

Serial 45  
Public and Environmental Health Legislation Amendment Bill 2022  
Ms Fyles

A Bill for an Act to amend the *Public and Environmental Health Act 2011* and  
the *Public and Environmental Health Regulations 2014*



NORTHERN TERRITORY OF AUSTRALIA

PUBLIC AND ENVIRONMENTAL HEALTH LEGISLATION AMENDMENT  
ACT 2022

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Act No. [ ] of 2022

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# NORTHERN TERRITORY OF AUSTRALIA

Act No. [ ] of 2022

An Act to amend the *Public and Environmental Health Act 2011* and the  
*Public and Environmental Health Regulations 2014*

[Assented to [ ] 2022]  
[Introduced [ ] 2022]

The Legislative Assembly of the Northern Territory enacts as follows:

## Part 1 Preliminary matters

### 1 Short title

This Act may be cited as the *Public and Environmental Health Legislation Amendment Act 2022*.

### 2 Commencement

This Act commences on the day after the day on which the Administrator's assent to this Act is declared.

## Part 2 Amendment of Public and Environmental Health Act 2011

### 3 Act amended

This Part amends the *Public and Environmental Health Act 2011*.

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**4 Section 4 amended (Definitions)**

Section 4

*insert*

**COVID-19** means the Coronavirus disease named "COVID-19" by the World Health Organization.

**5 Section 52A amended (CHO's power to charge fees during emergencies)**

Section 52A(1)

*omit*

and remain quarantined at a place after entering the Territory from a place outside the Territory

*insert*

quarantine and remain quarantined at a place

**6 Section 52B inserted**

After section 52A

*insert*

**52B Determination regarding emergency fee money**

- (1) The Minister may, in writing, determine that a fee or class of fees charged by the CHO under section 52A is Commonwealth money.
- (2) Despite section 52A(3), a fee determined to be Commonwealth money under subsection (1) is a debt due to the Commonwealth.
- (3) A determination under subsection (1) may have effect on and from 23 October 2020 or any later date.

**7 Section 55 amended (Report on public health emergency)**

After section 55(1)

*insert*

- (1A) After an emergency declaration that is extended by the Minister under section 50(2) ceases to be in force, the CHO may, instead of the report mentioned in subsection (1), make a report to the Minister summarising the matters set out in that subsection.

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**8 Division 2A inserted in Part 5**

After section 57

*insert*

**Division 2A Post-emergency powers: COVID-19 pandemic****57A Application of Division**

- (1) Subject to subsection (2), this Division has effect for 2 years immediately following the day the declaration of the public health emergency in relation to the COVID-19 pandemic made under section 48 on 18 March 2020 and published in *Gazette* No. S10 of 18 March 2020, as extended from time to time, is revoked or ceases to have effect.
- (2) This Division ceases to have effect if the Minister makes a further declaration under section 48 in relation to the COVID-19 pandemic.
- (3) Nothing in this Division affects anything in, or anything done under, Division 2.
- (4) In the event of an inconsistency between a provision of or under this Division and another provision this Act (other than Division 2), the provision of or under this Division prevails to the extent of the inconsistency.
- (5) In the event of an inconsistency between a provision of or under this Division and the *Notifiable Diseases Act 1981*, the provision of or under that Act prevails to the extent of the inconsistency.

**57B CHO's powers**

- (1) While this Division is in effect, the CHO may take the same actions (including giving oral or written directions) that may be taken under section 52 as if the declaration mentioned in section 57A(1) was still in force.
- (2) Without limiting subsection (1) or section 52, directions the CHO may give include directions:
  - (a) requiring a person be tested for COVID-19; or
  - (b) requiring a person who tests positive or who declines to be tested to isolate for a specified period as directed; or
  - (c) requiring a person who is at risk of COVID-19 infection to quarantine at a suitable location or in a suitable facility; or

