

Queensland



Subordinate Legislation 1998 No. 48

Health Act 1937

**HEALTH AMENDMENT REGULATION (No. 1)
1998**

TABLE OF PROVISIONS

Section	Page
1 Short title	3
2 Regulation amended	3
3 Amendment of s 180 (Definitions)	3
4 Amendment of s 184 (Vegetation and other things not to provide shelter)	3
5 Amendment of s 187 (Food and water not to be accessible to vermin)	3
6 Amendment of s 189 (Notification of presence of vermin)	4
7 Amendment of s 191 (Local government to destroy vermin in the area)	4
8 Amendment of s 192 (Vermin infested areas)	4
9 Insertion of new divs 3A–3E	4
<i>Division 3A—Keeping vermin</i>	
194A Prohibition from keeping vermin	4
194B Conditions under which vermin must be kept	5
194C Keeping up to 100 rats, mice or guineapigs	5
194D Keeping vermin at a laboratory	5
<i>Division 3B—Permits</i>	
194E Keeping rats, mice or guineapigs under a permit	5
194F Criteria for decisions about applications	6
<i>Division 3C—Suspension or cancellation of permits</i>	
194G Grounds for suspension or cancellation	7

194H	Procedure for suspension or cancellation	7
194I	Procedure for immediate suspension	9
<i>Division 3D—Amendment of permits</i>		
194J	Procedure for amendment	10
<i>Division 3E—Appeals</i>		
194K	Decisions open to appeal	11
194L	Starting an appeal	11
194M	Time for starting an appeal	12
194N	Stay of operation of decisions	12
194O	Hearing procedures	12
194P	Powers of court on appeal	12
194Q	Appeal to District Court	13
10	Omission of s 199 (Vermin not to be kept)	13

Short title

1. This regulation may be cited as the *Health Amendment Regulation (No. 1) 1998*.

Regulation amended

2. This regulation amends the *Health Regulation 1996*.

Amendment of s 180 (Definitions)

3.(1) Section 180(1), definition “**vermin**”—
omit.

(2) Section 180(1)—
insert—

‘**“permit”** means a permit issued under section 194E.

“vermin” means rats, mice, guineapigs and other rodents capable of carrying or transmitting a notifiable disease, but does not include a protected animal within the meaning of the *Nature Conservation Act 1992*.’.

Amendment of s 184 (Vegetation and other things not to provide shelter)

4. Section 184—
insert—

‘(2) A reference to vermin in this section does not include vermin permitted to be kept under division 3A.’.

Amendment of s 187 (Food and water not to be accessible to vermin)

5. Section 187—
insert—

‘(2) A reference to vermin in this section does not include vermin permitted to be kept under division 3A.’.

Amendment of s 189 (Notification of presence of vermin)**6. Section 189—***insert—*

‘(2) A reference to vermin in this section does not include vermin permitted to be kept under division 3A.’.

Amendment of s 191 (Local government to destroy vermin in the area)**7. Section 191—***insert—*

‘(2) A reference to vermin in this section does not include vermin permitted to be kept under division 3A.’.

Amendment of s 192 (Vermin infested areas)**8. Section 192—***insert—*

‘(2) A reference to vermin in this section does not include vermin permitted to be kept under division 3A.’.

Insertion of new divs 3A–3E**9. After section 194—***insert—****Division 3A—Keeping vermin*****‘Prohibition from keeping vermin**

‘**194A.(1)** A person must not keep vermin other than under this division.
Maximum penalty—40 penalty units.

‘(2) A person may keep vermin, without a permit, under section 194D.

‘(3) A person may keep rats, mice or guineapigs—

- (a) without a permit, under section 194C; or
- (b) under a permit.

‘Conditions under which vermin must be kept

‘194B. A person permitted to keep vermin under this division must keep them—

- (a) under hygienic conditions; and
- (b) in an enclosure from which they cannot escape.

Maximum penalty—40 penalty units.

‘Keeping up to 100 rats, mice or guineapigs

‘194C.(1) A person may keep up to 100 rats, mice or guineapigs at a place.

‘(2) However, if someone else also keeps rats, mice or guineapigs at the place, the total number kept at the place must not be more than 100.

‘(3) In this section—

“place” means a dwelling, shop or other separate premises.

‘Keeping vermin at a laboratory

‘194D. A person may keep any number of vermin at a laboratory or a place ancillary to a laboratory for medical, research, scientific or teaching purposes pursued at the laboratory.

