

Hon Alanna Clohesy; Hon Nick Goiran; Hon Alison Xamon; Hon Colin Tincknell; Hon Martin Aldridge; Hon Aaron Stonehouse; Hon Sue Ellery

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**PUBLIC HEALTH AMENDMENT (COVID-19 RESPONSE) BILL 2020**

*Committee*

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Dr Steve Thomas) in the chair; Hon Alanna Clohesy (Parliamentary Secretary) in charge of the bill.

**Clause 1: Short title —**

Committee was interrupted after the clause had been partly considered.

**Hon ALANNA CLOHESY:** Before the break, we were talking about tabling some information that is given to people who are in hotel quarantine. The first document is titled, “Paying for hotel quarantine in WA: Frequently asked questions”. I table that document.

[See paper [4126](#).]

**Hon ALANNA CLOHESY:** That information is available on the Department of the Premier and Cabinet website—the central portal. The second document I table is titled “Frequently asked questions” and has been developed for travellers returning to Australia who are in quarantine. It covers information on medical assistance, quarantine requirements and issues related to what to expect during their stay. That document is also on the DPC website.

[See paper [4127](#).]

**Hon NICK GOIRAN:** The parliamentary secretary referred earlier to direction 42. What is the date of that document?

**Hon ALANNA CLOHESY:** It is 5 April 2020.

**Hon NICK GOIRAN:** Is the parliamentary secretary in a position to table that document?

**Hon ALANNA CLOHESY:** I can table it if a copy can be taken, but I require it as a reference document at the table. I will take this opportunity to also indicate that all the directions are available on the Department of the Premier and Cabinet website. It is updated as new directions are added.

**The DEPUTY CHAIR:** I will seek a copy of the document to be tabled in a minute. In the meantime, did Hon Nick Goiran wish to continue his line of questioning?

**Hon NICK GOIRAN:** The parliamentary secretary mentioned that direction 42 is dated 5 April. She mentioned earlier that one of the criteria for whether somebody needs to mandatorily quarantine in a hotel is whether they have come from Victoria since 31 July. Is there any document that gives guidance on the granting of exemptions since 31 July?

**Hon ALANNA CLOHESY:** I seek clarification on whether the honourable member means exemptions on who can enter the state, who has to quarantine, or waiving quarantine fees, which is what this bill is about?

**Hon NICK GOIRAN:** At this stage, I am looking for reference to quarantine exemptions. The second reading speech includes that “some interstate arrivals undertake their quarantine period in a designated metropolitan hotel” so, obviously, some do not and that is because they have been granted, as I understand it, an exemption from quarantining in a designated metropolitan hotel. I wonder whether there is a document that guides the granting of those exemptions.

**Hon ALANNA CLOHESY:** Under the Emergency Management Act, there is a direction for the category of people who are exempt from quarantine. I do not have the reference number for the document because I have only information directly related to the bill before us. However, I could undertake to provide the reference number after dinner when I have had an opportunity to look at the website.

**The DEPUTY CHAIR:** Before I give the call to Hon Nick Goiran, can I check whether the parliamentary secretary has received a copy of the document she sought to table? We need to officially table the last document.

**Hon Alanna Clohesy:** That is correct; I have not.

**Hon NICK GOIRAN:** I think the document that the parliamentary secretary was hoping to table was direction 42, dated 5 April 2020. I believe I have that document in my possession, but if the parliamentary secretary does not have one, I am happy to provide this copy so that we can clear up the matter.

**Hon ALANNA CLOHESY:** I provided the document, which I will table, to the staff so they can copy it but until I receive the document back, I cannot table it. It is not a conspiracy; it is just being practical.

I now have a copy of the document. It is called “Emergency Management Act 2005 (WA): Sections 61, 67, 70 and 72A: Quarantine (Closing the Border Directions)”. I now table this document.

[See paper [4128](#).]

**Hon NICK GOIRAN:** Thanks Mr Chair; thanks parliamentary secretary. The document is dated 5 April 2020, but as the parliamentary secretary indicated earlier, one of the current criteria to determine whether a person needs to mandatorily quarantine in a designated hotel is whether they are an arrival from Victoria. The key date is 31 July but

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a number of exemptions are possible. As the parliamentary secretary mentioned, one of the documents that guides that is a direction under the Emergency Management Act, which I hope might be provided at a later stage of today's sitting. I presume that direction will provide exemptions to people such as commonwealth officials, and I think she mentioned federal members of Parliament. At this stage, I am more interested to pick up where Hon Alison Xamon left the line of questioning about other criteria that will be used for compassionate reasons and the like. Somebody must make a decision about those exemptions. Whoever that person is must have some guidance. I appreciate that it will be dealt with on a case-by-case basis, but the minister, the Chief Health Officer or somebody within government must be asking someone to make those decisions pertaining to certain criteria. Are the criteria or the policy or process documented in any way other than in the direction the parliamentary secretary referred to earlier in the Emergency Management Act?

**Hon ALANNA CLOHESY:** Decisions regarding exemptions to entering the state are made by the Western Australia Police Force under provisions in the Emergency Management Act. That is not directly related to this bill as the Western Australia police make those decisions, so I do not have that information here. When I get time to search over the dinner break, I can provide the honourable member with the number of the direction, but because it is not directly related to the bill we are considering, I cannot do it right now. All the directions are also on the DPC website.

**Hon NICK GOIRAN:** The second reading speech includes that "some interstate arrivals undertake their quarantine period in a designated metropolitan hotel". In other words, Australians coming from the other side of Australia into Western Australia are required, because of a direction provided by a Western Australian official—one of your government officials—to quarantine for a period in a designated metropolitan hotel. The key issue here is that it does not apply to everyone. It applies to some but not others. Two of the people whom it applies to are the people I read the story about during my contribution to the second reading. One of the people it does not apply to is Kerry Stokes. I am trying to understand the list of criteria that determine whether a person fits into the category of my constituents whom I mentioned earlier, or the Stokes category. Somebody within government must have a document at their disposal that determines what that criteria are. We have spent a little bit of time already discussing the Emergency Management Act and the direction. That is not the document I am interested in. There must be another document. Somebody in government must have another document that guides this decision-making process. I am asking: what is that document and can it be tabled?

**Hon ALANNA CLOHESY:** It is the Emergency Management Act directions and, as far as I am aware, it is the document that was tabled. Paragraph 27 of that document sets out exempt traveller, meaning persons who fall into one or more of the categories I mentioned earlier; namely, exempt travellers under the Emergency Management Act, which is administered by the WA Police Force. The exemptions are administered by WA police and, as such, I do not have information about the criteria other than what are set out in the document that I tabled or how it is administered. How the criteria are applied is not contained in this Public Health Amendment (COVID-19 Response) Bill. All I have come prepared with is information about what is contained in this bill.

**Hon ALISON XAMON:** This is particularly frustrating and it goes to what I was trying to ask before. The questions pertaining to who can get exemption to quarantine in a place other than one of the hotels is germane to the substance of this bill. If someone can compulsory quarantine anywhere other than in a hotel, they will not be charged, so it is germane to the issue in front of us. I know we are not talking about who can ultimately enter Western Australia; that is quite clear. By the time people have managed to manoeuvre their way through the capricious nature of that process, particularly if they are from Victoria or overseas, they are then faced with being mandatorily detained within a hotel. What I understand Hon Nick Goiran was trying to get to the bottom of is exactly what I was trying to get to the bottom of—that is, the grounds under which people can stay in suitable premises as opposed to a hotel. That is absolutely at the core of this bill because under this bill, people can be compelled to pay for staying in a hotel. One of the key things people will want to know is therefore their eligibility to stay in a suitable premises. We have heard some criteria to date. We have heard that people can stay in a suitable premises as opposed to a hotel where they will potentially incur costs, if they have a premises where they can be appropriately isolated. I take that as meaning an empty home or an empty apartment. They obviously cannot stay where there are other people.

We have heard that mental health or health considerations or having a dependent child will be taken into account. I did not get any clarification about whether a disability would be one of those components. One of the frustrations here is that, quite clearly, there are no guidelines by which the public servant who has been devolved the responsibility to make these determinations will assess that criteria. This is absolutely legitimate. I can see situations in which Australians will be forced into quarantine in a hotel, potentially at their own expense, when, for all intents and purposes, they can be located in their own home, for example, or other suitable premises at no risk to the community or certainly not at increased risk to the community and not at risk of accumulating ongoing costs.

I will ask the question again, which I understand Hon Nick Goiran is trying to also get an answer to. Where is the criteria written down anywhere by which the public servant will determine which ordinary Australians who are not subject to the exemptions as articulated within the quarantine closing-the-borders direction, will be duly considered eligible to reside in suitable premises? I note also with some frustration that some of the people who have been

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exempted from residing in hotel quarantine in no way fit within paragraph 27 of the criteria that defines an exempt traveller. Clearly, some criteria are being supplied. What is it, please? I think a lot of Australians would like to know so their exemption can be appropriately considered.

The other question related to this is: what possible avenues will people have to appeal that decision if they think it has not been given due consideration?

**Hon ALANNA CLOHESY:** The questions Hon Nick Goiran asked were about which travellers are exempt and where that direction is held. A number of points were made in Hon Alison Xamon's recent contribution. I will get to the heart of one of them. First of all, the decisions around exemption from quarantine are decisions of the WA Police Force under the Emergency Management Act. Under this bill, once that decision has been made, it will give effect to the cost of the quarantine and waivers under that.

I understand the member's interest in criteria for assessment for waiving the fees under this bill. That is what I will refer to in most of my response to what the member just asked. The details of the criteria for assessment for waiving fees are undertaken by the Department of Communities. The information I tabled about fees for travellers contains that criteria. In particular, the first criterion is: Australian residents and citizens who might be experiencing hardship and are unable to pay can be considered for that. The applications are not assessed by the WA Police Force but by the State Welfare Incident Control Centre—SWICC—which provides a recommendation to the State Health Incident Coordination Centre on whether there should be a full fee waiver, a partial fee waiver or no fee reduction at all. The application can be made on the day of arrival in quarantine. I know the member has a specific question about whether that can happen beforehand. Nothing in this bill prevents that from happening—nothing.

