

Queensland



HEALTH ACT 1937

**Reprinted as in force on 26 March 1994
(includes amendments up to Act No. 79 of 1993)**

Reprint No. 1

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the Office of the Queensland Parliamentary Counsel
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Information about this reprint

This Act is reprinted as at 26 March 1994. As required by section 5 of the Reprints Act 1992, it—

- shows the law as amended by all amendments that commenced on or before that day; and
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

As required by section 6 of the Reprints Act 1992, the reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

The opportunity has also been taken, under section 7 of the Reprints Act 1992, to do the following—

- use citations and references permitted by Division 2 of that Act;
- use updated references permitted by Division 3 of that Act;
- express gender specific provisions in a way consistent with current legislative drafting practice as permitted by section 24 of that Act;
- use gender neutral office names as permitted by section 25 of that Act;
- use different spelling consistent with current legislative drafting practice, as permitted by section 26(2) of that Act;
- use punctuation and expressions consistent with current legislative drafting practice as permitted by sections 27 and 29 of that Act;
- use conjunctives and disjunctives consistent with current legislative drafting practice as permitted by section 28 of that Act;
- reorder definitions as permitted by section 30 of that Act;
- relocate marginal or cite notes as permitted by section 34 of that Act;
- use aspects of format and printing style consistent with current legislative drafting practice as permitted by section 35 of that Act;
- omit provisions that are no longer required as permitted by sections 37, 38 and 39 of that Act;
- omit unnecessary referential words as permitted by section 41 of that Act;
- omit the enacting words as permitted by section 42A of that Act;
- use the numbering and renumbering of provisions and references permitted by section 43 of that Act;
- correct minor errors as permitted by section 44 of that Act.

Also see Endnotes for—

- **details about when provisions commenced; and**
- **any provisions that have not commenced and are not incorporated in the reprint.**

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HEALTH ACT 1937

[as amended by all amendments that commenced on or before 26 March 1994²]

An Act to amend and consolidate the laws relating to public health

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Health Act 1937*^{3–11}.

Commencement of Act

2. Except as herein otherwise provided, this Act shall commence and take effect on and from a date to be proclaimed by the Governor in Council by proclamation published in the Gazette, which date is herein referred to as the “**commencement of this Act**”.

Interpretation

- 5.(1) In this Act—

“**advertisement**” means any method of conveying information or making any claim with regard to any drug or article, whether orally or by writing or pictorially, or by telephone, gramophone, or wireless broadcasting or television or any other means of transmitting images or sound or both in association, or by label, letter, circular, pamphlet, book, magazine, newspaper, sign, poster, or otherwise;

“**air cushion vehicle**” means 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;

“analyst” means a person appointed under this Act as a State analyst or a person holding accreditation of a kind prescribed by the Director-General by notification published in the Gazette;

“article” without limit to the generality of its meaning, includes any textile product, any toys, any medical or surgical apparatus or appliance, any absorbent wool or surgical dressing, and also includes boots, shoes, paint, poisons, drugs, biological preparations, pesticides, detergents, dangerous substances and such other substances as the Governor in Council (who is hereby thereunto authorised) by order in council declares from time to time to be articles under and for the purposes of this Act;

“authorised person” means a person authorised by this Act to do the act in relation to which the expression is used, and includes a medical practitioner, chemist, veterinary surgeon, or dentist;

“barber” means a hairdresser, and every person who shaves, cuts, trims, dresses, waves, curls, stains, or dyes or who in any other way treats the hair of any person for pay or reward, and also any person (other than a medical practitioner) who for pay or reward performs scalp or facial massage, manicure, pedicure, removal of superfluous hairs, moles or birth marks, or shampoos, or in any other way whatsoever treats the head, scalp, face, hands, skin, finger nails, toe nails, or feet or manipulates violet rays or any other forms of electrical treatment, and also includes every assistant of every such person as aforesaid;

“barber’s shop” means every premises or place wherein or whereon any of the operations of a barber are conducted or carried on;

“biological preparation” means every substance prescribed as such;

“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*;

“**Chief Health Officer**” means the Chief Health Officer of the department;

“**daily penalty**” means a penalty for each day on which any offence is continued, after notice has been given to the offender of the commission of the offence, or after a conviction or order by any court, as the case may be;

“**dangerous drug**” means every substance or article prescribed as such;

“**dentist**” means a dentist within the meaning of the *Dental Act 1902*;

“**Director-General**” means the Director-General of Health and Medical Services for the State;

“**disposal**”, used in connection with refuse or nightsoil, includes storing, treating, handling, dealing with, burying, desiccating, burning or destroying by any means such refuse or nightsoil;

“**drug**” without limiting the ordinary meaning of the term, means any article used for or in the composition or preparation of medicine for internal or external consumption or use by humans, and includes disinfectants, germicides, antiseptics, pesticides, detergents, preservatives, deodorants, anaesthetics, tobacco, narcotics, soaps, cosmetics, dusting powders, essences, unguents, and all other toilet articles, and also includes goods for therapeutic use under and within the meaning of the *Therapeutic Goods Act 1966* (Cwlth), and any article or substance which the Governor in Council (who is hereby thereunto authorised) by order in council from time to time declares to be a drug under and for the purposes of this Act;

“**drug dependent person**” means a person—

(a) who, as a result of repeated administration to the person of dangerous drugs or restricted drugs—

(i) demonstrates impaired control; or

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

over the person’s continued use of dangerous drugs or restricted drugs; and

(b) who, when the administration to the person of dangerous drugs or restricted drugs ceases, suffers or is likely to suffer mental or physical distress or disorder;

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“**have in possession**” includes having under control in any place whatever, whether for the use or benefit of the person of whom the term is used or of another person, and although another person has the actual possession or custody of the thing in question;

“**hospital**” means a hospital within the meaning of the *Health Services Act 1991*;

“**house**” includes a school, also a factory or shearing or wool shed or tent, and any other building or structure in which persons dwell or are employed, and also includes any houseboat and any vessel lying in any river, harbour, or other water within the territorial waters of Queensland other than a vessel which is under the command or charge of any officer bearing Her Majesty’s commission, or which belongs to the government of any foreign state;

“**injurious**” includes dangerous;

“**inspector**” includes a chief inspector, a medical or engineering inspector, an assistant inspector and an environmental health officer;

“**label**” means a label, tag, brand, mark, or statement in writing, whether or not containing any pictorial or other descriptive matter;

“**licence**” means a licence issued by the Minister or by the Director-General and, where permitted by this Act, by a local government under the provisions of this Act and legally in force for the time being;

“**licensee**”, when used with reference to a licence issued under this Act, means the holder for the time being of such licence;

“**Local Government Act**” means the *Local Government Act 1993*, and includes the *City of Brisbane Act 1924*;

“**medical officer of health**” means the medical officer of health appointed by the local government or other person performing the duties of such office for the time being under the provisions of this Act;

“**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;

“**notifiable disease**” means any disease declared pursuant to section 32 to be a notifiable disease;

“**occupier**” includes a person having the charge, management, or control of

premises, and in the case of a house which is let out in separate tenements, or in the case of a lodging house which is let to lodgers, the person receiving the rent payable by the tenants or lodgers either on the person's own account or as the agent of another person, and in the case of a vessel, the master or other person in charge thereof;

“officer” includes a health officer or a medical officer of health, an analyst, or an inspector, or any other person appointed to discharge the duties of an office under this Act, and whether, in any such case, any such appointment has been made by the Governor in Council or by the local government, and, where necessary, includes any person for the time being discharging the duties of an office under this Act;

“official dose”, when used with reference to any drug or other article, means the maximum dose (if any) stated in the British Pharmacopoeia;

“opium” includes raw opium, prepared opium, medicinal opium, smoking opium, opium charcoal, and every other morphine containing preparation of the juice of the opium poppy, also any admixture, preparation, or solution containing any of those substances;

“owner” means the person other than Her Majesty who for the time being is entitled to receive the rent of any land, or who, if the same were let to a tenant at a rack-rent, would be entitled to receive the rent thereof, and includes any lessee from the Crown, and any superintendent, overseer, or manager for such lessee residing on the holding, and in the case of a gold field or mineral field also includes the holder of a mining lease or miner's homestead lease and the lawful occupier of a business area or residence area under the laws for the time being in force relating to mining and, as respects any land leased to any person or corporation by Queensland Railways, such lessee;

“package” includes every means by which goods are cased, covered, enclosed, contained, or packed, and includes a cask, bottle, jar, vessel, bag, box, or other receptacle;

“paint” without limiting the ordinary meaning, includes any substance of any kind whatsoever used or intended to be used for application as a colouring or protective coating to any surface, and includes oil paint, water paint, enamel, distemper, and any tinting substance for use in the composition of any paint or for adding to any paint;

“parent” means the father or mother or any other person having the

custody of a child;

“**person**” includes a company, partnership, and any body or association of persons;

“**pesticide**” includes any insecticide, rodenticide, arachnidicide, pulicide, weedicide or fungicide;

“**pharmacist**” means a pharmacist within the meaning of the *Pharmacy Act 1976*;

“**place**” includes any house, building, ship, barge, boat, vehicle, car, station, wharf, shed, land, or premises;

“**poison**” means every substance or article prescribed as such;

“**premises**” includes messuages, buildings, lands, easements, and tenements of any tenure, and also any vehicle;

“**prescribed**” means prescribed by this Act or by a local law of a local government in cases where a local government has jurisdiction over the matter in question;

“**prohibited article**” means an article the manufacture, sale, or use of, or other dealing with which in its then state or condition is prohibited by this Act, either absolutely or conditionally;

“**Queensland Radium Institute**” means the Queensland Radium Institute constituted under this Act, and also, where necessary, includes a member or secretary or officer of the said Institute;

“**restricted drug**” means every substance or article prescribed as such;

“**road**” shall have the meaning assigned to it by the Local Government Act;

“**sale**” includes barter, and also includes offering or attempting to sell, or receiving for sale, or having in possession for sale, or exposing for sale, or sending, forwarding, or delivering for sale, or causing or suffering or permitting or allowing to be sold or offered or exposed for sale, but, refers only to sale for consumption or use by humans, and also, so far as relates to any poison, or to any restricted drug, or to any dangerous drug, or to any biological preparation includes supplying, exchanging, lending, or giving away, and whether for consumption or use by humans or for any other purpose whatsoever, and also includes, in relation to any article for use by humans, permitting or allowing such use as a means of advertisement;

“**school**” includes State schools, grammar schools, technical schools, private schools, Sunday schools, and all other schools at which children attend;

“**shoes**” includes the articles usually sold as slippers or sandals;

“**sole**” means all that part of a boot or shoe which in use is under the foot of the wearer, including both the outsole and the insole and the heel, but not including the thin slip of leather, paper, or like material which is affixed to the upper surface of the inner sole and also not including thread, wax, rivets, pegs, nails, toe-plates and heel-plates;

“**State**”, when used with reference to any person appointed to an office under or for the purposes of this Act, means an appointment so made by the Governor in Council;

“**stormwater drain**” means any drain for the carrying off of stormwater, being water other than sewage;

“**substance**” includes a preparation, admixture, or derivative of a substance;

“**vehicle**” without limiting the ordinary meaning of the term, means any motor vehicle, omnibus, coach, cart, sulky, bicycle, velocipede, train, railway carriage, aeroplane, airship, balloon, or other means of conveyance or transit;

“**vessel**” includes a ship, a boat, an air cushion vehicle and every other kind of vessel used in navigation, and also includes any aircraft;

“**veterinary surgeon**” means a veterinary surgeon within the meaning of the *Veterinary Surgeons Act 1936*;

“**writing**” includes partly printing and partly writing, and printing, typewriting, lithography, photography, and other modes of representing and reproducing words in a visible form.

(2) Generally all terms used in this Act shall have the meanings (if any) assigned to them by the Local Government Act.

Savings of this Act generally

6.(1) Notwithstanding anything contained in any other Act, or law, or rule, or process of law—

(a) no provision of this Act shall be or be deemed to be repealed,

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modified, nor amended by any enactment contained in any other Act (and whether such other Act has been passed before, on, or after the commencement of this Act) unless by an enactment contained in some such other Act passed after the commencement of this Act which expressly repeals, modifies, or, as the case may be, amends this Act: and to the intent that in so far as any other Act (not being an Act passed after the commencement of this Act expressly repealing, modifying, or amending this Act or any provision thereof) contains any enactment relating to the subject matter of any provision contained in this Act, such other Act shall be and be deemed to be in aid of and not in derogation of this Act; and

- (b) no enactment contained in any other Act (not being an Act passed after the commencement of this Act expressly repealing, amending, or modifying this Act or any provision thereof) shall prevent or be deemed to prevent the Director-General, the Deputy Director-General, any medical inspector, any health officer, any medical officer of health, any State analyst, any analyst, any inspector, and/or any other officer from doing and executing all powers, duties, authorities, and jurisdiction respectively conferred or imposed upon the Director-General, the Deputy Director-General, a medical inspector, a health officer, a medical officer of health, a State analyst, an analyst, an inspector, or other officer by this Act; and
- (c) no enactment contained in any other Act (not being an Act passed after the commencement of this Act expressly repealing, amending, or modifying this Act or any provisions thereof) shall prevent or be deemed to prevent the enforcement and recovery of any penalty, fee, fine, or forfeiture which is enforceable and recoverable under and in pursuance of this Act; however, where any act or omission constitutes the same offence both under this Act and under some other Act, any person doing or omitting to do such act may be proceeded against either under this Act or under such other Act, but so that no person shall be twice punished for the same offence; and
- (d) generally the provisions of this Act relating to all matters affecting the public health shall have effect and be in force notwithstanding anything contained in any other Act, and the provisions of any

other Act relating to any such matter shall be deemed to be in addition to and not to be in derogation of or to abridge or otherwise affect the operation of the provisions of this Act, and this Act and any such other Act shall be read and construed accordingly.

Construction of subsection (1)

(2) Subsection (1) shall, but without limiting its generality, be read and construed so as to repeal any provision of any other Act which suspends or purports to suspend or may be deemed to suspend any provision of this Act.

Savings as to powers of local government

(3) All powers given to a local government under the provisions of this Act shall, except as otherwise provided in this Act, be deemed to be in addition to and not in derogation of any other powers conferred upon such local government by any other Act, and such other powers may, subject to this Act, be exercised in the same manner as if this Act had not been passed.

Savings as to nuisances

(4) Nothing in this Act shall render lawful any act, matter, or thing whatsoever which but for this Act would be deemed to be a nuisance, nor exempt any person from any action, liability, prosecution, or punishment to which such person would have been otherwise subject in respect of any such act, matter, or thing.

Proceedings for nuisance by local government

(5) A local government may, if in its opinion summary proceedings would afford an inadequate remedy, cause any proceedings to be taken against any person in the Supreme Court to enforce the abatement or prohibition of any nuisance, or for the recovery of any penalties from, or for the punishment of any person offending against the provisions of this Act or any regulation or local law.

General powers as to nuisances

(6) Generally the provisions of this Act relating to nuisances shall be deemed to be in addition to, and not to abridge or affect any right, remedy, or proceeding under any other provisions of this Act, or any other Act, or at common law.

PART 2—GENERAL POWERS

Division 1—Central government

Appointment of Director-General

7.(1) For the due and effectual administration of this Act, a Director-General of Health and Medical Services for the State (the “**Director-General**”) shall be appointed by the Governor in Council.

(1A) The Director-General shall be a medical practitioner.

(1B) The Director-General shall hold office for such period as the Governor in Council shall fix, but the Director-General may be reappointed from time to time.

(1C) The Director-General shall receive such salary and allowances as the Governor in Council may from time to time approve.

Director-General to administer Act under the Minister

(2) The Director-General shall, subject to the Minister, be charged with the administration of this Act.

Delegation of powers etc.

(4) The Director-General may from time to time with the approval of the Minister delegate all or any of the Director-General’s powers, authorities, functions, and duties (other than this power of delegation) to another officer appointed under this Act, and may with like approval at any time revoke any such delegation either wholly or in part.

(4A) During the period of such delegation the other officer so delegated shall have and may exercise all such powers, authorities, and functions, and shall discharge all such duties as are delegated to the officer, and shall for the purposes of so doing be and be deemed to be in all respects the Director-General.

(4B) However, no such delegation for the time being in force shall prevent or be deemed to prevent the Director-General from exercising any power, authority, function, or duty thereby delegated.

Absence, illness or vacancy

(5) The Governor in Council may, on the recommendation of the Minister, appoint a duly qualified person who will while that order remains in force, at and in accordance with the direction of the Minister, exercise and discharge the functions, powers and duties of the Director-General, if the Director-General is unable through absence, illness, or any other cause to exercise and perform the Director-General's functions, powers and duties or in the event of a vacancy existing in the office of Director-General, and the person so appointed will have the necessary authority accordingly.

Reference to Commissioner of Health to be reference to Director-General

(6) Where in any other Act or in any proclamation, order in council, regulation, order, or document a reference is made to the Commissioner of Public Health, such reference shall be and be deemed to be a reference to the Director-General or, as the case may be, to the person acting for and on behalf of or as the delegate of the Director-General, and any such other Act, proclamation, order in council, regulation, order, or document shall be read and construed accordingly.

Appropriation

8. Save as by this Act is otherwise provided, all expenses incurred in the execution of this Act shall be defrayed out of moneys from time to time appropriated by Parliament for the purpose, which appropriation is hereby authorised accordingly.

General powers to make orders in council

9.(1) In addition to and without in any way limiting the powers and authorities of the Governor in Council, or the Minister, or the Director-General under this Act, the Governor in Council is hereby empowered from time to time by order in council to issue such orders and give such directions (and either generally or to the Director-General, or to the local government, or to any other person whomsoever) as will in the Governor in Council's judgment be calculated to promote, safeguard or maintain the health and wellbeing of the people, and to give full effect to the provisions of this Act.

(1A) Every such order or direction shall be obeyed by all persons and bodies corporate or unincorporate concerned.

Default of local government

(2) The Governor in Council may, on the recommendation of the Director-General from time to time by order in council require the local government to exercise and perform within a time limited by the order such of the express powers and authorities charged to it by the Local Government Act as the Director-General may deem to be necessary for the sufficient exercise and performance of the function of health delegated to it by such Act, and to exercise and perform such other of the functions delegated to it by the said Act, and to make such local laws as the Director-General may deem to be necessary for promoting and maintaining the health of the local government's area and its inhabitants.

(3) If the local government fails to carry out the requirements of any order in council made under and in pursuance of this section within the time limited such order in council may be enforced by prerogative order, or the Director-General may do the act or thing, or cause it to be done, or otherwise enforce the provisions of such order in council, and may by order direct that all costs and expenses thereby incurred, including remuneration to any persons appointed by the Director-General in that behalf, shall be paid by the local government.

(3A) A copy of an order made for the payment of such costs and expenses may be filed in the office of the registrar of the Supreme Court, and may thereupon be enforced in the same manner as if the same were an order of that court.

(3B) For the purposes of this section the Director-General and any person appointed by the Director-General in that behalf shall have all the powers of such local government and its officers other than (save as hereinafter provided) the power of levying rates.

(3C) Any sum specified in an order for payment of such costs and expenses shall be deemed to be expenses properly incurred for and on behalf of the defaulting local government and to be a debt due from it.

(3D) If the local government refuses to pay any such sum within a period of 30 days after demand, the Governor in Council may from time to time empower the Director-General to make and levy a rate of sufficient amount to defray the debt so due from it and all costs and expenses incurred in

consequence of the non-payment of such debt.

(3E) The Director-General when so empowered shall have the same powers of making and levying the rate as the local government would have had in the case of a rate made by it.

(3F) After paying all sums of money so due, the surplus (if any) shall be paid by the Director-General to or to the order of the local government.

(3G) The Director-General may from time to time certify the amount of costs and expenses that have been incurred, or an estimate of the costs and expenses about to be incurred, by the Director-General or any persons appointed as aforesaid, and also the amount of any loan required to be borrowed for the purpose of defraying any such costs and expenses; and the certificate of the Director-General when confirmed by the Minister shall be conclusive as to all matters to which it relates.

(3H) Whenever the Director-General so certifies a loan to be required the Treasurer may advance to the Director-General the amount of the loan so certified to be required; and the Director-General may by any instrument duly executed charge the operating fund with the repayment of the principal and interest due in respect of such loan, and every such charge shall have the same effect as if the local government had itself obtained such loan.

(3I) The surplus (if any) of such loan, after payment of the costs and expenses aforesaid, shall, on the amount thereof being certified by the Director-General, be repaid to the Treasurer.

(3J) In this section—

“**expenses**” includes all sums payable by or by the order of the Director-General.

(4) When in carrying out the provisions of this section any medical certificate is necessary, such certificate may, in the absence of a medical officer of health, be signed by any medical practitioner, and shall for all such purposes be as good, valid, and effectual as if signed by a medical officer of health.

Regulation of sewerage, stormwater drainage etc. by Governor in Council

10.(1) The Governor in Council may, on the recommendation of the

Director-General, by order in council prohibit within a time to be specified in the order—

- (a) the carrying-off of sewage and/or stormwater drainage into—
 - (i) a watercourse, stream or canal (whether subject to tidal influence or not); or
 - (ii) any watercourse, stream or canal in which sewage and/or stormwater drainage is already being carried off (whether subject to tidal influence or not); or
 - (iii) any stormwater drain, open or underground channel, or open water channel, or water table in any road; or
 - (iv) any sewer, or stormwater drain, or open or underground channel, or open water channel, or water table in any road, or in which sewage and/or stormwater drainage is already being carried off; or
 - (v) covered places; or
- (b) the disposal of sewage and/or stormwater drainage by works of subsurface irrigation, or any other means specified in the order, or otherwise than by the means specified in the order;

and thereupon it shall be the duty of the local government to make, and within the time specified in the order, such other provision for sewerage and/or stormwater drainage as is specified, and also to take such temporary measures as may be directed to be taken in the same or any other order in council.

(2) If the local government makes default in compliance with any such order with the time limited therein the Director-General may, and without any further or other direction by the Governor in Council, do and execute all such acts, matters, or things as are required to be done or executed by such order in council.

(3) All costs and expenses incurred by the Director-General under and in pursuance of this section shall upon the order of the Director-General be paid by the local government.

(4) Any order made by the Director-General upon the local government for the payment of costs and expenses incurred by the Director-General under and in pursuance of this section may be enforced in the manner

provided in section 9, and section 9 shall be applicable to all such costs and expenses.

Discharge of waste process water into watercourses

10A.(1) Subject to this section, the Director-General may negotiate and enter into an agreement with any person as to the period during which and as to the provisions, terms, and conditions upon and subject to which that person shall be authorised to discharge waste process water from a factory or manufacturing process specified in such agreement into any watercourse named in the agreement.

(2) On the signature by the parties thereto of any agreement under this section, such agreement shall be submitted to the Governor in Council for approval.

(2A) The Governor in Council may approve of the agreement as so signed, or may disapprove, or may refer the agreement back to the parties thereto for reconsideration, either generally or in such particulars as the Governor in Council shall indicate.

(2B) If and when the Governor in Council approves of the agreement as finally agreed upon and made and executed by the parties thereto, the Governor in Council shall publish the same by proclamation published in the Gazette and thereupon the agreement as so published shall bind the Crown and any party thereto and shall be judicially noticed.

(2C) Such publication shall be conclusive evidence that the agreement as so published was duly negotiated, entered into, and approved under this section and of all matters contained therein.

(2D) Notwithstanding anything contained in this section, no agreement entered into or purporting to be entered into under this section shall be valid or effectual for any purpose whatsoever, or bind the Crown or any party thereto or any other person whomsoever or be judicially noticed unless and until such agreement has been so published by proclamation as mentioned in subsection (2B).

(2E) If the Director-General and the person with whom the Director-General is negotiating an agreement under this section cannot agree upon the period during which the agreement is to have effect, or upon any other terms, provisions, or conditions thereof as proposed by either of

them, the Director-General shall, if thereunto required by that other person, submit to the Governor in Council a full statement of all matters so in dispute.

(2F) Thereupon the Governor in Council may give to the Director-General such directions as the Governor in Council thinks fit with respect to any and every matter so in dispute, and the Director-General shall observe every such direction.

(2G) A person applying or proposing to apply to the Director-General to negotiate and enter into with that person an agreement under this section shall give public notice thereof in accordance with the following requirements.

(2H) Such public notice—

- (a) shall be published in some newspaper circulating in the area in which the factory or manufacturing process in respect of which the agreement is applied for is or will be situated; and
- (b) shall be so published twice, the first such publication being not later than 2 months before the date when the agreement is entered into by the Director-General and the second such publication being not earlier than 7 nor later than 14 days after the first; and
- (c) shall state the name of the applicant or intending applicant for the agreement, nominally or by description or reference so that there can be no dispute as to the person's identity; and
- (d) shall state that an application has been made or will be made under this section and in relation to that application or proposed application state so as to clearly identify the factory or industrial process in relation to which the agreement has been or will be applied for, the situation thereof, the description of the waste process water therefrom, the watercourse into which it is desired to discharge that waste process water, and such other particulars as may be prescribed; and
- (e) shall state that any and every authority or person which or who feels that it or the person will or may be aggrieved by the discharge of such waste process water into such watercourse may object thereto in writing stating the grounds of the person's objection to the Director-General of Health and Medical Services at any time not later than 2 months after the date of the first

publication of such notice.

(2I) The Director-General shall, before entering into the agreement, satisfy himself or herself that public notice in accordance with the requirements of this subsection has been duly published.

(3) The Director-General, in negotiating any agreement under this section, shall have regard to all grounds of objection submitted to the Director-General in writing, within the period of 2 months next following the first publication of the public notice relating to that agreement, by any authority or person claiming that the authority or person will or may be aggrieved by the discharge of waste process water into a watercourse in terms of that agreement, but the Director-General shall not, except as hereinafter provided, be bound by any such objection.

(3A) However, if any such objector is a person authorised to discharge waste process water into the watercourse in question in terms of an agreement made under this section or is the holder of a mining tenement, the Director-General shall, before entering into the agreement, be satisfied that the discharge into that watercourse of the waste process water the subject of the negotiations will not prevent, prejudice, or interfere with the compliance by that objector with the terms of the objector's aforesaid agreement or, in the case of a holder of a mining tenement, with the compliance by that holder with the conditions (if any) upon and subject to which the holder is authorised under Part 11A of the *Mining Act 1898* to carry on a method of mining by which mineralised or impure water or sludge or mining debris will be discharged in or on the watercourse in question or otherwise affect any liability to which that holder is or may be subjected by reason of such last mentioned discharge.

(3B) In submitting for approval by the Governor in Council any agreement under this section, the Director-General shall submit therewith all objections as aforesaid.

(3C) The Governor in Council shall have regard to every such objection but the Governor in Council shall not be bound thereby except in the case of an objection to which the Governor in Council is satisfied that subsection (3A) applies, in which case the Governor in Council shall refuse to approve of the agreement if, in the Governor in Council's opinion, the proper application of that subsection in the first instance would have precluded the negotiation of the agreement.

(4) The Director-General may, with the prior approval of the Governor in Council, refuse to enter into an agreement under this section in respect of any particular factory or manufacturing process, which refusal may be before, at any time during, or after the completion of the negotiations.

(5) Except as otherwise provided in this section, the respective powers of the Governor in Council and of the Director-General under this section shall be discretionary, and either of them may, at absolute discretion, exercise or refuse to exercise any powers under this section.

(6) In every agreement made, approved, and published under this section there is an implied condition that all waste process water thereby authorised to be discharged into a watercourse shall at all times be free from any noxious or offensive odour.

(7) If the person thereunto authorised by an agreement made under this section discharges or permits or allows to be discharged into the watercourse specified in that agreement any waste process water in contravention of any term, provision, or condition of that agreement (including the condition implied by subsection (6)) the Director-General may order such person to, within the time specified in the order, do all such acts, matters, and things, and take all such steps, as will in the opinion of the Director-General remedy that contravention.

(7A) If that person fails to comply in any respect with that order the person shall be guilty of an offence and liable to a penalty of not more than 2 penalty units for each and every day during which such failure is continued by the person.

(8) In any action, suit, or proceedings against a person for the recovery of compensation or damages in respect of or in consequence of the pollution or obstruction of or other damage or injury to a watercourse or land or chattels adjacent thereto caused by or resulting from the discharge into that watercourse of waste process water, or to restrain a person from discharging waste process water into a watercourse or to enforce the abatement or prohibition of any nuisance caused by the discharge by a person of waste process water into a watercourse, or for an offence by any person against this Act or any other Act or law by reason of the discharge of waste process water into a watercourse—

- (a) if that person is authorised by an agreement under this section to discharge waste process water into that watercourse—proof that

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the same has been so discharged at all relevant times in compliance with the terms, provisions, and conditions of that agreement shall be a defence; and

- (b) if a breach by that person of any term, provision, or condition of such agreement is proved—it shall nevertheless be a defence if the person proves that such breach was caused by inevitable accident or other circumstances which the person could not reasonably be expected to provide against and that the person did all acts, matters, and things, and took all steps reasonably necessary, to remedy that breach immediately the person became aware thereof.

(9) Every provision of any other section of this Act, or of any other Act, or of any proclamation, order in council, regulation, or other instrument made under this Act or any other Act, or of any other law shall, so far as is necessary to give full operation and effect to this section and to any agreement under this section, be read and applied subject to this section and to such agreement.

(10) For the purposes of this section, there shall be mutual cooperation and consultation between the Director-General, the Coordinator-General of Public Works, the chief executive of the department within which the Local Government Act is administered, the chief executive of the department within which the *Primary Industries Corporation Act 1992* is administered, the Department of Mines, and (as respects tidal waters) the Department of Harbours and Marine, and (as respects any particular case) any and every local government which or any of the inhabitants of whose area may be aggrieved by the discharge into the watercourse in question of waste process water.

(11) In this section—

“**waste process water**” includes any water or liquid (either with or without solids or gases in solution or suspension therein) proceeding from any process of manufacture in a factory or manufacturing process;

“**watercourse**” includes any river, river bed, stream, watercourse, waterway, lake, creek, or gully, whether subject to tidal influence or not, and whether water flows therein perennially, or intermittently, or occasionally, and also includes the sea.

(11A) Agreements under this section shall not be made in respect of mining tenements.

(12) Notwithstanding the provisions of the *Clean Waters Act 1971*, any agreement entered into pursuant to this section prior to the coming into operation of the *Clean Waters Act 1971* may be varied from time to time by subsequent agreement (the “**variation agreement**”).

(13) For the purposes of section 6(1) of the *Clean Waters Act 1971* the agreement as varied by the variation agreement shall be deemed to be an agreement made under and in accordance with the provisions of this section prior to the coming into operation of the *Clean Waters Act 1971*.

(14) The provisions of this section relating to an agreement, application therefor or a proposed application therefor shall apply to a variation agreement, application therefor or proposed application therefor and for that purpose a reference herein to an agreement shall be construed as a reference to a variation agreement.

General power to make orders in council

11.(1) The Governor in Council may from time to time make all such orders in council as the Governor in Council thinks fit for the further or more effectually or particularly carrying out the objects and purposes of this Act, and without limiting the aforesaid provisions any such order in council may be made for facilitating proof of any document or matter, or for extending periods of time, and for curing irregularities, and substituting new for lost or destroyed documents.

(2) The Governor in Council may from time to time make all such orders in council as the Governor in Council thinks fit authorising or directing the local governments specified in the orders in council to inspect the Crown premises or class of Crown premises specified in the orders in council.

Generality of powers to make orders in council not affected by specific powers to make orders in council

12.(1) The generality of any provision of this Part relating to the making of orders in council shall not be qualified or affected by any provision of this Act giving power to make orders in council with regard to any subject matters in such provision specified.

Publication of proclamations, orders in council, and orders

(2) Every proclamation and order in council made under this Act, and every order made by the Director-General under this Act and directed to the local government, shall be published in the Gazette.

(3) Where under this Act the Governor in Council has power to make any proclamation or order in council, the Governor in Council shall have power to make 1 or more proclamations or orders in council as appears to the Governor in Council necessary or expedient in the circumstances, and either at one and the same time or from time to time.

Amending or rescinding orders in council etc.

(4) The Governor in Council may by another proclamation or order in council amend or rescind any proclamation or order in council made under this Act.

Misnomer etc. not to prejudice

(5) No misnomer or inaccurate description or omission contained in any such proclamation or order in council shall in any wise prevent or abridge the operation of this Act with respect to the subject of such description provided the same is designated so as to be understood.

(6) No proclamation or order in council purporting to be made under this Act shall be deemed invalid on account of any noncompliance with any of the matters required by this Act as preliminary to the same.

(7) All proclamations and orders in council made or purporting to be made under this Act when published in the Gazette shall have the same force and effect as if they were enacted in this Act and shall be judicially noticed, and shall not be questioned in any proceedings whatsoever, and such publication shall be conclusive evidence of the power and authority to make the proclamation or order in council so published and of all matters contained therein.

Regulations to be approved by the Governor in Council and laid before Parliament

13.(1) Every regulation made by the Director-General under the provisions of this Act shall be subject to the approval of the Governor in Council.

(1A) Regulations (whether made by the Director-General or otherwise under the authority of this Act) may, subject as otherwise provided in this Act, impose a penalty not exceeding 40 penalty units for any breach thereof, and may provide for the suspension or cancellation of any licence, certificate, or approval upon conviction or successive convictions of an offence or offences against this Act or the regulations.

(1B) Except where otherwise provided by regulation all regulations shall be of general effect and in force throughout the State.

(1C) However, a regulation may provide that the same and/or any other regulation or regulations shall have effect only in respect of the case prescribed thereby and/or in the part of the State or the area of a local government or areas of local governments prescribed thereby.

(1D) Except where otherwise provided by regulation all regulations shall be and continue of full force and effect until the same are repealed or amended under this Act.

(1E) However, a regulation may provide that the same and/or any other regulation or regulations shall be and continue of force and effect for the time prescribed therein only.

(1F) Where the same subject matter is provided for both by a regulation and by any local law both the regulation and the local law shall be given their full force and effect and shall be complied with.

(1G) However, if in respect of a particular matter there is a contradiction as between a regulation and any local law the regulation shall prevail and the local law, to the extent of the contradiction, shall be of no force or effect.

(1H) Every regulation made or purporting to have been made under this Act shall be published in the Gazette, and shall upon publication be of the same force and effect as if it were enacted in this Act and shall be judicially noticed, and shall not be questioned in any proceedings whatsoever.

(1I) The publication in the Gazette of any such regulation shall be conclusive evidence of the power and authority to make the same and of all matters therein contained.

Proclamations, orders in council, and regulations to be laid before Parliament

(3) All proclamations, orders in council, and regulations made under this Act, and all orders made by the Director-General under this Act and directed

to the local government, shall be laid before the Legislative Assembly within 14 sitting days after the publication thereof in the Gazette if Parliament is in session, or, if not, then within 14 sitting days after the commencement of the next session.

(4) If Parliament passes a resolution disallowing any such proclamation, order in council, regulation, or order, of which resolution notice has been given at any time within 14 sitting days of such House after such proclamation, order in council, regulation, or order has been laid before it, such proclamation, order in council, regulation, or order shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the power to make any further or other proclamation, order in council, regulation, or order.

(5) For the purpose of this subsection—

“**sitting days**” shall mean days on which the House actually sits for the despatch of business.

Orders of Director-General when confirmed binding

14.(1) Subject to the right of appeal hereinafter mentioned, all orders made by the Director-General in pursuance of this Act and directed to the local government or any regulation shall when confirmed by the Minister be binding and conclusive in respect of the matters to which they refer, and shall be published in the Gazette and in such other manner as the Director-General may direct, but no such order shall have any such effect until so confirmed.

(2) However, any local government aggrieved by any order of the Director-General directed to it may address a memorial to the Governor in Council stating the grounds of its complaint; and the Governor in Council may after due inquiry make such order in the matter as to the Governor in Council seems just.

Division 2—Director-General

Director-General may cause inspections etc. to be made

15.(1) The Director-General may from time to time cause to be made

such inspections, investigations, and inquiries as the Director-General thinks fit in relation to any matters concerning the public health in any place, or concerning any matters with respect to which the Director-General's sanction, approval, or consent is required by this Act, and the Director-General shall from time to time cause to be made such inspections, investigations, and inquiries as are directed by the Governor in Council or by this Act.

Costs

(1A) The Director-General may make orders as to the costs of inspections, investigations, and inquiries or proceedings instituted by, or of appeals to, the Director-General under the provisions of this Act, and as to the parties by whom, or the fund out of which, such costs shall be borne.

Copy of order to be filed in Supreme Court

(1B) When any such order has been confirmed by the Minister and published in the Gazette, a verified copy thereof may be filed in the office of the registrar of the Supreme Court, and may thereupon be enforced in the same manner as if it were an order of that court.

Power of persons directed to make investigations

(1C) When any inspection, investigation, or inquiry is directed to be made by the Governor in Council or the Director-General, the person directed to make the same shall for the purposes of making such inspection, investigation, or inquiry have and may exercise all the powers, authorities, and jurisdiction of a commission under the *Commissions of Inquiry Act 1950* and may enter and inspect any building, premises, or place the entry or inspection whereof appears to the person requisite for the purposes of such inspection, investigation, or inquiry.

Forms

(2) The Director-General may from time to time make regulations prescribing forms of notices, licences, certificates, permits, and other documents for the purposes of this Act, and such forms as so prescribed, or forms to the like effect, shall be used in all cases to which they respectively apply.

(3) The local government shall without fee supply such forms to any person who applies for the same.

Schedule B

(4) The forms in Schedule B, or forms to the like effect, shall be used for the purposes for which they are respectively applicable, but the Director-General may at any time or from time to time make regulations amending any such form or substituting a new form in lieu thereof.

Powers of Director-General in default of local government

16.(1) When the Director-General is satisfied that a local government has made default in doing any act or thing which under the provisions of this Act it is its duty to do, or in enforcing any of the provisions of this Act which it is its duty to enforce, or has not exercised any power conferred upon it by this Act, the Director-General may make an order directing the local government to do its duty in the matters within a time limited by the order.

(1A) If such duty is not performed in the time limited, the order may be enforced in the manner provided in section 9, and the provisions of section 9 shall be applicable to all costs and expenses incurred in enforcing such order.

(2) When in carrying out the provisions of this section any medical certificate is necessary, such certificate may, in the absence of a medical officer of health, be signed by any medical practitioner requested so to do by the Director-General, and shall for all such purposes be as good, valid, and effectual as if signed by a medical officer of health.

Power of Director-General to act in emergencies

17.(1) In any emergency, of which the Director-General shall be the judge, the Director-General, in addition to all other functions, duties, powers, authorities, and jurisdiction vested in the Director-General by this Act, may, and shall when directed by the Governor in Council by order in council so to do, exercise, undertake, and perform any or all of the functions, duties, powers, and authorities delegated to or vested in or imposed upon the local government by the Local Government Act or this Act, and may give such orders and directions and/or make such regulations, and do such other acts, matters, or things as the Director-General shall deem necessary or expedient or as are in the Director-General's judgment

calculated to promote, safeguard or maintain the health and wellbeing of the people, and/or to overcome such emergency, and/or to remove or abate the cause or causes of such emergency, whether express authority, power, or jurisdiction is conferred upon the Director-General or upon the local government by this Act and/or the Local Government Act or not.

