

# TASMANIA

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## **PUBLIC HEALTH (MISCELLANEOUS AMENDMENTS) BILL 2015**

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#### **SCHEDULE 1 – LEGISLATION REPEALED**



# **PUBLIC HEALTH (MISCELLANEOUS AMENDMENTS) BILL 2015**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

S. G. DONNELLY, *Clerk of the House*  
18 March 2015

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

## **A BILL FOR**

**An Act to amend the *Public Health Act 1997* for various purposes, to repeal the *HIV/AIDS Preventive Measures Act 1993* and to amend the *Corrections Act 1997* consequential on those amendments and that repeal**

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 *Public Health (Miscellaneous Amendments) Act 2015*.

### **2. Commencement**

The provisions of this Act commence on a day or days to be proclaimed.

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Part 2 – Corrections Act 1997 Amended

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**PART 2 – CORRECTIONS ACT 1997 AMENDED**

**3. Principal Act**

In this Part, the *Corrections Act 1997*\* is referred to as the Principal Act.

**4. Section 30 amended (Medical tests for HIV, &c.)**

Section 30 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “an approved counsellor” and substituting “a medical officer, or a registered nurse, who is”;
- (b) by omitting subsection (3).

**5. Sections 31 and 32 repealed**

Sections 31 and 32 of the Principal Act are repealed.

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\*No. 51 of 1997

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Part 3 – Public Health Act 1997 Amended

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**PART 3 – PUBLIC HEALTH ACT 1997 AMENDED**

**6. Principal Act**

In this Part, the *Public Health Act 1997*\* is referred to as the Principal Act.

**7. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended as follows:

- (a) by omitting the definition of *certificate of registration as user or supplier of private water* and substituting the following definitions:

*certificate of registration as a supplier of private water* means the certificate referred to in section 136;

*certificate of registration as a water carrier* means the certificate referred to in section 136H;

- (b) by inserting the following definition after the definition of *cigarette shipper*:

*clinical assessment* means an assessment of the health of a person and includes, but is not limited to including, the following:

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\*No. 86 of 1997

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- (a) any physical or psychological examination;
  - (b) the taking of samples of any substance or secretion from the body of a person;
  - (c) an assessment of the health of a person whether by viewing, listening to, or corresponding with, the person or by another method;
  - (d) tests to determine the health of the person;
  - (e) any other prescribed method of assessing the health of a person;
- (c) by omitting the definition of *contaminant*;
- (d) by inserting the following definition after the definition of *council fee*:

***designated smoking area*** means an area that is specified, in an approval under section 67I that is in force, to be a designated smoking area;

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- (e) by inserting “, signs or conditions,” after “symptoms” in paragraph (c) of the definition of *disease*;
  - (f) by inserting “and, while an amendment to a guideline under section 17A is in force, means a guideline as so amended” after “section 184” in the definition of *guidelines*;
  - (g) by omitting the definition of *human pathogenic organism*;
  - (h) by omitting “diagnostic” from the definition of *laboratory*;
  - (i) by omitting the definition of *medical examination*;
  - (j) by omitting “*Medicare Australia Act 1973*” from the definition of *Medicare Australia* and substituting “*Human Services (Medicare) Act 1973*”;
  - (k) by inserting the following definition after the definition of *non-tobacco cigarette*:

***notifiable contaminant*** means –

- (a) an organism, or substance, that is –
  - (i) declared in a notice under section 40(b) to be a notifiable contaminant; or

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- (ii) a member of a class of organisms or substances, members of which are declared in a notice under section 40(b) to be notifiable contaminants; and
- (b) a toxin that is produced by –
  - (i) an organism that is declared in a notice under section 40(b) to be a notifiable contaminant; or
  - (ii) a member of a class of organisms, members of which are declared in a notice under section 40(b) to be notifiable contaminants;
- (l) by omitting the definition of *notifiable disease* and substituting the following definition:

***notifiable disease*** means –

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Part 3 – Public Health Act 1997 Amended

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- (a) a disease declared under section 40 to be a notifiable disease; and
  - (b) a disease that is a member of a class of diseases, members of which are declared under section 40 to be notifiable diseases;
  - (m) by omitting “a licensee and” from paragraph (a) of the definition of *occupier*;
  - (n) by omitting “a licensee and” from paragraph (b)(ii) of the definition of *occupier*;
  - (o) by omitting the definition of *personal information* and substituting the following definition:
    - personal information***, in relation to a person, means the person’s name, address and contact details;
  - (p) by omitting the definition of *private water source* and substituting the following definition:

- private water source*** means a source of water used to supply water for human consumption, other than water infrastructure used by a regulated entity for that purpose;

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- (q) by inserting “but does not include any part of a smoke-free area that is a designated smoking area” after “section 67B(1)” in the definition of *smoke-free area*;
- (r) by omitting “confectionery or” from the definition of *solid food*.

**8. Section 15 amended (Duration of emergency declaration)**

Section 15 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “, unless it is sooner revoked under subsection (4),” after “continues”;
- (b) by omitting subsection (2) and substituting the following subsections:
  - (2) The Director, by any means the Director considers appropriate, may declare that the period during which an emergency declaration is in force is extended by a period, of not more than 7 days, specified in the declaration under this subsection, if the Director is satisfied that the situation requires it.
  - (3) The Director may declare as many extensions under

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subsection (2) as he or she thinks the situation requires.

- (4) The Director must revoke an emergency declaration as soon as practicable after he or she is satisfied that the situation no longer requires the emergency declaration to be in force.
- (5) The Director is to notify the State Controller, within the meaning of the *Emergency Management Act 2006*, if –
  - (a) the period of an emergency declaration is extended under subsection (2); or
  - (b) an emergency declaration is revoked under subsection (4).

**9. Section 16 amended (Directions of Director)**

Section 16 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “After making an emergency declaration” and substituting “While an emergency declaration is in force”;

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- (b) by omitting paragraph (a) from subsection (1) and substituting the following paragraph:
  - (a) manage a threat to public health or a likely threat to public health; or
- (c) by omitting from subsection (1)(b) “segregate” and substituting “quarantine”;
- (d) by inserting in subsection (2) “while an emergency declaration is in force” after “directions”;
- (e) by omitting paragraph (a) from subsection (2) and substituting the following paragraph:
  - (a) that any specified person undergo –
    - (i) a clinical assessment specified in the direction; or
    - (ii) a clinical assessment, specified in the direction, conducted by a person, or a member of a class of persons, specified in the direction;
- (f) by inserting the following subsection after subsection (2):

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- (2A) A direction given under this section may specify the manner in which the direction is to be complied with.
- (g) by omitting from subsection (3) “in accordance with any relevant guidelines” and substituting “given under this section”;
- (h) by inserting the following subsections after subsection (3):
- (4) A person who carries out a clinical assessment for the purpose of a direction given under subsection (2)(a) must provide to the Director a written report in relation to the assessment as soon as practicable after the assessment is completed.
- Penalty: Fine not exceeding 25 penalty units.
- (5) A direction given under this section ceases to be in force when the requirements of the direction have been satisfied.
- (6) The Director may revoke a direction given under this section.
- (7) The Director must revoke under subsection (6) a direction as soon as practicable after he or she is satisfied that it is no longer

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necessary, for the purposes of managing a threat to public health or a likely threat to public health, for the direction to remain in force.

- (8) If a direction given under this section, or an order under section 16C(1)(e), requires a person to be quarantined or isolated or to stay in a specified area, the Director, at the required intervals, must –
  - (a) consider whether it is necessary for the person to continue to be subject to the direction or order; and
  - (b) if necessary so as to determine whether it is necessary for the person to continue to be subject to the direction or order, arrange for the clinical assessment of the person.
- (9) The required intervals are intervals that the Director considers reasonable, but not less than once in every successive period of 7 days.

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**10. Sections 16A, 16B and 16C inserted**

After section 16 of the Principal Act, the following sections are inserted in Division 2:

**16A. Warrant may be issued if person fails to comply with direction under section 16**

- (1) The Director may apply to a magistrate for the issue under this section of a warrant in relation to a person, if –
  - (a) the person has failed to comply with a direction of the Director given under section 16; and
  - (b) in the opinion of the Director, it is necessary, for the purposes of managing a threat to public health or a likely threat to public health, for the direction to be complied with.
- (2) A magistrate may, on the application of the Director, issue a warrant –
  - (a) authorising the apprehension, by –
    - (i) a person authorised by the Director to execute the warrant; or
    - (ii) a police officer –  
of a person who is specified in the warrant (the *specified person*); and

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- (b) authorising the entry of any premises by a person referred to in paragraph (a)(i) or (ii), if the person believes on reasonable ground that the specified person is in the premises; and
  - (c) authorising the specified person to be detained, isolated, or quarantined, until the specified person may be brought before a magistrate.
- (3) A magistrate may only issue a warrant under subsection (2) in relation to a specified person if the magistrate is satisfied that –
  - (a) the specified person has failed to comply with a direction of the Director given under section 16; and
  - (b) in the opinion of the Director, it is necessary, for the purposes of managing a threat to public health or a likely threat to public health, for the direction to be complied with.
- (4) The Director may apply under subsection (1) for a warrant by telephone if the Director is of the opinion that the situation is an emergency.

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**16B. Person apprehended under warrant to be brought before magistrate**

- (1) A person who is apprehended under a warrant issued under section 16A is to be brought before a magistrate as soon as practicable.
- (2) Despite subsection (1), if a risk to the health of a person who is apprehended under a warrant issued under section 16A, or to the health of other persons, may occur if the person were to be brought before a magistrate, that subsection is taken to be satisfied if –
  - (a) the person is represented by another person who is appointed by the person, or a magistrate or court, to represent the person in proceedings under this Part; and
  - (b) a magistrate or court agrees to the person not being brought before a magistrate in accordance with subsection (1).

**16C. Orders of magistrate**

- (1) A magistrate may take one or more of the following actions in relation to a person who is apprehended under a warrant issued under section 16A and brought before the magistrate:

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- (a) order the person to comply with a direction of the Director given to the person under section 16;
- (b) by order, vary any direction of the Director, if the direction as so varied could have been given by the Director under section 16;
- (c) order the person –
  - (i) to comply with a requirement, determined by the magistrate and specified in the order, that the Director could have imposed on the person in a direction given under section 16 or section 42; and
  - (ii) to continue to comply with the requirement either until the requirement has been satisfied or the Director gives a declaration under subsection (4) in relation to the order;
- (d) order that a clinical assessment of the person be carried out;
- (e) order that the person be placed and remain in quarantine, or isolation, for a period that is to end when the Director gives a

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declaration under subsection (4)  
in relation to the order.

