 officer’** means –

- (a) the State Emergency Coordinator; and
- (b) a person authorised under new section 77I.

**‘Chief Health Officer’** has the meaning given in the *Public Health Act 2016* section 4(1).

**‘COVID-19 declaration’** has the meaning given in section 77C(1).

**‘COVID-19 management’** –

- (a) means the management of the adverse effects of COVID-19; and
- (b) includes the prevention, control and abatement of risks associated with COVID-19 (including, without limitation, risks to economic and psychosocial wellbeing).

This term is defined for the purpose of the exercise of powers under new Division 4 in Part 6A. The definition covers matters relevant to the response to COVID-19.

**‘declaration area’**, in relation to a COVID-19 declaration, means the area to which the declaration applies.

## **Division 2 – Power to make COVID-19 declaration**

Division 2 sets out matters relevant to making, extending or revoking a COVID-19 declaration, and identifies requirements for consultation and publication.

### **Section 77C. State Emergency Coordinator may make COVID-19 declaration**

This section covers matters relating to the making of a COVID-19 declaration. The making of a COVID-19 declaration will enliven the powers under Division 4 of Part 6A.

The State Emergency Coordinator may, in writing, make a COVID-19 declaration in relation to the whole or any area or areas of the State, provided that the State Emergency Coordinator has complied with section 77G in relation to consultation and advice from the Chief Health Officer (detailed further below), and is satisfied of the relevant threshold test.

The threshold test is identified in subsection (2). It requires the State Emergency Coordinator to be satisfied that:

- (a) the occurrence of COVID-19 is, or imminently will be, of such a nature or magnitude that it requires a coordinated response; and

- (b) there is a need to exercise the powers under Division 4 to prevent or minimise loss of life, prejudice to the safety, or harm to the health, of persons.

Paragraph (a) of the threshold test contemplates that COVID-19 will be occurring in the State, although it may not always be of such a nature or magnitude that it requires a coordinated response.

Paragraph (b) of the threshold test incorporates the “need principle”, similar to the grounds for making an emergency situation declaration. The interpretation of this criterion is clarified at clause 8 of the Bill, which provides that the State Emergency Coordinator is not required to be satisfied that existing powers in other legislation are insufficient (or considered insufficient) to adequately respond to COVID-19 before determining that there is a need to exercise the powers in Division 4 of Part 6A.

The threshold test for making a COVID-19 declaration sits below the requirements for the existing emergency declarations under the *Emergency Management Act 2005*. This is necessary to ensure that the State Emergency Coordinator can effectively respond to COVID-19 outside of an ‘emergency’ (as defined by the Act). The test has been set at an appropriate level to ensure that these powers may only operate when necessary for a coordinated response to COVID-19.

Subsection (3) provides that a COVID-19 declaration must include –  
(a) the time when, and date on which, the declaration is made; and  
(b) the area to which it applies.

Subsection (4) provides that the making of a COVID-19 declaration does not prevent the making, extension or continuation of –  
(a) any other COVID-19 declaration; or  
(b) any state of emergency declaration, or emergency situation declaration, in relation to COVID-19.

### **Section 77D. Duration of COVID-19 declaration**

Section 77D provides that a COVID-19 declaration –

- has effect on and from the time it is made, or any later time that is specified in the declaration; and
- if it is not extended by the State Emergency Coordinator under section 77E, or sooner revoked under section 77F, remains in force for 3 months after the time in first has effect.

The three-month period for the COVID-19 declaration has been identified as an appropriate length of time, given the longer-term nature of the COVID-19 pandemic.

### **Section 77E. Extension of COVID-19 Declaration**

This section covers matters relating to extending a COVID-19 declaration.

The State Emergency Coordinator may, in writing, extend, or from time to time further extend, the duration of a COVID-19 declaration, provided that the State Emergency Coordinator has complied with section 77G in relation to consultation and advice from the Chief Health Officer (detailed further below), and the State Emergency Coordinator continues to be satisfied of the matters referred to in section 77C(2)(a) and (b) (i.e. the threshold test).

A declaration of extension:

- must include the time when, and date on which it is made, and the period of the extension; and
- remains in force for the period of extension unless revoked earlier.

Extensions of up to three months are permitted. There is no limit to the number of times a COVID-19 declaration may be extended.

### **Section 77F. Revocation of COVID-19 declaration**

The State Emergency Coordinator may revoke a COVID-19 declaration at any time.

The State Emergency Coordinator must revoke a COVID-19 declaration as soon as the State Emergency Coordinator is satisfied that it is no longer necessary for the powers under Division 4 to be exercised in relation to COVID-19 management in the declaration area.

Prior to revoking a COVID-19 declaration, the State Emergency Coordinator must comply with section 77G in relation to consultation and advice from the Chief Health Officer (detailed further below).

The revocation must be in writing and is to include the time and date on which it is made. The revocation has effect on and from the time it is made, or any later time that is specified in the revocation declaration.

Regardless of any other written law, the revocation of a COVID-19 declaration does not affect:

- penalties or punishments relevant to the period that the COVID-19 declaration was in force; or
- any investigation or legal proceedings in respect of such a penalty or punishment.

### **Section 77G. Consultation with and advice from Chief Health Officer**

This section identifies consultation requirements that the State Emergency Coordinator must comply with when making, extending, or revoking a COVID-19 declaration. The intention of this section is to provide accountability and transparency with these decisions.

Subsection (1) provides that a COVID-19 declaration, or a declaration extending or revoking a COVID-19 declaration, cannot be made unless –

- (a) the State Emergency Coordinator has consulted the Chief Health Officer;
- (b) the Chief Health Officer has provided written advice to the State Emergency Coordinator as to whether the declaration should be made; and
- (c) the State Emergency Coordinator has considered the advice.

The advice provided by the Chief Health Officer must set out the detailed reasons as to whether the declaration should be made.

The section contemplates that in urgent circumstances, the Chief Health Officer may provide advice to the State Emergency Coordinator in summary form and is not required to set out detailed reasons for the advice. However, if summary advice is provided, the Chief Health Officer must, within 7 days after providing that advice, provide the State Emergency Coordinator with a further written statement containing the detailed reasons for the advice.

