

Health (Protection) Amendment Bill

Government Bill

Explanatory note

General policy statement

The Health (Protection) Amendment Bill gives effect to the Government's decision in October 2013 to improve the range of measures available to protect the public from the harm associated with some infectious diseases and with artificial UV tanning.

The Bill introduces measures to support 3 areas of public health practice to further protect the public from risks associated with the spread of infectious diseases of significant concern.

The first area relates to the tracing of people who may have an infectious disease, or may have been exposed to one. This is known as contact tracing. Moving from the current reliance on voluntary involvement, specific measures on contact tracing will improve the ability of public health staff to identify, isolate, and test the sources of infectious diseases in the community. Where voluntary consent is not gained, the Bill introduces a duty on a person who may have an infectious disease, or may have been exposed to one, to provide prescribed contact information. The Bill also places a duty on public health staff to keep patient and contact information private to the fullest extent possible. An offence is introduced for failing to provide the prescribed contact information. There is a fine of not more than \$2,000 upon conviction, and convictions can be appealed. The

practice of seeking voluntary consent for contact tracing will remain the preferred first option.

In the second area, the Bill increases the range of infectious diseases that are notifiable, thereby improving surveillance on infectious diseases of concern because of their long-term impact on health. The Bill makes gonorrhoeal infection, Human Immunodeficiency Virus (HIV) infection, and syphilis notifiable infectious diseases. This will improve the availability of information on the rates and prevalence of these diseases in the community. The Bill also makes new provisions for the notification of cases of these 3 diseases without disclosing information that identifies the individual with the infection. Measures to protect the identity of individuals are being introduced to allay concerns that people may not seek treatment if they believe their identity will be made public. The provisions for non-identifying notification do, however, place a duty on the notifying medical practitioner to provide identifying information to a medical officer of health if the medical officer needs to take measures to prevent the further spread of disease.

In the third area, the Bill provides a series of incremental options for the management of individuals with significant infectious diseases whose behaviour puts other people at risk of contracting a disease. Additional management provisions have been developed within a human rights framework, using principles of risk management and proportionality. The Bill places as few restrictions as possible on the person concerned while at the same time meeting public health objectives. The measures provide better tools for public health staff to deal with people with infectious diseases who, for whatever reason, do not voluntarily seek treatment or modify behaviour, thereby creating a public health risk. Where consent is not given (a minority of cases), the current legislation allows only for the detention of the infected person. Provisions in the Bill cover rights, duties, offences, penalties, a range of restrictive powers and procedures for directions, court orders, and urgent orders for people whose behaviour may place others at risk. Powers at the lesser end of the range (for example, the power to give directions) are able to be exercised by a medical officer of health. Directions are community-level measures, and may include directing people to seek testing, treatment, or counselling, or may involve directing people not to attend public places for specified periods of time.

The lack of such intermediate powers has been identified as a weakness in the current legislation. More restrictive powers (for example, detention) can only be exercised following a public health order made by the District Court. Considered as being higher-level measures, court orders may involve extending directions or applying new measures of a more serious nature.

Where urgent action is required to protect public health, an urgent public health order detaining an individual for up to 72 hours with immediate effect can be issued by a medical officer of health. Directions and orders are time limited and subject to review and appeal. The Bill creates offences for failing to comply with directions and orders. Penalties are limited to a fine upon conviction of not more than \$2,000, and convictions can be appealed. However, voluntary consent to treatment and the modification of risky behaviour will remain the preferred approaches for managing infection risk.

The Bill also introduces a ban on the provision of commercial artificial UV tanning services to people under 18 years of age. It has been shown that voluntary compliance with guidelines on the provision of commercial UV tanning services is low and is improving only slightly over time. Artificial UV tanning is associated with an increased risk of developing skin cancer, and evidence shows that younger people are more vulnerable to this risk.

Finally, the Bill makes a number of administrative changes that will streamline legislation. Most notable are the inclusion of tuberculosis as a notifiable infectious disease under the Health Act 1956, and the consequent repeal of the Tuberculosis Act 1948.

Departmental disclosure statement

The Ministry of Health is required to prepare a disclosure statement to assist with the scrutiny of this Bill. It provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2014&no=234&>.

Regulatory impact statement

The Ministry of Health produced regulatory impact statements in September and October 2013 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

Copies of these regulatory impact statements can be found at—

- <http://health.govt.nz/about-ministry/legislation-and-regulation/regulatory-impact-statements/proposed-health-protection-amendment-bill>
- <http://www.treasury.govt.nz/publications/information-releases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 relates to commencement. The Bill comes into force 6 months after the date on which it receives the Royal assent.

Clause 3 provides that the Health Act 1956 is the principal Act.

Part 1

Infectious diseases

Clause 4 amends section 2 (interpretation). The clause amends the existing definitions of communicable disease, contact, and premises. It inserts new definitions of educational institution, health provider, medical examination, medical examination order, public health order, and public health risk. The clause also inserts a *new subsection (4)*, in order to clarify that a reference to an individual with an infectious disease includes an individual who harbours the disease, even if that person does not exhibit any symptoms of the disease.

Clause 5 amends section 74, which requires medical practitioners to notify certain persons, including a medical officer of health, where a patient is or is likely to be suffering from a notifiable disease. The amendment provides that in giving notice of a notifiable disease, a medical practitioner must not disclose identifying information of the patient if the disease is one specified in *new section C* of Part 1 of Schedule 1. However, the medical officer of health may require the medical practitioner to disclose identifying information of patients known or suspected to have one of those diseases if disclosure is ne-

cessary to respond effectively to a public health risk. The amendment defines identifying information.

Clause 6 amends section 74AA, which requires a person in charge of a medical laboratory to notify a medical officer of health and the relevant health practitioner of the results of any test demonstrating that a person or thing is, or has been, or may be or may have been, infected with a notifiable disease. The amendment provides that in giving notice of a notifiable disease, the person in charge of the medical laboratory must not disclose identifying information of the person who is, or has been, or may be or have been, infected with a disease specified in *new section C* of Part 1 of Schedule 1. However, the medical officer of health may require the person in charge of a medical laboratory to disclose identifying information of patients known or suspected to have one of those diseases if disclosure is necessary to respond effectively to a public health risk.

Clause 7 inserts *new Part 3A (new sections 92A to 92ZZC)*, which deals with the management of infectious diseases.

New sections 92A to 92F set out the overarching principles that must guide action taken under *new Part 3A*. These principles are that—

- individuals must be given the opportunity to voluntarily comply with measures; and
- preference must be given to the least restrictive measure; and
- individuals should be treated with respect; and
- individuals affected by the exercise of powers should be properly informed about that exercise; and
- measures must not apply to individuals longer than is necessary.

New section 92G authorises a medical officer of health to give directions to an individual who poses a public health risk. The directions are designed to prevent or minimise the public health risk posed by the individual.

The directions that may be given to an individual include directions to—

- participate in counselling; and
- refrain from carrying out specified activities; and
- refrain from going to specified places; and

- refrain from associating with specified persons or specified classes of persons; and
- stay at a specified place of residence; and
- accept supervision by a named person.

A direction cannot require an individual to submit to compulsory treatment.

The medical officer of health must send the Director-General of Health (the **Director-General**) a copy of every direction.

