

# Public Health Regulation 2022

[2022-502]



New South Wales

## Status information

### Currency of version

Current version for 26 August 2022 to date (accessed 13 October 2022 at 10:48)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced. See [Historical Notes](#)

### Staged repeal status

This legislation is currently due to be automatically repealed under the *Subordinate Legislation Act 1989* on 1 September 2027

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the *Interpretation Act 1987*.

File last modified 1 September 2022.

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[2022-502]



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## Contents

<b>Part 1 Preliminary</b> .....	8
1 Name of Regulation .....	8
2 Commencement.....	8
3 Definitions .....	8
<b>Part 2 Legionella control—the Act, Part 3, Div 2</b> .....	8
<b>Division 1 Air-handling, hot water and humidifying systems</b> .....	8
4 Requirements for air-handling systems .....	8
5 Requirements for hot water systems .....	9
6 Requirements for humidifying systems .....	9
<b>Division 2 Warm-water systems</b> .....	10
7 Requirements for warm-water systems .....	10
8 Notification of installation of warm-water systems .....	10
<b>Division 3 Cooling water systems</b> .....	10
9 Requirements for cooling water systems .....	10
10 Display of unique identification number on cooling towers .....	11
11 Maintenance requirements .....	11
12 Conduct of risk assessments .....	12
13 Reporting on risk assessments.....	12
14 Auditing of risk assessments .....	12
15 Approval of auditors of risk assessments .....	13
16 Other risk assessments .....	13
17 Sampling, testing and inspection .....	14
18 Provision of test results.....	14
19 Availability of records and other information .....	15
20 Notification of installation of cooling water systems.....	15

<b>Division 4 Miscellaneous</b> .....	16
21 Conduct of certain tests .....	16
22 Falsifying test results .....	16
23 Maintenance precautions.....	16
24 Display of prohibition orders .....	16
25 Register of warm-water systems and cooling water systems .....	16
<b>Part 3 Public swimming pools and spa pools—the Act, Part 3, Div 3</b> .....	17
26 Water play parks .....	17
27 Operating requirements .....	17
28 Temporary closure of public swimming pools and spa pools .....	18
29 Secretary may order pool disinfection or other action.....	18
30 Notification of public swimming pools and spa pools.....	18
31 Register of public swimming pools and spa pools .....	19
<b>Part 4 Skin penetration procedures—the Act, Part 3, Div 4</b> .....	19
<b>Division 1 Preliminary</b> .....	19
32 Skin penetration procedures .....	19
33 Requirements for premises at which skin penetration procedures are carried out .....	19
<b>Division 2 Requirements for premises where skin penetration procedures are carried out</b> .....	19
34 Premises must be properly equipped .....	19
35 Toilets for colonic lavage procedures.....	20
36 Premises must have sharps containers and sterile disposable needles.....	20
37 Reusable articles must be sterilised .....	21
<b>Division 3 Requirements for carrying out skin penetration procedures</b> .....	22
38 Use of needles, sharps and other articles.....	22
39 Protective equipment to be worn .....	22
40 Use of inks and pigments.....	23
41 Use of wax for hair removal .....	23
<b>Division 4 Miscellaneous</b> .....	23
42 Notification of carrying out of skin penetration procedures .....	23
43 Register of premises where skin penetration procedures are carried out.....	24
44 Display of prohibition orders .....	24
<b>Part 5 Safety measures for drinking water—the Act, Part 3, Div 1</b> .....	24
<b>Division 1 QAPs for suppliers of drinking water</b> .....	24
45 Information to be included in all QAPs.....	24

<b>Division 2 QAPs for suppliers other than private water suppliers or water carters</b> .....	25
46 Information to be included in QAPs for suppliers other than private water suppliers or water carters.....	25
47 Processes to be included in QAPs for suppliers other than private water suppliers or water carters.....	26
48 Other information to be included in QAPs for suppliers other than private water suppliers or water carters...	26
<b>Division 3 QAPs for private water suppliers</b> .....	27
49 Information to be included in QAPs for private water suppliers .....	27
50 Planning to be included in QAPs for private water suppliers .....	28
51 Record systems to be included in QAPs for private water suppliers .....	28
<b>Division 4 QAPs for water carters</b> .....	29
52 Information to be included in QAPs for water carters .....	29
<b>Division 5 Miscellaneous</b> .....	30
53 Records to be kept by suppliers of drinking water .....	30
54 Records to be kept by private water suppliers .....	30
55 Matters exempt from QAPs.....	31
56 Review of QAPs.....	32
<b>Part 6 Scheduled medical conditions—the Act, Part 4</b> .....	32
57 Notification of Category 1 and 2 conditions .....	32
58 Period for keeping records.....	32
59 Matters for consideration for public health orders—the Act, s 62(6)(b) .....	33
60 Advice to Category 2 or 3 patients.....	33
61 Advice to Category 2, 3 or 4 contacts .....	34
62 Disclosure of information relating to Category 5 condition.....	34
<b>Part 7 Other disease control measures—the Act, Part 5 and s 134</b> .....	34
<b>Division 1 Sexually transmitted infections and notifiable diseases</b> .....	34
63 Information for patients with sexually transmitted infections.....	34
64 Notification to Secretary of notifiable diseases .....	35
<b>Division 2 Immunisation of children—the Act, Part 5, Div 4</b> .....	35
65 Children to whom the Act, Part 5, Division 4 applies .....	35
66 Authorised practitioners .....	36
67 Immunisation certificates and evidence of immunisation status .....	36
68 Retention of immunisation certificates and register entries .....	36
69 Exemptions from pre-enrolment requirements relating to child care facilities.....	36
<b>Division 3 Correctional centres—the Act, s 134(2)(a)</b> .....	37
70 Standards and sizes for rooms and cubicles at correctional centres.....	37
71 Directions about outbreaks of infectious disease at correctional centres .....	37

<b>Division 4 Miscellaneous—the Act, s 134(2)(a)</b> .....	37
72 Vermin .....	37
73 Sleeping accommodation .....	38
74 Anthrax .....	38
75 Public authorities to notify public health risks .....	38
<b>Part 8 Disposal of bodies—the Act, s 134(2)(n)–(v)</b> .....	39
<b>Division 1 General</b> .....	39
76 Premises for handling of bodies .....	39
77 Facilities of body preparation rooms .....	39
78 Vehicles .....	40
<b>Division 2 Handling of bodies</b> .....	40
79 Prescribed infectious diseases .....	40
80 Keeping of bodies by person who is not funeral director .....	41
81 Keeping of bodies by funeral director .....	41
82 Embalming of bodies .....	41
83 Infection control procedures .....	42
84 Bodies to be placed in body bags .....	42
85 Removal of bodies from body bags .....	42
86 Body viewing .....	43
87 Bodies in holding rooms .....	43
88 Register of bodies prepared in mortuary .....	43
89 Bodies to be placed in coffins .....	44
90 Burial of bodies .....	44
91 Transporting bodies .....	44
92 Burials in certain areas prohibited .....	45
93 Burials in vaults .....	45
<b>Division 3 Exhumations</b> .....	45
94 Exhumation without approval prohibited .....	45
95 Application to exhume remains .....	46
96 Approval to exhume remains .....	46
97 Exhumation not to take place without authorised officer .....	47
<b>Division 4 Cremation</b> .....	47
98 No refusal to cremate .....	47
99 Bodies to be cremated separately .....	47
100 Cremation within 4 hours .....	47
101 Cremation of identified bodies only .....	47
102 No cremation against dead person’s wishes .....	47

103 Documentation required for cremation.....	48
104 Cremation application for dead persons other than stillborn children.....	49
105 Cremation application for stillborn children.....	49
106 Cremation permits for dead persons other than stillborn children.....	49
107 Cremation permits for stillborn children.....	50
108 Cremation permits issued by coroner.....	51
109 Cremated remains.....	51
110 Closing of crematories.....	51
<b>Division 5 Miscellaneous.....</b>	<b>52</b>
111 Register of mortuaries.....	52
112 Powers of authorised officers.....	52
113 Guidelines as defence.....	53
114 Offences by corporations.....	53
115 Death certificates for deaths outside NSW.....	53
<b>Part 9 Miscellaneous.....</b>	<b>53</b>
116 Codes of conduct for non-registered health practitioners and relevant health organisations—the Act, s 100(1) .....	53
117 Corresponding interstate prohibition orders.....	54
118 Health practitioners who are de-registered or subject to prohibition orders—the Act, s 102.....	54
119 Disclosure of information about persons who have cervical screening tests—the Act, s 130(e).....	55
120 Public health or disease registers—the Act, s 97(1)(f).....	55
121 Nursing homes—the Act, s 5(1).....	56
122 Minimum qualifications for director of nursing at nursing home—the Act, s 104(2).....	56
123 Notification of improvement notices and prohibition orders—the Act, s 134.....	56
124 Fee for improvement notices and prohibition orders—the Act, s 134(2)(w).....	56
125 Fee for re-inspection of premises subject to prohibition order—the Act, s 134(2)(w).....	57
126 Savings.....	57
<b>Schedule 1 Requirements for public swimming pools and spa pools.....</b>	<b>57</b>
<b>Schedule 2 Notification of certain deaths.....</b>	<b>60</b>
<b>Schedule 3 Code of conduct for non-registered health practitioners.....</b>	<b>61</b>
<b>Schedule 4 Code of conduct for health organisations.....</b>	<b>66</b>
<b>Schedule 5 Fees.....</b>	<b>69</b>
<b>Schedule 6 Penalty notice offences.....</b>	<b>70</b>
<b>Schedule 7 Dictionary.....</b>	<b>0</b>

**Historical notes** ..... 0

# Public Health Regulation 2022



New South Wales

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## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Public Health Regulation 2022*.

### 2 Commencement

This Regulation commences on 1 September 2022.

**Note—** This Regulation replaces the *Public Health Regulation 2012*, which is repealed on 1 September 2022 by the *Subordinate Legislation Act 1989*, section 10(2).

### 3 Definitions

(1) The Dictionary in Schedule 7 defines words used in this Regulation.

**Note—** The *Public Health Act 2010* and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) A word used in this Regulation has the same meaning as it has in the following publications, unless it is otherwise defined in the Act or this Regulation—

- (a) AS/NZS 3666.1:2011,
- (b) AS/NZS 3666.2:2011,
- (c) AS/NZS 3666.3:2011,
- (d) AS/NZS 3666.4:2011.

(3) A reference in this Regulation to a publication is a reference to the publication as in force for the time being.

## Part 2 Legionella control—the Act, Part 3, Div 2

### Division 1 Air-handling, hot water and humidifying systems

#### 4 Requirements for air-handling systems

- (1) For the Act, section 27, an air-handling system installed in a dwelling is exempt from the operation of the Act, Part 3, Division 2.
- (2) For the Act, section 28, an air-handling system must be—



- (a) installed in accordance with AS/NZS 3666.1:2011, and
  - (b) fitted with supply air filters.
- (3) For the Act, section 29—
- (a) an air-handling system must be operated as required by AS/NZS 3666.2:2011, and
  - (b) there must be safe and easy access to an air-handling system for the purposes of the cleaning, inspection and maintenance of the system.
- (4) For the Act, section 30, an air-handling system must be maintained in accordance with—
- (a) AS/NZS 3666.2:2011, or
  - (b) AS/NZS 3666.4:2011.

## **5 Requirements for hot water systems**

- (1) For the Act, section 27, a hot water system installed in a dwelling is exempt from the operation of the Act, Part 3, Division 2.
- (2) For the Act, section 28, a hot water system must be installed in accordance with AS/NZS 3666.1:2011.
- (3) For the Act, section 29, a hot water system must be operated as required by AS/NZS 3666.2:2011.
- (4) For the Act, section 30—
- (a) a hot water system must be maintained in accordance with AS/NZS 3666.2:2011, and
  - (b) maintenance must be carried out on a hot water system to ensure that, when the system is in operation, it delivers water at each outlet each time the outlet is turned on at not less than 60°C, once any water standing in the pipe to the outlet before it was turned on has been expelled.

## **6 Requirements for humidifying systems**

- (1) For the Act, section 27, a humidifying system installed in a dwelling is exempt from the operation of the Act, Part 3, Division 2.
- (2) For the Act, section 29—
- (a) a humidifying system must be operated as required by AS/NZS 3666.2:2011, and
  - (b) there must be safe and easy access to a humidifying system for the purposes of the cleaning, inspection and maintenance of the system.
- (3) For the Act, section 30, a humidifying system must be maintained in accordance with AS/NZS 3666.2:2011.

## **Division 2 Warm-water systems**

### **7 Requirements for warm-water systems**

- (1) For the Act, section 27, a warm-water system installed in a dwelling or other premises is exempt from the operation of the Act, Part 3, Division 2, except if the premises are a hospital.
- (2) For the Act, section 28, a warm-water system—
  - (a) must be installed in accordance with AS/NZS 3666.1:2011, and
  - (b) must not be installed in a hospital unless it is of a kind approved in writing by the Secretary.
- (3) An application for an approval by the Secretary under subsection (2)(b) must be accompanied by the fee specified in Schedule 5.
- (4) For the Act, section 29—
  - (a) a warm-water system must be operated as required by AS/NZS 3666.2:2011, and
  - (b) there must be safe and easy access to a warm-water system for the purposes of the cleaning, inspection and maintenance of the system.
- (5) For the Act, section 30—
  - (a) a warm-water system must be maintained in accordance with AS/NZS 3666.2:2011, and
  - (b) maintenance carried out on a warm-water system must comply with the document entitled *Water—Requirements for the provision of cold and heated water* published by the Ministry of Health.

### **8 Notification of installation of warm-water systems**

- (1) For the Act, section 31, the notice must be—
  - (a) written, and
  - (b) accompanied by the fee, not exceeding the amount specified in Schedule 5, determined by the local government authority for the area in which the premises are located, and
  - (c) given to the local government authority.
- (2) The occupier of premises on which a warm-water system is installed must notify the local government authority for the area in which the premises are located within 7 days of a change in the information provided to the authority in the approved form under the Act, section 31.  
Maximum penalty—10 penalty units.
- (3) No fee is payable for a notification under subsection (2).

## **Division 3 Cooling water systems**

### **9 Requirements for cooling water systems**

- (1) For the Act, section 27, a cooling water system used solely for making snow is exempt from the

operation of the Act, Part 3, Division 2.

- (2) For the Act, section 28, a cooling water system must be installed in accordance with AS/NZS 3666.1:2011
- (3) For the Act, section 29—
  - (a) a cooling water system must be operated as required by AS/NZS 3666.2:2011, and
  - (b) a cooling water system must be equipped with a disinfection procedure that is in operation at all times and designed to control microbial growth so that—
    - (i) the level of *Legionella* in the system is less than 10 colony-forming units per millilitre, and
    - (ii) the heterotrophic colony count in the system is less than 100,000 colony-forming units per millilitre, and
  - (c) there must be safe and easy access to a cooling water system for the purposes of the cleaning, inspection and maintenance of the system.

