

Legislative Council—No 123

As received from the House of Assembly and read a first time, 25 May 2021

South Australia

Statutes Amendment (COVID-19 Permanent Measures) Bill 2021

A BILL FOR

An Act to amend the *Aboriginal Lands Parliamentary Standing Committee Act 2003*, the *Acts Interpretation Act 1915*, the *Emergency Management Act 2004*, the *Environment Protection Act 1993*, the *Parliamentary Committees Act 1991*, the *Real Property Act 1886* and the *South Australian Public Health Act 2011*, and to make related amendments to the *COVID-19 Emergency Response Act 2020*.

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The Parliament of South Australia enacts as follows:**Part 1—Preliminary****1—Short title**

5 This Act may be cited as the *Statutes Amendment (COVID-19 Permanent Measures) Act 2021*.

2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

3—Amendment provisions

10 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Aboriginal Lands Parliamentary Standing Committee Act 2003***4—Insertion of section 12A**

After section 12 insert:

15 **12A—Meetings may be held remotely**

Despite any other provision of this Act—

- 20 (a) a requirement for the Committee to hold any meeting will be taken to be satisfied if the meeting is held remotely using 1 or more (including a combination) of the following means of communication:
- (i) audio visual;
- (ii) audio; and
- 25 (b) a requirement for members of the Committee to attend or be present at any meeting will be taken to be satisfied if—
- (i) each participating member is able to communicate contemporaneously with each other participating member when making any deliberation, or taking part in any vote, during the meeting; and

- 5
- (ii) when a witness gives oral evidence to the Committee, the members of the Committee constituting a quorum are able to hear the witness contemporaneously and question the witness within the hearing of each other Committee member constituting the quorum.

Part 3—Amendment of *Acts Interpretation Act 1915*

5—Insertion of section 53

After section 52 insert:

10 **53—Certain meetings etc may occur remotely**

- 15 (1) If an Act requires that a meeting occur or that some other transaction take place that requires 2 or more persons to be physically present, the requirement will be taken to be satisfied if the persons meet, or the transaction takes place, remotely using 1 or both (including a combination) of the following means of communication:
- (a) audio visual;
- (b) audio.
- 20 (2) However, subsection (1) does not apply to a requirement that a person be physically present to witness the signing, execution, certification or stamping of a document or to take any oath, affirmation or declaration in relation to a document.
- (3) Subsection (1) does not apply to a meeting or transaction, or meeting or transaction of a class, prescribed by the regulations.

Part 4—Amendment of *Emergency Management Act 2004*

25 **6—Amendment of section 17—Authorised officers**

- (1) Section 17(2)—after "must" insert:

, as soon as practicable,

- (2) Section 17(3)(b)—after "identity card" insert:

30 , if one has been issued in accordance with subsection (2) or, if such an identity card has not yet been issued, with such other proof of the person's appointment as an authorised officer as the State Co-ordinator may determine

7—Insertion of section 26B

After section 26A insert:

26B—No obligation on persons to maintain secrecy

5 No obligation to maintain secrecy or other restriction on the disclosure of information applies to a person who is required to disclose information by a direction or requirement issued under section 25, except an obligation or restriction designed to keep the identity of an informant secret.

8—Amendment of section 28—Failure to comply with directions

10 Section 28(1)—after the penalty provision insert:

Expiation fee:

- (a) in the case of a natural person—\$1 000; or
- (b) in the case of a body corporate—\$5 000.

9—Amendment of section 32A—Protection from liability—COVID-19

15 (1) Section 32A(a)(i)—delete "this Act" and substitute:

a prescribed Act

(2) Section 32A(a)(ii)—delete "this Act" and substitute:

a prescribed Act

(3) Section 32A(b)—delete "this Act" and substitute:

20 a prescribed Act

(4) Section 32A—after its present contents (now to be designated as subsection (1)) insert:

25 (2) Despite any other provision of this Act, or any other Act or law, no civil or criminal liability attaches to a person for an act or omission in good faith in respect of—

(a) any acts or omissions in connection with—

(i) the exercise or discharge, or purported exercise or discharge, of a power or function under a prescribed Act; or

30 (ii) the carrying out, or purported carrying out, of any direction or requirement given or imposed, or purportedly given or imposed, in accordance with a prescribed Act; or

35 (b) any failure to exercise or discharge a power or function under a prescribed Act,

in relation to the outbreak of the human disease named COVID-19 within South Australia (whether the relevant acts or omissions or failure occurred before or after the commencement of this section).