New section 92H authorises a medical officer of health to give directions to an individual who has been in contact with a person who has, or may have, an infectious disease. The section replicates the directions that may be given under *new section 92G* to an individual who poses a public health risk.

New section 92I authorises a medical officer of health to direct an individual to undergo medical examinations to determine whether the individual has an infectious disease. The medical officer of health may only give a direction for medical examinations if he or she believes on reasonable grounds that the individual may have an infectious disease, and the individual has previously refused a request to be examined.

Until the medical examinations are completed, the medical officer of health may give the individual the same types of directions that may be given under *new section 92G* to an individual who poses a public health risk.

New section 92J authorises a medical officer of health to give directions to a person in charge of an educational institution if there is a significant risk that an infectious disease will be transmitted to persons attending the educational institution. The medical officer of health may direct that persons attending the educational institution remain at home or that all or part of the educational institution be closed.

New section 92K requires that directions or notices be in writing and served on the individual to whom they are given.

New section 92L specifies when directions cease to have effect, and provides that a direction cannot remain in effect for more than 6 months.

New section 92M requires a medical officer of health to regularly review directions that are in effect in order to consider whether the di-

rections are still required. The medical officer of health must rescind a direction if he or she is satisfied that the individual who is subject to the direction no longer poses a public health risk.

New sections 92N to 92P allow directions to be extended, repeated, varied, or rescinded.

New section 92Q provides for appeals against directions to the District Court.

New section 92R makes it an offence to fail, without reasonable excuse, to comply with a direction.

New section 92S provides that force may not be used to secure compliance with a direction.

New sections 92T to 92Y enable the District Court to make public health orders on the application of a medical officer of health.

New section 92T provides that the District Court may make a public health order if satisfied that the individual against whom the order is sought poses a public health risk. Under *new section 92U*, the District Court may impose on an individual a number of requirements the court considers necessary to prevent or minimise the public health risk posed by the individual. Requirements that may be imposed include detention, refraining from carrying out specified activities, refraining from going to specified places, refraining from associating with specified persons or specified classes of persons, staying at a specified place of residence, and a requirement to be treated for the infectious disease by a specified health provider. Before requiring the individual to be treated for the disease, the court must be satisfied that, short of detaining the individual indefinitely, treatment is the only effective means of managing the public health risk the individual poses.

New section 92V sets out matters that the District Court may take into account when assessing whether an individual poses a public health risk.

New section 92W specifies when a public health order ceases to have effect, and provides that a public health order must not remain in effect for more than 6 months.

New sections 92X and 92Y, respectively, provide that a public health order may be extended and clarify the relationship between directions and public health orders.

New section 92Z authorises a medical officer of health to make urgent public health orders. An urgent public health order may be made if an individual poses a public health risk, the medical officer of health cannot adequately manage the risk by giving a direction, and it is not practicable to wait for the District Court to determine an application for a public health order. The order requires an individual to be detained at specified premises and, under *new section 92ZA*, is limited in duration to 72 hours.

New section 92ZB enables the District Court to make medical examination orders on the application of a medical officer of health. The order may be made if the court is satisfied that the individual against whom the order is sought may have an infectious disease and the individual has previously refused a request to be examined for the disease. The medical examination order may impose certain requirements on the individual that may be imposed under a public health order, but the medical examination order and any requirements imposed under it only remain in effect until the medical examinations have been completed and it has been determined whether the individual has the infectious disease. Any medical examinations the individual is required to undergo must be in accordance with best practice, and must be the least invasive type of examination necessary to establish whether the individual has the infectious disease.

New section 92ZC enables the District Court to make a public health order at the same time as a medical examination order. However, the public health order will only take effect if the examinations completed under the medical examination order establish that the individual has the infectious disease for which he or she was examined.

New section 92ZD authorises the District Court to make an order imposing requirements on contacts of individuals who have, or may have, infectious diseases. The order ceases to have effect when a medical officer of health notifies a contact that he or she no longer poses a public health risk.

New sections 92ZE to 92ZG provide for procedural matters relating to applications for orders under *new Part 3A*, and appeals against directions.

New section 92ZE requires appeals and applications for orders to be heard and determined by Family Court Judges where practicable. Proceedings are not open to the public (*new section 92ZF*) and the

court may appoint lawyers to act for individuals aged under 16 years (*new section 92ZG*).

New sections 92ZH to 92ZM are general provisions concerning orders.

New section 92ZH authorises a medical officer of health to apply for an order under *new Part 3A* in respect of an individual who the medical officer believes, on reasonable grounds, poses a public health risk. If the infectious disease is not a notifiable disease, the application must not be made without the prior approval of the Director-General. *New section 92ZI* requires the medical officer of health to consult with an individual and the individual's family or whānau before applying for an order under *new Part 3A*. Consultation may take the form of a case conference (*new section 92ZJ*). *New section 92ZK* requires a medical officer of health to regularly review orders that are in effect in order to consider whether the orders are still required. The medical officer of health must apply to the District Court to cancel an order if he or she is satisfied that the order is no longer required. *New section 92ZL* provides for the cancellation or variation of orders. A District Court order may be varied by agreement between a medical officer of health and the individual subject to the order if the medical officer of health is satisfied that the public health risk posed by the individual can be met by a less restrictive measure than that provided for in the order (*new section 92ZM*).

New sections 92ZN and 92ZO provide for appeals against decisions of the District Court to the High Court and Court of Appeal, respectively.

New section 92ZP governs the use of force to induce compliance with an order. A medical officer of health and any assistants may use reasonable force to require an individual to comply with an order. However, force may not be used to require an individual to accept medical treatment. The medical officer of health must promptly advise the Director-General if force is used to induce compliance with an order. *New section 92ZQ* makes it an offence to not comply with an order made under *new Part 3A*.

New section 92ZR sets out the purpose of contact tracing, which is to obtain information about the contacts of individuals with infectious diseases in order to identify the source of an infectious disease,

encourage contacts to seek testing and treatment, and limit the transmission of the infectious disease.

New section 92ZS describes what contact tracing involves. The person undertaking contact tracing must identify and communicate with the contacts of an individual with an infectious disease in order to ascertain the source of the infection, and provide information about risks and advice on medical examination and treatment options.

New section 92ZT defines a contact tracer as a medical officer of health, health protection officer, or person nominated by a district health board or medical officer of health.

New section 92ZU provides that contact tracing is appropriate if a contact tracer considers the purpose of contact tracing will be satisfied.

New section 92ZV authorises a contact tracer to direct an individual with an infectious disease to provide the contact tracer with information about the circumstances in which the infectious disease may have been transmitted to, or by, the individual.

New section 92ZW authorises a contact tracer to ask an individual with an infectious disease to undertake contact tracing and report back to the contact tracer.

New section 92ZX sets out the circumstances in which a contact tracer, rather than an individual with an infectious disease, may undertake contact tracing.

New section 92ZY authorises a contact tracer to require an individual's employer, an educational institution, or any business or organisation with which the individual is associated to provide the names and addresses of the individual's contacts.

New section 92ZZ provides that, in undertaking contact tracing, a contact tracer must not disclose to a contact the identity of the individual with an infectious disease.

New sections 92ZZA and 92ZZB, respectively, authorise a contact tracer to delegate any of his or her functions, duties, or powers under *new Part 3A* and provide that the delegation continues until it is revoked.

