

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

*Introduction and First Reading*

Bill introduced, on motion by **Mr F.M. Logan (Minister for Emergency Services)**, and read a first time.

Explanatory memorandum presented by the minister.

*Second Reading*

**MR F.M. LOGAN (Cockburn — Minister for Emergency Services)** [2.48 pm]: I move —

That the bill be now read a second time.

Western Australia, together with the rest of the country and, indeed, the rest of the world, is facing an unprecedented emergency. At 12 midnight on 16 March 2020, a state of emergency was declared in respect of the pandemic caused by COVID-19. This is the first time Western Australia has experienced an emergency of this scope and magnitude. Importantly, this is also the first time that a WA-wide state of emergency has been declared in Western Australia under the provisions set out in the Emergency Management Act. As a community, we are currently facing challenges that were not envisioned, nor originally contemplated, by the Emergency Management Act. Today, we are introducing to the house amendments that will urgently improve our legislative framework to respond to and deal with the COVID-19 emergency. These amendments will support our emergency service workers who are doing an incredible job on the front line of this health crisis and keeping our community safe. The amendments proposed in this bill will significantly strengthen our response to the COVID-19 pandemic and similar hazards or emergencies into the future.

Provisions introduced by this bill will allow for more appropriate infringements and penalties to be prescribed for offences against the act. Prescribed officers, including police officers, will have the ability to enforce compliance with directions given under the act by issuing on-the-spot fines if those directions are not followed. As a further deterrent to those in the community who simply will not follow legitimate requests issued by authorised officers, the existing penalty provision in the Emergency Management Act for noncompliance with directions will also be strengthened by the introduction of a penalty of 12 months' imprisonment. This demonstrates the priority that we are putting on public safety. The types of measures necessary to combat this deadly virus have forced us to require members of the community to act in certain ways and adjust their lifestyle and behaviour. For example, social distancing requirements are integral to controlling the spread of COVID-19. Breaches of social distancing can put the whole community at risk. Currently, the Emergency Management Act does not have a power that allows authorised officers during the current state of emergency to issue the directions necessary to impose social distancing requirements. The amendments in this bill will resolve this.

Emergencies are always dynamic and, at times, the result of novel and unprecedented events or occurrences. A new catch-all power introduced in this bill will allow hazard management officers and authorised officers to direct a person or a class of persons to do anything that is considered reasonable and appropriate for the purposes of managing an emergency. Although the act contains powers of direction for certain emergencies and hazards, these directive powers are limited to the movement of persons and do not extend to groups or classes of persons or things for all relevant purposes. The bill therefore introduces provisions allowing directions to be issued under the act to more than one person or group of persons or class of place. Examples of a class of persons include persons returning from overseas, persons returning from interstate travel, persons disembarking from a cruise ship or other large vessel, or visitors to an aged-care facility. A class of place includes remote Aboriginal communities, gun shops, hotels, licensed premises, gyms, casinos, cinemas, restaurants or places of worship. To put beyond doubt the validity of the important directions that have already been issued as part of the COVID-19 response by the State Emergency Coordinator—that is, the Commissioner of Police—the bill ensures that the directions issued will have retrospective effect from 12 midnight on 16 March 2020, when a state of emergency for this pandemic was first declared.

In relation to those in quarantine, this bill provides the State Emergency Coordinator with the ability to electronically monitor the location of people for the purposes of implementing and enforcing quarantine. Unfortunately, there have been instances in which people have not adhered to quarantine requirements during this emergency, endangering community safety and tying up our already stretched resources. The amendment in the bill will support the powers already available under the Emergency Management Act to effect quarantine by the physical monitoring of an individual's location. In recognition that we are in an ever-changing world of technology and also to allow flexibility for the state's authorities to choose devices as necessary, the term "electronic monitoring device" is used in the new provision to allow appropriate devices for each situation to be used.

The bill also clarifies the procedural requirements for future directions given under the Emergency Management Act, including publications. This is to ensure that no doubt can be raised about the application of these directions. It is not always practical for individual directions to be given directly to each person who is the subject of those orders, as we have seen when we have had to issue directions to everyone arriving on a cruise ship or aircraft.

Finally, this bill introduces amendments to allow authorised officers to compel the provision of information from individuals for the purposes of managing an emergency. This power will require people to provide information about things such as their travel and social contacts when directed to do so. This information is essential for our response to the COVID-19 pandemic and to ensure public safety. Under the new provisions, a direction can be given that will require a person to provide “relevant information”, as defined. A person is not excused from providing the information requested because providing that information may incriminate the person or expose that person to a criminal penalty. Information given, however, cannot be admissible in any unrelated criminal proceedings. Given the extraordinary range of powers that this particular amendment provides to the State Emergency Coordinator and authorised officers, it is appropriate that it is limited to only the pandemic hazard that our community currently faces. Therefore, a safety net of a sunset clause of 12 months to ensure that this broad power does not endure in the act has been attached to this amendment and to the broader power to direct for the purposes of this emergency.

In conclusion, this bill is essential to strengthen our state’s ability to respond to this current emergency and those like it in the future. Make no mistake, these are extraordinary and unprecedented circumstances. The provisions in this bill are integral to ensuring the health and safety of the community of Western Australia and to allowing our emergency management personnel help all of us overcome this deadly pandemic.

I commend the bill to the house.

**MR S.K. L’ESTRANGE (Churchlands)** [2.56 pm]: These are indeed extraordinary times. The fact that the Emergency Management Amendment (COVID-19 Response) Bill 2020 has to come before this chamber in such a fashion just goes to show the lengths that we, as a community, need to deal with the pandemic that is confronting the world right now. All societies are doing their best from a health perspective and a civil emergency management perspective: how do we make sure that the people are looked after, how do we make sure that the services continue to be delivered as best as possible and how do we support people who are dealing with dire economic circumstances? We are seeing a lot of effort from the commonwealth government, with support from the state government, and that will need to continue throughout this difficult time of the COVID-19 pandemic.

