

2000  
THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY

**Public Health Regulations 2000**

**EXPLANATORY MEMORANDUM**

## **PART 1—PRELIMINARY**

### **Citation & Commencement (Regulations 1 & 2)**

Regulations 1 & 2 are formal requirements of all regulations, specifying the title of the regulations and the commencement date. The commencement date has been set for 15 January 2000 in order to ensure that private hospital registrations are maintained current through out the transition from the previous regulations.

### **Definitions (Regulation 3)**

Regulation 3 makes the dictionary at the end of the Public Health Regulations 2000 a part of the regulations. This ensures that terms used throughout these regulations are attributed their intended meaning.

## **PART 2—COMMUNICABLE DISEASE CONTROL**

### **Immunisation against vaccine preventable diseases (Regulation 4)**

Sub-regulation 4(1) outlines the circumstances under which a person will be considered immunised against a vaccine preventable disease. Those circumstances are if a person has been administered a vaccine in an appropriate vaccination program or if a person has serological evidence of immunity against a vaccine preventable disease.

Sub-regulation 4(2) allows the Chief Health Officer to determine what is an appropriate vaccination program.

Sub-regulation 4(3) makes a determination made under sub-regulation 4(2) a disallowable instrument.

### **What is a vaccine preventable disease? (Regulation 5)**

Sub-regulation 5(1) outlines a number of diseases that will be considered vaccine preventable for the purposes of these regulations. Those diseases are diphtheria, *Haemophilus influenzae* type b (hib) infection, measles, mumps, poliomyelitis, rubella (German measles), tetanus, pertussis (whooping cough), hepatitis B and any other disease declared by the Chief Health Officer under sub-regulation 5(2).

Sub-regulation 5(2) also allows the Chief Health Officer to declare that a disease is not a vaccine preventable disease, including those diseases listed in sub-regulation 5(1).

Sub-regulation 5(3) makes a determination made under sub-regulation 5(2) as a disallowable instrument.

### **Obligations on parents, guardians and responsible persons (Regulation 6)**

Regulation 6 allows any parent, guardian or person responsible for a child to fulfil an obligation under these regulations. However, if an obligation of a parent, guardian or person responsible for a child is not fulfilled then this regulation places equal responsibility on each of the parents, guardians or persons responsible for a child. This means that all of the parents, guardians or persons responsible for a child may be penalised for failing to carry out any obligation under these regulations.

### **What is a child care centre? (Regulation 7)**

Regulation 7 defines a child care centre as having the same meaning as a premises mentioned in section 324 of the *Children and Young People Act 1999*. As this section of the *Children and Young People Act 1999* has not yet commenced, for the time being a child care centre will have the same meaning as a premises licensed under section 120 of the *Children's Services Act 1986*. Once section 324 of the *Children and Young People Act 1999* commences the definition will automatically take the meaning outlined in it.

### **Provision of immunisation history on enrolment at school (Regulation 8)**

Regulation 8 requires a person in charge of a kindergarten or primary school to request immunisation status information from the parent or guardian of a child who is being enrolled at that kindergarten or primary school for the first time. If a person in charge of a kindergarten or primary school fails to

request such information then they may be penalised a maximum of 10 penalty units if they do not have a reasonable excuse.

Regulation 8 also requires a parent or guardian of a child to provide that child's immunisation status information to the person in charge of the kindergarten or primary school at the time of the child's first enrolment. If the parent or guardian of a child, who is being enrolled in a kindergarten or primary school for the first time, fails to comply with the request for information relating to his or her child's immunisation status then they may be penalised a maximum of 10 penalty units if they do not have a reasonable excuse.

It should be noted that regulation 8 does not require a child to be immunised, it only requires that information about a child's immunisation status be provided. The information may simply state that the child has not been immunised or that the parent or guardian is not aware of their child's immunisation status.

#### **Immunisation records kept by pre-secondary schools (Regulation 9)**

Sub-regulation 9(1) requires a person in charge of pre-secondary school to make a record of the immunisation status of each child enrolled at the school in a form that is readily accessible to the person in charge and the chief health officer. If the person in charge of pre-secondary school fails to make a record of the immunisation status of each child enrolled at the school in such a form then they may be penalised a maximum of 10 penalty units.

Sub-regulation 9(2) provides that in a prosecution for an offence against sub-regulation 9(1), an immunisation record signed by a medical practitioner, registered nurse or any other person authorised in writing by the chief health officer for the purpose, is evidence that a specified child is immunised against the vaccine preventable disease.

Sub-regulation 9(3) requires that the person in charge of pre-secondary school must keep a copy of the child's immunisation record while the child is enrolled at the school and give a copy of the child's immunisation record to the chief health officer within a reasonable time after enrolment. If the person in charge of a pre-secondary school fails to keep a copy of the child's immunisation record or provide a copy to the chief health officer within a reasonable time, then they may be penalised a maximum of 10 penalty units.

Sub-regulation 9(4) provides that it is a defence to a prosecution under this regulation for failure to do thing that the defendant had a reasonable excuse for that failure.

#### **Change of immunisation status—notification (Regulation 10)**

Sub-regulation 10(1) requires that when a child is enrolled at a pre-secondary school for the first time (for that school), the person in charge of the school must require a parent or guardian of the child to tell the person in charge of change in the immunisation status of the child within a reasonable time after the status changes. If the person in charge of the school fails to require a parent or guardian of a child to tell the person in charge of the pre-secondary school of a change in the child's immunisation status within a reasonable time, then they may be penalised a maximum of 10 penalty units.

