




Speech By  
**Hon. Dr Steven Miles**  
**MEMBER FOR MURRUMBA**

Record of Proceedings, 19 May 2020

**JUSTICE AND OTHER LEGISLATION (COVID-19 EMERGENCY RESPONSE)  
AMENDMENT BILL**

**Message from Governor**

 **Hon. SJ MILES** (Murrumba—ALP) (Deputy Premier and Minister for Health and Minister for Ambulance Services) (12.27 pm): I present a message from His Excellency the Governor.

**Mr DEPUTY SPEAKER** (Mr McArdle): The message from His Excellency recommends the Justice and Other Legislation (COVID-19 Emergency Response) Amendment Bill. The contents of the message will be incorporated in the *Record of Proceedings*. I table the message for the information of members.

MESSAGE

JUSTICE AND OTHER LEGISLATION (COVID-19 EMERGENCY RESPONSE) AMENDMENT BILL 2020

*Constitution of Queensland 2001*, section 68

I, PAUL de JERSEY AC, Governor, recommend to the Legislative Assembly a Bill intitled—


A Bill for an Act to amend the Body Corporate and Community Management Act 1997, the Building and Construction Industry (Portable Long Service Leave) Act 1991, the Building Units and Group Titles Act 1980, the Casino Control Act 1982, the City of Brisbane Act 2010, the Contract Cleaning Industry (Portable Long Service Leave) Act 2005, the Corrective Services Act 2006, the COVID-19 Emergency Response Act 2020, the Disability Services Act 2006, the Disaster Management Act 2003, the Environmental Protection Act 1994, the Forensic Disability Act 2011, the Gaming Machine Act 1991, the Keno Act 1996, the Liquor Act 1992, the Local Government Act 2009, the Lotteries Act 1997, the Manufactured Homes (Residential Parks) Act 2003, the Mental Health Act 2016, the Police Powers and Responsibilities Act 2000, the Private Health Facilities Act 1999, the Public Health Act 2005 and the Youth Justice Act 1992 for particular purposes

GOVERNOR

Date: 19 May 2020

*Tabled paper:* Message, dated 19 May 2020, from His Excellency the Governor recommending the Justice and Other Legislation (COVID-19 Emergency Response) Amendment Bill 2020 [766](#).

**Introduction**

 **Hon. SJ MILES** (Murrumba—ALP) (Deputy Premier and Minister for Health and Minister for Ambulance Services) (12.28 pm): I present a bill for an act to amend the Body Corporate and Community Management Act 1997, the Building and Construction Industry (Portable Long Service Leave) Act 1991, the Building Units and Group Titles Act 1980, the Casino Control Act 1982, the City of Brisbane Act 2010, the Contract Cleaning Industry (Portable Long Service Leave) Act 2005, the Corrective Services Act 2006, the COVID-19 Emergency Response Act 2020, the Disability Services Act 2006, the Disaster Management Act 2003, the Environmental Protection Act 1994, the Forensic Disability Act 2011, the Gaming Machine Act 1991, the Keno Act 1996, the Liquor Act 1992, the Local Government Act 2009, the Lotteries Act 1997, the Manufactured Homes (Residential Parks) Act 2003,

the Mental Health Act 2016, the Police Powers and Responsibilities Act 2000, the Private Health Facilities Act 1999, the Public Health Act 2005 and the Youth Justice Act 1992 for particular purposes. I table the bill and explanatory notes and a statement of compatibility with human rights. I nominate the Legal Affairs and Community Safety Committee to consider the bill.

*Tabled paper:* Justice and Other Legislation (COVID-19 Emergency Response) Amendment Bill 2020 [767](#).

*Tabled paper:* Justice and Other Legislation (COVID-19 Emergency Response) Amendment Bill 2020, explanatory notes [768](#).

*Tabled paper:* Justice and Other Legislation (COVID-19 Emergency Response) Amendment Bill 2020, statement of compatibility with human rights [769](#).

