SECOND READING SPEECH – THE HON. MICHAEL FERGUSON MP

Public Health (Miscellaneous Amendments) Bill 2015

Madam Speaker, I am pleased to bring before the house a Bill to amend Tasmania's public health legislation.

Changes and improvements in managing public health continue at a robust pace and each day our knowledge and understanding of the effective prevention and management of disease grows.

Public health encompasses not only the medical field but also the environmental, social and behavioural sciences.

Here in Tasmania, the magnificent Menzies Research Institute and the University of Tasmania continue to lead world-class research into diseases such as cancer, dementia and multiple sclerosis.

I note, Madam Speaker, that the University has also introduced a post-graduate course in Public Health – a wonderful opportunity for health practitioners and policy makers to share and enhance their skills in ways that increase their understanding of and capacity for effective measures to prevent illness and disease.

Madam Speaker, as our public health knowledge grows, our methodologies change and so too must our legislative framework.

This Bill clarifies and consolidates the public health legislation to ensure that the Director of Public Health has effective contemporary powers to help protect our community, while at the same time ensuring there are appropriate fetters in place so that those powers are used in a transparent and balanced manner.

The Bill has two main purposes – to extend and enhance various provisions of the *Public Health Act 1997*, and to repeal the *HIV/AIDS Preventive Measures Act 1993.*

Some provisions of the HIV legislation need to be retained and will be revised and transferred to the *Public Health Act.* This reduces the number of statutes and leaving one Act to provide the framework for the monitoring, investigation and management of communicable and non-communicable diseases in Tasmania.

Madam Speaker, I turn first to the *Public Health Act* amendments.

The purpose of the *Public Health Act* is to protect and improve the health of the community and to reduce the incidence of preventable illness.

This is done through the Act by establishing frameworks for such things as:

- public health emergencies;
- the detection, investigation and management of diseases that pose a threat or likely threat to public health;
- the management of drinking water;
- tobacco control; and

- the Cervical Cancer Screening Register.

The Act first came into force in 1997. Over time, various improvements have been identified through the day-to-day application of the Act, stakeholder feedback and revised practices. These improvements are reflected in this Bill.

Despite its length, the Bill is not a major reform package. It is primarily a maintenance Bill – to extend and enhance these frameworks so they can continue to support the purpose of the Act.

Madam Speaker, the public-health emergency-management provisions will be enhanced by the introduction of a warrant framework. Under this framework a magistrate may make orders in relation to a person if satisfied it is necessary to manage a threat or likely threat to public health.

Without such a framework, a person failing to follow a direction risks only a fine at some future date and the Director has no means by which to bring about action that will assist in managing the threat.

It is worth noting that to date, the Director has not used existing warrant provisions relating to non-emergency periods.

Generally people are willing to take recommended action to, for example, prevent the spread of a disease to others. And when one has not been willing, the fact such powers exist is usually sufficient encouragement for compliance, without the need to invoke warrant provisions.

It is not a common occurrence to issue a direction in the first place, as the Director's experience is that people who may pose a risk to the health of others are generally cooperative and willing to adhere to advice and guidance from their doctor or the Director. But such provisions should always remain in place, in case the need arises. There is also an amendment to streamline the processes associated with amending guidelines during a public health emergency through the temporary suspension of the requirement to issue a public notice and table the amended guidelines.

In practice, this will primarily relate to notification guidelines, where the type and description of a disease to be notified to the Director by doctors and laboratories may change often during a public health emergency.

The Director will be required to give notice of the change to those directly affected, and to table any amended guidelines that remain in force 30 days after the emergency period has ended. But the improved arrangements will firstly reduce unnecessary cost – the issuing of a public notice costs upwards of $1,000 – and will ensure that when amended guidelines are tabled in Parliament they are current and have not been superseded, thereby making better use of the time of Parliament.

Madam Speaker, the Bill contains a number of amendments relating to Part 3 of the *Public Health Act*, which establishes the framework for the notification, investigation and management of threats or likely threats to public health arising from diseases and contaminants.

Some of the changes include updating the existing warrant provisions to align with the new emergency framework – including providing for an order of a magistrate to be brought to an end by the Director when it is no longer needed to manage a threat or likely threat to public health.

The Bill also clarifies that Part 3 can be applied to both communicable and non-communicable diseases.

