

Queensland



ANNO TRICESIMO SEPTIMO

ELIZABETHAE SECUNDAE REGINAE

No. 25 of 1988

An Act to amend the Health Act 1937-1987 in certain
particulars

[ASSENTED TO 11TH APRIL, 1988]

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. This Act may be cited as the *Health Act Amendment Act 1988*.

2. Commencement. (1) Section 1 and this section shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Subject to subsection (1), this Act or the provisions thereof specified by Proclamation shall commence on the day or days appointed by Proclamation for the commencement of this Act or, as the case may be, those provisions.

3. Citation. (1) In this Act the *Health Act 1937-1987* is referred to as the Principal Act.

(2) The Principal Act as amended by this Act may be cited as the *Health Act 1937-1988*.

4. Amendment of s. 3. Division of Act. Section 3 of the Principal Act is amended by—

(a) omitting the words “*Division I—Notification of Disease or Disability* (ss. 29-30);”;

(b) omitting the words “*Communicable Disease* (ss. 32-47),” and substituting the words “*Notifiable Diseases* (ss. 32-50);”;

(c) omitting all words and expressions from and including the words “*Division IV—Smallpox*” to and including the expression “(ss. 53-60);”;

(d) omitting the expression “(ss. 131AA-131AD)” and substituting the expression “(ss. 131WA-131WD);”;

(e) omitting the expression “(ss. 131AE-131AG)” and substituting the expression “(ss. 131WE-131WG).”

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

(a) omitting the definition “*Communicable disease*;”

(b) omitting the definition “*Drug addict*” and substituting the following definition:—

“ “*Drug dependent person*”—A person—

(a) who, as a result of repeated administration to him of dangerous drugs—

(i) demonstrates impaired control;

or

(ii) exhibits drug-seeking behaviour that suggests impaired control,

over his continued use of dangerous drugs;
and

- (b) who, when the administration to him of dangerous drugs ceases, suffers or is likely to suffer mental or physical distress or disorder;”;
- (c) omitting from the definition “Notifiable disease” the words “prescribed by this Act” and substituting the words “declared pursuant to section 32”;
- (d) omitting the definition “Venereal disease”.

6. Omission of heading to Division I of Part III. The Principal Act is amended by omitting the heading “*Division I—Notification of Disease or Disability*”, immediately preceding section 29.

7. Repeal of ss. 29 and 30. The Principal Act is amended by repealing sections 29 and 30.

8. Omission of and new heading to Division III. The Principal Act is amended by omitting the heading “*Division III—Communicable Diseases*” immediately preceding section 32 and substituting the following heading:—

“Division III—Notifiable Diseases”

9. Repeal of and new s. 32 and new ss. 32A and 32B. The Principal Act is amended by repealing section 32 and substituting the following sections:—

“32. Notifiable diseases. (1) The Governor in Council may by notification published in the Gazette declare any disease or disability to be or to no longer be a notifiable disease for the purposes of this Division.

(2) A notification declaring a disease or disability to be a notifiable disease may limit the application of the provisions of this Division, in respect of that notifiable disease, to an area of the State described in the notification.

(3) In this Division—

“hospital administrator” means—

- (a) in respect of a hospital to which the provisions of Part III of the *Hospitals Act 1936-1984* apply, the Hospitals Board, person or committee, as the case may be, having the control or management of that hospital, or other person appointed to carry on and exercise the functions of a Hospitals Board;

- (b) in respect of the Mater Misericordiae Public Hospitals, the body having the control or management of those hospitals;

“medical superintendent” includes, in respect of a public hospital having no medical superintendent, the

medical officer or any other person who is in charge of the care and treatment of patients at the hospital; “public hospital” means—

- (a) a hospital to which the provisions of Part III of the *Hospitals Act 1936-1984* apply;
and
- (b) the Mater Misericordiae Public Hospitals.

(4) In this Division, a reference to a person suffering from a disease includes a person who is shown to have a bacterium, virus or other micro-organism that causes or is likely to cause a particular notifiable disease.

