

LIQUOR CONTROL AMENDMENT (PROTECTED ENTERTAINMENT PRECINCTS) BILL 2022

Committee

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Jackie Jarvis) in the chair; Hon Stephen Dawson (Minister for Emergency Services) in charge of the bill.

Clause 16: Part 5AA inserted —

Committee was interrupted after the clause had been partly considered.

Hon Dr STEVE THOMAS: We are on to the last large clause and certainly the most substantive clause. I do not think it will take the rest of the day to finish it, but there are a couple of issues still to be covered. I will try to do it in order if I can. Clause 16 will insert proposed section 152NE, “Provisions in relation to short-term exclusion orders”. I should not have to go through the derivation of short-term exclusion orders. I am interested in proposed subsections (2) and (4). Proposed subsection (2) refers to the specified term referred to in proposed subsection (1), which says that the order must specify the term. We said in debate on clause 1 that it might not be six months; it might be anywhere up to and including six months. I assume the commissioner would give some guidance on the appropriateness of time frames. Is that the intent? Is the minister in a position to give us any detail on what that might look like?

Hon STEPHEN DAWSON: The likelihood is that the more severe the offence, the longer the length of time for which somebody is excluded. It will be in the training that is provided to the officers and also in the guidelines that are available generally. The least offensive the offence, the least amount of time the exclusion will apply for.

Hon Dr STEVE THOMAS: The least offensive the offence—it is almost like, “What noise annoys an oyster”, but we will not go there.

There will be a range, a variation, and we expect there to be some guidance as to what that range would look like. Is the likely range, or the commissioner’s guidance on that, a public document so that people would know?

Hon Stephen Dawson: No.

Hon Dr STEVE THOMAS: Okay; so we are not entirely sure. It might help if we had an indication or guideline.

Proposed section 152NE(3) states —

The making of a short-term exclusion order in respect of a person does not prevent the making of 1 or more subsequent short-term exclusion orders in respect of the person ...

Is there a reason it is included in the legislation that having one order does not preclude subsequent orders? Proposed subsection (4) deals with concurrent short-term exclusion orders. Under proposed subsection (3), a person would assume that if they had one, that would not automatically preclude another. I am just interested that we have to have a clause in the bill that says that if a person has an order, they can have a subsequent order. I thought that would have been unnecessary. Is there a law that requires this proposed subsection?

Hon STEPHEN DAWSON: We are just being explicit that they can be issued with another order.

Hon Dr STEVE THOMAS: There is no hidden agenda there?

Hon Stephen Dawson: No.

Hon Dr STEVE THOMAS: Okay. Proposed subsection (4) states —

... if 2 or more short-term exclusion orders are made in respect of a person on the basis of the same particular occurrence of behaviour, the total duration of those short-term exclusion orders must not exceed 6 months.

Why would there be two exclusion notices for a particular occurrence of behaviour if they have to run concurrently? Is it the case that there might be two lower level exclusion incidents, or one incident for which there are two different exclusions for a different period? If one is four months and one is two months, for example, do the exclusion notices serve concurrently? Does the exclusion apply for four months, or do they run sequentially and then the exclusion would be six months? Is it completely variable or would it not make more sense to have just one exclusion notice for multiple incidents, or multiple sins within one incident? If there are different aspects of the one incident and different behaviours, it would seem more sensible to roll it into one thing.

I am not sure why it is separated out. It looks more complicated. Can the minister clarify that?

Hon STEPHEN DAWSON: I am told that the orders could be based on a particular incident. If someone commits one offence, they will get a short-term order, and if they commit something else they will get a different order. This provision will allow for that to happen. It may well be that after a short-term exclusion order, a full order is then applied for and that will then overlap that short-term one.

Hon Dr Steve Thomas: Are you suggesting that for the same incident, or for a different incident?

Hon STEPHEN DAWSON: It could be for the same incident because it may well be that a court finds somebody guilty of something that the police commissioner could apply for a longer exclusion period—a full exclusion.

Hon Dr STEVE THOMAS: I think we both accept that it is a little complicated because it is not easy to either ask or explain. It might need to be under those circumstances. If there is one incident when police apply for two separate exclusion orders, which as I read it is a possibility under proposed subsection (4), there cannot be a total duration longer than six months. If that is the case, would the two exclusion orders be served concurrently or sequentially?

Hon STEPHEN DAWSON: It would depend on when the offence takes place. If an offence occurs on the first day after this bill is in place, that person would be given a one-month exclusion order, and on another occasion, a week later, they could get done for something else. If it meets the guidelines, they will get a further exclusion order for that. That could be a four-month or, indeed, a five-month exclusion order, but the maximum of the two can be six months in total.

Hon Dr STEVE THOMAS: I might have a question that hopefully sorts it out for me. If a perpetrator commits an act and gets an immediate three-month prohibition order and then in the time taken to insert that order, or maybe they sneak in and get past the system and within a month commit a second act and they get a second three-month prohibition order—so they have two months left on the first order and three months on the second order—would they then serve one and then the other, or would they serve the three-month period for the second order?

Hon STEPHEN DAWSON: There could be an overlap. The orders will take effect from the date they are served on the person. If a person were a month into an order or whatever and then suddenly they had a second offence, the second order would apply from the date that they are excluded from the precinct.

Hon Dr STEVE THOMAS: I think that answers the question. In the circumstance that I have just described, the first order would run for the three months, but if it had two months left, the second order would run for three months from the new date, so the person would effectively be excluded until the end of the three months of the second order. The two would operate concurrently, as such; I think that is what we are saying.

Hon Stephen Dawson: We are.

Hon Dr STEVE THOMAS: All right, cool; thank you. It might sound technical, but at some point it might be an area of dissent.

Proposed subsection (5) means that there is no point making a short-term exclusion order if the same behaviour has resulted in an extended exclusion order. That obviously makes sense. I do not think that needs any further explanation.

Proposed section 152NF on page 19 deals with the variation of a short-term exclusion order or, in fact, the removal of it. The application will go to the Commissioner of Police. Proposed section 152NF(3) states —

The Commissioner of Police must dispose of the application in accordance with subsection (4) within 30 days ...

This may be done by varying, revoking, dismissing or potentially discontinuing the application. Is 30 days an adequate amount of time? How was the term of 30 days picked? Is there an issue around consulting with people as a part of that process?

Hon STEPHEN DAWSON: I am told that it is for fairness to the applicant and to make sure that the police appropriately assess the appeal; 30 days would seem to be a reasonable time in which to do that.

Hon Dr STEVE THOMAS: I do not have a measure of whether the days are good, bad or indifferent, I was simply interested in how we arrived at that. The commissioner will then either vary the short-term order and give a written response or revoke that with a written response. I am particularly interested in when a short-term exclusion notice is revoked. I assume that that would come off the secure website that we decided earlier I do not know a lot about. Is there something that could suggest that perhaps the exclusion order should not have been applied in the first place? Once it is up, it will be measured, so I am just thinking about whether the aggrieved person has a right to be aggrieved because they have been on a website for misbehaving persons when perhaps they should not have been.

Hon STEPHEN DAWSON: The short-term orders will not be made public; it is only the extended orders that will be made public, honourable member.

