

Queensland



ANNO VICESIMO QUARTO

ELIZABETHAE SECUNDAE REGINAE

No. 70 of 1975

An Act to amend the Health Act 1937-1974 in certain particulars

[ASSENTED TO 12TH DECEMBER, 1975]

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. Short title and citation. (1) This Act may be cited as the *Health Act Amendment Act 1975*.

(2) The *Health Act 1937-1974* is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Health Act 1937-1975*.

2. Commencement of Act. (1) Subject to subsection (2), this Act shall come into operation on the day on which it is assented to for and on behalf of the Crown.

(2) Sections 3 and 25 of this Act shall come into operation on a date appointed by Proclamation.

3. Amendment of s. 3. Section 3 of the Principal Act is amended by omitting the words "PART IVA—QUEENSLAND HEALTH EDUCATION COUNCIL (ss. 154A–154G);".

4. Amendment of s. 5. Section 5 of the Principal Act is amended by—

(a) inserting after the term "Advertisement" the following term:—

" "Air cushion vehicle"—A vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the water or other surface beneath the vehicle;"

(b) inserting after the term "Director-General" the following term:—

" "Disposal"—Used in connexion with refuse or nightsoil includes storing, treating, handling, dealing with, burying, desiccating, burning or destroying by any means such refuse or nightsoil;"

(c) in the term "Licence" inserting after the words "Director-General" the words "and, where permitted by this Act, by a Local Authority";

(d) inserting after the term "Minister" the following term:—

" "Nightsoil"—Includes all human faecal matter and human urine and matter mixed with them and the contents of devices for the treatment of those matters and that urine;"

(e) in the term "Vessel" inserting after the words "a boat," the words "an air cushion vehicle".

5. Amendment of s. 7. Section 7 of the Principal Act is amended by—

(a) in subsection (1), in subparagraph (ii), omitting the words "who shall hold either the diploma of public health or the double diploma of tropical medicine and tropical hygiene of a recognised university";

(b) in subsection (3), in the second paragraph, omitting the words "who holds either the diploma of public health or the double diploma of tropical medicine and tropical hygiene of a recognised university".

6. Amendment of s. 11. Section 11 of the Principal Act is amended by—

(a) numbering the existing section as subsection (1);

(b) inserting after subsection (1) as so numbered the following subsection:—

"(2) The Governor in Council may from time to time make all such Orders in Council as he thinks fit authorising or directing the Local Authorities specified in the Orders in Council to inspect the Crown premises or class of Crown premises specified in the Orders in Council."

7. Amendment of s. 13. Section 13 of the Principal Act is amended by, in subsection (1), omitting paragraph (v) and substituting the following paragraph:—

"(v) Where the same subject-matter is provided for both by a regulation and by any by-law or ordinance of a Local Authority both the regulation and the by-law or ordinance shall be given their full force and effect and shall be complied with:

Provided that if in respect of a particular matter there is a contradiction as between a regulation and any by-law or ordinance the regulation shall prevail and the by-law or ordinance, to the extent of the contradiction, shall be of no force or effect."

8. Amendment of s. 29. Section 29 of the Principal Act is amended by, in subsection (1), omitting all words commencing with the words "ancylostomiasis (hookworm)" to and including the words "venereal disease" and substituting the following words:—

"amoebiasis, ancylostomiasis, anthrax, brucellosis, cholera, dengue, diphtheria, diarrhoea in a closed institution, encephalitis, epidemic polyarthritis, filariasis, food poisoning in two or more associated cases, hepatitis (type A (infective) or type B (serum)), hydatid disease, lead poisoning, leprosy, leptospirosis, malaria, melioidosis, meningitis, psittacosis (ornithosis), plague, poliomyelitis, puerperal fever (any febrile infection of the genital tract occurring in association with childbirth or miscarriage), Q fever, rubella, salmonella infections, shigella infections, smallpox, staphylococcal or streptococcal infections in a nursery, taeniasis, tetanus, trachoma, tuberculosis (all forms), typhoid, typhus (all forms), venereal disease, yellow fever".