Sub-regulation 10(2) requires that a parent or guardian of a child enrolled at a pre-secondary school must tell the person in charge of the school of a change in the immunisation status of the child within a reasonable time after the status changes. If a parent or guardian of a child enrolled at a pre-secondary school fails to tell the person in charge of the school of a change in the child's immunisation status within a reasonable time, then they may be penalised a maximum of 10 penalty units.

Sub-regulation 10(3) requires that if a person in charge of a pre-secondary school is told of a change in a child's immunisation status, the person must attach a note of the change to the child's immunisation record. If a person in charge of the pre-secondary school fails to attach note of any change in a child's immunisation status on his/her record, then they may be penalised a maximum of 10 penalty units.

Sub-regulation 10(4) requires that a person in charge of a pre-secondary school must, within a reasonable time after a note is attached detailing a child's changed immunisation status, give a copy of

the note to the chief health officer. If a person in charge of a pre-secondary school fails to give a copy of a child's changed immunisation status within a reasonable time to the chief health officer, then they may be penalised a maximum of 10 penalty units.

Sub-regulation 10(5) provides that it is a defence to a prosecution under regulation 10 for failure to do a thing that the defendant had a reasonable excuse for that failure.

#### **Access to information about immunisation status (Regulation 11)**

Regulation 11 provides that the chief health officer, or a person authorised in writing by the chief health officer, may obtain access to and take copies of information about a child's immunisation status if required to do so for the purpose of the regulations or to conduct an epidemiological study.

Regulation 11 also provides that the chief health officer may authorise another person under this regulation only if satisfied that the person has adequate knowledge and experience of disease control or the management of immunisation programs.

Sub-regulation 11(3) defines the term 'epidemiological study'.

#### **Notice by school to parent or guardian, and chief health officer (Regulation 12)**

Regulation 12 requires that the person in charge of a school must give notice to a parent or guardian of a child, and the chief health officer, if the person in charge believes, on reasonable grounds, that a child enrolled at the school has a vaccine preventable disease or has not been immunised against a vaccine a preventable disease and has been in contact with a person infected with such a disease. If a person in charge of the school fails to give notice to a parent or guardian, and the chief health officer, of his/her reasonable belief that a child enrolled at his/her school has a vaccine preventable disease, or has not been immunised against vaccine preventable disease and has been in contact with a person infected with such a disease, then they may be penalised 10 penalty units.

#### **Exclusion of children from school (Regulation 13)**

Sub-regulation 13(1) states that this regulation only applies if the chief health officer believes on reasonable grounds that there is a significant risk to public health if a vaccine preventable disease occurs at a school or in the community where the school is located.

Sub-regulation 13(2) provides that the chief health officer may give a written direction, known as a school health direction, to the person in charge of a school to: exclude a child from school who has a vaccine preventable disease; exclude a child from school who is not immunised against a vaccine preventable disease that has occurred at the school; exclude a child from school who has a vaccine preventable disease in particular circumstances that is specified in the direction; exclude a child from school who is not immunised against a vaccine preventable disease that has occurred at the school in particular circumstances as specified in the direction; and/or take any other action as necessary as specified in the direction to reduce the public health risk caused by the occurrence of the disease.

Sub-regulation 13(3) provides that a school health direction has effect for a child until the earliest occurring day as specified in the direction for the child or as specified in a return to school notice for the child.

Sub-regulation 13(4) requires that the person in charge of the school must give written notice of the effect of school health direction to a parent or guardian of child for whom the direction is given. If the person in charge of the school fails to give written notice to the parent or guardian for whom the direction is given of the effect of the school health direction, then they may be penalised a maximum of 10 penalty units.

Sub-regulation 13(5) provides that when the chief health officer is satisfied that the risk to public health has ceased, the chief health officer may direct the person in charge of the school to give notice, known as a return to school notice, to a parent or guardian of a child who has been excluded to the effect that the child may return to school on the day specified in the notice.

Sub-regulation 13(6) provides that the chief health officer may issue more than one school health direction for a child for the purpose of reducing the risk to public health.

Sub-regulation 13(7) provides that if more than one school health direction is issued for a child, the most recent direction prevails to the extent of any inconsistency.

Sub-regulation 13(8) provides that this regulation does not prevent or limit the operation of any other provision in this Part.

#### **Enforcement of exclusion (Regulation 14)**

Sub-regulation 14(1) requires that person in charge of school must not without reasonable excuse fail to comply with a school health direction or a direction of the chief health officer to give a return to school notice. If a person in charge of a school fails to comply with a school health direction or a direction to give a return to school notice, then they may be penalised a maximum of 10 penalty units.

Sub-regulation 14(2) requires that if a child has been excluded from school by a school health direction and a parent or guardian of the child has been given notice of that direction, then the parent or guardian of the child must not allow the child to attend school until the school health direction ceases to have effect. If a parent or guardian who has been given notice of the school health direction and allows his/her child to attend school, then they may be penalised a maximum of 10 penalty units.

#### **School staff with vaccine preventable diseases (Regulation 15)**

Regulation 15 requires that the person in charge of a school must, as soon as possible, notify the chief health officer if the person in charge of the school knows or suspects that a member of the school's staff has vaccine preventable disease. If the person in charge of a school fails to notify the chief health officer of the fact that s/he knows or suspects that a member of the school's staff has a vaccine preventable disease, then they may be penalised a maximum of 10 penalty units.

#### **Notice to school from parent or guardian—cases and contacts (Regulation 16)**

Sub-regulation 16(1) requires that a parent or guardian of child enrolled at a school or attending home based care must, as soon as possible, inform the person in charge of the school or care if the parent or guardian has reasonable grounds for believing that the child has a condition mentioned in Schedule 1. If the parent or guardian fails to notify the person in charge as soon as possible of his/her belief that his/her child has condition mentioned in Schedule 1, then they may be penalised a maximum of 10 penalty units.

