



AUSTRALIAN CAPITAL TERRITORY

Public Health Amendment Act 2000

No 36 of 2000

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PUBLIC HEALTH ACT 1997—STRUCTURAL
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AUSTRALIAN CAPITAL TERRITORY

Public Health Amendment Act 2000

No 36 of 2000

An Act to amend the *Public Health Act 1997* and for other purposes

[Notified in ACT Gazette No. 29: 20 July 2000]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART 1—PRELIMINARY

1 Name of Act

This Act is the *Public Health Amendment Act 2000*.

2 Commencement

This Act commences on the day it is notified in the Gazette.

PART 2—AMENDMENT OF PUBLIC HEALTH ACT 1997

3 Act amended—pt 2

This Part and Schedule 1 amend the *Public Health Act 1997*.

4 Public health risk activities and procedures—declaration

Section 18 is amended—

- (a) by adding at the end of subsection (1) the following example:

Example

The Minister could, under subsection (1), declare as a public health risk activity the operation of a health care facility (including a hospital, day surgery or clinic where surgical procedures may be conducted or medical treatment may be provided).”; and

- (b) by omitting subsections (3) and (4) and substituting the following subsections:

“(3) A declaration must indicate—

- (a) for a declared public health risk activity—whether the activity is licensable, non-licensable or registrable; and
- (b) for a declared public health risk procedure—whether the procedure is licensable or non-licensable.

“(4) A declaration that an activity is a registrable public health risk activity may indicate that the activity is location-specific.

“(5) A registrable public health risk activity that is location-specific is registrable separately—

- (a) for each premises where it is carried on; or
- (b) if it is carried on at more than 1 location on particular premises—for each such location.

“(6) A declaration under this section is a disallowable instrument.

Note 1 A licence is required to carry on a public health risk activity or procedure that is declared to be licensable (see s 21 and s 42C), subject to the exemptions in sections 22 and 42D.

Note 2 A licence is not required to carry on a public health risk activity or procedure that is declared to be non-licensable.

Note 3 A licence is not required to carry on a public health risk activity that is declared to be registrable. However, a person must be registered to carry on a registrable public health risk activity (see s 56C), and a location-specific registrable activity (see s 18 (4)) may only be carried on at a location that is registered for the activity (see s 56C (2)).”.

5 Insertion

After Division 3 of Part 3, the following Divisions are inserted:

“Division 3.4—Registration of public health risk activities

“56C Registrable public health risk activities—offences

“(1) A person must not carry on a registrable public health risk activity unless the person—

- (a) is registered to carry on the activity; or
- (b) is a defined influential person in relation to a person who is registered to carry on the activity.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

“(2) If a person is registered to carry on a location-specific public health risk activity, the person must not carry on the activity except at the registered location.

Maximum penalty: 50 penalty units.

“56D Activity register

“(1) The Minister must keep a register of registrable public health risk activities (the ***activity register***) showing the following information for each activity:

- (a) the nature of the activity, and whether the activity is location-specific;
- (b) the date of its declaration under section 18;
- (c) if the declaration is varied—the date and nature of the variation;
- (d) if the declaration is revoked—the date of revocation.

“(2) The register may be kept in electronic form.

“(3) The Minister must ensure that the register is available for public inspection (at no cost) during normal business hours on business days.

“56E Registered people register

“(1) The Minister must keep a register of registered people (the ***registered people register***) showing the following information for each person:

- (a) the information on the person’s registration certificate (as varied, if at all, under this Division);
- (b) if the registration is transferred—details of the transfer;

- (c) if the registration is suspended—the date of suspension, a brief indication of the reasons for suspension and the date of lifting of the suspension (if applicable);
- (d) if the registration is cancelled—the date of cancellation and a brief indication of the reasons for cancellation;
- (e) if the registration is surrendered—the date of surrender.

“(2) The register may be kept in electronic form.

“(3) The Minister must ensure that the register is available for public inspection (at no cost) during normal business hours on business days.

“56F Registration—application

“(1) A person may apply to the Minister for registration to carry on a registrable public health risk activity.

“(2) The application must be—

- (a) in a form approved by the Minister; and
- (b) accompanied by the determined fee.

“(3) The Minister may, by written notice, require the applicant to provide stated additional information about the application.