- (2) A magistrate may only make an order under subsection (1) if he or she is of the opinion that it is necessary to do so for the purposes of managing a threat to public health or a likely threat to public health.
- (3) A magistrate before whom a person apprehended under a warrant issued under section 16A is brought may, by order, revoke a direction given to the person under section 16, if the magistrate is of the opinion that it is not necessary, for the purposes of managing a threat to public health or a likely threat to public health, for the direction to be complied with.
- (4) The Director may, by notice to a person to whom an order made under subsection (1)(c) or (e) relates, declare that the Director is of the opinion that it is no longer necessary, for the purposes of managing a threat to public health or a likely threat to public health, for the order to continue in force.
- (5) An order under this section that requires a person to comply with a direction given under section 16 is revoked, or ceases to be in force, as soon as the direction is revoked, or ceases to be in force, under that section.

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- (6) An order under subsection (1)(c) or (e) ceases to be in force as soon as the requirement is satisfied or the Director issues a notice under subsection (4), whichever occurs first.
- (7) A person to whom an order under this section relates, or the Director, may appeal to the Supreme Court against the making of the order.

**11. Section 17 amended (Special powers)**

Section 17 of the Principal Act is amended as follows:

- (a) by inserting the following subsection before subsection (1):

(1AA) In this section –

*authorised person* means a person who is –

- (a) authorised under subsection (1); or
  - (b) a member of a class of persons that is authorised under subsection (1).
- (b) by inserting in subsection (3)(a) “enable the direction to be carried out or to” after “so to”.

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**12. Sections 17A, 17B and 17C inserted**

After section 17 of the Principal Act, the following sections are inserted in Division 2:

**17A. Emergency amendment of guidelines**

- (1) The Director, while an emergency declaration is in force, may amend or revoke, under this subsection, a guideline.
- (2) The Director may only amend or revoke under subsection (1) a guideline if he or she is of the opinion that it is necessary to do so for the purposes of managing a threat to public health, or a likely threat to public health, to which the emergency declaration relates.
- (3) The Director may revoke under this subsection an amendment, to a guideline, made under subsection (1).
- (4) The Director may only revoke under subsection (3) an amendment, to a guideline, made under subsection (1) while an emergency declaration is in force, if the revocation occurs before the end of the period of 30 days after the emergency declaration ceases to be in force.
- (5) The Director may, if he or she is of the opinion that a guideline that was revoked under subsection (1) should continue in

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force, declare the revocation to be of no effect on and from a specified day.

- (6) The Director may only issue a declaration under subsection (5) in relation to a revocation of a guideline that occurred while an emergency declaration is in force, if the declaration under subsection (5) is issued before the end of the period of 30 days after the emergency declaration ceases to be in force.
- (7) If a declaration is issued under subsection (5) in relation to a revocation of a guideline, the revocation ceases to be in effect on the day specified in the declaration as the day on which the revocation is to cease to be of effect.
- (8) Section 184(4) and section 196(2) do not, until the end of the period of 30 days after an emergency declaration ceases to be in force, apply in relation to an amendment of any guideline, or a revocation of any guideline, made under subsection (1) while the emergency declaration was in force.
- (9) If section 196(2) applies in relation to an amendment or revocation made under subsection (1) of this section while an emergency declaration is in force, section 196(2) applies in relation to the amendment or revocation as if the reference in that section to the day on

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which the amendment or revocation takes effect were a reference to the first day after the end of the period of 30 days after the emergency declaration ceases to be in force.

(10) Section 184(4) and section 196(2) do not, despite subsection (8), apply in relation to –

(a) an amendment made under subsection (1) that is revoked under subsection (3); or

(b) a revocation under subsection (3); or

(c) a revocation under subsection (1) to which a declaration under subsection (5) relates; or

(d) a declaration under subsection (5).

(11) Nothing in this section is to be taken to prevent the amendment or revocation of a guideline under section 184.

**17B. Notification of taking of actions under section 17A**

(1) The Director, as soon as practicable after amending or revoking a guideline under section 17A(1), must take reasonable steps to ensure that persons who the Director considers ought to be notified of

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the amendment or revocation are so notified.

- (2) The Director, as soon as practicable after a revocation under section 17A(3), or a declaration under section 17A(5), is made must take reasonable steps to ensure that persons who the Director considers ought to be notified of the revocation or declaration are so notified.
- (3) If, for the purposes of subsection (1) or (2), a notification by electronic message is sent by or on behalf of the Director to an electronic address of a person (the *notified person*) who has advised –
  - (a) the Director; or
  - (b) a person acting on behalf of the Director –

that electronic messages in relation to public health matters may be sent to that address, the notified person is to be taken to have been notified of the contents of the message.

- (4) Subsection (3) does not limit the means by which, for the purposes of this section, a person may be notified of an amendment, revocation or declaration under section 17A.

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**17C. Defences to certain offences in relation to guidelines**

(1) If an amendment to a guideline is made under section 17A(1), a person does not commit an offence under –

- (a) section 184(5) by failing to comply with the guideline; or
- (b) another provision of this Act, an element of which consists of failing to comply with the guideline –

if the person is an unnotified person in respect of the offence.

(2) For the purposes of subsection (1), a person is an unnotified person in respect of an offence if –

- (a) the person commits the offence only by failing to comply with a provision, of a guideline, to which an amendment under section 17A(1) relates; and
- (b) had the amendment not come into force, the act, or failure of the person to act, that constituted in whole or in part the failure to comply with the provision of the guideline would not have constituted a failure to comply with the provision; and

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- (c) the offence is alleged to have been committed after the amendment came into force but before –
    - (i) the day on which public notice of the amendment of the guideline is given under section 184(4); or
    - (ii) the day on which notice of the revocation of the amendment is given to the person under section 17B(2); and
  - (d) notice of the amendment was not given to the person under section 17B(1).
- (3) If a guideline is revoked under section 17A(1), a person does not commit an offence under –
- (a) section 184(5) by failing to comply with the guideline; or
  - (b) another provision, of this Act, an element of which consists of failing to comply with a guideline –

if the person is an unnotified person in respect of the offence.

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- (4) For the purposes of subsection (3), a person is an unnotified person in respect of an offence if –
- (a) the person only commits the offence by complying with a provision, of a guideline, to which a revocation under section 17A(1) relates; and
  - (b) had the revocation not come into force, the act, or failure of the person to act, that constituted in whole or in part the failure to comply with the provision of the guideline would not have constituted a failure to comply with the provision; and
  - (c) the offence is alleged to have been committed after the revocation came into force but before –
    - (i) the day on which public notice of the revocation of the guideline is given under section 184(4); or
    - (ii) the day on which notice is given to the person under section 17B(2) that the revocation is of no effect; and

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- (d) notice of the revocation was not given to the person under section 17B(1).
- (5) If an amendment to a guideline made under section 17A(1) is revoked under section 17A(3), a person does not commit an offence under –
  - (a) section 184(5) by failing to comply with the guideline; or
  - (b) another provision, of this Act, an element of which consists of failing to comply with the guideline –

if the person is an unnotified person in respect of the offence.
- (6) For the purposes of subsection (5), a person is an unnotified person in respect of an offence if –
  - (a) the person only commits the offence by failing to comply with a provision, of a guideline, to which an amendment under section 17A(1) relates; and
  - (b) had the amendment not been revoked under section 17A(3), the act, or failure of the person to act, that constituted in whole or in part the failure to comply with the provision of the guideline would

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not have constituted a failure to  
comply with the provision; and

- (c) the offence is alleged to have  
been committed after the  
amendment was revoked under  
section 17A(3) but before the end  
of the period of 30 days after the  
emergency declaration that was in  
force when the amendment was  
made ceases to be in force; and
  - (d) notice of the revocation was not  
given to the person under  
section 17B(2).
- (7) If a revocation under section 17A(1) of a  
guideline is declared to be of no effect  
under section 17A(5), a person does not  
commit an offence under –
- (a) section 184(5) by failing to  
comply with the guideline; or
  - (b) another provision, of this Act, an  
element of which consists of  
failing to comply with the  
guideline –
- if the person is an unnotified person in  
respect of the offence.
- (8) For the purposes of subsection (7), a  
person is an unnotified person in respect  
of an offence if –

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- (a) the person only commits the offence by failing to comply with a provision, of a guideline, to which a revocation under section 17A(1) relates; and
- (b) had a declaration not been made under section 17A(5) in relation to the revocation, the act, or failure of the person to act, that constituted in whole or in part the failure to comply with the provision of the guideline would not have constituted a failure to comply with the provision; and
- (c) the offence is alleged to have been committed after the declaration was made under section 17A(5) but before the end of the period of 30 days after the emergency declaration, that was in force when the amendment was made, ceases to be in force; and
- (d) notice of the declaration under section 17A(5) was not given to the person under section 17B(2).

**13. Part 3, Division 1: Heading amended**

Division 1 of Part 3 of the Principal Act is amended by omitting “*Notifiable diseases*” from the heading to that Division and substituting

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*“Notifiable diseases and notifiable contaminants”.*

**14. Sections 40 and 41 substituted**

Sections 40 and 41 of the Principal Act are repealed and the following section is substituted:

**40. Notifiable diseases and contaminants**

The Director, by public notice, may declare –

- (a) a disease, whether communicable or non-communicable, that is specified in the notice, or all diseases, whether communicable or non-communicable, that are members of a class of diseases specified in the notice, to be notifiable diseases; and
- (b) an organism, or substance, specified in the notice, or all organisms or substances that are members of a class of organisms or substances specified in the notice, to be notifiable contaminants.

**15. Section 42 amended (Directions of Director)**

Section 42 of the Principal Act is amended as follows:

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- (a) by inserting in subsection (1) “, or may have been exposed to,” after “has”;
- (b) by omitting from subsection (1)(d) “further medical examination, medical testing,” and substituting “clinical assessment,”;
- (c) by inserting the following subsection after subsection (1):
  - (1A) A direction given under subsection (1) may specify the manner in which the direction is to be complied with.
- (d) by inserting in subsection (2) “given” after “direction”;
- (e) by inserting the following subsections after subsection (2):
  - (3) A direction given under subsection (1)(d) may require a person to submit to clinical assessment, medical treatment, or counselling, by a person, or a member of a class of persons, specified in the direction.
  - (4) A person who carries out a clinical assessment for the purpose of a direction given under subsection (1) must provide to the Director a written report in relation to the assessment as soon

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as practicable after the  
assessment is completed.

