

Issue	Section reference
<p>Comment: See comments above.</p> <p>A 'duty of care' provision would most likely replace the nuisance provisions.</p> <p>However, local authorities should still retain responsibility for dealing with public health risks similar to nuisances.</p>	
<p>38 If separate nuisance provisions are retained, should nuisance be defined so as to focus on public health risks and, if so, does removing the term 'annoying' from the definition of 'offensive' achieve this?</p>	7.3
<p>Comment: See comments above.</p> <p>Council considers that the term 'annoying' is useful in solving trivial matters under the Act, which are not necessarily a risk to public health. Should the term 'annoying' be removed, non-health related problems that are currently caught under the broad nuisance definition could possibly be dealt with via local laws enforcement and be supported by infringement notices.</p> <p>However the implications and practical application of changing the nuisance provisions needs to be further discussed in the broader local government sector with input from relevant professional legal, public health and population health expertise.</p>	
<p>39 If the obligation on municipal councils to abate nuisance in their municipality is retained, should the abatement provisions be removed and municipal councils instead rely on general enforcement provisions under the new Act?</p>	7.3
<p>Comment: See comments above.</p> <p>Should the abatement provisions be removed, it may create confusion as to who should be abating the risk. A possible option may be to consider general enforcement provisions such as issuing improvement notices, prohibition notices.</p> <p>Improvement notices could include a requirement to implement a risk management plan.</p>	
<p>40 Should best practice standards continue to have a role in the regulation of public health risks?</p>	7.4

Issue**Section
reference****Comment:**

The primary concern is that operational, regulatory and HIA systems need to be in place, and that they are effective and efficient in ensuring that the public's safety is not at risk or compromised.

Council considers that good practice standards have a significant and important role to play in the regulation of public health risks, but that they are not necessarily required to be prescribed in legislation.

The practice of DHS and partners, such as the AIEH, in developing guidelines and codes of practice as minimum standards should be continued and is supported. For example, the Infectious Disease regulations need to ensure that they address high risk activities, critical control points and that the regulations are enforceable under the new Act. The current Guidelines for Personal Care and Body Art industries, create an expectation from the industry that they will be enforced.

Best practice standards should be reinforced with the regulatory or legislative framework that promotes professional practice standards, including audit and inspection tools, promotion of consistent interpretation of regulations, and common standards across councils and industry.

41 Should RMPs have a role in the regulation of public health risks under the new Act? 7.5**Comment:**

Development of Risk Management Plans, similar to those used in the systems developed for the Food Act 1984, the Building Act 1993 and the Safe Drinking Water Act 2003, could be a more commonly used method of ensuring that proprietors of registered premises and/or licensed activities are complying with the Act.

However, to date, there seems insufficient evidence, one way or another, to show that the legislative obligation and process for RMPs associated with the Food Act has been the critical success factor in relation to improving food safety in Victoria. Anecdotal evidence suggests that any positive public health impact may be related to other factors including community education, local community engagement on food safety matters or other factors.

Identifying the best models for positive public health impact across a range of issues, whether that is Risk Management Plans or some other process, needs further investigation and thorough research.

As general principles, MCC supports the following points:

- Any risk management system would include a system of auditing and enforcement.
- Risk Management Plans could offer a means of resolving difficult nuisance issues.
- The responsibility for development and compliance with guidelines and Risk Management Plans must rest with the business operator or individual rather than with Councils. The role of councils should be to verify that actions are being taken.
- Improvement notices issued to persons creating a nuisance or public health risk could require that person to develop a Risk Management Plan.
- In the case of a nuisance or public health risk, the onus would be placed upon the person or company who poses the risk, to develop the plan.
- Councils could have the right to request the RMP be developed professionally.
- Due to possible economic impacts, councils should have the discretion to require independent audits of an RMP's.

Issue	Section reference
42 Who should be required to prepare RMPs: <ul style="list-style-type: none"> > persons undertaking a registrable or licensable activity by way of a condition of registration/licence? > persons required to do so by an Improvement notice? 	7.5

Comment:

Risk Management Plans could offer a means of resolving a range of difficult issues e.g. matters where there is a risk to public health, safety risk, risk of community anxiety or escalating level of conflict between parties.

There are varying public health risks in registerable premises, and it may not be appropriate to require all registered premises to have a Risk Management Plan. However, there may be definite community benefits in requiring RMPs for premises or activities that have a history of poor performance, high-risk registered premises (skin penetration) and for non-registerable premises with similar risks (colonic irrigation).

