

**COVID-19 RESPONSE LEGISLATION AMENDMENT  
(EXTENSION OF EXPIRING PROVISIONS) BILL 2022**

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by **Hon Stephen Dawson (Minister for Emergency Services)**, read a first time.

*Second Reading*

**HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services)** [9.48 pm]: I move —

That the bill be now read a second time.

Western Australia is experiencing its most significant COVID-19 outbreak with the current Omicron wave that reached the state earlier this year. Today, on 10 May, we have reached our highest daily number of new cases, with 12 390. The Western Australian government has responded to the global pandemic and the developing outbreak with several measures to keep Western Australia safe, keep people in jobs and minimise the disruption that COVID-19 brings to the wider community. Some of those measures have relied on the emergency powers introduced by the Emergency Management Amendment (COVID-19 Response) Act 2020 and higher penalties for serious assaults and threats against public officers committed in the context of COVID-19 introduced by the Criminal Code Amendment (COVID-19 Response) Act 2020. I will refer to these collectively as the COVID-19 response amendment acts.

Honourable members may recall that the COVID-19 response amendment acts included sunset clauses with the intent of limiting the operation of certain emergency powers and the penalty provisions to the duration of the COVID-19 pandemic. The sunset dates were initially set for 12 months after the day on which the COVID-19 response amendment acts received royal assent and have been extended three times by the Western Australian Parliament to 4 July 2021, 4 January 2022 and 4 July 2022. This bill will extend the operative provisions of the COVID-19 response amendment acts by a further six months to 4 January 2023.

Before I turn to the detail of the bill, I will outline the specific provisions that are subject to the sunset clauses and will explain why it is important that the operation of each is extended to ensure that the state can continue to respond appropriately to COVID-19. The Emergency Management Amendment (COVID-19 Response) Act 2020, amongst other things, introduced new section 72A into the Emergency Management Act 2005. This provides a catch-all power that enables a hazard management officer or authorised officer to effectively manage the response to an emergency. It includes the ability to direct a person or class of persons to take any action the officer considers reasonably necessary to prevent, control or abate risks associated with the emergency. Section 72A also contains important information-gathering powers. Pursuant to sections 2(c) and 10 of the Emergency Management Amendment (COVID-19 Response) Act 2020, section 72A will be deleted from the Emergency Management Act 2005 on 4 July 2022. On the sunset date, any existing directions that rely on section 72A will no longer be valid as there are no transitional provisions to continue the operation of those directions. Further, section 72A will not be available for making new directions.

It is important that the section 72A powers continue to be available to government for the immediate future. This is whilst Western Australia adjusts to living with COVID-19 and with the possibility that protective measures may need to be re-established to manage further outbreaks of new variants. Section 72A has supported measures such as the controlled border, which is not presently being applied. Initially, the purpose of the controlled border was to prevent the importation of COVID-19 into Western Australia and it was recently used to ensure that persons entering Western Australia adhered to vaccination and other requirements.

Section 72A is currently relied on for travel restrictions to help keep remote Aboriginal communities safe from COVID-19. Section 72A currently enables the application of measures and protocols to support the controlled return of cruise ships to Western Australia. Section 72A facilitates the testing, tracing, isolation and quarantine arrangements, such as the requirement for positive cases to isolate. Information-gathering powers under section 72A have supported the contact registers. Section 72A is also relied upon for implementation of the public health social measures, which have continually evolved to optimise the management of the pandemic and been used in a way that is proportionate to the risk. At various times, this has included restrictions on certain activities, density and capacity limits at specified venues and events so that these can proceed in a COVID-safe manner, and the mask-wearing requirement. These measures, combined with the backing of the community and a very high uptake of the vaccination program, have been effective in securing a soft landing through the Omicron wave and minimising impacts to our health system, economy and way of life.

As the outbreak progresses, the use of these measures and other arrangements will continually be considered against the latest health advice. The continuation of section 72A for a further six months beyond 4 July 2022 has no bearing on decisions regarding the state of emergency for the COVID-19 pandemic. Whether or not Western Australia will remain in a state of emergency will be based on expert advice—primarily, the advice of the Chief Health Officer and the State Emergency Coordinator—and whether I, as the Minister for Emergency Services, am satisfied that

extraordinary measures are required at that time to prevent or minimise loss of life, prejudice to the safety of or harm to the health of persons or animals, or the destruction of or damage to property or the environment. The extension of the sunset date and continued operation of section 72A into the immediate future will ensure that our emergency management personnel have the powers available to continue to help us respond to COVID-19 and maintain a responsible and flexible framework that has served the state so well to this point.

I now turn to the Criminal Code amendments contained in this bill. The Criminal Code Amendment (COVID-19 Response) Act 2020 amended the Criminal Code to increase the maximum penalties for the offences of serious assault and threats committed in the context of COVID-19. The increased penalties sought to reflect the seriousness of assaults against public officers such as frontline workers, particularly in the context of the pandemic. The amendments to the offences under sections 318 and 338B of the code were made in response to several distressing reports of people across the country and internationally claiming they had COVID-19 and deliberately coughing or spitting on innocent people who were just trying to do their jobs. This was particularly occurring, or at risk of occurring, in the context of frontline essential staff who work tirelessly around the clock at great personal risk to themselves and others to keep our community safe and to stop the spread of this disease. The increased penalties reflect the seriousness of this conduct and send a clear message that deliberately exposing our public officers to COVID-19, or threatening to do so, is an unacceptable show of disrespect. The government, and indeed the Western Australian community at large, does not and will not accept it.

In November 2021, when the operation of these higher penalties was last extended, Western Australians were preparing for the virus to arrive for the first time in nearly two years. Since January this year, COVID-19 has been present in our community in large numbers. Now is the time when our officers will be most confronted by the reality of contracting COVID-19 in the course of their work. Now is the time to send a clear message of support for the important work that they are doing. Isolation requirements and close contact rules may have changed, but the contagiousness of the COVID-19 virus has not. Although public officers may be incidentally exposed as they go about their work, we must condemn those who deliberately set out, or threaten, to infect officers, exposing them to the risk of illness and leaving them unable to perform their duties when they contract COVID-19.

The Criminal Code Amendment (COVID-19 Response) Act 2020 has a sunset date of 4 July 2022, when the increased maximum penalties for the offences committed in the context of COVID-19 will be deleted. This bill extends the expiry date of the provisions for higher penalties for a further six months, until 4 January 2023.

The bill before us today will extend the operation of the respective sunset clauses under the COVID-19 response amendment acts for a further six months, with a new effective sunset date of 4 January 2023. It will ensure that the powers under section 72A of the Emergency Management Act 2005 will be available should the state of emergency for the COVID-19 pandemic continue and will ensure that higher penalties continue to apply to serious assaults and threats against public officers committed in the context of COVID-19.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and table an explanatory memorandum.

[See paper [1258](#).]

Debate adjourned, pursuant to standing orders.

*House adjourned at 9.56 pm*

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