The Minister for Emergency Services contacted me yesterday and let me know about the bill that would be brought on. A copy of the bill was given to me about 4.30 last night and I had a conversation with the minister and his staff. We had a phone conversation that went for some time and went through each clause of the bill.

On behalf of the opposition, I am pleased to say that we support the bill, because the government is trying to support everybody in our community who is doing their bit to try to make sure that as many people as possible stay safe and do not catch COVID-19. We understand the need for the government to declare a state of emergency and to appoint the State Emergency Coordinator, the Commissioner of Police, who, in this unique situation, will answer to the Premier and the Minister for Emergency Services and will be supported and have at his disposal the means by which he can execute the best way forward for Western Australia to deal with this situation. The bill is based, I think, primarily on the emergency management principles. I will go through some of the highlights that I have identified in the bill, which the minister has briefly outlined today. Context is everything. The Minister for Emergency Services is the minister responsible for the Emergency Management Act. As such, the State Disaster Council is established during a state of emergency, which was called by the minister and the government. The chairman of that council is the Premier and the Minister for Emergency Services is the deputy chairman. The chairman appoints other members to the council. The State Emergency Coordinator is the Commissioner of Police, who answers to the Minister for Emergency Services. The purpose of the bill is clear. It is the first time in Western Australia that a state of emergency of such significance, scope and magnitude has been required to utilise the provisions of the Emergency Management Act. The nature of an emergency that requires a state of emergency to be enacted will be unique to that emergency, and it is only when we confront the unique nature of the emergency that we might need to amend the Emergency Management Act, because it has not been used before. Therefore, I think it is right and proper that the Parliament has kept sitting through this time, albeit in an abridged form whereby right now most members are attending Parliament by watching us live on their computer screens or in their offices and only those who are required to be in the chamber have come into the chamber. Every part of the community that is involved in helping to solve this problem, including government ministers, shadow ministers and members of Parliament, has a role to play. There is no better example of how important that role is than making legislation that supports the State Emergency Coordinator so that he and the team that he has built around him can best deal with the situation.

The amendments introduce what might otherwise be considered extraordinary provisions, which are quite specific to the COVID-19 situation but, as the minister outlined, some of them will extend further than just COVID-19 because they identify a need for other types of emergencies that might arise. I note that the minister built into this bill the caveat that some provisions may be necessary and applicable only to COVID-19 and therefore they should be given a sunset clause of 12 months. That is eminently sensible. If we identify any further needs to amend the act, no doubt the minister will get in touch and we will deal with that as the case arises. I think a sunset clause is sensible.

The minister outlined in the second reading speech a number of key areas. For me, those key areas are that under this bill we can now direct a class of persons not just any person, which did not exist in the previous act. Clearly the State Emergency Coordinator sees electronic monitoring of people in quarantine as an important requirement to mitigate the risks attached to people not fulfilling their quarantine obligations. Obviously, there will be questions about the practical aspects of how that will work. For example, we cannot treat people in our society as though they are criminals but at the same time want them to play fair with how we police and monitor the quarantine situation. Will some people do the wrong thing? Maybe. If we use an app on a phone to track where people who are in quarantine are located, what is to stop them from taking advantage of the fact that the app is not secured to their body? These are the types of questions, no doubt, that the State Emergency Coordinator will work through with his team, and provide advice to the minister on the way forward and the types of technology that can be used. The minister indicated that he would let me know what that mechanism for electronic monitoring will be and the circumstances under which different types of monitoring mechanisms can be used.

The bill has a new provision for a class of place, such as a place of business, worship or entertainment. In the past, one business might have been directed under the act, whereas now a class of business or place of worship or whatever can be given a direction without them necessarily being given that direction directly. It can be gazetted and made public. Earlier today, the minister and I communicated about that process.

The bill also amends the definition of “relevant information” to capture the recent travel of a person or their close contacts. Obviously, in trying to contain this virus as best as possible, it is incredibly important to know where people have come from, who they have been in contact with and whether they have been susceptible to the virus and placed at an increased risk of catching it.

It also allows relevant officers to take or direct a person or class of persons to take any action that the relevant officers consider is reasonably necessary to prevent, control or abate the risks associated with an emergency. It therefore allows a relevant officer to direct a person to provide certain types of information.

Another aspect of the bill is that it provides certainty about a direction to a class of persons or a class of thing. There is an issue about how that information can be published and communicated. Although we understand that the bill does not make it necessary for that information to be published in the *Government Gazette*, the minister has given me an assurance that all the directions will be published in some way. Is that correct?

**Mr F.M. Logan:** They are not now but they will be.

**Mr S.K. L'ESTRANGE:** Thank you.

The current penalty for the offence of failing to comply with a direction is a fine of \$50 000; the bill will also add the penalty of imprisonment for 12 months. The enforceable nature and the seriousness with which this pandemic is being treated has been acknowledged through the increased penalty for failing to comply with a direction. The bill also amends the regulation-making power under the act to facilitate the issuing of infringement notices.

As we can see, there is a fair bit in this bill to support the State Emergency Coordinator. That is because the amendments cut to the chase of what emergency management is all about, which is the principles of emergency management and getting society back as closely as possible to what it was before the COVID-19 pandemic hit the globe. The key emergency management principles out of the state emergency management framework are to make sure that we take a risk-management approach; that we have a shared responsibility for resilience; that we apply an all-hazard approach; that we have a graduated approach; that all agencies are coordinated and integrated; that there is continuous improvement, evidenced today by this bill; and that there is community engagement and integrated information management. When we think about other incidents that impact on Western Australia and require incident management, the ones that come to mind are bushfires and cyclones, particularly in our north, which we are well accustomed to dealing with, but a pandemic of this nature has never happened before. From an emergency management perspective, we have had to step up from incident management rather quickly towards emergency management and then from an emergency situation to a state of emergency. It is hard to imagine that just a week and a half ago we were in this chamber in a completely different world from the one we are in today. I stood on my feet and argued the case for better support for families and businesses. I warned the government that it would need to step up and speed up its response because this was going to hurt. In literally five or seven days, everything changed significantly.

