



ANNO DUODECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 34 of 1963

**An Act Relating to the Addition of Fluorine to Public
Water Supplies**

[ASSENTED TO 16TH DECEMBER, 1963]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. (1) Short title. This Act may be cited as "*The Fluoridation of Public Water Supplies Act of 1963.*"

(2) Commencement of Act. This Act shall come into operation on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*.

2. Interpretation. Without limiting the operation of "*The Acts Interpretation Acts, 1954 to 1962,*" in this Act, unless the context otherwise indicates or requires, the following terms have the meanings set against them respectively, that is to say:—

"Director-General"—The Director-General of Health and Medical Services for the State of Queensland under and within the meaning of "*The Health Acts, 1937 to 1962,*" or the person who for the time being occupies the office or performs the duties of the said Director-General of Health and Medical Services;

- “Fluorine”—Includes any compound of fluorine;
- “Local Authority”—The term includes Brisbane City Council or a joint local authority;
- “Minister”—The Minister for Health or other Minister of the Crown for the time being charged with the administration of this Act;
- “Public water supply”—Any water supply used for supplying water to the public.

3. Public water supply under control of person other than Local Authority. (1) Where a public water supply under the control of a person other than a Local Authority, is used for supplying water to the public in the Area of any Local Authority then upon application in that behalf made by such Local Authority the Governor in Council by Order in Council may, in relation to that public water supply, exempt such person from the prohibition imposed by this Act against a person other than a Local Authority adding fluorine to a public water supply.

(2) During the continuance in force of an Order in Council under this section, the provisions of this Act shall, in respect to the public water supply to which the Order in Council relates, apply to the person named in the Order in Council as if he were a Local Authority and shall be read and applied with and subject to all necessary adaptations accordingly.

(3) The Governor in Council may at any time and shall, upon application in that behalf made by the Local Authority at the request of which the Order in Council was made, revoke any Order in Council made under this section.

4. Addition of fluorine to public water supplies. (1) (a) Subject to this Act a Local Authority may add fluorine to any public water supply under its control.

(b) Paragraph (a) of this subsection applies subject to Part XII of “*The Local Government Acts, 1936 to 1962*,” so that a Local Authority shall not be authorised by this Act to add fluorine to a public water supply under its control if at a Poll taken pursuant to the said Part XII the number of votes against is greater than the number of votes in favour of the addition of fluorine to the public water supply in question.

Where a public water supply is used for supplying water to the public in the Areas of two or more Local Authorities, then for the purposes of this paragraph the Local Authority controlling such public water supply shall be deemed to be, in relation to that public water supply, a Joint Local Authority for all such Areas.

(c) Save as prescribed by this subsection, no provision of any other Act shall apply so as to prejudice or limit in any way the authority conferred upon a Local Authority by this subsection.

(2) A Local Authority shall not add to any public water supply under its control fluorine in any form other than that prescribed by the regulations.

(3) A Local Authority which adds to any public water supply under its control fluorine—

(a) shall not at any time add to such public water supply fluorine so as to increase the content of fluorine in such public water supply to a concentration in excess of the maximum concentration prescribed by the regulations;

- (b) shall at all times maintain the content of fluorine in such public water supply at a concentration of not more than the maximum or less than the minimum concentration prescribed by the regulations; and
- (c) shall as respects such public water supply and the addition of fluorine thereto comply in all other respects with the regulations.

5. Regulations. (1) The Governor in Council, on the recommendation of the Director-General may make regulations not inconsistent with this Act regulating and controlling the addition of fluorine to public water supplies.

(2) Without limit to the generality of the provisions of subsection (1) of this section the power to make regulations under this Act includes power to make regulations for or with respect to—