I rise to introduce the Justice and Other Legislation (COVID-19 Emergency Response) Amendment Bill. The bill builds on the Palaszczuk government's response to the COVID-19 pandemic. Queenslanders, our businesses and our government agencies have all risen to the challenge of tackling this virus and protecting our community. The health, employment, disability, residential, leisure, environmental protection, law enforcement, corrective services and youth detention sectors have implemented extraordinary measures to reduce the spread of COVID-19 and prepare for an emergency response if there is a significant increase in community transmission of this disease. The Palaszczuk government will support these sectors with their efforts. Even though we have started to wind back our restrictions, we will continue to feel the immediate effects of this global pandemic for months to come, which means we will need the flexibility that this bill permits in certain circumstances.

The public health emergency we continue to experience is one of a kind. It requires a tailored and ever evolving response as new challenges arise. The Palaszczuk government has already introduced a number of unique legislative measures in response to the pandemic. We were the first state to declare the pandemic a public health emergency and we were the first state to strengthen those emergency powers with new legislation: the Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020, passed on 18 March 2020. We also passed the COVID-19 Emergency Response Act 2020, passed on 22 April 2020. The emergency response act established a framework that applied across the statute book, providing the powers necessary to ensure our business, health and law enforcement sectors can continue to operate smoothly during a public health emergency.

This bill includes a technical amendment to clarify the operation of the statutory time limit modification provisions in the emergency response act and addresses those issues that cannot be addressed under the modification framework in the emergency response act—issues that have come to light since its passage—and also includes amendments that will ensure Queensland is prepared should a second wave of virus transmission require stricter social distancing measures. The common thread that links these amendments is that they represent a shared commitment to support Queenslanders and, in particular, our business, health and law enforcement sectors to ensure that we all continue to work together to overcome this health emergency and emerge stronger than ever.

In particular, this bill will safeguard the revenue stream for local governments and assist in minimising the economic impacts of COVID-19 on the state. It will provide economic support for Queensland businesses and individuals suffering financial distress caused by the public health emergency. It will support Queensland's health, disability, corrections and youth detention sectors to operate safely and effectively and it will support law enforcement efforts in keeping Queenslanders safe. It is important to note that the extraordinary legislative responses to the pandemic proposed within this bill are, for the most part, time limited. Most amendments will expire on 31 December 2020, with only a few extending beyond this time. I propose now to give a brief overview of the amendments proposed by this bill, in the order in which they appear.

Firstly, I turn to the amendments to body corporate and related legislation in part 2 of the bill. The purpose of this part is to provide measures to alleviate the financial burdens being experienced by bodies corporate for community title schemes, as well as individual unit owners, as a result of COVID-19. The community titles sector is a vital part of Queensland's economy and communities, providing a wide range of housing, lifestyle and investment options for many Queenslanders and visitors to our state. Unfortunately, the COVID-19 pandemic has presented a range of specific issues and challenges for the community titles sector. The bill alleviates the financial burden on the community titles sector by making temporary modifications to financial management arrangements under the Body Corporate and Community Management Act 1997 and the Building Units and Group Titles Act 1980. More specifically, the bill amends the Body Corporate and Community Management Act 1997 to provide bodies corporate and their committees with increased flexibility regarding long-term budgeting, due dates of unit owners' levies, timing of debt recovery proceedings and borrowing. The bill also amends the Body Corporate and Community Management Act 1997 to prevent bodies corporate from applying penalty interest on outstanding levies from the date of commencement until the expiry of the amendments on 31 December 2020.

Part 3 of the bill includes four amendments to the Corrective Services Act 2006 that will assist Queensland's adult correctional environment to continue operating safely and effectively during the COVID-19 public health emergency. Firstly, the bill will provide greater flexibility when releasing prisoners to parole to better facilitate their return to remote or regional communities. Where required, new section 110A will allow the chief executive to order the release of a prisoner from a Corrective Services facility within seven days immediately before the day on which the prisoner was due to be released on parole. COVID-19 travel restrictions are impacting release arrangements, which puts prisoners at risk of homelessness. The amendment replicates existing provisions in place for those being discharged from custody under section 110 of the Corrective Services Act 2006. On release from the corrective services facility and until the parole order starts, the prisoner is subject to the conditions of the parole order as if the parole order had started on the day the prisoner was released from the facility.

