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Consultation on the Public Health (Functions and General Public Health Duty Bill 2026)

January 2026



**Isle of Man
Government**
Bellige Ellan Vannin

Cabinet Office

*Oik Coonceil
ny Shirveishee*

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Overview of the Public Health (Functions and General Public Health Duty) Bill 2026

Providing a legal basis for delivering public health on the Isle of Man

Acts of Tynwald provide the legal basis for the provision of public services on the Island. However, there is not a single Act of Tynwald that sets out the legal basis for Public Health. Instead, the legal basis for the provision of public health services on the Island is provided by a number of Acts of Tynwald, the main ones being –

- the *Local Government Act 1985*, which provides the legal basis for the appointment of the director of public health and the deputy director of public health;
- the *National Health Service Act 2001*, which provides most of the legal basis for the services provided by Public Health; and
- the *Public Health Act 1990* and associated regulations made by the Council of Ministers, which provide the legal basis for some of the health protection activities undertaken by Public Health.

This legislation does not properly encompass the wide range of services and functions undertaken by Public Health. Nor does this legislation allow flexibility for changes to these services in the future.

Weaknesses in the Island's public health legislation was noted in [Sir Jonathan Michael's independent review of the Isle of Man health and social care system](#). The report highlighted the importance of taking appropriate actions to reduce demands on the health and social care system in the future. The report went on to state -

"It is for this reason that greater emphasis will need to be placed on health and well-being of the population, so that people stay well for longer with less need. This will require health to be considered across Government policy-making and that those charged with providing expert guidance on Public Health matters are placed at the centre of Government."

Recommendation 9 of the report accordingly provided -

"The Public Health Directorate should be empowered to provide advice and guidance across Government, not solely to the DHSC. It should promote and co-ordinate health and wellbeing across the Island to help improve the quality of life and reduce the demand on health and care services in the future. All Departments should be required to factor public health guidance into policy setting and

legislation. To facilitate this, the Public Health Directorate should be moved to a position in the Cabinet Office.”

While Public Health was successfully transferred to Cabinet Office in 2020, it still lacks the legal powers to provide advice and guidance across government, and there is no requirement for Departments to factor public health guidance into policy setting and legislation.

What is in the proposed Bill?

Appointment of the Chief Public Health Officer, deputies and officers

In place of the director of public health, the Bill proposes the appointment of a Chief Public Health Officer. This change in title reflects the requirements of the role on the Island are broader than the role of directors of public health working in local authorities in the UK.

Key differences for the Island include the requirements for this role to provide advice to Council of Ministers (a responsibility of the Chief Medical Officer in the UK), collect and process data (a function of NHS digital in the UK) and undertake health protection functions at a national level (the responsibility of the UK Health Security Agency).

Functions of the Chief Public Health Officer

The Bill does not intend to expand the functions and duties of the current position. However, it will set out these functions and duties as they directly relate to this role, and provide for these functions and duties to be amended and updated to reflect future possible changes to the scope and nature of this role.

The Bill proposes the functions and duties of the Chief Public Health Officer will be to -

- provide advice to all public bodies on public health matters
- provide for advice to given to the Council of Ministers with respect to health, social care and public health matters
- undertake and provide public health research and data analysis (Public Health Research and Public Health Intelligence)
- provide services to improve public health (Public Health Improvement)
- protect the public health of the Island (Public Health Protection)
- commissioning of services relating to public health
- support planning for, and responding to, emergencies relating to public health
- such other functions as may be prescribed in regulations made by the Department

These functions may be delegated to the Deputy Chief Public Health Officer or other officers working in Public Health.

The general public health duty

Further to the recommendation above, the Bill also provides for a general public health duty, a “*duty to take all reasonable and practicable steps to improve, prevent or minimise any harm to public health that might foreseeably result from anything done or omitted to be done by a public body*”.

The Bill proposes that public bodies should have regard to this duty as far as it is reasonable and practicable to do, subject to any guidance issued by the Chief Public Health Officer.

This is intended to be a minimally burdensome duty that will allow for the recommendation to be implemented in a manner that meets the requirements of the recommendation, while not being burdensome upon public bodies.

Notably, there is no intention for public bodies to be required to undertake impact assessments with respect to public health as they have to do with respect to other statutory responsibilities.

Supporting provisions

To support the work of the Chief Public Health Officer the Bill also proposes a number of supporting provisions, such as –

- Powers to provide for the establishment of advisory bodies.
 - This will enable existing advisory bodies (such as the Isle of Man Research Ethics Committee) to be placed on a statutory footing, and allow for establishment of new advisory bodies in the future as may be required.
- Establishing an information gateway
 - This is to provide a clear legal mechanism for the sharing of information with Public Health, and for Public Health to share that information with other persons.
 - It is intended to address concerns hindering the effective sharing of data with Public Health, and ensure that Public Health can effectively share data with other bodies on the Island (e.g. the Department of Health and Social Care) and off-Island (e.g. the UK Health Security Agency).

Amendments to the Public Health Act 1990

In developing this legislation feedback was received from the Department of Environment, Food and Agriculture (DEFA) with respect to possible amendments to the Public Health Act 1990. In partnership with that Department, amendments have been proposed in this Bill to –

- Provide for the list of statutory nuisances prescribed in section 1 of the Public Health Act 1990 to be amendable via secondary legislation approved by Tynwald. This change will allow these statutory nuisances to be updated and amended in light of the needs of the Island's community.
- Clarify that the provisions in the Act relating to controls on vermin may be applied to the owners of premises as well as owners of vessels (noting the effect of section 53 (vessels) of the Public Health Act 1990).
- Ensure that the enforcement powers in the Act correctly refer to investigations conducted by authorised officers of either a local authority, the Department of Environment, Food and Agriculture (DEFA) or the Department of Infrastructure (DOI), and
- Correct an error in the powers provided to such authorised officers by reference to the Local Government Act 1985.