Here we find ourselves under these uniquely changed conditions. That is how fast this pandemic has hit the globe. Going from a normal incident management situation to a state of emergency is significant, and it has happened rapidly. It is important that everybody out there understands that they can access the information and the state emergency management framework—if they want to understand how this is being managed—so that they can feel assured that the professionals heading up the teams in those incident response centres or command post centres are skilled in this work, working through the problem and identifying gaps in the legislation. They will feed it back to the minister, the minister will feed that to the opposition and we are reviewing it from our perspective and

debating it here today. All of that happened within 24 hours, from a legislation point of view. The establishment of the State Disaster Council is an important step. The State Disaster Council oversees the state of emergency response and comprises the Premier as the chair and the Minister for Emergency Services as the deputy chair. The council includes a State Emergency Coordinator, who is the Commissioner of Police, and other members as appointed by the chair. By way of a summary of the types of people involved, the minister may want to tell us the composition of the State Disaster Council during the consideration in detail stage, but the people involved include the director general of the Department of the Premier and Cabinet; the chief executive officer of the hazard management agency dealing with this particular hazard; obviously, the Department of Health has a key role; the minister responsible for the hazard management agency, if not the Minister for Emergency Services; the Fire and Emergency Services Commissioner; the director general of the Department of Health; the Minister for Health; the Treasurer; a State Solicitor's Office representative; and a representative of local government. Quite a broad and experienced group from different backgrounds make up that council. Clearly, it is looking at things from an overarching state perspective, whilst the actual State Emergency Coordinator, with his team, is dealing with the fight that he has, to try to help solve the problem. We have reached out to the minister that if he would like us to assist him in any way with that council, we are more than happy to do so.

The key for all of us in supporting this legislation is to make sure that it will do what it needs to do, and that is to flatten the curve. All members of Parliament have been pushing out information on our social media sites to get the message out to our community that flattening the curve is the key, so that our health services can cope. If we have a steep curve of people getting infected with this virus and there are not enough beds at hospitals to deal with those people, we will have increased deaths and we do not want that. Flattening the curve is an example of community responsibility whereby everybody comes on board to support the effort, to support the experts and to support the people who are supporting us: the health service personnel, the emergency services personnel and, of course, all the people working with the State Emergency Coordinator. Flattening the curve is a key aspect of this. Social distancing remains a priority. Efforts at Parliament House to ensure that we are distancing ourselves include having set chairs to sit in so that they can be cleaned; we have hand sanitiser all throughout the building; and once we have done what we need to do in the chamber, we move back to our office or electorate office to continue our work from there—social distancing, isolation and hygiene. We all hope that medical experts from around the world can get a vaccine as quickly as possible.

The next real big step beyond this bill that the government and the opposition will be very keen to pursue will be how we recover our state of Western Australia from this, knowing that we still have to deal with the health situation. How do we recover the economy and get some normalisation back into our society as we move forward? These are the areas that we are all focusing on. We know how important they are. I have asked a series of questions of the minister's office about the bill. Just before I got here, I received a response from the minister's chief of staff to some of the questions we asked, which can probably be explored in some detail during the consideration in detail stage. Firstly, we asked whether the 12-month sunset clause applies to clause 6. The answer was no, because this emergency has demonstrated that emergency services personnel need the ability to, at times, monitor those in quarantine during an emergency; therefore, the provision will have ongoing utility. The minister's chief of staff said that safeguards have been built in to ensure that this provision is used only in the most escalated of situations, such as a state of emergency, and the State Emergency Coordinator needs to direct the person subjected to this requirement. Secondly, I asked who will be responsible for monitoring the electronic monitoring of those in quarantine and how will that monitoring be conducted? The answer I received was that the Western Australian police will monitor them, under the direction of the SEC with the support of other staff as required. Maybe that is something we can explore a bit further during consideration in detail, or it may well be that as information becomes available to the minister through this week, that is something he can keep us informed of. Thirdly, I asked what technology will be used. If the device is not secured to the person, how can we monitor a breach if they leave it at home, for example, and head out? Those are issues that the minister will no doubt give some thought to with regard to classes of people, for example, or situations that might differ from one another. That is something worth exploring.

I asked whether a list could be provided of what actions have been taken that necessitate the need for retrospectivity with regard to this bill. Have any decisions been made to date without legal authority; and, if yes, which decisions are they? The answer from the minister's chief of staff was that retrospectivity is required to put beyond doubt that the 21 directions made to date under the Emergency Management Act 2005 since the state of emergency was declared are valid, without gazettal, even if directed to everyone rather than an individual, and that although the current act requires gazettal of directions, the amendment is there to remove any doubt. I appreciate the minister making that clear, but again, we will explore that during the consideration in detail stage if required. Regarding clause 12, we asked whether we could have a list of what would normally have been published under the existing act that was not published, and the answer that came back was that everything to date has been published on the DPC website. There is currently no requirement to publish directions given under the act, only the declaration of a state of emergency situation needs to be gazetted. I asked for a commitment that all directions made will be published, and the answer I received was that every single direction made under this state of emergency has been

published on the government website. The new provision requires directions made to be published and the manner of publication is left to the discretion of the Minister for Emergency Services. I appreciate that response.

The final question was on the power of the State Emergency Coordinator, which is the Commissioner of Police. Can the police commissioner make decisions on policy or positions without approval of the relevant minister? The answer was that the State Emergency Coordinator makes no policy decisions during an emergency. The powers of the COP exercised are all articulated in the Emergency Management Act. I take it from that to mean that he is still answering to the minister as the responsible minister. Is that correct?

**Mr F.M. Logan:** Yes.

**Mr S.K. L'ESTRANGE:** Yes; and he is answering to the State Disaster Council. That is important, because I must admit that when I was looking at the flow chart, I saw that it does not make that clear. It has a two-way communication flow between the State Disaster Council and the State Emergency Coordinator, but it does not demonstrate a reporting-up hierarchy; that is why I needed that clarified.