The bill will also allow longer-term acting appointments for the Parole Board Queensland under section 228 of the Corrective Services Act 2006, ensuring the board has flexibility to respond to the foreseeable increase in parole applications associated with COVID-19. Further, the bill will expand the application of a declaration of emergency made under section 268 of the Corrective Services Act 2006 to any corrective services facility. This power currently applies only to prisons, which excludes other facilities that may be impacted by COVID-19, such as the Helana Jones Centre and work camps. Finally, the bill clarifies the Corrective Services commissioner's power regarding corrective services facilities administered by engaged service providers under section 272 of the Corrective Services Act 2006. These amendments will ensure that Queensland Corrective Services and the Parole Board Queensland have powers necessary to ensure the health and safety of prisoners, and lawfully maintain security and good order in corrective services facilities for the duration of the pandemic.

Part 4 of the bill includes amendments to the Disability Services Act 2006 and the Forensic Disability Act 2011. These amendments focus on the safety and wellbeing of people with an intellectual disability or cognitive disability and clients of the Forensic Disability Service during the COVID-19 public health emergency. The amendments balance individual rights and safeguards with the need to protect individuals, workers and the wider community from infection. Amendments to the Disability Services Act 2006 will ensure that disability service providers can lock gates, doors and windows to prevent an adult with an intellectual or cognitive disability from breaching a public health direction. Amendments to the Forensic Disability Act 2011 will ensure that public health directions can be followed in the Forensic Disability Service.

Part 5 of the bill amends the Disaster Management Act 2003 to provide for a longer period—up to 90 days—by which the declaration of the COVID-19 disaster situation can be extended. This will provide certainty for disaster officers and the community regarding the application of disaster powers and will support longer term disaster management planning. Amendments to the Disaster Management Act will also set aside the entitlement to compensation for loss or damage suffered as a result of the exercise of powers in response to the COVID-19 emergency. While the impacts on the community are being addressed through more broadly based protective and stimulus measures, this provision protects Queensland taxpayers against compensation claims as the economic effects of the COVID-19 public health emergency continue to be felt.

Part 6 of the bill amends the Environmental Protection Act 1994 to ensure that businesses affected by immediate additional challenges resulting from the COVID-19 public health emergency can continue to operate lawfully while the government continues to protect the environment. To achieve this, the bill will provide two new powers. First, the bill will allow the administering authority to issue temporary environmental authorities without the normal application process where additional capacity is required due to the COVID-19 public health emergency. Secondly, the bill responds to business concerns by providing for the environment minister to declare a temporary pause of certain conditions placed on an approval. This power will allow a timely response to immediate challenges and avoid the need to undergo the more detailed and time-consuming process of amending individual approvals. This amendment is time limited to 31 December 2020, with necessary transitional provisions to apply, which commence on 1 January 2021.

To assist hospitality venues impacted by non-essential business closure directions, part 7 of the bill amends the Gaming Machine Act 1991, the Casino Control Act 1982, the Keno Act 1996 and the Lotteries Act 1997 to provide for the deferral or waiver of certain gambling taxes. The amendments contained in the bill will commence retrospectively to validate the existing deferral of gaming machine taxes announced on 6 April 2020. The amendments provide that the minister responsible for the Gaming Machine Act 1991, the Casino Control Act 1982, the Keno Act 1996 and the Lotteries Act 1997, with approval from the Treasurer, may defer or waive a tax collected under those acts through the issue of a notice. A notice may provide for deferred taxes to be repaid in instalments, including on terms

decided by the Commissioner for Liquor and Gaming. Terms must require deferred taxes to be paid in full by no later than 30 June 2021. The amendments and any notice issued under the amendments will expire on 31 December 2020. A transitional provision ensures that the obligation to pay deferred taxes remains in place despite the expiry.