“56G Registration—grant or refusal

“(1) If—

- (a) a person applies to the Minister under section 56F for registration to carry on a registrable public health risk activity; and
- (b) the person complies with that section;

the Minister must register the person by giving the person a registration certificate unless subsection (2) or (3) applies.

“(2) The Minister must refuse to register the person if the person, or a defined influential person in relation to the person, has previously contravened this Act or a corresponding public health risk law, unless the Minister is satisfied on reasonable grounds that any similar contravention by the person, or a defined influential person in relation to the person, is not likely to recur.

“(3) The Minister must refuse to register the person if the registration of the person, or a defined influential person in relation to the person, to carry on the registrable public health risk activity (whether at the location or locations applied for, or elsewhere) has been cancelled during the previous year, or is under suspension at the time of the application.

“56H Registration—certificate

A registration certificate—

- (a) must be in a form approved by the Minister; and
- (b) must include the following information (in addition to any other information required by the form):
 - (i) the name of the registered person;
 - (ii) the nature of the registered activity (and whether it is location-specific);
 - (iii) the location for which the activity is registered, including the address of the premises (or each premises), and the precise location on the premises, where the activity is authorised to be carried on;
 - (iv) the period for which registration is granted;
 - (v) the name and address of the owner of the registered premises (or each registered premises);
 - (vi) the name and address of the manager of the registered premises (or each registered premises);
 - (vii) the name and address of the owner of the equipment associated with the carrying on of the registered activity;
 - (viii) the name and address of the manager of the equipment associated with the carrying on of the registered activity.

“56J Registration—duration

Registration is granted for the period stated in the registration certificate, but may be renewed under section 56K.

“56K Registration—renewal

“(1) A registered person may, before the end of the current period of registration, apply to the Minister for renewal of the registration.

“(2) The application must be—

- (a) in writing signed by the registered person; and
- (b) accompanied by the determined fee.

“(3) If the registered person complies with this section, the Minister must renew the registration for a period of the same length as the current period of registration.

“(4) If the registration is suspended, it may be renewed, but the renewal does not result in the suspension being lifted.

“56L Registration—change of information

“(1) A registered person (other than a person registered to carry on a location-specific registrable public health risk activity) must give the Minister written notice of a change to the registered location of the registered activity (including any additional location) within 14 days after the change.

Maximum penalty: 5 penalty units.

“(2) The registered location of a location-specific registrable public health risk activity may not be changed by notice under this section.

“(3) A registered person must give the Minister written notice of a change to the name or address of the owner or manager of the registered premises, or of the owner or manager of equipment associated with the carrying on of the registered activity, within 14 days after the registered person is first given notice of the change or otherwise becomes aware of it.

Maximum penalty: 5 penalty units.

“(4) If the Minister receives written notice of a change of information in a registration certificate, the Minister must vary the registration certificate accordingly.

“(5) The variation takes effect on the later of the following days:

- (a) the day when the change happens;
- (b) the day when the Minister was given written notice of the change.

“56M Registration—application for approval of transfer

“(1) A registered person (except a person whose registration is suspended), and a person to whom it is proposed to transfer the registration, may jointly apply for approval of the transfer.

“(2) The application must be—

- (a) in a form approved by the Minister; and
- (b) accompanied by the registration certificate and the determined fee.

“(3) The Minister may, by written notice, require the proposed transferee to provide stated additional information about the application.

“56N Registration—grant or refusal of transfer

“(1) If—

- (a) a registered person, and a person to whom it is proposed to transfer the registration, jointly apply to the Minister under section 56M for approval of the transfer of the registration; and
- (b) they comply with that section;

the Minister must approve the transfer unless subsection (2) or (3) applies.

“(2) The Minister must refuse to approve the transfer if the proposed transferee, or a defined influential person in relation to the proposed transferee, has previously contravened this Act or a corresponding public health risk law, unless the Minister is satisfied on reasonable grounds that any similar contravention by the proposed transferee, or a defined influential person in relation to the proposed transferee, is not likely to recur.

“(3) The Minister must refuse to approve the transfer if the registration of the proposed transferee, or of a defined influential person in relation to the proposed transferee, to carry on the registrable public health risk activity (whether at the location or locations applied for, or elsewhere) has been cancelled during the previous year, or is under suspension at the time of the application.

“(4) The Minister must give written notice of the Minister’s decision on the application to the registered person and the proposed transferee.

“(5) If the Minister approves the transfer of registration, the transfer takes effect on the day the proposed transferee is given written notice of the decision or, if a later date of effect is stated in the notice, the stated day.

