

1993—No. 176

**PUBLIC HEALTH ACT 1991—REGULATION**

(Relating to the immunisation of children against certain diseases, the disposal of bodies and other miscellaneous matters)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive council, and in pursuance of the Public Health Act 1991, has been pleased to make the Regulation set forth hereunder.

RON PHILLIPS, M.P.,  
Minister for Health.

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**Commencement**

1. This Regulation commences on 14 May 1993.

**Amendment of Public Health Regulation 1991**

2. The Public Health Regulation 1991 is amended:

(a) by inserting, after clause 6, the following clause:

**Notification of test results—time limit for providing information**

6A. For the purposes of section 16 (4) of the Act, the prescribed period is 72 hours from the time when the person requested to carry out the test has asked the medical practitioner concerned to provide the relevant information.

(b) by inserting, after Part 2, the following Part:

**PART 2A—CONTROL OF VACCINE PREVENTABLE DISEASES**

**Classes of children to which Part 3A of the Act applies**

10A. For the purposes of Part 3A of the Act, the following classes of children are prescribed:

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- (a) children who enrol, or have enrolled, for attendance at a kindergarten class in a school after 1 January 1994;
- (b) children who enrol, or have enrolled, for attendance at a child care facility after that date.

**Additional child care facilities for the purposes of Part 3A of the Act**

10B. The following are declared to be child care facilities for the purposes of Part 3A of the Act:

- (a) A playgroup affiliated to the Playgroup Association of N.S.W. Incorporated.
- (b) A child care service for pre-school children to which Division 1 of Part 3 of the Children (Care and Protection) Act 1987 would apply but for the fact that the service is provided at the premises of a government school or non-government school.

**Period for which an immunisation certificate etc. is to be kept**

10C. (1) For the purposes of section 42B (5) of the Act, the period for which a principal of a school must retain an immunisation certificate is 2 years from the date on which the child concerned has ceased to attend the school. (This subclause is subject to section 42B (2) of the Act)

(2) For the purposes of section 42C (5) of the Act, the period for which a director of a child care facility must retain an entry in the register to be kept by the director is 2 years from the date on which the child concerned has ceased to attend the facility. (This subclause is subject to section 42C (2) of the Act.)

**Responsibilities of directors of child care centres with respect to immunisation**

10D. (1) For the purposes of section 42C (1) of the Act, a subsequent occasion is whenever the child concerned reaches the age, designated by the Director-General for a specified vaccine preventable disease, at which it is appropriate for a child to be immunised or further immunised against that disease.

(2) On designating a subsequent occasion for the purposes of section 42C (1) of the Act, the Director-General must notify the designation to the directors of all child care facilities likely to be affected by it. The notification may be by such means as the Director-General considers appropriate.

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(c) by inserting, after clause 17, the following clause:

**Closure of public swimming pools and public health spas**

17A. (1) On being satisfied on reasonable grounds that a public swimming pool or a public spa pool is a risk to public health, the Director-General may, by order in writing served on the occupier of the pool, direct the pool to be closed for use by members of the public until the order is revoked.

(2) An order under this clause may include provisions ancillary to, or consequential on, the making of the order.

(3) An occupier of a public swimming pool or public spa pool on whom an order has been served under this clause must comply with the terms of the order while it remains in force.

Maximum penalty: 20 penalty units.

(4) An occupier of a public swimming pool or public spa pool on whom an order has been served under this clause must, while the order remains in force, display a copy of the order in a conspicuous place at or near each entrance to the pool.

Maximum penalty: 10 penalty units.

(5) On being satisfied on reasonable grounds that a public swimming pool or public spa pool in relation to which an order under this clause is in force is no longer a risk to public health, the Director-General must, by notice in writing served on the occupier of the pool, revoke the order.

(d) by inserting in clause 26 (1) (c), after the matter “subclause (2)”, the matter “or (2A)”;

(e) by inserting, after clause 26 (2), the following subclause:

(2A) If a person has reason to believe that a body is infected with a List “A” disease, the person must ensure that the bag or wrapping referred to in subclause (1) (a), and any bag or wrapping used to replace that bag or wrapping, is indelibly marked with the words “INFECTIOUS DISEASE—LIST A—HANDLE WITH CARE” in bold face sans serif capital letters at least 12 millimetres in height in a colour approved by the Director-General.