32A. Reporting of notifiable diseases. (1) Subject to subsection (2), a medical practitioner who, upon examining or treating a patient, believes the patient is suffering from a notifiable disease or has symptoms of a kind notified by the Director-General in the Gazette as indicating a notifiable disease shall, as soon as is practicable after forming his belief, give notice thereof to the Director-General in a form acceptable to him.

(2) If the patient is examined or treated in a public hospital—

- (a) the medical practitioner shall, as soon as is practicable after forming his belief, inform the medical superintendent of the hospital of his belief;
and
- (b) the medical superintendent shall forthwith give notice to the Director-General of that belief.

(3) A notice required by subsection (1) or (2) to be given shall state—

- (a) the nature of the disease or the nature of the symptoms;
- (b) the date of onset of the disease or symptoms and the date on which the medical practitioner formed the belief required by that subsection to be notified;
- (c) the name, address, age, sex, occupation and ethnic origin of the patient.

(4) Where a pathological examination of specimens of human origin indicates that the person from whom the specimens were taken is suffering from a notifiable disease or when the results of an examination are such as have been notified by the Director-General in the Gazette as indicating a notifiable disease, the person in charge of the place where the examination was undertaken, shall, as soon as is practicable after that condition is indicated or those results are obtained, give notice thereof to the Director-General in a form acceptable to him.

(5) A notice required by subsection (4) to be given shall state—

- (a) the nature of the disease and the results of the examination;
- (b) the name and sex and, if the information is readily ascertainable, the address, age, and occupation of the person from whom the specimens were taken;
- (c) the name of the referring medical practitioner.

(6) Information stated in a notice required by this section to be given by any person may be founded on information provided by any other person.

(7) A person required by this section to give a notice to the Director-General who—

- (a) fails to give the notice as required;
or
- (b) gives a notice that is to his knowledge false in a material particular,

commits an offence against this Act.

Penalty: 10 penalty units.

(8) A person required by this section to give a notice to the Director-General shall not be taken as failing to comply with the section if the notice, instead of stating the name and address of the person in respect of whom the notice is given, contains a reference to a code from which that name and address can be provided by the person giving the notice, if required to do so by the Director-General pursuant to subsection (9).

(9) The Director-General may require any person required by this section to give a notice to the Director-General to provide him with such further information as he may specify for the purpose of preventing the outbreak or occurrence of a notifiable disease or suppressing a notifiable disease.

(10) The Director-General may by notification published in the Gazette declare that the duty imposed by any provision of this section to give a notice not apply in respect of any notifiable disease specified therein whether indefinitely or for a specified period.

32B. Investigations in respect of notifiable diseases. (1) Where the Director-General suspects that a person is suffering from a notifiable disease, any officer may require the person to provide—

- (a) his name and address;
- (b) the name and address or whereabouts of any person who may have communicated the disease to him or to whom he may have communicated the disease;
- (c) information concerning the circumstances in which he may have been exposed to the disease or may have exposed others to the disease.

(2) A person who fails to provide information that he is required to provide pursuant to subsection (1) commits an offence against this Act.

Penalty: 20 penalty units.”.

10. Amendment of s. 33. Regulations with respect to infectious diseases. Section 33 of the Principal Act is amended in subsection (1) by—

(a) omitting from the note to the section the word “infectious” and substituting the word “notifiable”;

(b) omitting from paragraph (a) the words “disease or disability” and substituting the words “notifiable disease”;

(c) omitting from paragraph (b) the words “disease or disability” and substituting the words “notifiable disease”;

(d) omitting from paragraph (c) the words “disease, or disability, or who are or are suspected of being carriers of any disease” and substituting the words “notifiable disease”;

(e) omitting from paragraph (i) the word “infectious” and substituting the word “notifiable”;

(f) omitting paragraph (vii);

(g) omitting paragraph (viii) and substituting the following paragraph:—

“(viii) For prescribing the measures to be employed for dealing with faecal or other discharges from persons having or suspected of having any notifiable disease, and with articles or things liable to carry infection from them;”;

(h) inserting in paragraph (xii), after the words “pools”, the words “, spa pools, water slides, hydrotherapy pools and any other collections of water used for recreational or therapeutic purposes”.