Hon Dr STEVE THOMAS: I am happy to accept that; it is not a huge issue.

Proposed section 152NG provides that a short-term exclusion order will be automatically revoked when an extended exclusion order comes into place. I therefore presume that the notification that will go to the various nightclubs et cetera would be automatic and basically immediate. Will there be a delay process for applying the extended exclusion order instead of the short-term exclusion order?

Hon STEPHEN DAWSON: One just takes over from the other, I am advised.

Hon Dr STEVE THOMAS: I propose that I will sit down in a minute to give Hon Dr Brad Pettitt another go so that we can very slowly work our way through the bill. I note that Hon Dr Brad Pettitt's next amendment on the supplementary notice paper is to page 34, which is a fair way away, but given it is all the same clause, I am happy to break it up a little bit and not have to work my way there bit by bit.

Proposed section 152NI on page 23 states that the commissioner must issue guidelines. I imagine that the commissioner is already working on the guidelines, but I want to check that that is the case and that they are expected to be out before Christmas, which is now three weeks away, to ensure that the legislation is in operation at that point.

Hon STEPHEN DAWSON: The guidelines are being finalised at the moment and they will be operational once the legislation comes in.

Hon Dr STEVE THOMAS: This is my last question before I give Hon Dr Brad Pettitt a go.

We have effectively dealt with the short-term exclusion orders, so I go to the beginning of division 3, "Extended exclusion orders", on page 24. Proposed section 152NJ(3), midway down page 24, states —

The Commissioner of Police must ensure that a copy of the application is served on the subject person in accordance with section 152NZQ(2).

I presume that a police officer will serve it, or will it be done through the standard serving of documents, as occurs under other legislation?

Hon STEPHEN DAWSON: I am told that it will be posted to the person, which is what happens in the case of barring notices or prohibition orders.

Hon Dr BRAD PETTITT: As Hon Dr Steve Thomas indicated, I have given notice of some changes, starting at page 34, which are focused around times. I will start with some questions on this.

The DEPUTY CHAIR (Hon Jackie Jarvis): Hon Dr Brad Pettitt, are you moving amendment 12/16 standing in your name?

Hon Dr BRAD PETTITT: Not yet, but I will come to that very shortly. Thank you.

I just have a couple of questions before I move that amendment. I understand from the minister's second reading speech and the like that this bill is very much aimed at entertainment precincts and the violence that often occurs in the early hours of the morning. Is that a fair summary?

Hon STEPHEN DAWSON: I am told by the advisers that offences occur at all times of the day.

Hon Dr BRAD PETTITT: I raise this because of the nature of the one-punch attacks and those kinds of things. Anecdotal evidence suggests that they largely occur during night-time hours. Is that a fair assessment?

Hon STEPHEN DAWSON: If the member is referring to Mr Raco, that was certainly in the early hours of the morning, but I am told that crimes are committed all day long.

Hon Dr BRAD PETTITT: Is there data around the hours of the day when one-punch attacks occur, for example, and the percentage of those that would occur during night-time versus daytime hours?

Hon STEPHEN DAWSON: No, I do not have access to that granular detail, honourable member. In fact, we may well have to go through individual files to actually work out when one-punch attacks take place.

Hon Dr BRAD PETTITT: Having had a quick look at them, it is my memory and understanding that all those that I am aware of—I am certainly happy to be corrected—occurred at night-time, often in the early hours of the morning. I certainly think that is pretty consistent with most people's understanding.

I flag that because it is at the heart of these amendments. I appreciate that the focus of the PEP bill is the horrific attacks and the impacts they have had on people and their families. I think we can all agree they are abhorrent, but I am not aware of any such attacks occurring on a weekday morning when the sun is up. That is, again, the reason that this bill is in danger of overreach. Rather than having a defined exclusion period, people will be excluded from these entertainment precincts at all times. I move (by leave) —

Page 34, line 29 — To delete "at all times." and insert —

between the hours beginning at 7.00pm on a day and ending at 7.00am on the following day only.

Page 35, line 7 — To insert after "times" —

between the hours beginning at 7.00pm on a day and ending at 7.00am on the following day

Page 35, line 11 — To delete the line and insert —

(a) between the hours beginning at 7.00pm on a day and ending at 7.00am on the following day; or

Page 35, line 12 — To insert after “times” —

between the hours beginning at 7.00pm on a day and ending at 7.00am on the following day

These amendments are simple and propose to delete the words “at all times” and insert the words “between the hours beginning at 7.00 pm on a day and ending at 7.00 am on the following day”. I think we would all agree that period is when the overwhelming majority of harm from alcohol in these entertainment precincts takes place. The proposed amendments would refine and better target the intent of the bill and, in doing so, eliminate unintended consequences affecting some of the most disadvantaged during times when the areas are not really operating as entertainment precincts. These are concerns shared by stakeholders such as the Aboriginal Legal Service of WA and others, who suggested the amendments. On that basis, I put these amendments to the chamber and hope that they will be supported.

Hon STEPHEN DAWSON: Obviously, the legislation before us does not deal with only one-punch attacks; we are talking about a broader range of offences. We cannot say that sexual assault, murder, manslaughter, drink spiking or alcohol-fuelled violence happen only within the window the member talks about. We only have to look at things like grand final day, daytime concerts or the soccer, when lots of people are in town, drinking, in the middle of the day. We cannot say it happens only within that 7.00 pm to 7.00 am window. Entertainment precincts also contain a concentration of other licensed premises, such as restaurants, cafes and small bars. It is necessary to exclude people from the protected entertainment precincts during the day, as there is still activity outside of the traditionally busy night-time period. To give another example, Hillarys Boat Harbour is a popular destination for many families and tourists during the day. It would not be appropriate for excluded persons to have access to that precinct during the day. Fremantle and Perth are other examples of popular destinations for families and tourists during the day.

As we have spoken about previously, there are a range of defences for entering a precinct. They are things like attending one’s own residence or attending another person’s residence to provide care. They include being in an area for the purpose of work, education, receiving a health or welfare service, receiving legal advice, being in lawful custody, complying with a written law or attending court, attending a religious ceremony, undertaking authorised union activities, an Aboriginal person fulfilling a cultural practice or obligation, or undertaking permitted travel. A range of those conditions are necessary, depending on the circumstances. We do not believe these amendments will make the bill better, and we will not support them.

Hon Dr STEVE THOMAS: The opposition does not support the amendments proposed by Hon Dr Brad Pettitt. It is very difficult to narrow down the bad behaviour to a 12-hour period of 7.00 pm to 7.00 am. I do a lot of travel and go through random breath tests quite a lot. In fact, I have come to know some of the fine officers in the south west on a first-name basis. Particularly if I am doing the Albany to Donnybrook run home, I am not infrequently pulled over by—let us just call him Peter. I amazes me that I am often pulled over mid-morning. My first response is: “It’s a bit early in the morning, surely!” On a big night, I might have four or five glasses of wine when I get home, but I would have to work pretty hard to still be over the limit by nine o’clock in the morning. The answer is traditionally that they are out there at that time of the morning because they find people who are over the limit. People are either drinking early or drinking a heck of a lot late. That would indicate that alcohol-fuelled activity certainly occurs outside of that 7.00 pm to 7.00 am window.