(3) In this section—

prescribed Act means—

- (a) this Act; and
- (b) the *South Australian Public Health Act 2011*; and
- (c) the *COVID-19 Emergency Response Act 2020*; and
- (d) any other Act or law prescribed by the regulations.

Part 5—Amendment of *Environment Protection Act 1993*

10—Amendment of section 19—Round-table conference

(1) Section 19(1)—delete ", on an annual basis (or with such greater frequency as the Authority may determine), hold a round-table conference" and substitute:

hold round-table conferences

(2) Section 19—after subsection (1) insert:

(1a) Round-table conferences are to be held at such intervals as the Authority may determine.

11—Amendment of section 71A—Manner of payment of refund amounts

Section 71A(b)—delete paragraph (b) and substitute:

(b) in any other case—

(i) unless subparagraph (ii) applies, in cash; or

(ii) if the person to whom the refund amount is payable agrees—

(A) by way of electronic funds transfer to a bank account or credit card account; or

(B) in a manner prescribed by regulation.

Part 6—Amendment of *Mental Health Act 2009*

12—Amendment of section 52—Visits to and inspections of treatment centres

Section 52(1)—delete "subsection (2)" and substitute:

this Division

13—Amendment of section 52A—Visits to and inspection of authorised community mental health facilities

Section 52A(1)—delete "An" and substitute:

Subject to this Division, an

14—Insertion of section 52B

After section 52A insert:

52B—Visits and inspections by audiovisual or other electronic means

- 5 (1) This section applies to a visit and inspection of a treatment centre, authorised community mental health facility or other premises by a community visitor that is required or authorised under this or any other Act if—
- 10 (a) in the opinion of the Principal Community Visitor, it is not reasonably practical for a community visitor to physically visit or enter the relevant premises; or
- (b) the visit or inspection occurs in any other circumstances prescribed by the regulations.
- 15 (2) Without limiting the generality of subsection (1), the reasons that a physical visit or inspection may not be reasonably practical include—
- (a) a lack of availability of community visitors to conduct a physical visit or inspection; or
- (b) the remoteness of the relevant premises; or
- 20 (c) the need to prevent the spread of contagious diseases.
- (3) The following provisions apply in relation to a visit or inspection to which this section applies:
- (a) the visit or inspection may be conducted by means of audiovisual or other electronic means;
- 25 (b) despite a provision of this or any other Act requiring the visit or inspection to be conducted by more than 1 community visitor, the visit or inspection may be conducted by a single community visitor;
- (c) a reference in this or any other Act that contemplates a community visitor being physically on the relevant premises is to be construed accordingly.
- 30 (4) Subject to this Act, a community visitor may, in relation to a visit or inspection to which this section applies, give such directions as the community visitor considers reasonably necessary to enable the visit or inspection to occur by audiovisual or other electronic means, including—
- 35 (a) directions requiring a person, or person of a class—
- (i) to take reasonable steps to facilitate the visit or inspection; and
- 40 (ii) to make equipment of a specified kind available for use in the course of the visit or inspection; and

(iii) to grant access to such parts of the premises as may reasonably be accessed using the relevant audiovisual or other means; or

(b) directions requiring a person, or person of a class, to provide the community visitor with access to a specified patient or resident of the premises, or patients or residents of a specified class, and for an appropriate area within the premises to be made available to enable confidential communication with the community visitor by the relevant audiovisual or other means.

(5) A person must not, without reasonable excuse, refuse or fail to comply with a direction under subsection (4).

Maximum penalty: \$5 000.

(6) A community visitor must ensure that the following information is reported on a publicly accessible website and updated on at least a quarterly basis:

(a) the number of visits or inspections by the community visitor that have occurred by audiovisual or other electronic means in accordance with this section;

(b) except where the Principal Community Visitor or Chief Psychiatrist (as the case requires) is of the opinion that it would be inappropriate to identify the premises or the address of the premises—the name and address of any premises subject to such a visit or inspection;

(c) the date on which each such visit or inspection occurred;

(d) the reasons why each such visit or inspection was a visit or inspection to which this section applies.