- (d) regulating the conduct of a person:
    - (i) while required to isolate or quarantine; or
    - (ii) after the person leaves isolation or quarantine; or
  - (e) in relation to a particular event or premises, if there is reason to believe there is a risk of transmission of COVID-19 at that event or on those premises; or
  - (f) requiring a person to register their presence at a place or premises, including by use of technology; or
  - (g) imposing restrictions or conditions on activities of a person based on:
    - (i) whether the person is vaccinated against COVID-19; or
    - (ii) how many COVID-19 vaccine doses the person has received; or
  - (h) physical health measures, including the following:
    - (i) requirements to wear masks;
    - (ii) physical distancing in public from persons unknown or who are not a member of a person's household;
    - (iii) placing limitations on movements or activities of people, including any of the following:
      - (A) requiring a person to remain at their residential premises;
      - (B) restricting the number of visitors a person may host at a place or premises;
      - (C) restricting the number of persons who may attend an event;
      - (D) restricting the movement of people within a community or between communities, including prohibiting people from entering or leaving an area or community; or
  - (i) any direction that in the opinion of the CHO is necessary, appropriate or desirable to reduce harm from COVID-19.
- (3) A direction under this section must not prevent:
- (a) a resident of the Territory from entering the Territory; or



- (b) a person from leaving the Territory.

**57C Conditions and consultation requirements for exercise of powers under section 57B**

- (1) The CHO must not give a direction of a type mentioned in section 57B(2)(f) to (i) unless the CHO, before giving the direction:
  - (a) takes into account social considerations and economic considerations, in addition to public health considerations; and
  - (b) consults with the following:
    - (i) the Chief Minister;
    - (ii) the Minister;
    - (iii) the Treasurer;
    - (iv) the Minister administering the *Police Administration Act 1978*;
    - (v) any other Minister nominated by the Chief Minister in relation to the proposed direction.
- (2) Consultation under subsection (1)(b) is not required to be in writing.
- (3) A written direction to which a consultation requirement under subsection (1) applies must state the ministers who were consulted.

**57D Publication requirements**

- (1) The CHO must publish any written direction given under section 57B(2)(b), (c) or (f) to (i).
- (2) Subsection (1) does not apply to a direction given directly to, or which names, a person or vessel.

**57E CHO's power to charge fees**

- (1) The CHO may charge a fee, of an amount decided by the CHO but no greater than the amount prescribed by regulation, to a person or class of persons for any action taken under section 57B(1) that requires the person or class to enter quarantine and remain quarantined at a place.
- (2) A person or class of persons must pay any fee determined under subsection (1) that is charged to the person or class.
- (3) The fee is recoverable as a debt due to the Territory from the person or class of persons so charged.

**57F Determination regarding fee money**

- (1) The Minister may, in writing, determine that a fee or class of fees charged by the CHO under section 57E is Commonwealth money.
- (2) Despite section 57E(3), a fee determined to be Commonwealth money under subsection (1) is a debt due to the Commonwealth.

**57G Appointment and powers of authorised officers under this Division**

- (1) The CHO may:
  - (a) appoint authorised officers for the purpose of assisting the CHO in exercising the CHO's powers under this Division; and
  - (b) direct an authorised officer mentioned in paragraph (a) or another authorised officer to assist the CHO in exercising the CHO's powers under this Division.
- (2) An authorised officer assisting the CHO may use the force that is necessary and reasonable to do any of the following:
  - (a) enter a place to:
    - (i) save human life; or
    - (ii) prevent injury to a person; or
    - (iii) rescue an injured or endangered person;
  - (b) prevent entry into or close off an area or place;
  - (c) remove a person from an area or place;
  - (d) search for and seize a thing;
  - (e) search for, examine, copy, remove, and retain documents relating to this Division for so long as is reasonably necessary to take notes or extracts from, or take photographs or make copies of, the documents.
- (3) An authorised officer taking action to assist the CHO:
  - (a) may take the action at any time of the day; and
  - (b) is not required to give notice to any person of the officer's intention to take the action; and

- (c) is not required to obtain consent to take the action from any person concerned or the owner or occupier of any area or place concerned; and
- (d) is not required to hold a warrant or another form of authorisation required under a law in force in the Territory to:
  - (i) enter and remain at any place (including Aboriginal land) concerned; or
  - (ii) search any person or place concerned.

