

Health  
(Preservation and Protection and  
other Emergency Measures in the Public Interest)

Bill 2020.

**Long title**

An Act, to make exceptional provision, in the public interest and having regard to the manifest and grave risk to human life and public health posed by the spread of Covid-19 and in order to mitigate, where practicable, the effect of the spread of Covid-19, to amend the Health Act 1947 to make provision for the Minister for Health to make regulations prohibiting or restricting the holding of certain events, access to certain premises and to provide for enforcement measures; to provide for powers for certain medical officers of health to order, in certain circumstances, the detention of persons who are suspected to be possible sources of infection of Covid-19 and to provide for enforcement measures in that regard; and to confer on the Minister for Health the power to designate areas as areas of infection of Covid-19 and to provide for related matters; to amend and extend the Social Welfare Acts to provide for amendments in relation to entitlement to illness benefit for persons who have been diagnosed with, or are a probable source of infection of, Covid-19; and to provide for amendments in relation to jobseeker's benefit and jobseeker's allowance to mitigate the economic effects of the spread of Covid-19; and to provide for related matters.

WHEREAS an emergency has arisen of such character that it is necessary for compelling reasons of public interest and for the common good that extraordinary measures should be taken to deal with the immediate, exceptional and manifest risk to human life and public health posed by the spread of Covid-19;

AND WHEREAS the State is and its citizens are, in significant respects, highly exposed to the effect of the spread of Covid-19 and having regard to the constitutional duty of the State to respect and, as far as practicable, by its laws to defend and vindicate the rights of citizens to life and to bodily integrity, it is necessary to introduce a range of extraordinary measures and safeguards to prevent, minimise, limit or slow the risk of persons being infected with Covid-19;

AND WHEREAS as a consequence it is necessary for the State to take the measures in this Act to address the emergency and to defend and vindicate the rights of citizens to life and to bodily integrity;

Be it enacted by the Oireachtas as follows:

## PART 1

### PRELIMINARY AND GENERAL

#### **Short title and construction**

1. (1) This Act may be cited as the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020.
- (2) The Social Welfare Acts and *Part 2* shall be construed together as one Act.

## **Commencement and duration**

2. (1) The amendments effected by *sections 4, 5 and 6* shall be deemed to have come into operation on the 9th day of March 2020.
- (2) The amendments effected by *sections 7 and 8* shall be deemed to have come into operation on the 13th day of March 2020.
- (3) The amendments effected by this Act shall, subject to *subsections (4) and (5)* continue in operation until the 9th day of May 2020.
- (4) The Government at the request of the Minister for Health, with the consent of the Minister for Public Expenditure and Reform, may, where they are satisfied that it is in the public interest to do so, from time to time, by order declare that all or any of the amendments effected by part 3 shall continue in operation for such period or periods as may be specified in the order concerned.
- (5) The Government, at the request of the Minister for Employment Affairs and Social Protection, following consultation with the Minister for Health and with the consent of the Minister for Public Expenditure and Reform may, where they are satisfied that it is in the public interest to do so, from time to time by order declare that all or any of the amendments effected by part 2 shall

continue in operation for such period or periods as may be specified in the order concerned.

- (6) An order under *subsection (4) or (5)* shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

## PART 2

### AMENDMENTS TO SOCIAL WELFARE CONSOLIDATION ACT 2005

#### **Definition**

3. In this Part, “Act of 2005” means the Social Welfare Consolidation Act 2005.

#### **Amendment of section 21 of Act of 2005**

4. Section 21 of the Act of 2005 is amended, in subsection (1)(e), by the substitution of “illness benefit granted to a person to whom section 40(7) applies, invalidity pension” for “invalidity pension”.