(2) All costs and expenses incurred by the Director-General under and in pursuance of the provisions of this section shall upon the order of the Director-General be paid by the local government, or by the local governments if more than 1 concerned, and in the latter case in such proportions as the Director-General by the Director-General's order may direct.

(3) Any order made by the Director-General upon a local government for the payment of costs and expenses incurred by the Director-General under and in pursuance of this section may be enforced in the manner provided in section 9, and section 9 shall be applicable to all such costs and expenses.

(4) When in carrying out the provisions of this section any medical certificate is necessary, such certificate may, in the absence of a medical officer of health, be signed by any medical practitioner requested so to do by the Director-General, and shall for all such purposes be as good, valid, and effectual as if signed by a medical officer of health.

Power to make order on memorial of party aggrieved by decision of the local government

18.(1) Any person aggrieved by the decision of a local government in any case in which the local government is empowered to recover any expenses incurred by it, may within 21 days after notice of such decision address a memorial to the Director-General stating the grounds of the person's complaint, and shall deliver a copy thereof to the local government.

(2) The Director-General may make such order in the matter as to the Director-General seems just.

(3) Any proceedings that have been commenced for the recovery of such expenses by the local government shall on the delivery to the local government of the copy of the memorial be stayed.

(4) The Director-General may if the Director-General thinks fit by order direct the local government to pay to the person so proceeded against such

sum as the Director-General considers to be a just compensation for the loss, damage, or grievance sustained by such person.

Division 3—Local government

Local governments to see to the execution of regulations

19. The local government of any local government area within which or part of which any regulations or orders of the Director-General are in force shall if required by the Director-General superintend and see to the execution thereof, and shall do and provide all such acts, matters, and things as may be necessary for superintending or aiding in the execution of such regulations or orders as the case requires.

Local governments to report

20.(1) Every medical officer of health shall make an annual report to the local government in such form as the Director-General may direct in relation to the public health of its area and its inhabitants, and every local government shall make an annual report to the Director-General in the form directed by the Director-General in relation to the public health of its area and its inhabitants.

(2) The local government shall transmit copies of such annual reports of its medical officer of health to the Director-General.

(3) Every annual report so made to the local government and a copy of every annual report so made by the local government shall be open to inspection at the office of the local government concerned.

Power of local government to abate nuisance

21.(1) A local government shall have power to institute proceedings in respect of any act or omission whereby or in consequence of which a nuisance arises by the pollution of any watercourse, stream or canal (whether subject to tidal influence or not) within or passing through its area, or passing along the boundaries thereof, against any other local government or person, whether such pollution arises within or without the area of such first mentioned local government and may take such steps as are deemed

necessary to abate such nuisance, and may recover the expenses incurred in so doing from the local government or person by whose act or omission such nuisance has been occasioned.

(2) A local government or local governments may, with the approval of the Governor in Council to be signified by order in council, carry out any work in any river or watercourse (whether subject to tidal influence or not) within or passing through the area or areas of such local government or local governments, or passing along the boundaries thereof, for the purpose of preventing or removing the pollution of any such river or watercourse or of abating any nuisance arising therefrom.

(3) No order in council under this subsection shall be made until the local government shall first have been given at least 1 month's notice of the intention to make such order, so as to enable any local government concerned to make representations to the Minister in reference to the proposal.

Appointment, remuneration, and duties of officers of local governments

22.(1) A local government may, and when required by order of the Director-General shall, appoint a medical practitioner as medical officer of health, and also such analysts, inspectors, and other officers as may be necessary for the due execution of the provisions of this Act and the regulations and local laws.

(2) Such medical officer of health and any such analyst, inspector or other officer shall perform—

- (a) such duties relating to the due execution of the provisions of this Act and, in relation to health, as the local government from time to time directs; and
- (b) such duties relating to the due execution of the provision of this Act and relating to health as are, by order of the Director-General addressed to the local government, required to be performed by such medical officer of health or such analyst, inspector or other officer.

(3) The local governments of 2 or more contiguous local government areas may join in the appointment of a medical officer of health, analyst,

inspector, or other officer, and in directing the duties to be performed by such officers, and in remunerating them.

(5) If a local government does not appoint or join in appointing a medical officer of health, analyst, inspector, or other officer within such time as the Director-General may by order direct, or within 30 days after the occurrence of a vacancy in such office, the Director-General with the approval of the Governor in Council may appoint such medical officer of health, analyst, inspector, or other officer, and also fix a reasonable amount for the officer's remuneration, which, in the case of a medical officer of health, shall not be less than \$20 for any year, and the remuneration so fixed shall be a charge upon the operating fund, and shall be paid to the officer by the local government, and in default of payment may be recovered by the officer by action in any court of competent jurisdiction.

(6) If such appointment is made by the Director-General for 2 or more contiguous local governments areas, the Director-General shall also fix the proportion of remuneration to be paid by each local government concerned.

State analyst may act as analyst of local government

24.(1) A State analyst may with the approval of the Director-General be appointed by a local government to be its analyst.

(2) However, in every such case the whole of the remuneration paid to the State analyst as analyst or expert of the local government shall by the analyst be forthwith transmitted to the Director-General for payment into the Consolidated Fund.

Quarterly and annual report of analyst

(3) Every analyst of a local government shall furnish a report to the local government once at least in every 3 months showing the number of articles analysed or examined by the analyst during the last preceding 3 months, the result of each analysis or examination, and the sum paid to the analyst in respect thereof.

(4) Such report shall be presented at the next meeting of the local government.

(5) Every local government shall thereupon transmit to the Director-General a certified copy of such report.

Medical officer of health to have powers of inspectors

25. The medical officer of health shall, in addition to the powers conferred on the officer by this Act, have all the powers of an inspector of the local government.

Non-disqualification of medical practitioner by receipt of fees

26. A payment made to a medical practitioner in pursuance of this Act shall not disqualify that practitioner from serving and voting as a councillor of a local government.

Division 4—Appointment of officers under and for the purposes of the Act**Appointment of officers**

27.(1) The Governor in Council may from time to time appoint such medical directors (who shall be medical practitioners), medical inspectors (who shall be medical practitioners and experts in sanitary science), health officers (who shall be medical practitioners), public vaccinators (who shall be medical practitioners), dentists, analysts, engineering inspectors, sanitary engineers, inspectors, nurses, and other officers as the Governor in Council thinks necessary.

(1AA) The Governor in Council may if the Governor in Council thinks fit assign local government areas or parts of local government areas to any such officers.

Prohibition on use of term State analyst

(1A) A person—

- (a) shall not advertise himself or herself or hold himself or herself out as a State analyst;
- (b) shall not take or use or by inference adopt (either alone or in conjunction with any other name, title, word or letter)—
 - (i) the words ‘State analyst’ or any abbreviation or derivative thereof;
 - (ii) any name, title, words or letters implying or which may be

construed as implying that the person is a State analyst;
unless the person holds a subsisting appointment of an analyst
made by the Governor in Council pursuant to subsection (1).

Regulations as to competency of officers

(2) The Director-General may from time to time make regulations with respect to the qualifications of inspectors, analysts, and other officers to be appointed by the Governor in Council or the local government under and for the purposes of this Act, and requiring that before appointment they shall give by examination or otherwise satisfactory evidence of their competency.

General powers and duties of officers

(3) Every medical director, every medical inspector, and every health officer shall subject to the Director-General have and may exercise all the powers vested in, and shall perform and be subject to all the duties and liabilities imposed upon the person in respect of the person's office under the provisions of this Act, and every medical inspector shall have and may exercise all the powers vested in, and shall perform and be subject to all the duties and liabilities imposed upon a medical officer of health of the local government in respect of the medical inspector's office under the provisions of this Act.

Officer may attend meetings of local government

(4) An officer authorised by the Director-General in that behalf may attend any meeting of a local government or of any committee thereof.

(5) Notwithstanding anything in this Act or in any other Act contained every person who at the date of the passing of the *Health Act Amendment Act 1959* holds, and every person who subsequent to such date is appointed to, permanently any of the positions set forth in the Schedule to subsection (6) shall without any further or other appointment, be a health officer for the purposes of this Act and shall, subject to the Director-General, have and may exercise such powers and shall perform and be subject to such duties and liabilities as shall from time to time be prescribed or required by the Governor in Council.

(6) Every such person as aforesaid so long as the person holds any such position shall be and be deemed to be a person permanently employed by or under the Crown for the purposes of the *Public Service Superannuation Act 1958* at the salary paid from time to time to such person in respect of that

position and the provisions of the *Public Service Superannuation Act 1958* with such modifications and adaptations as may be necessary shall apply and extend accordingly.

SCHEDULE

NORTH BRISBANE HOSPITAL—

- Deputy General Medical Superintendent
- General Medical Superintendent
- Superintendent, Brisbane Children's Hospital
- Superintendent, Brisbane Women's Hospital
- Superintendent, Chermside Chest Hospital

X-Ray Department—

- Director of Diagnostic Radiology
- Radiologist (Specialist Registration)
- Senior Radiologist

Pathology Department—

- Clinical Bacteriologist (Medical)
- Clinical Biochemist (Medical)
- Director
- Haematologist (Medical)
- Pathologist in Charge of Morbid Anatomy
- Pathologist in Charge of Surgical Pathology
- Pathologist (Specialist Registration)

SOUTH BRISBANE HOSPITAL—

- Medical Superintendent

Pathology Department—

- Clinical Bacteriologist (Medical)

- Clinical Biochemist (Medical)
- Director
- Haematologist (Medical)
- Pathologist in Charge of Morbid Anatomy
- Pathologist in Charge of Surgical Pathology
- Pathologist (Specialist Registration)

QUEENSLAND RADIUM INSTITUTE—

- Deputy Director
- Director
- Radiotherapists (Specialist Registration)
- Senior Radiotherapists

COUNTRY HOSPITALS—

Medical Superintendents—

Bundaberg	Mackay
Cairns	Maryborough
Charleville	Rockhampton
Cloncurry	Toowoomba
Gympie	Townsville
Ipswich	Warwick

**PART 3—PREVENTION, NOTIFICATION AND
TREATMENT OF DISEASE OR DISABILITY**

Division 2—Notification of births

Interpretation

31.(1) In this Division—

“**baby clinic**” includes a branch clinic service;

“**birth of an infant**” means the birth of an infant, whether born alive or

dead, and whether prematurely or at full time, but shall not apply in the case of the delivery of a non-viable foetus;

“district registrar” means a district registrar within the meaning of the *Registration of Births, Deaths and Marriages Act 1962*.

Notification of birth to be forwarded to district registrar

(2) In any local government area or part of a local government area defined by the Governor in Council by proclamation published in the Gazette within which there is now or hereafter established a baby clinic, there shall be forwarded to the district registrar within the area concerned a notification of the birth of any infant occurring in such area.

When to be forwarded

(2A) Such notification shall be forwarded to the district registrar within a period of 72 hours after the birth.

Birth in hospital etc.

(3) Where the birth occurs in any public or private hospital or other public or private institution, such notification shall be forwarded by the matron or other person in charge of such hospital or institution or the person in charge of the portion of such hospital or institution in which the birth occurs.

Birth otherwise than in hospital etc.

(4) If the birth occurs elsewhere than in any public or private hospital or other public or private institution a notification shall be forwarded—

- (a) by the midwife or person performing the duties of midwife in attendance upon the mother, at the time of or within 6 hours after the birth; or
- (b) if there be no midwife in attendance—by the medical practitioner in attendance upon the mother, at the time of or within 6 hours after the birth; or
- (c) if there be no doctor or midwife in attendance—by the father of the infant if residing in the house where the birth takes place at the time of the occurrence; or if the father is dead or if the father is not residing in the house where the birth takes place, at the time of the occurrence by the occupier (other than the mother) of the house.

Delivery of notification form

(5) The notification shall be given by delivering the same to the district registrar concerned, and such notification shall be in the prescribed form or to the like effect.

(5A) However, any such notification shall be deemed to be delivered to the district registrar upon the receipt by the district registrar of a prepaid letter addressed to the district registrar and containing such notification, or if the person responsible for giving the notification produces the proper receipt from a post office for a prepaid registered letter addressed to the district registrar concerned and containing such notification.

Duty of district registrar

(6) The district registrar shall within 24 hours of the receipt of such notification transmit the same or the contents of the same to the nurse in charge of the baby clinic within the local government area.

Penalty

(7) Any person who neglects or fails to comply with the provisions of this Division shall be liable to a penalty not exceeding 10 penalty units, to be recovered in a summary way.

(8) No provision of this section shall be construed so as to prejudice or affect—

- (a) the provisions of the *Registration of Births, Deaths and Marriages Act 1962*; or
- (b) the provisions of the *Children's Services Act 1965*.

Regulations

(9) The Director-General may from time to time make regulations prescribing the forms to be used and any other act, matter, or thing necessary or convenient for giving full effect to the provisions of this Division and for the due administration thereof.

Division 3—Notifiable diseases

Notifiable diseases

32.(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 public sector hospital within the meaning of the *Health Services Act 1991* apply—the Regional Health Authority, 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 Regional Health Authority;
- (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 public sector hospital within the meaning of the *Health Services Act 1991*; 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.

Reporting of notifiable diseases

32A.(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 the medical practitioner's belief, give notice thereof to the Director-General in a form acceptable to the Director-General.

- (2) If the patient is examined or treated in a public hospital—
 - (a) the medical practitioner shall, as soon as is practicable after forming the medical practitioner's belief, inform the medical superintendent of the hospital of the medical practitioner's 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 the Director-General.
- (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 the person's knowledge false in a material particular;

commits an offence against this Act.

Maximum 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 the Director-General with such further information as the Director-General 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.

Investigations in respect of notifiable diseases

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

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

others to the disease.

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

Maximum penalty—20 penalty units.

Regulations with respect to notifiable diseases

33.(1) The Director-General may from time to time make all such regulations as the Director-General shall deem necessary or expedient for the purpose of—

- (a) preventing the outbreak or occurrence of any notifiable disease; and/or
- (b) suppressing any notifiable disease; and/or
- (c) the examination or treatment, or examination and treatment of persons having or suspected of having any notifiable disease;
- (d) 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.

(1A) Without limiting the generality of the foregoing provisions the regulations may provide for all or any of the following matters—

- (a) for the cleansing and disinfection of bedding, clothing, and other articles which have been exposed to infection from any notifiable disease;
- (b) for the cleansing and disinfecting of houses or parts thereof and of articles and things therein;
- (c) for the disinfection of second-hand wearing apparel and second-hand books and periodicals in the possession of persons carrying on business as dealers in such articles before any such articles are sold or otherwise disposed of by such dealers;
- (d) for the licensing of barber shops and for authorising and requiring local governments to undertake the function of licensing;
- (e) for the cleansing, disinfecting and sterilising of the implements, tools and utensils of barbers and generally for regulating and controlling the sanitary conduct of the business of a barber and, in

respect of any regulation so providing, for authorising and requiring local governments to undertake the function of enforcing compliance therewith;

- (f) for prescribing the means by which such cleansing and disinfection shall be performed, and the equipment, apparatus, materials, and attendance which shall be provided, and, where considered necessary, the means by which the fact of disinfection having been carried out may be certified;
- (g) for house-to-house visitation and inspection of houses and premises, of the occupants thereof, and the articles and things therein, and also of any sanitary conveniences, outbuildings, yards, stormwater drains, sewers, and land or premises connected therewith;
- (h) 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;
- (i) for prescribing the details of construction and situation and the class or description of sanitary conveniences which alone may be used on any premises or class of premises;
- (j) for prohibiting the construction or use of cesspits, and for prescribing the means by which existing cesspits shall be cleansed and their contents disposed of;
- (k) for prescribing standards for water for consumption or use by humans, measures for the protection and purification of such water, and the prevention of the pollution thereof, and for the proper construction, including with respect to standards for materials or work skills, or both, of tanks and cisterns for storing such water so as to ensure the purity thereof and to prevent breeding of or infestation by insect or other life, and for requiring, controlling and regulating the periodical cleansing of such tanks and cisterns;
- (l) for prescribing standards for water for swimming pools, spa pools, water slides, hydrotherapy pools and any other collections of water used for recreational or therapeutic purposes and measures for maintaining such water at such standards;

- (m) for prohibiting expectoration on any footpath, or on the floor or sides of any public building or public conveyance;
- (n) for declaring rats, mice, or other vermin, or any specified form of insect life to be noxious;
- (o) for directing that local governments and owners and occupiers of premises shall adopt such measures as are prescribed for the purpose of destroying such vermin or insect life, and preventing their breeding and preventing their access to premises, and destroying, removing, and preventing the accumulation of any articles, matters, or things which provide or are likely to provide harbourage or food for the same;
- (p) for authorising the Director-General or local government to act for any owner or occupier in default, and in addition to any other remedy recover from the owner or occupier any expense incurred in so doing;
- (q) for regulating and controlling the sanitary conduct of the manufacture or renovation of flock, mattresses, beds, pillows, cushions, and upholstery;
- (r) for the cleansing, disinfection, and sterilisation of all such articles and of materials entering into their composition;
- (s) for the prescribing of standards for such articles and materials.

(1B) The Director-General may also make, from time to time, all such regulations as the Director-General shall deem necessary or expedient for the purposes of prescribing the information and particulars to be furnished to the Director-General in respect of applications for agreements under section 10A, and of regulating and controlling the furnishing of any information or particulars so prescribed, for the purposes of prescribing particulars, additional to the particulars specified in section 10A, which shall be stated in public notices published under that section, and for the purposes of prescribing generally all such matters and things as in the Director-General's opinion should be considered and dealt with in the negotiations in respect of such agreements.

(2) The Director-General shall be deemed to have always had power to make regulations providing for all or any of the matters referred to in subsection (1A)(d) and (e).

Public hospitals to provide facilities

34. 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.

Duty of local government to prevent notifiable disease

34A. The Director-General may, by instrument, require a local government to do anything specified in the instrument for the purpose of—

- (a) preventing the outbreak or occurrence of a notifiable disease within its area; or
- (b) suppressing any notifiable disease within its area.

Temporary isolation places

35.(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.

Removal and detention of person suffering from notifiable disease

36.(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 the medical practitioner's 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 police officers of the State and shall be sufficient authority for any police officer 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 the person 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 authorised 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 the person's proper isolation and treatment or, as the case may be, for determining whether the person 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 the person's direction may exercise such force as may be reasonably necessary for the purpose of—

- (a) detaining the person in the public hospital or place; or
- (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; or
- (b) fails to remain in the public hospital or temporary isolation place, to which the person has been admitted pursuant to the order, until the Director-General approves the person's 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.

Maximum penalty—20 penalty units.

Detention of infected person without proper lodging in hospital by order of Stipendiary Magistrate

37.(1) Any Stipendiary Magistrate, upon proper cause shown to the Magistrate, may make an order directing the detention in a public hospital of any person suspected to be suffering from any notifiable disease who is then in a hospital and would not on leaving the hospital be provided with lodging or accommodation in which proper precautions could be taken to prevent the spreading of the disease by such person.

(2) Any such order may be limited to some specific time, but with full power to any Stipendiary Magistrate to enlarge such time as often as may appear to the Magistrate to be necessary.

(3) A police officer 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.

Cleansing and disinfection of premises etc.

38.(1) The local government—

- (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 its area to cleanse and disinfect the premises and any articles in or on the premises.

Cleansing and disinfection of houses etc.

(2) For the purposes of giving effect to subsection (1) the local government shall give notice to the owner or occupier of the premises or part of the premises concerned requiring the owner or occupier to cleanse and disinfect such premises or part thereof and/or any articles therein or thereon within the time specified in such notice to the satisfaction of the medical officer of health.

(3) If the person to whom notice is so given fails to comply therewith the person shall be liable to a daily penalty not exceeding one-half of a penalty unit, and the local government shall cause such premises or part thereof and articles to be cleansed and disinfected, and may recover the expenses incurred by it in so doing from the owner or occupier in default.

(4) When the owner or occupier of any such premises or part thereof is unable, in the opinion of the local government, effectually to carry out the requirements of this section, the local government may cleanse or disinfect such premises or part thereof or articles and itself defray the expenses of so doing.

Power of local government as to disinfection etc.

39. The local government may, and when required by the Director-General shall—

- (a) direct the destruction of any bedding, clothing, or other articles which have been exposed to infection from any notifiable disease;
- (b) direct the destruction of any building or structure infected with any notifiable disease which has been certified by its medical officer of health to be incapable of proper disinfection;
- (c) provide a proper place with all necessary apparatus and attendance for the disinfection of bedding, clothing, or other articles which have become infected, and cause any articles brought for disinfection to be disinfected free of charge.

Compensation

40. 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 government 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 government—be paid compensation in the manner prescribed in section 162.

Infectious rubbish

43. Any person who knowingly casts or causes, permits or allows to be cast into any receptacle or place any agent of a notifiable disease without its previous disinfection shall be guilty of an offence.

Maximum penalty—20 penalty units.

Provisions as to school children

47.(1) No person shall knowingly send to or allow to attend at any school any child who then is or within the prescribed period has been suffering from any disease to which this section may from time to time be extended by the Governor in Council by order in council unless there is previously presented to the head teacher a written certificate from a medical practitioner stating that such child is free from such disease and infection, and that the clothing of such child is similarly free from risk of conveying infection.

(1A) No teacher shall knowingly admit to any school any child in contravention of this section.

(2) Where any case of any disease to which this section has been extended as mentioned in subsection (1) is reported to the local government as occurring at any house from which any child is known or is believed by the chief executive officer of such local government to be in attendance at a school within its area, such chief executive officer shall give immediate notice in writing of such case to the head teacher of such school.

(3) Whenever any notifiable disease occurs or is suspected to have occurred amongst children attending any school, any medical officer of health, or any medical practitioner, registered nurse, or other officer authorised in writing for the purpose by the Director-General, may enter any house and examine all or any of the persons or children found in or residing at such house for the purpose of ascertaining whether such persons or

children are infected by or carriers of such notifiable disease, and all persons concerned shall permit such examination.

Medical and dental inspection of schools

(5) The Minister may provide for the medical and dental inspection of pupils in schools, and for that purpose may employ medical officers, dentists, nurses, and such other persons as may be found necessary.

(5A) All pupils attending school shall be subject to such inspection.

(6) When in the Director-General's opinion it is necessary so to do for the purpose of the prevention or suppression of any disease, the Director-General may make an order closing any school or schools designated in such order.

(6A) No such order shall have any force or effect unless and until the same is confirmed by the Minister, but forthwith upon the confirmation thereof by the Minister any such order shall have the force of law and be obeyed by all persons concerned.

(6B) However, the Director-General may from time to time by another order, which also shall be subject to confirmation by the Minister, repeal, vary, or amend any order made by the Director-General under this subsection.

(7) Any medical director, medical officer, dentist, nurse, inspector, or other person authorised in that behalf by the Director-General may enter any school and there make such inspection of the pupils and/or examination of the premises as shall have been directed by the Director-General or prescribed.

(7A) Every person concerned shall permit and aid in such inspection and/or examination.

(8) Any person who contravenes or fails to comply with any provision of this section shall be liable to a penalty not exceeding 2 penalty units.

Controlled notifiable diseases

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

(2) A person must not deliberately or recklessly put someone else at risk

of infection from a controlled notifiable disease.

Maximum penalty—150 penalty units or imprisonment for 18 months.

(2A) A person must not deliberately or recklessly infect someone else with a controlled notifiable disease.

Maximum penalty—200 penalty units or imprisonment for 2 years.

(2B) A person does not commit an offence against subsection (2) if, when the other person was put at risk of infection from the disease, the other person—

- (a) knew the person was infected with the disease; and
- (b) voluntarily accepted the risk of being infected.

(2C) A person does not commit an offence against subsection (2A) if, when the disease was transmitted to the other person, the other person—

- (a) knew the person was infected with the disease; and
- (b) voluntarily accepted the risk of being infected.

(2D) A complaint against a person for an offence against subsection (2) or (2A) is sufficient if it states that the person charged carried out the act deliberately or recklessly.

(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 authorised by the court concerned; or
- (b) is made for the purpose of those proceedings or of proceedings related to those proceedings; or
- (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.

Maximum penalty—

- (a) for a first offence—20 penalty units or imprisonment for 6 months;
- (b) for a subsequent offence—80 penalty units or imprisonment for

12 months.

Secrecy

49.(1) Every person who acts or assists in the administration of the provisions of this Act relating to controlled notifiable diseases shall preserve and aid in preserving secrecy with regard to all matters which come to the person's knowledge in the person's official capacity except in the performance of the person's duties.

(1A) The Director-General at the Director-General's discretion may give such information to another government official or department as the Director-General considers necessary for the purposes of administering this Act and may give information to any department or official of the Government of the Commonwealth having, in the Director-General's opinion, a legitimate interest in possessing the information.

(1B) Any person who contravenes this subsection shall be liable to a penalty not exceeding 20 penalty units.

(2) The Director-General or any other person shall not be required to produce in court any record, notice or other document kept or to disclose to a court any information which has been received under or for the purposes of this Division.

Protection for acts done under this Division

50. 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.

Division 10—Infirmity

Removal of infirm person to public sector health service

62.(1) Where a justice is satisfied on the application of the local

government that any person is—

- (a) suffering from an incurable disease or infirmity; or
- (b) incapable of caring for himself or herself;

and is without proper care, lodging, or accommodation, such justice may order such person to be removed to a public sector health service within the meaning of the *Health Services Act 1991*.

(2) Such order may be addressed to a police officer or to some officer of the local government, and shall be sufficient authority for the police officer or officer of the local government to whom same is so addressed to take the person named therein to the public sector health service, and for the person in charge of the public sector health service to detain the person so taken there for the purposes of the person's proper care and treatment.

(3) Any person who resists or obstructs or who incites any other person to resist or obstruct the execution of any order made by a justice under the authority of this section, or who attempts so to do, shall be guilty of an offence and liable to a penalty of not more than \$50.

Division 11—Private hospitals

Interpretation

63. In this Part—

“day hospital” has the meaning given by section 63A;

“private hospital” means any house, apartment, or premises which is used or intended to be used for the reception, care, and treatment of sick persons, or of women for maternity purposes, or of patients (within the meaning of the *Mental Health Act 1974*) or of mothers and/or infants, and which is not a public sector hospital within the meaning of the *Health Services Act 1991*;

“licence” means a licence granted under this Act and for the time being in force;

“medical cases” includes cases of mental illness;

“registered nurse” means a nurse registered under the *Nursing Act 1992*.

Meaning of “day hospital”

63A.(1) Premises where a medical practitioner gives surgical or medical treatment that does not require overnight hospitalisation are a day hospital.

(2) A day hospital is taken to be a private hospital even though the premises do not provide for the reception of patients.

(3) Premises that are part of a public sector hospital within the meaning of the *Health Services Act 1991* are not a day hospital.

(4) Premises ordinarily used by a medical practitioner for patient consultation, diagnosis and treatment are not a day hospital.

Examples of premises that are not a day hospital—

Medical centre, medical practitioner’s general practice room.

Private hospitals to be licensed

64.(1) No person shall without a licence from the Director-General erect or keep any private hospital and whether—

- (a) a general private hospital for the reception, care, and treatment of medical, surgical, and/or maternity cases; or
- (b) a maternity hospital for the reception, care, and treatment of maternity cases only; or
- (c) a hospital for the reception, care, and treatment of patients (within the meaning of the *Mental Health Act 1974*) only, not being a public hospital or a psychiatric hospital within the meaning of the *Mental Health Act 1974*; or
- (d) any hospital for the reception, care, and treatment of mothers and/or infants; or
- (e) a day hospital.

(2) Any contravention of this section shall be an offence.

(3) Any offence committed against this section shall render the offender liable to a penalty not exceeding 10 penalty units; and in addition liable to a daily penalty not exceeding 1 penalty unit for each and every day during which such offence is continued after a conviction therefor.

Who may hold licences

65. No person or association of persons other than—

- (a) a medical practitioner; or
- (b) a registered nurse; or
- (c) a religious body or order; or
- (d) a society approved by the Director-General; or
- (e) a body corporate approved by the Director-General;

shall be entitled to apply for or hold a licence for a private hospital.

Kinds of licences

66.(1) Licences for private hospitals shall be of 5 classes, namely—

- (a) a general private hospital for the reception, care and treatment of medical, surgical and maternity cases;
- (b) a maternity hospital for the reception, care and treatment of maternity cases only;
- (c) a hospital for the reception, care and treatment of patients (within the meaning of the *Mental Health Act 1974*) only;
- (d) a hospital for the reception, care and treatment of mothers and infants;
- (e) a day hospital.

(2) However—

- (a) a licence for a general private hospital shall, in the case of a nurse, be granted only to a registered nurse;
- (b) in the case of a licence for a general private hospital or a day hospital granted to a religious body or order or a society or body corporate approved by the Director-General—there shall be employed in charge of such hospital a medical practitioner or a registered nurse;
- (c) a licence for a maternity hospital shall, in the case of a nurse, be granted only to a person who is authorised under the *Nursing Act 1992* to practise midwifery;

Health Act 1937

- (d) in the case of a licence for a maternity hospital granted to a religious body or order or a society or body corporate approved by the Director-General—there shall be employed in charge of such hospital a medical practitioner or a person who is authorised under the *Nursing Act 1992* to practice midwifery;
 - (e) a licence for a hospital for the reception, care and treatment of patients (within the meaning of the *Mental Health Act 1974*) only shall, in the case of a nurse, be granted only to a registered nurse who is authorised under the *Nursing Act 1992* to practise psychiatric nursing;
 - (f) in the case of a licence for the reception, care and treatment of patients (within the meaning of the *Mental Health Act 1974*) only granted to a religious body or order or a society or body corporate approved by the Director-General—there shall be employed in charge of such hospital a medical practitioner or a registered nurse who is authorised under the *Nursing Act 1992* to practise psychiatric nursing;
 - (g) a licence for a hospital for the reception, care and treatment of mothers and infants shall, in the case of a nurse, be granted only to a registered nurse;
 - (h) in the case of a licence for a hospital for the reception, care and treatment of mothers and infants granted to a religious body or order or a society or body corporate approved by the Director-General—there shall be employed in charge of such hospital a medical practitioner or a registered nurse.
- (3) However, in the case of a combined general private and maternity hospital or combined day—
- (a) if the nurse who is the holder of the licence, or the person employed in charge, is not authorised under the *Nursing Act 1992* to practise midwifery—there must be employed in the hospital a person who is so authorised while maternity cases are being treated in the hospital; and
 - (b) if the nurse who is the holder of the licence, or the person employed in charge, is not a registered nurse—there must be employed in the hospital a registered nurse while medical or surgical cases (other than cases of mental illness) are being treated

at the hospital; and

- (c) if the nurse who is the holder of the licence, or the person employed in charge, is not authorised under the *Nursing Act 1992* to practise psychiatric nursing—there must be employed in the hospital a person who is so authorised while cases of mental illness are being treated at the hospital.

(4) Where pursuant to the provisions of this section a licence is granted to a religious body or order or a society or body corporate approved by the Director-General then that religious body or order or that society or body corporate, as the case may be, shall notify the Director-General of the name of the medical practitioner, or, as the case may be, the name and registration number of the nurse, for the time being in charge of the private hospital to which the licence relates.

Licence

67.(1) The Director-General may grant or refuse to grant to any person a licence to erect and/or use a private hospital.

(2) Applications for licences or renewals thereof shall be made to the Director-General in the prescribed form and shall contain the prescribed particulars and be accompanied by the prescribed fee.

Duration of licence

68.(1) Subject to section 68A, each licence granted by the Director-General, whether before or after the commencement of the *Health Act Amendment Act 1978*, shall, unless sooner cancelled, be effective from the date of issue thereof to 30 September next following.

(1A) Notwithstanding the provisions of subsection (1) the Director-General may in a licence to erect a private hospital state that the licence is to be effective for a specified period and where the Director-General does so state that licence shall unless it is sooner cancelled be effective for that period.

Renewals

(2) Every licensee who desires to obtain a renewal of his or her licence shall before the date of the expiry thereof make application to the

Director-General for a renewal of such licence.

(3) The Director-General may grant or refuse to grant to any licensee a renewal of his or her licence.

(4) Subject to section 68A, a renewal of a licence, whether renewed before or after the commencement of the *Health Act Amendment Act 1978*, shall, unless the licence is sooner cancelled, be effective from the date of the expiry of the original licence to 30 September next following.

(5) However, the same may be renewed from time to time in like manner.

Cancellation and suspension of licences

68A.(1) If at any time the Director-General is of the opinion that—

- (a) the premises of a private hospital are no longer fit for the reception, care or treatment of patients; or
- (b) the licensee of a private hospital is not a fit and proper person to be the holder of a licence; or
- (c) the licensee of a private hospital is not providing adequate care or treatment for the patients; or
- (d) the licensee of a private hospital has been guilty of an offence against any provision of this Act; or
- (e) the licensee of a private hospital has contravened or failed to comply with any condition of the licence; or
- (f) the licensee of a private hospital is not entitled to be the holder of the licence or has obtained the licence by any false statement or misrepresentation or, by any other means whatsoever, has not properly obtained the licence;

the Director-General may, subject to subsection (2) by notice in writing cancel or suspend the licence.

(2) Before the Director-General gives a notice under subsection (1) the Director-General shall afford to the licensee an opportunity to show cause why the notice should not be given, by notifying the licensee in writing of a day (being not earlier than 14 days after the giving of the notification), a time and place when and where the licensee may show cause why the

licence should not be cancelled or suspended.

(3) Any licensee to whom a notification is given under subsection (2)—

- (a) may appear at the day, time and place so notified and take such steps as are calculated to show the specified cause; or
- (b) may endeavour to show the specified cause by writing furnished to the Director-General at any time before the time so notified.

(4) Where the Director-General has suspended the licence of any person—

- (a) such licence shall not be effective; and
- (b) that person shall be deemed not to be a licensee;

for the period of the suspension.

Delivery of licence to Director-General

68B.(1) When, under section 68A, a licence is cancelled or suspended, the person who was the licensee shall, upon request by a notice in writing served upon the person, deliver that cancelled or suspended licence to the Director-General within 7 days therefrom.

(2) Whenever any licensee ceases to use as a private hospital the premises to which the licence relates, such licensee shall forthwith notify the Director-General of the cessation and deliver to the Director-General the licence in respect of that hospital.

Fees

69.(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.

Additions and alterations to premises

70. No addition or alteration shall be made to, in, or about the premises of a licensed private hospital until notice in writing of the proposed addition

or alteration, accompanied by a plan of the addition or alteration drawn upon the scale prescribed, has been given to the Director-General by the person to whom the licence has been granted, and the written approval of the Director-General has been given thereto.

Duty of licensee and transfer of licence

71.(1) The licensee of a private hospital shall be held responsible for the due conduct thereof and shall ensure that there is at all times an adequate number of registered nurses (being not less than 1) in attendance at the hospital having regard to the number of patients accommodated in the hospital.

(3) A licence may be transferred for the term then unexpired to a person qualified to hold the same under this Act upon the written approval of the Director-General being first obtained.

(3A) The transfer shall be effected by the production to the Director-General of the licence and the endorsement thereon of the name of the transferee, who shall thereupon be deemed for all the purposes of this Act to be the person to whom such licence was granted.

(4) If the holder of a licence by sickness or other cause becomes incapable of keeping the private hospital or dies before the expiration of the current term thereof the Director-General may, by writing endorsed on the licence under the Director-General's hand, transfer it with all the privileges and obligations annexed thereto, for the term then unexpired, to another qualified person, and thenceforth the licence shall remain in force and have the same effect as if granted to such person; and where a licence is granted to 2 or more persons, and before the expiration thereof any of such persons dies leaving the other or others surviving, the licence shall remain in force and have the same effect as if it had been granted to such survivors or survivor alone.

(5) In the case of fire, flood, tempest, or other unforeseen calamity rendering the premises unfit for the accommodation of patients, the licence thereof may, by endorsement by the Director-General under the Director-General's hand and without further fee for the current term thereof, be made applicable either for the unexpired period thereof or temporarily to other premises.

Monthly reports

71A.(1) The licensee of a private hospital must, for each month, give the Chief Health Officer 2 reports, in the forms approved by the Chief Health Officer, stating for the month—

- (a) in the case of one report—the details indicated in the approved form in relation to each patient whose stay in the hospital was terminated; and
- (b) in the case of the other report—a summary, in statistical form, of details of admissions, separations, patient type and occupied bed days.

(2) The reports must reach the Chief Health Officer by the end of the month following the month for which they are required to be given.

Maximum penalty—4 penalty units.

Confidentiality

71B.(1) A person must not record, disclose or use confidential information gained by the person through involvement in the administration of this Division unless the person does so—

- (a) for the purposes of this Act; or
- (b) when expressly authorised under an Act.

Maximum penalty—10 penalty units.

(2) The Chief Health Officer may disclose confidential information mentioned in subsection (1)—

- (a) to a person if the information is in a statistical or similar form that does not disclose the identity of a patient; or
- (b) to—
 - (i) a person conducting scientific research and study; or
 - (ii) an official of any State or Territory or the Commonwealth; who has, in the opinion of the Chief Health Officer, a legitimate interest in the information.

(3) In this section—

“confidential information” includes the name, address, place of employment or any other particular likely to lead to the identification of a patient.

Regulations

72.(1) The Director-General may from time to time make regulations for the control, management, supervision, and regulations, and/or regulation of the use of, private hospitals, and prescribing the information to be contained in applications for licences or the renewal of licences of private hospitals, and the terms, provisions, conditions, and stipulations upon which licences or the renewal of licences for private purposes may be granted and/or renewed.

(1A) However, but without limit to the generality of this section, such regulations may be so made and approved prescribing—

Construction etc.

- (a) the construction, elevation, materials, and form of buildings;

Foundations and sites

- (b) foundations and sites of buildings and other erections;

Excavation

- (c) the mode in which and the materials with which such foundations and sites are to be made, excavated, filled up, prepared, and completed for securing stability, and for purposes of health;

Air-space and ventilation

- (d) requiring a sufficiency of space about buildings to secure a free circulation of air, and requiring a sufficiency of ventilation and airspace within buildings and rooms;

Overcrowding land

- (e) preventing the overcrowding of land by structures;

Distance between buildings

- (f) regulating the distance from any other building at which it shall be lawful to construct any building or any building erected or used for or forming part of a private hospital;

Thickness and materials of walls

- (g) the thickness and the description and quality of the substances of which walls may be constructed for securing stability, the prevention of fire, and for the purposes of health;

Escape from fire

- (h) the means of escape from fire in buildings;

Alterations

- (i) prohibiting buildings or structures which have been erected or constructed in accordance with the regulations from being altered in such a way that if at first so erected or constructed they would have contravened the regulations;
- (j) all such other acts, matters, and things as may be necessary or expedient to control and regulate the licensing of private hospitals.

