

1995—No. 72

**PUBLIC HEALTH ACT 1991—REGULATION**

(Relating to burials, warm-water systems, sleeping areas and law revision)

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  
Minister for Health.

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**Commencement**

1. This Regulation commences on 24 February 1995.

**Amendments**

2. The Public Health Regulation 1991 is amended:
  - (a) by omitting from clause 11 (2) (a) the words “Medical Practitioners Act 1938” and by inserting instead the words “Medical Practice Act 1992”;
  - (b) by inserting in clause 18 in alphabetical order the following definition:

“**cemetery authority**” means the person or body of persons (including a council) by whom the cemetery’s operations are directed;
  - (c) by inserting in the definition of “**exhumation**” in clause 18 after the word “vault” the words “but does not include the removal of remains from a vault in a cemetery for immediate transfer to another vault in the same cemetery”;
  - (d) by omitting from the definition of “**List “A” disease**” in clause 18 the matter “(HIV)” and by inserting instead the matter “(HIV infection)”;

- (e) by omitting from the definition of “**List “B” disease**” in clause 18 the words “Jakob Creutzfeldt’s disease” and by inserting instead the words “Creutzfeldt-Jakob disease”;
- (f) by inserting in clause 19 (1), (2) and (5) after the words “must not”, wherever occurring, the words “, without the approval of the Director-General,”;
- (g) by inserting in clause 19 (3) after the words “the body” the words “or with the approval of the Director-General”;
- (h) by omitting from clause 19 (5) the words “Unless otherwise approved by the Director-General in a particular case, a person” and by inserting instead the words “A person”;
- (i) by inserting after clause 19 (5) the following subclause:
  - (6) The Director-General may give approval:
    - (a) under subclause (1), (2) or (3)—either generally or in a particular case;
    - (b) under subclause (5)—in a particular case.
- (j) by omitting from clause 30 (1) the matter “24 hours” and by inserting instead the matter “48 hours”;
- (k) by inserting after clause 35 the following clause:

**Register of burials**

35A. (1) A cemetery authority must maintain a register of all burials carried out in the cemetery the operations of which it directs.

(2) The cemetery authority must make in the register an entry relating to each burial immediately after the burial has been carried out.

- (3) Each entry must include the following:
  - (a) the name, age and last address of the person whose body or remains have been buried;
  - (b) the date of the person’s death;
  - (c) the date of the burial;
  - (d) the section and allotment where the burial has been made;
  - (e) the name of the person (if any) who continues to hold any right of burial in that allotment;
  - (f) the name of the undertaker who transported the body to the cemetery;
  - (g) the fees paid to the cemetery authority for the burial;

(h) the name of the person (if any) who conducted any ceremony at the burial.

(4) If a cemetery authority ceases to exist, the person who was its last chief executive officer must ensure that the register is sent to the Director-General or otherwise disposed of as the Director-General may direct.

Maximum penalty: 10 penalty units.

(l) by inserting after clause 57 (2) the following subclauses:

(3) An environmental health officer may enter a cemetery and inspect any part of the cemetery.

(4) An environmental health officer may inspect any register or other record or document at a mortuary, crematory or cemetery and take copies of or extracts from the register, record or document.

(m) by inserting after clause 57 the following clause:

**Public access to registers**

57A. (l) A cemetery authority must allow members of the public to inspect the register of burials maintained by the authority.

(2) A cremation authority must allow members of the public to inspect the register of cremations maintained by the authority.

(3) An authority must do so:

(a) without charge to the public; and

(b) during the normal business hours of the authority.

(4) An authority must also provide copies of entries in the register maintained by it on request by members of the public, but may charge them the reasonable cost of providing the copies.

(n) by omitting clause 66 (1) and by inserting instead the following subclause:

(1) For the purposes of section 46 of the Act, it is an additional prescribed operating requirement for a water-cooling system that the system may be operated only if equipped with a disinfection process of a kind approved by the Director-General and only if that process itself is in operation.

(o) by omitting clause 83 (1) (a) and by inserting instead the following paragraph:

(a) the room or cubicle has a floor area of 5.5 square metres or more for each person sleeping in it (in the case of long-term sleeping accommodation) or 2 square metres or more for each person sleeping in it (in any other case); or

(p) by inserting at the end of clause 83 (1) (b) the following matter:

; or

(c) the premises are private domestic premises.

(q) by inserting after clause 83 (2) the following subclause:

(3) In this clause, a reference to long-term sleeping accommodation is a reference to accommodation that is in fact provided to the same person or persons for a period of more than 28 consecutive days, or that is the subject of an agreement for its provision to the same person or persons for a period of more than 28 consecutive days.

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#### EXPLANATORY NOTE

The objects of this Regulation are:

- (a) to require cemetery authorities to maintain registers;
- (b) to set out what those registers must contain;
- (c) to provide for public access to those registers and also to cremation registers;
- (d) to enable health inspectors to inspect cemeteries and their registers;
- (e) to omit the requirement that a warm water delivery system include an automatic disinfection system;
- (f) to allow a reduction in the minimum floor space ratio for short term sleeping accommodation and to except private domestic premises from the minimum requirements;
- (g) to make certain other amendments to the Public Health Regulation 1991 as a consequence of experience in its implementation and for the purposes of effecting savings and law revision.

This Regulation is made under the Public Health Act 1991 (and, in particular, section 82 (2) (a), (l), (m) and (r)).

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