

CLAUSE NOTES

Public Health Amendment (Emergency Powers) Bill 2026

Clause 1 Short title

The Short Title states that the Act is to be cited as the *Public Health Amendment (Emergency Powers) Act 2026*.

Clause 2 Commencement

Provides for the Act to commence on the day on which it receives the Royal Assent

Clause 3 Principal Act

This clause identifies the *Public Health Act 1997* as the Principal Act for the purposes of the Bill.

Clause 4 Section 3 amended (Interpretation)

This clause amends section 3 of the Principal Act by inserting a new paragraph to the definition of “authorised officer” and to include “a compliance officer” within that definition in consequence to changes made by clause 5 establishing a new type of authorised officer.

This clause also omits the definition of “COVID-19 disease” as it is no longer necessary to have special provisions relating to that emergency.

Clause 5 Section 10 amended (Environmental health officers, medical officers of health and compliance officers – appointment by Director)

This clause adds a new paragraph (c) to subsection (1), providing that the Director of public health may, for the purposes of the Act, appoint persons employed by any Agency, who hold approved qualifications, as a “compliance officer” in addition to the existing environmental health officers and medical officers of health. In each type of appointment, it is the Director of Public Health as the decision maker that approves the relevant qualifications.

This clause also removes the current references to an environmental health officer or a medical officer of health from subsection (2), so that all officers appointed under subsection (1), including environmental health officers and medical officers of health and compliance officers, will hold office in conjunction with their employment by an Agency.

Clause 6 Section 13B inserted

This clause inserts a new section 13B (Accountability) and establishes a principle-based approach to decision making under Division 2 (Emergency Powers), wherein a person who performs a function or exercises a power under the Division is to act in a manner that is accountable, transparent, systematic and appropriate.

The intention is to create a statutory objective reflecting contemporary public health emergency management principles:

- Accountability supports clear roles, responsibilities, and scrutiny, such as by supporting prompt parliamentary review
- Transparency builds public trust through open communication, such as by giving clear reasons for decisions
- Systematic approaches use organised structures and evidence-based tools, such as by resourcing trained responders, using contemporary information systems and understanding health system impacts of actions, and
- Appropriate actions are those based on balanced decisions that are best suited to the specific emergency and the prevailing circumstances.

Clause 7 Section 14 amended (Emergency declaration)

This clause changes the office with the power to declare a public health emergency, invoking the availability of the special powers set out under Division 2 (Emergency Powers) during a public health emergency declaration, from the Director of Public Health to the Minister administering the *Public Health Act 1997*.

This clause also requires that, before making a decision to declare a public health emergency, the Minister is to consult with the Director of Public Health and the Secretary with the administrative responsibility for the Tasmanian Health Service.

The intention is that the consultation is undertaken in a manner consistent with the principles established by the new section 13B, while flexibility is retained to swiftly respond to time-sensitive public health risks.

Amendments to subsection (3) also made by this clause require the Minister, as the maker of the declaration, to notify the State Controller within the meaning of the *Emergency Management Act 2006*.

Clause 8 Section 15 amended (Duration of emergency declaration)

This clause amends section 15 of the Principal Act by allowing any public health emergency declaration to continue in force for a period of

up to 12 weeks from the date on which it was made, unless it is sooner revoked. To do so, the clause removes both the former limit of 7 days and the limitation that a declaration may only last 12 weeks if it was in relation to the COVID-19 disease.

The clause also makes amendments, consequential to clause 7, to replace the office holder who may extend or revoke a public health emergency declaration from the Director of Public Health to the Minister.

The clause also removes the similar limitations on the length of time for which an emergency declaration may be extended so that it may be extended for a period of up to 12 weeks and the clause removes both the former limit of 7 days and the limitation that an extension of a declaration may only last 12 weeks if it was in relation to the COVID-19 disease.

This clause also inserts a new subsection (4A) that requires the Minister, before extending or revoking a public health emergency declaration to consult with the Director of Public Health and the Secretary with the administrative responsibility for the Tasmanian Health Service.

As with clause 7, it is intended that the consultation is undertaken in a manner consistent with the principles established by the new section 13B, while flexibility is retained.

Amendments to subsection (5) also made by this clause require the Minister, as the maker of the declaration extension or revocation, to notify the State Controller within the meaning of the *Emergency Management Act 2006*.