To conclude, the opposition supports the intent of this bill. We will explore some of these things in detail, but we support it because we understand the importance of it, to, as I said at the start, support the State Emergency Coordinator. Our professionals are doing everything they can to support the community so that it is safe. We hope that if the government needs further support to assist them doing that, the Parliament of Western Australia can be used as a means to ensure we have the tools at our disposal to combat coronavirus. When Western Australia gets back on a level footing, we will then be able to work hard to recover the economy and support people with their different needs as they come out the other end. We will continue to support them through how we deal with this pandemic.

**MR R.S. LOVE (Moore — Deputy Leader of the Nationals WA)** [3.20 pm]: There is not much room here, I must say; this is a bit different. I usually have stuff spread out all over the place when I speak, so I will try to make do as best I can.

I want to say at the outset of my contribution to the Emergency Management Amendment (COVID-19 Response) Bill 2020 that the Nationals WA recognise that we need to allow for decisive and necessary actions to be taken to protect the community at this time. We have seen some pretty outrageous behaviour by people throughout this whole episode, so we need to ensure that people are responsible and adhere to the directions that are given to them. We also need to ensure that people undertake quarantine or isolation periods when they are required to do so et cetera. These are very necessary and important things.

We have not had a long time to look at this bill. I did a phone hook-up on this bill last night. I think I did a phone hook-up on four bills in a row, so they all started to merge into each other after a while. The Nationals are very supportive of aspects of this bill. I just have a few questions about the mechanics of the electronic monitoring, which has been left quite broad—it could be anything from a bracelet to a mobile phone app or some other means, such as tracking what they are watching on Netflix or television, or their Amazon device, Alexa, or Google Assistant or Siri could be listening in and keeping tabs on where a person is. There is a whole range of things. It has been left open quite deliberately.

One provision in the bill enables the provision of certain information. I think this is the provision for which there will be a 12-month sunset clause; is that right, minister?

**Mr F.M. Logan:** Correct.

**Mr R.S. LOVE:** One question I have is: why is this portion of the bill seen to be so draconian that it needs a 12-month sunset clause, whereas other provisions, such as the one that ensures that people are electronically monitored, will not have a 12-month sunset clause? Nationals members are a bit puzzled about the difference between that provision and the provision to allow monitoring. We would like some clarification of that. Information will be given for a purpose. It is sensitive information. I do not think it can be used against the person, unless they give false information. The information must also be kept in-house—that is, it has to be confidential—to ensure that the person who gives the information is not compromised. Why is that seen to be more of an issue than, for instance, ensuring that someone has to wear an electronic bracelet so that the state knows where that person is? That seems to be a much more intrusive power than asking questions of someone when those questions are directed to a certain outcome for a certain purpose. I would like some information about that.

Another power in the bill that has been mentioned is the ability to direct others to carry out functions. For instance, relevant officers can direct that roads, access routes or areas of water in or leading to an emergency area be closed. This is an important element. It is a pity that it has come through in a rush in the COVID-19 environment, because the powers that people have during an emergency, whether it be a fire, flood or any other disaster, have caused a lot of concern over the years. It is a very important change that I think is very necessary in all sorts of circumstances. I think a lot of people are looking forward to this providing clarity in this area, given that some people previously

might have felt that they had operated outside of their powers when trying to do certain things. I am very pleased to see that provision in the bill.

I also have a question about the need for retrospectivity for some of the notices that will be published. Why is that being sought if the minister feels that it is not necessary for the provisions to be recorded in the *Government Gazette*? Why would we not just put them in the *Government Gazette*? Is there a time barrier or some sort of process barrier that makes that impractical in the circumstances? Maybe the minister might be able to expand on that a little to give clarity to the community on the need for retrospectivity. Retrospective elements always cause some level of concern. It would be good to get a bit more explanation of why that is necessary and the mechanics of how that will all work. I am sure there are good reasons for it.

As I said, the Nationals will not oppose the bill; we cautiously support the bill. We understand the need in these circumstances for powers to be granted and used responsibly, but we are of course very cautious about limiting the powers of our citizenry. We live in a very free society and people do not like being told what to do. We certainly do not like laws being enacted that give broad powers to the government, without there being a very good reason for them. We accept that there are very good reasons for them at the moment, but we do not necessarily accept that monitoring needs to continue beyond the current crisis. There are many types of emergencies for which that will not have application. One would imagine it is much more relevant to a pandemic—to a quarantine situation involving a contagious disease. I imagine it would not be used so much during the other more traditional emergencies that we face of fire, flood, cyclone et cetera.

We will be seeking more clarity around the need for the sunset clause. We will also seek more clarity about why it is not being extended to that other very powerful part of this bill around the enforcement of electronic monitoring on the citizens of the state. I imagine we will also seek more clarity about some of the powers to give directions. We can imagine scenarios of entire towns being locked down and put under direction. That is an unusual power that we would not ordinarily expect to be used. In the case of a fire or flood emergency, individuals would normally be notified that they need to evacuate. To close down an entire area, which would perhaps encompass a community, is an extraordinary power, especially if we enable that power to continue without a sunset clause or re-examination of it in some way down the track. I would be interested in what re-examination there might be of the need for some of these provisions if they are not guillotined immediately upon the enactment of clause 10. With those comments and with the support of the Nationals generally for the thrust of the bill, I cautiously commend the bill to the house. However, there are elements of the bill that we would like to explore a little further as it goes through.

