



Queensland

Public Health and Other Legislation Amendment Regulation (No. 1) 2007

Subordinate Legislation 2007 No. 86

made under the

Health Act 1937

Public Health Act 2005

State Penalties Enforcement Act 1999

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Public Health and Other Legislation Amendment Regulation (No. 1) 2007*.

2 Commencement

This regulation commences on 18 June 2007.

Part 2 Amendment of Health Regulation 1996

3 Regulation amended in pt 2

This part amends the *Health Regulation 1996*.

4 Omission of pt 8 (Mosquito prevention and destruction)

Part 8—
omit.

5 Amendment of s 170 (Specifications for places)

Section 170(2)(a), ‘part 17’—
omit, insert—
‘the *Public Health Regulation 2005*, part 1A, division 3’.

6 Omission of pt 17 (Vermin control)

Part 17—
omit.

'2B Definitions for div 1

'In this division—

ACM means any material, object, product or debris containing asbestos.

asbestos means the fibrous form of the mineral silicates belonging to the serpentine and amphibole groups of rock-forming minerals and includes—

- (a) actinolite, amosite (brown asbestos), anthophyllite, crocidolite (blue asbestos), chrysotile (white asbestos), and tremolite; and
- (b) a mixture containing 1 or more of the minerals mentioned in paragraph (a).

associated asbestos waste means—

- (a) ACM, other than a sample of ACM removed for scientific testing, that is removed in a non-workplace area, including ACM dust; or
- (b) disposable items contaminated with ACM.

Examples for paragraph (b)—

personal protective equipment, plastic sheeting and rags used for cleaning

bonded ACM means ACM, other than friable ACM, that contains a bonding compound reinforced with asbestos fibres.

Examples—

asbestos cement pipes, flat or corrugated asbestos cement sheets consisting of sand and cement reinforced with asbestos fibres

friable ACM means ACM that, when dry, can be crumbled, pulverised or reduced to powder by hand pressure.

non-workplace area means a place, or part of a place, that is not a workplace within the meaning of the *Workplace Health and Safety Act 1995*.

Note—

Under the *Workplace Health and Safety Act 1995*, a **workplace** is any place where work is, or is to be, performed by—

- (a) a worker; or

(b) a person conducting a business or undertaking.

prescribed work means—

(a) doing any of the following in relation to ACM—

- (i) breaking;
- (ii) cleaning;
- (iii) cutting;
- (iv) maintaining;
- (v) removing;
- (vi) repairing;
- (vii) storing;
- (viii) using; or

(b) separating associated asbestos waste from other waste.

remove, in relation to ACM, includes move the ACM from the position where it was installed immediately before 18 June 2007.

Example of removing ACM—

moving a sheet of ACM to access an area for maintenance

‘2C Administration and enforcement of div 1

‘This division is to be administered and enforced by local governments only.

‘2D Removal of friable ACM

‘A person must not remove friable ACM unless the person holds a certificate to carry out the removal under the *Workplace Health and Safety Act 1995*.

Maximum penalty—100 penalty units.

‘2E Removal of bonded ACM

‘A person must not remove a quantity of bonded ACM that is 10m² or more unless the person holds a certificate to carry out the removal under the *Workplace Health and Safety Act 1995*.

Maximum penalty—100 penalty units.

‘2F Cleaning or cutting ACM

‘(1) A person must not use—

- (a) a power tool, or a device attached to a power tool, to cut or clean ACM; or

Examples—

- using an electric sander to remove paint from asbestos cement sheeting
- using an angle grinder to cut asbestos cement pipes

- (b) a high pressure water process to clean ACM; or

Example—

using a water blaster to clean an asbestos cement roof

- (c) compressed air to clean ACM or a surface where ACM is present.

Examples—

- using compressed air to clean an area after working with asbestos cement sheeting
- using compressed air to clean the brake drums of a car

Maximum penalty—100 penalty units.

‘(2) In this section—

power tool means an electric, battery, hydraulic, fuel or pneumatic powered tool, other than a battery powered drill that operates at less than 650 r.p.m.

‘2G Requirement to seal bonded ACM if broken

‘(1) This section applies if—

- (a) a person is removing bonded ACM or carrying out specified work in relation to bonded ACM in a non-workplace area; and
 - (b) the bonded ACM is broken.
- ‘(2) The person must ensure a broken surface of the bonded ACM that is not being removed from the non-workplace area is sealed.

Example of sealing a broken surface of bonded ACM—

applying paint or PVA glue to the surface

Maximum penalty—100 penalty units.

