

PUBLIC HEALTH ACT 1991—REGULATION

(Public Health Regulation 1991)

NEW SOUTH WALES



[Published in Gazette No. 159 of 15 November 1991]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Public Health Act 1991, has been pleased to make the Regulation set forth hereunder.

J. P. HANNAFORD

Minister for Health and Community Services.

PART 1—PRELIMINARY

Short title

1. This Regulation may be cited as the Public Health Regulation 1991.

Commencement

2. (1) This Regulation, except clauses 64–66 and 78 and Part 8, commences on 18 November 1991.
(2) Clauses 64, 65 and 78 commence on 18 May 1992.
(3) Clause 66 commences on 18 November 1992.

Definitions

3. (1) In this Regulation:
“**Department**” means the Department of Health;
“**the Act**” means the Public Health Act 1991.
(2) A reference in this Regulation to a publication is a reference to the publication as in force for the time being.

* See also Erratum Notice in Gazette No. 163 of 22 November 1991, p. 9743.

PART 2—SCHEDULED MEDICAL CONDITIONS**Information to patients**

4. For the purposes of section 12 (1) of the Act, a medical practitioner is required in relation to a sexually transmissible scheduled medical condition to provide information on such of the following matters as are relevant in a particular case:

- (a) means of minimising the risk of infecting other people with the condition;
- (b) public health implications of the condition;
- (c) responsibilities under section 11 of the Act, including any precautions considered reasonable;
- (d) responsibilities under section 13 of the Act;
- (e) diagnosis and prognosis;
- (f) treatment options.

Records of scheduled medical conditions

5. For the purposes of section 14 (2) (a) of the Act, the following particulars are required to be recorded in relation to the scheduled medical condition indicated:

- (a) in relation to birth—the particulars required for the completion of the “NSW Midwives Data Collection Form” published by the Department;
- (b) in relation to perinatal death—the particulars in Schedule 1;
- (c) in relation to sudden infant death syndrome—the particulars in Schedule 2;
- (d) in relation to all Category 2 medical conditions (including AIDS)—the particulars required for the completion of the “Doctor/Hospital Notification Form” published by the Department;
- (e) in relation to AIDS—the particulars required for the completion of the “AIDS Notification Form” published by the Department.

Period for keeping of records

6. For the purposes of section 14 (2) (b) of the Act the prescribed period is, where the person about whom the particulars have been recorded:

- (a) was 18 years of age or over—10 years; or

- (b) was less than 18 years of age—10 years starting on the person's eighteenth birthday; or
- (c) was still-born—10 years starting on the date of birth; or
- (d) died before turning 18—10 years starting on the date of the person's death.

Protection of identity—exceptions

7. (1) For the purposes of section 17 (1) (b) of the Act, the prescribed exception exists when the patient is a patient within the meaning of the Public Hospitals Act 1929 or the Private Hospitals and Day Procedure Centres Act 1988.

(2) For the purposes of section 17 (3) (e) of the Act, information may be disclosed by a person to the Director-General in the circumstance that the person has reasonable grounds to believe that the other person (referred to in section 17 (2) of the Act) is behaving in such a way that the health of the public is at risk.

Notification of death from scheduled medical condition

8. The prescribed additional particulars for the purposes of section 20 (c) of the Act are:

- (a) the date of birth and the sex of the deceased; and
- (b) the date, place and cause of death; and
- (c) the address of the person who certified the cause of death.

Advice to Category 2 or 3 patients

9. The Director-General, or a registered medical practitioner authorised under this clause by the Director-General, may notify a person suffering from a Category 2 or 3 medical condition of measures to be taken, and activities to be avoided, in order to minimise the danger of passing the medical condition to another person.

Advice to Category 2, 3 or 4 contacts

10. The Director-General may notify a person who the Director-General believes may have been in contact with a person suffering from a Category 2, 3 or 4 medical condition of measures to be taken, and activities to be avoided, in order to minimise the danger of the first person's contracting the condition or passing it to a third person.

PART 3—SKIN PENETRATION**Application of Part**

11. (1) This Part applies to any of the following procedures:

- (a) acupuncture;
- (b) tattooing;
- (c) ear piercing;
- (d) hair removal;
- (e) any other procedure (whether medical or not) which involves skin penetration.

(2) However, this Part does not apply to or in relation to the carrying out of a procedure by:

- (a) a medical practitioner registered under the Medical Practitioners Act 1938, or a dentist registered under the Dentists Act 1989, where the procedure is carried out in the practice of medicine or dentistry, respectively; or
- (b) a person acting under the direction or supervision of such a medical practitioner or dentist, where the procedure is carried out for the purpose of the practice (by that or any other practitioner or dentist) of medicine or dentistry, respectively.

Skin penetration to avoid infection

12. (1) A person must not carry out any procedure to which this Part applies unless:

- (a) the person's business address has been notified to the local authority responsible for the area where the address is located; and
- (b) the premises where the procedure is carried out are clean and hygienic; and
- (c) any article used which may penetrate the skin is sterile; and
- (d) any such article which has been used on one person is disposed of appropriately immediately after that use, or is sterilised before being used on another person; and
- (e) any article which has been used on one person, but which has not penetrated the person's skin, is cleaned before being used on another person; and
- (f) the person carrying out the procedure is clean, is dressed in clean clothing, and has no exposed skin lesion (including any cut, abrasion or wound).

Maximum penalty: 20 penalty units.

(2) It is a defence to a prosecution for an offence against this clause if the defendant satisfies the court that the act or omission constituting the offence was done:

- (a) in the case of skin penetration for the sake of blood cholesterol testing—in compliance with the “Guidelines for Blood Cholesterol Measurement in the Community” published by the Australian Government Publishing Service for the National Health and Medical Research Council; or
- (b) in the case of skin penetration for the sake of blood sugar testing (whether carried out by a pharmacist or any other person)—in compliance with the “Guidelines for Blood Glucose Screening by Pharmacists” prepared by the Joint Pharmaceutical Services Group and published in “The NSW Pharmacist” volume 3 number 5 (October 1988), at pages 16 and 17; or
- (c) in the case of skin penetration for any other purpose—in compliance with the “Guidelines on Skin Penetration” published by the Department.

PART 4—PUBLIC SWIMMING POOLS AND SPAS

Definitions

13. In this Part:

“**public spa pool**” means a water-containing structure:

- (a) which is used or intended to be used for human bathing; and
- (b) to which the public is admitted; and
- (c) which has facilities for heating the water and for injecting jets of water or air into the water;

“**public swimming pool**” means a water-containing structure:

- (a) which is used or intended to be used for human bathing, swimming or diving; and
- (b) to which the public is admitted,

and includes a water slide or similar aquatic recreational structure.