A keeling schedule has been prepared to demonstrate Public Health Act 1990 may be amended as a consequence of clause 20 of the Bill.

Why your views matter

The work of Public Health affects all members of our Island community. We want to make sure the proposed Bill is right for you and the people you care about. Providing your views will help ensure that the Bill, and the provision of services that it will underpin, works for you.

Reasonable adjustment and alternative formats

The Department is committed to equal opportunities, and our aim is to make our documents easy to use and accessible to all.

We will take steps to accommodate any reasonable adjustment and provide such assistance as you may require to enable you to access, or reply to, this consultation.

If you would like to receive this document in another format or need assistance with accessing or replying to this consultation, please email publichealth@gov.im or call +44 1624 642639.

Sharing your feedback

The proposed Bill provides a clear legal basis for the delivery of public health services on the Island, and provides scope for these services to be changed in the future.

Your feedback is important to ensure the legal basis for these public health services is appropriate to meet the needs of the Island.

You can respond to this consultation online by clicking on the 'Online survey' link below. Alternatively, you can download and complete the PDF version of this consultation in the 'related' section below and email it to publichealth@gov.im or print the PDF and post it to:

Public Health
3rd Floor Markwell House
Market Street
Douglas, IM1 2RJ

Handing of sensitive personal information

It is not intended for this consultation to gather any personal, medical or health information. Any details of this nature provided within the consultation will be excluded and disposed of under the [relevant Data Protection legislation and guidelines](#)

What happens next

Public Health will review and analyse the responses to the consultation. This analysis will be used to identify themes, suggestions and any potential concerns with the proposed Bill. It will inform and guide any future revisions to the Bill and the timetable for its introduction into the branches of Tynwald.

Personal information

While it is not mandatory, to help the processing of the consultation response please provide the following information.

Name:

Email address:

Are you responding on behalf of –

- A public body (e.g. a Government Department, Statutory Board or Local Authority)
- A business
- A charity
- A community organisation
- As a member of Tynwald
- As a member of the public

If you are responding other than as a member of the public, please provide your job title.

Please indicate if you are content for your

- consultation response to be published with your name attached;
- consultation response to be published without your name attached
- consultation response not to be published.

Consultation Questions

Question 1. Appointment of Chief Public Health Officer

Are you content with the proposed role of “Chief Public Health Officer” and how that person may be appointed? Notably, the appointment powers no longer require for the Chief Public Health Officer to be a registered medical practitioner. This requirement has been removed noting many directors of public health working in the UK no longer have this qualification. *[n.b. clause 3]*

Yes, No, Unsure, Any additional comments.

Question 2. Functions and duties of the Chief Public Health Officer

The Bill sets out the proposed functions and duties of the Chief Public Health Officer. Are content that these functions and duties are suitable for this role? *[n.b. clauses 4, 6, 7, 8, 9]*

Yes, No, Unsure, Any additional comments.

Question 3. Powers to establish advisory bodies

The Bill provides for the Chief Public Health Officer to establish advisory bodies, based on similar provisions in section 2 of the National Health Service Act 2001. Such bodies may be placed on a statutory footing further to regulations made by Cabinet Office and approved by Tynwald.

This will provide a clear legal basis for the operation of the Isle of Man Research Ethics Committee and other advisory bodies in the future.

It is anticipated that these powers may be used in the future to support the operation of advisory bodies, for example in relation to the undertaking of research further to section 43 (research) of the Capacity Act 2023 or clause 7 (public health research) of the Bill. *[n.b. clause 10]*

Are you content for these powers to be provided in the Bill?

Yes, No, Unsure, Any additional comments.

Question 4. Information gateway

The Bill provides for the establishment of an information gateway to provide a clear legal basis for information to be shared with Public Health, and for Public Health to share that information with other persons. This information may only be shared with respect to the exercise of any of the functions of the Chief Public Health Officer. This provisions is intended to address concerns about the lack of clear statutory provision for the sharing of information with, and by, Public Health. [n.b. clause 18]

Are you content with the proposed introduction of an information gateway to provide a clear legal mechanism for the sharing of information with Public Health for the purposes of the functions of the Chief Public Health Officer?

Yes, No, Unsure, Any additional comments.

Question 5. General Public Health Duty

A. Scope of the general public health duty

Recommendation 9 of the [Sir Jonathan Michael review](#) stated -

“The Public Health Directorate should be empowered to provide advice and guidance across Government, not solely to the DHSC. It should promote and co-ordinate health and wellbeing across the Island to help improve the quality of life and reduce the demand on health and care services in the future. All Departments should be required to factor public health guidance into policy setting and legislation. In order to facilitate this, the Public Health Directorate should be moved to a position in the Cabinet Office.”

The Bill accordingly proposes the introduction of a general public health duty, a “duty to take all reasonable and practicable steps to improve, prevent or minimise any harm to public health that might foreseeably result from anything done or omitted to be done by a public body”.

The Bill requires that public bodies should have regard to this duty as far as it is reasonable and practicable to do, subject to any guidance issued by the Chief Public Health Officer.

