

TASMANIA

**HEALTH MISCELLANEOUS AMENDMENTS BILL
2019**

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HEALTH MISCELLANEOUS AMENDMENTS BILL 2019

*(Brought in by the Minister for Health, the Honourable
Michael Darrel Joseph Ferguson)*

A BILL FOR

An Act to amend the Ambulance Service Act 1982, the Food Act 2003, the Mental Health Act 2013, the Pharmacy Control Act 2001, the Poisons Act 1971 and the Public Health Act 1997

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Health Miscellaneous Amendments Act 2019*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Consequential Amendments

The legislation specified in Schedule 1 is amended as specified in that Schedule.

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Part 2 – Repeal of Act

PART 2 – REPEAL OF ACT

4. Repeal of Act

This Act is repealed on the first anniversary of the day on which it commenced.

SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS

Section 3

Ambulance Service Act 1982

1. Section 3 is amended by omitting the definition of *non-emergency patient transport services* and substituting the following definition:

non-emergency patient transport services
means transport services that relate solely to the provision of transport on public roads or by air or water of patients –

- (a) whose medical needs have been assessed by a member of an approved health profession as –

- (i) requiring patient transport; and

- (ii) not being time-critical or acute; and

- (b) who may require –

- (i) basic care and observation; or

- (ii) clinical care and monitoring;

2. Section 35F(2) is amended as follows:

- (a) by omitting from the penalty “100” and substituting “50”;

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(b) by omitting from the penalty “10” and substituting “5”.

3. Section 35M(1) is amended as follows:

(a) by omitting from the penalty “50” and substituting “15”;

(b) by omitting from the penalty “5” and substituting “1.5”.

4. Section 37(1) is amended by omitting the penalty and substituting the following penalty:

Penalty: Fine not exceeding 200 penalty units and, in the case of a continuing offence, a further fine not exceeding 20 penalty units for each day during which the offence continues.

5. Section 37A(1) is amended as follows:

(a) by omitting from the penalty “200” and substituting “100”;

(b) by omitting from the penalty “20” and substituting “10”.

6. Section 37B is amended as follows:

(a) by omitting from the penalty “200” and substituting “100”;

(b) by omitting from the penalty “20” and substituting “10”.

Food Act 2003

1. Section 4(1) is amended as follows:

- (a) by inserting the following definition before the definition of *advertisement*:

accredited laboratory means a laboratory accredited by the National Association of Testing Authorities Australia to carry out the relevant analysis;

- (b) by omitting the definition of *approved laboratory*.

2. Section 36 is amended by omitting subsection (2) and substituting the following subsection:

- (2) Notice of an order addressed as referred to in subsection (1)(b) setting out the terms of the order and the persons intended to be bound by the order must, as soon as practicable after the order is made –

(a) be published in a newspaper that, in the opinion of the relevant authority who made the order, will be most likely to bring the order to the attention of the persons intended to be bound by it; or

(b) be served on each of those persons.

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3. Section 77 is amended as follows:

- (a) by omitting from subsection (1) “approved” and substituting “accredited”;
- (b) by omitting from subsection (2) “, in the approved form,”.

4. Division 3 of Part 6 is repealed and the following section is substituted:

78. Accredited laboratory to give notice of certain interests

The person in charge of an accredited laboratory must notify the Director of Public Health of any direct or indirect interest in any food business that a person who is concerned in the management of, or is an employee of, the accredited laboratory has as soon as possible after becoming aware of that interest.

Penalty: Fine not exceeding 100 penalty units.

5. Section 83G(2) is amended by inserting “by a food safety auditor” after “audited”.

6. Section 84 is repealed and the following section is substituted:

84. Notification of conduct of food businesses

- (1) Subject to section 85, the proprietor of a food business must not conduct the food business unless the proprietor has given written notice, in accordance with subsection (2), to the council of the municipal area in which the food business is located.

Penalty: In the case of –

- (a) an individual, a fine not exceeding 500 penalty units; or
 - (b) a body corporate, a fine not exceeding 1 200 penalty units.
- (2) Written notice is to –
- (a) be in the approved form; and
 - (b) contain the information that the Food Safety Standards require to be notified before a food business is conducted.
- (3) It is sufficient compliance with subsection (1) if the proprietor of a food business that is conducted wholly, or in part, from a mobile structure notifies the council of one municipal area in which the food business is conducted.