- ‘(3) In this section—
- specified work*** means manufacturing, construction, repair, alteration, cleaning or demolition work.

‘2H Requirement to take reasonable measures to minimise release of asbestos fibres

- ‘(1) A person who carries out prescribed work must take reasonable measures to minimise—
- (a) the risk of asbestos fibres being released; and
 - (b) the associated hazard to the health of the person or any other person.
- Maximum penalty—100 penalty units.
- ‘(2) For subsection (1), reasonable measures may include 1 or more of the following—
- (a) spraying water or a coat of PVA glue on ACM or other associated asbestos waste;
 - (b) using vacuum cleaning equipment that complies with AS 3544 to collect asbestos fibres;
 - (c) cleaning all equipment that is contaminated with ACM;
 - (d) using a wet cloth to wipe away dust that may have originated from ACM;
 - (e) ensuring, as far as practicable, that ACM is not broken or abraded;

- (f) wearing personal protective equipment to minimise the person's exposure to airborne asbestos fibres;
 - (g) collecting and handling associated asbestos waste separately from other waste.
- '(3) Subsection (2) does not limit what might be reasonable measures.
- '(4) In this section—
AS 3544 means AS 3544 'Industrial vacuum cleaners for particulates hazardous to health' (1988).

'21 Packaging and disposal of associated asbestos waste

- '(1) A person who carries out prescribed work must ensure all associated asbestos waste is packaged and disposed of as soon as practicable in the way mentioned in subsection (2).
Maximum penalty—100 penalty units.
- '(2) The associated asbestos waste must be—
- (a) either—
 - (i) double wrapped in plastic sheeting that is at least 0.2mm thick and sealed with adhesive tape; or
 - (ii) double bagged in plastic bags that are at least 0.2mm thick, and no more than 1200mm long and 900mm wide, and sealed with adhesive tape; and
 - (b) labelled with a warning that is clearly visible and states that—
 - (i) the packaging contains asbestos; and
 - (ii) damage to the packaging and dust inhalation should be avoided; and

Example of warning—

'CAUTION - ASBESTOS
DO NOT DAMAGE OR OPEN BAG
DO NOT INHALE DUST
CANCER AND LUNG DISEASE HAZARD'

- (c) disposed of at a site approved by a local government for the disposal of asbestos waste.

‘2J Prohibition on selling or giving away ACM

- ‘(1) A person must not sell or give away ACM stored at a non-workplace area.

Maximum penalty—100 penalty units.

- ‘(2) In this section—

sell includes barter, exchange or supply.

‘Division 2 Mosquitos

‘2K Purpose of div 2

‘This division prescribes, under section 61(1)(b) and (c) of the Act, measures to—

- (a) control mosquitos; and
(b) prevent and control the public health risks mentioned in section 11(1)(a) and (b)(i) of the Act in relation to mosquitos.

Note—

Mosquitos are defined as a *designated pest* in schedule 2 of the Act.

‘2L Definitions for div 2

‘In this division—

mosquito includes a mosquito egg, larva, pupa and adult mosquito.

relevant person, for a place, means—

- (a) an occupier of the place; or
(b) if there is no occupier of the place—an owner of the place.

relevant tank means a tank or other receptacle that is used or intended to be used for holding or storing water or another liquid.

‘2M Administration and enforcement of div 2

‘This division is to be administered and enforced by local governments only.

‘2N Requirement to ensure place is not a breeding ground for mosquitos

‘(1) A relevant person for a place must ensure that an accumulation of water or another liquid at the place is not a breeding ground for mosquitos.

Maximum penalty—40 penalty units.

‘(2) For subsection (1), it is irrelevant whether the accumulation of water is artificial, natural, permanent or temporary.

‘(3) In a proceeding for an offence against subsection (1), it is a defence for the defendant to prove that the defendant took all reasonable steps to ensure subsection (1) was complied with.

‘(4) In this section—

breeding ground, for mosquitos, means a place where mosquito eggs, larvae or pupae are present.

Examples of places where liquid may accumulate and become a breeding ground for mosquitos—

bromeliads, containers, ditches, drains, gutters, car bodies, ponds, swimming and tidal pools, sump traps, tyres, tubs, water features

‘2O Construction, installation and maintenance of a relevant tank

‘(1) A person must not construct a relevant tank unless the tank complies with section 2P.

Maximum penalty—40 penalty units.

‘(2) A person must not install a relevant tank, whether above or below ground, unless the tank complies with section 2P.

Maximum penalty—40 penalty units.

- ‘(3) A relevant person for a place at which a relevant tank is installed must ensure the tank is maintained so it continues to comply with section 2P.