The criteria for assessment require that the application must contain information about financial hardship, vulnerability and exceptional and serious circumstances. That is necessarily broad because everyone's case is different. They are the criteria provided to us from the Department of Communities. When the assessments are made, consideration is given to how enforcing the quarantine fee might exacerbate the applicant's financial hardship and their ability to provide the basic living necessities, such as food, accommodation, clothing and medical treatment—that is, for the applicant and their dependants.

Each applicant is assessed on a case-by-case basis, which is why it is necessary for the criteria to be broad. Some considerations that will be made in the individual assessments are whether the applicant is unemployed; is receiving a benefit such as an age pension, a carers payment or a disability payment; has had their employment suspended as a result of COVID-19; is receiving or has applied for the JobKeeper allowance; has regular employment but their income is under \$55 626 for singles, or \$89 170 for families; holds a low-income position, is in casual employment or is otherwise vulnerable; is experiencing family and domestic violence; is an unaccompanied minor; is unable to care for themselves; or requires a carer. All that is considered. The criteria are based on similar arrangements in other jurisdictions and informed by the Department of Communities' current financial arrangements. The broad categories of that information are included in information that travellers going into hotel quarantine receive when they check in. It is also available on the Department of the Premier and Cabinet website.

**Hon NICK GOIRAN:** If a person receives a centre quarantine direction, do they have any choice about whether they are detained in a hotel?

**Hon ALANNA CLOHESY:** As far as I am advised, because those decisions are made by the Western Australia Police Force, the person can make an application for review, as I mentioned to Hon Alison Xamon, either through the on-site doctor or directly to the Western Australia Police Force. When they check in they are given information on how they may request a review.

**Hon NICK GOIRAN:** The second reading speech states —

... some interstate arrivals undertake their quarantine period in a designated metropolitan hotel.

Would it be the case that all people who undertake their quarantine period in a designated metropolitan hotel will be doing so under a centre quarantine direction?

**Hon ALANNA CLOHESY:** I would not want to speak for the Western Australia Police Force and the decisions that it makes, but I believe so.

**Hon NICK GOIRAN:** It all centres around these centre quarantine directions. If a person gets a centre quarantine direction, they have to go to a hotel. If they do not get a centre quarantine direction, they do not have to go to a hotel. Is the document that the parliamentary secretary tabled earlier—the direction that was dated 5 April 2020—the document that sets out who gets a centre quarantine direction?

**Hon ALANNA CLOHESY:** I am advised that there are a range of different documents with different directives, which relate to different categories of people, which have evolved as the pandemic has evolved over time. They are all contained under the Emergency Management Act. I suggest that the honourable member might want to provide me with a specific example or take us to the charging of those individuals, because we might be able to provide

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a clearer response to whatever it is that the member is asking. Because many directions have evolved over time as practice and learning have evolved during the pandemic, it would be too difficult to list them all.

**Hon NICK GOIRAN:** The documents that I am interested in are the ones that are current today—that is, 18 August. The document the parliamentary secretary tabled earlier, which has the copyright of the Department of Health and is entitled, “Paying for Hotel Quarantine in WA Frequently Asked Questions”, poses the question —

If I am given a Centre Quarantine Direction can I quarantine at a cheaper hotel, at home or with family or friends?

The answer is —

No. Mandatory quarantine must be in a State Quarantine Facility as outlined in the direction. You cannot arrange to quarantine at home or other accommodation. The measures are to ensure the safety of Western Australians and to limit the spread of COVID-19.

This frequently asked question document states that it was last updated on 31 July 2020. If that is correct, it seems to me that this all revolves around whether someone gets a centre quarantine direction. If they get one, they are stuffed. They have to go to the hotel whether they like it or not, and there is no chance of being able to do anything. The document says, “Can I quarantine at a cheaper hotel? No. At home? No. With family or friends? No.” It all revolves around whether they get a centre quarantine direction. I am not the only member who wants to know how people get out of getting a centre quarantine direction in the first place. Obviously, if someone’s surname starts with “S”, they have a very good chance of getting out of one of these centre quarantine directions. A whole range of other people whose surnames do not start with “S” will probably end up with a centre quarantine direction, and as a result will have to go into a hotel, be in a small room with no possibility of fresh air and, for that privilege, be charged by the government because of this bill that is currently before us. That is why I am asking whether we could be provided with the document that determines the criteria upon which it is decided whether a person gets a centre quarantine direction. I appreciate that the parliamentary secretary may want to do that over the interval. I think that with the benefit of that document, we will be able to make quite a bit of progress after the interval.

**Hon ALISON XAMON:** Further to the comments that were just made, I have seen an application for re-entry to Western Australia. I would like members to be aware that people who are trying to get some sort of exemption to be able to stay in more suitable accommodation are being told —

Approval of entry into Western Australia is on the condition that you will go into a quarantine centre for 14 days of quarantine. If travelling direct from an international flight you **will** be required to quarantine at a hotel arranged by the Western Australian Government. You will not be exempt from a centre direction and cannot apply for an exemption prior to entering Western Australia.

It goes on to say that the earliest a person can even make an application or have this considered is anything from 24 to 72 hours after arrival. Then, and only then, can they even have it considered whether another place is more suitable for them to stay. That is part of the frustration that has been drawn to my attention. The reason I have this is that it has been sent to me by people overseas—residents and Australian citizens who live here—who are paying mortgages and cannot get back into their empty homes because this is the direction that they have been given. They are being told that they are not allowed to even apply to the police. They have tried to apply ahead of time and not even been given that option. They have no way to avoid these costs.

*Sitting suspended from 6.00 to 7.30 pm*

**Hon ALANNA CLOHESY:** Before the break, I undertook to provide additional information to Hon Nick Goiran on centre directions to quarantine and which directions they are contained in for certain classes of people. Before I do that, I point out that the bill before us commences operation at the point at which those who have been issued a centre direction to quarantine in a hotel arrive at that hotel. The information that we provide is not specific to this bill. They are broad directions.

The “Quarantine (Closing the Border) Directions” set out the requirement, as I said, to quarantine. The type of quarantine direction given is an operational decision. A centre direction must be given unless there is an exemption as set out in clause 27 of the closing the border directions that I tabled. Clause 10 of the directions sets out whom a centre direction need not be given to. That includes a person who needs to attend hospital for medical care or an unaccompanied child.

If we did not have mandatory hotel quarantine, we would have community spread of coronavirus. The other jurisdictions are evidence of this. I repeat: those directions are contained in clause 27 of the directions that I tabled; and clause 10 of those directions sets out whom the direction need not be given to.

**Hon NICK GOIRAN:** We are making some progress now. Basically, for the benefit of other members, the document that was previously tabled, which was referred to as direction 42 and is dated 5 April 2020, has a whole list of exemptions listed under the definition of “exempt traveller”. They include a variety of things that the parliamentary

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secretary has previously mentioned, such as the Premier, those who are involved in emergency services, FIFO workers, members of the commonwealth Parliament and the like.

The section that I think will interest members the most is the definition of “exempt traveller”, which is found in section 27 of the directions and, in particular, subsection (r). Under the heading “Persons otherwise approved on any other grounds, including other compassionate grounds”, it states —

- (r) any person or category of person who I as the State Emergency Coordinator, or a person authorised by me as the State Emergency Coordinator for the purpose, approves in writing and who complies with any terms or conditions to which that approval is subject (which may include a quarantine direction), whether on or any other compassionate grounds or on any other ground whatsoever.

*Note: this provision for approving persons or categories of persons is intended to ensure that where a person or category of person is not provided for, either generally or in a particular case, consideration can be given to whether entry should be permitted and, if so, on what terms (such as airline or maritime crews or persons wishing to enter Western Australia for work-related reasons not captured above). Consideration will be given on a case-by-case basis and evidence may be required, such as a medical certificate.*

It goes on to give three examples. In essence, the first example deals with a person who says that they would experience exceptional hardship because they run a small business and if they were not able to enter directly, they would face financial ruin. The second example is somebody who has to comply with a court order. The third example is a person who was in casual or other employment living in Sydney who needs to enter Western Australia because they have lost their job, has no means of support and will need to live with or be supported by their family until their circumstances change. In such a case, approval might be given under this provision subject to a quarantine direction and possibly other terms and conditions. I ask the parliamentary secretary: is there any document in the possession of government that guides the decision-making process as to how a decision-maker will apply section 27(r) of the direction?

**Hon ALANNA CLOHESY:** We do not have that information here because that information pertains to the directions given to quarantine. The operation of the bill before us starts at the point when the person who has been given the direction to quarantine arrives at the hotel in order to complete their quarantine. The question is beyond the focus of the bill before us.

I point out that I think the honourable member referred to direction 42. In fact, it is clause 42. I note that a number of amendments are listed on the supplementary notice paper. I welcome the opportunity to move on to the content of this bill, the point of which is that a person has been directed to quarantine and the fees they might be faced with when they are in quarantine.

**Hon NICK GOIRAN:** I appreciate that the parliamentary secretary might not have the guideline available to her at the moment. Does the guideline exist?

**Hon ALANNA CLOHESY:** I cannot answer that question because I do not have that information. I am prepared to talk about the detail of this bill. As the member said, that is a whole-of-government question. We do not have that information.

**Hon NICK GOIRAN:** We have 130 minutes left in Committee of the Whole House. That means that we have been considering clause 1 for approximately 70 minutes. We also had a 90-minute adjournment.

The adjournment and the interval were longer than the time we have spent on clause 1 so far, and we have spent a heck of a long time on clause 1 to start with—we have spent 70 minutes on clause 1. After all that time, the government is unable to provide us with a guideline document. In fact, the government cannot even confirm whether a guideline document exists for the basis upon which a person can obtain an exemption in Western Australia, or whether a person has to comply with hotel quarantine. The parliamentary secretary has on multiple occasions tried to pretend that this has nothing to do with the bill, yet I note that in the second reading speech, which describes the policy of the bill, the comment is made that “some interstate arrivals undertake their quarantine period in a designated metropolitan hotel.” The whole point of the bill is to charge those people a fee for that hotel quarantine. The question that members in this chamber are trying to get to the bottom of is under what circumstances will a person be required to undertake quarantine in a designated metropolitan hotel? We have managed to at least get to the bottom of the fact that it will depend upon whether a person has received a quarantine direction. However, it is not unreasonable for members of this place, and, indeed, any person not currently in Western Australia who wants to come into Western Australia, to be told the criteria upon which they will be charged a fee for hotel quarantine. Up until 17 July, it was not the case that the state of Western Australia charged a fee. However, if this bill passes unamended, that will be the case.