Model risk management plans, for example as were developed by the DHS for food premises in the Food Act 1984, could be created for a range of issues and would support the implementation of any risk management processes and obligations under the new Health Act. Such model risk management plans should probably include as a minimum

- Identifying the risks
- Determining the likelihood of the risks
- Setting out steps to manage the risks
- Ensuring compliance with the requirements by auditing, verification or monitoring.
- Impact assessment

It is important to restate that the onus for the RMP's (development and implementation) must be on the proprietor of the business or individual, not on the municipality.

43 What criteria should be used in deciding which activities should be subject to the requirement of registration or licensing?	7.6
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Comment:

The nature of the risk activities should determine the requirement for registration, and the requirement for registration should be as far as is practicable evidence -based /evidence-informed.

For example, without certain standards of hygiene and cleanliness being observed, there is an increased risk of transmission of disease. MCC supports the premise that registration provides a level of insurance to the community that risk activities will be monitored.

A system of registration, which involves regular inspections has the potential to identify and mitigate risks as they are found and to address activities where new risk components have been introduced into the core activity. This sometimes occurs without reference to the registration authority.

44 What regulatory parameters for registration/licensing would provide a more up-to-date, flexible, graduated and responsive approach to the	7.6
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Issue

**Section
reference**

level of public health risk?

Comment:

Registration and licensing of any activity where there is a potential for a risk to public health, safety or well-being, that is not subject to other legislation by more appropriate authorities, could be registered, licensed or covered under the new Act. This process could be based on 'potential' for risk and be a flexible tool.

Potential risk should be based on activities undertaken rather than be linked to particular categories of premises. For instance a hairdresser using razor blades should be considered a higher risk than those that do not. Classification of premises in regards to the risk involved would provide a graduated and more responsive approach.

A definition of the risk classification involving types of businesses and likely activities should be included in the new Act/ associated obligations and procedures..

Core provisions applying to all registered or licensed premises should be set out in the new Act, including

- a. Granting, renewing, varying and suspending registrations
- b. Determination of whether the registration/ license applicant is a fit and proper person
- c. Setting of registration/licensing periods

45 Are there any other public health risk activities that should be regulated under the new Act through the system of registration or licensing and, if so, what specific requirements should be imposed on those activities? 7.6

Comment:

The Secretary should have the power to declare specific or classes of activities as registerable based on emerging and potential public health, safety or well-being risks. Examples are colonic irrigations, solariums and child play centres.

There should be specific minimal requirements imposed on these premises that should be prescribed and enforceable and not simply covered by voluntary codes / guidelines. Core minimal requirements would require further industry discussion but would be likely to include the registration of premises, the possible development of risk management plans and notification of defined incidents.

Swimming pools and spas are currently regulated under the Infectious Diseases Regulations, which reflects the risk they pose to the public due the number of people that use them and the potential for illness. The registration of public pools and spas should be included in the regulations. Core minimal requirements could include an inspection or water sampling to be undertaken at least once per year to ensure compliance.

Issue	Section reference
<p>Solariums have the potential to cause skin cancer if not properly regulated. Currently solariums operate under a code of practice and it is felt that it is important to register and regulate solariums to ensure that the customer's health is not put at risk. These premises should have RMP's that reflect industry best practice.</p>	
<p>Colonic irrigation is an emerging area of concern with the possibility of infections and the spread of blood borne viruses. Council suggests that these premises should be registered similar to skin penetration premises and that they have RMP's in place to ensure standards are maintained.</p>	
<p>The use of materials in building is a growing area of concern public health that Council has identified. Further discussion in the relevant industry sectors is required to determine an appropriate way of reporting on or regulating use of materials through the statutory planning and building construction processes and subsequently to building users.</p>	
<p>46</p>	<p>Should there be a positive obligation on persons conducting activities subject to registration/licensing to notify authorities in event of certain types of incidents occurring? 7.6</p>
<p>Comment: Yes, persons conducting activities subject to registration/licensing should be required to notify authorities in the event of defined incidents occurring. The obligation to notify should be part of the Risk Management Plan.</p>	
<p>47</p>	<p>Should there be an obligation placed on proprietors of non-registered premises (for example, swimming pools and brothels) to notify authorities where there has been an incident that might present a risk to public health? 7.6</p>
<p>Comment: Proprietors of non-registered premises (for example, swimming pools and brothels) should also be required to notify authorities where there has been an incident that might present a risk to public health. Ensuring effective and universal compliance needs further discussion in the sector.</p>	
<p>48</p>	<p>Should all enforcement powers be brought together in one part of the Act? 7.7</p>
<p>Comment: As noted in Comment 2 above, all Victorian Acts that affect local Government's role in population health and safety need to be reviewed with a view to streamlining and establishing consistent and efficient regulatory and legislative environments.</p> <p>Council considers that further investigation of the implications and practicalities is required in relation to whether local councils' enforcement powers should be brought together in one part of the Health Act.</p>	
<p>49</p>	<p>Should the enforcement provisions of the Health (Infectious Diseases) Regulations 2001 be broadened to cover other public health threats not involving infectious diseases? 7.7</p>

