



New South Wales

# Public Health (Microbial Control) Regulation 2000

under the

Public Health Act 1991

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Public Health Act 1991*.

CRAIG KNOWLES, M.P.,

Minister for Health

## Explanatory note

This Regulation replaces Part 6 of the *Public Health Regulation 1991*.

Part 4 (Microbial control) of the *Public Health Act 1991* regulates the installation, operation and maintenance of certain kinds of regulated systems (including cooling towers and water-heating systems) in order to prevent or inhibit the growth in the systems of micro-organisms that are liable to cause Legionnaires' disease and other diseases. This Regulation makes further provision for the installation, operation and maintenance of such regulated systems.

This Regulation refers to:

- (a) the following publications of Standards Australia and the Standards Association of New Zealand:
  - (i) AS/NZS 3666.1:1995 *Air-handling and water systems of buildings—Microbial control—Design, installation and commissioning,*
  - (ii) AS/NZS 3666.2:1995 *Air-handling and water systems of buildings—Microbial control—Operation and maintenance,*

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Explanatory note

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- (iii) AS/NZS 3666.3 2000 *Air-handling and water systems of buildings—Microbial control—Performance-based maintenance of cooling water systems*, and
- (b) a publication of the Department of Health entitled “Requirements for the provision of cold and heated water”.

This Regulation is made under section 82 of the *Public Health Act 1991* (the general regulation-making power) and, in particular, section 82 (2) (d)–(j).

This Regulation is made in connection with the staged repeal of statutory rules under the *Subordinate Legislation Act 1989*.

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Part 1                     Preliminary

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# Public Health (Microbial Control) Regulation 2000

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Public Health (Microbial Control) Regulation 2000*.

### 2 Commencement

This Regulation commences on 31 August 2000.

### 3 Definitions

(1) In this Regulation:

*operation area*, in relation to any regulated premises, means the part of the premises on which a regulated system is installed.

*the Act* means the *Public Health Act 1991*.

(2) A reference in this Regulation to a publication is a reference to the publication as in force at the date of publication.

(3) Unless it is otherwise defined in the Act or this Regulation, an expression used in this Regulation and in any of the following publications of Standards Australia and the Standards Association of New Zealand has the same meaning as in that publication:

- (a) AS/NZS 3666.1:1995 *Air-handling and water systems of buildings—Microbial control—Design, installation and commissioning*,
- (b) AS/NZS 3666.2:1995 *Air-handling and water systems of buildings—Microbial control—Operation and maintenance*,
- (c) AS/NZS 3666.3 2000 *Air-handling and water systems of buildings—Microbial control—Performance-based maintenance of cooling water systems*.

- (4) For the purposes of this Regulation, in any of the publications listed in subclause (3):

***annually***, in relation to an action to be taken with respect to a regulated system, or part of a regulated system, means taking the action within 1 year after before the expiration of each period of 12 months that next succeeds the later of:

- (a) the installation of the system or part, and
- (b) the commencement of the provision in which the expression occurs.

***monthly***, in relation to an action to be taken with respect to a regulated system, or part of a regulated system, means taking the action before the expiration of each named month that next succeeds the later of:

- (a) the installation of the system or part, and
- (b) the commencement of the provision in which the expression occurs,

and ***six-monthly*** has a corresponding meaning.

- (5) The explanatory note and table of contents do not form part of this Regulation.

#### **4 Certain dwellings are not regulated premises**

For the purposes of the definition of ***regulated premises*** in section 44 of the Act, a dwelling that is not provided with a water-cooling system is declared not to be regulated premises for the purposes of Part 4 of the Act.

#### **5 Regulation does not apply to evaporative cooling systems**

This Regulation does not apply to evaporative cooling systems.