A failure to comply with the requirements of section 77G does not invalidate a declaration.

#### **Section 77H. Publication of notice of declaration and advice**

This section sets out requirements for publishing the notice of a declaration and the supporting advice.

Any notice declaring, extending or revoking a COVID-19 declaration is to be published:

- as soon as is practicable after it is made, in a manner which the State Emergency Coordinator considers to be reasonable; and
- in the Government Gazette as soon as practicable after it is made.

The State Emergency Coordinator must also publish the written advice of the Chief Health Officer, including the detailed reasons and summary advice (where relevant). The advice must be published as soon as is practicable after the declaration is made, and where summary advice has been provided, the detailed reasons must also be published as soon as is practicable after being provided to the State Emergency Coordinator. The advice must be published in a manner that the State Emergency Coordinator considers to be appropriate in the circumstances.

A failure to comply with the requirements to publish under section 77H does not invalidate a declaration.

The requirement to publish provides a layer of accountability and transparency, in the exercise of powers and decision-making. Publishing notice of a COVID-19 declaration is consistent with existing requirements to publish a state of emergency or emergency situation declaration.

### **Division 3 – Authorised COVID-19 officers**

Division 3 sets out matters for the authorisation of persons to act as authorised COVID-19 officers for the purposes of exercising powers under Division 4 of Part 6A during the period that a COVID-19 declaration is in force.

#### **Section 77I. Authorised COVID-19 Officers**

This section empowers the State Emergency Coordinator to authorise persons to act as ‘authorised COVID-19 officers’ while a COVID-19 declaration is in force.

The authorisation is to specify whether it applies to:

- any COVID-19 declaration or is limited to 1 or more COVID-19 declarations; and
- the particular, or a particular class of, person whom it applies; and
- the terms and conditions on which it is given.

The authorisation of a COVID-19 officer may be given in writing or orally. If the latter, it must be put into writing as soon as is practicable. However, a failure to put an authorisation in writing does not invalidate the authorisation or anything done under the authorisation.

An authorised COVID-19 officer may exercise a power under Part 6A only subject to the terms and conditions of the authorisation and must comply with directions of the State Emergency Coordinator when exercising a power.

The State Emergency Coordinator may issue identification cards to authorised COVID-19 officers pursuant to section 62 of the *Emergency Management Act 2005*, as modified by proposed section 77X(1)(b).

### **Division 4 – Powers during COVID-19 declaration**

#### **77J. Matters that may be taken into account and consultation**

Subsection (1) sets out matters that the State Emergency Coordinator may have regard to when exercising a power under Division 4. These include, but are not limited to, public health, social and economic considerations. This provision has been included in recognition of the potential widespread and significant impacts of COVID-19. The requirement is framed as “may” (discretionary), so as not to inadvertently restrict the exercise of powers in Division 4, particularly where powers need to be exercised urgently.

Subsection (2) provides that before exercising a power under Division 4, an authorised COVID-19 officer (which includes the State Emergency Coordinator pursuant to the definition in section 77B) may consult with:

- (a) the Chief Health Officer;
- (b) the chief executive officer of the department of the Public Service principally assisting in the administration of the *Public Health Act 2016* (i.e. the Department of Health);



- (c) any other person the authorised COVID-19 officer considers that it is appropriate to consult.

This consultation requirement largely reflects what already happens in practice in relation to the exercise of powers for a state of emergency or emergency situation declaration.

The purpose of consultation is to ensure that decisions are made and actions are taken in accordance with relevant supporting advice and is a mechanism to facilitate informed decision-making that takes into account whole of government considerations.

### **Section 77K. Obtaining identifying particulars**

Authorised COVID-19 officers are prescribed for the purposes of the *Criminal Investigation (Identifying People) Act 2002* and may exercise the powers in Part 3 of that Act in relation to an offence or suspected offence under the *Emergency Management Act 2005* while a COVID-19 declaration is in force.

This provision enables authorised COVID-19 officers to require a person to give their personal details if that person has or is suspected of having committed a relevant offence.

An authorised COVID-19 officer may also request a person to give their details, where reasonably required for the purposes of COVID-19 management while a COVID-19 declaration is in force.

While a COVID-19 declaration is in force, an authorised COVID-19 officer may request evidence to substantiate such personal details if they reasonably suspect that the person's response is false.

The section is important to provide the authorised COVID-19 officers with the legislated power to seek the identification of a person that they suspect may have committed an offence, and to overcome any reluctance to provide this information that may be needed for the purposes of COVID-19 management.

### **Section 77L. Powers concerning movement and evacuation**

While a COVID-19 declaration is in force, an authorised COVID-19 officer may, for the purposes of COVID-19 management:

- direct, or by direction, prohibit, the movement of persons and vehicles within, into, out of or around the declaration area or any part of the declaration area;
- direct the evacuation and removal of persons from the declaration area, or any part of it; and
- close, or by direction, close, any road, access route or area of water in or leading to the declaration area.

## **Section 77M. Powers to control and use property and related powers**

This section provides authorised COVID-19 officers with the power to take control or use any place, vehicle or other thing (whether inside or outside the declaration area) for COVID-19 management purposes and while a COVID-19 declaration is in force. When exercising this power, an authorised COVID-19 officer may enter, or if necessary, break into and enter, any place or vehicle.

An authorised COVID-19 officer may also direct the owner or occupier, or person apparently in charge, of a place, vehicle or other thing to give the authorised COVID-19 officer reasonable assistance to exercise the officer's powers under this section.

An authorised COVID-19 officer may exercise powers under this section without a warrant or the consent of the owner, occupier or person apparently in charge of, the place, vehicle or other thing.

If an authorised COVID-19 officer exercises powers under this section the officer must give written notice to the owner, occupier or person in charge of the place, vehicle or thing in the specified manner. Notice must be given as soon as is reasonably practicable and no later than 7 days after exercising the power.