Issue	Section reference
<p>Comment: Yes, the enforcement provisions of the Health (Infectious Diseases) Regulations 2001 should be broadened to include public health risks such as anthrax. There would obviously been to be an appropriate change to regulations to reflect this.</p> <p>The changes need to also consider the interrelationship with current emergency provisions in other legislation.</p> <p>The changes need to provide for emerging issues which may not currently be identified as a threat but which may arise in the future and require the ability to control.</p>	
<p>50 Are the enforcement powers in the Health Act appropriate to allow authorised officers and EHOs to carry out their duties?</p>	7.7
<p>Comment: Officer powers should be maintained and strengthened. The ability to issue on-the-spot fines would enhance an officer's ability to resolve issues expediently without necessarily taking court action.</p> <p>The range of duties undertaken by authorised officers often raises the need to consider OHS issues in an uncontrolled environment and there is a need for ongoing further training in this area.</p> <p>The Department should also consider establishing a "Memorandum of Understanding" with Victoria Police for when an officer needs assistance.</p> <p>There may be a need to increase penalties for assault or obstruction of an officer.</p> <p>The statements on Proof of Identity in the new Act should be consistent with the Food Act.</p>	
<p>51 In addition to the power to take samples and make copies of seized documents, are there any other additional powers that should be included in the new Act?</p>	7.7
<p>Comment: There are some deficiencies in the power to act in an emergency situation in the current Act, for example, the power to turn off alarms and noisy equipment. Individual Council's have adopted policies where assistance of locksmiths and alarms specialists is gained to assist in abating a nuisance where the owner cannot be found. These policies and practices have been based on legal advice, however increased procedural certainty would be helpful to authorized officers in such circumstances.</p> <p>There is a need for further powers in line with ongoing changes in technology and acceptable forms of evidence. Further sector discussion is advised on this area.</p>	
<p>52 Should the power to search for and seize goods without a warrant be widened to allow the Secretary to search for and seize things other than goods, such as records, biological agents or other items?</p>	7.7

Issue	Section reference
<p>Comment: Yes. MCC suggests widening the powers relating to search, inspection and seizure to include 'any other relevant item or thing'.</p>	
<p>53 Should the new Act contain a procedure for the Issuing of Improvement and prohibition notices by authorised officers?</p>	7.7
<p>Comment: Yes. The Act should contain a procedure for the Issuing of improvement and prohibition notices. There would also need to be supporting protocols including the requirement for the development of appropriate standard documents.</p>	
<p>54 Should notices cover:</p> <ul style="list-style-type: none"> > nuisance? > licensable or registrable public health risk activities? > where the activity may otherwise contravene the Act? 	7.7
<p>Comment: Yes, the Act should enable notices to be issued in relation to all 3 of the above scenarios. There should be further clarification on offences related to nuisances within the Act.</p>	
<p>55 Should the new Act establish general criteria for Issuing notices?</p>	7.7
<p>Comment: Yes, the new Act should establish general criteria for Issuing notices which would help to achieve uniformity between areas. More specific information should be provided in associated guidelines.</p>	
<p>56 Should the new Act set out an Inclusive list of the types of work a person subject to an improvement notice could be required to perform?</p>	7.7
<p>Comment: Yes, the Act should contain an inclusive list of the types of work a person subject to an improvement notice could be required to perform, however the Act needs to also make clear that other actions may also be required by a notice to allow for response to varying situations and solutions.</p>	
<p>57 What method of review should apply to Improvement and prohibition notices?</p>	7.7

Issue**Section
reference****Comment:**

The review method would need to be efficient and timely and have the confidence of the community that is an independent process. The current VCAT system with its backlogs of several months is totally inappropriate for health related issues.

One option is that the review/appeal position be similar to that in the Food Act where the review is retained by the Magistrates Court. Other options could be the local government ombudsman, a more speedy VCAT process, or establishment of a separate tribunal to address public health issues.

The Act should prescribe the specific and appropriate timeframes for appeal.

The Act should prescribe the status of an improvement or prohibition notice pending an appeal, and how the notice would have been implemented in the face of an immediate public health risk. In public health risk it may not be appropriate set aside the notice as occurs in other legislation pending approval outcome decisions.