**Amendment of section 40 of Act of 2005**

5. Section 40 of the Act of 2005 is amended-

(a) in subsection (1), by the substitution of the following paragraph for paragraph (b):

“(b) he or she satisfies the contribution conditions in section 41 or such conditions as may be prescribed in accordance with regulations under section 40A.”,

and

(b) by the insertion of the following subsections after subsection (6):

“(7) Subject to subsection (8), this subsection applies to a person who is incapable of work, or is deemed to be incapable of work, by virtue of-

(a) being certified in the prescribed manner by a registered medical practitioner as being a person-

- (i) who is diagnosed with Covid-19, or
  - (ii) who is a probable source of infection of Covid-19,
- (b) having been notified, in the prescribed manner, by a medical officer of health or such other person as may be prescribed, that he or she is a probable source of infection of Covid-19,
- (c) being deemed, in accordance with regulations under section 40A, to be a probable source of infection of Covid-19, or
- (d) being a person in respect of whom an order under section 38A(1) of the Health Act 1947 is in [force] [operation].
- (8) Notwithstanding subsection (7), the Minister may prescribe a category or categories of persons who, by virtue of the terms and conditions (expressed or implied) of their contract of employment, shall not be entitled to illness benefit in respect of absences from

employment arising from their being a person to whom subsection (7) applies.

- (9) Notwithstanding subsection (2), a person to whom subsection (7) applies shall be entitled to illness benefit on and from the first day of any period of incapacity for work.
- (10) Notwithstanding sections 21(1)(e) and 41(1) and [subsection[s] (1)(b) and (8) the Minister may, in respect of a person to whom subsection (7) applies, prescribe the minimum contribution conditions to be satisfied.
- (11) Notwithstanding anything in this Act, in respect of a person to whom subsection (7) applies, the Minister may by regulations under section 40A vary the rate of illness benefit for such period as may be prescribed.
- (12) In this section and section 40A, “Covid-19” means the disease specified under that name as an infectious disease in accordance with Regulation 6 of, and the Schedule to, the Infectious Diseases Regulations 1981

(S.I. No. 390 of 1981), or any variant of the disease so specified as an infectious disease in those Regulations.”.

**Regulations in respect of persons to whom section 40(7) applies**

6. The Act of 2005 is amended by the insertion of the following section after section 40:

“40A. (1) The Minister may, following consultation with the Minister for Health, with the consent of the Minister for Public Expenditure and Reform, and having regard to the matters specified in *subsection (2)*, make regulations for the purposes of giving full effect to the relevant provisions and such regulations may, in particular, but without prejudice to the generality of the foregoing, provide for all or any of the following:

- (a) the matters referred to as prescribed by the relevant provisions;
- (b) the procedure by which, and manner in which, a person is certified to be a relevant person;
- (c) the procedure by which, and manner in which, a person is deemed to be a probable source of infection of Covid-19;

- (d) the requirements in relation to which, and the manner in which, a relevant person shall notify the Minister of the circumstances of his or her incapacity for work;
  - (e) additional conditions for entitlement to illness benefit in relation to a relevant person;
  - (f) such additional, incidental, consequential or supplemental matters as the Minister considers necessary or expedient for the purposes of giving effect to the relevant provisions.
- (2) When making regulations under this section, the Minister shall have regard to the following:
- (a) the nature and potential impact of Covid-19 on individuals, society and the State,
  - (b) the capacity of the State to respond to the risk to public health posed by the spread of Covid-19,
  - (c) the policies and objectives of the Government to protect the health and welfare of the public,

(d) the need to ensure the most beneficial, effective and efficient use of resources,

(e) in relation to regulations made for the purposes of section 40(7)(c), the impact of certification on the availability of resources within the health services.

(3) In this section-

“relevant person” means a person to whom section 40(7) applies,

“relevant provisions” means subsections (7) to (12) of section 40.”.

#### **Amendment of section 62 of Act of 2005**

7. Section 62 of the Act of 2005 is amended by the substitution of the following subsection for subsection (4):

“(4) A person shall not, except as provided for by regulations made with the consent of the Minister for Public Expenditure and Reform, be entitled to jobseeker’s benefit for the first 3 days of any period of interruption of employment.”.

### **Amendment of section 141 of Act of 2005**

8. Section 141 of the Act of 2005 is amended in subsection (2) by the substitution of the following paragraph for paragraph (a):

“(a) A person shall not, except as provided for by regulations made with the consent of the Minister for Public Expenditure and Reform, be entitled to jobseeker’s allowance for the first 3 days of unemployment in any continuous period of employment.”.