New section 92ZZC makes it an offence to not provide information about contacts to a contact tracer.

Clause 8 amends section 117, which relates to making public health regulations. The amendment authorises regulations to be made for

the purposes of managing persons with infectious diseases and their contacts and identifying and communicating with contacts of persons with infectious diseases.

Clause 9 amends section 125, which relates to the medical examination of children. The amendment replaces the definition of child care centre with a new definition of early childhood education and care centre.

Clause 10 amends Schedule 1, which lists different kinds of infectious diseases and specifies whether they are notifiable. The amendment creates a new category of infectious diseases that are notifiable to a medical officer of health without identifying details of a patient or deceased person with the disease. The new category consists of Acquired Immunodeficiency Syndrome, gonorrhoeal infection, Human Immunodeficiency Virus (HIV) infection, and syphilis. Tuberculosis is included in the list of infectious diseases that are notifiable to a medical officer of health.

Clauses 11 and 12 repeal and revoke the Tuberculosis Act 1948 and the Tuberculosis Regulations 1951, respectively.

Part 2

Artificial UV tanning services

Clause 13 inserts *new Part 5 (new sections 113 and 114)*, which deals with the provision of artificial UV tanning services to persons under the age of 18 years.

New section 113 defines terms used in *new Part 5*, including artificial UV tanning services.

New section 114 bans owners and operators of premises from providing artificial UV tanning services to people under the age of 18 years. If the services are provided in contravention of the ban, the owner or operator commits an offence. The ban does not apply to a person who provides artificial UV tanning services to a person under the age of 18 years at a hospital, if a medical practitioner prescribed those services for the purpose of medical treatment. A defence to a charge under the section is provided, and is based on the owner's or operator's reasonable belief that the person receiving the artificial UV tanning services was over the age of 18 years.

Hon Jo Goodhew

Health (Protection) Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Health (Protection) Amendment Act **2014**.
- 2 Commencement**
This Act comes into force 6 months after the date on which it receives the Royal assent. 5
- 3 Principal Act**
This Act amends the Health Act 1956 (the **principal Act**).

Part 1
Infectious diseases

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Notification

- 4 Section 2 amended (Interpretation)**
- (1) In section 2(1), definition of **communicable disease**, delete “tuberculosis”.

- (2) In section 2(1), definition of **contact**, delete “within a period not exceeding the prescribed period of incubation of that disease”.
- (3) In section 2(1), replace the definition of **premises** with:
 “**premises** includes a commercial premises, private premises, 5
 ship, or aircraft”.
- (4) In section 2(1), insert in their appropriate alphabetical order:
 “**educational institution**—
 “(a) means any place where people gather for the purpose of 10
 education or training; and
 “(b) includes an early childhood education and care centre
 within the meaning of section 310(1) of the Education
 Act 1989
 “**health provider** means a person or an organisation that pro- 15
 vides, or arranges the provision of, personal health services or
 public health services
 “**medical examination** means the physical examination or
 testing of a person for the purpose of determining whether
 the person has or is likely to have an infectious disease, and
 includes— 20
 “(a) the taking of a sample of tissue, blood, urine, or other
 bodily material for medical testing; and
 “(b) any diagnostic tests required to detect the presence of
 an infectious disease in a person
 “**medical examination order** means an order made under 25
section 92ZB
 “**public health order** means an order made under **section**
92T
 “**public health risk** means a substantial risk of serious harm 30
 that 1 or more individuals who have, or may have, an infec-
 tious disease pose to the health or safety of 1 or more other
 persons because of the infectious disease, having regard to—
 “(a) the nature of the infectious disease, including, without
 limitation, the transmissibility and mode of transmis-
 sion of the infectious disease; and 35
 “(b) the relevant circumstances of the particular case”.
- (5) After section 2(3), insert:

“(4) In this Act, a reference to an individual who has an infectious disease includes an individual who harbours the disease, even if the individual does not exhibit any of the symptoms of the disease.”

5 Section 74 amended (Medical practitioners to give notice of cases of notifiable disease) 5

After section 74(3), insert:

“(3A) A medical practitioner who gives notice of a notifiable disease under subsection (1) or (3) must not disclose identifying information of the patient or deceased person if the disease is specified in **section C** of Part 1 of Schedule 1. 10

“(3B) Despite **subsection (3A)**, a medical officer of health may require a medical practitioner to disclose identifying information of the patient or deceased person if disclosure of the identifying information is necessary to respond effectively to a public health risk. 15

“(3C) In this section and section 74AA, **identifying information** means information that enables a person to be identified, including—

“(a) that person’s— 20

“(i) name:

“(ii) sex:

“(iii) date of birth:

“(iv) address:

“(v) place of work or education: 25

“(vi) national health index number:

“(b) any other information required by regulations made under this Act.”

6 Section 74AA amended (Medical laboratories to give notice of cases of notifiable disease) 30

After section 74AA(2), insert:

“(2A) A person in charge of a medical laboratory who gives notice of a notifiable disease under subsection (2) must not disclose identifying information of a person who is, or has been, or may be or may have been, infected with a disease specified in **section C** of Part 1 of Schedule 1. 35

“(2B) Despite **subsection (2A)**, a medical officer of health may require a person in charge of a medical laboratory to disclose identifying information of the person who is, or has been, or may be or may have been, infected with a disease if disclosure of the identifying information is necessary to respond effectively to a public health risk.” 5

Management of infectious diseases

7 **New Part 3A inserted**

Before Part 4, insert:

“Part 3A 10

“Management of infectious diseases

“Subpart 1—Overarching principles

“92A Principles to be taken into account

The principles set out in **sections 92B to 92F** are to be taken into account by every person and every court performing a function under this Part. 15

“92B Voluntary compliance

If an individual poses a public health risk, and that risk can be prevented or minimised by the individual’s voluntary compliance with certain measures, the individual must be given the opportunity to voluntarily comply with those measures before measures under this Part are applied to the individual. 20

“92C Least restrictive alternative

In any case where this Part enables alternative measures to be applied to an individual, preference must be given to the least restrictive measure that, in the judgment of the person or court concerned, will achieve the objective of minimising the public health risk posed by the individual. 25

“92D Respect for individuals

An individual in respect of whom a power is exercised under this Part must be treated with respect and consideration, to the extent that the protection of public health permits this to be done. 30

“92E Individual to be informed

A person exercising a power over an individual under this Part must, so far as is practicable in the circumstances, promptly inform the individual, in a way that the individual is most likely to understand, about—

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“(a) the nature of the power that is being exercised and its implications for the individual:

“(b) any steps planned to be taken in respect of the individual:

“(c) any right of the individual to appeal against the exercise of the power and to apply for judicial review.

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“92F Measures to apply no longer than necessary

Measures applied to an individual under this Part must not be applied longer than is necessary to prevent or minimise the public health risk that the individual poses.

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“Subpart 2—Directions**“92G Medical officer of health may give directions to individual posing public health risk**

“(1) This section applies if a medical officer of health believes on reasonable grounds that an individual poses a public health risk.

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“(2) The medical officer of health may give the individual any direction or directions listed in **subsection (4)** that the medical officer of health thinks are necessary to prevent or minimise the public health risk posed by the individual.

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“(3) If the disease that the individual is believed to have is not a notifiable disease or other notifiable condition, every direction given to the individual must have the prior approval of the Director-General.

