



Western Australia

Emergency Management Amendment (COVID-19 Response) Act 2020

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No. 11 of 2020

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Emergency Management Amendment (COVID-19 Response) Act 2020

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Emergency Management Amendment (COVID-19 Response) Act 2020

No. 11 of 2020

An Act to amend the *Emergency Management Act 2005* in response to the COVID-19 pandemic.

[Assented to 3 April 2020]

The Parliament of Western Australia enacts as follows:

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1. Short title

This is the *Emergency Management Amendment (COVID-19 Response) Act 2020*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 come into operation on the day on which this Act receives the Royal Assent (*assent day*);
- (b) sections 5, 7, 11 and 12(1) and (2) are deemed to have come into operation on 16 March 2020;
- (c) section 10 comes into operation on the day after the period of 12 months beginning on the day after assent day;
- (d) the rest of the Act comes into operation on the day after assent day.

3. Act amended

This Act amends the *Emergency Management Act 2005*.

4. Section 67 amended

In section 67:

- (a) in paragraph (c) delete “area.” and insert:

area;
- (b) after paragraph (c) insert:

- (d) direct that any road, access route or area of water in or leading to the emergency area be closed.

5. Section 70 amended

- (1) In section 70(1) delete “exposed” and insert:

exposed, or any class of person who may have been exposed,

- (2) In section 70(2)(b) delete “the person” and insert:

a person

- (3) In section 70(3) delete “unless the State Emergency Coordinator has given authorisation for a longer period to be specified in relation to the person exposed to the hazardous substance.” and insert:

unless —

- (a) the State Emergency Coordinator gives the direction; or
- (b) the State Emergency Coordinator has given authorisation for a longer period to be specified in relation to persons exposed to the hazardous substance.

6. Section 70A inserted

After section 70 insert:

70A. Electronic monitoring of persons in quarantine

- (1) In this section —
approved electronic monitoring device means —
 - (a) an electronic monitoring device that has been approved by the Minister for the purposes of this section; and
 - (b) any equipment, wires or other items associated with such a device.
- (2) The State Emergency Coordinator may direct that a person is to be subject to electronic monitoring while the person is in quarantine if satisfied that it is necessary to monitor the location of the person during the quarantine period.
- (3) A person is in quarantine while they are subject to a direction under section 70(1) that is or includes a direction described in section 70(1)(b).
- (4) If a person is subject to electronic monitoring, an authorised officer may do any of the following —
 - (a) direct the person to wear an approved electronic monitoring device;
 - (b) direct the person to permit the installation of an approved electronic monitoring device at the place where the person resides or, if the person does not have a place of residence, at any other place specified by the officer;
 - (c) give any other reasonable direction to the person necessary for the proper administration of the electronic monitoring of the person.

- (5) An authorised officer may —
- (a) direct the occupier of a place where an approved electronic monitoring device has been installed to give the device to an authorised officer within the period specified by the officer; and
 - (b) at any time, enter a place where an approved electronic monitoring device has been installed and retrieve the device.
- (6) A person must not —
- (a) fail to comply with a direction under this section; or
 - (b) obstruct or hinder an authorised officer exercising powers under subsection (5)(b).

Penalty for this subsection: imprisonment for 12 months or a fine of \$12 000.

- (7) A person must not, without reasonable excuse, remove, or interfere with, or interfere with the operation of, an approved electronic monitoring device required to be worn or installed under this section in such a way as to prevent or impede monitoring of the location of the person subject to electronic monitoring.

Penalty for this subsection: imprisonment for 12 months or a fine of \$12 000.

7. Section 71 amended

After section 71(1) insert:

- (1A) A direction under subsection (1) may be given in relation to a class of place.

8. Section 72 amended

In section 72(1) in the definition of *relevant information* after paragraph (c) insert:

- (ca) information about any recent travel undertaken by a person;
- (cb) information about persons with whom a person has been in close contact;

9. Section 72A inserted

At the end of Part 6 Division 1 insert:

72A. General powers during emergency situation or state of emergency

- (1) In this section —
relevant information means —
 - (a) relevant information as defined in section 72(1); and
 - (b) information of a kind specified by the State Emergency Coordinator as relevant to the emergency.
- (2) For the purposes of emergency management during an emergency situation or state of emergency, a hazard management officer or authorised officer may take, or direct a person or a class of person to take, any action that the officer considers is reasonably necessary to prevent, control or abate risks associated with the emergency.
- (3) For the purposes of emergency management during an emergency situation or state of emergency, a hazard

management officer or authorised officer may direct a person to —

- (a) give to the officer relevant information about the person or any other person closely associated with the person; or
 - (b) answer questions intended to elicit relevant information about the person or any other person closely associated with the person.
- (4) A person is not excused from complying with a direction given to the person under subsection (3) on the ground that giving the information or answering the question might tend to incriminate the person or expose the person to a criminal penalty.
- (5) However, any information or answer given by a person in compliance with a direction given to the person under subsection (3) is not admissible in evidence in any criminal proceedings against the person other than proceedings for an offence under section 89.

10. Section 72A deleted and consequential amendments

- (1) Delete section 72A.
- (2) In section 77(2A) delete “71, 72A(2)” and insert:

71

- (3) In section 86(1) delete “71, 72A” and insert:

71

s. 11

11. Section 75 amended

After section 75(1) insert:

- (1A) A direction under subsection (1)(i) may be given in relation to a class of place.

12. Section 77 amended

(1) After section 77(2) insert:

- (2A) A direction under section 67, 70, 71 or 75(1)(i) that is given in relation to a class of person or thing —
- (a) need not be given directly to the persons to whom it applies; and
 - (b) despite the *Interpretation Act 1984* section 41 (to the extent to which it applies), need not be published in the *Gazette*; and
 - (c) must be published in the manner that the Minister considers suitable in the circumstances of the emergency.

(2) In section 77(3) after “subsection (2)” insert:

or (2A)(c)

(3) In section 77(2A) delete “71” and insert:

71, 72A(2)

13. Section 86 amended

- (1) In section 86(1):
 - (a) delete “71 or 75” and insert:

71, 72A or 75(1)(i)
 - (b) in the Penalty paragraph (a) before “a fine” insert:

imprisonment for 12 months or
- (2) After section 86(2) insert:
- (3) It is a defence to a charge of an offence under subsection (1) for the person to prove that the person had a reasonable excuse for failing to comply with the direction.

14. Section 102 amended

After section 102(2) insert:

- (3) If this Act is a prescribed Act for the purposes of the *Criminal Procedure Act 2004* Part 2, regulations that prescribe an offence under this Act for which an infringement notice may be issued under the *Criminal Procedure Act 2004* Part 2 have effect despite section 5(2) of that Act.

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