

Public Health and Wellbeing Act 2008

News Bulletin – Information for aged care, health services, health service establishments, registered funded agencies, correctional services and commercial vehicle washes

April 2010

NEW PUBLIC HEALTH AND WELLBEING LAWS CAME INTO OPERATION IN VICTORIA ON 1 JANUARY 2010

The purpose of this bulletin is to inform aged care, health services, health service establishments, registered funded agencies, correctional services, and commercial vehicle washes in Victorian about the implementation of the *Public Health and Wellbeing Act 2008* (PHWA) and the Public Health and Wellbeing Regulations 2009 (the Regulations).

The PHWA was developed following the review of the *Health Act 1958* and was passed by the Victorian Parliament in August 2008. The Public Health and Wellbeing Regulations were made by the Governor in Council in December 2009. The PHWA and the new Regulations replace the *Health Act 1958* and the ten sets of regulations made under the *Health Act* including the Health (Legionella) Regulations 2001.

Both the PHWA and the Regulations came into operation on **1 January 2010**. Copies of the PHWA and the Regulations can be downloaded from the Victorian Legislation and Parliamentary Documents website at <http://www.legislation.vic.gov.au/>

WATER DELIVERY SYSTEMS

From 1 January 2010, the PHWA and the new Regulations introduced a general requirement for certain premises with water delivery systems to “manage the risks” associated with Legionella. These requirements replace the previous prescriptive requirements of the Health (Legionella) Regulations 2001. In addition, water delivery systems at commercial vehicle washes are now specifically defined in the regulations and are required to comply with the PHWA and the Regulations.

The ‘certain premises’ that the regulations apply to are premises supplying:

- aged care (as defined in the *Aged Care Act 1997* (Com))
- health services (as defined in the PHWA)
- health service establishments (as defined in the *Health Services Act 1988*)
- registered funded agencies (as defined in the *Health Services Act 1988*)
- correctional services (as defined in the *Corrections Act 1986*)
- commercial vehicle washes.

If you are unsure if your business or establishment falls into one of the above categories, please see Attachment 1 for the definitions of each.

LEGIONELLA RISKS

Legionella has been detected in water delivery systems associated with showers in hospitals and aged care facilities in Victoria. In addition, in 2008, a car wash facility was linked to seven cases of Legionnaires' disease.

Legionella is an organism that is ever-present in the environment and found in very low concentrations in the potable water supply. In the right environment, however, the Legionella bacteria are able to multiply and pose significant risks to the health of individuals exposed to the bacteria.

The risk of Legionella growth increases in water delivery systems that store water at temperatures between 30°C and 60°C. In addition, the risks of Legionella growth in commercial car washes are increased when rubber hosing is used and when there is an absence of a biocide.

People may contract Legionnaires' disease if they are exposed to small droplets containing the bacteria, like those produced by high pressure hoses or showers.

REQUIREMENTS UNDER THE PUBLIC HEALTH AND WELLBEING REGULATIONS 2009

Under the Regulations, the responsible person must take steps to manage the risks of Legionella in any water delivery system located at the premises. The responsible person is any person who owns, manages, or controls the water delivery system.

Whilst the regulations no longer require testing warm water systems periodically for Legionella, it is recommended that all 'high risk' facilities undertake a water sampling program as part of a risk management approach.

It is a requirement of the regulations that within 24 hours of receiving a report that Legionella has been detected in a water sample taken from a water delivery system that the responsible person must ensure that the water delivery system is disinfected.

MANAGING THE RISKS OF LEGIONELLA

In order to comply with the Regulations and reduce the risk of Legionella in your warm water system, the Department of Health recommends that a Legionella Risk Management Plan be developed for your warm water system.

An assessment of other water delivery systems should also be conducted to identify any systems that store water at temperatures between 30°C and 60°C combined with producing respirable sized droplets to which people might be exposed. A risk assessment should then be conducted on those systems.