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It is reasonable that people be told what the criteria will be. There are two options. The first is that there are no criteria and people are just making decisions on the run, or the criteria are frivolous and it depends upon who the person is as to whether they will obtain an exemption. The second is that there are proper, documented criteria that people are working through and that are guiding their decision-making in accordance with section 27R of the direction dated 5 April 2020, which is signed by the State Emergency Coordinator and the Commissioner of Police and was tabled by the parliamentary secretary earlier. I find it staggering that after all this time, we cannot get that guideline document from the government. If that document is not available at this time, can the parliamentary secretary undertake to obtain that document and provide it to the chamber at a later stage of tonight's sitting, or, alternatively, if it cannot be provided tonight, advise when it will be provided to the chamber?

**Hon ALANNA CLOHESY:** As I have mentioned on a number of occasions, that information is for WA police. This bill focuses on those who have been given a direction to hotel quarantine, and focuses on the charges that will be incurred as a result of that hotel quarantine. I cannot speak for WA police, and nor would I try to, because I am focused on this bill. If the honourable member wants further information about directions, we can have a conversation behind the Chair to clarify exactly what he wants, once we have considered this bill, to be clear. I have also said that people who are given a direction to hotel quarantine are people who have arrived from Victoria, and overseas travellers. I have said that on a number of occasions, and I have also given the reference for that. I would welcome the opportunity to focus directly on the content of this bill.

**Hon NICK GOIRAN:** If a person gets an invoice for a hotel quarantine period, will it always be for 14 days?

**Hon ALANNA CLOHESY:** Not necessarily. They may be required to stay longer. If, for example, they are near the end of their 14-day quarantine period and they exhibit signs of and test positive for COVID-19, they would be required to stay in quarantine for longer.

**Hon ALISON XAMON:** If a person can demonstrate that after 24 to 72 hours of being subject to the compulsory quarantine they had applied to be relocated to another suitable premises, and another suitable premises was available to them, but, through no fault of their own, a decision was inexplicably made by the police—without apparently any parameters to determine why that decision was made—to not allow them to do that, would that be taken into consideration when trying to get a waiver of the fees that were accrued as a result of their compulsory quarantine in a hotel?

**Hon ALANNA CLOHESY:** I cannot speak for individuals, because each person will be assessed on a case-by-case basis. The considerations about whether a waiver or partial payment will be applied include the person's current employment status; the person's current income support mechanism—for example, if the person is in receipt of a disability payment; whether the person's job has been suspended as a result of COVID-19; whether the person is receiving the JobKeeper allowance or another income support mechanism or other income; whether the person is on a low income and receiving that through regular employment; whether the person is otherwise vulnerable—for example, experiencing family and domestic violence; whether the person is an unaccompanied minor; or whether the person is unable to care for themselves or is a carer themselves. Those are the criteria or considerations that apply to individual applicants.

**Hon ALISON XAMON:** One of the questions that I asked earlier—I am not sure that I was given a response—was if a decision is made not to allow a waiver or partial waiver, what opportunities will there be to appeal that decision? Will the parliamentary secretary please outline the pathway by which people may appeal that to the Department of Communities, or will it be just by way of an application to the Supreme Court?

**Hon ALANNA CLOHESY:** The first level of appeal, I guess, is the hardship assessment that will be done by the Department of Communities. The second level of appeal is to the Supreme Court.

**Hon NICK GOIRAN:** Earlier, in response to Hon Colin Tincknell, the parliamentary secretary listed a number of hotels that have been designated. My question is twofold. Firstly, is there a convenient list of those hotels that can be provided or is publicly available? Secondly, what is the process by which a hotel becomes designated?

**Hon ALANNA CLOHESY:** In order to assess hotels—again, this is not related to individual clauses in this bill—the considerations that the State Health Incident Coordination Centre might have in regard to what accommodation arrangements are necessary include monitoring the progress of the pandemic, in particular with reference to repatriation flights. The honourable member might note that there is now a cap on the number of international arrivals. It also looks at marine operations and passenger transfers. It considers the whole picture when determining what the quarantine needs might be. The hotels may change in the future, according to need. The member might remember that early on in the pandemic a lot of work was done on simply identifying available and suitable accommodation, which included Rottnest Island. I will repeat the hotels that I provided for the honourable member.

**Hon Nick Goiran:** I don't need them repeated.

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**Hon ALANNA CLOHESY:** Given that it is a SHICC matter, I am unaware whether that list is published anywhere, but it is certainly available now in *Hansard* and it has been referred to a number of times.

**Hon COLIN TINCKNELL:** While we are discussing hotels again, is a process in place if people dispute the cost of quarantining? Is there a dispute process, such as State Administrative Tribunal, which is used for many other things?

**Hon ALANNA CLOHESY:** As I said before in response to Hon Alison Xamon, the process of requesting a hardship assessment is the first step and then they may appeal to the Supreme Court.

**Hon Colin Tincknell:** Sorry, I missed that.

**Hon ALANNA CLOHESY:** That is okay.

**Hon MARTIN ALDRIDGE:** Just on this line of questioning around hotels, are hotels subject to a direction under the Public Health Act 2016 or the Emergency Management Act 2005 in terms of the state requiring them to be a hotel quarantine location or is it purely a commercial arrangement that exists between the hotelier and the state of Western Australia?

**Hon ALANNA CLOHESY:** As far as I am able to provide that information, it is not subject to a direction. The state has not directed hotels to provide those services. It is an arrangement between SHICC and the individual hotel properties or company groups. There is no direction and those arrangements started very early and quickly. The benefit for the hotels, of course, is that they would not necessarily be receiving patrons at the level that they might have otherwise.

**Hon MARTIN ALDRIDGE:** I have more specific questions but I think it is better to wait until we get to the clause.

**Hon NICK GOIRAN:** Earlier I asked what the process is by which a hotel becomes designated. Is the parliamentary secretary able to advise me?

**Hon ALANNA CLOHESY:** If that is the same question that Hon Martin Aldridge just asked, it is an arrangement between SHICC and the hotel. If the honourable member has a specific question about how that relates to the bill, I might be able to answer the question more fully.

**Hon NICK GOIRAN:** If this bill passes unamended, people will be invoiced for attending a hotel in Western Australia, in our jurisdiction. Someone will be ordered to go to a hotel in Western Australia and they will get an invoice as a result of that. It is appropriate for us to know the process by which the government determines whether a hotel becomes designated. If it is not a designated hotel, parliamentary secretary, an invoice cannot be sent. What is the process by which a hotel becomes designated?

**Hon ALANNA CLOHESY:** I do not have the assessment criteria for hotel quarantine here because, again, that is a SHICC operational decision—not a direction. In considering whether to choose a certain hotel, SHICC will consider operational matters, including whether parts of a hotel can be sectioned off, whether it is easy to clean the sections of the hotel that are designated for quarantine and whether other services and facilities contained inside the hotel are available. The operational decisions made by SHICC are pre what happens when people arrive and are charged a fee for quarantine. The decisions around that are pre that and are the domain of SHICC.

**Hon NICK GOIRAN:** Parliamentary secretary, as I understand it, the fee that will be charged to a person on the invoice will be the same irrespective of which hotel they stayed in. I ask the parliamentary secretary to confirm whether that is the case. Second, is it the case that the state will be charged the same fee from each of the designated hotels? Thirdly, if it is the case that there is some form of criteria that determines whether a hotel is designated, is the parliamentary secretary in a position to undertake to obtain that document and table it?

**Hon ALANNA CLOHESY:** The first part of the question was about why a flat fee has been chosen. First of all, the flat fee structure is reasonably straightforward to administer and barring a successful application for the hardship scheme, the person is required to pay the fee. Given that the estimated maximum number of quarantined persons is approximately 2 500 a month, an actual cost-recovery approach would have been operationally unfeasible. The flat fee structure will provide clear and up-front certainty on the fee that both the state and the person who is contemplating entering Western Australia will be charged if directed to quarantine in a hotel. On the other hand, actual cost recovery would create variable costs between different quarantined people and would result in widely differing cost recovery between those people. That would have been likely to create unfairness given that returning travellers would not have had a choice about which hotel they would be quarantined in or the particular food and cleaning services that they would be provided.

The honourable member also asked about how hotels have charged the state for quarantining purposes. Each hotel will charge a rate that is commensurate with the type of hotel and the services that they provide. It will not be the same cost for each hotel, but, as I said, regardless, the state will charge travellers a flat fee that is less than the actual cost.

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**Hon NICK GOIRAN:** The third question I asked was whether the parliamentary secretary would undertake to obtain and then table the document that sets out the criteria that determines whether or not a hotel is designated.

**Hon ALANNA CLOHESY:** As I said before, that is the domain of the State Health Incident Coordination Centre. I do not know whether there is a document. I do not have information here to indicate whether there is a document because it is an operational decision and that is beyond the domain of this bill. However, I have offered to provide the honourable member, behind the Chair, a collection of the type of information that he is seeking and an attempt to provide that information to him after the consideration in detail of this bill.

**Hon NICK GOIRAN:** The parliamentary secretary repeatedly seems to be of the view that the information that the government has in its possession but the government refuses, via the parliamentary secretary, to provide, is not necessary for consideration of the bill before the chamber; yet we have found out that a flat fee will be distributed to anybody who stays in any one these designated hotels. A person will get an invoice with a flat fee irrespective of which hotel they go into, and they will not get a choice about which hotel they go into. The parliamentary secretary has just conceded that different hotels are charging the government different fees depending on the level of service that they will provide. In other words, if an unlucky Western Australian is forced to go into hotel detention for 14 days, they will be issued an invoice for a potentially lesser standard hotel than another Western Australian. However, the parliamentary secretary will not provide us the document that sets out the criteria by which the government determines which hotels to designate and which ones it will not, and pretends that that has nothing to do with the bill. That is all very good for the parliamentary secretary, who does not have to do the 14-day detention, but it is not for those people who have contacted me and other members, in distress, because they have had to be in detention for 14 days, in a room in which they cannot even open a window. We do not even treat prisoners in Western Australia that way, but apparently we are going to continue, after this bill passes, to treat law-abiding Western Australians who have the temerity to perhaps go into another state to bury a loved one that way.