- 58 Should emergency powers be general for 'public health emergencies' or be specific to infectious diseases? 7.8**

Comment:

At present the Governor-in-Council is empowered to proclaim an emergency to stop, prevent or limit the spread of infectious disease. This definition should be broadened to proclaim a clearly defined public health emergency and the definition should be based on existing models or framework.

In order to enable an effective and timely response for the emergency to be contained or controlled, the emergency powers of the Secretary should be as general as possible. Restrictive powers diminishes the ability to act effectively.

- 59 Should the proclamation of an emergency be extended to four weeks, with renewal periods not exceeding two weeks, to a maximum of six months? 7.8**

Comment:

The proclamation time needs to be flexible in order to adequately address the situation. Imposing a maximum time could have some limitations to any proposed corrective action or order from the secretary and may not allow enough time to implement such action.

- 60 Should there be a fast-track mechanism for notifying a disease associated with a public health emergency? 7.8**

Comment:

Yes, there should be a fast track mechanism for disease notification associated with a public health emergency.

- 61 Should the Secretary be given powers in a public health emergency to compel examination, testing, vaccination, treatment (including preventative treatment), isolation and quarantine? 7.8**

Issue	Section reference
Comment: Powers that compel examination, vaccination, isolation and quarantine should be given to the Secretary, however, consideration must be given to civil liberties. These powers if not abused, should be in the best interests of the community with a focus on reducing or preventing the spread of infectious diseases.	
62 Should the Secretary be given a 'catch all' power in a public health emergency such as 'any other order deemed necessary'?	7.8
Comment: To adequately address any new or emerging situations, a 'catch all' power should be included. It is vital to public health that this flexibility is available.	
63 Should compliance with demands from the Secretary during an emergency or outbreak of an infectious disease be specifically exempted from confidentiality?	7.8
Comment: During an emergency, the demanding nature may deem confidentiality a lower priority in the best interests of the community.	
64 Should the Secretary's power to act when local government is in default be limited in any way?	7.8
Comment: The exercise of the power of the Secretary to perform the functions of a municipal council in an emergency should be limited to emergency situations where there is a serious risk to public health.	
65 Should the new Act include a provision for cost recovery where a person:	7.9
> has been convicted of an offence?	
> has contravened the Act, but there has been no conviction?	
> has caused a risk to public health?	
Comment: Yes. There should be a provision for cost recovery where a conviction has been recorded or where a Council has been forced to remove a risk due to the failure to act on a improvement or prohibition notice. These cost recovery provisions should be similar to the current Act. Currently there is an inconsistency between the Act and the Infectious Diseases Regulations in that under the Act Council cannot abate a nuisance and recover costs without a court order, however, where a rat and mice notice is issued Council need not obtain a court order to clean up and recover costs. Where people are not in a position to pay immediate costs, the ability to place a recovery notice on the property title should be retained.	
66 Should the new Act include a new offence of 'risk to health'?	7.10

Issue	Section reference
<p>Comment: Yes, a new offence of 'risk to health' should be introduced for more serious offences, but this needs to have a more specific definition. It should have the scope to somehow measure or quantify the risk to health. Further sector discussion is required on this aspect.</p>	
<p>67 If so, what should amount to a 'risk to health?'</p>	7.10
<p>Comment: The definition of a risk to health should be sufficiently broad to encompass present or likely future negative change to a person's health and well-being. This needs to be explored and developed and may embrace environmental, physical, psychological or social impacts.</p> <p>The degree of health impact may also need to be incorporated in the definition.</p>	
<p>68 If adopted, what should be the defences, if any, to the offence of 'risk to health?'</p>	7.10
<p>Comment: There could be two possible defenses to the offence of 'risk to health'.</p> <p>One would be that the alleged offender is complying with known 'best practice' at the time, and in the absence of other knowledge or standard(s). Another defense could be similar to that established in the Food Act in that a person took all reasonable precautions and showed due diligence.</p> <p>These aspects would need further sector discussion and be explored for practical applicability and legal implications.</p>	
<p>69 What should be the scope of the offence?'</p>	7.10
<p>Comment: The scope would cover registered premises and other risk premises and include persons or companies who may place the health of others at risk.</p> <p>The scope of the offence could be similar to that stated in the response to Comment 67, and cover anything that is dangerous to health.</p> <p>Risk matrix methodologies may offer an appropriate tools to identify level of risk.</p>	
<p>70 Should the 'risk to health' offence subsume the offence for knowingly and recklessly infecting another person with an infectious disease?'</p>	7.10
<p>Comment: Yes this view is supported provided that there is an ability to respond to 'reckless behaviour', in addition to 'confirmed infection'. It may also be of benefit to develop a risk matrix for defining the risks.</p> <p>This change should not be seen as undermining police enforcement roles, but as consolidating the management of infectious disease issues.</p>	

