

**EMERGENCY MANAGEMENT AMENDMENT (COVID-19 RESPONSE) BILL 2020**

*Time Limits — Statement by Leader of the House*

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [2.39 pm]: I think it is appropriate that I make a statement about the maximum time limits. Now is the appropriate time to do that.

Earlier today, I consulted with all party leaders. I am setting maximum time limits for each stage of the Emergency Management Amendment (COVID-19 Response) Bill 2020. The second reading stage will be a maximum time of 80 minutes, Committee of the Whole will be a maximum time of 60 minutes, adoption of report will be five minutes and the third reading will be five minutes. For the benefit of the house, I will do this for each of the three bills on which I consulted leaders about setting maximum time limits.

**Hon Nick Goiran:** Did they all agree?

**Hon SUE ELLERY:** Yes, they did.

**Hon Nick Goiran:** They all agreed.

**Hon SUE ELLERY:** Yes, they did.

*Second Reading*

Resumed from 31 March.

**The PRESIDENT:** The Leader of the House has made a statement on the limits that are being placed on the time for this bill. Hon Tjorn Sibma has the call.

**HON TJORN SIBMA (North Metropolitan)** [2.41 pm]: Thank you, Madam President. I rise under these slightly different circumstances to speak to the Emergency Management Amendment (COVID-19 Response) Bill 2020. For the benefit of the chamber, I am the opposition's lead speaker on this bill, and I will, at the outset, indicate that the opposition supports the bill, as was the case in the other place.

In concord with the agreement reached between party leaders during the break, I will make my address appropriately short and to the point, but indicate, obviously, that a bill of this sort in any other circumstance would likely receive extensive and prolonged scrutiny. Context is obviously everything. We live in a different era. I hope the era is brief; I hope it comes to a rapid conclusion. Analogies have been made to certain wartime provisions. I think that is actually the wrong analogy to draw. This is a different community challenge, and the enemy, if it can be put in those terms, is invisible, insidious and virulent, as befits a virus.

This bill seeks to make certain amendments to the existing Emergency Management Act, which were not envisioned when that bill was dealt with by this Parliament I believe back in 2005; I may be corrected on my time frame. The extensive and multiplicative growth of this virus has revealed certain shortcomings not only in institutional infrastructure, but also with the legal means by which our first responders, police and others, along with health professionals, might be enabled to, as they say, flatten the curve. I hope that we are successful in that enterprise. I note, however, we have focused on one particular outbreak and one particular curve. There is a potential dynamic for something like this to come in various waves and phases, and I hope that we do not encounter subsidiary curves to the one that we are experiencing. Nevertheless, we in opposition accept the fundamentals of this bill, because I think it provides our police and those who are assisting police to maintain good order with the tools they need to discharge their responsibility. This bill is aimed at ensuring that the community is safe and the vulnerable are protected from contracting this virus, which has potentially fatal consequences. This bill constrains freedoms in a way that would ordinarily not be contemplated, but with the principle that the greatest freedom of all is one's health and one's life, these are temporary measures that can be reasonably countenanced in this chamber.

I turn to the institution of the State Disaster Council. If we are to extend a wartime analogy in any way, I would make a comparison potentially with the national security committee of cabinet that exists at a commonwealth level. I think, for this committee to share the chamber's confidence, we must form a way in which decisions taken by that committee or the council are shared with members of both chambers. I think that is absolutely imperative. These are important decisions being made with a degree of rapidity. It is essential that communication is clear and miscommunication is prevented.

With that in mind, I want to turn my attention to some clauses, in particular, clauses 4, 5, 6 and, obviously, 9. I think clause 7 presents some unique challenges that my colleague Hon Nick Goiran is particularly keen to draw some attention to, but I will leave that to him. I will focus on clause 4, which, for the minister representing, deals with the hazard management officers and the authorised officers. This uncovers some issues about whether these authorised officers and the hazard management officers supplementing police officers are operationally confined to what I assume they are managing—the roadblocks or checkpoints—or restricting travel across specified regions

Hon Sue Ellery; Hon Tjorn Sibma; Hon Colin De Grussa; Hon Aaron Stonehouse; Hon Alison Xamon; Hon Rick Mazza; Hon Nick Goiran; Hon Stephen Dawson

---

across the state, or whether this amendment would also have a broader application to public officers other than sworn police officers to give effect to certain directives more broadly across community parks and playgrounds, beaches and the like. I would like some clarification on the manner by which these officers are deputed, if I can put it that way, and how effectively they are supervised in their task—that is, whether there is a sworn police officer providing a measure of guidance or supervision. I say this from a pragmatic perspective. I think the community would comply with orders not necessarily without complaint but more effectively if there was no question of an individual's authority to provide that kind of direction. I think that would be assisted with a sworn police officer present. I would like to get a clearer insight into how this might work operationally, or how it is imagined that it might work.

Clause 5 is in another segment of the bill, but I have momentarily lost my position. Obviously, in dealing with this crisis, there is a requirement to direct more than an individual, because that would be impracticable, but to direct a class of person. I want to get some clarity on the process by which those classes of person will be designated. My assumption is that that would be on the advice of the State Emergency Coordinator, which is, to all intents and purposes, the Commissioner of Police, with the approval or oversight or concurrence of that state disaster committee of which the Premier acts as chair. I think it would be useful to understand the chain of decision-making so that we do not encounter situations in which officers implementing directives who are not sworn police officers, or even sworn police officers themselves, effectively misunderstand, miscomprehend or even manufacture classes of person who are inappropriate to target.

The most practical potential impediment here where there is a significant lack of certainty—at least from the perspective I have at 2.50 pm on 1 April—is proposed new section 70A, which is addressed by clause 6 in this bill; that is, how the process of electronic monitoring is likely to be discharged and, frankly, the capacity to implement that technology, or range of technologies, to ensure what I assume is the need to surveil in real time an individual's compliance with effectively an order to self-isolate. There are individuals—certain inveterate recalcitrants who cannot be trusted to comply—who need that level of oversight. I raise this issue because we have seen in this jurisdiction on occasions outside this emergency situation in which we find ourselves examples of individuals who have breached particular orders. I speak here of designated sex offenders who have on occasion wandered where they should not have wandered and, frankly, have been allowed a certain liberty to which they are absolutely not entitled, and for far too long. That class of individual presents a specific danger not contemplated in this bill, but we also have a serious public health threat, because if we cannot ensure that there is the appropriate resourcing for an individual to be monitored effectively by a means that is developed, that is an issue that bears further contemplation. It is an effect of this measure. I appreciate that the practical implementation side of this bill is being manufactured as we speak.

