




Speech By
Hon. Shannon Fentiman

MEMBER FOR WATERFORD

Record of Proceedings, 26 November 2020

COVID-19 EMERGENCY RESPONSE AND OTHER LEGISLATION AMENDMENT BILL

Introduction

 **Hon. SM FENTIMAN** (Waterford—ALP) (Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence) (2.57 pm): I present a bill for an act to amend the Acts Interpretation Act 1954, the COVID-19 Emergency Response Act 2020, the Domestic and Family Violence Protection (COVID-19 Emergency Response) Regulation 2020, the Explosives Legislation (COVID-19 Emergency Response) Regulation 2020, the Electoral Act 1992, the Gaming Machine Act 1991, the Liquor Act 1992, the Local Government Act 2009, the Local Government Electoral Act 2011, the Retail Shop Leases and Other Commercial Leases (COVID-19 Emergency Response) Regulation 2020, the Youth Justice Act 1992 and the other legislation mentioned in sections 37 and 38 and schedule 1 for particular purposes. I table the bill, the explanatory notes and a statement of compatibility with human rights. I nominate the Legal Affairs and Safety Committee to consider the bill.

Tabled paper: COVID-19 Emergency Response and Other Legislation Amendment Bill 2020 [251](#).

Tabled paper: COVID-19 Emergency Response and Other Legislation Amendment Bill 2020, explanatory notes [252](#).

Tabled paper: COVID-19 Emergency Response and Other Legislation Amendment Bill 2020, statement of compatibility with human rights [253](#).

Today I introduce the COVID-19 Emergency Response and Other Legislation Amendment Bill 2020. The government has moved quickly and decisively to respond to the impacts of the COVID-19 emergency. Part of the Palaszczuk government's response to the COVID-19 emergency has been the COVID-19 Emergency Response Act 2020, which I will refer to as the emergency response act, and the Justice and Other Legislation (COVID-19 Emergency Response) Amendment Act 2020, which I will refer to as the emergency response amendment act.

Together, these two pieces of legislation have helped to keep Queensland businesses, institutions and the economy moving by facilitating measures such as those necessary to ensure social distancing and to enable a rapid response to any outbreak clusters. However, the emergency response act, all regulations made under the emergency response act, amendments to other acts and a range of statutory instruments are due to expire on 31 December 2020.

The ability to respond rapidly to the COVID-19 emergency has been a key factor in Queensland's sustained low COVID-19 case numbers. It has allowed Queenslanders to enjoy a high freedom of movement, a reopened economy and confidence in our public health response. However, we must remain vigilant and not let complacency set in. Despite overall low numbers of COVID-19 in Queensland, recent events in other Australian jurisdictions, including Victoria and South Australia, and continued large-scale outbreaks around the world serve as a stark reminder of how volatile the situation can be. The government is taking the responsible and appropriate course of action through this bill.

Not everything that is due to expire at the end of this year needs to roll over into 2021. However, there are some very practical pieces of legislation which need to be extended in order to maintain our strong response to the COVID-19 emergency. For example, many regulations provide practical and sensible measures which enable social distancing requirements and other public health directions to be adhered to during the COVID-19 pandemic. Similarly, the amendments assisting Queensland's adult corrective services and youth detention sectors to operate safely and effectively need to continue should such an outbreak occur again.

The bill ensures that any legislation, both primary and subordinate, which is necessary to respond to the COVID-19 emergency continues past 31 December 2020. The bill achieves this by setting a new expiration date for any such primary and subordinate legislation of 30 April 2021 or an earlier date to be prescribed by regulation. This is encapsulated in the tag term 'COVID-19 legislation expiry date'.

The ability to set an earlier date by regulation provides the flexibility to end the COVID-19 legislation earlier having regard to the current health advice and restrictions in Queensland. An extension of a maximum of four months is considered a reasonable and proportionate response and allows any impact of the opening of domestic borders during the Christmas and new year festive season to be fully assessed as we ease restrictions further. It also provides flexibility to set an earlier date and provides time to evaluate the measures we have implemented. This extension provides certainty, with no other jurisdiction intending to cease their COVID-19 measures before the end of 2020. The date of 30 April 2021 closely aligns with Victoria, which recently extended the expiration of its extraordinary measures until 26 April 2021.

The bill does remove the current expiry date of 31 December 2020 for the emergency response act but, in doing so, does not set a new expiry date. This is to provide for the continued operation of the Queensland Small Business Commissioner and to enable any transitional arrangements which may be required when the COVID-19 legislative measures do, in fact, expire to operate for as long as provided. By not providing a new expiry date for the COVID-19 Emergency Response Act, the bill ensures that the ability to make a regulation pursuant to a power under the act ends on 30 April 2021, effectively turning off those extraordinary powers at that date. The bill also ensures that the ability to make an extraordinary regulation pursuant to a power under the emergency response act ends on the COVID-19 legislation expiry day.

