



New South Wales
Council for
Civil Liberties

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MEDIA RELEASE

COVID-19 Legislation Amendment (Emergency Measures) Bill 2020 doesn't do enough to protect human rights

The NSW government has now passed the *COVID-19 Legislation Amendment (Emergency Measures) Bill 2020*. The NSW Council for Civil Liberties (NSWCCL) appreciates the government's rapid response in introducing emergency public health measures, at this time. The government has a broad range of public health and emergency response powers available under current legislation, for responding to public health emergencies. Although some elements of individual liberty and equity may be overridden to protect the wider community, when exercising those powers, the government must remain vigilant to avoid the grave human rights violations likely to affect the most vulnerable in our society. Those vulnerable include those who are unable, because of disability; poverty; their migrant status; or incarceration, to access emergency economic or health services. If unprecedented numbers of job losses ensue, as predicted, then the number of vulnerable in our society will swell.

It is for these reasons that the NSWCCL wishes to highlight a number of disturbing aspects of and omissions from the Bill:

1. Pre-recorded evidence in criminal trials does not give the opportunity for the defence to cross-examine the witness to test their evidence against the evidence for the accused. This is an essential component of criminal justice. While acceptable, in some limited specific special circumstances, this provides for a much broader range of witnesses, if the class of persons is revised by regulation. Evidence given from a remote location, by video link, would provide the same protections, in terms of disease, but would have the benefit of allowing cross-examination. If it is considered that this cannot be achieved, due to a lack of resources, that is not a sufficient reason, where the integrity of the justice system in achieving fair trials is at risk.
2. The possibility of a 12 month, or longer period, for the emergency measures to be determined by the Attorney-General, is not satisfactory. There should be a firm sunset date, so that parliamentary approval is required, for any extension.
3. The Bill invokes powers, in s747B of the Local Government Act, that allow legislation to be amended or repealed without going back to Parliament for consideration. Although emergency situations may be a valid exception to the principle, the NSWCCL generally opposes these as they produce less scrutiny and Parliamentary control over legislation. This is not considered a necessary measure in these circumstances.
4. The Bill should include strong whistleblower protection for health workers. In a health crisis of this kind, it is more important, than ever, to ensure that the public can have access to accurate information, in a timely way. Health workers are obviously in a position where they will often be first to know, and they should be protected from persecution, and prosecution, if they genuinely see a need for public disclosure of information.

Finally, NSWCCCL has released a statement specifically addressing COVID-19 and prisons which can be accessed at the following link
https://www.nswccl.org.au/statement_covid_19_and_prisons.

ENDS

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See this release online -

https://www.nswccl.org.au/media_statement_nsw_emergency_legislation_covid_19

About NSW Council for Civil Liberties

NSWCCCL is one of Australia's leading human rights and civil liberties organisations, founded in 1963. We are a non-political, non-religious and non-sectarian organisation that champions the rights of all to express their views and beliefs without suppression. We also listen to individual complaints and, through volunteer efforts; attempt to help members of the public with civil liberties problems. We prepare submissions to government, conduct court cases defending infringements of civil liberties, engage regularly in public debates, produce publications, and conduct many other activities.

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