Justice and Other Legislation (COVID-19 Emergency Response) Amendment Bill 2020

Explanatory Notes

Short title

The short title of the Bill is the Justice and Other Legislation (COVID-19 Emergency Response) Amendment Bill 2020.

Policy objectives and the reasons for them

Background

The COVID-19 public health emergency (COVID-19 emergency) has placed significant stress on a variety of sectors with unprecedented economic consequences for individuals, businesses and the government. The health, disability, corrective services and detention sectors have also been required to implement 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 the disease.

As a first response, the *Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020* was urgently passed on 18 March 2020.

On 22 April 2020, the *COVID-19 Emergency Response Act 2020* (the Emergency Response Act) was passed, being the second response to the COVID-19 emergency. The Emergency Response Act included a modification framework which provided for the making of secondary instruments under the following broad global heads of power: reducing physical contact between persons; statutory timeframes; proceedings of courts/tribunals; and authorisation to take actions or do things electronically. Whilst this agile modification framework provides the main vehicle for the Government's legislative response to the COVID-19 emergency, some necessary legislative amendments are not able to be made under the limited global heads of power in the Emergency Response Act or are simply unsuitable to be made by way of a secondary instrument. The Justice and Other Legislation (COVID-19 Emergency Response) Amendment Bill 2020 (the Bill) will address those issues that cannot be addressed under the Emergency Response Act's modification framework.

Summary of the Bill

The Justice and Other Legislation (COVID-19 Emergency Response) Amendment Bill proposes amendments to over 20 different Acts across the Queensland statute book.

Broadly, the proposed amendments address the following issues in response to the COVID-19 emergency:

- the safeguarding of the revenue streams for local governments and assisting in minimising the economic impacts of COVID-19 on the State (through amendments to the *City of Brisbane Act 2020*, *Local Government Act 2009* and *Disaster Management Act 2003*);

- allowing affected registered workers to apply for payment of all or part of their long service leave (through amendments to the *Building and Construction Industry (Portable Long Service Leave) Act 1991* and *Contract Cleaning Industry (Portable Long Service Leave) Act 2005*);

- providing particular measures to assist Queensland businesses and individuals suffering financial and operational stress caused by the public health emergency (through amendments to the *Body Corporate and Community Management Act 1997*, *Building Units and Group Titles Act 1980*, *Gaming Machine Act 1991*, *Keno Act 1996*, *Lotteries Act 1997*, *Casino Control Act 1982*, *Environmental Protection Act 1994*, *Liquor Act 1992*, and *Manufactured Homes (Residential Parks) Act 2003*);

- assisting Queensland's health and disability sectors to operate safely and effectively (through amendments to the *Disability Services Act 2006*, *Forensic Disability Act 2011*, *Mental Health Act 2016*, *Private Health Facilities Act 1999*, and *Public Health Act 2005*);

- ensuring there is an ability for COVID-19 testing of persons suspected of committing particular offences (through amendments to the *Police Powers and Responsibilities Act 2000*);

- assisting Queensland's adult corrective services and youth detention sectors to operate safely and effectively (through amendments to the *Corrective Services Act 2006* and *Youth Justice Act 1992*); and

- clarifying the operation of the provisions for the modification of statutory time limits across the statute book relating to COVID-19 (through amendments to the *COVID-19 Emergency Response Act 2020*).

Achievement of policy objectives

The Bill achieves these objectives by amending:

- the *Body Corporate and Community Management Act 1997* to:

    - temporarily allow bodies corporate to adopt sinking fund budgets that do not meet the requirement to reserve an appropriate proportional share of amounts necessary to be accumulated to meet anticipated major expenditure over at least the next 9 years after the body corporate's current financial year, thereby allowing bodies corporate to reduce contributions payable by owners;

  - temporarily relax requirements for bodies corporate to initiate proceedings to recover lot owner contributions that have been outstanding for 2 years, thereby enabling bodies corporate to defer commencing debt recovery action against lot owners experiencing financial distress due to COVID-19;

  - temporarily allow committees to postpone the due date for contributions, to provide lot owners suffering financial hardship as a result of COVID-19 with additional time to pay their contributions;

  - temporarily prevent bodies corporate from charging penalty interest on outstanding lot owner contributions;

  - temporarily increase (double) the maximum amounts that bodies corporate can borrow when authorised by ordinary resolution (that is, for most schemes, allow the body corporate to borrow up to $500 multiplied by the number of lots in the scheme, and double the upper limit for borrowing under the Body Corporate and Community Management (Small Schemes Module) Regulation 2008 to $6,000);

- the *Building and Construction Industry (Portable Long Service Leave) Act 1991* to provide for earlier eligibility to apply to access portable long service leave entitlements (after 5 years' equivalent service, instead of 10 years) where a worker is experiencing financial hardship related to the COVID-19 emergency;

- the *Building Units and Group Titles Act 1980* to temporarily permit body corporate committees to postpone the due date for proprietor contributions, to provide proprietors suffering financial hardship as a result of COVID-19 additional time to pay contributions;

- the *Casino Control Act 1982*, the *Gaming Machine Act 1991*, the *Keno Act 1996* and the *Lotteries Act 1997* to provide for a time limited ability to defer or waive gambling taxes and levies;

- the *City of Brisbane Act 2010* and the *Local Government Act 2009* to provide a temporary regulation-making power to enable Queensland local governments to decide, by resolution at a meeting other than a budget meeting, what rates and charges are to be levied for part of the 2020-21 financial year;

- the *Contract Cleaning Industry (Portable Long Service Leave) Act 2005* to provide for earlier eligibility to apply to access portable long service leave entitlements (after 5 years' equivalent service instead of 10 years) where a worker is experiencing financial hardship related to the COVID-19 emergency;

- the *Corrective Services Act 2006* to expand the circumstances in which the chief executive may order the early release of a prisoner to parole; extend the duration of prescribed acting Queensland Parole Board member appointments under section 228; expand the application of section 268 to corrective services facilities; and clarify the chief executive's powers regarding corrective service facilities administered by engaged service providers under section 272;

- the *COVID-19 Emergency Response Act 2020* to clarify that the power provided to modify statutory time limits on a ground relating to COVID-19 does not unintentionally override a general or overarching condition/restriction applying to the exercise of an existing power, for example that a period be extended by agreement or consent;

- the *Disability Services Act 2006* to insert a new Part 8, Division 2A to extend the immunity from civil or criminal liability to disability service providers where gates, doors or windows are locked to ensure an adult with an intellectual or cognitive disability complies with a relevant public health direction;

- the *Disaster Management Act 2003* to provide for a longer period (up to 90 days) by which the declaration of the disaster situation in regard to the COVID-19 emergency can be extended, and to set aside the entitlement to compensation for loss or damage suffered as a result of the exercise of powers under the *Disaster Management Act 2003* related to the COVID-19 emergency;

- the *Environmental Protection Act 1994* to provide the Minister with the power to make a declaration waiving compliance of certain conditions of an environmental approval, and to allow the administering authority to issue temporary environmental authorities, where these actions are deemed reasonable because of the COVID-19 emergency;

- the *Forensic Disability Act 2011* (FDA) to:

    - clarify that the administrator of the Forensic Disability Service may refuse visitors, under section 32, to protect the health or safety of a forensic disability client or others during the COVID-19 emergency, including to comply with particular directions given under the *Public Health Act 2005*;

    - clarify that the provisions in relation to seclusion, under the FDA, do not apply in circumstances where a client is required to undertake isolation in accordance with a direction under section 362H of the *Public Health Act 2005*; and

    - enable limitation of authorised community treatment or a change to a client's individual development plan, where the delivery of the treatment would present a risk to the health or safety of the client or others, due to the COVID-19 emergency.

- the *Liquor Act 1992* by inserting a new power for the Commissioner for Liquor and Gaming to issue a Takeaway Liquor Authority to operators of licensed venues whose ordinary operations have been disrupted due to the public health directions, to allow them to sell takeaway liquor as specified in the authority, regardless of the limitations of their current licence or permit;

- the *Manufactured Homes (Residential Parks) Act 2003* to create a temporary regulation making power about modifying or suspending the processes for increasing or reducing site rent and modifying the processes for disputing a proposed increase in site rent during the COVID-19 emergency period;

- the *Mental Health Act 2016* to allow the chief psychiatrist to:
    - approve an absence of certain patients from an authorised mental health service if satisfied that the absence is necessary to allow the patients to comply with a detention order or public health direction given under the *Public Health Act 2005* and does not result in unacceptable risks to the person's safety and welfare, and the safety of the community; and
    - declare a health service, or part of a health service, to be an authorised mental health service and appoint a person to be the administrator of an authorised mental health service by notice published on the department's website instead of making the declaration or appointment by gazette notice;
- the *Police Powers and Responsibilities Act 2000* to provide a scheme enabling a magistrate or Childrens Court to issue a disease test order requiring the taking of samples from a relevant person, the testing of the samples for COVID-19, and for the provision of the results to specified persons;
- the *Private Health Facilities Act 1999* to allow the chief health officer to waive or defer the fees payable under the Act;
- the *Public Health Act 2005* to:
    - extend the period in which an exemption from medically examining a person exposed to the serious disease or illness applies to 14 days;
    - require an emergency officer (medical) to inform a detained person that the officer must apply to a magistrate to extend the duration of the detention order beyond 14 days;
    - provide that a public health direction takes effect when the direction is given or, if the direction fixes a later day or time, on the later day or at the later time;
    - allow an emergency officer to give a parent of a child a direction to keep the child at or in a stated place for an isolation period and ensure the child complies with stated conditions during the isolation period; and
    - authorise the chief executive to delegate the powers to authorise the disclosure of confidential information about notifiable conditions or contact tracing to the chief health officer and one additional person who is a public service officer or employee or a health service employee, and has the expertise or experience in public health issues necessary to exercise the powers; and
- the *Youth Justice Act 1992* to provide the option to appoint temporary non-public service employees as detention centre employees, for only as long as reasonably required, and only if reasonably necessary for the security and management of detention centres and the safe custody and wellbeing of children detained in detention centres.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives other than through legislative amendment.

Estimated cost for government implementation

Local Government

While the amendments to the *City of Brisbane Act 2010* and the *Local Government Act 2009* are an important measure to support the financial sustainability of local governments, they do not present additional costs for State government implementation.

Environmental Protection

Amendments made to the *Environmental Protection Act 1994* that allow the administering authority to issue temporary environmental authorities, will result in administrative costs to the Department of Environment and Science. However, given the temporary nature of the resultant costs, they will be covered by the agency's existing resources.

Takeaway liquor authority

It is not anticipated the Government will incur any additional costs as the amendments to the *Liquor Act 1992* provide for an administrative process undertaken within existing means.

Gambling Taxes

Amendments to gambling legislation to provide a discretionary power to defer or waive gambling taxes and levies will not incur an implementation cost for Government. The value of taxes waived or deferred will be a consideration for Government in determining whether to make use of the provisions. The Government has already announced the deferral of March 2020 gaming machine taxes valued at $50M (until July 2020).

Community titles amendments

Costs associated with communicating and implementing amendments to the *Body Corporate and Community Management Act 1997* and *Building Units and Group Titles Act 1980* will be met from existing resources.

Manufactured homes

Any additional costs to government for updating and communicating information to manufactured home stakeholders about the changes to the legislation will be minimal and met from existing budgets.

Youth detention centre employees

It is not possible to quantify the financial implications of the potential appointment of non-public service employees as detention centre employees until a need arises and numbers are determined.

COVID-19 test orders

Implementation of the COVID-19 test order scheme under the *Police Powers and Responsibilities Act 2000* will incur some minimal costs to the Government in terms of the cost of disease tests for Novel Coronavirus (COVID-19). Police resources expended will be absorbed by existing budgets. The scheme will have an impact on resources for Queensland Courts and legal assistance services which will also be absorbed by existing budgets.

Consistency with fundamental legislative principles

Potential breaches of fundamental legislative principles are addressed below.

Building and Construction Industry (Portable Long Service Leave) Act 1991 and Contract Cleaning Industry (Portable Long Service Leave) Act 2005

The proposal to amend the *Building and Construction Industry (Portable Long Service Leave) Act 1991* and the *Contract Cleaning Industry (Portable Long Service Leave) Act 2005* (LSL Acts) may engage section 4(2)(a) of the *Legislative Standards Act 1992* (LSA); as access to the scheme is limited, it may raise whether the legislation has sufficient regard to the rights and liberties of individuals. However, the scheme is only limited to members of the relevant industries already covered under the LSL Acts. Further, the description of circumstances under which the scheme will apply are not exhaustive and, are to provide instructive guidance only; they do not limit access to the scheme. Ultimately, the amendments are beneficial in that they are intended to provide easier access to long service leave where members are suffering hardship as a result of the COVID-19 emergency and there are no impacts if members do not seek access to their long service leave.

Casino Control Act 1982, Gaming Machine Act 1991, Keno Act 1996 and Lotteries Act 1997

The Bill contains a number of amendments which will provide the Minister with the ability to waive or defer gambling taxes or levies. The amendments provide that a gambling tax notice issued by the Minister (with the approval of the Treasurer) is subordinate legislation that has effect despite a provision of the enabling Act. The amendment therefore engages the fundamental legislative principle requiring legislation to have sufficient regard to the institution of Parliament, including by authorising the amendment of an Act only by another Act (section 4(4)(c) of the LSA). The amendment, and its departure from the fundamental legislative principles, is considered to be justified in view of the potentially urgent need to assist licenced businesses in the recovery from COVID-19, the beneficial nature of the provision, and the time-limited nature of the amendments.