#### **10 Display of unique identification number on cooling towers**

- (1) The occupier of premises on which a cooling water system is installed must ensure a unique identification number designated by the local government authority is displayed on each cooling tower of a cooling water system in accordance with this section.

Maximum penalty—20 penalty units.
- (2) The number must be displayed on a sign affixed to the cooling tower.
- (3) The sign must—
  - (a) have a minimum size of 148mm by 210mm (A5 size), and
  - (b) be clearly visible to a person examining or inspecting the cooling water system, and
  - (c) be made of a durable material.
- (4) The number must be first displayed no later than 30 days after the local government authority gives the occupier of the premises notice of the designated unique identification number.

#### **11 Maintenance requirements**

- (1) This section prescribes the maintenance requirements for cooling water systems for the Act, section 30.
- (2) A cooling water system must be maintained in accordance with AS/NZS 3666.3:2011, including the control strategies set out in Table 3.1 for *Legionella* and Table 3.2 for heterotrophic micro-organisms.
- (3) A risk assessment for a cooling water system required under AS/NZS 3666.3:2011 must be—
  - (a) conducted in accordance with section 12, and

- (b) documented and reported in accordance with section 13, and
- (c) audited in accordance with section 14.
- (4) Sampling, testing and inspection of a cooling water system must be conducted in accordance with section 17.
- (5) Despite subsection (2), a cooling water system at a thermal power station is not required to be maintained in accordance with AS/NZS 3666.3:2011, clauses 3.2 and 3.3.
- (6) Instead, a cooling water system at a thermal power station must be maintained in accordance with the *Thermal Power Station Main Water Cooling Systems—Trigger Action Response Protocols*, published by the Ministry of Health.

## **12 Conduct of risk assessments**

- (1) A risk assessment for a cooling water system must be undertaken by, or under the supervision of, a competent person.
- (2) A competent person who undertakes a risk assessment must indicate in the report of the assessment whether, after having regard to the approved form used in setting out a risk assessment, the competent person has determined that the cooling water system is low-risk, medium-risk or high-risk.
- (3) The first risk assessment must be completed before the cooling water system commences operating.
- (4) A new risk assessment must be undertaken for a high-risk cooling water system—
  - (a) at least once every 12 months after the system is determined to be high-risk, and
  - (b) if there is reason to believe that the latest risk assessment is no longer valid, no later than 30 days after the reason becomes apparent.
- (5) A new risk assessment must be undertaken for a low-risk or medium-risk cooling water system—
  - (a) at least once every 5 years after the system is determined to be low-risk or medium-risk, and
  - (b) if there is reason to believe that the latest risk assessment is no longer valid, no later than 30 days after the reason becomes apparent.

## **13 Reporting on risk assessments**

- (1) A risk assessment for a cooling water system must be documented in the approved form.
- (2) The occupier of the premises on which a cooling water system is installed must notify the local government authority for the area, in the approved form, no later than 7 days after a risk assessment required by this Division has been completed.

## **14 Auditing of risk assessments**

- (1) Compliance with the risk assessment of a cooling water system over a 12-month audit period must be audited.

- (2) The audit period for a risk assessment required by section 12(3) is—
  - (a) the 12 months after the risk assessment is required by section 12(3), and
  - (b) every 12 months after that.
- (3) The audit period for a new risk assessment required by section 12(4) or (5) is—
  - (a) the 12 months after the new risk assessment is required by section 12(4) or (5), and
  - (b) every 12 months after that.
- (4) An audit must be completed within 2 months after the end of the audit period.
- (5) An audit must be documented in the approved form.
- (6) The occupier must notify the local government authority for the area, in the approved form, no later than 7 days after each audit required by this section is completed.
- (7) An audit must be carried out by a person who has been approved by the Secretary as an auditor.

#### **15 Approval of auditors of risk assessments**

- (1) The Secretary may approve a person as an auditor for the purposes of section 14.
- (2) However, the Secretary may not approve the following—
  - (a) the occupier,
  - (b) the person who undertook the risk assessment,
  - (c) a duly qualified person who installed, operated or maintained the cooling water system at any time in the previous 5 years,
  - (d) the operator of a laboratory that carried out testing of the cooling water system at any time in the previous 5 years,
  - (e) a person employed or engaged by the person who employed or engaged a person referred to in paragraph (b), (c) or (d).
- (3) An application for approval as an auditor must be made to the Secretary in the approved form.
- (4) An approval of the Secretary has effect for the period specified by the Secretary in the approval, unless sooner revoked by the Secretary in writing.

#### **16 Other risk assessments**

- (1) The Secretary may notify an occupier that a new risk assessment of a cooling water system must be undertaken if—
  - (a) reportable test results have been notified for the cooling water system under section 18, or
  - (b) the Secretary considers the existing risk assessment is not sufficient to protect public health.
- (2) If the Secretary notifies an occupier that a new risk assessment must be undertaken, the occupier

must ensure the new risk assessment is carried out by, or under the supervision of, a competent person within 30 days of the notice being given.

- (3) An authorised officer may review a risk assessment at any time.

### 17 Sampling, testing and inspection

- (1) Samples of water must be taken from a cooling water system—
- (a) at least once a month, and
  - (b) in accordance with AS/NZS 3666.3:2011, and
  - (c) by a duly qualified person.
- (2) Samples taken in accordance with this section must be tested for *Legionella* and heterotrophic colony count in accordance with AS/NZS 3666.3:2011.
- (3) A cooling water system must be inspected and a chemical analysis of the cooling water system must be carried out—
- (a) at least once a month, and
  - (b) in accordance with AS/NZS 3666.3:2011, and
  - (c) by a duly qualified person.
- (4) A report prepared by a duly qualified person, in relation to the testing, inspection and chemical analysis required by this section must be—
- (a) prepared in accordance with AS/NZS 3666.3:2011, and
  - (b) provided to the occupier at least once a month, and
  - (c) in the approved form.

### 18 Provision of test results

- (1) The occupier of premises on which a cooling water system is installed must ensure reportable test results are provided, in the approved form, to the local government authority for the area no later than 24 hours after they are received by the occupier.

Maximum penalty—20 penalty units.

- (2) In this section—

**reportable test results** means the results of a laboratory test of a cooling water system carried out in accordance with section 17 showing—

- (a) the number of colony-forming units for *Legionella* is greater than or equal to 1,000 colony-forming units per millilitre, or
- (b) the heterotrophic colony count is greater than or equal to 5 million colony-forming units per millilitre.

## 19 Availability of records and other information

- (1) The occupier of premises on which a cooling water system is installed must ensure the required documents are—
  - (a) kept on the premises and made available for inspection on request by an authorised officer, or
  - (b) kept electronically and made available for inspection, on request by an authorised officer, within 4 hours of the request.

Maximum penalty—20 penalty units.

- (2) The occupier of premises on which a cooling water system is installed must ensure the following information is provided, in electronic or paper form, on request by an authorised officer within 4 hours of the request—
  - (a) the contact details of each duly qualified person who installed, operated or maintained the cooling water system in the last 5 years, and
  - (b) the contact details of each competent person who has provided services in relation to the cooling water system in the last 5 years.

Maximum penalty—20 penalty units.

- (3) In this section—

*required documents*, in relation to a cooling water system, means the following—

- (a) the documentation of the most recent risk assessment prepared under section 13(1),
- (b) the notice of the most recent risk assessment given under section 13(2),
- (c) the documentation of each audit of compliance prepared under section 14 that was carried out in the last 5 years,
- (d) the notice of each audit of compliance provided under section 14(6),
- (e) the reports prepared under section 17(4) in the last 5 years,
- (f) the operating and maintenance manuals for the system,
- (g) all records of the maintenance and service of the system.

## 20 Notification of installation of cooling water systems

- (1) For the Act, section 31, the notice must be—
  - (a) written, and
  - (b) accompanied by the fee, not exceeding the amount specified in Schedule 5, determined by the local government authority for the area in which the premises are located, and
  - (c) given to the local government authority.

- (2) The occupier of premises on which a cooling water system is installed must notify the local government authority for the area in which the premises are located within 7 days of a change in the information provided to the authority in the approved form under the Act, section 31.

Maximum penalty—10 penalty units.

- (3) No fee is payable for a notification under subsection (2).

## **Division 4 Miscellaneous**

### **21 Conduct of certain tests**

For the Act, sections 29 and 30, the following tests carried out while complying with this Part must be carried out in a laboratory accredited by the National Association of Testing Authorities for that purpose—

- (a) a test for the presence of *Legionella* in a regulated system,  
(b) a test to determine the heterotrophic colony count in a regulated system.

### **22 Falsifying test results**

A person who provides test results in purported compliance with a requirement under this Part, knowing the test result is false or misleading in a material respect, is guilty of an offence.

Maximum penalty—20 penalty units.

### **23 Maintenance precautions**

If maintenance of a regulated system is being carried out on the premises on which it is installed, the occupier or duly qualified person, or another person carrying out the maintenance otherwise than as an employee, is guilty of an offence if appropriate measures are not taken—

- (a) to minimise contamination of adjoining areas and the ambient environment by aerosols, dust, particulate matter or effluent, and  
(b) to prevent public access to the area in which the maintenance is being carried out.

Maximum penalty—20 penalty units.

### **24 Display of prohibition orders**

The occupier of premises on which a regulated system is installed who has been served with a prohibition order must display a copy of the order in a conspicuous place at or near each entrance to the premises.

Maximum penalty—10 penalty units.

### **25 Register of warm-water systems and cooling water systems**

- (1) A local government authority must maintain a register of warm-water systems and cooling water systems installed on premises in the local government authority's area.  
(2) The register must contain the following information about each warm-water system or cooling water system—



- (a) the address and telephone number of the premises on which the system is installed,
  - (b) the contact details of the occupier of the premises,
  - (c) the Australian Business Number or Australian Company Number, if any, of the occupier of the premises,
  - (d) the type of system,
  - (e) for a cooling water system—the unique identification number designated by the local government authority for each cooling tower in the system,
  - (f) whether or not the local government authority has been notified by the occupier that a risk assessment has been prepared for the system,
  - (g) the reportable test results, within the meaning of section 18, of which the local government authority has been notified by the occupier,
  - (h) details of each notice of audit provided to the local government authority under section 14(6),
  - (i) details of the inspections carried out by the local government authority for the purposes of the Act.
- (3) A local government authority must make the register available for inspection without charge if requested by—
- (a) the Secretary, or
  - (b) a public health officer, or
  - (c) an officer of the Ministry of Health authorised by the Secretary.

### **Part 3 Public swimming pools and spa pools—the Act, Part 3, Div 3**

#### **26 Water play parks**

For the Act, section 34, definition of *public swimming pool or spa pool*, a water play park or other recreational aquatic structure is declared not to be a public swimming pool or spa pool if it—

- (a) uses a public water supply, and
- (b) does not use a recirculation system, and
- (c) does not store water.

#### **27 Operating requirements**

- (1) The requirements set out in Schedule 1 are—
  - (a) the prescribed operating requirements for public swimming pools and spa pools for the Act, Part 3, Division 3, and
  - (b) the standards prescribed for public swimming pools and spa pools for the Act, section 36.

- (2) This section does not apply to a natural swimming pool.

## **28 Temporary closure of public swimming pools and spa pools**

- (1) The Secretary may, by written order served on the occupier of premises at which a public swimming pool or spa pool is situated, direct the pool to be closed for use by members of the public until the order is revoked, if satisfied on reasonable grounds that the pool is a risk to public health.
- (2) An order must be accompanied by a written statement of the reasons for the making of the order.
- (3) A person on whom an order has been served must comply with the terms of the order while it remains in force.

Maximum penalty—20 penalty units.

- (4) A person on whom an order has been served must, while the order remains in force, display a copy of the order in a conspicuous place at or near each entrance to the pool.

Maximum penalty—10 penalty units.

- (5) The Secretary must, by written notice served on the occupier of the premises, revoke an order if satisfied on reasonable grounds that the public swimming pool or spa pool in relation to which the order is in force is no longer a risk to public health.

## **29 Secretary may order pool disinfection or other action**

- (1) The Secretary may, by written notice, direct the occupier of premises at which a public swimming pool or spa pool is situated to disinfect the pool, or to take other action, in accordance with the direction, if satisfied that the pool is a risk to public health.
- (2) An occupier of premises to whom a direction is given must not, without reasonable excuse, fail to comply with the direction.

Maximum penalty (subsection (2))—20 penalty units.

## **30 Notification of public swimming pools and spa pools**

- (1) For the Act, section 35(2), the notice must be—
- (a) written, and
  - (b) accompanied by the fee, not exceeding the amount specified in Schedule 5, determined by the local government authority for the area in which the public swimming pool or spa pool is located, and
  - (c) given to the local government authority.
- (2) The occupier of premises at which a public swimming pool or spa pool is situated must notify the local government authority for the area in which the pool is located within 7 days of a change in the information provided to the authority in the approved form under the Act, section 35(2).

Maximum penalty—10 penalty units.

(3) No fee is payable for a notification under subsection (2).

(4) This section does not apply to a natural swimming pool.

### **31 Register of public swimming pools and spa pools**

(1) A local government authority must maintain a register of public swimming pools and spa pools in the local government authority's area.

(2) The register must contain the following information about each public swimming pool or spa pool—

(a) the address and telephone number of the premises on which the public swimming pool or spa pool is located,

(b) the contact details of the occupier of the premises,

(c) the Australian Business Number or Australian Company Number, if any, of the occupier of the premises,

(d) details of the inspections carried out by the local government authority for the purposes of the Act.

(3) A local government authority must make the register available for inspection without charge if requested by—

(a) the Secretary, or

(b) a public health officer, or

(c) an officer of the Ministry of Health authorised by the Secretary.

(4) This section does not apply to a natural swimming pool.

## **Part 4 Skin penetration procedures—the Act, Part 3, Div 4**

### **Division 1 Preliminary**

#### **32 Skin penetration procedures**

(1) Colonic lavage is declared to be a skin penetration procedure.

(2) Laser hair removal is declared not to be a skin penetration procedure.

#### **33 Requirements for premises at which skin penetration procedures are carried out**

For the Act, section 38(1), the requirements set out in Divisions 2 and 3 are prescribed.