“(6) If the Minister approves the transfer of registration, the Minister may vary the registration period if the proposed transferee asks for it to be varied.

“56P Registration—notified suspension and cancellation

“(1) The grounds for the suspension or cancellation under this section (the *notified suspension or cancellation*) of a registration are as follows:

- (a) the obtaining of the registration by fraud or misrepresentation;
- (b) the contravention of this Act or a corresponding public health risk law by the registered person or any defined influential person in relation to the registered person.

“(2) This section applies if the Minister believes on reasonable grounds that—

- (a) there is a ground for notified suspension or cancellation of a registration; and
- (b) it is desirable in the interests of public health to suspend or cancel the registration (the *proposed action*).

- “(3) The Minister must give written notice to the registered person that—
- (a) states the proposed action, including any proposed suspension period; and
 - (b) states the ground for the proposed action; and
 - (c) states the facts and circumstances that, in the Minister’s opinion, constitute the ground; and
 - (d) invites the person to make written representations, within a stated period of at least 28 days after the person is given the notice, why the proposed action should not be taken.

“(4) If, after considering any written representations made by the registered person within the stated period, the Minister is satisfied on reasonable grounds that a ground exists for notified suspension or cancellation of the registration, the Minister may—

- (a) if the proposed action was to cancel the registration—either cancel the registration or suspend the registration for not longer than 1 year; or
- (b) if the proposed action was to suspend the registration for a stated period—suspend the registration for not longer than the stated period.

“(5) The Minister must tell the registered person in writing of the decision.

“(6) If the Minister decides to cancel or suspend the registration, the Minister must also tell the person in writing when the cancellation or suspension takes effect.

“(7) The cancellation or suspension must not take effect earlier than the day when the registered person is told about the decision.

“56Q Registration—automatic suspension (prohibition notice)

“(1) Registration is *automatically suspended* if the registered activity is prohibited by a prohibition notice under paragraph 61 (4) (a).

“(2) The suspension takes effect—

- (a) at the end of the period (if any) stated in the prohibition notice under paragraph 61 (5) (f); or
- (b) if no period is specified—when the prohibition notice is given.

“(3) The suspension ceases when the prohibition notice is revoked.

“56R Registration—return of suspended or cancelled certificates

A person whose registration is suspended or cancelled must not, without reasonable excuse, fail to return the registration certificate to the Minister within 7 days after the date of effect of the suspension or cancellation.

Maximum penalty: 5 penalty units.

“56S Registration—surrender

“(1) A registered person may surrender registration by returning the registration certificate to the Minister with a signed notice stating that the registration is surrendered.

“(2) A registered person may surrender registration while the registration is suspended.

“56T Registration—false representation

“(1) A person other than a registered person must not represent that he or she is a registered person.

Maximum penalty: 30 penalty units.

“(2) A person whose registration is suspended must not represent that he or she is registered without disclosing that the registration is suspended.

Maximum penalty: 30 penalty units.

“56U Registration—inspection

A registered person must ensure that—

- (a) the registration certificate is available for inspection by an authorised officer, at any reasonable time, at premises where the registered activity is carried on; and
- (b) any records associated with the registration or conduct of the registered activity are available for inspection by an authorised officer, at any reasonable time, at premises where the activity is carried on.

Maximum penalty: 5 penalty units.

“Division 3.5—Registration of specialised systems

“56V Definitions for div 3.5

In this Division:

applicable standard means Australia Standard/New Zealand Standard AS/NZS 3666, as varied from time to time.

commencement day means the day Part 2 of the *Public Health (Miscellaneous Provisions) Act 1997* commences.

registration, in relation to the operation of a specialised system for which a system licence was granted under the unamended Building Act, means registration to carry on the registered public health risk activity of operating a specialised system at premises or locations authorised by the licence.

specialised system—see section 56W.

system licence means a licence to operate a specialised system issued under the unamended Building Act, section 42D.

transitional licensee—see subsection 56Y (1).

unamended Building Act means the *Building Act 1972* as in force from time to time before the commencement day.

“56W Meaning of specialised system

“(1) In this Division:

specialised system means—

- (a) a water system within the meaning of the applicable standard, in which the temperature of the water at the point of outlet is not lower than 30° C and not higher than 55° C; or
- (b) a mechanical ventilation system, including—
 - (i) an air-handling system within the meaning of the applicable standard; and
 - (ii) a condenser within the meaning of the applicable standard; and
 - (iii) a cooling tower within the meaning of the applicable standard.

