



Speech By
Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 1 September 2022

**PUBLIC HEALTH AND OTHER LEGISLATION (COVID-19 MANAGEMENT)
AMENDMENT BILL**

Introduction

 **Hon. YM D'ATH** (Redcliffe—ALP) (Minister for Health and Ambulance Services) (5.26 pm): I present a bill for an act to amend the Corrective Services Act 2006, the Public Health Act 2005 and the State Penalties Enforcement Regulation 2014 for particular purposes. I table the bill, the explanatory notes and a statement of compatibility with human rights. I nominate the Health and Environment Committee to consider the bill.

Tabled paper: Public Health and Other Legislation (COVID-19 Management) Amendment Bill 2022 [1266](#).

Tabled paper: Public Health and Other Legislation (COVID-19 Management) Amendment Bill 2022, explanatory notes [1267](#).

Tabled paper: Public Health and Other Legislation (COVID-19 Management) Amendment Bill 2022, statement of compatibility with human rights [1268](#).

It has been 2½ years since COVID-19 was first detected in Queensland. While it has been an unprecedented time of uncertainty, anguish and change, COVID-19 has also enlivened our sense of community spirit in the face of serious threat. For the past 2½ years, Queensland's temporary pandemic management framework has been pivotal to our success throughout the different phases of responding to COVID-19. Initially, during the elimination phase, the pandemic powers were used effectively to prevent the spread of COVID-19 within Queensland and contain the small outbreaks that occurred. By preventing community transmission prior to widespread vaccination, we were able to avoid extended lockdowns, keep our economy open and thriving and, most importantly, save lives.

After ensuring that a significant majority of Queenslanders were vaccinated, our borders opened in December 2021. Queensland shifted from an elimination to a suppression strategy. Despite COVID-19 circulating widely in Queensland's community for the first time, the number of hospitalisations and admissions to intensive care units remained lower than expected. We know that this was due to Queenslanders doing what Queenslanders do best: listening to the health advice, getting vaccinated and staying home when unwell.

As a result, the Chief Health Officer was able to significantly ease restrictions and allow our community and economy to transition to living with COVID-19, as we do with many other communicable diseases. The pandemic management powers introduced by this parliament in March 2020 have served us well; however, there will come a point in the future when it is no longer appropriate or necessary to continue to operate under this framework. As we now shift towards managing COVID-19 circulating broadly in our community, we have the opportunity to consider what measures will be needed to respond to COVID-19 once the emergency phase ends.

The Public Health and Other Legislation (COVID-19 Management) Amendment Bill 2022 recognises that COVID-19 is unpredictable and may continue to present risks for some time yet. Though the use of the current pandemic management powers may no longer be required, there are likely to be

ongoing risks to our community and health system. These risks require targeted and proportionate responses to avoid the uncontrollable spread of COVID-19 and ensure its impacts can be effectively managed.

This bill reflects the government's approach in preparing to manage COVID-19 once the public health emergency ends. As we move towards managing COVID-19 as a more normal part of life, our focus continues to be on balancing individuals' rights and protecting public health. The government will continue to take the necessary steps to protect the health and safety of Queenslanders and preserve the public health system. But, over time, individuals and entities will increasingly take more responsibility for self-managing COVID-19. However, it is important that we retain appropriate, targeted powers during this transition period.

COVID-19 continues to present serious public health risks. Just because COVID-19 is a more normal part of our everyday lives, we cannot become complacent. COVID-19 is not low risk or stable. It is unpredictable and has the potential to have significant impacts on both individuals and the health system. While it is generally believed that repeated waves of COVID-19 will decrease in severity over time, this is not certain. For example, the most recent wave of the Omicron-driven COVID-19 infection hit Queensland during winter, resulting in record levels of infection and hospitalisation. Queensland's public health system is still under significant strain from the pandemic and influenza season. The public health workforce, which underpins the system, is understandably fatigued. The uncontrolled spread of a more infectious or vaccine-resistant variant of COVID-19 has the potential to overwhelm the public health system if we cannot put targeted and proportionate public health interventions in place to manage these risks.

The Chief Health Officer advises that waves of COVID-19 are likely to continue to occur. Population susceptibility to future COVID-19 variants in Queensland is likely to fluctuate. There are also a range of post-infection impacts that, although not yet well understood, are likely to have a considerable impact on the health system and workforce. These risks remind us that, while the health response is moving towards a self-managed approach, the virus is simply too unpredictable to remove all controls and rely solely on self-management strategies at this time. To do so would leave the community unnecessarily vulnerable to the ongoing impacts of COVID-19.

This bill proposes to allow the emergency framework to expire as scheduled on 31 October 2022. In place of that framework, the bill introduces a limited set of temporary and targeted measures to manage COVID-19 as a notifiable condition in the Public Health Act 2005, without the need for an ongoing public health emergency to be declared. The new temporary legislation will provide a step-down approach beyond the current framework. The new temporary amendments in the bill will sunset on 31 October 2023.

Recognising the unique nature of COVID-19 compared to other notifiable conditions, the bill inserts a new part in the notifiable conditions framework in the Public Health Act to provide tailored powers to deal specifically with COVID-19. To be clear, this bill does not cover other infectious diseases or pandemics more generally.

