

Legislative Council—No 11

As introduced, read a first time, Standing Orders suspended and passed remaining stages, 3 March 2020

South Australia

**South Australian Public Health (Controlled
Notifiable Conditions) Amendment Bill 2020**

A BILL FOR

An Act to amend the *South Australian Public Health Act 2011*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Amendment provisions

Part 2—Amendment of *South Australian Public Health Act 2011*

- 3 Amendment of section 73—Power to require a person to undergo an examination or test
 - 4 Amendment of section 74—Power to require counselling
 - 5 Amendment of section 75—Power to give directions
 - 6 Amendment of section 77—Power to require detention
 - 7 Amendment of section 79—Warrants
 - 8 Amendment of section 101—Service of notices or other documents
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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 *South Australian Public Health (Controlled Notifiable Conditions) Amendment Act 2020*.

2—Amendment provisions

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 *South Australian Public Health Act 2011*

10 3—Amendment of section 73—Power to require a person to undergo an examination or test

Section 73(8)—delete subsection (8) and substitute:

- 15 (8) A requirement will be imposed by service of an order on the person unless—
 - (a) the person is unconscious; or
 - (b) the Chief Public Health Officer considers that urgent action is required in the circumstances of the particular case, in which case an oral order may be given.
- 20 (8a) If an oral order is given under subsection (8)(b), the Chief Public Health Officer must confirm the order by notice in writing served on the person as soon as practicable, but in any event within 48 hours, after giving the order (and a failure to serve a notice in accordance with this subsection will not affect the validity of the order).

4—Amendment of section 74—Power to require counselling

Section 74(3)—delete subsection (3) and substitute:

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- (3) A requirement will be imposed by service of an order on the person unless the Chief Public Health Officer considers that urgent action is required in the circumstances of the particular case, in which case an oral order may be given.
- (3a) If an oral order is given under subsection (3), the Chief Public Health Officer must confirm the order by notice in writing served on the person as soon as practicable, but in any event within 48 hours, after giving the order (and a failure to serve a notice in accordance with this subsection will not affect the validity of the order).
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5—Amendment of section 75—Power to give directions

- (1) Section 75(1)(a)—delete "has, or has been exposed to, a controlled notifiable condition; and" and substitute:

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- (i) has a controlled notifiable condition; or
- (ii) has been exposed to a controlled notifiable condition; or
- (iii) could have been exposed to a controlled notifiable condition; and

- (2) Section 75(3)—delete subsection (3) and substitute:

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- (3) Any direction will be imposed by service of an order on the person unless the Chief Public Health Officer considers that urgent action is required in the circumstances of the particular case, in which case an oral order may be given.
- (3a) If an oral order is given under subsection (3), the Chief Public Health Officer must confirm the order by notice in writing served on the person as soon as practicable, but in any event within 48 hours, after giving the order (and a failure to serve a notice in accordance with this subsection will not affect the validity of the order).
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- (3) Section 75(4)(a)—delete "reside at a specified place" and substitute:

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remain at a specified place including, without limitation, a hospital or quarantine facility

6—Amendment of section 77—Power to require detention

- (1) Section 77(1)—delete subsection (1) and substitute:

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- (1) The Chief Public Health Officer may make an order under this section if—
- (a) the Chief Public Health Officer has reasonable grounds to believe that a person—
- (i) has a controlled notifiable condition; or
- (ii) has been exposed to a controlled notifiable condition; or
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(iii) could have been exposed to a controlled notifiable condition; and

(b) either—

(i) the person is or has been the subject of 1 or more directions under section 75 and has contravened or failed to comply with a direction; or

(ii) the Chief Public Health Officer considers that there is a material risk the person would not comply with 1 or more directions under section 75 if they were to be imposed; or

(iii) the Chief Public Health Officer is satisfied that urgent action is required in the circumstances of the particular case such that a direction under section 75 is not appropriate; and

(c) the Chief Public Health Officer considers that the person presents, or could present, a risk to public health and that action under this section is justified.

(2) Section 77(3)—delete subsection (3) and substitute:

(3) An order under this section must be served on the person unless the Chief Public Health Officer considers that urgent action is required in the circumstances of the particular case, in which case an oral order may be given.

(3a) If an oral order is given under subsection (3), the Chief Public Health Officer must confirm the order by notice in writing served on the person as soon as practicable, but in any event within 48 hours, after giving the order (and a failure to serve a notice in accordance with this subsection will not affect the validity of the order).

(3) Section 77(4)—delete "submit to being" and substitute:

be

(4) Section 77(6)—delete subsection (6) and substitute:

(6) Subject to this section—

(a) an order made on the grounds specified in subsection (1)(a)(i) or (ii)—

(i) will be for an initial period not exceeding 30 days; and

(ii) will be able to be extended from time to time by the Chief Public Health Officer for periods not exceeding 60 days; and

(b) an order made on the grounds specified in subsection (1)(a)(iii)—

(i) will be for an initial period not exceeding 48 hours; and

(ii) will be able to be extended from time to time by the Chief Public Health Officer for periods not exceeding 30 days.

(5) Section 77(7)—delete "under this section" and substitute:

made on the grounds specified in subsection (1)(a)(i) or (ii)

(6) Section 77—after subsection (8) insert:

(8a) If the Chief Public Health Officer considers that it will be necessary to extend an order made on the grounds specified in subsection (1)(a)(iii) beyond an initial period of 48 hours, the Chief Public Health Officer must, before the expiration of that period, apply to the Magistrates Court for a review of the order.

(8b) If an application is made under subsection (8a)—

(a) the order may be extended beyond the initial period of 48 hours pending the outcome of the application to the Magistrates Court; and

(b) the Magistrates Court should seek to hear and determine the application as soon as is reasonably practicable after it is made to the Court; and

(c) the Magistrates Court may, on hearing the application, confirm, vary or revoke the order that has been made by the Chief Public Health Officer.

Note—

See also the power in subsection (13) to determine examination periods.

(7) Section 77(13)(b)—after "Supreme Court Judge" insert:

or Magistrate

7—Amendment of section 79—Warrants

(1) Section 79(1)(a)—delete paragraph (a) and substitute:

(a) for the issue of a warrant for the apprehension by an authorised person of a person—

(i) who has failed to comply with an order, requirement or direction under this Division; or

(ii) who is the subject of an order that has not been served on the person despite reasonable efforts to do so; or

(iii) who—

(A) has a controlled notifiable condition, has been exposed to a controlled notifiable condition or could have been exposed to a controlled notifiable condition; and

(B) is engaging in, or has engaged in, conduct that creates a risk to others in respect of the controlled notifiable condition.

(2) Section 79(2)—after "appropriate" insert:

5 in the circumstances including (without limitation) action

8—Amendment of section 101—Service of notices or other documents

(1) Section 101(4)—delete "An order" and substitute:

Subject to this section, an order

(2) Section 101—after subsection (4) insert:

10 (5) In the event that personal service of an order under Part 10 is not reasonably practicable, such an order may be served in a manner contemplated by subsections (1)(a), (b) or (c).

(6) Subsection (4) does not apply to a written notice confirming an oral order made under Part 10.