(2) Notwithstanding anything hereinbefore contained, no building shall be erected or used for or in respect of any private hospital unless the same shall comply in full with the provisions of the Local Government Act and/or the local laws of the local government of the local government area in which such private hospital is situated.

(3) The regulations may prescribe a penalty not in any case exceeding 20 penalty units for any breach thereof, and in addition a daily penalty not exceeding 4 penalty units for each and every day during which such breach is continued after a conviction therefor.

Inspection

73. Every licensed private hospital and all records kept thereat shall at all times be open to the inspection of a health officer or other officer authorised by the Director-General, who shall for that purpose be permitted to enter the premises with such assistants as may be required by the officer.

Evidence

74.(1) Proof that any house, apartment, or premises was or were let, hired, engaged, or used for gain by any person for the accommodation of a female during her maternity or confinement shall be prima facie evidence

that such house, apartment, or premises is or are kept as a maternity hospital, and it shall not be necessary in any case to prove the letting, hiring, or engagement, or use on more than 1 occasion.

(2) The burden of proof that there was no gain either by money or kind shall lie on the occupant or owner of the house, apartment, or premises.

Interment of stillborn children

75. When a female is delivered in a private hospital of a child not born alive, no interment or other disposal of the body of such child shall take place without its being authorised by the written certificate of a medical practitioner or by the written certificate or order of a coroner.

Penalty in respect of interment of children not born alive

76.(1) Any person who interms or otherwise disposes of the body of any such child not born alive as mentioned in section 75 without the certificate prescribed by such section having been previously obtained shall be liable to a penalty not exceeding 20 penalty units or to be imprisoned for any period not exceeding 12 months.

(2) In section 75 and in this section—

“**child not born alive**” has the meaning assigned to it by section 5 of the *Registration of Births, Deaths and Marriages Act 1962*.

Division 11A—Hostels and nursing homes

Definitions

76B.(1) In this Part—

“**hostel**” means any house, apartment or other premises, other than a nursing home in respect of which a licence is in force, which is used or intended to be used for the reception and care of persons who—

- (a) on account of age, infirmity or chronic ill health (whether physical or mental) require care and supervision or require assistance in coping with daily living; or

- (b) on account of alcohol or drug abuse require rehabilitative care and supervision;

“licence” means a licence (including any renewal of a licence) granted under this Division and in force at any material time;

“nursing home” means any house, apartment or premises which is used or intended to be used for the reception, care and treatment of persons who on account of age, infirmity, chronic ill health or the effects of illness from which they are convalescent require nursing, care and supervision or care and supervision;

“registered nurse” means a nurse registered under the *Nursing Act 1992*.

(2) In any proceedings, evidence that at a particular time premises were being used to accommodate 3 or more persons to whom paragraph (a) or (b) of the definition “hostel” applies shall be evidence, and in the absence of evidence to the contrary conclusive evidence, that the premises were being used as a hostel.

(3) In this Division, a person referred to in the definition “hostel” or “nursing home” who is accommodated in a hostel or nursing home is referred to as a **“resident”**.

Issue, renewal etc. of licences

76C.(1) The Director-General may, under, subject to and in accordance with this Division and the applicable regulations issue, renew, suspend, or cancel licences.

(1A) The fee payable for a licence or the renewal of a licence shall be as prescribed.

(2) Every application for a licence or the renewal of a licence shall be made to the Director-General, shall be in or to the effect of the prescribed form, and shall be accompanied by the amount of the fee.

(3) Subject to this Division and the applicable regulations, a licence or any renewal thereof shall, unless the licence is sooner cancelled, suspended, or surrendered, be in force for such period, not being longer than 12 months, as is expressly stated in the licence or in any endorsement thereon from and including the date of issue or renewal, as the case may be.

(3A) However, in the case of a licence being suspended for a period less

than that portion of the period for which the licence (or the then current renewal thereof) is in force remaining at the date of the commencement of such period of suspension, such licence upon the termination of that period of suspension shall only be in force until the date when it would have expired if it had not been so suspended.

(4) For the purposes of this section, the day immediately following the day on which a licence or the next previous renewal thereof, as the case may be, expired shall, subject to subsection (5), be deemed to be the date of the renewal of any licence renewed under this Division.

(5) Where a licence is renewed subsequent to the date of expiry of the licence or next previous renewal thereof, as the case may be, the renewal of the licence shall come into force on the date of such subsequent renewal but shall expire on the date on which it would have expired had it been renewed prior to the date of expiry of the licence or next previous renewal thereof, as the case may be.

(6) A licence shall not be capable of being transferred or otherwise dealt with save with the prior approval in writing of the Director-General, and any transfer or other dealing with a licence otherwise than with such approval shall be absolutely void.

(6A) Compliance by a holder of a licence with the requirements of subsection (6) shall be an implied condition of every licence for breach whereof the Director-General may cancel or suspend the licence.

(7) The Director-General may refuse to issue or to renew a licence.

(8) The Director-General may issue a licence or any renewal thereof to which this Division applies subject to such terms and conditions (if any) as the Director-General thinks fit to impose and all such terms and conditions shall form part of the licence.

Cancellation and suspension of licences

76CA. The provisions of sections 68A and 68B shall with all necessary adaptations apply to the cancellation and suspension of licences issued under this Division and for the purpose of such application a reference in those sections to a private hospital shall be taken to be a reference to a hostel or, as the case may be, a nursing home and a reference to patients shall be taken to be a reference to residents.

Who may hold licences

76D.(1) As well as a person, a religious body or order or a society or body or association of persons may, subject to the provisions of this Division, hold a licence.

(2) In the case of a licence granted in respect of a nursing home to a person other than a medical practitioner or registered nurse, or to a religious body or order or a society or body or association of persons, the licensee shall employ in charge of the nursing home a medical practitioner whose name has been notified to the Director-General or a registered nurse whose name and registration number have been notified to the Director-General.

(3) Compliance by the licensee with the requirements of subsection (2) shall be an implied condition of a licence to which the subsection applies for breach whereof the Director-General may cancel or suspend the licence.

Offences

76E.(1) This section shall come into force on a date to be fixed by the Governor in Council by proclamation published in the Gazette.

(2) A person or a religious body or order or a society or body or association of persons shall not erect or keep, or cause or permit to be erected or kept, a hostel or a nursing home otherwise than under and in accordance with a licence.

(2A) For the purposes of subsection (2) a hostel or a nursing home shall be deemed to be erected or, as the case may be, kept otherwise than under and in accordance with the licence therefor if, in respect of the erection or keeping thereof, the terms, provisions, conditions and stipulations of such licence are not complied with in every respect.

(3) A person who contravenes any provision of subsection (2) shall be guilty of an offence and liable to a penalty of not more than 10 penalty units.

(3A) A person who continues such an offence after the person is convicted therefor shall be guilty of a further offence and liable to an additional penalty for each day during which the offence is continued of not more than 4 penalty units.

(4) Where this section or section 76F is contravened in any respect by a religious body or order or by a society or body or association of persons

every member of its committee of management or other governing body, by whatever name called, who was knowingly a party to the contravention, shall be deemed to have committed the offence and shall be liable accordingly.

Additions or alterations

76F.(1) A licensee shall not make or cause or permit to be made any structural addition or alteration to, in or about the premises of a hostel or a nursing home licensed under this Division until notice in writing of the proposed addition or alteration, accompanied by a plan thereof drawn upon the scale prescribed, has been given to the Director-General by the licensee, and the written approval of the Director-General has been given thereto.

(2) Any licensee who contravenes any provision of this section shall be guilty of an offence and liable to a penalty of not more than 20 penalty units.

Duties etc. of licensee

76G.(1) A licensee shall be responsible for the due conduct of the hostel or nursing home in respect whereof the licensee or it holds the licence.

(2) A licensee of a nursing home shall ensure that there is at all times an adequate number of registered nurses (being not less than 1) in attendance at the nursing home having regard to the number of persons accommodated in the home.

(2A) Notwithstanding the provisions of subsection (2) the Director-General may in a case where in the Director-General's opinion, because of the number of persons capable of being accommodated in the nursing home, it is not necessary that there be a registered nurse in attendance at the home at all times exempt a licensee from compliance with the provisions of subsection (2) and any such exemption—

- (a) may be granted subject to such terms and conditions as the Director-General thinks fit;
- (b) may be revoked by the Director-General at any time.

(2B) If the licensee fails to comply with a requirement of subsections (2) and (2A) the Director-General may cancel or suspend the licence.

(3) Where the person whose name has been notified to the

Director-General pursuant to section 76D(2) is temporarily absent from the person's duties at the nursing home the licensee shall immediately notify the Director of the name of the person and where the person is a registered nurse, the registration number of the person, who is temporarily performing the duties of the first mentioned person together with details of the period for which the first mentioned person is expected to be so absent.

(4) A licensee of a hostel or a nursing home may, with the written approval of the Director-General, transfer the licence.

(4A) The transfer shall be effected by the production of the licence to the Director-General and the endorsement thereon by the Director-General of the name of the transferee, who thereupon shall become and be the licensee under and for all purposes of this Act.

(5) In the event of the death or incapacity of the licensee, the Director-General may, by written endorsement on the licence, transfer it to another person who shall thereupon become and be the licensee under and for all purposes of this Act.

(5A) Where a licence is held by 2 or more persons jointly, in the event of the death of any of them the licence shall continue in force as if it had been issued to the survivor or survivors.

(6) In the event of fire, flood, tempest or other unforeseen calamity rendering the premises of a hostel or a nursing home unfit for use as such, the licence may by endorsement by the Director-General, be made applicable either permanently or temporarily to other premises.

Regulations

76H.(1) The power conferred upon the Director-General to make with the approval of the Governor in Council regulations under this Act shall include power to make with such approval regulations, not inconsistent with this Act, for the control, management, supervision, and regulation, including the regulation of the erection, keeping and use of, hostels and nursing homes, prescribing the information to be contained in applications for licences or the renewal thereof, prescribing terms, provisions, conditions and stipulations upon and subject to which the Director-General may issue or renew licences and, without limit to the generality of the foregoing provisions of this section, prescribing, providing for, regulating and controlling in respect of hostels and nursing homes—

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- (a) the construction, elevation, materials and form of buildings and other structures;
- (b) foundations and sites of buildings and other structures;
- (c) the mode in which and the materials of which such foundations and sites are to be made, excavated, filled up, prepared and completed for securing stability and for purposes of health;
- (d) a sufficiency of space about buildings and other structures to secure a free circulation of air, and a sufficiency of ventilation and airspace within buildings and rooms;
- (e) the prevention of the overcrowding of land by buildings and other structures;
- (f) the distance from any other building or structure within which any building or structure comprised in a hostel or a nursing home shall not be erected or situated;
- (g) the thickness of walls, and the description and quality of materials whereof walls may be constructed, for securing stability, the prevention of fire, and for purposes of health;
- (h) means of escape from fire;
- (i) the accommodation to be provided for residents;
- (j) the prohibition of the alteration of buildings or structures in such a way that when and as altered they do not comply with the requirements of the regulations which would apply if such alteration were the original erection or construction thereof;

and prescribing, providing for, regulating and controlling in respect of nursing homes—

- (k) the number and qualifications of nursing staff, the number of domestics, and the rostering for duty of members of the qualified nursing staff;
- (l) the accommodation to be provided for nurses, domestic staff and other persons.

(2) The regulations may prescribe a penalty of not more than 20 penalty units for any contravention of or failure to comply with any provision thereof, and may prescribe that any person who continues an offence against

any provision of the regulations after the person is convicted therefor, shall be guilty of a further offence, and liable to an additional penalty for each day during which the offence so continues of not more than 4 penalty units.

Inspection

76I. Every hostel or nursing home and all records prescribed to be kept thereat shall at all times be open to the inspection of a health officer or other officer authorised by the Director-General, who may for such purpose enter the premises of the hostel or nursing home with such assistants as may be required by the Director-General.

Local Government Act to apply

76J. No provision of this Division or of any regulation made for the purposes of this Division and no licence shall authorise, justify or excuse any contravention of or failure to comply with any provision of the Local Government Act, or of any local laws in respect of the erection or use of any building or structure as, or as part of, or for a purpose of or connected with, a hostel or a nursing home.

Division 11B—Maltreatment of children

Notification of maltreatment

76K.(1) A medical practitioner who suspects on reasonable grounds the maltreatment or neglect of a child in such a manner as to subject or be likely to subject the child to unnecessary injury, suffering or danger shall, within 24 hours after first so suspecting, notify by the most expeditious means available to the medical practitioner a person authorised by the Director-General by regulation to be so notified.

(2) Any such regulation may so authorise particular persons or persons by reference to a class of person or classes of persons or by reference to offices or qualifications held or otherwise howsoever.

(3) Where notification is given to an authorised person pursuant to subsection (1), the medical practitioner so notifying shall, within 7 days after doing so, forward to the Director-General a further notification in such

form as is specified for the purpose by the Director-General by regulation.

(4) An authorised person who receives a notification from a medical practitioner under this section shall act in such manner as will best ensure the safety and well being of the child in question and, in so doing, may communicate the notification to other persons for the purpose of having investigations or inquiries made or other things done to enable full effect to be given to the provisions of this Division.

(5) A notification given pursuant to subsection (1) or subsection (3) shall state the observations and opinions upon which the medical practitioner's suspicion is based.

(6) In addition to receiving the notification pursuant to subsection (3), the Director-General may require the medical practitioner so notifying or any other medical practitioner associated with treatment of the child in question to forward to the Director-General any statement or further information that the Director-General considers the Director-General should have concerning the child; and the medical practitioner concerned shall comply with such requirement.

(7) Where in compliance or purported compliance with this section a notification is given or a statement or further information furnished in good faith by a medical practitioner—

- (a) no liability at law is incurred in respect of the giving or furnishing thereof by the medical practitioner;
- (b) the giving or furnishing thereof shall not in any proceedings before any court or tribunal or in any other respect be held to constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct.

(8) A person does not incur any liability as for defamation by the publication of any defamatory matter contained in a notification or statement or further information as aforesaid where such publication is made in good faith and pursuant to any provision of or otherwise in the execution of this Division.

Temporary custody of children

76L.(1) In this section—

“prescribed medical officer” means the medical superintendent or other medical officer in charge of a hospital in question or any nominee (being a medical practitioner) of such medical superintendent or other medical officer (such medical superintendent or other medical officer being hereby authorised to make any such nomination as the person thinks fit).

(2) Where—

- (a) a child has presented itself or been presented at a hospital; and
- (b) the prescribed medical officer suspects upon reasonable grounds the maltreatment or neglect of the child in such a manner as to subject or be likely to subject it to unnecessary injury, suffering or danger;

the prescribed medical officer—

- (c) may order in writing the admission of that child as a patient to, and the detention of that child in, that hospital for a period not exceeding 96 hours from the time of that presentation; or
- (d) if prior to the making of that order the child leaves or is removed from the hospital without the permission of the prescribed medical officer—may order in writing that the child be taken into custody and conveyed to such hospital as that officer directs and detained there for a period not exceeding 96 hours from the time of the making of the order.

(2A) If whilst a child is a patient in a hospital the prescribed medical officer suspects upon reasonable grounds the maltreatment or neglect of the child in such a manner as to subject or be likely to subject it to unnecessary injury suffering or danger, the prescribed medical officer—

- (a) may order in writing the detention of that child in hospital for a period not exceeding 96 hours from the time of the making of that order; or
- (b) if prior to the making of that order or at any time within the duration of that order the child leaves or is removed from the hospital without the permission of the prescribed medical officer—may order in writing that the child be taken and conveyed to such hospital as that officer directs and detained there as a patient for a period not exceeding 96 hours from the time of

the making of that order.

(2B) Where the prescribed medical officer who makes an order in writing pursuant to either subsection (2) or (2A) is of the opinion that the assistance of a police officer is necessary for the purpose of enforcing the order, the medical officer may certify as to the medical officer's opinion by endorsement upon the order.

(2BA) It shall be the duty of a police officer to whose notice that endorsement is brought to assist the prescribed medical officer as required and in accordance with this Act and a police officer so assisting may without other authority than this Act detain or assist in detaining in hospital, prevent any person from removing from hospital or take and convey or assist in taking and conveying to such hospital as the prescribed medical officer directs that child, for the purpose of enforcing that order.

(2C) It is lawful for any police officer acting in accordance with any authority vested in the police officer by this section and all persons acting in aid of the police officer to use such force as is necessary to detain or assist in detaining in hospital, prevent any person removing from hospital or take and convey or assist in taking and conveying to hospital a child, for the purpose of enforcing an order made pursuant to this section with respect to that child.

(2D) A justice who is satisfied upon the complaint of a police officer acting in accordance with authority vested in the police officer by this section, that there is reasonable cause to suspect—

- (a) that an order has been made by a prescribed medical officer in respect of a child pursuant to either subsection (2) or (2A); and
- (b) that the child has left or been removed from the hospital without the permission of that prescribed medical officer;

may issue a warrant authorising all police officers to search for that child and for that purpose to enter any place or premises and to take into custody that child and to convey the child to the hospital.

(2DA) For the purpose of executing the warrant made pursuant to subsection (2D) the person executing the same—

- (a) may enter any place or premises wherein the person executing the warrant reasonably suspects that child to be; and
- (b) may search that place or those premises; and

- (c) may exercise therein the powers conferred upon a police officer by this Act; and
- (d) may use such force as may reasonably be necessary to perform any of the things referred to therein.

(2DB) For the purpose of gaining entry to any place or premises a police officer may call to the officer's aid those persons that the officer thinks necessary and those persons, while acting in aid of the officer in the lawful exercise by the officer of the officer's power of entry and search shall have a like power of entry and search.

(2E) Where an order has been made by a prescribed medical officer in respect of a child pursuant to either subsection (2) or (2A) shall cause the parent, guardian or person entitled to custody of the child to be informed of the whereabouts, from time to time, of the child unless that officer is of opinion that the giving of that information is not in the best interests of the child.

(2F) A person who—

- (a) without the permission of the prescribed medical officer removes from a hospital a child in respect of which an order has been made pursuant to either subsection (2) or (2A); or
- (b) aids, counsels or procures that child to leave a hospital; or
- (c) knowing that child to have left or been removed from a hospital and that an order pursuant to either subsection (2) or (2A) has been made with respect to that child, harbours or conceals that child;

commits an offence against this Act.

(3) Notwithstanding the wishes of any parent, guardian or person claiming to be entitled to the custody of a child in respect of whom an order has been made in accordance with subsection (2) or (2A), it shall be lawful for—

- (a) the child to be detained in, or taken into custody and conveyed to and detained in, the hospital for the period specified in the order;
- (b) the child to be subjected to such diagnostic procedures and tests as the prescribed medical officer considers necessary to determine its medical condition;

- (c) such treatment to be administered to the child as the prescribed medical officer considers necessary in the interests of the child, subject to the conditions specified in subsection (4).

(4) Where treatment is administered to a child pursuant to subsection (3)(c), neither the prescribed medical officer administering the treatment or in charge of its administration nor any person acting in aid of the prescribed medical officer and under the prescribed medical officer's supervision in the administration of the treatment shall incur any liability at law by reason only that any parent, guardian or person having authority to consent to the administration of the treatment refused consent to the administration of the treatment or such consent was not obtained if—

- (a) in the opinion of the prescribed medical officer the treatment was necessary in the interests of the child; and
- (b) either—
 - (i) upon and after in person examining the child, a second medical practitioner concurred in such opinion before the administration of the treatment; or
 - (ii) the medical superintendent of a hospital, being satisfied of the unavailability of a second medical practitioner to examine the child and of the necessity of the treatment in the interests of the child, consented to the treatment before it was administered (which consent may be obtained and given by any means of communication whatsoever).

(5) Treatment administered to a child in accordance with this section shall, for all purposes, be deemed to have been administered with the consent of the parent or guardian or person having authority to consent to the administration of the treatment.

(6) Nothing contained in this section relieves a prescribed medical officer from liability in respect of the administration of treatment to a child to which liability the medical officer would have been subject had the treatment been administered with the consent of the parent or guardian or person having authority to consent to the administration of the treatment.

(7) Where an order has been made pursuant to subsection (2), a copy thereof shall be forwarded as soon as practicable to—

- (a) the Director-General;

- (b) any person recorded at the hospital as being the parent, guardian or person claiming to be entitled to the custody of the child.

(8) Failure to comply with subsection (7) does not invalidate the order.

Meaning of “child”

76M. In this Division—

“**child**” means a person under or apparently under the age of 17 years.

Regulations

76N. The Director-General, in accordance with this Act, may make regulations not inconsistent with this Act for or with respect to all matters that—

- (a) are to be or may be made under or for the purposes of this Division;
- (b) in the Director-General’s opinion are necessary or convenient for the proper administration of this Division or to achieve the objects and purposes of this Division.

Division 12—Nuisances and offensive trades

Nuisances

77.—

- (a) any premises in such a state as to be a nuisance or injurious or prejudicial to health; and
- (b) any swamp, pool, ditch, gutter, watercourse, sanitary convenience, or other accumulation of water on any land or street or any receptacle holding water, in such a state as to be a nuisance or injurious or prejudicial to health or in such a state as to be a breeding-ground for mosquitoes, not being a reservoir or other storage of water used in connection with manufacturing purposes; and
- (c) any animal so kept as to be a nuisance or injurious or prejudicial

to health; and

- (d) any accumulation or deposit which is a nuisance or injurious or prejudicial to health; and
- (e) any house or part of a house so overcrowded as to be dangerous or injurious or prejudicial to the health of the inmates, whether or not members of the same family; and
- (f) any factory, workshop, or workplace not kept in a cleanly state, or not ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust, or other impurities generated in the course of the work carried on therein that are a nuisance or injurious or prejudicial to health, or so overcrowded while work is carried on as to be dangerous or injurious or prejudicial to the health of persons employed therein; and
- (g) any chimney (not being the chimney of a private dwelling house) sending forth smoke in such a quantity as to be a nuisance; and
- (h) the infestation of any place or premises by rats, mice, or other vermin, or by any form of insect life declared by the Governor in Council by order in council to be injurious or prejudicial to health;

shall be deemed to be a nuisance liable to be dealt with in a manner provided by this Act.

Detection of nuisances

78. It shall be the duty of every local government to cause inspection to be made of its area from time to time in order to ascertain what nuisances exist calling for abatement, and to enforce the provisions of this Act in order to abate the same.

Notice requiring abatement of nuisance

79.(1) On the receipt of any information respecting the existence of a nuisance the local government shall, if satisfied of the existence of a nuisance, serve a notice on the person by whose act, default, or sufferance the nuisance arises or continues, or, if such person cannot be found, on the owner or occupier of the land on which the nuisance exists, requiring the owner or occupier to abate the same within a time to be specified in the

notice, and to execute such works and do such things as are necessary for that purpose.

(2) However—

- (a) when the nuisance arises from the want of any structural convenience or defective construction of any house, or where there is no occupier, notice under the provisions of this section shall be served on the owner;
- (b) when the person causing the nuisance cannot be found, and it is clear that the nuisance does not arise or continue by the act, default, or sufferance of the owner or occupier, the local government shall itself abate the same without order.

On noncompliance complaint to be made

(3) If the person on whom a notice to abate a nuisance has been served makes default in complying with any of the requisitions thereof within the time specified, or if the nuisance, although abated since the service of the notice, is in the opinion of the local government likely to recur on the same premises, the local government shall cause a complaint relating to such nuisance to be made before a justice.

Order

(4) If the justices who hear the complaint are satisfied that the alleged nuisance exists, or that although abated it is likely to recur on the same premises, they shall make an order—

- (a) requiring such person to comply with all or any of the requisitions of the notice, or otherwise to abate the nuisance within a time specified in the order, and to execute any works and to do any things that may be necessary for that purpose; or
- (b) prohibiting the recurrence of the nuisance, and directing the execution by such person of any works necessary to prevent the recurrence; or
- (c) both requiring abatement and prohibiting the recurrence of that nuisance.

(4A) The justices may by the order impose a penalty not exceeding 10 penalty units on the person on whom the order is made, and shall give directions as to the payment of all costs incurred up to the time of the

making the order.

House unfit for occupation

(5) When the nuisance ascertained to exist is such as to render a house in the judgment of the justices unfit for use or occupation, they may prohibit the use or occupation until in their judgment the house is rendered fit for use and occupation.

(5A) When any 2 justices are satisfied that it has been rendered fit for that purpose, they may vary the previous order by another declaring the house fit for use and occupation, and from the date thereof such house may be used and occupied.

Contravention of order

(6) Any person who fails to obey an order to comply with the requisitions of the local government, or otherwise to abate the nuisance, shall, unless the person satisfies the justices that the person has used all due diligence to carry out such order, be liable to a daily penalty not exceeding one-half of a penalty unit.

(6A) Any person who wilfully disobeys an order or prohibition shall be liable to a daily penalty not exceeding 1 penalty unit.

(6B) The local government, or any person authorised by the mayor thereof in that behalf may abate the nuisance, and do whatever may be necessary in the execution of such order, and the local government may recover the expenses incurred from the person against whom the order is made.

When order may be addressed to local government

(7) Whenever it appears to the satisfaction of any 2 justices that the person by whose act or default the nuisance arises, or the owner or occupier of the premises is not known or cannot be found, then the order of the justices may be addressed to and shall be executed by the local government.

Expenses a charge on the land

(8) All expenses incurred by a local government in performing any work in or upon any land in pursuance of this section shall, until repaid to the local government by the person liable to pay the same, be and remain a charge upon the land, notwithstanding any change that may take place in the ownership thereof.

Sale of materials

80. Any matter or thing removed by the local government in abating any nuisance under the provisions of this Act or the regulations may be sold, and the money arising from the sale may be retained by the local government and applied in payment of the expenses incurred by it with reference to such nuisance, and the surplus (if any) shall be paid on demand to the owner of such matter or thing.

Expenses of execution of provisions relating to nuisances

81.(1) All reasonable costs and expenses incurred in making a complaint or giving notice, or in obtaining any order of the justices or any justice, in relation to a nuisance, or in carrying the same into effect, shall be deemed to be money paid for the use and at the request of the person against whom the order is made; or if the order is made on the local government, or if no order is made, but the nuisance is proved to have existed when the complaint was made or the notice was given, then of the person by whose act or default the nuisance was caused.

(2) In cases of nuisances caused by the act or default of the owner of premises, such costs and expenses may be recovered from any person who is for the time being owner of such premises.

(4) Such costs and expenses, and any penalties incurred in relation to any nuisance, may be recovered in any court of competent jurisdiction; and the court shall have power to divide costs, expenses, or penalties between persons by whose acts or defaults a nuisance is caused as to it may seem just.

Individual may complain to justice of nuisance

82.(1) Complaint may be made of the existence of a nuisance on any premises in a local government area by any person aggrieved thereby, or by any inhabitant of the area, or by any owner of land within the area, and thereupon the like proceedings shall be had with the like incidents and consequences as to making of orders, penalties for disobedience of orders, and otherwise as in the case of a complaint made by the local government relating to a nuisance.

(2) Provided that the justices may, if they think fit, adjourn the hearing or

further hearing of the summons for the purposes of having an examination made of the premises where the nuisance is alleged to exist, and may authorise any officer of police or other person to enter any such premises for the purposes of such examination.

(3) The justices may authorise any police officer or other person to do all necessary acts for executing an order made under this section, and to recover the expenses from the person against whom the order is made.

(4) Any police officer, or other person authorised under this section, shall have the like powers and be subject to the like restrictions as if the officer or person were an officer of the local government authorised to enter any premises and do any acts thereon.

Cause of nuisance arising beyond local government area

83. When a nuisance in a local government area appears to be wholly or partially caused by some act or default committed or taking place beyond the area, the local government for the area may take or cause to be taken against any person, in respect of such act or default, any proceedings authorised by this Act in relation to nuisances, with the same incidents and consequences as if such act or default were committed or took place wholly in the area.

Nuisance caused by 2 or more persons

84. When any nuisance appears to be wholly or partially caused by the acts or defaults of 2 or more persons, the local government, or other complainant, may institute proceedings against any 1 of such persons, or may include all or any 2 or more of such persons in 1 proceedings; and any 1 or more of such persons may be ordered to abate such nuisance, so far as the same appears to the court having cognisance of the case to be caused by any acts or defaults on the person's or their part, which in the opinion of such court contribute to such nuisance, or may be fined or otherwise punished notwithstanding that the acts or defaults of any 1 of such persons would not separately have caused a nuisance; and the costs may be distributed as to such court may appear just.

Establishment of offensive trades

85.(1) Any person who, after the commencement of this Act, establishes within a local government area, without the consent in writing of the local government, any noxious or offensive trade, business, or manufacture, shall be liable to a penalty not exceeding 20 penalty units in respect of the establishment thereof.

(2) Any person carrying on such a trade, business, or manufacture, so established after the commencement of this Act, after notice by the local government to discontinue the same, shall be liable to a daily penalty not exceeding 2 penalty units.

(3) However, this section shall not be construed to prevent the establishment or carrying on of any trade, business, or manufacture with respect to the establishment or carrying on of which special provision is made by any statute, and whether passed before, on, or after the commencement of this Act.

Complaint of nuisance

86.(1) When a local government is satisfied on the report of its medical officer of health, or of any 2 medical practitioners, or of any 10 inhabitants of its area, that any trade, business, or manufacture carried on in any place is a nuisance or injurious to the health of any of the inhabitants of the area, the local government shall cause complaint relating to the same to be made before a justice.

(2) If it appears to the justices who hear the complaint that the trade, business, or manufacture is a nuisance, or causes any effluvia which are a nuisance or injurious to health, the person offending shall be liable to a penalty not exceeding 20 penalty units, and on a second and any subsequent conviction to a penalty double the amount of the penalty imposed for the last preceding conviction, but the highest amount of such penalty shall not in any case exceed the sum of 80 penalty units.

(3) However, the justices may suspend their final determination on condition that the person complained of undertakes to adopt within a reasonable time such means as the justices think to be practicable and order to be carried into effect for abating such nuisance, or preventing the injurious effects of such effluvia.

(4) When any such place is situated beyond a local government's area, the local government may take or cause to be taken any proceedings hereinbefore authorised with the same incidents and consequences as if the place was situated in its area.

(5) A penalty shall not be imposed on any person in respect of any accumulation or deposit necessary for the effectual carrying on of any trade, business, or manufacture if it is proved to the satisfaction of justices that the accumulation or deposit has not been kept longer than is necessary for the purposes of the trade, business, or manufacture, and that the best available means have been taken without any delay for preventing injury thereby to public health.

Certain nuisances on premises

87.(1) Any person, whether the occupier or owner of the premises, who—

- (a) keeps or suffers to be kept any swine or pigsty in any dwelling house, or in any place forbidden by any local law, or keeps or suffers to be kept any swine or pigsty in any place so as to be a nuisance to any person; or
- (b) suffers any waste or stagnant water to remain in any place for 24 hours after written notice to the person from the local government to remove the same; or
- (c) allows the contents of any sanitary convenience to overflow or soak therefrom; or
- (d) allows any waste water to run from any premises so as to cause an offensive smell; or
- (e) suffers any rubbish, filth, or unwholesome matter or thing to collect on any land;

shall be liable to a penalty not exceeding 10 penalty units, and to a daily penalty not exceeding 1 penalty unit.

(2) The local government shall cause every such nuisance to be abated and may recover the expenses incurred by it in so doing from the occupier or owner of the premises on which the nuisance exists.

Order for cleansing offensive ditches near to or forming boundaries of local government areas

88.(1) When any watercourse, waterhole, swamp, or open ditch lying near to or forming the boundary between the area of a local government and any adjoining local government area is foul and offensive, any justice may, on the application of the local government of the first mentioned area, summon the local government of such last mentioned area to appear before a Stipendiary Magistrate to show cause why an order should not be made for cleansing such watercourse, waterhole, swamp, or open ditch, and for executing such permanent or other structural works as may appear to the Stipendiary Magistrate to be necessary.

(2) The Stipendiary Magistrate, after hearing the parties, or in the absence of the local government so summoned if it does not appear, may make such order with reference to the execution of the works, and the persons or authorities by whom the same shall be executed, and by whom and in what proportions the expenses of such works shall be paid, and as to the amount thereof and the time and the mode of payment, and also as to the costs of the proceedings before the Magistrate as the Magistrate thinks reasonable.

Removal of filth

89.(1) When it appears to the local government that any accumulation of manure, dung, soil, or filth, or other offensive or noxious matter ought to be removed, the local government shall give notice to the person to whom the same belongs, or to the occupier of the land whereon it exists, or where there is no occupier then to the owner of the land, to remove the same.

(2) If such notice is not complied with within 24 hours from the service thereof, the manure, dung, soil, filth, or matter referred to shall vest in and be removed and sold or disposed of by the local government, and the proceeds thereof shall be applied in payment of the expenses incurred in the execution of the provisions of this section, and the surplus (if any) shall be paid on demand to the owner of the matter removed.

(3) The expenses of removal by the local government of any such accumulation, if and so far as they are not covered by the sale thereof, may be recovered by the local government from the person to whom the same belongs, or from the occupier of the land, or where there is no occupier from the owner.

Cleansing common courts and passages

90. When any court or private way, or when any passage leading to the back of several buildings in separate occupations, is not regularly and effectually swept and kept clean and free from rubbish or other accumulation to the satisfaction of the local government, the local government may cause such court or passage to be swept and cleaned.

Apportionment of expenses

91. Any expenses incurred by the local government in pursuance of section 90 shall be apportioned between the occupiers of the buildings situated in the court or to the back of which the passage leads in such shares as may be determined by the local government, or as, in case of dispute, may be settled by any 2 justices, and in default of payment any share so apportioned may be recovered from the occupier on whom it is apportioned.

Local laws

92.(1) Without in any wise limiting the power to make local laws under the Local Government Act, a local government may from time to time make local laws with respect to all or any of the following matters, namely—

Cattle or swine

- (a) defining localities in its area within which the keeping of any swine or cattle or pigsty, cowbail, cowshed, byre, or dairy is forbidden;

Animals injurious to health

- (b) prohibiting the keeping of animals on any premises so as to be injurious or prejudicial to health;

Poultry etc.

- (c) regulating the keeping of poultry, pigeons, and other birds upon any premises, and the destruction of pigeons not kept on premises;

Dead animals etc.

- (d) the removal and destruction of dead, dying, or diseased animals found upon any street or land under the control of the local government or upon any land not securely fenced off from such street or land;

Overcrowding

- (e) preventing the overcrowding of persons in houses and premises;

Situation of noxious trades

- (f) defining localities in its area within which noxious or offensive trades, businesses, or manufacturers may not be established or carried on;

Noxious trades

- (g) licensing and regulating noxious or offensive trades, businesses, or manufactures;

Filth etc.

- (h) the prevention of nuisances arising from smoke, ashes, soot, filth, dust, and rubbish;

Theatres etc.

- (i) regulating the cleansing, disinfection, and ventilation of theatres, picture shows, and places of amusement;

Public baths

- (j) regulating the cleansing of public baths and providing clean water for the same.

Two convictions for overcrowding

(2) When 2 convictions against the provisions of any local law relating to the overcrowding of a house have taken place within a period of 3 months (whether the persons convicted were or were not the same), any 2 justices may, on the application of the local government, direct the closing of the house for such period as the justices think necessary.

Division 13—Sanitary provisions, sewers, stormwater drains, sanitary conveniences, camping grounds, and moveable dwellings

Sewers, stormwater drains etc. to be properly kept

93. The local government shall provide that all sewers, stormwater drains, and sanitary conveniences within its area are constructed and kept so as not to be a nuisance or injurious or prejudicial to health.

Examination of stormwater drains etc.

94.(1) If the local government has reason to suspect that any sewer, stormwater drain, or sanitary convenience in its area is a nuisance or injurious or prejudicial to health, the local government may, after 24 hours' written notice to the occupier of the land, or in case of emergency, of which the local government shall be the judge, without notice, direct an officer to enter the land, with or without assistants, and cause the ground to be opened, and examine such sewer, stormwater drain, or sanitary convenience.

(2) If the same on examination is found to be in a proper condition, the officer shall cause the ground to be closed, and any damage done to be made good as soon as can be, and the expenses of the works shall be defrayed by the local government.

(3) If the same on examination appears to be in a bad condition, or to require alteration or repair, the local government shall forthwith cause notice in writing to be given to the owner or occupier of the land, requiring the owner or occupier forthwith, or within a time therein specified, to do the necessary work.

(4) If the notice is not obeyed, the person to whom it is given shall be liable to a daily penalty not exceeding one-half of a penalty unit, and the local government may execute such works and recover from the owner or occupier the expenses incurred in so doing.

(5) Where 2 or more houses are connected with sewerage by a single sewer, or stormwater drainage by a single stormwater drain, a notice may be given under this section to the several occupiers, and the local government may recover any expenses incurred by it in executing any works under the powers conferred on it by this section from the owners of

the houses in such shares and proportions as the local government thinks just, or as, in case of dispute, may be settled by any 2 justices.

Removal of refuse etc.

95.(1) A local government may and when required by the Director-General by order shall itself undertake or contract for the efficient execution of the following works within the whole or any part of its area—

- (a) the removal, collection or conveyance of refuse from any place and the disposal thereof;
- (b) the cleansing of streets;
- (c) the cleansing of sanitary conveniences;
- (d) the removal, collection, conveyance or disposal of nightsoil;
- (e) the providing of places, containers and equipment for the deposit or disposal of refuse or nightsoil.

(2) All work specified in subsection (1) undertaken or contracted for by a local government or undertaken with the approval of a local government (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 the Director-General 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 government.

(2A) The local government shall itself collect all sums levied or charged by it in respect of special rates or charges for sanitary services, and shall not delegate the duty of so doing to any sanitary contractor unless with the permission of the Director-General.

(3) All matters collected by the local government or contractor in pursuance of this section may be sold or otherwise disposed of in such manner as, with the approval of the Director-General, the local government thinks fit.

(4) All moneys received by the local government from such sale or disposition shall be paid into the operating fund.

Place for depositing refuse

96.(1) When the local government undertakes or contracts for, or has undertaken or contracted for, or proposes to undertake or contract for any work specified in section 95(1) the Director-General may authorise such local government to use any land of which it is possessed, and situated either in or beyond its area, as a place for depositing and disposing of such refuse or nightsoil.

(1A) But such use shall be subject to such conditions as the Director-General 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 government.

(2) When any such authority has been given, the local government or contractor concerned may lawfully use the land for the purposes aforesaid, and may convey the refuse and nightsoil to such land by railway, cart, wagon, or any other means of conveyance, and may there deposit and dispose of the same; but shall be bound in such conveyance, deposit, and disposal to cause no greater nuisance or annoyance than is necessary.

(3) No order restraining a local government or contractor concerned from conveying any such refuse and nightsoil to any such land, or from depositing the same thereon, or from there disposing of the same, and no order controlling a local government or contractor concerned in the manner of such conveyance, deposit, or disposal, shall be made by any court, except in an action at the suit of the Attorney-General.

