

1999  
THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY

# **Public Health (Consequential Amendments) Bill 1999**

## **EXPLANATORY MEMORANDUM**

**Circulated by the authority of  
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Minister for Health and Community Care**

# **PUBLIC HEALTH (CONSEQUENTIAL AMENDMENTS) BILL 1999**

## **OUTLINE**

The purpose of the amendments contained in the Public Health (Consequential Amendment) Bill is to eliminate the unforeseen potential discrimination which resulted from the passage of the *Public Health Act 1997* (the Act) and *Public Health (Miscellaneous Provisions) Act 1997*.

This discrimination has arisen due to the replacement of the term “infectious disease” with the more general term “transmissible notifiable condition.”

However, the sections of the *Public Health (Miscellaneous Provisions) Act 1997* relating to transmissible notifiable conditions are yet to be commenced because work is being undertaken on a national list of notifiable disease.

The various sections of the legislation, specified in the Bill are to be repealed or amended because of the potential for discrimination. For example, in practice a bus driver or a swimming pool manager is not going to be aware if a person has an infectious disease. It is considered more appropriate that public health laws should be used to control the person’s movements if that is what is required.

Under section 102 of the Public Health Act the treating doctor is required to give a patient with a transmissible notifiable condition (infectious disease) information about the condition and how to prevent the transmission of the condition to others.

Also the principles in section 99 of the Act place an obligation on a person who believe that they have contracted a transmissible notifiable condition to take all reasonable measures to avoid exposing others to the condition.

Section 113 of the *Public Health Act 1997* provides the Chief Health Officer with wide ranging powers to issue public health directions in order to minimise or control public health risks, which could be a direction to a person with a transmissible notifiable condition not to travel on public transport.

## **DETAILS OF THE BILL**

### **PART I      PRELIMINARY**

#### **1.1      Formal requirements (clauses 1 & 2)**

Clauses 1 & 2 are the formal requirements of all Acts, specifying the title and commencement arrangements. These clauses take effect from the day on which the Bill is notified in the *Gazette*. The rest of the Bill’s provisions commence immediately after section 44 of the *Public Health (Miscellaneous Provisions) Act 1997*.

## **1.2 Amendments (clause 3)**

This clause indicated that the Acts specified in Schedule 1 are amended as set out in Schedule 1 and the Regulations specified in Schedule 2 are amended as set out in Schedule 2.

### **SCHEDULE 1 - AMENDMENTS OF ACTS**

The following Acts are amended in the following ways-

#### ***Motor Traffic Act 1936***

In Subsection 26 T (2) the following words are omitted; "section 32 and subsections 35 (3) and (4)" and substituted with 'and section 32,'

Section 35 of the Act - "Disinfection of vehicles" is repealed.

Section 116 of the Public Health Act provides that any expenses or costs incurred by the Territory in any disinfection of vehicle to prevent a public health risk are debt due to the Territory by the person to whom the disinfection public health direction was issued.

#### ***Public Baths and Public Bathing Act 1956***

Paragraph 12 (1) (b)

"a disease which is an infectious disease or a notifiable disease for the purposes of the *Public Health (Infectious and Notifiable Diseases) Regulations*" and is repealed is replaced with the following paragraph:

"(b) if a person is suffering from a skin disease or infection;".

Paragraph 17 (p), the offence provision related to subparagraph 12 (1) (b) is repealed and replaced with following paragraph:

"(p) enter or remain in any public baths while the person is knowingly suffering from a skin disease or infection;".

### **SCHEDULE 2 – AMENDMENTS OF REGULATIONS**

#### ***Motor Omnibus Regulations***

Paragraph 55 (1) (a) - a driver may not knowingly carry a person with an infectious disease is repealed because in practice a driver is unlikely to know that a passenger has an infectious disease.

Regulation 79 - "Carriage of persons with an infectious disease." is repealed.

This regulation has the potential to unnecessarily discriminate against persons who have diseases where there is no risk to other passengers.

#### ***Motor Omnibus Services Regulations***

Subparagraph 13 (1) (a) is repealed

Regulation 32 - "Passengers with an infectious disease." is repealed.

Once again these provisions have the potential to unnecessarily discriminate against persons who have diseases where there is no risk to other passengers.

The Chief Health Officer could if he or she considered appropriate issue a public health direction requiring person with an infectious disease not to travel on any public transport.

Under section 102 of the Public Health Act, the persons treating doctor could advise the person that in the interests of preventing the transmission of the disease that he or she should not travel on any public transport.

#### **14. *Remand Centres Regulations***

In subparagraph 9 (3) of the Regulations the word "shall" is replaced with "may".

The reason for this approach is in not every situation will require a person with an infectious disease to be isolated from other detainees. A remand centre medical officer then would have the discretion to determine when isolation is medically necessary.

#### ***Taxi and Private Hire Car Regulations***

Paragraph 11 (2) (a) is omitted and replaced with the following:

"(a) if a person offering the hiring is drunk or dirty or attired so as to be likely to soil or damage the vehicle; or,"

This provision had the potential to unnecessarily discriminate against persons who have diseases where there is no risk to other passengers or the driver.

In line with the removal of the reference to infectious disease in paragraph 11 (2) (a) above, Paragraph 46 (a) - the offence for a person with an infectious disease to ride in a taxi or private hire car is also repealed.

## NOTE

The note indicates that on the day on which the regulations specified below are amended by this Bill, and after the alterations to the heading of those regulations specified in the Notes to the *Public Health (Miscellaneous Provisions) Act 1997* have been made, the headings to the regulations are further altered as set out in the following table:

Regulation	Alteration
55	<b><i>Motor Omnibus Regulations</i></b> Omit the heading, and substitute the following heading: “ <b>Carriage of certain persons</b> ”.
46	<b><i>Taxi and Private Hire Car Regulations</i></b> Omit the heading, and substitute the following heading: “ <b>Carriage of certain persons or items</b> ”.