Clause 7 relates to the classification of certain places. I believe there is an issue with places of worship. This bill, particularly this dimension, reinforces that we are relying very much on discretion and judgement exercised by individual officers on the ground in real time. These are people who take their commitment, their sense of duty, very seriously. They are operating under no illusion as to the seriousness of the situation that we collectively face, but there needs to be a measure of discretion and prudence, particularly as we come to Passover and Easter. We are at the cusp of some very significant religious observances. I would hate to see, as a consequence of something like this, a congregation broken up or a raid on a church. I do not want to be dramatic, but I reinforce that there are problems inherent in this bill. We are committed to it; we will pass it. However, we do so with a measure of absolute caution and wariness in mind. I speak as the shadow Minister for Veterans Issues when I say that the sensible decision was made early in the piece to not observe this year's Anzac Day services in the traditional manner. This year, silent contemplation will be everyone's offering. We will not have those kinds of mass gatherings.

Clause 9 of the bill provides the general powers provided under this emergency situation. It is not just that, but also the provision of penalties for failure to comply. I think those penalties are absolutely appropriate considering the circumstances. I suggest that by some people's estimations they might be somewhat lenient considering the consequences of the spread of this virus, particularly to people who are vulnerable in a medical sense. New section 72A in clause 9, the provision allowing hazard management officers or an authorised officer during a situation to direct a class of person, is absolutely necessary considering the circumstances we have. It also provides for the officer to extract certain types of information, which is absolutely vital in my estimation. This challenge will be dealt with through will, compliance, appropriate legislation, the closing of borders and stimulus packages of one kind or another, but it will be defeated, hopefully in a far timelier way, on the basis of real-time intelligence that we are able to gather. It seems not to be the kind of imputation here, but, nevertheless, an authorised officer's capacity to seek from an individual information effectively fleshing out their bona fides is important for tracing the movement of individuals and for encountering the kinds of justifications utilised in being effectively a free agent, which is not necessarily complying with the intent of directions previously provided.

I indicated previously that the Liberal Party supports this amendment bill. It does so with reference to the particularly unique set of circumstances in which we find ourselves. I note that prior to my entry into the chamber

Hon Sue Ellery; Hon Tjorn Sibma; Hon Colin De Grussa; Hon Aaron Stonehouse; Hon Alison Xamon; Hon Rick Mazza; Hon Nick Goiran; Hon Stephen Dawson

---

to deal with this bill, there was on the supplementary notice paper an amendment by Hon Alison Xamon, which has not been formally moved, addressing what might constitute a reasonable person test, and either the compliance or noncompliance with a particular issue, as a reason to find a useful defence for an infringement notice being issued. Originally, I was quite taken with this amendment, and I am quite taken with the spirit of it still. There is a compulsion on us to move swiftly to defeat this invisible and insidious foe. That is not an injunction to throw caution to the wind or to disoblige ourselves of our duty to scrutinise and assess legislation appropriately. I wish to thank the staff in the office of the Minister for Emergency Services for their speedy professionalism today. I have been advised verbally that the government may well move its own drafted version.

**Hon Sue Ellery:** Member, it is on the notice paper.

**Hon TJORN SIBMA:** It is on the supplementary notice paper. I have not seen it. I thank the government for moving so speedily. It may be imperfect legislating—it probably is—but we do not have the luxury to make the best the enemy of the good under the time constraints we have. I also think it provides a sense of comfort, which is possibly the wrong word, that these powers, as extraordinary as they are, will not be used wantonly. As I said, the implementation of this legislation depends absolutely and utterly on the discretion, the judgement and the experience of those officers attempting to protect the community.

In rounding out my contribution, I acknowledge all frontline responders who are working for the benefit, safety and wellbeing of the Western Australian community. In particular, I thank the speedy, reasonable and rational professionalism of cabinet and its officers, both ministerial and in the public service, for their fast work. With that, I will resume what is temporarily my seat.

**HON COLIN de GRUSSA (Agricultural)** [3.00 pm]: I indicate at the beginning that I am the lead speaker for the Nationals WA and we will be supporting the Emergency Management Amendment (COVID-19 Response) Bill 2020. To use the same words as Hon Tjorn Sibma, we support it with some caution because the powers that will be extended under this amending bill are quite extraordinary. Although we are in extraordinary times, we still need to be mindful that we do our job as best as we can with the time pressures that face us to make sure that there are no possible unforeseen consequences. I also take time first up to acknowledge and thank the first responders in our emergency services who are out there on our behalf, trying to keep us safe from this invisible threat that faces us right across our nation and, indeed, the globe.

The minister said in the second reading speech that this bill introduces a number of provisions to enforce compliance. It is very sad that some people just do not seem to get the message about how serious this threat is, and, as a consequence, we need to introduce, in some ways perhaps, such draconian measures to ensure that people comply, even though we would have thought that commonsense would prevail in this circumstance. Unfortunately, it is necessary, and so this bill introduces a few provisions to ensure compliance.

Clause 6 of the bill, which Hon Tjorn Sibma talked about, will introduce proposed section 70A to allow electronic monitoring. That is a particularly contentious issue. I think it is important and is absolutely necessary in this case. I will be clear on that. I support the use of electronic monitoring. I am not sure how well it will work or indeed how it will be rolled out, but perhaps the minister will explain in his reply what particular methods will be used, whether it will be bracelet devices or as simple as a text message on a smartphone that requires a person to reply to send their location, as has been done in other jurisdictions.

Perhaps how well that will work will be an issue, but what is more important for me is that although there is a sunset clause for some provisions of the bill, proposed section 70A is not included in it. It strikes me as very odd that such an extraordinary power would need to remain beyond the COVID-19 epidemic we are facing. I look forward to understanding why the government thinks that that power needs to remain in the bill. I note that clause 10 seeks to delete section 72A of the Emergency Management Act, which is the power to compel people to provide information. That is another extraordinary power, but it is necessary to know who someone has been talking to and where they have been even if that information potentially incriminates them. We must understand those things in order to stop the spread of this virus. Although these quite extraordinary provisions impinge upon the freedoms of Western Australians, clause 10 of the bill will delete that section and remove those provisions after 12 months, which is a good thing. However, we do not see the same sunset clause, as it were, in the bill for proposed section 70A, and, frankly, I do not understand why that is. Why do we need a provision for electronic monitoring for quarantine purposes in the Emergency Management Act? If it remains, could it then be used, for example, during cyclones, when there might be an outbreak of some sort of disease caused by the conditions of that cyclone? Perhaps the minister will explain those things to us in his reply.

I am not going to say a whole lot more because I know others want to speak on this bill and I am mindful that we need to do our job in this place this week to ensure that the necessary legislation that will allow us and the government to deal with COVID-19 is passed. I certainly want to do my bit to do that. That will not be without some level of

Hon Sue Ellery; Hon Tjorn Sibma; Hon Colin De Grussa; Hon Aaron Stonehouse; Hon Alison Xamon; Hon Rick Mazza; Hon Nick Goiran; Hon Stephen Dawson

---

scrutiny, although that is difficult to do, given the speedy passage of these bills. With that, I wrap up my remarks and look forward to the minister's response to the few questions I have asked.