This is intended to be a minimally burdensome duty that will allow for the recommendation to be implemented in a manner that meets the requirements of the recommendation, while not being burdensome upon public bodies.

Notably, there is no intention for public bodies to be required to undertake impact assessments with respect to public health as they have to do with respect to other statutory responsibilities.

Are you content with this proposed general public health duty as it applies to public bodies?

Yes, No, Unsure, Any additional comments.

B. Definition of public bodies for the purposes of the public health duty

Noting the approach taken in the Climate Change Act 2021, the definition of “public bodies” has been based upon that used in the Freedom of Information Act 2015. The definition used in the Bill has been slightly expanded to ensure it applies to joint boards or committees respectively established under either section 7, or sections 17 or 18, of the Local Government Act 1985. This will ensure the clear application of the general public health duty to non-statutory local authority bodies such as housing boards and swimming pool boards.

Are you content with this proposed definition of public bodies?

Yes, No, Unsure, Any additional comments.

Question 6. Amendments to the Public Health Act 1990

To aid consideration of these amendments a keeling schedule has been produced to illustrate the effect of the following proposed amendments to the Public Health Act 1990. This keeling schedule can be found after this question.

A. Powers to amend statutory nuisances by secondary legislation

Section 1 (statutory nuisances) of the Public Health Act 1990 prescribes a list of statutory nuisances that may be subject to enforcement action by authorised officers [as defined in section 95 (interpretation: general) of the Public Health Act 1990] of local authorities, the Department of Environment, Food and Agriculture (DEFA), the Department of Infrastructure or the courts [further to section 5 (complaint by an individual) of the Public Health Act 1990].

This list of statutory nuisances have been not been updated since the Act’s introduction, and feedback from DEFA has indicated it would be useful to have the ability to update

this list in light of changes to the community, and the environmental protection actions that may be required as a consequence, following the list's commencement in 1990.

The Bill accordingly proposes that DEFA may amend this list via Regulations approved by Tynwald.

Are you content for DEFA to be given the ability to amend the list of statutory nuisances by regulations approved by Tynwald?

Yes, No, Unsure, Any additional comments.

B. Clarification of vermin controls powers to apply to the owner of premises

DEFA has indicated that the powers provided in owners of land further to section 52 (duty of occupants), and to owners of vessels as a consequence of section 53 (vessels), of the Public Health Act 1990 are unclear. DEFA has noted that there have been instances of unoccupied premises being a source of vermin that have affected neighbouring land.

DEFA has accordingly requested that section 52 of the Public Health Act 1990 be amended to enable its officers to undertake vermin control measures with respect to the owners of land as well as any occupiers of that land. This will also apply to owners of vessels further to the effect of section 53 of the Public Health Act 1990.

Are you content with this proposed amendment?

Yes, No, Unsure, Any additional comments.

C. Clarification of the Act's application to DEFA's authorised officers for public health inspection offences

Section 92H (public health inspection offences) of the Public Health Act 1990 refers to "*investigator*" (a term not defined in the Act), instead of "*authorised officers*" [as defined in section 95 (interpretation: general) of the Public Health Act 1990].

DEFA has requested this opportunity be taken to clarify that this section applies to authorised officers.

Are you content with this proposed amendment?

Yes, No, Unsure, Any additional comments.

D. Clarification of the powers provided to DEFA's authorised officers

Section 97 (application of provisions of 1985 Act) of the Public Health Act 1990 provides authorised officers with powers of entry to undertake their functions. These powers of entry are provided by reference to the powers set out in sections 38 to 41, 46 to 49 and 57 to 62 of the Local Government Act 1985.

However, the Public Health Act 1990 does not extend the powers provided in section 37 (Power to obtain particulars of owners, etc of land) of the Local Government Act 1985 to authorised officers. The lack of legal vires to obtain this information significantly hinders the ability of authorised officers to enforce the requirements of the Public Health Act 1990. For example, DEFA's authorised officers lack the legal powers to request information as to the owners of land necessary to control vermin.

The proposed amendment seeks to correct this issue, and ensure authorised officers have the necessary powers to enable them to effectively undertake their functions and duties.

Are you content with this proposed amendment?

Yes, No, Unsure, Any additional comments.

Keeling schedule to indicate effects of amendments to the Public Health Act 1990 provided by clause 20 of the Bill

Text proposed to be removed has been shown with ~~struckthrough and highlighted text~~.

Text proposed to be inserted has been shown in **blue and highlighted text**.