### **Division 2 Requirements for premises where skin penetration procedures are carried out**

#### **34 Premises must be properly equipped**

(1) Premises where skin penetration procedures are carried out must—

- (a) be clean and hygienic, and
  - (b) have a waste disposal bin, and
  - (c) have a hand basin that—
    - (i) has a supply of clean, warm, potable water, and
    - (ii) is not obstructed or used for storage, and
  - (d) if equipment used in skin penetration procedures at the premises is cleaned at the premises—have a separate sink with a supply of clean, warm water that is used only for cleaning equipment, and
  - (e) have the following available for use by persons carrying out skin penetration procedures at the premises—
    - (i) liquid soap,
    - (ii) an alcohol-based hand cleaner,
    - (iii) single use towels or a working automatic hand dryer,
    - (iv) single use gloves, clean linen and gowns or aprons that are appropriate for the skin procedures carried out at the premises.
- (2) Equipment at premises where skin penetration procedures are carried out must—
- (a) be in good working order, and
  - (b) be cleaned and dried after use, and
  - (c) be kept in a clean and dry condition.

### **35 Toilets for colonic lavage procedures**

Premises at which a colonic lavage procedure is carried out must have a toilet that is—

- (a) available for use by clients and not by the general public, and
- (b) for a procedure using a closed system—located close to the room in which the procedure is being carried out, and
- (c) for a procedure using an open system—located in the immediate area of the room in which the procedure is being carried out.

### **36 Premises must have sharps containers and sterile disposable needles**

- (1) If skin penetration procedures involving the use of sharps are carried out at the premises, there must be an appropriate sharps container at the premises.
- (2) If skin penetration procedures involving the use of needles are carried out at the premises, there must be an adequate supply of sterile disposable needles at the premises.
- (3) In this section—

***appropriate sharps container*** means—

- (a) if skin penetration procedures involving the use of reusable sharps are carried out at the premises—a sharps container that complies with AS/NZS 4261–1994, *Reusable containers for the collection of sharp items used in human and animal medical applications*, or
- (b) if skin penetration procedures involving the use of non-reusable sharps are carried out at the premises—a sharps container that complies with AS 4031–1992, *Non-reusable containers for the collection of sharp medical items used in health care areas*.

### **37 Reusable articles must be sterilised**

- (1) All reusable articles used to penetrate a person’s skin for skin penetration procedures must be sterilised at the premises or off-site.
- (2) If reusable articles are sterilised at the premises—
  - (a) an autoclave must be used, and
  - (b) there must be at least 1 person present at the time the autoclave is used who is adequately trained in the operation of the autoclave, and
  - (c) the sterilisation must be carried out in accordance with AS/NZS 4815:2006, and
  - (d) the autoclave must be calibrated at least every 12 months in accordance with AS/NZS 4815:2006.
- (3) If reusable articles are sterilised at the premises, the occupier of the premises must make, and keep for at least 12 months, a record of—
  - (a) the time and date when each article was sterilised, and
  - (b) the length of time the article was autoclaved and the temperature and pressure levels of the autoclave.
- (4) If reusable articles are sterilised off-site, the occupier of the premises must—
  - (a) make, and keep for at least 12 months, a record of the date on which each article was sent off-site for sterilisation and the contact details of the person who sterilised the article, and
  - (b) keep, for at least 12 months, a copy of the report on the sterilisation by the person who sterilised the article.
- (5) In this section—

***AS/NZS 4815:2006*** means AS/NZS 4815:2006, *Office-based health care facilities—Reprocessing of reusable medical and surgical instruments and equipment, and maintenance of the associated environment*.

***autoclave*** means a bench top autoclave that uses steam under pressure.

## Division 3 Requirements for carrying out skin penetration procedures

### 38 Use of needles, sharps and other articles

- (1) A person who carries out a skin penetration procedure must not use a needle that has previously been used in a skin penetration procedure.  
Maximum penalty—20 penalty units.
- (2) A person who uses a needle in a skin penetration procedure must dispose of the needle in the appropriate sharps container immediately after completing the procedure.  
Maximum penalty—20 penalty units.
- (3) A person who uses an article in a skin penetration procedure that is manufactured for a single use only must dispose of the article immediately after completing the procedure.  
Maximum penalty—20 penalty units.
- (4) A person who uses a non-reusable sharp in a skin penetration procedure must dispose of the sharp in the appropriate sharps container immediately after completing the procedure.  
Maximum penalty—20 penalty units.
- (5) A person must not use an article that may penetrate the skin of a person in a skin penetration procedure unless it is clean and has been sterilised and kept in a sterile environment.  
Maximum penalty—20 penalty units.
- (6) A person must not use an article in a skin penetration procedure if the article has previously been used in a skin penetration procedure but did not penetrate the skin of the person undergoing the previous procedure unless the article has been cleaned and kept in a clean condition.  
Maximum penalty—20 penalty units.
- (7) In this section—  
*appropriate sharps container* means a sharps container that complies with AS 4031–1992, *Non-reusable containers for the collection of sharp medical items used in health care areas*.

### 39 Protective equipment to be worn

- (1) A person who carries out a skin penetration procedure must—
  - (a) wear gloves that have never been used before, and
  - (b) appropriately dispose of the gloves immediately after completing the procedure.Maximum penalty—20 penalty units.
- (2) A person who carries out a skin penetration procedure, other than colonic lavage, must wear a clean gown or apron during the procedure.  
Maximum penalty—20 penalty units.
- (3) A person who carries out colonic lavage must wear a clean gown made of impermeable material

during the procedure.

Maximum penalty—20 penalty units.

- (4) This section does not apply to a person carrying out a skin penetration procedure involving the use of wax for the purposes of hair removal unless the person reasonably suspects that the person will be exposed to human bodily substances during the procedure.

#### **40 Use of inks and pigments**

- (1) A person who carries out a skin penetration procedure involving the use of ink, pigment or other liquid must, for each person undergoing the procedure—

- (a) decant the liquid into a single use container, and
- (b) use a single use applicator.

Maximum penalty—20 penalty units.

- (2) This section does not apply to skin penetration procedures involving the use of wax for the purposes of hair removal.

#### **41 Use of wax for hair removal**

A person who carries out a skin penetration procedure using wax for the purposes of hair removal must dispose of the wax, and the instrument used to apply the wax, such as a spatula, immediately after completing the procedure.

Maximum penalty—20 penalty units.

### **Division 4 Miscellaneous**

#### **42 Notification of carrying out of skin penetration procedures**

- (1) For the Act, section 38(2), the notice must be—

- (a) written, and
- (b) accompanied by the fee, not exceeding the amount specified in Schedule 5, determined by the local government authority for the area in which—
  - (i) the premises are located, or
  - (ii) if the skin penetration procedures are carried out in mobile premises—the occupier resides, and
- (c) given to the local government authority before skin penetration procedures are carried out at the premises.

- (2) The occupier of premises where skin penetration procedures are carried out must notify the local government authority for the area in which the premises are located within 7 days of a change in the information provided to the authority in the approved form under the Act, section 38(2).

Maximum penalty—10 penalty units.

- (3) No fee is payable for a notification under subsection (2).

#### **43 Register of premises where skin penetration procedures are carried out**

- (1) A local government authority must keep a register of premises in the local government authority's area at which skin penetration procedures are carried out.
- (2) The following details must be entered in the register in relation to each premises—
- (a) the address and telephone number of the premises,
  - (b) the contact details of the occupier of the premises,
  - (c) the Australian Business Number or Australian Company Number, if any, of the occupier,
  - (d) the type of skin penetration procedures carried out at the premises,
  - (e) details of inspections of the premises carried out by the local government authority,
  - (f) for skin penetration procedures carried out in mobile premises, the local government areas in which the occupier of the premises intends to carry out the procedures.
- (3) A local government authority must make the register available for inspection without charge if requested by—
- (a) the Secretary, or
  - (b) a public health officer, or
  - (c) an officer of the Ministry of Health authorised by the Secretary.

#### **44 Display of prohibition orders**

The occupier of premises at which skin penetration procedures are carried out who has been served with a prohibition order must display a copy of the order in a conspicuous place at or near each entrance to the premises.

Maximum penalty—10 penalty units.

### **Part 5 Safety measures for drinking water—the Act, Part 3, Div 1**

#### **Division 1 QAPs for suppliers of drinking water**

##### **45 Information to be included in all QAPs**

A QAP of a supplier of drinking water must include the following—

- (a) the identification of potential health risks associated with the supply of drinking water,
- (b) a process for controlling the potential health risks in accordance with the Framework for Management of Drinking Water Quality, as set out in the *Australian Drinking Water Guidelines* published by the National Health and Medical Research Council,
- (c) for a supplier of drinking water other than a private water supplier or water carter—the matters required under Division 2,



- (d) for a private water supplier—the matters required under Division 3,
- (e) for a water carter—the matters required under Division 4.

## **Division 2 QAPs for suppliers other than private water suppliers or water carters**

### **46 Information to be included in QAPs for suppliers other than private water suppliers or water carters**

A QAP of a supplier of drinking water who is not a private water supplier or water carter must include information about the following—

- (a) a commitment by the supplier to drinking water quality management and a description of how the commitment is communicated to staff and included in planning and policy documents,
- (b) research and development carried out in relation to maintaining or improving the quality of the drinking water, including a list of previous water quality studies and plans for future studies,
- (c) systems or procedures for record keeping,
- (d) systems or procedures for the following—
  - (i) reviewing the monitoring of the operation of the drinking water supply system,
  - (ii) verifying the drinking water supply system,
  - (iii) reporting the results of the reviews to management and external parties,
- (e) procedures for the validation of equipment used, and the treatment processes carried out, for the drinking water supply system,
- (f) the management of the drinking water supply system, including the following—
  - (i) an assessment of the risks to the drinking water supply system,
  - (ii) an assessment of the maximum and residual risks to the drinking water supply system,
  - (iii) identification of hazards to the drinking water supply system,
  - (iv) measures to prevent hazards to the drinking water supply system, known as preventive measures,
  - (v) management, if possible, of risks to the drinking water supply system, known as control points,
  - (vi) communication to staff about control points that are critical to the drinking water supply system and drinking water quality, known as critical control points,
  - (vii) actions to improve the drinking water supply system.

**47 Processes to be included in QAPs for suppliers other than private water suppliers or water carters**

A QAP of a supplier of drinking water who is not a private water supplier or water carter must include processes to deal with the following—

- (a) the drinking water supply system, including the following—
  - (i) managing critical control points and recording non-compliance with critical control points,
  - (ii) operational monitoring and correction of the drinking water supply system,
  - (iii) procurement, delivery and testing of chemicals and equipment used in relation to the drinking water supply system,
  - (iv) primary disinfection and recording of primary disinfection conditions, including recording of the concentration and contact time of the disinfectant and the temperature and pH level of the water,
  - (v) calibration, operation and maintenance of critical treatment equipment,
- (b) verifying the quality of the drinking water, including the following—
  - (i) a comprehensive program for monitoring the drinking water supply distribution system,
  - (ii) procedures to review and respond to results from monitoring the drinking water supply distribution system,
- (c) managing incidents and emergencies in relation to the quality of the drinking water, including the following—
  - (i) a process to notify the Secretary of incidents in relation to the drinking water quality,
  - (ii) identification of the types of incidents and emergencies that may occur and would require management,
  - (iii) procedures, including communication procedures, to be followed if there is an incident or emergency,
  - (iv) procedures for the control of document versions,
  - (v) the contact details of the individuals who should be contacted if there is an incident or emergency in relation to the quality of the drinking water and the location of the contact details.

**48 Other information to be included in QAPs for suppliers other than private water suppliers or water carters**

A QAP of a supplier of drinking water who is not a private water supplier or water carter must include information about the following—

- (a) training for employees about, and awareness of issues relating to, the quality of the drinking water,
- (b) processes for managing and reviewing the training for employees and maintaining and

- improving awareness of employees and contractors about drinking water quality issues,
- (c) processes for engaging and raising awareness in the local community about the quality of the drinking water and informing the community at the time of a drinking water supply system incident,
- (d) consideration of local community and consumer objectives in the management of the drinking water supply system,
- (e) long term evaluation of the drinking water quality,
- (f) processes for updating or improving the QAP if required,
- (g) scheduling of internal and external reviews of the QAP and processes for the reviews.

### **Division 3 QAPs for private water suppliers**

#### **49 Information to be included in QAPs for private water suppliers**

- (1) A QAP of a private water supplier must include the following information—
  - (a) the contact details of the private water supplier,
  - (b) a description of the drinking water supply system from source to use, including the treatment and distribution of the water,
  - (c) a not to scale diagram of the drinking water supply system from source to use, including the following—
    - (i) pumps, storage treatment, pipelines and uses,
    - (ii) location of wastewater systems and physical control measures,
    - (iii) possible sources of contamination,
  - (d) the activities required to manage the drinking water supply, including inspections, maintenance and monitoring of the quality of the drinking water,
  - (e) the actions to resolve problems or emergencies in relation to the quality of the drinking water,
  - (f) the contact details of the individuals who should be contacted when there is a problem or emergency in relation to the quality of the drinking water.
- (2) A QAP of a private water supplier must include an assessment of the risks to the drinking water supply system, including an assessment of the following—
  - (a) the management of the risks,
  - (b) the monitoring of the risks,
  - (c) the person who is responsible for the monitoring and the keeping of records in relation to the monitoring.

## **50 Planning to be included in QAPs for private water suppliers**

- (1) A QAP of a private water supplier must include planning for the following activities required to manage the drinking water supply system—
  - (a) inspections of the drinking water supply, including the following—
    - (i) identifying the items to be inspected such as the water source, tanks and distribution system,
    - (ii) the timing of, and persons who will conduct, the inspections,
    - (iii) the equipment or procedures required,
  - (b) maintenance of the drinking water supply, including the following—
    - (i) identifying the items to be maintained,
    - (ii) the timing of, and persons who will conduct, the maintenance,
    - (iii) the equipment or procedures required,
  - (c) monitoring of the quality of the drinking water, including the following—
    - (i) identifying the items to be monitored,
    - (ii) the timing and location of, and persons who will conduct, the monitoring,
    - (iii) the equipment or procedures required.
- (2) A QAP of a private water supplier must include planning for the resolution of problems or emergencies in relation to the drinking water supply system, including identification of the following—
  - (a) possible problems or emergencies that may occur, such as a failed water quality test or a complaint by a customer,
  - (b) possible action that could be taken in response to problems or emergencies,
  - (c) ways in which to communicate with consumers when there is a problem or emergency,
  - (d) arrangements for alternate drinking water supplies when there is a problem or emergency.

## **51 Record systems to be included in QAPs for private water suppliers**

A QAP of a private water supplier must include a system for recording the following—

- (a) inspections and maintenance carried out, including the following—
  - (i) the date and explanation of the inspection or maintenance,
  - (ii) the response to the inspection or maintenance,
  - (iii) the person who carried out the inspection or maintenance,
- (b) results from monitoring the quality of the drinking water, including the following—

- (i) the date, location and type of monitoring,
  - (ii) the person who conducted the monitoring,
  - (iii) the response to the monitoring,
- (c) the supply of drinking water by a water carter, including the following—
- (i) the date and volume of the supply,
  - (ii) the contact details of the water carter,
- (d) equipment used for the drinking water supply system, including the following—
- (i) procedures for the operation and maintenance of the equipment,
  - (ii) the maintenance history of the equipment,
  - (iii) the manufacturer, supplier and repairer of the equipment,
  - (iv) the manufacturer's instructions for the equipment,
- (e) information provided to consumers, including the following—
- (i) the location and wording of warning signs,
  - (ii) the inspection of warning signs,
  - (iii) whether the warning sign is permanent or temporary,
- (f) problems and emergencies that have occurred in relation to the drinking water quality.