Disinfection

14. The occupier of a public swimming pool or public spa pool must not allow a person to use the water in the pool unless the water in the pool is disinfected in such a way as to prevent the transmission of scheduled medical conditions to the users of the pool.

Maximum penalty: 20 penalty units.

Cleanliness

15. The occupier of a public swimming pool or public spa pool is to maintain the pool surrounds, including toilets and change rooms, in a clean condition in such a way as to prevent the transmission of scheduled medical conditions.

Maximum penalty: 10 penalty units.

Inspection

16. An environmental health officer may enter without paying any admission fee, and inspect, any premises containing a public swimming pool or public spa pool at any time during which the pool is open to the public and may:

- (a) inspect the pool surrounds, including toilets, change rooms and plant rooms; and
- (b) carry out field tests on pool water; and
- (c) take and remove samples of pool water.

Guidelines as defence

17. It is a defence to a prosecution for an offence against this Part if the defendant satisfies the court that the act or omission constituting the offence was done in compliance with the “Guidelines for Disinfecting Public Swimming Pools and Spa Pools” published by the Department.

PART 5—DISPOSAL OF BODIES**Division 1—Preliminary****Definitions**

18. In this Part:

“**attending practitioner**”, in relation to a dead person, means a medical practitioner who attended the person immediately before, or during the illness terminating in, the death of the person;

“**body**” means a body of a dead person or of a still-born child;

“**body preparation room**” means that part of a mortuary which is used for the preparation of bodies for burial or cremation;

“**burial**” includes putting in a vault;

“**coroner**” means a person who exercises or performs the functions of a coroner in accordance with the Coroners Act 1980;

“cremation authority”, in relation to a crematory, means the person or body of persons by whom the crematory’s operations are directed;

“death certificate” means a certificate given by a medical practitioner as to the cause of death;

“disinfectant” means a hospital grade disinfectant as defined in clause 23F (1) of the Therapeutic Goods and Cosmetics Regulations;

“embalming” means the process of preserving a body by means of the removal of body fluids and arterially injecting the body with embalming fluids, or other means approved by the Director-General;

“exhumation” means the removal of the remains of a dead person or still-born child from a grave or vault;

“holding room” does not include a body preparation room, but means a room having refrigerated body storage facilities big enough for 2 adult bodies and maintained at between 1 and 5 degrees Celsius;

“List “A” disease” means any one or more of the following conditions:

Acquired Immunodeficiency Syndrome (AIDS)

Acute viral hepatitis (unspecified)

Hepatitis B

Hepatitis C

Hepatitis D

Human immunodeficiency virus infection (HIV)

Meningococcal disease

Rabies

Tuberculosis;

“List “B” disease” means any one or more of the following diseases:

Anthrax

Diphtheria

Jakob Creutzfeldt’s disease

Plague

Smallpox

Yellow fever

Any viral haemorrhagic fever (including Lassa, Marburg, Ebola and Congo-Crimean fevers);

“medical referee” means a person qualified or appointed under clause 53 to be a medical referee;

“mortuary” means that part of premises which is used, or intended to be used, for the Preparation or storage of bodies before their burial or cremation;

“mortuary transport service” means a service that, for fee, gain or reward, transports bodies for undertakers;

“nearest surviving relative” means, in relation to a still-born child, a parent, or sibling at or above the age of 16 years, of the child, and in relation to a dead person, the spouse or de facto spouse of the dead person, a parent of the dead person, a child at or above the age of 16 years of the dead person or any relative of the dead person who was residing with the dead person when he or she died;

“undertaker” means a person (other than the operator of a mortuary transport service) who, in the conduct of the person’s business, engages, for the purpose of burial, cremation or transport, in the collection, transport, storage, preparation or embalming of bodies or engages in the conduct of exhumations.

Division 2—Facilities

Premises for handling of bodies

19. (1) A person must not use any premises other than a mortuary registered under the Local Government Act 1919 for the embalming, or other preparation, of bodies for burial or cremation or for the placing of bodies in coffins for burial or cremation.

(2) A person must not use any premises other than a holding room or a mortuary for the storage of bodies for burial or cremation.

(3) A person must not store a body in a vehicle except during the transport of the body.

(4) A person must not use a holding room for any purpose other than the storage of bodies.

(5) Unless otherwise approved by the Director-General in a particular case, a person must not use the facilities of a hospital for the purpose of the business of an undertaker or of the operator of a mortuary transport service except for the removal of bodies of persons who died in the hospital.

Maximum penalty: 10 penalty units.

Facilities of body preparation rooms

20. (1) A person must not use a body preparation room unless it has the following:

- (a) a vehicle reception area adjacent to it and so designed that the transfer of uncoffined bodies from area to room and room to area is screened from public view;
- (b) at least 1 hand wash basin, with an adequate supply of hot and cold water and fitted with elbow- or foot-operated taps;
- (c) sufficient slabs, tables and other fittings for the preparation of bodies for burial or cremation constructed of smooth impervious material and so designed as to facilitate draining and their cleaning;
- (d) refrigerated body storage facilities big enough for 2 adult bodies and maintained at an internal temperature of between 1 and 5 degrees Celsius;
- (e) one or more impervious containers, each fitted with a close-fitting cover or lid, for the reception and storage of all solid wastes arising from the preparation of bodies and for the reception and storage of all screenings from floor drains.

(2) A person must not use the refrigerated body storage facilities in a body preparation room or holding room except to store bodies.

Maximum penalty: 10 penalty units.

Waste disposal

21. A person must not dispose of any solid waste arising from the preparation of bodies for burial or cremation except as contaminated waste in a manner approved by the Director-General.

Maximum penalty: 10 penalty units.

Vehicles

22. (1) An undertaker must, for use in connection with the undertaker's business, provide:

- (a) at least 1 hearse; and
- (b) at least 1 body-collection vehicle.

(2) Subclause (1) (b) is satisfied if an undertaker causes the bodies which the undertaker conveys to be transported by a mortuary transport service or public vehicle operated by a carrier of freight.

(3) An undertaker or the operator of a mortuary transport service must not use for the transport of bodies the part of a vehicle which is used by the undertaker or service for other purposes.

(4) An undertaker or the operator of a mortuary transport service must not use for any other purpose the part of a vehicle which is used by the undertaker or service in the transport of bodies.

(5) If part of a vehicle has been used to transport a body, a person must not use, or permit the use of, that part for the transport of another body until it has been cleaned of any exudates from the first body.

