

Fact sheet

South Australian Public Health Act 2011

What is public health legislation?

Public health legislation sets in law the standards, rules and powers used to preserve, protect and promote the public's health.

South Australia's existing public health legislation is the *Public and Environmental Health Act 1987*, but the *Public Health Act 2011* has recently been approved by Parliament and will replace the current Act in stages over two years.

Why is South Australia's public health legislation being changed?

Legislation is needed to preserve, protect and promote the health of South Australian people. The new law is modern, looks to the future and takes into account the best available evidence for public health.

Disease can spread around the globe within twenty-four hours. Fast and flexible public health strategies will help prepare for, prevent and where needed, manage public health risks.

Social and environmental conditions can significantly affect people's health. Therefore, governments, businesses and communities need to be able to work together to plan for better public health.

The current *Public and Environmental Health Act* has been in place since 1987. While it has many of the provisions needed to protect the public, the legislation needed to be updated to reflect today's public health concerns.

The new legislation will help the State prepare and respond to modern public health risks by:

- > allowing health officials to take immediate action on a health hazard that presents a serious and immediate threat to public health
- > providing stronger powers to health professionals, so they can take action to minimise the risk of communicable diseases
- > creating a new position in the Chief Public Health Officer who can use special powers to respond to an epidemic, threat of an epidemic or other significant public health emergencies
- > improving coordination between health officials to plan for and deal with public health issues
- > defining the roles and powers of public health officials
- > providing guidance and codes of practice to help tackle the growing incidence of chronic non-communicable conditions in our community



What are some of the major differences between the current legislation and the new *South Australian Public Health Act 2011*?

The new Act contains a number of new provisions; including establishing

- > A statutory position in the Chief Public Health Officer (CPHO) who will lead the state's public health effort and provide an independent source of public health advice to the Minister for Health. The powers given to the CPHO are already set out in the current Act, but are assigned to the Chief Executive of the Health department. The new Act will ensure the person exercising these powers will have a high degree of public health experience and qualifications.
- > Comprehensive powers to deal with communicable diseases and health hazards are set out, allowing public health officials to take appropriate action in preventing and controlling such risks and hazards.
- > Raised fine levels and penalties for endangering people's health, consistent with other public protection legislation.
- > A way for state and local governments to better plan for public health by providing for the development of a State Public Health Plan. Local councils will be encouraged to incorporate public health into their existing planning processes.

For the first time it guarantees a range of rights and responsibilities for citizens in regard to public health. These include:

- > The protection of their privacy
- > The right to be treated with respect and dignity
- > The right to be included in decisions about themselves
- > The right to have the least restrictions placed on their liberty as necessary in situations where stronger public health measures (like detention or quarantine) are required.

It provides for the Minister to develop voluntary codes of practice for industry, business and other parts of the community, with the aim of preventing non-communicable conditions. This will give guidance on how to best prevent the spread of non-communicable conditions (such as heart disease, diabetes, obesity and some forms of cancer). These conditions are major causes of mortality in our community, and as such, major public health threats.

Certain contaminants which may be a risk to health that have been found in food or the environment will be made formally notifiable. This is an early warning system and means public health authorities are notified before someone gets sick. Faster action can then take place to protect the community's health.

The Minister may establish guidelines, standards and policies for health promotion aspects of public health.



How does the new legislation help protect the public against pandemics and other public health emergencies?

Emergency provisions in the current *Public and Environmental Health Act 1987* were included in 2009 and will be transferred to the new Act. These powers enhance South Australia's ability to take immediate, effective action during a public health emergency, such as a pandemic.

It ensures that public health officials have the necessary authority to take action that will prevent the spread of disease or other health hazards, including quarantine and isolation measures, closures of public places and seizure or destruction of hazardous materials.

How will the new legislation change powers or responsibilities of health officials?

- > The current legislation sets out the powers and responsibilities of public health officials, and many of these will simply be moved over to the new Act.
- > The new Act clearly set out principles which will guide how public health workers apply the legislation.
- > All of the powers public health officials can exercise are in the interest of protecting public health.

In the new legislation, are there protections in place for people affected by a public health official's orders (for example, if a person is ordered to be under detention)?

- > The Act states that orders made by public health officials can be reconsidered and reviewed. A review panel of relevant experts will be established to hear reviews and make speedy determinations on these matters. A judicial review by the District court will also be available. Powers of detention will come under the automatic review of the Supreme Court.
- > A person subject to public health orders because of an infectious disease will have their rights protected by the new Act as mentioned previously, consistent with ensuring the safety of the wider public's health.

Will the new Act result in shifting responsibility for public health from state to local governments?

- > Public health has always been and will continue to be a shared responsibility between the State Government and local government. The Act supports the continuation of this partnership and clarifies how the responsibility is shared.
- > Councils will continue to be the public health authority for their community. SA Health will continue to work with and support Councils in their work, providing specialist advice and assistance.



How does it affect the general public?

- > The overall purpose of the Act is to provide the South Australian community with the tools to preserve protect and promote the public's health. Public health officers from state and local government will have capacity to partner and plan with the community for better public health. They will have the power to move rapidly where there are identified public health risks so harm is prevented, or can manage and remediate public health problems.
- > The Act provides the government with clear measures to take action against people or organisations that may be endangering the state's public health, such as the discharging of dangerous chemicals, which pose a risk to public health.
- > Early notification of contaminants in food and the environment will prevent people becoming sick much sooner than under the previous legislation.
- > It encourages businesses and industry to consider the cause of non-communicable conditions to better the safety and quality of their products. This means that consumers are getting healthier and safer products and public health becomes a shared responsibility.
- > The Act protects a person's rights when powers have been used against them to contain risks to public health.
- > The Act is modern and flexible, so will be able to quickly adapt to protect the public from risks that are not yet known.

When will the new legislation come into effect?

The new Act was approved by Parliament in June 2011. Some aspects of it come into effect immediately.

The rest of the Act will be rolled out in a staged implementation process over 2 years. It will run concurrently with the *Public and Environmental Health Act 1987* over that period, and will then completely replace it.

For more information

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