**HON AARON STONEHOUSE (South Metropolitan)** [3.05 pm]: I will be brief. I have not had a chance to prepare an eloquent speech on the Emergency Management Amendment (COVID-19 Response) Bill 2020. Members are aware that we received this bill yesterday and that most of us received a briefing yesterday morning, if not on Monday at some point, and it has taken me a while to get around it. Although it is a fairly light bill in terms of content, it is quite complex, especially in the way that the commencement clauses will stagger the implementation of various provisions of the bill. That makes me wonder whether everyone here has had a chance to properly digest what the bill will do and how it will operate. After reading the bill I have identified a few things that cause me concern. It will be easy for some members to write off my concerns as some sort of ideological pursuit, but I am not sure whether everyone has properly appreciated what this bill will do and how it will do it. Until yesterday afternoon, some members were under the assumption that all the provisions of the bill would be sunsetted—that there were sunset clauses for all provisions of the bill. That is not the case. As was said by a previous speaker, only one aspect of this bill has a sunset clause and that is despite the quite serious nature of some of its provisions.

As I start to go through them, there are some less controversial aspects of this bill that I am sure no-one will have any problem with, such as allowing the closure of roads leading to and from an emergency area and, depending on how members like to read it, the provisions that allow directions to be made for a class of person or a class of place as opposed to a specific person or specific place. However, we run into some problems with proposed section 70A, provided for in clause 6 of the bill, in which the State Emergency Coordinator is given the power to direct that any person in quarantine is to be subject to electronic monitoring. It is a little unclear what that electronic monitoring may entail or, indeed, who might be subject to such monitoring. So far the language used in public has been “social isolation” but the word “quarantine” has been used quite sparingly. How that might be interpreted and how such electronic monitoring might be applied is a little vague at this point. Will that mean that anyone who has tested positive will need to wear an ankle bracelet or install CCTV equipment or other monitoring equipment in their home, or will it mean that anyone who is subject to a test or any class of person who may have been exposed has to comply with that? I am sure we will get answers to that in due course.

What is interesting to note, however, is that proposed section 70A is not sunsetted. It is quite an extraordinary power to electronically monitor people who have committed no crime, who have not been convicted of anything, and to subject them to a level of monitoring that would normally be reserved for dangerous sex offenders or people on bail or domestic violence abusers. It is rather extraordinary to say that because a person may be carrying a disease and is subject to quarantine, that they will be given the same treatment. It may be necessary to monitor people in certain circumstances. If people flout social isolation or quarantine rules, they may need to be monitored. But it is a glaring omission that there is no sunset clause for such a provision, and it should concern us all. I am actually working on amendments that would mirror the sunset clause for proposed section 72A, which is in clause 10 of the bill, and apply it to proposed section 70A. If, 12 months from now, it turns out that we all think it is a great idea to have emergency powers to electronically monitor people subject to quarantine, the Parliament could at that time merely renew those provisions. If we were all in furious agreement, it would be a simple matter to quickly pass a bill to keep those provisions going.

The bill also expands section 72 of the act to allow information about someone's recent travel or people with whom they may have come in contact to be disclosed to the emergency coordinator and emergency departments. That seems rather uncontroversial. I do not think that is necessarily a breach of privacy in this case. When managing a viral outbreak, it makes sense to be able to obtain information about where someone might have been and with whom they might have come in contact. What I find interesting, though, is why we need that at all. Section 72(1) of the act says that relevant information means personal details and so on and so forth. Proposed section 72(1)(ca) states that it will include —

information about any recent travel undertaken by a person;

Under proposed section 72(1)(cb), it would also include —

information about persons with whom a person has been in close contact;

Section 72(1)(d) states that it is —

information of a kind prescribed by the regulations;

We already have the power in the act to do this; all it would take is a regulation to be written. It would have been a heck of a lot quicker to do that than to prepare this bill and introduce it to Parliament. My question is: why did we not just use that existing regulation-making power in the act to address this concern? In any case, these amendments are kind of redundant. However, I do not think there is any need to protest these provisions because I think they are somewhat necessary.

Hon Sue Ellery; Hon Tjorn Sibma; Hon Colin De Grussa; Hon Aaron Stonehouse; Hon Alison Xamon; Hon Rick Mazza; Hon Nick Goiran; Hon Stephen Dawson

---

Proposed section 72A deals with new emergency powers to obtain relevant information. I think everyone recognises that this is a rather extraordinary power, because there is a sunset clause in the bill for it. After 12 months, clause 10 will come into effect and it will delete the information-gathering power granted under proposed section 72A. That is good, although it makes me wonder why a sunset clause was not included for the information-gathering powers given to the Small Business Commissioner in the bill that we debated last night. However, I will not reflect on that too much.

There are some other uncontroversial provisions in the bill, such as allowing directions to be made to classes of places as opposed to specific places. Something that members probably have not realised or turned their minds to are the amendments to section 77 and the insertion of proposed section 77(2A), which talks about directions and how they are communicated to the public. Proposed section 77(2A) states —

A direction ...

(a) need not be given directly to the persons to whom it applies; ...

That makes sense. If everybody who was on a particular cruise ship must be quarantined, it would be difficult for an officer to hand those directions to each individual; it would be easier to just make a statement that applies to that class of people and it is good to go. Perhaps it would apply to a larger class of people, such as everyone who had been overseas during a certain period. That makes sense. However, proposed section 77(2A)(b) states that directions —

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

That is perhaps balanced out somewhat by proposed paragraph (c), which states that directions —

must be published in the manner that the Minister considers suitable in the circumstances of the emergency.

Directions will not be gazetted, but the minister will perhaps say that an online statement needs to be made or that it must be on the news, posted on Facebook or printed in a paper. That is fair enough. However, section 77(3) of the act states —

Failure to comply with subsection (2) —

Or proposed subsection (2A)(c) —

does not invalidate the direction.

We end up in a bit of a weird situation in which a direction can be made that perhaps restricts a certain type of activity—for example, travel from the Perth metropolitan region to the south west region—and it does not have to be gazetted. How does the government tell people that that is the new direction? The minister may say that it has to be published online. Okay, but what if the emergency coordinator does not publish it online but just says that this is the direction? What if he does not tell anybody and it is suddenly a restriction? If people breach that restriction, according to this bill they will be liable to 12 months' imprisonment or up to a \$50 000 fine. That is concerning. It seems to me that it has to be one or the other; there either has to be a statutory requirement to gazette the directions, which is really not hard, or the minister has to make sure that those directions are published in a way that the minister is happy with at the very least. Otherwise, we could have a situation in which directions could be made and people do not know what the directions are. If they fall foul of those directions, they will be liable for quite punitive fines or imprisonment. We now have an amendment on the supplementary notice paper that would introduce some flexibility—a reasonable test. There should be some protection. However, I am still a little concerned about the removal of the requirement to gazette the directions and there being no requirement to publish them in a way that the minister lays out.