9. Amendment of s. 30. Section 30 of the Principal Act is amended by, in subsection (1), omitting from subparagraphs (a) and (b) all words commencing with the word "ancylostomiasis" to and including the words "yellow fever" and substituting in each case the following words:—

"amoebiasis, ancylostomiasis, anthrax, brucellosis, cholera, dengue, diphtheria, diarrhoea in a closed institution, encephalitis, epidemic polyarthritis, filariasis, food poisoning in two or more associated cases, hepatitis (type A (infective) and type B (serum)), hydatid disease, leprosy, leptospirosis, malaria, melioidosis, meningitis, psittacosis (ornithosis), plague, poliomyelitis, Q fever, rubella, salmonella infections, shigella infections, smallpox, taeniasis, tetanus, trachoma, tuberculosis (all forms), typhoid, typhus (all forms), yellow fever".

10. Amendment of s. 33. Section 33 of the Principal Act is amended by, in the first paragraph, in subparagraph (c), inserting at the end of the subparagraph the following words:—

" ; requiring those persons to refrain from or cease working in prescribed works and the conditions on which they may commence or resume working in those works".

11. Amendment of s. 58. Section 58 of the Principal Act is amended by, in subsection (2), in the last paragraph, inserting at the end of the paragraph the words " and liable to a penalty not exceeding \$400 "

12. Repeal of and new s. 69. The Principal Act is amended by repealing section 69 and substituting the following section:—

"69. Fees. (1) The annual fee payable for a licence for a private hospital shall be as prescribed.

(2) Where a licence is granted in the first instance for part of a year, proportion of the prescribed annual fee for that part only shall be payable for the year in which the licence is granted.”.

13. Amendment of s. 76C. Section 76C of the Principal Act is amended by, in subsection (1), in the second paragraph, omitting the words “ five pounds ” and substituting the words “ as prescribed ”.

14. Amendment of s. 95. Section 95 of the Principal Act is amended by—

(a) in the note appearing in and at the beginning of the section omitting the word “ house ”;

(b) in subsection (1),

(i) omitting subparagraph (i) and substituting the following subparagraph:—

“ (i) The removal, collection or conveyance of refuse from any place and the disposal thereof;”;

(ii) omitting subparagraph (iv) and substituting the following subparagraph:—

“ (iv) The removal, collection, conveyance or disposal of nightsoil;”;

(iii) omitting subparagraph (v) and substituting the following subparagraph:—

“ (v) The providing of places, containers and equipment for the deposit or disposal of refuse or nightsoil.”;

(c) in subsection (2), omitting the first paragraph and substituting the following paragraph:—

“All work specified in subsection (1) undertaken or contracted for by a Local Authority or undertaken with the approval of a Local Authority (whether under the authority of this Act or of any other law or otherwise) shall be carried out to the satisfaction of the Director-General and in accordance with such conditions as he may from time to time prescribe or may from time to time impose, either generally or in a particular case, by written advice given to the Local Authority.”;

(d) omitting subsection (4).

15. Amendment of s. 96. Section 96 of the Principal Act is amended by—

(a) in subsection (1),

(i) omitting the words “, the removal of refuse, or the cleansing of sanitary conveniences or streets,” and substituting the words “ any work specified in section 95 (1) ”;

(ii) omitting the words “ by order ”;

(iii) omitting the words “ or the contents of sanitary conveniences so cleansed ” and substituting the expression “, nightsoil ”;

(iv) inserting after the word “ prescribe ” the words “ or may from time to time impose, either generally or in a particular case, by written advice given to the Local Authority ”;

(b) in subsection (2),

(i) inserting after the words “ Local Authority ” the words “ or contractor concerned ”;

(ii) omitting the words “ and other matters aforesaid ” and substituting the words “ and nightsoil ”;

(c) in subsection (3),

(i) inserting after the words “ Local Authority ” where twice occurring the words “ or contractor concerned ”;

(ii) omitting the words “ or other matters aforesaid ” and substituting the words “ and nightsoil ”;

(iii) omitting the words “ by burying, burning, desiccating, or otherwise ”;

(d) in subsection (4),

(i) inserting after the words “ Local Authority ” where twice occurring the words “ or contractor concerned ”;

(ii) inserting after the words “ conferred on it ” the words “ or him ”.