(4) Nothing herein shall deprive any person of any right to claim and recover compensation from any local government or contractor concerned in respect of any actual damages sustained by the person by reason of any nuisance caused by a local government or contractor concerned in the exercise of the powers conferred on the local government or contractor by this section.

Offence to use unauthorised land

96A. A local government 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.

Neglect of local government to remove refuse etc.

97. If the local government which has itself undertaken or contracted for the removal of refuse or the cleansing of sanitary conveniences fails, without reasonable excuse, after notice in writing from the occupier of any house within its area requiring the local government to remove any refuse or to cleanse any sanitary convenience belonging to such house or used by the occupiers thereof, or to cause the same to be removed or cleansed, as the case may be, within 7 days, the local government shall, after the lapse of such 7 days, be liable to pay to the occupier a daily penalty not exceeding one-half of a penalty unit.

Default in carrying out sanitary service

98. If any local government or any employee of a local government undertaking or engaged on the work of the removal of refuse or nightsoil or the cleansing of sanitary conveniences, or any sanitary contractor or any employee of a sanitary contractor undertaking or engaged on such work, desists from carrying out any necessary service in connection therewith, or performs the same in so negligent or incomplete a manner as, in the opinion of the Director-General, constitutes a menace or danger to the public health (whereof the Director-General shall be the sole judge), such local government or person shall be liable to a penalty not exceeding 20 penalty units, and to a further daily penalty not exceeding 3 penalty units for every day during which such default continues, or in the case of individual persons, in addition to or in substitution for such penalties or any of them, to imprisonment for any period not exceeding 6 months.

Refuse removal by private contractors

98A.(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 government of the local government area in which the works are to be executed upon application made to it in that behalf in the prescribed form; or
- (b) the contract is made with such local government.

(2) A local government may, in respect of an application for approval

made to it pursuant to subsection (1)(a), grant or refuse to grant the approval sought and may, where it grants approval, subject that approval to such conditions as it thinks fit.

(3) In this section, the expressions “**commercial refuse**”, “**domestic clean-up refuse**” and “**industrial refuse**” have the meanings respectively given to them in the *Refuse Management Regulation 1983*.

(4) Where an application for approval relating only to commercial refuse, domestic clean-up refuse or industrial refuse has been made to a local government pursuant to subsection (1)(a) and the local government fails, within 60 days after receipt of the application, to notify the applicant that it grants or refuses to grant approval, the local government shall be deemed to have granted approval to the applicant to undertake or to contract to undertake the execution of the work specified in the application.

(5) Where a local government has granted or is deemed by subsection (4) to have granted approval to a person, it may at any time—

- (a) subject to subsection (6), revoke the approval; or
- (b) subject the approval to conditions; or
- (c) vary the conditions to which the approval is subject;

by notice in writing given to the person.

(6) Where approval granted, or deemed by subsection (4) to have been granted, by a local government to a person relates only to commercial refuse, domestic clean-up refuse or industrial refuse, the local government shall not revoke approval unless the person—

- (a) fails to comply with any condition to which the approval is subject or, where approval is deemed by subsection (4) to have been granted, undertakes or contracts to undertake the execution of work other than that specified in the application for approval; or
- (b) fails to comply with any provision of this Act.

(7) Where a local government revokes approval relating only to commercial refuse, domestic clean-up refuse or industrial refuse—

- (a) a person aggrieved by the decision may, within 14 days after receiving notice thereof, require the local government to refer the decision to the Director-General for review;

- (b) the local government shall not give effect to the decision until the expiration of the period referred to in paragraph (a) or, if the decision is referred to the Director-General for review, until the review is concluded.

(8) The Director-General may, in respect of a decision referred to the Director-General, confirm or vary it or set it aside and substitute the Director-General's own decision for it.

(9) The decision of the Director-General on review shall be final and conclusive and shall be given effect to by the local government.

(10) The Brisbane City Council is hereby authorised to delegate to the Council Registration Board, Brisbane City Council, the power to do anything that the Brisbane City Council may or is required to do pursuant to subsection (1)(a), (2), (5) or (7) and anything so done shall, for the purposes of this section, be deemed to have been done by the Brisbane City Council.

Offence to remove refuse etc. without authority

98B. A person who—

- (a) unlawfully removes any matter—
- (i) stored for removal by a local government or any person under the authority of section 95; or
 - (ii) collected by a local government or any person under the authority of section 95 or of an approval granted under section 98A;
- (b) obstructs or hinders a local government 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 10 penalty units.

Sanitary conveniences for public accommodation, seaside resorts etc.

99.(1) If, in the opinion of the Director-General, the local government has not provided at any seaside resort or tourist resort or other place of public resort, in proper and convenient situations sanitary conveniences for public

accommodation, or such local government has provided insufficient sanitary conveniences for public accommodation, the Director-General may by order require the local government to provide in convenient situations in such resort sanitary conveniences for public accommodation, or to provide such additional sanitary conveniences as the Director-General may consider necessary.

(2) The local government when required by the Director-General so to do shall provide within its area such sanitary conveniences for public accommodation as the Director-General may from time to time require, and shall alter or extend any such conveniences.

(3) All such sanitary conveniences for public accommodation shall be provided or altered or extended, as the case may be, in accordance with such plans and specifications on such sites and subject to such conditions as may be approved by the Director-General.

(4) The local government shall when directed by the Director-General by order, if a sewerage system is in the Director-General's opinion available, connect the sanitary conveniences for public accommodation with such sewerage system, or if no sewerage system is available, construct a septic tank or closet accommodation or other device for the treatment of nightsoil in accordance with the requirements of the provisions of any regulations made under this Act in that behalf.

(5) The local government which has provided sanitary conveniences for public accommodation either at the direction of the Director-General or by the exercise of the powers conferred on the local government by the *Local Government Act 1993* shall (and whether or not the local government has undertaken or contracted for the execution of any works in pursuance of the provisions of section 95(1)(c) to (e)), observe the provisions of any regulations made by the Director-General relating to sanitary conveniences and nightsoil disposal, the making of such regulations in accordance with this Act being hereby authorised.

(6) In the observance of the said regulations in respect of sanitary conveniences for public accommodation the local government shall be liable for the duties, obligations, and responsibilities of the owners and occupiers of premises respectively imposed by the said regulations.

(7) All sanitary conveniences for public accommodation provided by the local government shall be maintained in a satisfactory condition so as not to

cause a nuisance, and if in the opinion of an inspector duly appointed by the Governor in Council under this Act any such conveniences are not so maintained, the Governor in Council shall direct the local government to forthwith cause such nuisance to be abated, and the Director-General shall enforce the provisions of section 98 in respect of such nuisance.

Regulations and conditions relating to refuse etc.

99A.(1) The Director-General may, in accordance with this Act, make regulations with respect to—

- (a) the storage of refuse by occupiers of premises;
- (aa) the removal, collection, conveyance, deposit and disposal of refuse and nightsoil;
- (b) the terms of contracts to be made with local governments for undertaking work specified in section 95(1);
- (ba) the supervision of such contracts by the Director-General;
- (c) the granting by local governments of approval to a person undertaking work specified in section 95(1);
- (ca) 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 government, or any person acting on behalf of, or under contract to, or approved by a local government, or an owner or occupier of any house or premises, or other person to do or refrain from doing any act in connection with the removal, collection, conveyance, deposit and disposal of refuse and nightsoil;
- (b) as to require a local government, or any person acting on behalf of, or under contract to, or approved by a local government, or any person to do or refrain from doing any act in connection 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.

Camping grounds

100.(1) The Director-General may make regulations for the control and regulation of camping grounds, whether public or private, and/or moveable dwellings.

(2) Without limiting the generality of the foregoing provisions the regulations may provide for all or any of the following matters—

- (a) prescribing the conveniences to be provided for any camping ground, and/or moveable dwelling, and/or place where any moveable dwelling is for the time being situated, and the persons by whom such facilities are to be provided and/or maintained in any such case;
- (b) prohibiting the use of any place as a camping ground, or the situation upon any place of a moveable dwelling, or the use of any moveable dwelling which does not comply with the prescribed regulations;
- (c) prescribing in respect of camping grounds, and/or moveable dwellings, and/or any place where a moveable dwelling is for the time being situated the doing and executing of all such other acts, matters, or things as the Director-General shall consider reasonable or necessary to be done or executed, and the persons by whom such prescribed acts, matters, or things are to be done or executed;
- (d) the approval and revocation thereof of any land as a camping ground and the person or persons who may grant any such approval or revoke the same;
- (e) the submission (in the form of a plan or otherwise) of particulars in respect of any land used or intended to be used as a camping ground and the person by whom the same are to be submitted;

- (f) the care and maintenance of camping grounds and the person who is to be responsible for the same.

(3) In this section—

“camp” when used as a noun, includes any moveable dwelling, cabin, caravan, tent fly, awning and any structures or shelters used as temporary abodes;

“camping ground” means any land on which any camp is situated or erected but does not include a wayside camp for the use of drovers, teamsters or other persons whose occupation necessitates the use of such a camp;

“moveable dwelling” includes any tent, or any van or other conveyance whether on wheels or not, which is used either regularly or at certain times only for human habitation.

Division 14—Tattooing and ear-piercing

Regulations

100A.(1) The Director-General may, in accordance with this Act, make regulations in relation to premises in which any business is carried on that involves tattooing, ear piercing, acupuncture or any other process whereby the skin of a living person is penetrated.

(2) Without limiting subsection (1), regulations may be made under this section for or in respect of all or any of the following matters or things—

- (a) providing for the registration of such premises by local governments, the renewal of registration and the suspension and cancellation thereof;
- (b) prohibiting the carrying on of such business in any premises unless such premises are registered;
- (c) prescribing the fees payable for registration or renewal of registration;
- (d) prescribing minimum standards in relation to the structure, floor area and ventilation of such premises;
- (e) providing for the cleanliness of such premises and the cleansing,

disinfection and sterilisation of the appliances, implements, tools and things used in the carrying on of such business and regulating and controlling the hygienic conduct of such business;

- (f) safeguarding the health of customers and persons employed in such premises;
- (g) providing for the inspection of such premises whether registered or not;
- (h) prescribing penalties not exceeding 20 penalty units for any breach of the regulations.

Division 15—Cancer

Interpretation

100B. In this Division—

“cancer” means a neoplasm of human tissue that is malignant, and that if unchecked invades adjacent tissues or extends beyond its site of origin, and that has the propensity to recur, either locally or remotely in the body;

“nursing home” means a nursing home kept pursuant to a licence issued under Division 11A;

“prescribed person” means—

- (a) a Regional Health Authority;
- (b) in relation to a nursing home—the licensee thereof;
- (c) in relation to a private hospital—the licensee thereof;
- (d) in relation to the Mater Misericordiae Public Hospital at Brisbane—the person having control thereof;

and includes any person acting in the stead of such prescribed person in the conduct or maintenance of such a home or hospital;

“private hospital” means any private hospital kept pursuant to a licence issued under Division 11;

“psychiatric hospital” means a psychiatric hospital established or deemed to have been established under the *Mental Health Act 1974*;

“public hospital” means a public sector hospital within the meaning of the *Health Services Act 1991*.

Furnishing returns to Director-General

100C.(1) Where a patient in or attending a nursing home, private hospital, psychiatric hospital, public hospital or other hospital or a resident in a charitable institution is known or found to be suffering from cancer and belongs to a class of person or resident to whom this subsection applies by reason of the regulations the prescribed person in relation to the home, hospital or institution shall, at or within the prescribed time, furnish to the Director-General a return in or to the effect of the prescribed form completed by a person required by the regulations to complete such returns and setting out the prescribed particulars in respect of that patient or resident.

(2) Where a pathological examination of specimens of human origin indicates that the person from whom the specimens were taken is or was suffering from cancer of a class to which this subsection applies by reason of the regulations the person in charge of the place where the examination is undertaken—

- (a) shall cause to be completed a return in or to the effect of the prescribed form setting out the prescribed particulars in respect of that person; and
- (b) shall furnish such return—
 - (i) in the case of an examination performed upon a reference from a medical practitioner—to that practitioner or, at or within the prescribed time, to the Director-General, as such person in charge elects;
 - (ii) in any other case—to the Director-General at or within the prescribed time.

(3) Where a return completed under subsection (2) is, in accordance with that subsection, furnished to a person other than the Director-General, that person shall furnish such return to the Director-General at or within the prescribed time.

(4) A person who fails to comply with this section is liable to a penalty not exceeding 10 penalty units.

Register

100D. The Director-General shall cause to be established and maintained a register of persons in relation to whom returns have been furnished to the Director-General under section 100C.

Confidentiality

100E.(1) This section applies to—

- (a) the Director-General; and
- (b) a person administering this Act; and
- (c) a person who in any way helps in the administration of this Division.

(2) A person to whom this section applies must not, whether directly or indirectly, disclose or make use of information gained by the person under this Division unless the person discloses or makes use of the information—

- (a) under this Act; or
- (b) when specifically authorised under another Act.

Maximum penalty—16 penalty units.

(3) However, the Director-General may—

- (a) disclose information in statistical or similar form if the information does not disclose the identity of a cancer sufferer; or
- (b) disclose information in any form to—
 - (i) a person authorised to conduct scientific research and studies under section 154M; or
 - (ii) a person holding an appointment in another State or the Commonwealth corresponding to that of the Director-General.

Regulations

100F. The power conferred on the Director-General to make with the approval of the Governor in Council regulations under this Act includes power to make such regulations in respect of—

- (a) the classes of patients or residents or of cancers to which this Division or any provision thereof shall apply or shall not apply; and
- (b) the description of individual who is required to complete a return to be furnished under this Division; and
- (c) the obligations of persons required by the regulations to complete returns to be furnished under this Division; and
- (d) offences consisting in contraventions of or failures to comply with the regulations, and penalties for such offences not exceeding in any case 40 penalty units; and
- (e) all matters that are required by any provision of this Division to be prescribed; and
- (f) all matters that are necessary or convenient to be prescribed for the proper administration of this Division or to achieve the objects and purposes of this Division.

Division 16—Peri-natal statistics

Interpretation

100G. In this Division—

“child born alive” means a child whose heart has beaten after delivery of the child is completed;

“child not born alive” means a child—

- (a) whose heart has not beaten after delivery of the child is completed; and
- (b) who is of a prescribed class;

“delivery” means the expulsion or extraction of a newborn child from its mother;

“prescribed person”, in relation to a delivery, means—

- (a) if the delivery occurs in a hospital—
 - (i) in relation to a private hospital—the licensee thereof;

- (ii) in relation to a public hospital—the Regional Health Authority established therefor;
- (iii) in relation to the Mater Misericordiae Public Hospital at Brisbane—the person having control thereof;
and includes any person acting in the stead of that prescribed person in the conduct or maintenance of that hospital;
- (b) if the delivery occurs elsewhere than in a hospital—
 - (i) the midwife or person performing the duties of midwife in attendance upon the mother at the time of the delivery; or
 - (ii) if there is no midwife in attendance—the medical practitioner in attendance upon the mother at the time of the delivery; or
 - (iii) if there is no medical practitioner or midwife in attendance—
 - (A) if the mother and child are, or the child is, admitted to a hospital because of the delivery of the child—the prescribed person for that hospital; or
 - (B) in any other case—the medical practitioner who undertakes the care and treatment of the mother and child because of the delivery of the child;

“private hospital” means any private hospital kept pursuant to a licence issued under Division 11;

“public hospital” means a public sector hospital within the meaning of the *Health Services Act 1991*.

Furnishing returns to Director-General

100H.(1) Where delivery, within the meaning of this Division, of—

- (a) a child born alive; or
- (b) a child not born alive;

occurs, the prescribed person shall, at or within the prescribed time, furnish to the Director-General a return in or to the effect of the prescribed form completed by a person required by the regulations to complete such returns and setting out the prescribed particulars in respect of the delivery.

(2) A person who fails to comply with this section is liable to a penalty

not exceeding 4 penalty units.

(3) The provisions of this section shall not be construed so as to prejudice or affect—

- (a) the provisions of the *Registration of Births, Deaths and Marriages Act 1962*; or
- (b) the provisions of the *Children's Services Act 1965*.

Confidentiality

100L.(1) This section applies to—

- (a) the Director-General; and
- (b) a person administering this Act; and
- (c) a person who in any way helps in the administration of this Division.

(2) A person to whom this section applies must not, whether directly or indirectly, disclose or make use of information gained by the person under this Division unless the person discloses or makes use of the information—

- (a) under this Act; or
- (b) when specifically authorised under another Act.

Maximum penalty—10 penalty units.

(3) However, the Director-General may—

- (a) disclose information in statistical or similar form to another person if the information does not disclose an individual's identity; or
- (b) disclose information in any form to—
 - (i) a person authorised to conduct scientific research and studies under section 154M; or
 - (ii) a person holding an appointment in another State or the Commonwealth corresponding to that of the Director-General.

Regulations

100J. The power conferred on the Director-General to make with the approval of the Governor in Council regulations under this Act includes power to make such regulations in respect of—

- (a) the classes of deliveries to which this Division or any provision thereof shall apply or shall not apply; and
- (b) the description of individual who is required to complete a return to be furnished under this Division; and
- (c) the obligations of persons required by the regulations to complete returns to be furnished under this Division; and
- (d) offences consisting of contraventions or failures to comply with those regulations, and penalties for those offences not exceeding in any case 10 penalty units; and
- (e) the prescribing of forms to be used under this Division; and
- (f) all matters that are required by any provision of this Division to be prescribed; and
- (g) all matters that are necessary or convenient to be prescribed for the proper administration of this Division or to achieve the objects and purposes of this Division.

PART 4—DRUGS AND OTHER ARTICLES*Division 1—Preliminary***Adulteration of drug or article**

101.(1) For the purposes of this Act, any drug or article is deemed to be adulterated—

- (a) if it contains or is mixed or diluted with any substance in any quantity or in any proportion which diminishes in any manner its nutritive or other beneficial properties as compared with the same in a pure and normal state and in an undeteriorated and sound

condition, or which in any manner operates or may operate to the prejudice or disadvantage of the purchaser or consumer;

- (b) if it contains or is mixed or diluted with any substance of lower commercial value than the same in a pure and normal state and in an undeteriorated and sound condition;
- (c) if any substance, constituent, or ingredient has been wholly or in part extracted, abstracted, or omitted from it, and as a result its nutritive or other beneficial properties are less than those of the same in its pure and normal state, or the purchaser or consumer is or may be in any manner prejudiced or disadvantaged;
- (d) if, either wholly or in part, it does not comply with the prescribed standard for it;
- (e) if it contains anything prohibited by this Act or any order in council;
- (f) if it contains any substance in excess of any quantity or proportion permitted by this Act or any order in council;
- (g) if it is mixed, coloured, powdered, coated, stained, or treated in any manner whereby damage, deterioration, inferiority, or true character or quality is or may be concealed;
- (h) if it consists wholly or in part of a filthy, decomposed, or putrid animal or vegetable substance, or of any portion of an animal or vegetable unfit for use as or in any drug or article, whether manufactured or not, or it has not been sufficiently cleaned or purified;
- (i) if it is the product of a diseased animal, or of one which has died otherwise than by slaughter;
- (j) if it is damaged, deteriorated, or perished or contains any foreign matter;
- (l) if another substance has been substituted, wholly or in part, for such drug or article.

(1A) However, in any proceeding under this Act for selling a drug or an article to which subsection (1)(a) or (b) applies, such drug or article shall not be deemed to be adulterated if it is sold as a mixture in accordance with this Act.

False description of drug

(2) For the purposes of this Act any drug or article is deemed to be falsely described—

- (a) if it is in a package, and—
 - (i) the contents of the package as originally put up have been removed in whole or in part, and other contents have been placed in such package; or
 - (ii) it fails to bear on the package, or on a label on or attached thereto, a statement of the quantity or proportion of any dangerous drug, restricted drug or poison, or any other substance prescribed to be so stated, or any derivative or preparation of any such substances contained therein; or
 - (iii) the contents are stated in terms of weight or measure on the outside of the package, or on a label on or attached thereto, and they are not plainly and/or correctly stated; or
 - (iv) the package or any label on or attached thereto bears a statement, word, brand, mark, design, or device regarding the nature, quality, strength, purity, composition, origin, age, or proportion of the drug or article, or the ingredients, constituents, or substance contained in the drug or article which is false or misleading in any particular;
- (b) in the case of imported goods—if it has not applied thereto the trade or other description as required for its importation under the laws in force for the time being of the Commonwealth of Australia, or if it has applied thereto a false trade or other description within the meaning of the aforesaid laws regarding the importation of goods;
- (c) if it is an imitation of or is offered for sale under the distinctive name of another drug or article;
- (d) if it is labelled or marked so as to deceive or mislead the purchaser, or purports to be an imported product when not so;
- (e) if it is labelled as or any advertisement of or concerning it states that it is a herbal medicine, and it contains any drug or substance other than a drug or substance of vegetable origin;

- (f) if any advertisement of or concerning it contains any written, spoken, or pictorial matter calculated or likely to deceive or mislead the purchaser;
- (g) if it is sold under a name which conveys or is likely to convey a false indication of origin, character, or place of manufacture, or to lead the purchaser to suppose that it is any drug or article or product thereof.

Drugs to comply with description or standard

102. 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.

Sales by agents or servants etc.

103.(1) For the purposes of this Act any person shall, additionally to any drug or article sold by the person personally, be deemed to sell any drug or article which the person sells through any employee or agent or which the person sells as an employee or agent.

(2) In this section—

“**employee**” or “**agent**” respectively include, but without limit to the generality of their meanings, a manager or representative of an employer or principal.

Division 2—Drugs etc.**Prohibitions****Adulterated drug not to be sold**

104. No person shall sell any drug or article which is adulterated or falsely described, or which is packed or enclosed for sale or labelled, branded, or marked in any manner contrary to or not in compliance with this Act.

Adulterated drug not to be tendered or despatched for or on sale

104A.(1) No person shall in or from Queensland tender or despatch or offer to tender or despatch for or on sale any drug or article which is adulterated or falsely described, or which is packed or enclosed for sale or labelled, branded, or marked in any manner contrary to or not in compliance with this Act, whether the actual sale shall be effected or is to become effective in Queensland or elsewhere.

(1A) However, if the actual sale was effective or is to be effective elsewhere than in Queensland it shall be a defence to a charge of an offence against this section to prove that the sale was legally authorised under the laws in force where it was effected or to become effective.

(2) No person shall from elsewhere than in Queensland tender or despatch or offer to tender or despatch to any other person in Queensland for or on sale any drug or article which is adulterated or falsely described, or which is packed or enclosed for sale or labelled, branded, or marked in any manner contrary to or not in compliance with this Act, whether the actual sale shall be effected or is to become effective in Queensland or elsewhere.

(3) A complaint of an offence against this section shall be heard and determined at a place appointed for holding Magistrates Courts within the Magistrates Court district in which the person to whom the offender tendered or despatched or offered to tender or despatch the drug or article which forms the subject matter of the complaint resided or carried on business when the offence was committed.

105.(1) No person shall—

Mixing drug as so to injure quality

- (b) for purposes of sale, mix or cause or permit to be mixed any ingredient or material with any drug, or colour or cause or permit to be coloured any drug so as to affect injuriously the quality or potency of such drug;

Selling same

- (c) sell any drug mixed with any such ingredient or material, as in paragraph (b) stated, or so coloured as in paragraph (b) stated;

Mixing to increase bulk etc.

- (d) for the purposes of sale, mix or cause or permit to be mixed any ingredient or material with any drug in order thereby fraudulently to increase its weight, bulk, or measure, or to conceal its inferior quality;

Selling same

- (e) sell any drug mixed with any ingredient or material whereby the weight, bulk, or measure of such drug has been fraudulently increased or its inferior quality concealed;

Selling not of the nature demanded

- (f) sell any drug which is not of the nature, substance, or quality of the drug demanded by the purchaser, or sell any quantity of drug less in weight or measure or number than the weight or measure or number demanded and paid for by the purchaser;

Compounded articles

- (g) sell any compounded drug which is not composed of ingredients in accordance with the demand of the purchaser.

(2) In any prosecution it shall be no defence to prove that the drug the subject of the prosecution, though defective in nature or in substance or in quality, was not defective in more than 1 such respect.

Offences in relation to automatic machines

106.(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.

(2A) 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.

Maximum penalty—20 penalty units.

(5) No licence issued by a local government 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.

Sale of mixture

107.(1) Where any person sells a drug which is a mixture the ingredients shall be pure and in an undeteriorated and sound condition.

(1A) The person shall deliver the mixture to the purchaser in a package on or attached to which is a label stating that the drug is a mixture and the names of the ingredients legibly and uniformly written and, when so prescribed, the names and proportions of the ingredients.

(1B) But (except as otherwise prescribed in respect of poisons, restricted drugs, dangerous drugs, and/or biological preparations) it shall not be necessary so to supply a label in the case of—

- (a) a drug generally known to users as a compounded article or a drug not recognised by the British Pharmacopoeia if such drug is mixed with any ingredient or material not injurious and not intended fraudulently to increase its bulk, weight, or measure, or to conceal its inferior quality; or
- (b) a drug supplied by prescription or order signed by a medical practitioner for the medical practitioner's patient, or a drug compounded and supplied by a registered pharmaceutical chemist; or
- (c) a mixture exempted from this section by the regulations, which exemption may be applied to classes of articles.

(2) No person shall sell any drug which is a mixture in respect of which this section has been contravened or has not been complied with.

Examination and report upon articles advertised

109.(1) The Director-General may from time to time cause to be examined any drug or article which is advertised for the purpose of ascertaining its composition, properties, and efficiency, and shall compare the results of the examination with any advertisement which relates to the drug or article, and with the price at which it is sold, and shall prepare and forward to the Minister a report upon the whole matter, which may include any comment which the Director-General thinks desirable in the public interest.

(2) The Director-General may thereupon, with the approval of the Minister, cause the report to be published in the Gazette and in any newspaper or public print which circulates within Queensland, and to be distributed among the public in any other way, and no action shall lie in respect of such publication or distribution; but no such approval shall be given and no such publication or distribution shall be made until a reasonable opportunity has been given to the manufacturer, importer, vendor, or owner of such drug or article, or the person's agent, to place the person's objections to the proposed publication before the Director-General.

(2A) However, the Director-General shall have the power pending the consideration of any such objection to prohibit, by order, the sale or further advertisement of any such drug or article.

(2B) In addition, any cost of publication or distribution incurred by the Director-General under this section shall be borne and paid by the importer, vendor, or owner of the drug or article.

(3) Any such report which has been published by the Director-General as aforesaid may be republished in any newspaper or public print, and no action shall lie against any person whomsoever in respect of such republication.

Prohibition of sale of injurious articles

110.(1) On the recommendation of the Director-General the Governor in Council may, by notification in the Gazette, prohibit, after the date therein mentioned, the advertising or sale of any drug or article which, in the opinion of the Director-General is injurious to life or health, or which by reason of its inactivity or inefficiency is useless for the advertised purposes.

(1A) But no such recommendation shall be made until a reasonable opportunity has been given to the manufacturer, importer, vendor, or owner of such drug or article, or the person's agent, to place the person's objections to the proposed prohibition before the Director-General.

Advertisement

(2) No person shall advertise or sell any drug or article in contravention of such prohibition, and no person shall print any advertisement so prohibited, and no proprietor, editor, publisher, or manager of a newspaper or other public print shall publish any advertisement so prohibited.

Extension of ss 109 and 110

111. Sections 109 and 110 shall also apply to any article or apparatus alleged to be useful or efficacious in relieving human suffering, or in curing, overcoming, or alleviating any physical defect.

Use of catheters etc.

112.(1) No person shall sell, hire, exchange, give or supply any instrument or appliance such as a catheter, sound, medicinal tent, or other instrument or appliance which is capable of being used for the purpose of bringing on a miscarriage or abortion, except on the written prescription of a medical practitioner, which prescription shall be retained by the seller or supplier and produced when ordered by a Magistrates Court at any time within 24 months after the date on which such prescription was given.

(2) Any person who acts in contravention of subsection (1) shall be liable to a penalty not exceeding 80 penalty units.

(3) However, this section shall not apply to a wholesale firm supplying a medical practitioner or pharmaceutical chemist or to any public hospital or charitable institution.

Prohibition of sale of disinfectants and preservatives

113.(1) On the recommendation of the Director-General the Governor in Council may, by notification in the Gazette, prohibit the sale of any article as a disinfectant, germicide, antiseptic, preservative, or deodorant.

(2) But no such recommendation shall be made until a reasonable opportunity has been given to the manufacturer, importer, vendor, or owner of the article or the person's agent to place the person's objections to the proposed prohibition before the Director-General.

(3) No person shall sell any article so prohibited.

Labelling of disinfectant

114.(1) There shall be supplied on or attached to every package of disinfectant, germicide, antiseptic or deodorant packed or enclosed for sale a label which complies in all respects with what is prescribed by the Director-General by regulations in relation thereto, it being hereby declared, without limiting any of the provisions of section 152, that such regulations may be made by the Director-General.

(2) A person shall not sell in a package any disinfectant, germicide, antiseptic or deodorant unless a label complying in all respects as aforesaid is supplied on or attached to such package.

Division 3—Cooking utensils, toys, wearing apparel, matches, and paints

Cooking utensils and food receptacles

123.(1) In this section—

“cooking utensil” means any utensil, appliance or other thing manufactured, sold or supplied for use in or in connection with serving, consuming, cooking, preserving or otherwise preparing food (including water for domestic use);

“food receptacle” means any utensil, receptacle or other thing manufactured, sold or supplied for use in or in connection with storing, holding or carrying food (including water for domestic use).

(2) A person shall not sell or supply any cooking utensil or food receptacle—

- (a) consisting wholly or in part of a prescribed substance; or
- (b) consisting wholly or in part of any material containing more than a prescribed proportion of a prescribed substance; or
- (c) consisting wholly or in part of any material that, when analysed as prescribed, yields more than a prescribed amount of a prescribed substance.

Substances prohibited in toys etc.

124.(1) No person shall manufacture or sell or supply or keep for sale or supply any toy—

- (a) consisting wholly or in part of a prescribed substance; or
- (b) consisting wholly or in part of any material containing more than a prescribed proportion of a prescribed substance; or
- (c) consisting wholly or in part of any material that, when analysed as prescribed, yields more than a prescribed amount of a prescribed substance.

(2) No person shall manufacture or sell or supply or keep for sale or supply—

- (a) any wallpaper or other decorative paper, paper serviette or paper used in the enclosure of food containing, or coated with any material containing, more than a prescribed proportion of any prescribed substance;

Substances prohibited in textile articles etc.

- (b) any textile substance or leather intended for or capable of being used in the making of wearing apparel for human use containing, or coated with any material containing, more than a prescribed proportion of any prescribed substance;

Woollen goods

- (c) any wearing apparel for human use described or designated, whether by the vendor or the purchaser, as woollen or made of wool or by any other description or designation denoting wool, unless the same contains at least 95% by weight of wool or such percentage of wool as may be from time to time prescribed;
- (d) any blanket or rug described or designated as woollen or made of wool or by any other description or designation denoting wool unless the same contains at least 95% by weight of wool;
- (e) any mattress or quilt described or designated by any particular name denoting that it contains a certain substance, unless it contains only such substance or is packed entirely with such substance;

Tubed nursing bottle

- (f) any tubed nursing bottle for infants' food other than a tubed nursing bottle approved by the Director-General by notification published in the Gazette.

Hair and scalp preparations

(3) No person shall sell or pack for sale any preparation for the treatment of the hair or scalp which contains more than a prescribed proportion of lead or any compound of lead, and no person shall use in the treatment of the hair or scalp of any other person any such preparation.

Powers respecting articles capable of causing bodily harm or discomfort to humans

124A.(1) If the Director-General suspects that any article for sale or advertised for sale is intended for use or capable of being used for the purpose of causing bodily harm or discomfort to humans the Director-General may by writing under the Director-General's hand authorise any inspector to exercise with respect to such article the powers of entry, inspection, and sampling prescribed by section 132, and an inspector so authorised shall have and exercise power and authority accordingly.

(2) The Director-General may, with the approval of the Minister, by a notice published in the Gazette, prohibit the sale or advertising for sale of any article mentioned in subsection (1).

(3) Such prohibition shall have the full force of law notwithstanding that the Director-General has not exercised with respect to the article concerned the powers conferred upon the Director-General by subsection (1).

(4) Any person who sells or advertises for sale any article contrary to a notice under this section or any person who has in the person's possession any such article shall be liable to a penalty of not more than 10 penalty units.

Prohibition of white phosphorus in matches

125.(1) No person shall manufacture or sell or supply, or keep for sale or supply, any matches in the manufacture of which white phosphorus is used.

(2) The court by which any person is convicted of any offence against this section, by the same or any subsequent order, may adjudge that all white phosphorus and all matches made with the same which are found in the possession or apparently in the possession of the defendant shall be forfeited; and upon such forfeiture such articles shall be destroyed or otherwise dealt with as the Minister directs.

(3) In this section—

“white phosphorus” means the substance commonly known as white or yellow phosphorus.

Lead in paint

127.(1) A person shall not manufacture, sell or use any paint containing basic carbonate white lead.

(2) A person shall not use or put paint containing (in any form or compound) more than a prescribed proportion of lead, arsenic, antimony, cadmium, selenium or mercury on—

- (a) the roof of a house or other building or structure whatsoever; or
- (b) any exterior portion, other than the roof, of any house or other building whatsoever; or
- (c) any fence, wall, post or gate whatsoever; or
- (d) any interior portion whatsoever of a house; or
- (e) any furniture whatsoever.

(4) A person who contravenes in any respect a provision of subsection (1) or (2) shall be guilty of an offence against this Act and liable to a penalty of not less than 5 penalty units nor more than 20 penalty units.

(5) For the purposes of this section any officer may remove for examination or analysis a sample or samples of any paint adhering to, or which is being used or put by any person on, the roof of any house or other building or structure whatsoever, any exterior portion, other than the roof, of any house or other building whatsoever, any interior portion of any house, or any fence, wall, post or gate whatsoever or any furniture.

(5A) Where an officer is an officer of a local government the officer's powers under this section may be exercised within the area of the local government and on any or any part of any street, harbour, river, stream or watercourse within or abutting upon the boundaries of such area.

(6) Upon proof to the satisfaction of the Director-General that any paint containing (in any form or compound) more than a prescribed proportion of lead, arsenic, antimony, cadmium, selenium or mercury is on any place, thing or object referred to in subsection (2)(a) to (e) whereon the use or putting of that paint is prohibited by a provision of this section, the Director-General may by notice in writing given to the owner of the place, thing or object in question or to the person using or putting on, or who has used or put on, the paint require the owner or person to clean down and remove that paint, within such time as may be specified by the Director-General in the

notice, from such place, thing or object.

(6A) Any such owner or person who fails to comply in every respect with the requirements of a notice given to the owner or person under this subsection by the Director-General—

- (a) shall be guilty of an offence and liable to a penalty of not less than 5 penalty units nor more than 20 penalty units; and
- (b) if the owner or person continues that failure for longer than 14 days after the owner or person is convicted therefor—shall be guilty of a continuing offence and liable to a daily penalty of not more than 4 penalty units.

(7) Without limiting the meaning that the term “**house**” has in this Act, that term includes, for the purposes of this section, a caravan or other structure capable of being moved from one place to another (whether by being driven or towed or by being transported on a motor vehicle or trailer) which is designed or adapted for human habitation.

Labelling of paint

128.(1) There shall be supplied on or attached to every package of paint packed or enclosed for sale a label which complies in all respects with what is prescribed by the Director-General by regulations in relation thereto, it being hereby declared, without limiting any of the provisions of section 152, that such regulations may be made by the Director-General.

(2) A person shall not sell in a package any paint unless such a label complying in all respects as aforesaid is supplied on or attached to such package.

Prohibition of the use of leaded metal for structural purposes in certain buildings

129A.(1) No person shall use or permit or allow to be used in or for the purpose of constructing, maintaining, or repairing, or permit or allow to remain in the structure of—

- (a) any portion easily accessible to children of the exterior or interior of any outside wall or of any partition or other interior wall or floor of any house, flat, tenement building, hall, school, or other

building whatsoever intended for the use of human beings;

- (b) any portion easily accessible to children of any downpipe of any building specified in paragraph (a);

any metal, metal sheet, or metal sheets coated with lead or containing, or coated with any alloy containing, more than a prescribed proportion of lead.

(1A) However, subsection (1) does not prevent the use of sheet lead in soil and waste pipes and safes in the manner prescribed by the Standard Sewerage Law under the *Sewerage and Water Supply Act 1949*.

(1B) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a penalty of not more than 20 penalty units and liable in addition to a penalty of not more than 4 penalty units for each and every day during which such offence is continued after the person has been convicted thereof.

(2) Moreover if any metal, metal sheet, or metal sheets is or are at any time found in any wall or downpipe of any building contrary to any provision of subsection (1), the owner at such time of such building shall be guilty of an offence and liable to a penalty of not more than 20 penalty units and liable in addition to a penalty of not more than 4 penalty units for each and every day during which such offence is continued after the owner has been convicted thereof.

Prohibition of the use of means for conservation of water contaminated by lead

129B.(1) A building shall not have any downpipe or other thing for the purpose of carrying, or so fitted as to be capable of carrying, to any tank or other receptacle water from any portion of its roof or guttering if such portion of its roof or guttering or any portion of such downpipe or thing is constructed of any metal, metal sheet, or metal sheets coated with lead or containing, or coated with any alloy containing, more than a prescribed proportion of lead.

(2) The owner of any building which has any downpipe or other thing for the purpose of, or so fitted as to be capable of, carrying water in contravention of subsection (1) shall be guilty of an offence and liable to a

penalty of not more than 20 penalty units and, in addition, to a penalty of not more than 4 penalty units for each and every day during which the owner continues such offence after the owner is convicted thereof.

Unlawful use of leaded metal or metal sheets a nuisance

129C.(1) Any portion of the structure of any wall or downpipe of any building formed of any metal, metal sheet, or metal sheets in contravention of section 129A, or any downpipe or other thing had by any building in contravention of section 129B shall be deemed to be a nuisance liable to be dealt with in manner provided by this Act.

(2) The liability to abate any such nuisance and to prevent its continuance or recurrence shall be a liability additional to the liability to any penalty recoverable under sections 129A and 129B, or either of them.

(3) In proceedings for the recovery of any penalty imposed by section 129A or 129B the justices in addition to imposing such penalty as they shall think just, may make upon the defendant the like order relating to the abatement of the nuisance arising from the offence as they would have power to make if such proceedings were the hearing and determination of a complaint duly made in relation to such nuisance.

Prescription of method of analysis

129D. The Director-General may, for the purposes of this Division, make regulations prescribing the method of analysis to be used for determining whether an article or substance contains more than a prescribed proportion of a prescribed substance or any other substance specified in this Division.