### **PART 3**

#### **AMENDMENTS OF HEALTH ACT 1947**

#### **Definitions**

9. (1) In this Part-

“Act of 1947” means the Health Act 1947;

#### **Amendment of Act of 1947**

10. The Act of 1947 is amended by the insertion of the following sections after section 31:

#### **“Regulations for preventing, limiting, minimising or slowing spread of Covid-19**

**31A.** – (1) The Minister may, having regard to the immediate, exceptional and manifest risk posed to human life and public health by the spread of Covid-19 and to the matters specified

in subsection (2), make regulations for the purpose of preventing, limiting, minimising or slowing the spread of Covid-19 (including the spread outside the State) or where otherwise necessary, to deal with public health risks arising from the spread of Covid-19 and, without prejudice to the generality of the foregoing, such regulations may, in particular, provide for all or any of the following:

- (a) restrictions to be imposed upon travel to or from the State;
- (b) restrictions to be imposed upon travel to, from or within geographical locations to which an affected areas order applies,
- (c) without prejudice to the generality of paragraph (b), restrictions to be imposed upon persons or classes of persons resident in, working in or visiting locations referred to in paragraph (b) including (but not limited to) –
  - (i) requiring persons to remain in their homes, or
  - (ii) without prejudice to any other provisions of this Act or regulations made thereunder requiring persons to remain in such other places, as may be specified by the Minister;
- (c) the prohibition of events, or classes of an event, including (but not limited to) events –
  - (i) which, by virtue of the nature, format, location or environment of the event concerned or the arrangements for, or the activities involved in, or the numbers likely to be attending, the event could reasonably be considered to pose a risk of infection with Covid-19 to persons attending the event,
  - (ii) at specified geographical locations to which an affected areas order applies,
  - (iii) at locations which by virtue of the nature, format, or environment of the locations concerned or the arrangements for, or the activities involved in, or the numbers likely to be attending the type of events at the locations, could reasonably be considered to pose a risk of infection with Covid-19 to persons attending at an event at that location,
  - (iv) where the level of proposed attendance at the event could reasonably be considered to pose a risk of infection with Covid-19 to persons attending the event
- (d) the safeguards required to be put in place by event organisers in relation to events in order to prevent, limit, minimise or slow the risk of infection of persons attending any such event of being infected with Covid-19;
- (e) the safeguards required to be put in place by owners or occupiers of a premises or a class of premises (including the temporary closure of such premises) in order to

prevent, limit, minimise or slow the risk of persons attending such premises of being infected with Covid-19;

(f) the safeguards required to be put in place by owners or occupiers of any other place or class of place, (including the temporary closure of such place or class of place) in order to prevent, minimise limit or slow the risk of persons attending at such place or class of place of being infected with Covid-19;

(g) without prejudice to the generality of the foregoing paragraphs, the safeguards required to be put in place by managers (howsoever described) of schools, including language schools, creches or other childcare facilities, universities or other educational facilities (including the temporary closure of such facilities) to prevent, minimise, limit, or slow the risk of infection of persons attending such premises of being infected with Covid-19;

(h) any other measures that the Minister considers necessary in order to prevent, limit, minimise or slow the spread of Covid-19;

(i) the giving of notices, the particulars to be contained therein and the manner in which such notices may be given;

(j) such additional, incidental, consequential or supplemental matters as the Minister considers necessary or expedient for the purposes of giving full effect to the regulations.

(2) When making regulations under subsection (1), the Minister –

(a) shall have regard to the following:

(i) the fact that a national emergency has arisen of such character that there is an immediate and manifest risk to human life and public health as a consequence of which it is expedient in the public interest that extraordinary measures should be taken to safeguard human life and public health;

(ii) the fact that a declaration of Public Health Emergency of International Concern was made by the World Health Organisation in respect of Covid-19 and that Covid-19 was duly declared by that Organisation to be a pandemic,

(iii) the fact that Covid-19 poses significant risks to human life and public health by virtue of its potential for incidence of mortality;

(iv) the policies and objectives of the Government to take such protective measures as are practicable to vindicate the life and bodily integrity of citizens against a public health risk;