16. New s. 96A. The Principal Act is amended by inserting after section 96 the following section:—

“ **96A. Offence to use unauthorised land.** A Local Authority shall not use any land for the deposit or disposal of refuse or nightsoil unless the land is at the material time authorised by the Director-General as a place for the deposit and disposal of the matter in question.”.

17. New ss. 98A and 98B. The Principal Act is amended by inserting after section 98 the following sections:—

“ **98A. Refuse removal by private contractors.** (1) A person shall not undertake or contract to undertake the execution for a fee or reward of any work specified in section 95 (1) unless—

- (a) with the approval of the Local Authority of the Area in which the works are to be executed; or
- (b) the contract is made with such Local Authority.

(2) A Local Authority which grants its approval to a person undertaking the execution of work specified in section 95 (1) may subject that approval to such conditions as it thinks fit and may at any time—

- (a) revoke an approval granted by it;
- (b) impose conditions on an approval already granted by it;
- (c) vary the conditions to which an approval granted by it is subject,

by notice in writing given to the person to whom the approval was granted.

98B. Offence to remove refuse, etc., without authority. A person who—

- (a) unlawfully removes any matter—
 - (i) stored for removal by a Local Authority or any person under the authority of section 95; or
 - (ii) collected by a Local Authority or any person under the authority of section 95 or of an approval granted under section 98A;

- (b) obstructs or hinders a Local Authority or any person in the lawful execution of any work specified in section 95 (1),

commits an offence against this Act and is liable to a penalty not exceeding \$100.”.

18. Amendment of s. 99. (1) Section 99 of the Principal Act is amended by inserting at the end of subsection (5) the words “, the making of such regulations in accordance with this Act being hereby authorised”.

(2) The Sanitary Conveniences and Nightsoil Disposal Regulations of 1957 (published in the Gazette dated 23 December, 1957 at pages 2085 to 2090) and all amendments thereof to the date of commencement of this Act, purporting to have been made pursuant to *The Health Act of 1937* as amended at the material time are hereby declared to have been validly made in each case.

19. New s. 99A. The Principal Act is amended by inserting after section 99 the following section:—

“**99A. Regulations and conditions relating to refuse etc.** (1) The Director-General may, in accordance with this Act, make regulations with respect to—

- (a) the storage of refuse by occupiers of premises; the removal, collection, conveyance, deposit and disposal of refuse and nightsoil;
- (b) the terms of contracts to be made with Local Authorities for undertaking work specified in section 95 (1); the supervision of such contracts by the Director-General;
- (c) the granting by Local Authorities of approval to a person undertaking work specified in section 95 (1); the carrying out of such work by persons so approved;
- (d) conditions required or permitted by this Division to be prescribed.

(2) Without limiting the power conferred by subsection (1) conditions in relation to work specified in section 95 (1) or to a use referred to in section 96 (1) may be so prescribed—

- (a) as to require a Local Authority, or any person acting on behalf of, or under contract to, or approved by a Local Authority, or an owner or occupier of any house or premises, or other person to do or refrain from doing any act in connexion with the removal, collection, conveyance, deposit and disposal of refuse and nightsoil;
- (b) as to require a Local Authority, or any person acting on behalf of, or under contract to, or approved by a Local Authority, or any person to do or refrain from doing any act in connexion with the use of land as a place for the deposit or disposal of refuse and nightsoil;
- (c) as to set forth the means, methods and materials to be used in dealing with or handling refuse and nightsoil;
- (d) as to require such acts, matters and things as, in the opinion of the Director-General, are necessary or convenient to achieve the objects and purposes of those sections.”.