The final thing I have a concern with is the inclusion of the penalty of 12 months' imprisonment. To me, that seems to be a rather hefty penalty. Hopefully, there is a possibility for some discretion to be used when applying that penalty. For instance, if someone travels outside the Perth metropolitan area to the south west to visit an elderly relative, they will be flaunting the restrictions imposed by a direction of the emergency coordinator. That is a serious matter, but is it really suitable to punish such a breach with a 12-month term of imprisonment? That is rather punitive. It is the kind of provision that I think should also have a sunset clause, so that if in 12 months' time we think that 12 months' imprisonment is a suitable punishment, we can keep it and renew it—the Parliament could quickly rubberstamp it. If we did not think it was suitable, that provision would at least expire and we could consider more suitable penalties at that time. I will leave my contribution there for now and will pursue some of those concerns in Committee of the Whole House.

**HON ALISON XAMON (North Metropolitan)** [3.16 pm]: I indicate that I am the lead speaker for the Greens on the Emergency Management Amendment (COVID-19 Response) Bill 2020, noting that the overall time to scrutinise this bill has been severely truncated. I only received a copy of this bill and a briefing on it yesterday, which was a very small amount of time to be able to deal with a bill that imposes some very serious and hefty

penalties and curtails civil liberties. Having said that, I do recognise that we are dealing with extraordinary times. I note that the government's motivation for pursuing this bill is that it is very strongly of the view that it will strengthen the state's capacity to respond to the COVID-19 emergency.

What I am concerned about is the lack of sunset clauses within the bill. I share some of the concerns that were raised by some previous speakers. I think a more appropriate approach would have been to have sunset clauses for all the provisions so that at a later date, when we have more time, we could go through and truly ascertain whether the sorts of measures that are being contemplated in this legislation are fit for purpose in the long term. I recognise that we are currently in a state of emergency and that this is the first time that a state of emergency has been called in the history of Western Australia. We are certainly facing an unprecedented situation. I want to be very clear that this is not the type of bill that would ordinarily sit very comfortably with the Greens. The Greens have a long history of wanting to make sure that there are good and sound reasons for curtailing our civil liberties, and certainly when penalties are attached to that.

I want to respond to, and reflect on, some of the concerns that have been raised with me by members of the community. I particularly note those within the disability community who have contacted my office and me personally—I have a lot of friends with disability—to express enormous distress over the refusal of many members within our community to engage in either self-isolation or appropriate social distancing. They are particularly distressed about the cases of people diagnosed with COVID-19 who have been put into quarantine and then flagrantly breached those quarantine conditions. The cases are minimal but, nevertheless, they have occurred.

When we are trying to weigh up whether these sorts of measures are proportionate within the current environment, it has to be acknowledged that it is very easy for a person who is white, able-bodied and not homeless—for example, a person may be in a comfortable position and sitting on a sizeable inheritance—to make comments around civil liberties and how sad they are that they are not able to go to a friend's house or sit on the beach. I remind those people that that is an incredibly privileged position to take. We have a responsibility as a community as a whole to make sure that we protect the lives of everybody within this community. It is the First Nation people, people who are homeless, disabled or living with compromised immune systems and older Australians who are at risk of not only having their civil liberties curtailed, but also losing their life. As has been previously said, surely that is the ultimate liberty: the liberty to remain alive. I have to balance these measures very carefully. What does it mean for us to take responsibility as a whole, as a community, collectively, to protect our vulnerable Australians at the same time as taking serious measures that curtail our civil liberties? Quite frankly, when people have been diagnosed with COVID-19 and are put into quarantine and then decide to breach that order, they are making the decision to put other people's lives at risk. It cannot be said more strongly than that. That is what they are doing. They are basically saying that their desire to be out and about in the community is more important than somebody else's desire to live. I have huge concerns with this and we need to be very clear about that. Having said that, we are in extraordinary times and I would have thought a bill such as the Emergency Management Amendment (COVID-19 Response) Bill 2020 would have been better placed to have far greater limitations around how it will be enacted both now and into the future. I share the views of other members and I would prefer to have a sunset clause in the bill.

I also recognise that we are giving enormous discretion to police officers. Many of our police officers are doing a really hard job and trying very hard to ensure that we have order and people are complying with the various public health initiatives that are coming through. I am also aware that the experience starting to emerge in other states is that there have been instances of police overstepping the boundaries and not being reasonable in the way that they operate under their new powers. We have to keep a very close eye on this. We need to ensure that this power is not abused and that people are not subjected to an onerous regime that is enacted in such a way that it is unfair and justice flies out the window in our efforts to ensure that people's lives are saved.

I note that there are no mandatory penalties in this bill but the non-mandatory penalty for breach of a direction is increased to include 12 months' imprisonment, which is a significant change.

I have a number of concerns with the bill. The amendment I have put on the supplementary notice paper has effectively been redrafted and adopted by the government. I thank the government for its goodwill in taking on that particular provision that marginally improves the bill. I am very concerned that clause 13, which amends section 86, contains no defence of reasonable excuse. The bill expands the ability to give directions broadly to classes of persons and places rather than individually, and for the publication of those directions. It is particularly important that we have that defence in there.

In particular, clause 12 provides that if a direction is not published in the manner that the minister considers appropriate, the direction is still valid. I received assurances at the briefing that the minister who would be responsible for publishing has an appetite to ensure that these are published. But we are here to pass legislation and we cannot simply look at who is responsible for enacting this legislation. We need to consider the black letter of the law and

Hon Sue Ellery; Hon Tjorn Sibma; Hon Colin De Grussa; Hon Aaron Stonehouse; Hon Alison Xamon; Hon Rick Mazza; Hon Nick Goiran; Hon Stephen Dawson

---

make sure that it is fit for purpose. I am concerned we could well have a situation whereby a direction is not published, whether it be a deliberate decision not to, by default, a time lag or whatever, and somebody does not comply and finds that they are subject to a penalty. Although I completely agree that giving directions broadly to classes of persons and places rather than individually is absolutely necessary in the current circumstances, we need to remember, as we have seen happen, that these directions are changing all the time. They are changing on a daily basis and sometimes they change back and forth. I use as an example what happened with the directions around hairdressing. At any given point we had hairdressers and clients trying to comply, but the directions were changing constantly. I am expecting to see more of that, not less, because we are on the run. We are trying to deal with a major pandemic. However, this increases the risk for error. When an error occurs, we run the risk that people will fall foul of the law without meaning to. We are talking about a global pandemic with different jurisdictions doing different things, not just in Australia but around the world, so there is a huge amount of social commentary. Unfortunately, that means a wealth of misinformation as well as correct information is available. I am concerned that in those circumstances it is entirely possible that a person does not comply with a direction because they did not know it existed or were mistaken about something as simple as its commencement time. That could happen for a number of reasons. It could be because their ability to access reliable and up-to-date media is limited. Newsflash: not everybody has the internet at home. It may happen because they took advice from the wrong person. An example is someone from a culturally and linguistically diverse background taking a direction from a child who may have that wrong. It could be because they simply do not understand that direction. Again, that may be because of language, some sort of mental or cognitive impairment or because they did not understand that the directions were compulsory. I acknowledge that as we go deeper into this crisis, it is less likely that that will be the case for a lot of people. Although ignorance of law is never an excuse, people may not have complied for a variety of reasons. For example, a lady at the beach with her children may be told to leave but she may not be able to leave immediately because she still needs to gather up her children. She may be told that she has not complied because she has not left straightaway. Perhaps that same woman, at a later date, will be able to avail herself of the reasonable excuse. I do not know whether that is the case; it would be up to the courts to determine, but I can think of scenarios in which people intend to comply but, for a range of reasons, are not able to comply immediately or may have a reasonable excuse to not comply at all. This is particularly a concern because clause 2 backdates the commencement of the power to give directions to classes of persons, without the usual publication processes, to 16 March this year.