By allowing a gambling tax notice to take effect retrospectively, these amendments may raise whether the legislation has sufficient regard to the rights and liberties of individuals and, does not adversely affect rights or liberties, or impose obligations,

retrospectively (sections 4(2)(a) and 4(3)(g) of the *Legislative Standards Act 1992* (LSA).

Retrospective commencement is necessary to confirm actions that have already been undertaken to support businesses negatively impacted by business closures as a result of the COVID-19 emergency. However, as the proposed ability will assist impacted businesses, it is considered it will not *adversely* affect rights and liberties retrospectively, and will instead provide a benefit; thereby negating any breach of fundamental legislative principles.

City of Brisbane Act 2010* and *Local Government Act 2009

The proposal to amend the *Local Government Act 2009* (LGA) and the *City of Brisbane Act 2010* (COBA) to provide a regulation-making power to enable councils to decide, by resolution outside a budget meeting, whether additional rates and charges are to be levied for that financial year, raises whether the legislation has sufficient regard to the institution of Parliament (sections 4(2)(b) and (4) of the LSA). The proposal also potentially engages the fundamental legislative principle in section 4(2)(a) of the LSA which requires the legislation to have sufficient regard to the rights and liberties of individuals, to the extent that it may result in property owners having their rates increased without an equivalent increase in services.

Local governments have limited capacity to receive revenue, either from government funding or from rates and charges they levy themselves. Most local governments have advised they will not know the true impact of COVID-19 for another three to four months. Accordingly, the legislative response cannot be met through an amendment to the LGA or COBA and, the proposal to provide for a head of power to make a regulation is considered justified to allow for a timely and flexible response. Further, rates would be prospectively levied and would only apply for the remainder of the financial year to which they relate.

For example, if a Local Government decides its rates and charges in December, then that rate would only apply for the remainder of the financial year. The proposed amendments are consistent with the purposes of the LGA (section 3) and COBA (section 3) which include providing for a system of local government that is accountable, effective, efficient and sustainable. The proposal is also time limited and not intended to amend or override the *Human Rights Act 2019*, thus preserving these protections. Existing safeguards include that the Local Government Minister may revoke a decision of a council where it is in the public interest or where that decision breaches the statutory local government principles. All local governments must also adhere to the local government principles.

Ultimately, any increase in rates mid-year (individual impact) would be justified on the basis of ensuring the ongoing financial sustainability of the local government and their ability to continue to provide for essential services for the community as a whole, despite the uncertain economic conditions.

Corrective Services Act 2006

The amendments proposed to the *Corrective Services Act 2006* (CS Act) to allow the early release of prisoners to parole and to expand the application of a declaration of

emergency to all corrective services facilities may be considered to be inconsistent with fundamental legislative principles as per sections 4(2)(a) and (b) of the LSA. Any potential conflict with the fundamental legislative principles can be justified by the current COVID-19 emergency and the need to ensure the safety of all staff and prisoners, and mitigate the potential spread of contagion during the pandemic.

The proposed amendment to allow for the release of prisoners onto parole up to seven days prior to their release date may make individual rights and liberties, or obligations dependent on administrative power (section 4(3)(a) of the LSA). However, this power does not adversely affect rights and liberties or impose obligations on prisoners, is clearly defined, and necessary to facilitate the safe release of prisoners from custody who, due to transport and other restrictions as a result of COVID-19, may be at risk of homelessness and other welfare concerns.

The proposed amendment to expand the application of the chief executive's emergency declaration power under section 268 of the CS Act from prisons to all corrective services facilities is a delegation of legislative power in an appropriate case to an appropriate person (section 4(3)(c) of the LSA). While it may also potentially limit the rights and liberties of prisoners detained in locations other than prisons, the exercise of this power is subject to the Minister's approval, a specific time limit, and to instances where the chief executive reasonably believes a situation exists at a corrective services facility that threatens or is likely to threaten the security or good order of the prisoner or the safety of a prisoner or another person in the corrective services facility. Further, it is a temporary extension of power limited to the expiry of this Act and for the specific purpose of responding to the COVID-19 emergency. In the circumstances of the current COVID-19 emergency, it is necessary and appropriate that the chief executive can make such a declaration to ensure the safety of staff, prisoners and the community.

Disability Services Act 2006

The amendments to the *Disability Services Act 2006* (DSA) to ensure a service provider, and an individual acting for a service provider, is not civilly or criminally liable for locking gates, doors or windows to prevent an adult with an intellectual or cognitive disability from breaching a relevant public health direction, such as under section 362B of the *Public Health Act 2005*, raises the issue of whether the legislation has sufficient regard to the rights and liberties of individuals (section 4(2)(a) of the LSA).

However, this potential breach is justified to protect adults with an intellectual or cognitive disability, and the broader community, from the threat of the COVID-19 virus. There are also appropriate safeguards in place, including that the gates, doors or windows are locked in compliance with the policy that is made by the Department of Communities, Disability Services and Seniors about the locking of gates, doors and windows under this new division. In addition, the proposed amendments will be time limited and will expire on 31 December 2020.

Further, the locking of gates, doors or windows under Part 8, Division 2A is not a substitute for containing an adult to prevent the adult's behaviour causing harm to the adult or others (i.e. in response to challenging behaviour). For lawful use of containment, a service provider must comply with Part 6 of the DSA which requires a more rigorous authorisation process.

Disaster Management Act 2003

The amendments to the *Disaster Management Act 2003* (DM Act) to provide for a longer period by which a declared disaster situation may be extended, raise whether the legislation has sufficient regard to the rights and liberties of individuals (section 4(2)(a) of the LSA). This includes, for example, whether the legislation makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review; allows delegation of administrative power only in appropriate cases and to appropriate persons; and confers power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer. Further, the amendments raise whether the legislation has sufficient regard to the institution of Parliament in its delegation of legislative power (sections 4(2)(b) and (4) of the LSA).

The declaration of a disaster situation empowers authorised officers to undertake certain actions or compel others to undertake or refrain from certain actions. This includes controlling the movement of persons, entering places, removing or destroying animals, vegetation, vehicles and structures; and closing roads to traffic.

The powers of authorised officers are discretionary and, will only be exercised in circumstances associated with the COVID-19 disaster situation, where the powers are necessary for public safety and the protection of life or property. Authorised officers are limited to those with the necessary expertise or experience to exercise the powers, and authorisations may be limited or given on conditions specific to the particular circumstances of the officer or event. The power to give directions about property includes that, if the property is residential or business premises, directions may only be given with the written approval of the relevant district disaster coordinator (s78 of the DM Act).

Extension of the period of a disaster situation by regulation is established under the DM Act in recognition of the emergent circumstances in which the extension may be required and that the exercise of powers may be urgently necessary to protect human life and community safety.

While the exercise of these disaster powers has the potential to impact on fundamental legislative principles, any breach is justified, given the emergent situation and the need to protect the health and wellbeing of the community by managing the potential spread of COVID-19. Further, as the provisions will sunset on 31 December 2020, any infringement of rights and liberties will be limited.

The amendment to the DM Act to set aside the right to compensation raises whether the legislation has sufficient regard to a person's right to fair compensation for compulsory acquisition of property and, that rights and liberties should not be adversely affected, or obligations imposed, retrospectively (sections 4(3)(i) and 4(3)(g) of the LSA).

As noted above, emergency powers available under the DM Act include the power to direct the owner of any property to put the property under the control of a relevant person. Should such a power be exercised, the amendments will have the effect of setting aside the right to make a claim for fair compensation. This breach is considered justified as the COVID-19 emergency will have severe and long-lasting economic

impacts for Queensland. In this environment, uncapped and unpredictable compensation claims for damage and loss suffered may place further economic pressure on the State and diminish the stimulus measures being implemented by the Queensland Government. Retrospective commencement is necessary to ensure the limitation on compensation is applied equally to all potential claimants affected by the exercise of powers under the COVID-19 disaster situation. Any potential breach of the fundamental legislative principles is considered justified to balance the impacts on potential claimants with the interests of the wider community in the financial safeguards and stimulus measures delivered by the Queensland Government.

Environmental Protection Act 1994

The proposed amendment to allow the administering authority to approve temporary authorities, thereby making an activity causing environmental harm or nuisance done under a temporary authority lawful, engages section 4(2)(a) of the LSA, and raises whether the legislation has sufficient regard to the rights and liberties of individuals. While there is the potential for a temporary authority to result in environmental harm or nuisance, the amendments provide for the administering authority to include conditions on the authority that are necessary or desirable. These conditions are able to mitigate the potential for environmental harm or nuisance. The alternative to approving the activities is likely to be a greater level of harm (e.g. a temporary authority may allow a higher volume of sewage to be treated at the facility in order to stop the overflow of raw sewage). Noting the ability to include conditions that can minimise any harm, the need to respond to circumstances arising from the COVID-19 emergency that could cause greater environmental harm and the relatively short duration of the provisions, the potential breach of fundamental legislative principles is considered justified.

If the administering authority refuses a request from a person for a temporary authority, there is no ability for the person to appeal the decision or have the decision reviewed under the EP Act. This engages section 4(3)(a) of the LSA and raises whether the legislation has sufficient regard to the rights and liberties of individuals, which is dependent on whether the administrative power is sufficiently defined and subject to the appropriate review. The amendments clearly outline the matters that the administering authority must be satisfied of in order to issue a temporary authority. If the administering authority refuses the application for a temporary authority, the person may apply for an environmental authority for the activity through the normal processes in the EP Act. The normal process provides the person with appeal and review rights. Given the provisional nature of temporary authorities, the absence of an application fee and the option for a person to apply through the normal processes as an alternative, the potential breach of fundamental legislative principles is considered to be justified. In addition, where the administering authority refuses to issue a temporary authority to a person under the EP Act, the person may still have the decision reviewed under the *Judicial Review Act 1991*.

The proposed amendment to allow a declaration to be made by the Minister exempting a person from complying with particular conditions of their approval may result in environmental harm or nuisance. This may, therefore, engage section 4(2)(a) of the LSA. Conditions on approvals are designed to minimise or prevent environmental harm, however, there may also be conditions that require monitoring, reporting or completion of an action by a particular time. An exemption from compliance with this latter type of condition may be given without resulting in any direct environmental

harm. It should also be noted that the effect of the temporary exemption is to pause or postpone these conditions. As a result, any significant environmental harm or nuisance is unlikely given the short duration of a declaration and the requirement for approval holders to continue to comply with all other conditions of their approval. The risk of environmental harm is further reduced due to the requirement for the Minister to exercise the power to grant an exemption in the way that best achieves the objects of the EP Act.

The proposed amendment to empower the Environment Minister to make a declaration exempting compliance with certain conditions of an approval allows the Minister to override the operation of the EP Act. This power raises whether the Bill has sufficient regard to the institution of Parliament (s4(2)(b) of the LSA). The EP Act already provides a power for the Administering Authority to amend the conditions of an environmental authority. However, given the number of parties potentially affected by the COVID-19 emergency, it is not considered practical to amend each individual environmental authority or other approval that may be affected. Instead, the amendment will allow the Environment Minister to make a declaration exempting compliance with certain conditions, which is considered justified in this circumstance. Safeguards are in place to ensure that the power to make the abovementioned declaration cannot be delegated by the Minister and that any declared exemptions are temporary, with the power to make declarations ending on 31 December 2020 and declarations not remaining in effect past 30 June 2021. In addition, section 5 of the EP Act requires a person (upon whom a power or function is conferred) to perform the function or exercise the power in a way that best achieves the object of the Act (i.e. to achieve ecologically sustainable development).

Exempting a person, or class of persons, from complying with a condition of an approval through a declaration engages section 4(3)(h) of the LSA, as the person will be granted a form of immunity from prosecution for the duration of the declaration. A declaration does not explicitly provide a person with immunity from a proceeding or prosecution generally, rather it stops or pauses a particular condition of an approval from applying for a short duration in order to respond to the impacts of the COVID-19 emergency. All other conditions of the approval must continue to be complied with and penalties are provided in the EP Act for non-compliance. Further, where environmental harm is caused beyond the scope of the approval, the general offence provisions of the EP Act continue to apply. Exempting compliance with particular conditions of an approval in the short-term is considered necessary to ensure that the COVID-19 emergency measures currently in place are complied with, without breaching conditions of an approval. For example, a condition of an approval may require the approval holder to fly into a remote community to undertake groundwater monitoring, however, to prevent the spread of the virus this condition may be waived until it is safe to comply with. In this regard, the declaration is not considered to breach the fundamental legislative principles.

Forensic Disability Act 2011

A number of the proposed amendments to the *Forensic Disability Act 2011* (FDA) raise whether the legislation has sufficient regard to the rights and liberties of individuals (section 4(2)(a) of the LSA). In particular, provisions which restrict the ability for persons to enter the Forensic Disability Service (FDS), may breach the rights of clients and the rights of persons to visit clients.

This potential breach is justified to protect FDS clients and staff in addition to potential visitors within the broader community from the threat of exposure or transmission of the COVID-19 virus, by minimising movement. The amendment does not restrict persons who are normally able to visit the client from communicating with the client, or providing advice, through alternative means such as calling the client. Any restrictions will be time limited and will expire on 31 December 2020. Ultimately, the amendments to the FDA balance the promotion of the health of the public and the rights and liberties of the FDS client.