Penalty: Fine not exceeding 25  
penalty units.

- (5) A direction given under this section ceases to be in force when the requirements of the direction have been satisfied.
- (6) The Director may revoke a direction given under this section.
- (7) The Director must revoke under subsection (6) a direction as soon as practicable after he or she is satisfied that it is no longer necessary for the purpose of managing a threat to public health, or a likely threat to public health, for the direction to remain in force.
- (8) If a direction given under this section, or an order under section 45(1)(e), requires that a person be quarantined or isolated, the Director, at the required intervals, must –
  - (a) consider whether it is necessary for the person to continue to be subject to the direction or order; and

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(b) if necessary in order to determine whether it is necessary for the person to continue to be subject to the direction or order, arrange for the clinical assessment of the person.

(9) The required intervals are intervals that the Director considers reasonable, but not less than once in every successive period of 7 days.

**16. Sections 43, 44, 45, 46, 47 and 48 substituted**

Sections 43, 44, 45, 46, 47 and 48 of the Principal Act are repealed and the following sections are substituted:

**43. Warrant may be issued if person fails to comply with direction**

(1) The Director may apply to a magistrate for the issue under this section of a warrant in relation to a person, if –

(a) the person has failed to comply with a direction of the Director given under section 42; and

(b) in the opinion of the Director, it is necessary, for the purposes of managing a threat to public health or a likely threat to public health,

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that the person comply with the direction.

(2) A magistrate may, on the application of the Director, issue a warrant –

(a) authorising the apprehension, by –

(i) a person authorised by the Director to execute the warrant; or

(ii) a police officer –

of a person who is specified in the warrant (the *specified person*); and

(b) authorising the entry of any premises by a person referred to in paragraph (a)(i) or (ii), if the person believes on reasonable ground that the specified person is in the premises; and

(c) authorising the specified person to be detained, isolated, or quarantined, until the specified person may be brought before a magistrate.

(3) A magistrate may only issue a warrant under subsection (2) in relation to a specified person if the magistrate is satisfied that –

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- (a) the specified person has failed to comply with a direction of the Director given under section 42; and
  - (b) in the opinion of the Director, it is necessary, for the purposes of managing a threat to public health or a likely threat to public health, that the specified person comply with the direction.
- (4) The Director may apply under subsection (1) for a warrant by telephone if the Director is of the opinion that the situation is an emergency.

**44. Person apprehended under warrant to be brought before magistrate as soon as practicable**

- (1) A person who is apprehended under a warrant issued under section 43 is to be brought before a magistrate as soon as practicable.
- (2) Despite subsection (1), if a risk to the health of a person who is apprehended under a warrant issued under section 43, or to the health of other persons, may occur if the person were to be brought before a magistrate, that subsection is taken to be satisfied if –
  - (a) the person is represented by another person who is appointed by the person, a magistrate or a

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court to represent the person in proceedings under this Part; and

- (b) a magistrate or court agrees to the person not being brought before a magistrate in accordance with subsection (1).

**45. Orders of magistrate**

- (1) A magistrate may take one or more of the following actions in relation to a person who is apprehended under a warrant issued under section 43 and brought before the magistrate:
  - (a) order the person to comply with a direction of the Director given to the person under section 42;
  - (b) by order, vary any direction of the Director, if the direction as so varied could have been given by the Director under section 42;
  - (c) order the person –
    - (i) to comply with a requirement, determined by the magistrate and specified in the order, that the Director could have imposed on the person in a direction given under section 16 or section 42; and

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- (ii) to continue to comply with the requirement either until the requirement has been satisfied or the Director gives a declaration under subsection (4) in relation to the order;
  - (d) order that a clinical assessment of the person be carried out;
  - (e) order that the person be placed and remain in quarantine, or isolation, for a period that is to end when the Director gives a declaration under subsection (4) in relation to the order.
- (2) A magistrate may only make an order under subsection (1) if he or she is of the opinion that it is necessary to do so for the purposes of managing a threat to public health or a likely threat to public health.
- (3) A magistrate before whom a person apprehended under a warrant issued under section 43 is brought may, by order, revoke a direction given to the person under section 42, if the magistrate is of the opinion that it is not necessary, for the purposes of managing a threat to public health or a likely threat to public health, for the direction to be complied with.

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- (4) The Director may, by notice to the person to whom an order made under subsection (1)(c) or (e) relates, declare that the Director is of the opinion that it is no longer necessary, for the purposes of managing a threat to public health or a likely threat to public health, for the order to continue in force.
- (5) An order under this section that requires a person to comply with a direction given under section 42 is revoked, or ceases to be in force, as soon as the direction is revoked, or ceases to be in force, under that section.
- (6) An order under subsection (1)(c) or (e) ceases to be in force as soon as the requirement is satisfied or the Director issues a notice under subsection (4).
- (7) A person to whom an order under this section relates, or the Director, may appeal to the Supreme Court against the making of the order.

**46. Notification of notifiable diseases and contaminants**

- (1) The guidelines may require a person, Agency or public authority to notify the Director if the person, or a person acting on behalf of the Agency or public authority –
  - (a) becomes aware that any notifiable disease or notifiable contaminant

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is present, or may have occurred,  
in any water or food or any tissue,  
substance or secretion of the  
human body; or

- (b) suspects, or is, under the  
guidelines, to suspect, that any  
notifiable disease or notifiable  
contaminant may be present, or  
may have occurred, in any water  
or food or any tissue, substance  
or secretion of the human body.
- (2) Without limiting the matters to which  
guidelines for the purposes of this section  
may relate, such guidelines may do any  
one or more of the following things:
- (a) require notification of the  
presence or occurrence, or  
suspected presence or occurrence,  
of any notifiable disease, or  
notifiable contaminant, only in  
certain circumstances;
  - (b) set out the information that is  
required to be included in a  
notification of the presence or  
occurrence, or suspected presence  
or occurrence, of any notifiable  
disease or notifiable contaminant;
  - (c) specify the persons who are  
required to give notification;
  - (d) require notification to be made in  
a particular manner or form.

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**17. Section 49 amended (Reports and information by Director)**

Section 49 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Director is to” and substituting “Director”;
- (b) by omitting from subsection (1)(a) “provide” and substituting “may provide”;
- (c) by inserting in subsection (1)(a) “presence or” after “the”;
- (d) by omitting from subsection (1)(a)(ii) “human pathogenic organisms or contaminants” and substituting “notifiable contaminant”;
- (e) by omitting from subsection (1)(b) “inform” and substituting “is to inform”;
- (f) by inserting in subsection (1)(b) “presence or” after “that”;
- (g) by omitting subsection (2).

**18. Section 50 amended (Medical practitioner to provide information)**

Section 50 of the Principal Act is amended as follows:

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- (a) by inserting in subsection (1) “, may have, or may have been exposed to,” after “has”;
- (b) by omitting paragraphs (a), (b) and (c) from subsection (1) and substituting the following paragraphs:
  - (a) give the person –
    - (i) information about the transmission and prevention of that disease; and
    - (ii) any information that is specified in relevant guidelines as required to be given by a medical practitioner to such a person, including, but not limited to including, information relating to the transmission and prevention of disease; and
  - (b) require the person to give to the medical practitioner the information that the medical practitioner is, in accordance with the requirements of the relevant guidelines, to attempt to obtain from the person; and
  - (c) advise the Director, as soon as practicable after the response is received, of the response of a

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person to a requirement imposed  
on the person under  
paragraph (b).

(c) by omitting subsection (2) and  
substituting the following subsection:

(2) It is a defence in any  
proceedings –

(a) for an offence under  
subsection (1) in relation  
to subsection (1)(a), for a  
medical practitioner to  
prove that the relevant  
information had already  
been given, to the person  
whom the medical  
practitioner was  
attending, by –

(i) the medical  
practitioner while  
the medical  
practitioner was  
attending the  
person on a  
previous occasion;  
or

(ii) a person acting on  
behalf of the  
medical  
practitioner; or

(iii) another medical  
practitioner or a

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person acting on  
behalf of another  
medical  
practitioner; or

(b) for an offence under  
subsection (1) in relation  
to subsection (1)(b), for a  
medical practitioner to  
prove that –

(i) the medical  
practitioner had  
attempted to  
obtain the relevant  
information while  
the medical  
practitioner was  
attending the  
person on a  
previous occasion;  
or

(ii) a person acting on  
behalf of the  
medical  
practitioner had  
attempted to  
obtain the relevant  
information from  
the person whom  
the medical  
practitioner was  
attending; or

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- (iii) the information had been obtained by another medical practitioner or a person acting on behalf of that other medical practitioner; or
  - (c) for an offence under subsection (1) in relation to subsection (1)(c), for a medical practitioner to prove that the relevant information was provided to the Director by –
    - (i) a person acting on behalf of the medical practitioner; or
    - (ii) another medical practitioner or a person acting on behalf of another medical practitioner.

**19. Section 52 amended (Investigation into occurrence of disease and contamination)**

Section 52 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (1) “any occurrence” and substituting “the presence or occurrence, or suspected presence or occurrence,”;
- (b) by omitting paragraph (b) from subsection (1) and substituting the following paragraph:
  - (b) any notifiable contaminant.
- (c) by omitting from subsection (2) “after” and substituting “in”.

**20. Section 55 amended (Use of certain materials)**

Section 55 of the Principal Act is amended by omitting “contaminant, human pathogenic organism” and substituting “notifiable contaminant”.

**21. Section 56 amended (Burial or removal of body to morgue)**

Section 56(1) of the Principal Act is amended by inserting “or the Director” after “of health”.

