

Changes to Public Health laws

A summary of changes for the health sector

Introduction

Changes to Tasmania's public health laws started on 1 July 2015.

The *Public Health (Miscellaneous Amendments) Act 2015* repeals the *HIV/AIDS Preventive Measures Act 1993*, makes consequential changes to the *Corrections Act 1997*, and amends the *Public Health Act 1997*.

The purpose of the *Public Health Act* is to protect and promote the health of communities in Tasmania and to reduce the incidence of preventable illness. It does this by establishing frameworks for matters such 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
- the Cervical Cancer Screening Register.

Changes have been made to each of these frameworks.

This fact sheet is for health professionals. More information and fact sheets are on the Public Health Services' website at www.dhhs.tas.gov.au/publichealth/public_health_act2

Public health laws, including the *Food Act*, *Radiation Protection Act*, and *Fluoridation Act*, can be found at www.thelaw.tas.gov.au.

HIV testing

Previous laws

The *HIV/AIDS Preventive Measures Act* (referred to as 'the HIV Act') required counselling by Approved Healthcare Workers before and after HIV testing. Counselling could only be conducted by a medical practitioner or health care worker approved by the Secretary of the Department of Health and Human Services after completing approved training.

What has changed

With the repeal of the HIV Act, the Approved Healthcare Worker framework is now gone.

What this means for you

The *Public Health Act* continues to require medical practitioners to provide patients with information about the transmission and prevention of a disease (see below).

As with any other health matter, HIV medical tests, counselling and treatment can be provided by health professionals as appropriate to their qualifications and the circumstances of the patient, and in line with current best clinical practice.

Consistent with all blood borne viruses and sexually transmitted diseases, current best clinical practice

dictates that pre- and post-test discussion is an integral part of testing for HIV.

It is an opportunity to provide information and support around the testing procedure, and possible changes to health-related behaviour. It requires risk assessment, education regarding transmission, informed consent and appropriate follow-up.

Further guidance on best practice HIV testing can be found in: *General Practitioners and HIV, Decision making in HIV* (www.ashm.org.au), and the *National HIV Testing Policy* (www.testingportal.ashm.org.au/hiv).

Personal Information Management

Previous laws

The HIV Act and its Privacy guidelines had confidentiality laws which were outdated and difficult to apply. Healthcare providers were separating HIV-related personal information. This was inefficient and potentially unsafe for patient care.

What has changed

Separate confidentiality laws for HIV information are now gone.

What this means for you

Confidentiality of HIV-related personal information is to be managed in the same manner as all other sensitive health information. There is no requirement for dual record keeping. Tasmania's *Personal Information Protection Act 2004* and the Commonwealth's *Privacy Act 1988* continue to apply. The *Public Health Act* continues to apply to information collected under it.

People who put others at risk

Previous laws

In a small number of cases, clinicians identify a person whose behaviour may be placing others at risk of HIV. The HIV Act contained specific provisions for managing

this. These provisions were superseded by a similar framework in the *Public Health Act* for all notifiable diseases.

What has changed

The HIV specific framework has now gone.

What this means for you

The framework in the *Public Health Act* continues to apply. Operationally, the repeal of the HIV Act does not impact on the way people who knowingly or recklessly put other people at risk of a notifiable disease (including HIV) will be managed.

Changes to the Public Health Act

Emergency Management (Part 2)

- The Director of Public Health can now access a new warrant framework in the rare event a person fails to comply with a direction during a public health emergency.

Notifiable diseases (Part 3)

- The term 'clinical assessment' will replace 'medical examination'. This will allow for professionals other than medical practitioners (eg nurse practitioners) to undertake an assessment or examination of a person who is subject to a direction under the Act.
- Doctors are still required to provide information about the transmission and prevention of a notifiable disease to patients with confirmed cases – and this has been extended to include suspected and exposed cases (section 50).
- It is now clear that Part 3 of the Act, which relates to the notification, investigation, and issuing of directions in relation to diseases that may cause a threat to public health, can be applied to non-communicable diseases. For example, those caused by environmental exposures, such as lead poisoning (section 40).

- In order that a timely public health response can be made, notification requirements and investigation functions for diseases may now be applied to suspected as well as confirmed cases (sections 46 and 52). For example, the Director could require notification where measles is suspected on clinical and epidemiological grounds.
- Previously the Director could issue directions to a person either with, or with a suspected, notifiable disease. This has been extended to include persons who may have been exposed to (and therefore may be incubating) a notifiable disease (section 42). For example, during a pertussis public health response, the Director could require a contact be excluded from high risk settings for a period of time..
- The existing warrant framework to manage persons who fail to comply with (non-emergency) public health directions has been updated to align with the emergency management warrant framework (sections 43-45).
- A court now has the power to close the court in any proceedings relating to a notifiable disease if satisfied it is in the public interest to do so. A court can do this on its own motion, or on the application of the Director, or a party or witness to the proceedings. A witness may also now apply for an order prohibiting or restricting the publication of the proceedings. A court may grant the application if satisfied it is in the best interests of a party or witness to the proceedings (section 62).

What this means for you

The Director has issued revised *Guidelines for Notifying Diseases and Food Contaminants* which set out laws for when medical practitioners, hospitals, laboratories, and those in charge of residential, educational, healthcare or childcare facilities must notify the Director of suspected and confirmed notifiable diseases.

Separate fact sheets have been developed to explain the notification requirements for these groups. These are available on the Public Health website.

Needle and Syringe Program (NSP)

Previous laws

The HIV Act established Tasmania's Needle and Syringe Program (NSP) to distribute unused equipment to injecting drug users. Equipment including needles and syringes is distributed through approximately 100 outlets (mainly pharmacies and healthcare organisations, and a small number of vending machines).

What has changed

The NSP has been revised and re-established under the *Public Health Act* as follows:

- The NSP remains a permit based scheme administered by the Director. Organisations supplying equipment must obtain a permit and staff who supply must hold a certificate issued on completion of approved training.
- Peer distribution does not require a permit to re-supply unused equipment and information obtained through the NSP.
- It is not an offence to:
 - possess a needle or syringe
 - possess any trace element of a substance in used equipment
 - supply used equipment for disposal.
- It is an offence if a person fails to use all reasonable care and take all reasonable precautions to avoid danger to the life, safety or health of another person. This obligation extends to a person who possesses, abandons, discards or seeks to dispose of a needle or syringe.

What this means for you

The requirement to handle and dispose of needles and syringes safely continues. The main change for you is to update any information you provide to others about the NSP.

More information

Guidance material and further information is available by contacting Public Health Services on **1800 671 738** or visiting the website www.dhhs.tas.gov.au/publichealth/public_health_act2

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