Maximum penalty—40 penalty units.

‘2P Requirements for a relevant tank

‘For section 2O, a relevant tank must have at every opening of the tank—

- (a) mosquito-proof screens that—
- (i) are made of brass, copper, aluminium or stainless steel gauze; and
 - (ii) have a mesh size of not more than 1mm; and
 - (iii) are installed in a way that does not cause or accelerate corrosion; and
 - (iv) stop mosquitos passing through the openings; or
- (b) flap valves that, when closed, stop mosquitos passing through the openings.

‘2Q Offence to damage screen or flap valve

- ‘(1) A person must not destroy, damage or remove a mosquito-proof screen or flap valve fixed to a relevant tank.

Maximum penalty—40 penalty units.

- ‘(2) However, subsection (1) does not apply to a person removing the mosquito-proof screen or flap valve to carry out maintenance, if the screen or flap valve is immediately replaced after the maintenance is completed.

‘Division 3 Rats and mice

‘2R Purpose of div 3

‘This division prescribes, under section 61(1)(b) and (c) of the Act, measures to—

- (a) control rats and mice; and
- (b) prevent and control the public health risks mentioned in section 11(1)(a) and (b)(i) of the Act in relation to rats and mice.

Note—

Rats and mice are defined as a *designated pest* in schedule 2 of the Act.

‘2S Definition for div 3

‘In this division—

relevant structure means any of the following—

- (a) a building;
- (b) a drain;
- (c) a pipe connected to a building;
- (d) a retaining wall;
- (e) a wharf.

‘2T Administration and enforcement of div 3

‘This division is to be administered and enforced by local governments only.

‘2U Requirement for owner of relevant structure

- ‘(1) An owner of a relevant structure must take reasonable steps to stop rats and mice entering the structure.

Maximum penalty—40 penalty units.

- ‘(2) For subsection (1), reasonable steps may include the following—

- (a) sealing or covering any holes or gaps in the exterior surface of the structure;

Examples—

- covering a gap in the floor or an external wall of a house with timber
- for a hole in the cladding of a brick house, filling it with mortar or covering it with a metal plate screwed to the wall
- filling a hole with chicken wire or covering it securely with a vermin-proof covering

- (b) fitting a cover, grate or plug securely in a covered pipe or drain, including a disused pipe or drain;

- (c) removing a disused pipe or drain.

- ‘(3) This section does not apply in relation to rats or mice kept under section 2X.

‘2V Offence to damage screen etc. on relevant structure

- ‘(1) A person must not destroy, damage or remove a screen or other object that has been fixed to a relevant structure for the purpose of stopping rats and mice entering the structure.

Maximum penalty—40 penalty units.

- ‘(2) However, subsection (1) does not apply to a person removing the screen or other object to carry out maintenance, if the screen or object is immediately replaced after the maintenance is completed.

‘2W Requirement to ensure rats or mice do not live or breed on land around dwelling

- ‘(1) A relevant person for land around a dwelling must ensure—

- (a) rats or mice are not harboured on the land; and
- (b) the land is not a breeding ground for rats or mice.

Maximum penalty—40 penalty units.

- ‘(2) In a proceeding for an offence against subsection (1), it is a defence for the defendant to prove that the defendant took all reasonable steps to ensure subsection (1) was complied with.

- ‘(3) This section does not apply in relation to rats or mice kept under section 2X.
- ‘(4) In this section—
relevant person, for a place, means—
- (a) an occupier of the place; or
 - (b) if there is no occupier of the place—an owner of the place.

‘2X Requirements about keeping rats or mice as pets etc.

- ‘(1) This section applies to a person who keeps rats or mice—
- (a) as pets; or
 - (b) at a laboratory for medical, research, scientific or teaching purposes; or
 - (c) for the purpose of selling them, giving them away or using them as a food source for other animals.
- ‘(2) The person must keep the rats or mice in an enclosure from which they can not escape.
Maximum penalty—40 penalty units.
- ‘(3) This section does not limit an applicable local law about keeping rats or mice.
- ‘(4) In this section—
sell includes barter, exchange or supply.’.

10 Insertion of new pt 2B

After part 2A—
insert—

‘Part 2B Child health—contagious conditions

‘12B Contagious condition—Act, s 158, definition *contagious condition*

‘For the definition *contagious condition* in section 158 of the Act, the contagious medical conditions mentioned in the left column of schedule 2A, part 1 are contagious conditions.