## **Section 77N. Powers of officers in relation to persons exposed to SARS-CoV-2 virus**

For the purposes of limiting the spread of SARS-CoV-2 virus, this section empowers authorised COVID-19 officers, while a COVID-19 declaration is in force, to direct any person who has been exposed, or any class of person who may have been exposed, to SARS-CoV-2 virus to do any of the following:

- (a) remain in an area;
- (b) to quarantine from other persons;
- (c) to submit to infection, prevention and control procedures.

An authorised officer is to specify the period that a person is to be subject to these requirements, and a requirement to remain in an area or to submit to quarantine must not be more than 24 hours, unless the State Emergency Coordinator gives the direction, or the State Emergency Coordinator has given authorisation for a longer period.

This section refers to "SARS-CoV-2 virus" as the purpose is to limit the spread of the virus. Therefore, it is correct to use the viral name and not refer to "COVID-19", which refers to the disease.

This section may be relied on for isolation and quarantine requirements.

The power to direct infection, prevention and control procedures may be relied on to implement public health and social measures, such as requirements for personal protective equipment, mask wearing, hygiene protocol and physical distancing.

## **Section 77O. Powers of police to direct closure of places and concerning movement and evacuation**

This section provides that for purposes of COVID-19 management and while a COVID-19 declaration is in force, police officers are empowered to direct the owner, occupier or the person apparently in charge of any place of business, worship or entertainment in the declaration area to close that place to the public for a specified period. This direction may be given in relation to a class of place.

While a COVID-19 declaration is in force, police officers may also exercise the powers of authorised COVID-19 officers in relation to movement and evacuation under section 77L. These powers must be exercised in a manner that does not conflict with a direction given to the police officer by the State Emergency Coordinator, or the exercise of a power by an authorised COVID-19 officer under section 77L.

When exercising powers under this section a police officer has all the same immunities of an authorised COVID-19 officer.

## **Section 77P. Exchange of information**

The purpose of section 77P is to enable the necessary exchange of information between authorised COVID-19 officers, emergency management agencies, welfare agencies and other persons, so that those entities can undertake their roles for COVID-19 management in a coordinated and timely manner, and to ensure that appropriate controls and procedures are set in place.

Section 77P makes provision for the following.

- Identifies the type of information that may be exchanged, referred to as the 'relevant information', which is defined to mean the personal details of a person, information about the whereabouts of a person, the state of health of a person, any recent travel undertaken by a person, persons with whom a person has been a close contact, and information of a kind prescribed by the regulations.
- Defines 'welfare services', which means the provision of accommodation, catering, clothing and personal requisites, and financial assistance, to persons affected by COVID-19.
- Requires that the exchange of information under this section must be for the purposes of COVID-19 management while a COVID-19 declaration is in force.
- Empowers an authorised COVID-19 officer to disclose relevant information to:
  - an emergency management agency (this would include a 'support organisation' such as the Department of Communities); and
  - to a person or entity engaged by an emergency management agency to provide welfare services, in accordance with the regulations.

- An agency, person or entity to whom relevant information is disclosed by an authorised COVID-19 officer, may further disclose the information in accordance with the regulations.
- Empowers an emergency management agency to disclose relevant information to the authorised COVID-19 officer (upon request), regardless of any law of this State relating to secrecy or confidentiality.
- Provides that, if information is disclosed in good faith in accordance with this section:
  - no civil or criminal liability is incurred; and
  - the disclosure cannot be regarded as a breach of any duty of confidentiality or secrecy imposed by law, or of professional ethics or standards, or as unprofessional conduct.
- The State Emergency Management Committee must establish procedures for the disclosure of information by authorised COVID-19 officers to emergency management agencies.
- Includes a regulation-making power, so that regulations may make provision for the circumstances that information may be disclosed, the agencies, persons and entities to whom information may be disclosed, the conditions subject to which information may be disclosed, the receipt and storage of information, and the restriction of access to such information.

## **Section 77Q. General powers during COVID-19 declaration**

This section includes provisions that:

- 1. Allow authorised COVID-19 officers to take or direct a person or a class of persons to take, any action that the officer considers is reasonably necessary to prevent, control or abate risks associated with COVID-19.**

This broad power is necessary to effectively respond to the COVID-19 pandemic, which has continually evolved and presented new and unprecedented events and occurrences.

The power is modelled on section 72A of the *Emergency Management Act 2005*.

- 2. Allow an authorised COVID-19 officer to direct a person to provide certain types of information.**

The information gathering power supplements the information provisions in new section 77P, which only allow the exchange of information between authorised COVID-19 officers and the relevant authorities for the purposes of COVID-19 management. This provision will permit authorised COVID-19 officers to obtain relevant information from persons for the purposes of COVID-19 management and while a COVID-19 declaration is in force.

An authorised COVID-19 officer may direct a person to –

- (a) give the officer ‘relevant information’ about the person or any persons closely associated with the person; or
- (b) answer questions intended to elicit relevant information about the person or any other persons closely associated with the person.

‘Relevant information’ under this provision is defined to mean –

- (a) relevant information as defined in section 77P(1); or
- (b) information of a kind specified by the State Emergency Coordinator as relevant information for the purposes of COVID-19 management.

A person is not excused from providing the information requested because providing that information might tend to incriminate the person or expose that person to a criminal penalty. However, the information provided cannot be used as evidence in criminal proceedings against that person other than proceedings for an offence under section 89 of the *Emergency Management Act 2005* – false or misleading information.

This provision may allow for sensitive information to be obtained by relevant officers. However, it is not unconstrained and can only be exercised for the purposes of COVID-19 management. It is also subject to section 95 of the *Emergency Management Act 2005*, which makes it an offence to breach confidentiality.

Subsection (6) provides that the powers in sections 77K to 77P and Part 6 of the *Emergency Management Act 2005* do not in any way limit the general power in section 77Q.

### **Section 77R. Powers under this Division cannot be exercised to effect interstate border closure**

Section 77R prevents a power under Division 4 of Part 6A from being exercised that would prohibit or prevent persons from entering Western Australia from any other State or any Territory, or to require persons to make an application, or obtain a pass or permit, to enter Western Australia from any other State or any Territory.