On very rare occasions, I myself have imbibed before the sun is over the yardarm. There have been times when I have partaken of alcohol over lunch. I would like to say it does not happen all that often, although my wife might suggest it happens more frequently than I admit to. The reality is that it happens, and I have seen plenty of people well in their cups at lunchtime. Limiting the restrictions to between 7.00 pm and 7.00 am, as is proposed by these amendments, would potentially just shift the behaviour. I talked in my speech in the second reading debate about preloading. I do not necessarily agree with Hon Dr Brian Walker that the third glass is the point at which we see the impacts of neural depression and neural regression; it depends very much on how accustomed a person is to taking alcohol, but I think we would simply run the risk of preloading and shifting, which would not serve the purpose for which the legislation is intended. The legislation is intended to keep a very small number, if we are to believe the speeches of the various ministers, of high-risk perpetrators away from people they might put at risk. I am reminded of the words of Hon Tjorn Sibma before his unfortunate health issues this week.

Hon Stephen Dawson: Does he have COVID?

Hon Dr STEVE THOMAS: No. He actually had appendicitis. He had surgery.

Hon Sue Ellery: He’s in the paper.

Hon Dr STEVE THOMAS: Hopefully, it is only for appendicitis! Hon Tjorn Sibma said this bill is about him being able to safely take his family to one of these precincts. These amendments would water it down by restricting it to between 7.00 pm and 7.00 am. I do not imagine Hon Tjorn Sibma and his young children are going to be in these areas overnight; they will be there in the middle of the day, and this legislation is designed to keep the community

safe from antisocial behaviour at all times. For those reasons, the opposition will not support the amendments proposed by Hon Dr Brad Pettitt.

Amendments put and negatived.

Hon Dr STEVE THOMAS: I look forward to the debate on my amendment later on. I note that Hon Dr Brad Pettitt has a couple more amendments after that, but we need to deal with them in order if we can.

I refer to proposed section 152NP on page 30 that relates to an application for variation. Bearing in mind that we are in the part of the bill now that deals with extended exclusion notices, proposed section 152NP suggests that the applicant for a variation will need to effectively provide the evidence. My question relates to access to evidence. The two most obvious forms of evidence are likely to be CCTV footage of the venue or perhaps police body-worn camera footage. What is the likelihood that somebody who seeks an application for variation will be able to get access to those bits of evidence?

Hon STEPHEN DAWSON: In this case, they will be seeking a variation of the order that has already been issued. The member's question probably relates to an earlier stage of the process.

Hon Dr Steve Thomas: By way of interjection, not necessarily. This is for an application for variation. Proposed section 152NP says that the applicant should provide the evidence as to why the order is to be varied. An order would already be in place and they would be seeking for it to be varied. Perhaps they might be seeking for it to be varied because they believe that they were misrepresented in the initial application. How likely would they be able to get the evidence that supports their application if that evidence was CCTV footage from the club or body-worn camera footage from the police?

Hon STEPHEN DAWSON: I think that they would have done that earlier in the process. Let me just explain it to the member. In this case, the example that has been given is that they are seeking a variation to the order because they work in the precinct. They might provide evidence of work rosters showing that they work in the precinct between 7.00 am and 7.00 pm. Based on that evidence, they would seek a variation. I know what the member is asking —

Hon Dr Steve Thomas: It also deals with revocation. If a person wants to revoke an order, they would presumably be arguing that the decision was wrong.

Hon STEPHEN DAWSON: In relation to the member's question about accessing body-worn camera footage or CCTV footage, the person would go through the normal process to seek access to that vision, which I think would be an FOI process.

Hon Dr STEVE THOMAS: I agree with that being an FOI process in the case of the police. However, it might be an issue if the activity happened in a protected entertainment precinct. I think that local governments generally run the CCTV cameras, but I am not sure whether the Western Australia Police Force runs them in the city centre.

Hon Stephen Dawson: It's the City of Perth.

Hon Dr STEVE THOMAS: The City of Perth run them, good. The City of Bunbury runs its cameras. I do not know how many there are. The person could access that CCTV footage through the FOI process and they could access the police body-worn camera footage, I presume, through the same process. If there were any issues, they could ultimately go to the Corruption and Crime Commission if they thought that they had been hard done by. If something occurred inside a licensed premise, the only evidence might be on the CCTV footage of the licensed premise. Can the minister advise whether the privacy angle of that particular footage means that it would not be accessible? It might be something that ultimately WA police and the various organisations of the nightclub industry might have to negotiate to work out whether that should be available to people who seek to revoke an order in which they think they have been misrepresented.

Hon STEPHEN DAWSON: I am told that that evidence would be likely to have been presented by police when seeking an extended order, so it would be available.

Hon Dr Steve Thomas: So it should be available.

Hon STEPHEN DAWSON: Yes.

Hon Dr STEVE THOMAS: That is good. I refer to proposed section 152NS(1) on page 32 that states —

The Director may vary or revoke an extended exclusion order on the Director's own initiative.

Presumably, this is when the director would take another look at the exclusion order. I am interested to know when that might occur. Is it the case that the director might have another look? Will there be a time frame in which he or she will have to potentially review an exclusion order, or does proposed section 152NS(1) have some other intent?

Hon STEPHEN DAWSON: That could be done at any stage by the director of Liquor Licensing, who is a woman.

Hon Dr STEVE THOMAS: This is not necessarily a question but more of a statement: we need to encourage the fact that any internal review would not necessarily be a bad thing. It would not be an admission of fault or failure on behalf of the person who submitted the order in the first place. It is a bit like the debate we have around advising people of potential activity—we need a culture of being able to make mistakes and having an open discussion about that. It might be something that we pick up down the track. The minister does not need to reply to that. Does the minister want to respond before I continue?

Hon Stephen Dawson: No. I haven't got anything else to add.

Hon Dr STEVE THOMAS: I refer to proposed section 152NV, "Exclusion order applies at all times unless varied", on page 34. I am interested in this provision and I have a couple of questions around it. It states —

- (1) Subject to subsection (2), the prohibition in an exclusion order on the subject person entering or remaining in all protected entertainment precincts applies at all times.
- (2) The Commissioner of Police under section 152NF(4)(a), the Director under section 152NR(2)(a) or the Commission on review or appeal may vary an exclusion order so that the prohibition in the exclusion order on the subject person ... applies only at times specified in the order.

We sort of debated Hon Dr Brad Pettitt's amendment about making it 12 hours from 7.00 pm to 7.00 am. What are the sorts of circumstances in which we would vary the times to make it meet whatever is desired under this provision of the bill?

Hon STEPHEN DAWSON: There may well be child custody arrangements, for example, that require the person to pick up their child from an estranged partner or drop off their children in a precinct. Another example is that if a person is required to be in a precinct on a regular basis but the circumstances are not covered by one of the prescribed defences, the exclusion order could be varied to allow the person to be in a precinct during business hours Monday to Friday but not in the evenings or on the weekends.

Hon Dr STEVE THOMAS: I had not thought of child custody. Given that it is an entertainment precinct, assuming it is family friendly, that is probably not unusual.

