

Public Health (Infection Control for Personal Appearance Services) Regulation 2016

Explanatory notes for SL 2016 No. 139

made under the

Public Health (Infection Control for Personal Appearance Services) Act 2003

General Outline

Short title

Public Health (Infection Control for Personal Appearance Services) Regulation 2016

Authorising law

Section 148 of the *Public Health (Infection Control for Personal Appearance Services) Act 2003*.

Policy objectives and the reasons for them

The *Public Health (Infection Control for Personal Appearance Services) Act 2003* (the Act) establishes a framework to protect the health and wellbeing of the community by minimising the risk of infection that may result from the provision of personal appearance services. Personal appearance services include beauty therapy, hairdressing or skin penetration services provided as part of a business transaction. The Act does not apply to personal appearance services provided in a health-care facility.

The Act achieves its purpose by requiring proprietors and operators of personal appearance services to take precautions to minimise infection risks; requiring proprietors of higher risk personal appearance services to hold a licence and operators to hold an infection control qualification; and providing for compliance with the Act to be monitored and enforced.

In accordance with section 54 of the *Statutory Instruments Act 1992*, the *Public Health (Infection Control for Personal Appearance Services) Regulation 2003* (the 2003 Regulation) will automatically expire on 31 August 2016. The *Public Health (Infection Control for Personal Appearance Services) Regulation 2016* (the Regulation) replaces the 2003 Regulation, prescribing matters to support the Act.

Section 14 of the Act defines a *higher risk personal appearance service* as a personal appearance service involving specified skin penetration procedures in which the release of blood or other bodily fluid is expected. The skin penetration procedures listed in section 14 are body piercing; implanting of substances into a person's skin; scarring or cutting of a person's skin to make a permanent mark, pattern or design; tattooing; and another skin penetration procedure prescribed under a regulation as a higher risk personal appearance service. The 2003 Regulation prescribes tattoo removal as a higher risk personal appearance service.

Section 24 of the Act requires operators providing higher risk personal appearance services to hold an infection control qualification. Schedule 2 of the Act defines *infection control qualification* by reference to a competency standard prescribed under regulation. The 2003 Regulation provides that the competency standard is the attainment of the competency 'HLTIN402C – Maintain Infection Control Standards in Office Practice Settings', which is approved by the former Ministerial Council for Vocational and Technical Education.

The Australian Industry and Skills Committee was established by the Council of Australian Governments' Industry and Skills Council in May 2015, to provide advice on the implementation of national vocational education and training policies. The functions of the Committee include the quality assurance and approval of training packages for implementation.

From time to time, the code and/or name of vocational education and training courses may change. The competency standard prescribed in the 2003 Regulation has been superseded by a new competency standard, the 'HLTINF005 – Maintain infection prevention for skin penetration treatments', which is approved by the Australian Industry and Skills Committee. However, the attainment of a competency standard under a former name is still recognised for the purposes of the Act. For this reason, competency standards by their former titles are prescribed in the 2003 Regulation.

Achievement of policy objectives

The Regulation replaces the 2003 Regulation, prescribing matters necessary to support the Act. In particular, the Regulation prescribes the following matters.

- Tattoo removal is prescribed as a higher risk personal appearance service.
- The infection control competency standard is the attainment of the 'HLTINF005 – Maintain infection prevention for skin penetration treatments', which is approved by the Australian Industry and Skills Committee.
- The former titles of the infection control competency standard are prescribed.

Consistency with policy objectives of authorising law

The Regulation is consistent with the policy objectives of the Act.

Inconsistency with policy objectives of other legislation

No inconsistencies with the policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

The Regulation is the only effective means of achieving the policy objectives.

Benefits and costs of implementation

The Regulation is consistent with the 2003 Regulation and does not impose any additional costs on persons or organisations.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles set out in section 4 of the *Legislative Standards Act 1992*.

Consultation

The Office of Best Practice Regulation was consulted on the Regulation and has advised that a Regulatory Impact Statement is not required.

No further external consultation was undertaken in relation to the Regulation as the policy intent is consistent with the 2003 Regulation.

Notes on provisions

Short title

Clause 1 provides that the short title of the Regulation will be the *Public Health (Infection Control for Personal Appearance Services) Regulation 2016*.

Commencement

Clause 2 provides that the Regulation commences on 1 September 2016.

Higher risk personal appearance service—Act, s 14(e)

Clause 3 prescribes tattoo removal as a higher risk personal appearance service.

Infection control competency standard

Clause 4 prescribes the infection control competency standard for the purpose of the Act is the attainment of the ‘HLTINF005 – Maintain infection prevention for skin penetration treatments’. The clause also provides that the competency standard is taken to include the competency by its former titles.