“(4) The medical officer of health may direct the individual to—

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“(a) participate in any of the following that are conducted by a health provider:

“(i) counselling:

“(ii) education:

“(iii) other activities related to the infectious disease:

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- “(b) refrain from carrying out specified activities (for example, undertaking employment, using public transport, or travelling within and outside New Zealand) either absolutely or unless stated conditions are observed: 5
- “(c) refrain from going to specified places either absolutely or unless stated conditions are observed:
- “(d) refrain from associating with specified persons or specified classes of persons:
- “(e) take specified actions to prevent or minimise the public health risk posed by the individual: 10
- “(f) stay, at all times or at specified times, at a specified place of residence, subject to specified conditions:
- “(g) accept supervision by a named person or a person for the time being holding a named office, including, without limitation,— 15
- “(i) attending meetings arranged by that person; and
- “(ii) providing that person with information on any action, occurrence, or plan that is relevant to the public health risk posed by the individual: 20
- “(h) comply with instructions to prevent the spread of the infectious disease.
- “(5) In no case may a direction require an individual to submit to compulsory treatment.
- “(6) **Subsection (7)** applies if a direction requires an individual to refrain from carrying out a specified activity either absolutely or unless stated conditions are observed and a medical officer of health believes on reasonable grounds that the persons responsible for the activity need to be informed in order to prevent or minimise the public health risk posed by the individual. 25 30
- “(7) The medical officer of health may contact any person who occupies a position of responsibility in relation to the activity and tell that person about 1 or more of the following matters:
- “(a) the direction:
- “(b) the public health risk posed by the individual’s engagement in the activity: 35
- “(c) ways of minimising that public health risk.
- “(8) The medical officer of health must send to the Director-General a copy of every direction given under this section.

“92H Medical officer of health may give directions to contacts of individuals posing public health risk

- “(1) This section applies if a medical officer of health believes on reasonable grounds that—
- “(a) an individual has been in contact with a person who has, or may have, an infectious disease; and
 - “(b) if the disease has been transmitted to the individual, the individual poses, or is likely to pose, a public health risk.
- “(2) The medical officer of health may give the individual any 1 or more directions listed in **subsection (4)** that the medical officer of health thinks are necessary to prevent or minimise the public health risk posed by the individual.
- “(3) If the disease that the individual is believed to have is not a notifiable disease or other notifiable condition, every direction given to the individual must have the prior approval of the Director-General.
- “(4) The medical officer of health may direct the individual to—
- “(a) participate in any of the following that are conducted by a health provider:
 - “(i) counselling:
 - “(ii) education:
 - “(iii) other activities related to the infectious disease:
 - “(b) refrain from carrying out specified activities (for example, undertaking employment, using public transport, or travelling within and outside New Zealand) either absolutely or unless stated conditions are observed:
 - “(c) refrain from going to specified places either absolutely or unless stated conditions are observed:
 - “(d) refrain from associating with specified persons or specified classes of persons:
 - “(e) take specified actions to prevent or minimise the public health risk posed by the individual:
 - “(f) stay, at all times or at specified times, at a specified place of residence, subject to specified conditions:
 - “(g) accept supervision by a named person or a person for the time being holding a named office, including, without limitation,—

- “(i) attending meetings arranged by that person; and
“(ii) providing that person with information on any action, occurrence, or plan that is relevant to the public health risk posed by the individual:
“(h) comply with instructions to prevent the spread of the infectious disease. 5
- “(5) In no case may a direction require an individual to submit to compulsory treatment.
- “(6) **Subsection (7)** applies if a direction requires an individual to refrain from carrying out a specified activity either absolutely or unless stated conditions are observed and a medical officer of health believes on reasonable grounds that the persons responsible for the activity need to be informed in order to prevent or minimise the public health risk posed by the individual. 10
- “(7) The medical officer of health may contact any person who occupies a position of responsibility in relation to the activity and tell that person about 1 or more of the following matters: 15
- “(a) the direction:
“(b) the public health risk posed by the individual’s engagement in the activity: 20
“(c) ways of minimising that public health risk.
- “(8) The medical officer of health must send to the Director-General a copy of every direction given under this section.
- “92I Direction for medical examination**
- “(1) This section applies if a medical officer of health believes on reasonable grounds that— 25
- “(a) an individual may have an infectious disease (for example, because the individual has been in contact with a person who has an infectious disease); and
“(b) the individual’s medical practitioner or a medical officer of health has requested the individual to undergo, within a specified period, a medical examination to establish whether the individual has the infectious disease; and 30
“(c) the individual has not undergone that examination within that period; and 35
“(d) if the individual has the infectious disease, the individual poses a public health risk.

- “(2) The medical officer of health may direct the individual to undergo 1 or more medical examinations and may specify the places where those examinations are to be conducted and the health providers who are to conduct them.
- “(3) The medical officer of health may also direct the individual, 5
until those examinations are completed, to—
- “(a) participate in any of the following that are conducted by a health provider:
- “(i) counselling: 10
- “(ii) education: 10
- “(iii) other activities related to the infectious disease:
- “(b) refrain from carrying out specified activities (for example, undertaking employment, using public transport, or travelling within and outside New Zealand) either absolutely or unless stated conditions are observed: 15
- “(c) refrain from going to specified places either absolutely or unless stated conditions are observed:
- “(d) refrain from associating with specified persons or specified classes of persons: 20
- “(e) take specified actions to prevent or minimise the public health risk posed by the individual:
- “(f) stay, at all times or at specified times, at a specified place of residence, subject to specified conditions:
- “(g) accept supervision by a named person or a person for the 25
time being holding a named office, including, without limitation,—
- “(i) attending meetings arranged by that person; and
- “(ii) providing that person with information on any 30
action, occurrence, or plan that is relevant to the public health risk posed by the individual:
- “(h) comply with instructions to prevent the spread of the infectious disease.
- “(4) In no case may a direction require an individual to submit to compulsory treatment. 35
- “(5) **Subsection (6)** applies if a direction requires an individual to refrain from carrying out a specified activity either absolutely or unless stated conditions are observed and a medical officer of health believes on reasonable grounds that the persons re-

- sponsible for the activity need to be informed in order to prevent or minimise the public health risk posed by the individual.
- “(6) The medical officer of health may contact any person who occupies a position of responsibility in relation to the activity and tell that person about 1 or more of the following matters: 5
- “(a) the direction:
- “(b) the public health risk posed by the individual’s engagement in the activity:
- “(c) ways of minimising that public health risk.
- “(7) Any medical examination an individual is directed to undergo must be— 10
- “(a) in accordance with current best practice in diagnosing the infectious disease; and
- “(b) the least invasive type of examination that is necessary to establish whether the individual has the infectious disease. 15
- “(8) The medical officer of health must send to the Director-General a copy of every direction given under this section.
- “92J Direction to close educational institutions**
- “(1) This section applies if a medical officer of health believes on reasonable grounds that— 20
- “(a) 1 or more persons attending an educational institution have, or may have, an infectious disease; and
- “(b) there is a substantial risk that the infectious disease will be transmitted to other persons attending the educational institution; and 25
- “(c) the risk of the infectious disease being transmitted to other persons attending the educational institution cannot be adequately managed solely by giving directions to the individual with the infectious disease. 30
- “(2) The medical officer of health may give a direction to the person in charge of the educational institution to—
- “(a) direct persons attending the educational institution to remain home until further notice:
- “(b) close part of the educational institution: 35
- “(c) close the entire educational institution.