(6) A person must not dispose of a vehicle which that person has used for the transport of a body unless the vehicle has been cleaned since that use to remove any body exudates.

(7) A person must not transport an unembalmed body unless:

- (a) during that transport, the body is refrigerated so that it is exposed continuously to a temperature of less than 10 degrees Celsius; or
- (b) the duration of the transport is 8 hours or less and the person has reason to believe that transporting the body without refrigeration will not prejudice public health or amenity.

Maximum penalty: 5 penalty units.

Division 3—Handling of bodies

Interpretation

23. In this Division:

“**chief executive officer**”, in relation to a hospital, has the same meaning as it has in Division 2 of Part 7 of the Act; and

“**hospital**” has the same meaning as it has in that Division of the Act.

Retention of bodies

24. (1) Unless otherwise approved by the Director-General in a particular case, a person must not retain a body if more than 5 working days have passed since the issue of a death certificate or coroner’s burial or cremation permit in relation to the body.

(2) However, subclause (1) does not apply to a body that has been removed to premises licensed under the Anatomy Act 1977 or which is the subject of an inquest under the Coroners Act 1980.

Maximum penalty: 5 penalty units.

Embalming of bodies

25. (1) A person must not embalm a body unless that person has a certificate of proficiency issued by an institute approved by the Director-General.

(2) A person must not embalm a body which the person has reason to believe is infected with a List “A” or List “B” disease.

Maximum penalty: 5 penalty units.

Bodies to be placed in body bags

26. (1) A person must not remove the body of a dead person or of a still-born child from a place unless:

- (a) the body has been placed and secured in a bag approved by the Director-General or a wrapping so approved; and
- (b) the name of the dead person or an identification of the still-born child is indelibly written on the top outer surface of the bag or wrapping; and
- (c) if subclause (2) applies—that subclause has also been complied with; and
- (d) if subclause (3) applies—that subclause is also complied with.

Maximum penalty: 10 penalty units.

(2) If a person has reason to believe that a body is infected with a List “B” disease, the person, after enclosing the body in a bag or wrapping in accordance with subclause (1), is to enclose it in an outer bag conforming with subclause (5), with the excess air expelled and the open end hermetically sealed with a double heat seal or by another method approved by the Director-General.

(3) If a person has reason to believe that a body is infected with an infectious disease, the person must handle the body in a manner approved by the Director-General.

(4) The person responsible for complying with subclauses (1), (2) and (3) is:

- (a) if the body is at a hospital—the chief executive officer; or
- (b) if the body is at any other premises or place—the undertaker or other person removing the body.

(5) The outer bag referred to in subclause (2):

- (a) is to be made of tubular extruded low density polyethylene film of not less than 150 micrometres thickness, heat sealed at one end; and

- (b) is to be indelibly marked with the words “INFECTIOUS DISEASE—HANDLE WITH CARE” in bold face sans serif capital letters at least 12 millimetres in height in a colour approved by the Director-General; and
- (c) if the bag is used for enclosing the body of an adult—is to be (when flat) not less than 2.4 metres in length and 1 metre in width, or if for enclosing the body of a child, not less than 1.5 metres in length.

Protective clothing

27. (1) A person engaged in placing in a plastic bag or wrapping a body which the person has reason to believe is infected with an infectious disease must wear:

- (a) a clean protective outer garment such as a gown, overalls or jumpsuit; and
- (b) a clean pair of disposable gloves; and
- (c) a disposable mask and appropriate eye protection.

(2) The person who wears those items must ensure that they are placed, immediately after use, in a clean plastic bag and then laundered as soon as practicable or, if disposable, disposed of as soon as practicable as contaminated waste.

Maximum penalty: 5 penalty units.

Removal of bodies from body bags

28. (1) An undertaker may remove from a body bag a body which the undertaker has no reason to believe is infected with a List “A” or List “B” disease for the purpose of:

- (a) embalming the body; or
- (b) preparing the body for viewing, transport, burial or cremation; or
- (c) transferring the body to a coffin.

(2) An undertaker may, in a manner approved by the Director-General, remove from a body bag a body which the undertaker has reason to believe is infected with a List “A” disease for the purpose of:

- (a) preparing the body for viewing, transport, burial or cremation; or
- (b) transferring the body to a coffin.

(3) After an undertaker has embalmed or prepared a body, the undertaker must place it in a coffin or in a new body bag approved by the Director-General.

Maximum penalty: 10 penalty units.

(4) A person must not remove from an outer body bag required under clause 26 (2) a body which the person has reason to believe is infected with a List “B” disease.

Maximum penalty—subclause (4): 10 penalty units.

Body viewing

29. (1) An undertaker may make available for viewing by mourners a body which the undertaker has no reason to believe is infected with a List “B” disease.

(2) However, an undertaker who makes an unembalmed body available for viewing:

- (a) must not remove the body from refrigeration for a period longer than is necessary for making it available for viewing; and
- (b) unless the body is to be buried or cremated immediately, must replace the body under refrigeration after the viewing; and
- (c) must not allow the body to remain unrefrigerated for a period exceeding 8 hours in any day.

Maximum penalty: 5 penalty units.

(3) An undertaker is to refuse or terminate the viewing of a body if the undertaker has reason to believe that the viewing will be, or will become, prejudicial to public health or amenity.

(4) An undertaker must not make available for viewing a body which the undertaker has reason to believe is infected with a List “B” disease.

Maximum penalty—subclauses (3) and (4): 10 penalty units.

24 hours holding

30. (1) A person must not keep a body in a holding room for more than 24 hours.

(2) A person who keeps a body in a holding room for more than 8 hours or who, keeping a body in a holding room, has reason to believe that not refrigerating the body will prejudice public health or amenity must put it in the refrigerated body storage facility of the holding room.

Maximum penalty: 5 penalty units.

Bodies to be placed in coffins

31. Unless otherwise approved by the Director-General generally or in a particular case, a person must not bury or cremate a body unless it has been placed in a coffin and the lid securely sealed.

Maximum penalty: 10 penalty units.

Burial of bodies

32. Unless otherwise approved by the Director-General in a particular case, a person who buries a body contained in a coffin must place the coffin so that its upper surface is not less than 900 millimetres below the natural surface level of the soil where it is buried.

Maximum penalty: 5 penalty units.

Bagging of bodies for freighting

33. (1) A person must not use, or agree for the use of a public vehicle (other than a hearse or body collection vehicle) for transporting a body which the person has reason to believe is infected with an infectious disease without informing the owner or driver of the vehicle that the body is so infected.

