

Public Health (General) Regulation 2002

Does not include amendments by:

Private Health Facilities Act 2007 No 9 (not commenced)

Part 1 – Preliminary

1 Name of Regulation

This Regulation is the *Public Health (General) Regulation 2002*.

2 Commencement

This Regulation commences on 1 September 2002.

This Regulation replaces Parts 2, 2A and 7 of the *Public Health Regulation 1991* which is repealed on 1 September 2002 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation: "**Department**" means the Department of Health. "**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 for the time being.

4 Notes

Notes in the text of this Regulation do not form part of this Regulation.

Part 2 – Sexually transmissible medical conditions

5 Information to patients

For the purposes of section 12 (1) of the Act, a medical practitioner is required in relation to a sexually transmissible medical condition to provide information to the patient on such of the following matters as are relevant in a particular case:

- (a) means of minimising the risk of infecting other people,
- (b) public health implications of the condition,
- (c) any responsibilities under section 11 of the Act, including any precautions considered reasonable,
- (d) responsibilities under section 13 of the Act,
- (e) diagnosis and prognosis,
- (f) treatment options.

Part 3 – Scheduled medical conditions

6 Records of scheduled medical conditions

For the purposes of section 14 (2) (a) of the Act, the following particulars are required to be recorded in relation to the scheduled medical condition indicated:

- (a) in relation to birth--the particulars required for the completion of the "NSW Midwives Data Collection Form" published by the Department,
- (b) in relation to perinatal death--the particulars in Schedule 1,
- (c) in relation to sudden infant death syndrome--the particulars in Schedule 2,
- (d) in relation to all Category 2 medical conditions (including AIDS)--the particulars required for the completion of the "Doctor/Hospital Notification Form" published by the

Department,

(e) in relation to AIDS--the particulars required for the completion of the "AIDS Notification Form" published by the Department,

(f) in relation to a congenital malformation, cystic fibrosis, hypothyroidism, thalassaemia major or phenylketonuria in a child under the age of 1 year or pregnancy with a child having a congenital malformation, cystic fibrosis, hypothyroidism, thalassaemia major or phenylketonuria--the particulars required for the completion of the "NSW Birth Defects Register Notification of Birth Defect Form" or the "NSW Birth Defects Register Notification of Pregnancy with a Baby Affected by Congenital Malformation Form", as applicable, both published by the Department.

7 Period for keeping of records

For the purposes of section 14 (2) (b) of the Act, the prescribed period is, where the person about whom the particulars have been recorded:

- (a) was 18 years of age or over--10 years, or
- (b) was less than 18 years of age--10 years starting on the person's eighteenth birthday, or
- (c) was still-born--10 years starting on the date of birth, or
- (d) died before turning 18--10 years starting on the date of the person's death.

8 Notification of test results--prescribed tests

For the purposes of section 16 (1) (a) of the Act, any diagnostic test on the following substances, or any constituent of the following substances, is a prescribed test:

- (a) human blood,
- (b) human cells,
- (c) human tissue,
- (d) other bodily substances.

9 Notification of test results--time limit for providing information

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.

10 Protection of identity--exceptions

(1) For the purposes of section 17 (1) (b) of the Act, the prescribed exception exists when the patient:

- (a) is receiving hospital services or other health services provided by a public hospital, or
- (b) is a patient within the meaning of the *Private Hospitals and Day Procedure Centres Act 1988*, or
- (c) consents to the disclosure of his or her name and address in the communication.

(2) For the purposes of section 17 (3) (e) of the Act, information may be disclosed by a person to the Director-General if the person has reasonable grounds to believe that failure to provide the information could place the health of the public at risk.

11 Notification of death from scheduled medical condition

For the purposes of section 20 (c) of the Act, the prescribed additional particulars are:

- (a) the date of birth and the sex of the deceased, and
- (b) the date, place and cause of death, and
- (c) the address of the person who certified the cause of death.