## **Division 4 QAPs for water carters**

### **52 Information to be included in QAPs for water carters**

- (1) A QAP of a water carter must include the following information—
- (a) the contact details of the water carter,
  - (b) the contact details of the individuals who should be contacted in emergencies in relation to the drinking water supply system,
  - (c) the frequency and method of, and equipment used for, flushing, cleaning and disinfecting a tank,
  - (d) the capping, storing and cleaning frequency of the hoses and fittings in relation to the tank,
  - (e) if chlorine is added to the drinking water by the water carter—
    - (i) the location and method of storing the chlorine, and
    - (ii) the frequency and method of, and equipment used for, testing and adjusting the concentration of the chlorine in a tank used by the water carter.
- (2) A QAP of a water carter must include the following information about each carting vehicle—

- (a) the registration number of the vehicle,
  - (b) the type, lining materials, volume and the relevant certification of a tank transported by the vehicle,
  - (c) the fittings, materials and the relevant certification of a hose connected to the tank.
- (3) A QAP of a water carter must include the following information about the filling of a carting vehicle with water by the water carter—
- (a) the locations where the carting vehicle is filled (the *filling points*),
  - (b) the methods of access to the filling points,
  - (c) the steps taken to protect the quality of the drinking water during the filling.

- (4) In this section—

*carting vehicle* means a vehicle used by a water carter to transport water.

*relevant certification* means certification that indicates conformity with applicable standards published by Standards Australia.

*tank* means a tank used for holding water that sits on a tanker and is transported by a carting vehicle.

## Division 5 Miscellaneous

### 53 Records to be kept by suppliers of drinking water

- (1) A supplier of drinking water, other than a water carter, must make, and keep for at least 6 months, a record of the contact details of each water carter to whom the supplier of drinking water supplies water.

Maximum penalty—10 penalty units.

- (2) A water carter must make, and keep for at least 6 months, a record of the following—

- (a) the name of each supplier of drinking water from whom the water carter receives water and the place, date and time at which the water is supplied to the water carter by the supplier,
- (b) the name and address of each person to whom the water carter supplies water, the place, date and time at which the water is supplied to the person and the volume of water supplied to the person,
- (c) details of substances other than drinking water that are transported in a water tank used by the water carter,
- (d) the dates on which a water tank used by the water carter is cleaned.

Maximum penalty—10 penalty units.

### 54 Records to be kept by private water suppliers

- A private water supplier must make, and keep for at least 24 months, a record of the following—

- (a) inspections and maintenance carried out, including the following—
  - (i) the date of the inspection or maintenance,
  - (ii) an explanation of and the response to the inspection or maintenance,
  - (iii) the person who carried out the inspection or maintenance,
- (b) results from monitoring the quality of the drinking water, including the following—
  - (i) the date and location of the monitoring,
  - (ii) the type of monitoring,
  - (iii) the person who conducted the monitoring,
  - (iv) the response to the monitoring,
- (c) the supply of drinking water by a water carter, including the following—
  - (i) the date and volume of the supply,
  - (ii) the contact details of the water carter,
- (d) equipment used for the drinking water supply system, including the following—
  - (i) procedures for the operation and maintenance of the equipment,
  - (ii) the maintenance history of the equipment,
  - (iii) the manufacturer, supplier and repairer of the equipment,
  - (iv) the manufacturer's instructions for the equipment,
- (e) information provided to consumers, including the following—
  - (i) the location and wording of warning signs,
  - (ii) the inspection of warning signs,
  - (iii) whether the warning sign is permanent or temporary,
- (f) problems and emergencies that have occurred in relation to the drinking water quality.

Maximum penalty—10 penalty units.

#### **55 Matters exempt from QAPs**

- (1) The Chief Health Officer may, by written notice, exempt a person or class of persons from including, whether required or not, a matter required under Division 2 in a QAP.
- (2) The Chief Health Officer may grant an exemption under this section if satisfied that the exemption is unlikely to pose a risk to public health.
- (3) The exemption may be given unconditionally or subject to conditions.

- (4) If an exemption is given subject to conditions, the exemption does not have effect while a condition is not being complied with.
- (5) Notice of an exemption given by the Chief Health Officer under this section to a class of persons must be published on the Ministry of Health's website.
- (6) A water supplier may apply to the Chief Health Officer for an exemption under this section.
- (7) The Chief Health Officer may, by further written notice, vary or revoke an exemption granted under this section.

#### **56 Review of QAPs**

The Secretary may arrange for the review of a QAP of a supplier of drinking water at any time.

### **Part 6 Scheduled medical conditions—the Act, Part 4**

#### **57 Notification of Category 1 and 2 conditions**

For the Act, section 54(2)(a), the following information is prescribed—

- (a) for a birth—the information required to be included by the *NSW Perinatal Data Collection Reporting and Submissions Requirements* published by the Ministry of Health,
- (b) for a perinatal death—the information specified in Schedule 2, Part 1,
- (c) for sudden infant death syndrome—the information specified in Schedule 2, Part 2,
- (d) for all Category 2 medical conditions—the information required to be included in the *Doctor/Hospital Notification Form* published by the Ministry of Health,
- (e) for a congenital malformation, cystic fibrosis, hypothyroidism, thalassaemia major or phenylketonuria in a child under the age of 1 year, or pregnancy with a child having the condition—the information required to be included in—
  - (i) the *Notification of a scheduled congenital condition diagnosed in an infant* published by the Ministry of Health, or
  - (ii) the *Notification of a scheduled congenital condition diagnosed by prenatal diagnosis* published by the Ministry of Health,
- (f) for acute rheumatic fever or, in a person less than 35 years of age, rheumatic heart disease—the information required to be included in the *Acute Rheumatic Fever/Rheumatic Heart Disease Notification Form* published by the Ministry of Health,
- (g) for silicosis—the information required to be included in the *Notification of a Diagnosis of Silicosis* form published by the Ministry of Health,
- (h) for asbestosis—the information required to be included in the *Notification of a Diagnosis of Asbestosis* form published by the Ministry of Health.

#### **58 Period for keeping records**

For the Act, section 54(3)(a), the prescribed period for keeping records is as follows—



- (a) for a person who is at least 18 years of age—7 years,
- (b) for a person who is less than 18 years of age—7 years starting on the person's eighteenth birthday,
- (c) for a person who was stillborn—7 years starting on the date of birth,
- (d) for a person who died before turning 18—7 years starting on the date of the person's death.

**59 Matters for consideration for public health orders—the Act, s 62(6)(b)**

- (1) The following matters must be taken into account by an authorised medical practitioner in deciding whether or not to make a public health order in relation to a person—
  - (a) whether reasonable attempts have been made to provide the person with information about the effects of the Category 4 or 5 condition or contact order condition the person has or may have and the risks to public health of the condition,
  - (b) the options other than a public health order that are available to deal with the risk to public health posed by the person,
  - (c) if the proposed public health order will require the person to undergo treatment—the availability and effectiveness of the proposed treatment and the likely side effects of the proposed treatment on the person,
  - (d) if the proposed public health order will require the person to be detained—the likely social, economic, physical and psychological effects of the detention on the person,
  - (e) if the proposed public health order relates to a person with tuberculosis—the policy directive entitled *Tuberculosis Management of People Knowingly Placing Others at Risk of Infection* published by the Ministry of Health,
  - (f) if the proposed public health order relates to a person with HIV—the policy directive entitled *Management of People with HIV Who Risk Infecting Others* published by the Ministry of Health.
- (2) The matters do not need to be taken into account in an emergency or if it is otherwise not reasonably practicable.

**60 Advice to Category 2 or 3 patients**

- (1) The Secretary or a registered medical practitioner may—
  - (a) notify a person suffering from a Category 2 or 3 condition of measures to be taken, and activities to be avoided, to minimise the danger of passing the medical condition to another person, or
  - (b) authorise a relevant health practitioner to notify the person.

- (2) In this section—

***relevant health practitioner*** means an individual who provides the following services, whether as public or private services—

- (a) medical, hospital, nursing or midwifery services,
- (b) community health services,
- (c) health education services,
- (d) public and population health services,
- (e) welfare services necessary to implement a service referred to in paragraphs (a)–(d).

**61 Advice to Category 2, 3 or 4 contacts**

- (1) The Secretary or an attending medical practitioner may—
  - (a) notify a person who the Secretary or attending medical practitioner believes may have been in contact with a person suffering from a Category 2, 3 or 4 condition of measures to be taken, and activities to be avoided, to minimise the danger of the first person contracting the condition or passing it to a third person, or
  - (b) authorise a relevant health practitioner to notify the person.
- (2) The notification must be in accordance with any directions of the Chief Health Officer published on the Ministry of Health’s website.
- (3) In this section—

*attending medical practitioner* means a registered medical practitioner who attends the person suffering from a Category 2, 3 or 4 condition.

*relevant health practitioner* means an individual who provides the following services, whether as public or private services—

- (a) medical, hospital, nursing or midwifery services,
- (b) community health services,
- (c) health education services,
- (d) public and population health services,
- (e) welfare services necessary to implement a service referred to in paragraphs (a)–(d).

**62 Disclosure of information relating to Category 5 condition**

The Act, section 56(3) does not apply to the disclosure of information required by order of a court or a person authorised by law to examine witnesses.

**Part 7 Other disease control measures—the Act, Part 5 and s 134**

**Division 1 Sexually transmitted infections and notifiable diseases**

**63 Information for patients with sexually transmitted infections**

For the Act, section 78(1), the following information is prescribed in relation to a sexually transmitted infection—

- (a) the means of minimising the risk of infecting other people and the precautions that should be taken to minimise the risk, which may include the following—
  - (i) using a condom during sexual intercourse,
  - (ii) receiving treatment for the sexually transmitted infection,
  - (iii) for a patient who has a Human Immunodeficiency Virus (*HIV*) infection, seeking and receiving confirmation from a sexual partner that the sexual partner is on HIV pre-exposure prophylaxis medication,
  - (iv) for a patient who has an HIV infection, determining if the patient has an HIV viral load of less than 200 copies per millilitre,
- (b) the public health implications of the infection,
- (c) diagnosis and prognosis,
- (d) treatment options.

#### **64 Notification to Secretary of notifiable diseases**

For the Act, section 83(1), the following information is prescribed—

- (a) for a patient who has cancer—the information required to be included in the Cancer Notification Portal under the *Notifying Cancer-Related Data to the NSW Cancer Registry* policy directive published by the Ministry of Health,
- (b) for a patient under the age of 1 year who has a congenital malformation, cystic fibrosis, hypothyroidism, thalassaemia major or phenylketonuria or a patient who is or was pregnant with a child having the condition—the information required to be included in—
  - (i) the *Notification of a scheduled congenital condition diagnosed in an infant* published by the Ministry of Health, or
  - (ii) the *Notification of a scheduled congenital condition diagnosed by prenatal diagnosis* published by the Ministry of Health,
- (c) for a patient with another notifiable disease—the information required to be included in the *Doctor/Hospital Notification Form* published by the Ministry of Health.

## **Division 2 Immunisation of children—the Act, Part 5, Div 4**

#### **65 Children to whom the Act, Part 5, Division 4 applies**

For the Act, section 85(1), definition of *child*, the following classes of children are prescribed—

- (a) children who are seeking to be enrolled at a child care facility,
- (b) children who are, or who previously were, enrolled at a child care facility,
- (c) children who are enrolled at a school and are less than 18 years of age.

## 66 Authorised practitioners

For the Act, section 85(1), definition of *authorised practitioner*, a registered nurse or midwife is prescribed if the nurse or midwife—

- (a) is employed in connection with a vaccination program in a health service or place of work, and
- (b) has successfully completed 1 of the following—
  - (i) the Ministry of Health’s Immunisation Accreditation Program for Registered Nurses,
  - (ii) an immunisation education program accredited by Health Education Services Australia,
  - (iii) the immunisation education program administered by the Australian College of Nursing or its predecessors,
  - (iv) an interstate or overseas immunisation education program that conforms to the *National Guidelines for Immunisation Education for Registered Nurses and Midwives*, as approved by the Australian College of Nursing.

## 67 Immunisation certificates and evidence of immunisation status

- (1) For the Act, section 86(1), the principal of a school must ask a parent of a child to lodge an immunisation certificate for the child whenever the child reaches a designated age.
- (2) For the Act, section 87(4), the principal of a child care facility must ask a parent of a child to provide an updated vaccination certificate whenever the child reaches a designated age.
- (3) In this section—

*designated age* means an age designated by the Secretary at which it is appropriate for a child to be immunised or further immunised against a specified vaccine preventable disease.

## 68 Retention of immunisation certificates and register entries

- (1) For the Act, section 86(4), the principal of a school must keep an immunisation certificate for 3 years from the date on which the child ceases to attend the school, unless the principal is earlier required to forward the certificate under the Act, section 86(2).
- (2) For the Act, section 87(6), the principal of a child care facility must keep an entry in the register for 3 years from the date on which the child ceases to attend the facility, unless the principal is earlier required to provide a copy of the certificate under the Act, section 87(7).

## 69 Exemptions from pre-enrolment requirements relating to child care facilities

- (1) For the Act, section 87(3), the principal of a child care facility is not required to comply with the Act, section 87(1) if the child—
  - (a) is enrolled in a school, or
  - (b) is subject to a guardianship order under the *Children and Young Persons (Care and Protection) Act 1998*, section 79A, or is in out-of-home care within the meaning of that Act, or

- (c) is being cared for by an adult who is not the child's parent due to exceptional circumstances such as illness or incapacity, or
  - (d) has been evacuated from the child's place of residence because it is in a part of the State in which a state of emergency is declared to exist under the *State Emergency and Rescue Management Act 1989*, or
  - (e) is an Aboriginal or Torres Strait Islander, within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*, or
  - (f) meets the immunisation requirements set out in the *A New Tax System (Family Assistance) Act 1999* of the Commonwealth, section 6(3)(c), (4) or (6).
- (2) However, for a child referred to in subsection (1)(b)–(f), the principal of a child care facility must take all reasonable steps to ensure the parent of the child, or the principal of another child care facility, provides the certificate or certificates for the child, as referred to in the Act, section 87(1), within 12 weeks after the date on which the child is enrolled in the facility.

