

## Authorised Version

### Public Health and Wellbeing Amendment (State of Emergency Extension and Other Matters) Act 2020

No. 24 of 2020

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**Authorised Version**



**Victoria**

**Public Health and Wellbeing  
Amendment (State of Emergency  
Extension and Other Matters) Act 2020<sup>†</sup>**

**No. 24 of 2020**

[Assented to 8 September 2020]

**The Parliament of Victoria enacts:**

**Part 1—Preliminary**

**1 Purposes**

The main purposes of this Act are to amend the **Public Health and Wellbeing Act 2008**—

- (a) to lengthen the total period for which a state of emergency declaration in respect of the COVID-19 pandemic may continue in force from 6 months to 12 months; and

- (b) to alter the circumstances in which the Chief Health Officer may authorise authorised officers to exercise certain powers; and
- (c) to clarify the power of the Chief Health Officer in respect of directions; and
- (d) to clarify the application of the definition of *serious risk to public health* for purposes relating to emergency declarations and the exercise of certain powers; and
- (e) to enhance reporting requirements when a state of emergency declaration in respect of the COVID-19 pandemic is extended beyond 6 months.

## **2 Commencement**

This Act comes into operation on the day after the day on which it receives the Royal Assent.

## **Part 2—Amendment of the Public Health and Wellbeing Act 2008**

### **3 Definitions**

- (1) In section 3(1) of the **Public Health and Wellbeing Act 2008** insert the following definition—

*"community transmission*, in relation to COVID-19, means transmission of COVID-19 to one or more persons from an infected person or other source, in circumstances where the infected person or other source has not been identified."

- (2) After section 3(3) of the **Public Health and Wellbeing Act 2008** insert—

"(4) Without limiting the definition of *serious risk to public health* in subsection (1), for the purposes of Division 3 of Part 10 COVID-19 may pose a material risk of substantial injury or prejudice to the health of human beings even when the rate of community transmission of COVID-19 in Victoria is low or there have been no cases of COVID-19 in Victoria for a period of time."

### **4 New section 20A inserted**

After section 20 of the **Public Health and Wellbeing Act 2008** insert—

#### **"20A Chief Health Officer's exercise of certain powers**

To avoid doubt, if the Chief Health Officer authorises authorised officers to exercise—

- (a) any of the public health risk powers under section 189(a); or

- (b) any of the public health risk powers and emergency powers under section 199(2)(a)—

the Chief Health Officer may, if the Chief Health Officer has been appointed as an authorised officer under section 30, personally exercise any of those powers in accordance with the authorisation."

## 5 Declaration of a state of emergency

- (1) In section 198(7)(c) of the **Public Health and Wellbeing Act 2008**, for "6" substitute "6 months or, in the case of the emergency declaration in respect of the COVID-19 pandemic, 12".
- (2) In section 198(8) of the **Public Health and Wellbeing Act 2008**, for "If" substitute "Subject to subsections (8A) and (8B), if".
- (3) After section 198(8) of the **Public Health and Wellbeing Act 2008** insert—

"(8A) If a state of emergency declaration is extended beyond 6 months in relation to the COVID-19 pandemic under subsection (7)(c) then, for the purposes of reporting as required by subsection (8) during the period of the extension, the Minister—

- (a) must report on the reasons for the extension, and the public health risk powers and emergency powers exercised, and include in the report a copy of the advice of the Chief Health Officer in respect of the extension; and
- (b) if either or both Houses of the Parliament are sitting on the day after the extension comes into force, must on that day cause the report to be laid before each House that is sitting; and

- (c) if either or both Houses of the Parliament are not sitting on the day after the extension comes into force, must give a copy of the report to the Clerk of each House that is not sitting within 3 business days of the extension coming into force.
- (8B) If the Clerk of either House is given a copy of a report under subsection (8A)(c), the Clerk must—
- (a) give a copy of the report to each member of the House as soon as practicable after receiving it; and
  - (b) cause a copy of the report to be laid before the House on the next sitting day of the House."

## **6 Chief Health Officer may authorise exercise of certain powers**

In section 199(1)(b) of the **Public Health and Wellbeing Act 2008**, before "necessary" insert "reasonably".

## **7 Emergency powers**

After section 200(9) of the **Public Health and Wellbeing Act 2008** insert—

- "(10) Despite subsection (7), if the authorised officer is the Chief Health Officer, the Chief Health Officer must, as soon as is reasonably practicable—
- (a) advise the Minister in writing that a person has been made subject to detention under subsection (1)(a) or that following a review under subsection (6) a person is to continue to be subject to detention under subsection (1)(a); and

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- (b) include in the advice the name of the person being detained and a brief statement as to the reason why the person is being, or continues to be, subject to detention under subsection (1)(a)."



## **Part 3—Repeal of this Act**

### **8 Repeal of this Act**

This Act is **repealed** on the first anniversary of its commencement.

#### **Note**

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

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Endnotes

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## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

† *Minister's second reading speech—*

*Legislative Council: 1 September 2020*

*Legislative Assembly: 3 September 2020*

The long title for the Bill for this Act was "A Bill for an Act to amend the **Public Health and Wellbeing Act 2008** in relation to certain matters relating to the COVID-19 pandemic, and for other purposes."