Public Health 1990	Public Health Act 1990, as amended
<p>1. Statutory nuisances</p> <p>(1) It shall be the duty of every local authority to cause its district to be inspected from time to time by an authorised officer or officers for the detection of matters requiring to be dealt with under this Part as being statutory nuisances.</p> <p>(2) The following matters are statutory nuisances —</p> <p>(a) any premises in such a state as to be prejudicial to health or a nuisance;</p> <p>(b) any pool, ditch, gutter, watercourse, privy, urinal, cesspool, septic tank, drain or ashpit or other receptacle for waste matter so foul or in such a state as to be prejudicial to health or a nuisance;</p> <p>(c) any house or part of a house so overcrowded as to be prejudicial to the health of the occupiers, whether or not members of the same family;</p> <p>(d) any animal or bird kept in such a place or manner as to be prejudicial to health or a nuisance;</p> <p>(e) any accumulation or deposit, or any dead animal or bird, which is prejudicial to health or a nuisance;</p> <p>(f) any dust or effluvia caused by any trade or trade process and being prejudicial to health or a nuisance;</p> <p>(g) any smoke emitted in such quantity, or of such density or content, as to be a nuisance;</p> <p>(h) any other matter declared by this or any other enactment to be a statutory nuisance.</p>	<p>1. Statutory nuisances</p> <p>(1) It shall be the duty of every local authority to cause its district to be inspected from time to time by an authorised officer or officers for the detection of matters requiring to be dealt with under this Part as being statutory nuisances.</p> <p>(2) The following matters are statutory nuisances —</p> <p>(a) any premises in such a state as to be prejudicial to health or a nuisance;</p> <p>(b) any pool, ditch, gutter, watercourse, privy, urinal, cesspool, septic tank, drain or ashpit or other receptacle for waste matter so foul or in such a state as to be prejudicial to health or a nuisance;</p> <p>(c) any house or part of a house so overcrowded as to be prejudicial to the health of the occupiers, whether or not members of the same family;</p> <p>(d) any animal or bird kept in such a place or manner as to be prejudicial to health or a nuisance;</p> <p>(e) any accumulation or deposit, or any dead animal or bird, which is prejudicial to health or a nuisance;</p> <p>(f) any dust or effluvia caused by any trade or trade process and being prejudicial to health or a nuisance;</p> <p>(g) any smoke emitted in such quantity, or of such density or content, as to be a nuisance;</p> <p>(h) any other matter declared by this or any other enactment to be a statutory nuisance.</p>

	<p>(3) The Department may, by regulations, amend subsection (2).</p> <p>(4) Regulations under subsection (3) are subject to section 30 of the Legislation Act 2015 (approval required).</p>
<p>52. Duty of occupants of land</p> <p>(1) The occupier of any land shall give to the Department notice forthwith if it comes to his knowledge that rats or mice are living on or resorting to the land in substantial numbers.</p> <p>(2) Subject to subsection (6), the occupier of any land shall take such steps as may from time to time be necessary and reasonably practicable for the destruction of rats and mice on the land, or for preventing the land from being infested with rats and mice.</p> <p>(3) Any person who fails to comply with subsection (1) or (2) shall be guilty of an offence.</p> <p>(4) If the Department is satisfied that the occupier of any land has failed to take such action as is required by subsection (2), it shall either —</p> <p>(a) serve a notice on him requiring him to take such steps for any of the purposes mentioned in subsection (2) as are specified in the notice within such time as may be so specified; or</p> <p>(b) after not less than 48 hours' previous notice to him, enter on the land and take that action, and the Department may recover from the occupier any expenses reasonably incurred in exercising the powers conferred by paragraph (b).</p> <p>(5) A notice under subsection (4)(a) may (without prejudice to the generality of that subsection) require — (a) the application to the land of any form of treatment specified in the notice; or (b) the carrying out on the land of any works so specified.</p> <p>(6) It shall be a defence in any proceedings for an offence consisting of a failure to comply with subsection (2) for the person accused to show that he has complied with subsection (1) and that no notice has been served on him under subsection (4)(a).</p>	<p>52. Duty of occupants of land</p> <p>(1) The occupier of any land shall give to the Department notice forthwith if it comes to his knowledge that rats or mice are living on or resorting to the land in substantial numbers.</p> <p>(2) Subject to subsection (6), the occupier or owner of any land shall take such steps as may from time to time be necessary and reasonably practicable for the destruction of rats and mice on the land, or for preventing the land from being infested with rats and mice.</p> <p>(3) Any person who fails to comply with subsection (1) or (2) shall be guilty of an offence.</p> <p>(4) If the Department is satisfied that the occupier or owner of any land has failed to take such action as is required by subsection (2), it shall either —</p> <p>(a) serve a notice on him requiring him to take such steps for any of the purposes mentioned in subsection (2) as are specified in the notice within such time as may be so specified; or</p> <p>(b) after not less than 48 hours' previous notice to him, enter on the land and take that action, and the Department may recover from the occupier or owner any expenses reasonably incurred in exercising the powers conferred by paragraph (b).</p> <p>(5) A notice under subsection (4)(a) may (without prejudice to the generality of that subsection) require — (a) the application to the land of any form of treatment specified in the notice; or (b) the carrying out on the land of any works so specified.</p> <p>(6) It shall be a defence in any proceedings for an offence consisting of a failure to comply with subsection (2) for the person accused to show</p>

<p>(7) This section does not apply in the case of rats or mice which are kept on any premises —</p> <p>(a) as pets; or</p> <p>(b) in the course of the business of keeping a pet shop on the premises; or</p> <p>(c) for research or educational purposes by any school or other educational or scientific institution; provided that the rats or mice are adequately confined and that all reasonable steps are taken to prevent their escape from confinement.</p>	<p>that he has complied with subsection (1) and that no notice has been served on him under subsection (4)(a).</p> <p>(7) This section does not apply in the case of rats or mice which are kept on any premises —</p> <p>(a) as pets; or</p> <p>(b) in the course of the business of keeping a pet shop on the premises; or</p> <p>(c) for research or educational purposes by any school or other educational or scientific institution; provided that the rats or mice are adequately confined and that all reasonable steps are taken to prevent their escape from confinement.</p>
<p>92H. Public health inspection offences</p> <p>(1) A person commits an offence if the person, without reasonable excuse —</p> <p>(a) fails to comply with a requirement imposed under section 92B, 92C, 92D or 92E;</p> <p>(b) intentionally obstructs an investigator in the exercise of powers under those sections;</p> <p>(c) fails or refuses to —</p> <ul style="list-style-type: none"> (i) provide facilities or assistance; (ii) provide information; or (iii) permit inspection, where it is reasonably required by an investigator exercising powers under those sections; <p>(d) prevents any other person from —</p> <ul style="list-style-type: none"> (i) appearing before an authorised officer; or (ii) answering a question to which an authorised officer may require an answer pursuant to section 92D(1); 	<p>92H. Public health inspection offences</p> <p>(1) A person commits an offence if the person, without reasonable excuse —</p> <p>(a) fails to comply with a requirement imposed under section 92B, 92C, 92D or 92E;</p> <p>(b) intentionally obstructs an investigator authorised officer in the exercise of powers under those sections;</p> <p>(c) fails or refuses to —</p> <ul style="list-style-type: none"> (i) provide facilities or assistance; (ii) provide information; or (iii) permit inspection, where it is reasonably required by an investigator authorised officer exercising powers under those sections; <p>(d) prevents any other person from —</p> <ul style="list-style-type: none"> (i) appearing before an authorised officer; or (ii) answering a question to which an authorised officer may require an answer pursuant to section 92D(1);

