



Speech By  
**Hon. Shannon Fentiman**


**MEMBER FOR WATERFORD**

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Record of Proceedings, 15 September 2021

## **JUSTICE LEGISLATION (COVID-19 EMERGENCY RESPONSE—PERMANENCY) 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) (8.40 pm): I present a bill for an act to amend the COVID-19 Emergency Response Act 2020, the Domestic and Family Violence Protection Act 2012, the Domestic and Family Violence Protection Rules 2014, the Liquor Act 1992, the Oaths Act 1867, the Powers of Attorney Act 1998 and the Property Law Act 1974 for particular purposes, to repeal the Domestic and Family Violence Protection (COVID-19 Emergency Response) Regulation 2020 and the Justice Legislation (COVID-19 Emergency Response—Documents and Oaths) Regulation 2020, and to make minor and consequential amendments of the legislation mentioned in schedule 1. 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:* Justice Legislation (COVID-19 Emergency Response—Permanency) Amendment Bill 2021 [\[1401\]](#).

*Tabled paper:* Justice Legislation (COVID-19 Emergency Response—Permanency) Amendment Bill 2021, explanatory notes [\[1402\]](#).

*Tabled paper:* Justice Legislation (COVID-19 Emergency Response—Permanency) Amendment Bill 2021, statement of compatibility with human rights [\[1403\]](#).

Since the COVID-19 public health emergency was declared, the Palaszczuk government acted quickly and put in place a range of temporary measures to support Queensland businesses and the community. The purpose of the bill is to make permanent and build upon particular parts of the temporary measures introduced during the COVID-19 emergency in my portfolio. The COVID-19 emergency propelled government, business and the community into the digital age, forcing us to embrace and use technology in new ways in all aspects of business, commerce and in our personal lives. The Justice Legislation (COVID-19 Emergency Response—Documents and Oaths) Regulation 2020 enabled technology to be used to make important legal documents. As these temporary measures have been so well received by businesses, stakeholders and the community, the government now proposes, through this bill, to make many of them permanent.

The bill makes tangible, practical improvements to the making, signing and witnessing of documents, which affect people and industry every day. Not only does the bill enable use of electronic signatures; it also provides that the signature of a person and witness do not need to be on the same, singular, original document, in some circumstances. This is an important practical change which prevents parties having to be physically together to sign these documents or post original documents back and forth, which can be logistically difficult.

Tonight I met with lawyers who advised me that the temporary provisions around the use of electronic signatures had significantly increased efficiencies for them and changed the way commercial practices run. For example, talking to a commercial lawyer I met with earlier this evening, Craig, he was

telling me that it normally may take up to four weeks for documents to be signed and witnessed and transferred between parties overseas using the post. Instead, under these provisions documents will be able to be fully executed in a matter of days.

The bill allows for electronic signing and witnessing via video link for important documents such as affidavits, statutory declarations, general powers of attorney for businesses, deeds and particular mortgages. Specifically, the bill allows affidavits, statutory declarations and some oaths to be taken over video link by a cohort of special witnesses such as: Australian legal practitioners; government legal officers who witness documents in the course of their work; certain justice of the peace or commissioner for declarations approved by the director-general of the Department of Justice and Attorney-General; a notary public, a justice of the peace or commissioner for declarations, employed by a law practice; or a justice of the peace or commissioner for declarations employed by the public trustee, if the public trustee prepared the document.

For affidavits and statutory declarations that are witnessed over video link, the bill allows these documents to be physically signed or electronically signed and/or made using counterparts if witnessed by a special witness, with procedural requirements to apply to mitigate risk of false statements. For affidavits and statutory declarations that are witnessed in person, the bill allows them to be signed electronically and made in counterparts if they are witnessed by a special witness.

The bill allows powers of attorney for businesses such as corporations, partnerships and unincorporated associations to be signed electronically, in counterparts and by split execution and without a witness. However, if a power of attorney is used for a land or water dealing, it must continue to be executed in accordance with the requirements of the Land Title Act 1994 and Land Act 1994. The bill also provides that a general power of attorney for an individual under the Powers of Attorney Act 1998 or a power of attorney given under a deed must be a physical document that is signed in the presence of a witness unless the document containing the power of attorney given by an individual under a deed is part of a commercial or other arms-length transaction and the power of attorney is given for the purpose of the commercial or other arms-length transaction.

The bill allows deeds to be made in the form of an electronic document, signed electronically, in counterparts and by split execution, provided each of the signatories consents to the method of electronic execution. The bill removes the requirement for deeds to be sealed or stated to be sealed, provided the deed contains a clear statement that it is executed as a deed. The bill removes the need for witnessing of an individual's signature on a deed, except for a deed which contains a power of attorney for the signature in certain circumstances, which I have already outlined. It also allows an individual to sign a deed on behalf of a partnership or unincorporated association without a witness. The bill clarifies the way a corporation can execute a deed, aiming for consistency with execution requirements in the Corporations Act 2001. However, consistent with the approach in respect of powers of attorney, the bill ensures that deeds lodged in relation to land and water dealings must continue to be executed in accordance with the requirements of the Land Title Act 1994 and Land Act 1994.