‘Division 3B—Permits

‘Keeping rats, mice or guineapigs under a permit

‘194E.(1) A person may keep rats, mice or guineapigs at a place under a permit given under this section.

‘(2) An application for a permit, or the renewal of a permit, must be made, in the approved form, to the local government in whose area the

place is situated.

‘(3) The local government must promptly consider the application and either grant or refuse to grant the application.

‘(4) If the local government decides to grant the application, it must promptly issue a permit to the applicant.

‘(5) A permit may be issued on reasonable conditions imposed by the local government.

‘(6) If the local government refuses to grant the application or issues a permit on conditions, it must give the applicant written notice of its decision within 14 days after making it.

‘(7) The notice must state—

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the applicant may appeal against the decision to a Magistrates Court within 28 days after the applicant receives the notice.

‘(8) If the local government fails to decide the application within 60 days after its receipt, the failure is taken to be a decision by the local government to refuse to grant the application.

‘Criteria for decisions about applications

‘194F. In deciding the application, the local government must consider the following criteria—

- (a) the security of the place where the rats, mice or guineapigs are kept or intended to be kept;
- (b) the conditions under which the rats, mice or guineapigs are kept or intended to be kept;
- (c) the design and construction of the enclosure in which the rats, mice or guineapigs are kept or intended to be kept;
- (d) the existence of a management plan, addressing the following issues—
 - (i) identification and minimisation of potential risks to public health;

- (ii) odour and noise;
 - (iii) security;
 - (iv) escape of rats, mice or guineapigs;
 - (v) sanitation;
 - (vi) waste disposal;
 - (vii) pest control;
 - (viii) provision of food and water;
 - (ix) dealing with diseased rats, mice or guineapigs;
 - (x) ventilation;
 - (xi) training of staff in disease management;
- (e) any other relevant issue.

Division 3C—Suspension or cancellation of permits

‘Grounds for suspension or cancellation

‘194G. Each of the following is a ground for the suspension or cancellation of a permit—

- (a) the permit was obtained because of incorrect or misleading information;
- (b) the holder of the permit has contravened a condition of the permit;
- (c) the holder of the permit has been found guilty of an offence against this part.

‘Procedure for suspension or cancellation

‘194H.(1) If a local government believes a ground exists to suspend or cancel a permit (the **“proposed action”**), the local government must give the holder of the permit written notice—

- (a) stating the proposed action; and
- (b) stating the grounds for the proposed action; and

- (c) outlining the facts and circumstances forming the basis for the local government's belief; and
- (d) if the proposed action is suspension of the permit—
 - (i) stating the proposed suspension period; and
 - (ii) explaining the effect of suspension under this division; and
- (e) inviting the holder to show in writing, within a stated reasonable time of at least 28 days, why the proposed action should not be taken.

‘(2) If, after considering all written representations made within the stated time, the local government still considers a ground for the proposed action exists, the local government may—

- (a) if the proposed action was to suspend the permit for a stated period—suspend the permit for no longer than the proposed suspension period; or
- (b) if the proposed action was to cancel the permit—either cancel the permit or suspend it for a period.

‘(3) The local government must inform the holder of its decision by written notice.

‘(4) The notice must be given within 10 days after the local government makes its decision.

‘(5) If the local government decides to suspend or cancel the permit, the notice must state—

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the holder may appeal against the decision to a Magistrates Court within 28 days after the holder receives the notice.

‘(6) The decision takes effect on the later of the following days—

- (a) the day when the notice is given to the holder;
- (b) the day of effect stated in the notice.

‘(7) However, if the ground for the suspension or cancellation of the permit is that the holder has been found guilty of an offence against this part, the suspension or cancellation has no effect if the finding is quashed on

appeal.

‘(8) Also, subsections (1) to (7) do not apply if the holder agrees to the local government cancelling the permit.

‘(9) The local government may cancel a permit under subsection (8) by written notice given to the holder.

‘Procedure for immediate suspension

‘194I.(1) This section applies if—

- (a) the local government believes a ground exists to cancel or suspend a permit; and
- (b) the local government considers the health of members of the public may be adversely affected if urgent action to suspend the permit is not taken.

‘(2) The local government may immediately suspend the permit by written notice given to the holder of the permit.

‘(3) The suspension takes effect immediately the notice is given to the holder.