The prohibition on effecting an interstate border closure applies whether or not the exercise of the power is subject to exceptions or applies only to a class of persons entering from the other State or Territory.

The reference to “Territory” in this section includes internal and external Territories of the Commonwealth of Australia pursuant to the *Interpretation Act 1984* (WA).

The prohibitions under section 77R do not affect the powers that can be exercised under Part 6 during an emergency situation or state of emergency.

### **Division 5 – Miscellaneous**

Division 5 includes provisions for a range of miscellaneous matters.

## **Section 77S. General provisions regarding powers**

If a person does not comply with a direction under Part 6A, an authorised COVID-19 officer or a police officer may do all such things as are reasonably necessary to ensure compliance with the direction.

An authorised COVID-19 officer or a police officer may exercise a power under Part 6A with the help, and using the force, that is reasonable in the circumstances.

The powers of an authorised COVID-19 officer and police officer under Part 6A are in addition to, and do not detract from, any powers the person may have under another written law or other law.

## **Section 77T. General provisions regarding directions**

A direction under Part 6A may be given in writing or orally. If the latter, it is to be confirmed in writing within two working days – unless it is complied with or cancelled within that period. Failure to confirm a direction in writing within two working days does not invalidate the direction.

If a direction is given in relation to a class of person, place or thing, it does not need to be given directly to the persons to whom it applies and does not need to be published in the *Government Gazette*. It must, however, be published in the manner that the State Emergency Coordinator considers suitable in the circumstances (for example, on the Western Australian Government website). Failure to publish does not invalidate the direction.

## **Section 77U. Establishment of State Emergency Coordination Group**

Section 77U provides that if a COVID-19 declaration is in force, the State Emergency Coordinator may establish a State Emergency Coordination Group (**SECG**) in relation to COVID-19.

Subsection (2) provides that a reference in the *Emergency Management Act 2005* to the SECG includes a reference to the SECG established under this section. This enables the SECG to consist of membership and operate in accordance with the existing provisions (for example, sections 26 and 27), subject to the modifications provided in section 77U.

In accordance with section 26, and as modified by section 77U(3), membership of the SECG is to consist of:

- the State Emergency Coordinator, who will chair the SECG;
- the State Emergency Management Committee chairperson;
- the State Emergency Management Committee executive officer;
- a representative of the relevant hazard management agency; and
- such other member/s as the State Emergency Coordinator considers necessary.

The SECG is not required to include a person referred to in section 26(3)(e), and instead must include a person nominated by the State Emergency Coordinator as a representative of all local governments in the State.

The membership may be changed in accordance with existing provisions of the *Emergency Management Act 2005*.

The SECG may determine its own procedures.

The SECG continues until a day determined by the State Emergency Coordinator under section 26(6), even if the COVID-19 declaration that triggered the establishment of the SECG under section 77U ceases to be in force. However, the SECG established under section 77U for COVID-19 will cease to be established once Part 6A is repealed in accordance with clause 30.

The SECG established during a COVID-19 declaration may exercise functions under section 27, however those provisions will be modified to be read as if a reference in section 27(a) and (b) to 'emergency management' is a reference to 'COVID-19 management'. This will ensure that the SECG is able to effectively perform its functions in relation to COVID-19.

If a state of emergency in relation to COVID-19 is declared, then the SECG established under section 77U during the COVID-19 declaration may continue to perform its functions in relation to the state of emergency.

The intent is that there will be one SECG established for COVID-19 regardless of there being multiple COVID-19 declarations or a state of emergency declaration for COVID-19 in place.

### **Section 77V. Continuation of State Disaster Council for COVID-19**

Section 77V provides that the State Disaster Council (SDC) established for the state of emergency declaration in relation to COVID-19 that came into force on the 16 March 2020, will continue even if the state of emergency declaration ceases to be in force.

The provision will enable the existing SDC to continue to exercise its functions during any period that a COVID-19 declaration is in force, as if its functions under existing section 64 included reference to COVID-19 management.

If a further state of emergency in relation to COVID-19 is declared, then the same SDC will continue to exercise its functions. It will not establish a new SDC.

The membership of the SDC may change in accordance with the existing provisions of the *Emergency Management Act 2005*.

The intent is that there will be one SDC established for COVID-19 regardless of there being multiple COVID-19 declarations or a state of emergency declaration for COVID-19 in place.

The SDC established under section 77V for COVID-19 will cease to be established once Part 6A is repealed in accordance with clause 30.

### **Section 77W. Modification of State and local arrangements**

Section 77W modifies existing provisions of the *Emergency Management Act 2005* in relation to the State and local emergency management arrangements so that these can account for COVID-19 management while new Part 6A is in operation.

Subsection (1) provides that while Part 6A is in operation, the State emergency management policies, State emergency management plans, emergency management arrangements for an emergency management district, and the local emergency management arrangements (as defined in section 41(1)), may, but are not required to, include provision in relation to COVID-19 management; and provides that all relevant officers/bodies can exercise their functions that relate to those policies, plans and arrangements accordingly.

Subsection (2) separately confers COVID-19 management functions on a district emergency coordinator, local emergency coordinator, and local emergency management committee:

- a district emergency coordinator may carry out COVID-19 management functions in accordance with the directions of the State Emergency Coordinator;
- a local emergency coordinator or local emergency management committee may carry out COVID-19 management activities in accordance with the directions of the State Emergency Coordinator; and
- a local emergency coordinator may assist hazard management agencies in the provision of a coordinated response to COVID-19 while a COVID-19 declaration is in force.

### **Section 77X. Modification of other provisions of this Act**

Section 77X modifies specified provisions of the *Emergency Management Act 2005* to account for the temporary COVID-19 provisions.

It provides that while Part 6A is in operation, the following sections are modified:

- The modifications to section 11 ensure that the State Emergency Coordinator, in addition to their existing responsibilities and functions, is responsible for coordinating the response to COVID-19 during a period when a COVID-19 declaration is in force, and is able to effectively undertake the following: provide advice to the Minister in relation to COVID-19; provide advice to the State Disaster Council during a period when a COVID-19 declaration is in force; and carry out other COVID-19 management activities as directed by the Minister; and where authorised to do so may liaise with the Australian Government and other persons, and enter into agreements and arrangements to assist the State to manage COVID-19. The modifications to section 11 is given effect by section 77X(1)(a).