Hon Stephen Dawson: Whether or not it is family friendly, it may well be that one member of the family works in a restaurant or a coffee shop in town.

Hon Dr STEVE THOMAS: Okay. That provision makes sense. We will get to proposed section 152NZK on the defences, which starts at page 48, in a little while. We may well finish the debate on this clause on that proposed section, but I do not think we will finish that section of the debate before six o'clock, so my apologies to the advisers. I hope the government is providing a nice dinner!

Hon Sue Ellery: Yes, he is.

Hon Dr STEVE THOMAS: The minister is—excellent! I would hope so.

That distracted me for a minute. Proposed section 152NW, "Form of exclusion order", states that the order must be in writing and approved by the director. Perhaps the minister can explain things by interjection to speed things up. It is not written yet, but do we know what it will look like?

Hon Stephen Dawson: We don't. I am told we are waiting for this legislation.

Hon Dr STEVE THOMAS: So we are nearly there and it will not be long.

Hon Stephen Dawson: I can add further that it will be similar to prohibition orders and barring notices.

Hon Dr STEVE THOMAS: That makes sense. I think the government is roughly on the right path there.

There is proposed section 152NX, "Exclusion order must be served and explained". We have dealt with serving the order. I wonder whether there is a risk with legislating that it must be explained, because that potentially opens a door for the defence of a person simply refusing to accept the explanation when it should be fairly obvious. The explanations are listed at proposed paragraphs (a) to (f), and I think one of the issues is that they are a little complicated. The list starts with the duration and effect of the exclusion order, and then the consequences of contravening the order, the effect of various sections, the right of review, and where they can apply for that review. I understand the government wants to try to make sure that the person to whom this will be applied is aware of and understands their obligations, but—again, this might be fairly standard legislative activity—is there a risk that during the serving of the notice the person will say they do not understand; and, if that were the case, how would the cut-off be measured? Will the person be told, "I have explained it to you in the simplest terms possible. Surely, everybody can understand the simple words that I've used. Therefore, we are going to deem that you have understood, even if you continue to sit and shout at us that you don't"?

Hon STEPHEN DAWSON: First of all, I am told that the explanation provision is similar to that in the Criminal Law (Unlawful Consorting and Prohibited Insignia) Act, but I bring to the members' attention proposed section 152NX(4),

which provides that failure to explain an order will not invalidate the order or affect the person's liability for an offence for noncompliance with an order.

Hon Dr STEVE THOMAS: But it might potentially impact on a review, for example. I am just checking to make sure that that will not apply.

Hon Stephen Dawson: By way of further interjection, the explanation can be in writing. An explanation can be handed over.

Hon Dr STEVE THOMAS: That is a good idea—assuming they can read. It certainly is another way that it might be explained to them and it gives them a written form that they can take to somebody else. I think that is probably a good idea to balance that out.

Proposed section 152NZA, “Correcting mistakes in exclusion order”, is at page 37. It states —

- (1) The Commissioner of Police ... or the Director ... may correct an exclusion order to the extent necessary to rectify —
 - (a) a clerical mistake; or
 - (b) a mistake arising from an accidental slip or omission;

I kind of like that that is in the bill. The legal precedent of having an error in one of these documents so that suddenly somebody is able to legally oppose it is fairly strong. Will that provision be sufficient to basically cover any omission or miswording that might be in one of these orders? I presume this provision will get rid of any capacity to challenge on the basis of miswording?

Hon STEPHEN DAWSON: It will not stop them from challenging an order, but if we were to see a mistake in it, this will allow us to rectify that mistake in the order.

Hon Dr STEVE THOMAS: Hopefully, at some point in the future, the minister will give me an explanation, as we discussed previously, on the definition of the subject person in relation to the order who is not a juvenile, because effectively the same thing is outlined at proposed section 152NZC(3). It refers to the personal details that should be there and the definition of “secure webpage”. As with the short-term exclusion orders, it will be the same with long-term exclusion orders. I guess the plus is that they are worded pretty much exactly the same. It would be very useful if the minister could get me some advice on the how an extended exclusion order will not relate to a juvenile having a wider range. I suspect that the explanation will be exactly the same.

Proposed section 152NZE, “Relationship with *Criminal Organisations Control Act 2012*”, is at page 42. We are getting though it pretty quickly now. It states —

An exclusion order is of no effect to the extent that it conflicts with or duplicates a condition of an interim control order or a control order under the *Criminal Organisations Control Act 2012* ...

I imagine it would make no difference if it were to duplicate a condition, because the person would be excluded from one district under this legislation and from other districts under the *Criminal Organisations Control Act*. I struggle to find an example of when they might conflict. Is there a reason we think there might be a conflict between that act and this legislation once it is in force?

Hon STEPHEN DAWSON: A control order issued under the *Criminal Organisations Control Act 2012* imposes certain restrictions on the activities of those persons, such as prohibiting them from associating with each other, and may also restrict other activities, such as carrying on certain occupations, possessing firearms and other things, and accessing or using certain forms of technology or communication. An exclusion order will have no effect if it conflicts with or duplicates a condition of an interim control order or a control order under the *Criminal Organisations Control Act 2012*. This provision is consistent with the provisions relating to prohibition orders.

Hon Dr STEVE THOMAS: I intend to complete my contribution to the committee stage on proposed section 152NZK at page 48, which is the defences section. There is an amendment in my name at 1/16 on the supplementary notice paper. We will not have time before the dinner break to explore that in any significant detail, but we will get to it immediately after the dinner break. I note that Hon Dr Brad Pettitt has a couple more amendments to go after that. I think we are going to finish in about 40 seconds, so rather than start on that process, I indicate that will be my last substantive question in that area, and I am prepared to move on with the bill because we have given it a pretty fair examination.

Sitting suspended from 6.00 to 7.00 pm

Hon Dr STEVE THOMAS: We have given this bill a fair old examination. I hope the minister's advisers enjoyed their caviar and lobster at the minister's table this evening, but we are coming closer to the end of proceedings tonight, so I will not be able to stretch it into breakfast for you—sorry!

I will shift to page 48, which is the commencement of proposed section 152NZK. For members' edification, this proposed section deals with defences against proposed sections 152NZI and 152NZJ. Proposed section 152NZI is the offence for failing to comply with an exclusion order. That provides for a penalty of up to two years' imprisonment and a fine of \$12 000. Proposed section 152NZJ also provides for a penalty when an excluded offender has been convicted of a specified offence and has remained in a protected entertainment precinct during the exclusion time—so, commits a crime, the penalty for which is imprisonment for five years. I note that under proposed section 152NZI, the penalty is only two years, but under proposed section 152NZJ, which relates to the excluded offender, the penalty is five years. On a summary conviction, the penalty is two years and a fine of \$12 000, which equates to the penalty in proposed section 152NZI, which is basically for the person who ignores the exclusion order and attends a protected entertainment precinct despite the fact, as we debated earlier, they have been duly informed both of the fact that the order exists and have had why they had been excluded explained to them, perhaps in a written document, as well as a verbal explanation. There are a range of defences against this, and some obviously make sense. The list of defences are in proposed paragraphs (a) to (n), and I will start to work my way through them in a reasonable fashion. What will the defences be for being caught in a protected entertainment precinct when a person has already had an exclusion notice applied?