Sections 4(2)(b) provides the fundamental legislative principle that legislation should have sufficient regard to the institution of Parliament. Whether a Bill has sufficient regard to the institution of Parliament depends on whether for example, the Bill allows the delegation of legislative power only in appropriate cases and to appropriate persons (4(4)(a) of the LSA).

Amendments to the FDA enable a senior practitioner to set periods of, and place conditions on, community treatment for a client who has been authorised to receive community treatment. This potentially breaches fundamental legislative principles as the amendment effectively delegates the ability to limit community treatment for a certain period to senior practitioners.

It is considered that this amendment is justified because any limitation of community treatment under a client's individual development plan will only be exercised where the delivery of the treatment would present a risk to the health or safety of the client or others due to the COVID-19 emergency. Further, the senior practitioner will not be able to amend community treatment inconsistent with orders of the Mental Health Court (MHC) or Mental Health Review Tribunal (MHRT), and the Director of Forensic Disability would still need to apply for a review of these orders to the MHC or MHRT if seeking amendment to them. This proposed amendment will also be time limited and will expire on 31 December 2020.

Similarly, amendments to the FDA to enable the senior practitioner to delegate this power to an authorised practitioner potentially also breaches the fundamental legislative principle that power should only be delegated in appropriate cases and to appropriate persons. However, it is considered that this is justified as the senior practitioner can only delegate to a practitioner that has been authorised for these specific purposes, similar to existing powers under section 17(1) of the FDA. This proposed amendment is time limited and will expire on 31 December 2020.

Liquor Act 1992

The amendment to the *Liquor Act 1992* (Liquor Act) to allow the Commissioner for Liquor and Gaming (Commissioner) to issue a Takeaway Liquor Authority (TLA) to licensees or permittees to sell takeaway liquor in a specified amount raises whether the legislation has sufficient regard to the rights and liberties of individuals (s4(2)(a) of the LSA) and the institution of Parliament (s4(2)(b) of the LSA). Specifically; that legislative obligations may be dependent on an administrative power only if the power is sufficiently defined and subject to appropriate review, that legislation must be consistent with principles of natural justice, that legislative changes must not adversely affect an individual's rights and liberties, or impose obligations, retrospectively and that

the exercise of a delegated legislative power must be subject to the scrutiny of the Legislative Assembly (sections 4(3)(a), 4(3)(b), 4(3)(g) and 4(4)(b) of the LSA).

The amendments to the Liquor Act apply broad discretionary powers to the Commissioner to arbitrarily provide specific concessions to certain licensees and permittees, that are not contained in the Liquor Act, without direct oversight by Parliament or providing for any associated rights of administrative review. However, the potential breaches are justified on the grounds of public interest. The COVID-19 emergency is an unprecedented situation, and it is intended that businesses affected by emergency closures be supported by allowing them to provide liquor services to the community in a different capacity. Given the temporary nature and the limited duration of the measures, requiring further Parliamentary scrutiny over such determinations would be impractical in these extraordinary circumstances and making such determinations reviewable is not considered an appropriate imposition on the Queensland Civil and Administrative Tribunal's resources. The provisions specified in a TLA are of benefit to licensees and do not impose any burden. The provisions align with one of the main purposes of the Liquor Act; to facilitate and regulate the optimum development of the tourist, liquor and hospitality industries having regard to, amongst other things, the economic implication of change (section 3(b) of the Liquor Act). In relation to limits on takeaway sale amounts, the provisions will ensure another main purpose of the Liquor Act, to minimise harm from alcohol abuse, misuse and associated violence, is also met. Further, the amendments ensure that a TLA that has been granted, amended or revoked in respect of a class of licensee or permittee, applies as if it were subordinate legislation and must be tabled in the Legislative Assembly within 14 days. This ensures Parliament has some level of oversight over those TLAs that apply to licensees and permittees broadly, and includes the ability for the Legislative Assembly to pass a resolution to disallow the TLA.

The ability to immediately suspend a TLA issued in respect of an individual licensee or permittee, and the ability to amend or revoke the TLA, may breach subsection 4(3)(b) of the LSA. However, the potential breach is justified on the grounds of public interest. Unlawful trading practices, if they involve the irresponsible supply of alcohol, could result in increased alcohol-related harm. The ability to immediately suspend a TLA will allow the Commissioner to take immediate short-term action against a licensee or permittee who contravenes a TLA, or operates a TLA, to prevent this harm and ensure public safety. It is also important to note that a TLA is an extraordinary, time-limited concession that provides authority well beyond the strict regulations that ordinarily apply to takeaway liquor sales. It is therefore appropriate that serious action be taken to address non-compliance (e.g. suspension), without ordinary natural justice processes applying. Further, amendment or revocation of a TLA will not impact on a licensee or permittee's ordinary licence provisions. Prior to revocation or amendment of the TLA on the grounds of contravention, licensees and permittees will be provided with a period of seven days to show cause as to why the Commissioner should not take further action to amend or revoke a TLA. This provides licensees and permittees with a level of procedural fairness, and ensures a proportionate response will be taken to address the specific causes of non-compliance or harm.

A TLA may take effect from the date of the public health emergency declaration. In effect, this will provide retrospective operation of the TLA to confirm actions that have already been undertaken to support businesses negatively impacted by the business

closures as a result of the COVID-19 emergency. As a retrospective TLA will operate to provide additional liquor trading opportunities to affected businesses, it is considered it will not ***adversely*** affect rights and liberties retrospectively, and therefore the fundamental legislative principles are not breached.

Manufactured Homes (Residential Parks) Act 2003

The amendments to the *Manufactured Homes (Residential Parks) Act 2003* to create a temporary regulation making power about modifying or suspending the processes for increasing or reducing site rent and modifying the processes for disputing a proposed increase in site rent during the COVID-19 emergency period primarily engage the fundamental legislative principle that requires legislation have sufficient regard to the institution of Parliament (section 4(2)(b) of the LSA), including authorising the amendment of an Act only by another Act (section 4(4)(c) LSA). The proposed regulation-making power will allow for certain rights and obligations under the *Manufactured Homes (Residential Parks) Act 2003* to be altered through the making of emergency regulations, which may be inconsistent with a provision of the relevant Act or a law, to the extent necessary to achieve the purpose of the regulations and this Act.

This regulation-making power is justified by the need to ensure fairness for manufactured home owners during the COVID-19 emergency. In particular, this will enable Government to address issues raised by industry groups and manufactured home owners about rigid processes applying to increases in site rent mandated in the *Manufactured Homes (Residential Parks) Act 2003* and difficulties in applying these during the COVID-19 emergency. In this regard, the processes around 'market reviews' of site rent are a concern for both groups.

It is expensive for a manufactured home owner to move their home out of a residential park and relocate it. Further, manufactured home owners are typically seniors living on limited, fixed incomes. This is why management of increases to site rent is an important issue.

Home owners have identified that social distancing restrictions put them at a disadvantage when facing a market review of site rent by preventing them from properly engaging in the consultation process by meeting, planning and advocating as a group about any proposed site rent increases. Industry stakeholders have identified that market reviews have caused stress and uncertainty for home owners during COVID-19, however, some alternative methods (such as deferring the market rent review for one year) that could be implemented by park owners are not practical because of the strict processes for scheduling of site rent increases in the *Manufactured Homes (Residential Parks) Act 2003*. The amendments will enable a regulation to temporarily change the process for increasing site rent to achieve balance and fairness during the various stages of COVID-19 restrictions. Further, the regulation will be targeted, appropriately limited and finalised in consultation with home owners and park owners.

The regulation may also have the potential to infringe on the rights and liberties of individuals under section 4(2)(a) of the LSA. However, any temporary changes to the processes for increasing or reducing site rent and modifying the processes for disputing a proposed increase in site rent will not affect underlying property rights. The

requirement to pay site rent has not changed and it is only the processes relating to increases or decreases in the site rent that will be temporarily modified.

Inconsistency with fundamental legislative principles is mitigated by the time-limited nature of the amendments and the requirement for a direct link to an exceptional or emergency circumstance balancing community and individual interests related to health and the COVID-19 emergency. Further, the regulation will be subject to disallowance by the Legislative Assembly under section 50 of the *Statutory Instruments Act 1992*.

Police Powers and Responsibilities Act 2000

The amendment to the *Police Powers and Responsibilities Act 2000* (PPRA) to provide for a court ordered test for COVID-19 raises whether the legislation has sufficient regard to the fundamental rights and liberties of a person (section 4(2)(a) of the *Legislative Standards Act 1992*).

The requirement to undergo disease testing contains a number of safeguards including: the requirement for a person to be informed by police of their arrest and the reason for their arrest, the requirement for the person to be given a copy of the application for the COVID-19 test order and the ability to have a lawyer present at the hearing. Upon hearing submissions from the police and the alleged offender, a court will determine whether a COVID-19 test order is warranted. Accordingly, the defendant's natural justice rights will be preserved.

While the detention, restraint and imposition of an invasive medical procedure without consent may be inconsistent with the rights and liberties of a person, the procedure is justified in the current COVID-19 emergency. The amendments provide reasonable measures to enable persons who may have been exposed to COVID-19 to gain rapid knowledge of their exposure thereby enabling them to take proactive measures to self-isolate to restrict any further potential spread of the disease as well as to gain medical treatment, thereby protecting their families and the wider community. On balance, the importance of ensuring public health outweighs the impact on rights and liberties that may occur.

Private Health Facilities Act 1999

The provision of a power to delegate the ability to waive or defer fees to the chief health officer engages the fundamental legislative principle in section 4(3)(c) of the LSA, namely whether the legislation allows the delegation of administrative power only in appropriate cases and to appropriate persons. The amendment also engages section 4(3)(a) of the LSA, which requires legislation to make rights or liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.

The power to waive or defer fees is to be delegated to the chief health officer, who is a senior public servant with the expertise and experience necessary to make the decision. In addition, the chief health officer's power is restricted by requiring the chief health officer to be satisfied that the applicant for the waiver or deferral is experiencing financial hardship because of, or in response to, the COVID-19 emergency.

The decision not to provide a right of review or appeal against a decision to refuse an application for fee waiver is justified because the provision does not impose any new costs on a person or change the person's existing rights under the law. Rather, the provision simply gives the chief health officer discretion to provide the benefit of waiving or deferring fees in circumstances involving financial hardship due, or in response, to the COVID-19 emergency. A decision to refuse to provide the benefit of a fee waiver or deferral is unlikely to have significant consequences for an applicant, such as impacting the applicant's livelihood.

Public Health Act 2005

The amendment to the *Public Health Act 2005* (PHA) to allow the chief executive to authorise the disclosure of confidential information about notifiable conditions, including information supplied for contact tracing, raises whether the legislation has sufficient regard to the rights and liberties of individuals (section 4(2)(a) of the LSA) and, whether the legislation allows the delegation of administrative power only in appropriate cases and to appropriate persons (section 4(3)(c) of the LSA).

The potential breach of fundamental legislative principles is justified on public health grounds because any disclosure of confidential information about a notifiable condition must be in the public interest. Further, the delegation of the power to authorise the disclosure of confidential information is limited to no more than two delegates: the chief health officer and another person who the chief executive is satisfied has the requisite public health expertise or experience necessary to authorise the disclosure of the confidential information. Although the power relates to the disclosure of personal information, any disclosure must only be made in the public interest. These limitations will reduce the risk of the confidential information being disclosed in a way that is contrary to a private or public interest. Further, a person who unlawfully discloses confidential information about notifiable conditions or, confidential information supplied for contact tracing, will commit an offence under sections 77 or 105 of the PHA.

The proposed amendment to the PHA to allow emergency officers to give a direction to the parent of a child to keep the child at a specified place potentially engages section 4(3)(a) of the LSA which requires rights and liberties, or obligations, dependent on administrative power to be sufficiently defined and subject to appropriate review. The potential breach is justified as the power can only be used if the emergency officer reasonably believes the use of the power is necessary to assist in containing, or responding to, the spread of COVID-19 within the community. The direction relates to the quarantine or self-isolation of a person, both of which are proven methods to slow the transmission of COVID-19 and is for a period of not more than 14 days. Further, emergency officers who may exercise the power are appointed by the chief executive and must have the necessary expertise and experience to fulfil the role of an emergency officer. The direction can only be given to a narrow class of persons (that is, a parent of a child) and a parent will not commit an offence for failing to comply with the direction under section 362J of the PHA if the parent has a reasonable excuse. All directions remain subject to judicial review.

Consultation

Given the urgent nature of the Bill, consultation with non-government stakeholders has generally not been possible. A number of the amendments in the Bill, however, have arisen out of industry consultation relating to the COVID-19 emergency and predate the development of the Bill.

Concerns of industry stakeholders in relation to the emerging COVID-19 emergency were sought as follows:

- environmental industry representatives were consulted in relation to the operation of the *Environmental Protection Act 1994* during the COVID-19 emergency;

- Representatives of peak industry and consumer groups, including the Urban Development Institute of Australia and Associated Residential Parks Queensland have met regularly with government representatives to discuss issues surrounding the COVID-19 emergency*;*

- Manufactured home/residential parks stakeholders (both industry and individual home owners and consumer groups) have raised concerns about the *Manufactured Homes (Residential Parks) Act 2003* and expressed concerns about 'market review' site rent increases;

- Consideration has been given to representations made by stakeholders about the impacts of the COVID-19 emergency on the gambling sector;

- The proposed amendments to the *Liquor Act 1992* to provide the Commissioner with the power to issue a Takeaway Liquor Authority were made in direct response to industry representation regarding the effect on licensed venues from enforced pandemic related closures.

