



14 August 2008
In reply please quote: Item 26

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The Hon. Stephen Robertson
Minister for Health
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Dear Minister

Re: Hazardous Chemical Notifications

At the annual conference of the Urban Local Government Association of Queensland held recently in Gympie members resolved that representations be made to the State Government to cease the devolution of responsibility in relation to hazardous chemical contamination and the public health risk they may pose.

Councils have started to receive hazardous chemical notifications from the Queensland Police Service (QPS) in the last 12 months. The notification advises that a property has been investigated and received a relevant category.

The categories are:

Category	Description of Category
A	Active: Laboratory site where chemical reactions are underway and apparatus is turned on.
B	Store/Used: Laboratory site where reaction vessels contain liquid but no apparatus is turned on.
C	Stored/Unused: There are chemicals and apparatus present (boxed lab or lab in storage).
D	Used Sites: Site where a 'cook' is suspected of having to taken place.

The notification may also advise that, 'an assessment of these premises may be required prior to future habitation. Residue of hazardous substances and waste products may still remain on this property.

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This has serious ramifications for local governments. What legislative requirements are there for Councils to undertake such assessments? What if councils do not have the resources to carry out such assessments? What if Councils do not have the necessary skills to carry out such assessments? Should Councils be recording this notice on the land's register? What liability does this expose Councils to, especially with future owners of that property?

King and Company provided advice in a legal opinion to a member Council on 20 February 2008 [for this same issue] that, 'We have perused the provisions of the *Drugs Misuse Act 1986* together with the *Drugs Misuse Regulation 1987* and have been unable to find anything which requires the QPS to notify local governments of the location of clandestine drug laboratories or anything which deems the location of a clandestine drug laboratory to be a contaminated site. There is also nothing in that Act or Regulation which requires a local government to take any action where it receives a notice such as the one that was received.

The King and Company legal opinion also says, 'The provision of information to the public in the form of a notation on a local government's land record may expose the local government to claims for damages where that information is incorrect or ambiguous. Local governments are not obliged by the provisions of the *Local Government Regulation 2005* to record on a land record that a premises has previously been used for the purpose of a clandestine drugs laboratory or that the premises is or may be the source of a public health risk.'

The legal opinion goes on to state that a public health order could be issued against a person for the property under the *Public Health Act 2005* which would require them to:

- (a) clean or disinfect the place, or part of the place, or a structure or other thing at the place, in the way stated in the order;
- (b) carry out insect or pest control at the place in the way stated in the order;
- (c) demolish stated structures or other property at the place in the way stated in the order;
- (d) remove stated material or items from the place to another place stated in the order in the way stated in the order;
- (e) dispose of stated material or items at the place in the way stated in the order, for example, by burying the material or items;

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- (f) destroy animals at the place or remove animals from the place for destruction at another place in the way stated in the order;
- (g) stop using the place, or part of the place, for a stated purpose, within a stated period or until stated steps are taken (see section 21 of the Act).

The only way to know if chemicals used in the internal areas of a property are no longer present in the structure would be to do testing on samples of the walls, floors, ceilings etc. Local Government officers are not drug experts and are not skilled in testing structures for chemicals that may cause a public health risk. This is not a Local Government responsibility.

Your consideration of the matter and advice in due course would be appreciated.

Yours sincerely

**P PISASLE
PRESIDENT**