(2) An undertaker must, before despatching a body by a carrier other than an undertaker or the operator of a mortuary transport service:

- (a) comply with the procedure in clause 26 (2) in relation to the body as if the undertaker has reason to believe the body is infected with a List “B” disease; and
- (b) enclose the body in a watertight coffin.

Maximum penalty: 10 penalty units.

Burials in certain areas prohibited

34. (1) A person must not place a body in any grave or vault unless that grave or vault is located:

- (a) in a public cemetery; or
- (b) in a private cemetery or other place approved for that purpose by a local authority; or
- (c) on private land, where the area of landholding is 5 hectares or more and the location has been approved for that purpose by a local authority.

(2) A person must not bury a body in or on any land if to do so would make likely the contamination of a drinking water supply or a domestic water supply.

Maximum penalty: 10 penalty units.

Burials in vaults

35. (1) A person must not place a body in a vault unless:

- (a) the body has been embalmed, then hermetically enclosed with material approved by the Director-General without any viewing panel in the enclosure and the body and enclosure placed in a coffin and the lid secured in position; or
- (b) the conditions approved in relation to the body under subclause (2) are met.

Maximum penalty: 5 penalty units.

(2) The Director-General may, generally or in a particular case, approve other conditions under which a body may be placed in a vault.

Division 4—Exhumations

Exhumation of remains without approval prohibited

36. A person must not exhume the remains of a body unless the exhumation of those remains has been:

- (a) ordered by a coroner; or
- (b) approved by the Director-General.

Maximum penalty: 10 penalty units.

Application to exhume remains

37. (1) An application for approval to exhume the remains of the body of a dead person or still-born child may be made to the Director-General by:

- (a) an executor of the estate of the dead person; or
- (b) the nearest surviving relative of the dead person or still-born child; or
- (c) if there is no such executor or relative available to make the application—a person who, in the opinion of the Director-General, is a proper person in all the circumstances to make the application.

(2) Such an application is to be made to the Director-General in the approved form and is to be accompanied by:

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- (a) a certified copy of the death certificate relating to the dead person or still-born child; and
- (b) a statutory declaration as to the relationship of the applicant to the dead person or still-born child and the dead person's wishes, if any, regarding the disposal of his or her body (so far as any such wishes are known to the applicant); and
- (c) an application fee of \$200.

Approval to exhume remains

38. (1) The Director-General may:

- (a) grant an approval to exhume the remains of a body, subject to such conditions as may be specified in the approval; or
- (b) refuse the application.

(2) An approval granted under this clause lapses at the expiration of 3 months after the date of the approval or within any longer time agreed to by the Director-General.

Supervision of exhumations

39. A person must not proceed with an exhumation if an officer of the Department of Health or an environmental health officer (whether an officer of the Department of Health or otherwise) is not present at the exhumation or if that officer has ordered the exhumation to stop.

Maximum penalty: 10 penalty units.

Division 5—Crematories**Cleanliness**

40. A cremation authority must keep a crematory whose operations it directs clean, tidy and in good working order.

Maximum penalty: 5 penalty units.

Closing of crematories

41. (1) The Minister may, on giving 28 days' notice in writing to a cremation authority, order the closing of a crematory whose operations are directed by the authority.

(2) A cremation authority must not direct or permit the operation of a crematory the subject of an order under this clause after the expiration of the 28 days notice period until the order is revoked by the Minister.

(3) Except where an order has been given pursuant to subclause (1), a cremation authority must, not less than 28 days before temporarily or permanently closing a crematory whose operations it directs:

- (a) forward to the Minister notice of the intended closure; and
- (b) publish a notice giving details of the intended closure in a newspaper circulating in the district where the crematory is located; and
- (c) prominently display a copy of the notice at the entrance of the crematory.

(4) A person must not re-open a crematory closed by a cremation authority without the approval of the Minister.

Maximum penalty—subclauses (2)–(4): 20 penalty units.

Division 6—Cremation

No refusal to cremate

42. A cremation authority must not, without lawful excuse, refuse to accept a body for cremation.

Maximum penalty: 10 penalty units.

One body at a time

43. A person must not cremate more than one body in the same crematory retort at any one time, except with the approval of the Director-General.

Maximum penalty: 10 penalty units.

Cremation within 4 hours

44. A cremation authority must commence cremating a body within 4 hours of the delivery of the body to the crematory, unless it places the body in a holding room.

Maximum penalty: 5 penalty units.

No cremation against dead person's wishes

45. A person must not cremate the body of a dead person if informed that the latter has left a written direction that his or her body was not to be cremated or that it was to be disposed of by some other means.

Maximum penalty: 10 penalty units.

No cremation without documentation

46. (1) A person must not cremate the remains of a body which has not been identified.

(2) A cremation authority must not cremate the body of a dead person unless the authority has in its possession:

- (a) an application for cremation under clause 47; and
- (b) except where a cremation permit has been issued by a coroner under clause 51—a cremation certificate issued under clause 49; and
- (c) a cremation permit issued under clause 50 or 51.

(3) A cremation authority must not cremate a still-born child unless the authority has in its possession:

- (a) an application for cremation under clause 48; and
- (b) a cremation permit issued under clause 52.

Maximum penalty: 20 penalty units.

Cremation application: dead persons

47. (1) An application for cremation of a dead person is to be made in the approved form to a medical referee or coroner.

(2) The form may require any information contained in the form to be supported by a statutory declaration.

(3) The application may be made by:

- (a) an executor of the estate of the dead person; or
- (b) a nearest surviving relative of the dead person; or
- (c) where there is no such executor or relative available to make the application—a person who, in the opinion of the medical referee or coroner, is a proper person in all the circumstances to make the application.

Cremation application: still-born children

48. (1) An application for cremation of a still-born child is to be made in the approved form to a medical referee.

(2) The form may require any information contained in the form to be supported by a statutory declaration.

(3) The application may be made by:

- (a) a nearest surviving relative of the child; or

- (b) where there is no such relative available to make the application—a person who, in the opinion of the medical referee, is a proper person in all the circumstances to make the application.

Cremation certificate

49. (1) An attending practitioner may issue a cremation certificate for the body of a dead person:

- (a) if the certificate is in the approved form; and
- (b) if the practitioner is able to certify definitely the cause of death of the person; and
- (c) if the person is not one whose death is examinable under the Coroners Act 1980 by a coroner.

(2) A medical practitioner expert in anatomical pathology may issue a cremation certificate for the body of a dead person:

- (a) if the certificate is in the approved form; and
- (b) if the practitioner has carried out a post-mortem examination of the body; and
- (c) if the person is not one whose death is examinable under the Coroners Act 1980 by a coroner.