Issue	Section reference
<p>71 Should the offence for knowingly or recklessly infecting another person with an infectious disease not be re-enacted due to the existence of the knowing and reckless offences in the <i>Crimes Act 1958</i> (that is, sections 22 and 23)?</p> <p>Comment: A similar offence is already contained in the Crimes Act and both statutes need to be reviewed for consistency.</p> <p>To ensure that these changes are not seen as undermining police enforcement roles, matters relating to public health should be consolidated into the Health Act.</p>	7.10
<p>72 Should the new Act introduce PERIN for suitable offences?</p> <p>Comment: MCC supports this proposal, but the new Act must clearly define breaches and offences. PERIN is viewed as a useful tool to assist with compliance and continuous improvement.</p>	7.11
<p>73 Should public health offences attract similar penalties to those attracted by offences under environment protection legislation?</p> <p>Comment: Yes, however the penalty must be relative to the offence and must be consistent with other Acts such as Environment Protection Act 1970.</p>	7.12
<p>74 Should the new Act allow for greater penalties where the offender is a body corporate?</p> <p>Comment: Yes, this is consistent with other Victorian and national legislation.</p>	7.12
<p>75 Should the new Act include a statutory defence of due diligence?</p> <p>Comment: Yes, the opportunity to avail the defence of due diligence should become a statutory defence, however the onus should be on the defense to prove due diligence, similarly to other legislation such as the Food Act 1984.</p>	7.13
<p>76 What method of review should apply to administrative decisions made under the Act?</p> <p>Comment: Refer to Comment 57</p>	7.15
<p>77 Do the current provisions appropriately address the public health risk associated with hairdressing, beauty therapy and skin penetration?</p>	8.1

Issue**Section
reference****Comment:**

The Health Guidelines for personal care and body art industries have recently been introduced and are seen as best practice for these industries. Used in conjunction with the Infectious Diseases Regulations, they provide an important tool for Environmental Health Officers to use to ensure that public safety is not compromised.

However, the guidelines are voluntary and therefore the current provisions do not appropriately address the potential public health risks.

- 78 Should the brothels provisions be transferred to the Prostitution Control Regulations 1995, and Department of Human Services officers exercise their Inspectorial powers in relation to infection control issues under the *Prostitution Control Act 1994*? 8.1**

Comment:

All infectious diseases requirements and related matters should be covered by the new Health Act or its associated regulations, including the brothels provisions. T

As part of the review of related Acts as noted in Comment 2, MCC suggests that there should be consideration of whether brothels or premises covered by the Prostitution Control Regulations 1995 should be a local government responsibility.

- 79 Do the current provisions appropriately address the public health risk associated with prescribed accommodation (for example, hotels, motels, hostels and holiday camps)? 8.2**

Comment:

MCC considers that the current regulations for prescribed accommodation are based on an historical and largely out-of-date determination of the level of risk. Now, the risks for most prescribed accommodation is low and substantially self-regulated. The current provisions appropriately address the public health risk associated with some of the prescribed accommodation, namely hotels, motels, hostels and holiday camps.

However MCC considers that caravan parks have a higher level of risk. The shared ablution facilities and other facilities that are now commonly in caravan parks create risks to public health that are not appropriately addressed in the Residential Tenancies Act. Caravan parks commonly include dormitory style rooms, permanent tents and cabin accommodation and recreational facilities and have a high turnover of backpacker accommodation, visitors and residents.

The risks in caravan parks need to be highlighted and better defined by the new Health Act and its associated regulations to ensure that certain standards of hygiene and cleanliness are being observed to prevent risk of disease transmission.

It has been identified that the number of rooming houses is diminishing and that this is having a negative impact on low-income people through promoting increased homelessness, or inappropriate housing.

Issue	Section reference
<p>It has been suggested in 'Rooms for the Future' produced by the Inner Urban Housing Project, that there needs to be clearer responsibilities, better integration and consistent between council Building Surveyors and Environmental Health Officers in their respective inspection approach to rooming houses and housing requiring inspection.</p>	

The issues of housing and public health risk was raised by several people consulted for this response paper. The procedures and regulations that local Councils operate under associated with uninhabitable or dilapidated housing, seem to be unnecessarily difficult or too slow to manage issues well. MCC suggests that this area needs further sector investigation and consultation and it may be appropriate to address a number of common issues associated with housing and local government responsibilities including housing building materials, housing safety and dilapidated housing through a broader review process.

