

**LEGISLATIVE COUNCIL**  
**PUBLIC HEALTH AND WELLBEING AMENDMENT (PANDEMIC  
MANAGEMENT) BILL 2021**

(Amendments and New Clauses and suggested amendments to be proposed in Committee by  
Ms SYMES)

1. **Suggested amendment to the Legislative Assembly—**

Clause 4, after line 14 insert—

**"Detention Appeals Officer** means a person appointed to be a Detention Appeals Officer under section 32A(1);

**Detention Appeals Registrar** means the person appointed to be the Detention Appeals Registrar under section 32F(1);".

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

**"public authority** has the same meaning as it has in the Charter of Human Rights and Responsibilities;".

3. Clause 4, page 4, lines 22 to 24, omit all words and expressions on these lines.

4. **Suggested amendment to the Legislative Assembly—**

Clause 4, page 4, after line 33 insert—

"(2A) In section 3(1) of the Principal Act, the definition of **Detention Review Officer** is **repealed**".

NEW CLAUSE

5. **Suggested amendment to the Legislative Assembly—**

Insert the following New Clause to follow clause 10—

**'10A Detention Appeals Officers and Registrar**

For section 32A of the Principal Act **substitute—**

**"32A Governor in Council may appoint Detention Appeals Officers**

(1) Subject to subsection (2), the Governor in Council, on the recommendation of the Minister, may by instrument appoint a person as a Detention Appeals Officer at any time when a pandemic declaration or a declaration of a state of emergency is in force.

(2) A person appointed as a Detention Appeals Officer must be an Australian lawyer of at least 10 years' experience.

**32B Remuneration and allowances**

A person appointed as a Detention Appeals Officer is entitled to the remuneration and allowances determined from time to time by the Governor in Council.

### **32C Terms and conditions of appointment**

- (1) A Detention Appeals Officer —
  - (a) holds office for the period specified in the instrument of appointment, which must not end after the time when the pandemic declaration or declaration of a state of emergency referred to in section 32A(1) ceases to be in force; and
  - (b) is eligible to be reappointed; and
  - (c) holds office on the terms and conditions determined by the Governor in Council.
- (2) A Detention Appeals Officer is not, in respect of the office of Detention Appeals Officer, subject to the **Public Administration Act 2004**.

### **32D Independence of Detention Appeals Officers**

A Detention Appeals Officer —

- (a) must act independently, impartially and in the public interest in the performance of their functions and duties and the exercise of their powers; and
- (b) is not subject to the direction or control of the Secretary or the Minister in relation to the performance of their functions or duties or the exercise of their powers under this Act or the regulations.

### **32E Detention Review Officers taken to be Detention Appeals Officers**

- (1) A person who, immediately before the commencement day, held office as a Detention Review Officer under the old Act is taken to have been appointed as a Detention Appeals Officer under section 32A(1) on and from the commencement day.
- (2) The Governor in Council is taken to have determined the same terms and conditions as applied under the old Act, in respect of a person taken to be appointed as a Detention Appeals Officer because of the operation of subsection (1), to the extent that those terms and conditions are consistent with sections 32A, 32B, 32C and 32D, with the following modifications—
  - (a) the Governor in Council may terminate the appointment of the person and the Secretary may not terminate the appointment of the person;
  - (b) the terms and conditions on which the person holds office, including in relation to remuneration and allowances, may be later amended by the Governor in Council and not by the Secretary;
  - (c) a reference in the original instrument of appointment to a Detention Review Officer is taken to include a reference to a Detention Appeals Officer;

- (d) a reference in the original instrument of appointment to a state of emergency ceasing to exist or be in force is taken to include a reference to a pandemic declaration ceasing to be in force;
- (e) a reference in the original instrument of appointment to the functions, duties and powers of a Detention Review Officer is taken to include a reference to the functions, duties and powers of a Detention Appeals Officer under section 200C and Part 8A of this Act;
- (f) a reference in the original instrument of appointment to the detention under section 200 is taken to include a reference to detention under section 165B(1)(b) or section 165BA(1)(b).

(3) In this section—

*commencement day* means the day on which this section came into operation;

*Detention Review Officer* has the meaning given by the old Act;

*old Act* means this Act, and regulations and instruments made under this Act, as in force immediately before the commencement day;

*original instrument of appointment* means the instrument of appointment of a person as a Detention Review Officer under the old Act.