**22. Part 3, Division 1A inserted**

After section 56 of the Principal Act, the following Division is inserted in Part 3:

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***Division 1A – Supply and use of needles and syringes***

**56A. Interpretation of Division 1A**

In this Division –

***certificate*** means a certificate of attainment of a relevant qualification that is issued under section 56I and is valid under that section;

***certified person***, in relation to a permit, means a person who is the holder of a certificate and who is an employee of, or a person acting on behalf of, the holder of the permit;

***community organisation*** means a body of persons, whether incorporated or unincorporated, who provide services, in relation to health or welfare, whether or not for fee or reward, and includes a needle and syringe service;

***dispensing machine*** means a machine by which needles or syringes may be dispensed;

***government entity*** means the Crown or a body established by or under a law of the State;

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***needle and syringe service*** means a body of persons, whether incorporated or unincorporated, whose primary functions include the offering of needles or syringes to members of the public, whether or not for fee or reward;

***organised distributor*** means –

- (a) a body corporate; and
- (b) a partner in a partnership within the meaning of the *Partnership Act 1891*; and
- (c) a pharmacist, or a pharmacy business, within the meaning of the *Pharmacy Control Act 2001*; and
- (d) a council; and
- (e) a community organisation; and
- (f) a government entity; and
- (g) any other prescribed person or body of persons;

***permit*** means a permit issued and in force under this Division;

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***permitted premises***, in relation to a permit, means premises specified under section 56E(1) in a term of the permit as premises from which needles and syringes may be supplied under the permit.

**56B. Meaning of supply**

- (1) Except in sections 56K and 56L, a reference in this Division to the supply of a needle or syringe does not include a reference to the supply of a needle or syringe –
  - (a) for lawful medical treatment purposes or veterinary treatment purposes; or
  - (b) to or by a wholesaler of needles or syringes; or
  - (c) to a person for the purpose of enabling the disposal of the needle or syringe; or
  - (d) to a member of a class of persons prescribed for the purposes of this section.
- (2) For the purposes of this Division, apart from subsection (1) and section 56L(2), the supply to a person of a needle or syringe –

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- (a) at premises of an organised distributor, including by way of a dispensing machine at premises of an organised distributor; or
- (b) by post, or personal delivery, by a certified person acting on behalf of an organised distributor –

is to be taken to be a supply to the person by the organised distributor.

- (3) For the purposes of this Division, other than subsection (1), the supply of a needle or syringe by a person, to another person, by post is to be taken to be a supply to the other person by a certified person if the supply is carried out at the direction of a certified person.

**56C. Organised distributors not to supply needles or syringes except under permits**

An organised distributor must not supply a needle or syringe to a person unless the organised distributor holds a permit.

Penalty: Fine not exceeding 100 penalty units.

**56D. Permits**

- (1) An organised distributor may, in an approved form, apply to the Director for a permit.

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- (2) The Director may issue a permit to an organised distributor that has made an application under subsection (1).
- (3) The Director may only issue a permit to an organised distributor if the Director is satisfied –
- (a) that it is in the interests of public health for needles or syringes to be able to be supplied –
    - (i) by the organised distributor; and
    - (ii) at the premises that are to be the permitted premises; and
  - (b) that needles or syringes will only be supplied under the permit at the permitted premises; and
  - (c) that needles or syringes will only be supplied under the permit –
    - (i) by a certified person in relation to the permit; or
    - (ii) by a dispensing machine; and
  - (d) that the organised distributor has not committed an offence under this Division and the Director is not of the opinion that, in all the circumstances, the organised

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distributor ought to be  
disqualified from holding a  
permit.

(4) If the Director intends to specify on a permit a term referred to in section 56E(3), the Director may issue the permit despite subsection (3)(b), but only if he or she is satisfied that –

(a) it is in the interests of public health for needles or syringes to be able to be supplied –

(i) at the permitted premises;  
or

(ii) by post, or personal delivery, by a certified person in relation to the permit; and

(b) needles or syringes will not be supplied by the organised distributor to a person other than –

(i) at the premises that are to be the permitted premises;  
or

(ii) by post, or personal delivery, by a certified person in relation to the permit.

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- (5) The Director may refuse to issue a permit to an organised distributor if the Director is satisfied that the organised distributor has contravened or failed to comply with a condition of a permit.
  - (6) A permit remains in force –
    - (a) for the period of not more than 3 years specified in the permit; or
    - (b) until it is revoked; or
    - (c) if the permit is renewed, for the period specified in the notice of renewal issued under section 56H(3).
  - (7) Despite subsection (6), if an application for renewal of a permit is made under section 56H(2) before the permit expires, the permit remains in force until it is revoked or renewed or notice of a refusal to renew the permit is given under section 56H(3).
  - (8) A permit may not be transferred to another organised distributor or a person.

**56E. Terms of permits**

- (1) The Director must specify on a permit that it is a term of the permit that the supply, at the premises specified on the permit, by the organised distributor that

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holds the permit, of needles or syringes is authorised under the permit.

- (2) The Director may specify on a permit that it is a term of the permit that the supply of needles and syringes by way of a dispensing machine, situated at the permitted premises, is authorised under the permit.
- (3) The Director may specify on a permit that it is a term of the permit that the supply of needles and syringes by post, or personal delivery, by a certified person in relation to the permit is authorised under the permit.

**56F. Conditions of permits**

- (1) It is a condition of a permit that a needle or syringe must not be supplied, by the organised distributor that holds the permit, except as authorised by the terms specified on the permit in accordance with section 56E.
- (2) It is a condition of a permit that a needle or syringe must not be supplied to a person, by the organised distributor that holds the permit, unless –
  - (a) the person supplying the needle or syringe is a certified person in relation to the permit; or

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- (b) the supply is made by way of a dispensing machine, such a supply is authorised in accordance with a term specified on the permit in accordance with section 56E(2) and a certified person in relation to the permit will be responsible for the day-to-day operation of the machine.
- (3) It is a condition of a permit that the holder of the permit must comply with a requirement of the Director under subsection (4).
- (4) The Director, by notice in writing to the holder of a permit, may require the holder of the permit to provide to the Director, at the time, or times, specified in the notice, information specified in the notice.
- (5) It is a condition of a permit that the organised distributor that holds the permit must ensure that the service standards approved under section 56J are complied with in relation to the supply of a needle or syringe by the organised distributor.
- (6) The Director may specify on a permit conditions, in addition to the other conditions referred to in this section, to which the permit is subject, including, but not limited to including, conditions in

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relation to supply by post or personal  
delivery or by a dispensing machine.

**56G. Variation, &c., of terms and conditions of permits**

- (1) A holder of a permit may apply to the Director –
  - (a) for the variation or revocation of a condition specified on the permit under section 56F(6); or
  - (b) for the variation of a term specified on the permit under section 56E; or
  - (c) for the revocation of a term specified on the permit under section 56E(2) or (3); or
  - (d) for a term to be specified on the permit under section 56E(2) or (3).
- (2) The Director, by notice in writing to the holder of a permit, may –
  - (a) vary or revoke a condition specified on the permit in accordance with section 56F(6); or
  - (b) vary a term specified on the permit under section 56E; or

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- (c) revoke a term specified on the permit under section 56E(2) or (3); or
    - (d) specify a term on the permit under section 56E(2) or (3).
  - (3) The Director may, under subsection (2), only vary, revoke or specify a term or condition if the Director is satisfied that it is in the interests of public health to do so.
  - (4) The Director may, under subsection (2), only vary a term, specified under section 56E(1) on a permit, so as to change the reference from one premises to another or so as to specify on the permit additional permitted premises.

**56H. Revocation and renewal of permits**

- (1) The Director, by notice to the holder of a permit, may revoke the permit, if the Director –
  - (a) is no longer satisfied, in relation to the permit, as to the matters referred to in section 56D(3) and, if applicable, the matters referred to in section 56D(4); or
  - (b) is of the opinion that the holder of the permit has contravened or failed to comply with a condition of the permit.

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- (2) The holder of a permit may apply to the Director on the approved form for the renewal of the permit.
- (3) The Director may, by notice to the holder of the permit to which an application under subsection (2) relates –
  - (a) renew the permit for the period of not more than 3 years specified in the notice, if he or she is satisfied, in relation to the permit, as to the matters referred to in section 56D(3) and, if applicable, the matters referred to in section 56D(4); or
  - (b) refuse to renew the permit, if he or she is not satisfied, in relation to the permit, as to the matters referred to in section 56D(3) and, if applicable, the matters referred to in section 56D(4).

**56I. Certificates of relevant qualifications**

- (1) The Director may approve one or more courses of training as to the manner in which needles and syringes are to be supplied.
- (2) The Director may only approve a course under subsection (1) if he or she is satisfied that the course is likely to train participants in the course to supply needles and syringes in a manner that is

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likely to enable the safe supply, or use, or both, of needles and syringes.

- (3) The Director may issue to a person a certificate of attainment of a relevant qualification if the person has successfully completed a course of training approved under subsection (1).
- (4) A certificate is valid for a period of 3 years unless it is cancelled earlier under subsection (5).
- (5) The Director, by notice to a person to whom a certificate has been issued, may cancel the certificate, if the Director is satisfied that –
  - (a) the training to which the certificate relates was inadequate or is no longer adequate; or
  - (b) the person is not a suitable person to be authorised to supply needles or syringes; or
  - (c) the person has not supplied needles or syringes in accordance with the training to which the certificate relates.

**56J. Service standards**

- (1) The Director may approve service standards in relation to the supply of

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needles and syringes by an organised distributor.

(2) The following matters may be specified in service standards approved under subsection (1):

- (a) the information that must be supplied to a person to whom a needle or syringe is supplied;
- (b) the manner or form in which a needle or syringe is to be supplied;
- (c) the hours during which a needle or syringe may be supplied;
- (d) any other matter that the Director thinks fit in respect of the supply of needles or syringes.

**56K. Possession, &c., of needle or syringe does not constitute offence under certain Acts**

- (1) A person who is in possession of a needle or syringe, water for injection or an alcohol swab does not, by reason only of that possession, commit, and is not to be taken, by reason only of that possession, to have committed, any crime, or any offence, under the *Misuse of Drugs Act 2001* or the *Poisons Act 1971*.