A number of the proposed amendments to the *Corrective Services Act 2006* (regarding the early release of prisoners on parole and the increase in duration of appointment of Parole Board Queensland members) are currently contained within the *Corrective Services and Other Legislation Amendment Bill 2020* (CSOLAB). CSOLAB has been subject to extensive consultation, including public consultation, regarding these amendments.

Relevant Unions have been consulted in relation to the amendment to the *Youth Justice Act 1992*.

Operators of private health facilities who have entered into agreements with Queensland Health to provide services to support the health system's capacity to respond to the COVID-19 emergency have been consulted and are supportive of the amendments to the *Public Health Act 2005*.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland and is not uniform with or complementary to legislation of the Commonwealth or another state.

Notes on provisions

Part 1 Preliminary

Clause 1 provides that, when enacted, the short title of the Act will be the Justice and Other Legislation (COVID-19 Emergency Response) Amendment Act 2020 (the Act).

Clause 2 provides that section 26 is to commence on 1 January 2021. Section 26 provides the transitional provisions for the amendments to the *Environmental Protection Act 1994*.

Part 16, Division 3 of the Act will commence on 19 March 2021. Part 16, Division 3 of the Act provides for amendments to the *Public Health Act 2005.*

Part 2 Amendment of body corporate and related legislation

Division 1 Amendment of Body Corporate and Community Management Act 1997

Clause 3 provides that this division amends the *Body Corporate and Community Management Act 1997.*

Clause 4 inserts new Chapter 7, Part 3 (COVID-19 emergency response measures for financial management), which includes new sections 323A to 323I.

New section 323A states that the purpose of the part is to provide measures to alleviate the financial burden caused by the COVID-19 emergency on bodies corporate for community titles schemes and owners of lots included in the schemes.

New section 323B states that the part applies despite another provision of the Act (the *Body Corporate and Community Management Act 1997*) or a regulation or regulation module made under the Act.

New section 323C includes a definition of ***COVID-19 emergency*** for the part by reference to the *COVID-19 Emergency Response Act 2020*, schedule 1 as, the period for which the declared public health emergency for COVID-19 under section 319(2) of the *Public Health Act 2005* is in effect. The section defines the term ***relevant period***, for the part, as the period that starts on commencement and ends on 31 December 2020.

New section 323D permits a body corporate to adopt a reduced sinking fund budget for the current financial year of the body corporate, by ordinary resolution. The ***financial year*** of a particular body corporate is determined by reference to provisions of the *Body Corporate and Community Management Act 1997*. The sinking fund budget must still allow for the raising of a reasonable capital amount to provide for necessary and reasonable spending from the sinking fund for the current financial year of the body corporate. However, the sinking fund budget does not need to include all or part of the ***anticipated major expenditure amount***. Anticipated major expenditure amount is defined in the section as the capital amount the body corporate is required, under the

regulation module for the community titles scheme, to reserve in the sinking fund budget to be accumulated to meet anticipated major expenditure in future years.

New section 323D also permits a body corporate to adjust an existing sinking fund budget for the current financial year of the body corporate by ordinary resolution, by removing or reducing part or all of the ***anticipated major expenditure amount*** included in the budget.

New section 323D also provides that if a body corporate adjusts an existing sinking fund budget for the current financial year, it must refund the proportion of a contribution or contribution instalment paid by a lot owner that is not required for the budget because the ***anticipated major expenditure amount*** is removed or reduced. A lot owner is not required to make a written request or provide evidence of payment for the refund to be made.

New section 323E applies where the body corporate for a community titles scheme has fixed lot owner contributions for the current financial year of the body corporate and due dates for the contributions (or contribution instalments). The provision allows the committee to extend the due date for payment of a contribution or instalment to a day no later than the end of the financial year.

The committee may decide to extend the due date for the owner of a particular lot, if satisfied the owner is suffering financial hardship because of the COVID-19 emergency, or for all owners of lots included in the scheme regardless of whether all the owners are suffering financial hardship because of the COVID-19 emergency.

New section 323E provides that the committee must consider the body corporate's ability to meet the necessary and reasonable spending from the body corporate's administrative fund and sinking fund for the current financial year in deciding whether to extend the due date for payment of a contribution or contribution instalment. This is to ensure the committee considers whether extending the due date for payment of a contribution or instalment is likely to impact on the body corporate's ability to meet its ongoing financial obligations in administering the scheme (for example, meeting payments for compulsory insurance or regular scheme maintenance).

New section 323E also clarifies that a decision to extend the due date for payment of a contribution or contribution instalment is not a restricted issue for the committee.

New section 323F provides that penalties for late payment of a contribution or contribution instalment are not incurred or accrued for the relevant period (from commencement until 31 December 2020). This applies to the late payment of a contribution or instalment that is payable during the relevant period, as well as a contribution or instalment that is otherwise in arrears during the relevant period.

This restriction on charging penalties applies despite a decision of the body corporate fixing a penalty for late payment of a contribution or contribution instalment.

New section 323F also provides an example showing that for a payment of a contribution instalment already in arrears at commencement, a lot owner is not liable for penalties during the relevant period, but may be liable for penalties accrued before and after the relevant period.

New section 323G relaxes particular debt recovery requirements. It sets out that the body corporate is not required to comply with a requirement under a regulation module to commence proceedings to recover the amount of an unpaid contribution or contribution instalment. The body corporate would otherwise, under all regulation modules apart from the *Body Corporate and Community Management (Specified Two-lot Schemes Module) Regulation 2011*, be required to commence proceedings within 2 months of the amount of a contribution or instalment being outstanding for 2 years.

New section 323G also clarifies that the body corporate is not prohibited from commencing proceedings to recover the amount of an unpaid contribution or contribution instalment, and that proceedings commenced before the commencement are not affected.

New section 323H permits bodies corporate to decide, by ordinary resolution, to borrow amounts on security that exceed the existing limits on total borrowed amounts (defined in the section as a ***prescribed borrowing limit***). The regulation module applying to a community titles scheme sets the prescribed borrowing limit for the scheme.

New section 323H provides that if the *Body Corporate and Community Management (Small Schemes Module) Regulation 2008* applies to a community titles scheme, the body corporate may only make a decision by ordinary resolution to borrow amounts on security exceeding the prescribed borrowing limit if it will not result in the body corporate being in debt for a borrowed amount that is greater than $6,000, which is twice the amount of the existing ***prescribed borrowing limit*** of the body corporate. For other community titles schemes, the section provides that the body corporate may only make a decision by ordinary resolution to borrow amounts on security exceeding the prescribed borrowing limit if it will not result in the body corporate being in debt for a borrowed amount that is greater than the amount worked out by multiplying the number of lots included in the scheme by $500, which is twice the amount of the existing ***prescribed borrowing limit*** of these bodies corporate.

The body corporate may continue to authorise the borrowing of an amount that exceeds the ***prescribed borrowing limit*** if authorised by the type of resolution required by the regulation module applying to the scheme for the borrowing of amounts exceeding the limit. Also, the section does not apply to community titles schemes under the *Body Corporate and Community Management (Specified Two-lot Schemes Module) Regulation 2011*, as these bodies corporate do not have similar borrowing requirements as bodies corporate operating under other regulation modules.

New section 323I provides that new Chapter 7, Part 3 expires on 31 December 2020.

Clause 5 inserts new Chapter 8, Part 14 (Savings provisions for Justice and Other Legislation (COVID-19 Emergency Response) Amendment Act 2020).

New section 445 applies for the expiry of Chapter 7, Part 3, which as highlighted by a note to the section, occurs on 31 December 2020. Section 445 sets out that Chapter 7, Part 3 is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A applies.

New section 445 ensures that body corporate decisions made under sections 323D, 323E and 323H continue as lawful decisions of the body corporate, and that bodies

corporate cannot apply or recover penalties that would otherwise have accrued in the absence of section 323F, after Chapter 7, Part 3 expires.

New section 446 applies to a body corporate after the expiry day (31 December 2020). It requires that if a body corporate, but for the operation of section 323G, would have been required under a regulation module to commence proceedings to recover an amount during the relevant period, it must commence proceedings to recover the amount within 2 months after the expiry day (31 December 2020).

New section 446 defines ***expired section 323G*** as section 323G as in force before the expiry day, ***expiry day*** as 31 December 2020, and ***relevant period*** by reference to section 323C, as in force before the expiry day. (Section 323C contains a definition of ***relevant period*** as the period that starts on commencement and ends on 31 December 2020).

Division 2 Amendment of Building Units and Group Titles Act 1980

Clause 6 states that this division amends the *Building Units and Group Titles Act 1980*.

Clause 7 inserts new Part 6A (COVID-19 emergency response measures for financial management), which includes new sections 134A to 134E.

New section 134A states that the purpose of new Part 6A is to provide measures to alleviate the financial burden caused by the COVID-19 emergency on bodies corporate and proprietors of lots.

New section 134B states new Part 6A applies despite another provision of the Act (the *Building Units and Group Titles Act 1980*) or a regulation made under the Act.

New section 134C provides a definition of ***COVID-19 emergency*** for the part by reference to the *COVID-19 Emergency Response Act 2020*, schedule 1 as, the period for which the declared public health emergency for COVID-19 under section 319(2) of the *Public Health Act 2005* is in effect.

New section 134D provides that if a body corporate has determined proprietor contributions for the current financial year of the body corporate and the date for payment of the contributions, the committee may extend the due date for payment of a contribution to a day no later than the end of the current financial year of the body corporate.

The committee may decide to extend the due date for a particular proprietor, if satisfied the proprietor is suffering financial hardship because of the COVID-19 emergency, or for all proprietors regardless of whether all the proprietors are suffering financial hardship because of the COVID-19 emergency.

New section134D provides that the committee must consider the body corporate's ability to meet the necessary and reasonable spending from the body corporate's administrative fund and sinking fund for the current financial year of the body corporate in deciding whether to extend the due date for payment of a contribution or contribution instalment. This is to ensure the committee considers whether extending the due date for payment of a contribution or instalment is likely to impact on the body corporate's

ability to meet its ongoing financial obligations in administering the scheme (for example, meeting payments for compulsory insurance or regular scheme maintenance).

New section 134E provides that new Part 6A expires on 31 December 2020.

Clause 8 inserts new Part 7, Division 3 (Savings provision for Justice and Other Legislation (COVID-19 Emergency Response) Amendment Act 2020), which includes new section 142.

New section 142 states the section applies for the expiry of new Part 6A, which as highlighted by a note to the section, occurs on 31 December 2020. The provision also states that new Part 6A is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A applies. This is to ensure that on expiry of Part 6A committee decisions to extend the due date for proprietor contributions that were made under section 134D continue as lawful decisions of the body corporate.

Part 3 Amendment of Corrective Services Act 2006

Clause 9 provides that this part amends the *Corrective Services Act 2006*.

Clause 10 inserts a new section 110A (Chief executive may order early release from corrective services facility) to allow the chief executive to release a prisoner from a corrective services facility on parole up to 7 days prior to the prisoner's parole release day and, to provide that the prisoner is subject to conditions of the parole order as if the parole order had started on the day the prisoner was released from the facility, until their parole order commences.

Subclause (3) provides that this section expires on 31 December 2020.

Clause 11 inserts a new Chapter 6, Part 15A (COVID-19 emergency provisions).

New section 351A defines ***COVID-19 emergency period*** by reference to the *COVID-19 Emergency Response Act 2020*, schedule 1 as, the period for which the COVID-19 emergency is in effect.

New section 351B increases the duration that a qualified person may act in the office of a prescribed board member for the Parole Board Queensland from 3 months to 1 year.

New section 351C modifies section 268 to replace references to 'prison' with 'corrective services facility'. This will allow the chief executive to declare an emergency at any corrective services facility, not just a prison.

New section 351D clarifies that the chief executive may direct corrective services officers to perform duties under the *Corrective Services Act 2006* at corrective services facilities administered by engaged service providers.

New section 351E provides that the part expires on 31 December 2020.

New section 351F declares that section 20A of the *Acts Interpretation Act 1954* (Saving of operation of repealed Act etc.) applies to new Part 15A.

Part 4 Amendment of COVID-19 Emergency Response Act 2020

Clause 12 provides that this part amends the *COVID-19 Emergency Response Act 2020* (Emergency Response Act).

Clause 13 amends section 6 of the Emergency Response Act, consequential to the amendment to section 12 in clause 16.

Clause 14 amends section 7 of the Emergency Response Act, consequential to the amendment to section 12 in clause 16.

Clause 15 amends section 11 of the Emergency Response Act, to ensure that this provision does not apply to new section 12(4)(a) inserted by clause 16.

Clause 16 amends section 12 of the Emergency Response Act. Where power to modify a period exists under an Act, this section provides that the power is taken to include modification on a ground that it is necessary for a purpose of the Emergency Response Act.

Subclause (1) amends section 12 to insert two new subsections to clarify that if a provision of the other Act provides that the entity's power to modify the period may only be exercised upon the basis of consent, agreement, request or application, the power to modify on the ground specified in section 12(2) can only be exercised if that provision has been complied with and a notice is given by the entity making the modification stating the modification and the reasons for it.