Medical referee's cremation permit: dead persons

50. (1) A medical referee who receives:

- (a) an application for cremation of the body of a dead person made under clause 47; and
 - (b) a cremation certificate issued under clause 49 for the body,
- may issue a cremation permit for the body in the approved form.

(2) However, a medical referee must not issue a cremation permit for the body of a dead person if:

- (a) the death of the person is examinable under the Coroners Act 1980 by a coroner; or
- (b) the person left a written direction that his or her body was not to be cremated or that it was to be disposed of by some other means; or
- (c) the medical referee has not made an external examination of the body; or
- (d) the medical referee is not satisfied that the identity of the body has been correctly disclosed in the application for cremation or in the cremation certificate; or

- (e) the medical referee is not satisfied that the cause of death has been correctly disclosed in the cremation certificate; or
- (f) the application for cremation or the cremation certificate appears to the medical referee to be otherwise incorrect or incomplete; or
- (g) the same medical referee issued a cremation certificate in respect of the body.

Coroner's cremation permit

51. (1) A coroner who receives an application for cremation of the body of a person whose death is examinable under the Coroners Act 1980 by the coroner may issue a cremation permit in the approved form.

(2) However, a coroner must not issue a cremation permit for the body of a dead person if:

- (a) the person left a written direction that his or her body was not to be cremated or that it was to be disposed of by some other means; or
- (b) the application for cremation appears to the coroner to be incorrect or incomplete.

Medical referee's permit: still-born child

52. (1) A medical referee who receives an application made under clause 48 for cremation of the body of a still-born child may issue a cremation permit in the approved form.

(2) However, a medical referee must not issue a cremation permit for the body of a still-born child unless:

- (a) the child has been certified to be still-born by a medical practitioner who was in attendance at the delivery of the child; or
- (b) the medical referee is satisfied, after such inquiries as the medical referee thinks necessary, that the child was still-born.

Medical referees

53. A person may perform the functions of a medical referee under this Division if the person is:

- (a) a medical officer of health; or
- (b) a medical superintendent of a hospital mentioned in the Second or Third Schedule to the Public Hospitals Act 1929 or of a hospital under the control of an area health service constituted under the Area Health Services Act 1986; or

- (c) a medical practitioner who has been appointed by the Director-General as a medical referee for the purposes of clauses 50 and 52.

Ashes

54. (1) After cremating the body of a dead person or of a still-born child, a cremation authority must, in accordance with the reasonable written directions of the person (or with the reasonable directions of the applicant for the cremation):

- (a) give the ashes to the applicant; or
- (b) dispose of the ashes in a burial ground or in land adjoining the crematory reserved for the burial of ashes; or
- (c) otherwise retain or dispose of the ashes.

(2) If ashes are, in accordance with subclause (1), to be given by a cremation authority to the applicant, and the applicant does not take them within a reasonable time, the cremation authority must give 14 days' notice to the applicant of its intention to dispose of the ashes before it does dispose of them.

Maximum penalty: 10 penalty units.

Register of cremations

55. (1) A cremation authority must maintain in the approved form a register of all cremations carried out by it.

(2) A cremation authority must make in the register an entry relating to each cremation immediately after the cremation has taken place, except that it must enter details relating to the disposal of ashes as soon as the ashes have been disposed of.

Maximum penalty: 10 penalty units.

Keeping of register and documents

56. (1) A cremation authority must keep all applications, certificates, permits and other documents relating to any cremation carried out by it and mark them with a number corresponding to the number in the register referred to in clause 55, and file them.

(2) The documents referred to in subclause (1) (but not the register of cremations or any part of it) may be destroyed by the cremation authority after the expiration of 15 years from the date of the cremation to which they relate.

(3) When a crematory is closed, its cremation authority must send all registers and documents relating to the cremations which have taken place there to the Director-General or otherwise dispose of them as the Director-General may direct.

Maximum penalty: 20 penalty units.

Division 7—General

Inspection

57. (1) An environmental health officer may enter and inspect a mortuary or premises that the officer has reason to suspect are mortuaries.

(2) An environmental health officer may enter a crematory and inspect any equipment or apparatus at the crematory.

Guidelines as defence

58. It is a defence to a prosecution for an offence against this Part if the defendant satisfies the court that the act or omission constituting the offence was done in compliance with any guidelines on crematories published by the Department.

PART 6—MICROBIAL CONTROL

Division 1—Preliminary

Definitions

59. (1) In this Part:

“**annually**”, in relation to an action to be taken with respect to a regulated system, or part of a regulated system, means taking the action before the expiration of each period of 12 months that next succeeds the later of:

- (a) the installation of the system or part; and
- (b) the commencement of the provision in which the expression occurs;

“**AS 3666**”, means the publication of the Standards Association of Australia called “Air-handling and water systems of buildings—microbial control”;

“**clean**” means visually free of sludge, slime, algae, fungi, rust, scale, dirt, dust or any deposit or accumulation of impurities or any other foreign material;

“monthly”, in relation to an action to be taken with respect to a regulated system, or part of a regulated system, means taking the action before the expiration of each named month that next succeeds the later of:

- (a) the installation of the system or part; and
- (b) the commencement of the provision in which the expression occurs,

and **“three-monthly”** has a corresponding meaning;

“operation area”, in relation to any regulated premises, means the part of the premises on which a regulated system is installed;

“process of disinfection” means a process designed to control microbial growth in a regulated system.

(2) Unless it is otherwise defined in the Act or this Regulation, an expression used in this Part and in AS 3666 has the same meaning as it has in AS 3666.

Premises excluded

60. A dwelling is not regulated premises for the purposes of Part 4 of the Act unless it is provided with a water-cooling system.

Division 2—Installation requirements

Installation of air-handling systems

61. For the purposes of section 45 of the Act, the following are prescribed installation requirements for an air-handling system:

- (a) section 2 of AS 3666 is to be complied with, except to the extent that this Part provides otherwise;
- (b) supply air filters are to be fitted to the system;
- (c) the system is to be so installed that drainage or liquid discharge from any component of the system is discharged into a waste water system, or otherwise disposed of, as approved by the relevant public authorities;
- (d) on completion of installation, and before being brought into service, the system is to be cleaned.