Division 4—Drug dependent persons and poisons

Detention of drug offender for treatment

130B.(1) If the court before which a person is convicted of an offence defined in Part 2 of the *Drugs Misuse Act 1986*—

- (a) is satisfied on evidence adduced before it, either in the course of the hearing or upon the court's informing itself on the order it

should make in relation to the offender, that the offender is a drug dependent person; and

- (b) does not sentence the offender to be imprisoned in the first instance;

it may order that the offender be taken to and detained in an institution declared by the Governor in Council by order in council to be an institution for the purposes of this section.

(1A) In subsection (1)—

“evidence adduced before it” means—

- (a) the oral testimony of at least 1 medical practitioner adduced before the court; or
- (b) at least 2 certificates placed before the court purporting to be medical certificates by medical practitioners; or
- (c) both such testimony and certificates.

(1B) Subject to subsection (1)(b) an order may be made under subsection (1) in addition to or in lieu of any other order that the court may make in relation to the offender.

(2) An order made pursuant to subsection (1) is sufficient authority—

- (a) for a police officer or other person directed therein so to do to convey the offender to the institution specified in the order;
- (b) for the person in charge of that institution to admit, detain and provide treatment for the offender.

(3) An offender admitted to an institution under an order made pursuant to this section is liable to be detained therein or in such other place to which the offender is removed under the authority of the Director-General (the Director-General being thereunto empowered) until the offender is discharged in accordance with this Act.

(4) An offender detained under an order made pursuant to this section may be granted leave of absence or may be released on parole in accordance with this Act but the offender’s liability to be detained under the order shall continue notwithstanding that the offender is absent on leave or is on parole and the offender may be further detained thereunder as prescribed by this Division.

Examination of drug offender detained for treatment

130C.(1) At least once in each period of 6 months of a person's detention (calculated by reference to the date when the person was first admitted to detention under the order whereby the person is detained) a person detained under an order made pursuant to section 130 shall be examined by a medical practitioner appointed by the Director-General either generally or in a particular case.

(1A) A medical practitioner for the time being charged with the treatment of a person detained under an order made pursuant to section 130 at an institution or other place wherein that person is for the time being detained under the order may at any time examine that person with a view to making a report referred to in subsection (2).

(2) The examining medical practitioner shall make to the Director-General a full and accurate report as to whether, in the medical practitioner's opinion, the best interests of the detainee require that—

- (a) the detainee continue to be detained; or
- (b) the detainee be classified as a person to whom leave of absence may be granted; or
- (c) the detainee be released on parole; or
- (d) the detainee be discharged.

Order made upon medical practitioner's recommendation

130D.(1) The Director-General shall, upon receipt of a recommendation made pursuant to section 130C(2), or of a recommendation made pursuant to section 131F make an order—

- (a) that gives effect to the recommendation; or
- (b) that rejects the recommendation; or
- (c) that the person liable to be detained be dealt with in such of the ways specified in section 130(2) as the Director-General thinks fit;

and the person in charge of the place where the detainee then is shall give effect to the order.

- (2)** Where a detainee is, pursuant to the order of the Director-General,

classified as a person to whom leave of absence may be granted the person or persons designated by the Director-General at the place where the detainee is at the material time may from time to time grant leave of absence to the detainee for such period as the person in charge thinks fit.

(3) Where the Director-General orders that a detainee be released on parole the Director-General shall specify in the order the period for which such parole is to continue.

(4) Such period may, from time to time, be extended by the Director-General upon the recommendation of any medical practitioner.

Conditional leave of absence or release on parole

130E.(1) The Director-General may, in relation to a particular case, stipulate conditions on which leave of absence or release on parole shall be granted to a detainee and may, from time to time, vary those conditions whether the detainee to whom they apply has or has not been granted such leave or release.

(1A) Any variation in the conditions on which a detainee has been granted leave of absence or release on parole shall be notified in writing to the person to whom the conditions apply.

(2) Where the Director-General makes an order under section 130 that a detainee be classified as a person to whom leave of absence may be granted or that a detainee be released on parole and stipulates conditions on which the leave or release shall be granted the Director-General shall specify the conditions in the order.

(3) In stipulating conditions on which leave of absence or release on parole shall be granted and in varying those conditions the Director-General shall have regard to the interests of the detainee concerned and to the protection of other members of the community.

(4) Leave of absence or release on parole granted to a detainee shall be subject—

- (a) in the case of leave of absence—to such conditions as the person who grants the leave thinks fit;
- (b) in either case—to such conditions as are prescribed by regulation made under section 152 and to such conditions as are stipulated

by the Director-General and specified in the order or, in the case of such stipulated conditions, those conditions as varied at the material time by the Director-General where the variation has been notified in writing to the detainee who is then on leave or parole.

Liability to further detention of person released on leave or on parole

130F.(1) A person on leave of absence or released on parole may again be further detained under the court's order whereby the person is liable to be detained—

- (a) if the person fails to comply with any condition to which such leave or parole is for the time being subject; or
- (b) if the person absents himself or herself from the place where the person previously was detained beyond the expiration of the time specified as the period for which such leave or parole was to continue or, as the case may be, the time to which such specified period was last extended.

(2) If the Director-General is satisfied that a person referred to in subsection (1) should in accordance with this section, be detained the Director-General may certify accordingly and such certificate shall be sufficient authority—

- (a) for a police officer, or other person authorised by the Director-General in that behalf to arrest the person named in the certificate and to convey the person to the declared institution specified in the certificate; and
- (b) for the person in charge of that declared institution to admit, detain and provide treatment for the person named in the certificate.

(3) For the purposes of the detention pursuant to section 130B(3) of a person admitted to a declared institution pursuant to subsection (2) of this section, and of the examination of such a person pursuant to section 130C(1), and of the operation of section 131E with respect to an application made in respect of such a person under Division 4A, such a person shall be deemed to be first admitted to detention under the court's order made pursuant to section 130B on the date when the person is last admitted pursuant to subsection (2) of this section.

Discharge of person on parole

130G.(1) The Director-General may at any time for reason that appears to the Director-General sufficient order that a person released on parole under an order made pursuant to section 130D be discharged.

(2) The person to whom the order of discharge relates shall not thereafter be liable to be detained under the court's order whereby the person previously was liable to be detained.

Absence without leave

130H. A person who without leave of absence duly granted absents himself or herself from the place where the person is for the time being liable to be detained under a court's order made pursuant to section 130B may be arrested and conveyed to that place by any police officer or other person authorised by the Director-General in that behalf.

Meaning of certain expressions in this Division

130O. In this Division—

“**declared institution**” when used in section 130F means an institution declared by the Governor in Council to be an institution for the purposes of section 130C;

“**treatment**” when used in sections 130B and 130F includes medical treatment, care, training, education, supervision, social rehabilitation, help and advice.

Inorganic salts of hydrocyanic acid

131.(1) No person other than one licensed in such behalf under this Act, or otherwise authorised in such behalf under this Act, shall at any time have in the person's possession or upon any premises or place occupied by the person any inorganic salt of hydrocyanic acid that is a poison.

(1A) The burden of proof that the person is licensed or otherwise authorised under this Act shall in every case be on the defendant.

(2) If any person acts in contravention of or fails to comply with any requirement of this section the person shall be guilty of an offence against

this Act.

Penalty

(3) Any person guilty of any such offence shall be liable on conviction to a penalty of not less than 10 penalty units nor more than 20 penalty units, or to imprisonment for a term not exceeding 3 months, and in the case of a second or subsequent conviction to a penalty of not less than 20 penalty units, nor more than 50 penalty units, or to imprisonment for a term not exceeding 6 months, and the Stipendiary Magistrate dealing with the case may in addition to any further punishment order the goods in respect of which the offence was committed to be forfeited to the Crown.

Power of arrest, seizure etc.

(4) Any police officer may without warrant arrest any person who has committed or attempted to commit, or is reasonably suspected by the police officer of having committed or attempted to commit, an offence against this section, and any police officer may detain any person found in or upon any place, including any person found in any road, street, or other public place, or found travelling, whom the police officer may reasonably suspect to have in the person's possession any substance that is, or is reasonably suspected to be, an inorganic salt of hydrocyanic acid that is a poison, contrary to the provisions of this section, and may search any place in or upon which such person may be, and may search such person and may open and search any package in the possession or apparent possession of or carried or conveyed by such person and may seize any substance that is, or is reasonably suspected to be, an inorganic salt of hydrocyanic acid that is a poison, found in the possession of such person or in any package in the possession or apparent possession of or carried or conveyed by such person or in or upon any such place, and may forthwith arrest such person without warrant and detain the person in custody until the person can be brought before the court to be dealt with according to law.

Search warrant in respect of cyanide

131A.(1) Upon complaint on oath before any justice of the peace by any police officer that such officer believes that any inorganic salt of hydrocyanic acid that is a poison is, or is in the possession of any person, in or upon any premises or place contrary to the provisions of this Act, such justice may grant a warrant to any police officer with or without assistants,

to enter, by force if necessary, and search such premises or place and all persons found therein or thereon.

(2) A police officer executing a warrant may, in respect of the premises or place to which the warrant relates or in respect of any person found therein or thereon or any substance found therein or thereon that is or is reasonably suspected to be an inorganic salt of hydrocyanic acid that is a poison, do and execute all of the powers and authorities conferred upon the police officer by section 131(2).

Division 4A—Detention Review Tribunal

Tribunal to be constituted

131C.(1) There shall be constituted a tribunal to be called the Detention Review Tribunal for the purpose of dealing with applications by or in respect of persons liable to be detained under a court's order made pursuant to section 130B.

(2) The tribunal shall consist of 3 or more members appointed by the Governor in Council to hold office at the Governor in Council's pleasure of whom—

- (a) 1 shall be a barrister-at-law, a solicitor, a Stipendiary Magistrate, or a person qualified to hold the appointment as a Stipendiary Magistrate; and
- (b) 1 shall be a medical practitioner; and
- (c) the remainder shall be such as the Minister recommends to the Governor in Council as suitable.

(3) One of the members of the tribunal shall be appointed by the Governor in Council and shall act as chairperson of the tribunal.

Applications to tribunal

131D.(1) An application for discharge from a person's liability to be detained under a court's order made pursuant to section 130B may be made to the tribunal by the person so liable or by another on the person's behalf.

(2) All proceedings in connection with the application shall be taken and

conducted as prescribed.

Restricted number of applications

131E.(1) An application shall not be made to or considered by the tribunal at any time within 6 months after the date when the person liable to be detained by or on behalf of whom the application is or is sought to be made was first admitted to detention under the court's order.

(2) Subject to subsection (1), an application may be made by or on behalf of the person to whom it relates once only within each period of 6 months subsequent to the date when the person was first admitted to detention under the court's order.

Tribunal's determination of application

131F.(1) Where an application is duly made by or on behalf of a person liable to be detained the tribunal—

- (a) may refuse the application for any reason that appears to the tribunal sufficient; or
- (b) if it is satisfied that the welfare of the person liable to be detained and the protection of others do not require that the person liable to be detained continue to be so liable—may recommend to the Director-General that such person be discharged; or
- (c) if it is not satisfied of the matters specified in paragraph (b) but is satisfied that the welfare of the person liable to be detained and the protection of others will not be prejudiced by the person being dealt with in 1 of the ways specified in section 130C(2)(b) or (c)—may recommend to the Director-General that such person be dealt with in one or other of those ways.

(2) A recommendation made under subsection (1) shall include reference to the matter as to which the tribunal is satisfied.

Procedure of tribunal

131G.(1) For the purpose of any proceeding before it the tribunal may admit as evidence and act upon such information or evidence as it thinks

sufficient whether the same is or is not otherwise admissible in law.

(2) The proceedings and determination of the tribunal shall in no way be affected by the fact that all or some of its members were not present throughout the whole of the proceeding before the tribunal or that some of its members were not present upon the determination of the proceeding.

Rules of practice of tribunal

131H.(1) The Director-General may make rules, not inconsistent with this Division—

- (a) regulating the practice and procedure of the tribunal with respect to the making, conduct and determination of applications under this Division;
- (b) prescribing the powers of the tribunal in relation to applications under this Division;
- (c) prescribing forms to be used in connection with applications under this Division and the uses of such forms;
- (d) prescribing all matters that the Director-General thinks necessary or convenient to give effect to this Division.

(2) The provisions of this Act that apply to the making of regulations apply in like manner to the making of rules pursuant to subsection (1).

Division 4B—Labelling of drugs and poisons

Drugs and poisons to be labelled

131I.(1) Every package containing any drug or poison for sale shall bear a label which complies in all respects with what is prescribed by the Director-General by regulations in relation thereto, it being hereby declared, without limiting any of the provisions of section 152, that such regulations may be made by the Director-General.

(2) A person shall not sell a package containing any drug or poison unless the package bears such a label complying in all respects as aforesaid.

Division 4C—Pest control operators**Interpretation**

131J. In this Division—

“licence” means a licence (including a renewal of a licence) granted under this Division and in force at any material time;

“pest control operator” means a person who for payment or reward uses pesticides in or about premises for the purpose of controlling, destroying or preventing the growth or development of insects, arachnida or vermin but not a person who uses pesticides for agricultural, horticultural or pastoral purposes;

“prohibited pesticide” means any substance for the time being declared by order in council for the purpose of this Division to be a pesticide, the use of which is prohibited, and includes any admixture, preparation or solution that contains 1 or more of those substances;

“regulated pesticide” means any pesticide for the time being declared by order in council to be a regulated pesticide, and includes any admixture, preparation or solution that contains that pesticide.

Uses of pesticides by unlicensed or immature persons

131K.(1) A person shall not hold himself or herself out as a pest control operator unless the person is a licensee.

(2) A person shall not use pesticides unless—

- (a) in using the same the person is not a pest control operator; or
- (b) in using the same the person is operating under the personal supervision and in the presence of a person who is a licensee.

(3) A licensee—

- (a) shall not permit a person who has not attained the age of 18 years to prepare pesticides for use by a pest control operator;
- (b) shall not permit a person to use pesticides as a pest control operator or to prepare pesticides for use by a pest control operator unless—

- (i) that person is a licensee; or
- (ii) the licensee is present during and personally supervises the use or preparation, as the case may be, of the pesticides.

Prohibited pesticides not to be used

131KA. A pest control operator shall not use a prohibited pesticide.

Regulated pesticide

131KB.(1) An order in council in which a pesticide is declared to be a regulated pesticide shall contain details of the terms and conditions subject to which a pest control operator may use that regulated pesticide.

(2) A pest control operator shall not use a regulated pesticide except in compliance with the terms and conditions referred to in subsection (1).

Application for licence

131L.(1) An application for a licence shall be made to the Director-General in the prescribed form and shall be accompanied by the prescribed fee.

(2) If an applicant for a licence satisfies the Director-General that the applicant is a fit and proper person to hold a licence and that—

- (a) the applicant has attained the age of 18 years and is competent to use the pesticides specified in the application and to prepare them for use;
- (b) the applicant has in respect of each pesticide specified in the application demonstrated knowledge of—
 - (i) its degree of toxicity;
 - (ii) the effect it may have on the health of persons who use it or who are in premises where it is used;
 - (iii) adequate first aid measures to treat its effects;
- (c) the applicant has a thorough knowledge of the regulations made for the purposes of this Division;

- (d) the applicant is medically fit to use those pesticides and prepare them for use;

and the applicant satisfies the Director-General in respect of such other matters as the Director-General considers relevant, the Director-General may grant and issue to the applicant a licence.

Licence

131M. A licence—

- (a) shall be in the prescribed form;
- (b) may be renewed from time to time;
- (c) shall not be transferable;
- (d) shall authorise the licensee to operate as a pest control operator.

Duration of licence

131N. Unless sooner cancelled, suspended or surrendered, a licence shall subsist for a period of 12 months from and including the date of its grant or, as the case may be, its last renewal, and for the purpose of calculating the period of its duration a licence shall be deemed to have subsisted throughout any period for which it has in fact been suspended or is of no force or effect.

Renewal of licence

131O.(1) An application for renewal of a licence shall be made to the Director-General in the prescribed form at least 2 weeks prior to the expiration of the period of duration of the licence and shall be accompanied by the prescribed fee.

(2) The Director-General shall renew a licence if the Director-General is satisfied—

- (a) that the licensee continues to be a fit and proper person to hold the licence; and
- (b) that the licensee has complied with the provisions of this Division and the conditions (if any) to which the licensee's licence is subject.

Imposition of conditions of licence

131P.(1) The Director-General may upon the grant or renewal of a licence impose such conditions as the Director-General thinks fit by inserting in or affixing to the prescribed form of licence particulars of those conditions and may at any time and from time to time vary the conditions to which a licence is subject by written notice to the licensee.

(2) Without in any way limiting the power of the Director-General to impose conditions pursuant to this section, the Director-General may impose a condition or conditions that the licensee shall use only or shall not use that pesticide or those pesticides specified in the condition.

Conditions of licence

131Q. Every licence shall be subject to the performance and observance by the licensee of the provisions of this Division and of the conditions particularised in the licence or affixed thereto.

(2) A licensee must not contravene a condition of the licence.

Maximum penalty—

- (a) for a first offence—10 penalty units; or
- (b) for a second offence—20 penalty units; or
- (c) for a third or subsequent offence—40 penalty units.

Cancellation or suspension of licences

131R.(1) The Director-General may cancel or suspend a licence if—

- (a) the licence was issued in error or granted in consequence of any false or fraudulent document, statement or representation;
- (b) the licensee is convicted of a contravention of a provision of this Division;
- (c) the licensee fails to comply with any condition of the licence;
- (d) the Director-General is of opinion that by reason of the manner in which the licensee conducts himself or herself as a pest control operator, or by reason of any other fact or circumstance the licensee is not a fit and proper person to hold the licence.

(2) Where a licence is cancelled or suspended, the person to whom the licence was issued shall deliver up the same to the Director-General—

- (a) within 28 days after written notice of the Director-General's decision has been given to the person; or
- (b) where an appeal against the Director-General's decision is duly made and the Minister dismisses the appeal—within 28 days after written notice of the Minister's decision has been given to the person.

Appeal from Director-General

131S. Any person—

- (a) whose application for a licence or renewal of a licence is refused by the Director-General; or
- (b) who feels aggrieved by the imposition or variation of any conditions by the Director-General; or
- (c) who feels aggrieved by the cancellation or suspension of the person's licence by the Director-General;

may within 28 days after notification to the person of the Director-General's decision appeal to the Minister whose decision shall be final.

Notice of accidents

131T.(1) A pest control operator shall give notice in writing to the Director-General of every accident that occurs—

- (a) in the use of pesticides by the pest control operator or under the pest control operator's supervision; or
- (b) in the preparation by the pest control operator or under the pest control operator's supervision of pesticides for use by a pest control operator;

which accident causes loss of life or serious bodily injury to any person.

(2) The notice shall—

- (a) be forwarded to the Director-General within 21 days after the occurrence of the accident;

- (b) specify—
 - (i) the cause of the accident, so far as is known; and
 - (ii) the precise location where the accident occurred; and
 - (iii) the name of every person killed or injured in the accident.

Immediate notice concerning loss of life

131U. As soon as possible after the occurrence of an accident that causes loss of life arising out of the use of pesticides or their preparation for use the pest control operator concerned shall, in addition to the notice required to be given pursuant to section 131T, give the Director-General by the quickest means of communication available to the pest control operator all information concerning the accident then available to the pest control operator.

Powers of inspectors

131V. Without derogating from the powers of an inspector under any other provision of this Act, an inspector authorised by the Director-General for the purpose of this Division either generally or for any limited period or for any particular case—

- (a) may enter and inspect any premises which the inspector believes on reasonable grounds is kept or used for the storage, manufacture, preparation, mixing or conveyance of pesticides by or on behalf of a person whom the inspector believes on reasonable grounds to be a pest control operator; and
- (b) may inspect any apparatus, equipment or pesticides which the inspector believes on reasonable grounds is kept or used by or on behalf of a person whom the inspector believes on reasonable grounds to be a pest control operator; and
- (c) may order a pest control operator to discontinue using any apparatus, equipment or pesticide which, in the inspector's opinion, may prejudice the health of a person using the apparatus, equipment or pesticide or within premises wherein the pesticide is used; and
- (d) may remove for examination or analysis a sample of any

substance which the inspector believes on reasonable grounds is being used, has been used or is likely to be used as a pesticide by a pest control operator; and

- (e) may exercise such other powers as are prescribed by regulations made for the purpose of this Division.

Regulations

131W.(1) The Director-General may, in accordance with this Act, make regulations not inconsistent with this Act for or with respect to all matters required or permitted by this Division to be prescribed and all matters that, in the Director-General's opinion, are necessary or convenient for the proper administration of this Division or to achieve the objects and purposes of this Division.

(2) Without limiting the provisions of subsection (1) regulations may be made under this section for or in respect of all or any of the following matters or things—

- (a) prescribing the containers in which pesticides may be held and their use therefor;
- (b) providing for the storage and conveyance of pesticides by pest control operators and the disposal thereof and of containers used to hold pesticides;
- (c) requiring the labelling by pest control operators of containers holding pesticides and prescribing the mode of labelling thereof and the matter to be contained or not contained in such labels.

(3) Regulations made under this section may impose a penalty for any breach thereof not exceeding 20 penalty units.

Division 4D—Application of agricultural chemicals

Interpretation

131WA. In this Division—

“**aerial application**” means the spraying, spreading or dispersing whether intended or not of any agricultural chemical or any preparation

containing any agricultural chemical from an aircraft in flight;

“agricultural chemical” means any insecticide, fungicide, herbicide, desiccant, molluscicide, nematocide or vermin destroyer, and includes any substance prescribed to be an agricultural chemical for the purposes of this Division or any substance belonging to a class whose members are prescribed to be agricultural chemicals, but does not include any substance prescribed not to be an agricultural chemical for the purposes of this Division or any substance belonging to a class whose members are prescribed not to be agricultural chemicals;

“desiccant” means any material used or intended to be used for accelerating the drying of plant tissue;

“ground application” means the spraying, spreading or dispersing of any agricultural chemical or any substance containing an agricultural chemical from ground equipment;

“ground equipment” means any machine or apparatus of any kind, other than an aircraft in flight, used or intended to be used or capable of being used for the application of any agricultural chemical, and includes any machine or apparatus prescribed to be ground equipment for the purposes of this Division, but does not include any machine or apparatus prescribed not to be ground equipment for the purposes of this Division;

“herbicide” means any material used or intended to be used for destroying, defoliating or preventing the spread of any plants;

“occupier” means the person in actual occupation of any land or, if there is no person in actual occupation, the person entitled to possession of the land.

Powers of inspectors

131WB.(1) Without derogating from the powers of an inspector under any other provision of this Act, an inspector authorised by the Director-General for the purposes of this Division either generally or for any limited period or for any particular case may—

- (a) enter and inspect any place in or on which the inspector believes on reasonable grounds—

- (i) there is any aircraft that has been, is being or is intended to be used for aerial application and enter and inspect any such aircraft;
 - (ii) there is any ground equipment that has been, is being or is intended to be used for ground application;
 - (iii) aerial or ground application has been, is being or is to be carried out;
 - (iv) contamination of the environment, or contamination of or damage to any property, or bodily injury to any person has been caused by aerial or ground application or by any agricultural chemical that is stored, mixed, marked, loaded or transported by or on behalf of a person who is using or intending to use the agricultural chemical for aerial or ground application;
 - (v) any agricultural chemical is being stored, mixed, marked, loaded or transported by or on behalf of a person who intends using it for aerial or ground application;
- (b) in or on any place that the inspector is authorised by paragraph (a) to enter, inspect and take samples of any soil, crop, vegetation or water or any other material or substance;
 - (c) require any person to produce to the inspector any record kept pursuant to regulations made under this Division and inspect, retain or copy any record so produced;
 - (d) exercise such other powers as are prescribed by regulations made for the purpose of this Division.

(2) Subsection (1) shall not authorise an inspector to enter and search without the permission of the occupier any premises, or part of premises, used for residential purposes.

Use of agricultural chemicals by persons under 17 years

131WC. A person who for payment or reward carries out aerial or ground application shall not permit a person who has not attained the age of 17 years to take part in aerial or ground application or in the mixing, marking or loading of agricultural chemicals intended for use in aerial or

ground application.

Maximum penalty—20 penalty units.

Regulations

131WD.(1) The Director-General may make regulations not inconsistent with this Act for or with respect to all matters required or permitted by this Division to be prescribed and all matters that, in the Director-General's opinion, are necessary or convenient for the proper administration of this Division or to achieve the objects and purposes of this Division.

(2) Without limiting the provisions of subsection (1) regulations may be made under this section for or in respect of all or any of the following matters or things—

- (a) the circumstances in which aerial or ground application shall not be carried out;
- (b) the persons to whom the occupier of land, that is to be treated by aerial or ground application, shall give notice and the form of and time for giving such notice;
- (c) the measures to be taken by persons handling, storing or using for aerial or ground application any agricultural chemical so as to avoid injury to themselves or others;
- (d) the duty of, and measures to be taken by, an occupier of land (that is to be treated by aerial or ground application) or a person who carries out aerial or ground application to—
 - (i) ensure the safety of employees handling or exposed to agricultural chemicals in the course of their duties;
 - (ii) dispose of unwanted agricultural chemicals;
 - (iii) dispose of or decontaminate anything contaminated with any agricultural chemical;
- (e) the measures to be taken to prevent or minimise contamination of the environment with agricultural chemicals during aerial or ground application;
- (f) the procedures to be followed (including notices to be given) in the event of contamination of the environment, or contamination

of or damage to any property or bodily injury to any person caused by aerial or ground application or by any agricultural chemical being stored, mixed, marked, loaded or transported by or on behalf of a person who is using or intending to use the agricultural chemical for aerial or ground application;

- (g) the circumstances in which persons carrying out aerial or ground application shall be required to submit blood or urine samples for analysis;
- (h) the making and keeping of records by persons who carry out aerial or ground application or by persons for whom aerial or ground application is carried out.

(4) Regulations made under this section may impose a penalty for any breach thereof not exceeding 20 penalty units.

Division 4E—Hazardous substances

Interpretation

131WE. In this Division—

“**hazardous substance**” means any substance declared by order in council to be a hazardous substance for the purposes of this Division, and includes any admixture, preparation or solution that contains a hazardous substance.

Powers of inspectors

131WF.(1) Without derogating from the powers of an inspector under any other provision of this Act, an inspector authorised by the Director-General for the purposes of this Division either generally or for any limited period or for any particular case may—

- (a) enter and inspect any place, vehicle or vessel in or on which the inspector believes on reasonable grounds that a hazardous substance has been, is being or is to be manufactured, used, stored, conveyed, sold or prepared for sale, or disposed of, destroyed or rendered harmless;

- (b) enter and inspect any place that the inspector believes on reasonable grounds has been, is or will be contaminated with a hazardous substance;
- (c) inspect and open anything that the inspector believes on reasonable grounds contains a hazardous substance;
- (d) remove for examination or analysis anything, or portion of anything, that the inspector believes on reasonable grounds is or may contain a hazardous substance or may be contaminated with a hazardous substance;
- (e) require any person to produce to the inspector any record kept pursuant to regulations made under this Division and inspect, retain or copy any record so produced;
- (f) exercise such other powers as are prescribed by regulations made for the purpose of this Division.

(2) Subsection (1) shall not authorise an inspector to enter and search without the permission of the occupier any premises, or part of premises, used for residential premises.

Regulations

131WG.(1) The Director-General may make regulations not inconsistent with this Act for or with respect to all matters that, in the Director-General's opinion, are necessary and convenient for the proper administration of this Division or to achieve the objects and purposes of this Division.

(2) Without limiting the provisions of subsection (1), regulations may be made under this section for or in respect of all or any of the following matters or things—

- (a) the manufacture, use, storing, conveying, sale or preparing for sale, disposal, destruction and rendering harmless of hazardous substances;
- (b) the siting, design, construction, ventilation, illumination, fittings, fixtures and management of premises used or intended for use in connection with hazardous substances;
- (c) notices to be displayed at places where hazardous substances are stored and the form and siting of those notices;

- (d) the packaging and labelling of hazardous substances, the containers for use in connection with hazardous substances and the disposal, destruction or rendering harmless of containers so used;
- (e) the provision, maintenance, testing and use of safety and first aid facilities to minimise the risk of injury or damage arising from hazardous substances;
- (f) the procedures to be followed (including notices to be given) in the event of—
 - (i) contamination of the environment or contamination of or damage to any property or bodily injury to any person caused by the escape, spillage or use of a hazardous substance;
 - (ii) fire involving or likely to involve a hazardous substance;
 - (iii) damage to any vehicle, vessel, container, pipeline or other equipment or thing while being used in connection with a hazardous substance;
- (g) the making and keeping of records relating to hazardous substances and the furnishing of returns and other information relating thereto.

(4) Regulations made under this section may impose a penalty for any breach thereof not exceeding 20 penalty units.

Division 5—Inspection, removal, sampling, analysis

Entry and inspection

132.(1) Any officer authorised by the Director-General for the purpose of this section and either generally or for any limited period or for any particular case, may—

- (a) enter and inspect any place which the officer has reasonable ground for believing is kept or used for the making, manufacture, dispensing, sale, storage, delivery, conveyance, or preparation for sale of any article used, or which the officer has reasonable ground for suspecting is intended to be used as a drug, or which

the officer has reasonable ground for suspecting is a poison or a drug or a biological preparation or a prohibited article or any other article which, upon the recommendation of the Director-General, the Governor in Council (who is hereby thereunto authorised) shall have declared by order in council to be an article to which the provisions of this section apply, and inspect any such article;

Articles in transit

- (b) inspect any article used or which the officer has reasonable ground for suspecting is intended to be used as a drug, or which the officer has reasonable ground for suspecting is a poison or a drug or a biological preparation or a prohibited article or any other article which, upon the recommendation of the Director-General, the Governor in Council (who is hereby thereunto authorised) shall have declared by order in council to be an article to which the provisions of this section apply, and which is being conveyed through or on any street, or conveyed by water in any vessel or boat, or by railway, or by tramway, or by vehicle, or by aeroplane, or by other means of transit apparently for the purposes of trade, sale, or delivery;

Examination

- (c) examine and open any such article or any package enclosing the same in any such place, or conveyed as aforesaid;

Samples

- (d) remove for examination or analysis any such article or portions or samples of any such article;

Sealing, etc.

- (e) weigh, count, measure, gauge, or mark such article or package, and fasten, secure, or seal the same or any door or opening affording access to the same;

Inspection of appliance

- (f) inspect and for that purpose, where deemed necessary, open up, take apart, and test any appliance or utensil used in the manufacture, preparation, storing, preservation, packing, delivering, or serving of any poison, drug, biological preparation, or article;

Seizure

- (g) seize any such article, appliance, or utensil which is, or appears to the officer to be, injurious or unwholesome, or unfit for use, or to be a prohibited article, and any package enclosing or containing the same.

Time for entering and inspection

(2) When any such article is usually made, manufactured, sold, delivered, conveyed, or prepared for sale during the night, such entry and inspection may be made at any reasonable time in the day or night; otherwise, such entry and inspection shall only be made at a reasonable time in the day.

Officer of local government

(3) Where the officer is an officer of a local government the officer's powers under this section may be exercised within the area of the local government, and on any part of a street, harbour, river, stream, or watercourse which is within or runs through or lies at the boundary of such area.

When portion of sample to be sent to consignor, consignee etc.

(4) In the case of any drug or article having been removed or seized by any officer in accordance with this section the officer shall (except in a case in respect of which other provision is made by or under this Act) if its nature, structure, or composition reasonably permits forthwith deliver a portion marked and sealed or fastened up in such a manner as its nature permits to the consignor or manufacturer thereof if the person's name and address are on or attached to such drug or article, or any package enclosing or containing the same, and if such address is in Queensland; otherwise, such portion shall be delivered to the owner of the thing removed or seized or the person in whose possession it has been found.

(4A) However, in the case of any drug or article that is not reasonably capable of division having been removed or seized by an officer under this section the officer having first marked and sealed or fastened up such drug or article in such a manner as its nature permits may either deliver same to an analyst or retain same in safe keeping.

(4B) In addition, where the drug or article removed or seized is liable to decomposition the officer may, in lieu of delivering such article as herein prescribed, forthwith place the same in cold storage, and shall thereupon

notify that fact to the consignor, manufacturer, owner, or person in whose possession it has been found.

Summons

(5) Any justice may grant a summons calling upon the owner of the article, appliance, or utensil so seized, or the person in whose possession it has been found, to appear before any Stipendiary Magistrate, to show cause why it and any package mentioned in subsection (4) should not be forfeited and destroyed.

Proceedings upon such summons

(6) Upon the said owner or person so appearing, or if after being so summoned the owner or person fails to appear, the said Magistrate may, after inquiry into the matter, and if satisfied by reasonable proof—

- (b) that the article was used or was intended to be sold or used as a drug, and was unfit for use, or might, if sold to a purchaser and used by the purchaser in a proper manner, injuriously affect the purchaser; or
- (c) that the article is a prohibited article; or
- (d) that such appliance or utensil is injurious or unwholesome or unfit for use;

adjudge such article, appliance or utensil, and also every such package, to be forfeited.

(6A) In default of such reasonable proof, the article, appliance, or utensil and the said package shall be forthwith restored to the owner or person in whose possession they were found.

Application of section

(7) This section shall, without restricting its general application, extend and apply to articles packed, bottled, or tinned, and this section shall be in aid of and not in derogation of any other provision of this Act conferring the like or other powers upon officers in respect of any substance or article mentioned herein, and shall be read and construed accordingly.

(8) Where pursuant to subsection (4) to (4B) a portion of any drug or article is to be delivered to any person other than an analyst, delivery may be effected by—

- (a) giving it to that person;
- (b) where the person is the consignor or manufacturer of the drug or article—leaving it at, or sending it by registered post to, the address shown on the drug or article or any package enclosing or containing the same or shown on anything attached to the drug, article or package as the address of the consignor or manufacturer;
- (c) where the person is the owner of the drug or article—leaving it at, or sending it by registered post to, the address last known to the person by whom it is left or sent as the place of residence or business of the owner or where the owner is a body corporate, as its registered office;
- (d) where the person is the owner of the drug or article and is a body corporate—leaving it with any person who is concerned or takes part in its management or is apparently in charge of any of its places of business.

(9) Any portion of a drug or article sent to an address pursuant to subsection (8) shall be deemed to have been delivered at the time at which it ought to be delivered in the ordinary course of post.

Power to demand, select, and take samples

133.(1) On payment or offer to any person selling, delivering, or carrying for delivery, or manufacturing or preparing for sale any drug or article, or to any person apparently acting as the person's agent or servant or apparently in charge of the drug or article, of the current market value thereof or at the rate of payment prescribed therefor, any officer may demand and select and take or obtain samples of the said drug or article for the purposes of this Act.

(2) Any officer may require any person as mentioned in subsection (1) to show and permit the inspection of the package in which such drug or article is at the time kept, and may take or draw or may require the said person to take or draw therefrom the samples demanded.

(3) Where any drug or article is kept for retail sale and is usually sold in a closed package, no person shall be required by any officer to sell less than the whole of such package.

(4) If any rates have been fixed by regulation for the payment for

samples of any drug or article, it shall not be necessary for any officer to tender any higher price for such sample.

(5) The taking or obtaining of a sample of any drug or article and the payment or offer of the current market value or, as the case may be, of the rate of payment prescribed shall, in circumstances that do not constitute an actual sale, for the purposes of this Act be deemed to be a sale of the sample to the officer by the person first mentioned in subsection (1) and, as the case may be, by the person's agent or servant or the person apparently in charge of the drug or article.

Manner in which sample may be dealt with

134.(1) An officer taking or obtaining any sample of any drug or article as last aforesaid shall divide the sample into 3 parts, and shall mark and seal or fasten up each such part in such manner as its nature permits, and shall offer 1 of such parts to the person from whom the officer took or obtained the sample.

(1A) However, when any drug, or article is contained in a package in such quantity that its division into 3 parts, as provided in subsection (1) would furnish parts insufficient for accurate analysis, additional packages, which purport to contain a similar drug or article under the same label may be taken or obtained; and the contents of 2 or more packages may be mixed together and the mixture divided and submitted for analysis as provided in subsection (1).

(2) The officer shall subsequently deliver another of such parts to an analyst, and shall retain the third of such parts.

(3) Where pursuant to section 132(4A) or subsection (2) of this section anything is to be delivered to an analyst, delivery may be effected by giving it to the analyst or by leaving it at the analyst's laboratory or by sending it by registered post to the analyst's laboratory or by such other means as may be prescribed.

(4) Anything sent by registered post to the laboratory of an analyst pursuant to subsection (3) shall be deemed to have been delivered at the time at which it ought to be delivered in the ordinary course of post.

Manner of dealing with particular samples

134A.(1) This section applies only in respect of any drug or article declared by the Governor in Council to be within the application of this section, the Governor in Council being hereby empowered so to do by notification published in the Gazette.

(2) Where a sample of any drug or article is taken or obtained in the form of separate or severable objects it shall not be necessary in dividing such sample into parts pursuant to section 134(1) and (1A) to divide any 1 of such objects and it shall be a sufficient compliance with those subsections if the person who takes or obtains such sample takes or obtains a number of such objects, divides the number so taken or obtained into the requisite number of parts so that each part consists of a number of such separate or severable objects and deals with each part in the manner provided by that section.

(3) A provision in this Act relating to a part of any drug or article shall be construed and applied as if each part of a sample duly dealt with in accordance with subsection (2) were a part of the drug or article comprising the sample.

Any person may have sample analysed

135. Any person may, on payment of the cost of the sample, require any officer to purchase a sample of any drug or article and submit the same for analysis.

Duty of analyst etc.

136.(1) Where any method of analysis, chemical or physical, has been prescribed for the analysis of any drug or article, any analyst, either for the prosecution or defence, shall in the certificate of analysis declare that the analyst has followed the prescribed method in the analysis.

(2) But evidence shall be admissible on the part of the defence of analysis made by other than the prescribed method, and to show that the prescribed method is not correct.

(3) The person from whom any drug or article was procured by an officer may obtain a copy of the result of any analysis of the drug or article from the Director-General or may, where the officer is an officer of a local

government, obtain a copy from—

- (a) in the case of Brisbane City Council—the Town Clerk;
- (b) in the case of any other local government—the chief executive officer within the meaning of the Local Government Act.

(4) No copy of any such analysis shall be used in any writing for trade purposes or as an advertisement, and if any person so uses it the person shall be liable to a penalty not exceeding 10 penalty units.

(5) No person shall use for trade purposes or as an advertisement any communication or correspondence from any State department relating to any drug or article or to any other matter to which this Act or any regulation made thereunder applies; and if any person so uses such correspondence or communication the person shall be liable to a penalty not exceeding 10 penalty units.

Obstruction of officer etc.