- The modifications to section 62 will ensure that the identification requirements that apply to authorised officers will also apply to authorised COVID-19 officers. This is given effect by section 77X(1)(b).
- The entitlement to compensation under section 78 will be extended to apply to loss or damage because of the exercise, or purported exercise, of a power under section 77M (powers to control and use property and related powers). Section 79 will also be modified to enable a person to make an application to the Minister for compensation for the loss or damage in relation to the exercise, or purported exercise, of a power under section 77M. The modifications to sections 78 and 79 are given effect by section 77X(1)(c).
- Section 84 will be modified so that the extension of the policy of insurance applies to damage caused to property because of the exercise of a power, or performance of a function, under the *Emergency Management Act 2005* by a person, in good faith, in relation to COVID-19 and where the other requirements of that provision are met. This is given effect by section 77X(1)(d).
- The offence under section 85 is modified so that it provides that a person must not obstruct or hinder an authorised COVID-19 officer in the exercise of a power. This is given effect by section 77X(1)(b).
- The offence for failure to comply with a direction under section 86 is modified so that it applies to a direction under sections 77L, 77M(4), 77N, 77O or 77Q. This is given effect by section 77X(1)(e).
- The offence under section 88 is modified so that it provides that a person must not falsely represent that the person is an authorised COVID-19 officer. This is given effect by section 77X(1)(b).
- The offence under section 89 is modified so that it provides that a person must not give false or misleading information to an authorised COVID-19 officer. This is given effect by section 77X(1)(b).
- Section 96 is modified so that the Minister may approve the payment of expenses to an emergency management agency that were incurred in implementing COVID-19 management while a COVID-19 declaration is in force (subject to the other requirements of that provision). This is given effect by section 77X(1)(f).
- Section 99 is modified so that the standard evidentiary matters that apply in proceedings under the *Emergency Management Act 2005*, also apply to the temporary COVID-19 provisions. This is given effect by section 77X(g).
- Section 100 is modified so that the protection from liability also applies to authorised COVID-19 officers. This is given effect by section 77X(1)(b).

- Section 101 is modified so that regulations may be made to allow compensation for volunteers who undertake COVID-19 management. This is given effect by section 77X(1)(h).
- The employment protections under Part 9 are modified so that these may apply to an employee who undertakes an activity that involves responding to COVID-19 when a COVID-19 declaration is in force. The activity will still need to be undertaken in association with an emergency management agency as referred to in section 91(2)(a)(iii) and (iv). This is given effect by section 77X(2).

### **Clause 8. Section 94A inserted**

Clause 8 inserts proposed section 94A at the beginning of Part 10 of the *Emergency Management Act 2005*.

The purpose of proposed section 94A is to clarify that the existence of powers under any other written law that could be exercised in relation to an emergency or the occurrence of COVID-19 does not affect whether there is power to make an emergency situation, state of emergency or COVID-19 declaration, and those alternative powers do not need to be taken into account when making decisions in relation to those declarations.

### **Division 2 – Other Acts amended**

#### **Subdivision 1 – *Emergency Management Amendment (COVID-19 Response) Act 2020* amended**

##### **Clause 9. Act amended**

Clause 9 provides that Subdivision 1 amends the *Emergency Management Amendment (COVID-19 Response) Act 2020*.

##### **Clause 10. Section 2 amended**

Section 2 of the *Emergency Management Amendment (COVID-19 Response) Act 2020* provides for the commencement of that Act. It was previously amended by the *COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Act 2020*, the *COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Act 2021*, the *COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Act (No. 2) 2021*, and the *COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Act (No. 2) 2022*.

Section 2(c) currently provides that section 10 of that Act commences on 4 January 2023. Section 10 provides that section 72A of the *Emergency Management Act 2005* (as inserted by section 9 of the *Emergency Management Amendment (COVID-19 Response) Act 2020*), and all references to section 72A in other sections of the *Emergency Management Act 2005*, are to be deleted. Sections 2(c) and 10 of

the *Emergency Management Amendment (COVID-19 Response) Act 2020* currently operate to delete all references to section 72A on 4 January 2023.

Clause 10 of this Bill will delete section 2(c). This, in combination with the deletion of section 10 made by clause 11 of this Bill, will result in the removal of the sunset clause that applies to section 72A.

Section 72A, which is proposed to be modified in accordance with clause 6 of this Bill, will operate for the 2-year period that the temporary provisions for the management of COVID-19 are in effect.

#### **Clause 11. Section 10 deleted.**

Section 10 of the *Emergency Management Amendment (COVID-19 Response) Act 2020* provides for the deletion of section 72A and consequential amendments.

Clause 11 of this Bill will delete section 10.

#### **Subdivision 2 – *First Home Owner Grant Act 2000* amended**

##### **Clause 12. Act amended**

Clause 12 provides that Subdivision 2 amends the *First Home Owner Grant Act 2000*.

##### **Clause 13. Section 64B amended**

Section 64B of the *First Home Owner Grant Act 2000* provides for the Treasurer to declare a grant relief measure if an emergency situation declaration or state of emergency declaration under the *Emergency Management Act 2005*, or public health state of emergency declaration under the *Public Health Act 2016*, has been made.

Clause 13 amends section 64B to insert new subsection (1)(a)(ia), to include reference to “a COVID-19 declaration under the *Emergency Management Act 2005* section 77C”. It also amends subsection (1)(b) to delete “of the emergency to which the emergency declaration relates.” and instead inserts “of – (i) if the emergency declaration is a COVID-19 declaration under the *Emergency Management Act 2005* section 77C – COVID-19; or (ii) otherwise – the emergency to which the emergency declaration relates”.

The purpose of the proposed amendments to section 64B is to provide that, if a COVID-19 declaration is made, the Treasurer may declare a grant relief measure if the Treasurer considers that it is necessary to provide relief to persons eligible for the first home owner grant for the purpose of alleviating the financial or economic effects of COVID-19.