(f) by inserting in clause 26 (5) (b), after the words “INFECTIOUS DISEASE”, the matter “—LIST B”;

(g) by inserting, after clause 56, the following clause:

**Fee for the approval of equipment for a crematory**

56A. (1) A fee of \$400 is payable when an application is made for the purposes of section 52 of the Act.

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(2) A fee of \$200 is payable when an application is made for the variation of an approval given for the purposes of section 52 of the Act.

(h) by inserting, after clause 81, the following clause:

**Disclosure of information—lawful excuse**

81A. For the purposes of section 75 (2) (e) of the Act, circumstances in which it is a lawful excuse to disclose information include circumstances where the Chief Health Officer, Department of Health, has approved (with or without conditions) the disclosure to a specified person or class of persons of information consisting of epidemiological data of a specified kind and the disclosure is in accordance with that approval.

**Amendment of Schedule 1 to the Public Health Act 1991**

3. Schedule 1 to the Public Health Act 1991 is amended:

(a) by omitting from Category 3, in relation to *Haemophilus influenzae* type b, the words “(blood or cerebrospinal fluid)”;  
 (b) by omitting from Category 3, in relation to Meningococcal infections, the words “(blood or cerebrospinal fluid)”.  
 (c) by inserting in Category 3, in the appropriate alphabetical order, the following diseases:

Hydatid disease

Measles

Poliomyelitis

**Amendment of Schedule 3 to the Public Health Act 1991**

4. Schedule 3 to the Public Health Act 1991 is amended:

(a) by omitting, in relation to *Haemophilus influenzae* type b, the following words:  
 epiglottitis  
 meningitis  
 septicaemia  
 (b) by omitting, in relation to Meningococcal disease, the following words:  
 meningitis  
 septicaemia

**EXPLANATORY NOTE**

The principal object of this Regulation is to amend the Public Health Regulation 1991 so as:

- (a) to specify 72 hours as the period within which a medical practitioner is required to provide information asked for by the operator of a laboratory in relation to a test being carried out at the request of the practitioner; and
- (b) to prescribe classes of children to which Part 3A of the Public Health Act 1991 (Control of Vaccine Preventable Diseases) is to apply; and
- (c) to specify occasions, after a child is enrolled at a child care facility, when the parent or guardian of the child is to be requested to produce evidence of the child's immunisation status (i.e. whether or not the child has been immunised against all or specified vaccine preventable diseases); and
- (d) to specify the periods for which the principals of schools and the directors of child care facilities are required to keep immunisation certificates and records of the immunisation status of children who are or have been enrolled at those schools or facilities; and
- (e) to authorise the Director-General, Department of Health, to make orders closing public swimming pools and public spa pools that are found to be a risk to public health; and
- (f) to require bags or wrappings containing bodies infected by a List A disease, such as hepatitis, HIV or tuberculosis, to be marked with the words "INFECTIOUS DISEASE—LIST A—HANDLE WITH CARE"; and
- (g) to fix application fees for the approval of equipment and apparatus used at a crematory and for the variation of such an approval; and
- (h) to prescribe for the purposes of section 75 (2) (e) of the Act circumstances in which it is a lawful excuse to disclose information consisting of epidemiological data.

A further object of this Regulation is to amend Schedule 1 to the Public Health Act 1991 (Scheduled medical conditions) by prescribing hydatids, measles and poliomyelitis as Category 3 medical conditions (i.e. diseases that operators of laboratories are required to notify to the Director-General, Department of Health) and to make other amendments of a minor nature to that Schedule and to Schedule 3 to the Act (Notifiable diseases).

This Regulation is made under the Public Health Act 1991, including section 82 (the general regulation making power) and sections 16 (4), 42A, 42B, 42C, 75 (2) (e) and 80 (which authorises the amendment of Schedules to the Act). In part, it is made in consequence of the Public Health (Amendment) Act 1992. Note that section 26 of the Interpretation Act 1987 enables this Regulation to be made before the commencement of the Public Health (Amendment) Act 1992.

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