Subclause (2) amends section 12(3) to provide that if the new subsection (4) inserted by subclause (1) does not apply, the power to modify the period under section 12(2) may be exercised either by notice or statutory instrument depending on the circumstances.

Subclause (3) replaces a reference in section 12(3)(a) to 'persons' with a reference to 'entities'. An 'entity' is defined in schedule 1 of the *Acts Interpretation Act 1954* to include a person.

Subclause (4) replaces a reference in section 12(3)(b) to 'person' with a reference to 'entity' consistent with subclause (3).

Subclause (5) makes an amendment to section 12(4) consequential to the amendment renumbering section 12 in subclause (8).

Subclause (6) replaces a reference to 'person' in section 12(4) with a reference to 'entity' consistent with subclause (3).

Subclause (7) amends sections 12(6) and 12(7) consequential to the amendment renumbering section 12 in subclause (8).

Subclause (8) renumbers section 12 as a result of the insertion of the two new subsections in subclause (1).

Clause 17 amends section 18 of the Emergency Response Act consequential to the amendment to section 12 in clause 16.

Part 5 Amendment of disability services legislation

Division 1 Amendment of Disability Services Act 2006

Clause 18 provides that this division amends the *Disability Services Act 2006* (DSA).

Clause 19 inserts new Part 8, Division 2A (Locking of gates, doors and windows—COVID-19 emergency) into the DSA to ensure a disability service provider (defined in section 216(1)(a)), and an individual acting for a service provider, is not civilly or criminally liable for locking gates, doors or windows to prevent an adult with an intellectual or cognitive disability from breaching the Home Confinement Direction, or another public health direction, because of the adult's disability.

Currently, Part 8, Division 2 of the DSA provides an immunity from criminal or civil liability in certain circumstances where a disability service provider locks gates, doors or windows to prevent physical harm being caused to an adult with a skills deficit. However, this immunity does not extend to circumstances where an adult with an intellectual or cognitive disability needs assistance to comply with a COVID-19 related public health direction. For example, an adult with an intellectual or cognitive disability might not understand that they should not leave their home unless it is for a permitted purpose.

Under new Division 2A, service providers, and individuals acting for a service provider, would be expected to comply with certain safeguards, including that the service provider acted honestly and without negligence, and locked gates, doors or windows in compliance with the policy made by the Department of Communities, Disability Services and Seniors for this specific purpose.

The locking of gates, doors or windows under new Part 8, Division 2A is not a substitute for containing or secluding an adult in response to challenging behaviour. For example, if an adult with an intellectual or cognitive disability is being contained in response to challenging behaviour that may cause harm to the adult or others, this would be considered a restrictive practice, as defined by the DSA, and subject to more rigorous authorisation processes under Part 6 of the Act.

New Division 2A is time limited and will expire on 31 December 2020.

New section 220A recognises that a disability service provider may have to lock gates, doors or windows for the current purpose to prevent physical harm being caused to an adult with skills deficit (under Division 2); and also during the COVID-19 emergency, lock gates, doors or windows for the new purpose of ensuring an adult with an intellectual or cognitive disability complies with a relevant public health direction (under new Division 2A).

New section 220B sets out the requirements that a disability service provider must meet in order to lawfully lock, gates, doors or windows, under the new Division 2A, to obtain civil or criminal immunity under the DSA.

Subsection 220B(1) specifies when Division 2A and the immunity provision applies for a disability service provider (defined in section 216(1)(a) of the DSA).

Subsection 220B(2) sets out the conditions of immunity for the purpose of Division 2A.

Subsection 220B(3) clarifies the extent of the immunity provisions, including making it clear that if an adult with an intellectual or cognitive disability is being contained, within the meaning of Part 6 of the DSA, a separate and more rigorous authorisation process applies (under Part 6 of the DSA).

Subsection 220B(4) outlines when an individual acting for a disability service provider is not criminally or civilly liable for locking gates, doors or windows under new Division 2A.

Subsection 220B(5) provides that the Department of Communities, Disability Services and Seniors must have a policy about the locking of gates, doors or windows under new Division 2A, and must publish the policy on its website. Part of the immunity provisions for disability service providers, under Division 2A, requires them to lock gates, doors or windows in compliance with this policy.

Subsection 220B(6) includes key definitions for the purpose of section 220B.

New section 220C provides that the new (Part 8) Division 2A expires on 31 December 2020.

Division 2 Amendment of Forensic Disability Act 2011

Clause 20 provides that this division amends the *Forensic Disability Act 2011* (FDA).

Clause 21 inserts a new Chapter 12, Part 2A (Provisions for COVID-19 emergency) to protect the health, safety and welfare of forensic disability clients, persons who interact with those clients and persons in the community during the COVID-19 emergency.

New section 149 provides for the purpose of the new Chapter 12, Part 2A. Section 149(2) defines ***COVID-19 emergency*** by reference to the *COVID-19 Emergency Response Act 2020*, schedule 1 as, the period for which the declared public health emergency for COVID-19 under section 319(2) of the *Public Health Act 2005* is in effect.

New section 149A clarifies the ability for persons to visit the Forensic Disability Service under section 32 (such as a registered health practitioner, speech pathologist, social worker, or adviser), where there is a particular public health direction under the *Public Health Act 2005* (PHA).

New subsection 149A(1) provides that the ability for persons to visit the Forensic Disability Service, under section 32, is subject to a public health direction given under section 362B of the PHA, regarding the chief health officer's ability to give directions in response to COVID-19; or under Chapter 8, Part 7A, Division 3 of the PHA, regarding powers of emergency officers to give directions in response to COVID-19.

New subsection 149A(2) clarifies that the administrator may refuse entry to the Forensic Disability Service by a person under section 32 of the FDA, if satisfied refusal

is necessary to give effect to certain directions under the PHA, or is otherwise necessary for the purpose of Chapter 12, Part 2A of the FDA. This is required to support social distancing and isolation measures, if required, due to the COVID-19 emergency.

New section 149B provides an ability for a senior practitioner to change a client's individual development plan where they are authorised to have community treatment, if the senior practitioner considers the community treatment would pose a risk to the health, safety or welfare of the forensic disability client or another person.

New subsections 149B(1) and (2) provide an ability for a senior practitioner to include in, or change a client's individual development plan to include, the requirement to suspend for a set period of time, or set conditions on, community treatment. This only applies where the delivery of community treatment would present a risk to the health or safety of the client or others, due to the declared COVID-19 emergency, and ends on 31 December 2020.

New subsection 149B(3) provides an ability for a senior practitioner to change another aspect of a forensic disability client's individual development plan to the extent necessary to protect the health, safety or welfare of a person, having regard to the purpose of Chapter 12, Part 2A.

New subsection 149B(4) clarifies that a senior practitioner, or authorised practitioner, must not include in an individual development plan, or change an individual development plan to include, a matter to the extent the matter is inconsistent with an order of the Mental Health Review Tribunal or Mental Health Court.

New subsections 149B(5) and (6) provide that a senior practitioner, or authorised practitioner, must still comply with sections 17(2), (4) and (5) of the FDA, in changing a client's individual development plan, only to the extent it does not pose a risk to the health, safety or welfare of the client or another person, having regard to the purpose of new Chapter 12, Part 2A.

New subsection 149B(7) provides that a senior practitioner may authorise an authorised practitioner to change an individual development plan under subsection 149B(2) or (3).

New section 149C clarifies the relationship between Chapter 6 of the FDA, regulating the use of behaviour control (including seclusion), and a direction to stay at or in a particular place under section 362H of the PHA for the purpose of the COVID-19 emergency.

New section 149D provides that (Chapter 12) Part 2A will expire on 31 December 2020.

Part 6 Amendment of Disaster Management Act 2003

Clause 22 provides that this part amends the *Disaster Management Act 2003*.

Clause 23 inserts a new Part 12A (COVID-19 emergency provisions) to the *Disaster Management Act 2003.*

New section 137 adds the definition of ***COVID-19 emergency period***, by reference to the *COVID-19 Emergency Response Act 2020*, schedule 1 as, the period for which the COVID-19 emergency is in effect.

New section 138 modifies section 72 to provide that, where an extension period for a disaster situation declared by the Premier and Minister is usually 14 days, for the disaster situation declared under section 69 on 22 March 2020 (in regard to COVID-19), an extension period of up to 90 days may apply.

New section 138A modifies section 119 to provide that, where a relevant power under sections 77, 78, 111 or 112 was exercised in relation to the disaster situation declared under section 69 on 22 March 2020 (in regard to COVID-19), a person is not entitled to be paid any compensation for loss or damage suffered as a result of the exercise of that power. This provision is taken to have applied retrospectively, from 22 March 2020.

New section 138B provides that Part 12A expires on 31 December 2020.

New section 138C declares that section 20A of the *Acts Interpretation Act 1954* applies to Part 12A, to ensure the relevant sections of Part 12A can continue to be applied, where necessary, beyond 31 December 2020.

Part 7 Amendment of Environmental Protection Act 1994

Clause 24 provides that this part amends the *Environmental Protection Act 1994* (EP Act).

Clause 25 inserts new Chapter 11A (Provisions relating to COVID-19 emergency) into the EP Act to allow the administering authority to issue temporary authorities, and to provide the Minister with the power to make a declaration waiving compliance of certain conditions of an environmental approval where these actions are deemed necessary to respond to the impacts of the COVID-19 emergency.

New section 547A defines terms used throughout Part 1 of Chapter 11A. The definitions have been included to reflect the changes made with regards to the temporary authorities, and to help aid in the interpretation of this section.

New section 547B allows a person to ask the administering authority to issue them with a temporary authority for a relevant ERA. A relevant ERA is an activity that was not considered an environmentally relevant activity (ERA) but, because of the effects of the COVID-19 emergency, has increased in intensity or scale to become an ERA and would otherwise require an environmental authority under the EP Act. A relevant ERA is also an ERA for which an environmental authority is already in effect but, because of the effect of the COVID-19 emergency, has increased in intensity and scale and would otherwise require an amendment to their existing authority, or for a new authority to be issued.

Under section 426 of the EP Act, a person must not carry out an ERA without an environmental authority for the activity. ERAs are divided into ‘thresholds’, meaning that the activity for which an environmental authority was approved is limited to the threshold that was applied for. In addition, many activities do not become an ERA until

they reach, or exceed, a minimum threshold. The COVID-19 emergency may mean that environmental authority holders are unable to comply with the 'threshold' stated in their environmental authority. It may also mean that businesses who were operating under the minimum threshold for an ERA prior to the COVID-19 emergency, may now find that they have reached or exceeded this threshold.

The ability for the administering authority to issue a temporary authority under this section ensures an expedited process is enacted to respond to the impacts of the COVID-19 emergency on Queensland businesses. This section bypasses the requirement to obtain an environmental authority through the standard application process prescribed in Chapter 5 of the EP Act. Temporary authorities can only be issued if the administering authority is satisfied that the requirements in section 547C have been met and they cannot be issued beyond 31 December 2020 as they are a temporary measure to respond to the effects of the COVID-19 emergency. It is important to note that temporary authorities will complement, not replace, other approvals such as temporary emissions licences and transitional environmental programs.

New section 547C requires the administering authority to consider the person's request for a temporary authority and make a decision to either issue the temporary authority for the relevant ERA, or refuse it. When making a decision about whether to issue a temporary authority, the administering authority must be satisfied that the person's request relates to a relevant ERA, and that issuing a temporary authority is necessary and reasonable to respond to the effects of the COVID-19 emergency. The matters to be considered by the administering authority ensure that the temporary authority is the appropriate mechanism under the EP Act to respond to the effects of the COVID-19 emergency.

If the administering authority is not satisfied that the request meets the abovementioned matters, the person's request for a temporary authority must be refused. As soon as practical after making the decision to refuse a request, the administering authority must notify the person in writing and provide the reasons for the decision. This ensures the person is aware of the administering authority's decision and provides visibility with regards to why the request was rejected. Where the administering authority is not satisfied the grounds for issuing a temporary authority have been met, the person may apply for an environmental authority as an alternative. Given the short-term nature of temporary authorities, the absence of an application fee and the option to apply for an environmental authority for the activity, the ability for a person to request a review of, or appeal, the decision does not exist. The decision may, however, be reviewed under the *Judicial Review Act 1991*.

New section 547D provides the steps the administering authority must take if it decides to issue the temporary authority for relevant ERA to the person. To issue the temporary authority, the administering authority must give the person written notice stating the name of the person to which the authority applies, the relevant ERA that may be carried out under the authority, the conditions imposed on the authority and the period for which the authority has effect. The period for which the authority has effect must include the day the authority starts and the day, not later than 30 June 2021, the authority ends. Requests for temporary authorities cannot be made or approved by the administering authority beyond 31 December 2020. Temporary authorities issued prior to this date may remain in effect until 30 June 2021 to provide businesses with sufficient time to recover from the impacts of the COVID-19 emergency and return to their

previous operating environment. This period also allows the administering authority to transition businesses to a more permanent approval under existing provisions of the EP Act, where businesses are unable to return to their previous operating environment.

New section 547E states that if the administering authority decides to issue a temporary authority for a relevant ERA, the temporary authority is taken to be an environmental authority for the period it is in effect other than for Chapter 5 of the EP Act. This section also makes it clear that where a temporary authority has been issued for an existing ERA, the conditions of the temporary authority apply in addition to the conditions of the environmental authority for the existing ERA. The conditions of the existing environmental authority will still apply to ensure environmental harm and nuisance is prevented and minimised, and that the object of the Act is not unduly compromised. Should any inconsistencies arise between the temporary authority and the existing environmental authority, the conditions of the temporary authority prevail. This ensures there are no conflicts between the two authorities while they operate in tandem for this short period of time.