The amendment is subject to a sunset provision at clause 35 of the Bill and a transitional provision at clause 36 of the Bill.

### **Subdivision 3 – *Local Government Act 1995* amended**

#### **Clause 14. Act amended**

Clause 14 provides that Subdivision 3 amends the *Local Government Act 1995*.

#### **Clause 15. Section 10.1 amended**

Clause 15 proposes to delete the definition of ‘COVID-19 emergency declaration’ in section 10.1 of the *Local Government Act 1995* to and insert “COVID-19 emergency declaration means – (a) a state of emergency declaration made under the *Emergency Management Act 2005* section 56 in relation to the COVID-19 pandemic; or (b) a COVID-19 declaration made under Part 6A of that Act (as that Part is in force before coming into operation the *Emergency Management Amendment (Temporary COVID-19 Provisions) Act 2022* section 30)”.

The amendment will ensure that the Minister will have the ability to exercise powers under Part 10 to modify or suspend provisions of the *Local Government Act 1995*, regulations and local laws to facilitate a quick response by local government to consequences arising from a COVID-19 declaration and COVID-19 pandemic.

The deletion of Part 10 of the *Local Government Act 1995* is provided for by section 5 of the *Local Government Amendment (COVID-19 Response) Act 2020* which commences on a day fixed by proclamation.

### **Subdivision 4 – *Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Act 2021* amended**

#### **Clause 16. Act amended**

Clause 16 provides that Subdivision 4 amends the *Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Act 2021*.

#### **Clause 17. Section 3 amended**

Section 3 of the *Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Act 2021* provides for a definition of ‘infectious disease emergency’ by reference to state of emergency and emergency situation declarations under the *Emergency Management Act 2005*, as well as public health state of emergencies and serious public health risks under the *Public Health Act 2016*.

Clause 17 amends the definition of ‘infectious disease emergency’ in section 3 to, in paragraph (c), delete “powers;” and insert “powers; or”, and after paragraph (c) insert new paragraph (d), which states “if a COVID-19 declaration is made under the *Emergency Management Act 2005* Part 6A (as that Part is in force before coming into operation the *Emergency Management Amendment (Temporary COVID-19 Provisions) Act 2022* section 30) – the occurrence of COVID-19 in the area to which the declaration applies while the declaration is in force;”.

The amendment to the definition will ensure that the statutory framework for regulating the use and disclosure, storage and destruction of entry registration information provided for the purpose of contact tracing also applies to the exercise of relevant powers under a COVID-19 declaration.

#### **Subdivision 5 – *Public Health Act 2016* amended**

##### **Clause 18. Act amended**

Clause 18 provides that Subdivision 5 amends the *Public Health Act 2016*.

##### **Clause 19. Section 4 amended**

Clause 19 amends section 4(1) of the *Public Health Act 2016* to insert in alphabetical order the following terms:

**COVID-19 declaration** has the meaning given in the *Emergency Management Act 2005* section 77C(1);

**COVID-19 management** has the meaning given in the *Emergency Management Act 2005* section 77B.

It is necessary to introduce these terms into the *Public Health Act 2016* as these will be referred to in sections 164, 197 and 198 as amended by this Bill.

Clause 19 also proposes to amend the definition of ‘*quarantine direction*’ in section 4(1), to delete the reference to “Part 6 Division 1,” and insert, “Part 6 Division 1 or 1A or Part 6A Division 4.”. This amendment is necessary to identify the relevant powers for a quarantine direction, which may be made under existing Division 1 of Part 6 of the *Emergency Management Act 2005*, new Division 1A of Part 6 (as provided by clause 5 of this Bill), and to reflect the new temporary powers for the management of COVID-19 contained in proposed Part 6A Division 4.

The amendment is subject to a sunset provision at clause 39 of the Bill.

##### **Clause 20. Section 164 amended**

Clause 20 amends section 164 of the *Public Health Act 2016* to delete “an emergency situation declaration or a state of emergency declaration” and insert, “an emergency situation declaration, a state of emergency declaration or a COVID-19 declaration”.

The amendment to section 164, will ensure that the public health emergency powers under Part 12 of the *Public Health Act 2016* do not prevent the making of a COVID-19 declaration. Equally, the making of a COVID-19 declaration under the *Emergency Management Act 2005* does not prevent a public health state of emergency declaration from being made.

The amendment is subject to a sunset provision at clause 40 of the Bill.

### **Clause 21. Section 197 amended**

Clause 21 amends section 197(2) of the *Public Health Act 2016* to delete “emergency –” and insert, “emergency, or COVID-19 management while a COVID-19 declaration is in force –”.

The amendment to section 197 will empower the Chief Health Officer to authorise persons to administer, manufacture, supply, or prescribe poisons for the purposes of COVID-19 management while a COVID-19 declaration is in force.

The amendment is subject to a sunset provision at clause 41 of the Bill.

### **Clause 22. Section 198 amended**

Clause 22 amends section 198(2)(c) of the *Public Health Act 2016* to delete “emergency” and insert, “emergency, or COVID-19 declaration,”.

The amendment to section 198 ensures that the authorisation made pursuant to section 197 of the *Public Health Act 2016* may identify the COVID-19 declaration to which it relates where this is relevant.

The amendment is subject to a sunset provision at clause 42 of the Bill.

### **Clause 23. Section 201 amended**

Clause 23 amends section 201 of the *Public Health Act 2016* to delete “Part 6” and insert, “Part 6 or 6A,”.

The amendment to section 201 clarifies the effect of a direction given under Part 6A of the *Emergency Management Act 2005* on an inconsistent direction given under Part 12 (public health emergencies) of the *Public Health Act 2016*. It provides that a direction given under Part 6A of the *Emergency Management Act 2005* prevails to the extent to which the directions are in conflict or inconsistent.

The amendment is subject to a sunset provision at clause 43 of the Bill.