“(2) However, **specialised system** does not include any of the following:

- (a) a swimming pool;
- (b) a spa pool;
- (c) a hydrotherapy pool.

“56X Specialised systems—registrable public health risk activity

“(1) The operation of a specialised system is, on and after the commencement day, taken to have been declared to be a location-specific registrable public health risk activity.

“(2) Subsection (1) does not apply to a specialised system that, immediately before the commencement day, was exempt under paragraph 42A (a) or Division 5 of Part 3A of the unamended Building Act from the operation of that Part.

“(3) On or after the commencement day, the Minister may revoke an exemption under Division 5 of Part 3A of the unamended Building Act by written notice to the person to whom the exemption was granted if the Minister considers that the revocation is desirable in the interests of public health.

“(4) The Minister must make an entry in the activities register recording that under this section, on and after the commencement day, the operation of a specialised system is taken to have been declared to be a location-specific registrable public health risk activity.

“56Y System licences—registration

“(1) If a person (a *transitional licensee*) held a system licence under the unamended Building Act immediately before the commencement day, the person is, on and after that day, taken to be registered until the day on which the system licence would have otherwise expired under the unamended Building Act.

“(2) A system licence granted to a transitional licensee has effect under this Act as a registration certificate (even if not all the information required by section 56H to be included in a registration certificate is stated in the licence).

“(3) On and after the commencement day, a transitional licensee is not required to comply with the conditions (if any) subject to which the licensee’s system licence was granted.

“(4) As soon as practicable after the commencement day, the Minister must enter on the registered people register, for each transitional licensee—

- (a) the information mentioned in paragraph 56H (b) for the licensee; and
- (b) if the transitional licensee’s system licence was suspended immediately before the commencement day—the date of

suspension, a brief indication of the reasons for suspension and the date (if known) when the suspension is to be lifted.

“56Z System licences—transitional applications

If, immediately before the commencement day, an application had been made under section 42C of the unamended Building Act for a system licence but no decision had been made about the application, the application is taken to be an application for registration under section 56F.

“56ZA System licences—transitional renewals

If, immediately before the commencement day, an application had been made under section 42F of the unamended Building Act for the renewal of a system licence but no decision had been made about the application, the application is taken to have been made under section 56K for a renewal of registration.

“56ZB System licences—transitional transfers

If, immediately before the commencement day, an application had been made under section 42G of the unamended Building Act for the transfer of a system licence but no decision had been made about the application, the application is taken to have been made under section 56M for approval of transfer of registration.

“56ZC System licences—transitional suspension

“(1) If a system licence was suspended under the unamended Building Act immediately before the commencement day, this Division applies to the licence and the licensee as if—

- (a) the licence were held by the licensee immediately before the commencement day; and
- (b) the licensee were a transitional licensee.

“(2) If, before the commencement day, the building controller had, under subsection 42J (1) of the unamended Building Act, given a notice to a transitional licensee requiring the licensee to show cause why the licence should not be suspended, but no decision had been made about the intended suspension—

- (a) the notice is taken to have been given to the licensee, under subsection 56P (3) of this Act in relation to the intended suspension of the registration of the licensee, on the date when the notice was given under subsection 42J (1) of the unamended Building Act; and

- (b) if an extension of the notice period had been granted under subsection 42J (4) of the unamended Building Act—the 28 day period mentioned in subsection 56P (4) of this Act is taken to have been extended accordingly; and
- (c) after the end of 28 days after notice of intended suspension is given, or of the extended period (if any) mentioned in paragraph (b), the Minister may suspend the registration of the transitional licensee, after considering any written response from the licensee, if the Minister is satisfied on reasonable grounds that—
 - (i) there is a ground for suspension of the licence under subsection 42J (1) of the unamended Building Act; and
 - (ii) that ground is mentioned in the notice given under subsection 42J (1) of the unamended Building Act; and
 - (iii) suspension is desirable in the interests of public health.

“(3) A suspension mentioned in subsection (1) or (2) remains in force under this Act as a suspension of the transitional licensee’s registration—

- (a) if the suspension is on a ground mentioned in paragraph 42J (1) (a), (b) or (c) of the unamended Building Act—until the Minister gives written notice to the licensee that the Minister has reasonable grounds for believing that the ground for suspension of the licence no longer exists; or
- (b) in any other case—for the period decided by the Minister having regard to the interests of public health.