Sub-regulation 16(2) requires that a parent or guardian of a child enrolled at a school or attending home based care must, as soon as possible, inform the person in charge of the school or care that they believe on reasonable grounds that their child has been in contact with a person who has a condition mentioned in Schedule 1, if the period of exclusion from school or care is specified for that condition as specified in Schedule 1. If the parent or guardian fails to inform the person in charge as soon as possible of his/her belief that his/her child has been in contact with a person who has a condition specified in the Schedule, then they may be penalised a maximum of 10 penalty units.

#### **Exclusion from school or home based care—cases (Regulation 17)**

Sub-regulation 17(1) requires that a parent or guardian of a child enrolled at a school or attending home based care must not allow a child who has a condition specified in Schedule 1 to attend school or care for the period specified in Schedule 1 for children with the condition. If a parent or guardian allows a child who has a condition mentioned in Schedule 1 to attend school or care, then they may be penalised a maximum of 10 penalty units.

Sub-regulation 17(2) requires that the person in charge of a school or home based care must not allow a child who has a condition mentioned in Schedule 1 to attend the school or care for the period specified in Schedule 1 for that condition. If the person in charge of the school or home based care allows a child who has a condition specified in Schedule 1 to attend school before the period of exclusion has ended, then they may be penalised a maximum of 10 penalty units.

### **Children with Schedule 1 condition—precautions (Regulation 18)**

Sub-regulation 18(1) states that the regulation only applies to children who have a condition mentioned in Schedule 1 and has been excluded from school or home based care because of that condition.

Sub-regulation 18(2) requires that a person responsible for the child during the period of exclusion from school or home based care must take all reasonable precautions to prevent the child transmitting the condition. If the person responsible for the child fails to take all reasonable precautions to prevent the child from transmitting the condition, then they may be penalised a maximum 10 penalty units.

Sub-regulation 18(3) defines reasonable precautions.

### **Exclusion from school or home based care—contacts (Regulation 19)**

Sub-regulation 19(1) requires that a parent or guardian of a child enrolled at a school or attending home based care must not allow their child to attend school or care for the period mentioned in Schedule 1 if they believe on reasonable grounds that their child has been in contact with a person who has a condition mentioned in Schedule 1. If a parent or guardian allows a child who has been in contact with a person who has a condition mentioned in Schedule 1 to attend school or home based care, then they may be penalised a maximum of 10 penalty units.

Sub-regulation 19(2) requires that a person in charge of a school or home based care must not allow a child to attend school or care for the period specified in Schedule 1 if they believe on reasonable grounds that the child has been in contact with a person who has a condition mentioned in Schedule 1. If a person in charge of a school or home based care allows a child who has been in contact with a person who has condition specified in Schedule 1 to attend to school or care before the period of exclusion as ended, then they may be penalised a maximum of 10 penalty units.

### **Contacts of children with Schedule 1 conditions—precautions (Regulation 20)**

Sub-regulation 20(1) states that it only applies to children who have a condition mentioned in Schedule 1 and the period of exclusion has not lapsed.

Sub-regulation 20(2) requires that the person responsible for the child who has a condition mentioned in Schedule 1 must take all reasonable precautions during the period of exclusion to prevent the possible transmission of the condition by the child. If the person responsible for the child fails to take all reasonable precautions to prevent the possible transmission of the condition, then they may be penalised a maximum of 10 penalty units.

Sub-regulation 20(3) defines reasonable precautions.

### **Persons with transmissible notifiable conditions (Regulation 21)**

Sub-regulation 21(1) requires that a person who knows or suspects that s/he has, or is suspected of having, a transmissible notifiable condition, or is in contact with such a person, must take all reasonable precautions against transmitting the condition. If the person fails to take reasonable precautions, then they may be penalised a maximum of 10 penalty units.

Sub-regulation 21(2) requires that a person who is responsible for a person who has or is suspected of having, a transmissible notifiable condition, or for a contact of such a person, must take all reasonable precautions to prevent the transmission of that condition. If a person who is responsible for a person who has, or is suspected of having, a transmissible notifiable condition fails to take all reasonable precautions to prevent the transmission of that condition, then that person may be penalised a maximum of 10 penalty units.

Sub-regulation 21(3) defines reasonable precautions.

## **PART 3—CERVICAL CYTOLOGY**

### **What is registerable information? (Regulation 22)**

Regulation 22 details the information that is appropriate for entry into register about a woman and her cervical smear or tissue.

### **Participation in the cervical cancer prevention program (Regulation 23)**

Regulation 23 provides that the chief health officer must inform each woman from whom a cervical smear or tissue is to be taken of her right not to participate in the cervical cancer prevention program and that failure to participate in the program will not affect her right to have a smear or tissue taken.

Regulation 23 also provides that a health practitioner who takes a cervical smear or tissue from a woman who refuses to participate in the cervical cancer prevention program must attach a refusal of consent marker to the pathology request form. However, the health practitioner must not attach a refusal of consent marker unless the woman informs the health practitioner of her refusal to participate in the cervical cancer prevention program.

Regulation 23 further provides that the regulation only applies to women whose usual place of residence is in the Territory.

### **Sending registerable information from the laboratory to the chief health officer (Regulation 24)**

Regulation 24 provides that the person responsible for the day-to-day control of a laboratory must, after a cervical smear or tissue has been examined, send the registerable information to the chief health officer, unless a refusal of consent marker is attached to the pathology request form.

Regulation 24 further provides that if a person responsible for the day-to-day control of laboratory gives registerable information to the chief health officer is not breaching confidence, professional etiquette, professional ethics, or a rule of professional conduct and that no civil or criminal liability is incurred because of the information given.