### **Clause 24. Section 202M amended**

Clause 24 amends section 202M(1) of the *Public Health Act 2016* to delete “the *Emergency Management Act 2005* Part 6 Division 1.” and insert, “a direction under the *Emergency Management Act 2005* Part 6 Division 1 or 1A or Part 6A Division 4”.

The amendment to section 202M will enable the Chief Health Officer to recover reasonable costs and expenses incurred in the exercise of powers under Part 6, Division 1A or Part 6A Division 4 of the *Emergency Management Act 2005*. Namely, this would be in regard to directions made for decontamination purposes (cleaning and disinfection).

The amendment is subject to a sunset provision at clause 44 of the Bill.

## **Subdivision 6 – *Taxation Administration Act 2003* amended**

### **Clause 25 Act amended**

Clause 25 provides that Subdivision 6 amends the *Taxation Administration Act 2003*.

### **Clause 26. Section 135A amended**

Section 135A of the *Taxation Administration Act 2003* provides for the Treasurer to declare a tax relief measure if an emergency situation declaration or state of emergency declaration under the *Emergency Management Act 2005*, or public health state of emergency declaration under the *Public Health Act 2016*, has been made.

Clause 26 amends section 135A to insert new subsection (1)(a)(ia), to include reference to “a COVID-19 declaration under the *Emergency Management Act 2005* section 77C”. It also amends subsection (1)(b) to delete “of the emergency to which the emergency declaration relates.” and instead inserts “of – (i) if the emergency declaration is a COVID-19 declaration under the *Emergency Management Act 2005* section 77C – COVID-19; or (ii) otherwise – the emergency to which the emergency declaration relates”.

The purpose of the proposed amendments to section 135A is to provide that, if a COVID-19 declaration is made, the Treasurer may declare a tax relief measure if the Treasurer considers that it is necessary to provide relief to taxpayers for the purpose of alleviating the financial or economic effects of COVID-19.

The amendment is subject to a sunset provision at clause 45 of the Bill and a transitional provision at clause 46 of the Bill.

## **PART 3. AMENDMENTS COMMENCING 2 YEARS AFTER DAY FIXED BY PROCLAMATION**

Part 3 provides for sunset and transitional amendments to Acts that are consequential upon the repeal of the temporary scheme for a COVID-19 declaration and powers for the management of COVID-19.

### **Division 1 – *Emergency Management Act 2005* amended**

#### **Clause 27 - Act amended**

Clause 27 provides that Division 1 of Part 3 amends the *Emergency Management Act 2005*.

#### **Clause 28 – Long title amended**

Clause 28 proposes to delete the reference to “and the management of COVID-19” in the long title of the *Emergency Management Act 2005*, which in accordance with clause 2 of this Bill, will occur 2 years after the temporary provisions for the management of COVID-19 come into effect (commencement by proclamation).

### **Clause 29 – Part 6 Division 1A deleted**

Clause 29 proposes to delete Part 6 Division 1A (Temporary powers during state of emergency in relation to COVID-19) of the *Emergency Management Act 2005*, which in accordance with clause 2 of this Bill, will occur 2 years after the temporary provisions for the management of COVID-19 come into effect (commencement by proclamation).

### **Clause 30 – Part 6A deleted**

Clause 29 proposes to delete Part 6A (Temporary provisions for management of COVID-19) of the *Emergency Management Act 2005*, which in accordance with clause 2 of this Bill, will occur 2 years after the temporary provisions for the management of COVID-19 come into effect (commencement by proclamation).

### **Clause 31 – Section 77 amended**

Clause 31 proposes to amend section 77(2A) to delete the reference to “71, 72A(2)” and insert “71”.

The amendment is consequential upon the deletion of section 72A, which in accordance with clause 2 of this Bill, will occur 2 years after the temporary provisions for the management of COVID-19 come into effect (commencement by proclamation).

### **Clause 32 – Section 86 amended**

Clause 32 proposes to amend section 86(1) to delete the reference to “71, 72A(2)” and insert “71”.

The amendment is consequential upon the deletion of section 72A, which in accordance with clause 2 of this Bill, will occur 2 years after the temporary provisions for the management of COVID-19 come into effect (commencement by proclamation).

### **Clause 33– Section 94A amended**

Clause 33 proposes to delete subsections (3) and (4) from section 94A (Powers under other written laws do not affect whether declarations can be made), which in accordance with clause 2 of this Bill, will occur 2 years after the temporary provisions for the management of COVID-19 come into effect (commencement by proclamation). It will only delete the subsections that sought to provide clarification that the existence of powers under other laws do not affect the making of a COVID-19 declaration, as those provisions will not be necessary once the temporary scheme for the management of COVID-19 is deleted.

### **Division 2 – First Home Owner Grant Act 2000 amended**

#### **Clause 34 - Act amended**

Clause 34 provides that Division 2 of Part 3 amends the *First Home Owner Grant Act 2000*.



### **Clause 35 – Section 64B amended**

Clause 35 proposes to amend section 64B to delete subsection (1)(a)(iia), to remove reference to “a COVID-19 declaration under the *Emergency Management Act 2005* section 77C”. It also amends subsection (1)(b) to delete the reference to “effects of – (i) if the emergency declaration is a COVID-19 declaration under the *Emergency Management Act 2005* section 77C – COVID-19; or (ii) otherwise – the emergency to which the emergency declaration relates” and insert “effects of the emergency to which the emergency declaration relates”.

The amendment is consequential upon the repeal of the temporary provisions for the management of COVID-19, which in accordance with clause 2 of this Bill, will occur 2 years after Part 2 comes into effect (commencement by proclamation).

### **Clause 36 – Section 72 inserted**

Clause 36 proposes to insert new section 72 at the end of Part 5 of the *First Home Owner Grant Act 2000*. It is a transitional provision for the *Emergency Management Amendment (Temporary COVID-19 Provisions) Act 2022*.

In section 72(1), commencement day means the day on which the *Emergency Management Amendment (Temporary COVID-19 Provisions) Act 2022* Part 3 comes into operation, which under clause 2 of the Bill is the day that is 2 years after Part 2 comes into effect. The commencement day is day that the amendments to the *First Home Owner Grant 2000* made by Division 2, Subdivision 2 of the Bill are repealed by clause 35 (repeal day).