### **32F Secretary may appoint Detention Appeals Registrar**

- (1) The Secretary by instrument may appoint a person to be the Detention Appeals Registrar for the purposes of this Act.
  - (2) An instrument of appointment of a person as the Detention Appeals Registrar may—
    - (a) specify the functions, duties or powers under this Act or the regulations to which the appointment relates; and
    - (b) be made subject to any conditions that the Secretary considers to be appropriate.
  - (3) A person appointed as the Detention Appeals Registrar is employed under Part 3 of the **Public Administration Act 2004**.
  - (4) The Secretary must ensure that the Detention Appeals Registrar has access to such information as may reasonably be required for the performance of the functions and duties and the exercise of the powers of the Detention Appeals Registrar under this Act or the regulations.
  - (5) The Secretary may employ persons under Part 3 of the **Public Administration Act 2004** to assist the Detention Appeals Registrar in the performance of the functions and duties and the exercise of the powers of the Detention Appeals Registrar under this Act or the regulations.".'.
6. Clause 12, page 8, lines 19 to 25, omit all words and expressions on these lines and insert—

"(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."
7. Clause 12, page 8, line 31, after "satisfied" insert "on reasonable grounds".
  8. Clause 12, page 9, line 17, after "satisfied" insert "on reasonable grounds".
  9. Clause 12, page 9, line 24, after "satisfied" insert "on reasonable grounds".
  10. Clause 12, page 11, line 14, after "satisfied" insert "on reasonable grounds".
  11. Clause 12, page 11, line 34, after "satisfied" insert "on reasonable grounds".
  12. Clause 12, page 12, line 27, after "satisfied" insert "on reasonable grounds".
  13. Clause 12, page 12, line 34, after "satisfied" insert "on reasonable grounds".
  14. Clause 12, page 16, lines 9 to 12, omit all words and expressions on these lines.
  15. **Suggested amendment to the Legislative Assembly—**  
 Clause 12, page 18, lines 3 and 4, after ": see sections 165B(1)(b) and 165BA(1)(b)." insert "Special protections apply to detention under this Part, including the right of a detained person to apply for review by a Detention Appeals Officer of the detention: see Division 6.".
  16. 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".
  17. 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."

18. Clause 12, page 19, lines 13 to 23, omit all words and expressions on these lines.
19. Clause 12, page 24, line 6, omit "14" and insert "7".
20. Clause 12, page 24, lines 20 to 31, omit all words and expressions on these lines and insert—
  - (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."
21. Clause 12, page 25, line 26, omit "14" and insert "7".
22. Clause 12, page 26, line 3, omit "6" and insert "4".
23. Clause 12, page 26, line 23, omit "Scrutiny of Acts and Regulations" and insert "Pandemic Declaration Accountability and Oversight".
24. Clause 12, page 26, lines 24 and 25, omit "under section 165AS" and insert "(see section 165AU(1)(b))".
25. Clause 12, page 27, lines 9 to 12, omit "Scrutiny of Acts and Regulations Committee may report to each House of Parliament if the Scrutiny of Acts and Regulations Committee" and insert "Pandemic Declaration Accountability and Oversight Committee may report to each House of Parliament if the Pandemic Declaration Accountability and Oversight Committee".