137. Any person who—

- (a) assaults, intimidates, or obstructs the Director-General or any officer in the exercise of powers or in the discharge of duties under this Part, or attempts so to do;
- (b) refuses to sell or to allow to be taken any sample demanded in accordance with this Part;
- (c) gives, procures, offers, or promises any bribe, recompense, inducement, or reward to influence any officer in the exercise of powers or in the discharge of duties under this Part;
- (d) retakes or attempts to retake any drug or article seized, taken, or obtained under this Part, or resists or attempts to prevent such seizure;
- (e) without authority opens, alters, breaks, removes, or erases any mark, fastening, or seal placed by any officer, in pursuance of this Part, upon any drug or article, or upon any package, place, door, or opening containing or affording access to the same;
- (f) refuses to state the person's name and/or place of abode or address when requested by an officer, or states a false name or false place of abode, or false address;

- (g) uses any threat or abusive or insulting language to any officer in the exercise of powers or in the discharge of duties;

shall be guilty of an offence and shall (if no further or other penalty is prescribed for such offence) be liable to a penalty not exceeding 10 penalty units for the first offence or in the discretion of the court imprisonment for any period not exceeding 1 month; and for the second or any subsequent offence to a penalty not exceeding 20 penalty units or in the discretion of the court imprisonment for any period not exceeding 3 months.

Liability for offence by agent or employee

139.(1) Notwithstanding sections 7 or 23 of the Criminal Code, or any other Act or law, or any rule or practice of law, where any person commits an offence against this Act in relation to any drug or article as an agent or employee, the principal or employer of such person shall be deemed to have taken part in committing the offence, and to be guilty of the offence, and may be charged with actually committing it.

(1A) It shall be immaterial that the offence was committed without the authority or contrary to the instructions of the principal or employer.

(2) A person shall not be liable to be convicted for an offence against this Act in relation to any drug or article committed by the person as an employee if the adjudicating court is satisfied that the offence was committed at a time and place when and where the business of the person's employer was being conducted under the personal superintendence of such employer or of a manager or other representative of such employer, and that the offence was committed with the knowledge of such employer, manager or other representative.

(3) Save as provided by subsection (2), this section applies so as not to prejudice any liability imposed under this Act upon any person by whom any offence against this Act is actually committed.

Agent or servant may recover from principal

140.(1) If the defendant, being an agent or servant, proves that the defendant sold the drug, or article without knowledge that any provisions of this Act with regard to the nature, substance, quality, description, labelling, constituents, or mode of manufacture of the drug or article, or any package

in which it was contained had been contravened or had not been complied with, the defendant may, whether the defendant's principal or employer has or has not been convicted and punished, recover in any court of competent jurisdiction from the defendant's principal or employer the amount of any penalty in which the defendant himself or herself has been convicted in respect of such prosecution, together with the costs thereof paid or payable by the defendant upon the defendant's conviction, and those paid or payable by the defendant in and about the defendant's defence to the prosecution.

(2) Where an agent or servant has been convicted as mentioned in subsection (1), the court may, if it thinks fit, suspend the operation of the conviction for any period not exceeding 3 months to enable the agent or servant to recover from his or her principal or employer the penalty and costs as mentioned in the subsection.

Principal may recover from agent or servant

(3) If the defendant, being the principal or employer, proves that without knowledge on the defendant's part any provisions of this Act with regard to the nature, substance, quality, description, labelling, constituents, or mode of manufacture of the drug or article, or any package in which it was contained had been contravened or had not been complied with in respect of the sale of such drug or article by the defendant's agent or servant, the defendant may, whether the defendant's agent or servant has or has not been convicted or punished, recover in any court of competent jurisdiction from the defendant's agent or servant the amount of any penalty in which the defendant himself or herself has been convicted in respect of such prosecution, together with the costs thereof paid or payable by the defendant upon the defendant's conviction and those paid or payable by the defendant in and about the defendant's defence to the prosecution.

(4) Where a principal or employer has been convicted as mentioned in subsection (3) the court may, if it thinks fit, suspend the operation of the conviction for any period not exceeding 3 months to enable the principal or employer to recover from his or her agent or servant the penalty and costs as mentioned in the subsection.

When importer or manufacturer liable

141. Where any drug or article in connection with which there is a breach of this Act is purchased or obtained in a closed package by an officer, any

person who appears from any statement or label thereon or attached thereto to have imported or manufactured or prepared such drug or article or to have enclosed it in such package shall, unless the person proves the contrary, be deemed to have so imported, manufactured, prepared, or enclosed the same, and (unless the breach is shown to be due to the default of the person on whose premises the package is found, or to deterioration or other causes beyond the control of the person named on the package or label) shall be guilty of an offence.

Guarantee, when a defence

142.(1) Where any person is prosecuted under this Act for the sale of any drug or article which is adulterated or falsely described, or is mixed, coloured, composed, or constituted in contravention of this Act, the person shall be entitled to be discharged from such prosecution upon proving—

- (a) that the person has received from the person from whom the person purchased such drug or article, or the person's duly authorised agent, a guarantee in writing that the same is not adulterated or falsely described or mixed, coloured, composed, or constituted as aforesaid; and
- (b) that the person had no reason to believe that the same was adulterated or falsely described, or mixed, coloured, composed, or constituted as aforesaid; and
- (c) that the person sold it in the same state as when the person purchased it;

subject, however, to the following conditions—

- (d) the person giving the guarantee must be resident in Queensland, or, if a company or firm, must have a registered office in Queensland;
- (e) the guarantee must state the name and place of business of the guarantor, and the name under which the guarantor trades;
- (f) a guarantee may be general or specific;
- (g) a general guarantee shall apply to the sale of the description of goods or classes of goods named therein;
- (h) a specific guarantee shall apply to the sale of specific goods, and

shall refer to a sale note, bill of sale, invoice, bill of lading, or other document describing the goods and the weight, measure, and number of the same, but shall not be available as a defence unless the defendant has, within 5 days after service of the summons, sent to the purchaser a copy of such guarantee with a written notice stating that the defendant intends to rely on the same as a defence, and specifying the name and place of business of the person giving the guarantee, and the name under which the guarantor trades, and has also sent a like notice of the defendant's intention to the person giving the guarantee;

- (i) a general guarantee shall apply to the sale of any particular class or classes of goods specified in a guarantee document describing such goods, and where it is intended to rely upon a general guarantee as a defence the like procedure as in the case of a specific guarantee shall be followed by the defendant;
- (j) the person by whom any guarantee is alleged to have been given under this section shall be entitled to offer evidence at the hearing, and the court may, if it thinks fit, adjourn the hearing to enable the person to do so;
- (k) the form of any guarantee under this section may be prescribed.

Penalty on guarantor

(2) Any person who gives any such guarantee which is false shall, in addition to any penalty for the sale of any drug or article in contravention of this Act, be guilty of an offence, unless the person proves that when the person gave the guarantee the person had reason to believe, and did believe, that the statements or descriptions contained therein were true; and it shall be no defence to any prosecution under this Act of the person giving such guarantee that the person gave it more than 6 months or any prescribed period of time before the institution of such prosecution.

Proceedings for such penalty

(3) Proceedings under subsection (2) against the person who has given the guarantee may be taken before a court having jurisdiction in the place where the drug or article was sold, or before a court having jurisdiction in the place where the guarantee was given.

Agents or servants

(4) When the defendant is a servant or agent of the person who purchased the drug or article under such a guarantee the defendant shall be entitled to the benefit of this section in the same manner and to the same extent as the defendant's employer or principal would have been if the employer or principal had been the defendant, unless it is proved that the servant or agent knew or had reason to suspect that the drug or article did not conform to the said guarantee.

Existing guarantees

(5) All general guarantees given under the provisions of the *Health Act 1900* and filed in the office of the Director-General and all serial numbers allotted to them respectively are, on and after 1 July 1938, hereby cancelled, and on and after such date no person shall use on the label or package of any food, drug, or article any such serial number, or the words 'Guaranteed under the Health Act,' or words of similar import, or any words or expression signifying, suggesting, or implying that the food, drug, or article, or the contents of any such package, is or are guaranteed under the provisions of this Act or regulations, or any other law.

Penalty for offence

143.(1) If any person contravenes or does not comply with or is guilty of an offence against any provision of this Part, and no other penalty is by this Act expressly provided in that behalf, the person shall be liable for the first offence to a penalty not exceeding 10 penalty units, and for a second offence in respect of the same provision to a penalty of not less than 5 penalty units nor exceeding 20 penalty units, and for any subsequent offence in respect of the same provision to a penalty of not less than 10 penalty units nor exceeding 40 penalty units.

Imprisonment in certain cases

(2) Where a person is found guilty of an offence under this Part for which a pecuniary penalty only is provided, and the offence is found by the court to have been committed wilfully or by the culpable negligence of the person accused, that person shall be liable, in addition to or in lieu of such penalty (unless the court is of opinion that a pecuniary penalty only will meet the circumstances of the case), to imprisonment for a period not exceeding 12 months.

Forfeiture

144.(1) In the case of any conviction under this Act, any drug or article (other than a poison, a restricted drug, a dangerous drug, or a biological preparation) to which the convictions relate may by order of the court be forfeited to Her Majesty.

(1A) Such forfeiture may extend to the whole of the drug or article, and to the whole of any similar drug or article, and to all packages containing any similar drug or article belonging to the defendant, or found on the defendant's premises or in the defendant's possession at the time of the committing of the offence.

(1B) In the case of any conviction under this Act, any poison, restricted drug, dangerous drug or biological preparation to which the conviction relates shall be and be deemed to be forfeited to Her Majesty.

(2) All drugs and articles forfeited under this Act shall be disposed of as the Minister may direct.

Proceedings for offences

145.(1) Save where specific provision is otherwise made in this Part, all proceedings in respect of an offence against this Part shall be taken in a summary manner before a Stipendiary Magistrate sitting alone.

(1A) However, it shall be competent for a justice of the peace to hear and determine an application for a remand or an adjournment of the case in the absence of a Stipendiary Magistrate.

(2) The summons in any such proceeding in which an analyst's certificate is used shall not be made returnable in less than 7 days from the day on which it is served.

(3) There shall be served with the summons a copy of the analyst's certificate (if any) obtained on behalf of the prosecution.

(3A) The endorsement of the analyst's certificate with an oath of service shall be prima facie evidence of the service of such copy.

(4) When any drug or article has been taken or obtained for analysis pursuant to Division 5, no prosecution under this Act in respect thereof shall be instituted after the expiration of 90 days from the time when it was so taken or obtained.

(5) Neither subsection (2) nor subsection (3) shall apply or extend with respect to proceedings against a person who has been arrested under this Act.

Analyst's certificate prima facie evidence

146.(1) Where in respect of any proceeding for an offence against this Part a copy of a certificate of analysis—

- (a) if obtained on behalf of the prosecution—is served with the summons; or
- (b) if obtained on behalf of the defendant—is given to the prosecutor at least 3 clear days before the return day;

then the certificate, a copy of which has been so served or given, purporting to be under the hand of an analyst, on its production in the proceeding shall be sufficient evidence of the facts stated therein unless an order is made pursuant to subsection (2) requiring the calling of the analyst as a witness.

(2) Where a certificate of analysis is, or is proposed to be, produced pursuant to subsection (1), the court, if it is satisfied, whether on application made to it or without any such application, that in the circumstances of the case the analyst who issued the certificate should be called as a witness, may order that the analyst be called as a witness by the party producing the certificate, or proposing so to do, and may grant any necessary adjournment accordingly.

(3) Notwithstanding anything contained in this Act, in the case of proceedings against a defendant who has been arrested under this Act, the production by the prosecutor or defendant of a certificate of analysis purporting to be under the hand of an analyst shall be sufficient evidence of the facts stated therein.

(3A) However, the court, if it is satisfied, whether on application made to it or without any such application, that in the circumstances of the case the analyst who issued the certificate should be called as a witness, may order that the analyst be called as a witness by the party producing the certificate in lieu of the certificate being received in evidence, and may grant any necessary adjournment accordingly.

(4) Where the court orders that an analyst be called as a witness pursuant to subsection (2) or subsection (3), it shall adopt such procedure as to it

seems just and equitable to enable the analyst to be called and to be examined by the parties irrespective of the stage reached in the proceeding.

Independent analysis

147. In the event of disagreement between the evidence of the analyst for the prosecution and that of the analyst for the defence, the court shall on the request of either party to any proceedings for an offence against this Part in respect of any drug or article a sample of which has been taken or obtained under and pursuant to section 133, and may, if it thinks fit without such request, order the Director-General to procure that the part of a sample retained by the officer when purchasing or obtaining the sample shall be submitted to another analyst for analysis; and the Director-General shall comply with every such order accordingly.

Expenses of analysis to be paid by offenders on conviction

148.(1) Where any person is convicted of an offence, the court shall order that all fees and other expenses incidental to the analysis of any drug or article (including an analysis made under section 147) in respect of which the conviction is obtained shall be paid by the person convicted.

(2) All such fees and expenses shall be deemed to be part of the costs attending the conviction, and shall be recoverable in the same manner as such costs are recoverable.

Onus of proof

149.(1) The burden of proof that any drug or article was not made or manufactured or dealt with or prepared or treated or offered or received or had in possession or kept or exposed or sent or forwarded or supplied or delivered or intended for sale or for purposes of sale, or sold, or that the same was not for consumption or use by humans, shall in every case be on the defendant.

(2) The purchase and sale of a sample of any drug or article under this Act for the purpose of analysis shall be deemed to be a purchase and sale of such drug or article for consumption or use by humans, unless the seller proves that the bulk from which such sample was taken was not offered, exposed, or intended for sale for consumption or use by humans.

(3) In every such proceeding the presence of drugs or poisons in any place shall be evidence that such drugs or poisons were intended to be sold or used.

(4) In any proceeding in respect of any drug or article comprising a sample taken or obtained for submission for analysis each of the parts into which such drug or article is divided pursuant to any provision of this Act shall be deemed to be of uniform composition with the other such parts until the contrary is proved.

Power to require information to be made available

150.(1) If in the opinion of the Director-General there is reasonable ground for suspecting that any person is in possession of any drug or article for the purpose of sale, or of manufacturing or preparing the same for sale in breach of this Act, the Director-General may require such person to produce for the Director-General's inspection, or to produce to any officer specially authorised in that behalf by the Director-General, any books or documents of the nature of store records or which deal with the reception, possession, purchase, sale, or delivery of any such drug or article.

(2) The Director-General may make or cause to be made copies of or extracts from any such books or documents, and such copies or extracts, certified as such by such specially authorised officer, shall be deemed to be true and correct copies or extracts, unless the contrary is proved.

(3) Every person who refuses or neglects to comply with any requisition made in pursuance of this section shall be liable to a penalty not exceeding 20 penalty units.

(4) Every officer who does not maintain the secrecy of all matters which come to the officer's knowledge in the performance of the officer's official duties under this section, or who communicates any such matter to any person whomsoever, except for the purpose of carrying into effect this Act, shall be liable to a penalty not exceeding 20 penalty units and may be dismissed from office.

Publication of names of offenders

151.(1) Where any person or any of the person's servants or agents has been convicted of any offence against this Act relating to the sale of any

drug or article, and such person or any of the person's servants or agents is subsequently convicted of any such offence (whether of the same offence or not), a notification of the name of such person may be published by the Director-General in the Gazette, and also by posting it up for a period of 21 days on the person's place of business, within 21 days after such last conviction, together with the address of the person's place of business, the trade or firm or company name under which the person trades, and a description of the nature of the subsequent offence, the decision of the court, and the penalty imposed, and any forfeiture incurred.

(2) When the drug or article was supplied to the said person by some other person, and was sold by the first mentioned person in the state in which the person received it, then the name of the supplier, and the address of the supplier's place of business, and the nature of the trade carried on by the supplier may also be included in the notification.

(3) Such notification may be republished in any newspaper circulating in Queensland; and no action for such republication shall lie against any person whomsoever.

(4) During the pendency of any appeal against a conviction for any offence, a notification mentioned in subsections (1) to (3) in respect of such offence shall not be published by the Director-General, but may be so published within 21 days after a final order has been made on appeal affirming the conviction or dismissing the appeal.

Regulations

152.(1) The Director-General may from time to time make regulations with respect to all or any of the following matters—

Regulations, standards etc.

- (a) prescribing standards for the composition, strength, weight, quantity, purity, or quality of any drug or article, or of any ingredient or component part thereof, or for the nature or proportion of any substance which may be mixed with or used in the preparation or preservation thereof, or prohibiting the addition of any article to any drug or article;
- (b) the permitted variations (if any) from standards or from statements of measure or volume;

Foreign substances

- (c) prohibiting the addition of any specified thing, or of more than the specified quantity or proportion thereof, to any drug or article;

Appliances

- (d) prohibiting in the manufacture, preparation, storing, preservation, packing, or in the delivering or serving, of any drug or article for sale, the use of appliances containing any substance that may be specified and any substance in or exceeding any proportion that may be specified, and prohibiting the sale, use, serving, or supply of such appliances;

Packages etc.

- (e) the substances which shall not be used in making any package;

Water

- (f) securing the purity of water used in the preparation or manufacture of any drug or article, or used in any boiler producing steam for any process of such preparation or manufacture;

Contamination etc.

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

Labelling

- (m) prescribing the mode of labelling any drug or article sold in packages, and the matter to be contained or not to be contained in such labels;
- (n) exempting any package or any drug or article from any provision of this Act relating to labelling
- (o) the degree of approximation allowed between the weight or measure of the drug or article and the weight or measure indicated on the label;
- (p) requiring labels that may be specified to be written on or attached to any drug or article, or to packages containing such drug or article, and prohibiting the use in such labels of words that may be specified
- (q) prescribing the statement of measure or volume in labels;
- (r) prohibiting the use of the word 'pure' or any like word;

Advertising etc.

- (s) regulating and controlling and, where deemed necessary, prohibiting or restricting advertisements (written or oral), circulars, posters, notices, pamphlets, or other printed or pictorial matter or statements or claims conveyed by radio relating to drugs or articles for sale, and prohibiting the use in such advertisements, circulars, posters, notices, pamphlets, or other printed or pictorial matter or spoken statements or claims of any statement, claim, design, device, fancy name, or abbreviation which is false or misleading in any particular whatsoever;

Defining or prescribing poisons etc.

- (t) defining or prescribing poisons and/or restricted drugs and/or dangerous drugs and/or biological preparations;
- (u) regulating and controlling and, as deemed necessary, prohibiting or restricting the ownership, possession, manufacture, cultivation, sale, distribution, supply, use, lending, dispensing, prescribing, or giving away of, or forging and uttering of prescriptions for or any other dealing with poisons, restricted drugs, dangerous drugs, biological preparations or goods for therapeutic use under and

- within the meaning of the *Therapeutic Goods Act 1966* (Cwlth);
- (v) the licensing of persons or classes of persons to manufacture, pack, re-pack or sell poisons or restricted drugs or dangerous drugs, or biological preparations or goods for therapeutic use under and within the meaning of the *Therapeutic Goods Act 1966* (Cwlth);
 - (w) the siting, construction, layout, condition and registration of the premises of all such licensees as aforesaid, any of which regulations may differ in respect of different poisons, or restricted drugs, or dangerous drugs, or biological preparations or goods for therapeutic use under and within the meaning of the *Therapeutic Goods Act 1966* (Cwlth);
 - (x) regulating the supply of drugs to drug dependent persons;
 - (y) providing for the inspection, sampling, seizure, and analysis of poisons, dangerous drugs, restricted drugs, biological preparations or goods for therapeutic use under and within the meaning of the *Therapeutic Goods Act 1966* (Cwlth), which provisions may be in addition to or in lieu of the provisions contained in this Act in respect of inspection, sampling, seizure, and analysis;
 - (z) providing for the inspection of all or any books, prescriptions, papers and other writings relating to the prescribing, dispensing, handling, having in possession, ordering, purchasing, selling or manufacturing of poisons, dangerous drugs, restricted drugs, biological preparations or goods for therapeutic use under and within the meaning of the *Therapeutic Goods Act 1966* (Cwlth), providing for the taking of extracts from or copies of any of such books, prescriptions, papers and other writings and the taking into and retention in, custody of an inspector of any of such books, prescriptions, papers and other writings and the circumstances in and conditions under which the same may be released from such custody;

Registration of pharmacies

- (za) the registration by the Director-General of premises in which medicines, mixtures, compounds and drugs are dispensed (other than a dispensary in any public sector hospital within the meaning

of the *Health Services Act 1991* or premises in which medicines, mixtures, compounds or drugs are dispensed by a person (not being a pharmacist within the meaning of the *Pharmacy Act 1976*) authorised so to do under this Act) or items of trade are sold or services in conjunction with such dispensing are provided;

(zb) the siting, construction, layout and condition of such premises;

Analysis

(zc) prescribing the method of analysis of any drug;

Conditions

(zd) the conditions on which licences and registrations may be granted, suspended, or revoked;

Fees for approval of analysts etc.

(ze) prescribing the fees to be paid—

(i) for licences and registrations and for the annual renewal thereof;

(ii) by persons applying to be approved and registered as public analysts or public experts;

(iii) in respect of the analysis of any drug or article by an analyst;

Standards for composition etc.

(zf) prescribing standards for the composition or quality of any article, or of any ingredient or component part thereof, or for the nature or proportion of any substance which may be mixed or used in the preparation thereof, or prohibiting the addition of any substance to any article;

Mode of packing etc.

(zg) prescribing the mode of packing, labelling, branding, or marking, any article;

Prices

(zh) fixing rates for payment for samples of drugs or articles taken or obtained under this Act;

Forms

(zi) prescribing forms to be used for the purposes of this Part;

Production of certificates

(zj) the production to officers of certificates and other documents granted or issued for the purposes of this Part;

Matters to be prescribed

(zk) all matters required or permitted by this Part to be prescribed;

Penalties

(zl) creating offences and prescribing penalties of not more than 80 penalty units for the offences; and

Generally

(zm)generally for carrying out the purposes of this Part.

(2) Any such regulations may be made applicable to the whole State, or to any part thereof, and either to poisons, drugs, or articles generally, or to specified poisons, drugs, or articles only, and may vary in their application according to the time, place, or destination of the poison, drug, or article referred to in the regulations.

Defined poisons, restricted drugs, dangerous drugs and biological preparations deemed prescribed

152A. Where, before the commencement of the *Health Act Amendment Act 1978*, the Director-General has defined a substance or article as a poison, a restricted drug, a dangerous drug or a biological preparation, then, for so long as such definition continues or continued in force, such substance or article shall be, and it is hereby declared always was, a poison, a restricted drug, a dangerous drug or, as the case may be, a biological preparation in each case prescribed by or under this Act.

Suggestive names for drugs

153.(1) No drug sold under any fancy or suggestive or proprietary or registered name, which is a substitute or is intended to be or may be used as a substitute, either wholly or in part, for any drug, shall, by reason only

being so sold under such name, be exempt from this Act.

Savings as to proprietary drugs

(2) Nothing in this Act shall be construed as requiring proprietors or manufacturers of proprietary drugs which contain no unwholesome added ingredient to disclose their trade formulae except in so far as this Act may require to secure freedom from adulteration or false description or to secure the prescribed declaration of any drug or substance.

Proceedings by indictment and contracts not to be affected

154.(1) Nothing in this Part contained shall effect the power of proceeding by indictment or take away any other remedy against any offender under this Act, or in any way interfere with contracts and bargains between individuals, and the rights and remedies belonging thereto.

(2) However, in any action brought by any person for a breach of contract on the sale of any drug or article, such person may recover, alone or in addition to any other damages recoverable by the person, the amount of any penalty in which the person has been convicted under this Act, together with the costs paid by the person upon such conviction and those incurred by the person in and about the person's defence thereto, if the person proves that the drug or article, the subject of such conviction, was sold to the person as and for a drug or article of the same nature, substance, and quality as that which was demanded of the person, and that the person purchased it not knowing it to be otherwise, and afterwards sold it in the same state in which the person purchased it; the defendant in such action being nevertheless at liberty to prove that the conviction was wrongful or that the amount of costs awarded or claimed was unreasonable.

(3) Notwithstanding this section no person shall be punished for the same offence both under this Act and under any other law or enactment.

PART 4C—SCIENTIFIC RESEARCH AND STUDIES

Authority to conduct scientific research and studies

154M. If it appears to the Governor in Council that any person desires to conduct scientific research and studies for the purpose of reducing morbidity or mortality in the State, the Governor in Council may, by order in council published in the Gazette, authorise such person to conduct such research and studies under this Part.

Information obtained and reports made under this Part

154N.(1) A person authorised under this Part and any person acting at the person's direction may—

- (a) seek and obtain information; and
- (b) receive reports, directed towards the research and studies such authorised person is conducting under this Part.

(1A) A person shall not, by virtue of subsection (1), be compellable to supply any such information or make any such report.

(2) A person shall not make use of or publish to any other person any information received or report made for the purpose of research and studies being conducted under this Part save in the conduct or for the purpose of such research and studies.

(2A) Save as aforesaid, evidence of such information or report shall not be admissible in any action or proceeding before any court, tribunal, board, agency or person except with the approval of the Governor in Council.

(2B) A witness in such an action or proceeding shall not be compellable, without the person's consent, to answer any question concerning any information supplied or report made by the person to a person authorised under this Part or to a person acting at the direction of such authorised person for the purpose of research and studies being conducted under this Part.

(3) An approval of the Governor in Council under subsection (2A) shall be sufficiently proved in any action or proceeding if an instrument evidencing the same is proved as an instrument made by the Governor in Council in accordance with the provisions of the *Evidence Act 1898*.

PART 5—MISCELLANEOUS PROVISIONS

Vessels or aircraft

155.(1) Any vessel or aircraft lying within any river, harbour, or other water, not within the area of a local government, shall be deemed to be within the area of such local government as the Governor in Council, by notification in the Gazette, declares, and where no such notification has been given then of the local government whose area is nearest to the place where such vessel is lying.

(2) This section shall not apply to any vessel or aircraft which is under the command or charge of any officer bearing Her Majesty's commission, or to any vessel or aircraft which belongs to the government of any foreign state.

Source of information or reports

157. No prosecutor or witness on behalf of any prosecution under this Act shall be compelled to disclose the fact that the prosecutor or witness received any information, or the nature of such information, or the name of any person who gave such information; and no officer appearing as a prosecutor or witness shall be compelled to produce any reports or documents made or received by the prosecutor or witness in his or her official capacity or containing confidential information, or to make any statement in relation thereto.

Protection to persons acting in execution of Act

158.(1) The Director-General, a local government and any officer or other person acting or purporting to act under the direction of the Director-General or a local government or otherwise in the execution of this Act or exercise of a power conferred by this Act shall not incur any personal liability on account of issuing any certificate, entering into any contract, furnishing any return, giving any information or doing any other thing, bona fide for the purpose of executing this Act or exercising a power conferred by this Act.

(2) Any expense reasonably incurred by any person acting or purporting

to act in any manner referred to in subsection (1) shall be deemed to be an expense authorised by this Act.

No officer to be concerned in contract

159.(1) No State officer or councillor of, or person employed by, a local government shall be concerned or interested directly or indirectly in any bargain or contract entered into by the Government or such local government respectively.

(2) If any such councillor or person is so concerned or interested, or if any such councillor or person under colour of the councillor's or person's office or employment, exacts, takes, or accepts any fee or reward whatsoever, other than the councillor's or person's proper salary, wages, remuneration, and allowances, the councillor or person shall be incapable of afterwards holding or continuing in any office or employment under this Act, and shall be liable to a penalty not exceeding 20 penalty units.

Entry

160.(1) The Director-General and the local government and the Director-General's or its officers shall have power to enter from time to time into and upon any house or premises for the purpose of examining as to the existence of any nuisance thereon or whether any of the provisions of this Act are being contravened, and/or of executing any work or making any inspection authorised to be executed or made under the provisions of this Act or any regulation, order, or local law, and/or making any inquiry under the provisions of this Act, and/or generally for the purpose of enforcing the provisions of this Act or any regulation, order, or local law, at any time between the hours of 9 a.m. and 6 p.m. of any day, or in the case of a business then at any hour when such business is in progress or is usually carried on.

(2) If such admission to any house or premises is refused, any justice, on complaint thereof by any such officer (made after reasonable notice in writing of the intention to make it has been given to the occupier), may, by order under the justice's hand, require the occupier to admit such officer into the house or premises; and if no occupier can be found the justice may, on proof of that fact, by order under the justice's hand authorise any such officer to enter such house or premises.

(2A) However, if the justice is satisfied that the occupier has wilfully absented or concealed himself or herself in order to obstruct or delay the entry into such house or premises of any such officer, the justice may by order under the justice's hand authorise such officer to enter such house or premises.

(3) Any such order made by a justice shall continue in force until the nuisance is abated or the work or inspection required has been completed.

(4) Any person who fails to obey an order of a justice for the admission of any such officer shall be liable to a penalty not exceeding 10 penalty units and to a daily penalty not exceeding 1 penalty unit.

Compensation in case of damage

161. Save as by this Act is otherwise provided, if any person sustains any damage by reason of the exercise by a local government of any of the powers of this Act in relation to any matter as to which the person is not himself or herself in default, full compensation shall be made to such person by the local government exercising such powers.

Compensation payable, how to be fixed

162.(1) Save as by this Act is otherwise provided, and notwithstanding the provisions of any other Act to the contrary, any compensation payable by a local government to any person by reason of the exercise of any powers conferred by this Act shall be such sum as may be agreed upon by and between the parties, or, as in the case of dispute, may be fixed by a Stipendiary Magistrate upon summons.

(2) Every Stipendiary Magistrate shall have jurisdiction to hear and determine the matter of such dispute, and to grant such costs as, in the Stipendiary Magistrate's opinion, are just and reasonable.

(3) Any party may appeal to the Supreme Court from the whole or any part of an order of a Stipendiary Magistrate under the provisions of this section.

(4) Every such appeal shall be by way of rehearing, and shall be heard and determined in the same manner, including the right to a jury, as if the matter of such dispute had been brought before the Supreme Court in the first instance.

Local laws

163. The laws in force for the time being relating to the making of local laws under the Local Government Act shall apply to all local laws which a local government is empowered to make under the provisions of this Act.

Service of notice

164.(1) Any notice, order, process, or other document, under the provisions of this Act or any regulation or local law, required or authorised to be given or served to or upon any person, may be served—

- (a) by delivering the same to such person; or
- (b) by leaving the same at the person's usual or last known place of abode or address; or
- (c) by forwarding the same by post in a prepaid letter addressed to such person at the person's usual or last known place of abode or address.

(2) Any such document, if addressed to the owner or occupier of premises, may be served by delivering the same, or a true copy thereof, to some person on the premises, or, if there is no person on the premises who can be so served, by fixing the same on some conspicuous part of the premises.

(3) Where a notice is required to be given to a person whose name or address is unknown, the notice may be served by publishing it in the Gazette and some newspaper 3 times at intervals of not less than 1 week between any 2 publications.

(4) Any notice by this Act required to be given to the owner or occupier of any premises may, if the name of the owner or occupier is not known, be addressed to the owner or occupier by the description of the 'owner' or 'occupier' of the premises (naming them), in respect of which the notice is given, without further name or description.

(5) Any document may be served on the Director-General or a local government—

- (a) by delivering the same to the Director-General or an officer appointed by the Director-General in that behalf or to the chief executive officer of the local government; or

- (b) by forwarding the same by post in a prepaid letter addressed to the Director-General or it.

(6) Any document served by being forwarded by post shall be deemed to have been served at the last moment of the day on which the same ought to be delivered at its destination in the ordinary course of post, and in proving service it shall be sufficient to prove that the document was properly stamped and addressed and put into the post.

Offences

165. Any person who is guilty of any contravention of any regulation or order made by the Director-General relating to diseases, or who prevents or obstructs any person acting under the authority or in the execution of any such regulation or order, shall be liable to a penalty not exceeding 20 penalty units or to be imprisoned for any period not exceeding 12 months.

Neglect of duty by officer an offence

166. If any officer neglects to perform any duty imposed upon the officer by this Act or any regulation or local law, or wilfully neglects to prosecute offenders against the provisions of this Act or any regulation or local law, the officer shall be liable to a penalty not exceeding 10 penalty units.

Obstructing execution of Act

167.(1) Any person who—

- (a) assaults, intimidates, threatens, abuses or insults the Director-General, an officer or any other person in the exercise of powers or in the performance of duties under this Act;
- (b) obstructs or hinders the Director-General, an officer or any other person, or a local government in the exercise of powers or in the performance of duties under this Act;
- (c) gives, procures, offers, or promises any bribe, recompense, inducement, or reward to influence an officer or any other person in the exercise of powers or in the performance of duties under this Act;

- (d) refuses to state the person's name and address or states a name or address that is false, when requested to state the person's name or address by an officer carrying out any inquiry for the purposes of this Act;

commits an offence against this Act and shall be liable to a penalty not exceeding 20 penalty units and, if the offence is a continuing one, to a daily penalty not exceeding 1 penalty unit per day.

(2) Any person who wilfully destroys, pulls down, injures, or defaces any board on which any regulation, local law, notice, order, or other matter is inscribed shall, if the same was put up by authority of the Minister or the Director-General or the local government, be liable to a penalty not exceeding 4 penalty units.

(3) If the occupier of any premises prevents the owner thereof from obeying or carrying into effect any of the provisions of this Act, or of any regulation, order, or local law, any justice to whom application is made in that behalf shall by order in writing require such occupier to permit the execution of any works, acts, matters, or things required to be executed, provided that the same appear to such justice to be necessary for the purpose of obeying or carrying into effect the provisions of this Act, or such regulation, order, or local law; and if within 48 hours after the making of the order such occupier fails to comply therewith, the occupier shall be liable to a daily penalty not exceeding 1 penalty unit.

(3A) Every such owner, during the continuance of such refusal, shall be discharged from any penalties to which the owner might otherwise have become liable by reason of the owner's default in carrying out into effect any of the provisions of this Act, or of such regulation, order, or local law.

(4) Any occupier of premises who, when requested by or on behalf of the Director-General or the local government to state the name of the owner of such premises, refuses or wilfully omits to disclose or wilfully misstates the name of such owner, shall be liable to a penalty not exceeding 10 penalty units.

Duty of police officers

168.(1) It shall be the duty of every police officer who finds any person committing a breach of any of the provisions of this Act, or of any regulation, or local law, to demand from such person the person's name and

place of abode, and to report the fact of such breach and the name and place of abode, of such person as soon as conveniently may be to the proper authority.

(2) Any such person who refuses to state the person's name and place of abode when required by a police officer so to do, or who in the opinion of such officer states a false name or place of abode, may, without any other warrant than this Act, be apprehended by such officer and taken before justices, there to be dealt with according to law.

(3) Any person who refuses to state the person's name and place of abode, or states a false name or place of abode, shall be liable to a penalty not exceeding 4 penalty units.

Power to obtain search warrant in certain cases

168A.(1) Upon complaint on oath before any justice of the peace by any police officer that such officer reasonably suspects—

- (a) that any female who has been reported to the police as a missing person is; or
- (b) that any female is for the purposes of procuring her miscarriage; or
- (c) that the dead body of any female as aforesaid is;

in or upon any place, such justice may grant a warrant to any police officer with or without assistants to enter and search such place and, if admission is refused, to break into the same and to search for the female concerned or her dead body and to require any person found in or upon such place to give to such police officer his or her name, occupation, and place of abode, and his or her reasons for being in or upon such place.

(2) If in the execution of such warrant any instrument or thing is found in or upon the place concerned which is or is believed to be capable of being used for procuring a miscarriage, or which may afford evidence thereof, the police officer concerned shall have power to seize and detain the same.

(3) It shall be sufficient to show on the face of any warrant issued or purporting to be issued under this section that the justice concerned issued same upon the complaint on oath of the police officer named therein that such officer reasonably suspected—

- (a) that the female named therein as having been reported to the police as a missing person is; or
- (b) that the female named therein is, for the purpose of procuring her miscarriage; or
- (c) that the dead body of any such female as aforesaid is;

in or upon the place to which the warrant relates, but it shall not be necessary to set out in the complaint or warrant the grounds of such reasonable suspicion.

(4) The onus of proving that such police officer had no reasonable ground for complaint upon oath of the subject matter complained of by the police officer shall lie upon any person alleging in any proceedings whatsoever (civil or criminal) that there was no reasonable ground for such complaint, and such person shall not discharge such onus of proof unless the person proves also that the police officer concerned was not acting in good faith when the police officer made such complaint upon oath.

Prosecution of offences

169.(1) The chief executive officer of a local government may from time to time order proceedings to be taken for the recovery of any penalties, and for the punishment of any person offending against the provisions of this Act, or any local law, or any regulation which it is the duty of the local government to enforce, and may order the expenses of such prosecution or other proceedings to be paid out of the operating fund.

(2) The Director-General may from time to time order any legal proceedings to be taken for the punishment of any person offending against the provisions of this Act, or any regulation, or order of the Director-General.

Power to proceed against local government for nuisance

170. Without prejudice to any other power contained in this Act, and notwithstanding anything contained in this Act, in any case where a nuisance or a condition injurious to health is caused by any act, default, sufferance, or neglect of a local government or any of its officers or employees, or on any land or premises owned or occupied by a local government, and also in any case where any local government fails to

exercise or perform wholly or in part any power, authority, or jurisdiction which by this Act, or, in respect of the health of the inhabitants of its area by the Local Government Act is conferred upon or vested in it, the Director-General may abate or remedy such nuisance or injurious condition, or may exercise or perform such power, authority, or jurisdiction, or may institute and carry on any legal or other proceeding as fully and completely as if the Director-General were the local government concerned, including any proceedings against the local government or its officer or employee, and any costs, charges, or expenses incurred by the Director-General under this section shall be a debt due from the local government to the Crown, and shall be recoverable with full costs by the Director-General in any court of competent jurisdiction.

Who may act for local government in cases of emergency

171.(1) In every case where a local government is authorised or required by this Act to cause any work to be done, or any order or direction to be issued, for the purpose of preventing or removing any nuisance or checking or preventing the spread of any disease, it shall be lawful for the chief executive officer, to cause such work to be done or such order or direction to be issued.

(2) And thereupon the same consequences shall ensue as if the work had been done or the order or direction issued by the resolution of the local government.

(3) However, a statement of all such work caused to be done and every such order or direction issued shall at the next meeting be submitted to the local government.

No abatement

172. Proceedings against several persons included in 1 information, complaint, or summons shall not abate by reason of the death of any of the persons so included, but all such proceedings may be carried on as if the deceased person had not been originally so included.

Reference to ‘owner’ and ‘occupier’

173. Whenever in any proceeding under the provisions of this Act, or any local law, or any regulation or order of the Director-General it becomes necessary to mention or refer to the owner or occupier of any premises, it shall be sufficient to designate the person as the ‘owner’ or ‘occupier’ of such premises, without name or further description.

Contribution

174. Nothing in this Act shall prevent persons proceeded against from recovering contribution in any case in which they would otherwise be entitled to contribution by law.

General penalty

175. Every person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence and liable, if no other penalty is imposed, to a penalty not exceeding 20 penalty units.

Recovery of penalties etc.

176.(1) All offences against the provisions of this Act, and all penalties, forfeitures, costs, and expenses under the provisions of this Act may, unless otherwise provided, be prosecuted and recovered by complaint under the *Justices Act 1886* .