Section 72 provides that, if 1 or more COVID-19 declarations were made under the *Emergency Management Act 2005* section 77C (as that section was in force before commencement day), section 64B applies on and after commencement day in relation to those COVID-19 declarations as if the repeal of amendments by clause 36 of the Bill had not come into operation.

The purpose of this transitional provision is to ensure that a grant relief measure made in relation to a COVID-19 declaration made before the repeal day that relates to a period after the repeal day, is still valid, in accordance with the provisions of the *First Home Owner Grant 2000*. It also allows the Treasurer to make a grant relief declaration in relation to a COVID-19 declaration made before repeal day subject to the requirements in section 64B.

### **Division 3 – Public Health Act 2016 amended**

#### **Clause 37 – Act amended**

Clause 37 provides that Division 3 of Part 3 amends the *Public Health Act 2016*.

#### **Clause 38 – Section 4 amended**

Clause 38 proposes to delete the definitions of ‘COVID-19 declaration’ and ‘COVID-19 management’ from section 4(1) of the *Public Health Act 2016*. It also proposes to amend the definition of ‘quarantine direction’ in section 4(1) to delete the reference to “Part 6 Division 1 or 1A or Part 6A Division 4,” and insert “Part 6 Division 1,”. These amendments are consequential upon the repeal of the temporary COVID-19 provisions in the *Emergency Management Act 2005*, which in accordance with clause 2 of this Bill, will occur 2 years after Part 2 comes into effect (commencement by proclamation).

#### **Clause 39 – Section 164 amended**

Clause 39 proposes to amend section 164(1) of the *Public Health Act 2016* to delete the reference to “an emergency situation declaration, a state of emergency declaration or a COVID-19 declaration” and insert, “an emergency situation declaration or a state of emergency declaration”. The amendment is consequential upon the repeal of the temporary COVID-19 provisions in the *Emergency Management Act 2005*, which in accordance with clause 2 of this Bill, will occur 2 years after Part 2 comes into effect (commencement by proclamation).

#### **Clause 40 – Section 197 amended**

Clause 40 proposes to amend section 197(2) to delete the reference to, “emergency, or COVID-19 declaration,” and insert, “emergency”. The amendment is consequential upon the repeal of the temporary COVID-19 provisions in the *Emergency Management Act 2005*, which in accordance with clause 2 of this Bill, will occur 2 years after Part 2 comes into effect (commencement by proclamation).

#### **Clause 41 – Section 198 amended**

Clause 41 proposes to amend section 198(2)(c) of the *Public Health Act 2016* to delete the reference to “emergency, or COVID-19 declaration,” and insert, “emergency”. The amendment is consequential upon the repeal of the temporary COVID-19 provisions in the *Emergency Management Act 2005*, which in accordance with clause 2 of this Bill, will occur 2 years after Part 2 comes into effect (commencement by proclamation).

#### **Clause 42 – Section 201 amended**

Clause 42 proposes to amend section 201 of the *Public Health Act 2016* to delete the reference to “Part 6 or Part 6A,” and insert “Part 6,”. The amendment is consequential upon the repeal of the temporary COVID-19 provisions in the *Emergency Management Act 2005*, which in accordance with clause 2 of this Bill, will occur 2 years after Part 2 comes into effect (commencement by proclamation).

#### **Clause 43 – Section 202M amended**

Clause 43 proposes to amend section 202M(1) of the *Public Health Act 2016* to delete the reference to “Division 1 or 1A or Part 6A Division 4,” and insert “Division 1,”. The amendment is consequential upon the repeal of the temporary COVID-19 provisions

in the *Emergency Management Act 2005*, which in accordance with clause 2 of this Bill, will occur 2 years after Part 2 comes into effect (commencement by proclamation).

### **Division 5 – Taxation Administration Act 2003 amended**

#### **Clause 44 – Act amended**

Clause 44 provides that Division 5 of Part 3 amends the *Taxation Administration Act 2003*.

#### **Clause 45 – Section 135A amended**

Clause 45 proposes to amend section 135A to delete subsection (1)(a)(ia), to remove reference to “a COVID-19 declaration under the *Emergency Management Act 2005* section 77C”. It also amends subsection (1)(b) to delete the reference to “effects of – (i) if the emergency declaration is a COVID-19 declaration under the *Emergency Management Act 2005* section 77C – COVID-19; or (ii) otherwise – the emergency to which the emergency declaration relates” and insert, “effects of the emergency to which the emergency declaration relates”.

The amendment is consequential upon the repeal of the temporary provisions for the management of COVID-19, which in accordance with clause 2 of this Bill, will occur 2 years after Part 2 comes into effect (commencement by proclamation).

#### **Clause 46 – Section 139 inserted**

Clause 46 proposes to insert new section 139 at the end of Part 11 of the *Taxation Administration Act 2003*. It is a transitional provision for the *Emergency Management Amendment (Temporary COVID-19 Provisions) Act 2022*.

In section 139(1) commencement day means the day on which the *Emergency Management Amendment (Temporary COVID-19 Provisions) Act 2022* Part 3 comes into operation, which under clause 2 of the Bill is the day that is 2 years after Part 2 comes into effect. The commencement day is day that the amendments to the *Taxation Administration Act 2003* made by Division 2, Subdivision 6 of the Bill are repealed by clause 45 (repeal day).

Section 72 provides that, if 1 or more COVID-19 declarations were made under the *Emergency Management Act 2005* section 77C (as that section was in force before commencement day), section 135A applies on and after commencement day in relation to those COVID-19 declarations as if the repeal of amendments by clause 45 of the Bill had not come into operation.

The purpose of this transitional provision is to ensure that tax relief declaration made in relation to a COVID-19 declaration that was made before the repeal day that relates to a period after the repeal day, is still valid, in accordance with the provisions of the *Taxation Administration Act 2003*. It also allows the Treasurer to make a tax relief declaration in relation to a COVID-19 declaration made before repeal day subject to the requirements in section 135A.