

# Public Health (Infection Control) Amendment Regulation 2017

Explanatory notes for SL 2017 No. 79

made under the

*Public Health Act 2005*

## General Outline

### Short title

*Public Health (Infection Control) Amendment Regulation 2017*

### Authorising law

Sections 11, 18 and 461 of the *Public Health Act 2005*

### Policy objectives and the reasons for them

The objective of the *Public Health (Infection Control) Amendment Regulation 2017* (the Amendment Regulation) is to amend the *Public Health Regulation 2005* to allow the State to respond to inadequate infection control practices in a timely and effective manner by removing the requirement that the State Government seek local government approval in taking enforcement actions.

The *Public Health Act 2005* (the Act) provides a framework to protect and promote the health of the Queensland public by preventing, controlling, and reducing risks to public health. Section 11(1)(b)(xi) of the Act provides that activities can be prescribed in a regulation to be a public health risk. Section 18 of the Act also requires a regulation to specify if a prescribed public health risk is to be administered and enforced by the State only or local governments only.

The Amendment Regulation will provide that the State has sole responsibility for public health risks involving activities which are part of invasive procedures that may expose a person to an infectious condition.

It is not intended the Amendment Regulation be used to address invasive procedures that are regulated under the *Public Health (Infection Control for Personal Appearance Services) Act 2003*. Procedures regulated under that Act, such as tattooing, body piercing, and electrolysis, are the responsibility of local government and it is intended to remain this way.

It is also not intended the Amendment Regulation be used to address infection control risks at health facilities regulated under the *Private Health Facilities Act 1999*. That Act includes sufficient provisions to deal with infection control issues concerning private health facilities, and this is intended to continue to apply.

However, despite existing regulatory frameworks that deal with the infection control of invasive procedures in the personal appearance service and private health facility contexts, industry is constantly developing new services that were non-existent when those regulatory frameworks were created. Not all of these new services will fit within the existing frameworks, and the Amendment Regulation is intended to deal with these emerging invasive procedures that may warrant regulation.

An example of the application of the amendments proposed is the recent closure of a dental clinic in Brisbane, due to poor infection control measures, which put patients and staff at risk of exposure to infectious, blood-borne diseases. This event required the State to enter into an agreement with the relevant local government under section 14 of the Act. The Amendment Regulation will remove this requirement in relation to certain activities that can pose significant public health risks.

## **Achievement of policy objectives**

The Amendment Regulation achieves the policy objectives by amending the *Public Health Regulation 2005* to: prescribe activities that may expose a person to an infectious condition, as part of an invasive procedure, to be a public health risk, pursuant to section 11(1)(b)(xi) of the Act; and provide that these procedures be administered and enforced by the State, pursuant to section 18 of the Act.

## **Consistency with policy objectives of authorising law**

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

## **Inconsistency with policy objectives of authorising law**

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

## **Alternative ways of achieving policy objectives**

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

## **Benefits and costs of implementation**

The Amendment Regulation supports the objectives of the Act, which include protecting the health and wellbeing of members of the public by reducing their risk of exposure to infectious conditions arising from invasive procedures.

Implementation costs arising from administering and enforcing the public health risk will be met from existing resources.

## **Consistency with fundamental legislative principles**

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

## **Consultation**

Consultation was undertaken with Hospital and Health Services and local government via the Local Government Association of Queensland (LGAQ). The LGAQ stated that because the Amendment Regulation will not impact on local government, they had no significant concerns. Hospital and Health Services acknowledged that the Amendment Regulation will provide a regulatory tool to investigate and manage public health risks associated with invasive procedures that may expose a person to an infectious condition.

The amendments have been assessed by the Department of Health, in accordance with *The Queensland Government Guide to Better Regulation*, as falling within the exclusionary category of a regulatory proposal that moves the internal management of infection control between different levels of government (within the public sector).

## Notes on provisions

### Short title

*Clause 1* provides that the short title of the Amendment Regulation is the *Public Health (Infection Control) Amendment Regulation 2017*.

### Regulation amended

*Clause 2* specifies that the Amendment Regulation amends the *Public Health Regulation 2005*.

### Insertion of new pt 1A, div 4

*Clause 3* inserts new section 2XA, which prescribes that an activity associated with, or part of, an invasive procedure that may expose a person to an infectious condition is now a prescribed public health risk, for the purposes of section 11 of the Act.

As required by section 18 of the Act, the Amendment Regulation also explicitly states this new public health risk is to be administered and enforced by the State only.

A reference to section 147 of the Act is provided for the definition of invasive procedure.