80	<p>Should an additional guiding principle for provisions in relation to the management and control of infectious diseases be that, wherever practicable, the least coercive power should be used first?</p>	8.3
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Comment:

Yes, where possible. The use of coercion should be a last resort.

81	<p>Should the new Act clearly set out the action that may be taken when contact tracing is authorised and the protections provided to individuals that may be required to provide personal information under these provisions?</p>	8.3
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Comment:

This should be set out in either the Act or Regulations.

82	<p>Should the Secretary to the Department of Human Services have the power to authorise an autopsy where they believe there is a risk to public health and the Coroner does not have jurisdiction over the body?</p>	8.3
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Comment:

Yes

83	<p>Should the new Act continue to outline the procedures for non-consensual testing orders where consent for testing has been refused?</p>	8.4
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Comment:

Yes, or in Regulation

84	<p>Should the new Act introduce a system for the authorisation of non-consensual testing where consent cannot be given to testing?</p>	8.4
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Comment:

As above

85	<p>Should the provisions in the new Act be extended beyond the care giver or custodian situation and, if so, to what situations?</p>	8.4
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Issue	Section reference
<p>Comment: The degree of public health risk would need to be assessed. It may not be appropriate to define the circumstances where this will be appropriate, but the new Act could provide the Secretary with powers to make orders to for an investigation in situations deemed to constitute a serious public health risk.</p>	
<p>86 Should public health orders under the new Act apply to any infectious disease or condition where there is a serious risk to public health?</p>	8.5
<p>Comment: Yes</p>	
<p>87 Should the new Act provide a power for involuntary testing with reasonable use of force? If so, should it be exercised by 'an authorised officer', a delegate of the Secretary and/or the police?</p>	8.5
<p>Comment: A delegate of the Secretary with the assistance of the police should have power.</p>	
<p>88 Should the Act contain a list of the types of restrictions that may be imposed by an order of the Secretary?</p>	8.5
<p>Comment: Yes, where appropriate</p>	
<p>89 Should the new Act introduce a power to order that a person undergo treatment where treatment is refused? If so, what limits should be placed on the use of the power?</p>	8.5
<p>Comment: Yes, the power should be available but only with authority of the Secretary through a court order. There should be a compulsory review following the process with a report to the Minister for Health and Justice to ensure this provision is not abused.</p>	
<p>90 Should there be time limits imposed on orders and, if so, what time limits should apply?</p>	8.5
<p>Comment: The time limits should be set by the court upon recommendation of the Secretary.</p>	
<p>91 Should any or all public health orders require court/tribunal confirmation?</p>	8.5
<p>Comment: All orders that restrict a person's civil liberties should require court confirmation.</p>	
<p>92 Should there be a power for the police to apprehend a person who fails to comply with a public health order, rather than merely the ability to provide 'assistance' to the medical officer? If so, should there be a requirement to obtain a warrant to apprehend the person?</p>	8.5
<p>Comment: Appropriate powers should be in place to meet the requirements of the provision. Warrant powers may be appropriate.</p>	

Issue	Section reference
93 Should the new Act continue to provide that it is an offence for a person to fail to comply with an order?	8.5
Comment:	
There must be a consequence for failing to comply with a provision, which is designed to protect public health.	
94 What appeal and external review processes should be made available under the new Act?	8.5
Comment:	
Appeal rights should be provided but may not always be feasible where treatment or testing is time dependant. However there should be stringent review processes prescribed and compensation provisions provided to persons wrongfully detained or treated.	
95 Should the new Act provide for introducing new notification requirements by an Order of the Governor in Council where it is necessary to respond quickly to new and emerging diseases?	8.6
Comment:	
Yes	
96 Should the new Act require that hospitals have processes in place to ensure that notification requirements under the Act are met?	8.6
Comment:	
Yes	
97 Should the term 'notifiable disease' be replaced with the term 'notifiable' condition'?	8.6
Comment:	
Yes	
98 Would alternative non-regulatory mechanisms (for example, best practice guidelines) be effective in ensuring pre-and post-test information and counselling for infectious diseases (other than HIV) is provided by appropriately qualified health care professionals?	8.7
Comment:	
The views of health professional who routinely counsel people in these circumstances may be more appropriate when deciding this issue.	
99 Should the new Act rely on the privacy framework for all health records, rather than include specific privacy provisions?	8.7
Comment:	
The new Act should rely on the privacy framework except where specific exemptions are proposed due to public health reasons.	
100 Should the new Act retain the provision specifying that the court may be closed when evidence is presented concerning any matter related to HIV?	8.7