I refer to page 49 for those members who are following, and I am sure that a lot of people at home are watching on with great enthusiasm! The person will be permitted to travel through a protected entertainment precinct, or access or use a mode of transport in the precinct, for the purpose of getting to a place outside the entertainment precinct, in particular, or to travel through that precinct for one of the other exclusion processes. Although they would be travelling, they would still have to demonstrate that they were travelling through the precinct without stopping or that they were travelling for one of the other purposes that might stop them in the precinct that are listed in proposed section 152NZK(3)(b) to (n). Proposed section 152NZK(2) states that the person may enter the protected entertainment precinct if they —

- (b) took the most direct route through the protected entertainment precinct ... and
- (c) did not stop unnecessarily in the protected entertainment precinct or remain in the protected entertainment precinct for any purpose other than the relevant travel ...

As long as that is all met and the person is doing one of these other things, they will have a defence against prosecution and the charge. The defences for entering a precinct are listed under proposed section 152NZK(3), which starts at page 50. The accused person may be at their usual place of residence; that is fine. If they live there, it will be very hard to ban them from living there. They could be at another person's place of residence if they are the sole carer and it was necessary under the circumstances. They will have to prove that they need to be there. Proposed section 152NZK(3)(c) states —

the accused was engaging in a lawful occupation, trade or profession;

They can go into the precinct for work, but they would need to demonstrate that they are at work. Under proposed paragraph (d), they can go there for educational studies, such as taking part in secondary or higher education. Proposed paragraph (e) states that an accused person can go there to receive health services or social welfare services and proposed paragraph (f) basically relates to the same outcome. Proposed paragraph (g) provides that an accused person can visit their lawyer if they are receiving legal advice.

Proposed paragraph (h) is interesting. If the person is in custody, they obviously will not necessarily be able to remove themselves from an entertainment precinct. I am not sure how many lock-ups there are in the entertainment precincts, but the minister might be able to tell us that in a bit.

The list includes persons complying with a written law or an order made by a court or tribunal, under proposed paragraph (i). Proposed paragraph (j) refers to a person who must appear before a court or tribunal.

I think proposed paragraph (k) is interesting; it provides for persons attending a religious service. It states —

... and it was necessary in the circumstances for the accused to be in the protected entertainment precinct in order to attend a religious service.

Let us start with this before I get to my substantive amendments. Are there any lock-ups or proposed lock-ups in the protected entertainment precincts? I also want to check that, under proposed paragraph (k), which provides for attending a religious service, simply attending a service for the sake of attending a service will not be a defence under the bill. Will the accused person have to be there for employment or to perform something that cannot be done by someone else? I am not certain how many churches there are in the proposed entertainment precincts. I know that there are certainly several in the middle of Sydney—the Wayside Chapel, for example. There may be some of those. I want to check those two things before we commence on the substantive amendments.

Hon STEPHEN DAWSON: There were a couple of questions in that. Police stations generally have lock-ups. The member will find that there will probably be lock-ups in all these proposed protected entertainment precincts. The Perth watch house is in Northbridge, which is in the proposed area.

An accused person attending a church service or religious ceremony would need to be attending a baptism or a wedding or something like that. They cannot go to mass on a Sunday morning; it cannot be a regular occurrence. There are probably a few churches in these proposed PEPs. When I think about it, St Brigid's Church in Northbridge on Fitzgerald Street is 200 metres away from the Perth watch house, and there is probably one on Beaufort Street. There is another denominational church there, so there are a few in there.

Hon Dr STEVE THOMAS: I presume they will not have to be one of the people getting married. For example, they could just be an attendee.

Hon Stephen Dawson: That is if it is necessary for them to attend. It might be their son, daughter, brother or sister.

Hon Dr STEVE THOMAS: Ultimately, is it really necessary? I get the argument. If it seems important, then okay. That was proposed paragraph (k). Proposed paragraph (m) is about if the accused is an Aboriginal or Torres Strait Islander fulfilling a cultural practice. I think that is reasonable, as long as it is a genuine cultural practice. Proposed paragraph (n) is about if the accused is undertaking permitted travel in relation to the protected entertainment precinct. Can the minister define what "undertaking permitted travel" is, given it is an exemption to a charge under the bill?

Hon STEPHEN DAWSON: Undertaking permitted travel means if a person is travelling through or accessing a mode of transport in the precinct for the sole purpose of getting to a place or doing a thing—it is referred to in one of the prescribed defences—or is getting to a place outside the precinct. A person must take a direct route through the precinct and not stop unnecessarily or remain in the precinct for any purpose other than the relevant travel or to access the mode of transport.

Hon Dr STEVE THOMAS: I would have said that sounds remarkably similar to proposed subsection (2), travelling through et cetera, but I do not object to the fact that it is doubling up. That leaves us with proposed paragraph (l), which states —

the accused was a member of an organisation of employees registered under the *Industrial Relations Act 1979* Part II Division 4 or the *Fair Work (Registered Organisations) Act 2009* (Commonwealth) and was undertaking activities for the purposes of the business of the organisation and it was necessary in the circumstances for the accused to be in the protected entertainment precinct in order to undertake the activities;

Effectively, paragraph (l) relates to union officials. Is that how I should read that?

Hon STEPHEN DAWSON: It is not necessarily union officials; it could be a union delegate. Although the Australian Medical Association is obviously the biggest union in the country, it would not be in the Perth protected entertainment precinct.

Hon Dr Steve Thomas: I am not sure it is the biggest. It may be the most effective, but I am not sure it is the biggest.

Hon STEPHEN DAWSON: It is one of the strongest ones. A number of other trade unions would have head offices in the likely Perth exclusion area, but it would not have to be a union organiser; it could be a delegate.

Hon Dr STEVE THOMAS: I may have to find out whether the Australian Medical Association is registered under part II, division 4 of the *Industrial Relations Act 1979* or the commonwealth *Fair Work (Registered Organisations) Act 2009*. It might be interesting to ask the question.

Hon Stephen Dawson: From memory, I think they are registered under the *Industrial Relations Act 1979*. I could be wrong.

Hon Dr STEVE THOMAS: I am not going to hold the minister to that. I am happy to work that out down the track. We might find that out. It is interesting that there has to be a special dispensation for union delegates, potentially union organisers. Proposed paragraph (c) states —

the accused was engaging in a lawful occupation, trade or profession;