### **Cervical cytology register (Regulation 25)**

Regulation 25 provides that the chief health officer is to maintain a cervical cytology register and must enter into the register the registerable information provided under regulation 24. The regulation also provides that the register is the same as that established under the Public Health (Cervical Cytology) Regulations and includes all information on that register immediately before the 15 January 2000.

### **Use of information on cervical cytology register (Regulation 26)**

Regulation 26 provides the purposes for which the cervical cytology register is established, that the chief health officer must notify a woman that she is overdue to have her next cervical smear taken, and that the chief health officer must take all reasonable steps to ensure that appropriate action is taken when further action is required after the previous cervical smear.

Regulation 26 also provides that the Minister may by instrument approve research programs and national organisations for the purpose of preventing cervical cancer. However, a research program may only be approved if it complies with the *Privacy Act 1988 (Cwlth)* for medical research. An approval for a research program is a disallowable instrument.

### **Disclosure of identifying information—women (Regulation 27)**

Sub-regulation 27(1) requires that a person must not, without a good reason, disclose information on the cervical cytology register in such a way that a woman may be identified, unless the woman consents in writing. If a person discloses information that sufficiently identifies a woman and that woman did not consent in writing to the disclosure of that information, then that person may be penalised a maximum of 10 penalty units.

Sub-regulation 27(2) provides that sub-regulation 27(1) does not apply to a laboratory who examined the cervical smear or tissue as per the pathology request form or to the health practitioner who took the cervical smear or tissue from the woman.

Sub-regulation 27(3) provides that the chief health officer must disclose to a woman any information on the cervical cytology register that relates to her alone only upon written request.

**Disclosure of identifying information—health practitioners and laboratories (Regulation 28)**

Regulation 28 requires that a person must not without a good reason disclose information on the cervical cytology register in such a manner that a health practitioner or laboratory is able to be identified, unless the health practitioner or person responsible for the day-to-day control of the laboratory consents in writing to the disclosure. If a person discloses such information that allows for the ascertainment of the identity of the health practitioner or laboratory without having gained written consent, they may be penalised a maximum of 10 penalty units.

**Deletion of material on cervical cytology register (Regulation 29)**

Regulation 29 provides that the chief health officer must remove from the cervical cytology register any information that could reasonably identify the woman after receiving a written request by a woman.

**Definition (Regulation 30)**

Regulation 30 defines the word 'member'.

**Establishment (Regulation 31)**

Regulation 31 provides that the chief health officer must maintain a management committee and that this management committee is a continuation of the same committee constituted under the Public Health (Cervical Cytology) Regulations. Sub-regulations 31(2) and (3) sunset on 15 January 2002 to allow for any appointment made up to 14 January 2000 for the maximum period of two years.

**Constitution (Regulation 32)**

Regulation 32 provides for the constitution of the management committee allowing for between seven and nine members. All members must be appointed in writing by the chief health officer.

**Functions (Regulation 33)**

Regulation 33 details the functions of the management committee and that the chief health officer must consider any advice of the committee.

**Powers (Regulation 34)**

Regulation 34 details the powers of the management committee.

**Terms of appointment (Regulation 35)**

Regulation 35 provides that a member of the management committee holds the office on a part-time basis and may hold the office for up to two years.

**Appointment of chairperson and deputy chairperson (Regulation 36)**

Regulation 36 provides that the chief health officer must appoint as chair person a member of the ACT Cancer Society and as deputy chairperson any other member of the management committee.

**Termination of Appointment (Regulation 37)**

Regulation 37 provides that the chief health officer may terminate the appointment of any member of the management committee for reason of misbehaviour or physical or mental incapacity or by written notice from the organisation that nominated the member.

**Acting Members (Regulation 38)**

Regulation 38 provides that the chief health officer may appoint a person to act as a member of the management committee in certain circumstances provided the acting appointment does not continue for more than 12 months.

**Meetings (Regulation 39)**

Regulation 39 provides that the management committee must meet when called by the chairperson or other member of the management committee. However, the management committee must meet at least twice per year.

**Procedure at meetings (Regulation 40)**

Regulation 40 details the procedure that must be followed at all meetings.



### **Conduct of business (Regulation 41)**

Regulation 41 provides that the committee may conduct its business as it sees fit.

## **PART 4—CANCER REPORTING**

### **Notification of pathologist test result (Regulation 42)**

Regulation 42 provides that any results from pathological examination of a specimen taken from a person ordinarily resident in the Territory that indicate the presence of cancer, the laboratory must notify the chief health officer in a form approved by the chief health officer. This does not apply when notice has been given for a person's cancer within the past year.

### **Notification of cancer cases at hospitals and nursing homes (Regulation 43)**

Regulation 43 provides that a hospital or nursing home must give notification to the chief health officer of a person that is found to have cancer or is being treated for cancer. This does not apply when notice has been given for a person's cancer within the past year.

### **Further information from doctors (Regulation 44)**

Regulation 44 provides that if information is unclear or does not properly comply with the cancer notice given under regulations 42 or 43, then the chief health officer may seek further information from the cancer patient's medical practitioner.

### **Protection of persons giving cancer information (Regulation 45)**

Regulation 45 provides that a person who provides information to the chief health officer for the purposes Part 4, is protected from prosecution and does not breach any professional ethics, etiquette, conduct or confidence.

### **Cancer register (Regulation 46)**

Regulation 46 provides that the chief health officer must maintain a cancer register and that this register is a continuation of the register established under the Public Health (Cancer Reporting) Regulations. This regulation sunsets on 1 January 2001.