### **Division 3 Correctional centres—the Act, s 134(2)(a)**

#### **70 Standards and sizes for rooms and cubicles at correctional centres**

- (1) The Commissioner of Corrective Services must issue directions concerning the standards and sizes required for rooms and cubicles at correctional centres.
- (2) The Commissioner may amend or replace a direction.
- (3) The Commissioner must review a direction at least once every 5 years.

#### **71 Directions about outbreaks of infectious disease at correctional centres**

- (1) If the Chief Health Officer believes there is an outbreak, or the risk of an outbreak, of infectious disease at a correctional centre—
  - (a) the Chief Health Officer may issue directions about the outbreak or risk of outbreak, and
  - (b) the Commissioner of Corrective Services is required to ensure the general manager of the correctional centre complies with the directions.
- (2) Before issuing a direction under subsection (1)(a), the Chief Health Officer must—
  - (a) consult with the Commissioner of Corrective Services, and
  - (b) have regard to issues raised by the Commissioner relating to maintaining the security, good order or safety of the correctional centre or its inmates.

### **Division 4 Miscellaneous—the Act, s 134(2)(a)**

#### **72 Vermin**

An occupier of premises must take reasonable measures to keep the premises free from fleas, other disease-carrying insects, rats and mice, except if the animals are kept as pets.

Maximum penalty—20 penalty units.

### 73 Sleeping accommodation

- (1) The occupier of premises must not allow a room or cubicle in the premises to be used for the purposes of sleeping accommodation unless—
  - (a) the room or cubicle has a floor area—
    - (i) 5.5m<sup>2</sup> or more for each person sleeping in it, for long-term sleeping accommodation, or
    - (ii) 2m<sup>2</sup> or more for each person sleeping in it, for other premises, or
  - (b) the room or cubicle has been exempted by the Minister under subsection (2) and complies with conditions attached to the exemption, or
  - (c) the premises are private domestic premises, or
  - (d) the premises are a correctional centre.

Maximum penalty—5 penalty units.

- (2) The Minister may, by written order, exempt an occupier of premises from the requirements of this section in relation to a room or cubicle in the premises if satisfied that the exemption will not have an adverse effect on the health of persons sleeping in the room or cubicle.
- (3) The exemption may be given unconditionally or subject to conditions.
- (4) In this section—

*long-term sleeping accommodation* means accommodation that is provided to the same person for a period of more than 28 consecutive days.

### 74 Anthrax

A person must not sell, offer for sale, consign, transmit, deliver for sale, use in a manufacturing process or receive for the purposes of business, a hide, portion of a hide, hair or wool of an animal that—

- (a) is suffering or has died from anthrax, or
- (b) the person has reason to believe is suffering or has died from anthrax.

Maximum penalty—20 penalty units.

### 75 Public authorities to notify public health risks

If a public authority considers, on reasonable grounds, that a situation has arisen in which the health of the public is, or is likely to be, at risk, the public authority must notify the public health officer for the part of the State.

## **Part 8 Disposal of bodies—the Act, s 134(2)(n)–(v)**

### **Division 1 General**

#### **76 Premises for handling of bodies**

- (1) A person must not, without the approval of the Secretary, use any premises other than a mortuary that complies with the relevant standards for mortuaries under the *Local Government Act 1993* for the embalming or other preparation of bodies for burial or cremation or for the placing of bodies in coffins for burial or cremation.

Maximum penalty—15 penalty units.

- (2) A person must not, without the approval of the Secretary, use any premises other than a holding room or a mortuary for the storage of bodies for burial or cremation.

Maximum penalty—15 penalty units.

- (3) A person must not store a body in a vehicle except—

- (a) during the transport of the body, or
- (b) with the approval of the Secretary.

Maximum penalty—15 penalty units.

- (4) A person must not use a holding room for any purpose other than the storage of bodies.

Maximum penalty—15 penalty units.

- (5) A person must not, without the approval of the Secretary, use the facilities of a hospital for the purposes of the business of a funeral director or of the operator of a mortuary transport service except for the removal of bodies of persons who died in the hospital.

Maximum penalty—15 penalty units.

- (6) The Secretary may give approval—

- (a) under subsection (1), (2) or (3)—generally or in a particular case, or
- (b) under subsection (5)—in a particular case.

#### **77 Facilities of body preparation rooms**

- (1) Unless otherwise approved by the Secretary generally or in a particular case, a person must not use a body preparation room unless it has the following—

- (a) a vehicle reception area adjacent to it and so designed that the transfer of uncoffined bodies from area to room and room to area is screened from public view,
- (b) at least one hand basin, with an adequate supply of hot and cold water and fitted with elbow operated, foot operated or hands-free taps,
- (c) sufficient slabs, tables and other fittings for the preparation of bodies for burial or cremation constructed of smooth impervious material and designed to facilitate draining and their

cleaning,

- (d) refrigerated body storage facilities big enough for 2 adult bodies,
- (e) 1 or more impervious containers, each fitted with an elbow operated or foot operated close-fitting cover or lid, for the reception and storage of all solid wastes arising from the preparation of bodies and for the reception and storage of all screenings from floor drains.

Maximum penalty—15 penalty units.

- (2) A person must not use the refrigerated body storage facilities in a body preparation room or holding room except to store bodies.

Maximum penalty—15 penalty units.

## **78 Vehicles**

- (1) A funeral director or the operator of a mortuary transport service must not use for the transport of bodies the part of a vehicle that is used by the funeral director or service for other purposes.

Maximum penalty—5 penalty units.

- (2) A funeral director or the operator of a mortuary transport service must not use for any other purpose the part of a vehicle that is used by the funeral director or service for the transport of bodies.

Maximum penalty—5 penalty units.

- (3) If part of a vehicle has been used to transport a body, a person must not use, or permit the use of, the part of the vehicle for the transport of another body until it has been cleaned of exudates from the first body.

Maximum penalty—5 penalty units.

- (4) A person must not dispose of a vehicle that the person has used for the transport of a body unless the vehicle has been cleaned to remove body exudates after the use.

Maximum penalty—5 penalty units.

- (5) A person must not transport an unembalmed body unless—

- (a) during the transport, the body is refrigerated at a temperature of less than 10°C, or
- (b) the duration of the transport is 8 hours or less and the person reasonably believes that transporting the body without refrigeration will not be a risk to public health.

Maximum penalty—5 penalty units.

## **Division 2 Handling of bodies**

### **79 Prescribed infectious diseases**

In this Division—

*prescribed infectious disease* means the following diseases—



- (a) avian influenza in humans,
- (b) diphtheria,
- (c) Middle East Respiratory Syndrome Coronavirus,
- (d) plague,
- (e) respiratory anthrax,
- (f) Severe Acute Respiratory Syndrome,
- (g) smallpox,
- (h) tuberculosis,
- (i) a viral haemorrhagic fever, including Lassa, Marburg, Ebola and Crimean-Congo fevers.

**80 Keeping of bodies by person who is not funeral director**

- (1) A person who is not a funeral director must not keep a body—
  - (a) if the body is kept at a hospital—for more than 21 days after the death, or
  - (b) in any other case—for more than 5 days after the death.Maximum penalty—20 penalty units.
- (2) The Secretary may approve, generally or in a particular case, of a body being kept for longer than permitted under subsection (1), subject to any conditions the Secretary considers appropriate.
- (3) This section does not apply to a body that is kept at premises licensed under the *Anatomy Act 1977* or the subject of an inquest under the *Coroners Act 2009*.

**81 Keeping of bodies by funeral director**

A funeral director must keep a body in a refrigerated body storage facility that is in a mortuary or holding room, unless the body is removed—

- (a) to another part of the mortuary, for a maximum of 8 hours a day, to prepare the body for burial or cremation, embalm the body or for a viewing of the body by mourners, or
- (b) to transport the body for burial, interment or cremation, or
- (c) to transport the body to another mortuary.

Maximum penalty—20 penalty units.

**82 Embalming of bodies**

- (1) A person must not embalm a body unless the person has successfully completed a course in embalming provided by a training provider accredited by the Australian Skills Quality Authority or approved by the Secretary.

Maximum penalty—20 penalty units.

- (2) A person must not embalm a body that the person has reason to believe is infected with a prescribed infectious disease.

Maximum penalty—20 penalty units.

### **83 Infection control procedures**

A person must, when placing a body in a bag or wrapping a body, comply with the document entitled *Infection Prevention and Control Policy* published by the Ministry of Health.

Maximum penalty—15 penalty units.

### **84 Bodies to be placed in body bags**

- (1) A responsible person must ensure the body of a dead person is not removed from a place unless—
- (a) the body has been placed and secured in a bag or wrapping in a way that prevents the leakage of any body exudate or other substance, and
  - (b) the name of, or an identification of, the dead person is clearly and indelibly written on the top outer surface of the bag or wrapping, and
  - (c) if the person has reason to believe that the body is infected with a prescribed infectious disease—the bag or wrapping is clearly and indelibly marked with the words “PRESCRIBED INFECTIOUS DISEASE—HANDLE WITH CARE”.

Maximum penalty—15 penalty units.

- (2) In this section—

*responsible person* means—

- (a) if the body is at a hospital—the chief executive officer of the hospital or a person authorised by the chief executive officer, or
- (b) if the body is at another premises or place—the funeral director or other person removing the body.

### **85 Removal of bodies from body bags**

- (1) A funeral director may only remove a body from a body bag if—
- (a) the funeral director has no reason to believe it is infected with a prescribed infectious disease, and
  - (b) the removal is for the purposes of—
    - (i) embalming the body, or
    - (ii) preparing the body for viewing, transport, burial or cremation, or
    - (iii) transferring the body to a coffin.

- (2) After a funeral director has embalmed or prepared a body, the funeral director must place it in a coffin or new body bag.

Maximum penalty—20 penalty units.

- (3) This section does not apply to a body that is the subject of an inquest under the *Coroners Act 2009* or a post-mortem examination carried out under the *Human Tissue Act 1983*.

Maximum penalty—20 penalty units.

## **86 Body viewing**

- (1) A funeral director may make a body available for viewing by mourners.

- (2) However, a funeral director must not make available for viewing a body infected with a prescribed infectious disease or a body that the funeral director has reason to believe is infected with a prescribed infectious disease.

Maximum penalty—10 penalty units.

- (3) A funeral director who makes an unembalmed body available for viewing—

(a) must not remove the body from refrigeration for a period longer than is necessary for making it available for viewing, and

(b) unless the body is to be buried or cremated immediately, must place the body under refrigeration after the viewing, and

(c) must not allow the body to remain unrefrigerated for a period of more than 8 hours in any day.

Maximum penalty—5 penalty units.

## **87 Bodies in holding rooms**

- (1) A person, other than a funeral director, must not keep a body in a holding room for more than 48 hours.

Maximum penalty—15 penalty units.

- (2) The Secretary may approve, generally or in a particular case, of a body being kept in a holding room for more than 48 hours, subject to any conditions the Secretary considers appropriate.

- (3) A person, other than a funeral director, who keeps a body in a holding room and who has reason to believe that not refrigerating the body will be a risk to public health must put the body in the refrigerated body storage facility of the holding room.

Maximum penalty (subsection (3))—15 penalty units.

## **88 Register of bodies prepared in mortuary**

- (1) A person who operates a mortuary must maintain a register of all bodies prepared in the mortuary.

Maximum penalty—10 penalty units.

- (2) The person must make an entry in the register relating to each body immediately after the body is delivered to the mortuary for preparation.

Maximum penalty—10 penalty units.

- (3) An entry must include the following—

- (a) the name, age and last address of the person whose body was prepared,
- (b) the date of the person's death,
- (c) the date the body was received,
- (d) the date the body was removed from the mortuary,
- (e) the name of the cemetery or crematory to which, or the person to whom, the body was delivered.

- (4) The person must keep a copy of the register at the mortuary and make it available for inspection on request by an authorised officer.

Maximum penalty—10 penalty units.

#### **89 Bodies to be placed in coffins**

Unless otherwise approved by the Secretary generally or in a particular case, a person must not—

- (a) bury a body unless the body has been placed in a coffin with a securely sealed lid, or
- (b) cremate a body, other than by alkaline hydrolysis, unless the body has been placed in a coffin with a securely sealed lid.

Maximum penalty—10 penalty units.

#### **90 Burial of bodies**

Unless otherwise approved by the Secretary generally or in a particular case, a person who buries a body contained in a coffin must place the coffin so that its upper surface is not less than 900mm below the natural surface level of the soil where it is buried.

Maximum penalty—5 penalty units.

#### **91 Transporting bodies**

- (1) A person must not use, or agree to the use of, a vehicle, other than a hearse or body collection vehicle, for transporting a body that the person has reason to believe is infected with a prescribed infectious disease without informing the owner or driver of the vehicle that the body is infected with the prescribed infectious disease.

Maximum penalty—10 penalty units.

- (2) A funeral director must, before despatching a body by a carrier other than a funeral director or the operator of a mortuary transport service—

- (a) if the funeral director has reason to believe the body is infected with a prescribed infectious

disease—ensure the bag or wrapping in which the body is placed is clearly and indelibly marked with the words “PRESCRIBED INFECTIOUS DISEASE—HANDLE WITH CARE”, and

- (b) enclose the body in a watertight coffin.

Maximum penalty—10 penalty units.

## **92 Burials in certain areas prohibited**

- (1) A person must not place a body in a grave or vault unless the grave or vault is located—
  - (a) in a public cemetery, or
  - (b) in a private cemetery or other place approved by a local government authority, or
  - (c) on private land, if the area of landholding is 5 hectares or more and the location has been approved by a local government authority, or
  - (d) on land reserved under the *National Parks and Wildlife Act 1974* or acquired under Part 11 of that Act, if the location has been approved by—
    - (i) a person or body, including a local council, trust board or board of management within the meaning of that Act, in which the care, control and management of the land is vested, or
    - (ii) if no person or body has been vested with the care, control and management of the land—the Secretary of the Department of Premier and Cabinet.

Maximum penalty—10 penalty units.

- (2) A person must not bury a body in or on land if to do so would make likely the contamination of a drinking water supply or a domestic water supply.

Maximum penalty—10 penalty units.

## **93 Burials in vaults**

- (1) A person must not place a body in a vault unless—
  - (a) the body has been embalmed and hermetically enclosed and there is no viewing panel in the enclosure, and
  - (b) the body and enclosure are placed in a coffin and the lid secured in position.

Maximum penalty—5 penalty units.

- (2) The Secretary may, generally or in a particular case, approve other conditions under which a body may be placed in a vault.

## **Division 3 Exhumations**

### **94 Exhumation without approval prohibited**

- (1) A person must not exhume the remains of a body unless the exhumation of the remains has

been—

- (a) ordered by a coroner, or
- (b) approved by the Secretary.

Maximum penalty—20 penalty units.

