

## *COVID-19 Legislation Amendment (Emergency Measures – Miscellaneous) Bill 2020 (NSW)*

The [\*COVID-19 Legislation Amendment \(Emergency Measures – Miscellaneous\) Act 2020\*](#) commenced on 14 May 2020, amending a range of legislation to assist with managing and responding to the COVID-19 pandemic including some of particular relevance to the NSW health sector.

### KEY POINTS FOR THE NSW HEALTH SECTOR

- ▶ New powers and responsibilities for health practitioners and organisations to report on COVID-19.
- ▶ The Secretary may:
  - approve the use of tissue for analysis and research in connection with managing and monitoring COVID-19 risk without the person's consent; and
  - make a private health facility licence subject to conditions necessary having regards to the COVID-19 pandemic, to protect public health and safety and to ensure the provision of balanced and coordinated health services throughout NSW.
- ▶ A public health order can require a person exposed to COVID-19 to undergo examination or testing.
- ▶ A person detained under the *Mental Health Act* can be examined or observed by AVL if necessary due to the COVID-19 pandemic.

#### *PUBLIC HEALTH ACT 2010*

Amendments have been made to the *Public Health Act* to assist with the identification of clusters of COVID-19 infections.

Section 98 has been amended to allow the Secretary of NSW Health to authorise health practitioners, health organisations and public authorities to disclose information about a person to a health linkage organisation for (anonymous) inclusion on a public health register (s. 98(6A)).

The Registrar of Births, Deaths and Marriages is now required to immediately inform the Secretary of all registered deaths, not just those relating to or resulting from scheduled medical conditions (s. 129A).

In addition, s. 62 of the *Public Health Act* has been amended to allow for a public health order to require a person who has, or has been exposed to, COVID-19, to undergo a (specified kind of) medical examination or test (s. 62(3)(g)).

#### *HUMAN TISSUE ACT 1983*

The amendment of the *Human Tissue Act* provides for the Secretary to approve the use of tissue lawfully removed from the body of a person (living or dead) for any testing, analysis, investigation or research approved by the Secretary in connection with managing or monitoring the risks to public health arising from COVID-19, without the written consent of the person from whom the tissue was drawn (s. 34(1)(b5)).

This power will remain in place until a day gazetted by the NSW Minister for Health, at which time the Minister must be reasonably satisfied that a vaccine for COVID-19 is generally available to members of the public.

#### *MENTAL HEALTH ACT 2007*

The *Mental Health Act* has been amended to permit a medical practitioner or accredited person to examine or observe a person's condition using audio-visual link, if it is necessary because of the COVID-19 pandemic, for the purpose of determining whether the person is a mentally ill or disordered person (s. 203).

The new provision expires on 26 September 2020 or a later date as prescribed by the relevant regulations being no later than 26 March 2021.

### *PRIVATE HEALTH FACILITIES ACT 2007*

Section 12A of the *Private Health Facilities Act* has been introduced to permit the Secretary to impose any conditions on a private health facility's licence the Secretary considers necessary having regard to the COVID-19 pandemic:

- to protect the health and safety of the public,
- to manage resources, or
- to ensure the provision of the balanced and coordinated health services throughout NSW.

These conditions may, for example, limit the type of elective surgeries performed, for the purpose of preserving stocks of personal protective equipment.

This provision is repealed and the relevant conditions revoked on either 26 September 2020, or a later date as prescribed by the relevant regulations being no later than 26 March 2022.

### CONTACT



Cheryl Drummy, Assistant Crown Solicitor  
[cheryl.drummy@cso.nsw.gov.au](mailto:cheryl.drummy@cso.nsw.gov.au)  
02 9474 9201 | 0431 656 690



Fiona Read, Director  
[fiona.read@cso.nsw.gov.au](mailto:fiona.read@cso.nsw.gov.au)  
02 9474 9066 |