We know that two weeks ago public messaging was far from optimal, and I am sure the government would acknowledge that. I am not pointing the finger at anyone. We are trying to deal with this on a day-to-day basis. A lot of people were very confused, and a lot of people still are, to be honest. The last two weeks have been a really steep learning curve for everyone. As I said, in this country the directions, frankly, have been changing all the time. Everything is changing. The number of people allowed to gather together keeps changing. It is not okay for this bill to make it lawful to prosecute people just because they cannot keep up with the latest directions, especially when many people at the moment are preoccupied with how on earth they are going to feed themselves and their families. If we were to take the law as it is written at the moment, it would enable, for example, a retrospective prosecution of everyone in the Centrelink queue two weeks ago who was not socially isolating. Those people had just lost their jobs and were utterly preoccupied with what the future was going to hold for them. I understand that assurances have been given that of course the law is not going to be exercised in that way, but that is what the law enables. This is the sort of disquiet I bring to deliberations on this bill. I would have much preferred that we simply had a bill enacted as of now, because I do not understand why we would have retrospective provisions unless there was an intention to exercise them. I would like to get an answer about why they are being pursued, unless, of course, they are intended to be used, in which case I would like to know who is being pursued. Has a database been kept of people who will now retrospectively be fined? Why is it there?

Getting back to the issue of the sunset clause, as has already been pointed out by previous speakers, a sunset clause is effective 12 months after assent day for proposed section 72A only. Proposed section 72A allows directions to be given to individuals or classes of people that the officer considers reasonably necessary to respond to the emergency, and that includes directing people to provide information about their own or a close associate's personal details, whereabouts, state of health, any recent travel and whom they have been in contact with, as well as other information prescribed by regulations. I point out that self-incrimination is not a defence, but no criminal proceedings can be brought against a person for information that has been provided in compliance with the direction as long as it is not knowingly false or misleading. I note that none of the provisions in the bill are narrowed to apply to COVID-19 specifically, save that the electronic monitoring provision applies only to people who are in quarantine. All of the bill's contents apply equally to other declared emergencies, which are quite likely to happen at some point over the next 12 months, because we are talking about things such as bushfires, cyclones, floods or any other state of emergency in the future for that matter. Again, this is a reason why reasonable excuse needs to be available as a defence for a breach of a direction. During the bushfires earlier this year, we saw that communications may be down; in fact, that is quite common. A person who behaves in a manner contrary to a direction may simply be uninformed or incorrectly informed, and certainly not wilfully trying to disobey directions.

Hon Sue Ellery; Hon Tjorn Sibma; Hon Colin De Grussa; Hon Aaron Stonehouse; Hon Alison Xamon; Hon Rick Mazza; Hon Nick Goiran; Hon Stephen Dawson

---

I have a range of concerns about this bill. This is not the sort of bill that I think is desirable to be brought to this chamber for consideration in such a short time. I am glad that an additional defence has been incorporated. I think it improves the bill and makes it easier to support. I am very concerned about the retrospective provisions and I want to know how they are going to be employed. I am also very concerned about the lack of sunset provisions in this bill. It is a very serious matter to subject someone in quarantine to electronic monitoring. Having said that, it is also an incredibly serious matter if someone has COVID-19, is in quarantine, chooses to ignore it and puts people's lives at risk. This is the wicked dilemma we are faced with. In an ideal world, people would do the right thing. In an ideal world, people would recognise that everyone's life matters—whether they are a person with a disability, an older Australian, someone with compromised health issues, a First Nation person or a homeless person, they matter. I cannot help but note that some of the biggest complaints about the imposition on civil liberties come from people who do not have any skin in the game, who do not have people they love potentially going to die and who have good safety nets available to them. That is the difficult situation we face. I am very keen to see whether there will be a further amendment that gives an overall sunset clause. I think it would be better if we were able to consider these provisions and their implications in a more fulsome way without the threat of having to respond to this dreadful situation hanging over our heads.

**HON RICK MAZZA (Agricultural)** [3.35 pm]: To my mind, this Emergency Management Amendment (COVID-19 Response) Bill 2020 is probably the most relevant bill to the COVID-19 emergency. It specifically broadens the powers of the State Emergency Coordinator to give direction and deal with the emergency before us. I agree with other speakers that because this is an extraordinary situation and we are putting bills through the political sausage machine this week to deal with it, most of them should have sunset clauses in them so that once this emergency is over, we can go back to the usual processes of getting legislation through. This bill will broaden the powers of the State Emergency Coordinator, who is the Commissioner of Police. It provides for electronic monitoring devices to be fitted to people. We might not think that that is something we should need in this COVID-19 emergency, but there have been cases of people with COVID-19 who were supposed to be self-isolating breaching their isolation. We do not want a typhoid Mary-type situation, with someone out there in the community who is a super spreader spreading this disease around the place. I can see why in this case we need to tighten up on some of those requirements to make sure that people are not infecting others in the community.

There is also provision for on-the-spot infringements for people. Maybe the minister can confirm this, but I understand that there is a \$1000 on-the-spot fine. That has been reported in the media for about a week, and we have not even passed that through the Parliament yet, so that was quite interesting. There is also provision for either a fine of \$12 000 or up to 12 months' imprisonment for people who breach orders, fail to comply with directions, hinder officers or other things. I get that frontline officers need to have a degree of power to deal with people who are not doing the right thing. As of midnight last night, there are restrictions on people moving to different regions within the state, so we need to deal with that sort of thing. There is also the ability to issue directions without gazettal, which is an unusual way of dealing with directions. Maybe there should be a retrospective gazettal. I am not sure about that process, but at the very least there should be a public announcement. I know we have restricted time in this debate, so I will wrap up. I understand why we need to broaden these powers, but I honestly believe that there should be a sunset clause in this bill for the term of this emergency before us, as there should be in the other pieces of legislation. I am very hopeful that our emergency services personnel will use this legislation wisely.