- (2) However, a funeral director may, without a coroner's order or Secretary's approval, transfer a coffin from a vault in a cemetery to a mortuary for the purposes of the coffin being immediately repaired and returned to the vault.
- (3) A funeral director must return the coffin to the cemetery within 24 hours of the transfer.

Maximum penalty—10 penalty units.

#### **95 Application to exhume remains**

- (1) An application for the approval of the Secretary to exhume the remains of the body of a dead person may be made by—
  - (a) an executor of the estate of the dead person, or
  - (b) the nearest surviving relative of the dead person, or
  - (c) if there is no executor or relative available to make the application—a person who, in the opinion of the Secretary, is a proper person in all the circumstances to make the application.
- (2) An application must be made in the approved form and be accompanied by—
  - (a) a certified copy of the death certificate issued under the *Births, Deaths and Marriages Registration Act 1995*, and
  - (b) a statutory declaration as to the relationship of the applicant to the dead person and the dead person's wishes, if any, regarding the disposal of the dead person's body, so far as the wishes are known to the applicant, and
  - (c) the application fee specified in Schedule 5.
- (3) Despite subsection (2), the Secretary may dispense with the requirement for an application to be accompanied by a certified copy of the death certificate issued under the *Births, Deaths and Marriages Registration Act 1995* if the Secretary—
  - (a) is satisfied that it is not reasonably practicable to obtain the death certificate in the circumstances, and
  - (b) consults the State Coroner about the application.

#### **96 Approval to exhume remains**

- (1) The Secretary may—
  - (a) grant an approval to exhume the remains of a body, subject to any conditions specified in the approval, or

- (b) refuse the application.
- (2) In granting an approval to exhume the remains of a body under this section, the Secretary must impose conditions the Secretary considers necessary to ensure the remains of the body are treated with dignity and respect during the exhumation.
- (3) An approval granted under this section remains valid for 3 months from the date of the approval or for a period agreed to by the Secretary.

#### **97 Exhumation not to take place without authorised officer**

- (1) A person must not proceed with an exhumation unless an authorised officer or a member of staff of the Ministry of Health is present at the exhumation.

Maximum penalty—15 penalty units.

- (2) A person must not proceed with an exhumation if the authorised officer or the Ministry of Health staff member who is present at the exhumation orders the exhumation to stop.

Maximum penalty—15 penalty units.

### **Division 4 Cremation**

#### **98 No refusal to cremate**

A cremation authority must not, without reasonable excuse, refuse to accept a body for cremation.

Maximum penalty—10 penalty units.

#### **99 Bodies to be cremated separately**

- (1) Unless otherwise approved by the Secretary, generally or in a particular case, a person must not cremate more than one body in the same crematory retort at any one time.

Maximum penalty—10 penalty units.

- (2) In this section—

*crematory retort* means the receptacle into which a body is placed for cremation.

#### **100 Cremation within 4 hours**

A cremation authority must commence cremating a body within 4 hours of the delivery of the body to the crematory unless the body is placed in a holding room.

Maximum penalty—5 penalty units.

#### **101 Cremation of identified bodies only**

A person must not cremate the remains of a body that has not been identified.

Maximum penalty—20 penalty units.

#### **102 No cremation against dead person's wishes**

- (1) A person must not cremate the body of a dead person if the person is aware that the proposed

cremation would be contrary to a written direction left by the dead person.

Maximum penalty—10 penalty units.

- (2) A person must not cremate the body of a dead person otherwise than in accordance with a written direction left by the dead person about the particular method of cremation that was or was not to be used.

Maximum penalty—10 penalty units.

### **103 Documentation required for cremation**

- (1) A cremation authority must not cremate the body of a dead person unless the authority has the following—

- (a) an application for cremation of the body,
- (b) a cremation permit,
- (c) cremation risk advice from a relevant medical practitioner,
- (d) a death certificate or an order authorising the disposal of the remains of the dead person by a coroner under the *Coroners Act 2009*, section 101.

Maximum penalty—20 penalty units.

- (2) Subsection (1)(c) and (d) do not apply to a dead person who is a stillborn child.
- (3) This section does not apply to a cremation of an organ or part of a body that has been subject to an anatomical examination under the *Anatomy Act 1977* or a post-mortem examination under the *Human Tissue Act 1983* if the cremation is carried out in accordance with an exemption granted by the Secretary generally or in a particular case.
- (4) This section does not apply to a cremation of the body of a dead person that has been buried for at least 10 years if the cremation is carried out in accordance with an exemption granted by the Secretary on application by—
- (a) an executor of the estate of the dead person, or
  - (b) the nearest surviving relative of the dead person, or
  - (c) if there is no executor or relative available to make the application—a person who, in the opinion of the Secretary, is a proper person in all the circumstances to make the application.
- (5) An application under subsection (4) must be—
- (a) made in the approved form, and
  - (b) accompanied by the fee specified in Schedule 5.
- (6) The form may require information contained in the form to be supported by a statutory declaration.
- (7) In this section—



**cremation risk advice** means written advice about the risk, if any, that the cremation of the body of a dead person may pose, including the risk of death, injury or illness to another person because of, for example, a pacemaker or other implant in the body.

**relevant medical practitioner**, in relation to cremation risk advice for a dead person, means a medical practitioner who—

- (a) attended the person immediately before, or during the illness terminating in, the death of the person, or
- (b) has relevant knowledge of the dead person's medical history.

#### **104 Cremation application for dead persons other than stillborn children**

- (1) An application for cremation of the body of a dead person who is not a stillborn child must be made in the approved form to a medical referee or coroner.
- (2) The form may require information contained in the form to be supported by a statutory declaration.
- (3) The application may be made by—
  - (a) an executor of the estate of the dead person, or
  - (b) a nearest surviving relative of the dead person, or
  - (c) if there is no executor or relative available to make the application—a person who, in the opinion of the medical referee or coroner, is a proper person in all the circumstances to make the application.

#### **105 Cremation application for stillborn children**

- (1) An application for cremation of the body of a stillborn child must be made in the approved form to a medical referee.
- (2) The form may require information contained in the form to be supported by a statutory declaration.
- (3) The application may be made by—
  - (a) a nearest surviving relative of the stillborn child, or
  - (b) if there is no nearest surviving relative available to make the application—a person who, in the opinion of the medical referee, is a proper person in all the circumstances to make the application.

#### **106 Cremation permits for dead persons other than stillborn children**

- (1) A medical referee may issue a cremation permit for the body of a dead person who is not a stillborn child in the approved form if the medical referee receives—
  - (a) an application for cremation of the body of a dead person who is not a stillborn child, and
  - (b) a death certificate for the dead person.

- (2) However, a medical referee must not issue a cremation permit for the body of a dead person if—
- (a) the death of the person is examinable under the *Coroners Act 2009* by a coroner, or
  - (b) the proposed cremation would be contrary to a written direction left by the dead person, or
  - (c) the medical referee is not satisfied that the identity of the body has been correctly disclosed in the application for cremation, or
  - (d) the medical referee is not satisfied that the cause of death has been correctly identified in the death certificate, or
  - (e) the application for cremation or the death certificate appears to the medical referee to be otherwise incorrect or incomplete, or
  - (f) the same medical referee issued the death certificate, or
  - (g) the medical referee has administered professional care or treatment to the dead person at any time in the 6 months preceding death, or
  - (h) the medical referee is the spouse, de facto partner, parent, grandparent, aunt, uncle, child or sibling of the dead person.

Maximum penalty—20 penalty units.

- (3) A medical referee may conduct an external examination of the body before issuing a cremation permit if the medical referee considers it necessary.
- (4) A medical referee who issues a cremation permit for the body of a dead person must include in the permit any written direction left by the dead person about the particular method of cremation that was or was not to be used.

Maximum penalty—20 penalty units.

- (5) A person who is not a medical referee must not issue a permit required under this Division to be issued by a medical referee.

Maximum penalty (subsection (5))—20 penalty units.

#### **107 Cremation permits for stillborn children**

- (1) A medical referee who receives an application for cremation of the body of a stillborn child may issue a cremation permit in the approved form.
- (2) However, a medical referee must not issue a cremation permit for the body of a stillborn child unless—
- (a) the child has been certified to be stillborn by a medical practitioner who was in attendance at the delivery of the child, or
  - (b) the medical referee is satisfied, after any inquiries the medical referee thinks necessary, that the child was stillborn.
- (3) A medical referee must not issue a cremation permit for the body of a stillborn child if—

- (a) the medical referee has administered professional care or treatment to the child or the child's mother at any time in the 6 months preceding death, or
- (b) the medical referee is a parent or grandparent of the child.

#### **108 Cremation permits issued by coroner**

- (1) A coroner who receives an application for cremation of the body of a person whose death is examinable by the coroner under the *Coroners Act 2009* may issue a cremation permit in the approved form.
- (2) However, a coroner must not issue a cremation permit for the body of a dead person if—
  - (a) the proposed cremation would be contrary to a written direction left by the dead person, or
  - (b) the application for cremation appears to the coroner to be incorrect or incomplete.
- (3) A coroner who issues a cremation permit for the body of a dead person must include in the permit any written direction left by the dead person about the particular method of cremation that was or was not to be used.
- (4) A cremation permit issued for the body of the dead person by a person who exercises the functions of a coroner in another State or Territory under legislation of the State or Territory that regulates the cremation of bodies is taken to have been issued under this section.

#### **109 Cremated remains**

- (1) After cremating the body of a dead person, a cremation authority must, in accordance with any reasonable written directions left by the person or any reasonable directions of the applicant for the cremation—
  - (a) give the cremated remains to the applicant, or
  - (b) dispose of the cremated remains in a burial ground or in land adjoining the crematory reserved for the burial of cremated remains, or
  - (c) otherwise keep or dispose of the cremated remains.

Maximum penalty—10 penalty units.

- (2) If the cremated remains are to be given to the applicant, and the applicant does not take them within a reasonable time, the cremation authority must give 14 days' notice to the applicant of the cremation authority's intention to dispose of the cremated remains before disposing of them.

Maximum penalty—10 penalty units.

#### **110 Closing of crematories**

- (1) The Minister may, on giving 28 days' written notice to a cremation authority, order the closing of a crematory whose operations are directed by the authority.
- (2) A cremation authority must not, after the 28-day period has expired, direct or permit the operation of a crematory that is the subject of an order until the order is revoked by the Minister.

Maximum penalty—20 penalty units.

- (3) Except if an order has been given under subsection (1), a cremation authority must, not less than 28 days before temporarily or permanently closing a crematory whose operations it directs—
  - (a) notify the Minister of the intended closure, and
  - (b) publish a notice giving details of the intended closure in a newspaper circulating in the district where the crematory is located, and
  - (c) prominently display a copy of the notice at the entrance of the crematory.

Maximum penalty—20 penalty units.

- (4) A person must not re-open a crematory closed by a cremation authority without the approval of the Minister.

Maximum penalty (subsection (4))—20 penalty units.

## **Division 5 Miscellaneous**

### **111 Register of mortuaries**

- (1) The Secretary must maintain a register of mortuaries.
- (2) A person who operates a mortuary must give the Secretary written notice of the following—
  - (a) the name and location of the mortuary,
  - (b) the name and address of the person who operates the mortuary,
  - (c) the telephone number of the mortuary or of the person who operates the mortuary,
  - (d) the name and address of any funeral director who has access to the mortuary.

Maximum penalty—20 penalty units.

- (3) The notification must be accompanied by the fee, not exceeding the fee specified in Schedule 5, determined by the Secretary.
- (4) The person who operates the mortuary must notify the Secretary of a change in the information notified to the Secretary.

Maximum penalty—20 penalty units.

- (5) No fee is payable for a notification under subsection (4).

### **112 Powers of authorised officers**

An authorised officer may do any of the following—

- (a) enter and inspect a mortuary or premises that the officer has reason to suspect is a mortuary,
- (b) enter a crematory and inspect equipment or apparatus at the crematory,

- (c) enter a cemetery and inspect any part of the cemetery,
- (d) enter and inspect a holding room,
- (e) inspect a register or other record or document at a mortuary, crematory, cemetery or holding room and take copies of or extracts from the register, record or document,
- (f) enter premises used by a mortuary transport service and inspect records, equipment or apparatus used by the mortuary transport service.

### **113 Guidelines as defence**

It is a defence to a prosecution for an offence against this Part if the defendant satisfies the court that the act or omission constituting the offence was done in compliance with any guidelines published by the Ministry of Health.

### **114 Offences by corporations**

This Regulation, sections 78, 98, 100, 102, 109 and 111(2) and (4) are declared to be excluded provisions for the Act, section 119(2).

### **115 Death certificates for deaths outside NSW**

The Secretary may determine that a document issued in relation to the death of a person under the law of another State, a Territory or the Commonwealth or any other place is taken to be a death certificate for the purposes of this Regulation.

## **Part 9 Miscellaneous**

### **116 Codes of conduct for non-registered health practitioners and relevant health organisations—the Act, s 100(1)**

- (1) The code of conduct set out in Schedule 3 is prescribed for the provision of health services by—
  - (a) a health practitioner who is not a registered health practitioner, including a de-registered health practitioner, and
  - (b) a registered health practitioner who provides health services that are unrelated to the practitioner's registration.
- (2) The code of conduct set out in Schedule 4 is prescribed for the provision of health services by a relevant health organisation.
- (3) The code of conduct set out in Schedule 4 does not apply to the provision of the following services by a relevant health organisation—
  - (a) residential care, home care or flexible care under the *Aged Care Act 1997* of the Commonwealth,
  - (b) a Commonwealth-funded aged care service under the *Aged Care Quality and Safety Commission Act 2018* of the Commonwealth.

### **117 Corresponding interstate prohibition orders**

For the Act, section 101(1), definition of *corresponding interstate prohibition order*, the following are prescribed—

- (a) an interim prohibition order or prohibition order made under the *Health Ombudsman Act 2013* of Queensland,
- (b) an order made under the *Health Practitioner Regulation National Law Act 2009* of Queensland, Schedule, section 196(4), as it applies as a law of a State or Territory,
- (c) an order made under the *Health and Community Services Complaints Act 2004* of South Australia, Part 6, Division 5,
- (d) an order made under the *Health Complaints Act 2016* of Victoria, Part 8,
- (e) an order made under the *Health Practitioner Regulation National Law (WA) Act 2010* of Western Australia, Schedule, section 196(4).