According to the parliamentary secretary it is asking too much of the government to open its vault of documents and advise us of the criteria by which it has determined whether one hotel will be designated and another one will not. For example, would it not be a good thing were the government to decide that one criteria will be that a room with a window that opens must be provided so that a person can actually have some fresh air? Might that be an idea? Might that be a criterion? We do not know that because the parliamentary secretary wants to keep the vault closed and to pretend in some kind of obtuse fashion that this has nothing to do with the bill.

I am really glad that I represent the South Metropolitan Region and not the East Metropolitan Region. That is the kind of service that people are getting from a member of the East Metropolitan Region, who says, "Sorry. I can't get that information because it is being kept in the police vault and I have access only to the health vault, so I am not going to tell you that information." That is not good enough. I am not the only member who has been contacted. I know a lot of members have been repeatedly contacted by constituents in distress because they are locked up in a room for 14 consecutive days without the possibility of breathing fresh air, something that we do not even do to criminals in Western Australia. But it is too much for the parliamentary secretary over the adjournment, over the interval, to find out this information. It is too much to provide that level of service to people suffering under mental health distress and duress. That is asking too much of this government.

I might add that this was also the government that promised gold-standard transparency prior at the last election. Despite the fact that we have been asking, over a fair amount of time by anyone's measure, for this information during consideration of clause 1, it is too much for the parliamentary secretary to provide us that information.

My last question on clause 1 is: what reassurances can the government provide us to demonstrate that Western Australia has learnt the lessons from the errors in the Victorian hotel quarantining system?

**Hon ALANNA CLOHESY:** There were a couple of parts to the honourable member's contribution just now. First, I reject the implication that the honourable member made that the government does not care about returned travellers and those who have been issued a direction to quarantine for 14 days. If the government did not care, the government would not issue the direction to quarantine. The reason we are asking people to quarantine is to protect their health and the health of all Western Australians. I absolutely reject the implication that that would be the case on the part of the government.

Another point I need to correct the honourable member on is around the fee. The proposed fee that people in hotel quarantine will be charged is still less than the least expensive hotel. If a person is required to attend a hotel for quarantine at their own expense, that fee would still be less than what they would have been required to pay unless there was a waiver. Also, the honourable member did not ask for the information that he suggested before the break about the fee. That was new information that he added as part of his general narrative in his recent contribution. Operational lessons learnt from Victoria are the domain of the State Health Incident Coordination Centre and of the Deputy Chief Health Officer in particular. I can arrange for the honourable member to have a conversation about those lessons as a whole, because there are many and I will not be able to get across all of them tonight.



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However, a couple might be that Western Australia locked down our borders early. That was a particularly important lesson that we learnt from other jurisdictions, including Victoria. Another lesson learnt was that there was good, early uptake by Western Australians of good public health measures, including the use of hand sanitiser and physical distancing. Another lesson learnt is that it is important to ensure that there is a good mechanism in place for hotel quarantining, particularly in order to ensure no community spread.

I am very hopeful about this, but Western Australia has not had any community spread since May. The highest source of infection in Western Australia has been from overseas travel. The next highest source of infection has been from those at sea, including cruise ships, and the member might remember that one of the lessons we learnt from other jurisdictions very early on was to ensure that cruise ship passengers were moved to quarantine and not allowed to circulate in the broader community. That was a significant lesson. Another source of infection was from those with close contact with people who had travelled from overseas, interstate or from at sea. Those are some of the lessons we have learnt. The lesson that we are focusing on here is the importance of hotel quarantining and the need, therefore, to charge for hotel quarantining.

**Clause put and passed.**

**Clause 2: Commencement —**

**Hon NICK GOIRAN:** Clause 2 defers commencement of the operative provisions until a date to be proclaimed. The explanatory memorandum says that this will allow for regulations to be made. In response to a question asked by Hon Martin Aldridge under clause 1, the parliamentary secretary advised that these regulations are a few weeks away, but that some form of liaison or consultation has commenced with the Parliamentary Counsel's Office. Are the regulations that are being prepared just the ones to address the three categories proposed in section 202L?

**Hon ALANNA CLOHESY:** As I advised Hon Martin Aldridge, no drafting of the regulations has commenced because we cannot commence drafting until the bill has been assented to, but general discussions at the moment—they remain general—are around proposed sections 202H, 202L, 202A and 202B. They are only general discussions; they are not specific to the content. Currently, Health intends only to progress regulations to prescribe the fee for hotel quarantined persons, the invoicing of persons in shared hotel accommodation, and the payment of fees by instalment.

**Hon NICK GOIRAN:** The explanatory memorandum also says that the delay is needed, and I quote, “for the progression of other administrative matters”. What are those matters?

**Hon ALANNA CLOHESY:** Those matters are delegations, which are set out under clause 5.

**Hon NICK GOIRAN:** Is clause 5 the only place where delegations are taking place?

**Hon ALANNA CLOHESY:** No. Clause 5 amends section 9 of the Public Health Act. Section 9 of the Public Health Act is where those delegations are contained.

**Hon NICK GOIRAN:** I will take that to be a yes. I move —

Page 2, after line 8 — To insert —

- (2) However, if no day is fixed under subsection (1)(b) before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, this Act is repealed on the day after that period ends.

**Hon ALANNA CLOHESY:** The government supports this amendment.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 3 put and passed.**

**Clause 4: Section 4 amended —**

**Hon NICK GOIRAN:** Why does the definition of “quarantine direction” not include reference to a time frame for the direction to begin and end?

**Hon ALANNA CLOHESY:** This clause sets out the definition of “quarantine” across two acts—the Public Health Act and the Emergency Management Act. The directions can change at any time, and that is why it is appropriate to have the time contained in the direction. For example, I think I said earlier that more than 80 directions had been issued in relation to COVID-19. That gives an indication of how quickly things can change and, therefore, why it is important to have the time contained in directions.

**Clause put and passed.**

**Clause 5 put and passed.**

**Clause 6: Section 157 amended —**

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**Hon NICK GOIRAN:** I move —

Page 4, lines 6 to 8 — To delete the lines.

**Hon ALANNA CLOHESY:** The government does not support this amendment, because the requirement to gazette before a direction becomes operative would have the very real potential to delay directions. Directions are often required urgently. Publishing the directions on the website allows for more speed and more flexibility. Members might imagine a scenario in which a direction was urgently required for a particular location. Gazetting that direction—having to wait for the gazettal—would greatly slow down the direction and likely cause a public health emergency. In the case of aged-care facilities, for example, it could be devastating. The requirement to gazette the direction before it took effect could slow down all that work—for example, in relation to locking down a facility. It would have a very real public health impact. The drafting of the bill is consistent with section 77 of the Emergency Management Act relating to directions made to a class of persons. That is how the bill has been drafted.

All directions have been published to date. As I said, 80 directions have been published on the government website as a central point. All directions, even repealed directions, are there. The reason we cannot support this amendment is that it has the potential to have a very real impact on being able to move very quickly on directions. The government also considers it is more important that when directions are given to a class of persons, they are published in a way that best suits that class of persons and in a way that means that people will not have too much difficulty in navigating that direction. I am also advised that gazettal is more for legislators and lawyers. We do not wish to tie up administrative and financial resources in the process of gazettal when it is not the means by which people are best served. The government does not support the amendment because of the speed with which directions need to happen. The Department of Health and other officials need to move very, very quickly once a directive has been issued. It is also about the way in which people access information. As I said, over 80 directions are already available in a central repository.

**Hon ALISON XAMON:** I just seek clarification. Does non-gazettal mean that the house will lose a right to disallow a direction?

**Hon ALANNA CLOHESY:** The Parliament has never had the opportunity to disallow. The Chief Health Officer issues those directions, and the Chief Health Officer does not send those directions to the Governor or the Parliament.

**Hon Alison Xamon:** So we are not losing a right?

**Hon ALANNA CLOHESY:** That is right.

**Hon NICK GOIRAN:** We are currently considering clause 6 of the bill. Is it the case that clause 6 will amend section 157 of the Public Health Act 2016?

**Hon ALANNA CLOHESY:** Yes, clause 6 amends section 157 of the Public Health Act.

**Hon NICK GOIRAN:** Is it the case that section 157 of the Public Health Act allows for a direction to be provided to an individual?

**Hon ALANNA CLOHESY:** That is true, but the amendments that we are putting through will allow for the creation of a class of people—that is the point of it—so that the Chief Health Officer does not have to continue to provide individual directions, which are then also required to be reviewed every two days. As we have explained, that is an onerous task.

**Hon NICK GOIRAN:** To be clear, section 157 of the Public Health Act allows for directions to be provided to individuals and, once this act is amended by the bill, it will still allow for directions to be provided to individuals.

**Hon ALANNA CLOHESY:** Correct.

**The DEPUTY CHAIR (Hon Robin Chapple):** I just advise members that the time clock has broken again.

**Hon NICK GOIRAN:** Thank you, Mr Deputy Chair. It is the case that section 157 of the Public Health Act allows for individual directions to be provided and, after the amendment in clause 6, it will still be the case that individual directions can be provided. Will that also be the case irrespective of the outcome of the amendment on the supplementary notice paper?

**Hon ALANNA CLOHESY:** Yes.

**Hon NICK GOIRAN:** We have a situation in which clause 6 of the bill before the chamber proposes to change section 157 of the Public Health Act. The Public Health Act currently allows, according to the parliamentary secretary, with which I agree, for a direction to be provided to an individual. In other words, an individual person receiving a direction has to be told about it—notice has to be given to that person. That is fair and reasonable. What the government would like to do under clause 6 is to expand the scope to give notice to not only individuals but also a class of people—for example, Legislative Councillors in Western Australia, members of the Legislative Assembly of Western Australia, members of the Australian Labor Party, members of the One Nation party and so on and so forth.