“(4) The Minister must give written notice of a decision made under paragraph (3) (b) to the relevant transitional licensee.

“56ZD Expiry of div 3.5

This Division expires on 1 July 2005.”.

6 Review of decisions

Section 130 is amended by adding at the end the following paragraphs:

- “(f) refusal to register an applicant for registration under section 56G;
- (g) refusal to approve the transfer of registration under section 56N;
- (h) refusal to vary the registration period in association with the transfer of registration under subsection 56N (6);
- (i) suspending the registration of a registered person under subsection 56P (4);

- (j) cancelling the registration of a registered person under paragraph 56P (4) (a).”.

7 Notification of decisions

Section 131 is amended by adding at the end the following paragraphs:

- “(f) for a decision mentioned in paragraph 130 (f)—to the applicant for registration;
- (g) for a decision mentioned in paragraph 130 (g)—to the registered person and the proposed transferee;
- (h) for a decision mentioned in paragraph 130 (h)—to the transferee;
- (i) for a decision mentioned in paragraph 130 (i) or (j)—to the registered person.”.

8 Substitution

Section 138 is repealed and the following section substituted:

“138 Regulation-making power

“(1) The Executive may make regulations for this Act.

“(2) The regulations may make provision with respect to any of the following:

- (a) cancer reporting;
- (b) cemeteries and crematoria;
- (c) cervical cytology;
- (d) communicable disease control;
- (e) drug preparation and supply;
- (f) general sanitation;
- (g) private hospitals.

“(3) The regulations may prescribe a maximum penalty for an offence against the regulations of 10 penalty units.

“(4) To remove any doubt, it is declared that the power to make regulations for this Act has always included power to make regulations making provision with respect to anything mentioned in paragraphs (2) (a) to (g).

“(5) Subsection (4) is declared to be a provision to which section 42 (Repeal does not end transitional or validating effect etc) of the *Interpretation Act 1967* applies.

“(6) Subsections (4) and (5) and this subsection expire on the day they commence.”.

9 Insertion

After section 138 the following dictionary is inserted:

“**DICTIONARY** (See s 2)

activity accreditation scheme means an activity accreditation scheme determined under section 22.

activity accreditation standards, for an activity accreditation scheme, means the activity accreditation standards determined under section 22 for the scheme.

activity premises alteration, for a licensable public health risk activity, means a structural alteration of premises where the activity is carried on, including a structural alteration of any fixtures or fittings of the premises.

activity register—see section 56D.

automatic, suspension of registration—see subsection 56Q (1).

contravention, of this Act or a corresponding public health risk law, includes the contravention of a notice, direction or other instrument given under this Act or such a law.

licensable public health risk activity means an activity declared to be a licensable public health risk activity under section 18.

licensable public health risk procedure, for a licensable public health risk activity, means a procedure declared to be a licensable public health risk procedure for the activity under section 18.

location, for a registrable public health risk activity, means the precise location on the premises where the activity is being carried on.

location-specific, for a registrable public health risk activity, means that the activity is indicated under subsection 18 (4) to be location-specific.

notified suspension or cancellation, of registration—see subsection 56P (1).

occupier, of a place, includes—

- (a) an owner of the place; and
- (b) a person in charge of the place; and

- (c) a person authorised to be present at the place as an agent of an occupier, owner or person in charge of the place.

procedure accreditation scheme means a procedure accreditation scheme determined under section 42D.

procedure accreditation standards, for a procedure accreditation scheme, means the procedure accreditation standards determined under section 42D for the scheme.

procedure appliance alteration means—

- (a) for a person carrying on a licensable public health risk activity—the introduction, alteration or replacement of an appliance used for a procedure associated with the activity; or
- (b) for a person performing a licensable public health risk procedure—the introduction, alteration or replacement of an appliance used for the procedure.

registered activity means a registrable public health risk activity authorised by a registration certificate.

registered location means the location for carrying on a registered activity as mentioned on the registration certificate for the activity under paragraph 56H (b) (iii).

registered person means a person registered under section 56G to carry on a registered activity.

registered people register—see section 56E.

registrable public health risk activity means a public health risk activity declared to be registrable under subsection 18 (3).

registration means the registration, under section 56G, of a person to carry on a registered activity.

registration certificate means a registration certificate under section 56H.”.

