PUBLIC HEALTH BILL 2014

The Legislation Committee reports that it has considered the Public Health Bill 2014, as referred to it by the Legislative Assembly.

Clauses already agreed to by the Legislative Assembly

1 and 2.

Agreed clauses

The Committee has agreed to the following clauses of the Bill:

3;
6 to 33;
36 to 45;
47;
48 to 89;
92 to 105;
107 to 145;
147 to 167;
169 to 173;
175 to 187;
188 to 228;
230 to 254;
268 to 279;
283 to 285; and
287 to 311.
Amendments and new clauses

The Committee has agreed to the following clauses with amendments, and new clauses:

No. 1

Clause 4.
Page 9, line 32 – To insert after the word 'health':
“and well-being”

No. 2

New Part 5A.
Page 43, after line 10 – To insert:

"Part 5A — Public health policies

47A. **Minister may issue public health policies**

(1) The Minister may issue public health policies for any purposes relating to the objects of this Act.

(2) A public health policy may be issued only if —

(a) sections 47B, 47C and 47E have been complied with in relation to a draft of the public health policy; and

(b) the Chief Health Officer has recommended under section 47E(2)(d) that the public health policy be issued.

47B. **Chief Health Officer may prepare and publish draft public health policies**

(1) If the Chief Health Officer considers that it is in the interests of public health for a public health policy to be issued under section 47A, the Chief Health Officer may prepare a draft of the public health policy and make it available for public comment.

(2) The Chief Health Officer must give public notice of the proposal to issue the public health policy, and the notice must —

(a) contain information about the draft policy; and

(b) specify where copies of the draft policy are available without charge; and

(c) invite interested persons to make submissions to the Chief Health Officer on the draft policy within a period specified in the notice; and

(d) specify how those submissions may be made.
(3) The notice required by subsection (2) may be published in any way the Chief Health Officer considers appropriate, including (without limitation) by posting the notice on a website maintained by or on behalf of the Department.

47C. Chief Health Officer to consult on proposal to issue public health policy

(1) The Chief Health Officer must make reasonable efforts to consult any public authority or other person or body that the Chief Health Officer considers may be affected if the draft policy becomes a public health policy under this Part.

(2) Consultation may be undertaken in any way that the Chief Health Officer considers appropriate in the circumstances, having regard to the number of persons or bodies considered likely to be affected as described in subsection (1).

47D. Submissions may be made to the Chief Health Officer

A person may make submissions to the Chief Health Officer, in the manner and within the period specified in the relevant notice required by section 47B(2), in relation to the draft policy to which that notice relates.

47E. Chief Health Officer to report to Minister on outcome of consultation on draft policy

(1) After the end of the period for making submissions under section 47B in relation to a draft policy, the Chief Health Officer —

(a) must consider any submissions made during that period and any views expressed by a public authority, person or body consulted under section 47C; and

(b) may —

(i) decide to recommend to the Minister that the draft policy be issued as a public health policy without revision; or

(ii) revise the draft policy to any extent the Chief Health Officer considers appropriate, and decide to recommend to the Minister that the draft policy (as revised) be issued as a public health policy; or

(iii) decide not to recommend to the Minister that the draft policy (whether revised or not) be issued as a public health policy.

(2) After deciding what to do under subsection (1)(b), the Chief Health Officer must submit a report to the Minister that contains —

(a) a summary of the consultation undertaken by the Chief Health Officer under section 47C in relation to the draft policy; and

(b) a summary of the submissions made to the Chief Health Officer under section 47D on the draft policy; and
(c) the Chief Health Officer’s decision under subsection (1)(b); and

(d) if the decision of the Chief Health Officer is to recommend to the Minister that the draft policy (whether revised under subsection (1)(b)(ii) or not) be issued as a public health policy —
   (i) the Chief Health Officer’s recommendation; and
   (ii) a copy of the draft policy (as revised, if applicable) that the Chief Health Officer recommends be issued as a public health policy; and
   (iii) if the Chief Health Officer has revised the draft policy recommended, the reasons for the revision.

(3) Nothing in this section prevents the Chief Health Officer from consulting any public authority, body or person in relation to a draft policy revised under subsection (1)(b)(ii) before submitting the report to the Minister.

47F. Tabling of reports and public health policies

(1) The Minister must cause a copy of a report submitted to the Minister by the Chief Health Officer under section 47E(2) to be laid before each House of Parliament as soon as is practicable after the Minister receives the report.

(2) The Minister must cause a copy of a public health policy issued under this Part to be laid before each House of Parliament as soon as is practicable after the policy is issued.

47G. Publication of reports and public health policies

(1) The Chief Health Officer must make the following publicly available without charge —
   (a) reports submitted to the Minister by the Chief Health Officer under section 47E(2);
   (b) current public health policies issued under section 47A.