7. Section 85 is amended as follows:

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- (a) by omitting from paragraph (b) “regulations.” and substituting “regulations;”;
 - (b) by inserting the following paragraph after paragraph (b):
 - (c) any food business that is prescribed by the regulations as being not required to notify that information.
- 8.** Section 86 is amended by inserting after subsection (1) the following subsection:
- (1A) The registration of a food business or class of food businesses must be done in accordance with an approved risk-classification system for types of food businesses.
- 9.** Section 110(j) is amended by omitting “approved” and substituting “accredited”.
- 10.** Section 111(3) is amended by omitting “approved” and substituting “accredited”.

Mental Health Act 2013

- 1.** Section 204 is repealed and the following section is substituted:

204. Effect of certain transfers

On a transfer mentioned in section 203(b), an order for a person's detention under a law of the reciprocating State has effect in Tasmania (with any adaptation and modification provided for by the interstate transfer agreement) as if it were –

- (a) an assessment order made under this Act that specifies an approved facility as the assessment setting; or
- (b) a treatment order made under this Act that specifies an approved facility as the treatment setting; or
- (c) a restriction order made under the *Criminal Justice (Mental Impairment) Act 1999* or the *Sentencing Act 1997*; or
- (d) an assessment order made under the *Sentencing Act 1997*; or
- (e) a treatment order made under the *Criminal Justice (Mental Impairment) Act 1999* that specifies an approved facility as the treatment setting; or
- (f) a treatment order made under the *Sentencing Act 1997*.

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Pharmacy Control Act 2001

1. Section 80(2) is amended by inserting after paragraph (a) the following paragraph:
 - (b) the charging and payment of fees in relation to the establishment and regulation of pharmacy depots;

Poisons Act 1971

1. Section 3(1) is amended by omitting “and Appendix C” from the definition of *Poisons List*.
2. Section 36 is amended by inserting after subsection (2) the following subsection:

(2AA) A person is not guilty of an offence against subsection (1) if the person is the holder of a permit, licence or authority in force under this Act and is acting in accordance with the terms and conditions of that permit, licence or authority.
3. Section 40(2) is amended by omitting paragraph (c) and substituting the following paragraph:
 - (c) is to make any order under section 14 as may be necessary for the purpose of giving effect to his or her determination.
4. Section 48 is amended by inserting after subsection (2B) the following subsection:

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(2C) A person is not guilty of an offence against subsection (1) if the person is the holder of a permit, licence or authority in force under this Act and is acting in accordance with the terms and conditions of that permit, licence or authority.

5. Section 54G is amended by inserting after subsection (2) the following subsection:

(3) Notwithstanding section 6(2), an application for the renewal of a poppy grower's licence may be made up to 3 months after the expiry of the licence.

6. Schedule 1 is amended as follows:

(a) by omitting from clause 2 "section 59H(2)(a)" and substituting "section 59H(2)(f)";

(b) by omitting from clause 6(1) "section 59H(2)(a)" and substituting "section 59H(2)(f)";

(c) by omitting from clause 6(2) "section 59H(2)(a)" and substituting "section 59H(2)(f)";

(d) by omitting from clause 7(1) "section 59H(2)(a)" and substituting "section 59H(2)(f)";

(e) by omitting from clause 7(2) "section 59H(2)(a)" and substituting "section 59H(2)(f)".

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Public Health Act 1997

1. Section 3 is amended as follows:

- (a) by inserting the following definition after the definition of *exempt device*:

exempt system means a system or process declared under section 112A to be an exempt system;

- (b) by inserting the following definition after the definition of *health officer*:

hot-water system means a system that heats and delivers water at a temperature at or above 60°C;

- (c) by omitting the definition of *regulated system* and substituting the following definition:

regulated system means any of the following other than an exempt system:

- (a) an air-handling system;
- (b) a cooling tower;
- (c) a warm-water system;
- (d) a hot-water system;
- (e) a humidifying system;

- (f) a system or process declared under section 112A to be a regulated system;
- (d) by omitting the definition of *warm-water system* and substituting the following definition:

warm-water system means a system that heats and delivers water at a temperature below 60°C;

- 2. After section 112, the following section is inserted in Division 4:

112A. Declaration of regulated systems and exempt systems

The Director, by public notice, may declare a system or process for air or water that may involve a risk of legionnaires' disease (*legionellosis*) to be –

- (a) a regulated system; or
- (b) an exempt system.