‘12C Requirements for vaccination—Act, s 158, definition *vaccinated*

- ‘(1) This section prescribes, for the definition *vaccinated* in section 158 of the Act, the way for vaccinating a child for a vaccine preventable condition.
- ‘(2) The way is for the child to receive all vaccinations for the condition recommended for the child’s age in the document called ‘National Immunisation Program Schedule’ (IMM66) published by the Department of Health and Ageing (Cwlth) in November 2005.

Editor’s note—

A copy of the document is available on the internet at <www.immunise.health.gov.au>.

‘12D Vaccine preventable condition—Act, s 158, definition *vaccine preventable condition*

‘For the definition *vaccine preventable condition* in section 158 of the Act, the contagious conditions mentioned in the left column of schedule 2A, part 2 are vaccine preventable conditions.

‘12E Prescribed period for a contagious condition—Act, s 160

- ‘(1) For section 160(2) and (3)(a) of the Act, the right column in schedule 2A, part 1 identifies the prescribed period for a child

suspected under chapter 5³ of the Act of having a contagious condition.

- ‘(2) For section 160(3)(b) of the Act, the right column in schedule 2A, part 2 identifies the prescribed period for a vaccine preventable condition for a child who does not have the condition but who is suspected under chapter 5 of the Act of—
- (a) having contact with a child suspected of having the condition; and
 - (b) not having been vaccinated for the condition.’.

11 Insertion of new sch 2A

After schedule 2—

insert—

‘Schedule 2A Contagious conditions

sections 12B, 12D and 12E

‘Part 1 Contagious conditions and prescribed period for a child suspected of having a contagious condition

Contagious condition	Prescribed period for a child suspected of having the condition	
	Start of period	End of period
diphtheria	onset of symptoms of the condition	the treating doctor gives written confirmation 2 negative throat swabs have been taken from the child— (a) the first swab taken at least 24 hours after the child finishes a course of antibiotics; and (b) the second swab taken 48 hours later
enterovirus 71 neurological disease	onset of symptoms of the condition	the treating doctor gives written confirmation the virus is no longer present in the child’s bowel motions
gastroenteritis illness	onset of symptoms of the condition	the child has no symptoms of the condition and has not had a loose bowel motion for at least 24 hours or, if a laboratory test confirms a norovirus, for at least 48 hours
haemophilus influenzae type b infection (invasive)	onset of symptoms of the condition	the treating doctor gives written confirmation the child is not infectious
hepatitis A	onset of symptoms of the condition	the treating doctor gives written confirmation the child is not infectious, but not earlier than 7 days after the onset of symptoms
measles	onset of symptoms of the condition	the treating doctor gives written confirmation the child is not infectious, but not earlier than 4 days after the onset of the rash caused by the condition
meningococcal infection (invasive)	onset of symptoms of the condition	the treating doctor gives written confirmation the child is not infectious

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Contagious condition	Prescribed period for a child suspected of having the condition	
	Start of period	End of period
paratyphoid	onset of symptoms of the condition	the treating doctor gives written confirmation the child is not infectious after— (a) the child has completed an appropriate course of antibiotics; and (b) the child has not had a loose bowel motion for at least 24 hours
pertussis (whooping cough)	onset of symptoms of the condition	the treating doctor gives written confirmation the child is not infectious, but not earlier than— (a) 5 days after the child starts an appropriate course of antibiotics; or (b) 14 days after the onset of coughing caused by the condition
poliomyelitis—wild type and vaccine associated	onset of symptoms of the condition	the treating doctor gives written confirmation the child is not infectious, but not earlier than 14 days after the onset of symptoms
rubella	onset of symptoms of the condition	4 days after the onset of the rash caused by the condition
tuberculosis	onset of symptoms of the condition	the treating doctor gives written confirmation the child is not infectious
typhoid	onset of symptoms of the condition	the treating doctor gives written confirmation the child is not infectious after— (a) the child has completed an appropriate course of antibiotics; and (b) the child has not had a loose bowel motion for at least 24 hours
varicella - zoster virus infection (chickenpox)	onset of symptoms of the condition	all blisters caused by the condition have dried, but not earlier than 5 days after the onset of symptoms

‘Part 2

Vaccine preventable conditions and prescribed period for an at risk child

Vaccine preventable condition Prescribed period for an at risk child for the condition