- “(3) The medical officer of health must not give a direction under **subsection (2)** without first consulting the person in charge of the educational institution.
- “(4) The medical officer of health must send to the Director-General a copy of every direction given under this section. 5

“General provisions concerning directions and notices

“92K Written directions and notices to be served on individual

- “(1) A direction or notice under this Part must be in writing and must be served on the individual to whom it is given. 10
- “(2) If the person to whom the direction or notice relates is a minor or otherwise lacks legal capacity, a medical officer of health must serve the direction or notice on the parent, guardian, or other person having the care of the person to whom the direction or notice relates. 15

“92L Duration of directions

- “(1) When giving a direction under this Part, a medical officer of health must specify the period for which the direction is to remain in effect.
- “(2) A direction given by the medical officer of health must not remain in effect for more than 6 months. 20
- “(3) A direction ceases to have effect at the close of the earliest of the following days:
- “(a) the last day of the period stated in the direction:
 - “(b) the day (if any) on which the medical officer of health rescinds the direction under **section 92P**: 25
 - “(c) the day (if any) on which the direction is cancelled on appeal under **section 92Q**.

“92M Medical officer of health must review directions

- A medical officer of health must— 30
- “(a) regularly review each direction that is in effect in the health district or districts for which the officer is responsible; and
 - “(b) consider whether the direction is still required; and

- “(c) rescind the direction under **section 92P** if he or she is satisfied that the individual no longer poses a public health risk; and
- “(d) if directed by the Director-General to do so, advise the Director-General why the direction needs to continue in effect. 5

“92N Directions may be extended

- “(1) A medical officer of health may at any time, by notice to the individual concerned, extend a direction for a period of not more than 6 months if he or she is satisfied that the conditions for giving the direction continue to be satisfied. 10
- “(2) The medical officer of health may extend the direction on 1 or more occasions.

“92O Repeated directions may be given

A direction under this Part may be given to an individual on 1 or more occasions. 15

“92P Directions may be varied or rescinded

A medical officer of health may at any time, by notice to the individual concerned, vary or rescind a direction previously given. 20

“92Q Appeal against directions

- “(1) An individual who is required to comply with a direction may appeal against the direction, or any part of the direction, to the District Court.
- “(2) On the appeal, the District Court may confirm, vary, or cancel the direction. 25
- “(3) The filing of the appeal does not affect the direction unless the District Court otherwise orders.

“Compliance with directions

“92R Offence for failing to comply with directions

An individual commits an offence and is liable on conviction to a fine not exceeding \$2,000 who, without reasonable excuse, 30

fails to comply with a direction given by a medical officer of health under this Part.

“92S Force not permissible

In no case may force be used to secure compliance with a direction.

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“Subpart 3—Orders

“*Public health orders*

“92T District Court may make public health order

On an application by a medical officer of health, the District Court may make a public health order in respect of an individual if the court is satisfied that the individual poses a public health risk.

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“92U Public health order may impose certain requirements on individual

“(1) The District Court may, in making a public health order, impose on an individual any 1 or more of the following requirements the court thinks are necessary to prevent or minimise the public health risk posed by the individual:

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“(a) to be detained, at all times or at specified times, in a hospital or other suitable place or in specified parts of the hospital or place:

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“(b) to stay, at all times or at specified times, at a specified place of residence:

“(c) to refrain from carrying out specified activities (for example, undertaking employment, using public transport, or travelling within and outside New Zealand) either absolutely or unless stated conditions are observed:

25

“(d) to be supervised by a named person or by a person for the time being holding a named office, including, without limitation,—

30

“(i) attending meetings arranged by that person; and

“(ii) providing that person with information on any action, occurrence, or plan that is relevant to the public health risk posed by the individual:

35

- “(e) after the views of the individual have been taken into account, to be subject to surveillance, with or without the aid of electronic devices, by a named person or by a person for the time being holding a named office or by a named organisation: 5
- “(f) to be treated for the infectious disease by a specified health provider:
- “(g) to participate in any of the following that are conducted by a health provider: 10
- “(i) counselling:
- “(ii) education:
- “(iii) other activities related to the infectious disease:
- “(h) to refrain from going to specified places either absolutely or unless stated conditions are observed:
- “(i) to refrain from associating with specified persons or specified classes of persons: 15
- “(j) to take specified actions to prevent or minimise the public health risk posed by the individual.
- “(2) Before the court imposes a requirement of the kind described in **subsection (1)(f)**, the court must be satisfied that, short of detaining the individual indefinitely, treating him or her is the only effective means of managing the public health risk posed by the individual. 20
- “(3) If an order requires an individual to be detained in a hospital or other place operated by a district health board, the district health board must permit the individual to be detained in the hospital or place. 25
- “(4) The court may impose any requirement specified in **subsection (1)** subject to any conditions or restrictions that the court considers appropriate. 30
- “92V **Matters that District Court may take into account in assessing public health risk**
- In assessing, for the purposes of an application for a public health order, whether an individual poses a public health risk, the District Court may, without limitation, take into account— 35
- “(a) the infectious disease that the individual has or may have:

- “(b) if the individual has had an opportunity to minimise the risk of communicating the infectious disease, whether he or she has done so, or the extent to which he or she has done so, and, in particular,—
- “(i) if directions have been given to the individual, whether the individual has complied with, or the extent to which the individual has complied with, those directions: 5
- “(ii) if a medical practitioner, medical officer of health, or health protection officer has requested the individual to take steps to prevent or minimise the risk, whether the individual has responded to those requests or the extent to which the individual has responded to those requests. 10
- “92W Duration of public health order 15**
- “(1) When making a public health order under **section 92T**, the District Court must specify the period for which the order is to remain in effect.
- “(2) A public health order must not remain in effect for more than 6 months. 20
- “(3) A public health order ceases to have effect at the close of the earliest of the following days:
- “(a) the last day of the period stated in the order or, if no period is stated in the order, the day that is 6 months after the date on which the order is made: 25
- “(b) a day (if any) on which the court cancels the order under **section 92ZL**;
- “(c) a day (if any) on which the order is cancelled on appeal under **section 92ZN or 92ZO**.
- “(4) A requirement imposed by a public health order under **section 92U** ceases to have effect at the close of the earlier of the following days: 30
- “(a) the day on which the order ceases to have effect:
- “(b) the day (if any) on which the medical officer of health notifies the individual that the requirement is no longer necessary to manage the public health risk posed by the individual. 35

“92X Public health order may be extended

- “(1) The District Court may, at any time, on the application of a medical officer of health, extend a public health order made under **section 92T** for a period of not more than 6 months if the court— 5
- “(a) is satisfied that the court continues to have jurisdiction to make a public health order in respect of the individual concerned; and
- “(b) considers that extending the public health order is necessary to remove or minimise a public health risk. 10
- “(2) The court may extend the public health order on 1 or more occasions.