Installation of hot-water systems and warm-water systems

62. (1) For the purposes of section 45 of the Act, the following are prescribed installation requirements for a hot-water system and a warm-water system:

- (a) a system automatically producing warm water for ablution purposes is not to be installed unless it is of a kind approved by the Director-General;
 - (b) AS 3666 is to be complied with, except to the extent that this Part provides otherwise;
 - (c) the system is to be so installed that drainage or liquid discharge from any component of the system is discharged into a waste water system, or otherwise disposed of, as approved by the relevant public authorities;
 - (d) on completion of installation, and before being brought into service, the system is to be cleaned.
- (2) An application for the approval of the Director-General for a system producing warm water for ablution purposes is to be accompanied by a fee of \$100.

Installation of water-cooling systems

63. For the purposes of section 45 of the Act, the following are prescribed installation requirements for a water-cooling system:

- (a) section 4 of AS 3666 is to be complied with, except to the extent that this Part provides otherwise;
- (b) the system is to be so installed that drainage or liquid discharge from any component of the system is discharged into a waste water system, or otherwise disposed of, as approved by the relevant public authorities.

Operation and maintenance manuals

64. (1) For the purposes of section 45 of the Act, an additional prescribed installation requirement for any regulated system is that the occupier of the operation area where the system is installed is given both an operation manual and a maintenance manual for the system, each of which is either published by the manufacturer or supplier of the system or approved by the Director-General and each of which conforms with this clause.

(2) An operation manual and a maintenance manual may be combined in one document.

(3) An operation manual must include, but need not be limited to, physical details of the system and operating and shut-down procedures.

(4) A maintenance manual must include, but need not be limited to, physical details of the system and maintenance and shut-down procedures.

(5) An application for the approval of the Director-General for an operation manual or a maintenance manual is to be accompanied by a fee of \$100.

Division 3—Operating requirements

General operating requirements

65. For the purposes of section 46 of the Act, the following are prescribed operating requirements for a regulated system:

- (a) the system is to be operated as required by the operation manual referred to in clause 64;
- (b) a copy of the operation manual is to be kept in a readily accessible position, and available 24 hours a day, in the operation area where the system is installed;
- (c) another copy of the operation manual is to be made available to a maintenance contractor or authorised officer (if requested by the contractor or officer) on the premises where the system is installed.

Disinfection process

66. (1) For the purposes of section 46 of the Act, it is an additional prescribed operating requirement for:

- (a) a warm-water system; and
- (b) a water-cooling system,

that the system may be operated only if equipped with a disinfection process of a kind approved by the Director-General and only if that process itself is in operation.

(2) An application to the Director-General for approval of a disinfection process is to be accompanied by a fee of \$1,000.

Division 4—Maintenance requirements in general

Maintenance precautions

67. If maintenance of a regulated system is being carried out on the premises on which it is installed, the contractor, or any other person

carrying out the maintenance otherwise than as an employee, is guilty of an offence if appropriate measures are not taken:

- (a) to minimise contamination of adjoining areas and the ambient environment by aerosols, dust, particulate matter or effluent; and
- (b) to prevent public access to the area in which the maintenance is being carried out.

Maximum penalty: 20 penalty units.

Maintenance requirements

68. For the purposes of section 46 of the Act, the following are prescribed maintenance requirements for a regulated system:

- (a) the plant is to be maintained as provided by the maintenance manual referred to in clause 64 and as provided by this Part;
- (b) a copy of the maintenance manual is to be kept in a readily accessible position, and available 24 hours a day, in the operation area where the system is installed;
- (c) another copy of the maintenance manual is to be made available to a maintenance contractor or an authorised officer (if requested by the contractor or officer) on the premises where the system is installed;
- (d) on each day on which an inspection is made in order to determine the nature of any maintenance work required on the system, a written record of the making of the inspection, the findings of the inspection and the date of the inspection is to be made;
- (e) on each day on which maintenance work is carried out on the system, a written record of the date on which the work is done as well as the nature of the work and the name of the person doing the work (and the name of the employer, if the work is done by the person as an employee) is to be made, and the record is to be signed by that person.

Keeping of records

69. A person who, within 7 years after the making of a record under clause 68, without the approval of the Director-General, removes the record from the premises to which it relates is guilty of an offence.

Maximum penalty: 10 penalty units.

Division 5—Maintenance of air-handling and evaporative cooling systems**Monthly maintenance of air-handling systems**

70. For the purposes of section 46 of the Act, the following are prescribed maintenance requirements for air-handling systems:

- (a) outside air intakes and exhaust outlets are to be inspected monthly and any maintenance work found to be necessary as a result of the inspection is to be carried out within a reasonable time before the next such monthly inspection;
- (b) line strainers, valves, sparge pipes, spray nozzles and components discharging moisture into the airstream within humidifiers are to be inspected monthly and any maintenance work found to be necessary as a result of the inspection is to be carried out within a reasonable time before the next such monthly inspection;
- (c) tanks, trays and discharge devices within humidifiers are to be inspected monthly and any maintenance work found to be necessary as a result of the inspection is to be carried out within a reasonable time before the next such monthly inspection.

Seasonal shutdown procedure for air-handling systems

71. For the purposes of section 46 of the Act, a prescribed maintenance requirement for an air-handling system, or component of an air-handling system, that is shut down on a seasonal basis is that the system or component is to be inspected immediately after being shut down and any maintenance work found to be necessary as a result of the inspection is to be carried out within a reasonable time.

Annual maintenance of air-handling systems

72. (1) For the purposes of section 46 of the Act, the requirements of this clause are prescribed maintenance requirements for air-handling systems.

(2) The following parts of an air-handling system are to be inspected annually and cleaned if the inspection discloses this to be necessary:

- (a) coils, trays and sumps;
- (b) condensate drains, tundishes and traps;
- (c) ductwork in the vicinity of moisture-producing equipment and at access points in the vicinity of fire dampers;
- (d) terminal unit components.

(3) After condensate drains, tundishes or traps are cleaned, all drainage lines are to be flushed.

Maintenance of evaporative cooling systems

73. For the purposes of section 46 of the Act, the following are prescribed maintenance requirements for evaporative cooling systems:

- (a) sumps are to be drained and cleaned at three-monthly intervals or more frequently if necessary;
- (b) wetted pads are to be cleaned at three-monthly intervals or more frequently if necessary;
- (c) water strainers are to be cleaned at three-monthly intervals or more frequently if necessary;
- (d) if an air filter is fitted, it is to be cleaned or replaced when necessary;
- (e) the drainage system is to be cleaned at three-monthly intervals or more frequently if necessary.

Division 6—Maintenance of hot-water systems and warm-water systems

Maintenance of hot-water systems

74. (1) For the purposes of section 46 of the Act, a prescribed maintenance requirement for a hot-water system is that such maintenance work is carried out as may be necessary to ensure that subclause (2) is satisfied.