(2) All penalties recovered on the complaint of the local government or its officer shall be paid into its operating fund.

(3) In all other cases they shall be paid into the Consolidated Fund.

(4) Notwithstanding any provision of any other Act, where any person is convicted of an offence against this Act the penalty to be imposed in respect of such offence shall not be reduced below any prescribed minimum amount of penalty.

(5) Proceedings for the recovery of any penalty under the provisions of this Act shall not be had or taken by any person other than by a party aggrieved, or by the Director-General or the local government of the area in which the offence is committed, or an officer appointed under the

provisions of this Act, without the consent in writing of the Attorney-General.

(6) No provision of this section shall be construed to require the consent of the Attorney-General to proceedings against a person arrested under this Act had or taken by the police officer or other person duly authorised who arrested that person or by another police officer.

(7) Proceedings against a person so arrested may be had or taken by any police officer.

Limitation of time for summary proceedings to be taken

177.(1) Save where it is otherwise prescribed, proceedings in respect of an offence against any provision of this Act may be taken in a summary manner—

- (a) within the time limited therefor by the *Justices Act 1886*;
- (b) within 6 months after the Director-General or, where a proceeding is taken by a local government, that local government first became aware of the offence;

whichever time is the later to expire.

(2) A certificate purporting to be signed by the Director-General or by the chief executive officer or mayor of a local government stating the date on which the Director-General or, as the case may be, the local government first became aware of an offence shall be accepted in any proceeding as evidence of the matters contained therein.

Evidence

178. In any legal proceeding under this Act, or any regulation, or local law—

- (a) the fact that this Act is in force in any local government area or part thereof shall be presumed until the contrary is proved;
- (b) the signature of the Director-General shall be judicially noticed;
- (c) the production of a copy of the Gazette containing any regulations, or local law, or any order, notification, or approval purporting to be made by the Governor in Council, the Minister, the Director-

General, or the local government under the provisions of this Act shall be for all purposes conclusive evidence of such local law, regulations, or of such order, notification, or approval, as the case may be;

- (d) however, nothing in this subsection contained shall prejudice or affect any provision of this Act requiring judicial notice to be taken of any such regulations or local law, or of any such order, notification, or approval upon the publication thereof in the Gazette;
- (e) the production of a certificate purporting to be signed by a person authorised to grant the same shall be sufficient prima facie evidence of the facts herein stated, and judicial notice shall be taken of the signature to every such certificate;
- (f) the fact that any notifiable disease has existed upon any premises for a period of 1 week shall be taken as prima facie evidence that the owner or occupier of the premises knew of the existence of such disease upon the premises;
- (g) with respect to any licence, certificate, authority or approval which the Director-General is authorised by any provision of this Act to grant, issue or give, a document signed by the Director-General and stating that at any specified time there was or was not in force any specified such licence, certificate, authority or approval granted, issued or given to a specified person, or in respect of any specified apparatus, shall, upon its production in evidence be evidence of the matter or matters stated in such document and, in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such matter or matters;
- (h) 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—
 - (i) that it is a poison; or
 - (ii) that it consists of or contains poison; or
 - (iii) that it is a restricted drug; or
 - (iv) that it is a dangerous drug;then in every such case—

- (v) 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 (i), (ii), (iii) or (iv) shall be prima facie evidence that the said particular article or substance also conforms to the same description accordingly;
- (vi) 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;
- (vii) 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.

Regulations

180.(1) The Governor in Council may make regulations for the purposes of this Act.

(2) A regulation may be made under this section with respect to any of the following matters—

- (a) the promotion, safeguarding and maintenance of the health and wellbeing of the people of Queensland;
- (b) the powers of inspectors in relation to—
 - (i) the signing and serving of notices on persons contravening a regulation; and
 - (ii) securing compliance with a regulation by persons contravening the regulation; and
- (c) any matter in relation to which the Director-General may make a

regulation.

(3) The Director-General may also make regulations with respect to the matters mentioned in subsection (2)(b).

SCHEDULE B**FORMS****[Form A]****NOTICE REQUIRING ABATEMENT OF NUISANCE**

To [*person causing the nuisance, or owner or occupier of the premises whereon the nuisance exists, as the case may be*].

Take notice that under the provisions of the *Health Act 1937* the [*describing the local government*], being satisfied of the existence of a nuisance at [*describe premises of place where the nuisance exists*], arising from [*describe the cause of nuisance, for instance, want of a privy or drain; or, for further instance, a ditch or drain so foul as to be a nuisance or injurious to health; or, for further instance, swine kept so as to be a nuisance or injurious to health*], hereby requires you within from the service of this notice to abate the same, and for that purpose to [*state any things required to be done or works to be executed*]. If you make default in complying with the requisitions of this notice, or if the said nuisance, though abated, is likely to recur, a summons will be issued requiring your attendance to answer a complaint which will be made to 2 justices for enforcing the abatement of the nuisance, and prohibiting a recurrence thereof, and for recovering the costs and penalties that may be incurred thereby.

Dated this day of, 19

Signature of officer of local government.

SCHEDULE B (continued)

[Form C]

ORDER FOR ABATEMENT OR PROHIBITION OF NUISANCE

To the owner [*or occupier*] of [*describe the premises*], situated [*give such description as may be sufficient to identify the premises*] [*or to A.B. of*]
].

Whereas on the day of complaint was made before , one of Her Majesty's justices of the peace in and for the State, by that in or on certain premises situated at the following nuisance existed [*describing it*], and that the said nuisance was caused by the Act or default of the owner [*or occupier*] of the said premises [*or was caused by A.B.*]. [*If the nuisance has been removed say: the following nuisance existed on or about (the day the nuisance was ascertained to exist) and that the said nuisance was caused by (etc.), and although the same is now removed the same or the like nuisance is likely to recur on the said premises*]:

And whereas the owner [*or occupier*] within the meaning of the *Health Act 1937* [*or the said A.B.*], has this day appeared before us [*or me (describing the court)*] to answer the matter of the said complaint [*or in case the party charged does not appear, say: And whereas it has been this day proved to our (or my) satisfaction that a true copy of a summons requiring the owner (or occupier) of the said premises (or the said A.B.) to appear this day before us (or me) has been duly served according to the said Act*]:

Now, on proof before us [*or me*] that the nuisance so complained of exists on the said premises, and that the same is caused by the act or default of the owner [*or occupier*] of the said premises [*or by the said A.B.*], we [*or I*], in pursuance of the said Act, hereby order the said owner [*or occupier, or A.B.*] within [*specify the time*] from the service of this order according to the said Act [*here specify any things required to be done or works to be executed, as, for instance, to provide for the cleanly and wholesome keeping of the said premises; or to remove the animal kept so as to be a nuisance or injurious to health; or, for further instance, to cleanse, whitewash, purify, and disinfect the said dwelling house; or, for further instance, to construct a privy or drain, etc.; or, for further instance, to cleanse or, to cover or to fill up the said cesspool, etc., so that the same shall*

SCHEDULE B (continued)

no longer be a nuisance or injurious to health as aforesaid]; *[and if it appears to the Court that the nuisance is likely to recur on the premises, say: and we (or I), being satisfied that, notwithstanding the said cause (or causes) of nuisances may be removed under this order, the same is (or are) likely to recur, do therefore prohibit the said owner (or occupier, or A.B.) from (here insert the matter of the prohibition, as, for instance, using the said house or building for human habitation until the same, in our (or my) judgment, is rendered fit for that purpose)].*

In case the nuisance was removed before complaint, say, Now, on proof before us [or me] that at or recently before the time of making the said complaint, to wit on _____, as aforesaid, the cause of nuisance complained of did exist on the said premises, but the same has since been removed, yet, notwithstanding such removal, we [or I], being satisfied that it is likely that the same or the like nuisance will recur on the said premises, do hereby prohibit [order of prohibition]; and if this order of prohibition is infringed, then we [or I] [order to local government to do works]:

Given under our hands and seals [or my hand and seal, *describing the Court*] this _____ day of _____, 19 .

J.S. [L.S.]

J.T. [L.S.]

SCHEDULE B (continued)

[Form D]ORDER FOR ABATEMENT OF NUISANCE BY LOCAL
GOVERNMENT

To the local government [*or as the case may be*] of

Whereas [*state complaint of nuisance as in last form*]:

And whereas it has been proved to our [*or my*] satisfaction that such nuisance exists, but that no owner or occupier of the premises, or person causing the nuisance, is known *or* can be found [*as the case may be*]; Now we [*or I*], in pursuance of the said Act, hereby order the said [*local government, naming it*], forthwith to [*here specify the work to be done*].

Given, *etc.* [*as in last form*].

SCHEDULE B (continued)

[Form E]

ORDER TO PERMIT EXECUTION OF WORKS BY OWNER

Whereas complaint has been made to me, E. F., one of Her Majesty's justices of the peace in and for the State, by A.B., owner, within the meaning of the *Health Act 1937* of certain premises [*describe the situation of the premises so as to identify them*] that C.D., the occupier of the said premises, prevents the said A.B. from obeying and carrying into effect the provisions of the said Act in this, to wit, that the said C.D. prevents the said A.B. from [*here describe the works generally according to circumstances*]: And whereas the said C.D. has been duly summoned to answer the said complaint, and has not shown sufficient cause against the same, and it appears to me that the said works are necessary for the purpose of enabling the said A.B. to obey and carry into effect the provisions of the said Act, I do hereby order the said C.D. to permit the said A.B. to execute the same in the manner required by the said Act.

Given under my hand and seal this day of , 19 .

J.S. [L.S.]

SCHEDULE B (continued)

[Form F]

ORDER OF JUSTICE FOR ADMISSION OF OFFICER

Whereas [*describe the local government*] has, by its officer [*naming the officer*], made application to me, A.B., one of Her Majesty's justices of the peace in and for the State, and the said officer has made oath to me that demand has been made, pursuant to the provisions of the *Health Act 1937* for admission to [*describe situation of premises so as to identify them*], for the purpose of [*describe the purpose, as the case may be*], and that such demand has been refused, or [*as the case may be, name of person*] being the person having the custody of the said premises, has wilfully absented or concealed himself or herself in order to obstruct or delay admission to such premises.

Now, therefore, I, the A.B., hereby require you [*name the person having custody of the premises*] to admit the said [*name the local government, or the officer of the local government*] to the said premises, for the purpose aforesaid.

Given, *etc.* [*as in last form*].

ENDNOTES

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2 Date to which amendments incorporated

This is the reprint date mentioned in section 5(c) of the Reprints Act 1992. Accordingly, this reprint includes all amendments that commenced operation on or before 26 March 1994. Future amendments of the Health Act 1937 may be made in accordance with this reprint under section 49 of the Reprints Act 1992.

3 List of legislation

Health Act 1937 1 Geo 6 No. 31

date of assent 2 December 1937

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 1938 (proc pubd Gaz 11 December 1937 p 2020)

as amended by—

Health Act Amendment Act 1939 3 Geo 6 No. 34

date of assent 6 December 1939

commenced on date of assent

Health Acts Amendment Act 1941 5 Geo 6 No. 8

date of assent 13 November 1941

ss 1–3 commenced on date of assent
remaining provisions commenced 21 June 1947 (proc pubd Gaz 21 June 1947
p 2275)

Health Acts Amendment Act 1943 7 Geo 6 No. 24

date of assent 23 September 1943
commenced on date of assent

Health Acts Amendment Act 1945 9 Geo 6 No. 9

date of assent 5 April 1945
commenced on date of assent

Health Acts Amendment Act 1946 10 Geo 6 No. 40

date of assent 14 November 1946
commenced on date of assent

Health Acts Amendment Act 1946 (No. 2) 11 Geo 6 No. 9

date of assent 20 December 1946
commenced 1 November 1950 (proc pubd Gaz 30 October 1950 p 2079)

Health Acts Amendment Act 1948 13 Geo 6 No. 16

date of assent 17 December 1948
commenced on date of assent

Sewerage, Water Supply, and Gasfitting Act 1949 13 Geo 6 No. 55 Pt 6

date of assent 8 December 1949
commenced 1 January 1950 (proc pubd Gaz 24 December 1949 p 2650)

Health Acts Amendment Act 1955 4 Eliz 2 No. 38

date of assent 30 November 1955
commenced 14 January 1956 (proc pubd Gaz 14 January 1956 p 94)

Coroners Act 1958 7 Eliz 2 No. 32 s 3(1), (3) Schs 1–2

date of assent 30 October 1958
commenced 23 March 1959 (proc pubd Gaz 14 March 1959 p 1581)

Health Acts Amendment Act 1959 8 Eliz 2 No. 57

date of assent 21 December 1959
commenced on date of assent

Health Acts Amendment Act 1960 9 Eliz 2 No. 49

date of assent 30 December 1960
commenced on date of assent

Health Acts Amendment Act 1962 No. 27

date of assent 13 December 1962
s 8 commenced on 8 November 1965 (proc pubd Gaz 6 November 1965 p 944)
remaining provisions commenced on date of assent

Mental Health Act 1962 No. 46 s 4(2) Sch 2

date of assent 28 December 1962
commenced 1 July 1963 (proc pubd Gaz 1 June 1963 p 507)

Trade Descriptions (Textile Products) Act Repeal, and Other Acts Amendment Act 1964 No. 68 Pt 3

date of assent 23 December 1964
commenced on date of assent

Health Acts Amendment Act 1964 No. 71

date of assent 24 December 1964
commenced on date of assent

Health Acts Amendment Act 1966 No. 25

date of assent 15 December 1966
commenced on date of assent

Health Acts Amendment Act 1967 No. 20

date of assent 7 April 1967
commenced on date of assent

Health Acts Amendment Act 1968 No. 19

date of assent 22 April 1968
commenced on date of assent

Health Acts Amendment Act 1968 (No. 2) No. 54

date of assent 23 December 1968
commenced on date of assent

Health Act Amendment Act 1971 No. 20

date of assent 21 April 1971
commenced on date of assent

Metric Conversion Act 1972 No. 31 Pt 2 Sch 1

date of assent 21 December 1972
Pt 2 and Sch 1 in relation to this Act commenced 1 January 1974 (proc pubd
Gaz 28 July 1973 p 2275)

Health Act Amendment Act 1973 No. 29

date of assent 19 April 1973
commenced on date of assent

Age of Majority Act 1974 No. 57 s 8 Sch 1

date of assent 27 September 1974
commenced 1 March 1975 (proc pubd Gaz 16 November 1974 p 1083)

Limitation of Actions Act 1974 No. 75 s 4 Sch

date of assent 1 November 1974
commenced 1 July 1975 (see s 2)

Health Act Amendment Act 1975 No. 70

date of assent 12 December 1975
ss 3, 25 commenced 30 October 1976 (proc pubd Gaz 30 October 1976 p 984)
remaining provisions commenced on date of assent

Health Act Amendment Act 1976 No. 41

date of assent 5 May 1976
commenced on date of assent

Health Act Amendment Act 1976 (No. 2) No. 88

date of assent 17 December 1976
commenced on date of assent

Health Act Amendment Act 1978 No. 65

date of assent 2 November 1978
s 9 never proclaimed into force and on 1980 No. 26 s 3
remaining provisions commenced on date of assent

Health Act Amendment Act 1979 No. 46

date of assent 2 November 1979
commenced on date of assent

Transplantation and Anatomy Act 1979 No. 74 s 54(4), (5)

date of assent 21 December 1979
commenced 12 April 1980 (proc pubd Gaz 12 April 1980 p 1344)

Health Act Amendment Act 1980 No. 26

date of assent 12 May 1980
commenced 14 June 1980 (proc pubd Gaz 14 June 1980 p 1186)

Health Act Amendment Act 1980 (No. 2) No. 61

date of assent 30 November 1980
ss 1–2 commenced on date of assent
remaining provisions commenced 28 November 1981 (proc pubd Gaz
28 November 1981 p 1341)

Food Act 1981 No. 44 s 4 Sch 1

date of assent 12 June 1982
commenced 1 July 1982 (proc pubd Gaz 26 June 1982 p 1640)

Health Act Amendment Act 1981 No. 77

date of assent 22 October 1981
commenced on date of assent

Health Act Amendment Act 1982 No. 57

date of assent 3 December 1982
ss 1–3, 34–38 commenced on date of assent
remaining provisions commenced 12 March 1983 (proc pubd Gaz 12 March
1983 p 1009)

Food Act and Health Act Amendment Act 1984 No. 22 Pt 3

date of assent 22 March 1984
commenced on date of assent

Health Act Amendment Act 1984 No. 26

date of assent 22 March 1984
ss 1–2 commenced on date of assent
remaining provisions commenced 1 November 1986 (proc pubd Gaz 18 October
1986 p 1118)

Mental Health Act, Criminal Code and Health Act Amendment Act 1984 No. 66 Pt 4

date of assent 12 September 1984
commenced 1 July 1985 (proc pubd Gaz 27 April 1985 p 2349)

Health Act Amendment Act 1984 (No. 2) No. 103

date of assent 12 December 1984
commenced on date of assent

Drugs Misuse Act 1986 No. 36 s 60(1) Sch 6 Pt 1

date of assent 5 September 1986
commenced 27 October 1986 (proc pubd Gaz 25 October 1986 p 1242)

Health Act Amendment Act 1987 No. 22

date of assent 23 April 1987
ss 1–2 commenced on date of assent
s 26 commenced 18 July 1987 (proc pubd Gaz 18 July 1987 p 2807)
ss 28–33 commenced 19 December 1987 (proc pubd Gaz 19 December 1987 p 1666)
remaining provisions commenced 30 May 1987 (proc pubd Gaz 30 May 1987 p 846)

Health Act Amendment Act 1988 No. 25

date of assent 11 April 1988
ss 1–2 commenced on date of assent
remaining provisions commenced 21 May 1988 (proc pubd Gaz 21 May 1988 p 557)

Corrective Services (Consequential Amendments) Act 1988 No. 88 s 3 Sch 1

date of assent 1 December 1988
commenced 15 December 1988 (see s 2(2) and order pubd Gaz 10 December 1988 p 1675)

Workplace Health and Safety Act 1989 No. 63 s 3(2) Sch 2

date of assent 12 May 1989
commenced 31 July 1989 (proc pubd Ind Gaz 29 July 1989 p 770)

Health Act and Food Act Amendment Act 1990 No. 59 Pt 2

date of assent 18 September 1990
commenced on date of assent

Health Services Act 1991 No. 24 s 7.3 Sch 3

date of assent 5 June 1991
commenced 1 July 1991 (proc pubd Gaz 22 June 1991 p 974)

Statute Law (Miscellaneous Provisions) Act 1991 No. 97 s 3 Sch 2

date of assent 17 December 1991
commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1992 No. 36 s 2 Sch 1

date of assent 2 July 1992
amendment 1 not yet proclaimed into force
remaining provisions commenced on date of assent

Nursing Act 1992 No. 55 s 163 Sch 2

date of assent 30 November 1992
 commenced 1 November 1993 (1993 SL No. 393)

Health Legislation Amendment Act 1992 No. 66 Pts 1, 6

date of assent 7 December 1992
 Pt 1 commenced on date of assent
 remaining provisions commenced 18 December 1992 (1992 SL No. 450)

Local Government Act 1993 No. 70 s 804 Sch

date of assent 7 December 1993
 commenced 26 March 1994 (see s 2(5))

Health Legislation Amendment Act 1993 No. 79 Pts 1, 6

date of assent 17 December 1993
 ss 1–2 commenced on date of assent
 remaining provisions commenced 14 March 1994 (1994 SL No. 84)

4 List of annotations

Key to abbreviations in list of annotations

amd	=	amended
Ch	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

Construction of Act

s 2A ins 1941 5 Geo 6 No. 8 s 2
 om 1991 No. 97 s 3 Sch 2

Division of Act

s 3 amd 1945 9 Geo 6 No. 9 s 2; 1959 8 Eliz 2 No. 57 s 2; 1962 No. 27 s 2; 1964 No. 71 s 2; 1971 No. 20 ss 3(a), 4; 1973 No. 29 s 2; 1975 No. 70 s 3; 1976 No. 88 s 2; 1978 No. 65 s 3; 1981 No. 44 s 4 Sch 1; 1984 No. 26 s 3; 1986 No. 36 s 60(1) Sch 6 Pt 1; 1987 No. 22 s 4; 1988

No. 25 s 4
om 1991 No. 97 s 3 Sch 2

Repeals, Schedule A

s 4 amd 1971 No. 20 s 2
om 1991 No. 97 s 3 Sch 2

Interpretation

s 5 def **“advertisement”** amd 1959 8 Eliz 2 No. 57 s 3(a); 1981 No. 44 s 4 Sch 1
def **“air cushion vehicle”** ins 1975 No. 70 s 4(a)
def **“analyst”** sub 1990 No. 59 s 2.2(a)
def **“Area”** om 1993 No. 70 s 804 Sch
def **“article”** amd 1959 8 Eliz 2 No. 57 s 3(b); 1978 No. 65 s 4(a); 1981 No. 44 s 4 Sch 1
def **“baker”** om 1981 No. 44 s 4 Sch 1
def **“barber”** amd 1978 No. 65 s 4(b)
def **“British Pharmaceutical Codex”** ins 1976 No. 41 s 2
def **“British Pharmacopoeia”** sub 1976 No. 41 s 2
def **“British Veterinary Codex”** ins 1976 No. 41 s 2
def **“By-laws”** om 1993 No. 70 s 804 Sch
def **“chemist”** or **“pharmaceutical chemist”** om 1959 8 Eliz 2 No. 57 s 3(c)
def **“Chief Health Officer”** ins 1992 No. 66 s 35(1)
def **“communicable disease”** ins 1959 8 Eliz 2 No. 57 s 3(d)
om 1988 No. 25 s 5(a)
def **“dairy produce”** om 1981 No. 44 s 4 Sch 1
def **“dangerous substance”** ins 1959 8 Eliz 2 No. 57 s 3(e)
om 1987 No. 22 s 5(a)
def **“day hospital”** ins 1992 No. 66 s 35(1)
om 1993 No. 79 s 25
def **“Deputy Director-General”** om 1991 No. 24 s 7.3 Sch 3
def **“disposal”** ins 1975 No. 70 s 4(b)
def **“drain”** om 1949 13 Geo 6 No. 55 s 27(i)
def **“drug”** amd 1959 8 Eliz 2 No. 57 s 3(f); 1968 No. 19 s 2
def **“drug addict”** om 1988 No. 25 s 5(b)
def **“drug dependent person”** ins 1988 No. 25 s 5(b)
amd 1990 No. 59 s 2.2(b)
def **“food”** om 1981 No. 44 s 4 Sch 1
def **“General fund”** om 1993 No. 70 s 804 Sch
def **“hospital”** ins 1959 8 Eliz 2 No. 57 s 3(g)
sub 1991 No. 24 s 7.3 Sch 3
def **“house”** amd 1959 8 Eliz 2 No. 57 s 3(h)
def **“infectious disease”** om 1959 8 Eliz 2 No. 57 s 3(i)
def **“inspector”** sub 1971 No. 20 s 5(a); 1991 No. 97 s 3 Sch 2
def **“licence”** amd 1971 No. 20 s 2; 1975 No. 70 s 4(c)
def **“licensee”** amd 1971 No. 20 s 2
def **“local government”** om 1992 No. 66 s 35(2)
def **“Local Government Act”** sub 1993 No. 70 s 804 Sch
def **“meat”** sub 1964 No. 71 s 3

om 1981 No. 44 s 4 Sch 1
 def “**medical officer of health**” amd 1987 No. 22 s 5(b)
 def “**medical practitioner**” om 1992 No. 55 s 163 Sch 2
 def “**Minister**” om 1991 No. 97 s 3 Sch 2
 def “**nightsoil**” ins 1975 No. 70 s 4(d)
 def “**notifiable disease**” amd 1988 No. 25 s 5(c)
 def “**opium**” amd 1959 8 Eliz 2 No. 57 s 3(j)
 def “**owner**” sub 1959 8 Eliz 2 No. 57 s 3(k)
 def “**paint**” amd 1973 No. 29 s 3(a); 1982 No. 57 s 4(a)
 def “**pesticide**” ins 1959 8 Eliz 2 No. 57 s 3(l)
 amd 1978 No. 65 s 4(c); 1982 No. 57 s 4(b)
 def “**pharmaceutical chemist**” ins 1959 8 Eliz 2 No. 57 s 3(l)
 om 1976 No. 88 s 3(a)
 def “**pharmacist**” ins 1976 No. 88 s 3(a)
 def “**prohibited plant**” ins 1971 No. 20 s 5(b)
 amd 1973 No. 29 s 3(b); 1976 No. 88 s 3(b)
 om 1986 No. 36 s 60(1) Sch 6 Pt 1
 def “**Queensland Health Education Council**” ins 1945 9 Geo 6 No. 9
 s 3
 om 1987 No. 22 s 5(c)
 def “**Queensland Radium Institute**” ins 1945 9 Geo 6 No. 9 s 3
 def “**registered nurse**” sub 1992 No. 55 s 163 Sch 2
 def “**regulations**” om 1991 No. 97 s 3 Sch 2
 def “**sale**” amd 1959 8 Eliz 2 No. 57 s 3(m); 1981 No. 44 s 4 Sch 1
 def “**Sanitary convenience**” om 1993 No. 70 s 804 Sch
 def “**Sewerage**” om 1993 No. 70 s 804 Sch
 def “**sole**” amd 1946 11 Geo 6 No. 9 s 2
 def “**stormwater drain**” ins 1949 13 Geo 6 No. 55 s 27(ii)
 def “**this Act**” om 1991 No. 97 s 3 Sch 2
 def “**venereal disease**” amd 1984 No. 103 s 2
 om 1988 No. 25 s 5(d)
 def “**vessel**” amd 1975 No. 70 s 4(e)

Appointment of Director-General

s 7 amd 1975 No. 70 s 5; 1991 No. 24 s 7.3 Sch 3; 1992 No. 66 s 36; (see RA
 s 38)

General powers to make orders in council

s 9 amd 1959 8 Eliz 2 No. 57 s 4

Regulation of sewerage, stormwater drainage etc. by Governor in Council

prov hdg amd 1949 13 Geo 6 No. 55 s 28

s 10 amd 1949 13 Geo 6 No. 55 s 28; 1959 8 Eliz 2 No. 57 s 5

Discharge of waste process water into watercourses

s 10A ins 1948 13 Geo 6 No. 16 s 2

amd 1978 No. 65 s 5; 1987 No. 22 s 44

General power to make order in council

s 11 amd 1975 No. 70 s 6

Regulations to be approved by the Governor in Council and laid before Parliament

s 13 amd 1959 8 Eliz 2 No. 57 s 6; 1971 No. 20 s 2; 1975 No. 70 ss 7, 28 Sch 1; 1982 No. 57 s 5; 1987 No. 22 s 44; (see RA s 38)

Director-General may cause inspections etc. to be made

s 15 amd 1971 No. 20 s 2

Power of Director-General to act in emergencies

s 17 amd 1959 8 Eliz 2 No. 57 s 7

Local governments to see to the execution of regulations

s 19 amd 1959 8 Eliz 2 No. 57 s 8; 1971 No. 20 s 2; 1990 No. 59 s 2.3

Power of local government to abate nuisance

s 21 amd 1959 8 Eliz 2 No. 57 s 9; 1993 No. 70 s 804 Sch

Appointment, remuneration and duties of officers of local governments

s 22 amd 1959 8 Eliz 2 No. 57 s 10; 1993 No. 70 s 804 Sch

Removal of officers

s 23 om 1993 No. 70 s 804 Sch

State analyst may act as analyst of local government

s 24 amd 1987 No. 22 s 6

Appointment of officers

s 27 amd 1959 8 Eliz 2 No. 57 s 11; 1968 No. 19 s 3; 1990 No. 59 s 2.4

Registration of analysts and premises

s 28 sub 1968 No. 19 s 4
amd 1987 No. 22 s 44
om 1990 No. 59 s 2.5

PART 3—PREVENTION, NOTIFICATION AND TREATMENT OF DISEASE OR DISABILITY

Pt hdg sub 1959 8 Eliz 2 No. 57 s 12

Division 1—Notification of disease or disability

Div hdg sub 1959 8 Eliz 2 No. 57 s 12
om 1988 No. 25 s 6

Notifiable diseases

s 29 sub 1959 8 Eliz 2 No. 57 s 13
amd 1975 No. 70 s 8; 1982 No. 57 s 6
om 1988 No. 25 s 7

Notification of notifiable disease

s 30 amd 1959 8 Eliz 2 No. 57 s 14; 1975 No. 70 ss 9, 28 Sch 1; 1982 No. 57 s 7; 1987 No. 22 s 44
om 1988 No. 25 s 7

Interpretation

s 31 amd 1939 3 Geo 6 No. 34 s 2; 1967 No. 20 s 2(b); 1975 No. 70 s 28 Sch 1; 1987 No. 22 ss 7, 44
def “**district registrar**” sub 1967 No. 20 s 2(a)

Division 3—Notifiable diseases

Div hdg amd 1959 8 Eliz 2 No. 57 s 15
sub 1988 No. 25 s 9

Notifiable diseases

s 32 sub 1959 8 Eliz 2 No. 57 s 16; 1988 No. 25 s 9
amd 1991 No. 24 s 7.3 Sch 3

Reporting of notifiable diseases

s 32A ins 1988 No. 25 s 9

Investigations in respect of notifiable diseases

s 32B ins 1988 No. 25 s 9

Regulations with respect to notifiable diseases

prov hdg amd 1988 No. 25 s 10(a)

s 33 amd 1948 13 Geo 6 No. 16 s 3; 1949 13 Geo 6 No. 55 s 29; 1959 No. 57
s 17; 1975 No. 70 s 10; 1987 No. 22 s 8; 1988 No. 25 s 10(b)–(h)

Public hospitals to provide facilities

s 34 amd 1959 8 Eliz 2 No. 57 s 18
sub 1988 No. 25 s 11

Duty of local government to prevent notifiable disease

s 34A ins 1943 7 Geo 6 No. 24 s 2
amd 1959 8 Eliz 2 No. 57 s 19
sub 1988 No. 25 s 11

Temporary isolation places

s 35 amd 1959 8 Eliz 2 No. 57 s 20
sub 1988 No. 25 s 11
amd 1990 No. 59 s 2.6

Removal and detention of person suffering from notifiable disease

s 36 amd 1959 8 Eliz 2 No. 57 s 21; 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44
sub 1988 No. 25 s 12

Detention of infected person without proper lodging in hospital by order of Stipendiary Magistrate

prov hdg amd 1959 8 Eliz 2 No. 57 s 22

s 37 amd 1959 8 Eliz 2 No. 57 s 22; 1988 No. 25 s 13

Cleansing and disinfection of premises, etc.

s 38 amd 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44; 1988 No. 25 s 14

Power of local government as to disinfection, etc.

s 39 amd 1959 8 Eliz 2 No. 57 s 23; 1988 No. 25 s 15

Compensation

s 40 sub 1988 No. 25 s 16

Exposure of infected persons and things

s 41 om 1959 8 Eliz 2 No. 57 s 24

Disinfection of public conveyance

s 42 om 1959 8 Eliz 2 No. 57 s 25

Infectious rubbish

s 43 sub 1959 8 Eliz 2 No. 57 s 26
amd 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44; 1988 No. 25 s 17

Temporary shelter etc.

s 44 om 1988 No. 25 s 18

Special provisions in respect of typhoid carriers

s 45 om 1959 8 Eliz 2 No. 57 s 27

Special provisions with respect to small-pox

s 46 om 1959 8 Eliz 2 No. 57 s 28

Provisions as to school children

s 47 amd 1959 8 Eliz 2 No. 57 s 29; 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44;
1988 No. 25 s 19

Division 4—Smallpox

Div hdg amd 1959 8 Eliz 2 No. 57 s 30
om 1988 No. 25 s 20

Controlled notifiable diseases

s 48 sub 1988 No. 25 s 21
amd 1993 No. 79 s 26

Secrecy

s 49 prev s 49 amd 1959 8 Eliz 2 No. 57 s 31; 1975 No. 70 s 28 Sch 1; 1987
No. 22 ss 9, 44
om 1988 No. 25 s 21
pres s 49 (prev s 59) amd 1959 8 Eliz 2 No. 57 s 37; 1975 No. 70 s 28
Sch 1; 1982 No. 57 s 13; 1984 No. 103 s 4; 1987 No. 22 s 11
renum 1988 No. 25 s 22
amd 1988 No. 25 s 23

Division 5—Hookworm (Ancylostomiasis)

Div hdg om 1988 No. 25 s 24

Protection for acts done under this Division

s 50 amd 1959 8 Eliz 2 No. 57 s 32; 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44
sub 1988 No. 25 s 25

Division 6—Leprosy

Div hdg om 1978 No. 65 s 6(a)

Incidence of this Division

s 51 amd 1959 8 Eliz 2 No. 57 s 33; 1975 No. 70 s 28 Sch 1
om 1978 No. 65 s 6(b)

Division 7—Tuberculosis

Div hdg om 1988 No. 25 s 26

Regulations in respect of tuberculosis

s 52 amd 1968 No. 19 s 5; 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44
om 1988 No. 25 s 27

Division 8—Venereal disease**Div hdg** om 1988 No. 25 s 28**Regulations as to venereal disease****s 53** amd 1982 No. 57 s 8
om 1988 No. 25 s 29**Provisions relating to venereal disease****s 54** amd 1959 8 Eliz 2 No. 57 s 34; 1972 No. 31 s 6 Sch 1; 1975 No. 70 s 28
Sch 1; 1976 No. 88 s 4; 1982 No. 57 s 9; 1984 No. 103 s 3; 1987 No. 22
ss 10, 44
om 1988 No. 25 s 29**Marriage when a nullity****s 55** om 1982 No. 57 s 10**Compulsory examination and treatment****s 56** amd 1959 8 Eliz 2 No. 57 s 35; 1975 No. 70 s 28 Sch 1; 1982 No. 57 s 11;
1987 No. 22 s 44
om 1988 No. 25 s 29**Hospitals to give treatment****s 57** sub 1982 No. 57 s 12
om 1988 No. 25 s 29**Proceedings to be in camera****s 58** amd 1959 8 Eliz 2 No. 57 s 36; 1975 No. 70 s 11; 1975 No. 70 s 28 Sch 1;
1987 No. 22 s 44
om 1988 No. 25 s 29**Secrecy****s 59** renum as s 49 1988 No. 25 s 22**Possession of bacterium etc. deemed to be disease****s 60** amd 1959 8 Eliz 2 No. 57 s 38
om 1971 No. 20 s 6
ins 1984 No. 103 s 5
om 1988 No. 25 s 30**Division 9—Occupational Health****Div hdg** amd 1959 8 Eliz 2 No. 57 s 39; 1987 No. 22 s 12
om 1989 No. 63 s 3(2) Sch 2**Investigations etc. by Director-General into matters affecting occupational health****prov hdg** amd 1987 No. 22 s 13(a)**s 61** amd 1939 3 Geo 6 No. 34 s 3; 1959 8 Eliz 2 No. 57 s 40; 1987 No. 22
s 13(b)–(c)
om 1989 No. 63 s 3(2) Sch 2**Removal of infirm person to public sector health service****prov hdg** amd 1993 No. 79 s 27(1)**s 62** amd 1975 No. 70 s 28 Sch 1; 1988 No. 25 s 31; 1991 No. 24 s 7.3 Sch 3;
1991 No. 97 s 3 Sch 2; 1993 No. 79 s 27(2), (3)

Interpretation

- s 63** def “**day hospital**” ins 1993 No. 79 s 28
 def “**licence**” amd 1971 No. 20 s 2
 def “**medical cases**” ins 1984 No. 66 s 61(a)
 def “**private hospital**” amd 1962 No. 46 s 4(2) Sch 2; 1982 No. 57 s 14(a); 1991 No. 24 s 7.3 Sch 3
 def “**registered nurse**” amd 1982 No. 57 s 14(b); 1984 No. 66 s 61(b)
 sub 1992 No. 55 s 163 Sch 2

Meaning of “day hospital”

- s 63A** ins 1993 No. 79 s 29

Private hospitals to be licensed

- s 64** amd 1962 No. 27 s 3; 1962 No. 46 s 4(2) Sch 2; 1971 No. 20 s 2; 1975 No. 70 s 28 Sch 1; 1982 No. 57 s 15; 1984 No. 66 s 62; 1987 No. 22 s 44; 1992 No. 66 s 37

Who may hold licences

- prov hdg** amd 1971 No. 20 s 2
s 65 sub 1959 8 Eliz 2 No. 57 s 41
 amd 1971 No. 20 s 2
 further sub 1982 No. 57 s 16

Kinds of licences

- prov hdg** amd 1971 No. 20 s 2
s 66 sub 1959 8 Eliz 2 No. 57 s 42
 amd 1962 No. 46 s 4(2) Sch 2; 1971 No. 20 s 2; 1982 No. 57 s 17; 1984 No. 66 s 63; 1987 No. 22 s 14; 1992 No. 55 s 163 Sch 2; 1992 No. 66 s 38

Licence

- prov hdg** amd 1971 No. 20 s 2
s 67 amd 1962 No. 27 s 4; 1971 No. 20 s 2

Duration of licence

- s 68** amd 1962 No. 27 s 5; 1971 No. 20 s 2; 1978 No. 65 s 7; 1982 No. 57 s 18

Cancellation and suspension of licences

- s 68A** ins 1978 No. 65 s 8
 amd 1982 No. 57 s 19

Delivery of licence to Director-General

- s 68B** ins 1978 No. 65 s 8
 amd 1982 No. 57 s 20

Fees

- s 69** amd 1962 No. 46 s 4(2) Sch 2; 1971 No. 20 s 2
 sub 1975 No. 70 s 12

Additions and alterations to premises

- s 70** amd 1971 No. 20 s 2

Duty of licensee and transfer of licence**prov hdg** sub 1982 No. 57 s 21(a)**s 71** amd 1959 8 Eliz 2 No. 57 s 43; 1971 No. 20 s 2; 1982 No. 57 s 21(b);**Monthly reports****s 71A** ins 1992 No. 66 s 39**Confidentiality****s 71B** ins 1992 No. 66 s 39**Regulations****s 72** amd 1959 8 Eliz 2 No. 57 s 44; 1962 No. 27 s 6; 1971 No. 20 s 2; 1975 No. 70 s 28 Sch 1; 1982 No. 57 s 22; 1987 No. 22 s 44**Inspection****s 73** amd 1982 No. 57 s 23**Evidence****s 74** amd 1987 No. 22 s 15**Interment of stillborn children****s 75** amd 1958 7 Eliz 2 No. 32 s 3(1) Sch 1; 1967 No. 20 s 3**Penalty in respect of interment of stillborn children****s 76** amd 1967 No. 20 s 4; 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44; 1988 No. 88 s 3 Sch 1**Regulations respecting extern nurses****s 76A** ins 1939 3 Geo 6 No. 34 s 4
om 1992 No. 55 s 163 Sch 2**Division 11A— Hostels and Nursing homes****Div hdg** ins 1962 No. 27 s 7
amd 1971 No. 20 s 3(a); 1987 No. 22 s 16**Definitions****s 76B** ins 1962 No. 27 s 7
amd 1987 No. 22 s 17(a), (d)
def “**hostel**” ins 1987 No. 22 s 17(b)
def “**licence**” amd 1971 No. 20 s 2
def “**nursing home**” amd 1971 No. 20 s 3(b); 1987 No. 22 s 17(c)
def “**registered nurse**” amd 1982 No. 57 s 24;
sub 1992 No. 55 s 163 Sch 2**Issue, renewal etc. of licences****s 76C** ins 1962 No. 27 s 7
amd 1971 No. 20 s 2; 1975 No. 70 s 13; 1982 No. 57 s 25**Cancellation and suspension of licences****s 76CA** ins 1982 No. 57 s 26
amd 1987 No. 22 s 18**Who may hold licences****s 76D** ins 1962 No. 27 s 7
amd 1971 No. 20 ss 2, 3(c); 1982 No. 57 s 27; 1987 No. 22 s 19