“92Y Relationship between directions and public health orders

- “(1) The District Court may make a public health order that corresponds to, or differs from, any direction previously given. 15
- “(2) Any direction previously given to an individual ceases to have effect when a public health order is made in respect of that individual.
- “(3) However, nothing in this section or in any other provision of this Part requires a prior direction before a public health order may be made. 20

*“Urgent public health orders***“92Z Medical officer of health may make urgent public health order**

- “(1) This section applies if a medical officer of health believes on reasonable grounds that— 25
- “(a) an individual poses a public health risk; and
- “(b) the medical officer of health cannot adequately manage the public health risk by giving the individual a direction; and 30
- “(c) to address the risk, the medical officer of health needs to take urgent action; and
- “(d) it is not practicable to wait for the District Court to determine an application for a public health order.
- “(2) The medical officer of health may sign and give, or authorise another person to give, the individual an urgent public health 35

order that requires the individual to be detained at specified premises or specified parts of premises, subject to any stated conditions.

- “(3) If the infectious disease that the individual is believed to have is not a notifiable disease, the urgent public health order must not be given to the individual without the prior approval of the Director-General. 5
- “(4) The medical officer of health must write on the order the date and time it is given to the individual.
- “(5) The medical officer of health must send to the Director-General a copy of the urgent public health order. 10

“92ZA Duration of urgent public health order

An urgent public health order has effect for 72 hours from the time that it is given to an individual.

“Medical examination orders and orders concerning contacts” 15

“92ZB Medical examination orders

- “(1) The District Court may, on the application of a medical officer of health, make a medical examination order in respect of an individual if the court is satisfied that— 20
- “(a) the individual may have an infectious disease (for example, because the individual is, or has been, in contact with a person who has the infectious disease); and
- “(b) the individual’s medical practitioner or a medical officer of health has asked the individual to undergo, within 25 a specified period, a medical examination to establish whether the individual has the infectious disease; and
- “(c) the individual has not undergone that examination within that period; and
- “(d) if the individual has the infectious disease, the individual poses a public health risk. 30
- “(2) The medical examination order must direct the individual to undergo whatever medical examinations the medical officer of health considers necessary to establish whether the individual has the infectious disease. 35

- “(3) The medical examination order may also impose on the individual, until those examinations are completed, any 1 or more of the requirements stated in **section 92U(1)(b), (c), (d), (h), (i), and (j)** that the court thinks necessary to prevent or minimise the public health risk that the individual may pose. 5
- “(4) The court may impose any requirement referred to in **subsection (3)** subject to any conditions or restrictions that the court thinks appropriate.
- “(5) If the court makes a medical examination order under this section, any medical examination an individual is directed to undergo must be— 10
- “(a) in accordance with current best practice in diagnosing the infectious disease; and
- “(b) the least invasive type of examination that is necessary to establish whether the individual has the infectious disease. 15
- “(6) The medical examination order ceases to have effect when the medical examination has been completed and it has been established whether the individual has the infectious disease.
- “92ZC District Court may make public health order contingent on examinations establishing infectious disease 20**
- “(1) When the District Court makes a medical examination order in respect of an individual, the court may also make a public health order under **section 92T**.
- “(2) The public health order— 25
- “(a) must be made in accordance with **section 92T**, with the court entitled to assume that the individual has the infectious disease for which he or she is to be examined; and
- “(b) takes effect in accordance with **subsection (3)**. 30
- “(3) The public health order takes effect only if a medical officer of health signs and dates a certificate that states that the individual has undergone the examinations in accordance with the medical examination order and that those examinations establish that the individual has the infectious disease for which he or she has been examined. 35

“(4) The order may be sealed only if the Registrar of the court has seen and filed the certificate described in **subsection (3)**.

“92ZD Order for contacts

“(1) The District Court may, on the application of a medical officer of health, make an order in respect of an individual if the court is satisfied that— 5

“(a) the individual has been in contact with a person who has, or may have, an infectious disease; and

“(b) if the infectious disease has been transmitted to the individual, the individual poses, or is likely to pose, a public health risk. 10

“(2) The order may impose on the individual any of the requirements stated in **section 92U(1)(b), (c), (d), (h), (i), and (j)** that the court thinks are necessary to prevent or minimise the public health risk that the individual may pose. 15

“(3) The court may impose any requirement referred to in **subsection (2)** subject to any conditions or restrictions that the court considers appropriate.

“(4) The order ceases to have effect at the close of the day (if any) on which the medical officer of health notifies the individual that the order is no longer necessary because the individual no longer poses a public health risk. 20

“(5) In determining, for the purposes of **subsection (4)**, that the individual no longer poses a public health risk, the medical officer of health must have regard to any known incubation period for the infectious disease. 25

“Proceedings

“92ZE Proceedings under this Part in District Court to be heard by Family Court Judges, if practicable

“(1) The District Court has jurisdiction to hear and determine— 30

“(a) appeals under this Part against directions given; and

“(b) applications for orders made under this Part.

“(2) Every proceeding referred to in **subsection (1)** must, if practicable having regard to the time required and to the availability of Judges and court staff and resources, be heard and determined by a Family Court Judge. 35

- “(3) Any District Court Judge may hear and determine a proceeding referred to in **subsection (1)** that cannot practicably be heard and determined by a Family Court Judge.
- “(4) The fact that a District Court Judge exercises jurisdiction under this section is conclusive evidence of the authority of the District Court Judge to do so. 5

“92ZF Proceedings under this Part not open to public

- “(1) Unless the Judge presiding at a hearing of a proceeding referred to in **section 92ZE(1)** otherwise directs, no person may be present during the hearing except the following: 10
- “(a) the Judge:
- “(b) officers of the court:
- “(c) parties to the proceeding and their lawyers and any other person nominated by the individual who is the subject of the proceeding: 15
- “(d) witnesses:
- “(e) any other person whom the Judge permits to be present.
- “(2) A witness must leave the courtroom if asked to do so by the Judge.
- “(3) This section does not limit any other power of the court to hear proceedings in private or to exclude any person from the court. 20
- “Compare: 1992 No 46 s 24

“92ZG District Court may appoint lawyers to act for individuals under 16 years

Whenever an individual aged under 16 years is the subject of an application for an order under this Part, the District Court that hears the application may appoint a lawyer to act for the individual. 25

“General provisions concerning orders

“92ZH Application for order

- “(1) A medical officer of health may apply to the District Court for an order under this Part in respect of an individual who the medical officer of health believes, on reasonable grounds, poses a public health risk. 30

- “(2) If the infectious disease that the individual is believed to have is not a notifiable disease, the application must not be made without the prior approval of the Director-General.
- “(3) The medical officer of health must send to the Director-General a copy of the application. 5

“92ZI Prior consultation with individual and individual’s family or whānau

- “(1) If a medical officer of health is considering applying to the District Court for an order under this Part, the medical officer of health must, whenever practicable, consult the individual and may, at the officer’s discretion, consult the individual’s family or whānau. 10
- “(2) The purpose of consultation under **subsection (1)** is to enable the medical officer of health—
- “(a) to ascertain if the need for an order can be avoided by voluntary compliance by the individual and, if the individual agrees, by any assistance on the part of the family or whānau; and 15
- “(b) to ascertain, if an order is required, the extent to which the terms of the order and the way it is implemented can take into account the needs and wishes of the individual without prejudicing the protection of public health. 20

“92ZJ Case conferences

The consultation under **section 92ZI** may, at the discretion of the medical officer of health, take the form of a case conference, which may be conducted by telephone or video link. 25

“92ZK Medical officer of health must review orders

A medical officer of health must—

- “(a) regularly review each order that is in effect in the health district or districts for which the officer is responsible; and 30
- “(b) consider whether the order is still required; and
- “(c) apply to the District Court to cancel the order under **section 92ZL** if he or she is satisfied that the order is no longer required; and 35

“(d) if directed by the Director-General to do so, advise the Director-General why the order needs to continue in effect.