**MR P.A. KATSAMBANIS (Hillarys)** [3.29 pm]: We live in extraordinary times and the Emergency Management Amendment (COVID-19 Response) Bill 2020 is an extraordinary bill. We all recognise that. I am not the lead speaker for the opposition on this bill. The lead speaker is the member for Churchlands. However, the State Emergency Coordinator is the Commissioner of Police, so I have looked at this legislation in my capacity as the shadow Minister for Police. The Emergency Management Act 2005 has been on our books for a long time, but it is used only in extraordinary circumstances such as these. It is understandable that gaps, concerns or question marks about its operation may arise during only limited circumstances such as the one in which we are now living. It is critical, as everyone has said, that we act jointly as parliamentarians and as a community to ensure that we limit the spread of this horrific disease as much as possible. In that context, the government rightly invoked a state of emergency, which gave rise to the powers contained in the act. Now the government seeks to move a series of amendments that clarify those powers and, in some cases, expand those powers. In many cases, they also—I hesitate to use the right term rather than the wrong term here—bring the act into a more modern context, into life as it is in 2020. We accept that and we are supportive of this amendment bill.

A couple of issues have been identified. They were raised by the member for Churchlands and also by the member for Moore in his contribution. I do not want to repeat those issues, but I will raise the issue of retrospectivity. Clearly, some of the operation of this act will be retrospective to midnight on 16 March 2020 when the state of emergency was first declared—understandable in that context. This bill seeks to clarify things and to make sure that what has been done is—again, I hesitate to use the word—bulletproof or valid, as the minister says, and that is the correct thing to do. Over the last 24 hours, the member for Churchlands has proposed questions to the Minister for Emergency Services' office. We have now been informed that 21 directions have been given since the state of emergency was declared. Perhaps it might be useful to the Parliament and the general public if a list of those directions could be tabled by the minister or perhaps the directions themselves. I have seen some of them. I have had to interact with some of them, particularly those on the restrictions on ammunition and gun shops and the like. Tabled those directions would help us and the public as well.

The amendments that apply to a class of person, a class of business or even a class of place are eminently sensible. The broad interpretation argument of the legislation would probably be that that is capable of being done anyway. However, I have absolutely no problem with putting that beyond doubt.

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Clause 12 of the bill was alluded to by the member for Churchlands. Clause 12(1) introduces new section 77(2A) into the operative act. It operates in such a way that when a direction is given to a class of persons or a class of thing, that direction need not be given directly to the persons to whom it applies. If a direction is made to liquor shops, is it enough to have a direction rather than have to serve it on each individual liquor shop. That makes absolutely good sense. Proposed subsection (2A)(b) then states —

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

The direction does not need to be published in the *Government Gazette*. We have discussed that here in the past. The *Government Gazette* was the “bible” when I was a young schoolchild. It was a real bible of government operations. We have moved on from the gazette.

**Mr Z.R.F. Kirkup:** Sadly.

**Mr P.A. KATSAMBANIS:** The member for Dawesville points out that it is sad. I always point out that the member for Dawesville was not even a thought in anyone’s mind when I was a schoolchild; that makes me feel very old. We have moved on and a publication in the *Government Gazette* should not be the standard. I am happy with that amendment. It states under proposed paragraph (c) —

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

In summing up, can the minister give us an indication of what he thinks is suitable in the circumstances of this emergency? Where would the minister ordinarily publish these directions? Perhaps another question that would flow from this is: what sort of time frame does the minister think is appropriate for the publication of the direction? On Friday, in particular, with the direction around gun shops, there was a lack of clarity. A substitute direction was then issued, which was great because it got rid of that lack of clarity and enabled local communities to still be serviced by their shop irrespective of a section of the shop operating as a gun shop. That worked really well and was clarified within a few hours, which was great. I realise we are working in unprecedented times. A briefing note was circulated to the opposition outlining how this provision would still apply even if the direction had not been published. I understand the context and the genesis of that. When a direction is made we want it to operate straightaway. Whether it has been published before it has been served on someone or actioned should not really matter in an emergency situation. Again, for clarity, can the minister reassure the house and the public that all directions will eventually be published in an appropriate time frame and that we will not end up with a direction that is never published? As legislators, it is fair that we ask for that; that is our job. I realise that those briefing notes are sometimes written in haste. That terminology does not appear in the bill, the second reading speech or the explanatory memorandum. It is fair to seek that assurance from the minister. I am sure he will give it. We need to keep the public on our side in all of this and we need to make sure that the public has absolute confidence in everything that is happening.

Clause 6 deals with the electronic monitoring of persons in quarantine and inserts proposed section 70A into the Emergency Management Act. Again, these are extraordinary times. Ordinarily, we would hope that people comply with these directions whether they are self-isolation directions, quarantine directions or the like. Unfortunately, we have already seen that a small minority of people do not want to comply. Perhaps at this stage I should also say—I am sure I speak on behalf of everyone here—that we should thank the vast majority of Western Australians who are doing the absolutely right thing, as the minister said. They are helping everybody else and working to save lives. Thank you, Western Australians for your assistance. To the tiny minority—I think it has been said by others, but I can add to it, too—they should tuck their heads in. They should have a think about their selfish, inappropriate, dangerous and life-threatening behaviour and modify it. The sooner they modify it, the better we will all be, and perhaps the sooner we will get out of this situation and move towards living more normally than we do right now. It is up to those few recalcitrants to do the right thing. If they do the right thing, we will all reap the rewards, including them. Perhaps this provision has been introduced as a last resort. There may have been a lot of thinking involved; maybe not as much thinking as would have happened in other circumstances. During his summing-up of the second reading debate and during consideration in detail, can the minister open up to us on some of his thinking and the thinking of the people who are advising him—the Commissioner of Police and the like—about how this will look in practice? Will people in quarantine be issued with an electronic monitoring bracelet? The Minister for Corrective Services knows that these bracelets are not in plentiful supply. We have enough, but I do not assume that we have a whole swag of them tucked away in a cupboard somewhere. They are also expensive and they are suitable for some purposes and not others. Some electronic monitoring is not workable in places where there is poor communications reception, particularly in remote communities. Are we talking about those sorts of monitoring devices, because it could be any device that is monitored? Are we talking about mobile phones or some other gadget or electronic instrument?

The really important question is: who will monitor these devices? In the corrections system, community corrections officers monitor in the first instance and liaise with police. The individuals who will be monitored with these devices

are not in our corrections system, so I do not see how that system could be used for them. If they do not comply, they may end up in our corrections system. We hope they do not end up there. I would like some clarity about: Who is likely to do the monitoring? What sort of monitoring will be required? What hardware and software requirements will be on the government, and therefore on the taxpayer of Western Australia, to introduce this monitoring?