**PART 3—AMENDMENT OF PUBLIC HEALTH
(MISCELLANEOUS PROVISIONS) ACT 1997**

10 Act amended—pt 3

This Part amends the *Public Health (Miscellaneous Provisions) Act 1997*.

11 Interpretation

Section 4 is amended by omitting the following definitions:

*“amended Building Act
commencement day
specialised system
unamended Building Act”*.

12 Substitution

Section 6 is repealed and the following section substituted:

“6 Position of Crown

Section 6A of the Building Act is amended—

- (a) by omitting the heading and substituting the following heading:
‘6A Application of Act to the Territory’; and
- (b) by omitting from subsection (1) all the words before paragraph (a) and substituting ‘This Act does not bind the Territory in its application in relation to—’; and
- (c) by omitting subsection (2) and substituting the following subsection:
‘(2) However, section 40A (Compliance with building code) binds the Territory in relation to a matter mentioned in subsection (1).’”.

13 Repeal

Division 3 of Part 2, and Parts 4 and 6, are repealed.

SCHEDULE 1

(See s 3)

**PUBLIC HEALTH ACT 1997—STRUCTURAL AND MINOR
AMENDMENTS**

[1.1] Sections 1, 2 and 3—

Repeal the sections, substitute the following sections:

“1 Name of Act

This Act is the *Public Health Act 1997*.

“2 Dictionary

The dictionary at the end of this Act is part of this Act.

“Note 1 The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition ‘*notified suspension or cancellation*, of registration—see subsection 56P (1)’ means that the expression ‘notified suspension or cancellation’ is defined in subsection 56P (1) for this Act.

“Note 2 A definition in the dictionary applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Interpretation Act 1967*, s 11F and s 11G).”.

“3 Notes

A note included in this Act is explanatory and is not part of this Act.

“Note See *Interpretation Act 1967*, subsections 12 (1), (4) and (5) for the legal status of notes.”.

[1.2] Section 5—

- (a) Relocate all the definitions in subsection (1) to the dictionary.
- (b) Omit subsections (2) and (3).
- (c) Repeal the remainder of the section.

[1.3] Heading to Division 1 of Part 3—

Omit the heading, substitute the following heading:

“Division 3.1—General”.

[1.4] Section 19—

Omit “section 130”, substitute “section 137”.

[1.5] Subsection 20 (1)—

Insert after the subsection the following penalty:

SCHEDULE 1—continued

“Maximum penalty: 50 penalty units, imprisonment for 6 months or both.”.

[1.6] Sections 21 to 28—

Repeal the sections, substitute the following heading and sections:

“Division 3.2—Licensable public health risk activities

“21 Activity licences—offences

“(1) A person must not carry on a licensable public health risk activity unless the person—

- (a) holds an activity licence for the activity; or
- (b) is a defined influential person in relation to the holder of an activity licence for the activity.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

“(2) A person must not carry on a licensable public health risk activity except in accordance with an activity licence.

Maximum penalty: 50 penalty units.

“(3) This section does not apply to a person who is exempt under section 22.

“22 Exemption from licensing requirement—activity accreditation schemes

“(1) For subsection 21 (3), a person who carries on a licensable public health risk activity is exempt from the requirement to be licensed if—

- (a) the person is accredited under an activity accreditation scheme for the activity; and
- (b) the person has not, during the previous year, contravened the activity accreditation standards for the scheme (as modified, if at all, under section 23); and
- (c) the person carrying on the activity, or a defined influential person in relation to the person, has not, during the previous year, contravened this Act or a corresponding public health risk law.

“(2) The Minister may determine—

- (a) activity accreditation schemes for licensable public health risk activities; and
- (b) activity accreditation standards for activity accreditation schemes.

SCHEDULE 1—continued

“(3) A determination may apply, adopt or incorporate, with or without modification, any matter contained in an instrument as in force or existing from time to time.

“(4) A determination is a disallowable instrument.

“23 Activity accreditation standards—modification

“(1) A person who carries on a licensable public health risk activity for which there is an activity accreditation scheme may apply to the Minister for a modification of the activity accreditation standards for the scheme as they apply to the person.

“(2) The application must be—

- (a) in a form approved by the Minister; and
- (b) accompanied by the determined fee.

“(3) The Minister may, by written notice, require the person to provide stated additional information about the application.

