

2021

**THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

**COVID-19 EMERGENCY RESPONSE (CHECK IN INFORMATION)
AMENDMENT BILL 2021**

SUPPLEMENTARY EXPLANATORY STATEMENT

Presented by
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Minister for Health

COVID-19 EMERGENCY RESPONSE (CHECK IN INFORMATION) AMENDMENT BILL 2021

INTRODUCTION

This supplementary explanatory statement relates to a Government amendment to the COVID-19 Emergency Response (Check In Information) Amendment Bill 2021 (the Bill) as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the Government amendment and help inform debate on it. It does not form part of the Bill and has not been endorsed by the Legislative Assembly.

This statement must be read in conjunction with the Government amendment and the Bill. It is not, and is not intended to be, a comprehensive description of the Bill and the Government amendment. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision.

OVERVIEW OF THE BILL

On 4 August 2021, the Bill was introduced in the Legislative Assembly.

The Bill will have the effect of exclusively reserving personal information collected through the ACT Government's Check In CBR App for contact tracing purposes and compliance with its provisions. This will displace several uses and disclosures of such information which would ordinarily be permitted under the Territory Privacy Principles (TPPs) set out in the ACT's *Information Privacy Act 2014*.

The Bill amends the COVID-19 Emergency Response Act 2020, chosen for both its stated purpose of providing emergency measures in response to the COVID-19 emergency, and because it contains provision designed to offer community assurance, specifically parliamentary oversight at section 3 of the Act.

The explanatory statement accompanying the Bill provides a detailed account of the provisions contained in the Bill and can be accessed at:

https://legislation.act.gov.au/b/db_64814/

OUTLINE OF GOVERNMENT AMENDMENTS

The Government amendment will make a minor, technical or non-controversial amendment to the Bill to allow check-in information to be used for the purpose of investigating or prosecuting offences proposed by the Bill.

CONSISTENCY WITH HUMAN RIGHTS

The amendment to the Bill engages and promotes the right to privacy and reputation (Section 12, *Human Rights Act 2004*). Inserting a section 2F(2) would allow check-in information to be used for an additional purpose of investigating or prosecuting offences proposed by the Bill. This would operate to provide a stronger mechanism to achieve the Bill's purpose of protecting personal information, collected through the Check In CBR App, from use or disclosure being required to be provided by or under and Australian law or a court or tribunal order.

Without the amendment, there is a risk that there would be hesitancy to investigate or prosecute an offence under the Bill, where the offences provide appropriate boundaries on the collection, use, disclosure, protection and destruction of check-in information.

CLAUSE NOTES—GOVERNMENT AMENDMENT

Amendment 1

Clause 5

Proposed new subsection 2F(2)

Page 7, line 18

This subsection 2F(2) sets out the limited circumstances in which check-in information may be used for the purpose of investigating or prosecuting an offence with the proposed inclusion of an offence against Part 2 of the Bill.