### **118 Health practitioners who are de-registered or subject to prohibition orders—the Act, s 102**

- (1) The notice required under the Act, section 102(1)(a) must be written and include the following—
  - (a) the type of registration the health practitioner held prior to becoming a de-registered health practitioner,
  - (b) the date the health practitioner became a de-registered health practitioner,
  - (c) the reason the health practitioner became a de-registered health practitioner,
  - (d) the period for which the health practitioner will be a de-registered health practitioner.
- (2) The notice required under the Act, section 102(1)(b) must consist of a copy of the relevant decision and the orders relating to the de-registration of the health practitioner.
- (3) The notice required under the Act, section 102(2)(a) must be written and include the following—
  - (a) the type of health service or services the practitioner provided prior to becoming subject to the prohibition order,
  - (b) the date of the prohibition order,
  - (c) any health service the health practitioner has been prohibited from practising under the prohibition order,
  - (d) the reason the health practitioner is subject to the prohibition order,
  - (e) the period for which the health practitioner is subject to the prohibition order.
- (4) The notice required under the Act, section 102(2)(b) must consist of a copy of the relevant decision and the orders relating to the prohibition order.

**119 Disclosure of information about persons who have cervical screening tests—the Act, s 130(e)**

- (1) For the purposes of the National Cancer Screening Register, a person may disclose the identifying details of a person who has had a cervical cancer test (a *patient*), together with the results of the test, to the following—
  - (a) an officer or employee of the Commonwealth or an authority of the Commonwealth,
  - (b) a person engaged by the Commonwealth, or an authority of the Commonwealth, to perform work relating to those purposes,
  - (c) an officer or employee of a person referred to in paragraph (b), or engaged by a person referred to in paragraph (b), to perform work relating to those purposes,
  - (d) a health practitioner engaged by the patient to take a specimen from the patient for a cervical screening test,
  - (e) a laboratory engaged on the patient's behalf to make a pathological or cytological examination of a specimen taken from the patient for a cervical screening test.
- (2) This section extends to the disclosure of information that was contained in the former Pap Test Register immediately before 1 May 2018 and was obtained in connection with the administration or execution of the Act.

**120 Public health or disease registers—the Act, s 97(1)(f)**

A public health or disease register may be established and maintained to facilitate any of the following—

- (a) the identification and monitoring of risk factors for particular diseases and conditions in the population or one or more sections of the population,
- (b) the measurement and monitoring of the impact of any of the following on the population or one or more sections of the population—
  - (i) diseases and conditions,
  - (ii) treatments for diseases and conditions,
  - (iii) risk factors of diseases and conditions,
  - (iv) health services,
- (c) the identification, monitoring or measurement of the health outcomes in relation to the population or one or more sections of the population,
- (d) the planning of health programs, or treatments or services, for the population or one or more sections of the population,
- (e) the evaluation of health programs, or treatments or services, for the population or one or more sections of the population.

**121 Nursing homes—the Act, s 5(1)**

For the Act, section 5(1), definition of *nursing home*, paragraph (b), a facility that was a nursing home for the purposes of the Act immediately before 1 July 2014 is prescribed.

**122 Minimum qualifications for director of nursing at nursing home—the Act, s 104(2)**

The minimum qualifications for appointment as director of nursing at a nursing home are—

- (a) 5 years post-basic or post-graduate nursing experience, and
- (b) 2 years experience in a management position in a hospital.

**123 Notification of improvement notices and prohibition orders—the Act, s 134**

A local government authority must, on or before 1 August in each year, provide the Secretary with the following information—

- (a) details of each improvement notice served during the previous financial year on an occupier of premises in the local government authority's area by an authorised officer appointed by the authority,
- (b) details of each prohibition order served during the previous financial year on an occupier of premises in the local government authority's area by—
  - (i) the local government authority, or
  - (ii) if the local government authority is a council—the General Manager of the council.

**124 Fee for improvement notices and prohibition orders—the Act, s 134(2)(w)**

- (1) A person who is given an improvement notice or a prohibition order must, within 60 days after the notice is given, pay the fee specified in Schedule 5 to the relevant agency if the notice or order contains a requirement to do so.
- (2) The relevant agency may—
  - (a) extend the time for payment of the fee, on the application of the person to whom the improvement notice or prohibition order was given, or
  - (b) waive payment of the whole or part of the fee, on the relevant agency's own initiative or on the application of the person to whom the improvement notice or prohibition order was given.
- (3) A person to whom an improvement notice or prohibition order is given must pay the fee required by this section within the time provided under this section.  
Maximum penalty—20 penalty units.
- (4) In this section—

*relevant agency* means—

  - (a) for an improvement notice given by an authorised officer appointed by the Secretary or a prohibition order given by the Secretary—the Secretary, or



- (b) for an improvement notice given by an authorised officer appointed by a local government authority or a prohibition order given by a local government authority—the local government authority, or
- (c) for a prohibition order given by a General Manager of a council—the council.

#### **125 Fee for re-inspection of premises subject to prohibition order—the Act, s 134(2)(w)**

- (1) The fee payable by an occupier of premises who is subject to a prohibition order for an inspection of the premises by an authorised officer under the Act, section 46(1) is the amount specified in Schedule 5 for each hour of the inspection.
- (2) The fee payable for an inspection must be for at least half an hour and not more than 2 hours, excluding travelling time.

#### **126 Savings**

An act, matter or thing that, immediately before the repeal of the *Public Health Regulation 2012*, had effect under that Regulation continues to have effect under this Regulation.

### **Schedule 1 Requirements for public swimming pools and spa pools**

section 27

#### **1 Definitions**

In this Schedule—

*bromine disinfected pool* means a public swimming pool or spa pool that is disinfected with bromine.

*chlorine disinfected pool* means a public swimming pool or spa pool that is disinfected with chlorine.

*combined chlorine* means chloramines.

*free available chlorine* means chlorine that is not combined with any other chemical compound.

*total chlorine level* of the water in a chlorine disinfected pool means the total of the concentration of free available chlorine and combined chlorine.

#### **2 Temperature**

The temperature of the water must not exceed 38°C.

#### **3 Disinfection**

- (1) A pool must be fitted with an automated or a continuous metered disinfectant dosing system.
- (2) A pool must be disinfected with chlorine or bromine.

#### **4 Chlorine disinfected pools**

- (1) Except as provided by subsection (2), the concentration of free available chlorine in the water in a chlorine disinfected pool must be equal to or greater than the following—

- (a) for an outdoor public swimming pool—1.0 mg/L,
  - (b) for an outdoor public swimming pool in which cyanuric acid is used—3.0 mg/L,
  - (c) for an indoor swimming pool—2.0 mg/L,
  - (d) for a spa pool—2.0 mg/L.
- (2) The concentration of free available chlorine in the water in a chlorine disinfected pool in which the water has a pH level greater than 7.6 must be equal to or greater than the following—
- (a) for an outdoor public swimming pool—2.0 mg/L,
  - (b) for an outdoor public swimming pool in which cyanuric acid is used—4.0 mg/L,
  - (c) for an indoor swimming pool—3.0 mg/L,
  - (d) for a spa pool—3.0 mg/L.
- (3) The concentration of combined chlorine in the water in a chlorine disinfected pool must not exceed 1.0 mg/L.
- (4) The total chlorine level of the water in a chlorine disinfected pool must not exceed 10.0 mg/L.

## **5 Bromine disinfected pools**

- (1) The concentration of bromine in the water in a bromine disinfected pool must be equal to or greater than the following—
- (a) for an outdoor public swimming pool—2.25 mg/L,
  - (b) for an indoor swimming pool—4.5 mg/L,
  - (c) for a spa pool—4.5 mg/L.
- (2) The concentration of bromine in the water in a bromine disinfected pool must not exceed 9.0 mg/L.

## **6 Levels of pH**

The pH level of the water must be—

- (a) for a chlorine disinfected pool—between 7.0 and 7.8, or
- (b) for a bromine disinfected pool—between 7.0 and 8.0.

## **7 Testing of disinfectants and pH levels**

- (1) The disinfectant level and the pH level of the water in a bromine or chlorine disinfected pool with a continuous metered disinfectant dosing system must be tested manually once every day before the pool opens for use.
- (2) The disinfectant level and the pH level of the water in a bromine or chlorine disinfected pool with an automated disinfectant dosing system must—

- (a) be recorded every day once before the pool opens for use by the public and once during the period in which the pool is being used, and
  - (b) be tested manually once every day.
- (3) The disinfectant level and the pH level of the water in a pool must be tested more frequently than provided for by subsections (1) and (2) if the occupier of the premises at which the pool is situated considers it necessary, taking into account the following—
- (a) the number of people swimming in the pool at a particular time,
  - (b) the hours of operation of the pool,
  - (c) the depth of the pool,
  - (d) the effect of sunlight on disinfectant levels.
- (4) In this section—
- disinfectant level*** means—
- (a) for a bromine disinfected pool—the concentration of bromine in the water, and
  - (b) for a chlorine disinfected pool—the concentration of free available chlorine and the total chlorine level of the water.

## **8 Alkalinity**

- (1) The alkalinity of the water must be between 80 mg/L and 200 mg/L.
- (2) The alkalinity of the water must be tested once a day.
- (3) However, if liquid chlorine, also known as sodium hypochlorite, is used as a disinfectant in the pool or a carbon dioxide-based pH control is used in the pool, the alkalinity must be tested once a month only.

## **9 Ozone**

- (1) Ozone may be used in the circulation system of a pool but must not be present in the pool.
- (2) If ozone is used in the circulation system of the pool, the pool must be tested once a week for the presence of ozone.

## **10 Cyanuric acid—outdoor chlorine disinfected pools**

- (1) Cyanuric acid may only be used in an outdoor chlorine disinfected pool and must not be used in a spa pool.
- (2) If cyanuric acid is used, the concentration of cyanuric acid in the water must be tested once a week and must not exceed 50 mg/L.

## **11 Records**

A record must be made, and kept for at least 6 months, of the results of the testing required under this Schedule.

## Schedule 2 Notification of certain deaths

section 57(b) and (c)

### Part 1 Perinatal death

Full name of mother of deceased infant.

Usual residential address of mother at time of birth of deceased infant.

Date of birth of mother.

Date of first day of mother's last menstrual period, if known.

Estimated gestational age of deceased infant at time of birth.

Date of birth of infant.

Vital status at time of birth—live born or stillborn.

Name of hospital of birth or address of place of birth if not a hospital.

For live born infant—date of death.

For live born infant—name of hospital where death occurred or address of place of death, if not a hospital.

Sex of infant.

Plurality—single or multiple birth.

If multiple birth—total number of infants at the birth.

If multiple birth—the number of the deceased infant in the birth order.

Birth weight in grams.

Cause of death, as recorded on Medical Certificate of Cause of Perinatal Death.

### Part 2 Sudden infant death syndrome

Full name of mother of deceased infant.

Usual residential address of mother at time of birth of infant.

Date of birth of mother.

Full name of infant.

Date of birth of infant.

Name of hospital of birth or address of place of birth if not a hospital.

Sex of infant.

Usual residential address of infant.

Address of place at which infant was found deceased or moribund.

Date of death of infant.

## Schedule 3 Code of conduct for non-registered health practitioners

section 116(1)

**Note—** In the *Public Health Act 2010* and this code of conduct, **health organisation**, **health practitioner**, **health service** and **relevant health organisation** have the same meanings as in the *Health Care Complaints Act 1993*.

The *Health Care Complaints Act 1993* definitions are—

**health organisation** means a body that provides a health service, not being a health practitioner, and

**health practitioner** means a natural person who provides a health service, whether or not the person is registered under the Health Practitioner Regulation National Law, and

**health service** includes the following services, whether provided as public or private services—

- (a) medical, hospital, nursing and midwifery services,
- (b) dental services,
- (c) mental health services,
- (d) pharmaceutical services,
- (e) ambulance services,
- (f) community health services,
- (g) health education services,
- (h) welfare services necessary to implement any services referred to in paragraphs (a)–(g),
- (i) services provided in connection with Aboriginal and Torres Strait Islander health practices and medical radiation practices,
- (j) Chinese medicine, chiropractic, occupational therapy, optometry, osteopathy, physiotherapy, podiatry and psychology services,
- (k) optical dispensing, dietitian, massage therapy, naturopathy, acupuncture, speech therapy, audiology and audiometry services,
- (l) services provided in other alternative health care fields,
- (m) forensic pathology services,
- (n) a service prescribed by the regulations as a health service for the purposes of the *Health Care Complaints Act 1993*, and

**relevant health organisation** means a person that is a health organisation other than the following—

- (a) a public health organisation within the meaning of the *Health Services Act 1997*,
- (b) a public hospital within the meaning of the *Health Services Act 1997*,
- (c) a private health facility licensed under the *Private Health Facilities Act 2007*,
- (d) an organisation or class of organisation prescribed by the regulations for the purposes of this definition.

### 1 Health services to be provided in safe and ethical way

- (1) A health practitioner must provide health services in a safe and ethical way.
- (2) Without limiting subsection (1), a health practitioner must comply with the following principles—
  - (a) a health practitioner must maintain the necessary competence in the practitioner's field of

practice,

- (b) a health practitioner must practise in accordance with accepted professional standards,
- (c) a health practitioner must not provide health care of a type that is outside the practitioner's experience or training,
- (d) a health practitioner must not provide services that the practitioner is not qualified to provide,
- (e) a health practitioner must not use the possession of particular qualifications to mislead or deceive a client as to the practitioner's competence in the practitioner's field of practice or ability to provide treatment,
- (f) a health practitioner must prescribe only treatments or appliances that serve the needs of the client,
- (g) a health practitioner must recognise the limitations of the treatment the practitioner can provide and refer a client to other competent health practitioners in appropriate circumstances,
- (h) a health practitioner must recommend to a client that additional opinions and services be sought, if appropriate,
- (i) a health practitioner must assist a client to find other appropriate health care professionals, if required and practicable,
- (j) a health practitioner must encourage a client to inform the client's treating medical practitioner, if any, of the treatments the client is receiving,
- (k) a health practitioner must have a sound understanding of adverse interactions between the therapies and treatments the practitioner provides or prescribes and other medications or treatments, whether prescribed or not, that the practitioner is aware a client is taking or receiving,
- (l) a health practitioner must ensure appropriate first aid is available to deal with misadventure during a client consultation,
- (m) a health practitioner must obtain appropriate emergency assistance, for example, from the Ambulance Service, if there is a serious misadventure during a client consultation.

## **2 Health practitioners diagnosed with infectious medical condition**

- (1) A health practitioner who has been diagnosed with a medical condition that can be transmitted to clients must ensure the practitioner practises in a way that does not put clients at risk.
- (2) Without limiting subsection (1), a health practitioner who has been diagnosed with a medical condition that can be transmitted to clients should take and follow relevant advice from an appropriate medical practitioner.
- (3) In this section—

***relevant advice*** means advice on the steps to be taken to modify a health practitioner's practice

to avoid the possibility of transmitting the practitioner's medical condition to clients.

### **3 Health practitioners not to make claims to cure certain serious illnesses**

- (1) A health practitioner must not hold out that the practitioner is qualified, able or willing to cure cancer or other terminal or incurable illnesses.
- (2) A health practitioner may make a claim as to the practitioner's ability or willingness to treat or alleviate the symptoms of the illnesses only if the claim can be substantiated.