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- (2) A person who is in possession of any trace element of a substance that is contained in a needle or syringe does not, by reason only of that possession, commit, and is not to be taken, by reason only of that possession, to have committed, any crime, or any offence, under the *Misuse of Drugs Act 2001* or the *Poisons Act 1971*.
- (3) A person who supplies a needle, or syringe, to another person so that the other person may dispose of the needle or syringe does not, by reason only of that supply, commit, and is not to be taken, by reason only of that supply, to have committed, any crime, or any offence, under the *Misuse of Drugs Act 2001* or the *Poisons Act 1971*.
- (4) A person who supplies –
- (a) an unused needle or unused syringe; or
  - (b) other equipment associated with the use of an unused needle or an unused syringe; or
  - (c) information –
- under a permit does not, by reason only of that supply, commit, aid, abet or instigate, and is not to be taken, by reason only of that supply, to have committed, aided, abetted or instigated, any crime, or any offence, under the

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*Misuse of Drugs Act 2001 or the Poisons Act 1971 or Chapters II or XXXV of the Criminal Code.*

(5) A person who supplies –

- (a) an unused needle or unused syringe; or
- (b) other equipment associated with the use of an unused needle or an unused syringe; or
- (c) information –

that was supplied under a permit does not, by reason only of that supply, commit, aid, abet or instigate, and is not to be taken, by reason only of that supply, to have committed, aided, abetted or instigated, any crime, or any offence, under the *Misuse of Drugs Act 2001* or the *Poisons Act 1971* or Chapters II or XXXV of the *Criminal Code*.

(6) In this section –

***trace element of a substance*** means any element, of the substance, that remains in a syringe or needle in such a quantity as to be unlikely to be usable for the purpose of injecting the substance.

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**56L. Persons with possession of needle or syringe to avoid risk to life and safety of other persons**

- (1) A person who is in possession of a needle or syringe must take all reasonable care and precautions to avoid risk to the life, safety or health of another person that may be caused by the needle or syringe.

Penalty: Fine not exceeding 10 penalty units.

- (2) A person who –
- (a) abandons, discards or disposes of a needle or syringe; or
  - (b) supplies to another person a needle or syringe to dispose of –

must take all reasonable care and precautions to avoid risk to the life, safety or health of another person that may be caused by the abandonment, discarding or disposal of the needle or syringe or the supply by the person of the needle to the other person.

Penalty: Fine not exceeding 10 penalty units.

**23. Section 61 repealed**

Section 61 of the Principal Act is repealed.

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**24. Section 62 amended (Prohibition and restriction on publication)**

Section 62 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “, or on the application of a person under subsection (2),” after “motion”;
- (b) by inserting in subsection (1) “, or a witness in respect of the proceedings,” after “to the proceedings”;
- (c) by omitting from subsection (2) “or a party to” and substituting “, or a party to or witness in respect of,”;
- (d) by omitting subsection (3) and substituting the following subsections:
  - (3) In any proceedings relating to a notifiable disease, a court, of its own motion or on the application of a person under subsection (4), may make an order closing the court if satisfied that it is in the public interest to do so.
  - (4) The Director, or a party to, or witness in respect of, any proceedings may apply to a court for an order referred to in subsection (3).

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**25. Section 67B amended (Smoke-free areas)**

Section 67B of the Principal Act is amended as follows:

- (a) by omitting paragraph (c) from subsection (1) and substituting the following paragraph:

(c) any area, including, but not limited to including, a public street, that is not within private premises and is designated by the occupier of the area as a smoke-free area;

- (b) by inserting the following subsection after subsection (2):

(2A) For the purposes of subsection (1)(c), private premises are –

- (a) if no multiple-use building is situated on the premises – premises on which is situated a building that is used exclusively for domestic purposes; or
- (b) if a multiple-use building is situated on the premises – so much of the premises as is used exclusively for domestic purposes –

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but does not include any part of the premises that consists of common property within the meaning of the *Strata Titles Act 1998*.

**26. Section 67I inserted**

After section 67H of the Principal Act, the following section is inserted in Division 1A:

**67I. Designated smoking areas in relation to public events**

- (1) A person who intends to conduct a public event may apply to the Director to have the Director approve as a designated smoking area a part of an area that has been declared to be a smoke-free area in connection with –
  - (a) the public event; or
  - (b) a class of public events of which the public event is a member.
- (2) The Director may, after receiving an application under subsection (1) from a person, issue an approval to the person in respect of a public event.
- (3) The Director may only issue an approval under subsection (2) in respect of a public event if the area specified in the approval to be a designated smoking area –

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- (a) is within an area that has been declared to be a smoke-free area in connection with –
    - (i) the public event; or
    - (ii) a class of public events of which the public event is a member; and
  - (b) is not an enclosed area.
- (4) An approval in respect of a public event is to –
- (a) specify the person to whom the approval has been issued; and
  - (b) specify the public event or events to which the approval relates; and
  - (c) specify the area, within a smoke-free area, that is the designated smoking area to which the approval relates; and
  - (d) specify the conditions in relation to the approval that the Director thinks fit.
- (5) A person to whom an approval is issued under subsection (2) must take all reasonable steps to ensure that the conditions imposed on the approval are complied with.

Penalty: In relation to –

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- (a) a body corporate, a fine not exceeding 250 penalty units; and
  - (b) an individual, a fine not exceeding 50 penalty units.
- (6) The Director may, by notice to the person to whom an approval has been issued –
  - (a) revoke the approval; or
  - (b) vary, revoke or add to any condition of the approval.

**27. Section 70 amended (Display of tobacco advertisements, &c.)**

Section 70(2) of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraph:

- (b) a tobacco advertisement –
  - (i) on a packet containing a tobacco product, if the packet forms part of the packaging and labelling of the tobacco product in accordance with any relevant guidelines for the purposes of section 73; or
  - (ii) that is in accordance with any relevant guidelines; or

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**28. Section 74C amended (Grant or refusal of licence)**

Section 74C of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (2A) The Director must not grant an application for a tobacco seller's licence if the licence is to be used primarily for the purpose of supplying tobacco to persons attending a public event.

**29. Part 6, Division 1: Heading amended**

Division 1 of Part 6 of the Principal Act is amended by omitting “*Orders and notices*” from the heading to that Division and substituting “*Interpretation*”.

**30. Section 127A inserted**

Before section 128 of the Principal Act, the following section is inserted in Division 1:

**127A. Interpretation of Part 6**

- (1) In this Part –

*approval* means an approval, granted under section 129C, that is in force;

*water carrier* means a person who carries on the undertaking of a water carrier as referred to in section 136D(2);

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***water quality auditor*** means a person to whom an approval relates;

***water quality management plan*** means a plan prepared for the purposes of complying with a requirement of a guideline referred to in section 129B(1).

- (2) For the purposes of this Act, an Agency, public authority or person is only to be taken to supply water that is obtained from a private water source if the Agency, public authority or person –
- (a) supplies the water for human consumption; or
  - (b) ought reasonably be expected to know that the water so supplied is intended by the person to whom it is supplied to be used for human consumption.

**31. Part 6, Division 1A: Heading inserted**

Part 6 of the Principal Act is amended by inserting the following heading before section 128:

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***Division 1A – Orders and notices***

**32. Section 128 amended (Notification of quality of water)**

Section 128 of the Principal Act is amended as follows:

(a) by omitting subsection (1) and substituting the following subsections:

(1) An Agency or a public authority (other than a council) that, in the course of carrying out its functions, becomes aware that the quality of water is a threat to public health or is likely to become a threat to public health, must, in the manner and form specified in the guidelines, give to the council in whose municipal area the water is situated the information required by the guidelines to be given to the council.

Penalty: Fine not exceeding 100 penalty units.

(1A) A person (other than a regulated entity) who –

(a) manages or is in control of water, other than a private water source; and

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- (b) becomes aware that the quality of the water is a threat to public health or is likely to become a threat to public health –

must, in the manner and form specified in the guidelines, give to the council in whose municipal area the water is situated the information required by the guidelines to be given to a council.

Penalty: Fine not exceeding 100 penalty units.

- (1B) A person, other than a water carrier, who –

- (a) supplies, intends to supply, or has supplied, water that is obtained from a private water source; and

- (b) becomes aware that the quality of the water is a threat to public health or is likely to become a threat to public health –

must, in the manner and form specified in the guidelines, give to the council in respect of the municipal area in which the water is situated the information

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required by the guidelines to be given to the council.

Penalty: Fine not exceeding 100 penalty units.

(1C) A water carrier who –

- (a) supplies, intends to supply, or has supplied, water; and
- (b) becomes aware that the quality of the water is a threat to public health or is likely to become a threat to public health –

must, in the manner and form specified in the guidelines, give to the council in respect of the municipal area in which the water carrier is required under section 136E to be registered the information required by the guidelines to be given to the council.

Penalty: Fine not exceeding 100 penalty units.

(1D) A council that is of the opinion that the quality of water is a threat to public health or is likely to become a threat to public health must give to the Director, in the manner and form specified

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in the guidelines, the information  
required by the guidelines to be  
given to the Director.

Penalty: Fine not exceeding 100  
penalty units.

(1E) A regulated entity that becomes aware that the quality of water that it manages or controls is a threat to public health or is likely to become a threat to public health must give to the Director, in the manner and form specified in the guidelines, the information required by the guidelines to be given to the Director.

Penalty: Fine not exceeding 100  
penalty units.

(b) by omitting from subsection (2) “under subsection (1)” and substituting “this section”;

(c) by omitting subsections (3) and (4) and substituting the following subsections:

(3) If a council receives a report from an environmental health officer that the quality of water is a threat to public health or is likely to become a threat to public health, the council must take any action, to prevent the threat, that is specified in any relevant

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guidelines and is necessary and practicable.

- (4) If a regulated entity receives a report from an environmental health officer or the Director, or itself identifies, that the quality of water that the regulated entity is managing or is in control of is a threat to public health or is likely to become a threat to public health, the regulated entity must take any action, to prevent the threat, that is specified in any relevant guidelines and is necessary and practicable.
- (5) Action that the relevant guidelines may specify for the purposes of subsection (3) or (4) includes, but is not limited to including, any actions for any of the following purposes:
- (a) restricting or preventing the use of the water;
  - (b) restricting or preventing the use of any food product in which the water has been used;
  - (c) rendering the water safe;
  - (d) giving warnings and information to the public about the safe use of the

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water or risk of using the  
water.

**33. Part 6, Division 1B inserted**

After section 129 of the Principal Act, the  
following Division is inserted in Part 6:

***Division 1B – Water quality management***

**129A. Water to be managed so as not to be threat  
to public health**

An Agency, public authority, regulated  
entity, or other person, that is managing  
or in control of water must manage the  
water in a manner that does not pose a  
threat to public health.

Penalty: Fine not exceeding 100 penalty  
units.