11. Repeal of and new ss. 34, 34A and 35. The Principal Act is amended by repealing sections 34, 34A and 35 and substituting the following sections:—

“34. Public hospitals to provide facilities. The Director-General may, by instrument, require the hospital administrator of a public hospital to provide facilities for the isolation and treatment of any person the Director-General believes is suffering from a notifiable disease.

34A. Duty of Local Authority to prevent notifiable disease. The Director-General may, by instrument, require a Local Authority to do anything specified in the instrument for the purpose of—

(a) preventing the outbreak or occurrence of a notifiable disease within the Area;

or

- (b) suppressing any notifiable disease within the Area.

35. Temporary isolation places. (1) The Director-General may, with the approval of the Minister, by instrument—

- (a) establish and maintain any place;

or

- (b) requisition, manage and maintain any place,

(referred to in subsection (2) and in section 36 as a temporary isolation place) for the temporary isolation and treatment of any person the Director-General believes is suffering from a notifiable disease.

(2) the owner of any place requisitioned under subsection (1) as a temporary isolation place shall be paid such amount by way of compensation as the Governor in Council may approve.”.

12. Repeal of and new s. 36. The Principal Act is amended by repealing section 36 and substituting the following section:—

“36. Removal and detention of person suffering from notifiable disease. (1) If a person suspected by a medical practitioner to be suffering from or to have been exposed to a notifiable disease—

- (a) fails or refuses to enter or remain in a hospital or temporary isolation place;

or

- (b) refuses to submit to any reasonable examination, test or treatment in respect of that notifiable disease,

a justice may, upon the application of the Director-General and the production of a certificate of the medical practitioner certifying as to his suspicion, order that the person be removed to a public hospital or temporary isolation place specified in the order.

(2) An order made under subsection (1) shall be directed generally to all members of the Police Force of the State and shall be sufficient authority for any member of the Police Force to take the person in respect of whom the order is issued to the public hospital or temporary isolation place specified in it and for the person in charge of that public hospital or place to detain him in accordance with this section.

(3) The Director-General may order that a person detained in a public hospital or temporary isolation place by order made under subsection (1) be transferred to another public hospital or temporary isolation place specified in the order of the Director-General and the order shall be sufficient authority for any person authorized in that behalf by the Director-General to perform the transfer and for the person in charge of that other public hospital or place to detain, in accordance with this section, the person transferred.

(4) A person admitted to a public hospital or temporary isolation place by order made under subsection (1) or (3) shall

remain there for such period as, in the opinion of the Director-General, is necessary for his proper isolation and treatment or, as the case may be, for determining whether he is suffering from a notifiable disease.

(5) Where a person is detained in a public hospital or temporary isolation place pursuant to an order made under subsection (1) or (3), the person in charge of the public hospital or temporary isolation place or anyone acting at his direction may exercise such force as may be reasonably necessary for the purpose of—

- (a) detaining the person in the public hospital or place;
 - (b) isolating and treating the person in respect of a notifiable disease;
- or
- (c) performing any examination or test to determine whether the person is suffering from a notifiable disease.

(6) A person, in respect of whom an order under subsection (1) or (3) has been made, who—

- (a) resists or obstructs any person in the execution of the order;
 - (b) fails to remain in the public hospital or temporary isolation place, to which he has been admitted pursuant to the order, until the Director-General approves his discharge;
- or
- (c) assaults, resists or obstructs any person in the exercise of any power conferred by or under this section,

commits an offence against this Act.

Penalty: 20 penalty units.”.

13. Amendment of s. 37. Detention of infected person without proper lodging in hospital by order of stipendiary magistrate. Section 37 of the Principal Act is amended by—

(a) omitting from the first paragraph the words “in hospital at the cost of the Local Authority of any person affected with any communicable” and substituting the words “in a public hospital of any person suspected to be suffering from any notifiable”;

(b) omitting the third paragraph and substituting the following words:—

“A member of the Police Force or any officer of the public hospital in which a person is to be or is being detained pursuant

to any such order may take all necessary measures and do all necessary acts for enforcing the execution of the order.”.