‘(4) The notice must state—

- (a) that the permit is suspended; and
- (b) the reasons for the suspension; and
- (c) that the holder may appeal against the suspension to a Magistrates Court within 28 days after the holder receives the notice.

‘(5) The local government must at the same time give the holder a notice under section 194H(1).

‘(6) The suspension of the permit continues until the first to happen of the following—

- (a) the local government cancels the suspension;
- (b) the local government gives the holder notice of its decision under section 194H(3);
- (c) the end of 60 days after the notice under subsection (2) was given to the holder.

Division 3D—Amendment of permits**‘Procedure for amendment**

‘194J.(1) The local government may amend a permit if—

- (a) the holder of the permit agrees to the amendment; or
- (b) the local government is reasonably satisfied the permit should be amended.

‘(2) If the local government is reasonably satisfied the permit should be amended under subsection (1)(b), the local government must give the holder a written notice that—

- (a) states the proposed amendment and the reasons for the amendment; and
- (b) outlines the facts and circumstances forming the basis for the reasons; and
- (c) invites the holder to make written representations to the local government, within a stated reasonable time of at least 28 days, to show why the amendment should not be made.

‘(3) If, after considering the representations properly made by the holder, the local government is still reasonably satisfied the permit should be amended in the way mentioned in the notice, or in another way having regard to the representations, the local government must—

- (a) issue a new permit to the holder; and
- (b) give the holder a written notice that states—
 - (i) that the old permit has been cancelled; and
 - (ii) the way in which the new permit is different from the old permit; and
 - (iii) the reasons for the amendment; and
 - (iv) that the holder may appeal to a Magistrates Court against its decision within 28 days after the person receives the notice.

‘(4) The new permit takes effect on the later of the following days—

- (a) the day when the notice is given to the holder;

(b) the day of effect stated in the notice.

‘(5) In this section—

“**amend**”, a permit, means—

(a) impose conditions on the permit; or

(b) vary any conditions of the permit.

‘Division 3E—Appeals

‘Decisions open to appeal

‘**194K.(1)** An applicant for a permit may appeal against a decision of a local government to—

(a) refuse to grant the application; or

(b) impose a condition on the permit under section 194E(5).

‘(2) The holder of a permit may appeal against a decision of a local government to—

(a) cancel or suspend the permit; or

(b) amend the permit under section 194J(1)(b).

‘Starting an appeal

‘**194L.(1)** A person starts an appeal by—

(a) filing a written notice of appeal with a Magistrates Court; and

(b) serving a copy of the notice on the local government.

‘(2) The appeal may be made to a Magistrates Court nearest the place—

(a) where the person lives; or

(b) where the place the subject of the application or permit is situated.

‘(3) However, subsection (2) does not limit the jurisdiction of another Magistrates Court to hear the appeal.

‘(4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

‘Time for starting an appeal

‘194M.(1) An appeal may be started at any time.

‘(2) However, if written notice is given of a decision, and reasons for the decision are included in the notice, an appeal against the decision by a person to whom the notice was given must be started within 28 days after the person receives the notice.

‘(3) A Magistrates Court may at any time extend the period for filing a notice of appeal.

‘Stay of operation of decisions

‘194N.(1) The Magistrates Court may grant a stay of the operation of the decision to secure the effectiveness of the appeal.

‘(2) A stay—

- (a) may be granted on the conditions the court considers appropriate; and
- (b) applies for the period the court states, but must not extend past the time when the court makes a decision on the appeal; and
- (c) may be cancelled or amended by the court.

‘Hearing procedures

‘194O.(1) In deciding the appeal, the Magistrates Court—

- (a) has the powers of the local government in relation to permits; and
- (b) is not bound by the rules of evidence; and
- (c) must comply with natural justice; and
- (d) may hear the appeal in court or in chambers.

‘(2) The appeal is by way of rehearing.

‘Powers of court on appeal

‘194P.(1) In deciding the appeal, the Magistrates Court may—

- (a) confirm the decision; or

- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the issue to the local government with the directions the court considers appropriate.

‘(2) If the Magistrates Court substitutes another decision, the substituted decision is, for this part (other than this division), taken to be that of the local government.

‘Appeal to District Court

‘194Q. An appeal to a District Court may be made from a decision of a Magistrates Court under this division, but only on a question of law.’.

Omission of s 199 (Vermin not to be kept)

10. Section 199—

omit.

ENDNOTES

1. Made by the Governor in Council on 26 March 1998.
2. Notified in the gazette on 27 March 1998.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Health.