Section 493A of the EP Act states when relevant acts are considered unlawful under the Act. Section 493A(1)(a) states that an act is considered unlawful if it causes serious or material environmental harm or an environmental nuisance. However, a relevant act may not be unlawful if it is authorised to be done under an instrument listed in section 493A(2). For the purpose of section 493A, new section 547F expands the reference to an environmental authority in section 493A(2)(d) to include a reference to a temporary authority. This ensures that a person operating in compliance with a temporary authority is not causing unlawful environmental harm for the matters authorised by the authority.

Section 580 of the EP Act provides a head of power for the Governor in Council to make a regulation under the EP Act, including a regulation for fees payable under the EP Act. New section 547G makes it clear that fees will not be payable in relation to a request for, or the issue of, a temporary authority for a relevant ERA. Given the short-term nature of a temporary authority and the financial stress many Queensland businesses are facing because of the COVID-19 emergency, the Government has decided not to require fees to be paid.

New section 547H defines terms used throughout Part 2 of Chapter 11A. The definitions have been included to reflect the changes made to the declaration, and to help aid in the interpretation of this section.

New section 547I allows the Minister to make a declaration, by signed notice published on the Department's website, to ensure the effects of the COVID-19 emergency do not result in a person contravening particular conditions of an approval. Conditions are typically placed on relevant approvals under the EP Act to ensure that, in lawfully carrying out the activity, environmental harm and nuisance is prevented or minimised (e.g. by limiting the quantity and quality of contaminants that can be released). However, other conditions may require monitoring reporting or completion of actions by particular dates.

Under the EP Act it is an offence for a person holding, or acting under, the relevant approval to contravene a condition of the approval. However, the COVID-19 emergency may mean that a person is unable to comply with one or more conditions on a relevant approval. For example, the travel restrictions and border closures in place to

stop the spread of the virus may mean that some industry sectors are unable to travel to remote communities to comply with groundwater monitoring conditions prescribed in their approval. As a result, this section empowers the Minister to make a declaration exempting a stated holder of a stated relevant approval from complying with the certain conditions of an approval. The Minister may also make a declaration exempting the holders of a relevant approval of a stated type from complying with certain conditions of an approval. Suspending the requirement for relevant approval holders to comply with certain conditions (e.g. monitoring and reporting) in the short-term will not necessarily result in environmental harm or nuisance, as all existing conditions on the approval, to prevent environmental harm, will still apply.

The declaration may be made for one or more types of relevant approvals, and may apply to a relevant approval for an ERA being carried out in all, or part of Queensland. This provides flexibility by allowing exemptions to only apply where certain conditions or activities have been affected by the COVID-19 emergency. This flexibility ensures that environmental harm and nuisance are still being adequately managed in accordance with the object of the EP Act as exemptions are only declared where reasonable and necessary. The circumstances under which the Minister may make a declaration are also stated in this section. This ensures that a declaration is only made where it is deemed the most appropriate response to the effects of the COVID-19 emergency.

If the Minister decides to make a declaration, the declaration must state the period for which the exemption has effect, which includes the start and end date. The declaration must also state the area to which it applies, that being all, or part of, the State. A declaration cannot be made after 31 December 2020, and where a declaration is made prior to this date, the declaration's end date cannot be later than 30 June 2021.

New section 547J removes any doubt that, for the duration the declaration is in effect, an approval holder to which the declaration applies is exempt from complying with a condition to the extent stated in the declaration. In addition, to the extent the approval holder is exempt from complying with the conditions, sections 430 and 431 of the EP Act do not apply to the approval holder in relation to the condition. This ensures that while approval holders are operating in compliance with a declaration, the approval holder is not deemed to contravene the stated condition of the relevant approval under the EP Act. This section does not provide immunity from proceedings or prosecution, rather it waives the requirement for the stated holder of a stated relevant approval to comply with the stated condition for a stated period of time.

New section 547K ensures that only the Minister can make a declaration, meaning that the Ministers power under this part cannot be delegated to another person under section 515 of the EP Act.

New section 547L states that Chapter 11A of the EP Act will expire on 31 December 2020. This date aligns with the lapse date for other provisions in the Justice and Other Legislation (COVID-19 Emergency Response) Amendment Bill 2020. After this period of time, the need to issue temporary authorities and make a declaration is deemed unnecessary. However, any temporary authorities issued, or declarations made, prior to 31 December 2020 may remain in effect until 30 June 2021 to provide for an adequate recovery period.

Clause 26 inserts new Chapter 13, Part 29 into the EP Act (Transitional provisions for Justice and Other Legislation (COVID-19 Emergency Response) Amendment Act 2020).

New section 775 states that, despite the expiry of Chapter 11A of the EP Act on 31 December 2020, a temporary authority issued prior to this date continues to have effect for the period stated in the authority. The period stated in the temporary authority cannot extend beyond 30 June 2021. This removes any doubt that, despite the expiry of Chapter 11A, a person does not contravene the EP Act if they are operating in compliance with a temporary authority during the period stated in the authority.

New section 776 states that, despite the expiry of Chapter 11A of the EP Act on 31 December 2020, a declaration made prior to this date continues to have effect for the exemption period stated in the declaration. The exemption period stated in the declaration cannot extend beyond 30 June 2021. This removes any doubt that, despite the expiry of Chapter 11A, a person does not contravene the EP Act if they are operating in compliance with a declaration that states it continues beyond this date.

Part 8 Amendment of gaming legislation

Division 1 Amendment of Gaming Machine Act 1991

Clause 27 provides that this division amends the *Gaming Machine Act 1991*.

Clause 28 inserts new Part 11A into the Gaming Machine Act.

New section 367 provides that the purpose of new Part 11A is to provide for the payment of gaming taxes to be deferred or waived to alleviate the financial burden caused by the COVID-19 emergency on gaming operators.

New section 367A provides definitions for new Part 11A. The definition of ***gaming tax*** defines the taxes that may be waived or deferred under new Part 11A, being the monthly taxes and levies (or part of a monthly tax or levy) collected under certain provisions of the *Gaming Machine Act 1991*, the *Casino Control Act 1982*, the *Keno Act 1996*, and the *Lotteries Act 1997*. The definition of ***relevant month*** defines which month's gaming taxes are eligible for waiver or deferral at the discretion of the Minister.

New section 367B provides that new Part 11A and any notice made under new Part 11A apply despite another gaming Act, and any other provision of the *Gaming Machine Act 1991*.

New section 367C provides that the Minister may issue a gaming tax notice to waive or defer payment of a gaming tax that is payable for a relevant month. The Minister may defer or waive a gaming tax if satisfied the deferral or waiver is necessary to alleviate the financial burden caused by the COVID-19 emergency on gaming operators. The Minister must have the Treasurer's approval to defer or waive payment of a tax. The power to waive or defer taxes includes a power to refund any deferred or waived tax that is already paid, and to decide terms for the payment of deferred taxes (including by instalment). Terms may include terms decided by the Commissioner for Liquor and Gaming (Commissioner). Terms decided for the payment of deferred taxes must require payment of the deferred tax by a date no later than 30 June 2021.

New section 367D clarifies the obligation of gaming operators to pay a deferred tax in accordance with a gaming tax notice. Subsection (3) provides that existing provisions of gaming Acts regarding the collection of taxes and levies apply to the deferred tax as if the tax payable under those provisions was payable when the deferred tax is payable. This is intended to ensure that penalty and debt collection provisions apply to deferred taxes that are not paid by the due date stated in a notice or in the terms decided by the Commissioner. The Commissioner must withdraw any enforcement action commenced in relation to collection of a deferred tax, if the action was commenced before the issue of a gaming tax notice deferring that tax. This ensures that licensees are not continued to be held accountable for the non-payment of taxes by a due date that is subsequently deferred.

New section 367E provides for matters relating to gaming tax notices. A gaming tax notice is subordinate legislation; has effect despite a gaming Act, and may, at subsection (1)(c) have retrospective operation to a day not earlier than 1 March 2020. Subsection (1)(c) is necessary to achieve the intent of allowing validation of the three-month deferral of gaming taxes announced on 6 April 2020. New section 367E also provides for the tabling of a gaming tax notice, and provides that a gaming tax notice expires on 31 December 2020.

New section 367F provides that new Part 11A expires on 31 December 2020.

Clause 29 inserts new Part 12, Division 21 (Saving provision for Justice and Other Legislation (COVID-19 Emergency Response) Amendment Act 2020) into the *Gaming Machine Act 1991*. Division 21 contains declaratory provisions providing that section 20A of the *Acts Interpretation Act 1954* applies to a gaming tax notice, and to new section 367D. The provisions ensure that the obligation to pay deferred gaming taxes does not end upon the expiry of new Part 11A (and any issued gaming tax notice) on 31 December 2020.

Division 2 Amendment of Casino Control Act 1982

Clause 30 provides that this division amends the *Casino Control Act 1982*.

Clause 31 inserts new section 57A into the *Casino Control Act 1982*, providing that new Part 11A of the *Gaming Machine Act 1991* provides for the deferral or waiver of a casino tax. The new section 57A expires on 31 December 2020.

Division 3 Amendment of Keno Act 1996

Clause 32 provides that this division amends the *Keno Act 1996*.

Clause 33 inserts new section 116A into the *Keno Act 1996*, providing that new Part 11A of the *Gaming Machine Act 1991* provides for the deferral or waiver of a keno tax. The new section 116A expires on 31 December 2020.

Division 4 Amendment of Lotteries Act 1997

Clause 34 provides that this division amends the *Lotteries Act 1997*.

Clause 35 inserts new section 99A into the *Lotteries Act 1997*, providing that new Part 11A of the *Gaming Machine Act 1991* provides for the deferral or waiver of a lottery tax. The new section 99A expires on 31 December 2020.

Part 9 Amendment of Liquor Act 1992

Clause 36 provides that this part amends the *Liquor Act 1992*.

Clause 37 inserts new Part 10A (Takeaway liquor authorities for COVID-19 emergency response) into the *Liquor Act 1992.* New Part 10A contains new sections 235A to 235J.

New section 235A provides that the main purposes of new Part 10A are to support the ongoing viability of businesses operated in licensed premises that have been disrupted by the COVID-19 emergency; and to reduce the risk of harm relating to the COVID-19 emergency to persons residing in restricted areas declared under section 173G of the *Liquor Act 1992*.

New section 235B inserts definitions for terms utilised in new Part 10A. The definitions for ***licence***, ***licensed premises*** and ***licensee*** reflect that both licensees who hold a licence and permittees who hold a permit granted in respect of a premises are eligible to be granted a takeaway liquor authority (TLA).

New section 235C provides that a TLA may only be granted if the Commissioner for Liquor and Gaming (Commissioner) is satisfied the grant is necessary for a purpose outlined under new section 235A, as well as consistent with the purpose outlined in section 3(a) of the *Liquor Act 1992*. Section 3(a) of the *Liquor Act 1992* provides it is a purpose of the Act to regulate the liquor industry in a way compatible with minimising harm, and the potential for harm, from alcohol abuse and misuse and associated violence; minimising adverse effects on the health and safety of members of the public; and minimising adverse effects on the amenity of the community.

New section 235C also ensures that a licensed premises is only eligible for a TLA if:

- the operation of the business, in the way the business was ordinarily operated immediately before the COVID-19 emergency, would contravene a public health direction; or
- the premises are in a restricted area; or
- the Commissioner is satisfied the premises are a source of liquor supply for residents of a restricted area.

By linking the impact on the business to its level of operation prior to COVID-19, the eligibility criteria ensure that a TLA may be granted by the Commissioner for a licensed premises even if that premises may be open for on-premises liquor consumption in a limited capacity.

New section 235D provides that the Commissioner may grant a TLA to a licensee, or a class of licensees, to allow them to sell takeaway liquor from the licensed premises. New section 235D outlines that a TLA may be granted by a notice given to a particular licensee; or generally to licensees of a particular class by notice published on the

department's website. The TLA must state the licensee or class of licensees to whom it applies and the period for which the TLA applies. The TLA may also include conditions the Commissioner considers appropriate, including conditions about the times at which takeaway liquor may be sold or the maximum amount of takeaway liquor that may be sold under each transaction. An example of another condition that may be included on a TLA is a condition specifying that, when selling takeaway liquor, the licensee may only sell the liquor the licensee had in stock as at a certain date.

New section 235D also provides that a TLA may have retrospective operation from 23 March 2020, and expires on 31 December 2020 unless it is specified to end sooner.

New section 235E ensures that a TLA may prevail over an inconsistency with the *Liquor Act 1992* to the extent that is necessary to achieve a purpose of new Part 10A, and is consistent with the main purpose of the *Liquor Act 1992* outlined in section 3(a). This means that the TLA may authorise the sale of takeaway liquor even if the current provisions of the licence do not allow it. Further, new section 253E provides that a person operating under a TLA does not commit an unlawful supply offence under section 146 of the *Liquor Act 1992* if the TLA authorises supply beyond the ordinary authority of the licence.