<p>(e) in purported compliance with a requirement imposed under section 92D(1)—</p> <ul style="list-style-type: none"> (i) makes a statement which the person knows to be false or misleading in a material particular; (ii) recklessly makes a statement which is false or misleading in a material particular; or (iii) intentionally fails to disclose any material particular; <p>(f) causes or permits another person to commit an offence under paragraphs (a) to (e).</p> <p>(2) In proceedings for an offence under subsection (1), it is a defence for a person to prove that the person exercised all due diligence and took all reasonable steps to avoid committing the offence.</p> <p>(3) If the commission by a person of an offence under subsection (1) is due to the act or omission of another person, that other person may be charged with and convicted of the offence whether or not proceedings for the offence are taken against the first person.</p>	<p>(e) in purported compliance with a requirement imposed under section 92D(1)—</p> <ul style="list-style-type: none"> (i) makes a statement which the person knows to be false or misleading in a material particular; (ii) recklessly makes a statement which is false or misleading in a material particular; or (iii) intentionally fails to disclose any material particular; <p>(f) causes or permits another person to commit an offence under paragraphs (a) to (e).</p> <p>(2) In proceedings for an offence under subsection (1), it is a defence for a person to prove that the person exercised all due diligence and took all reasonable steps to avoid committing the offence.</p> <p>(3) If the commission by a person of an offence under subsection (1) is due to the act or omission of another person, that other person may be charged with and convicted of the offence whether or not proceedings for the offence are taken against the first person.</p>
<p>97. Application of provisions of 1985 Act</p> <p>(1) Section 5 (default powers) of the Local Government Act 1985 (“the 1985 Act”) applies to functions conferred on local authorities by this Act.</p> <p>(2) [Repealed]</p> <p>(3) Sections 38 to 41, 46 to 49 and 57 to 62 of the 1985 Act have effect in relation to functions of the Department or the Department of Infrastructure under this Act (as the context requires) as if for references therein to a local authority there were substituted references to the Department or the Department of Infrastructure (as the context requires)</p> <p>(3A) to (3D) [Repealed]</p>	<p>97. Application of provisions of 1985 Act</p> <p>(1) Section 5 (default powers) of the Local Government Act 1985 (“the 1985 Act”) applies to functions conferred on local authorities by this Act.</p> <p>(2) [Repealed]</p> <p>(3) Sections 38 37 to 41, 46 to 49 and 57 to 62 of the 1985 Act have effect in relation to functions of the Department or the Department of Infrastructure under this Act (as the context requires) as if for references therein to a local authority there were substituted references to the Department or the Department of Infrastructure (as the context requires)</p> <p>(3A) to (3D) [Repealed]</p>

(4) Section 58 (appeals etc.) of the 1985 Act does not apply to a notice under Part I (except a notice under section 12).186

(5) Section 73 (interpretation) of the 1985 Act applies to this Act.

(4) Section 58 (appeals etc.) of the 1985 Act does not apply to a notice under Part I (except a notice under section 12).186

(5) Section 73 (interpretation) of the 1985 Act applies to this Act.



PUBLIC HEALTH (FUNCTIONS AND GENERAL PUBLIC HEALTH DUTY) BILL 20XX

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PUBLIC HEALTH (FUNCTIONS AND GENERAL PUBLIC HEALTH DUTY) BILL 20XX

A **BILL** to establish, and set out the functions of, the posts of Chief Public Health Officer and Deputy Chief Public Health Officer, to establish the General Public Health Duty and to provide for its impact on public bodies; and for connected purposes.

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

PART 1 - INTRODUCTORY

1 Short title

The short title of this Act is the Public Health (Functions and General Public Health Duty) Act 20XX.

2 Commencement

- (1) Section 20 of this Act commences on the day Royal Assent is announced to Tynwald.
- (2) The remainder of this Act commences on the day or days as the Cabinet Office may by order appoint.
- (3) An order under subsection (2) may appoint different days for different purposes.

PART 2 – PUBLIC HEALTH OFFICERS AND FUNCTIONS

3 Public health officers

- (1) There shall be a Chief Public Health Officer in place of the director of public health nominated under the *Local Government Act 1985*.