(2) At any time when the system is in operation, it must deliver water at each outlet each time the outlet is turned on at not less than 60 degrees Celsius, once any water standing in the pipe to that outlet before it was turned on has been expelled.

Maintenance of warm-water systems

75. For the purposes of section 46 of the Act, the following are prescribed maintenance requirements for a warm-water system:

- (a) the system is to be internally inspected annually and, if necessary, cleaned;
- (b) the system's water treatment units are to be inspected monthly;
- (c) such maintenance work is to be carried out (whether or not as a result of an inspection under paragraph (a) or (b)) as may be necessary to ensure that the system is operating correctly.

Division 7—Maintenance of water-cooling systems**Maintenance of water-cooling systems**

76. (1) For the purposes of section 46 of the Act, the following are prescribed maintenance requirements for water-cooling systems:

- (a) the system is to be inspected monthly and any maintenance work found to be necessary as a result of the inspection is to be carried out within a reasonable time before the next such inspection;
- (b) whether or not it is found to be necessary, the system is to be cleaned at three-monthly intervals or at such longer intervals as may, in a particular case, be approved by the Director-General;
- (c) if a water-cooling system is operated on a seasonal basis, it is to be drained as soon as practicable after being shut down and, if it cannot be shut down, treatment of the water is to be maintained even when the system is not in operation;
- (d) before a water-cooling system operated on a seasonal basis is re-commissioned after being shut down, it is to be inspected and any maintenance work found to be necessary as a result of the inspection is to be carried out.

(2) An application for the approval of the Director-General to clean a water-cooling system at intervals longer than 3 months is to be accompanied by a fee of \$100.

Division 8—Miscellaneous**Legionnaires' disease**

77. (1) Any investigation of an outbreak of Legionnaires' disease is to be carried out in accordance with the Legionnaires' Disease Emergency Management Plan of the Department and each local authority is to keep the necessary contact lists as required by the plan.

(2) An authorised officer investigating an occurrence of Legionnaires' disease may, by order served on the occupier of premises described in the order, direct that a regulated system that is on the premises and is described in the order be maintained as directed by the order while it is in force.

(3) For the purposes of section 46 of the Act, directions given in an order in force under this clause are prescribed maintenance requirements.

(4) To the extent to which directions given in an order in force under this clause are inconsistent with any other provision of this Regulation, the directions prevail.

Register of water-cooling, evaporative cooling and warm-water systems

78. (1) Each local authority is to maintain a register of water-cooling systems, evaporative cooling systems and warm-water systems installed on regulated premises in its area.

(2) An entry in the register is to be made for such a system when the local authority becomes aware of any of the particulars relating to the system that are referred to in subclause (3).

(3) An entry in the register relating to a system is to show the following:

- (a) the type of system;
- (b) the address of the premises on which the system is installed;
- (c) the name, and the residential and business addresses, of the owner of the premises and, if the operation area on the premises is occupied otherwise than by the owner, those particulars in relation to the occupier;
- (d) the telephone numbers at which, during business hours and after business hours, the persons referred to in paragraph (c) may be contacted;
- (e) details of any inspections carried out by the local authority for the purposes of the Act.

(4) The register is to be so maintained that from it the entries may be quickly retrieved in alphabetical order according to the name of the suburb or city forming part of the address of the premises to which the entries relate.

(5) A person who is the owner or occupier of premises where a system is installed in respect of which particulars are required to be kept under this clause is guilty of an offence if the local authority is not provided with the particulars (other than those relating to inspections):

- (a) within 1 month after the person is required by the local authority to provide the particulars; or
- (b) if there is an alteration to particulars previously provided—within 1 month after the alteration.

Maximum penalty—subclause (5): 10 penalty units.

Code as defence

79. It is a defence to a prosecution for an offence against this Part if the defendant satisfies the court that the act or omission constituting the offence was done in compliance with any code of practice on microbial control published by the Department.

PART 7—MISCELLANEOUS**Public authorities to notify public health risks**

80. If a public authority considers, on reasonable grounds, that a situation has arisen in which the health of the public is, or is likely to be, at risk, the public authority is to notify the Medical Officer of Health of the district in which the area for which the public authority is responsible is located.

Particulars of notifiable diseases

81. For the purposes of section 69 of the Act, a chief executive officer of a hospital is to provide the Director-General:

- (a) concerning persons suffering from cancer—with the particulars required for the completion of the “Cancer Notification Form” published by the New South Wales State Cancer Council; or
- (b) concerning persons suffering from notifiable diseases other than cancer—with the particulars required for the completion of the “Doctor/Hospital Notification Form” published by the Department.

Vermin

82. An occupier of premises must take reasonable measures to keep the premises free from fleas, other disease-carrying insects, rats and mice (except any such animals kept as pets).

Maximum penalty: 20 penalty units.

Sleeping rooms

83. (1) The occupier of premises must not allow any room or cubicle within the premises to be used for the purposes of sleeping accommodation unless:

- (a) the room or cubicle has a floor area of 5.5 square metres or more for each person sleeping in it; or
- (b) the room or cubicle has been exempted by the Minister under subclause (2) and complies with any conditions attached to the exemption.

Maximum penalty: 5 penalty units.

(2) The Minister may, by order in writing, exempt an occupier in relation to any room or cubicle from the requirements of subclause (1), either conditionally or unconditionally, if satisfied that the exemption will not result in any adverse effect on the health of persons sleeping in the room or cubicle.

Anthrax

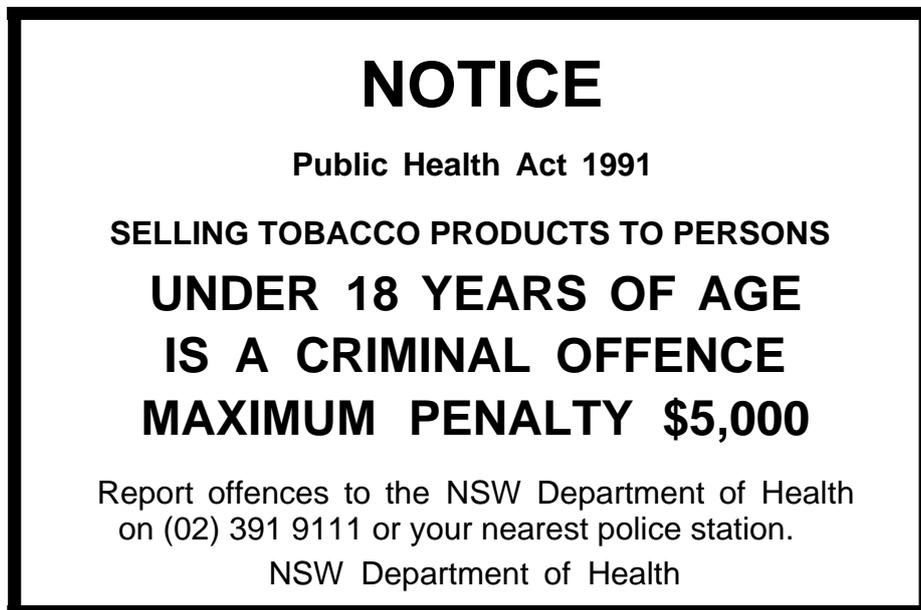
84. A person must not sell, offer for sale, consign, transmit, deliver for sale, use in any manufacturing process, or receive for the purposes of business any hide, portion of a hide, hair or wool of any animal which is suffering, or which has died, from anthrax.