Communicable diseases are typically spread between humans or from animal to humans. Whilst non-communicable conditions are typically caused by environmental exposures, such as lead poisoning, or arising from infection, such as tetanus.

Expressly referring to communicable and non-communicable diseases ensures that the scope of the Director's powers to require notification, investigation and to issue public health directions for these matters is clear and transparent.

For the same reason, there are also occasions in Part 3 where reference to suspected occurrences of, or exposure to, a disease are included.

This ensures investigation and prompt public health action can be undertaken when a person has been exposed to and may be incubating a disease or where there are grounds to suspect a disease that poses a threat or likely threat to public health – which may be before confirmatory laboratory evidence is available.

Such an approach reflects the urgency with which preventive actions must sometimes be taken to prevent the spread of some diseases.

Madam Speaker, the amendments to Part 4 of the Act – the tobacco control provisions – are primarily designed to clarify and give full effect to previous amendments.

The key change is reinstating the ability of a council to declare streets it occupies as smoke free, which was inadvertently excluded on a previous occasion. This is a move supported by councils.

The Bill will also grant the Director of Public Health the ability to permit designated smoking areas at approved public events – on certain conditions.

This is intended to aid the transition to entirely smoke-free public events – an initiative that many event organisers are voluntarily pursuing and for which they are to be congratulated.

Madam Speaker, the Bill also contains amendments to Part 6 of the Act as it relates to drinking water.

In Tasmania, drinking water is either supplied by TasWater, via reticulated networks; or by private water suppliers using private water sources, such as rainwater tanks, ground water or water courses; or by water carriers who cart water in tanks and tankers – and that water is often obtained from a TasWater source.

The Act has a comprehensive framework that:

- requires water be managed in a manner that does not pose a threat to public health;
- requires notification to the Director when the water is or is likely to become such a threat;
- requires action to restrict or prevent the use of the water and to give warnings and information to the public about is safe use;
- requires compliance with drinking water quality guidelines; and
- furnishes councils with the responsibility for registering private water suppliers and monitoring their compliance with the Act and the relevant guidelines.

The importance and community expectations of the provision and management of drinking water continues to grow both within Tasmania and Australia and the community, quite rightly, has an expectation to be able to access safe drinking water.

To this end, the Bill enhances and extends the existing framework in a number of ways.

It places councils as the first point of contact for private water suppliers and water carriers where they believe water they manage is a threat or is likely to become a threat to public health.

This allows council Environmental Health Officers to conduct an assessment of the water in their municipality to assess the existence and nature of any such threat.

The Director relies on the important and valuable work and assessments by Environmental Health Officers across the State in forming a view as to the appropriate management of water quality issues that pose a threat to public health.

The Bill introduces specific provisions for the renewal of the council registration of private water suppliers. This is an obvious gap in the current registration framework, which presently only provides for the initial registration and not subsequent renewal.

However, the Bill makes it clear that a person supplying water from a private water source, such as a rainwater tank, as part of a "rental agreement" is not required to register with a council. This includes long-term residential leases and short-term holiday stay, such as bed and breakfast accommodation.

The Bill also makes it clear that multiple registrations are not required for food businesses that are also private water suppliers. Their existing registration under the *Food Act* will suffice.

New registration and renewal provisions will also be introduced for water carriers. Many councils already register water carriers and the amendment will bring about consistency across the State and remove any need for registration across multiple councils. Registration will only be required with the council in whose municipality the majority of vehicles are garaged.

Water carriers are broadly supportive of the proposal, considering it gives their market greater confidence in the supply of drinking water.

The Director of Public Health has also consulted on a draft version of revised drinking water guidelines, which will support the Act by providing detailed operational requirements.

Some councils not already registering water carriers did express concern about a possible increase in compliance work. However there will be increased council revenue from registrations and the public health benefits from a state-wide consistent registration and enforceable compliance framework for water carriers are obvious.

The Bill also introduces a provision that permits the Director to issue guidelines requiring an audit, by an independent auditor, of drinking water quality management plans.

The draft guidelines propose attaching this obligation to TasWater, who already prepares such plans and supports an auditing framework.

A similar framework exists in some other jurisdictions and in the Tasmanian *Food Act* in relation to the audit of food safety programs.

In drafting these changes to the Bill and the draft guideline, the Department undertook a comprehensive review of the frameworks for managing drinking water across all Australian jurisdictions.