### **Disclosure of information on the cancer register (Regulation 47)**

Regulation 47 provides that the chief health officer may disclose information contained on the cancer register about a person resident in another jurisdiction to that jurisdiction, or, to a person approved by the Minister for the purpose of statistics or medical research. In all other instances, the chief health officer may only disclose information if it does not identify the cancer patient, the doctor who attended the patient, or the laboratory or the hospital or nursing home that notified the chief health officer.

### **Refusal of approval of access to registered information (Regulation 48)**

Regulation 48 provides that if a person is refused access to the cancer register for the purpose of statistics or medical research, the Minister must notify the person within 28 days in a form in accordance with the *Administrative Appeals Tribunal Act 1989*. Such a person may apply to the Administrative Appeals Tribunal for a review of that decision.

### **Confidentiality (Regulation 49)**

Regulation 49 provides that a person must not make a record of, divulge or communicate to any person any information acquired under the regulations, except as allowed by law. If a person does make a record of, divulge or communicate to any person any information acquired under the regulation, then that person may be penalised a maximum of 10 penalty units.

## **PART 5—DRUG PREPARATION AND SUPPLY**

### **Pharmaceutical businesses responsible for staff compliance (Regulation 50)**

Regulation 50 requires that a person who carries on business involved in the preparation, storage or supply of drugs must do everything reasonable to ensure that all persons engaged in the business comply with Part 5. If a person who carries on such a business fails to ensure that all person engaged in the business comply with Part 5, then that person may be penalised 10 penalty units.

### **Sale of injurious drugs, articles and apparatus (Regulation 51)**

Sub-regulation 51(1) provides that regulation 51 is only applicable to the advertising or supply of a drug or an article or apparatus that is claimed to alleviate human suffering or to cure, overcome or alleviate any physical defect. This regulation does not apply to manual therapies, such as massage, or other like therapies.

Sub-regulation 51(2) provides that the Minister may by instrument prohibit the advertising or supply of a drug, article or apparatus that the Minister believes is injurious to life or health or which is useless for the advertised purpose. Sub-regulation 51(3) provides that a prohibition is a disallowable instrument.

Sub-regulation 51(4) provides that if the Minister makes a prohibition under sub-regulation 51(2), then the Minister must give prior written notice of the proposal to any person who manufactures, imports, distributes or supplies the drug or thing to give the person 28 days to provide a written objection to the prohibition.

Sub-regulation 51(5) provides that the Minister must consider any objection provided under sub-regulation 51(4) to a prohibition proposed under sub-regulation 51(2) before the prohibition receives ministerial assent.

Sub-regulation 51(6) prohibits the advertising, sale or supply of a drug or thing prohibited under sub-regulation 51(2). If a person advertises, sells or supplies a drug or thing prohibited under sub-regulation 51(2), then that person may be penalised a maximum of 10 penalty units.

Sub-regulation 51(7) provides that sub-regulation 51(6) does not apply to bona fide advertisements, price lists provided by manufacturers to the retail sector, supply of drug by prescription, or the supply of drugs by a doctor to his/her patient.

### **Supply of disinfectants and proprietary remedies (Regulation 52)**

Regulation 52 allows the Minister to prohibit the supply of a substance or compound as a disinfectant, germicide, antiseptic or preservative or a patent or proprietary medicine the chief health officer certified is harmful to health. Such a prohibition is a disallowable instrument. A person who supplies a prohibited substance or compound may be penalised a maximum of 10 penalty units.

### **Labelling disinfectants, germicides, antiseptics and preservatives (Regulation 53)**

Regulation 53 provides that the chief health officer may by instrument direct what information and directions are to be placed on the labels of disinfectants, germicides, antiseptics and preservatives. Such a direction is a disallowable instrument. A person who supplies a substance or compound that does not comply with the chief health officer's direction may be penalised a maximum of 10 penalty units.

### **Supply of adulterated drugs (Regulation 54)**

Sub-regulation 54(1) prohibits the preparation or storage of drug in a way that may adversely affect its quality. It also prohibits the supply of a drug of that is stored or prepared in that manner. Thus, a drug must be prepared and stored in a safe manner. If a person prepares or stores a drug that adversely affects its quality or supplies a drug that is prepared or stored in that manner may be penalised a maximum of 10 penalty units.

Sub-regulation 54(2) prohibits a person supplying a drug that contains matter that is inedible, or likely to cause injury if taken by mouth. For example, this sub-regulation would apply when shards of glass or metal occur in a medicine bottle. However, this sub-regulation does not apply when the label is distinctly labelled as being unsuitable for administration by mouth. A person who supplies a drug that contain inedible or potentially injurious matter may be penalised a maximum of 10 penalty units.

Sub-regulation 54(3) prohibits a person from preparing or supplying a drug that fraudulently increases its weight, bulk, measure or to conceal its inferior quality. A person who supplies or prepares such a drug may be penalised a maximum of 10 penalty units.

Sub-regulation 54(4) prohibits a person from supplying a drug not in accordance with the purchaser's instructions in respect of nature, substance, quality, weight, measure, quantity or composition. A person who supplies a drug not in accordance with the purchaser's instructions may be penalised a maximum of 10 penalty units. For example, a person who supplies drug A when the purchaser demanded drug B may be penalised.

#### **Inspection of drugs and appliances (Regulation 55)**

Sub-regulation 55(1) provides that the chief health officer may inspect a drug, article or appliance which is advertised, or offered, for supply for the purpose of curing or alleviating a condition to find out its composition.

Sub-regulation 55(2) provides that the chief health officer may compare the results of an inspection against any advertisement that relates to the drug, article or appliance.

Sub-regulation 55(3) provides that the chief health officer may prepare a report of any inspection performed under this regulation and may include any comment that s/he considers is in the public interest.