(7) A report under subsection (6) must be made by—

(a) in the case where the community visitor is the Chief Psychiatrist—the Chief Psychiatrist; or

(b) in any other case—the Principal Community Visitor.

(8) To avoid doubt, nothing in this section limits a power or function that may be exercised or performed by a community visitor in relation to a visit or inspection.

(9) For the purposes of this section, the Chief Psychiatrist will be taken to be a community visitor.

Part 7—Amendment of *Parliamentary Committees Act 1991*

15—Insertion of section 24A

After section 24 insert:

24A—Meetings may be held remotely

Despite any other provision of this Act—

- (a) a requirement for a committee to hold any meeting will be taken to be satisfied if the meeting is held remotely using 1 or more of (including a combination of) the following means of communication:
 - (i) audio visual;
 - (ii) audio; and
- (b) a requirement for members of a committee to attend or be present at any meeting will be taken to be satisfied if—
 - (i) each participating member is able to communicate contemporaneously with each other participating member when making any deliberation, or taking part in any vote, during the meeting; and
 - (ii) when a witness gives oral evidence to the committee, the members of the committee constituting a quorum are able to hear the witness contemporaneously and question the witness within the hearing of each other committee member constituting the quorum.

Part 8—Amendment of *Real Property Act 1886*

16—Amendment of section 128—Mortgage of land

- (1) Section 128(5)(a)—delete "and the mortgagee"
- (2) Section 128—after subsection (8) insert:
 - (9) To avoid doubt, the execution of an instrument under this section is not required to be witnessed.

17—Amendment of section 153A—Requirements for renewal or extension of mortgage

- (1) Section 153A(3)(a)—delete "and the mortgagee"
- (2) Section 153A—after subsection (5) insert:
 - (6) To avoid doubt, the execution of an instrument under this section is not required to be witnessed.

Part 9—South Australian Public Health Act 2011

18—Amendment of section 66—Action to prevent spread of infection

Section 66—after subsection (2) insert:

- 5 (2a) A direction or requirement under subsection (1) or (2) may be issued
in the form of a written instrument or in any other form (including,
without limitation, orally, by SMS or email).

19—Amendment of section 73—Power to require a person to undergo an examination or test

Section 73(8a)—delete "48" and substitute:

10 72

20—Amendment of section 74—Power to require counselling

Section 74(3a)—delete "48" and substitute:

72

21—Amendment of section 75—Power to give directions

15 Section 75(3a)—delete "48" and substitute:

72

22—Amendment of section 77—Power to require detention

(1) Section 77(3a)—delete "48" and substitute:

72

20 (2) Section 77—after subsection (5) insert:

(5a) For the purposes of giving effect to an order made under this section
in respect of a person, the Chief Public Health Officer or an
authorised person may—

- 25 (a) apprehend and take the person to the place at which the
person is to be detained under the order; and
(b) restrain the person and otherwise use force in relation to the
person as reasonably required in the circumstances; and
(c) be assisted by such persons as may be necessary or desirable
in the circumstances.

30 (3) Section 77—after subsection (14) insert:

(15) In this section—

authorised person means—

- 35 (a) a police officer; or
(b) a person authorised by the Chief Public Health Officer to act
as an authorised person under this section.

23—Amendment of section 99—Confidentiality

Section 99(2)—after paragraph (i) insert:

- (ia) disclosing information in accordance with an authorisation of the Chief Public Health Officer; or

5 Schedule 1—Related amendments

Part 1—Amendment of *COVID-19 Emergency Response Act 2020*

1—Repeal of section 17

Section 17—delete section 17

10 2—Amendment of Schedule 2—Temporary modification of particular State laws

- (1) Schedule 2 Part AA1—delete Part AA1
- (2) Schedule 2 Part 1 clause 1(a) and (b)—delete paragraphs (a) and (b)
- (3) Schedule 2 Part 1 clause 1(f)—delete paragraph (f)
- 15 (4) Schedule 2 Part 1 clause 1(g)—delete paragraph (g)
- (5) Schedule 2 Part 2—delete Part 2
- (6) Schedule 2 Part 3 clause 3(b)—delete paragraph (b)
- (7) Schedule 2 Part 5—delete Part 5