**57H Record of action taken under this Division**

- (1) The CHO must keep and maintain a signed written record of all the action the CHO takes under this Division, including the directions given, under section 57B.
- (2) In any proceeding in a court or before a person or tribunal exercising or performing powers or functions in a judicial manner, a record made under subsection (1) is evidence of the matters mentioned in the record and of the facts on which those matters are based.

**57J Report**

- (1) After this Division ceases to have effect, the CHO must make a report to the Minister summarising the following:
  - (a) the action the CHO has taken under this Division, including any the directions given by the CHO;
  - (b) the outcomes of the action taken under this Division.
- (2) The CHO must give the report to the Minister within 3 months after the date this Division ceases to have effect.
- (3) The Minister must table a copy of the report in the Legislative Assembly within 6 sitting days after the Minister receives the report.

**57K Contravention of direction**

- (1) A person commits an offence if:
  - (a) the CHO takes an action under section 57B that involves giving a direction, whether oral or written and whether specified in section 57B(2) or otherwise; and
  - (b) the person intentionally engages in conduct; and

- (c) the conduct results in a contravention of the direction and the person is reckless in relation to that result.

Maximum penalty: 400 penalty units.

- (2) Strict liability applies to subsection (1)(a).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

#### **57L Limitation on stay of operation of powers**

In any proceedings, including judicial review, a court, person or tribunal exercising or performing powers or functions in a judicial manner is not authorised to make an interlocutory order that has the effect of staying the operation of an action taken by the CHO under this Division.

#### **9 Section 113A amended (Coughing or spitting on certain workers)**

Section 113A(4)

*omit*

#### **10 Section 114 amended (Definitions for Part 9, Division 2)**

Section 114, definition ***declared provision***, after "56(1),"

*insert*

57K(1),

#### **11 Part 11, Division 5 inserted**

After section 141

*insert*

### **Division 5 Transitional matters for Public and Environmental Health Legislation Amendment Act 2022**

#### **142 Definition**

In this Division:

***commencement*** means the commencement of section 8 of the *Public and Environmental Health Legislation Amendment Act 2022*.

**143 Written directions of CHO**

- (1) A written direction given by the CHO under section 52 in force immediately before the commencement is taken to be a direction under section 57B.
- (2) The CHO must publish the title of any direction mentioned in subsection (1) in the *Gazette*.
- (3) A direction mentioned in subsection (1) is revoked 100 days after the commencement (if not earlier revoked).

**144 Appointment of and direction to authorised officers**

In relation to the declaration of the public health emergency mentioned in section 57A(1):

- (a) the appointment of an authorised officer under section 53(1)(a) in force immediately before the commencement is taken to be an appointment under section 57G(1)(a); and
- (b) a direction to an authorised officer under section 53(1)(b) that is in effect immediately before the commencement is taken to be a direction under section 57G(1)(b).

**Part 3 Amendment of Public and Environmental Health Regulations 2014****12 Regulations amended**

This Part amends the *Public and Environmental Health Regulations 2014*.

**13 Regulation 4B inserted**

After regulation 4A

*insert*

**4B Prescribed maximum fee – CHO's post-emergency powers: COVID-19**

For section 57E(1) of the Act, the prescribed maximum fee is \$10 000.

**14 Schedule 5 amended (Infringement notices and prescribed amounts)**

Schedule 5, after entry for section 56(1) of the Act

*insert*

section 57K(1)

32

160

**Part 4 Repeal**

**15 Repeal of Act**

This Act is repealed on the day after it commences.