Sub-regulation 55(4) provides that the chief health officer may publish, or otherwise make available to the public, the report prepared under sub-regulation 55(3) in any form that s/he considers appropriate subject to approval by the Minister.

Sub-regulation 55(5) provides that any person and the Territory is protected from prosecution in any proceedings relating to the publication of the report.

#### **Medical examinations (Regulation 56)**

Sub-regulation 56(1) provides that this regulation only applies when a person who prepares, stores or supplies a drug has a condition that may be transmitted to another because of the preparation, storage or supply.

Sub-regulation 56(2) provides that a person must not fail to comply with a written direction from a public health officer to have medical examination or a specified clinical or bacteriological examination. A person that fails to comply with the public health officer's direction may be penalised a maximum of 10 penalty units.

#### **Directions to infected pharmaceutical workers (Regulation 57)**

Sub-regulation 57(1) provides that this regulation only applies if the chief health officer believes that the person has a condition characterised under regulation 56 and has given that person a written direction to not prepare, store or supply drugs or handle any equipment for such preparation, storage or supply.

Sub-regulation 57(2) provides that a person must comply with the chief health officer's written direction until the chief health officer gives the person written notice withdrawing the direction or the person provides a certificate from a doctor stating the s/he does not have a condition characterised in regulation 56. A person that fails to comply with the chief health officer's direction may be penalised a maximum of 10 penalty units.

#### **Transmissible conditions; unclean bandages (Regulation 58)**

Regulation 58 provides that a person must not prepare, store or supply a drug if s/he has a condition that may be transmitted to another because of that preparation, storage or supply, or is wearing unclean or medicated bandages and there is a risk of contaminating the drug. This regulation protects the public from contamination of the drug. A person who prepares, stores or supplies a drug in a manner that may result in the contamination of drug by condition that the person has may be penalised a maximum of 10 penalty units. However, this regulation does not apply when the person has taken reasonable precautions against the transmission of the condition, for example, by wearing gloves.

**Personal cleanliness (Regulation 59)**

Regulation 59 prohibits a person from being unclean or wearing dirty clothes while preparing, storing or supplying a drug. A person who is unclean or is wearing dirty clothes while preparing, storing or supplying a drug may be penalised a maximum of 10 penalty units.

**Offensive habits (Regulation 60)**

Regulation 60 prohibits a person from smoking or chewing tobacco or spitting while preparing, storing or supplying a drug. A person who smokes or chews tobacco or spits while preparing, storing or supplying a drug may be penalised a maximum of 10 penalty units.

**Keeping equipment clean (Regulation 61)**

Regulation 61 prohibits a person who prepares, stores, supplies or transports drugs from using equipment used in the preparation, storage, supply or transport of drugs that are unclean or are not free from odours. A person whose equipment used in the preparation, storage, supply or transport of drugs is not clean or free from odour may be penalised a maximum of 10 penalty units.

**Temperature control (Regulation 62)**

Sub-regulation 62(1) provides that a person must prepare, store or transport a drug within the manufacturer's recommended storage temperature. A person that, without a reasonable excuse, fails to prepare, store or transport a drug within the manufacturer's recommended temperature limits may be penalised a maximum of 10 penalty units.

Sub-regulation 62(2) provides that a person who does not prepare, store or transport a drug within the manufacturer's temperature limits must dispose of that drug. This regulation protects the public from potential deterioration of the drug that may result in potentially harmful degradation products. A person who fails to dispose of a drug that was prepared, stored or transported outside the manufacturer's temperature limits may be penalised a maximum of 10 penalty units.

**Insanitary conditions (Regulation 63)**

Sub-regulation 63(1) provides that a person carrying on business as a pharmacist must not do so in such a way as to cause an insanitary condition. A person who carries on business as a pharmacist in such a way as to cause an insanitary condition may be penalised a maximum of 10 penalty units.

Sub-regulation 63(2) provides that a person carrying on business as a pharmacist must not do so in a place that is in an insanitary condition. Thus, the premises must be kept clean. A person who carries on business as a pharmacist in a place that is in an insanitary condition may be penalised a maximum of 10 penalty units.

**Supply by self or agent (Regulation 64)**

Regulation 64 provides that a person supplies a drug regardless of whether he or she is an employee or agent of another person. This regulation places the responsibility of safe supply on the actual person supplying the drug not his or her employer.

**PART 6—GENERAL SANITATION****Keeping animals and birds—insanitary conditions (Regulation 65)**

Sub-regulation 65(1) provides that a person must not keep an animal or bird so as to cause an insanitary condition. For example, feed that is exposed in such a manner that may attract vermin or the structure is constructed in a manner that does not allow for ease of cleaning may constitute an insanitary condition. A person who allows an insanitary condition to arise may be penalised a maximum of 10 penalty units.

Sub-regulation 65(2) provides that a person must not keep an animal or bird in a place that is in an insanitary condition. For example, a person that fails to clean a chicken coupe over an extended period that causes insect or rodent infestations to occur on his/her and others property may be keeping the birds in an insanitary condition. A person who fails to keep an animal or bird in a place that is in an insanitary condition may be penalised a maximum of 10 penalty units.

**Keeping domestic birds (Regulation 66)**

Sub-regulation 66(1) provides that regulation 66 applies only to a person keeping domestic birds in the city area other than inside his or her home.

Sub-regulation 66(2) provides that a person must not keep the birds in a yard or run smaller than 20 square metres or in a yard or run from which the birds can escape, without the written permission of the chief health officer. This sub-regulation ensures that domestic birds have enough space to roam thus reducing the risk of an insanitary condition arising. A person who fails to keep birds in such an enclosure may be penalised a maximum of 10 penalty units.