The Retail Shop Leases and Other Commercial Leases (COVID-19 Emergency Response) Regulation 2020 was made to give effect to good faith leasing principles for non-residential leases agreed by the national cabinet and establishes a process for resolving disputes. The leases regulation applies in respect of lease obligations during the period 29 March 2020 to 31 December 2020, and this period is not extended by this bill. The leases regulation was made as a response to the initial shock of COVID-19 restrictions and in many cases it has achieved its desired outcome of encouraging good faith leasing negotiations and enabled rent relief and protection from eviction for lessees. With restrictions easing throughout Queensland, a further extension of the lease protection period is not considered to be justified and this is consistent with the approach that has been taken in relation to residential leases. However, the bill will preserve rights and obligations that have been accrued during the lease protection period up to 31 December 2020 and facilitate the conclusion of any lease disputes that may still be on foot.

The bill will extend the temporary Queensland Small Business Commissioner beyond 30 April 2021. The Queensland Small Business Commissioner has played a critical role in supporting businesses to avoid lengthy and costly commercial leasing disputes during COVID-19 with early information, advice and mediation services. The Queensland Small Business Commissioner is continuing to receive demand for its dispute resolution services. New requests for assistance are continuing to be received. An extension of the temporary Small Business Commissioner will enable leasing dispute matters to be received and finalised.

As we look forward with optimism and hope to a successful vaccine and an end to the COVID-19 pandemic, we need to turn our minds to having appropriate procedures in place to return to normal operations. Therefore, in order to provide greater commercial and legal certainty to stakeholders, the bill inserts a transitional regulation-making power which enables regulations to be made where necessary to return to normal operations in the most effective and efficient way once COVID-19 related legislation is no longer needed.

The bill also includes some specific amendments to further bolster Queensland's preparedness to the evolving COVID-19 pandemic. The bill makes amendments to the Electoral Act 1992 to provide flexibility if required to facilitate the holding of a by-election in a way that helps minimise serious risks to the health and safety of the community caused by COVID-19 and the Youth Justice Act 1992 to allow the chief executive to delegate powers to appropriately qualified temporary detention centre employees including those who are not Public Service officers.

The bill amends the Liquor Act 1992 to allow artisan distillers with a producer/wholesaler licence to temporarily sell their own liquor without the need to comply with the usual restriction of only 2½ per cent of total sales able to be made to the public. The temporary amendments only apply to liquor produced by the licensee on the premises. Further, the licensee must only produce between 400 litres and 450,000 litres of spirits at the premises each year to be considered an artisan distiller. It is intended the amendments will only remain in place until the government progresses more comprehensive reforms to support growth in the sector and allow longer term recovery following the COVID-19 emergency.

Lastly, I turn to the amendments to the local government legislation. A number of mayors and councillors have expressed their views that the recent amendments in the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020 to provide for a new process under the Local Government Act 2009 for filling vacancies give rise to the possibility that a candidate who only achieved a small percentage of the vote could be appointed to a vacant position. Following consideration of stakeholder feedback, the government made an election commitment to change the process for filling vacancies that arise during the first 12 months of a local government's term. The proposed change will provide for mayoral vacancies in the first 12 months of the local government's term to be filled by a by-election. Where there is a vacancy in the office of a councillor, whether in a divided or an undivided council, the council will determine by resolution whether the vacancy is to be filled by a by-election or the appointment of a runner-up. No changes are proposed to the method for filling vacancies that arise during the middle or final part of a local government's term, as provided for in the recent amendments.

These amendments are supported by the Local Government Association of Queensland and represent a return to the arrangements that have been in place since 2009. It is proposed that these amendments will operate retrospectively, meaning that these current vacancies will be filled in accordance with the new process in the bill. These proposed amendments would mean that for the current mayoral vacancy at the Rockhampton Regional Council, a by-election will be held to elect a new mayor. For the current vacancy in division 10 at the Townsville City Council, the council will have the choice between appointing the runner-up and holding a by-election. The relevant minister has foreshadowed allowing the parliament a more fulsome consideration of how council vacancies should be filled in various circumstances in the future.

In conclusion, this bill represents a measured and proportionate extension to Queensland's legislative response to the COVID-19 emergency and addresses urgent amendments required in relation to councillor vacancies. I commend the bill to the House.

First Reading

Hon. SM FENTIMAN (Waterford—ALP) (Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence) (3.08 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to Legal Affairs and Safety Committee

Mr DEPUTY SPEAKER (Mr Kelly): Order! In accordance with standing order 131, the bill is now referred to the Legal Affairs and Safety Committee.

Declared Urgent

Hon. SM FENTIMAN (Waterford—ALP) (Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence) (3.10 pm), by leave, without notice: I move—

That, under the provisions of standing order 137, the COVID-19 Emergency Response and Other Legislation Amendment Bill be declared an urgent bill and not stand referred to a committee, with all remaining stages to be considered next sitting week.