



# **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 —
  - (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).
- (3) In section 52 (duty of occupants of land), in —
  - (a) subsection (2), after "occupier" insert **or owner**;
  - (b) subsection (4), after "occupier" (twice) insert **or owner**.

- (4) In section 92H (public health inspection offences) for “investigator” (twice) substitute ~~the~~ authorised officer ~~22~~.
- (5) In section 97 (application of provisions of 1985 Act), in subsection (3) for “38” substitute ~~the~~ 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 under section 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 **64** Department **99**;
- (e) in subsection (9), for “director” substitute **64** Department **99**.

Consulation draft