Part 8 of this bill amends the Liquor Act 1992 to allow the Commissioner for Liquor and Gaming to provide liquor licensees with an authority to sell take away alcohol, even if such sales are not allowed under the current licence or permit. The authority may be granted retrospectively to validate administrative decisions already instigated by the commissioner since 23 March 2020. The authority may also be granted for premises supplying an alcohol restricted area if necessary to prevent people leaving the community to access alcohol from more populous areas then returning. The bill allows for a take away liquor authority to be modified by reducing the allowable amount of liquor that can be sold as pandemic restrictions are eased and on-premises liquor consumption is gradually reintroduced. The commissioner may also remove or amend an authority if satisfied that the licensee has contravened the authority but only after the issuing of a show cause notice. However, the bill provides that this can be suspended immediately and subsequently revoked if necessary.

Part 9 of the bill amends the City of Brisbane Act 2020 and the Local Government Act 2009 to provide a temporary regulation-making power to enable Queensland local councils to decide by resolution outside of an annual budget meeting what rates and charges are to be levied for part of the 2020-21 financial year. These amendments respond to serious concerns in the local government sector about the financial sustainability of councils and provide the flexibility for them to revisit their rates decisions in the financial year if needed. This amendment will expire on 30 June 2021 to ensure that any alteration to rates applies to the entire 2020-21 financial year.

Part 10 of the bill amends the Manufactured Homes (Residential Parks) Act 2003 to insert a temporary regulation-making power that will allow for the modification or suspension of processes for increasing or reducing site rent in residential parks and to modify the processes for disputing proposed site rent increases during the COVID-19 public health emergency. This will enable the government to address issues raised by industry groups and manufactured home owners about rigid processes mandated in the Manufactured Homes (Residential Parks) Act 2003 and difficulties in applying these processes during the COVID-19 public health emergency.

Part 11 of the bill makes amendments to the Mental Health Act 2016 that will provide continuity of mental health treatment for patients who need to be relocated because of COVID-19. The amendments will allow the Chief Psychiatrist to authorise leave from an authorised mental health service and provide an expedited process for declaring additional authorised mental health services and appointing administrators to run those services. These provisions are subject to safeguards and are intended to be used as a last resort. The provisions may be needed, for example, to respond to an outbreak of COVID-19 at an authorised mental health service or to comply with a public health direction.

Part 12 of the bill amends the Police Powers and Responsibilities Act to provide a legislative framework for police to apply to a magistrate for a disease test order to have a person tested for COVID-19 in circumstances where a person wilfully coughs, spits or sneezes on another person and has been arrested for an assault offence under the Criminal Code. A victim of such a malicious act may be placed under significant stress as they have no way of knowing with any degree of certainty whether the offender may be infectious with the potentially deadly COVID-19 virus. The ability to seek a court ordered COVID-19 test will also protect the health, safety and welfare of the victim's families and the broader community as it will allow the victim to self-isolate if the alleged offender tests positive for COVID-19. These amendments complement the strong measures established under the Public Health Direction, Protecting Public Officials and Workers (Spitting, Coughing and Sneezing) Direction (No. 2), issued by the Chief Health Officer on 1 May 2020. This part will expire at the end of the COVID-19 public health emergency or on 31 December 2020, whichever is later. Transitional provisions are also included to ensure that an order made immediately prior to the expiry of the provision can still be complied with.

To provide relief from financial hardship, part 13 of the bill introduces temporary amendments to the Building and Construction Industry (Portable Long Service Leave) Act 1991, and the Contract Cleaning Industry (Portable Long Service Leave) Act 2005. The amendments will allow registered workers under these schemes with at least five years service to temporarily apply for payment of all or part of their long service leave entitlement if they are experiencing financial hardship due to the COVID-19 emergency. Ordinarily, registered workers under these schemes would not be able to apply for their pro rata long service leave entitlements until they have reached 10 years or equivalent service under their respective industry scheme. These changes have been advocated for and supported by the building and construction industry portable long service leave board and by industry stakeholders

including employers and worker representatives. It is intended that the scheme will be able to deal with applications flexibly in light of the range of circumstances which might affect individuals and their households.