26. Clause 12, page 27, lines 15 and 16, omit "laid before Parliament under section 165AQ(1)(a)".
27. Clause 12, page 28, lines 1 to 4, omit "A report of the Scrutiny of Acts and Regulations Committee under this section may contain such recommendations as the Committee" and insert "Subject to subsection (3), a report of the Pandemic Declaration Accountability and Oversight Committee under this section may contain such recommendations as the Pandemic Declaration Accountability and Oversight Committee".
28. Clause 12, page 28, after line 9 insert—
  - "(3) The Pandemic Declaration Accountability and Oversight Committee must not recommend that a pandemic order, or an instrument that extends, varies or revokes a pandemic order, should be disallowed in whole or in part unless the Pandemic Declaration Accountability and Oversight Committee has first requested and considered the advice of the Independent Pandemic Management Advisory Committee in relation to the pandemic order concerned."
29. Clause 12, page 28, line 12, omit "Scrutiny of Acts and Regulations" and insert "Pandemic Declaration Accountability and Oversight".
30. Clause 12, page 28, line 30, omit "Scrutiny of Acts and Regulations" and insert "Pandemic Declaration Accountability and Oversight".
31. Clause 12, page 29, line 1, omit "Scrutiny of Acts and Regulations" and insert "Pandemic Declaration Accountability and Oversight".
32. Clause 12, page 29, line 7, omit "Scrutiny of Acts and Regulations" and insert "Pandemic Declaration Accountability and Oversight".
33. Clause 12, page 29, lines 36 and 37, omit "Scrutiny of Acts and Regulations" and insert "Pandemic Declaration Accountability and Oversight".
34. Clause 12, page 30, line 16, omit "Scrutiny of Acts and Regulations" and insert "Pandemic Declaration Accountability and Oversight".
35. Clause 12, page 30, lines 21 and 22, omit "Scrutiny of Acts and Regulations" and insert "Pandemic Declaration Accountability and Oversight".
36. Clause 12, page 31, lines 17 to 20, omit "each House on or before the 12th sitting day of each House after the giving of the notice of the resolution" and insert "a joint sitting of the Legislative Assembly and the Legislative Council held in accordance with subsection (6) and held before the end of the period of 3 months after the giving of the notice of the resolution".
37. Clause 12, page 32, after line 5 insert—
  - "(6) At a joint sitting of the Legislative Assembly and the Legislative Council for the purposes of subsection (2)(b)—

- (a) the members have the same privileges and immunities as the members of the Legislative Assembly in relation to proceedings before that House; and
- (b) a question is to be decided by an absolute majority of the total number of the members of the Legislative Assembly and the Legislative Council; and
- (c) in the event of an equality of votes on a question, the question is to be taken to have been determined in the negative."

38. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 35, lines 23 and 24, after ": see section 165AI(2)(a) and (b)." insert "Special protections apply to detention under this Part, including the right of a detained person to apply for review by a Detention Appeals Officer of the detention: see Division 6."

39. Clause 12, page 35, line 32, omit "with".

40. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 41, after line 18 insert—

"(2A) Without limiting subsection (2)(c), an explanation under that subsection must include an explanation of the following rights that the person has, or may have, and the processes in respect of those rights—

- (a) the right to complain to the Ombudsman under the **Ombudsman Act 1973**;
- (b) the right to make a complaint under section 185 of this Act; or
- (c) the right to seek review in a court."

41. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 44, lines 6 and 7, omit "Secretary for a review by a Detention Review Officer" and insert "Detention Appeals Registrar for review by a Detention Appeals Officer".

42. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 45, line 20, omit "Secretary" and insert "Detention Appeals Registrar".

43. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 45, line 22, omit "Detention Review Officer" and insert "Detention Appeals Officer".

44. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 45, after line 23 insert—

**"165BIA Secretary and Detention Appeals Registrar to provide relevant information and assistance to Detention Appeals Officers**

- (1) The Secretary and the Detention Appeals Registrar must use their best endeavours to provide a Detention Appeals Officer with all relevant information in their possession including, but not limited to, documents and information mentioned in section 165BJ(3)(ab), as soon as reasonably practicable after an application under section 165BI is received by the Detention Appeals Registrar.
- (2) The Secretary and the Detention Appeals Registrar must use their best endeavours to provide a Detention Appeals Officer with any information requested by the Detention Appeals Officer under section 165BJ(3)(c) within 24 hours after receiving the request.
- (3) The Secretary and the Detention Appeals Registrar must provide all reasonable assistance requested by a Detention Appeals Officer for the purposes of the Detention Appeals Officer considering and deciding applications for review.
- (4) The provision of information under subsection (1) or (2) is authorised or required by law for the purposes of the **Privacy and Data Protection Act 2014** and the **Health Records Act 2001**."

45. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 45, line 24, omit "**Detention Review Officer**" and insert "**Detention Appeals Officer**".

46. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 45, line 28, omit "Detention Review Officer" and insert "Detention Appeals Officer".

47. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 45, lines 30 and 31, omit "Detention Review Officer" and insert "Detention Appeals Officer".

48. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 45, line 34, omit "and the reasons for it, within—" and insert ", the reasons for it and the review rights available to the applicant within 72 hours after the application was received by the Detention Appeals Registrar or within such longer period as is requested by the applicant."

49. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 46, lines 1 to 6, omit all words and expressions on these lines.

50. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 46, after line 6 insert—

- "(2A) Without limiting subsection (2), the advice under that subsection must include an explanation of the following rights that the person has, or may have, and the processes in respect of those rights—



- (a) the right to complain to the Ombudsman under the **Ombudsman Act 1973**;
- (b) the right to make a complaint under section 185 of this Act;
- (c) the right to seek review in a court."

51. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 46, lines 7 and 8, omit "Detention Review Officer" and insert "Detention Appeals Officer".

52. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 46, after line 10 insert—

"(ab) may consider any documents and other information relied upon by the authorised officer who detained the person or extended the detention of the person under section 165B(1)(b) or 165BA(1)(b) and may consider any other information in relation to the person's detention; and

(ac) must take reasonable steps to contact the applicant in relation to the application; and".

53. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 46, line 12, omit "Detention Review Officer" and insert "Detention Appeals Officer".

54. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 46, line 15, omit "Detention Review Officer" and insert "Detention Appeals Officer".

55. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 46, line 20, omit "Detention Review Officer" and insert "Detention Appeals Officer".

56. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 46, line 25, omit "Detention Review Officer" and insert "Detention Appeals Officer".

57. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 46, lines 27 to 31, omit all words and expressions on these lines and insert—

"(b) subject to subsections (5), (6) and (7), to vary or cease the person's detention."

58. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 46, lines 32 to 35 and page 47, lines 1 to 8, omit all words and expressions on these lines and insert—

- "(5) A Detention Appeals Officer must not vary or cease a person's detention under subsection (4)(b) unless the Detention Appeals Officer has consulted and considered the advice of the Chief Health Officer about the proposed variation or cessation.

**Note**

The Chief Health Officer can delegate powers, duties and functions: see section 22.

- (6) If a Detention Appeals Officer consults the Chief Health Officer about the proposed variation or cessation of a person's detention, the Chief Health Officer must make their best endeavours to provide oral or written advice about the proposed variation or cessation within 24 hours.
- (7) If the Chief Health Officer provides oral advice under subsection (6), a written record of the advice must be prepared as soon as practicable—
- (a) by the Chief Health Officer; or
  - (b) by the Detention Appeals Officer, who must provide a copy of the written record to the Chief Health Officer for endorsement by the Chief Health Officer."

59. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 47, lines 9 to 29, omit all words and expressions on these lines.

60. Clause 12, page 49, line 1, omit "6" and insert "6A".

61. Clause 12, page 49, line 11, omit "120" and insert "60".

62. Clause 12, page 49, line 13, omit "600" and insert "300".

63. Clause 12, page 49, lines 17 to 32 and page 50, lines 1 to 26, omit all words and expressions on these lines.

64. Clause 12, page 50, lines 27 to 35 and page 51, lines 1 to 26, omit all words and expressions on these lines.

65. Clause 12, page 51, lines 27 to 34, and page 52, lines 1 and 2, omit all words and expressions on these lines.

66. Clause 12, page 64, line 13, omit "6" and insert "4".

67. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 67, lines 26 to 30, omit all words and expressions on these lines.

68. **Suggested amendment to the Legislative Assembly—**

Clause 12, page 68, lines 1 to 4, omit all words and expressions on these lines.

69. **Suggested amendment to the Legislative Assembly—**

- Clause 12, page 73, line 14, omit "Detention Review Officer" and insert "Detention Appeals Officer".
70. Clause 12, page 74, line 31, omit "**Review**" and insert "**Independent review**".
71. Clause 12, page 74, line 32, omit "a review" and insert "an independent review".
72. Clause 12, page 75, line 1, before "review" insert "independent".
73. Clause 12, page 75, line 2, omit "2 years" and insert "18 months".
74. Clause 12, page 75, after line 3 insert—
- "(2A) For the purposes of this section, an *independent review* means a review by persons who—
- (a) in the opinion of the Minister, possess appropriate qualifications or expertise to undertake the review; and
- (b) collectively, have qualifications or expertise in public health and law; and
- (c) include one or more persons who are not employed by the State of Victoria or a State agency and have not, since the commencement of this Part, provided services to the State of Victoria or a State agency under or in connection with a contract.
- (2B) In this section—
- State agency* means the following—
- (a) the Crown in right of Victoria;
- (b) a Minister of the Crown in right of Victoria;
- (c) a public service body within the meaning of the **Public Administration Act 2004**;
- (d) an instrumentality of the State of Victoria, including a body corporate established for a public purpose by or under a law of the State of Victoria;
- (e) a company in which a controlling interest is held by any one of the following persons, or by 2 or more of the following persons together—
- (i) the Crown in right of Victoria;
- (ii) a person or body covered by paragraph (b) or (d)."
75. Clause 12, page 75, line 5, before "review" insert "independent".