“92ZL District Court may cancel or vary orders

- “(1) The District Court may, on the application of a medical officer of health or of the individual concerned, cancel an order made under this Part if the court is satisfied that the order is no longer required. 5
- “(2) The court may, on the application of a medical officer of health or of the individual concerned, vary the terms of an order by making a determination that the court is otherwise authorised to make under this Part and that the court considers desirable in the circumstances. 10
- “(3) If the medical officer of health applies to the court to cancel an order, the order is suspended, and the individual subject to the order ceases to be required to comply with the terms of the order until the court has determined the application to cancel the order. 15
- “(4) The medical officer of health must send to the Director-General a copy of every application under this section. 20

“92ZM Medical officer of health and individual may agree on variation

- “(1) This section applies if—
- “(a) an order (other than an urgent public health order) under this Part is in effect; and 25
- “(b) a medical officer of health is satisfied that the public health risk posed by the individual who is the subject of the order can be met by a less restrictive measure than that provided for by the order.
- “(2) The medical officer of health and the individual may agree in writing that the individual may comply with the order by accepting, and complying with, the less restrictive measure. 30
- “(3) An agreement under **subsection (2)** has effect according to its tenor as long as the individual complies with the agreement.
- “(4) If the medical officer of health believes on reasonable grounds that the individual has breached the agreement in a material 35

respect, the medical officer of health may, by written notice to the individual, cancel the agreement, and the order then has effect in its original form.

- “(5) The power conferred by **subsection (2)** is subject to any directions, conditions, or limitations concerning the power given or imposed by the District Court. 5
- “(6) The medical officer of health must send to the Director-General a copy of every agreement made under **subsection (2)** .

“Subpart 4—Appeals and enforcement

“92ZN Appeals to High Court 10

- “(1) A medical officer of health and an individual in respect of whom an order has been made under this Part (other than an urgent public health order made under **section 92Z**) may each appeal to the High Court against the decision of the District Court. 15
- “(2) The medical officer of health may appeal against the dismissal of an application under this Part or against the District Court’s refusal to make an order, or impose a requirement, sought in the application.
- “(3) Subject to **subsection (4)**, the High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under **subsection (1)** as if it were an appeal under section 72 of that Act. 20
- “(4) On the without notice application of the appellant, the District Court may order that the appellant is not required under section 74(1) of the District Courts Act 1947 to give the Registrar of the High Court security for costs. 25
- “(5) Subject to **section 92ZO**, the decision of the High Court on an appeal to that court under this section is final.
- “(6) The medical officer of health must send to the Director-General a copy of every notice of appeal under this section. 30

“92ZO Appeals to Court of Appeal

- “(1) A party to any appeal under **section 92ZN** may, with the leave of the Court of Appeal, appeal to the Court of Appeal against any determination of the High Court on a question of law arising in that appeal. 35

- “(2) On an appeal to the Court of Appeal under this section, the Court of Appeal has the same power to adjudicate on the proceedings as the High Court had.
- “(3) The decision of the Court of Appeal on an appeal to that court under this section, and on an application to it under this section for leave to appeal, is final. 5

“92ZP Enforcement of order by medical officer of health

- “(1) A medical officer of health may require an individual to comply with an order made under this Part that imposes requirements on the individual, and in doing so may be assisted by any number of assistants (who may be or include constables) and use any force that is reasonable in the circumstances. 10
- “(2) However, in no case may force be used to require an individual to accept medical treatment.
- “(3) The medical officer of health must promptly advise the Director-General of any force used for the purpose of requiring an individual to comply with an order. 15

“92ZQ Offence not to comply with order

- “(1) An individual commits an offence who, without reasonable excuse, intentionally fails to comply with an order made under this Part that is binding on the individual. 20
- “(2) An individual who commits an offence against this section is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding \$2,000.
- “(3) The District Court may, instead of imposing a sentence, make an order under **section 92T or 92ZB**. 25
- “(4) This section does not limit the power of the District Court to punish the failure or refusal to comply with an order made by a court as a contempt of court.

“Subpart 5—Contact tracing 30

“92ZR Purpose of contact tracing

The purpose of contact tracing is to obtain information about the contacts of persons with infectious diseases in order to—

- “(a) identify the source of the disease:

“(b) make the contacts aware that they too may be infected, thereby encouraging them to seek testing and treatment if necessary:

“(c) limit the transmission of the infectious disease.

“**92ZS What contact tracing involves** 5

Contact tracing, in respect of an individual with an infectious disease, involves—

“(a) ascertaining the identity of each of the individual’s contacts; and

“(b) talking to each contact, so far as this is practicable and appropriate; and 10

“(c) ascertaining the circumstances in which the infectious disease may have been transmitted to or by the contact; and

“(d) providing information and advice to the contact about the risks that the contact faces because of his or her exposure to the infectious disease, including, where appropriate, advice about— 15

“(i) medical examinations for the infectious disease; and 20

“(ii) the risk that the contact may have transmitted the infectious disease to others; and

“(iii) the risk that the contact may pose to others; and

“(iv) appropriate exclusion, treatment, and prophylaxis; and 25

“(e) obtaining information about the contacts of that contact, including information required under **section 92ZV** in relation to those other contacts.

“**92ZT Who may be contact tracer**

For the purposes of this Part, in any case involving proposed or actual contact tracing in respect of an individual, the **contact tracer** may be a— 30

“(a) medical officer of health:

“(b) health protection officer:

“(c) suitably qualified person nominated to undertake contact tracing by a district health board or medical officer of health. 35

“92ZU Appropriateness of contact tracing

- “(1) The contact tracer may form the view that contact tracing in respect of an individual with an infectious disease should be undertaken if the contact tracer considers that the purpose of contact tracing is likely to be achieved by doing so. 5
- “(2) If the contact tracer is a medical officer of health, he or she may take into account any recommendation made by the individual’s medical practitioner.

“92ZV Duty of individual with infectious disease to provide information about contacts 10

- “(1) If the contact tracer has, under **section 92ZU**, formed the view that contact tracing in respect of an individual with an infectious disease should be undertaken, the contact tracer may direct the individual to give the contact tracer information about the circumstances in which the infectious disease may have been transmitted to, or by, the individual. 15
- “(2) Before directing an individual under **subsection (1)**, the contact tracer must inform the individual of the reasons for the direction.
- “(3) An individual with an infectious disease must, if directed by the contact tracer, provide information about— 20
- “(a) those people with whom he or she is, and has been, in contact:
- “(b) the circumstances in which he or she believes he or she contracted, or may have transmitted, the infectious disease. 25
- “(4) For the purposes of **subsection (3)**, the information the individual with an infectious disease may be required to provide about each person with whom he or she has been in contact includes— 30
- “(a) the name of each contact:
- “(b) the age of each contact:
- “(c) the sex of each contact:
- “(d) the address and other contact details of each contact:
- “(e) any other information required by regulations made under this Act. 35

“92ZW Consideration as to whether contact tracing can be undertaken by individual

“(1) Before requiring information from an individual under **section 92ZV**, the contact tracer must consider whether the information is necessary, taking into account— 5

“(a) the seriousness of the public health risk posed by the individual; and

“(b) the ability and willingness of the individual to undertake the contact tracing.