**129B. Guidelines in relation to water quality  
management**

(1) The guidelines may –

- (a) require a person managing or in  
control of water that is intended  
for human consumption to  
prepare, in relation to the water, a  
plan (a ***water quality  
management plan***) to promote  
and maintain the quality of the  
water; and

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- (b) specify the matters that are to be included in a water quality management plan; and
  - (c) require a person to review, and provide reports in respect of, the operation of a water quality management plan; and
  - (d) require a person to take steps to ensure that a water quality management plan is implemented; and
  - (e) specify that the Director may require a person to vary the provisions of a water quality management plan.
- (2) A water quality management plan may, if permitted by the guidelines, relate to one or more sources, or bodies, of water that is intended for human consumption.
- (3) The guidelines may require a person managing or in control of water that is intended for human consumption –
- (a) to prepare and implement plans to ensure that the requirements of this Act, or of any water quality management plan, in relation to the water are met; and
  - (b) to provide to the Director the reports, in relation to the management or control of the

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water or the implementation of a water quality management plan, that the Director requires.

(4) The guidelines may –

(a) require a person to ensure that a water quality auditor audits –

(i) a water quality management plan; and

(ii) the management and control of each of the sources of the water to which such a plan relates or the bodies of the water that contain the water to which such a plan relates; and

(b) specify the matters to which such an audit is to relate and that are to be contained in any reports in relation to such audits; and

(c) require a water quality auditor to provide to the Director reports in relation to audits conducted by the auditor.

**129C. Approval of water quality auditors**

(1) A natural person may apply to the Director for approval as a water quality auditor.

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- (2) An application is to be –
  - (a) in the approved form; and
  - (b) accompanied by the prescribed fee, if any.
- (3) The Director may refuse to consider an application by a person unless the person has provided to the Director the information the Director requires in order for the application to be determined.
- (4) The Director may, after considering an application by a person –
  - (a) grant an approval to the person in writing, either on conditions specified in the approval or without conditions; or
  - (b) refuse to grant an approval to a person.
- (5) The Director may only grant an approval to a person if –
  - (a) the Director is satisfied that the person is competent to carry out the duties of a water quality auditor, having regard to –
    - (i) the person's technical skills and experience; and
    - (ii) the approved competency criteria, if any; and

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- (b) the Director is not aware of any grounds on which, if the person held the approval, the approval could be suspended or cancelled under section 129E.
- (6) Without limiting the conditions on which an approval may be granted to a person, an approval may be granted on condition that the person does not conduct an audit in relation to a person specified in the approval.
- (7) If the Director refuses to grant an approval to a person, the Director must give to the person notice of the refusal and of the reasons for the refusal.
- (8) Unless the approval is cancelled under section 129E, an approval remains in force for 12 months from the date on which it is granted.
- (9) An approval is not to be taken to be in force at any time during a period for which the approval is suspended.

**129D. Variation of condition of approval as a water quality auditor**

- (1) The Director, by notice in writing served on a person who holds an approval, may vary the conditions of the approval.
- (2) The variation of the conditions of an approval takes effect –

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- (a) if an application for review of the decision to vary the conditions is not made under section 160C – 28 days after the notice of the variation is served under subsection (1); or
  - (b) if an application for review of the decision to vary the conditions is made under section 160C and the Magistrates Court (Administrative Appeals Division) makes a decision affirming the decision under review – on the day the decision was affirmed.

**129E. Suspension and cancellation of approval**

- (1) The Director, by notice served on a water quality auditor who holds an approval, may suspend or cancel the approval, if the Director is satisfied that –
  - (a) the water quality auditor has contravened any provision of this Act or the relevant guidelines; or
  - (b) the water quality auditor has contravened a condition of the approval; or
  - (c) the water quality auditor has not carried out an audit, or prepared a report, for the purposes of the guidelines –

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- (i) competently; or
    - (ii) in accordance with the provisions of the relevant guidelines; or
  - (d) the water quality auditor had a conflict of interest in relation to another person at the time at which the water quality auditor carried out, in relation to the other person, an audit or report for the purposes of the relevant guidelines; or
  - (e) the approval ought to be cancelled for any other reason.
- (2) The cancellation of an approval under subsection (1) takes effect –
- (a) if an application for review of the decision to cancel the approval is not made under section 160C – 28 days after the notice of the cancellation is served under subsection (1); or
  - (b) if an application for review of the decision to cancel the approval is made under section 160C and the Magistrates Court (Administrative Appeals Division) makes a decision affirming the decision under review – on the day the decision was affirmed.

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- (3) The Director, at the request of a water quality auditor, may, by notice served on the person, cancel the water quality auditor's approval.

**129F. Duties of water quality auditors**

- (1) A water quality auditor must notify the Director as soon as practicable after becoming aware that the auditor has, or may have, a conflict of interest in relation to a person at the time of conducting an audit, or preparing a report, for the purposes of the relevant guidelines, in relation to the person.
- (2) A water quality auditor must notify the Director as soon as practicable, but in any case within 24 hours, after becoming aware that water, in relation to which the auditor is conducting or has conducted an audit, is a threat to public health or is likely to become a threat to public health.

**129G. When water quality auditor to be taken to have conflict of interest**

- (1) For the purposes of this Act, a water quality auditor has a conflict of interest in relation to another person if the auditor –
- (a) has, directly or indirectly, a material personal interest in relation to the other person; or

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- (b) has, under the relevant guidelines, a conflict of interest in relation to the person.
- (2) For the purposes of this Act, a water quality auditor does not have a conflict of interest in relation to another person by reason only that the auditor is paid, under a contract or arrangement with the person, to carry out a duty of the auditor under this Part or the guidelines.
- (3) In this section –
  - material personal interest in relation to the other person* includes, in relation to a water quality auditor –
    - (a) a pecuniary or non-pecuniary interest, of the auditor, in the other person; and
    - (b) an interest, in the other person, of a relative of the auditor; and
    - (c) the holding of another office by the auditor, where there arises, or may arise, a conflict between his or her duties in that office and his or her duties, in relation to the person, as an auditor.

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**129H. List of auditors to be kept and made available**

- (1) The Director is to establish and maintain a list of water quality auditors and their contact details.
- (2) The list of water quality auditors is to be made available to the public free of charge.

**34. Section 130 amended (Monitoring and review)**

Section 130(2) of the Principal Act is amended by inserting “, in accordance with any relevant guidelines,” after “monitor”.

**35. Section 131 amended (Samples)**

Section 131(2) of the Principal Act is amended by inserting “, in accordance with any relevant guidelines,” after “take”.

**36. Part 6, Division 3: Heading amended**

Division 3 of Part 6 of the Principal Act is amended by omitting “*Registration of user or supplier of private water*” from the heading to that Division and substituting “*Registration of suppliers of water from private water sources*”.

**37. Section 133 amended (Registration)**

Section 133 of the Principal Act is amended as follows:

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(a) by omitting subsection (1) and substituting the following subsection:

(1) An Agency, public authority or person must not –

(a) for commercial purposes, supply water that is obtained from a private water source; or

(b) supply to any place that is used for health, educational, imprisonment or detention purposes, water that is obtained from a private water source –

unless the Agency, authority or person is registered under this Division as a supplier of water from a private water source.

Penalty: Fine not exceeding 50 penalty units.

(b) by omitting from subsection (2) “uses or”;

(c) by inserting the following subsections after subsection (2):

(3) For the purposes of subsection (1), a person (*the supplier*) is not to be taken to supply water for commercial

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purposes to another person by reason only that the supplier supplies water to premises that are residential premises to which relates –

- (a) a residential tenancy agreement, within the meaning of the *Residential Tenancy Act 1997* between the supplier and the other person; or
  - (b) a contract, to lease the premises, entered into by the supplier and the other person.
- (4) Subsection (1) does not apply in relation to the supply, as part of the carrying on of a food business, within the meaning of the *Food Act 2003*, that is registered as a food business under that Act, of water from a private water source.

**38. Section 134 amended (Application for registration)**

Section 134 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “user or”;

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(b) by inserting the following subsection after subsection (2):

(3) For the purposes of this section, the relevant council in relation to a person applying to be registered as a supplier of water from a private water source is the council in respect of the municipal area in which the water is situated.

**39. Section 135 amended (Grant or refusal of registration)**

Section 135 of the Principal Act is amended as follows:

(a) by omitting paragraph (a) from subsection (1) and substituting the following paragraph:

(a) grant an application for registration as a supplier of water from a private water source without conditions or on the conditions the council thinks fit; or

(b) by omitting subsection (2) and substituting the following subsection:

(2) In determining an application, the council is to have regard to –

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- (a) public health and any relevant guidelines; and
- (b) whether the applicant is likely to comply with the Act and any relevant guidelines; and
- (c) if the applicant has previously been registered as a supplier of water from a private water source – the extent to which the applicant has complied with the Act, any relevant guidelines, and any conditions of such registration.

- (c) by inserting in subsection (3) “the applicant of” after “notify”.

**40. Section 136 amended (Issue of certificate of registration)**

Section 136 of the Principal Act is amended as follows:

- (a) by inserting “or section 136AA” after “section 135”;
- (b) by omitting paragraphs (a) and (b) and substituting the following paragraphs:
  - (a) issue in an approved form a certificate of registration as a

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supplier of water from a private  
water source; and

- (b) endorse the certificate with the  
conditions, if any, on which the  
application is granted; and
- (c) by omitting from paragraph (c)(iii) “of  
issue of the certificate.” and substituting  
“on which the registration is granted and  
the period for which, subject to this Act,  
the registration remains in force.”.

**41. Sections 136AA and 136AAB inserted**

After section 136 of the Principal Act, the  
following sections are inserted in Division 3:

**136AA. Renewal of registration**

- (1) A person may apply to the relevant  
council to renew the registration of the  
person as a supplier of water from a  
private water source.
- (2) An application is to be –
  - (a) in the approved form; and
  - (b) lodged at the public office of the  
council; and
  - (c) accompanied by the applicable  
council fee.
- (3) A council may –

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- (a) grant an application for renewal of registration as a supplier of water from a private water source and register the applicant without conditions or on the conditions the council thinks fit; or
  - (b) refuse to grant an application for renewal of registration as a supplier of water from a private water source.
- (4) In determining an application, a council is to have regard to –
  - (a) public health and any relevant guidelines; and
  - (b) whether the applicant is likely to comply with the Act and any relevant guidelines; and
  - (c) the extent to which the applicant has complied with the Act, any relevant guidelines, and any conditions of registration as a supplier of water from a private water source.
- (5) The council, by notice in writing served on an applicant for renewal of registration, must notify –
  - (a) the granting of the application; or
  - (b) the refusal to grant the application.