This is a temporary bill to manage the specific risks of COVID-19 after the current legislation expires, based on the current trajectory of the pandemic. The time limited powers in this bill are a significant step down from the broad powers and discretion exercised by the Chief Health Officer during the public health emergency phase. The bill retains only those powers that are likely to be necessary to manage serious risks in the current phase of the pandemic and to maintain a nationally consistent approach to responding to COVID-19.

The bill limits the Chief Health Officer's power to issue public health directions to the three key measures that are most likely to be needed over the next 12 months. Specifically, the bill will allow the Chief Health Officer to make directions about mask wearing in stated circumstances, isolation for positive COVID-19 cases and quarantine for close contacts with symptoms, and vaccinations for workers in certain settings. I want to be clear: just because this bill provides the basis for the Chief Health Officer to make certain directions, it does not mean that they will do so. For instance, during the most recent Omicron wave, the Chief Health Officer recommended the use of masks but did not issue a public health direction mandating their use.

The isolation and quarantine of diagnosed cases and symptomatic close contacts will continue to be crucial to prevent those at the highest risk of spreading the virus from moving about within the community, potentially putting others at risk and increasing further strain on the health system. The bill limits the period for isolation and quarantine of diagnosed cases and symptomatic close contacts for a maximum of seven days. It permits a direction to be made for an additional isolation or quarantine period of up to seven days in limited circumstances such as if a person who is in isolation continues to experience fever or acute respiratory symptoms of COVID-19. This is consistent with Queensland's

current approach to managing diagnosed cases and close contacts. It is also based on national guidelines developed by the Australian Health Protection Principal Committee and the Communicable Diseases Network Australia.

Retaining a power to require vaccination, but in more targeted circumstances and only for workers, is proportionate to the ongoing risks posed by COVID-19, particularly in high-risk settings. However, as today's decision of the Chief Health Officer shows, the mere fact that the Chief Health Officer has the power to make a direction does not mean that he will.

I turn to the threshold for issuing a direction. The bill provides that the Chief Health Officer can only issue a public health direction if satisfied the direction is reasonably necessary to prevent or respond to a serious risk to the public health system or the community as a result of COVID-19, or give effect to decisions of National Cabinet or advice from national advisory bodies relating to the public health response to COVID-19. This test will ensure that directions continue to be used only when necessary and in line with the current public health response to COVID-19. The Chief Health Officer is best suited to make these decisions and to exercise the power to give public health directions, which requires continual assessment of clinical considerations, epidemiological data and other factors.

While the proposed powers are a significant step down from the current emergency legislation, they are still substantial powers. Measures like isolation, mask wearing and vaccination requirements can have a significant impact on individuals and their human rights. Careful consideration has been given to minimising the impact on individuals and businesses to the greatest extent possible while not detracting from the ultimate objective of promoting human life and preserving the capacity of our health system.

We have listened to the feedback from stakeholders on this bill and COVID-19 legislation more broadly. The advocacy of stakeholders like the Queensland Human Rights Commission, the Queensland Law Society and stakeholders from the health, disability, aged-care, tourism and business sectors have informed this bill.

The bill requires public health directions to be tabled in parliament within 21 days. When tabled in parliament, directions will be referred to the relevant parliamentary committee for review. Directions will be subject to disallowance by parliament. Further, directions must be accompanied by a statement explaining their rationale and compatibility with human rights. This justification statement must be published on Queensland Health's website and tabled in parliament with the direction. Directions will automatically expire after 90 days and must be revoked sooner if they no longer meet the criteria for being issued.

The bill also includes additional safeguards relating to the enforcement of directions. A person must be given the opportunity to voluntarily comply with a direction before an authorised person can take steps to enforce compliance. A person who fails to comply with a direction does not commit an offence if they have a reasonable excuse. The role of enforcement will be more limited and targeted than under the current emergency framework. Authorised persons will be able to enforce specific requirements set out in public health directions, but, in contrast to emergency officers, will not have independent powers to give directions about matters related to COVID-19.

The bill also temporarily extends amendments made to the Corrective Services Act 2006 to support the continued management of COVID-19 in correctional facilities until 31 October 2023. Corrective services facilities are uniquely vulnerable to the spread of COVID-19 due to the close proximity of prisoners and staff, transience of prisoners and staff into and out of facilities, and the limited ability to maintain social distancing and other controls. A baseline level of controls is still required to manage these risks. Queensland Corrective Services will continue to review and ease restrictions in corrective facilities when appropriate.

This bill provides the toolkit government needs to step down from an emergency to a COVID-normal life. If restrictions are needed to manage future variants or waves of COVID-19, the bill provides the necessary powers to respond proportionately. If the risk remains low, the powers do not need to be exercised. I commend the bill to the House.

First Reading

Hon. YM D'ATH (Redcliffe—ALP) (Minister for Health and Ambulance Services) (5.38 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 Health and Environment Committee

Mr DEPUTY SPEAKER (Mr Martin): In accordance with standing order 131, the bill is now referred to the Health and Environment Committee.

Portfolio Committee, Reporting Date

Hon. YM D'ATH (Redcliffe—ALP) (Minister for Health and Ambulance Services) (5.39 pm), by leave, without notice: I move—

That, under the provisions of standing order 136, the Health and Environment Committee report to the House on the Public Health and Other Legislation (COVID-19 Management) Amendment Bill by Friday, 14 October 2022.

Question put—That the motion be agreed to.

Motion agreed to.