The bill clarifies that a copy of a mortgage lodged through electronic conveyancing can be electronically signed and does not need to be witnessed, provided it complies with section 11 of the Property Law Act 1974.

The bill also allows nurse practitioners, in addition to doctors, to sign a certificate which forms part of an advance health directive stating that the person making the document appears to have capacity to make the document.

All of these reforms will improve access to justice, reduce the costs for the delivery of legal services, reduce transaction costs, increase efficiency and boost economic productivity. Through these reforms, Queenslanders will be able to make these documents from their home or workplace and will no longer have to travel to sign documents in person before a witness. These reforms represent a significant step forward for Queensland and represent a departure from centuries' old legal practice—nothing like a global pandemic to make the legal profession agile and modern. They also contain a number of limitations and, importantly, safeguards to protect against the risks inherent with the use of technology and with the changes to witnessing requirements. These safeguards have been developed following extensive consultation with a range of stakeholders.

The bill also modernises and streamlines domestic and family violence proceedings through amendments to the Domestic and Family Violence Protection Act 2012 and the Domestic and Family Violence Protection Rules 2014 to permanently retain the option to use the temporary measures provided under the Domestic and Family Violence Protection (COVID-19 Emergency Response) Regulation 2020, in particular circumstances. The permanent measures adopted allow for domestic and family violence matters to be heard via video or audio link, the operation of alternative verification processes for temporary protection orders and electronic filing, where approved by the principal registrar.

Again, this will modernise and streamline access to justice by providing victims with greater flexibility to participate in domestic and family violence proceedings, including by giving magistrates the discretion to conduct all or part of the proceedings by audiovisual link or audio link. Allowing vulnerable Queenslanders to make documents or give evidence under oath from the comfort of their home or workplace using technology will further support victims in what is a stressful time. These measures help ensure that vulnerable applicants can seek protection from domestic and family violence without unnecessary delay.

The bill will also amend the COVID-19 Emergency Response Act 2020 to provide that a regulation made under section 23 of that act must be made before the COVID-19 legislation expiry day, and expires two years after that date, unless it is repealed sooner. This will extend the operation of the Retail Shop Leases and Other Commercial Leases (COVID-19 Emergency Response) Regulation 2020 to allow the Queensland Small Business Commissioner to continue to provide crucial mediation services in commercial leasing disputes.

The bill also amends the Liquor Act 1992 to permanently retain aspects of the temporary COVID-19 takeaway liquor authorities for licensed restaurants. The Palaszczuk government recognises that consumer preferences are changing and the ability to sell takeaway liquor with takeaway food has assisted restaurants and cafes in what has been an extremely tough time for the hospitality industry.

Ensuring businesses can increase their revenue by selling takeaway wine with their meals has supported them to keep their doors open and keep Queenslanders employed. Consumers have demanded greater choice and convenience in being able to enjoy a meal with alcoholic beverages at home. At the same time, the delivery of packaged alcohol directly into homes does have the potential to increase the risk of alcohol related harm. That is why the government has consulted widely with stakeholders representing the liquor and hospitality industry, as well as community organisations, health research organisations, small businesses and relevant government agencies to strike a balance between commercial interests and alcohol harm minimisation.

This balance is to be achieved by amendments that enable restaurant licensees operating under a subsidiary on-premises licence to apply to the Commissioner for Liquor and Gaming for a variation of licence that permanently authorises the sale of takeaway liquor for their business. This proposed new licence condition will only be available to existing or proposed restaurant businesses which must operate as on-premises dining facilities and not just as takeaway only facilities.

To reduce the risks associated, the proposed licence condition limits the sale of takeaway liquor to a maximum volume of 1.5 litres of wine, or two bottles, sold with a takeaway meal between the hours of 10 am and 10 pm. The provision of a meal with alcohol is a known responsible service of alcohol measure. To maximise the benefits of this strategy and ensure the integrity of this new licence condition, the bill requires a full meal to be provided with takeaway wine. Takeaway wine will not be able to be sold with snacks or other insubstantial food. The Commissioner for Liquor and Gaming will be issuing guidelines around the service of liquor with meals to provide clarity for the industry around these requirements for licensees.

Amendments further provide that licensees will need to establish adequate systems and procedures for the responsible service of takeaway alcohol to be granted approval. An example of this would be systems requiring the identification of online customers to prevent liquor service to minors. Approvals may be subject to conditions the Commissioner for Liquor and Gaming determines necessary to ensure the responsible service of takeaway alcohol. As per existing Liquor Act provisions, the licence condition can be amended or revoked if the licensee fails to comply. Contravention of a condition is also an offence under the Liquor Act.

To further support our hospitality businesses by reducing the financial burden and assist restaurant operators to transition from the temporary arrangements, the bill waives the application fee for eligible licensees who apply for the permanent takeaway liquor condition on or before 30 June 2022. The fee waiver will only apply if the licensee was eligible for a COVID-19 takeaway liquor authority before commencement of the provisions.

In summary, the bill demonstrates the commitment of the Palaszczuk government to lead innovation and efficiency, embrace technology, improve access to justice, and drive business and economic efficiency. 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) (8.53 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 Hart): In accordance with standing order 131, the bill is now referred to the Legal Affairs and Safety Committee.