14. Amendment of s. 38. Cleansing and disinfection of premises, etc. Section 38 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:—

“(1) The Local Authority—

(a) may, upon the report of its medical officer of health or of any medical practitioner;

or

(b) shall, if required by the Director-General,

cause the occupier or owner of any premises or part of any premises situated within the Area to cleanse and disinfect the premises and any articles in or on the premises.”.

15. Amendment of s. 39. Power of Local Authority as to disinfection, etc. Section 39 of the Principal Act is amended by—

(a) omitting from paragraph (1) the word “communicable” and substituting the word “notifiable”;

(b) omitting from paragraph (2) the word “communicable” and substituting the word “notifiable”;

(c) omitting at the end of paragraph (3) the expression “,” and substituting the expression “.”;

(d) omitting paragraph (4).

16. Repeal of and new s. 40. The Principal Act is amended by repealing section 40 and substituting the following section:—

“40. Compensation. The owner of any building or structure or any article or thing destroyed under the provisions of this Part shall—

(a) if the destruction was at the direction of the Director-General (whether carried out by the Local Authority or otherwise), be paid such amount by way of compensation as the Governor in Council may approve;

or

(b) if the destruction was at the direction of the Local Authority, be paid compensation in the manner prescribed in section 162.”.

17. Amendment of s. 43. Infectious rubbish. Section 43 of the Principal Act is amended by omitting the word “communicable” and substituting the word “notifiable”.

18. Repeal of s. 44. Temporary shelter, etc. The Principal Act is amended by repealing section 44.

19. Amendment of s. 47. Provisions as to school children. Section 47 of the Principal Act is amended by omitting from subsection (3) the word "communicable", where twice occurring, and substituting the word "notifiable" in each case.

20. Omission of heading to Division IV. The Principal Act is amended by omitting the heading "*Division IV—Smallpox*", occurring after section 47.

21. Repeal of ss. 48 and 49 and new s. 48. The Principal Act is amended by repealing sections 48 and 49 and substituting the following section:—

"48. Controlled notifiable diseases. (1) The Governor in Council may by notification published in the Gazette declare any notifiable disease to be or to no longer be a controlled notifiable disease for the purposes of this section.

(2) Any person who knowingly infects another person with a controlled notifiable disease commits an offence against this Act unless, at the time the disease was transmitted to that other person, that other person—

- (a) was the spouse of or was de facto the spouse of the firstmentioned person;
- (b) knew that the firstmentioned person was infected with the controlled notifiable disease;
and
- (c) voluntarily accepted the risk of being infected.

Penalty: 200 penalty units or 2 years imprisonment or both.

(3) All proceedings under this Division in any court relating to a controlled notifiable disease shall be heard in camera.

(4) No report shall be made or published concerning any proceedings of the kind referred to in subsection (3) unless the report—

- (a) is authorized by the court concerned;
- (b) is made for the purpose of those proceedings or of proceedings related to those proceedings;
- (c) is contained in or is made for the purpose of being contained in a recognised series of Law Reports;
or
- (d) is made for or on behalf of the Director-General.

Penalty: for a first offence

20 penalty units or
imprisonment for six
months

for a subsequent offence

80 penalty units or
imprisonment for
twelve months.”

22. Renumbering of s. 59. Secrecy. The Principal Act is amended by renumbering section 59 as section 49.

23. Amendment of s. 49 (as renumbered). Section 49 of the Principal Act, as renumbered by section 22 of this Act, is amended by omitting from the first paragraph the word “venereal” and substituting the words “controlled notifiable”.

24. Omission of heading to Division V. The Principal Act is amended by omitting the heading “*Division V—Hookworm (Ancylostomiasis)*”.

25. Repeal of and new s. 50. The Principal Act is amended by repealing section 50 and substituting the following section:—

“**50. Protection for acts done under this Division.** No matter or thing done or omitted to be done—

(a) by any person pursuant to this Division;

or

(b) bona fide and without negligence by any person purporting to act pursuant to or for the purposes of this Division,

shall subject that person to any liability.”.

26. Omission of heading to Division VII. The Principal Act is amended by omitting the heading “*Division VII—Tuberculosis*”.

27. Repeal of s. 52. The Principal Act is amended by repealing section 52.

28. Omission of heading to Division VIII. The Principal Act is amended by omitting the heading “*Division VIII—Venereal Disease*”.