Of course, if everyone did the right thing, none of this would be required. I echo some of the words the Premier said the other day. I do not want to put words in his mouth, especially as he is away at the moment on urgent parliamentary business or running-the-state business, but in relation to on-the-spot fines being contemplated, which we will be looking at in the next few days, the Premier does not want any issued. I do not want any on-the-spot fines issued either. I do not want any electronic monitoring to be needed. If people did the right thing, we would not need any of this. It will be temporary; it will not be long term. We need to implement this provision and I do not think it is being brought in lightly. I think it is being brought in because there has been contemplation of using it in extreme circumstances. Can the minister clarify his thinking around it and what he thinks the electronic monitoring devices that could be approved by the Minister for Corrective Services or any other minister in the future could look like? What will be the financial implications? How quickly can we get those resources on board?

We live in extraordinary times. The vast majority of Western Australians have proven that they are prepared to be flexible and cooperative. We are proving it in here today as parliamentarians. I say that a lot when I speak in here. I talk about us being parliamentarians first and politicians second. I think that is what we are doing today: although we are expediting the passage of these extraordinary measures, we are ensuring that we adequately scrutinise what we are passing. In particular, with these sorts of extraordinary measures that restrict personal freedom, that restrict the ability of people to move around our society, and to assemble and basically live a normal life in a liberal democracy, we need to ensure that they are in force for the least amount of time possible and with the least imposition on people as possible. With the cooperation of everyone, I hope we can get there. We are in the situation we are in. Let us all work together as a society to get out of it as quickly as possible so that we can recover, rebuild our lives, the economy and jobs and the prosperity that has been lost in this horrific period.

**MR F.M. LOGAN (Cockburn — Minister for Emergency Services)** [3.44 pm] — in reply: I thank the member for Churchlands, the Deputy Leader of the National Party and the member for Hillarys for supporting the bill and expressing their views about it. All three speakers indicated, particularly the member for Churchlands, that they provide support to the government as members of the community and as members of this house to ensure that all of us do everything we possibly can in trying to defeat this horrendous pandemic that is impacting not only the state of Western Australia but also the whole of Australia and now the whole of the globe. All efforts that are being made, whether it is in this house, in the community or by our emergency frontline workers, are well received and I believe should be acknowledged. For that reason, I thank all three opposition members for supporting this legislation and for their comments to the house.

We have just been talking about quarantine. In one of his last comments, the member for Hillarys referred to the concept of quarantine and how we extend and improve the existing quarantine provisions in the act. I was listening the other day to a discussion about where the term “quarantine” comes from. It comes from “quaranta giorni”, which means 40 days. Forty days was the time that ships had to anchor offshore before they came into port, to ensure that they were not carrying any passengers who may have been afflicted by the plague or any other illness that they might have been bringing into the port. It is a pity that the 40-day rule did not exist under the Law of the Sea because we might have been able to deal with the passengers from a number of cruise liners that have come into Perth in a slightly more timely way! As members know, we have dealt with those passengers. I acknowledge the State Emergency Coordinator, the Commissioner of Police, Mr Christopher Dawson, for his work and that of his team, and all the other people who have played a role in dealing with the passengers from the various cruise liners that have berthed at Fremantle. That even extends to bus drivers from the Public Transport Authority who volunteered to take those passengers, not knowing whether they had been in contact with COVID-19 or not. They volunteered to take those passengers to the airport the other night to get their flights back to their homelands.

I will come back in a minute to quarantining and electronic monitoring. I will deal now with the publication of directions. The member for Churchlands and the member for Hillarys noted that 21 directions have been issued by the State Emergency Coordinator. The Emergency Management Act does not require the minister or the SEC to publish those directions. Nevertheless, they have been put up on the government of Western Australia’s website. In bold letters on the very front page of the Western Australian government’s website is a direct link to the directions. All 21 directions are listed in PDF format, which indicates the signature of the SEC, Commissioner Dawson. Having talked about the gazettal process, the member for Hillarys would know that it takes an amount of time for documents to be gazetted. They come out on Fridays. It usually takes the previous seven days for that process to occur. I presume that was the reason there was no need to include in the act as it currently stands the necessity to publish the directions in the gazette. When we find ourselves in a state of emergency, we have to respond to things, and we have to respond to them quickly.



The member for Hillarys asked whether the minister would give a commitment to publish those directions, to which the answer is yes, and what type of publication of those directions we would seek. We will continue with what the state emergency coordinator is currently doing; that is, as soon as those directions have been given, they will be immediately loaded onto the government of Western Australia website, so they are there for everyone to see, download, print and read for themselves.

I also give a commitment that if the State Emergency Coordinator advises me that because of the nature of the direction we should go further than publishing via the government website and then publishing via the media, that is what we will do. As the member for Hillarys said, he wants the information to be broadly disseminated to the general public, depending on the direction that we are trying to achieve. If the State Emergency Coordinator said to me, "Minister, we should make this very broadly known by way of the media to ensure that as many people as possible see this direction", of course I would do that. That is the commitment that I would make.

The member for Churchlands spoke about the composition of the State Disaster Council; he went through a significant proportion of its composition. It is chaired by the Premier and I am the deputy chair, as Minister for Emergency Services. The State Emergency Coordinator is named under the act as being part of the SDC, along with the director general of the Department of the Premier and Cabinet. In addition, any other people the Premier sees as critical to the emergency that befalls the state can be co-opted. In this case, the key ministers on the State Disaster Council are the Premier; the Minister for Emergency Services; the Attorney General; the Minister for Health, of course, because a health pandemic is one of the 26 hazards; the Minister for Transport, for obvious reasons; the minister responsible for cybersecurity; the Minister for Tourism, in that role and in his role on defence issues because of the relationship with the Australian Defence Force; the Minister for Education and Training; and the Treasurer. The public servants on the State Disaster Council include the State Emergency Coordinator, being the Commissioner of Police; the director general of the Department of the Premier and Cabinet; the Public Sector Commissioner; the Fire and Emergency Services Commissioner; the director general of Health, as the hazard management authority for this particular hazard we are living through; the Chief Health Officer; the State Solicitor; and various other advisers to both the public servants and the ministers. That is the make-up of the State Disaster Council.