Sub-regulation 66(3) provides that if a person keeps more than 10 birds at a time, the yard or run in the which the birds are kept must have an area of at least ten square metres for every five birds. This sub-regulation ensures that there is enough space for the birds to roam thus reducing the risk of an insanitary condition. A person who fails to keep birds in such an enclosure may be penalised a maximum of 10 penalty units.

Sub-regulation 66(4) provides a person must not keep a bird in a yard or run closer than eight metres to any home, hospital or school. This sub-regulation reduces the risk of an insanitary condition arising by ensuring that a bird enclosure is a minimum distance from human activity. A person that fails to keep birds in a yard or run a minimum distance of eight metres from any home, hospital or school may be penalised a maximum of 10 penalty units.

Sub-regulation 66(5) provides that a person must remove or alter a yard or run in which birds are kept as directing in writing by the chief health officer within a reasonable time after the direction is given. A person who fails to remove or alter a yard or run within a reasonable time after receiving a written direction from the chief health officer may be penalised a maximum of 10 penalty units.

**Animal and bird diseases (Regulation 67)**

Regulation 67 has the effect of protecting public health from zoonotic diseases such as hydatid disease. However, the regulation only applies if the disease is potentially injurious to humans or represents a serious risk to public health.

**Protection of water supply (Regulation 68)**

Regulation 68 has the effect of protecting public health from water borne diseases, such as Cryptosporidiosis and Giardiasis, or chemical contamination of the Canberra water supply system.

**Toilets not connected to the sewerage system (Regulation 69)**

Regulation 69 provides that where there is no connection to the sewerage system, a person must not install a toilet unless the toilet is connected to a septic tank or is chemical or other type of toilet approved by an authorised officer. This regulation protects public health by ensuring that there is capture or treatment of human waste before disposal. A person who installs a toilet that is not connected to a septic tank or is not a chemical or other approved toilet, then they may be penalised a maximum of 10 penalty units.

**Installation of septic tanks and chemical toilets (Regulation 70)**

Regulation 70 provides that a person must not install a septic tank or chemical toilet unless approved by an authorised officer. A person must apply to an authorised officer in an approved form for approval to install a septic tank or chemical toilet. This regulation ensures that septic tanks and chemical toilets meet minimum public health criteria. A person who fails to seek approval before installing a septic tank or chemical toilet may be penalised a maximum of 10 penalty units.

**Installation of chemical toilets—application of Canberra Sewerage and Water Supply Regulations (Regulation 71)**

Regulation 71 ensures that chemical toilets are installed as far as possible in compliance with the Canberra Sewerage and Water Supply Regulations.

**Installation of non-chemical, non-flushing toilets (Regulation 72)**

Regulation 72 provides that a person must not install a non-chemical, non-flushing toilet without the written permission of an authorised officer. This regulation ensures that the installation of non-chemical, non-flushing toilets comply with minimum public health criteria. A person who fails to seek approval from an authorised officer for the installation of a non-chemical, non-flushing toilet may be penalised a maximum of 10 penalty units.

**Alteration of septic tanks and non-flushing toilets (Regulation 73)**

Regulation 73 provides that a person must not alter the construction of a septic tank or non-flushing toilet without the written permission of an authorised officer. This regulation ensures any alterations to septic tanks or non-flushing toilets comply with minimum public health criteria. A person who fails to seek the permission of an authorised officer to alter the construction of a septic tank or non-flushing toilet may be penalised a maximum of 10 penalty units.

**Installation of flushing toilets connected to septic tanks (Regulation 74)**

Regulation 74 provides that a flushing toilet that is connected to a septic tank must comply as far as possible to the Canberra Sewerage and Water Supply Regulations.

**Connections with septic tanks (Regulation 75)**

Regulation 75 ensures that any connections to a septic tank must be made as if it were made to the sewerage system as per the Canberra Sewerage and Water Supply Regulations.

**Directions to replace or alter toilets (Regulation 76)**

Regulation 76 provides that an authorised officer may give an occupier of a place a written direction to alter or replace a toilet to ensure compliance with these regulations. An occupier who fails to alter or replace a toilet after receiving the written direction from an authorised officer may be penalised a maximum of 10 penalty units.

**PART 7—PRIVATE HOSPITALS****Expiry (Regulation 77)**

Regulation 77 provides that Part 7 of these regulations sunsets on the 1 January 2001.

**What is a private hospital? (Regulation 78)**

Regulation 78 defines a private hospital and provides that a private hospital must not be financially supported (in whole or in part) by the Territory.

**Private hospitals to be registered (Regulation 79)**

Regulation 79 provides that a person may only use a building as a private hospital if the person has been granted registration for the building for use as a private hospital by the Minister and the registration is in force. A person who uses a building as a private hospital without the approval of the Minister or the registration is not in force, then they may be penalised a maximum of 10 penalty units.

**Applications for registration (Regulation 80)**

Regulation 80 provides that a person may apply to the Minister for a certificate of registration of a private hospital and the application must be in accordance with the approved form.

**Application for renewal of registration (Regulation 81)**

Regulation 81 provides that a person may apply to the Minister for a renewal of the certificate of registration not later than one month before the expiry of the current registration. The application for renewal of registration must be in an approved form.

**Further information (Regulation 82)**

Regulation 82 provides that the Minister may, by written notice, ask for further information before a registration certificate is granted or renewed to the applicant of a certificate of registration of private hospital.

**Registration of private of hospital (Regulation 83)**

Regulation 83 provides that the Minister may register, renew a registration, refuse to register or refuse to renew a registration a building as private hospital. Further, certificate of registration of a private hospital may be subject to any conditions as set out in the certificate. However, a building registered as a private hospital may only provide treatment for surgical cases if the hospital has an operating theatre approved by the chief health officer.