“(2) If the contact tracer considers that it would be appropriate for the individual to undertake the contact tracing, the contact tracer must ask the individual to undertake the contact tracing, to the extent of the individual’s ability, and to report back to the contact tracer by a time specified by the contact tracer. 10

“92ZX When contact tracer may undertake contact tracing 15

“(1) This section applies whenever a contact tracer requires an individual to provide information under **section 92ZV** and one of the following applies:

“(a) the contact tracer does not consider that it would be possible or appropriate for the individual to undertake the contact tracing; or 20

“(b) the contact tracer has asked the individual to undertake the contact tracing, and the contact tracer is not satisfied that the contact tracing has been undertaken or that it has been undertaken adequately. 25

“(2) If this section applies, the contact tracer or his or her delegate may undertake the contact tracing.

“(3) The contact tracer must, wherever practicable, inform the individual of the course of action taken under **subsection (2)**.

“92ZY Contact tracer may require certain persons to provide information 30

“(1) For the purpose of identifying the contacts of an individual who has been given a direction under **section 92ZV**, a contact tracer may approach a person specified in **subsection (2)** and require that person to provide the contact tracer with the names and addresses of the contacts of the individual that are known to the person. 35

- “(2) The persons are—
- “(a) the employer of the individual:
 - “(b) an educational institution attended by the individual:
 - “(c) any business or other organisation that the individual has dealt with. 5
- “(3) A person referred to in **subsection (2)** must provide information in response to a request made under **subsection (1)** despite anything in the Privacy Act 1993.
- “**92ZZ Duty of confidentiality** 10
- A contact tracer who approaches a contact under this Part must not, as far as practicable, disclose to the contact the identity of the individual who may have—
- “(a) transmitted the infectious disease to the contact; or
 - “(b) exposed the contact to the risk of contracting the infectious disease. 15
- “**92ZZA Contact tracer may delegate functions, duties, or powers**
- “(1) A contact tracer may delegate any of his or her functions, duties, or powers under this Part, except this power of delegation, to a person who is suitably qualified to exercise those powers or perform those duties and functions. 20
- “(2) The contact tracer must make the delegation in writing and sign it.
- “(3) A delegation under this section may be subject to any conditions stated in the delegation. 25
- “(4) The contact tracer is not prevented from exercising or carrying out, or affected in his or her exercising or carrying out of, any of the delegated functions, duties, or powers.
- “(5) The delegate may carry out the functions and duties, and exercise the powers, in the same manner and with the same effect as if they had been conferred on the delegate directly by this Act. 30
- “(6) Every person purporting to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation. 35

“92ZZB Status of delegations

- “(1) A delegation made under **section 92ZZA** continues in force according to its tenor until it is revoked.
- “(2) A delegation made by a medical officer of health who has ceased to hold office continues to have effect as if made by the medical officer of health’s successor. 5
- “(3) The maker of the delegation, or the successor to the maker, may revoke the delegation at any time by written notice to the delegate.

“92ZZC Offence to fail to comply with direction to provide required information about contacts 10

- “(1) A person commits an offence who, having been required to provide information under **section 92ZV or 92ZY**,—
- “(a) without reasonable excuse, fails to give the required information; or 15
- “(b) intentionally omits any part of that information or gives any information that the person knows to be false.
- “(2) A person who commits an offence against **subsection (1)** is liable on conviction to a fine not exceeding \$2,000.”

8 Section 117 amended (Regulations as to public health) 20

- (1) After section 117(1)(d), insert:
- “(da) the management of persons with infectious diseases and their contacts, including the power of a medical officer of health to give directions and the power of the District Court to make public health orders:”. 25
- (2) After section 117(1)(h), insert:
- “(ha) the identification of, and communication with, contacts of persons with infectious diseases:”.

9 Section 125 amended (Medical examination of children)

- (1) In section 125(1), replace the definition of **child care centre** 30 with:
- “**early childhood education and care centre** has the same meaning as in section 310(1) of the Education Act 1989”.

- (2) In section 125(1), definition of **private school**, replace “a child care centre” with “an early childhood education and care centre”.
- (3) In section 125(2), replace “child care centre” with “early childhood education and care centre”. 5
- 10 Schedule 1 amended**
- (1) In Schedule 1, Part 1, section B, repeal the item relating to Acquired Immunodeficiency Syndrome.
- (2) In Schedule 1, Part 1, section B, insert in its appropriate alphabetical order: 10
 “Tuberculosis”.
- (3) In Schedule 1, Part 1, after section B, insert:
“Section C—Infectious diseases notifiable to medical officer of health without identifying information of patient or deceased person”. 15
- (4) In Schedule 1, Part 1, after the new section C heading, insert:
 “Acquired Immunodeficiency Syndrome
 “Gonorrhoeal infection
 “Human Immunodeficiency Virus (HIV) infection
 “Syphilis”. 20
- (5) In Schedule 1, Part 2, repeal the items relating to—
 (a) Gonorrhoeal infection; and
 (b) Syphilis.
- Consequential repeal and revocation*
- 11 Repeal of Tuberculosis Act 1948** 25
 The Tuberculosis Act 1948 (1948 No 36) is repealed.
- 12 Revocation of Tuberculosis Regulations 1951**
 The Tuberculosis Regulations 1951 (SR 1951/290) are revoked.

Part 2
Artificial UV tanning services

13 New Part 5 inserted

After section 112ZP, insert:

“Part 5

5

“Artificial UV tanning services**“113 Interpretation**

In this Part, unless the context otherwise requires,—

“**approved evidence of age document** has the same meaning as in section 5(1) of the Sale and Supply of Alcohol Act 2012 10

“**artificial UV tanning services** means the provision, for payment or other consideration, of ultraviolet (UV) radiation via sunbeds, sunlamps, or any other device that emits UV radiation.

“114 Ban on providing artificial UV tanning services to persons under 18 years 15

“(1) This section applies to owners and operators of premises providing artificial UV tanning services.

“(2) The owner or operator must not provide artificial UV tanning services to a person under the age of 18 years. 20

“(3) A person who contravenes **subsection (2)** commits an offence and is liable on conviction,—

“(a) in the case of an individual, to a fine not exceeding \$2,000;

“(b) in the case of a body corporate, to a fine not exceeding \$10,000. 25

“(4) **Subsection (2)** does not apply to a person who provides artificial UV tanning services to a person under the age of 18 years at a hospital if a medical practitioner prescribed the services for the purpose of medical treatment. 30

“(5) It is a defence to a charge under **subsection (2)** if the defendant proves that,—

“(a) before or at the time the artificial UV tanning services were provided, there was produced to the defendant a document purporting to be an approved evidence of age document; and 35

- “(b) the defendant believed on reasonable grounds that the document—
- “(i) was in fact an approved evidence of age document; and
 - “(ii) related to the person to whom the artificial UV 5 tanning services were provided; and
 - “(iii) indicated that the person to whom artificial UV tanning services were provided was aged 18 years or over.”
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