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A class of persons would be able to receive a direction in accordance with the amendment to section 157. The opposition does not quibble with that point. We are happy to give the government the power to provide a notice to a class of persons in addition to the power it has already to give notice to an individual. But it is the case that, under the bill currently, the government wants to extract itself from the requirement to give notice by way of the *Government Gazette* in accordance with section 41 of the Interpretation Act. The government does not want to have to do that because, according to the parliamentary secretary, there could be some kind of emergency, and we want to be able to direct individuals if need be, so that there is not going to be a problem. The government can still do that, parliamentary secretary. The parliamentary secretary just conceded that the amendment to section 157 will not amend in any way the capacity of the government to give an individual a direction. But when the government gives an individual a direction, they will have to give them notice. The government will have to tell Mr Smith, Mrs Black or whatever their name is, “You are being given a direction. I’m giving you notice and I’m telling you that you need to comply with this notice.” The government will still be able to do that irrespective. The amendment on the supplementary notice paper currently before us simply says that if the government decides it wants to tell a class of persons that they have to comply with something, there is at least one place where that notice can be found—that is, the *Government Gazette*. That is entirely consistent with section 41 of the Interpretation Act. We are not doing anything strange here. It is the government that is actually doing something strange; its bill is saying, “We don’t want to comply with the law of Western Australia. We don’t like section 41 of the Interpretation Act. We don’t like the *Government Gazette*. We don’t want to comply with that.” The opposition is simply saying to members that it is fair and reasonable that if the government wants to expand its scope of people to whom it can provide directions to a class of persons, not just individuals, it needs to be able to gazette that information. We seek all members’ support for the amendment currently on the supplementary notice paper.

**Hon MARTIN ALDRIDGE:** In contemplating the amendment before us, I understand the concern expressed by the parliamentary secretary that has informed the government’s position of opposing this amendment; that is, the requirement to gazette will slow down and potentially put at risk the intent of the direction to a class of persons or a class of premises. If there is an immediate problem, that does not prevent an authorised person from directing an individual person or premise to do certain things that do not require gazettal. In contemplating the administrative burden and the delay, which are the two points I think the parliamentary secretary made, I am not sure that the administrative burden case has been made, because, in any event, the work developing a direction has to be done whether it is published on a website, delivered by pigeon or put in the *Government Gazette*. It is a matter of whether it is inserted into the *Government Gazette*.

I understand that two different types of *Government Gazette* are issued. An ordinary gazette occurs at some regular occurrence—weekly or something like that—and then there is a special gazette. Last week, we showed how nimble government can be when, as I understand, the Governor was eagerly waiting in the corridors of Parliament to apply the royal seal to the Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Bill. Perhaps the parliamentary secretary can inform me, because I am not experienced in this regard, how exactly the process to release a special *Government Gazette* to deal with a particular circumstance would be so prolonged? Because I would think that the work to establish the direction, whether it is published on a website or in the *Government Gazette*, would be the same; it is just the gazettal process. Why is that so burdensome on government?

**Hon ALANNA CLOHESY:** There are a couple of things in there. First up, if we had a scenario, for example, like in Victoria, where there are multiple nursing homes, all would be subject to individual directions. What would then have to happen is that information would have to go to the State Law Publisher, and it would have to consider the information. Currently, the gazettes are published twice a week. There is provision for a special *Government Gazette*, but this bill envisages a scenario in which a number of directions need to be put in place very, very quickly. The process could be speeded up by publishing them in the one place where the current 80 are already published and through the process currently used by the Department of Health—that is, the State Health Incident Coordination Centre. In addition, this mirrors the process under the Emergency Management Act. There are two parts. First is the speed with which it can happen and envisaging a scenario in which it needs to happen very quickly. Currently, it is only twice a week with a special bulletin, but it is slowed down by the process of having to send it to the State Law Publisher and for it to be at the behest of its processes for which there is no guarantee that it could be done quickly. Second, there is the cost of double-checking and administering that. So there are a number of factors in that. At the end of the day, we would not want to experience a public health failure because the failure to gazette a direction invalidated it.

**Hon AARON STONEHOUSE:** I am sorry to interrupt the member’s train of questioning, but I might quickly get my thoughts out. I have been paying attention to the cross-examination of the parliamentary secretary on the proposed amendment. It seems to me that if the directions do not have the force and effect of law, of subsidiary legislation, some legal advice ought to be sought before those directions are written. In fact, I suspect it ought to be sought while those directions are being drafted. If it is not subsidiary legislation, why do we need an exemption from section 41 of the Interpretation Act?

**Hon Sue Ellery** interjected.

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**Hon AARON STONEHOUSE:** Yes. If they are drafted by lawyers, if there is legal input to the drafting of those directions, it seems to me that they would be written in a form that is suitable to be published in the *Government Gazette* at that time anyway. If there is a requirement for the State Law Publisher to double-check those directions before they are published in the *Government Gazette*, I think that is perhaps a good thing. At this time, as people are sort of flying by the seat of their pants and legislating on the run, taking a moment to check the validity and legitimacy of directions, of regulations and of laws that have been passed is a good thing. Additional transparency that is provided by having directions published in the *Government Gazette* is welcome, too. There has been a level of opaqueness in the way the government has gone about handling this pandemic and its responses. Anything that increases transparency and perhaps the awareness of the directions and those who are subject to directions is a good thing. For that reason, I am happy to support the amendment.

**Hon ALANNA CLOHESY:** There are a couple of things to respond to. First, this is not subsidiary legislation. We are talking about directions that are issued. They are not the same thing. We are trying to improve a public health response, most likely in the midst of a crisis. If we have to wait for directions to be published by any mechanism outside the current operations of the Emergency Management Act and the Public Health Act, that will slow down any response that those involved in the operations will undertake. It is not as if there is a lack of transparency. The current 80 directions are already available on the website. Those directions could change quickly and immediately and at any time of day. Having to get them to the State Law Publisher before they take effect will slow down that process dramatically. Those directions could be issued, for example, at midnight around an aged-care home. Having to take that direction and send it to the State Law Publisher to be gazetted before the direction takes effect will slow down the public health operational response to give effect to that direction, for example, to close down that aged-care home. I do not know the hours of operation of the State Law Publisher and how that happens, but having to wait all that time before it responds and gives effect to that direction is not feasible. The Department of Health, through the Department of the Premier and Cabinet central website, has the capacity to respond immediately a direction is made or altered. Those who provide the operational response need the capacity to respond immediately, and not wait for the State Law Publisher.

I am advised that directions are often signed at midnight to give immediate effect. Having to wait for the State Law Publisher would prevent that happening. As I said, the transparency would be available as all of the 80 directions are currently available.

**Hon AARON STONEHOUSE:** A lot of information was given there. I am sure other members will pick up on some of it. I wanted to pick up on one thing that the parliamentary secretary said, which is that it is not subsidiary legislation. If that were the case, why are we specifically granting an exemption to the requirement in section 41 of the Interpretation Act, which is specifically for subsidiary legislation? It is all well and good to say that the directions are not subsidiary legislation. Obviously, whoever drafted the bill thought it was because they specifically provided an exemption for that. Proposed section 157(5)(b), in lines 6 to 8 on page 4 of the bill, which is what we are contemplating, states —

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

Section 41 of the Interpretation Act states —

- (1) Where a written law confers power to make subsidiary legislation, all subsidiary legislation made under that power shall —
  - (a) be published in the *Gazette*;
  - (b) subject to section 42, come into operation on the day of publication ...

Obviously, whoever wrote the bill thought that these directions might be considered subsidiary legislation. I will leave it to other members to interrogate the parliamentary secretary on the other points that she has raised.

**Hon NICK GOIRAN:** What we are being told is rubbish. Before Hon Aaron Stonehouse asked a question of the parliamentary secretary, she indicated that one of the concerns of the government is that it would not want the situation to become invalidated by failure to publish. I draw members' attention to the final sentence in the third paragraph on page 3 of the explanatory memorandum, which states —

A failure to publish does not invalidate the direction.

The government's own explanatory memorandum confirms that a failure to publish does not invalidate the direction. There is no point in the parliamentary secretary trying to mislead members and frighten them into a situation in which if we do not get it gazetted, somehow the whole thing is going to be invalidated when its own explanatory memorandum says the exact opposite.

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The other point that needs to be borne in mind by members is that the way the parliamentary secretary would tell the story is as if the whole world will come to an end if we cannot get the matter gazetted. First of all, the government's own explanatory memorandum says that will not invalidate it. Secondly, members should not be fooled by that. Section 157 of the Public Health Act, which we are not amending in these provisions, allows an authorised officer to do a massive number of things. One of those things is to close any premises or to direct any person to close any premises, to direct any person to enter, not to enter or to leave any premises, and to direct any person to remain at any premises for any specified period of time, enter any premises and search for and seize anything. The list of powers that an authorised officer has to deal with in a serious public health incident goes on and on. That is already the case. Nothing will change in that respect, irrespective of this bill or the amendment on the supplementary notice paper. Section 157(1) remains untouched by the bill and the amendment on the supplementary notice paper.

The government now wants to be able to give a direction to a class of persons but does not want to gazette that information. Under no circumstances does it want to comply with section 41, and clearly it should. It is a matter of transparency. We have had so much difficulty with this legislation. We would have spent 70 plus minutes on clause 1 just to get the parliamentary secretary to table one document. That is a document that heaps of Western Australians have been talking about for ages. They want to know how to get an exemption. We could not get that document as parliamentarians. With the powers of the Parliament and the chamber, we could not get it after 70 minutes of interrogation. Now the government says that it does not want to touch the *Government Gazette*. Perhaps Western Australians would like to get that information, since, apparently, the Parliamentary Secretary to the Minister for Health cannot open the vault with respect to the police force because that information is all stored there. She can only access the information on health. Far be it for that information to be provided to members of Parliament when we are about to pass an important bill in emergency COVID conditions. It is plainly reasonable that the government should have to comply with the gazettal. It is already the law at the moment, under section 41. We are not tampering with that. We are just asking the government. If it wants to put something on a website, that is fine. In fact, the clause states that it can be published in any manner that the minister considers suitable. The government should go for its life under proposed subsection (5)(b) and publish in any way it deems fit. As members of Parliament, as lawmakers, we are saying that the bare minimum is the gazettal.