“(4) If the person complies with this section, the Minister must, by written notice to the person, make the modification of the standards sought by the person unless satisfied that to do so would be likely to lead to a significantly increased risk to public health in the carrying on of the licensable public health risk activity

“(5) If the Minister refuses the application, the Minister must give written notice to the person of the refusal stating the reasons for the refusal.

“24 Alteration of premises and appliances—offence

“(1) A person who carries on a licensable public health risk activity must not, except in accordance with an approval under section 25, make an activity premises alteration or a procedure appliance alteration if the alteration would increase the public health risk associated with the activity.

Maximum penalty: 50 penalty units.

“(2) For subsection (1), an activity premises alteration or a procedure appliance alteration is taken to increase the public health risk associated with a public health risk activity if there are reasonable grounds for the person who carries on the activity to believe that the alteration would increase the risk (irrespective of the person’s actual belief).

SCHEDULE 1—continued

“25 Alteration of premises and appliances—approval

“(1) A person who carries on a licensable public health risk activity may apply to the Minister for approval of an activity premises alteration or procedure appliance alteration.

“(2) The application must be—

- (a) in a form approved by the Minister; and
- (b) accompanied by the determined fee.

“(3) The Minister may, by written notice, require the person to provide stated additional information about the application.

“(4) If the person complies with this section, the Minister must, by written notice to the person, approve the activity premises or procedure appliance alteration unless satisfied that to do so would be likely to lead to a significantly increased risk to public health in the carrying on of the licensable public health risk activity.

“(5) If the Minister refuses the application, the Minister must give written notice to the person of the refusal stating the reasons for the refusal.”.

[1.7] Heading to Division 2 of Part 3—

Omit the heading.

[1.8] Section 33—

Add at the end the following subsection:

“(4) A suspended activity licence may be renewed, but the renewal does not result in the suspension being lifted.”.

[1.9] Heading to Division 3 of Part 3—

Omit the heading, substitute the following sections and heading:

“42A Licensable public health risk activities—false representation

“(1) A person who is not the holder of an activity licence must not represent that he or she holds an activity licence.

Maximum penalty: 30 penalty units.

“(2) The holder of an activity licence that is suspended must not represent that the licence is held without disclosing that the licence is suspended.

Maximum penalty: 30 penalty units.

“(3) A person who is not accredited under an activity accreditation scheme must not falsely represent that he or she is accredited.

SCHEDULE 1—continued

Maximum penalty: 30 penalty units.

“42B Licensable public health risk activities—inspection

A person who carries on a licensable public health risk activity must ensure that—

- (a) if the person holds an activity licence—the licence is available for inspection by an authorised officer, at any reasonable time, at the premises where the activity is carried on; and
- (b) all records reasonably relevant to the activity (including records of licensing, conduct, accreditation and approval of activity premises alterations and procedure appliance alterations) are available for inspection by an authorised officer, at any reasonable time, at the premises where the activity is carried on.

Maximum penalty: 5 penalty units.

“Division 3.3—Licensable public health risk procedures

“42C Procedure licences—offences

“(1) A person must not perform a licensable public health risk procedure unless the person holds a procedure licence for the procedure.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

“(2) A person must not perform a licensable public health risk procedure except in accordance with a procedure licence.

Maximum penalty: 50 penalty units.

“(3) This section does not apply to a person who is exempt under section 42D.

“42D Exemption from licensing requirement—procedure accreditation schemes

“(1) For subsection 42C (3), a person who performs a licensable public health risk procedure is exempt from the requirement to be licensed if—

- (a) the person is accredited in accordance with a procedure accreditation scheme for the activity; and
- (b) the person has not, during the previous year, contravened the procedure accreditation standards for the scheme (as modified, if at all, under section 42E); and

SCHEDULE 1—continued

(c) the person has not, during the previous year, contravened this Act or a corresponding public health risk law.

“(2) The Minister may determine—

- (a) procedure accreditation schemes for licensable public health risk procedures; and
- (b) procedure accreditation standards for procedure accreditation schemes.

“(3) A determination may apply, adopt or incorporate, with or without modification, any matter contained in an instrument as in force or existing from time to time.

“(4) A determination is a disallowable instrument.

“42E Procedure accreditation standards—modification

“(1) A person who performs a licensable public health risk procedure for which there is a procedure accreditation scheme may apply to the Minister for a modification of the procedure accreditation standards for the scheme as they apply to the person.