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Part 2 Installation requirements

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## Part 2 Installation requirements

### 6 Installation of air-handling systems

For the purposes of section 45 of the Act, the following are prescribed installation requirements for an air-handling system:

- (a) the air-handling system must be installed in accordance with AS/NZS 3666.1:1995 *Air-handling and water systems of buildings—Microbial control—Design, installation and commissioning*, as applicable to the specific system, except to the extent that this Regulation provides otherwise,
- (b) the occupier of the operation area where the system is installed must be given both an operation manual and a maintenance manual for the system, each of which must comply with the requirements for such manuals set out in AS/NZS 3666.2:1995 *Air-handling and water systems of buildings—Microbial control—Operation and maintenance*,
- (c) supply air filters must be fitted to the air-handling system.

### 7 Installation of hot-water systems and warm-water systems

(1) For the purposes of section 45 of the Act, the following are prescribed installation requirements for a hot-water system or a warm-water system:

- (a) the system must be installed in accordance with AS/NZS 3666.1:1995 *Air-handling and water systems of buildings—Microbial control—Design, installation and commissioning*, as applicable to the specific system, except to the extent that this Regulation provides otherwise,
  - (b) if the system automatically produces warm water for ablution purposes the system must not be installed unless it is of a kind approved in writing by the Director-General.
- (2) An application for the approval by the Director-General under subclause (1) (b) of a system producing warm water for ablution purposes must be accompanied by a fee of \$115.

## 8 Installation of water cooling systems

For the purposes of section 45 of the Act, the following are prescribed installation requirements for a water cooling system:

- (a) the system must be installed in accordance with AS/NZS 3666.1:1995 *Air-handling and water systems of buildings—Microbial control—Design, installation and commissioning*, as applicable to the specific system, except to the extent that this Regulation provides otherwise,
- (b) the occupier of the operation area where the system is installed must be given both an operation manual and a maintenance manual for the system, each of which must comply with the requirements for such manuals set out in AS/NZS 3666.2:1995 *Air-handling and water systems of buildings—Microbial control—Operation and maintenance*.

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Part 3 Operating requirements

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### Part 3 Operating requirements

#### 9 General operating requirements

- (1) For the purposes of section 46 of the Act, the prescribed operating requirements for a regulated system are that the regulated system must be operated as required by AS/NZS 3666.2:1995 *Air-handling and water systems of buildings—Microbial control—Operation and maintenance*.
- (2) For the purposes of section 46 of the Act, the additional prescribed operating requirements for a water cooling system are that the system must be equipped with a process designed to control microbial growth, and that process:
  - (a) must be in operation at all times, and
  - (b) must be certified by a competent person annually as being an effective process of disinfection, and
  - (c) must be sufficiently effective so that no sample taken from the system subjected to a test in accordance with the relevant Australian Standard has:
    - (i) a level of legionella of more than 10 colony-forming units per millilitre, or
    - (ii) a heterotrophic plate count of more than 100,000 colony-forming units per millilitre, and
  - (d) must be supplemented by remedial action taken by a competent person after any test where the levels set out in paragraph (c) (i) and (ii) are exceeded.
- (3) For the purposes of subclause (2), a reference to a competent person is a reference to a person who is a tertiary qualified chemist, chemical engineer, engineer or microbiologist and who has expertise in the relevant field.



## Part 4 Maintenance

### 10 Maintenance precautions

If maintenance of a regulated system is being carried out on the premises on which it is installed, the contractor, or any other person carrying out the maintenance otherwise than as an employee, is guilty of an offence if appropriate measures are not taken:

- (a) to minimise contamination of adjoining areas and the ambient environment by aerosols, dust, particulate matter or effluent, and
- (b) to prevent public access to the area in which the maintenance is being carried out.

Maximum penalty: 20 penalty units.

