

South Australia

Criminal Law (Forensic Procedures) (Blood Testing for Diseases) Variation Regulations 2016

under the *Criminal Law (Forensic Procedures) Act 2007*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *Criminal Law (Forensic Procedures) Regulations 2007*

- 4 Variation of regulation 3—Interpretation
 - 5 Insertion of regulation 4A
 - 4A Blood testing for communicable diseases—Notice to accused
 - 4B Blood testing for communicable diseases—Notification of results to accused
 - 4C Blood testing for communicable diseases—Notification of results to affected person
 - 6 Insertion of regulation 5A
 - 5A Confidentiality
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Criminal Law (Forensic Procedures) (Blood Testing for Diseases) Variation Regulations 2016*.

2—Commencement

These regulations will come into operation on the day on which section 6 of the *Criminal Law (Forensic Procedures) (Blood Testing for Diseases) Amendment Act 2015* comes into operation.

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 *Criminal Law (Forensic Procedures) Regulations 2007*

4—Variation of regulation 3—Interpretation

Regulation 3—after the definition of *Act* insert:

registered nurse means a person registered under the *Health Practitioner Regulation National Law*—

- (a) to practise in the nursing and midwifery profession as a nurse (other than as a student); and
- (b) in the registered nurses division of that profession.

5—Insertion of regulation 4A

After regulation 4 insert:

4A—Blood testing for communicable diseases—Notice to accused

- (1) If a forensic procedure consisting of the taking of a sample of blood is to be carried out on a person pursuant section 20B of the Act, the authorising officer must, before the procedure is carried out—
 - (a) give the person written notice that—
 - (i) a sample of the person's blood is to be taken pursuant to section 20B of the Act; and
 - (ii) the blood will be tested for communicable diseases; and
 - (b) invite the person to nominate a medical practitioner to receive a copy of the results of the testing.
- (2) A failure to comply with a requirement of subregulation (1) in respect of a forensic procedure does not invalidate the forensic procedure or otherwise affect the authority to perform the forensic procedure and any testing on the material obtained from it.

4B—Blood testing for communicable diseases—Notification of results to accused

- (1) The Commissioner of Police must take reasonable steps to notify a person on whom a forensic procedure is carried out pursuant to section 20B of the Act of the results of testing for communicable diseases undertaken on the material obtained from the forensic procedure.
- (2) The Commissioner of Police is taken to have complied with the requirement of subregulation (1) to notify a person of the results of testing on provision of the results to a medical practitioner nominated by the person.

4C—Blood testing for communicable diseases—Notification of results to affected person

- (1) The Commissioner of Police must take reasonable steps to notify each affected person of the results of testing for communicable diseases undertaken on material obtained from a forensic procedure carried out pursuant to section 20B of the Act.
- (2) The Commissioner of Police is taken to have complied with the requirement of subregulation (1) to notify a person of the results of testing on provision of the results to a medical practitioner nominated by the person.
- (3) In this regulation—

affected person in relation to a forensic procedure, means a person engaged in prescribed employment referred to in section 20B(1)(b) of the Act who likely came into contact with, or was otherwise exposed to, biological material of the person on whom the forensic procedure is carried out.

6—Insertion of regulation 5A

After regulation 5 insert:

5A—Confidentiality

For the purposes of section 50(1)(p) of the Act, a purpose connected to the administration of Part 2 Division 4 of the Act is prescribed.

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 8 December 2016

No 281 of 2016

AGO0079/16CS