If someone is an employed union organiser, I would have thought they would have a defence under proposed section 152NZK(3)(c). The fact that there will be a specific designation under proposed paragraph (l) for union delegates is a very interesting outcome. It perhaps reflects the importance that the government holds the union movement in. I can understand why, given the level of control and administration the unions have over what happens in the Labor Party. I am sure that we are all well aware of the mighty power brandished by the United Workers Union and a few others. It is interesting that the government sees fit to put in a clause that specifically empowers the union movement and its desire for outcomes over others. For example, if someone is an organiser or advocate for the Australian Labor Party, they will not necessarily be able to rely on any exemption in the bill that is before the chamber today. The defence will apply only if they are affiliated with a union. Of course, the same will apply

to a member of the Liberal Party or any other political party. I did not note anything in the legislation about volunteers for another organisation. If someone who is on the list doorknocks on behalf of the Salvation Army, they will not necessarily get protection, but if they are a member of the union movement, I suspect they will. That is the specific part of the bill that we are about to debate. That just makes me wonder—it really does—why the union movement requires a level of protection above and beyond anybody else. Is there an expectation by the government that union members are likely to be picked up by the Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022? Is there some reason that union delegates or representatives need to be a protected species? Is there some thought by government members that there might be a risk that some union delegates might be hit with exclusion notices, and is that the reason we will have a specific protection in place for them? I am interested in why the union movement will get a level of protection that nobody else will get. I would have thought that the days of the old Builders Labourers Federation are surely long behind us, and that the union movement does not engage in the level of thuggery that it perhaps did in decades past. It would appear that there is some risk and that the Labor Party is a bit concerned that the union movement is a little frightened about its delegates being caught by this legislation and, therefore, it has to provide a specific exemption in black and white. I am intrigued to know precisely why. Perhaps the minister could start by telling us why the union movement is deemed to be a separate body compared with everybody else, and explain why a special exemption should apply under the bill we are debating tonight.

Hon STEPHEN DAWSON: As I indicated earlier, this is not necessarily about union organisers. Union delegates are ordinary members of the community who are elected by their peers—sometimes they are workers in their workplaces—to do a specific job, and that is to run the union, but they are not employees of the union, so they are not captured under any of the other defences. I make the point, and place on the record, that the Australian Medical Association (WA) is expressly referenced in the Industrial Relations Act 1979 as the organisation that represents the industrial interests of medical practitioners in Western Australia. I do not think for a moment that the member is suggesting that the AMA is linked to the Australian Labor Party, or, in fact, that the Australian Nursing Federation, another union in this state, is linked to the Labor Party. There are many. But is it possible that, in the future, a doctor, nurse or member of one of these organisations could be captured and fall foul of the PEP legislation? It is possible, as other organisations could be captured.

The defence in this bill is consistent with the Criminal Law (Unlawful Consorting and Prohibited Insignia) Act, in which a similar defence has been considered and included by this Parliament. For reasons of consistency, the government intends to include the defence in this bill.

Hon Dr STEVE THOMAS: I am just trying to remember which government introduced the Criminal Law (Unlawful Consorting and Prohibited Insignia) Act. Which year was that?

Hon Stephen Dawson: It was 2021.

Hon Dr STEVE THOMAS: Therefore, that legislation was also introduced under a Labor government. If the defence is that —

Hon Stephen Dawson: And also agreed by Parliament.

Hon Dr STEVE THOMAS: This will be agreed by Parliament, too; that does not mean we will not have a battle about it. The fact that the government controls the vote at the moment means that this bill will be agreed by the Parliament. That does not mean that we will not make a stand on it. I do not think it is a defence that because the Labor Party applied this rule to their union friends/managers in a previous piece of legislation, it is reasonable —

Hon Stephen Dawson: You can't call the AMA or the ANF or the Community and Public Sector Union—Civil Service Association of WA “Labor friends”. They are not affiliated with the Labor Party or any political party, as I understand it.

Hon Dr STEVE THOMAS: That is a good interjection, minister. I do not think the AMA and the ANF are necessarily the Labor Party's friends at the moment. That does not mean they are the Liberal Party's friends either, just quietly, or the alliance's friends.

Hon Stephen Dawson: I am not saying they are not friends. I am saying they are not affiliated with the Labor Party.

Hon Dr STEVE THOMAS: They are not officially affiliated. I suspect that this proposal in the legislation is not necessarily designed for them. The question then remains: what are the meetings or events that delegates of a union would need to attend in these precincts? Firstly, surely a delegate who has been found guilty of one of the heinous crimes listed in this bill would not be chosen to represent the union in its debates. Secondly, if brother John Smith of the Builders Labourers Federation—I will use the BLF because it does not exist anymore—wanted to attend a union meeting but has had an order placed against him, the location of the meeting would simply be shifted. This is about having one rule for union representatives that does not apply across the board to everybody else. I do not accept in the slightest that because this rule exists under other Labor legislation, it should exist under Labor legislation now. A precedent is not a reason. It just means that when the Labor Party was in charge in 2021, it looked after its

union mates, and it is going to do the same thing again in 2022. That is not a reason for not looking at deleting proposed subsection (3)(l).

I move, as per supplementary notice paper 90, issue 2, at 1/16 —

Page 51, lines 23 to 32 — To delete the lines.

That will effectively be all of proposed subsection (3)(l).

Hon STEPHEN DAWSON: Under the Industrial Relations Act, there are all sorts of elected union positions. There are certainly health and safety officers who have been elected by the workers and have a statutory role under the act. This would allow such a person to conduct union business in a protected entertainment precinct. A union delegate could not just decide to go through Northbridge. The person must be on union business. A person may be on the management committee of a union or industrial association, and the meeting will take place in the head office, which is in a PEP. The bill, as it stands, will allow that person to have the defence that they are in that precinct because they are on union business.

As I said, the member is trying to make this a Labor Party thing. A lot of unions are not affiliated with any political party. Unions play a key role. The difference between members opposite and us is that we believe in the rights of workers to organise, make society better and bargain on behalf of workers. The member does not like that. That is fine. We come from a different place. The member is on the right and we are on the left. We support trade unions. We support democracy. We do not support the change that the member is proposing.

Government members: Hear, hear!

Hon Dr STEVE THOMAS: There is a chorus of “Hear, hear!”, which I think sums up where we are tonight, which is fantastic. The defence of the government is that this proposed subsection needs to be in place to provide an exemption for a person who, because of their behaviour, be it antisocial or otherwise, has been charged with a serious offence and is subject to an exclusion order. Remember, we are dealing with only a small number of recidivist offenders who will be excluded from the entertainment precincts, but we need a special exemption for union members and organisers et cetera. They will get a special exemption from the normal behaviours that we would expect of a regular person, so much so that we are being told that a health and safety officer of one of the unions might have an official exclusion but will continue to be the occupational health and safety officer, as elected by the union delegates. That is sufficient for them to be granted an exemption under the bill that we are dealing with tonight. I do not know of too many unions that are so bereft of employees that they could not find one cleanskin, if you will, who was not subject to an exclusion order in the protected entertainment precincts to deal with the business of the day. Surely we are not dealing with the old Builders Labourers Federation days —

Hon Stephen Dawson: This is a person who is a union delegate already. They have been elected. It is not a case that after the fact they become a union delegate and get an exemption. They would be a union delegate or whatever of an industrial relations organisation already.

Hon Dr STEVE THOMAS: That is exactly right, minister. They could have been a union delegate for decades.

Hon Stephen Dawson: They might not have been one at all.

Hon Dr STEVE THOMAS: Suddenly, because of the standard of behaviour they exhibit, they will be excluded from protected entertainment precincts but will get an exemption.

Hon Stephen Dawson: As does a lawyer who needs to go to work and a politician who needs to go to Parliament, potentially, if Parliament is in the PEP.

Hon Dr STEVE THOMAS: That is the case if they need to go to work and that is what they are paid to do.

Hon Stephen Dawson: You can’t just cast aspersions on unions. What about politicians if they have a defence?