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**136AAB. Duration of registration**

- (1) The registration of a person as a supplier of water from a private water source remains in force for 12 months, or a shorter period specified by the council and specified on the certificate of registration, from the date on which the application for registration, or for renewal of registration, is granted.
- (2) However, if an application to renew the registration of a person as a supplier of water from a private water source is lodged and not determined before the registration expires, the period of the registration is extended until the application is determined.

**42. Section 136A amended (Use or supply of water)**

Section 136A of the Principal Act is amended as follows:

- (a) by omitting “user or”;
- (b) by omitting “used or”.

**43. Section 136AB inserted**

After section 136A of the Principal Act, the following section is inserted in Division 3:

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**136AB. Supplier of water from private water source must give notice to public if water unsafe**

A person required to be registered under section 133(1) as a supplier of water from a private water source must, if the person becomes aware that the quality of the water that the person has supplied or is intending to supply is a threat to public health or is likely to become a threat to public health, take any necessary and practicable action in accordance with any relevant guidelines to prevent the threat by –

- (a) restricting or preventing the use of the water; or
- (b) rendering the water safe; or
- (c) giving warnings and information to the public about the safe use of the water or risk of using the water.

**44. Section 136B amended (Variation of registration)**

Section 136B of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsection:
  - (1) A council, on its own volition or on application by a person who is registered as a supplier of water

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from a private water source, may vary the registration by omitting, adding, substituting or amending any condition of the registration.

- (b) by inserting in subsection (2) “and any relevant guidelines” after “health”;
- (c) by inserting in subsection (4)(a) “of the decision to vary the registration” after “review”;
- (d) by inserting in subsection (4)(b) “of the decision to vary the registration” after “a review”.

**45. Section 136C amended (Cancellation of registration)**

Section 136C of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “user or”;
- (b) by inserting in subsection (1)(a) “, or a provision of the Act, or the guidelines, that applies to a supplier of water from a private water source,” after “registration”;
- (c) by inserting in subsection (3)(a) “of the decision to cancel the registration” after “review”;

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- (d) by inserting in subsection (3)(b) “of the decision to cancel the registration” after “a review”.

**46. Part 6, Division 4 inserted**

After section 136C of the Principal Act, the following Division is inserted in Part 6:

***Division 4 – Registration of water carriers***

**136D. Water carriers**

- (1) In this section –

***water tank*** means a receptacle that is designed, or used, for the carriage of liquids in bulk.

- (2) For the purposes of this Act, a person carries on the undertaking of a water carrier if the person carries on an undertaking that –
  - (a) supplies, whether or not for fee or reward, water that is intended for human consumption; and
  - (b) supplies such water by transporting it in a water tank that is situated in or on, or is attached to, a vehicle.
- (3) A person does not carry on the undertaking of a water carrier by reason

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only of being the driver of a vehicle that carries water.

**136E. Water carriers required to be registered**

- (1) A person must not carry on the undertaking of a water carrier unless the person is registered with the council in respect of the municipal area in which will be stored the majority of vehicles by which water is to be supplied in the course of carrying out the undertaking.

Penalty: Fine not exceeding 50 penalty units.

- (2) A person who is required under this section to be registered as a water carrier –
- (a) must comply with the conditions, if any, of the registration and with any relevant guidelines; and
  - (b) must supply water, as part of the undertaking of being a water carrier, in a manner that does not pose a threat to public health.

Penalty: Fine not exceeding 50 penalty units.

**136F. Application for registration**

- (1) A person may apply to a council to be registered as a water carrier.

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- (2) An application is to be –
- (a) in the approved form; and
  - (b) lodged at the public office of the council; and
  - (c) accompanied by the applicable council fee.

**136G. Grant or refusal of registration**

- (1) A council may –
- (a) grant an application for registration as a water carrier and register the applicant without conditions or on the conditions the council thinks fit; or
  - (b) refuse to grant an application for registration as a water carrier.
- (2) In determining an application, a council is to have regard to –
- (a) public health and any relevant guidelines; and
  - (b) whether the applicant is likely to comply with the Act and any relevant guidelines; and
  - (c) if the applicant has previously been registered as a water carrier – the extent to which the applicant has complied with the

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Act, any relevant guidelines, and any conditions of such registration.

- (3) The council, by notice in writing served on an applicant for registration, must notify the applicant of –
- (a) the granting of the application; or
  - (b) the refusal to grant the application.

**136H. Issue of certificate of registration**

If a council grants an application under section 136G or section 136I it is to –

- (a) issue in an approved form a certificate of registration as a water carrier; and
- (b) endorse the certificate with the conditions, if any, on which the application is granted; and
- (c) specify on the certificate –
  - (i) the name and address of the person to whom it is issued; and
  - (ii) the date on which the registration is granted and the period for which, subject to this Act, the

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registration remains in  
force; and

- (iii) the equipment, and the  
vehicle registration  
number of the vehicles, to  
be used by the person in  
carrying on the  
undertaking of a water  
carrier.

**136I. Renewal of registration**

- (1) A person may apply to the relevant  
council to renew the registration of the  
person as a water carrier.
- (2) An application is to be –
  - (a) in the approved form; and
  - (b) lodged at the public office of the  
council; and
  - (c) accompanied by the applicable  
council fee.
- (3) A council may –
  - (a) grant an application for renewal  
of registration as a water carrier  
and register the applicant without  
conditions or on the conditions  
the council thinks fit; or

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- (b) refuse to grant an application for renewal of registration as a water carrier.
- (4) In determining an application, a council is to have regard to –
  - (a) public health and any relevant guidelines; and
  - (b) whether the applicant is likely to comply with the Act and any relevant guidelines; and
  - (c) the extent to which the applicant has complied with the Act, any relevant guidelines, and any conditions of registration as a water carrier.
- (5) The council, by notice in writing served on an applicant for renewal of registration, must notify –
  - (a) the granting of the application; or
  - (b) the refusal to grant the application.

**136J. Duration of registration**

- (1) The registration of a person as a water carrier remains in force for the period of 12 months, or a shorter period specified by the council and specified on the certificate of registration, from the date

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on which the application for registration, or for renewal of registration, is granted.

- (2) However, if an application to renew the registration of a person as a water carrier is lodged and not determined before the registration expires, the period of the registration is extended until the application is determined.

**136K. Variation of registration**

- (1) A council, on its own volition or on application by a person who is registered as a water carrier, may vary the registration of the person as a water carrier by omitting, adding, substituting or amending any condition of the registration.
- (2) Before varying the registration, the council is to consider the protection of public health and any relevant guidelines.
- (3) The council, by notice served on the holder of the certificate of registration as a water carrier, is to notify any variation of the registration.
- (4) The variation of the registration takes effect –
- (a) if an application for review of the decision to vary the registration is not made under section 163B –

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28 days after service of the notice; or

- (b) if an application for review of the decision to vary the registration is made under section 163B and the Magistrates Court (Administrative Appeals Division) makes a decision affirming the decision under review – on the day the decision was affirmed.

**136L. Cancellation of registration**

- (1) A council may cancel the registration of a person as a water carrier if –
  - (a) a condition of the registration, or a provision of the Act, or of the guidelines, that applies to a water carrier, has not been complied with; or
  - (b) the water source, or the supply of water by the water carrier, is a threat to public health or a likely threat to public health.
- (2) The council, by notice in writing served on the holder of a certificate of registration as a water carrier, is to notify the cancellation of the registration.
- (3) The cancellation of the registration takes effect –

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- (a) if an application for review of the decision to cancel the registration is not made under section 163B – 28 days after service of the notice; or
  - (b) if an application for review of the decision to cancel the registration is made under section 163B and the Magistrates Court (Administrative Appeals Division) makes a decision affirming the decision under review – on the day the decision was affirmed.

**136M. Water carrier must give notice to public if water unsafe**

- (1) A person required to be registered under section 136E as a water carrier must, if the person becomes aware that the quality of the water in relation to which the person is registered as a water carrier is a threat to public health or is likely to become a threat to public health, take any action, to prevent the threat, that is specified in any relevant guidelines and is necessary and practicable.
- (2) Action that the relevant guidelines may specify for the purposes of subsection (1) includes, but is not limited to including, any actions for any of the following purposes:

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- (a) restricting or preventing the use of the water;
- (b) rendering the water safe;
- (c) giving warnings and information to the public about the safe use of the water or risk of using the water.

**47. Section 137A amended (Contents of Cervical Screening Register)**

Section 137A of the Principal Act is amended by inserting after paragraph (a) the following paragraphs:

- (ab) a number, or other sign, assigned to the person so as to identify the person;
- (ac) information as to whether or not the person is an Aboriginal or Torres Strait Islander, or both;

**48. Section 147 substituted**

Section 147 of the Principal Act is repealed and the following section is substituted:

**147. Disclosure of information**

- (1) A person must not disclose to another person any information, relating to a natural person, that is information –

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(a) that has been obtained by a person for the purposes of this Act or relates to the administration of this Act; and

(b) from which the identity of the natural person is apparent or reasonably ascertainable –

unless the disclosure of the information is permitted under subsection (2).

Penalty: Fine not exceeding 100 penalty units.

(2) The disclosure of information by a person is permitted if the disclosure –

(a) is authorised under subsection (3); and

(b) except if the disclosure is for the purposes of subsection (3)(g), (i) or (j), is in accordance with relevant guidelines, if any, in relation to such a disclosure.

(3) A disclosure to a person of information relating to another person (a **relevant person**) that is information from which the identity of the other person is apparent or reasonably ascertainable is authorised if –

(a) the relevant person gives his or her written consent to the disclosure or, where he or she is a

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child, or a person with a guardian, who is incapable of giving consent, a parent or guardian of the relevant person gives written consent to the disclosure; or

- (b) the disclosure is disclosure to a person involved in the diagnosis, clinical assessment, treatment or counselling of the relevant person; or
- (c) the disclosure is disclosure to a person apparently in charge of any institution or facility which is involved in the clinical assessment, treatment or counselling of the relevant person; or
- (d) the disclosure is disclosure to a person authorised by the Director; or
- (e) the disclosure is for the purpose of –
  - (i) the management, detection, notification, treatment or prevention of the spread of a notifiable disease or notifiable contaminant; or
  - (ii) managing a threat to public health or a likely threat to public health; or

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- (f) the disclosure is for the purpose of an approved epidemiological study, approved study or approved research; or
  - (g) the disclosure is for the purposes of legal proceedings arising out of this Act; or
  - (h) the disclosure is for the purposes of, or occurs in the course of, an inquiry, or investigation, under this Act; or
  - (i) the disclosure is for a purpose authorised, or is required, by this Act or another Act; or
  - (j) the disclosure is for the purposes of ensuring compliance with, and enforcing, this Act.
- (4) A person must not disclose to a person any information –
- (a) that has been obtained by a person for the purposes of this Act or that relates to the administration of this Act; and
  - (b) from which the identity of a business or premises is apparent or reasonably ascertainable –

unless the person is permitted to do so under subsection (5).