Clause 9 Section 15A inserted

This clause inserts a new section 15A to require the Minister to publish notice as soon as practicable after making, extending or revoking a declaration of a public health emergency. The notification of the making, extending or revoking a declaration of the public health emergency is to be published on a Department of Health website, or other government website, and in the Gazette.

Clause 10 Section 16 amended (Directions of Director)

This clause amends section 16 of the Principal Act by requiring the Director of Public Health, before giving or revoking a direction under that section, to consult with specified office holders where the proposed direction or revocation may affect particular matters.

Where the Director considers that the proposed direction or revocation may affect the delivery of services under a service plan within the meaning of the *Tasmanian Health Service Act 2018*, the Director is required to consult with the Secretary within the meaning of that Act.

Where the Director considers that the proposed direction or revocation may affect emergency management, and a state of alert or state of emergency under the *Emergency Management Act 2006* has been declared and remains in effect, the Director is required to consult with the State Controller within the meaning of that Act.

The intention of these amendments is to support coordinated decision-making during public health emergencies by ensuring that directions made under section 16 take account of all relevant circumstances – in accordance with the new section 13B – but with particular attention to potential impacts on health service delivery and broader emergency management arrangements.

Clause 11 Section 16D inserted

This clause inserts a new section 16D into the Principal Act requiring the publication of directions made under section 16 and the publication of reasons for those directions.

New subsection (1) requires the Director of Public Health, as soon as practicable after giving or revoking a direction under section 16, to publish the direction, or notice of the revocation, on a Department of Health website, or another government website, and in the Gazette.

New subsection (2) requires the Director to publish a statement of reasons for the giving or revocation of a direction. The statement of reasons is to be published on a website maintained by or on behalf of the Department within 14 days after the direction is given or revoked and in the Gazette within 21 days after the direction is given or revoked.

New subsection (3) clarifies that the publication requirements do not authorise the disclosure of information where publication is otherwise prohibited by a law of the Commonwealth or the State – such as personal information or national security information.

Clause 12 Section 19 substituted

This clause substitutes a new section 19 of the Principal Act, requiring the Minister to prepare a report whenever a public health emergency declaration is made, extended or revoked, or when a declaration ceases to be in force.

The new subsection (2) sets out the matters that must be included in the report. This includes:

- details of the public health emergency
- reasons for making, extending or revoking the declaration, and
- any advice provided to the Minister by the Director of Public Health or the Secretary during the consultation required under sections 14 and 15. The drafted reference to advice is non-specific with the intention of capturing all advice formats, including copies of written advice, a comprehensive summary of oral advice, or otherwise such as was provided during consultation. It is expected that the principles established by section 13B would be reflected in the most fulsome account practicable, and
- In the case of an extension, revocation or cessation of a declaration, the report must also include a summary of actions taken under Division 2, including any directions given under section 16, since the previous report was prepared.

The Minister is to table the report in each House of Parliament within 3 sitting days after the making, extension, revocation or cessation of the declaration. If 3 sitting days do not occur within 14 calendar days, the Minister is to provide a copy of the report to the Clerk of each House of Parliament and ensure that the report is published on a Department of Health website, or another government website, before the expiry of that period.

Similar to the new section 16D, the new subsection (5) clarifies that the publication requirements do not authorise the disclosure of information where publication is otherwise prohibited by a law of the Commonwealth or the State.

Clause 13 Section 31 substituted

This clause substitutes a new section 31 of the Principal Act, dealing with the issuance of certificates of authority. The Director of Public Health, or the appointing council, is to issue a certificate of authority to an authorised officer (which includes a compliance officer appointed under the amendments by clause 5 to section 10) or nominated officer.

The new section 31 continues to require certain minimum information for inclusion on the certificate of authority and continues to limit the powers that officers may exercise under the certificate of authority to those listed on the certificate.

Amendments made by this clause clarify that a certificate of authority may be issued to a class of specified officer and must specify the powers or limitations that the specified officer or class of specified officer may exercise.

This amendment supports the introduction of compliance officers, including by qualified class appointment, and ensures that the powers exercisable by authorised officers are clearly defined.

Requirements to produce a certificate of authority in accordance with section 30(2) of the Principal Act remain unchanged.

Clause 14 Repeal of Act

This clause sets the first anniversary of commencement as the day on which the Act will be repealed.