The CHAIR: Order, members! The Committee of the Whole allows every member to speak for 10 minutes each at a time, and it is the Leader of the Opposition’s turn.

Hon Dr STEVE THOMAS: They do not like it, but the reality is that there is a special deal for unions and the government’s mates. They are not keen on it and do not like the debate, but that is okay. I will move the amendment and I will lose, but I make the point that when the Labor Party has exemptions that look after its people, it diminishes what is intended under the bill. I am sure the government will walk out of here proud and happy that its legislation passed and that the union movement was protected, but the reality is that the double standard will be remembered. I think that will be very interesting in the future. Surely the union movement can find someone to represent the interests of the union who is not one of the handful of individuals whose behaviour was so bad that they were slapped with an exemption order in the protected entertainment precincts, but maybe I am wrong. Maybe that will not be the case. Time will tell. I commend the amendment to the house.

Hon STEPHEN DAWSON: I will make one point very clear to the member: there are no exemptions in this bill. If the Leader of the Opposition sat through this debate for days and is still talking about exemptions, he is wrong. There are no exemptions for unions, doctors or nurses. There are defences under the legislation before us—defences, not exemptions. Everyone will be treated the same.

Hon Dr Steve Thomas interjected.

Hon STEPHEN DAWSON: The Leader of the Opposition had a go; let me have a go. I made the point that it could be a union official, a member of Parliament, a nurse, a doctor or a psychiatrist—who knows? There is a list of defences in this bill. This Parliament voted previously on another bill that provided a defence, and we are providing the same defence in this legislation. This is not about mates or anything else; it is about fairness. We will not support the amendment.

Hon Dr STEVE THOMAS: I was going to sit and allow the amendment to go to the vote, but the minister raised doctors and politicians —

Hon Stephen Dawson: They are going to work, so they have a defence. It is listed.

Hon Dr STEVE THOMAS: Where does it say doctors, nurses and politicians in proposed section 152NZK of the bill?

Hon Stephen Dawson: In the act, it says that people can go to work.

Hon Dr STEVE THOMAS: That is right. It says that people can go to work. All the people the minister mentioned get lumped together when they go to work. That is fine. There is a special rule for unions.

Hon Stephen Dawson: For union delegates.

Hon Dr STEVE THOMAS: For union delegates; that is my exact point.

Hon Stephen Dawson: Being a union delegate is not a job.

Hon Dr STEVE THOMAS: The minister has just agreed with me.

Hon Stephen Dawson: I haven't agreed with you.

Hon Dr STEVE THOMAS: I am sure he did. I heard him agree.

Hon Stephen Dawson: I haven't agreed with you.

Hon Dr STEVE THOMAS: I heard him agree. The minister has agreed.

Several members interjected.

The CHAIR: Order!

Hon Dr STEVE THOMAS: The minister pulled out all the people he thinks are exempt and not one of them is listed in the bill, but unions are. I think I have made my point.

Hon Stephen Dawson: No-one's exempt.

Hon Dr STEVE THOMAS: The semantics notwithstanding, they will have a defence. Unions are the only ones that will keep a defence. It is the only occupation that is listed in the bill. I think that speaks volumes. I commend the amendment to the chamber.

Hon PETER COLLIER: I was not going to make a comment on this, but I will. After listening to what Hon Dr Steve Thomas said, I would like some clarification. Pretty much all the other defences are fairly prescriptive; there is clarity behind each of them. The one I am concerned about is proposed section 152NZK(3)(l) on authorised union activities. Can the minister explain to the chamber what authorised union activity is? It is very subjective.

Hon STEPHEN DAWSON: The defences will need to be necessary in the circumstances, like everything else. I gave an example of the management committee of the Australian Nursing Federation or the Australian Medical Association, should their offices end up in the PEP area. This defence is in the bill, but, as is the case for the rest of them, the evidence will have to be provided for why it is necessary to go into the PEP area. A person will not be able to say, "I'm in here just because I'm a doctor or a nurse." If the hospital that they work in is in the PEP, they will be able to access that defence, but not otherwise.

Hon PETER COLLIER: The minister has not really answered the question and I do not think he is going to be able to.

Hon Stephen Dawson: That's the answer.

Hon PETER COLLIER: I know that is the answer, but the minister has not answered the question.

Hon Stephen Dawson: Not to your satisfaction.

Hon PETER COLLIER: The minister has not answered the question.

Hon Kyle McGinn: He has answered the question.

Hon PETER COLLIER: Do you mind?

Hon Sue Ellery: He's a bit testy!

Hon PETER COLLIER: No, not at all! I know who is at the moment.

Several members interjected.

The CHAIR: Order, members!

Hon PETER COLLIER: It was so good when he was away.

Proposed paragraph (1) refers to “undertaking authorised union activity”. That is very subjective. I am not going to have a further debate on it, but it is extremely subjective. When I asked the minister to be more prescriptive, as it is for every other defence, the response was not forthcoming. Having said that, I think Hon Dr Steve Thomas's line of questioning was eminently sensible, and I certainly do not feel convinced that the answers he received justify undertaking authorised union activities. I just cannot see that in the responses we have received.

Division

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

Ayes (6)

Hon Martin Aldridge
Hon Peter Collier

Hon Nick Goiran
Hon Dr Steve Thomas

Hon Neil Thomson
Hon Colin de Grussa (*Teller*)

Noes (20)

Hon Sandra Carr
Hon Stephen Dawson
Hon Sue Ellery
Hon Peter Foster
Hon Lorna Harper

Hon Jackie Jarvis
Hon Alannah MacTiernan
Hon Ayor Makur Chuot
Hon Kyle McGinn
Hon Shelley Payne

Hon Dr Brad Pettitt
Hon Stephen Pratt
Hon Martin Pritchard
Hon Samantha Rowe
Hon Rosie Sahanna

Hon Matthew Swinbourn
Hon Dr Sally Talbot
Hon Dr Brian Walker
Hon Darren West
Hon Pierre Yang (*Teller*)

Amendment thus negated.

Hon Dr BRAD PETTITT: I want to be quick. For the benefit of everyone in the chamber, I have given notice of further amendments on the supplementary notice paper. Can I be up-front and say that, noting how the votes have gone so far, I am not going to waste everybody's time by debating them one by one. I will make a broad comment on the intent of the amendments. One of the further amendments to come was to put in place a further check and balance. Rather than having a review after three years, there would be a review every year. I think that would be wise. I will put a question to the minister to try to understand it: if unintended consequences play out through this legislation in the first couple of years, what remedies, checks and balances will be in place, given there is not a review until three years?

Hon STEPHEN DAWSON: There is nothing to stop us from amending the legislation. The Minister for Racing and Gaming is going through a big liquor reform consultation at the moment. That will eventually come to this place over the next couple of years. If at the same time we have noticed there have been adverse consequences with the legislation, it could be fixed at the same time.

Hon Dr BRAD PETTITT: My quick follow-up to that is: how would the government be aware of the adverse consequences? The process that has been lined up to happen at a three-year point is a review. As I said repeatedly, I think this legislation is quite far-reaching. I want to know how the government will have the information it needs to do something earlier if required.