Issue	Section reference
<p>Comment: Yes</p>	
<p>101 Should the new Act provide for a court to be closed when evidence is presented concerning other diseases?</p>	8.7
<p>Comment: Only if the Issues for closure are similar.</p>	
<p>102 Should the Act Include a regulation-making power to ensure participation in current quality assurance programs and supply of data for epidemiological analyses by HIV testing laboratories?</p>	8.7
<p>Comment: Yes</p>	
<p>103 Should the new Act state the role of municipal councils in relation to immunisation as 'co-ordinating and providing immunisation services to children living or being educated within the municipal district'?</p>	8.8
<p>Comment: The role of municipal councils in relation to immunisation service delivery has been shown to be a vital public health benefit to the community. This should be reflected in the Act as 'Local councils co-ordinating and providing immunisation services'.</p>	
<p>Greater funding equity should be provided to local government along with formal partnership agreements with the DHS would strengthen this role, provide for greater accountability and could help address funding inequities.</p>	
<p>104 Should provisions regarding recording the immunisation status of children at children's services be retained in the Children's Services Regulations 1998 (rather than included in the new Act)?</p>	8.8
<p>Comment: Australian Childhood Immunisation Record (ACIR) now collates records from all immunization service providers and provides a child history statement with accurate immunization information that is readily available.</p> <p>The provision and recording of immunisation services should continue to be undertaken by service providers for their own records and forwarded to the central record at ACIR. This practice should included in the Health Act and deleted from the Children's Services Regulations 1998. It is no longer necessary for other children's services to also keep records.</p> <p>The recording of the immunisation status by operators of children services can be referenced within the Children's Services Regulations 1998 so operators are aware of the arrangements as specified under the Health Act.</p>	
<p>105 Should the new Act require school principals of primary schools to make reasonable efforts to seek an ISC in respect of every child enrolled in the school, and an immunisation update on re-enrolment?</p>	8.8

Issue	Section reference
<p>Comment: The new Act should require principals of primary schools to seek an Immunisation Status Certificate (ISC) as part of school enrolment and an immunisation update on re-enrolment.</p> <p>This should be in addition to the obligation on parents to provide an ISC. All children who have their immunisations recorded on ACIR will receive a history statement once they have completed their 4 year old immunisation. In cases where immunisation status has not been recorded on ACIR parents can then obtain ISC through council or the relevant immunization service provider.</p> <p>An ISC should only be issued for new enrolments but not for re-enrolment and when a child re-enrols the principal must request a statement as to any change in immunisation status.</p>	
<p>106 Should the new Act introduce an obligation on parents to supply evidence of immunisation on enrolment of their child into secondary school and an obligation on school principals to make reasonable efforts to seek immunisation records in respect of every child enrolled in the school?</p>	8.8
<p>Comment: The new Act should introduce an obligation on parents to supply evidence of immunisation and an obligation on school principals to seek records. Furthermore immunisation records should be transferred from primary school to secondary school. Any parents who have not obtained an ISC in primary school should be directed to their local council or other service provider authorised by ACIR. As ACIR records all immunisation for children up to 7 years of age, all necessary information should be easily accessible.</p>	
<p>107 Should the new Act introduce an obligation on tertiary students to supply evidence of immunisation on enrolment and an obligation on tertiary facilities to make reasonable efforts to seek immunisation records in respect of every student enrolled in the facility? If so, for which diseases should immunisation records be required?</p>	8.8
<p>Comment: MCC considers that the introduction to obligate tertiary students to supply evidence of immunisation and an obligation on tertiary facilities to seek records should not be introduced into the new Act. Accurate data is likely to be too difficult to collate universally, particularly for international, interstate and country students who may not have ready access to their records. Such a record system would also be difficult for tertiary educational institutions to administer and to maintain.</p> <p>Perhaps in future years this option may be more workable.</p>	
<p>108 Should the new Act provide for different forms of evidence of immunisation? If so, what should they be?</p>	8.8

Issue**Section
reference****Comment:**

The ACIR history statement or the ISC, clearly states whether that child is "complete" or "not complete", and is easily understood by school staff. These records are universal and currently recognised as approved forms of evidence. Developing new, alternative or other forms of evidence would create confusion.

The allowance of various forms of evidence of immunization may be supportable, however the determination and issuing of ISC should only be provided by an authorised officer of a municipal council or other service provider authorised by ACIR.

- 109 Should the new Act introduce a penalty for failure on behalf of a parent or guardian to produce immunisation records on secondary school entry? 8.8**

Comment:

No, the penalties for failure to produce records should not be introduced.