“(2) The application must be—

- (a) in a form approved by the Minister; and
- (b) accompanied by the determined fee.

“(3) The Minister may, by written notice, require the person to provide stated additional information about the application.

“(4) If the person complies with this section, the Minister must, by written notice to the person, make the modification to the standards sought by the person unless satisfied that to do so would be likely to lead to a significantly increased risk to public health in the performance of the licensable public health risk procedure.

“(5) If the Minister refuses the application, the Minister must give written notice to the person of the refusal stating the reasons for the refusal.

“42F Alteration of appliances—offence

“(1) A person who performs a licensable public health risk procedure must not, except in accordance with an approval under section 42G, make a procedure appliance alteration if the alteration would increase the public health risk associated with the procedure.

Maximum penalty: 50 penalty units.

SCHEDULE 1—continued

“(2) For subsection (1), a procedure appliance alteration is taken to increase the public health risk associated with a public health risk procedure if there are reasonable grounds for the person who performs the procedure to believe that the alteration would increase the risk (irrespective of the person’s actual belief).

“42G Alteration of appliances—approval

“(1) A person who performs a licensable public health risk procedure may apply to the Minister for approval of a procedure appliance alteration.

“(2) The application must be—

- (a) in a form approved by the Minister; and
- (b) accompanied by the determined fee.

“(3) The Minister may, by written notice, require the person to provide stated additional information about the application.

“(4) If the person complies with this section, the Minister must, by written notice to the person, approve the procedure appliance alteration unless satisfied that to do so would be likely to lead to a significantly increased risk to public health in the performance of the licensable public health risk procedure.

“(5) If the Minister refuses the application, the Minister must give written notice to the person of the refusal stating the reasons for the refusal.”.

[1.10] New sections 56A and 56B—

After section 56 insert the following sections in Division 3 of Part 3:

“56A Licensable public health risk procedures—false representation

“(1) A person who is not the holder of a procedure licence must not represent that he or she holds a procedure licence.

Maximum penalty: 30 penalty units.

“(2) The holder of a procedure licence that is suspended must not represent that the licence is held without disclosing that the licence is suspended.

Maximum penalty: 30 penalty units.

“(3) A person who is not accredited under a procedure accreditation scheme must not falsely represent that he or she is accredited.

Maximum penalty: 30 penalty units.

SCHEDULE 1—continued

“56B Procedure licence—inspection

A person who performs a licensable public health risk procedure must ensure that—

- (a) if the person holds a procedure licence—the licence is available for inspection by an authorised officer, at any reasonable time, at the premises where the procedure is performed; and
- (b) all records reasonably relevant to the procedure (including records of licensing, conduct, accreditation and approval of procedure appliance alterations) are available for inspection by an authorised officer, at any reasonable time, at the premises where the procedure is performed.

Maximum penalty: 5 penalty units.”.

[1.11] Heading to Divisions 4 and 5 of Part 3—

Omit the headings, substitute the following headings:

“Division 3.6—Improvement notices

“Division 3.7—Prohibition notices”.

[1.12] Paragraph 66 (3) (c)—

Omit the paragraph, substitute the following paragraph:

- “(c) an order that the person pay the Territory an amount equal to no more than—
- (i) for a natural person—\$10,000; or
 - (ii) for a corporation—\$50,000;”.

[1.13] Paragraph 73 (3) (c)—

Omit the paragraph, substitute the following paragraph:

- “(c) an order that the person pay the Territory an amount equal to no more than—
- (i) for a natural person—\$5,000; or
 - (ii) for a corporation—\$25,000;”.

[1.14] Paragraph 118 (3) (c)—

Omit the paragraph, substitute the following paragraph:

- “(c) an order that the person pay the Territory an amount equal to no more than—

SCHEDULE 1—continued

- (i) for a natural person—\$5,000; or
- (ii) for a corporation—\$25,000;”.

[1.15] Section 137—

Omit “, by notice in writing published in the Gazette,”.

[1.16] Section 137—

Add at the end the following subsection:

“(2) A determination under this section is a disallowable instrument.”.

Endnotes

Act amended

1 Act 1997 No 69 (not republished).

Penalty units

2 Section 33AA of the *Interpretation Act 1967* deals with the meaning of offence penalties that are expressed in penalty units.

[Presentation speech made in Assembly on 11 May 2000]