Earlier today, the member for Churchlands asked six questions to which I provided some answers, some of which he ran through. I will address those further in consideration in detail if he does not mind.

The Deputy Leader of the Nationals WA asked some questions. He is quite right; he has not had a long time to look at this bill, and nor have I. That is not surprising given that the genesis of this bill started only late on Friday afternoon. Here we are on Tuesday dealing with the contents of the bill. The deputy leader said that if we compared the obligation of providing information under proposed section 72A—he asked why the government believes it is so draconian that we would include a sunset clause—with proposed section 70A, "Electronic monitoring of persons in quarantine", that would be more draconian than giving up information. The reason for proposed section 72A is that it removes the right to remain silent. That goes way beyond our normal liberties of living in the state of Western Australia. We are obliging people to give up information that they would not normally have to give up. We are doing that because we want people to be truthful. For example, we want them to provide information when asked whether they have been abroad recently, whether they have been in contact with someone with COVID-19 or whether they know people who are affected by COVID-19. We need to know all the health-related issues concerning this pandemic that we are living through and the information that individuals might have about not only themselves, but also others in their family, community, place of work or whatever. The Chief Health Officer, the director general of Health and the Minister for Health must have that information, and the current act does not provide that. It only gives power to an authorised officer, who in the current situation is a police officer, to take someone's name, address and probably their telephone number, and that is it. We cannot go beyond that. We will now be able to gain far more personal detail about a person's lifestyle, background and health.

**Mr R.S. Love:** Those provisions are in the Health Act.

**Mr F.M. LOGAN:** They are, but they are not in the Emergency Management Act. The member is quite right; they are already in the biosecurity provisions of the Public Health Act, which include the ability to enter a person's house without notice or without a court order. They are not in the emergency act. When we have authorised officers such as police officers dealing with members of the public who will not answer those questions, we need to have those powers in this bill. That is basically why they are there. They are there because we believe that the provisions in the Public Health Act are pretty draconian. For the purposes of a state of emergency, they are still pretty draconian. In this case, they relate only to the pandemic that we currently face; therefore, a sunset clause is linked to them.

I think I mentioned to the member for Hillarys why retrospectivity has been sought and not gazetted. As I indicated, it takes a week for the directions to be gazetted. Meanwhile, the directions that are currently issued are already on the government website. In terms of retrospectivity, the legal advice given to the government is that the directions given so far are within the powers of the current act. However, to ensure that there is no question about the directions that have been given by the SEC, we will validate them by introducing this new clause. That will put it beyond

doubt that those directions are valid. That is the advice that we have received. That will give the State Emergency Coordinator, Commissioner Dawson, confirmation that what he has been doing so far is valid and correct and he can continue with that process.

The Deputy Leader of the Nationals WA pointed out the power to lock down a whole community under some of the directions. The power to lock down a whole community is an existing provision of the act and it is used from time to time, but not so much for a lockdown. As the member knows, areas of the state can be declared emergency areas, whether it be because of a cyclone, flood, fire or whatever. The power to evacuate, for example, is quite often used and it could be used for a whole town. The power to move people exists under the emergency provisions. There would not even need to be a state of emergency; the powers of the act provide for an emergency area to be declared. Those powers exist currently. This would be the first time that the power to enforce people to stay where they are would be invoked, but they exist currently under the act. It would include a provision for ensuring a lockdown of people. That brings me to the issue of social distancing and people's willingness to abide by a lockdown direction and remain indoors; hence, I come back to the amendments currently before the house.

All three speakers referred to the issue of electronic monitoring. Electronic monitoring is being introduced under the bill to ensure that the powers under the biosecurity provisions of the Public Health Act and the state of emergency provisions of the Emergency Management Act are complied with by those who may well be infected. This is a very unusual situation that we find ourselves in—that we have a state of emergency in the first instance and that the state of emergency relates to a biosecurity pandemic. Unlike with a flood, fire or cyclone, we are not attempting to move people; we are asking people to stay where they are and, because of the nature of the infection, to keep their distance from each other.

The Western Australian Department of Health is doing a seriously remarkable job, particularly when its work in tracing and tracking people who either have COVID-19 or have come into contact with someone who has COVID-19 is compared with that of other agencies across Australia and across the globe. The work of the Department of Health to identify and ensure that those who have COVID-19 remain in 14-day self-imposed quarantine or self-isolation has been remarkable. The department has also been tracking the people the COVID patients have come into contact with, where they have come from and the places they have been. For example, the department tracked all the places that the bus driver had driven to over the previous three days and the people he had come into contact with and then identified those people to ensure that they maintained a 14-day self-imposed regime. However, as the Department of Health and the police have indicated, this would be far easier if we had electronic tracking devices. As the members for Churchlands and Hillarys indicated, electronic tracking devices are not new. They are used regularly in the justice system. A bracelet style of technology is used. Normally, radiofrequency-style technology is used in the house, which is the centre point for the bracelet, and in the area around the house, so that if the person wearing the bracelet goes beyond that particular area, the alarm goes off immediately. That is one form of technology in the bracelets. The new bracelets that will be rolled out very soon, member for Hillarys, are GPS-style bracelets. They are smaller and are linked either wirelessly or by satellite. Therefore, they will be suitable to track people even in remote locations.