New section 235F clarifies the Commissioner can amend or revoke a TLA if the Commissioner is no longer satisfied the TLA is necessary for a purpose of new Part 10A and consistent with the purpose of the *Liquor Act 1992* outlined in section 3(a); or if the licensee is no longer eligible for a TLA. The amendment or revocation is given effect by a notice given to a particular licensee or, for a class of licensee, by a notice published on the department's website. New section 235F outlines examples of situations where the Commissioner may amend or revoke a TLA, including where the Commissioner may choose to reduce the maximum amount of takeaway liquor that can be sold under a TLA.

New section 235F(1) does not limit the application of section 24AA of the *Acts Interpretation Act 1954* (Power to make instrument or decision includes power to amend or repeal).

New section 235G provides that the Commissioner may revoke or amend a TLA if satisfied that the licensee has contravened the TLA. The Commissioner must provide a show cause notice to the licensee, outlining the proposed revocation or amendment, and the grounds for the proposed revocation or amendment. Licensees have seven days to provide a response, which the Commissioner must consider before making a determination as to whether the TLA should be amended or revoked. New section 235G also provides for an immediate suspension of a TLA for up to 10 days if the Commissioner considers harm may be caused to members of the public if urgent action to suspend the TLA is not taken.

New section 235H ensures that decisions under new Part 10A are not reviewable by the Queensland Civil and Administrative Tribunal.

New section 235I provides that a TLA notice published on the department's website is required to be tabled in the Legislative Assembly within 14 days after it is published. New section 235I also clarifies the sections of the *Statutory Instruments Act 1992* that

apply to the tabled TLA notice as if it were subordinate legislation, including the ability for the Legislative Assembly to pass a resolution disallowing the notice.

New section 235J provides that new Part 10A expires on 31 December 2020.

Clause 38 amends the heading of Part 12 of the *Liquor Act 1992* to state 'Further transitional and validation provisions'.

Clause *39* inserts a new Part 12, Division 21 ('Validation provision for Justice and Other Legislation (COVID-19 Emergency Response) Amendment Act 2020') into the *Liquor Act 1992*, which contains new section 354. New section 354 ensures that, if a TLA is given retrospective operation, any supply of liquor that occurred from the retrospective date until the date the TLA was granted is taken to be as lawful as it would have been if the TLA were in force.

Part 10 Amendment of local government legislation

Division 1 Amendment of City of Brisbane Act 2010

Clause 40 provides that this division amends the *City of Brisbane Act 2010*.

Clause 41 inserts new section 96A which provides a temporary regulation-making power that, if made, would allow Brisbane City Council to decide by resolution made other than at the budget meeting for the 2020-2021 financial year, what rates and charges are to be levied for a relevant part of that financial year. Such a decision made under the regulation is an ***extraordinary decision*** and a ***relevant part*** of the 2020-2021 financial year is a period starting on a day not earlier than the day the resolution is made and ending on 30 June 2021.

Furthermore, the regulation, if made, may also provide for requirements for Brisbane City Council's 2020-2021 annual budget to be amended to take account of the extraordinary decision and for any amended annual budget to be adopted.

The *Statutory Instruments Act 1992*, section 49(1), applies to the tabling of the regulation as if the reference in that provision to 14 sitting days were a reference to 14 days.

New sections 96A(1) to (5) do not limit section 96(2) of the *City of Brisbane Act 2010* which provides that the Brisbane City Council must decide, by resolution at the council budget meeting for a financial year, what rates and charges are to be levied for that financial year.

Any previous relevant decision made by Brisbane City Council, to the extent it is inconsistent with the extraordinary decision, ceases to have effect in relation to the relevant part of the 2020-2021 financial year. The definition of ***relevant decision*** means a decision made under section 96(2) of the *City of Brisbane Act 2010* or an extraordinary decision.

New section 96A expires on 30 June 2021.

Division 2 Amendment of Local Government Act 2009

Clause 42 provides that this division amends the *Local Government Act 2009*.

Clause 43 inserts new section 94A which provides a temporary regulation-making power that, if made, would allow a local government under the *Local Government Act 2009* to decide by resolution made other than at the local government's budget meeting for the 2020-2021 financial year, what rates and charges are to be levied for a relevant part of that financial year. Such a decision made under the regulation is an ***extraordinary decision*** and a ***relevant part*** of the 2020-2021 financial year is a period starting on a day not earlier than the day the resolution is made and ending on 30 June 2021.

Furthermore, the regulation, if made, may also provide for requirements for the local government's 2020-2021 annual budget to be amended to take account of the extraordinary decision and for any amended annual budget to be adopted.

The *Statutory Instruments Act 1992*, section 49(1), applies to the tabling of the regulation as if the reference in that provision to 14 sitting days were a reference to 14 days.

New sections 94A(1) to (5) do not limit section 94(2) of the *Local Government Act 2009* which provides that a local government must decide, by resolution at the local government's budget meeting for a financial year, what rates and charges are to be levied for that financial year.

Any previous relevant decision made by the local government, to the extent it is inconsistent with the extraordinary decision, ceases to have effect in relation to the relevant part of the 2020-2021 financial year. The definition of ***relevant decision*** means a decision made under section 94(2) of the *Local Government Act 2009* or an extraordinary decision.

New section 94A expires on 30 June 2021.

Part 11 Amendment of Manufactured Homes (Residential Parks) Act 2003

Clause 44 provides that this part amends the *Manufactured Homes (Residential Parks) Act 2003* (MHRP Act).

Clause 45 inserts new section 146A into the MHRP Act. This clause creates a regulation-making power in the MHRP Act, only where it is necessary to do so to respond to the COVID-19 emergency, including having regard to COVID-19 response measures and assisting in achieving the objectives of these measures.

The purpose of this regulation-making power is to enable a regulation to temporarily modify the processes under the MHRP Act applying to:

- site rent increase or reduction; and
- disputing a proposed increase in site rent.

Regulations made using this power prevail over existing provisions in the MHRP Act or the *Manufactured Homes (Residential Parks) Regulation 2017*, site agreements, sale agreements, site rent agreements, and any Act or law other than the *Human Rights Act 2019*. It may impose a penalty of not more than 100 penalty units for contravention of the regulation.

A regulation made using this power may have retrospective application from 19 March 2020. Section 146A expires, along with any amendments made under the section on 31 December 2020.

Part 12 Amendment of Mental Health Act 2016

Clause 46 provides that this part amends the *Mental Health Act 2016*.

Clause 47 inserts new Chapter 18B (COVID-19 emergency provisions).

New section 800H defines ***COVID-19 emergency period*** for this Chapter by reference to the *COVID-19 Emergency Response Act 2020*, schedule 1 as, the period for which the COVID-19 emergency is in effect.

New section 800I provides that, during the COVID-19 emergency period, the chief psychiatrist may approve an absence of certain patients from an authorised mental health service if satisfied that the absence is necessary to allow compliance with a detention order or public health direction given under the *Public Health Act 2005*. The chief psychiatrist must be satisfied that the treatment and care needs of the person can be met for the period of absence and the absence will not result in an unacceptable risk to the person's safety and welfare or to the safety of the community. The amendment allows compliance with a detention order or public health direction given under the *Public Health Act 2005*, potentially reducing the risk to the person of contracting COVID-19 or the risk to others in an authorised mental health service in the event of a diagnosed case of COVID-19 within the service.

New section 800J modifies sections 329 and 332 of the *Mental Health Act 2016* to allow the chief psychiatrist to a declare a health service, or part of a health service, to be an authorised mental health service and appoint a person to be the administrator of an authorised mental health service by notice published on the Department's website instead of declaring or appointing by gazette notice. The amendment will expedite the process of declaring an authorised mental health service and appointing an administrator for a mental health service during the COVID-19 emergency period, ensuring the continuity of mental health treatment for patients who need to be relocated because of COVID-19.

New section 800Kmodifies section 336 of the *Mental Health Act 2016* as a consequence of the insertion of new section 800I. During the COVID-19 emergency period, the amendment will require the administrator of an authorised mental health service to keep a record, for a patient, of temporary absences approved under new section 800I.

New section 800L modifies section 363 of the *Mental Health Act 2016* as a consequence of the insertion of new section 800I. During the COVID-19 emergency period, the amendment will provide for the transport of a patient absent under new

section 800I who does not return to the authorised mental health service at the end of the approved absence.

New section 800M modifies section 622 of the *Mental Health Act 2016* as a consequence of the insertion of new section 800I. During the COVID-19 emergency period, the amendment will ensure the offences relating to a patient absconding while the patient is being transported also apply to a patient whose absence is approved under new section 800I.

New section 800N modifies section 783 of the *Mental Health Act 2016* as a consequence of the insertion of new section 800I. During the COVID-19 emergency period, the amendment will provide for the chief psychiatrist to disclose the fact that a classified patient is absent from an authorised mental health service under new section 800I. The chief psychiatrist may make such disclosure to a victim of an unlawful act committed by the classified patient, a close relative of a victim, or another individual who has suffered harm because of an unlawful act committed by the classified patient if the chief psychiatrist considers the information is relevant to the safety and welfare of the person.

New section 800O modifies schedule 1, section 5 of the *Mental Health Act 2016* as a consequence of the insertion of new section 800I. During the COVID-19 emergency period, the amendment will provide that the fact that a relevant patient is absent from an authorised mental health service under new section 800I may be included in information notices if the chief psychiatrist is satisfied that the information is relevant to the safety and welfare of the person entitled to receive the notice.

New section 800P provides that Chapter 18B expires on 31 December 2020.

Part 13 Amendment to the Police Powers and Responsibilities Act 2000

Clause 48 provides that this part amends the *Police Powers and Responsibilities Act 2000* (PPRA).

Clause 49 inserts new Chapter 18B (COVID-19 testing for persons suspected of committing particular offences) into the PPRA. Chapter 18B includes new sections 548G to 548U.

Chapter 18B, Part 1 (Preliminary) includes sections 548G and 548H.

New section 548G provides that Chapter 18B authorises the taking of respiratory tract samples from persons arrested in circumstances relating to particular offences and the testing of those samples for COVID-19. The purpose of the tests is to protect the health, safety and welfare of persons potentially exposed to COVID-19.

New section 548H includes definitions for the following terms used in Chapter 18B: ***affected person***, ***COVID-19***, ***COVID-19 test***, ***COVID-19 test order***, ***relevant offence***, ***relevant person*** and ***respiratory tract sample***.

Chapter 18B, Part 2 (COVID-19 test orders) includes sections 548I to 548N.

New section 548I outlines when Chapter 18B, Part 2 applies. Part 2 applies when a police officer arrests a person (a ***relevant person***) for a relevant offence, or another offence, if the person is also charged by a police officer with a relevant offence while the person is under arrest; and in the suspected commission of the relevant offence, the relevant person coughs, sneezes or spits on or at a police officer or another person (an ***affected person***), and given the circumstances, the affected person is potentially exposed to COVID-19.

New section 548J provides that a police officer may apply for a COVID-19 test order for the relevant person. The application is to be made to a Childrens Court if the relevant person is a child but is otherwise to be made to a magistrate. The application is to be written and state the grounds on which it is made. A copy of the application must be given to the relevant person by the police officer before the application is made and the relevant person must be informed of the person's right to be legally represented at the hearing of the application.

Section 548J(4) provides that the magistrate may refuse to consider the application unless the police officer gives the magistrate all the information the magistrate requires about the application and in the way the magistrate requires.

New section 548K applies if the relevant person is a child. It provides that the police officer must give notice of the application to:

- the child; and
- either of the following persons:
  (a) a parent of the child (unless a parent cannot be reasonably found);
  (b) if the chief executive (child safety) has custody or guardianship of the child that chief executive or a person nominated by that chief executive who holds an office in the department; and
- the chief executive (communities) or a nominated representative.

New section 548L outlines the process for hearing the application by the magistrate or Childrens Court. The magistrate or Childrens Court must hear and decide the application with as little delay as possible and in the absence of the public. In extraordinary circumstances, the application may be adjourned for no more than 24 hours to allow further evidence to be put before the magistrate or Childrens Court. However, the application must not be heard unless the magistrate or Childrens Court is satisfied the relevant person has been informed of the right to be legally represented at the hearing.

Section 548L(4) confirms that an affected person cannot be compelled to give evidence at the hearing.

Section 548L(5) provides that the relevant person, or the relevant person's lawyer, may make submissions at the hearing but not submissions that will unduly delay the consideration of the application.

Section 548L(6) provides that the magistrate or Childrens Court may make a COVID-19 test order for the relevant person if satisfied that a respiratory tract sample should be taken from the person for a COVID-19 test.

Section 548L(7) provides that if the magistrate or Childrens Court makes the COVID-19 test order in the absence of the relevant person or their lawyer, a police officer must give the order to the person or lawyer, without delay.

New section 548M outlines the information that must be included in the COVID-19 test order.

New section 548N outlines the process for a relevant person to appeal to the District Court against a COVID-19 test order. The appeal must be filed without delay and, no later than 24 hours after the order is made. The appeal does not stay the operation of the COVID-19 test order unless the court orders a stay. The court may only order a stay of the test order of not more than 72 hours after the order was made.

The District Court must hear and decide the appeal within 48 hours after the appeal was filed with the court, in the absence of the public and without adjourning the appeal. The relevant person or the relevant person's legal representative may make submissions to the court provided they will not unduly delay the appeal.

Chapter 18B, Part 3 (Taking and testing samples) includes sections 548O to 548Q.

