

South Australia

Health Practitioner Regulation National Law (South Australia) (Remote Area Attendance) (No 2) Variation Regulations 2019

under the *Health Practitioner Regulation National Law (South Australia) Act 2010*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Health Practitioner Regulation National Law (South Australia) (Remote Area Attendance) (No 2) Variation Regulations 2019*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Health Practitioner Regulation National Law (South Australia) Regulations 2010*

4—Insertion of regulations 11A, 11B, 11C, 11D, 11E, 11F, 11G and 11H

After regulation 11AA insert:

11A—Interaction of regulations with *Work Health and Safety Act 2012*

Nothing in regulations 11B to 11G (inclusive), being regulations made under Part 5A of the Act, derogates from the requirements of the *Work Health and Safety Act 2012* in respect of a person conducting a business or undertaking (within the meaning of that Act).

Note—

See section 77B of the Act.

11B—Definitions in Part 5A (section 77A)

- (1) For the purposes of paragraph (b) of the definition of **health practitioner** in section 77A(1) of the Act, a health service provider within the meaning of the *Health Practitioner Regulation National Law (South Australia)* (other than a health practitioner within the meaning of the *Health Practitioner Regulation National Law (South Australia)*) is prescribed.

Note—

Health practitioners (within the meaning of the *Health Practitioner Regulation National Law (South Australia)*) are already included in the definition of **health practitioner** in section 77A(1) of the Act.

- (2) For the purposes of section 77A(2)(d) of the Act, the following areas are included in the ambit of the definition of **remote area**:
 - (a) the area of the District Council of Coober Pedy;
 - (b) the area of the Municipal Council of Roxby Downs.

11C—Application of Part 5A Division 2 of Act

For the purposes of section 77C(1)(d) of the Act, the following health practitioners are prescribed:

- (a) a health practitioner registered under the *Health Practitioner Regulation National Law (South Australia)* to practise in the medical profession;
- (b) a health practitioner registered under the *Health Practitioner Regulation National Law (South Australia)* to practise in the midwifery profession as a midwife;

- (c) a health practitioner registered under the *Health Practitioner Regulation National Law (South Australia)* to practise as a nurse in the registered nurses division of the nursing profession;
- (d) a health practitioner employed by, or otherwise providing a health service on behalf of, a person or body wholly or partly funded (by grant, service agreement or other such arrangement) by the Commonwealth Government.

11D—Second responders for remote area attendance

- (1) For the purposes of section 77D(1) of the Act, a health practitioner engages a person as a second responder for the purposes of a particular callout by—
 - (a) contacting the person by telephone or in person; and
 - (b) advising the person of—
 - (i) the general nature of the callout including the location and an estimate of the time required; and
 - (ii) the designated time and place for the health practitioner and the person to meet for the purposes of the callout; and
 - (c) confirming the eligibility, availability and agreement of the person to attend the callout as a second responder; and
 - (d) advising that the person is engaged as a second responder for the callout.
- (2) Subject to subregulation (3), for the purposes of section 77D(2) of the Act a second responder—
 - (a) must hold a current Australian driver's licence; and
 - (b) must have been subject to a working with children check (within the meaning of the *Child Safety (Prohibited Persons) Act 2016*) within the preceding 5 years; and
 - (c) must not be prohibited from working with children under the *Child Safety (Prohibited Persons) Act 2016* or a law of the Commonwealth or of another State or Territory.
- (3) The requirements of subregulation (2) do not apply in respect of a person to be engaged by a health practitioner as a second responder for a particular callout where—
 - (a) the health practitioner has taken all reasonable steps to engage as a second responder a person who satisfies the requirements of subregulation (2) but has been unable to do so; and
 - (b) the health practitioner believes on reasonable grounds that the risk to the health of a person to whom health services are to be provided in relation to the callout is high; and

