

# Public Health Laws

## A summary of changes made in 2015

### Introduction

This Fact Sheet is a summary of changes made to certain public health Acts in Tasmania in 2015.

More information can be found on the Public Health Services website at [www.dhhs.tas.gov.au/publichealth](http://www.dhhs.tas.gov.au/publichealth)

Acts, including the revised *Public Health Act*, can be found at [www.thelaw.tas.gov.au](http://www.thelaw.tas.gov.au).

### What has changed

The *HIV/AIDS Preventive Measures Act 1993* is no longer law and consequential changes have been made to the *Corrections Act 1997*.

Some frameworks in the *Public Health Act 1997* have also changed, including:

- public health emergency management (Part 2)
- notifiable diseases and contaminants (Part 3)
- a revised Needle and Syringe Program (Part 3)
- tobacco control (Part 4)
- drinking water management (Part 6)
- the Cervical Screening Register (Part 7)
- the management and disclosure of information.

More information on the changes is set out below.

### Who is affected?

People directly affected by the changes include:

- 'Approved Health Care Workers' under the old *HIV/AIDS Preventive Measures Act*
- Participants in the Needle and Syringe Program
- Medical practitioners
- People with a (or suspected) disease requiring a public health response
- Public event organisers (who want to provide smoking areas)
- Councils
- TasWater
- Water carriers
- Private water suppliers
- Water quality auditors
- Aboriginal and/or Torres Strait Islander women (for the Cervical Screening Register)
- People using information collected under the *Public Health Act*.

## Repeal of HIV/AIDS Preventive Measures Act

The *HIV/AIDS Preventive Measures Act 1993* (HIV Act) is no longer law. Some of the practical effects of this include:

- Removing the prescribed training, appointment and function of 'Approved Health Care Workers'. Counselling around HIV testing can be conducted in the same way as for other communicable diseases - by trained professionals according to best practice standards.
- Ending the separate confidentiality framework around the collection, recording, storing and security of information in respect of HIV tests and related medical assessments. HIV information is to be treated with the same degree of security and confidentiality as all other health information relating to a person.
- Ending the HIV specific framework for managing behaviours that put others at risk of infection. The similar framework under the *Public Health Act* continues to operate for all notifiable diseases.

## Changes to Corrections Act

With the repeal of the HIV Act, consequential changes to the *Corrections Act* were made:

- Any counselling on the necessity of a test for HIV and other blood borne diseases for prisoners and detainees is to be conducted by a medical officer (being a medical practitioner engaged to examine, treat or care for a prisoner or detainee) rather than an 'approved counsellor', which is a redundant term from the HIV Act.
- Incorporated sections of the HIV Act have been removed.
- Mandatory notification to the Director of Corrective Services of all test results has been removed, leaving positive results to be notified to the Director of Public Health when required under the *Public Health Act*.

## Changes to Public Health Act

### Emergency Management

- There is a new warrant framework the Director of Public Health may access if a person fails to comply with directions during a public health emergency.
- Guidelines amended during a public health emergency do not need to be tabled in Parliament or appear in a public notice unless the change stays in place more than 30 days after the emergency has ended. Notice of any temporary change is to be given to the people affected.
- The Director is to reconsider the need for a quarantine or isolation direction at least every 7 days, and arrange for the clinical assessment of the person if that is needed to determine whether the direction should continue.

### Notifiable diseases and contaminants

- The definition of 'disease' now includes 'signs' and 'conditions', so it captures all the relevant clinical and other markers of a disease.
- The reference to 'human pathogenic organisms or contaminants' has been replaced with 'contaminants'.
- The existing warrant framework has changed to align with the emergency management approach.
- It is clear that Part 3 of the Act, which relates to the notification, investigation and management of diseases, can be applied to non-communicable diseases (as well as communicable diseases).
- It is clear the notification requirements and investigation functions for diseases and contaminants may be applied to suspected cases (as well as confirmed cases).
- The Director of Public Health may issue a section 42 direction to a person who may have been exposed to (and therefore perhaps incubating) a notifiable disease. Section 42 can still be applied where a person has, or is suspected to have, a notifiable disease.
- The drafting of section 50 – requiring doctors to provide information on the transmission and prevention of a notifiable disease to a person who has one – has been improved and extended to suspected and exposed cases.

- 'Closing the court' is allowed in proceedings relating to a notifiable disease if the court decides it is in the public interest.
- A witness may now apply for a court order restricting publication of proceedings relating to a notifiable disease. A court may grant if satisfied it is in the best interests of a party or witness to the proceedings.

### Needle and Syringe Program (NSP)

- The Needle and Syringe Program has been revised and now appears in the *Public Health Act*.
- Organisations supplying this equipment must have a permit from the Director of Public Health. Individuals supplying equipment on behalf of those organisations must have a training certificate.
- A permit is not needed for passing on unused equipment between peers. It is not an offence to simply possess the equipment or a trace element of a substance in the equipment (a trace element is an amount so small it likely cannot be used).
- A person with the equipment, or disposing of the equipment, must take all reasonable care and precautions to avoid risk to the life, safety or health of another person.

### Tobacco control

- The Director may approve, on conditions, designated smoking areas at public events that must otherwise be smoke-free.
- It is now clear:
  - a council can declare streets it occupies as smoke-free areas under the Act
  - a tobacco seller's licence cannot be issued for a public event
  - 'confectionery' is 'solid food' (for outdoor dining areas)
  - the Director of Public Health may issue guidelines allowing certain advertising (eg price boards)

- 'private premises', which can be designated by the occupier as smoke-free under the Act, do not include premises used for domestic purposes (unless 'common property' in connection with a 'multiple-use building').

### Drinking water

- Notification of drinking water that is, or is likely to become, a threat to public health, is to be made to a council in the first instance (other than water supplied by TasWater, where notification is to the Director of Public Health).
- Guidelines issued by the Director can require a person managing or in control of drinking water to prepare, implement, review, report against, and audit a drinking water quality management plan.
- There is a new water quality auditor approval and duties framework.
- There are now specific provisions for councils renewing the registration of a private drinking water supplier.
- There is a new council registration and renewal framework for water carriers - councils have the option of charging application fees.
- Guidelines issued by the Director can require private drinking water suppliers and water carriers to take necessary and practicable action in response to a threat, or likely threat, to public health (this is still in place for TasWater).

### Cervical Screening Register

- It is now clear the Cervical Screening Register established under the Act can record assigned numbers and information as to whether the person is an Aboriginal or Torres Strait Islander or both.

### Information disclosure

- Section 147 now includes more transparent provisions for the release of personal information collected under the Act. For example, if disclosure is for the purpose of investigating, managing, detecting, notifying, treating or preventing the spread of a notifiable disease or contaminant, or managing a threat or likely threat to public health.