#### NEW CLAUSES

76. **Suggested amendment to the Legislative Assembly—**
- Insert the following New Clauses to follow clause 14—
- '14A Information to be given to detained persons**

After section 200A(1) of the Principal Act **insert**—

- "(1A) Without limiting subsection (1)(c), an explanation under that subsection must include an explanation of the following rights that the person has, or may have, and the processes in respect of those rights—
- (a) the right to complain to the Ombudsman under the **Ombudsman Act 1973**;
  - (b) the right to make a complaint under section 185 of this Act;
  - (c) the right to seek a review in a court."

**14B Applications may be made for review of certain decisions in relation to a person subject to detention**

- (1) In section 200B(1) and (5) of the Principal Act, for "Secretary" **substitute** "Detention Appeals Registrar".
- (2) In section 200B(1) and (5) of the Principal Act, for "Detention Review Officer" **substitute** "Detention Appeals Officer".
- (3) In section 200B(5) of the Principal Act, for "made" **substitute** "received".

**14C New section 200BA inserted**

After section 200B of the Principal Act **insert**—

**"200BA Secretary and Detention Appeals Registrar to provide relevant information and assistance to Detention Appeals Officers**

- (1) The Secretary and the Detention Appeals Registrar must use their best endeavours to provide a Detention Appeals Officer with all relevant information in their possession including, but not limited to, documents and information mentioned in section 200C(3)(ab), as soon as reasonably practicable after an application under section 200B is received by the Detention Appeals Registrar.
- (2) The Secretary and the Detention Appeals Registrar must use their best endeavours to provide a Detention Appeals Officer with any information requested by the Detention Appeals Officer under section 200C(3)(b) within 24 hours after receiving the request.
- (3) The Secretary and the Detention Appeals Registrar must provide all reasonable assistance requested by a Detention Appeals Officer for the purposes of the Detention Appeals Officer considering and deciding applications for review.
- (4) The provision of information under subsection (1) or (2) is authorised or required by law for the purposes of the **Privacy and Data Protection Act 2014** and the **Health Records Act 2001**."

**14D Detention Review Officer must decide applications**

- (1) For the heading to section 200C of the Principal Act **substitute**—  
**"Detention Appeals Officer must decide applications"**.
- (2) In section 200C of the Principal Act, for "Detention Review Officer" (wherever occurring) **substitute** "Detention Appeals Officer".

- (3) In section 200C(2) of the Principal Act, for "the reasons for it, within 24 hours after the application was received by the Secretary" **substitute** "the reasons for it, and the review rights available to the applicant, within 72 hours after the application was received by the Detention Appeals Registrar or within such longer period as is requested by the applicant".
- (4) After section 200C(3)(a) of the Principal Act **insert**—
- "(ab) may consider any documents and other information relied upon by the authorised officer who detained the person or extended the detention of the person under section 200 and may consider any other information in relation to the person's detention; and
- (ac) must take reasonable steps to contact the applicant in relation to the application; and".
- (5) For section 200C(4)(b) of the Principal Act **substitute**—
- "(b) subject to subsections (6), (7) and (8), to vary or cease the person's detention."
- (6) After section 200C(5) of the Principal Act **insert**—
- "(6) A Detention Appeals Officer must not vary or cease a person's detention under subsection (4)(b) unless the Detention Appeals Officer has consulted and considered the advice of the Chief Health Officer about the proposed variation or cessation.
- Note**
- The Chief Health Officer can delegate powers, duties and functions: see section 22.
- (7) If a Detention Appeals Officer consults the Chief Health Officer about the proposed variation or cessation of a person's detention, the Chief Health Officer must make their best endeavours to provide oral or written advice about the proposed variation or cessation within 24 hours.
- (8) If the Chief Health Officer provides oral advice under subsection (7), a written record of the advice must be prepared as soon as practicable—
- (a) by the Chief Health Officer; or
- (b) by the Detention Appeals Officer, who must provide a copy of the written record to the Chief Health Officer for the endorsement of the Chief Health Officer."