12 Advice to Category 2 or 3 patients

The Director-General, or a registered medical practitioner authorised under this clause by the Director-General, may notify a person suffering from a Category 2 or 3 medical condition of

measures to be taken, and activities to be avoided, in order to minimise the danger of passing the medical condition to another person.

13 Advice to Category 2, 3 or 4 contacts

The Director-General may notify a person who the Director-General believes may have been in contact with a person suffering from a Category 2, 3 or 4 medical condition of measures to be taken, and activities to be avoided, in order to minimise the danger of the first person contracting the condition or passing it to a third person.

Part 4 – Control of vaccine preventable diseases

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

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

- (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.

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

For the purposes of Part 3A of the Act, the following are declared to be child care facilities:

- (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.

16 Period for which immunisation certificates and register entries are to be retained

- (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, unless the principal is earlier required to forward the certificate under 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.

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

- (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.

Part 5 – Miscellaneous

18 Public authorities to notify public health risks

If a public authority considers, on reasonable grounds, that a situation has arisen in which the health of the public is, or is likely to be, at risk, the public authority is to notify the Medical Officer of Health of the district in which the area for which the public authority is responsible is located.

19 Particulars of notifiable diseases

For the purposes of section 69 of the Act, a chief executive officer of a hospital is to provide the Director-General:

- (a) concerning persons suffering from cancer--with the particulars required for the completion of the "Cancer Notification Form" published by the New South Wales State Cancer Council, or
- (b) concerning children under the age of 1 year who have a congenital malformation, cystic fibrosis, hypothyroidism, thalassaemia major or phenylketonuria or persons who are or were pregnant with a child having a congenital malformation, cystic fibrosis, hypothyroidism, thalassaemia major or phenylketonuria--with the particulars required for the completion of the "NSW Birth Defects Register Notification of Birth Defect Form" or the "NSW Birth Defects Register Notification of Pregnancy with a Baby Affected by Congenital Malformation Form", as applicable, both published by the Department, or
- (c) concerning persons who have any other notifiable disease--with the particulars required for the completion of the "Doctor/Hospital Notification Form" published by the Department.

20 Disclosure of information--lawful excuse

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.

20A Prescribed electrophysical treatment

For the purposes of section 10AD of the Act, the following electrophysical treatments are prescribed:

- (a) shortwave and microwave diathermy,
- (b) electrical stimulation by interferential current.

20B Minimum qualifications for director of nursing at nursing home

For the purposes of section 52 (2) of the Act, the prescribed minimum necessary qualifications for a registered nurse to be appointed as a director of nursing at a nursing home are:

- (a) 5 years post-basic or post-graduate nursing experience, and
- (b) 2 years full-time administrative experience in a position of, or more senior than that of, nursing unit manager in a hospital or nursing home.

20C Prescribing of optical appliances

For the purposes of section 10AE (1) (c) of the Act:

- (a) orthoptists who are registered with the Australian Orthoptists Registration Body Pty Ltd are declared to be authorised persons, and
- (b) the conditions and limitations with which an authorised person referred to in paragraph (a) must comply are that the authorised person may prescribe only spectacle lenses and only to someone who:
 - (i) has had, within the previous 6 months, an ocular health examination conducted by an optometrist or a registered medical practitioner practising as an ophthalmologist, and
 - (ii) has been referred in writing to the authorised person by the optometrist or medical practitioner.

21 Vermin

An occupier of premises must take reasonable measures to keep the premises free from fleas, other disease-carrying insects, rats and mice (except any such animals kept as pets).

Maximum penalty: 20 penalty units.

22 Sleeping rooms

(1) The occupier of premises must not allow any room or cubicle within the premises to be used for the purposes of sleeping accommodation unless:

- (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
- (b) the room or cubicle has been exempted by the Minister under subclause (2) and complies with any conditions attached to the exemption, or
- (c) the premises are private domestic premises.

Maximum penalty: 5 penalty units.