20. Amendment of s. 124. Section 124 of the Principal Act is amended by in subsection (1)—

(a) in subparagraph (i), in provision (a), inserting after the word “antimony” the words “, or cadmium, or selenium, or mercury”;

(b) in subparagraph (vii) omitting the words “or antimony” and substituting the words “antimony, cadmium, selenium or mercury”.

21. Amendment of s. 134. Section 134 of the Principal Act is amended by in subsection (3) omitting the words “Such delivery to an analyst” and substituting the words “The delivery to an analyst pursuant to subsection (2) or the delivering or forwarding pursuant to section 132 (4)”.

22. Amendment of s. 137. Section 137 of the Principal Act is amended by inserting the following subparagraph after subparagraph (f):—

“ ;
(g) Uses any threat or abusive or insulting language to any officer in the exercise of his powers or in the discharge of his duties”.

23. Amendment of s. 152. (1) Section 152 of the Principal Act is amended by in subsection (1)—

(a) omitting subparagraph (vii) and substituting the following subparagraph:—

“(vii) **Contamination, etc.** Securing the wholesomeness, cleanliness and freedom from contamination or adulteration of any food or drug or article in the course of its manufacture, preparation, storage, packing, carriage, transit or delivery; securing the cleanliness of places, receptacles, appliances, equipment, apparatus and vehicles used in such manufacture, preparation, storage, packing, carriage, transit or delivery; the powers of the Director-General with respect to securing the cleanliness of such places, appliances, equipment or apparatus; the clothing to be worn by persons engaged in such manufacture, preparation, storage, packing, carriage, transit or delivery; the powers of inspectors with respect to the cleansing of drinking vessels used in the sale of liquor or other beverages; prescribing the places where foods or drugs may, with the consent of the Director-General, be sold, manufactured, prepared, stored, packed, served, kept or had;”;

(b) omitting subparagraph (xv) and substituting the following subparagraph:—

“(xv) **Registration of food establishments.** The registration by the Director-General or by Local Authorities of premises at which food for sale is manufactured, prepared, stored, packed or repacked; the inspection of such premises in respect of which registration has been granted or is sought; the standards of cleanliness and hygiene to be maintained in such premises; the licensing by the Director-General or by Local Authorities of persons selling or preparing, manufacturing, packing or repacking food for sale;”;

(c) in subparagraph (xvii) inserting after the words “giving away of,” where they first occur the words “or forging and uttering of prescriptions for”.

(2) The Cafe Regulations of 1955 (published in the Gazette dated 30 May, 1955 at pages 527 to 529) and all amendments thereof to the date of commencement of this Act purporting to have been made pursuant to *The Health Act of 1937* as amended at the material time are hereby declared to have been validly made in each case.

(3) Regulation N1 (published in the Gazette dated 10 August, 1973 at page 2567) of The Poisons Regulations of 1973, which regulations purport to have been made pursuant to the *Health Act 1937-1973*, is hereby declared to have been validly made.

(4) The Food and Drug Regulations, 1964 (published in the Gazette dated 24 November, 1964 at pages 1105 to 1231) and all amendments thereof to the date of commencement of this Act purporting to have been made pursuant to *The Health Act of 1937* as amended at the material time are hereby declared to have been validly made in each case.

24. New s. 154AF. The Principal Act is amended by inserting after section 154F the following section:—

“**154AF. Audit.** (1) The Auditor-General or a person authorised by him shall at least once in each year audit the accounts and records of financial transactions of the Council.

(2) The Auditor-General shall report on the audit to the Minister and in the report he shall certify whether or not the statement of receipts and disbursements furnished in accordance with the Queensland Health Education Council (Financial Arrangements) Regulations 1975—

(a) is in agreement with the books and accounts kept by the Council; and

(b) in his opinion fairly sets out the financial transactions of the Council for the year to which it relates.

(3) The Auditor-General shall report to the Council the results of the audit carried out under subsection (1) and shall, if he thinks fit, make recommendations to the Council with respect to the conduct of the financial transactions of the Council and the manner of operating and maintaining its accounts.

(4) The Council shall give due consideration to the report and recommendations, if any, made pursuant to subsection (3).