- (a) prescribing the maximum and the minimum concentrations respectively at which a Local Authority which adds fluorine to any public water supply under its control shall maintain the content of fluorine in such public water supply, which maximum or minimum may be prescribed differently in respect of different public water supplies or in respect of all public water supplies in different areas or localities throughout the State, and which maximum shall in the case of any and every public water supply include fluorine naturally present therein;
- (b) prescribing the form in which fluorine may be added to any public water supply;
- (c) the protection of persons employed in adding fluorine to any public water supply from inhaling fumes or dust containing fluorine and for requiring such persons to comply with such regulations;
- (d) the qualifications of persons employed in operating plant or equipment used for adding fluorine to any public water supply and prohibiting persons who are not qualified as prescribed from being so employed;
- (e) the disposal or destruction of containers from which fluorine has been removed for addition to any public water supply;
- (f) prescribing in respect of a public water supply to which a Local Authority adds fluorine points at which samples of water shall be taken for the making of analyses and the prescribed tests prescribing the tests to be made of such samples, requiring the Local Authority to make analyses and the prescribed tests of such samples, and requiring the Local Authority to forward to the Director-General when and so often as he requires samples of water so taken;
- (g) prescribing the method of making such analyses and tests and the times or intervals at which such analyses or tests shall be made;
- (h) the records to be kept for the purposes of this Act by a Local Authority in respect of the addition by it of fluorine to any public water supply under its control.

(3) Regulations may be made on the passing of this Act.

6. Inaccurate descriptions, etc. No misnomer, inaccurate description or omission in or from any Proclamation, Order in Council or regulation under this Act shall in any wise prevent or abridge the operation of this Act with respect to the subject matter of that misnomer, inaccurate description, or omission: Provided the same is designated so as to be understood.

7. Publication of Orders in Council, etc. (1) Every Proclamation, Order in Council, and regulation made under this Act, shall—

- (i) be published in the *Gazette*;
- (ii) upon its publication in the *Gazette*, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;
- (iii) take effect from the date of such publication unless, in the case of any regulation, a later date is specified in that or any other regulation for its commencement when in such event it shall take effect from that later date; and
- (iv) be laid before the Legislative Assembly within fourteen sitting days after such publication, if the Legislative Assembly is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(2) If the Legislative Assembly passes a resolution of which notice has been given at any time within fourteen sitting days after any such Proclamation, Order in Council, or regulation has been laid before it disallowing the same or part thereof, that Proclamation, Order in Council, regulation, or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the making of a further Proclamation, Order in Council, or regulation.

8. Indemnity. (1) The Treasurer shall, subject to this section, indemnify a Local Authority against all costs and expenses properly incurred by it in relation to any action or other proceedings in any court against it—

- (a) to restrain it from adding or continuing to add fluorine to any public water supply under its control; or
- (b) in respect of the addition by it of fluorine to a public water supply under its control.

(2) The Treasurer shall not be bound to indemnify a Local Authority as prescribed by subsection (1) of this section in respect of any action or other proceedings specified in that subsection, unless and until the Treasurer is satisfied that the alleged cause of the action or other proceedings created no legal liability whatsoever in the Local Authority.

(3) Forthwith upon the institution against a Local Authority of an action or other proceedings specified in subsection (1) of this section, such Local Authority shall inform the Minister thereof.

The Minister may at any time during the continuance of the action or other proceedings elect to be joined with the Local Authority by filing in the Court concerned a notice in writing to that effect.

The Minister may in such notice name a person and in such case the person so named shall be deemed to be joined with the Local Authority.

(4) If the Minister files in the Court concerned the notice of election referred to in subsection (2) of this section—

(a) the Minister or, if a person is named in the notice, that person shall be entitled to do and take on behalf of the Local Authority all such things and steps as could be done or taken by the Local Authority as a party to the action or other proceedings, including for the settlement of any question arising with respect thereto, unless the Minister or such person, by writing, has permitted the Local Authority to do or take the thing or step in question; and

(b) the Local Authority shall immediately when required by the Minister or the person named in the notice referred to in subsection (3) of this section, sign and execute all such documents as the Minister or such person may from time to time consider necessary to enable the Minister or such person to do or take any thing or step which the Minister or such person is authorised by paragraph (a) of this subsection to do or take.

(5) Where this section applies to any action or other proceedings in the Supreme Court of Queensland or a District Court in Queensland the claim therein shall be heard and determined by a Judge without a jury.

(6) This section applies so as not to prejudice or affect in any way the right of a Local Authority (or of the Minister or other person who may be a party with the Local Authority) to recover costs in any action or other legal proceedings to which this section applies, and for the purposes of the fixation of the amount of or the taxation of any such costs the indemnity provided for in this section shall be deemed to be of no effect.