New section 548O outlines the process for taking a respiratory tract sample from a relevant person under a COVID-19 test order. A police officer may ask a doctor or prescribed nurse to take the sample and must produce a copy of the order for the doctor or nurse to inspect. The doctor or nurse may take a respiratory tract sample from the relevant person or ask the person to provide a sample and may ask other persons to give reasonably necessary help as required to take the sample. The doctor or prescribed nurse and a person helping the doctor nurse may use reasonably necessary force to take the respiratory tract sample. The sample must be immediately sent by the doctor or nurse to an appropriate laboratory to test the sample for COVID-19.

New section 548P provides that if a COVID-19 test order applies to a relevant person who is a child or a person with impaired capacity, a police officer must, if reasonably practicable, ensure a support person is present when the respiratory tract sample is being taken from the relevant person.

New section 548Q authorises a person sent a respiratory tract sample under section 548O to conduct a COVID-19 test of the sample. It further authorises the destruction of all or part of the sample if it is not used to conduct the test or a further test.

Chapter 18B, Part 4 (Results, evidence and records) includes sections 548R to 548T.

New section 548R provides restrictions on the disclosure of results of tests taken under Chapter 18B, Part 3.

Section 548R(1) creates an offence for a person who conducts a COVID-19 test under Part 3 who discloses results of the test to a person other than those listed in the subsection.

Section 548R(2) creates an offence for a person to whom information is disclosed under subsection (1) to further disclose the information to anyone other than those listed in subsection (1).

The maximum penalty for both offences is 40 penalty units or 6 months imprisonment.

Section 548R(3) provides that the relevant person or affected person must not publicly disclose the results of the COVID-19 test with the identity of the other person. The maximum penalty for disclosing this information is 40 penalty units or 6 months imprisonment.

New section 548S clarifies that in a proceeding in relation to a relevant person, certain matters under Chapter 18B, Part 3 are not admissible in evidence.

New section 548T provides that the *Public Records Act 2002* does not apply to acts done or records made under Chapter 18B of the PPRA, to the extent that the *Public Records Act 2002* would otherwise disclose the identity of the relevant person or an affected person.

Chapter 18B, Part 5 (Expiry of chapter) provides for the expiry of Chapter 18B. New section 548U states that Chapter 18B expires either the day the COVID-19 emergency ends or 31 December 2020, whichever is the later.

Clause 50 inserts new Chapter 24, Part 20 (Transitional provision for Justice and Other Legislation (COVID-19 Emergency Response) Amendment Act 2020) into the PPRA. New section 889 outlines that Chapter 18B will continue to apply in certain circumstances after the Chapter expires.

Part 14 Amendment of portable long service leave legislation

Division 1 Amendment of Building and Construction Industry (Portable Long Service Leave) Act 1991

Clause 51 provides that this division amends the *Building and Construction Industry (Portable Long Service Leave) Act 1991*.

Clause 52 inserts new Part 7A into the *Building and Construction Industry (Portable Long Service Leave) Act 1999* to provide special long service leave provisions for the COVID-19 emergency, for affected registered workers in the building and construction industry. The purpose of the amendments is to allow registered workers who are experiencing financial hardship due to the COVID-19 emergency to apply to the authority for payment of all or part of their long service leave entitlement if they have at least five years' equivalent service recorded under the Portable Long Service Leave Scheme.

New section 65A provides that the purpose of this part is to allow an affected registered worker to apply to the authority for payment of all or part of the worker's long service leave.

New section 65B defines the term ***COVID-19 emergency*** for the purposes of the part, by reference to the *COVID-19 Emergency Response Act 2020*, schedule 1 as, the period for which the declared public health emergency for COVID-19 under section 319(2) of the *Public Health Act 2005* is in effect.

New section 65C defines who is entitled to make an application for payment of their long service leave entitlement because of the COVID-19 emergency. An affected registered worker will need at least the equivalent of five years' service credits to be eligible to make an application and provide the Building and Construction Industry (Portable Long Service Leave) Authority (the Authority) with sufficient evidence to the satisfaction of the Authority that the worker is experiencing financial hardship because of the COVID-19 emergency. The clause includes descriptions of circumstances under which the amendments will apply; these are not exhaustive and are to provide instructive guidance only without limiting any further advice or directions from the chief health officer with respect to the COVID-19 emergency. Further, the amendments have been based on similar provisions included in the *COVID-19 Emergency Response Act 2020*.

New section 65D details how an affected registered worker will be able make an application for payment of their entitlement.

New section 65E provides details of the approval process. The Authority will be able to consider the different circumstances of affected registered workers. Review and appeal rights apply.

New section 65F provides details of the entitlement.

New section 65G provides details of the calculation of the payment of long service leave.

New section 65H provides that this part expires on 31 December 2020.

Clause 53 inserts new Part 11, Division 9, which provides transitional arrangements for decisions made under new Part 7A.

New section 126 provides that Division 9 applies on the expiry of Part 7A.

New section 127 provides that expired Part 7A continues to apply to applications made under section 65D but not decided under section 65E or, applications approved under section 65E but not paid before the expiry of Part 7A. This clause commences on 1 January 2021.

Division 2 Amendment of Contract Cleaning Industry (Portable Long Service Leave) Act 2005

Clause 54 provides that this division amends the *Contract Cleaning Industry (Portable Long Service Leave) Act 2005*.

Clause 55 inserts a new Part 6A into the *Contract Cleaning Industry (Portable Long Service Leave) Act 2005* to provide special long service leave provisions for the COVID-19 emergency, for affected registered workers in the contract cleaning industry. The purpose of the amendments is to allow registered workers who are

experiencing financial hardship due to the COVID-19 emergency to apply to the authority for payment of all or part of their long service leave entitlement if they have at least five years' equivalent service recorded under the Portable Long Service Leave Scheme.

New section 81A provides that the purpose of this part is to allow an affected registered worker to apply to the authority for payment of all or part of the worker's long service leave.

New section 81B defines the term defines the term ***COVID-19 emergency*** for the purposes of the part, by reference to the *COVID-19 Emergency Response Act 2020*, schedule 1 as, the period for which the declared public health emergency for COVID-19 under section 319(2) of the *Public Health Act 2005* is in effect.

New section 81C defines who is entitled to make an application for payment of their long service leave entitlement because of the COVID-19 emergency. An affected registered worker will need at least the equivalent of five years' service credits to be eligible to make an application and provide the Contract Cleaning Industry (Portable Long Service Leave) Authority (the Authority) with sufficient evidence to the satisfaction of the Authority that the worker is experiencing financial hardship because of the COVID-19 emergency. The clause includes descriptions of circumstances under which the amendments will apply; these are not exhaustive and are to provide instructive guidance only without limiting any further advice or directions from the chief health officer with respect to the COVID-19 emergency. Further, the amendments have been based on similar provisions included in the *COVID-19 Emergency Response Act 2020*.

New section 81D details how an affected registered worker will be able to make an application for payment of their entitlement.

New section 81E provides details of the approval process. The Authority will be able to consider the different circumstances of affected registered workers. Review and appeal rights apply.

New section 81F provides details of the entitlement.

New section 81G provides details of the calculation of the payment of long service leave.

New section 81H provides that this part expires on 31 December 2020.

Clause 56 inserts new Part 12, Division 3, which provides transitional arrangements for decisions made under new Part 6A.

New section 160 provides that Division 3 applies on the expiry of Part 6A.

New section 161 provides that provides that expired Part 6A continues to apply applications made under section 81D but not decided under section 81E or, was approved under section 81E but not paid before the expiry of Part 6A. This clause commences on 1 January 2021.

Part 15 Amendment of Private Health Facilities Act 1999

Clause 57 provides that this part amends the *Private Health Facilities Act 1999*.

Clause 58 inserts new Part 11A (Provisions for COVID-19 emergency).

New section 151A inserts definitions of ***COVID-19 emergency*** and ***COVID-19 emergency period*** for this part. The ***COVID-19 emergency*** and ***COVID-19 emergency period*** are defined by reference to the *COVID-19 Emergency Response Act 2020*, schedule 1.

New section 151B provides that, during the COVID-19 emergency period, the chief health officer may waive or defer payment of all or part of a fee payable by a person under the *Private Health Facilities Act 1999*. The chief health officer must be satisfied that the applicant is experiencing financial hardship because of the COVID-19 emergency or it is otherwise appropriate to waive or defer the fee in response to the COVID-19 emergency.

New section 151C provides that this part expires on 31 December 2020.

Part 16 Amendment of Public Health Act 2005

Division 1 Preliminary

Clause 59 provides that this part amends the *Public Health Act 2005*.

Division 2 Amendments commencing on assent

Clause 60 amends section 354 of the *Public Health Act 2005* to provide that an emergency officer (medical) does not have to request that a person be medically examined if there is no way of deciding within 14 days whether the person has been exposed to a serious disease or illness. The amendment is necessary to ensure consistency with an amendment to section 350 of the *Public Health Act 2005* made by section 35 of the *Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020* to extend the duration of a detention order to 14 days.

Clause 61 amends section 360 of the *Public Health Act 2005* to provide that an emergency officer (medical) must inform a person detained that, for the person to be detained beyond 14 days, the emergency officer (medical) must apply to a magistrate to extend the detention order. The amendment is necessary to ensure consistency with an amendment to section 350 *Public Health Act 2005* made by section 35 of the *Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020* to extend the duration of a detention order to 14 days.

Clause 62 amends section 362C of the *Public Health Act 2005* to provide that a public health direction takes effect when the direction is given or, if the direction fixes a later day or time, on the later day or at the later time. This will ensure that a public health direction, or part of a direction, can take effect after it is published to give persons affected by the direction sufficient time to take steps to comply with the direction.

Clause 63 amends section 362H of the *Public Health Act 2005* to allow an emergency officer to give a parent of a child a direction to keep the child at or in a stated place for an isolation period, unless the direction permits otherwise, and ensure the child complies with stated conditions during the isolation period. The amendment is necessary to help contain the spread of COVID-19 to extent that a direction to stay at particular places applies to a child who may not have capacity to understand or comply with the direction. A parent of a child means the child's mother or father, or another person having or exercising parental responsibility for the child (for example, a guardian or carer).

Clause 64 inserts new Chapter 8, Part 7B (Other provisions for COVID-19 emergency).

New section 362N defines ***COVID-19 emergency period*** for this part by reference to the *COVID-19 Emergency Response Act 2020*, schedule 1 as, the period for which the COVID-19 emergency is in effect.

New sections 362O and 362P modify sections 81 and 109 of the *Public Health Act 2005*, respectively to provide that, during the COVID-19 emergency period, the chief executive may delegate the chief executive's powers to both the chief health officer and another person who is a public service officer or employee or a health service employee, and the chief executive is satisfied the person has the expertise or experience in public health issues necessary to exercise the powers. The amendment will support the efficient disclosure of information relating to confirmed or suspected cases of COVID-19 in the public interest during the COVID-19 emergency.

New section 362Q provides that Part 7B expires on 31 December 2020.

Division 3 Amendments commencing on 19 March 2021

Clause 65 amends section 354 of the *Public Health Act 2005* to reverse the change made by clause 60. The amendment is consequential to the amendment to section 350 of the *Public Health Act 2005* made by section 44 of the *Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020*, which reverts the duration of a detention order back to 96 hours. The commencement of the amendment coincides with the commencement of section 44 of the *Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020.*

Clause 66 amends section 360 of the *Public Health Act 2005* to reverse the change made by clause 61. The amendment is consequential to the amendment to section 350 of the *Public Health Act 2005* made by section 44 of the *Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020*, which reverts the duration of a detention order back to 96 hours. The commencement of the amendment coincides with the commencement of section 44 of the *Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020*.

Part 17 Amendment of Youth Justice Act 1992

Clause 67 provides that this part amends the *Youth Justice Act 1992*.

Clause 68 inserts a new section 264A into the *Youth Justice Act 1992* (the YJ Act). This section provides for the appointment during the 'COVID-19 emergency period' (see

note on subsection (9) below) of an appropriately qualified person as a temporary detention centre employee. The person does not have to be a public service employee, as is normally the case for detention centre employees (see YJ Act schedule 4, definition of detention centre employee).

New subsection 264A(2) provides that the appointment may only be made if the chief executive is satisfied it is reasonably necessary for the security and management of detention centres and the safe custody and wellbeing of children detained in detention centres. This aligns with the chief executive's responsibility for the management of detention centres under section 263(1) of the YJ Act.

New subsections 264A(3) and (4) provide that the appointment is under the YJ Act and on the terms and conditions, not provided for by the YJ Act, decided by the chief executive.

New subsections 264A(5) and (6) provide for the ending of an appointment. The appointment is to be revoked if it is no longer reasonably required for the purpose set out in subsection (2). Otherwise, it ends automatically on 31 December 2020 or on an earlier day stated in the appointment.

New subsection 264A(7) provides that a temporary detention centre employee is taken to be a detention centre employee. Detention centre employees have specified powers and functions under the YJ Act and the *Youth Justice Regulation 2016* (the YJ Regulation). The safeguards applying to detention centre employees, such as a requirement to complete certain training prior to exercising a power (see for example YJ Regulation section 16(5)) also apply to temporary detention centre employees.

New subsection 264A(8) provides that section 264A expires on 31 December 2020.

New subsection 264A(9) defines ***COVID-19 emergency period*** for the part by reference to the *COVID-19 Emergency Response Act 2020*, schedule 1 as, the period for which the COVID-19 emergency is in effect.