Commercial car washes – suggestions to manage the risks associated with Legionella

To manage the risks associated with Legionella in commercial car washes, the Department recommends that the following be considered:

- not storing water at temperatures between 30°C and 60°C
- replacing warm water storage with instantaneous units
- replacing rubber hosing with poly tubing, metal tubing, or copper tubing
- regularly disinfecting the system with a chlorine based disinfectant

Guidelines for Managing the Risks of Legionella

More detailed guidelines on managing the risks of Legionella in warm water systems are available in the draft document 'Controlling Legionella in Warm Water Systems 2010'. A copy of this document is

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available on the Department's Environmental Health website at http://www.health.vic.gov.au/environment/legionella/water_delivery_systems

The guide was developed to supplement the requirements of the Regulations, to assist industry with the development of appropriate assessment and management methods for controlling Legionella, and to provide references to other relevant documents and technical notes.

The guide should be read by people such as hospital engineers, facility managers, maintenance staff, consultants, water treatment contractors, and infection control practitioners who are responsible for warm water systems in prisons, in health services, and in aged care facilities. Templates for basic assessment and review are provided in the guide and should enable most facilities to better meet the regulatory requirements. For complex systems in high-risk settings, or those systems having problems with Legionella control, an advanced template is also provided.

General information relating to the risks associated with car wash facilities can be found at www.health.vic.gov.au/environment/legionella/water_delivery_systems. In addition, the guide mentioned above should be consulted for more detailed risk management information.

PENALTIES

For non-compliance with any provision in the Regulations, a penalty of up to 20 penalty units¹ (\$2,336.40)² may be imposed.

FURTHER INFORMATION

For further information about the regulations affecting water delivery systems, please contact the Department of Health's Environmental Health Unit on 1800 248 898 or visit the Department of Health's Environmental Health website at www.health.vic.gov.au/environment/legionella

¹ The value of a penalty unit generally increases at the beginning of each financial year. For the 2009/10 financial year, one penalty unit is equal to \$116.82

² Based on the value of a penalty unit for the 2009/10 financial year

Attachment 1

Premises that the Regulations apply to

The regulations apply to premises supplying:

- aged care
- health services
- health service establishments
- registered funded agencies
- correctional services
- commercial car washes

Aged Care

The Regulations apply to 'aged care' premises as defined in the *Aged Care Act 1997* (Com). In that Act:

aged care means care of one or more of the following types:

- (a) residential care;
- (b) community care;
- (c) flexible care

Where:

care means services, or accommodation and services, provided to a person whose physical, mental or social functioning is affected to such a degree that the person cannot maintain himself or herself independently.

Health Services

The Regulations apply to 'health services' as defined in the *Public Health and Wellbeing Act 2008*. In the PHWA:

health service means—

- (a) a day procedure centre;
- (b) a denominational hospital
- (c) a multi purpose service;
- (d) a private hospital;
- (e) a public hospital—

and has effect in the context in which the term is used as if each of the services set out above referred to the premises on which the service is conducted or the proprietor of that service as required.

Health Service Establishments

The Regulations apply to 'health service establishments' as defined in the *Health Services Act 1988* as:

health service establishment means—

- (a) a day procedure centre;
- (b) a private hospital; or
- (c) a supported residential service

Registered Funded Agencies

The Regulations apply to 'registered funded agencies' as defined in the *Health Services Act 1988* as:

registered funded agency means—

- (a) a public hospital; or
- (b) a denominational hospital; or
- (c) a public health service; or

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- (d) any other agency registered or deemed to be registered under Division 2 of Part 3 of the Health Services Act 1998; or
- (e) a State funded residential care service.

Correctional Services

The Regulations apply to 'correctional services' as defined by the *Corrections Act 1986* as:

correctional services means the following services—

- (a) prisons and services related to prisons or prisoners;
- (b) services related to parole and programmes for persons subject to correctional orders'
- (c) community corrections centres regional centres and locations and services related to community corrections centres regional centres and locations;
- (d) community-based programmes and services related to the administration of community-based orders.

Commercial Vehicle Washes

The Regulations apply to 'commercial vehicle washes' defined in the Regulations as '*a business where cars, trucks and other vehicles are washed*'.