**Hon ALANNA CLOHESY:** There is a lot to respond to in the first instance. I ask the honourable member for the opportunity to do that.

The section of the explanatory memorandum, as the honourable member quoted, which states that a failure to publish does not invalidate the direction, relates to the Emergency Management Act. The Emergency Management Act directions are not required to be gazetted. Directions are published. As I said, those 80 directions issued under the Emergency Management Act are already on the website. That describes the Emergency Management Act which does not require gazettal. That is the first part. The second part is in relation to section 42 of the Interpretation Act. I will come back to section 42 and allow Hon Martin Aldridge to ask his question.

**Hon MARTIN ALDRIDGE:** The parliamentary secretary mentioned a couple of times aligning this to the way in which the Emergency Management Act operates. I have had a look at the *Government Gazettes* in August. From the beginning of August to date, there have been the regular *Government Gazettes*, which are published on, I think, Wednesdays and Fridays. There have also been a number of special *Government Gazettes*. To date, there have been three special *Government Gazettes* this month alone. Earlier, I asked a question—to which I do not think I have had an answer—about the time frame within which the parliamentary secretary would reasonably expect the State Law Publisher to publish a special *Government Gazette*. From what I have read on the website, an ordinary or general *Government Gazette* takes about two days. I assume the time frame for a special *Government Gazette* is much more nimble than two days.

The parliamentary secretary made the comment a number of times that the Emergency Management Act does not require the gazettal of notices. If that is the case, why was it that on Friday, 14 August, the Minister for Emergency Services gazetted a notice under section 70A(1) of the Emergency Management Act?

**Hon ALANNA CLOHESY:** In relation to what the Minister for Emergency Services gazetted, I am not sure that I would know what motivated the minister to gazette. Just because some things are gazetted should not require all things to be gazetted. That is particularly because the Emergency Management Act does not require gazettal; it requires publishing. That publishing occurs through the website.

I also point out that section 70A(1) is about electronic monitoring. I am now seeking advice about section 70(1) of the Interpretation Act. Was there another part to the member's question?

**Hon Martin Aldridge:** I also asked about the timing.

**Hon ALANNA CLOHESY:** Yes, the timing for special *Government Gazettes*. The member is quite right. There are two *Government Gazettes* a week. The timing for a special *Government Gazette* may not happen at the time at

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which directions are made. I think the member said that four special *Government Gazettes* have been issued relatively recently.

**Hon Martin Aldridge:** Three this month.

**Hon ALANNA CLOHESY:** Even if a special *Government Gazette* were issued, if a direction was made, for example, at midnight about a nursing home, we would still have to wait for that *Government Gazette* to be published and go through the State Law Publisher processes. However, under the Emergency Management Act, which is what we are trying to mirror in this amendment, we would not have to wait; we could implement the direction straightaway and publish it, along with all the other directions. Does that make sense? Even if there was a quick turnaround for the State Law Publisher on an individual *Government Gazette*, it would still take a long time for that to happen for those people who were subject to that direction, and sometimes a matter of hours can make the difference, as we have learnt from Victoria. I am also advised that a special *Government Gazette* does not mean that it will be a shorter time frame. It just means that it is not one of the two regular *Government Gazettes* a week.

**Hon NICK GOIRAN:** It might interest members that last week, in my spare time, I stumbled across paper 4059, which was tabled last week. It is very interesting. This whole issue of how nimble the government can be with regard to *Government Gazettes* becomes immediately apparent when we look at tabled paper 4059. On 29 June this year, the government gazetted the Occupational Safety and Health Amendment (COVID-19 Response) Regulations 2020. On the very same day, 29 June 2020, the government also gazetted the Occupational Safety and Health Amendment (COVID-19 Response) Repeal Regulations 2020. Before there was even an opportunity for the regulations that the government had gazetted on that day to come into effect, the government repealed them. That is how agile and quickly the whole process can occur. I did not think I would have to refer to that in this debate today, but I stumbled across that last week and thought that was incredibly interesting. I had intended to ask the government a series of questions about why that was necessary, but that is a debate for another day.

It is not difficult to gazette this information. The government can do it. Despite the fact that the parliamentary secretary says it will take a matter of hours, the government can continue to proceed under its existing massive powers under section 157. The parliamentary secretary talked about an aged-care facility. The government can just proceed under section 157(1), which allows it to direct a person to close a facility, if that is what it has to do. The government already has these massive powers under section 157, which we are not touching. We are saying to the government that it should continue to use section 157 as it deems fit for a serious public health incident. The government wants to ask a class of persons to comply with a particular direction, when they have no idea that they have to comply. It is not like an individual. There is a distinction between telling an individual that they have to comply with a direction, and a class of persons. We are simply saying that if the government wants to ask a class of persons to comply, they should be given notice, and that notice should be the ordinary one in the *Government Gazette*.

**Hon ALANNA CLOHESY:** The directions may not be just about closing a facility, for example. The directions may include quarantine, or undertaking certain actions. It is not just about closing. What is required is, in fact, flexibility, and that is what we are looking for in order to respond promptly.

**The DEPUTY CHAIR:** Members, the question before the chamber is that the words to be deleted be deleted. I want to remind members that we are in a time-limited debate. We are up to clause 6, which has not yet been passed. There are 10 other clauses after that. Although members are entitled to ask whatever question they choose, or make whatever points they wish to make, they may want to keep that in mind in making progress with the rest of the bill.

**Hon ALANNA CLOHESY:** In relation to the occupational safety and health COVID-19 regulations that were published and withdrawn on the same day, I could not comment on the processes that had gone on before that.

**Hon Nick Goiran** interjected.

**Hon ALANNA CLOHESY:** I could not comment on the processes that had gone on before that in order to cause those regulations to be published, but the point is the flexibility and speed with which these directions are required.

**Hon MARTIN ALDRIDGE:** I am going backwards and forwards on this amendment. I think the aged-care scenario that the parliamentary secretary has used is probably not a good one from my perspective, because if there were issues in half a dozen aged-care facilities, there would be nothing to stop the authorised person from issuing individual directions. It would obviously require six signatures rather than one, but it could be reasonably done. I think where there is probably more difficulty is with respect to a class of persons. If that was the case, I would have thought that it would be reasonably impractical to track down that class of persons, wherever they may be, and issue individual directions of a similar or same nature. That is probably a stronger argument for the current drafting than the proposed amendment if that circumstance were to arise. I have looked at the Emergency Management Act 2005 in the time that I have had tonight and I think the section that the parliamentary secretary is talking about is section 77. I agree with the parliamentary secretary that the drafting of section 157 is consistent with section 77 of the Emergency Management Act. I am not sure whether there are other provisions in the Emergency Management Act. I am not completely comfortable with the drafting of this provision or the Emergency Management Act provisions, but we are not amending the

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Emergency Management Act tonight, so that will have to wait for another day. We dealt with this recently during debate on the Local Government Amendment (COVID-19 Response) Bill 2020, which required the Minister for Local Government—it was much more specific—to publish on a website held by the department. Proposed section 157(5)(c) says to me that it must be published in the manner that the minister considers suitable in the circumstances of the serious public health incident. That means that the minister has to publish something. I would have thought that he cannot not publish, but it leaves full scope to the minister to determine how he or she publishes. The indication that we have had tonight is that it will be published on a departmental website, which does not fill me with great satisfaction, particularly given the responses that I had in the briefing on the issue of hotel quarantine, which was effectively that people should be aware of the current state of play because the Department of the Premier and Cabinet's website says so.

I guess it is a difficult position dealing with this amendment, but to the extent that this would make it consistent with the Emergency Management Act, keeping in mind that in my second reading contribution I said that both the Public Health Act 2016 and the Emergency Management Act are being utilised interchangeably during this state of emergency and public health emergency or state of public health emergency period, there is an argument to be made for that consistency. Although I probably do not appreciate the argument made by the parliamentary secretary about a class of premises, I think there is a case with respect to the difficulty that would present with a class of persons.

**Hon ALANNA CLOHESY:** I appreciate that contribution, but the one thing I will say is that it provides the minister with some flexibility so that the information or the direction can be published not only, for example, on a website but also at a facility—for example, a sporting venue—so the direction can also be posted where a class of people might gather. That is why the flexibility is required, but we are not limiting the minister to that.

**Hon NICK GOIRAN:** Parliamentary secretary, would that still be able to be done irrespective of the outcome of the amendment?

**Hon ALANNA CLOHESY:** The amendment would seriously inhibit our ability to act in a timely manner.

**Hon NICK GOIRAN:** What other class of persons or class of premises does the government intend to provide directions to under this proposed new section?

**Hon ALANNA CLOHESY:** I would need a crystal ball to answer that. I would not like to pre-empt when it might be used. I can give examples when it could be or has been used in other states—for example, in nursing homes and particular venues. Directions could also be issued for certain classes of people—for example, those coming from interstate or other jurisdictions. The way in which it could be used is very wide and it needs to be responsive and flexible, given the nature of this pandemic.

**Hon MARTIN ALDRIDGE:** I am conscious that we want to get on to some more substantive matters, but if the amendment is defeated and we go back to the original drafting of the proposed section, with respect to paragraph (c), is there anything stopping the minister from publishing in the *Government Gazette*, even though it is not a requirement of the act?

**Hon ALANNA CLOHESY:** I am advised no.

#### *Division*

Amendment put and a division taken, the Deputy Chair (Hon Matthew Swinbourn) casting his vote with the noes, with the following result —

#### Ayes (12)

Hon Peter Collier	Hon Michael Mischin	Hon Tjorn Sibma	Hon Dr Steve Thomas
Hon Nick Goiran	Hon Simon O'Brien	Hon Charles Smith	Hon Colin Tincknell
Hon Rick Mazza	Hon Robin Scott	Hon Aaron Stonehouse	Hon Ken Baston ( <i>Teller</i> )

#### Noes (18)

Hon Martin Aldridge	Hon Stephen Dawson	Hon Laurie Graham	Hon Darren West
Hon Jacqui Boydell	Hon Colin de Grussa	Hon Kyle McGinn	Hon Alison Xamon
Hon Robin Chapple	Hon Sue Ellery	Hon Martin Pritchard	Hon Pierre Yang ( <i>Teller</i> )
Hon Tim Clifford	Hon Diane Evers	Hon Matthew Swinbourn	
Hon Alanna Clohesy	Hon Adele Farina	Hon Dr Sally Talbot	

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#### Pairs

Hon Donna Faragher	Hon Colin Holt
Hon Jim Chown	Hon Alannah MacTiernan

**Amendment thus negatived.**

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**Hon ALISON XAMON:** I have a series of questions on this. I noted during the second reading debate that an infectious disease extreme circumstance declaration or extension would be judicially reviewable for jurisdictional error. I asked whether examples of jurisdictional error in this context could be given and also whether an explanation could be given of what would happen if a court or tribunal were to find that —

**The DEPUTY CHAIR:** Member, could you try to speak a little louder. I think some members are having trouble hearing you.