- (c) the person is known to the health practitioner and is, in the opinion of the health practitioner, a suitable person to be engaged as a second responder in the circumstances.
- (4) Pursuant to section 77D(3)(a) of the Act, a person is engaged to act as a second responder from the time that a health practitioner advises the person that they are engaged as a second responder pursuant to subregulation (1)(d).
- (5) Pursuant to section 77D(3)(b) of the Act, a callout is completed in respect of a second responder when, after leaving the location of the callout or any other place at which the second responder attended in relation to the callout, the second responder arrives at their place of residence or other destination nominated by the second responder and advised to the health practitioner.
- (6) For the purposes of subregulation (3)(b), the risk to the health of a person to whom health services are to be provided in relation to a callout is not high if the health practitioner is of the opinion that treatment of the person can be delayed—
 - (a) until the normal operating hours of an available clinic or health facility commence; or
 - (b) for a period of more than 24 hours.

11E—Prescribed premises and prescribed circumstances for unaccompanied remote area attendance

- (1) For the purposes of section 77E(3)(a) of the Act, premises approved by the Minister are prescribed premises.
- (2) For the purposes of section 77E(3)(b) of the Act, the following circumstances relating to a callout by a health practitioner are prescribed:
 - (a) where the callout is to a police station and, before attending the callout, the health practitioner is satisfied, taking into account all information available to the health practitioner in relation to the callout, that at least 1 police officer or special constable will be present at the police station at all times while the health practitioner attends the callout;
 - (b) where the callout is in response to an emergency and, before attending the callout, the health practitioner is satisfied, taking into account all information available to the health practitioner in relation to the callout, that at least 1 emergency services worker (other than the health practitioner) will be present at the location of the emergency at all times while the health practitioner attends the callout.
- (3) In this regulation—

emergency services worker means any of the following persons:

 - (a) a police officer;
 - (b) a special constable;

- (c) a member of an emergency services organisation within the meaning of the *Fire and Emergency Services Act 2005*;
- (d) persons engaged in the provision of emergency ambulance services authorised under the *Health Care Act 2008*;
- (e) any other person, or person of a class, approved by the Minister to be an emergency services worker;

special constable has the same meaning as in the *Police Act 1998*.

11F—Application of Part 5A Division 3 of Act

- (1) For the purposes of section 77G(d) of the Act, the following persons and bodies are prescribed:
 - (a) if a designated person provides a health service on behalf of another person or body—that other person or body;
 - (b) in any other case—a designated person.
- (2) The following persons are *designated persons* for the purposes of subregulation (1):
 - (a) a person registered under the *Health Practitioner Regulation National Law (South Australia)* to practise in the medical profession;
 - (b) a person registered under the *Health Practitioner Regulation National Law (South Australia)* to practise in the midwifery profession as a midwife;
 - (c) a person registered under the *Health Practitioner Regulation National Law (South Australia)* to practise as a nurse in the registered nurses division of the nursing profession.

11G—Policies and procedures for remote area attendance

For the purposes of section 77H(2)(c) of the Act, the following kinds of provisions are required to be included in policies and procedures under section 77H of the Act:

- (a) provisions to assist in assessing the eligibility and selection of persons to be second responders;
- (b) provisions to manage risks to the safety and security of health practitioners identified as being specific to the provision of health services—
 - (i) at, or from, a specific location; or
 - (ii) by a specific health service provider.

11H—Review of amendments to regulations by *Health Practitioner Regulation National Law (South Australia) (Remote Area Attendance) (No 2) Variation Regulations 2019*

- (1) The Minister must cause a review of the operation of the amendments made to these regulations by the *Health Practitioner Regulation National Law (South Australia) (Remote Area Attendance) (No 2) Variation Regulations 2019* to be conducted and a report on the review to be prepared and submitted to the Minister.
- (2) The review and the report must be completed after the first anniversary of the commencement of the *Health Practitioner Regulation National Law (South Australia) (Remote Area Attendance) (No 2) Variation Regulations 2019* but no later than 6 months after that anniversary.
- (3) The Minister must cause a copy of the report submitted under subregulation (1) to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on

No 239 of 2019