(2) The Minister may, by order in writing, exempt an occupier in relation to any room or cubicle from the requirements of subclause (1), either conditionally or unconditionally, if satisfied that the exemption will not result in any adverse effect on the health of persons sleeping in the room or cubicle.

(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.

23 Anthrax

A person must not sell, offer for sale, consign, transmit, deliver for sale, use in any manufacturing process, or receive for the purposes of business any hide, portion of a hide, hair or wool of any animal which is suffering, or which has died, from anthrax.

Maximum penalty: 20 penalty units.

24 Approvals by Director-General

(1) An application for an approval by the Director-General under this Regulation is to be accompanied by such information relevant to the application as is required by the Director-General.

- (2) An approval given by the Director-General for the purposes of this Regulation:
- (a) may be given subject to conditions specified in the instrument giving the approval, and
 - (b) does not operate, or ceases to operate, if there is a failure to comply with any such conditions.

25 Guidelines and codes

A copy of any guideline, or code of practice, published by the Department and referred to in this Regulation is to be made available by the Department (on the payment of such reasonable charge (if any) as the Director-General determines) to any member of the public who requests it.

26 Savings

Anything done or omitted under Part 2, 2A or 7 of the *Public Health Regulation 1991* is taken to have been done or omitted under this Regulation.

Schedule 1 Perinatal deaths: particulars

(Clause 6 (b))

1 Particulars

- (1) Full name of mother of deceased infant.

- (2) Usual residential address of mother at time of birth of deceased infant.
- (3) Date of birth of mother.
- (4) Date of first day of mother's last menstrual period (if known) and estimated gestational age of deceased infant at time of birth.
- (5) Date of birth of infant.
- (6) Vital status at time of birth: liveborn or stillborn.
- (7) Date of death (if liveborn).
- (8) Name of hospital of birth, or address of place of birth (if not a hospital).
- (9) For liveborn infant, name of hospital where death occurred, or address of place of death (if not a hospital).
- (10) Sex of infant.
- (11) Plurality: single or multiple birth.
- (12) If multiple birth: total number of infants at that birth.
- (13) If multiple birth: the number of the deceased infant in the birth order.
- (14) Birth weight in grams.
- (15) Cause of death, as recorded on Medical Certificate of Cause of Perinatal Death.

Schedule 2 Sudden infant death syndrome: particulars

(Clause 6 (c))

1 Particulars

- (1) Full name of mother of deceased infant.
- (2) Usual residential address of mother at time of birth of infant.
- (3) Date of birth of mother.
- (4) Full name of infant.
- (5) Date of birth of infant.
- (6) Name of hospital of birth, or address of place of birth (if not a hospital).
- (7) Sex of infant.
- (8) Usual residential address of infant.
- (9) Address of place at which infant was found deceased or moribund.
- (10) Date of death of infant.

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	No	number	Schs	Schedules
Cl	clause	p	page	Sec	section
Cll	clauses	pp	pages	Secs	sections
Div	Division	Reg	Regulation	Subdiv	Subdivision
Divs	Divisions	Regs	Regulations	Subdivs	Subdivisions
GG	Government Gazette	Rep	repealed	Subst	substituted
Ins	inserted	Sch	Schedule		

Table of amending instruments *Public Health (General) Regulation 2002* published in Gazette No 135 of 30.8.2002, p 7546 and amended as follows:*Public Health (General) Amendment (Prescribed Electrophysical Treatment) Regulation 2002* (GG No 237 of 29.11.2002, p 10099)*Public Health (General) Amendment (Nursing Homes) Regulation 2004* (GG No 200 of 17.12.2004, p 9362)

200	<i>Public Health (General) Amendment (Optical Appliances) Regulation 2007</i> . GG No 32
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Table of amendments

Cl 20A	Ins 29.11.2002.
Cl 20B	Ins 17.12.2004.
Cl 20C	Ins 2007 (60), cl 2.