### **4 Health practitioners to adopt standard precautions for infection control**

- (1) A health practitioner must adopt standard precautions for the control of infection in the practitioner's practice.
- (2) Without limiting subsection (1), a health practitioner who carries out a skin penetration procedure must comply with the relevant provisions of this Regulation in relation to the carrying out of the procedure.

### **5 Appropriate conduct in relation to treatment advice**

- (1) A health practitioner must not attempt to dissuade a client from seeking or continuing with treatment by a registered medical practitioner.
- (2) A health practitioner must accept the client's right to make informed choices in relation to the client's health care.
- (3) A health practitioner should communicate and co-operate with colleagues and other health care practitioners and agencies in the best interests of the practitioner's clients.
- (4) A health practitioner who has serious concerns about the treatment provided to a client by another health practitioner or a relevant health organisation must refer the matter to the Health Care Complaints Commission.

### **6 Health practitioners not to practise under influence of alcohol or drugs**

- (1) A health practitioner must not practise under the influence of alcohol or unlawful drugs.
- (2) A health practitioner who is taking prescribed medication must obtain advice from the prescribing health practitioner on the impact of the medication on the practitioner's ability to practise.
- (3) A health practitioner who is taking prescribed medication must not treat a client if the practitioner's ability is or may be impaired.

### **7 Health practitioners not to practise with certain physical or mental conditions**

A health practitioner must not practise while suffering from a physical or mental impairment, disability, condition or disorder, including an addiction to alcohol or a drug, whether or not prescribed, that—

- (a) detrimentally affects, or is likely to detrimentally affect, the practitioner's ability to practise, or
- (b) places clients at risk of harm.

## **8 Health practitioners not to financially exploit clients**

- (1) A health practitioner must not financially exploit a client.
- (2) A health practitioner must not accept financial inducements or gifts for referring clients to other health practitioners or to the suppliers of medications or therapeutic goods or devices.
- (3) A health practitioner must not offer financial inducements or gifts in return for client referrals from other health practitioners or relevant health organisations.
- (4) A health practitioner must not provide services and treatments to a client unless they are designed to maintain or improve the client's health or wellbeing.

## **9 Health practitioner required to have clinical basis for treatments**

A health practitioner must not diagnose or treat an illness or condition without an adequate clinical basis.

## **10 Health practitioners not to misinform clients**

- (1) A health practitioner must not engage in misinformation or misrepresentation about—
  - (a) the products or services the practitioner provides, or
  - (b) the practitioner's qualifications, training or professional affiliations.
- (2) A health practitioner must provide truthful information about the practitioner's qualifications, training or professional affiliations if a client asks for information about the matters.
- (3) A health practitioner must not make claims, directly or in advertising or promotional material, about the efficacy of treatment or services provided if the claims cannot be substantiated.

## **11 Health practitioners not to engage in sexual or close relationship with clients**

- (1) A health practitioner must not engage in a sexual or other close personal relationship with a client.
- (2) Before engaging in a sexual or other close personal relationship with a former client, a health practitioner must ensure a suitable period of time has elapsed since the conclusion of their therapeutic relationship.

## **12 Health practitioners must keep appropriate records**

A health practitioner must maintain accurate, legible and contemporaneous clinical records for each client consultation.

## **13 Health practitioners must keep appropriate insurance**

A health practitioner must ensure appropriate indemnity insurance arrangements are in place in relation to the practitioner's practice.

## **14 Health practitioners must ensure confidentiality and privacy of client health information**

A health practitioner must have appropriate policies and procedures in place to ensure the health information of the practitioner's clients is kept confidential and the privacy of the practitioner's



clients is protected, including by complying with relevant legislation.

**Example—** A health practitioner may have obligations under the *Health Records and Information Privacy Act 2002* and the *Privacy Act 1988* of the Commonwealth.

## 15 Display of code of conduct and other information

- (1) A health practitioner must display the following documents—
  - (a) this code of conduct,
  - (b) a document in the approved form that contains information about how clients may make a complaint to the Health Care Complaints Commission.
- (2) The documents must be displayed—
  - (a) at all premises where the practitioner practises, so that the documents are easily visible to clients entering the premises, or
  - (b) if the health practitioner has a website—on the website.
- (3) This section does not apply to the following—
  - (a) the premises of a body within the public health system within the meaning of the *Health Services Act 1997*,
  - (b) a private health facility within the meaning of the *Private Health Facilities Act 2007*,
  - (c) premises at which the Ambulance Service of NSW provides ambulance services within the meaning of the *Health Services Act 1997*,
  - (d) premises of an approved provider within the meaning of the *Aged Care Act 1997* of the Commonwealth.

## 16 Sale and supply of optical appliances

- (1) A health practitioner must not sell or supply an optical appliance, other than cosmetic contact lenses, to a person unless the practitioner does so in accordance with a prescription from a person lawfully authorised to prescribe the optical appliance.

**Note—** See the *Health Practitioner Regulation National Law (NSW)*, section 122 for the persons who can lawfully prescribe optical appliances in New South Wales.
- (2) A health practitioner must not sell or supply contact lenses to a person unless the practitioner—
  - (a) was licensed under the *Optical Dispensers Act 1963* immediately before its repeal, or
  - (b) has a Certificate IV in optical dispensing or an equivalent qualification.
- (3) A health practitioner who sells or supplies contact lenses to a person must provide the person with written information about the care, handling and wearing of contact lenses, including advice about possible adverse reactions to wearing contact lenses.
- (4) This section does not apply to the sale or supply of the following—
  - (a) handheld magnifiers,

- (b) corrective lenses designed for use only in diving masks or swimming goggles,
- (c) ready-made spectacles that—
  - (i) are designed to alleviate the effects of presbyopia only, and
  - (ii) comprise 2 lenses of equal power, being a power of plus one dioptre or more but not exceeding plus 3.5 dioptries.

(5) In this section—

**cosmetic contact lenses** means contact lenses that are not designed to correct, remedy or relieve a refractive abnormality or defect of sight.

**optical appliance** has the same meaning as in the *Health Practitioner Regulation National Law (NSW)*, section 122.

## Schedule 4 Code of conduct for health organisations

section 116(2)

**Note 1**— In the *Public Health Act 2010* and this code of conduct, **health organisation**, **health practitioner**, **health service** and **relevant health organisation** have the same meanings as in the *Health Care Complaints Act 1993*.

The *Health Care Complaints Act 1993* definitions are—

**health organisation** means a body that provides a health service, not being a health practitioner, and

**health practitioner** means a natural person who provides a health service, whether or not the person is registered under the Health Practitioner Regulation National Law, and

**health service** includes the following services, whether provided as public or private services—

- (a) medical, hospital, nursing and midwifery services,
- (b) dental services,
- (c) mental health services,
- (d) pharmaceutical services,
- (e) ambulance services,
- (f) community health services,
- (g) health education services,
- (h) welfare services necessary to implement any services referred to in paragraphs (a)–(g),
- (i) services provided in connection with Aboriginal and Torres Strait Islander health practices and medical radiation practices,
- (j) Chinese medicine, chiropractic, occupational therapy, optometry, osteopathy, physiotherapy, podiatry and psychology services,
- (k) optical dispensing, dietitian, massage therapy, naturopathy, acupuncture, speech therapy, audiology and audiometry services,
- (l) services provided in other alternative health care fields,
- (m) forensic pathology services,
- (n) a service prescribed by the regulations as a health service for the purposes of the *Health Care Complaints Act 1993*, and

**relevant health organisation** means a person that is a health organisation other than the following—

- (a) a public health organisation within the meaning of the *Health Services Act 1997*,
- (b) a public hospital within the meaning of the *Health Services Act 1997*,
- (c) a private health facility licensed under the *Private Health Facilities Act 2007*,
- (d) an organisation or class of organisation prescribed by the regulations for the purposes of this definition.

**Note 2**— This code of conduct does not apply to the provision of residential care, home care or flexible care under the *Aged Care Act 1997* of the Commonwealth or a Commonwealth-funded aged care service under the *Aged Care Quality and Safety Commission Act 2018* of the Commonwealth.

## 1 Definitions

(1) In this code of conduct—

*client* of a relevant health organisation includes a client of an employee of a relevant health organisation.

*employee* of a relevant health organisation means a person who—

- (a) is employed or engaged by the relevant health organisation to provide health services, or
  - (b) provides health services under another arrangement with a relevant health organisation.
- (2) An employee includes a health practitioner, whether or not the code of conduct set out in Schedule 3 applies to the health practitioner.

## 2 Compliance with code of conduct for health practitioners

If the code of conduct set out in Schedule 3 applies to an employee of a relevant health organisation, the relevant health organisation must take reasonable steps to ensure the employee complies with the code of conduct.

## 3 Health services to be provided in safe and ethical way

- (1) A relevant health organisation must provide health services in a safe and ethical way.
- (2) Without limiting subsection (1), a relevant health organisation must comply with the following principles—
  - (a) a relevant health organisation must ensure the organisation's employees maintain the necessary competence in the relevant field of practice,
  - (b) a relevant health organisation must provide health services in accordance with accepted professional standards,
  - (c) a relevant health organisation must assist a client to find other appropriate health care professionals, if required and practicable,
  - (d) a relevant health organisation must encourage a client to inform the client's treating medical practitioner, if any, of the treatments the client is receiving,
  - (e) a relevant health organisation must ensure appropriate first aid is available to deal with misadventure during a client consultation,
  - (f) a relevant health organisation must obtain appropriate emergency assistance, for example,

from the Ambulance Service, if there is a serious misadventure during a client consultation.

- (3) A relevant health organisation may make a claim as to the organisation's ability or willingness to treat or alleviate the symptoms of the illnesses only if the claim can be substantiated.

#### **4 Standard precautions for infection control to be adopted**

- (1) A relevant health organisation must adopt standard precautions for the control of infection in the organisation's provision of health services.
- (2) Without limiting subsection (1), a relevant health organisation who provides a health service that includes the carrying out of a skin penetration procedure must comply with the relevant provisions of this Regulation in relation to the carrying out of the procedure.

#### **5 Appropriate conduct in relation to treatment advice**

- (1) A relevant health organisation must not attempt to dissuade a client from seeking or continuing with treatment by a registered medical practitioner.
- (2) A relevant health organisation must accept the client's right to make informed choices in relation to the client's health care.
- (3) A relevant health organisation should communicate and co-operate with colleagues and other health care practitioners and relevant health organisations in the best interests of the organisation's clients.
- (4) A relevant health organisation that has serious concerns about the treatment provided to a client by another relevant health organisation or a health practitioner must refer the matter to the Health Care Complaints Commission.

#### **6 Clients not to be financially exploited**

- (1) A relevant health organisation must not financially exploit a client.
- (2) A relevant health organisation must not accept financial inducements or gifts for referring clients to other relevant health organisations or to the suppliers of medications or therapeutic goods or devices.
- (3) A relevant health organisation must not offer financial inducements or gifts in return for client referrals from other relevant health organisations or health practitioners.
- (4) A relevant health organisation must not provide services and treatments to a client unless they are designed to maintain or improve the client's health or wellbeing.

#### **7 Clients not to be misinformed**

- (1) A relevant health organisation must not engage in misinformation or misrepresentation about—
  - (a) the products or services the organisation provides, or
  - (b) the qualifications, training or professional affiliations of the organisation's employees.
- (2) A relevant health organisation must provide truthful information about the qualifications, training or professional affiliations of the organisation's employees if a client asks for

information about the matters.

- (3) A relevant health organisation must not make claims, directly or in advertising or promotional material, about the efficacy of treatment or services provided if the claims cannot be substantiated.

## 8 Confidentiality of client health information

A relevant health organisation must have appropriate policies and procedures in place to ensure the health information of the organisation's clients is kept confidential and the privacy of the organisation's clients is protected, including by complying with relevant legislation.

**Example—** A relevant health organisation may have obligations under the [Health Records and Information Privacy Act 2002](#) and the [Privacy Act 1988](#) of the Commonwealth.

## 9 Storage and supply of medicines

A relevant health organisation must have appropriate policies and procedures in place to ensure the following is carried out in accordance with relevant legislation—

- (a) the storage of medicines,
- (b) the supply and administration of medicines,
- (c) the keeping of records about the storage, supply and administration of medicines.

**Example—** A relevant health organisation may have obligations under the [Poisons and Therapeutic Goods Act 1966](#).

## 10 Display of code of conduct and other information

- (1) A relevant health organisation must display the following documents—
- (a) this code of conduct,
  - (b) a document in the approved form that contains information about how clients may make a complaint to the Health Care Complaints Commission.
- (2) The documents must be displayed—
- (a) at all premises at which the relevant health organisation provides health services, so that the documents are easily visible to clients entering the premises, or
  - (b) if the relevant health organisation has a website—on the website.

## Schedule 5 Fees

Column 1	Column 2
Matter for which fee is payable	Amount
Application for approval of warm-water system installation in hospital	\$190
Notification of installation of warm-water system	\$120
Notification of installation of cooling water system	\$120

Notification of public swimming pool or spa pool	\$105
Notification of carrying out of skin penetration procedure	\$105
Application for approval to exhume remains	\$380
Application for exemption for cremation documentation	\$105
Notification for register of mortuaries	\$105
Improvement notice or prohibition order given to occupier of premises at which there is regulated system—	
(a) on or after 1 July 2022 and before 1 July 2023	\$605
(b) on or after 1 July 2023 and before 1 July 2024	\$620
(c) on or after 1 July 2024 and before 1 July 2025	\$635
Improvement notice or prohibition order in any other case—	
(a) on or after 1 July 2022 and before 1 July 2023	\$285
(b) on or after 1 July 2023 and before 1 July 2024	\$290
(c) on or after 1 July 2024 and before 1 July 2025	\$295
Re-inspection of premises subject to prohibition order—per hour	\$255

## Schedule 6 Penalty notice offences

### 1 Application of Schedule

- (1) For the Act, section 119—
  - (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
  - (b) the amount payable for the penalty notice is the amount specified opposite the provision.
- (2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
  - (a) that limited kind of offence, or
  - (b) an offence committed in those limited circumstances.
- (3) A reference in this Schedule to an order made under the Act, section 7 (an *original order*) includes a reference to an order that remakes, replaces or consolidates, whether in whole or in part, the original order.

**Column 1**

**Offence**

**Column 2**

**Penalty for individual**

**Column 3**

**Penalty for corporation**

An error occurred during formatting  
E0531-AS: Character 'c' is out of bounds for radix '10'.

## **Internal Server Error**

Unfortunately there was a problem. An internal server error occurred. The details are:

E0531-AS: Character 'c' is out of bounds for radix '10'.

Please contact [NSW PCO support](#) if this problem continues and include the details of the error.

We apologise for any inconvenience caused.