**HON NICK GOIRAN (South Metropolitan)** [3.39 pm]: I rise to speak on the Emergency Management Amendment (COVID-19 Response) Bill 2020. This is a very significant bill that is currently before the house, and, in that context, I express my extreme disappointment that the government has decided already to apply to this significant bill the battering ram that the house authorised it to have as of yesterday. As I said yesterday, on a bill like this, and other bills of this significance, if the Parliament needs to sit longer, it should do so. It should not have truncated time. That said, the situation is as it is, and I have been advised that I can have a maximum of 10 minutes to address this significant bill.

The amendments that are before the house have been conveniently provided to members by way of a briefing note, and I thank the advisory officers—one of the earlier contributors today. I also thank the advisers, and I must say that I had a briefing at about 1.15 pm on this important, significant bill and the people involved in that briefing were outstanding. I wish that we had that level of courtesy with every piece of legislation.

According to the briefing note that I received, the amendments will introduce what might otherwise be considered to be extraordinary provisions. I feel regret for the hundreds of constituents who have contacted me in recent times with queries on various directions because it is highly unlikely that we will be able to address their very valid questions this afternoon. The only reason that this is the case is that the government decided to apply the battering ram to this piece of legislation. I apologise to those constituents, and if they have any queries, they should absolutely write to the government. To be clear, that is the state government of Western Australia, not to be confused with the federal government.

According to the government, it is mindful that some provisions may be necessary for and applicable to only the COVID-19 pandemic response, and, therefore, it has included a sunset clause. What is unclear—it would be useful



Hon Sue Ellery; Hon Tjorn Sibma; Hon Colin De Grussa; Hon Aaron Stonehouse; Hon Alison Xamon; Hon Rick Mazza; Hon Nick Goiran; Hon Stephen Dawson

---

if the minister could address this in his reply—is precisely which provisions are subject to a sunset clause and which provisions are not. To aid that process, I indicate that in the briefing note that I received, six provisions were outlined. One of those six provisions clearly said that it was subject to a 12-month sunset clause—that was the broad power to direct any person to do anything that is considered reasonable and appropriate for the purposes of managing the emergency. It would assist the house and the expedient passage of this significant bill if the minister could confirm that that provision is subject to a 12-month sunset clause and whether any of the other five provisions, which I will read momentarily, are subject to any sunset clause.

Those other provisions are, firstly, clarification that under the state of emergency provisions of the Emergency Management Act, the State Emergency Coordinator—that is, the Commissioner of Police—may give directions to more than one person, class of persons or place; secondly, the power for the State Emergency Coordinator to order the use of electronic monitoring devices for the purpose of quarantine; thirdly, amendments to assist police and approved officers to enforce directions by introducing an on-the-spot infringement provision and a possible term of imprisonment; fourthly, clarify that directions issued by the SEC under the Emergency Management Act are valid without gazettal, although the minister may require the publication of the direction; and lastly, the power to compel the provision of information and information sharing for the purpose of managing a state of emergency. I highlight the last one because it strikes me that it may indeed be subject to a sunset clause, but perhaps the minister can clarify that in his reply.

I have flagged with the government, courtesy of the excellent briefing that I received some two and a half hours ago, that I have a number of questions specifically about clause 7. To flag that with other members, I indicated to the government that those questions relate to queries that I have received from constituents regarding directions for places and individual people. I will use a place of worship as a convenient example of a place that has been subject to these directions. What exemptions apply to a place of worship? It was certainly the case that weddings and funerals were exemptions. Does that remain the case at the moment while the two-person rule is in place? Can a funeral still take place within a building that is a place of worship as long as no more than 10 people are present? For weddings, it is understood that the five-person limit includes the celebrant, the two people getting married and the two witnesses. Does this then prohibit a person from undertaking the videoing of the proceedings for the purpose of live streaming? Would a sixth person in this place of worship, which would otherwise have 10 people if it was a funeral, be prohibited from being present for the purpose of videoing the proceedings to live stream it to the other people who are not present? Do any other exemptions apply to places of worship? For those people who are workers—it is their ordinary place of employment—are they able to attend the place of worship at any time during the week? Are there any limits on that?

The advisers were very clear during the briefing about the purpose of those questions. It is important to get that on the public record. The *Hansard* of the Committee of the Whole House stage this afternoon will be distributed widely within Western Australia. These are the concerns that people have. With regard to individual persons, I asked the following as an example: if a grandparent lives in the same intrastate region as a grandchild—remember that Western Australia has now been divided into nine regions—can they visit if they do not ordinarily live under the same roof? Can only one of the grandparents visit at one time or can both grandparents visit at the same time? I understand from the briefing that the answer will be that it is not encouraged, and we can understand why; but I also reminded the advisers that not every grandparent is 70 years of age, and there are plenty of grandparents who are healthy and might even have better lung capacity than some members in this place who are meeting this week.

**The PRESIDENT:** That would be like you, member, would it not? You are a very happy grandfather.

**Hon NICK GOIRAN:** I make no further comment about that at this time, Madam President, other than to say that I look forward to the Committee of the Whole House stage. I am very disappointed that the government has applied the battering ram and that we will have only 60 minutes during the Committee of the Whole House stage to consider these important questions that are being asked repeatedly by Western Australians during this extraordinary time.

**HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment)** [3.47 pm] — in reply: I feel like I am doing this on the fly this afternoon. Significant questions have been asked thus far in the contributions made by the various members on the Emergency Management Amendment (COVID-19 Response) Bill 2020. Members have indicated—in fact, there is a supplementary notice paper floating around—that we will need to go into the Committee of the Whole House stage. Therefore, I propose to answer as many questions as I can now, noting that if I do not give members the answers now, they will get a chance to ask their question again when I have the advisers with me at the table.

I thank all those honourable members who made a contribution to the debate before us. I thank Hon Tjorn Sibma, who spoke on behalf of the opposition. He had a range of questions, so I will try to answer those first. He asked who can be authorised officers. Section 61 of the Emergency Management Act advises who the authorised officers can be. Any person, including a public authority, can be appointed by the State Emergency Coordinator—the Commissioner of Police. The State Emergency Coordinator can impose terms and conditions and give directions on how authorised officers exercise powers. Section 62 allows the SEC to issue identification cards when authorised officers are not police, and that indicates how they can be identified.

In relation to the question about a class of person or place, that has been determined in line with the national cabinet's decisions. The State Emergency Coordinator and the director general of the Department of Health, who is the hazard management officer for human epidemics, advises the state disaster council, and the State Emergency Coordinator issues directions. All directions have been issued under the Emergency Management Act by the State Emergency Coordinator. In addition, a number of directions have been issued under the Public Health Act.

A number of people raised the issue of electronic monitoring. Details are being worked out on that. We expect the WA Police Force to undertake this under the direction of the State Emergency Coordinator.