- (2) The Chief Public Health Officer may, having consulted the Department, appoint a Deputy Chief Public Health Officer who may be any of the following —
 - (a) an individual employed by the Cabinet Office under a contract of service or for services and appointed by it to the post of Chief Public Health Officer or Deputy Chief Public Health Officer;
 - (b) an employee of the Public Services Commission within the meaning of section 7 of the *Public Services Commission Act 2015* stationed with the Public Health Authority;
 - (c) an employee of a public body stationed with or seconded to the Public Health Authority and appointed by the Department to the post of Chief Public Health Officer or Deputy Chief Public Health Officer.
- (3) The Chief Public Health Officer may, having consulted the Department, appoint members of staff (“public health officers”) to assist the Chief Public Health Officer or any Deputy Chief Public Health Officer (or both such officers).
- (4) The Department may make regulations in respect of the appointment of the Chief Public Health Officer and any Deputy Chief Public Health Officer.
- (5) Without limiting subsection (4), regulations may (among other things) contain provision for and about—
 - (a) an appointee’s term of office;
 - (b) the conditions and qualifications for appointment;
 - (c) the process of appointment.

4 Functions of the Chief Public Health Officer: general

- (1) Upon the commencement of this Act, the Chief Public Health Officer must take on the role and functions of the director of public health referred to in section 3(1).
- (2) Having taken on that role and those functions, the Chief Public Health Officer may delegate (in writing) any part of that role or any of those functions to a Deputy Chief Public Health Officer or a public health officer.
- (3) The Chief Public Health Officer must take such steps as that Officer considers appropriate for improving the public health of the people in the Island.
- (4) The steps that may be taken under subsection (2) include—
 - (a) carrying out quantitative and qualitative public health research;
 - (b) carrying out analysis of public health data;

- (c) providing information and advice;
 - (d) providing services or facilities designed to promote healthy living (whether by helping individuals to address behaviour that is detrimental to health or in any other way);
 - (e) providing services or facilities for the prevention, diagnosis or treatment of illness;
 - (f) providing services or facilities to encourage individuals to adopt healthier lifestyles;
 - (g) providing assistance (including financial assistance) to help individuals minimise any risks to health arising from accommodation or environment;
 - (h) providing or participating in the provision of training for persons working or seeking to work in the field of public health improvement;
 - (i) making available the services of any person or any facilities in support or furtherance of the general public health duty.
- (5) The Chief Public Health Officer also has the following functions —
- (a) facilitating and providing advice to the Council of Ministers in respect of health and social care matters;
 - (b) facilitating and providing advice to the Council of Ministers in respect of public health matters;
 - (c) co-operating with the prison service with a view to improving the proper exercise of functions in relation to securing and maintaining the public health of prisoners;
 - (d) furthering public health improvement (see section 8);
 - (e) discharging functions under this Act and any other Act relating to public health;
 - (f) those that relate to planning for, or responding to, emergencies involving a risk to public health;
 - (g) such other functions as may be prescribed in regulations made by the Department.
- (6) The Chief Public Health Officer may do anything which is calculated to facilitate or is conducive or incidental to the discharge of functions under this Act or any other Act relating to public health.

5 Deputy Chief Public Health Officer: functions and delegation

- (1) A Deputy Chief Public Health Officer shall perform the functions of the Chief Public Health Officer at any time when the latter is, for any reason, unable to act.

- (2) Without limiting subsection (2), any functions of the Deputy Chief Public Health Officer may, to the extent authorised in writing by them, be performed by any public health officer.

6 Public health protection

- (1) The Chief Public Health Officer must, so far as reasonably possible, support and assist the Council of Ministers in the proper and efficient operation and application of Part 2A of the *Public Health Act 1990*.
- (2) Pursuant to subsection (1), the Chief Public Health Officer may enter into arrangements, co-ordinate and co-operate with any person or body (whether in the Island or not) engaged in public health activities or ancillary activities.

7 Public health research

- (1) The Chief Public Health Officer must ensure that any research in respect of public health and its provision is ethically approved in accordance with regulations as may be made by the Department.
- (2) Subsection (1) applies to research undertaken or commissioned by any of the following —
 - (a) the Chief Public Health Officer;
 - (b) a Deputy Chief Public Health Officer;
 - (c) a public health officer.
- (3) For the purpose of protecting participants and potential participants in public health research by encouraging research that is safe and ethical, the Chief Public Health Officer may —
 - (a) make enquiries of, and contact, —
 - (i) any other person or body conducting such research; and
 - (ii) any relevant body;
 - (b) support any public health research undertaken or conducted by any person or body whether in the Island or otherwise.
- (4) The Chief Public Health Officer may make arrangements for —
 - (a) any data (whether raw data or derived data);
 - (b) sample; or
 - (c) information derived from a sample and used in connection with or the product of research,

to be stored and retained in accordance with regulations made by the Department.

8 Public health improvement

- (1) Without limiting this Act, the Chief Public Health Officer —
 - (a) must cooperate, and
 - (b) may co-ordinate,with a relevant body as may be appropriate in the circumstances for the efficient performance of any function under this Act or any other enactment relating to public health.
- (2) For the purposes of this section, the Chief Public Health Officer may —
 - (a) pass resources to,
 - (b) take resources from,
 - (c) or share resources with,a relevant body.

9 Commissioning

- (1) This section applies where the Chief Public Health Officer or any other person commissions services relating to public health.
- (2) The Chief Public Health Officer and any person referred to in subsection (1) may commission any services they reasonably consider will assist in or further the discharge of functions under this Act or any other Act relating to public health.
- (3) Before a person (other than the Chief Public Health Officer) commissions services relating to public health, that person must consult the Chief Public Health Officer.
- (4) The Department may make regulations in respect of commissioning under this section.

