

BILLS DIGEST

PUBLIC HEALTH BILL 2007

Date of Introduction: 21 November 2007

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PUBLIC HEALTH BILL 2007

Date of introduction:	21 November 2007
Portfolio:	Health
Select Committee:	As at 12 December, 1st reading not held

PURPOSE

The aim of this Bill is to "substantially replace" the Health Act 1956, the Tuberculosis Act 1948, and associated regulations in order to update existing public health legislation¹ and to enable New Zealand to comply with its obligations under the International Health Regulations 2005².

BACKGROUND

The Bill follows consultation based on two discussion documents, *the Public health legislation review: A new public health legislative framework* (Ministry of Health, 1998) and *Public health legislation: promoting public health, preventing ill health and managing communicable diseases* (Ministry of Health, 2002).

MAIN PROVISIONS

The following analysis attempts to deal only with new material not carried over from the Health Act 1956.

Purpose

The purpose of the Bill is to improve, promote, and protect public health in order to help attain optimal and equitable health outcomes for Maori and all other population groups (*Part 1, Subpart 1, Clause 3, the "purpose clause"*).

Functions

The Bill lists the functions of the Minister of Health (the Minister). Those functions include ensuring the efficient and effective administration of the Act, declaring a health emergency, extending, amending, or revoking such an emergency and reviewing the continued need for such an emergency at regular intervals, designating places of inspection for ships, and declaring places in New Zealand to be affected places. The functions of the Director-General of Health are also set out. These functions include overseeing and monitoring the implementation and enforcement of the Public Health Act 2007 throughout New Zealand, ensuring that the role of the national focus point is carried out within the Ministry of Health and publishing statements about risks to public health. The Director-General also has the function of

¹ Public Health Bill, 2007 No 177-1, Explanatory note, General policy statement, p. 1.

² adopted by the World Health Organisation and adopted by the World Health Assembly in May 2005, and came into force in June 2007.

issuing directions to persons carrying out powers and functions under the Public Health Act 2007 or regulations made under that Act, producing an annual report on the state of public health, appointing health protection officers and medical officers of health, and dividing New Zealand into health districts. The Bill also deals with the functions of the Director of Public Health and the Public Health functions of the District Health Boards (*Part 1, Subparts 2 - 5, Clauses 6 - 19*).

Health information

The Bill contains provisions about access to health information and also provisions enabling the inspection of records to verify compliance with subsidies and authorisations (*Part 2, Subparts 1 and 2, Clauses 20 - 30*).

Notification and reporting

The Bill deals with notification and reporting of conditions. A medical practitioner is required to report (to a medical officer of health) a case of a condition or a cluster or an outbreak of a condition that may pose a risk to public health. A medical practitioner is required to notify (to an appropriate authority, usually a medical officer of health) any case of a notifiable condition (notifiable conditions are specified in Schedule 1 of the Bill). A person in charge of a laboratory is required to notify any case of a notifiable condition found in a specimen and any notifiable contaminant found in a sample (*Part 2, Subpart 3, Clauses 31 - 45*).

National Cervical Screening Programme

The Bill provides for the National Cervical Screening Programme. These are the same as the provisions that are currently in Part 4A of the Health Act 1956 (*Part 2, Subpart 4, Clauses 44 - 78*).

Non-communicable diseases

The Director-General is given functions relating to non-communicable diseases taking into account "risk factors" which means things or substances that, on their own or together with other things or substances or conditions, may, whether immediately or over time, give rise to, or increase the incidence of, non-communicable diseases (such as cancer, cardio-vascular disease, or diabetes) in the general population or in communities or in sections of the general population or communities. The Director-General in exercising his or her functions must take into account the importance of:

- improving and enhancing the health of communities by addressing broad determinants of health, including, in particular, risk factors;
- managing or eliminating risk factors by involving communities, sectors, and government agencies;
- considering the well-being and mutual interdependence of families and their communities, including whanau, hapu, and iwi;
- promoting, maintaining, and enhancing the health status of the general population and communities;

- implementing public health objectives through co-ordinated action in the health sector, and, in particular, ensuring appropriate links between public health and primary health (*Part 3, Subparts 1 and 2, Clauses 79 and 80*).

Codes of practice and guidelines

The Bill authorises the Director-General to issue codes of practice or guidelines to a sector on a particular activity, if the Director-General has reason to believe that the sector can reduce a risk factor associated with the activity (*Part 3, Subpart 3, Clauses 81 - 88*).