This identified a significant difference in the application across the States. Discussions were held with different regulators as to what is working well and what has been beneficial to implement.

The approach in the Bill and draft guidelines is to adopt a framework that will ensure a reduced risk to public health through the management of drinking water.

This approach is consistent with current best practice management and contemporary expectations by the public.

Madam Speaker, this Bill also proposes amendment to the provisions of the Act that relate to the Cervical Screening Register.

The Bill introduces the ability to record on the Register whether a person is an Aboriginal or Torres Strait Islander. This is an important change that is being progressed across jurisdictions.

With better information collected about our communities, the Cervical Cancer Prevention Program can more efficiently use its resources to support participation in screening to prevent cervical cancer.

This will result in better outcomes for Tasmanian women and families, reductions in the burden of disease and costs to Tasmanian women and the Tasmanian population.

Madam Speaker, I turn now to the proposed repeal of the *HIV/AIDS Preventive Measures Act 1993*.

This Act is now seen as out-of-date and is regarded as no longer being clinical best practice. Its repeal will remove an unnecessary and unhelpful regulatory requirement on our health sector.
The redundancy of most provisions of this Act typifies the public health improvements that I spoke of earlier.

In the 20 years since the Act commenced, we have seen improvements in our understanding of the HIV infection, its treatment and prevention.

I cannot over-emphasis that HIV remains a very serious disease. But thankfully, due to the improvements in our understanding of the disease and available treatments, HIV is now managed as an ongoing chronic communicable disease rather than a terminal illness, as it once was.

Over this time the provisions of the Act have also been overtaken by Tasmanian and national legislation.

Many provisions of the Act are redundant, confusing, and in some cases, clinically inappropriate and potentially dangerous.

There are obsolete requirements, for example, around blood donations, laboratory approvals and the manufacture and sale of HIV testing kits.

The confidentiality requirements are complex and poorly constructed and an additional burden on health practitioners who are already required to comply with state and national privacy laws.

Like many other serious communicable diseases, HIV requires regulation. We do need to monitor its prevalence in the community and continue to devise and implement control and prevention measures.

Madam Speaker, this will continue to occur, along with all other notifiable diseases under one Act, the *Public Health Act*. This will provide clarity and certainty for both practitioners and the community.

In practice, the repeal will bring immediate benefits by ending the Approved Healthcare Worker regime – an overly prescriptive counselling procedure applying in relation to HIV testing.

Counselling, like all other medical services, will be provided by health professionals, appropriate to their qualifications, and with reference to relevant medical standards and guidelines – such as the *2014 National HIV Testing Policy*.

It will also cease the complex and unnecessary HIV confidentiality framework. Practitioners will collect, use and disclose HIV personal health information along with all other sensitive health information subject to requirements under the Commonwealth *Privacy Act 1988* and the *Personal Information Protection Act 2004*.

If the information is collected pursuant to the *Public Health Act*, the confidentiality provisions in that Act will apply.

The repeal will also remove the unnecessary and overly-prescriptive framework around the management of people with HIV.

The Director of Public Health will manage such behaviour solely under the notifiable disease provisions of the *Public Health Act*. The improvements to which I spoke of earlier.

Finally, Madam Speaker, I note that there is one aspect of the Act that it is important to preserve. That is the State's Needle and Syringe Program.

I do not need to expand on the enormous public health benefit this long-standing program delivers for relatively small investment – it is well documented.

Suffice to say, this Bill re-establishes an improved Needle and Syringe Program under Part 3 of the *Public Health Act*.

The new provisions will create an enhanced permit and training framework which will continue to be administered by the Director of Public Health.

Existing impediments to the lawful distribution of unused equipment among injecting drug users will also be eased.

This is achieved by limiting the permit requirement to organisations and businesses; and by extending existing exemptions from certain offences and crimes that relate to the possession and supply of equipment, and trace elements within used equipment.

Madam Speaker, I highlight that clearer obligations around the safe handling and disposal of all needles and syringes are also established.

In closing, Madam Speaker, this Bill contains a number of necessary and important amendments to:

- ensure the powers and functions of the Director of Public Health and councils as regulators are clear;
- ensure the Act better supports more contemporary public health practices; and
- to maintain the purpose of the Act and enhance its effectiveness as one of the key pieces of public health legislation in Tasmania.

I commend the Bill to the House.