Maximum penalty: 20 penalty units.

Sign where tobacco sold

85. A person must not sell a tobacco product unless, at the place where the product is sold, a sign is displayed to customers at the place, and that sign:

- (a) is at least 15 cm tall and at least 21 cm wide; and
- (b) has a white background; and
- (c) has a text in black characters in or to the effect of the following form and maintaining approximately the same proportions of character size and empty space as does the following form:



Maximum penalty: 20 penalty units.

Approvals by Director-General

86. (1) An application for an approval by the Director-General under this Regulation is to be accompanied by such information relevant to the application as is required by the Director-General.

(2) An approval given by the Director-General for the purposes of this Regulation:

- (a) may be given subject to conditions specified in the instrument giving the approval; and
- (b) does not operate, or ceases to operate, if there is a failure to comply with any such conditions.

Guidelines and codes

87. A copy of any guideline, or code of practice, published by the Department and referred to in this Regulation is to be made available by the Department (on the payment of such reasonable charge (if any) as the Director-General determines) to any member of the public who requests it.

PART 8—SAVINGS**Commencement**

88. This Part is taken to have commenced (subject to clause 1 (3) of Schedule 4 to the Act) on the repeal of the Public Health Act 1902.

Use of dangerous substances

89. Part 12 of the Public Health Regulations, as in force under the Public Health Act 1902 immediately before the repeal of that Act, continues in force under the Public Health Act 1991, and may be amended or repealed under the latter Act, as if section 71C of the former Act were still in force.

Funeral industries

90. (1) Clauses 1–13, 16A–16D, 35–39, 41 and 42 and 59 and 60, as well as Forms 1–5 and 7–9 of Schedule 1, of the Public Health (Funeral Industries) Regulation 1987, as in force under the Public Health Act 1902 immediately before the repeal of that Act, continue in force as an ordinance under the Local Government Act 1919.

(2) In the provisions continued in force under subclause (1), a reference to the Minister is to be taken as a reference to the Minister administering the Local Government Act 1919, and a reference to the Secretary is to be taken as a reference to the Director-General of the Department of Local Government and Co-operatives.

Cremation applications, certificates and permits

91. (1) An application for permission for cremation, a cremation certificate or a cremation permit made or issued under the Public Health (Funeral Industries) Regulation 1987 is taken as made or issued as the equivalent application, certificate or permit under this Regulation.

(2) Registers of cremations, and documents relating to cremations, required to be kept under the Public Health (Funeral Industries) Regulation 1987 immediately before the repeal of Part 6A of the Public Health Act 1902, are required to be kept under this Regulation as if they had been created under this Regulation.

Skin penetration: register

92. A register required to be maintained under clause 6 of the Public Health (Skin Penetration) Regulation 1985, as in force under the Public Health Act 1902 immediately before the repeal of that Act, is to be maintained by virtue of this clause.

SCHEDULE 1—PERINATAL DEATHS: PARTICULARS

(Cl. 5)

1. Full name of mother of deceased infant
2. Usual residential address of mother at time of birth of deceased infant
3. Date of birth of mother
4. Date of first day of mother's last menstrual period (if known) and estimated gestational age of deceased infant at time of birth
5. Date of birth of infant
6. Vital status at time of birth: liveborn or stillborn
7. Date of death (if liveborn)
8. Name of hospital of birth, or address of place of birth (if not a hospital)
9. For liveborn infant, name of hospital where death occurred, or address of place of death (if not a hospital)
10. Sex of infant
11. Plurality: single or multiple birth
12. If multiple birth: total number of infants at that birth
13. If multiple birth: the number of the deceased infant in the birth order
14. Birthweight in grams
15. Cause of death, as recorded on Medical Certificate of Cause of Perinatal Death

SCHEDULE 2—SUDDEN INFANT DEATH SYNDROME: PARTICULARS
(Cl. 5)

1. Full name of mother of deceased infant
 2. Usual residential address of mother at time of birth of infant
 3. Date of birth of mother
 4. Full name of infant
 5. Date of birth of infant
 6. Name of hospital of birth, or address of place of birth (if not a hospital)
 7. Sex of infant
 8. Usual residential address of infant
 9. Address of place at which infant was found deceased or moribund
 10. Date of death of infant
-

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SCHEDULE 1—PERINATAL DEATHS: PARTICULARS

SCHEDULE 2—SUDDEN INFANT DEATH SYNDROME: PARTICULARS

EXPLANATORY NOTE

This Regulation complements the Public Health Act 1991 in two principal ways.

Firstly, it requires a number of procedures to help control the spread of serious diseases. Secondly, it requires hygienic procedures for the preparation and burial or cremation of the dead, as well as ensuring cremations are carried out only after appropriate checks as to identity and cause of death.

In doing this, the Regulation picks up the essential provisions of the old Public Health Regulations and fits them into the context of the new Public Health Act 1991.

The Regulation refers many times to the term “scheduled medical condition”, a concept which groups disparate events which are all of significance in a public health sense. They include the birth of a child, adverse reactions to immunisation, and a large number of serious illnesses.

The Regulation provides for the notification and registration of scheduled medical conditions and requires procedures to avoid the spread of serious diseases notably in:

- (a) the operation of a public swimming pool or spa;
- (b) the installation and operation of large air-conditioning and water-heating system;

- (c) procedures that may involve the penetration of a client's skin (for example testing for blood cholesterol or blood sugar, acupuncture, tattooing, ear-piercing and the removal of hair);
- (d) the handling of bodies for burial or cremation and the exhumation of bodies.

Most of the Regulation is to commence on 18 November 1991. However, to allow time for operators of large air-conditioning and some water-heating and cooling systems to prepare, some of the provisions dealing with these systems will commence only in May 1992 or November 1992.