10 Advisory Bodies

- (1) The Chief Public Health Officer may establish a body with whom it shall consult on —
 - (a) such general matters relating to the services provided under this Act;
 - (b) such questions relating to those matters, as the Chief Public Health Officer may refer to it.
- (2) The body established under subsection (1) may tender to the Chief Public Health Officer its views on any general matters relating to that individual's functions under this Act.

- (3) In exercising functions under this Act the Chief Public Health Officer must have regard to any views given by a body pursuant to subsection (1) or (2).
- (4) The Chief Public Health Officer may establish committees and other bodies for the purpose of —
 - (a) undertaking research and analysis into public health matters;
 - (b) providing ethical approval processes;
 - (c) supporting ethical approval processes;
 - (d) advising on ethical approval processes;
 - (e) providing advice on public health matters to public bodies or the public (or sections of it);
 - (f) providing advice on health and social care matters to public bodies or the public (or sections of it).
- (5) The Department may, by regulations, provide for the constitution and functions of bodies established under subsection (1) and (4).

11 The Department

- (1) The Department must support, and enable, the Chief Public Health Officer to carry out the functions referred to in section 4 effectively, efficiently and expeditiously.
- (2) The Department may, at any time, require the Chief Public Health Officer to provide it with a report on that Officer's use of any facilities, equipment or assets provided by the Department pursuant to subsection (1).

12 Directions and reports on functions

- (1) The Department may give the Chief Public Health Officer written directions as to the exercise of that Officer's functions under this Act.
- (2) The Department may require the Chief Public Health Officer to give it such information about the exercise of that Officer's functions under this Act.
- (3) The Department may require the Chief Public Health Officer to make a report in writing to it on the exercise of all or any or any aspect of that Officer's functions under this Act.
- (4) A direction must —
 - (a) be written; and
 - (b) specify —
 - (i) the form;

- (ii) content; and
- (iii) time of submission,
of the report in question.

13 Reporting

- (1) The Chief Public Health Officer may, from time to time as that Officer sees fit, publish a report containing all or any of the following –
 - (a) public health data;
 - (b) public health research; and
 - (c) public health information relevant to the Island,
together with an analysis of that published material.
- (2) The Chief Public Health Officer may, from time to time as that Officer sees fit, publish a report on the performance of public bodies in respect of functions under this Act.
- (3) The Chief Public Health Officer must give a copy of a report referred to in subsection (1) [and (2)?] to the Department.
- (4) The Department must lay the report before Tynwald as soon as it may reasonably be done after its receipt.
- (5) The Chief Public Health Officer must, following the laying of the report before Tynwald, publish it.

PART 3 – THE GENERAL PUBLIC HEALTH DUTY, ETC.

14 The general public health duty

For the purposes of this Act, the general public health duty is a duty to take all reasonable and practicable steps to improve, prevent or minimise any harm to public health that might foreseeably result from anything done, or omitted to be done, by a public body.

15 Public bodies: general public health duty

- (1) Each public body must, when carrying out any of its functions or exercising a discretion, have such regard to the general public health duty as is reasonable and practicable.
- (2) In assessing what is reasonable and practicable to prevent or minimise harm in respect of the general public health duty, due regard must be had to any guidance issued by the Chief Public Health Officer in respect of that duty.

16 Duty to assist

- (1) It is the duty of each public body in so far as it is reasonable and practicable for that body to do so, to assist the Chief Public Health Officer in the exercise of the Chief Public Health Officer's functions in respect of public health.
- (2) The Department may by regulations exempt a body from the duty referred to subsection (1).
- (3) An exemption referred to in subsection (2) may be subject to conditions.

17 Guidance

- (1) The Chief Public Health Officer may issue guidance to other public bodies in respect of the general public health duty.
- (2) In exercising its functions or discretions, a public body must take such guidance into account.

PART 4 – CLOSING PROVISIONS

18 Information gateways

- (1) A person may disclose information to an appropriate person if the disclosure is made for the purposes of the exercise of any function of the Chief Public Health Officer.
- (2) Information obtained under subsection (1) may be used by an appropriate person in connection with the exercise of any function of the Chief Public Health Officer.
- (3) Information obtained in connection with the exercise of any function of the Chief Public Health Officer may be disclosed to another person (P) by an appropriate person if the disclosure is made for the purposes of the exercise of any of P's functions (including P's functions in relation to the general public health duty).
- (4) Information obtained in connection with the exercise of any function of the Chief Public Health Officer may be disclosed to another person by an appropriate person if the disclosure is in accordance with the data protection legislation within the meaning of the GDPR and LED Implementation Regulations 2018.
- (5) "Appropriate person" means —
 - (a) the Chief Public Health Officer;
 - (b) a member of staff of the Public Health Authority; and
 - (c) an individual or body providing services, or discharging functions, on behalf of the Chief Public Health Officer.

19 Sub-delegation

- (1) Where a provision of this Act confers a function on a person, that person may sub-delegate that function to one or more other persons.
- (2) A function may be sub-delegated in whole or in part.
- (3) A sub-delegation to two or more persons may be to such persons jointly or severally.

20 Amendment of the Public Health Act 1990

- (1) The *Public Health Act 1990* is amended as follows.
- (2) In section 1 (statutory nuisances), after subsection (2) add —
 - 33(3) The Department may, by regulations, amend subsection (2).
 - (4) Regulations under subsection (3) are subject to section 30 of the Legislation Act 2015 (approval required). 22.
- (3) In section 52 (duty of occupants of land), in —
 - (a) subsection (2), after “occupier” insert 33 or owner 22;
 - (b) subsection (4), after “occupier” (twice) insert 33 or owner 22..
- (4) In section 92H (public health inspection offences) for “investigator” (twice) substitute 33 authorised officer 22.
- (5) In section 97 (application of provisions of 1985 Act), in subsection (3) for “38” substitute 33 37 22.

