

**COVID-19 RESPONSE LEGISLATION AMENDMENT
(EXTENSION OF EXPIRING PROVISIONS) BILL 2021**

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Sue Ellery (Leader of the House)**, read a first time.

Second Reading

HON SUE ELLERY (South Metropolitan — Leader of the House) [8.36 pm]: I move —

That the bill be now read a second time.

Western Australia, and indeed the rest of the world, is continuing to face an unprecedented emergency. This bill is vital to ensure the safety of the community of Western Australia. It supports our emergency management personnel who are doing an incredible job on the front line managing the ongoing COVID-19 health crisis. This is the first time Western Australia has experienced an emergency of this scope and magnitude. In November last year, this house urgently moved to ensure that the state continued to have access to the necessary powers to manage the COVID-19 pandemic, which is continuing to pose a risk to our community. It is integral that we ensure that our legislative framework to deal with the COVID-19 emergency continues into the immediate future. We must urgently pass this bill to ensure that the state can respond to the challenges that we are facing.

By way of background, in April 2020 urgent amendments were passed to enhance the state's capacity to respond to the COVID-19 pandemic and safeguard the health and safety of the Western Australian community. The amendments included those made by the Emergency Management Amendment (COVID-19 Response) Act 2020 and the Criminal Code Amendment (COVID-19 Response) Act 2020. I will refer to these collectively as the COVID-19 response amendment acts. These amendments have been vital to the state's management of COVID-19. The amendments strengthened our legislative framework and have allowed Western Australia to effectively respond and deal with the unprecedented challenges of the COVID-19 emergency. The COVID-19 response amendment acts introduced measures to respond to the pandemic and included sunset provisions to limit the measures to the pandemic hazard. The amendments introduced by the COVID-19 response amendment acts will cease to operate on 4 July 2021.

COVID-19 is still a risk to the community, as we have seen recently with our three-day lockdown. Due to the fast-evolving situation and the possible threat, we introduced measures when two positive COVID-19 cases emerged. Since then, we have introduced measures to limit and reduce the risk of spread from another group of infections. This bill will extend the operation of the operative provisions of the COVID-19 response amendment acts by a further six months to 4 January 2022.

Before turning to the bill itself, I will outline the provisions that are subject to sunset clauses and explain why it is important that they are extended to ensure that the state can continue to respond appropriately to the COVID-19 pandemic.

The Emergency Management Amendment (COVID-19 Response) Act 2020 introduced, among other things, section 72A into the Emergency Management Act 2005. Section 72A 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 that the officer considers reasonably necessary to prevent, control or abate risks associated with the emergency. Section 72A also contains important information-gathering powers.

Over the course of the past year, a large number of directions have been made in reliance or partial reliance on this section. Those directions include, but are not limited to, current versions of the Contact Register Directions, Controlled Border for Western Australia Directions, Safe Transition for Western Australia Directions, Isolation (Diagnosed) Directions, Quarantine and Isolation (Undiagnosed) Directions, Gatherings and Activities Directions, Face Covering Directions and Presentation for Testing Directions.

Pursuant to sections 2(c) and 10 of the Emergency Management Amendment (COVID-19 Response) Act 2020, as amended by the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Act 2020, section 72A will be deleted from the Emergency Management Act 2005 on 4 July 2021. The intent of this sunset clause was to ensure that the section 72A powers were applied only to the circumstances of an appropriate emergency response to the COVID-19 pandemic. On the sunset date, any existing directions that rely solely on section 72A will no longer be valid as there are no transitional provisions to continue the operation of those directions. Further, it will not be possible to rely on section 72A to make any new directions.

