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- (5) The Tribunal is to hear and determine an application under this section as soon as is reasonably practicable.

77—Power to require detention

- (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
 - (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) However, the Chief Public Health Officer should not act under this section unless satisfied—
- (a) that the person has undertaken counselling that is appropriate in the circumstances, or has refused or failed to undertake counselling that has been made reasonably available to the person; or
 - (b) that counselling is not appropriate in the circumstances of the particular case; or
 - (c) that urgent action is required in the circumstances of the particular case and that counselling can be provided after action is taken under this section.
- (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).
- (4) An order under this section will be that the person be detained at a specified place while the order is in force.

- (5) An order under this section may contain other requirements relating to the person's conduct or supervision that the Chief Public Health Officer considers to be appropriate in the circumstances.
- (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.
- (7) 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)(i) or (ii) beyond an initial period of 30 days, the Chief Public Health Officer must, before the expiration of that period, apply to the Supreme Court for a review of the order.
- (8) If an application is made under subsection (7)—
- (a) the order may be extended beyond the initial period of 30 days pending the outcome of the application to the Supreme Court; and
 - (b) the Supreme 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 Supreme Court may, on hearing the application, confirm, vary or revoke the order that has been made by the Chief Public Health Officer.
- (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.

- (9) Furthermore, a person must not be detained under this section for a period exceeding 6 months in total unless the Supreme Court has, on application by the Chief Public Health Officer made for the purposes of this subsection, confirmed the order (with or without any variation made by the Court).

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- (10) The Supreme Court will be constituted of a single Judge for the purposes of proceedings under subsections (7), (8) and (9).
 - (11) A Judge, in acting under a preceding subsection, may make any consequential or ancillary order or direction, or impose any conditions, the Judge considers appropriate (including that the relevant person be released pending the outcome of the hearing of the matter (if the Judge thinks fit) on such conditions, if any, as the Judge may determine, or that the matter be brought back before the Supreme Court constituted of a single Judge at a time, or within a period or periods, specified by the Judge (and, if a matter is brought back before the Court, then a Judge may make such orders as the Judge thinks fit)).
 - (12) The preceding subsections do not limit the ability of a person to apply for a review of an order under this section under section 78.
 - (13) A person who is detained under this section must be examined by a medical practitioner at intervals not exceeding—
 - (a) 30 days; or
 - (b) such shorter period or periods as a Supreme Court Judge or Magistrate may determine having regard to the nature of the controlled notifiable condition and the extent to which the person has been affected by that condition.
 - (14) The Chief Public Health Officer must facilitate any reasonable request for communication made by a person detained under this section.

78—Review of detention orders by Supreme Court

- (1) A person who is the subject of an order of the Chief Public Health Officer under section 77 may apply to the Supreme Court for a review of the order.
- (2) An application under this section may be instituted at any time during the currency of the order (and, subject to subsection (3), more than 1 application may be made while the order is in force).
- (3) If a second or subsequent application is made under this section with respect to the same order, the Supreme Court must first consider whether there has been a significant change in the material circumstances of the case and should, unless the Supreme Court in its discretion determines otherwise, decline to proceed with the application (if it appears that the proceedings would simply result in a rehearing of the matter without such a change in circumstances).
- (4) Subject to complying with subsection (3), the Supreme Court may, on hearing an application under this section—
 - (a) confirm, vary or revoke the order, or substitute any order;
 - (b) remit the subject matter to the Chief Public Health Officer for further consideration;
 - (c) dismiss the matter;
 - (d) make any consequential or ancillary order or direction, or impose any conditions, that it considers appropriate.
- (5) The Supreme Court will be constituted of a single Judge for the purposes of this section.