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Penalty: Fine not exceeding 100 penalty units.

- (5) The disclosure of information by a person is permitted if the disclosure –
- (a) is authorised under subsection (6); and
  - (b) except if subsection (6)(d), (g) or (h) applies, is in accordance with relevant guidelines, if any, in relation to such a disclosure.
- (6) A disclosure to a person of information from which the identity of a business or premises is apparent or reasonably ascertainable is authorised if –
- (a) the owner of the business, or the occupier of the premises, gives his or her written consent to the disclosure; or
  - (b) the disclosure is disclosure to a person authorised by the Director; or
  - (c) the disclosure is for the purposes of, or occurs in the course of, an inquiry, or investigation, under this Act; or
  - (d) the disclosure is for a purpose authorised, or is required, by this Act or another Act; or

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- (e) the disclosure is for the purpose of –
    - (i) the management, diagnosis, detection, notification, treatment or prevention of the spread of a notifiable disease or notifiable contaminant; or
    - (ii) managing a threat to public health or a likely threat to public health; or
  - (f) the disclosure is for the purpose of an approved epidemiological study, approved study or approved research; or
  - (g) the disclosure is for the purposes of legal proceedings arising out of this Act; or
  - (h) the disclosure is for the purposes of ensuring compliance with, and enforcing, this Act.
- (7) For the purposes of this section, a child or person is incapable of giving consent if the child or person is unable to understand the implications of giving consent to the disclosure of information in relation to himself or herself.

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**49. Section 148 amended (Requirement for information)**

Section 148 of the Principal Act is amended by inserting after subsection (3) the following subsection:

- (4) A court that finds a person guilty of failing to comply under subsection (3) with a requirement to provide information may order the person to provide the information to the Director.

**50. Section 149 repealed**

Section 149 of the Principal Act is repealed.

**51. Section 153 amended (Compensation)**

Section 153(3) of the Principal Act is amended by inserting “or a likely threat to public health” after “health”.

**52. Section 154A inserted**

After section 154 of the Principal Act, the following section is inserted in Division 4:

**154A. Offences against water quality auditors**

A person must not –

- (a) assault, abuse or threaten a person conducting an audit, or preparing a report, required by guidelines

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for the purposes of section 129B;  
or

- (b) hinder, obstruct or delay a person conducting an audit, or preparing a report, required by guidelines for the purposes of section 129B.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 6 months, or both.

**53. Section 160AA inserted**

After section 160 of the Principal Act, the following section is inserted in Division 5:

**160AA. Reviews relating to permits to supply needles and syringes**

- (1) A person may apply to the Magistrates Court for a review of a decision of the Director –
  - (a) under section 56D to refuse to issue a permit to the person; or
  - (b) under section 56F(6) to impose a condition on a permit issued to the person under section 56D; or
  - (c) under section 56E(2) or (3) to refuse to specify a term on a permit issued to the person under section 56D; or

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- (d) under section 56G(2) to vary, or refuse to vary, a condition imposed under section 56F(6) on a permit issued to the person under section 56D; or
  - (e) under section 56G(2) to vary, to refuse to vary, or to revoke, a term specified under section 56E(2) or (3) on a permit issued to the person under section 56D; or
  - (f) under section 56G(2) to vary, or to refuse to vary, in accordance with section 56G(4), a term specified under section 56E(1) on a permit issued to the person under section 56D; or
  - (g) to revoke, or to refuse to renew, under section 56H a permit issued to the person under section 56D.
- (2) A person may apply to the Magistrates Court for a review of a decision of the Director or a person –
- (a) to refuse to issue a certificate under section 56I(3); or
  - (b) to cancel a certificate under section 56I(5).

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**54. Sections 160B and 160C inserted**

After section 160A of the Principal Act, the following sections are inserted in Division 5:

**160B. Reviews relating to approval of designated smoking area**

A person may apply to the Magistrates Court (Administrative Appeals Division) for a review of the Director's decision to –

- (a) grant or refuse to grant an application for an approval of a designated smoking area; or
- (b) impose any condition on that approval; or
- (c) vary a condition of that approval; or
- (d) suspend or revoke that approval.

**160C. Reviews relating to approval of water quality auditor**

A person may apply to the Magistrates Court (Administrative Appeals Division) for a review of the Director's decision to –

- (a) grant or refuse to grant an application for approval as a water quality auditor; or

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- (b) impose any condition on that approval; or
- (c) vary a condition of that approval; or
- (d) suspend or cancel that approval.

**55. Section 163A amended (Reviews relating to registration as supplier of water)**

Section 163A of the Principal Act is amended as follows:

- (a) by inserting in paragraph (a) “or renewal of registration” after “registration”;
- (b) by omitting from paragraph (a) “user or”;
- (c) by inserting in paragraph (b) “or renewal of registration” after “registration”.

**56. Section 163B inserted**

After section 163A of the Principal Act, the following section is inserted in Division 5:

**163B. Reviews relating to registration as a water carrier**

A person may apply to the Magistrates Court (Administrative Appeals Division) for a review of a council’s decision to –

- (a) grant or refuse to grant an application for registration, or

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renewal of registration, as a water carrier; or

- (b) impose any condition on that registration or renewal of registration; or
- (c) vary that registration; or
- (d) cancel that registration.

**57. Section 184 amended (Guidelines)**

Section 184 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (1A) The power of the Director under subsection (1) to issue guidelines is not limited to the power to make guidelines for the purposes of a provision that expressly refers to guidelines.

**58. Section 187A inserted**

After section 187 of the Principal Act, the following section is inserted in Division 8:

**187A. Quarantined, &c., persons to be permitted to communicate with certain persons**

- (1) The Secretary of the Department must ensure that a person who is quarantined, placed in isolation, or required to stay in a particular place, under a direction or order given in accordance with this Act –

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- (a) is given reasonable opportunities to contact and confer with an Australian legal practitioner, or a medical practitioner, of the person's own choosing; and
  - (b) receives any communications made to the person by an Australian legal practitioner or a medical practitioner.
- (2) For the purposes of subsection (1), the Secretary of the Department may limit contact, conferral and communication to or by a person who has a notifiable disease to such means as are necessary to ensure that the notifiable disease is not transmitted by the person to another person.

**59. Section 196 amended (Guidelines and codes of practice)**

Section 196 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “or a day specified in the guideline or code of practice as the day on which it is to take effect” after “or formulated”;
- (b) by inserting the following subsection after subsection (1):
  - (1A) An amendment or revocation, of a guideline or a code of practice,

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that is made by the Director takes effect on the day on which it is made or a day specified in the guideline or code of practice as the day on which it is to take effect.

- (c) by omitting from subsection (2) “referred to in subsection (1)” and substituting “, or an amendment of a guideline or code of practice,”;
- (d) by omitting from subsection (3) “referred to in subsection (1)” and substituting “, or an amendment of a guideline or code of practice”;
- (e) by inserting in subsection (3) “, or the amendment,” after “the guideline or code of practice”;
- (f) by inserting in subsection (4) “, or an amendment of a guideline or code of practice,” after “A guideline or code of practice”;
- (g) by inserting in subsection (4) “, or the amendment,” after “the guideline or code of practice”;
- (h) by inserting in subsection (5) “, or an amendment of a guideline or code of practice,” after “a guideline or code of practice”;

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- (i) by inserting in subsection (5) “, or amendment,” after “disallow the guideline or code of practice”;
- (j) by inserting in subsection (5) “, or the amendment,” after “negated, the guideline or code of practice”.

**60. Section 198A inserted**

After section 198 of the Principal Act, the following section is inserted in Division 8:

**198A. Savings and consequential provisions consequent to *Public Health (Miscellaneous Amendments) Act 2014***

- (1) The registration, as a supplier of water from a private water source, of an Agency, public authority or person, which registration is in force immediately before the day on which the amendments to section 133 effected by the amendment Act come into force, continues in force, as if the registration had been granted under this Act as in force after that day, until the end of the 12-month period from the day the registration is granted.
- (2) A person who, immediately before the amendment day, is the holder of a permit in force under the *HIV/AIDS Preventive Measures Act 1993* is to be taken, on and from the amendment day, to be the holder of a certificate issued under

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section 56I of this Act on the day on which the permit was issued.

- (3) Nothing in this section is to be taken to prevent the revocation, expiry or amendment under this Part of a certificate that is taken under this section to be issued to a person under section 56I.

- (4) In this section –

*amendment Act* means the *Public Health (Miscellaneous Amendments) Act 2014*;

*amendment day* means the day on which section 56C commences.

**61. Schedule 1 amended (Provisions with respect to membership and meetings of advisory committee)**

Clause 11(1) of Schedule 1 to the Principal Act is amended by omitting “an authorised person” and substituting “a person authorised by the Director”.

*Public Health (Miscellaneous Amendments) Act 2015*  
*Act No. of*

**s. 62**

Part 4 – Legislation repealed

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**PART 4 – LEGISLATION REPEALED**

**62. Legislation repealed**

The legislation specified in Schedule 1 is repealed.

*Public Health (Miscellaneous Amendments) Act 2015*  
*Act No. of*

Part 5 – Repeal of Act

**s. 63**

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**PART 5 – REPEAL OF ACT**

**63. Repeal of Act**

This Act is repealed on the three hundred and sixty-fifth day from the day on which all of the provisions of this Act commence.

*Public Health (Miscellaneous Amendments) Act 2015*  
*Act No. of*

**sch. 1**

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**SCHEDULE 1 – LEGISLATION REPEALED**

Section 62

*HIV/AIDS Preventive Measures Act 1993* (No. 25 of 1993)