**Hon ALISON XAMON:** I am sorry. What happens if a court or a tribunal finds that jurisdictional error has occurred? Will the court set that aside or order the minister to revoke it?

**Hon ALANNA CLOHESY:** Is the member talking about what is under the IDEC, which is clause 14?

**Hon Alison Xamon:** Yes.

**Hon ALANNA CLOHESY:** We are currently on clause 6.

**Hon Alison Xamon:** I am happy to revisit this at clause 14.

**Clause put and passed.**

**Clause 7 put and passed.**

**Clause 8: Section 160 amended —**

**Hon NICK GOIRAN:** The second reading speech states that this clause will eliminate the need for the Chief Health Officer to review a detainment decision every 24 hours. How regularly will the decision now be reviewed?

**Hon ALANNA CLOHESY:** I am advised that it relates specifically to COVID-19. The recommended quarantine period for COVID-19 is 14 days, but we cannot give a fixed date or period because someone might be tested on day 2 and on day 10, and that could affect the review period—the time in which they are tested. I want to be very clear that that is the review of the decision, not the review of how people are going in quarantine or how people are.

**Hon NICK GOIRAN:** The second reading speech goes on to state —

It is not a review of the person's health or welfare needs, which will continue to be provided as per the usual avenues.

What are those avenues and how frequently will they occur?

**Hon ALANNA CLOHESY:** Medical staff, including doctors and nurses, will be on site 24/7. There will also be a telephone number that people who are in quarantine can call. They will also be provided with that information upon arrival.

**Hon NICK GOIRAN:** Is it the case that a person in hotel quarantine will be able to ring that telephone number or contact the medical staff on site, who will be there 24/7, as the parliamentary secretary says, with a view to that person being able to go outside and have fresh air?

**Hon ALANNA CLOHESY:** I am advised that people must remain in their room unless they require medical treatment; that is the purpose of quarantine. However, if the medical practitioner makes a recommendation about a person's health—I could not comment on that because everyone is different—the person's health needs will be considered.

**Hon NICK GOIRAN:** Do I understand from that that if a person gets approval for fresh air from the medical staffer who is on site 24/7, they will be able to get it?

**Hon ALANNA CLOHESY:** The person will still be required to follow quarantine protocols however that may be facilitated. They will not be able to wander out of quarantine by themselves. The quarantine protocols will still need to be followed within a health direction.

**Hon NICK GOIRAN:** Does that mean that they will be supervised while they are getting fresh air?

**Hon ALANNA CLOHESY:** I could not provide information about a scenario that may or may not occur. I am not a medical specialist so I cannot necessarily do that. Again, this is the experience of people in quarantine; this bill deals with the charging of services provided for quarantine.

**Hon NICK GOIRAN:** It does indeed. People will be charged whether they can open the window or not. I fail to understand why the government insists on putting people in hotel quarantine where they cannot open a window. I know that at one point in time people were taken to Rottneest. I believe that at the moment that is no longer the case, but there is capacity for that to occur. I seem to recall that the Premier mentioned in recent days that it would take only two or three days for the government to have Rottneest ready to go yet again. I recall that for some of those people, that was not the most ideal experience, but it was still an acceptable experience because they could go outside on the balcony of the accommodation in which they were staying. Yet we know that other people who have stayed at the Duxton Hotel Perth and other places have had to be within the four walls for the 14 days. I do not understand



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why the government continues to go down that particular path when we continue to get emails and communication from constituents that this is a real issue for people's mental health. We will get to the issue of compensation in a moment and the narrowing of the compensation that the government is seeking here. Is the parliamentary secretary in a position to advise the chamber why the government continues with that regime when other options are available?

**The DEPUTY CHAIR:** Member, I am not sure that that question is within the context of this section of the bill. Parliamentary secretary, it is up to you whether you answer it or not, but I think we are starting to weigh into policy considerations that rest outside what we are dealing with here.

**Hon ALANNA CLOHESY:** Thank you, Deputy Chair. I agree that the detail in that question, which may have been debated under clause 1, is certainly not relevant to the current clause. I point out that we have another eight clauses to go and 29 minutes in which to do it. If there is a specific question on this current clause, I would be happy to try to answer that specific question.

**Clause put and passed.**

**Clause 9 put and passed.**

**Clause 10: Section 184 amended —**

**Hon NICK GOIRAN:** Clause 10 deals with a class of persons who might be expected to receive directions from an emergency officer. It is self-explanatory why that might be needed with regard to quarantine. Why does the provision also capture medical or other procedures?

**Hon ALANNA CLOHESY:** It is because we may require another person to be tested.

**Hon NICK GOIRAN:** That might explain medical procedures. What other procedures are envisaged?

**Hon ALANNA CLOHESY:** The intent of that, and the reason it was drafted, was to enable testing for a class of people.

**Hon NICK GOIRAN:** I understand that, but there are three categories: for quarantine purposes, medical purposes or for other procedures. We have agreed that quarantine is self-explanatory, and the parliamentary secretary has explained medical, but my question is: what are the other procedures that are referred to?

**Hon ALANNA CLOHESY:** I could not provide a specific example, but the intent is for those that are necessary in order to respond to an emergency in a human epidemic or pandemic.

**Clause put and passed.**

**Clauses 11 and 12 put and passed.**

**Clause 13: Section 200 amended —**

**Hon NICK GOIRAN:** I indicate that there is no need to move the amendment at 3/13 on the supplementary notice paper because it is the mirror amendment to the provision at clause 6 that was not agreed to by the chamber. The only difference is that this one pertains to public health emergencies, whereas the other one dealt with serious public health incident powers. If it is to be the case that classes of persons and the like are to be provided directions and there is no need for it to be gazetted, obviously it should apply in both circumstances.

**Clause put and passed.**

**Clause 14: Parts 12A and 12B inserted —**

**Hon ALISON XAMON:** I have a number of questions. I will go straight to some of the priority ones. We have already discussed the issue of fees being waived. The parliamentary secretary has said that one of the grounds upon which consideration will be given to fees being waived will be on the basis that people are in receipt of Centrelink in some way. In my contribution to the second reading debate I used the example of someone coming in from overseas who had previously been on Centrelink and is no longer on Centrelink because they have been overseas, but are very likely to become eligible again once they go through the arduous process of getting back onto Centrelink now that they are back in Australia. What would be the chances of someone who is not currently on Centrelink, but is very likely to be back on Centrelink, being considered for a waiver of the fees in that situation?

**Hon ALANNA CLOHESY:** I could not pre-empt the decision of the person making the waiver; I would not want to advise on a particular case. However, in a broad scenario, if they had been on income support, were likely to be returning to income support and had no other mechanism for employment or income support, in broad terms, that would generally fall, as I have read the criteria, as requiring a waiver.

**Hon ALISON XAMON:** I ask the question now—this is the third time—about an infectious disease extreme circumstance declaration or extension being judicially reviewable for jurisdictional error. I would like to have examples, please, of jurisdictional error in this particular context and what is likely to happen if a jurisdictional error is found to have occurred—whether the court is likely to set it aside or the minister revoke it.

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**Hon ALANNA CLOHESY:** I am advised that jurisdictional error, as referred to in this particular clause, refers to jurisdictional error under the Public Health Act as a whole and not necessarily in relation to any proposed section contained in clause 14. Examples of jurisdictional error under the Public Health Act could include a direction made by a person without the legal authority to do so, or when a person is detained under an order for a different infectious disease—that is, a disease that is not the disease for which the IDEC declaration is made. I say that these are examples only.

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

[Continued on page 5105.]

*Remaining Stages — Standing Orders Suspension — Motion*

**HON SUE ELLERY (South Metropolitan — Leader of the House) [9.30 pm]** —without notice: I move —

That pursuant to the COVID-19 temporary order, the house —

- (1) sit beyond 9.45 pm until the question on the third reading of the Public Health Amendment (COVID-19 Response) Bill 2020 is put and determined; and
- (2) take members' statements at a time ordered by the house.

By way of explanation, this reflects agreement reached behind the Chair. There is about an extra 25 minutes required to complete the bill.

Question put and passed.

*Committee*

Resumed from an earlier stage of the sitting. The Chair of Committees (Hon Simon O'Brien) in the chair; Hon Alanna Clohesy (Parliamentary Secretary) in charge of the bill.

**Clause 14: Parts 12A and 12B inserted —**

Progress was reported after the clause had been partly considered.

**Hon ALISON XAMON:** I have asked on a few occasions now about the issue of the review or appeal process in the event that someone is dissatisfied with the response to their application to have fees waived either partially or fully. So far, the response has been that there will be a process within the Department of Communities or, failing that, the Supreme Court. Is there an intention for the Department of Communities to establish clear criteria by which someone can appeal the decision if they are unhappy with the determination and response?

**Hon ALANNA CLOHESY:** I am advised that, no, there is no plan to establish a process for appeal, other than those I have already spoken about on a couple of occasions.

**Hon ALISON XAMON:** Is it something that the Department of Communities is prepared to look into? I would suggest that it might be quite necessary to have a set, clear and consistent process for that decision-making.

**Hon ALANNA CLOHESY:** I am advised that it is something that we will take into consideration.

**Hon ALISON XAMON:** I refer to the issue of recovery of cleaning and disinfection costs when that is required, particularly with commercial premises. I want to confirm for the record that the option for a premises to arrange its own cleaning and disinfection will always be available in the first instance.