(5) The Auditor-General or person authorised by him shall have the right of access at all reasonable times to the accounts, books and records of the Council and may direct any member or employee of the Council to make available copies of or extracts from those accounts, books and records or to supply such information and explanation as he thinks fit for the purpose of the audit and the member or employee shall comply with a direction so given.”.

25. Repeal of Part IVA. (1) The Principal Act is amended by repealing all sections comprising Part IVA of that Act and the heading to that Part.

(2) Upon the coming into operation of this section The Queensland Health Education Council the body corporate constituted under Part IVA of the Principal Act shall be thereby dissolved.

Such body corporate is in this section referred to as the Council.

(3) The Governor, by the Proclamation appointing the date for the coming into operation of this section or by a later Proclamation may provide for and declare with respect to—

- (a) the divesting of property real and personal, from the Council and the vesting of such property in the Crown or any person as specified in the Proclamation;
- (b) the vesting of rights and obligations of the Council in the Crown or any person as specified in the Proclamation;
- (c) the continuation of actions or other proceedings commenced by or against the Council before its dissolution;
- (d) the employment and service of persons employed by the Council;
- (e) the duties of persons concerned in relation to any divesting, vesting or continuation so provided for and declared, for the purpose of giving effect to such Proclamation;
- (f) any other matter which, in the opinion of the Governor, should be provided for and declared for the effectual disposal of the undertaking of the Council.

Every such Proclamation shall have force and effect as if enacted in this Act and shall be given effect according to its terms.

26. Amendment of s. 160. Section 160 of the Principal Act is amended by in subsection (1)—

- (a) omitting the words “ except Sunday ”;
- (b) omitting the words “ nuisance arising in respect of any ”.

27. New s. 180. The Principal Act is amended by inserting after section 179 the following section:—

“ **180. Regulations.** Regulations made pursuant to the authority of any section of this Act may—

- (a) adopt, wholly or in part and either by way of reference or by way of express specification therein, any of the standard rules, codes or specifications of the bodies known as the Standards Association of Australia, the British Standards Institution, the National Health and Medical Research Council or the International Organization for Standardization or a like body identified in the regulations;
- (b) provide for the approval of the Director-General to be the standard to be applicable in respect of a particular matter;
- (c) prescribe the powers of inspectors with respect to—
 - (i) the signing and serving of notices on persons contravening the regulations;
 - (ii) securing compliance with the regulations by those persons.”.

28. Amendments relating to penalties and decimal currency. The Principal Act is amended as set forth in the schedule to this Act.

SCHEDULE [s. 28]
AMENDMENTS RELATING TO PENALTIES AND DECIMAL CURRENCY

Provision to be Amended	Omit	Insert
Section 13 (1) (ii)	one hundred pounds	\$400
Section 30 (1) (d)	twenty pounds	\$100
Section 30 (2)	two shillings and six pence	25 cents
Section 30 (3)	fifty pounds	\$100
Section 31 (7)	twenty shillings	\$10
Section 36 (4)	twenty pounds	\$100
Section 36 (5)	twenty pounds	\$100
Section 38 (3)	ten shillings	\$1
Section 43	Forty pounds	\$150
Section 47 (8)	ten pounds	\$50
Section 49 (13)	ten pounds	\$50
Section 50 (7)	fifty pounds	\$200
Section 51 (3)	one hundred pounds	\$400
Section 51 (8)	(a) fifty pounds	\$200
	(b) ten pounds	\$50
Section 51 (13)	fifty pounds	\$200
Section 52 (3) (b)	one hundred dollars	\$200
Section 52 (3) (c)	two hundred dollars	\$400
Section 54 (1)	one hundred pounds	\$400
Section 54 (2)	fifty pounds	\$200
Section 54 (3)	fifty pounds	\$200
Section 54 (4)	ten pounds	\$50
Section 54 (5)	twenty pounds	\$100
Section 54 (6)	twenty pounds	\$100
Section 54 (7)	twenty pounds	\$100
Section 54 (11)	twenty-five pounds (where twice occurring)	\$100
Section 54 (12)	two hundred pounds	\$1 000
Section 56 (1)	fifty pounds	\$200
Section 56 (4)	twenty pounds	\$100
Section 58 (1)	(a) one hundred pounds	\$500
	(b) five hundred pounds	\$2 000
Section 59	one hundred pounds	\$400
Section 62 (3)	ten pounds	\$50
Section 64	(a) fifty pounds	\$200
	(b) five pounds	\$10
Section 72 (3)	(a) fifty pounds	\$200
	(b) two pounds	\$10
Section 76	one hundred pounds	\$400
Section 76E (3)	(a) one hundred pounds	\$400
	(b) twenty pounds	\$100
Section 76F	one hundred pounds	\$400
Section 76H (2)	(a) fifty pounds	\$200
	(b) ten pounds	\$50
Section 79 (4)	twenty pounds	\$100