#### **14E Review referred back to Chief Health Officer**

Section 200D of the Principal Act is **repealed**.'

77. Clause 16, omit this clause.

78. **Suggested amendment to the Legislative Assembly**—

Clause 19, after line 29 insert—

#### **"248CA Applications made under old section 200B**

- (1) If, immediately before the commencement day, an application made by a person under section 200B of the old Act had not been determined, the

old Act continues to apply in relation to the determination of the application.

(2) In this section—

*commencement day* means the day on which Part 2 of the **Public Health and Wellbeing Amendment (Pandemic Management) Act 2021** came into operation;

*old Act* means this Act, and regulations and instruments made under this Act, as in force immediately before the commencement day."

79. Page 82, after line 19 insert the following heading—

## **"Part 2A—Establishment of the Pandemic Declaration Accountability and Oversight Committee".**

### NEW CLAUSES

80. Insert the following New Clauses to follow clause 19 and the heading proposed by amendment 79—

#### **'19A Definitions**

In section 3 of the **Parliamentary Committees Act 2003** insert the following definitions—

*"Independent Pandemic Management Advisory Committee* has the same meaning as it has in the **Public Health and Wellbeing Act 2008**;

*pandemic declaration* has the same meaning as it has in the **Public Health and Wellbeing Act 2008**;

*political party* has the same meaning as it has in the **Electoral Act 2002**;"

#### **19B Establishment of Joint House Committees**

After section 5(h) of the **Parliamentary Committees Act 2003** insert—

"(i) the Pandemic Declaration Accountability and Oversight Committee;"

#### **19C New section 14A inserted**

After section 14 of the **Parliamentary Committees Act 2003** insert—

#### **"15 Pandemic Declaration Accountability and Oversight Committee**

The function of the Pandemic Declaration Accountability and Oversight Committee is the function conferred on it by Division 4 of Part 8A of the **Public Health and Wellbeing Act 2008** in relation to scrutiny and disallowance of pandemic orders and instruments that extend, vary or revoke pandemic orders.

#### **Note**

The Pandemic Declaration Accountability and Oversight Committee may refer a matter to the Ombudsman under section 16(1) of the **Ombudsman Act 1973**."

#### **19D Membership of Joint Investigatory Committees**

In section 21(2) of the **Parliamentary Committees Act 2003**, for "As" substitute "Subject to section 21A, as".

#### **19E New section 21A inserted**

After section 21 of the **Parliamentary Committees Act 2003** insert—

##### **"21A Membership of Pandemic Declaration Accountability and Oversight Committee**

- (1) This section provides for special rules relating to the Pandemic Declaration Accountability and Oversight Committee.
- (2) The members of the Pandemic Declaration Accountability and Oversight Committee must be appointed as soon as practicable after the making of a pandemic declaration.
- (3) The appointments of members of the Pandemic Declaration Accountability and Oversight Committee must be revoked as soon as practicable after the ceasing in force of the pandemic declaration in relation to which they were appointed.
- (4) Subject to this Act, the members of the Pandemic Declaration Accountability and Oversight Committee must be appointed, and their appointments revoked, according to the practice of Parliament relating to the appointment and revocation of appointment of members to joint select committees.
- (5) Not more than half of the members of the Pandemic Declaration Accountability and Oversight Committee may be members of a political party forming the Government."

#### **19F Election of chairperson and deputy chairperson**

After section 22(1) of the **Parliamentary Committees Act 2003** insert—

- "(1A) The chairperson of the Pandemic Declaration Accountability and Oversight Committee must not be a member of a political party forming the Government."

#### **19G Sitings**

- (1) In section 25(5) of the **Parliamentary Committees Act 2003**, for "A" substitute "Subject to subsection (6), a".
- (2) After section 25(5) of the **Parliamentary Committees Act 2003** insert—
  - "(6) Subsection (5)(a) does not apply to the Pandemic Declaration Accountability and Oversight Committee, and a member of that Committee participating in a meeting of that Committee by audio link or audio visual link—
    - (a) is present for the purposes of determining whether there is a quorum; and
    - (b) may vote on a question arising at the meeting."'.

81. Clause 31, omit this clause.

82. Clause 35, line 6, omit "being".
83. Clause 35, line 12, omit "being".