- (v) the need to act expeditiously in order to prevent, limit, minimise or slow the spread of Covid-19;
  - (vi) the resources of the health services including numbers of health care workers available at a given time, the capacity of those workers to undertake measures, the necessity to take such measures to test persons for Covid-19 and to provide care and treatment to persons infected with Covid-19 as are appropriate to protect health care workers from infection from Covid-19, and the capacity of hospitals or other institutions to accommodate and facilitate the provisions of treatment to infected persons;
  - (vii) the resources, including the financial resources of the State;
  - (viii) the advice of the Chief Medical Officer of the Department of Health,
- and

(b) may, have regard to any relevant guidance (including, in particular, any guidance relating to the risk assessment for, and case definition relating to, Covid-19) provided by the World Health Organisation, the European Centre for Disease Prevention and Control, the Health Protection Surveillance Centre of the Health Service Executive and other persons with relevant medical and scientific expertise.

(3) Before making regulations under subsection (1), the Minister –

- (a) shall consult any other Minister of the Government as he or she considers appropriate having regard to the functions of that other Minister of the Government, and
- (b) may consult any other person as the Minister considers appropriate for the purposes of these regulations.

(4) The Minister may, having consulted any other Minister of the Government as he or she considers appropriate having regard to the functions of that other Minister of the Government, exempt specified classes of persons including, but not limited to persons, who perform out essential services, including statutory duties or other specified public [or other services], from regulations under subsection (1).

(5) Without prejudice to the generality of subsection (5), this section is without prejudice to the provisions of section 31, including as they may relate to Covid-19.

(6) A person who contravenes a regulation made under this section or who wilfully obstructs its implementation or gives false or misleading evidence in purported compliance with this regulation shall be guilty of a Class C offence.”.

(8) In this section -

“event” means a gathering of persons, whether the gathering is for cultural, entertainment, recreational, sporting, commercial, work, social, community, educational, [religious] or other reasons, and includes but is not limited to a gathering which is required to be subject to a consent, licence or other form of permission granted in relation to it such Minister of the Government or public body pursuant to any enactment or rule of law which provides for the regulation of proper planning and sustainable development, traffic management, sale of alcohol, safety and health at work or otherwise;

“event organiser”, in relation to an event, means a person who –

- (a) is engaged in publicising, arranging, organising or managing the event, or
- (b) receives some or all of the revenue, where applicable, from the event;

“premises” includes a building or any part of a building, any outdoor space surrounding or adjacent to the premises, whether or not used in conjunction with the premises, any land, premises, tent, caravan, or other temporary or moveable structure, ship or other vessel, aircraft, railway carriage or other vehicle (whether stationary or otherwise) and any storage container;

(9) In this section, 31B and section 38A –

“Covid-19” means a disease caused by infection with the virus SARS-CoV-2 and specified as an infectious disease in accordance with Regulation 6 of, and the Schedule to, the Infectious Diseases Regulations 1981 (S.I. No. 390 of 1981) or any variant of the disease so specified as an infectious disease in those Regulations;

“European Centre for Disease Prevention and Control” means the Agency established under the provisions of Regulation (EC) No. 851/2004<sup>1</sup> of the European Parliament and of the Council of 21 April 2004 establishing a European centre for disease prevention and control;

“International Health Regulations” means the International Health Regulations (2005) of the World Health Organisation adopted by the World Health Assembly on 23 May 2005 and entering into force on 23 May 2005;

### **Affected areas orders**

31B (1) Subject to subsection (2), the Minister may, having regard to the matters specified in section 31A(2), by order declare an area or region in the State to be an area where there is known or thought to be sustained human transmission of Covid-19 or from which there is a high risk of importation of infection or contamination with Covid-19 by travel from that area (in this Act referred to as an “affected areas order”).

(2) Before making an order under this section, the Minister shall consult with the Chief Medical Officer of the Department of Health and such Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister of the Government.”.