**Certificate of registration (Regulation 84)**

Regulation 84 provides that the Minister must give a successful applicant for a building to operate as a private hospital a certificate registration in the approved form. The certificate may not be transferred without the consent of the Minister in writing. The regulation further provides that the registration operates for one full calendar year, unless otherwise specified on the certificate.

**Suspension and cancellation of registration (Registration 85)**

Sub-regulation 85(1) provides that the Minister may suspend the registration of a private hospital if there is a breach of the regulations, the proprietor or an employee of the proprietor gives or offers advice or services to another person to assist in substitute parent agreements as detailed in the *Substitute Parents Agreement Act 1994*, or the believes is in the public interest to do so.

Sub-regulation 85(2) provides that if the Minister suspends the registration of private hospital, s/he must give written notice to the proprietor of a private hospital about the grounds of the suspension including the proprietor's right to object under the regulations.

Sub-regulation 85(3) provides that a person who has been served a suspension of registration of a private hospital may object to that suspension by written notice to the Minister.

Sub-regulation 85(4) provides that a written objection to a suspension of registration of private hospital must set out the grounds for the objection.

Sub-regulation 85(5) provides that a notice of objection of suspension of registration of a private hospital must be received by the Minister within 28 days after the service of the notice of suspension.

Sub-regulation 85(6) provides that the Minister, after considering any objection to suspend the registration of private hospital, may cancel the registration of the proprietor.

Sub-regulation 85(7) provides that if the Minister cancels the registration of private hospital, the Minister must given written notice to the proprietor of the grounds for the cancellation.

Sub-regulation 85(8) defines the terms 'commercial substitute parent agreement' and 'substitute parent agreement' with reference to the *Substitute Parents Agreement Act 1994*.

**Inspections (Regulation 86)**

Regulations 86 provides that the proprietor of private hospital must at any time provide access to an authorised officer for the purpose of inspection or provide access to an authorised medical officer to examine any patient in the hospital in consultation with the doctor attending the patient. A proprietor that fails to provide access to an authorised officer or an authorised medical officer may be penalised a maximum of 10 penalty units.

**Provision of hospital equipment (Regulation 87)**

Regulation 87 provides that the proprietor of a private hospital are to make available to his/her patients and staff those materials and appliances that chief health officer has directed him/her too. A proprietor that fails to make available those materials or appliance that the chief health officer has directed him/her to, may be penalised a maximum of 10 penalty units.

**Patients attendants—transmissible conditions (Regulation 88)**

Regulation 88 provides that persons employed or engaged at the private hospital who have a condition that may be transmitted to anyone else in the course of their work must not continue to do that work without the permission of the chief health officer. A person who fails to seek that permission of chief health officer and continues to work while having a condition that may be transmitted while undertaking his/her work may be penalised a maximum of 10 penalty units.

#### **Medical record—information (Regulation 89)**

Sub-regulation 89(1) provides that the proprietor of a private hospital must keep sufficient medical records to identify a patient treated at the hospital and a sufficient history of treatment that that person received while in the private hospital. A proprietor that fails to keep sufficient records may be penalised a maximum of 10 penalty units.

Sub-regulation 89(2) provides that the proprietor must keep sufficient medical records on the birth of baby at the private hospital. A proprietor that fails to keep sufficient records may be penalised a maximum of 10 penalty units.

Sub-regulation 89(3) provides that the proprietor must keep the name of any doctor or registered nurse that attends any patient at the private hospital. A proprietor that fails to keep the records any doctor of registered nurse that attends a patient at the private hospital may be penalised a maximum of 10 penalty units.

#### **Inspection of medical record (Regulation 90)**

Regulation 90 provides that a proprietor must allow a public health officer to inspect and make extracts from medical records. A proprietor that fails to allow a public health officer to inspect and make extracts of medical records may be penalised a maximum of 10 penalty units,

#### **Failure to keep medical records accurately (Regulation 91)**

Sub-regulation 91(1) provides that a proprietor must not fail to record information, knowingly omit information, or record false information on the medical record. A proprietor that fails to record information, knowingly omits information, or records false information on a medical record may be penalised a maximum of 10 penalty units.

Sub-regulation 91(2) provides that a person directed to record information into the medical record by the proprietor must not fail to record information, knowingly omit information, or record false information on the medical record. A person who fails to record information, knowingly omits information, or records false information on a medical record may be penalised a maximum of 10 penalty units.

#### **Communicating information learned from the medical record (Regulation 92)**

Regulation 92 provides that a person may only communicate information on a medical record for the purpose of these regulations or is required by law. A person who communicates information on the medical record for any other purpose may be penalised a maximum of 10 penalty units.

#### **Saving—private hospitals registered before 1 January 2000 (Regulation 93)**

Regulation 93 ensures that any private hospital registered under the Public Health (Private Hospitals) Regulations prior to 1 January 2000 continues to hold registration until 29 February 2000.

### **PART 8—MISCELLANEOUS**

#### **Approved forms (Regulation 94)**

Regulation 94 provides that the chief health officer may approve forms for the purpose of these regulations.

#### **Repeals (Regulation 95)**

Regulation 95 provides for the repeal of the old Public Health Regulations as specified in Schedule 2.

#### **Exclusion from school or home based care (Schedule 1)**



Schedule 1 details conditions that require exclusion from school or home based care for both cases of the condition and people who have had contact with cases.

**Repealed Regulations (Schedule 2)**

Schedule 2 lists all the regulations that are repealed by these regulations.

**Dictionary**

The Dictionary defines terms that are used in the regulations in order to provide for consistency of interpretation and forms part of these regulations.