**Hon ALANNA CLOHESY:** Correct.

**Hon ALISON XAMON:** I asked a question in the course of my contribution to the second reading debate. We may find that commercial entities will have a conflict over who is ultimately responsible for cleaning and disinfection costs in the event that they are held liable for those costs. Can the parliamentary secretary please explain how it is anticipated that these sorts of issue are likely to be resolved? Will the parties have to fight it out amongst themselves in court, or is it intended that some parameters or guidelines will be given to commercial entities on who is ultimately expected to pick up that bill?

**Hon ALANNA CLOHESY:** There is provision for parties to be jointly and severally liable. The term "jointly and severally" indicates that all parties are equally responsible for carrying out the full terms of an agreement—in this case, payment of the invoices for hotel quarantine. In this way, the state can claim from the hotel-quarantined persons together or choose to claim from each separately when this is more appropriate. I am advised that this relates to cleaning as well.

**Hon MARTIN ALDRIDGE:** The parliamentary secretary tabled two documents earlier this evening titled "Paying for hotel quarantine in WA: Frequently asked questions" and "Frequently asked questions". One of these

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documents states that it was last updated on 31 July 2020. Does the parliamentary secretary have in her possession what information was provided to people who entered quarantine on or after 17 July, when these retrospective provisions will apply to the recovery of costs?

**Hon ALANNA CLOHESY:** I do not have that here, no.

**Hon MARTIN ALDRIDGE:** Can the parliamentary secretary confirm for me that the financial liabilities that were incurred by people entering hotel quarantine on or after 17 July 2020 was made clear in printed material that was provided to each person; and, if it is not available now, will the parliamentary secretary give me an undertaking to provide that information in due course?

**Hon ALANNA CLOHESY:** I cannot tell the honourable member what updates have been provided since 17 July, but I can advise that people have been provided with printed information on fees.

**Hon MARTIN ALDRIDGE:** With respect to proposed section 202J, “Fee may be waived”, would a ground for waiving a person’s fee be that they were not informed of the financial liability that they would incur arising from this bill?

**Hon ALANNA CLOHESY:** I cannot provide specific legal advice on individual cases; however, in a general sense, ignorance of the law is no defence.

**Hon MARTIN ALDRIDGE:** I find the last bit of the parliamentary secretary’s answer a bit difficult to accept—that ignorance of the law is no defence under the law. Except, Mr Chairman, we have not yet made the law! That is the problem we face here tonight. Indeed, it is the problem that anyone in hotel quarantine on or after 17 July will face when they get a \$2 500 bill for the pleasure of staying in hotel quarantine at the direction of the state. I certainly have been given no confidence through the course of this debate that the state has any confidence that people are reasonably informed of their future obligations to repay the state of Western Australia the costs associated with hotel quarantine.

The second reading speech refers to 92 full waivers and 53 partial waivers to date. On what basis were these waivers granted? Can the parliamentary secretary define “hardship” or table the policy that will give effect to proposed section 202J?

**Hon ALANNA CLOHESY:** As I have mentioned before, the hardship assessment is being done by the Department of Communities. There will also be a mechanism to pay by instalment plan for people who may be exempt from paying due to hardship. The scheme, as we have said, will be able to be accessed by vulnerable cohorts. I do not have a definition of hardship per se, but on a number of occasions, I have provided the broad criteria by which that would be applied, including financial hardship; people arriving on certain visa subclasses, including humanitarian and refugee; and people experiencing domestic violence. I have repeated that a number of times. I point out to members that we now have eight minutes in which to complete this stage.

**Hon NICK GOIRAN:** The second reading speech states that this amendment is consistent with the recovery practices being rolled out in Queensland, the Northern Territory and New South Wales. Has the government prepared a reconciliation that compares and contrasts the provision currently before us with those other jurisdictions and does that reconciliation include jurisdictions not mentioned in the second reading speech?

**Hon ALANNA CLOHESY:** I table a table that provides a comparison of fee types across Australian jurisdictions.

[See paper [4129](#).]

**Hon NICK GOIRAN:** While we are getting copies of that table—it sounds like it refers only to fee types—I am interested to know about the provision. The second reading speech says that this provision will be consistent with the recovery practices being rolled out in Queensland, the Northern Territory and New South Wales. I am less interested in whether the cost is the same as in those places, but more the recovery practices. Are the recovery practices the same?

**Hon ALANNA CLOHESY:** They are flat fees. If the honourable member is asking about invoicing arrangements, I do not have that information.

**Hon NICK GOIRAN:** Speaking of invoicing arrangements, I draw the parliamentary secretary’s attention to page 12, line 22 of the bill and proposed section 202I, which mandates that payment must be made within 30 days after the date of the invoice. Why is it from the date of the invoice and not the date when the invoice was received?

**Hon ALANNA CLOHESY:** It is common practice that invoices are required to be paid from the date of issue, not when the person receives it. There are too many variable factors about when a person might receive their mail, such as they might not check their mailbox or it is a slow post day or they may be a certain distance from the metropolitan area. In any case, a person who feels that they have not had enough time to pay might apply for an extension of time to pay the fee. All travellers will know that an invoice is on the way after they finish the

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checking out procedure from hotel quarantine. The answer to the honourable member's first question is that it is usual business practice.

**Hon NICK GOIRAN:** I want to avoid a situation in which the state seeks to recover the cost in the invoice before the person has actually received it. Is there a provision in the bill that ensures that that will be the case?

**Hon ALANNA CLOHESY:** There is nothing in the bill; it is commonsense and usual business practice that will apply.

**Hon NICK GOIRAN:** Given that it is not in the bill and that commonsense and usual practice will apply, let us make sure that we put it in the bill. I move the amendment standing in my name on the supplementary notice paper at 4/14. I move —

Page 12, line 25 — To delete “the date of” and substitute —  
receiving

**Hon MARTIN ALDRIDGE:** I will be brief. Parliamentary secretary, I am sure that there are similar provisions in other acts. Does this provision, as drafted by the government, reflect other provisions? I guess the issue would be that the date on which somebody receives an invoice would not necessarily be known unless every invoice was transmitted by email or registered post so there was some understanding of the date it was received. Equally, I share Hon Nick Goiran's concern. I understand that in Victoria at the moment mail is being delivered only two or three days a week, so significant interruptions are occurring to the mail service. In Western Australia, it will probably be much more of an issue for a person living in the Kimberley. I have some sympathy for the amendment, but I want to know whether perhaps provisions in other acts reflect this provision in a similar way?

**Hon ALANNA CLOHESY:** I cannot tell the member whether there are provisions in other acts; however, this provision has gone through discussion and consultation with the Department of Health's finance section, which regularly invoices the whole health system. In addition, it is consistent with invoice drafting through the Parliamentary Counsel's Office and consistent practice across government. I understand the member's concern about when people might get their mail or even not receiving their mail, particularly if they are transiting somewhere, but, first, people will understand that they will be about to receive an invoice when they complete their quarantine. They will be aware of it. Second, the commonsense practice and business approach when people claim that they have not received an invoice, it was delayed or they need more time to pay it, which Health deals with on a daily basis, will also apply. This is not the only situation in which the Department of Health issues and receives payment for invoices. Those practices, as they usually apply, will occur, and that is why we are unable to support the amendment.

**Hon NICK GOIRAN:** It is not Health that will be doing the recovery. Who will be doing the recovery in this process?

**Hon ALANNA CLOHESY:** This is about invoicing, so Health will be doing the invoicing.

**Hon NICK GOIRAN:** The parliamentary secretary does not understand the amendment. This is not about invoicing; this is about making sure that the state of Western Australia does not try to recover an invoice from a person unless we are sure that they have received it. That is all it is. Is the parliamentary secretary saying that that is common practice? I would like to think that the government would go out of its way to say, “We definitely will not try to recover a fee from a person who has to be mandatorily detained in quarantine in a hotel for 14 days. We definitely will not do that unless we are sure that the person has received the invoice and that they have had 30 days to pay.” I thought that would be the policy of the government. That is all this amendment will do. The parliamentary secretary is saying that this has to do with invoicing, yet I understand that one of her earlier amendments gives the power to the Chief Health Officer or the minister to delegate the recovery to somebody else. There is even a reference to that effect in the explanatory memorandum. I encourage the government to support the amendment, which the parliamentary secretary is indicating will only do what commonsense will dictate.

*Division*

Amendment put and a division taken, the Chair casting his vote with the ayes, with the following result —

Ayes (19)

Hon Martin Aldridge  
Hon Jacqui Boydell  
Hon Robin Chapple  
Hon Tim Clifford  
Hon Peter Collier

Hon Colin de Grussa  
Hon Diane Evers  
Hon Nick Goiran  
Hon Rick Mazza  
Hon Michael Mischin

Hon Simon O'Brien  
Hon Robin Scott  
Hon Tjorn Sibma  
Hon Charles Smith  
Hon Aaron Stonehouse

Hon Dr Steve Thomas  
Hon Colin Tincknell  
Hon Alison Xamon  
Hon Ken Baston (*Teller*)

**Extract from *Hansard***  
[COUNCIL — Tuesday, 18 August 2020]  
p5088b-5107a

Hon Alanna Clohesy; Hon Nick Goiran; Hon Alison Xamon; Hon Colin Tincknell; Hon Martin Aldridge; Hon Aaron Stonehouse; Hon Sue Ellery

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Noes (10)

Hon Alanna Clohesy  
Hon Stephen Dawson  
Hon Sue Ellery

Hon Adele Farina  
Hon Laurie Graham  
Hon Kyle McGinn

Hon Martin Pritchard  
Hon Matthew Swinbourn  
Hon Darren West

Hon Pierre Yang (*Teller*)

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Pairs

Hon Jim Chown  
Hon Donna Faragher  
Hon Colin Holt

Hon Dr Sally Talbot  
Hon Alannah MacTiernan  
Hon Samantha Rowe

**Amendment thus passed.**

**Clause, as amended, put and passed.**

**Clauses 15 and 16 put and passed.**

**Title put and passed.**

*Report*

Bill reported, with amendments, and the report adopted.

*Third Reading*

Bill read a third time, on motion by **Hon Alanna Clohesy (Parliamentary Secretary)**, and returned to the Assembly with amendments.