29. Repeal of ss. 53, 54, 56, 57 and 58. The Principal Act is amended by repealing sections 53, 54, 56, 57 and 58.

30. Repeal of s. 60. The Principal Act is amended by repealing section 60.

31. Amendment of s. 62. Removal of infirm person to institution. Section 62 of the Principal Act is amended in subsection (1) by—

(a) omitting the words “(a) Affected with tuberculosis; or”;

(b) redesignating paragraphs (b) and (c) as paragraphs (a) and (b) respectively.

32. Amendment of s. 81. Expenses of execution of provisions relating to nuisances. Section 81 of the Principal Act is amended by omitting subsection (3).

33. Amendment of s. 100H. Furnishing returns to Director-General. Section 100H of the Principal Act is amended by omitting from subsection (2) the expression “\$200” and substituting the words “4 penalty units”.

34. Amendment of s. 100I. Confidentiality. Section 100I of the Principal Act is amended by omitting from subsection (2) the expression "\$500" and substituting the words "10 penalty units".

35. Amendment of s. 100J. Regulations. Section 100J of the Principal Act is amended by omitting from paragraph (d) the expression "\$500" and substituting the words "10 penalty units".

36. Repeal of and new s. 106. The Principal Act is amended by repealing section 106 and substituting the following section:—

"106. Offences in relation to automatic machines. (1) In this section "contraceptive" includes any condom and any other fitting or appliance sold for use as a contraceptive or capable of being used as a contraceptive.

(2) Subject to subsection (3), the Director-General may by notification published in the Gazette prohibit the sale or supply, by means of any automatic machine or similar mechanical device, of any drug, poison or contraceptive specified in the notification.

A prohibition may apply generally throughout the State or only in respect of certain premises or classes of premises, as specified in the notification.

(3) Any notification made under subsection (2) in respect of the sale or supply of condoms shall specify the premises or classes of premises to which the prohibition applies.

(4) Any person who—

(a) fails to comply with any prohibition notified pursuant to subsection (2);

or

(b) installs any automatic machine or similar mechanical device at any place for a purpose prohibited by notification made pursuant to subsection (2) in respect of that place,

commits an offence against this Act.

Penalty: 20 penalty units.

(5) No licence issued by a Local Authority in respect of any automatic machine or similar mechanical device shall be taken as authorising the installation or use of that machine or device for the sale or supply of any drug, poison or contraceptive if subsection (4) would be contravened by that installation or use.”.

37. Amendment of s. 130O. Section 130O of the Principal Act is amended by omitting paragraph (a).

38. Rerumbering of ss. 131AA–131AG. Sections 131AA–131AG (both inclusive) are renumbered as sections 131WA, 131WB, 131WC, 131WD, 131WE, 131WF and 131WG respectively.

39. Amendment of s. 131WD. Regulations. Section 131WD of the Principal Act is amended in subsection (3) by, in paragraph (b), omitting subparagraph (i) and substituting the following subparagraph:—

“(i) adopt wholly or partly and specifically or by reference and with any alteration, amendment, modification or variation any of the standards, rules, codes, specifications or methods of any association, body or institution whether as in force or recommended at the time of adoption or as amended from time to time;”.

40. Amendment of s. 131WG. Regulations. Section 131WG of the Principal Act is amended in subsection (3) by, in paragraph (b), omitting subparagraph (i) and substituting the following subparagraph:—

“(i) adopt wholly or partly and specifically or by reference and with any alteration, amendment, modification or variation any of the standards, rules, codes, specifications or methods of any association, body or institution whether as in force or recommended at the time of adoption or as amended from time to time;”.

41. Amendment of s. 152. Regulations. Section 152 of the Principal Act is amended in subsection (1) by omitting from paragraph (xvii) the words “drug addicts” and substituting the words “drug dependent persons”.

42. Amendment of s. 180. Regulations. Section 180 of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:—

“(a) adopt wholly or partly and specifically or by reference and with any alteration, amendment, modification or variation any of the standards, rules, codes, specifications or methods of any association, body or institution whether as in force or recommended at the time of adoption or as amended from time to time;”.