Management of conditions posing health risks

The Bill provides that in the management of conditions posing health risks preference must be given to the least restrictive measure, that individuals should be treated with respect, and that an individual affected by the exercise of powers should be properly informed about that exercise. The Bill authorises a medical officer of health to give an individual with a specified condition directions designed to prevent or minimise the health risk posed by the individual. In particular, directions to undergo medical examinations may be given if a medical officer of health believes on reasonable grounds that an individual may have a relevant condition and if the individual has previously refused a request to be examined. Pending the medical examinations, restrictions may be imposed on the individual. Restrictions may also be imposed on the contacts of persons with a relevant condition. The restrictions are lifted when the contact is notified that he or she no longer poses a health risk. Appeals against directions may be made to the District Court (*Part 4, Subparts 1 - 3, Clauses 89 - 105*).

Orders in respect of health risks

The Bill also makes provision for the issue by a medical officer of health of an urgent health risk order, if it is necessary to take urgent action to address the risk posed by an individual. The Bill limits the duration of an urgent health risk order to 72 hours. The District Court may make orders which may last for up to six months, on the application of a medical officer of health. Such orders may end on any earlier date on which the medical officer of health notifies the individual that the individual no longer poses a health risk. Orders may be extended for other periods of up to six months. The Court may impose, under such an order, various requirements on an individual, including detention, restrictions in respect of specified activities, submission to supervision or surveillance, and treatment for the condition. However, compulsory treatment may be ordered only if the Court is satisfied that, short of detaining the individual indefinitely, treating him or her is the only effective means of managing the health risk posed by the individual (*Part 4, Subpart 3, Clauses 106 - 125*).

Recklessly spread notifiable disease or other condition

The Bill makes it an offence to recklessly put another person at risk of contracting a notifiable condition or recklessly transmitting such a condition. The maximum penalty is imprisonment for 1 year or a fine of \$50,000 and \$100,000 respectively. Instead of sentencing a person to imprisonment, the Court may impose requirements on the individual that have the same effect as those imposed under a health risk order. Defences are provided. One of these is that at the time that the condition was transmitted to the other person, the other person knew the defendant had the condition

and voluntarily accepted the risk of contracting the condition (*Part 4, Subpart 4, Clauses 126 and 127*).

Residence orders in respect of persons in need of care

The Bill authorises the District Court to make residence orders in respect of persons who are unable to care for themselves and who thereby adversely impact on their health or on that of others. The Court, if satisfied that without an order the person will not receive adequate care, may, on the application of a medical officer of health, order the person to reside in a specified place or places and to be supervised or cared for by a specified person or organisation (*Part 4, Subpart 5, Clauses 128 - 136*).

Contact tracing and disclosure of condition

The Bill makes detailed provision for contact tracing, which is the prevention or limitation of the spread of a relevant condition by obtaining information about that condition and identifying, testing, and treating those at risk. The Bill allows medical practitioners to warn close associates of persons with a serious condition about their exposure to the risk of contracting the condition if the person with the condition has failed to do so. A close associate is defined in clause 150 as someone with whom the person with the condition lives or with whom the person is having, or has had, contact of a sexual nature. (*Part 4, Subparts 6 and 7, Clauses 137 - 152*).

Public health role of territorial authorities

The Bill sets out the general powers and duties of territorial authorities in respect of public health. A territorial authority must have as many environmental health officers and other officers and employees as, in its opinion, are necessary for the proper discharge of its duties under this Act. A territorial authority must inspect its district regularly for nuisances and stop nuisances. If premises present a risk to public health, it must take any remedial action required to prevent that risk. It is also required to make bylaws to protect public health (*Part 5, Subparts 1 - 6, Clauses 153 - 193*).

Regulated activities

The Bill contains provisions to prevent, reduce, or eliminate the risks to public health associated with regulated activities. These activities are services connected with camping grounds, mortuaries, hairdressing, microwave ovens, plastic wrapping, and needles and syringes as regulated activities. Restrictions imposed must, wherever practicable, be proportionate to the risks involved (*Part 6, Subparts 1 - 9, Clauses 194 - 258; Schedule 3 of the Bill*).

Emergencies and border health

The Bill deals with emergencies. It is based on and closely reflects many of the present provisions of Part 3 of the Health Act 1956 (*Part 7, Subparts 1 and 2, Clauses 259 - 322*).