SCHEDULE—continued

AMENDMENTS RELATING TO PENALTIES AND DECIMAL CURRENCY—continued

Provision to be Amended	Omit	Insert
Section 79 (6)	(a) one pound	\$5
	(b) two pounds	\$10
Section 85	(a) one hundred pounds	\$400
	(b) ten pounds	\$50
Section 86 (2)	(a) one hundred pounds	\$400
	(b) five hundred pounds	\$2 000
Section 87	(a) twenty pounds	\$100
	(b) two pounds	\$10
Section 94 (4)	one pound	\$5
Section 97	one pound	\$5
Section 98	(a) one hundred pounds	\$400
	(b) ten pounds	\$50
Section 106 (1)	one hundred pounds	\$400
Section 112	two hundred pounds	\$1 000
Section 124A (4)	fifty pounds	\$200
Section 127 (4)	(a) twenty-five pounds	\$100
	(b) one hundred pounds	\$400
Section 127 (6)	(a) twenty-five pounds	\$100
	(b) one hundred pounds	\$400
	(c) twenty pounds	\$100
Section 129A (1)	(a) one hundred pounds	\$400
	(b) twenty pounds	\$100
Section 129A (2)	(a) one hundred pounds	\$400
	(b) twenty pounds	\$100
Section 129 (B)	(a) one hundred pounds	\$400
	(b) twenty pounds	\$100
Section 131 (2)	(a) fifty pounds	\$200
	(b) one hundred pounds (where twice occurring)	\$400 (in each case)
	(c) two hundred pounds	\$1 000
Section 131B	\$1,000	\$2 000
Section 136 (4)	fifty pounds	\$200
Section 136 (5)	fifty pounds	\$200
Section 137	(a) fifty pounds	\$200
	(b) one hundred pounds	\$400
Section 138	(a) twenty pounds	\$100
	(b) fifty pounds	\$200
	(c) one hundred pounds	\$400
Section 143 (1)	(a) fifty pounds (where twice occurring)	\$200 (in each case)
	(b) twenty-five pounds	\$100
	(c) one hundred pounds	\$400
	(d) two hundred pounds	\$1 000
	(e) one pound	\$5
Section 150 (3)	one hundred pounds	\$400
Section 150 (4)	one hundred pounds	\$400
Section 152 (1) (xxviii)	\$100	\$200
Section 159	one hundred pounds	\$400

SCHEDULE—*continued*AMENDMENTS RELATING TO PENALTIES AND DECIMAL CURRENCY—*continued*

Provision to be Amended	Omit	Insert
Section 160 (4) ..	(a) five pounds	\$50
	(b) twenty shillings	\$10
Section 165	(a) one hundred pounds	\$400
	(b) six	twelve
Section 166	twenty-five pounds	\$100
Section 167 (1) ..	(a) fifty pounds	\$200
	(b) forty shillings	\$10
Section 167 (2) ..	ten pounds	\$40
Section 167 (3) ..	five pounds	\$20
Section 167 (4) ..	twenty-five pounds	\$100
Section 168	ten pounds	\$40
Section 175	fifty pounds	\$200