Hon Colin de Grussa asked why the electronic monitoring provisions are necessary. There are currently powers under the act to enforce people into quarantine. There are no provisions in the Emergency Management Act which assist emergency management personnel with monitoring if people are complying with quarantine requirements. Monitoring of people in quarantine can currently be done only via spot checks and is resource intensive, and a pandemic of the nature of COVID-19 particularly demonstrates that emergency services need the ability to monitor compliance with quarantine requirements.

There was a question on why this provision is not subject to a sunset clause. A plague or an epidemic is recognised as a hazard under the emergency management framework. Although COVID-19 is one of the most severe occurrences of this hazard that we have experienced and is unprecedented, there is always the possibility that there may be another similar occurrence in the future. In the recent past, the world has seen severe acute respiratory syndrome, Middle Eastern respiratory syndrome, swine flu and H1N1. We could very well have needed an emergency response under this framework. The Emergency Management Act exists to provide the necessary tools for emergency management personnel to deal with hazards when there are escalated emergencies such as this current one. The ability to require electronic monitoring is only available in very limited circumstances. People need to be already directed to be in quarantine under the act, and people can only be directed to be in quarantine if they are or may have been exposed to a hazardous substance. The quarantine provision is not available for all the hazards in the emergency management framework. The State Emergency Coordinator must be satisfied that monitoring is necessary, and, practically, this will only be used in a state of emergency, which is the highest level of emergency, requiring extraordinary measures. If we impose a sunset clause on this provision and we have a mutant strain of COVID-19 or a similar epidemic 18 months from now, how do we justify this provision not being available to our emergency management authorities? This provision will have ongoing utility within the emergency management framework to deal with, in particular, the human epidemic hazard, and it is our view that it is appropriate for it to endure in the emergency management framework. That goes to the questions asked by both Hon Colin de Grussa and Hon Aaron Stonehouse.

Hon Colin de Grussa, Hon Aaron Stonehouse, Hon Alison Xamon, I believe, and perhaps Hon Rick Mazza in his contribution asked why all amendments in this act are not subject to a sunset clause. I think Hon Nick Goiran may have made a similar point. Where these amendments are clarifying existing provisions or amendments will be useful in other emergencies for other hazards, it would not make sense to apply a sunset clause. We have carefully picked the amendments needed for urgent introduction. This is not a whole-scale amendment. These powers are absolutely necessary. We are trying to get the balance right in difficult circumstances. The Emergency Management Act should give authorities the appropriate tools to deal with these escalated emergencies on the relatively rare occasions that these occur. This is the first time these provisions have been tested in a state of emergency, and where shortcomings are identified that have reasonable and appropriate solutions of ongoing value, these should and will endure in the Emergency Management Act.

The circumstances of this emergency have demonstrated the need for broader powers to direct persons and classes of persons, as well as classes of persons such as licensed premises. These powers are relevant to other emergencies such as bushfires. I think Hon Alison Xamon suggested that some of the powers may well be used for bushfires. I want to remind honourable members that the amendments before us are about strengthening our legislative framework to deal with the current emergency and emergencies into the future.

I refer to Hon Colin de Grussa's question on whether people will be directed to wear electronic bracelets. The type of device that will be used in any given instance will be determined by the minister on the advice of the State Emergency Coordinator. A range of devices can be used, including, if appropriate, an electronic bracelet, but other devices such as a phone app could be used, too.

Hon Nick Goiran asked a number of questions about places of worship. One question related to how many directions have been issued that refer to places of worship. I am advised that one direction refers to places of worship, and that is the "Closure of Certain Places of Business, Worship and Entertainment Directions" that was signed at 11.50 on 23 March 2020. I was asked whether we could table the directions that apply to places of worship. I am told we can, but I am yet to receive them; once I have received them, I am happy to table them.

I was asked to confirm whether five people can attend a place of worship for a wedding. Yes, they can. I refer to, firstly, "Closure of Certain Places of Business, Worship and Entertainment Directions", which directs the closure

Hon Sue Ellery; Hon Tjorn Sibma; Hon Colin De Grussa; Hon Aaron Stonehouse; Hon Alison Xamon; Hon Rick Mazza; Hon Nick Goiran; Hon Stephen Dawson

---

of a place of worship other than for the purposes of a wedding or funeral; secondly, “Preventative Restriction of Activities Directions (No 2)”, which prohibits —

- (e) a wedding, other than to the extent that it involves no more than 5 persons;
- (f) a funeral, other than to the extent that, excluding those persons whose presence is necessary to conduct the funeral;
  - (i) it involves no more than 10 persons; or
  - (ii) with the approval of an emergency officer, it involves only the immediate family.

While I am speaking, I have been handed copies of “Closure of Certain Places of Business, Worship and Entertainment Directions”, “Closure of Certain Places of Business, Worship and Entertainment Directions (No 2)” and “Closure of Certain Places of Business, Worship and Entertainment Directions (No 3)”. Madam President, I table those. I ask the staff if I can have a copy back again, just in case questions are asked later on.

[See paper [3754](#).]

**Hon STEPHEN DAWSON:** I will keep going on the question of five people; I think Hon Nick Goiran is following where I am.

**Hon Nick Goiran:** We are up to funerals, and 10 people are allowed to attend.

**Hon STEPHEN DAWSON:** Yes, great, and then I said that or “with the approval of an emergency officer, it involves only the immediate family”, but only if there is enough space at the premises to comply with the prohibited gathering direction, which requires a minimum space of four square metres per person.

The member asked who those five people are, and whether I can confirm that they are the couple, the celebrant or clergy member and two witnesses. The direction does not specify who may attend the wedding, just a number. The member asked whether a sixth person can be there to live stream. The answer is not currently. We note that the Western Australian position aims to be in line with what is agreed at national cabinet, wherever possible. The member asked me to confirm whether 10 people can attend a place of worship for a funeral. The answer is that, yes, 10 people may attend a place of worship for a funeral, but only if they comply with the prohibited gatherings direction, which requires a minimum space of four square metres per person. The member asked whether any other exemptions apply to places of worship—specifically, whether people who work at the place of worship can attend the place of worship to work and volunteers can attend places of worship to distribute goods and provide services such as counselling. I am advised that the answer is, yes, volunteers will be able to attend if they are helping with issues relating to COVID-19. That work will be considered essential, but the social distancing requirements of four square metres must apply. I was asked whether workers and volunteers can live stream a worship service. I am told there is an exemption to the prohibited gatherings direction if the premises are a place of work and the worker’s attendance is necessary for the normal business of those premises.

I was asked what directions currently apply to people’s private homes; for example, can a grandparent who lives in the same area visit the family, and how many family members can visit. The answer is that, currently, the prohibited gathering direction applies to people’s private homes. It does not apply to people living together in the same household. I was asked how many people outside of the family unit or those who reside in the property can visit a property, and whether it is one or two people. I am advised there may be more than one visitor to a private home, but only where there is at least four square metres of space for each person in the room or outdoor area where the gathering is taking place.