(2) The Chief Health Officer may comply with subsection (1) in any way the Chief Health Officer considers appropriate, including (without limitation) by making the documents available on a website maintained by or on behalf of the Department.

47H. Application of Interpretation Act 1984 to public health policies

(1) A public health policy is not subsidiary legislation for the purposes of the Interpretation Act 1984.

(2) The Interpretation Act 1984 sections 43 (other than subsection (6)) and 44 and Part VIII apply to a public health policy as if it were subsidiary legislation.
471. **Power to make regulations not limited**

Nothing in this Part or in any public health policy limits or affects the power to make regulations under section 293 or 311.

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**No. 3**

Clause 90.

Page 74, line 25 – To delete “advocate” and substitute:

“representative”.

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**No. 4**

Clause 91.

Page 76, line 24 – To delete “relevant” and substitute:

“deceased”.

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**No. 5**

Clause 106.

Page 89, line 18 – To delete “advocate” and substitute:

“representative”.

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**No. 6**

Clause 146.

Page 120, line 6 – To delete “advocate” and substitute:

“representative”.

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**No. 7**

Clause 168.

Page 137, line 25 – To delete “advocate” and substitute:

“representative”.
No. 8

Clause 174.

Page 141, after line 8 – To insert:

"(6) This section overrides the Poisons Act 1964, the Medicines and Poisons Act 2014 and the Misuse of Drugs Act 1981.

".

No. 9

New Clause 187A.

Page 154, after line 20 – To insert:

"187A. Chief Health Officer may authorise persons to administer, manufacture, supply or prescribe poisons

(1) In this section —

poison —

(a) until the commencement of the Medicines and Poisons Act 2014 section 3, has the meaning given in the Poisons Act 1964 section 5(1); and

(b) after the commencement of the Medicines and Poisons Act 2014 section 3, has the meaning given in that section.

(2) For the purposes of emergency management during a public health state of emergency —

(a) the Chief Health Officer may authorise a person, or class of persons, to administer, manufacture, supply or prescribe a poison; and

(b) a person authorised under paragraph (a) may administer, manufacture, supply or prescribe a poison.

(3) The Chief Health Officer may give directions in relation to the exercise of a power under subsection (2)(b).

(4) When exercising a power under subsection (2)(b), a person must comply with —

(a) the terms and conditions of the authorisation (if any); and

(b) any directions of the Chief Health Officer given under subsection (3).

(5) This section overrides the Poisons Act 1964, the Medicines and Poisons Act 2014 and the Misuse of Drugs Act 1981.

".
New Clause 187B.

Page 154, after line 20 – To insert:

"187B. **Further provisions relating to authority to administer, manufacture, supply or prescribe poisons**

(1) In this section —

- *authorisation* means an authorisation given under section 187A(2)(a);
- *direction* means a direction given under section 187A(3).

(2) An authorisation —

a) is subject to any limitation in a declaration under section 158(3)(b) or 160 or 161; and

b) must state that it is given under section 187A; and

c) must generally describe the public health state of emergency to which it relates; and

(d) must specify —

   i) the person, or class of persons, to whom it applies; and

   ii) the poison, or class of poisons, to which it applies; and

   iii) the terms and conditions (if any) to which it is subject.

(3) The Chief Health Officer may vary or revoke an authorisation or a direction.

(4) Authorisations and directions, and variations and revocations of authorisations or directions —

   a) may be given orally or in writing; but

   b) if given orally, must be put in writing as soon as is practicable.

(5) A failure to put an authorisation or direction, or a variation of an authorisation or direction, in writing does not invalidate the authorisation, direction or variation or anything done under the authorisation or direction.

(6) The powers that an authorisation confers on a person are in addition to, and do not limit, the powers that the person may have under another written law or other law.

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No. 11
Clause 229.
Page 179, line 22 – To delete “subsection (3)(a)” and substitute:
“subsection (3)(b) ”.

No. 12
Clause 286.
Page 209, lines 13 to 16 – To delete the lines and substitute:
“
(4) A person who, at the request or direction of an authorised officer or emergency officer or a person authorised under section 187A(2)(a), assists the officer or person to exercise a power under this Act is to be taken to be performing a function under this Act for the purposes of this section.
”.

No. 13
Title of the Bill.
Page 1 – To insert after the word “health” in the long title:
“and well-being ”
Postponed clauses
The Committee has agreed to postpone the following clauses for consideration in the Legislation Assembly:

5;
34;
35 with the following amendment:
   Page 31; lines 3 and 4 deleted.
46;
255 to 267; and
280 to 282.

WENDY DUNCAN, MLA
CHAIR TO THE LEGISLATION COMMITTEE
DEPUTY SPEAKER OF THE LEGISLATIVE ASSEMBLY