In these cases where the parent/guardian cannot demonstrate completion of the immunisation schedule the child would be deemed to be "incomplete" and as such would be excluded in cases where a vaccine preventable disease outbreak occurs in a school setting. Creating an offence would not facilitate compliance, as most parents would provide this information readily.

- 110 Should the new Act require the principal teacher or person in charge of the school to take reasonable steps to ensure that immunisation records are maintained, and to allow inter-school transfer of ISCs? 8.8**

Comment:

Yes, the requirement for the principal teacher to ensure that immunisation records are maintained and to allow inter-school transfer of ISCs is supported. It is common practice of primary schools to record the child's immunisation status on their school history. The transfer of immunisation records makes practical sense for parents who can update the child's ISC or ACIR history statement. In cases where these are not maintained parent would have the option of obtaining records directly through Council, their immunization service provider or ACIR.

Privacy laws may need to be considered with these arrangements.

- 111 Should the new Act facilitate consistency with the NHMRC schedule for immunisation? 8.8**

Comment:

Yes, the new Act should facilitate consistency with the NHMRC schedule for immunisation and reflect the on-going changes to the schedule. This should only apply to scheduled vaccinations and allow for flexibility in respect to new and emerging vaccines.

- 112 Should school principals and persons in charge of children's services be required to seek advice from the Department of Human Services before excluding children during an actual or suspected outbreak of an infectious disease? 8.9**

Issue	Section reference
<p>Comment: Yes, as exclusion can impact particularly on working families, it is appropriate that the very best advice concerning exclusion is sought.</p>	
<p>113 Should there be a power in the new Act for the Secretary to waive or alter the prescribed periods in individual cases?</p>	8.9
<p>Comment: Yes</p>	
<p>114 Should the requirement for a parent to inform the principal or a person in charge of a school or children's services centre be limited to where their child has a vaccine preventable or excludable disease?</p>	8.9
<p>Comment: Yes</p>	
<p>115 Should the new Act facilitate consistency with the <i>NHMRC Guidelines on the Recommended Minimum Periods of Exclusion from School, Preschool and Child Care Centres of Infectious Disease Cases and Contacts</i>?</p>	8.9
<p>Comment: Yes, national consistency should be encouraged.</p>	
<p>116 Should provisions dealing with offensive waterways not be included in the new Act?</p>	9.1
<p>Comment: Yes, they should be transferred to the Environment Protection Act.</p>	
<p>117 Should public health risks related to rats, mice, vermin, pests or other animals suspected of having a disease capable of transmission to humans be dealt with by the issue of an improvement notice?</p>	9.1
<p>Comment: Yes these conditions could be dealt with an improvement notice. Some specific wording relating to the public health risks posed by specific vermin may be appropriate.</p>	
<p>118 Should Parts 5A and 5B of the <i>Building Act 1993</i> be transferred to the new public health Act?</p>	
<p>Comment: As the provisions relate to a public health risk, in this case control of Legionnaire's Disease, parts should be transferred to the new Health Act.</p>	
<p>119 Are there other amendments that should be made to provisions currently in Parts 5A and 5B of the <i>Building Act</i> that would improve the effectiveness of the legislative scheme?</p>	

Issue	Section reference
Comment: Council has to further investigate these issues to provide comment.	
Council is also developing more detailed comments related to buildings that are in poor condition or unfit for habitation. Council feels that there are currently poor legislative framework and requirements to address this growing issue of public health and safety. Council will forward comments to the Legislative Review Team at a later date.	
Also see Comment 79.	
120 Should the new Act re-enact provisions relating to meat supervision?	9.3
Comment: No, the provision should be transferred to the Food Act.	
121 Should the offence under the <i>Food Act 1984</i> in relation to the sale of 'unsafe food' be broadened to include food that cannot be sold for human consumption under section 34(1) of the <i>Meat Industry Act 1993</i> ?	9.3
Comment: Yes	
122 Who should be required to hold a licence to use pesticides under the new Act?	9.4
Comment: Persons with appropriate training or competencies under the National Standard should be licensed.	
123 Does the new Act need to deal with the use of pesticides not associated with a commercial enterprise? If so, what non-commercial activities should be regulated and how should these be regulated?	9.4
Comment: Guidelines could be developed to guide home applicators of pesticides and published in a similar manner to the asbestos brochure published by DHS. This could be used as a means of addressing the health risk posed by these chemicals.	
124 Are there any areas of overlap or duplication between the regulation of the use of pesticides under the Health Act and the <i>Agricultural and Veterinary Chemicals (Control of Use) Act 1992</i> ?	9.4
Comment: Council is not in a position to comment on this at this time.	