	Start of period	End of period
measles	1 for an at risk child who has had relevant contact with a child diagnosed with measles—the at risk child’s first relevant contact with the diagnosed child	1 for an at risk child who has had relevant contact with a child diagnosed with measles— (a) when the at risk child is vaccinated for measles, if the child is vaccinated within 72 hours of the child’s first relevant contact with the diagnosed child; or (b) otherwise—when the outbreak of measles at the school or child care service attended by the at risk child is declared to be over by the chief executive
	2 for another at risk child—no prescribed period	2 for another at risk child—no prescribed period
pertussis (whooping cough)	1 for an at risk child who lives in the same house as a child diagnosed with pertussis—the at risk child’s first relevant contact with the diagnosed child	1 for an at risk child who lives in the same house as a child diagnosed with pertussis— (a) when the child has taken 5 days of an appropriate course of antibiotics; or (b) 14 days after the child’s last relevant contact with the diagnosed child
	2 for another at risk child—no prescribed period	2 for another at risk child—no prescribed period

‘Part 3 Definitions

‘1 Definitions for sch 2A

‘In this schedule—

at risk child, for a vaccine preventable condition, means a child who does not have the condition but who is suspected of—

- (a) having contact with a child suspected of having the condition; and
- (b) not having been vaccinated for the condition.

diagnose, a child with a vaccine preventable condition, means a doctor or laboratory test confirms the child has the condition.

infectious period, for a vaccine preventable condition, means—

- (a) for measles—the period starting 4 days before the onset of the rash caused by the condition and ending 4 days after the onset of the rash; or
- (b) for pertussis (whooping cough)—the period starting with the onset of symptoms of the condition and ending 3 weeks after the onset of symptoms.

relevant contact, of an at risk child for a vaccine preventable condition with a child who has been diagnosed with the condition, means contact by the at risk child with the diagnosed child during the diagnosed child’s infectious period for the condition.

suspected means suspected under chapter 5⁴ of the Act.’.

12 Insertion of new sch 4

After schedule 3—

insert—

4 Chapter 5 (Child health) of the Act

‘Schedule 4 Dictionary

section 2AA

ACM, for part 1A, division 1, see section 2B.

asbestos, for part 1A, division 1, see section 2B.

associated asbestos waste, for part 1A, division 1, see section 2B.

bonded ACM, for part 1A, division 1, see section 2B.

friable ACM, for part 1A, division 1, see section 2B.

mosquito, for part 1A, division 2, see section 2L.

non-workplace area, for part 1A, division 1, see section 2B.

prescribed work, for part 1A, division 1, see section 2B.

relevant person, for a place, for part 1A, division 2, see section 2L.

relevant structure, for part 1A, division 3, see section 2S.

relevant tank, for part 1A, division 2, see section 2L.

remove, for part 1A, division 1, see section 2B.’.

Part 4 Amendment of State Penalties Enforcement Regulation 2000

13 Regulation amended in pt 4

This part amends the *State Penalties Enforcement Regulation 2000*.

14 Amendment of s 5 (Administering authority for particular nominated laws)

(1) Section 5(2)—

insert—

‘(ea) the *Public Health Act 2005*’.

(2) Section 5(2)(ea) to (h)—

renumber as section 5(2)(f) to (i).

15 Amendment of s 5A (References to Acts)

Section 5A, ‘(h)’—

omit, insert—

‘(i)’.

16 Insertion of new s 8AA

After section 8A—

insert—

‘8AA Administering authority for Public Health Act 2005

‘The administering authority for an infringement notice offence that is an offence against a provision of the *Public Health Act 2005*, or an infringement notice about the offence, is—

- (a) for an infringement notice served by an authorised person appointed under section 377(2) or (3) of that Act, the relevant local government; or
- (b) otherwise, the department in which the provision is administered.’.

17 Amendment of sch 5 (Other legislation)

Schedule 5—

insert—

‘Public Health Act 2005

	Column 1	Column 2	
	Infringement notice offence	Infringement notice fine (penalty units)	
		Individual	Corporation
s 23(4)		5	25

Authorised person for service of infringement notices—an authorised person appointed under the *Public Health Act 2005*, section 377⁵

‘Public Health Regulation 2005

	Column 1	Column 2
	Infringement notice offence	Infringement notice fine (penalty units)
s 2D		10
s 2E		10
s 2F(1)		10
s 2G(2)		10
s 2I(1)		10
s 2J(1)		10
s 2N(1)		4
s 2O(1), (2) or (3)		3
s 2Q(1)		3
s 2V(1)		3
s 2X(2)		3

⁵ *Public Health Act 2005*, section 377 (Appointment)

Authorised person for service of infringement notices—an authorised person appointed under the *Public Health Act 2005*, section 377⁶.

ENDNOTES

- 1 Made by the Governor in Council on 17 May 2007.
- 2 Notified in the gazette on 18 May 2007.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Health.

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6 *Public Health Act 2005*, section 377 (Appointment)