### 11 Maintenance requirements

- (1) For the purposes of section 46 of the Act, the prescribed maintenance requirements for a regulated system are that the system must be maintained in accordance with AS/NZS 3666.2:1995 *Air-handling and water systems of buildings—Microbial control—Operation and maintenance*.
- (2) For the purposes of section 46 of the Act, the prescribed maintenance requirements for water cooling system are either:
  - (a) that the system must be maintained in accordance with AS/NZS 3666.2:1995 *Air-handling and water systems of buildings—Microbial control—Operation and maintenance*, or
  - (b) if the local authority for the premises in which the system is located has been notified of the fact, that the system must be maintained in accordance with AS/NZS 3666.3 2000 *Air-handling and water systems of buildings—Microbial control—Performance-based maintenance of cooling water systems*.
- (3) For the purposes of the carrying out of maintenance requirements prescribed by this clause, all tests must be carried out in a laboratory accredited by the National Association of Testing Authorities for that purpose.

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Part 4                Maintenance

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(4) For the purposes of the carrying out of maintenance requirements prescribed by subclause (2) (b), a reference in AS/NZS 3666.3 2000 *Air-handling and water systems of buildings—Microbial control—Performance-based maintenance of cooling water systems* to a person competent to evaluate the condition of a cooling water system is a reference to an engineer who is:

- (a) a corporate member of the Institution of Engineers, and
- (b) registered on the National Professional Register for Engineers in the general area of practice of building services.

### 12 Maintenance of hot-water systems

For the purposes of section 46 of the Act, the prescribed maintenance requirements for a hot-water system are that sufficient maintenance must be carried out so as to ensure that at any time when the system is in operation it delivers water at each outlet each time the outlet is turned on at not less than 60 degrees Celsius, once any water standing in the pipe to that outlet before it was turned on has been expelled.

### 13 Maintenance of warm-water systems

For the purposes of section 46 of the Act, the prescribed maintenance requirements for a warm-water system are those set out in the document entitled “Requirements for the provision of cold and heated water” published by the Department of Health as in force from time to time.

## Part 5 Miscellaneous

### 14 Legionnaires' disease

- (1) Any investigation of an outbreak of Legionnaires' disease is to be carried out in accordance with the Legionnaires' Disease Emergency Management Plan of the Department of Health and each local authority is to keep the necessary contact lists as required by that plan.
- (2) An authorised officer investigating an occurrence of Legionnaires' disease may, by order served on the occupier of premises described in the order, direct that a regulated system that is on the premises and is described in the order be maintained as directed by the order while it is in force.
- (3) For the purposes of section 46 of the Act, directions given in an order in force under this clause are prescribed maintenance requirements.
- (4) To the extent to which directions given in an order in force under this clause are inconsistent with any other provision of this Regulation, the directions prevail.

### 15 Register of water-cooling and warm-water systems

- (1) Each local authority is to maintain a register of water-cooling systems and warm-water systems installed on regulated premises in its area.
- (2) An entry in the register is to be made for such a system when the local authority is notified of any of the particulars relating to the system that are referred to in subclause (3).
- (3) An entry in the register relating to a system is to show the following:
  - (a) the type of system,
  - (b) the address of the premises on which the system is installed,
  - (c) the name, and the residential and business addresses, of the owner of the premises and, if the operation area on the premises is occupied otherwise than by the owner, those particulars in relation to the occupier,

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- (d) the telephone numbers at which, during business hours and after business hours, the person or persons referred to in paragraph (c) may be contacted,
  - (e) details of any inspections carried out by the local authority for the purposes of the Act.
- (4) The register is to be maintained in such a way that the entries may be quickly retrieved and is to be organised in alphabetical order according to the name of the suburb or city forming part of the address of the premises to which the entries relate.
- (5) A person who is the owner or occupier of premises where a system is installed in respect of which particulars are required to be kept under this clause is guilty of an offence if the local authority is not provided with the particulars (other than those relating to inspections):
- (a) within 1 month after the person becomes the owner or occupier of the premises, or
  - (b) if there is an alteration to particulars previously provided—within 1 month after the alteration.
- Maximum penalty—(subclause (5)): 10 penalty units.

### 16 Amendment of Public Health Regulation 1991

- (1) Part 6 of the *Public Health Regulation 1991* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of Part 6 of the *Public Health Regulation 1991*, had effect under that Part, is taken to have effect under this Regulation.

BY AUTHORITY

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