

Australian Capital Territory

Public Health (Risk Activities) Declaration 2005 (No 1)

Disallowable Instrument DI2005–302

made under the

Public Health Act 1997, s 18 (Public health risk activities and procedures – declaration)

EXPLANATORY STATEMENT

Subsection 18 (1) of the *Public Health Act 1997* (the Act) provides that the Minister may, by instrument, declare an activity that may result in the transmission of disease, or that may otherwise adversely affect the health of individuals in the context of the wider health of the community, to be a public health risk activity. Section 18 (3) of the Act provides that a declaration under Subsection 18 (1) shall indicate whether the declared activity is licensable, registrable or a non-licensable activity.

This instrument declares the operation, management or control of a business, charity, demonstration or service that carries out a skin penetration procedure to be a licensable public health risk activity under subsection 18 of the Act. “Skin penetration procedure” is defined in the declaration. Individuals carrying on skin penetration procedures need not be licensed unless they also operate, manage or control the business, charity, demonstration or service.

This instrument further declares the operation, management or control of a business, charity, demonstration or service that carries on an infection risk procedure to be a non-licensable public health risk activity under subsection 18 of the Act. “Infection risk procedure” is defined in the declaration. As such the manager of the business will be obliged to comply with the Code of Practice.

Subsection 20 (1) of the Act provides that a person carrying on a public health risk activity shall not, without reasonable excuse; fail to comply with a code of practice in relation to that activity.

Clause 5 of this instrument excludes health care facilities. The operation of a health care facility is declared to be a licensable public health risk activity by the *Public Health Risk (Health Care Facilities) Declaration 2001* (Instrument No.183 of 2001).

Clause 5 also excludes businesses, charities, demonstrations and services in which all persons employed that carry on skin penetration procedures and/or infection risk procedures are registered as medical practitioners under the *Health Professionals Act 2004* or acting under the direction of a registered medical practitioner. This will include medical practices.

Infection control risks associated with medical practice will be regulated under the *Health Professionals Regulation 2004*.

No regulatory impact statement has been prepared for this instrument. The significant change in this instrument compared to Instrument No.184 of 2001 is that medical practices (and other businesses in which those carrying on skin penetration and infection risk procedures are all medical practitioners) are exempted. This means that such businesses will no longer be required to be licensed and will not be required to comply with the relevant code of practice. The net regulatory impact of this instrument is clearly less than its predecessor.

This instrument is a disallowable instrument.