

Queensland



ANNO VICESIMO QUINTO

ELIZABETHAE SECUNDAE REGINAE

No. 41 of 1976

An Act to amend the Health Act 1937–1975 in certain particulars

[ASSENTED TO 5TH MAY, 1976]

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 1976*.

(2) The *Health Act 1937–1975* 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 1937–1976*.

2. Amendment of s. 5. Section 5 of the Principal Act is amended by omitting the definition "British Pharmacopoeia" and substituting the following definitions:—

"British Pharmaceutical Codex" means the British Pharmaceutical Codex as in force in Queensland for the time being under the *Drugs Standard Adopting Act 1976*;

“ British Pharmacopoeia ” means the British Pharmacopoeia as in force in Queensland for the time being under the *Drugs Standard Adopting Act 1976*;

“ British Veterinary Codex ” means the British Veterinary Codex as in force in Queensland for the time being under the *Drugs Standard Adopting Act 1976*;

3. Repeal of and new s. 102. The Principal Act is amended by repealing section 102 and substituting the following section:—

“ **102. Drugs to comply with description or standard.** For the purposes of this Act—

- (a) a drug sold under a name included in the British Pharmaceutical Codex, the British Pharmacopoeia or the British Veterinary Codex that does not comply with the description of and tests specified for such drug in those Codices or that Pharmacopoeia shall be deemed to be a drug that is not of the substance of the drug demanded by the purchaser unless the drug is one to which is applicable a specific standard determined for that drug pursuant to the *Drugs Standard Adopting Act 1976*;
- (b) a drug that is one to which is applicable a specific standard determined for that drug by the Minister pursuant to the *Drugs Standard Adopting Act 1976* and that does not comply with that standard shall be deemed to be a drug that is not of the substance of the drug demanded by the purchaser.”.

4. Amendment of s. 130r. Section 130r of the Principal Act is amended by—

- (a) in subsection (1),
 - (i) in paragraph (d), omitting the word “ subsection ” and substituting the word “ section ”;
 - (ii) omitting the expression “ (1) ” appearing at the beginning of paragraph “ (a) ”;
- (b) omitting subsection (2).

5. New s. 130LA. The Principal Act is amended by inserting after section 130L the following section:—

“ **130LA. Consequences of summary proceeding for drug offences.**

(1) A conviction upon a charge of an offence against any provision of section 130 shall have effect in law as a conviction for an indictable offence irrespective of the manner in which the charge is prosecuted, save in a case to which subsection (5) of section 130B applies.

(2) A person convicted summarily of an offence against any provision of section 130 may appeal to the same court, against the same matters, on the same grounds and subject to the same conditions as are provided for by *The Criminal Code* in relation to persons convicted on indictment as if he had been convicted on indictment.

(3) Where a person is convicted summarily or acquitted in summary proceedings of an offence against any provision of section 130 the Attorney-General of the State—

- (a) in the case of a person convicted, may appeal against any sentence imposed; or
- (b) in the case of a person acquitted, may refer any point of law,

to the same court, against or in respect of the same matters, on the same grounds and subject to the same conditions as are provided for by *The Criminal Code* in relation to appeals and references by the Attorney-General as if such person had been convicted on indictment or, as the case may be, had been acquitted after his trial on indictment.

(4) The rights conferred on the Attorney-General or any person by subsections (2) and (3) are conferred to the exclusion of any right of appeal had by the complainant or defendant in the proceeding under the *Justices Act 1886-1975*.

(5) The Court of Criminal Appeal is hereby invested with jurisdiction to hear and dispose of all appeals and references made to it pursuant to subsection (2) or (3) and may therein exercise all its powers provided for in *The Criminal Code* in relation to appeals and references made to it pursuant to the Code.

6. Amendment of s. 178. Section 178 of the Principal Act is amended by inserting at the end of paragraph (6) the following paragraph:—

- “ ;
- (7) Where it is necessary or proper to prove in respect of any particular article or substance that it conforms to any of the following descriptions, namely:—
- (a) that it is a poison; or
 - (b) that it consists of or contains poison; or
 - (c) that it is a restricted drug; or
 - (d) that it is a dangerous drug; or
 - (e) that it is an article or substance declared pursuant to section 130N (1) (a) to be a dangerous drug for the purposes of section 130,
- then in every such case—
- (i) evidence that any substance commonly sold under the same name or description as the said particular article or substance conforms to any of the descriptions contained in subparagraph (a), (b), (c), (d) or (e) shall be prima facie evidence that the said particular article or substance also conforms to the same description accordingly;
 - (ii) evidence that any particular article or substance bears any inscription required by the regulations in respect of any substance or class of substances shall be prima facie evidence that that particular article or substance is a substance, or belongs to the class of substances, in respect of which that inscription is so required;

- (iii) evidence that the container in which any particular article or substance is contained is labelled as required, or bears any inscription required by the regulations in respect of containers containing any substance or class of substances shall be prima facie evidence that that particular article or substance is a substance, or belongs to a class of substances, the containers of which are so required to be labelled or to bear that inscription ”.