Existing review and appeal rights under the Building and Construction Industry (Portable Long Service Leave) Act 1991 and the Contract Cleaning Industry (Portable Long Service Leave) Act 2005 will apply to any decision regarding early access to long service leave.

Part 14 of the bill amends the Private Health Facilities Act 1991 to allow the Chief Health Officer to waive or defer fees that would otherwise be payable by private health facilities on application for the renewal of a licence or changes to a licence. These amendments are necessary to reduce the financial impact of COVID-19 on operators of private health facilities in the event that they are directed to cease elective surgery or to change the scope of services they provide in order to assist the Queensland government's response to the COVID-19 emergency.

Part 15 of the bill amends the Public Health Act 2005. The amendments will enhance Queensland Health's ability to quickly respond to new cases of community transmission by allowing additional qualified delegates to authorise the disclosure of confidential information for the purpose of contact tracing. The confidentiality of this information will continue to be protected as there are no changes to the restrictions on what information can be disclosed and for what purposes it can be used. The amendments to the Public Health Act 2005 also clarify the operation of public health directions issued by the Chief Health Officer and emergency officers during the COVID-19 public health emergency. For example, where a direction is given to a child to self-quarantine or self-isolate, the amendments provide that a direction may also be given to the child's parent to ensure that the child complies with the quarantine or isolation requirements. Some of the amendments to the Public Health Act 2005 will expire on 19 March 2021 rather than on 31 December 2020 because they amend the temporary emergency powers established under the Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020. Since the amendments clarify the operation of the temporary emergency powers, they will expire at the same time as those powers.

Finally, turning to part 16 of the bill, this part inserts new section 264A into the Youth Justice Act 1992 to provide the option to appoint non-public service employees as temporary detention centre employees during the COVID-19 public health emergency if reasonably required to do so. The provision will ensure that appropriately qualified people are appointed as a temporary detention centre employee. I want to be clear that the appointment of temporary detention centre employees may only occur if the chief executive is satisfied that the appointment is reasonably necessary for the security and management of detention centres and the safe custody and wellbeing of children detained in detention centres.

The provision will only be utilised in the worst-case scenario where a large number of detention centre staff are suddenly unavailable for work due to an outbreak in a youth detention centre and will operate so that the government is not limited to public service employees when searching for suitable people to staff the centre. The first option will always be to employ any new staff under the Public Service Act 2008 where possible. Any appointment made under the provision will be revoked if no longer reasonably necessary for the security and management of detention centres and the safe custody and wellbeing of children detained in detention centres. All safeguards applying to existing detention centre employees such as the requirement to complete certain training prior to exercising a power will also apply to temporary detention centre employees appointed under the provision.

The government needs to be prepared for future unforeseen circumstances arising as a result of the COVID-19 pandemic. Acknowledging the extraordinary nature of the amendments in this bill and the need for an urgent legislative response, general safeguards apply across the provisions, including ensuring the amendments will expire on 31 December 2020 unless specifically provided for in limited circumstances which I have previously canvassed, and ensuring the operation of the Human Rights Act 2019 is explicitly preserved to ensure the human rights framework will continue to apply.

The Palaszczuk government will continue to consult with key stakeholders throughout the COVID-19 pandemic and beyond, listening and responding to their needs as this health and economic crisis evolves. The Palaszczuk government is committed to providing a strong response to the public health emergency which ensures the safety and economic future of all Queenslanders and to be prepared for future events.

In conclusion, I am sure all members will acknowledge the continued significance of the challenge presented by COVID-19 and the enormity of the response required. This bill demonstrates the continued commitment of the Palaszczuk government to support Queenslanders. I commend the bill to the House.

### **First Reading**

**Hon. SJ MILES** (Murrumba—ALP) (Deputy Premier and Minister for Health and Minister for Ambulance Services) (12.50 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 Community Safety Committee**

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