I am conscious of the time. Hon Aaron Stonehouse asked about section 72A. I am advised that the proposed amendment to insert sections 72(1)(ca) and (cb) complements proposed new section 72A, which is the substantive provision conferring the information sharing power necessary to confront the circumstances presented by COVID-19. Members will see that proposed new section 72A(1) incorporates the expanded definition of “relevant information” for that purpose. Relevant information can be prescribed by regulation under existing section 72(1)(d), but, in circumstances in which we are able to identify the information required, we considered it preferable for that to be identified in the bill in the context of this amendment. In summary, when inserting new section 72A, we are in a position to identify the information required, so it is better to do it in the act, not the regulations.

Hon Alison Xamon asked a few questions and, hopefully, some were answered in the points I have made. She asked: Can the minister please provide a list of what action has been taken that necessitates the need for retrospectivity? Have any decisions been made today without legal authority? If yes, which decisions? I am advised that retrospectivity is required to put beyond doubt that the 21 directions made to date under the Emergency Management Act 2005 since the state of emergency was declared are valid without gazettal, even if directed to everyone rather than an individual or a class of place. Although the current act does not require gazettal of directions, the amendment is to remove any doubt.

Hon Sue Ellery; Hon Tjorn Sibma; Hon Colin De Grussa; Hon Aaron Stonehouse; Hon Alison Xamon; Hon Rick Mazza; Hon Nick Goiran; Hon Stephen Dawson

---

Hon Nick Goiran asked about the sunset clause. I am advised that only clause 9, which inserts new section 72A, is subject to a sunset clause. Obviously these are the broadest powers and none of the other clauses has a sunset clause.

Hopefully, that answers the questions that were asked of me by honourable members. Noting that we are going into Committee of the Whole, I commend the bill to the house.

**The PRESIDENT:** Thank you, minister. We are just about to reach the end of the time that was agreed by all the leaders as reported by the Leader of the House today. The question is that the bill be read a second time.

Question put and passed.

Bill read a second time.

*Committee*

The Chair of Committees (Hon Simon O'Brien) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

**Clause 1: Short title —**

**Hon TJORN SIBMA:** I appreciate the minister's responses to my questions about authorised officers who will be operationalised. Nevertheless, I am a little in the dark as to the supervision provided to officers who are not sworn police officers in the discharge of their duties. I appreciate that the minister is in no position to tell me about the ratio of police to non-police, because that will be operationally determined. Nevertheless, in light of reports about some very heavy-handed policing, particularly by the New South Wales constabulary, it would be useful to get an insight into how these powers will be supervised and managed on the ground.

**Hon STEPHEN DAWSON:** I am advised that current authorised officers are existing police officers. I am advised that there are two, maybe three—but certainly a small number—of Department of Fire and Emergency Services officers and at least one person from the Department of Health who is in the incident management team. They are all subject to the directions of the State Emergency Coordinator—that is, the Commissioner of Police. Obviously I will not go into the Police Act—we have had debates in this place previously on that—but, hopefully, that gives the member enough information.

**Hon TJORN SIBMA:** I thank the minister for that response. This might foreshadow a little bit of clause 9, but I will ask it now. In line with the supervision of the exercise of these powers, particularly the two broad powers, and the provisions inserted at clause 9, new section 72A, directions will be issued by an officer on the ground to an individual or class of individuals that they consider to be reasonably necessary—I am referring to the explanatory memorandum—to prevent, control or abate risks associated with the emergency, and their capacity to effectively direct or compel a person to provide them with certain types of information. Where is the accountability for the utilisation of those powers? Is there a way of capturing that?

**Hon STEPHEN DAWSON:** There will be a chain of command, if I can put it that way. However, I will get further advice from the police. I have advisers here from the State Solicitor's Office, the Department of Fire and Emergency Services and the minister's office, but I do not have advisers present to answer practical questions about how police do certain things. We will get an answer to that if we can park that question.

**Clause put and passed.**

**Clause 2: Commencement —**

**Hon AARON STONEHOUSE:** I would like to ask a question about paragraph (c), which deals with clause 10 and, therefore, the sunset clause that will be applied to proposed section 72A. I note that the briefing document provided to members outlines the nine priority COVID-19 bills that the government will focus on this week. The third dot point in the explanation of the Emergency Management Amendment (COVID-19 Response) Bill 2020 states —

- The current pandemic is an unprecedented situation. The amendments introduce what might otherwise be considered to be extraordinary provisions. However, mindful that some provisions may be only necessary or applicable to the COVID-19 pandemic response, a sunset clause of 12 months has been included in the Bill.

My comprehension might not be as good as others, but that almost seems to imply that there is more than one sunset clause, or that the government at the time this briefing document was written at least contemplated the possibility of more than one sunset clause. Did the government give consideration to drafting a sunset clause for other provisions of this bill, as seems to be implied in this briefing document?

**Hon STEPHEN DAWSON:** I am advised that it was considered for other areas but it was decided that it not be used. In my second reading reply I alluded to the fact that it did not make sense to apply a sunset clause to amendments that clarify existing provisions or to those that will be useful in other emergencies for other hazards. We have carefully picked the amendments needed for urgent introduction. Although this is not a wholesale amendment of the

Hon Sue Ellery; Hon Tjorn Sibma; Hon Colin De Grussa; Hon Aaron Stonehouse; Hon Alison Xamon; Hon Rick Mazza; Hon Nick Goiran; Hon Stephen Dawson

---

act, the powers before us are absolutely necessary. There was also consideration of a sunset clause for electronic monitoring, but it was deemed that the electronic monitoring provisions in the bill would be useful to deal with another hazard or emergency management issue in the future, so it was ruled out.

**Hon AARON STONEHOUSE:** I thank the minister for that answer. I take his point, but I have to disagree. When clarification is being provided, the minister will get no complaint from me. When provisions genuinely provide clarification, that makes sense; I do not think a sunset clause is needed for those provisions. But when extraordinary provisions are being introduced and we do not have the time to give legislation the scrutiny that it would normally receive, then sunset clauses are needed. We are not able to do our job quite properly in these sorts of rushed circumstances.

**The CHAIR:** Order! Members, noting the time, I am required to leave the chair.

Several members interjected.

**The CHAIR:** Are we not having a break before question time? I am in the Leader of the House's hands.

**Hon SUE ELLERY:** If I can get agreement to not stop for 15 minutes, that would be most helpful.

Several members interjected.

**Hon SUE ELLERY:** We will keep going, so I would like to do whatever I need to do to give effect to proceeding.

Several members interjected.

**Hon SUE ELLERY:** I can give members the tip that it will be less than 15 minutes. Can we report progress, please?

**Progress reported and leave granted to sit again at a later stage of the sitting, on motion by Hon Stephen Dawson.**

[Continued on page 1912.]