

LEGISLATIVE ASSEMBLY

Mandatory Disease Testing Bill 2020

First print

Proposed amendments

No. 1 **Meaning of deliberate action**

Page 2. Insert after line 38—

5A Meaning of “deliberate action”

In this Act, a reference to a worker coming into contact with a person’s bodily fluid as a result of the person’s deliberate action, however expressed, is taken to include only circumstances in which the person intended the person’s bodily fluid to be transmitted to the worker.

No. 2 **Act not to apply to children**

Page 4, clause 7(2), line 10. Omit “14 years”. Insert instead “18 years”.

No. 3 **Act not to apply to children**

Page 8, clause 15, heading, line 30. Omit “**and Children’s Court**”.

No. 4 **Act not to apply to children**

Pages 8 and 9, clause 15(3)–(5), line 36 on page 8 to line 2 on page 9. Omit all words on those lines.

No. 5 **Information to be provided about review rights**

Page 10, clause 17. Insert after line 16—

- (e1) that the third party may apply for a review of the decision to make the order and how to apply for a review,

No. 6 **Counselling**

Page 11. Insert after line 43—

21A Worker and third party to be offered counselling

The Chief Health Officer must ensure that a worker in relation to whom a mandatory testing order is made, and the third party the subject of the order, are offered counselling—

- (a) before the test is carried out, and
(b) before the results of the test are provided to the worker and third party.

No. 7 **Stay of mandatory testing order while review conducted**

Page 12, clause 23, lines 18–26. Omit all words on those lines. Insert instead—

If an application for review is made by a third party after a senior officer has made a mandatory testing order, the mandatory testing order is stayed until the Chief Health Officer determines the application for review under section 24.

No. 8 **Chief Health Officer’s guidelines to be adopted by regulation**

Page 16, clause 32(4), line 22. Omit all words on those lines. Insert instead—

- (4) The guidelines have effect only if adopted by the regulations.
- (5) Despite section 2, this Act does not have effect until guidelines have been adopted under subsection (4).

No. 9 **Oversight of Act by Ombudsman**

Page 18, clause 35. Insert after line 15—

- (3A) Also, the Ombudsman may require a senior officer to provide demographic information about third parties subject to orders and applications for orders.

No. 10 **Act not to apply to children**

Page 21, Dictionary, definition of *Court*, lines 11 to 14. Omit all words on those lines. Insert instead—

Court means the Local Court.

No. 11 **Act not to apply to children**

Page 21, Dictionary, definition of *vulnerable third party*, lines 37 to 42. Omit all words on those lines. Insert instead—

vulnerable third party means a third party who is suffering from a mental illness or mental condition, or is cognitively impaired, within the meaning of the *Mental Health (Forensic Provisions) Act 1990*, which significantly affects the vulnerable third party’s capacity to consent to voluntarily provide blood to be tested for blood-borne diseases.