Ensuring that these provisions endure in the act for a further six months is vital. Extension of the state of emergency will continue to be based on expert advice from the State Emergency Coordinator and the deliberations of the State Disaster Council. However, it is essential that every tool that has served our state so well to this point remains available to keep us safe in these difficult and uncertain times. The powers under section 72A have been vital to effectively direct the isolation and testing of people arriving in Western Australia from overseas, and we must have the capability to continue to make such directions. Australians located overseas are still returning home. Many are

returning from countries that are severely impacted by the pandemic. It is important that we effectively manage that risk.

Over the past year, we witnessed some states and territories grappling with community outbreaks of COVID-19 and the devastating impact on those communities. In response to these specific outbreaks, Western Australia issued directions which were supported by section 72A powers. Even with open borders within Australia, we need to be able to respond to outbreaks in other jurisdictions and require this power to put restrictions in place as required. It is important that, based on the current health advice and Western Australia's susceptibility to a COVID-19 outbreak, we have in place measures to manage our borders if required and ensure that appropriate strategies are in place. The powers under section 72A have supported our border management and the issuing of directions to present for health testing, isolate or attend hotel quarantine. They have been and continue to be critical to this strategy.

Section 72A powers are also essential for the government's implementation of physical distancing measures appropriate to the health advice. This has supported the easing of restrictions for social venues such as theatres, concert halls and cinemas and the need to strengthen restrictions as and when required. As we move forward, and in the event the state of emergency continues, section 72A will continue to be relied on to facilitate community-based events in a COVID-safe manner, while having the agility to swiftly respond to any need to put in place temporary restrictions.

One of the key directions for using the section 72A information-gathering powers is the Contact Register Directions. Contact information records and the continued use of the SafeWA app are integral to the state's ability to efficiently respond to and control ongoing pandemic risks. We only need to look at our recent three-day lockdown to see the importance of contact tracing in being able to rapidly respond to and isolate the risk of spread within the community. The government's decisions in responding to and managing the COVID-19 pandemic will continue to be based on the best available health advice. Directions relating to contact tracing and quarantine that rely on section 72A are integral to any ongoing scenario. Section 72A will ensure our emergency management personnel have the powers available to continue to help us overcome this pandemic and maintain the responsible and flexible framework that has served the state so well to this point.

I turn now to the Criminal Code Amendment (COVID-19 Response) Act 2020. 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 reflected the seriousness of such assaults and threats against public officers, including frontline workers, in the context of the pandemic. Our frontline workers have been outstanding during this state of emergency. These amendments sent a strong message of support to these officers for their sustained efforts in such challenging circumstances.

The amendments to the offences under sections 318 and 338B of the Criminal Code were made in response to several concerning reports of people here, across the country and internationally claiming they had COVID-19 and deliberately coughing, spitting or worse on public officers doing their jobs. This was happening or at risk of occurring to frontline essential staff who work tirelessly to keep our community safe and to stop the spread of this disease. The increased penalties reflected the seriousness of this unacceptable conduct and conveyed that the government and the Western Australian community do not accept such conduct.

The Criminal Code Amendment (COVID-19 Response) Act 2020 as amended by the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Act 2020 has a sunset date of 4 July 2021. Unless extended, the increased maximum penalties for the offences committed in the context of COVID-19 will be deleted. As we continue to live with COVID-19 and rely so much on our frontline essential staff, it is critical that people who assault or threaten to infect them with COVID-19 can be dealt with appropriately. 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 2022. It will ensure that the powers under section 72A of the Emergency Management Act 2005 will be available should the state of emergency in respect of 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.

We are facing uncertain times as we continue to respond to and manage the pandemic. This bill will help us maximise certainty that we have the tools in place to do everything we can to protect our state, our people and our economy with both the short-term response to any risks and the long-term strategy as the world continues to grapple with COVID-19.

It is vital that the bill is passed before the sunset date of 4 July 2021. Any gap in these laws in response to the COVID-19 pandemic will potentially present an unacceptable risk to the health, safety and financial security of Western Australians.

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 I table the explanatory memorandum.

[See paper [177](#).]

Debate adjourned, pursuant to standing orders.