21 Consequential amendments

The Schedule , which contains consequential amendments, has effect.

22 Orders and regulations

- (1) An order and regulations under a specific provision of this Act may make any consequential, incidental, supplementary, transitional, transitory or saving provision the Department considers appropriate for the purposes for which it is exercised.
- (2) The Department may, by regulations under this subsection, make provision that is consequential on any provision of this Act.
- (3) Regulations under subsection (2) may make any incidental, supplementary, transitional, transitory or saving provision the Department consider appropriate for the purposes of, or in connection with, or for giving full effect to this Act or any provision made under it.

23 Tynwald procedure

- (1) An order under section 2 is subject to section 34 of the *Legislation Act 2015* (“laying only”).
- (2) [Regulations under –
 - (a) section 4(3) and 11(5) are subject to 32 of the *Legislation Act 2015* (“negative”);
 - (b) any other provision of this Act are subject to section 30 of that Act (“approval required”).

24 Interpretation

- (1) In this Act —

“the Chief Public Health Officer” means the person referred to in section 3;

“the Department” means the Cabinet office;

Deputy Chief Public Health Officer means the person referred to in section 3;

“Director” means the Director of Public Health;

“public body” means a body carrying out public functions and includes —

- (a) a public authority within the meaning of section 6(1) of the *Freedom of Information Act 2015*;
- (b) a joint board established under(or deemed to be established under) section 7 of the Local Government Act 1985; and
- (c) a joint committee constituted undersection 17 or 18 of that Act;

“public health activities” include activities in compliance with, and furtherance of, —

- (a) the general public health duty; and
- (b) the Chief Public Health Officer’s functions under this Act or any other Act concerning public health;

“public health officer” means a person appointed by the Chief Public Health Officer under section 3(3);

“publish” in relation to any document means publish in a manner likely to bring it to the attention of those affected by it;

“relevant body” means —

- (d) a public body;
- (e) a government department;
- (f) a statutory board;
- (g) a private sector body engaged in public health activities or connected activities;

- (h) a third sector body engaged in public health activities or connected activities.
- (2) For the purposes of this Act, a relevant body may or may not be in the Island.
- (3) The Department may, by order, vary the list of relevant bodies referred to in subsection (1).
- (4) For the purposes of this Act, “**public health**” is the science and art of preventing disease, prolonging life and promoting health through the organised efforts of society and includes –
 - (a) the consideration of principles of social justice and equity, promoting and protecting better health for all; and
 - (b) hygiene, epidemiology and disease prevention.
- (5) A person required to publish anything under this Act may, unless otherwise stated, do so at such time and in such manner as the person considers will bring it to the attention of those most likely to be affected by it.

25 Transitional provision

- (1) A person (P) who immediately before the coming into operation of section 3 of this Act was the director public health appointed under section 1 of the *Local Government Act 1985* (Isle of Man Director of Public Health) (as it has effect before the coming into operation of that section) shall be treated as having been appointed as the Chief Public Health Officer under that section.
- (2) The change in P’s title (from “director” to “Chief Public Health Officer” does not affect (unless otherwise stated) the validity of any acts done by, or the liability of, P in discharging the functions of director.
- (3) A person who immediately before the coming into operation of section 3 of this Act was a member of staff of the Directorate of Public Health (a division of Cabinet Office) shall, if they continue in employment with the Public Health Authority be treated as having been appointed as such a member of the staff of that Authority under that section and shall have continuity of employment.

SCHEDULE
CONSEQUENTIAL AMENDMENTS

1 Amendment of the Local Government Act 1985

- (1) The *Local Government Act 1985* is amended as follows.
- (2) Omit section 1 (Isle of Man Director of Public Health).
- (3) In section 35 (powers to enter on land) —
 - (a) in subsection (2), for “A director of public health” substitute “The Chief Public Health Officer”;
 - (b) in subsection (4), for “a director of public health” substitute “The Chief Public Health Officer”;
 - (c) in subsection (5), for “the director of public health’s” substitute “the Chief Public Health Officer’s”.
- (4) In section 72 (interpretation) —
 - (a) omit the definition of “Director of Public Health”;
 - (b) at the appropriate place in the order of definitions, insert —

“Chief Public Health Officer” means the person appointed to that post under the Public Health (Functions and General Public Health Duty) Act 20XX;
- (5) In Schedule 4 (transitional provisions), in paragraph 6(2), for the words from “reference to a person” to the end substitute “appointed as the Chief Public Health Officer or Deputy Chief Public Health Officer under the Public Health (Functions and General Public Health Duty) Act 20XX”.

2 Amendment of the Education Act 2001

Section 40 of the *Education Act 2001* (cleanliness) is amended as follows —

- (a) in subsection (1) —
 - (i) for “the director of public health (“the director”) to cause examinations” substitute “the examination”;
 - (ii) omit “whenever in his opinion such examinations are necessary”;
- (b) omit subsection (2);
- (c) in subsection (3) —
 - (i) omit “or (2)”;
 - (ii) for “examination” substitute “an examination”;
- (d) in subsection (5), for “director” substitute “Department”;
- (e) in subsection (9), for “director” substitute “Department”.



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