On the type of technology that is being contemplated, people in Singapore wear a small Fitbit-style bracelet on the wrist. The bracelet is effectively fused on—not to the person—so it is very difficult to get it off. There is a radiofrequency identification chip inside the bracelet that allows for wireless tracking, but it also contains other information. I believe that style of bracelet is also used in South Korea. Telephone monitoring and tracking devices have definitely been used in Singapore. The COVID app requires individuals to have their mobile phone with them at all times. I also understand that in Singapore there is an app for people who are worried about others who have COVID-19. The app indicates where COVID patients are and whether they are anywhere near those people. That is the type of technology that is used in Singapore. I believe that in Hong Kong and South Korea, similar app-style technology is used to monitor people's movements. The type of technology that will be used here will be along those lines. The leg bracelet that is normally used by the Department of Justice is far more cumbersome, more expensive, more complex and probably unnecessary. As the member for Churchlands said, these people are not prisoners. We simply want oversight of whether they are remaining in 14-day self-isolation and are practising social distancing. It will be the cheaper, more appropriate style of tracking, but at this stage, I have not been given any advice on what type of technology will be used.

The Commissioner of Corrective Services has been in contact with his counterpart in Singapore for a few days to talk about the supplier of the rubber bracelet-type technology and also the supplier of the mobile app tracking device. Israel also produces a very complex tracking device for mobile phones that goes way beyond COVID-19 for the purpose of monitoring people in Israel. There is technology out there that is appropriate for use in Western Australia. It certainly is important technology that can assist the Department of Health and the Chief Health Officer ensure that we minimise people's exposure to COVID-19 and will assist people who either have COVID-19 or who have come into contact with someone who has it, to do the right thing by the rest of the community by keeping their

distance and keeping themselves in self-isolation. With that, I believe I have answered virtually all the questions asked by the opposition. I commend the bill to the house and I thank all speakers for their contributions.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

*Consideration in Detail*

**Clauses 1 to 5 put and passed.**

**Clause 6: Section 70A inserted —**

**Mr S.K. L'ESTRANGE:** During the minister's second reading reply, he said he would do his best to address the questions that we put to him. I am grateful to the minister in that regard. The only provision I am interested in exploring further is clause 6, particularly the 12-month sunset clause that relates to the minister's answer.

**Mr F.M. Logan:** No, not section 70. The only sunset clause is in proposed section 72A.

**Mr S.K. L'ESTRANGE:** That is my point, minister. I am saying that the sunset clause does not apply to proposed section 70A. We want to explore each part of proposed section 70A to ascertain why the minister does not consider it necessary for this provision to be captured by a sunset clause, given that it is a new provision. Is that correct?

**Mr F.M. Logan:** It is a new provision; that is correct.

**Mr S.K. L'ESTRANGE:** We note that proposed section 70A(1)(a) refers to an electronic monitoring device approved by the minister. The minister will communicate to us what that device is when he finds out what it is. Proposed section 70A(1)(b) is any equipment, wires or other items associated with such a device. Proposed section 70A(2) states —

The State Emergency Coordinator may direct that a person is to be subject to electronic monitoring while the person is in quarantine if satisfied that it is necessary to monitor the location of the person during the quarantine period.

I absolutely get the reason for this during the COVID-19 pandemic but why does a sunset clause not apply to this provision and what does the minister envisage it will be needed for beyond this pandemic?

**Mr F.M. LOGAN:** The reason that we chose not to have a sunset clause in this provision is the likelihood of experiencing a further pandemic in one form or another. The provision does not exist in the Public Health Act biosecurity provisions so if it were not in this act, we would not have it at all. That is not to say that the world will not face another pandemic of this type. If we look over the past 20 years, we can see that we have had H1N1, SARS, swine flu and now COVID-19, all of which have swept across the globe, to a greater or lesser extent, and resulted in people dying from those viral outbreaks. There is nothing to say, given the experience we have had over the past 20 years, that this could not happen again. It is better to err on the side of caution and to include this provision in the bill. It relates only to health issues and health pandemics; it does not relate to fire, flood or any other emergency that will befall the state. It is better to keep this provision in the legislation rather than remove it after 12 months. Given the nature of health pandemics and that it will be used at the request of the director general of Health, the Chief Health Officer and the State Emergency Coordinator, I think we have enough protections contained in the state emergency management framework.

**Mr S.K. L'ESTRANGE:** I thank the minister for his response. I fully understand that in the current context.

Proposed section 70A(4) states —

If a person is subject to electronic monitoring, an authorised officer may do any of the following —

- (a) direct the person to wear an approved electronic monitoring device;

I think we have covered that, but proposed section 70A(4)(b) is different. It states —

direct the person to permit the installation of an approved electronic monitoring device at the place where the person resides or, if the person does not have a place of residence, at any other place specified by the officer;

Does that mean video monitoring?

**Mr F.M. LOGAN:** No; it is simply a tracking device. In this case, it would be where the installation tracking device is undertaken. It can be any place as directed by the State Emergency Coordinator, including in the person's own home, but it is not for the purpose of video tracking.

**Mr S.K. L'ESTRANGE:** I thank the minister. Proposed section 70A(5) states —

An authorised officer may —

- (a) direct the occupier of a place where an approved electronic monitoring device has been installed to give the device to an authorised officer within the period specified by the officer;

Is that a temporary arrangement?

**Mr F.M. LOGAN:** That would be the type of device I referred to earlier—the radio frequency device—which is installed in the home and creates an electronic fence around the person's home. It has to be installed at the person's home but, again, it does not contain video coverage or video monitoring of the person involved. It is simply the installation of the equipment in the person's home for the purpose of establishing an electronic fence to maintain the person within that fence. This gives us another option, should the State Emergency Coordinator need it, to use technology such as an RF device.

**Mr S.K. L'ESTRANGE:** I thank the minister for the answer.

We mainly wanted to ask questions about clause 6. We are satisfied that the minister addressed all our other questions in the second reading speech and in reply to our second reading reply speeches. We appreciate that and we wish the minister all the best with the passage of the bill.

**Clause put and passed.**

**Clauses 7 to 14 put and passed.**

**Title put and passed.**

*Third Reading*

Bill read a third time, on motion by **Mr F.M. Logan (Minister for Emergency Services)**, and transmitted to the Council.