Hon STEPHEN DAWSON: The three-year review is an independent review undertaken by the Parliamentary Commissioner—the Ombudsman. There is nothing to stop the department tracking this stuff on a daily basis. The department could well decide adverse impacts or issues need to be changed in 18 months, two years or however long after the bill passes in this place. That can be done outside the evaluation review done by the Ombudsman after three years.

Hon Dr BRAD PETTITT: I think my amendment would stand, and I stand by it. As I said, I am not going to bother going through the theatre of moving the amendment, but it would have given the bill greater value. It is concerning that there will be no independent review for three years; that is not timely. Having the review done earlier and annually, as suggested in my amendment, would be wise. In noting that no amendments to the bill will be accepted, I will leave it at that.

I will make a couple of other brief comments and perhaps ask one question that another stakeholder has asked us to follow up on. I would not mind getting clarification around the guidelines. If the police use their powers in a way that does not follow the guidelines, what will be the consequences? The minister talked about the Corruption and Crime Commission before, but I assume that is not covered in this area of the legislation. Given that the guidelines are not visible to the public, what are the internal consequences for police not following them?

Hon STEPHEN DAWSON: The Western Australia Police Force has internal processes that deal with issues of misconduct. Police officers swear an oath, so if they are suddenly not doing their job, internal processes will deal with that. As I said previously, although the CCC is not expressly mentioned in the bill before us, it has the power to oversight the police department in Western Australia. If an allegation is made, it can and it does, from time to time, look into decisions made by or complaints made about the police in this state.

I go back to the member's earlier comments. It could well be the case that 18 months down the track, a significant number of appeals have been made to and accepted by the Liquor Commission. That could be a reason for the government to decide that something is wrong and to amend the act at that time. We think it is important to allow the act to operate for a number of years. Three years is a good time because it allows for the act to be bedded down. This will allow us to get a sense of how many people have been captured by the PEP legislation. Once the independent evaluation has been carried out, the learnings from that can then be taken on board by government.

Other people have indicated that they have finished their questioning. I want to take the opportunity to acknowledge, as Hon Peter Collier did in his contribution, the advisers on this bill, who have been exceptional: Jennifer Shelton and Donna Kennedy from the Department of Local Government, Sport and Cultural Industries; Laurie Panaia and Wayne Hendrie from WAPOL; and particularly Adelaide Kidson, senior policy adviser to the Minister for Racing and Gaming, who has been demonstrated an enormous empathy for all the stakeholders, including in her dealings with the Raco family. This bill before us came out of a tragic circumstance and I think it will make a difference in the future.

Hon Dr BRAD PETTITT: This will probably be my last comment and my last question. Perhaps this is my way of wrapping things up, but I really hope that I am wrong on this. I come out of this process with not a lot of confidence that this provision will not lead to what no-one intends happening. I am not having a go at anyone who has spoken on this bill. I think that key stakeholders who have experience with the most vulnerable people in our community really do have a legitimate and well-founded concern based on the data on how move-on notices are now used disproportionately against people experiencing homelessness and mental health issues and First Nations people. Unfortunately, the evidence is that, historically, these kinds of police powers have been used against those people in a disproportionate manner. I really hope that I am wrong. Although the minister has said again and again that that is not the intent of the bill, unfortunately, I have to say again that it is not spelt out in the bill that it cannot be used in that way. I hope that when the review happens, it finds that the bill has worked as intended. I think that this process was a missed opportunity to put in the right kinds of checks and balances. Most people understand the intent of the bill. We all want our entertainment precincts to be safer, but we need the right checks and balances in place to make sure that the most vulnerable people in our community are not caught up in a policing action in an unintended way. I just make that as a bit of a closing comment.

I want to ask the minister the last question that has come from stakeholders about clause 16. They have looked at what the minister said last Thursday about defences, not exemptions. If the minister does not mind, I will quote him —

Exemptions would need to be sought. Making them defences reduces the onus on individuals to apply for exemptions. It is unlikely the police will proceed to prosecute someone if they provide a valid defence.

Stakeholders have asked for some clarity about how the minister thinks that would work in practice. It is a little ambiguous and there has been a request that that be unpacked a little bit in the chamber today.

Hon STEPHEN DAWSON: If someone gave the police a nominated defence, the police would corroborate that. If someone said that they work in the protected entertainment precinct area, the police would check it. They would contact the employer or seek a pay slip. Congruously, if the person was attending a religious ceremony, as we spoke about earlier, the police would want to see evidence that it was for their son or daughter, or the reason that it was necessary. If the person was attending their residence, the police would corroborate that they live at the residence. For educational purposes, the police would check that the person was enrolled in the TAFE course in the PEP area. If the person was receiving health or welfare advice, the police would corroborate it; they would check with the doctor or the dentist, as the case may be. The police would check to make sure that that was the case and, if that was the case, the defence would be available to be used.

Clause put and passed.

Clauses 17 to 24 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services) [7.49 pm]: I move —

That the bill be now read a third time.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [7.49 pm]: I will not take particularly long. I thank the minister for the assistance of the various advisers and the briefings that the opposition received on the Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022. The opposition asked for two briefings and it received both. That was great; thank you very much. The support we have had is greatly appreciated. I think the family of Pep Raco can be very pleased that the legislation will pass the house tonight.

I am a little outraged that we are still supporting the union movement as part of the process, but I will get over that in the fullness of time. I will survive. It is good to see the legislation progressing. The opposition has been supportive of the bill. We appreciate the way in which the government has approached it, and look forward to its implementation. We will watch really carefully to make sure that the reporting process is adequate and police are properly resourced and supported to do the job that will be required of them.

HON DR BRAD PETTITT (South Metropolitan) [7.50 pm]: I rise to very quickly say that it was clear throughout the debate that I will not be supporting the Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022. But, as I said before, I hope that I am wrong about some of the consequences of this legislation.

I seek advice from the Chair. I am new to this and I am not sure when is the right moment to record a vote against the bill. It may have passed. Do I need to divide the house? I would rather not waste everyone's time.

Hon Dr Steve Thomas: It's the only way you can do it.

Hon Dr BRAD PETTITT: I will call for a division at the appropriate moment, thank you.

Division

Question put and a division taken, the Acting President (Hon Dr Brian Walker) casting his vote with the noes, with the following result —

Ayes (25)

Hon Martin Aldridge	Hon Peter Foster	Hon Shelley Payne	Hon Dr Steve Thomas
Hon Sandra Carr	Hon Nick Goiran	Hon Stephen Pratt	Hon Neil Thomson
Hon Peter Collier	Hon Lorna Harper	Hon Martin Pritchard	Hon Darren West
Hon Stephen Dawson	Hon Jackie Jarvis	Hon Samantha Rowe	Hon Pierre Yang (<i>Teller</i>)
Hon Colin de Grussa	Hon Alannah MacTiernan	Hon Rosie Sahanna	
Hon Sue Ellery	Hon Ayor Makur Chuot	Hon Matthew Swinbourn	
Hon Donna Faragher	Hon Kyle McGinn	Hon Dr Sally Talbot	

Noes (2)

Hon Dr Brian Walker	Hon Dr Brad Pettitt (<i>Teller</i>)
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Question put and passed.

Bill read a third time and passed.