### **Detention and isolation of persons in certain circumstances**

11. (1) The Act of 1947 is amended by insertion of the following section after section 38:

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<sup>1</sup> L142/1 of 30.04.2004, p. 1

**“38A.** – (1) Where, having regard to the matters specified in subsection (2), a medical officer of health believes in good faith that –

- (a) a person is a potential source of infection, and
- (b) the person is a potential risk to public health, and
- (c) his or her detention or isolation is appropriate in order to –
  - (i) prevent, limit, minimise or slow the spread of Covid-19, and
  - (ii) minimise the risk to human life and public health, and
- (d) such person cannot be effectively isolated, refuses to remain or appears unlikely to remain in his or her home or other accommodation arranged, or agreed, by the Health Service Executive,

the officer may in writing order the detention and isolation of such person in a specified hospital or other place (including such other hospital or other place as may subsequently be appropriate and specified in the order) until such time as the medical officer certifies that the person’s detention is no longer required for the purposes of this section.

(2) For the purposes of subsection (1), a medical officer of health shall have regard to the following:

- (a) the need to act expeditiously in order to prevent, limit, minimize or slow the spread of Covid-19
- (b) the resources of the health services including the number of health care workers available at a given time, the capacity of those workers to undertake measures, the necessity to take such measures as are appropriate to protect health care workers from infection from Covid-19, and the capacity of hospitals or other institutions to accommodate and facilitate the provision of treatment of infected persons;
- (c) the policies and objectives of the Government to protect human life and public health for the purpose of preventing, limiting, minimising or slowing the spread of Covid-19, (including the spread outside the State);
- (d) the fact that Covid-19 is recently declared by World Health Organisation to be a pandemic any relevant guidance (including, in particular, any guidance relating to the risk assessment for, and case definition relating to, Covid-19) provided by the World Health Organisation, the European Centre for Disease Prevention or the Control and the Health Protection Surveillance Centre of the Health Service Executive;
- (e) the advice of any other public health officials with relevant medical and scientific expertise.

(3) An order made under subsection (1) shall be of no effect unless the medical officer of health has certified his or her opinion as to the matters referred to in that subsection.

(4) A medical officer of health who makes an order under subsection (1) shall ensure that a medical examination of the person who is the subject of the order is carried out as soon as possible and in any event no later than 14 days from the time the person has been detained.

(5) Without prejudice to the generality of subsection (4), a person who is the subject of an order under subsection (1) may request that his or her detention be reviewed by a medical officer of health, other than the officer who make the order concerned, on the grounds that he or she is not a potential source of infection.

(6) Where a request is made by a person under subsection (5), his or her detention shall be reviewed as soon as practicable and, where a medical officer of health who carries out the review considers that the person is not, at time of review concerned, a potential source of infection, the medical officer shall certify that the person's detention is no longer required to be detained for the purposes of the section and the person shall be discharged accordingly.

(7) Subject to the requirements in relation to medical examination and the period of detention specified in subsection (4), the provisions of subsections (2)(a) to (g), (3), (4) and (5) of section 38 shall with any necessary modification apply to a person who is subject to detention and isolation under the provisions of this section.

(6) A person who is guilty of an offence under this section shall be liable upon summary conviction to penalties specified in subsection (6) of section 38.

(7) The cost of the maintenance and treatment of a person to whom an order under this section relates in the hospital or other place specified in the order shall be paid by the Health Service Executive.

(8) For the purposes of this section –

“potential source of infection” means, in relation to a person, a person who meets one or more of the following criteria:

(a) a person who has been in recent contact with a person whom the medical officer of health believes in good faith to be –

(i) a probable source of infection with Covid-19, or

(ii) suffering from Covid-19;

(b) a person who has attended an event which the medical officer of health believes in good faith was attended by a person or persons who –

(i) is or are a probable source of infection with Covid-19,

(ii) is or are suffering from Covid-19;

- (c) a person who has travelled from, or been in contact with a person or persons who has or have travelled from a place outside the State that the medical officer of health believes in good faith to have a significant number of cases of persons infected with Covid-19;
- (d) a person who has travelled from, or been in contact with a person or persons who has or have travelled from to or within a geographical area to which an affected areas order applies;
- (e) any other person whom the medical officer of health believes in good faith to be a potential source of infection.”.