

LEGISLATIVE COUNCIL

PUBLIC HEALTH AND WELLBEING AMENDMENT (PANDEMIC
MANAGEMENT) BILL 2021

(Amendments to be proposed in Committee by Ms SYMES)

1. Clause 4, page 4, after line 21 insert—

"public authority has same meaning as it has in the Charter of Human Rights and Responsibilities;"
2. Clause 12, page 8, lines 19 to 25, omit all words and expressions on these lines and substitute—

"(2) The Parliament—

 - (a) recognises the importance of protecting human rights in managing the serious risk to life, public health and wellbeing presented by the outbreak or spread of pandemics and diseases of pandemic potential; and
 - (b) intends that nothing in this Part displaces the operation of the Charter of Human Rights and Responsibilities; and
 - (c) intends that the Charter of Human Rights and Responsibilities therefore applies to the following—
 - (i) the interpretation of this Part and subordinate instruments made under this Part;
 - (ii) acts done, and decisions made, under this Part by public authorities."
3. Clause 12, page 8, line 31, after "satisfied" insert "on reasonable grounds".
4. Clause 12, page 9, line 17, after "satisfied" insert "on reasonable grounds".
5. Clause 12, page 9, line 24, after "satisfied" insert "on reasonable grounds".
6. Clause 12, page 11, line 14, after "satisfied" insert "on reasonable grounds".
7. Clause 12, page 11, line 34, after "satisfied" insert "on reasonable grounds".
8. Clause 12, page 12, line 27, after "satisfied" insert "on reasonable grounds".
9. Clause 12, page 12, line 34, after "satisfied" insert "on reasonable grounds".
10. Clause 12, page 16, lines 9 to 12, omit all words and expressions on these lines.
11. Clause 12, page 19, line 2, after "following" insert ", if such application, differentiation or variation is relevant to the serious risk to public health posed by the disease specified in the pandemic declaration to which the pandemic order relates".

12. Clause 12, page 19, after line 12 insert—

"Examples

A pandemic order might—

- (a) differentiate between persons or classes of person on the basis of their vaccination status in relation to a pandemic disease or a disease of pandemic potential, by restricting persons who are unvaccinated from engaging in specified activities unless they are exempt from vaccination;
- (b) differentiate between persons or classes of person on the basis of age, if age is relevant to the risks to health posed by a pandemic disease or a disease of pandemic potential. For example, a pandemic order might limit the ability of persons or classes of person to receive visitors at, or to move within, residential care facilities.

Note

The Minister may only make a pandemic order that the Minister believes is reasonably necessary to protect public health—see section 165AI.

Further, the Charter of Human Rights and Responsibilities applies to subordinate instruments under this Part. Section 165AP(2)(c) and (d) have the effect that when the Minister makes, varies or extends a pandemic order that applies to, differentiates between or varies in its application to persons or classes of person identified by reference to a matter specified in this subsection, the Minister must publish an explanation of whether in the Minister's opinion, the order does, or does not, limit any human right set out in the Charter of Human Rights and Responsibilities, and an explanation of any limitations identified."

13. Clause 12, page 19, lines 13 to 23, omit all words and expressions on these lines.
14. Clause 12, page 24, line 6, omit "14" and insert "7".
15. Clause 12, page 24, lines 20 to 31, omit all words and expressions on these lines and substitute—

- "(c) in the case of the making, variation, or extension of the order, a statement as to whether, in the opinion of the Minister, the order does or does not limit any human right set out in the Charter of Human Rights and Responsibilities; and
- (d) if, in the opinion of the Minister, the order as made, varied or extended does limit a human right set out in the Charter of Human Rights and Responsibilities, an explanation of—
 - (i) the nature of the human right limited; and
 - (ii) the importance of the purpose of the limitation; and
 - (iii) the nature and extent of the limitation; and
 - (iv) the relationship between the limitation and its purpose; and
 - (v) any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve."

16. Clause 12, page 25, line 26, omit "14" and insert "7".
17. Clause 12, page 26, line 3, omit "6" and insert "4".

18. Clause 12, page 26, lines 24 and 25, omit "under section 165AS" and insert "(see section 165AU(1)(b))".
19. Clause 12, page 27, lines 15 and 16, omit "laid before Parliament under section 165AQ(1)(a)".
20. Clause 12, page 49, line 1, omit "6" and insert "6A".
21. Clause 12, page 49, line 11, omit "120" and insert "60".
22. Clause 12, page 49, line 13, omit "600" and insert "300".
23. Clause 12, page 49, line 31, omit "500 penalty units" and insert "250 penalty units".
24. Clause 12, page 50, line 2, omit "2500 penalty units" and insert "1250 penalty units".
25. Clause 12, page 64, line 13, omit "6" and insert "4".
26. Clause 35, line 6, omit "being".
27. Clause 35, line 12, omit "being".