

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

PUBLIC HEALTH AMENDMENT REGULATION 2007 (NO 1)

SL2007-42

EXPLANATORY STATEMENT

**Circulated by the authority of
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OUTLINE

The Public Health Amendment Regulation 2007 (No 1) amends the Public Health Regulation 2000 to remove the size and distance requirements in section 66 of the Regulation, which concerns the keeping of poultry.

Part 6 of the Public Health Regulation provides for general sanitation with respect to animals, birds, water supply and toilets. Currently, section 66 provides that for domestic birds kept in the city area, defined essentially as the built up area of the city, the birds must be kept in a yard or run smaller than 20 metres square for up to 10 birds and an extra 10 metres square for every additional 5 birds. The section also provides that a yard or run be no closer than 8 metres to a home, hospital, or school building. These requirements do not necessarily prevent insanitary conditions.

As the size and distance requirements imposes regulatory requirements that do not assist in preventing insanitary conditions, this regulation is amended to remove the unnecessary requirements. Public Health Officers will continue to investigate complaints about insanitary conditions.

The *Animal Welfare Act 1992* and the Animal Welfare (Welfare of Captive Birds Code of Practice) Approval 1995 provide guidance as to the keeping and welfare of captive birds.

DETAILS

A detailed explanation of each section of the Regulation follows.

Section 1 Name of regulation

The first section of the Regulation specifies that the name of the regulation is the Public Health Amendment Regulation 2007 (No 1). The Regulation amends the Public Health Regulation 2000, which is the subordinate law to the *Public Health Act 1997*.

Section 2 Commencement

Under this section, this Regulation will commence on the day after the date upon which this Regulation is notified on the ACT Legislation Register.

Section 3 Legislation amended

This provision provides that this Regulation amends the Public Health Regulation 2000.

Section 4 New section 3A

This section 4 provides that other legislation applies to the Regulation, in particular the *Criminal Code 2002*. As section 66 is being amended, the offence has been drafted consistent with the principles of the Criminal Code.

Section 5 Section 66

Section 5 of this regulation substitutes the current section 66. The amendment preserves the Chief Health Officer's ability to give a direction to a person who keeps domestic birds by expanding the Chief Health Officer's power to give a written direction to prevent or remove an insanitary condition. It is important that if a Public Health Officer is called to investigate a complaint about a potential insanitary condition that action is capable of being taken immediately

by the Chief Health Officer to avoid the insanitary condition. Also, the ability to require the removal of an insanitary condition associated with the domestic birds has been included.

Failure to comply with the written direction is a strict liability offence. Strict liability is appropriate as it is a regulatory offence and the person given the direction is aware of the direction. The person will be advised that failure to comply with the direction is an offence.