Offences

s 76E ins 1962 No. 27 s 8
 amd 1971 No. 20 ss 2, 3(c); 1975 No. 70 s 28 Sch 1; 1982 No. 57 s 28;
 1987 No. 22 ss 20, 44

Additions and alterations

s 76F ins 1962 No. 27 s 9
 amd 1971 No. 20 s 3(c); 1975 No. 70 s 28 Sch 1; 1987 No. 22 ss 21, 44

Duties etc. of licensee

s 76G ins 1962 No. 27 s 9
 amd 1971 No. 20 ss 2, 3(c); 1982 No. 57 s 29; 1987 No. 22 s 22

Regulations

s 76H ins 1962 No. 27 s 10
 amd 1971 No. 20 ss 2, 3(c), (d); 1975 No. 70 s 28 Sch 1; 1982 No. 57
 s 30; 1987 No. 22 ss 23, 44

Inspection

s 76I ins 1962 No. 27 s 10
 amd 1971 No. 20 s 3(c); 1987 No. 22 s 24

Local Government Acts to apply

s 76J ins 1962 No. 26 s 10
 amd 1971 No. 20 ss 2, 3(c); 1987 No. 22 s 25

Division 11B—Maltreatment of children

Div hdg ins 1978 No. 65 s 9 (never proclaimed into force and om 1980 No. 26 s 3)
 ins 1980 No. 26 s 4

Notification of maltreatment

s 76K ins 1978 No. 65 s 9 (never proclaimed into force and om 1980 No. 26 s 3)
 ins 1980 No. 26 s 4

Temporary custody of children

s 76L ins 1978 No. 65 s 9 (never proclaimed into force and om 1980 No. 26 s 3)
 ins 1980 No. 26 s 4
 amd 1981 No. 77 s 2; 1991 No. 24 s 7.3 Sch 3

Meaning of “child”

s 76M ins 1978 No. 65 s 9 (never proclaimed into force and om 1980 No. 26 s 3)
 ins 1980 No. 26 s 4

Regulations

s 76N ins 1978 No. 65 s 9 (never proclaimed into force and om 1980 No. 26 s 3)
 ins 1980 No. 26 s 4

Nuisances

s 77 amd 1991 No. 24 s 7.3 Sch 3
sub 1992 No. 36 s 2 Sch 1

Notice requiring abatement of nuisance

s 79 amd 1959 8 Eliz 2 No. 57 s 45; 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44

Expenses of execution of provisions relating to nuisances

s 81 amd 1988 No. 25 s 32

Establishment of offensive trades

s 85 amd 1959 8 Eliz 2 No. 57 s 46; 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44

Complaint of nuisance

s 86 amd 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44

Certain nuisances on premises

s 87 amd 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44

Order for cleansing offensive ditches near to or forming boundaries of areas

s 88 amd 1959 8 Eliz 2 No. 57 s 47

Division 13—Sanitary provisions, sewers, stormwater drains, sanitary conveniences, camping grounds and moveable dwellings

Div hdg amd 1949 13 Geo 6 No. 55 s 30

Sewers, stormwater drains etc. to be properly kept

prov hdg amd 1949 13 Geo 6 No. 55 s 30

s 93 amd 1949 13 Geo 6 No. 55 s 30

Examination of stormwater drains, etc.

prov hdg amd 1949 13 Geo 6 No. 55 s 31

s 94 amd 1949 13 Geo 6 No. 55 s 31; 1959 8 Eliz 2 No. 57 s 48; 1975 No. 70
s 28 Sch 1; 1987 No. 22 s 44**Removal of refuse etc.**

prov hdg amd 1975 No. 70 s 14(a)

s 95 amd 1959 8 Eliz 2 No. 57 s 49; 1975 No. 70 s 14

Place for depositing refuse

s 96 amd 1975 No. 70 s 15; 1990 No. 59 s 2.7

Offence to use unauthorised land

s 96A ins 1975 No. 70 s 16

Neglect of local government to remove refuse, etc.

s 97 amd 1959 8 Eliz 2 No. 57 s 50; 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44

Default in carrying out sanitary service

s 98 amd 1959 8 Eliz 2 No. 57 s 51; 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44

Refuse removal by private contractors

s 98A ins 1975 No. 70 s 17

amd 1987 No. 22 s 26

Offence to remove refuse etc. without authority

s 98B ins 1975 No. 70 s 17

amd 1987 No. 22 s 44

Sanitary conveniences for public accommodation, seaside resorts, etc.

s 99 amd 1975 No. 70 s 18(1)

Regulations and conditions relating to refuse etc.

s 99A ins 1975 No. 70 s 19

Camping grounds

s 100 amd 1982 No. 57 s 31

Division 14—Tattooing and ear-piercing

Div hdg ins 1978 No. 65 s 10

Regulations

s 100A ins 1978 No. 65 s 10
amd 1987 No. 22 s 44; 1990 No. 59 s 2.8

Division 15—Cancer

Div hdg ins 1980 No. 61 s 3

Interpretation

s 100B ins 1980 No. 61 s 3
def “**charitable institution**” om 1991 No. 24 s 7.3 Sch 3
def “**prescribed person**” sub 1991 No. 24 s 7.3 Sch 3
def “**public hospital**” sub 1991 No. 24 s 7.3 Sch 3

Furnishing returns to Director-General

s 100C ins 1980 No. 61 s 3
amd 1987 No. 22 s 44

Register

s 100D ins 1980 No. 61 s 3

Confidentiality

s 100E sub 1993 No. 79 s 30

Regulations

s 100F ins 1980 No. 61 s 3
amd 1987 No. 22 s 44

Division 16—Peri-natal statistics

Div hdg ins 1984 No. 26 s 4

Interpretation

s 100G ins 1984 No. 26 s 4
def “**prescribed person**” amd 1991 No. 24 s 7.3 Sch 3
def “**public hospital**” sub 1991 No. 24 s 7.3 Sch 3

Furnishing returns to Director-General

s 100H ins 1984 No. 26 s 4
amd 1988 No. 24 s 33

Confidentiality

s 100I sub 1993 No. 79 s 31

Regulations

s 100J ins 1984 No. 26 s 4
amd 1988 No. 25 s 35

PART 4—DRUGS AND OTHER ARTICLES

Pt hdg amd 1981 No. 44 s 4 Sch 1

Adulteration of drug or article**prov hdg** amd 1981 No. 44 s 4 Sch 1**s 101** amd 1959 8 Eliz 2 No. 57 s 52; 1978 No. 65 s 11; 1981 No. 44 s 4 Sch 1**Drugs to comply with description or standard****s 102** sub 1976 No. 41 s 3**Sales by agents or servants, etc.****s 103** sub 1959 8 Eliz 2 No. 57 s 53

amd 1981 No. 44 s 4 Sch 1

Milk adulterated with water**s 103A** ins 1959 8 Eliz 2 No. 57 s 54

om 1981 No. 44 s 4 Sch 1

Division 2—Drugs, etc.**Div hdg** amd 1981 No. 44 s 4 Sch 1**Adulterated drug not to be sold****prov hdg** amd 1981 No. 44 s 4 Sch 1**s 104** amd 1981 No. 44 s 4 Sch 1**Adulterated drug not to be tendered or despatched for or on sale****prov hdg** amd 1981 No. 44 s 4 Sch 1**s 104A** ins 1941 5 Geo 6 No. 8 s 3

amd 1981 No. 44 s 4 Sch 1

s 105 amd 1981 No. 44 s 4 Sch 1; 1984 No. 22 s 13**Offences in relation to automatic machines****s 106** amd 1959 8 Eliz 2 No. 57 s 55; 1964 No. 71 s 4; 1975 No. 70 s 28 Sch 1;

1987 No. 22 s 44

sub 1988 No. 25 s 36

Sale of mixture**s 107** amd 1981 No. 44 s 4 Sch 1**Packages to be labelled with description, weight, etc., of contents****s 108** om 1981 No. 44 s 4 Sch 1**Examination and report upon articles advertised****s 109** amd 1981 No. 44 s 4 Sch 1**Prohibition of sale of injurious articles****s 110** amd 1962 No. 27 s 11; 1981 No. 44 s 4 Sch 1**Use of catheters etc.****s 112** amd 1959 8 Eliz 2 No. 57 s 56; 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44**Labelling of disinfectant****s 114** sub 1978 No. 65 s 12**Diluents prohibited to milk-sellers except when approved****s 115** sub 1968 No. 54 s 2

om 1981 No. 44 s 4 Sch 1

Sale of milk of infected cow

s 116 om 1981 No. 44 s 4 Sch 1

Bread to be sold in loaves of certain weights

s 117 om 1959 8 Eliz 2 No. 57 s 57

Shops may be searched for bread short of weight within 18 hours after baking

s 118 om 1959 8 Eliz 2 No. 57 s 57

Bakers to provide in their shops scales and weights

s 119 om 1959 8 Eliz 2 No. 57 s 57

Inspection of foods in course of delivery to detect short weight

s 120 om 1959 8 Eliz 2 No. 57 s 57

Filtration of aerated waters and ice

s 121 sub 1959 8 Eliz 2 No. 57 s 58
om 1981 No. 44 s 4 Sch 1

Substance prohibited in beer

s 122 om 1981 No. 44 s 4 Sch 1

Division 3—Cooking utensils, toys, wearing apparel, matches and paints

Div hdg amd 1987 No. 22 s 27

Cooking utensils and food receptacles

s 123 amd 1946 10 Geo 6 No. 40 s 2; 1972 No. 31 s 6 Sch 1; 1981 No. 44 s 4
Sch 1
sub 1987 No. 22 s 28

Substances prohibited in toys, etc.

s 124 amd 1939 3 Geo 6 No. 34 s 5; 1946 10 Geo 6 No. 40 s 3; 1959 8 Eliz 2 No.
57 s 59; 1975 No. 70 s 20; 1987 No. 22 s 29

Powers respecting articles capable of causing bodily harm or discomfort to man

s 124A ins 1939 3 Geo 6 No. 34 s 6
amd 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44

Soles to be of solid leather or stamped with the name of material

s 126 amd 1946 11 Geo 6 No. 9 s 3; 1959 8 Eliz 2 No. 57 s 60
om 1964 No. 68 s 5(1)

Lead in paint

s 127 sub 1955 4 Eliz 2 No. 38 s 2
amd 1959 8 Eliz 2 No. 57 s 61; 1973 No. 29 s 4; 1975 No. 70 s 28 Sch 1;
1987 No. 22 ss 30, 44

Labelling of paint

s 128 amd 1959 No. 57 s 62; 1973 No. 29 s 5

Contractor mixing and applying paint with ingredients of deleterious substance contrary to consent of person whose premises are painted

s 129 amd 1959 8 Eliz 2 No. 57 s 63
om 1973 No. 29 s 6

Prohibition of the use of leaded metal for structural purposes in certain

buildings

- s 129A** ins 1946 10 Geo 6 No. 40 s 4
 amd 1949 13 Geo 6 No. 55 s 32; 1975 No. 70 s 28 Sch 1; 1987 No. 22
 ss 31, 44

Prohibition of use of means for conservation of water contaminated by lead

- s 129B** ins 1946 10 Geo 6 No. 40 s 5
 amd 1975 No. 70 s 28 Sch 1; 1987 No. 22 ss 32, 44

Unlawful use of leaded metal or metal sheets a nuisance

- s 129C** ins 1946 10 Geo 6 No. 40 s 6

Prescription of method of analysis

- s 129D** ins 1987 No. 22 s 33

Division 4—Drug dependent persons and poisons

- Div hdg** amd 1973 No. 29 s 7; 1986 No. 36 s 60(1) Sch 6 Pt 1

Possession of and trafficking in dangerous drugs restricted

- s 130** amd 1939 3 Geo 6 No. 34 s 7; 1941 No. 8 s 4(1)
 sub 1966 No. 25 s 2; 1971 No. 20 s 7
 amd 1973 No. 29 s 8; 1976 No. 88 s 5
 om 1986 No. 36 s 60(1) Sch 6 Pt 1

Imprisonment upon non-payment of fine

- s 130A** ins 1971 No. 20 s 8
 om 1986 No. 36 s 60(1) Sch 6 Pt 1

Detention of drug offender for treatment

- s 130B** ins 1971 No. 20 s 9
 amd 1973 No. 29 s 9; 1986 No. 36 s 60(1) Sch 6 Pt 1

Examination of drug offender detained for treatment

- s 130C** ins 1971 No. 20 s 10

Order made upon medical practitioner's recommendation

- s 130D** ins 1971 No. 20 s 10

Conditional leave of absence or release on parole

- s 130E** ins 1971 No. 20 s 10

Liability to further detention of person released on leave or on parole

- s 130F** ins 1971 No. 20 s 10

Discharge of person on parole

- s 130G** ins 1971 No. 20 s 11

Absence without leave

- s 130H** ins 1971 No. 20 s 11

Form of proceedings for offences

- s 130I** ins 1971 No. 20 s 12
 amd 1973 No. 29 s 10; 1976 No. 41 s 4
 om 1986 No. 36 s 60(1) Sch 6 Pt 1

Matters of proof respecting possession of drugs

s 130J ins 1971 No. 20 s 12
 amd 1976 No. 88 s 6
 om 1986 No. 36 s 60(1) Sch 6 Pt 1

Conviction of offence simpliciter where aggravated offence charged

s 130K ins 1971 No. 20 s 12
 om 1986 No. 36 s 60(1) Sch 6 Pt 1

Forfeiture to Crown

s 130L ins 1971 No. 20 s 12
 amd 1976 No. 88 s 7
 om 1986 No. 36 s 60(1) Sch 6 Pt 1

Consequences of summary proceeding for drug offences

s 130LA ins 1976 No. 41 s 5
 om 1986 No. 36 s 60(1) Sch 6 Pt 1

Power to detain, search, seize and arrest

s 130M ins 1971 No. 20 s 13
 amd 1973 No. 29 s 11; 1976 No. 88 s 8
 om 1986 No. 36 s 60(1) Sch 6 Pt 1

Declaration of dangerous drugs and prohibited plants

s 130N ins 1971 No. 20 s 14
 om 1986 No. 36 s 60(1) Sch 6 Pt 1

Meaning of certain expressions in this Division

s 130O ins 1971 No. 20 s 14
 amd 1986 No. 36 s 60(1) Sch 6 Pt 1; 1988 No. 25 s 37

Inorganic salts of hydrocyanic acid

prov hdg sub 1987 No. 22 s 34(a)

s 131 amd 1939 3 Geo 6 No. 34 s 8; 1959 8 Eliz 2 No. 57 s 64; 1975 No. 70 s 28
 Sch 1; 1987 No. 22 ss 34(b)–(c), 44; 1988 No. 88 s 3 Sch 1; (see RA
 s 38)

Search warrant in respect of cyanide

prov hdg amd 1986 No. 36 s 60(1) Sch 6 Pt 1

s 131A ins 1945 9 Geo 6 No. 9 s 5
 amd 1966 No. 25 s 3; 1971 No. 20 s 15; 1986 No. 36 s 60(1) Sch 6 Pt 1;
 1987 No. 22 s 35

Obstruction of officers

s 131B ins 1971 No. 20 s 16
 amd 1975 No. 70 s 28 Sch 1; 1976 No. 88 s 9
 om 1986 No. 36 s 60(1) Sch 6 Pt 1

Division 4A—Detention Review Tribunal

Div hdg ins 1971 No. 20 s 17

Tribunal to be constituted

s 131C ins 1971 No. 20 s 17

Applications to tribunal

s 131D ins 1971 No. 20 s 17

Restricted number of applications

s 131E ins 1971 No. 20 s 17

Tribunal's determination of application

s 131F ins 1971 No. 20 s 17

Procedure of tribunal

s 131G ins 1971 No. 20 s 17

Rules of practice of tribunal

s 131H ins 1971 No. 20 s 17

Division 4B—Labelling of drugs and poisons

Div hdg ins 1973 No. 29 s 12

Drugs and poisons to be labelled

s 131I ins 1973 No. 29 s 12

Division 4C—Pest control operators

Div hdg ins 1976 No. 88 s 10

Interpretation

s 131J ins 1976 No. 88 s 10

def “**pest control operator**” amd 1978 No. 65 s 13(a); 1982 No. 57 s 32(a)def “**pesticide**” om 1978 No. 65 s 13(b)def “**prohibited pesticide**” ins 1978 No. 65 s 13(b) amd 1982 No. 57 s 32(b)def “**regulated pesticide**” ins 1982 No. 57 s 32(c)**Uses of pesticides by unlicensed or immature persons**

s 131K ins 1976 No. 88 s 10

Prohibited pesticides not to be used

s 131KA ins 1978 No. 65 s 14

Regulated pesticide

s 131KB ins 1982 No. 57 s 33

Application for licences 131L ins 1976 No. 88 s 10
amd 1978 No. 65 s 15**Licence**

s 131M ins 1976 No. 88 s 10

Duration of licences 131N ins 1976 No. 88 s 10
amd 1987 No. 22 s 36**Renewal of licence**

s 131O ins 1976 No. 88 s 10

Imposition of conditions of licences 131P ins 1976 No. 88 s 10
amd 1978 No. 65 s 16

Conditions of licence

s 131Q ins 1976 No. 88 s 10
amd 1993 No. 79 s 32

Cancellation or suspension of licences

s 131R ins 1976 No. 88 s 10

Appeal from Director-General

s 131S ins 1976 No. 88 s 10

Notice of accidents

s 131T ins 1976 No. 88 s 10

Immediate notice concerning loss of life

s 131U ins 1976 No. 88 s 10

Powers of inspectors

s 131V ins 1976 No. 88 s 10
sub 1978 No. 65 s 17

Regulations

s 131W ins 1976 No. 88 s 10
amd 1978 No. 65 s 18; 1987 No. 22 s 44

Division 4D—Application of agricultural chemicals

Div hdg ins 1987 No. 22 s 37

Interpretation

s 131AA renum as s 131WA 1988 No. 25 s 38

Powers of inspectors

s 131AB renum as s 131WB 1988 No. 25 s 38

Use of agricultural chemicals by persons under 17 years

s 131AC renum as s 131WC 1988 No. 25 s 38

Regulations

s 131AD renum as s 131WD 1988 No. 25 s 38

Interpretation

s 131AE renum as s 131WE 1988 No. 25 s 38

Powers of inspectors

s 131AF renum as s 131WF 1988 No. 25 s 38

Regulations

s 131AG renum as s 131WG 1988 No. 25 s 38

Interpretation

s 131WA (prev s 131AA) ins 1987 No. 22 s 37
renum 1988 No. 25 s 38

Powers of inspectors

s 131WB (prev s 131AB) ins 1987 No. 22 s 37
renum 1988 No. 25 s 38

Use of agricultural chemicals by persons under 17 years

s 131WC (prev s 131AC) ins 1987 No. 22 s 37
renum 1988 No. 25 s 38

Regulations

s 131WD (prev s 131AD) ins 1987 No. 22 s 37
renum 1988 No. 25 s 38
amd 1988 No. 25 s 39; 1991 No. 97 s 3 Sch 2

Division 4E—Hazardous substances

Div hdg ins 1987 No. 22 s 37

Interpretation

s 131WE (prev s 131AE) ins 1987 No. 22 s 37
renum 1988 No. 25 s 38

Powers of inspectors

s 131WF (prev s 131AF) ins 1987 No. 22 s 37
renum 1988 No. 25 s 38

Regulations

s 131WG (prev s 131AG) ins 1987 No. 22 s 37
renum 1988 No. 25 s 38
amd 1988 No. 25 s 40; 1991 No. 97 s 3 Sch 2

Entry and inspection

s 132 amd 1959 8 Eliz 2 No. 57 s 65; 1981 No. 44 s 4 Sch 1; 1987 No. 22 s 38;
1990 No. 59 s 2.9

Power to demand, select and take samples

s 133 amd 1971 No. 20 s 18; 1981 No. 44 s 4 Sch 1

Manner in which sample may be dealt with

s 134 amd 1975 No. 70 s 21; 1981 No. 44 s 4 Sch 1; 1984 No. 22 s 13; 1987
No. 22 s 39

Manner of dealing with particular samples

s 134A ins 1971 No. 20 s 19
amd 1981 No. 44 s 4 Sch 1

Any person may have sample analysed

s 135 amd 1981 No. 44 s 4 Sch 1

Duty of analyst, etc.

s 136 amd 1975 No. 70 s 28 Sch 1; 1981 No. 44 s 4 Sch 1; 1987 No. 22 ss 40, 44

Obstruction of officer etc.

s 137 amd 1959 8 Eliz 2 No. 57 s 66; 1975 No. 70 ss 22, 28 Sch 1; 1981 No. 44 s
4 Sch 1; 1987 No. 22 s 44

Possession of ingredients for adulteration

s 138 amd 1959 8 Eliz 2 No. 57 s 67; 1975 No. 70 s 28 Sch 1
om 1981 No. 44 s 4 Sch 1

Liability for offence by agent or employee

prov hdg amd 1981 No. 44 s 4 Sch 1
s 139 sub 1959 8 Eliz 2 No. 57 s 68

amd 1981 No. 44 s 4 Sch 1

Agent or servant may recover from principal

s 140 amd 1959 8 Eliz 2 No. 57 s 69; 1981 No. 44 s 4 Sch 1

When importer or manufacturer liable

s 141 amd 1981 No. 44 s 4 Sch 1

Guarantee, when a defence

s 142 amd 1981 No. 44 s 4 Sch 1

Penalty for offence

s 143 amd 1959 8 Eliz 2 No. 57 s 70; 1975 No. 70 s 28 Sch 1; 1981 No. 44 s 4 Sch 1; 1987 No. 22 s 44; 1988 No. 88 s 3 Sch 1

Forfeiture

s 144 amd 1971 No. 20 s 20; 1973 No. 29 s 13; 1981 No. 44 s 4 Sch 1

Proceedings for offences

s 145 amd 1939 3 Geo 6 No. 34 s 9; 1959 8 Eliz 2 No. 57 s 71; 1971 No. 20 s 21; 1981 No. 44 s 4 Sch 1

Analyst's certificate prima facie evidence

prov hdg amd 1976 No. 88 s 11(a); 1986 No. 36 s 60(1) Sch 6 Pt 1

s 146 amd 1939 3 Geo 6 No. 34 s 10; 1973 No. 29 s 14; 1976 No. 88 s 11(b); 1986 No. 36 s 60(1) Sch 6 Pt 1

Independent analysis

s 147 amd 1981 No. 44 s 4 Sch 1

Expenses of analysis to be paid by offenders on conviction

s 148 amd 1978 No. 65 s 19; 1981 No. 44 s 4 Sch 1; 1986 No. 36 s 60(1) Sch 6 Pt 1

Onus of proof

s 149 amd 1971 No. 20 s 22; 1981 No. 44 s 4 Sch 1

Power to require information to be made available

s 150 amd 1959 8 Eliz 2 No. 57 No. 72; 1975 No. 70 s 28 Sch 1; 1981 No. 44 s 4 Sch 1; 1987 No. 22 s 44

Publication of names of offenders

s 151 amd 1981 No. 44 s 4 Sch 1

Regulations

s 152 amd 1959 8 Eliz 2 No. 57 s 73; 1960 No. 49 s 2; 1962 No. 27 s 12; 1967 No. 20 s 5; 1971 No. 20 ss 2, 23; 1973 No. 29 s 15; 1975 No. 70 ss 23(1), 28 Sch 1; 1976 No. 88 s 12; 1978 No. 65 s 20; 1979 No. 46 s 2; 1981 No. 44 s 4 Sch 1; 1986 No. 36 s 60(1) Sch 6 Pt 1; 1987 No. 22 ss 41, 44; 1988 No. 25 s 41; 1991 No. 24 s 7.3 Sch 3; 1992 No. 66 s 40

Defined poisons, restricted drugs, dangerous drugs and biological preparations deemed prescribed

s 152A ins 1978 No. 65 s 21

Suggestive names for drugs

s 153 amd 1981 No. 44 s 4 Sch 1

Proceedings by indictment and contracts not to be affected

s 154 amd 1981 No. 44 s 4 Sch 1

PART 4A—QUEENSLAND HEALTH EDUCATION COUNCIL

Pt hdg ins 1945 9 Geo 6 No. 9 s 6
om 1975 No. 70 s 25(1)

Administration of Part 4A

s 154A ins 1945 9 Geo 6 No. 9 s 6
om 1975 No. 70 s 25(1)

Constitution of Queensland Health Education Council

s 154B ins 1945 9 Geo 6 No. 9 s 6
om 1975 No. 70 s 25(1)

To be a body corporate

s 154C ins 1945 9 Geo 6 No. 9 s 6
om 1975 No. 70 s 25(1)

Dissolution of Cancer Trust

s 154D ins 1945 9 Geo 6 No. 9 s 6
om 1975 No. 70 s 25(1)

Functions of the Council

s 154E ins 1945 9 Geo 6 No. 9 s 6
om 1975 No. 70 s 25(1)

Queensland Health Education Council Fund

s 154F ins 1945 9 Geo 6 No. 9 s 6
om 1975 No. 70 s 25(1)

Audit

s 154AF ins 1975 No. 70 s 24
om 1975 No. 70 s 25(1)

Regulations

s 154G ins 1945 9 Geo 6 No. 9 s 6
om 1975 No. 70 s 25(1)

PART 4B—QUEENSLAND RADIUM INSTITUTE

Pt hdg ins 1945 9 Geo 6 No. 9 s 7
om 1991 No. 24 s 7.3 Sch 3

Administration of Part 4B

s 154H ins 1945 9 Geo 6 No. 9 s 7
om 1991 No. 24 s 7.3 Sch 3

Constitution of the Queensland Radium Institute

s 154I ins 1945 9 Geo 6 No. 9 s 7
sub 1959 8 Eliz 2 No. 57 s 74
amd 1964 No. 71 s 5; 1976 No. 88 No. 13; 1978 No. 65 s 22; 1982 No. 57
s 34

om 1991 No. 24 s 7.3 Sch 3

To be a body corporate

s 154J ins 1945 9 Geo 6 No. 9 s 7
amd 1982 No. 57 s 35
om 1991 No. 24 s 7.3 Sch 3

Funds of Institute

s 154K ins 1945 9 Geo 6 No. 9 s 7
sub 1982 No. 57 s 36
om 1991 No. 24 s 7.3 Sch 3

Audit of accounts

s 154KA ins 1982 No. 57 s 37
om 1991 No. 24 s 7.3 Sch 3

Regulations

s 154L ins 1945 9 Geo 6 No. 9 s 7
amd 1982 No. 57 s 38
om 1991 No. 24 s 7.3 Sch 3

PART 4C—SCIENTIFIC RESEARCH AND STUDIES

Pt hdg ins 1964 No. 71 s 6

Authority to conduct scientific research and studies

s 154M ins 1964 No. 71 s 6

Information obtained and reports made under this Part

s 154N ins 1964 No. 71 s 6

Notice of action

s 156 om 1974 No. 75 s 4 Sch 1

Protection to persons acting in execution of Act

s 158 sub 1980 No. 61 s 4

No officer to be concerned in contract

s 159 amd 1959 8 Eliz 2 No. 57 s 75; 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44

Entry

s 160 amd 1975 No. 70 s 26; 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44

Compensation payable, how to be fixed

s 162 amd 1959 8 Eliz 2 No. 57 s 76

Offences

s 165 amd 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44

Neglect of duty by officer an offence

s 166 amd 1959 8 Eliz 2 No. 57 s 77; 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44

Obstructing execution of Act

s 167 amd 1959 8 Eliz 2 No. 57 s 78; 1975 No. 70 s 28 Sch 1; 1987 No. 22 ss 42, 44

Duty of police officers

s 168 amd 1975 No. 70 s 28 Sch 1; 1987 No. 22 s 44

Power to obtain search warrant in certain cases

s 168A ins 1939 3 Geo 6 No. 34 s 11

Blood transfusions to minors

s 168B ins 1959 8 Eliz 2 No. 57 No. 79
amd 1974 No. 57 s 8 Sch 1
om 1979 No. 74 s 54(4)

Prosecution of offences

s 169 amd 1993 No. 70 s 804 Sch

Power to proceed against local government for nuisance

s 170 amd 1987 No. 22 s 43

Who may act for local government in cases of emergency

s 171 amd 1993 No. 70 s 804 Sch

General penalty

s 175 amd 1959 8 Eliz 2 No. 57 s 80; 1975 No. 70 s 28 Sch 1; 1978 No. 65 s 23;
1987 No. 22 s 44

Recovery of penalties etc.

s 176 amd 1939 3 Geo 6 No. 34 s 12; 1971 No. 20 s 24; 1993 No. 70 s 804 Sch

Limitation of time for summary proceedings to be taken

s 177 sub 1971 No. 20 s 25

Evidence

s 178 amd 1959 8 Eliz 2 No. 57 s 81; 1971 No. 20 s 2; 1976 No. 41 s 6; 1986
No. 36 s 60(1) Sch 6 Pt 1; 1990 No. 59 s 2.10

Power of local governments to borrow for certain works

s 179 om 1993 No. 70 s 804 Sch

Regulations

s 180 ins 1975 No. 70 s 27
amd 1988 No. 25 s 42; 1991 No. 97 s 3 Sch 2
sub 1992 No. 36 s 2 Sch 1

SCHEDULES

hdg om (see RA s 37)

SCHEDULE A—ACTS REPEALED

om 1991 No. 97 s 3 Sch 2

SCHEDULE B—FORMS

amd 1973 No. 29 s 16

SCHEDULE C

ins 1945 9 Geo 6 No. 9 s 8
om 1978 No. 65 s 24

5 Table of changed titles

TABLE OF CHANGED TITLES
under sections 23 and 23A of the Reprints Act 1992

Old	New	Reference provision
area (of a local authority)	area (of a local government) (or local government area)	Local Government Act 1993 s 755(1)(b)
by-law (of a local authority)	local law (of a local government)	Local Government Act 1993 s 755(1)(l)
chairman (of a local authority)	mayor (of a local government)	Local Government Act 1993 s 755(1)(e)
clerk (of a local authority)	chief executive officer (of a local government)	Local Government Act 1993 s 755(1)(j)
Commissioner (for Railways) (as a corporation sole)	Queensland Railways	Transport Infrastructure (Railways) Act 1991 s 8.5(a) (and also s 1.3(1))
Commissioner (of Irrigation and Water Supply)	chief executive officer (of the department within which the Primary Industries Corporation Act 1992 is administered)	Primary Industries Corporation Act 1992 ss 14 and 15
Consolidated Revenue Fund	Consolidated Fund	Financial Administration and Audit Act 1977 s 112
(Court of) Petty Session	Magistrates Court	Justices Act 1886 s 268(1) and Justices Acts Amendment Act 1964 s 2(5)
Director (of Local Government)	chief executive (of the department within which the Local Government	Local Government Act 1993 s 755(1)(n)

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fund ((other than the trust fund) of a local authority)	operating fund (of a local government)	Local Government Act 1993 s 755(1)(m)
His Majesty	Her Majesty	Acts Interpretation Act 1954 s 52(3)(a)
local authority	local government	Local Government Act 1993 s 755(1)(a)
member (of a local authority)	councillor (of a local government)	Local Government Act 1977 s 755(1)(i)
member (of the police force)	police officer	Police Service Administration Act 1990 s 11.1(1)(c)
mentally ill person (or a like term)	patient (within the meaning of the Mental Health Act 1974)	see Mental Health Act 1974 repealed s 4(f)(i)
special hospital	psychiatric hospital	see Mental Health Act 1974 repealed s 4(f)(ii)
writ of mandamus	prerogative order (within the meaning of the Judicial Review Act 1991)	s 41(3) Judicial Review Act 1991

6 Table of changed citations and remade laws

TABLE OF CHANGED CITATIONS AND REMADE LAWS
under sections 21A and 22 of the Reprints Act 1992

Old	New	Reference provision
Local Government Act 1936	Local Government Act 1993	—
Official Inquiries Evidence Act 1910	Commissions of Inquiry Act 1950	Commissions of Inquiry Act 1950 s 2(2)(c)
Sewerage, Water Supply, and Gasfitting Act 1949	Sewerage and Water Supply Act 1949	Sewerage, Water Supply, and Gasfitting Acts Amendment Act 1974 s 4
Standard Sewerage By-laws 1981	Standard Sewerage Law	Sewerage and Water Supply Act 1949 s 22

7 Table of obsolete and redundant provisions

TABLE OF OBSOLETE AND REDUNDANT PROVISIONS under section 39 of the Reprints Act 1992

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A
penalty provision permitting fine or imprisonment permits both	Penalties and Sentences Act 1992 s 180A
references included in citation of law	Acts Interpretation Act 1954 s 14H
references to Queensland implied	Acts Interpretation Act 1954 s 35

8 Table of corrected minor errors

TABLE OF CORRECTED MINOR ERRORS under section 44 of the Reprints Act 1992

Provision	Description
31(8)	om 'construed so to' ins 'construed so as to'
104A(3)	om 'this subsection' ins 'this section'

9 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS under section 43 of the Reprints Act 1992

Previous	Renumbered as
5 (1st sentence)	5(1)
5 (2nd sentence)	5(2)
7(1)(i)	7(1)
7(1)(ii)	7(1A)
7(1)(iii)	7(1B)
7(1)(iv)	7(1C)
7(4) (2nd sentence)	7(4A)
7(4) (3rd sentence)	7(4B)
9(1) (2nd sentence)	9(1A)

9(3)(i)	9(3)
9(3)(i) (2nd sentence)	9(3A)
9(3)(i) (3rd sentence)	9(3B)
9(3)(ii)	9(3C)
9(3)(ii) (2nd sentence)	9(3D)
9(3)(ii) (3rd sentence)	9(3E)
9(3)(ii) (4th sentence)	9(3F)
9(3)(iii)	9(3G)
9(3)(iii) (2nd sentence)	9(3H)
9(3)(iii) (3rd sentence)	9(3I)
9(3)(iv)	9(3J)
10(1)(i)	10(1)(a)
10(1)(i)(a)	10(1)(a)(i)
10(1)(i)(b)	10(1)(a)(ii)
10(1)(i)(c)	10(1)(a)(iii)
10(1)(i)(d)	10(1)(a)(iv)
10(1)(i)(e)	10(1)(a)(v)
10(1)(ii)	10(1)(b)
10A(2)(a)	10A(2)
10A(2)(a) (2nd sentence)	10A(2A)
10A(2)(a) (3rd sentence)	10A(2B)
10A(2)(a) (4th sentence)	10A(2C)
10A(2)(b)	10A(2D)
10A(2)(c)	10A(2E)
10A(2)(c) (2nd sentence)	10A(2F)
10A(2)(d)	10A(2G)
10A(2)(d) (2nd sentence)	10A(2H)
10A(2)(d) (2nd sentence) (i)	10A(2H)(a)
10A(2)(d) (2nd sentence) (ii)	10A(2H)(b)
10A(2)(d) (2nd sentence) (iii)	10A(2H)(c)
10A(2)(d) (2nd sentence) (iv)	10A(2H)(d)
10A(2)(d) (2nd sentence) (v)	10A(2H)(e)
10A(2)(e)	10A(2I)
10A(3)(a)	10A(3)
10A(3)(a) (2nd sentence)	10A(3A)
10A(3)(b)	10A(3B)
10A(3)(b) (2nd sentence)	10A(3C)
10A(7) (2nd sentence)	10A(7A)
10A(11)(a)	10A(11)
10A(11)(a)(i)	10A(11) def “watercourse”
10A(11)(a)(ii)	10A(11) def “waster process water”
10A(11)(b)	10A(11A)
10A(12)(a)	10A(12)
10A(12)(a) (2nd sentence)	10A(13)

10A(12)(b)	10A(14)
12(i)	12(1)
12(ii)	12(2)
12(iii)	12(3)
12(iv)	12(4)
12(v)	12(5)
12(vi)	12(6)
12(vii)	12(7)
13(1)(i)	13(1)
13(1)(ii)	13(1A)
13(1)(iii)	13(1B)
13(1)(iii) (2nd sentence)	13(1C)
13(1)(iv)	13(1D)
13(1)(iv) (2nd sentence)	13(1E)
13(1)(v)	13(1F)
13(1)(v) (2nd sentence)	13(1G)
13(1)(vi)	13(1H)
13(1)(vii)	13(1I)
13(3) (2nd sentence)	13(4)
13(3) (3rd sentence)	13(5)
14 (1st sentence)	14(1)
14 (2nd sentence)	14(2)
15(1)(i)	15(1)
15(1)(ii)	15(1A)
15(1)(ii) (2nd sentence)	15(1B)
15(1)(iii)	15(1C)
15(2) (2nd sentence)	15(3)
15(2) (3rd sentence)	15(4)
16(1) (2nd sentence)	16(1A)
20 (1st sentence)	20(1)
20 (2nd sentence)	20(2)
20 (3rd sentence)	20(3)
21(2) (2nd sentence)	21(3)
22(2)(a)	22(2)
22(2)(a)(i)	22(2)(a)
22(2)(a)(ii)	22(2)(b)
22(5) (2nd sentence)	22(6)
24 (1st sentence)	24(1)
24 (2nd sentence)	24(2)
24 (3rd sentence)	24(3)
24 (4th sentence)	24(4)
24 (5th sentence)	24(5)
27(1) (2nd sentence)	27(1AA)
27(5) (2nd sentence)	27(6)
31(2)(i)	31(2)
31(2)(ii)	31(2A)

31(4)(i)	31(4)(a)
31(4)(ii)	31(4)(b)
31(4)(iii)	31(4)(c)
31(5) (2nd sentence)	31(5A)
33(1)(c) (2nd part)	33(1)(d)
33(1) (2nd sentence)	33(1A)
33(1) (2nd sentence) (i)	33(1A)(a)
33(1) (2nd sentence) (ii)	33(1A)(b)
33(1) (2nd sentence) (iii)	33(1A)(c)
33(1) (2nd sentence) (iv)	33(1A)(d)
33(1) (2nd sentence) (iv) (2nd part)	33(1A)(e)
33(1) (2nd sentence) (v)	33(1A)(f)
33(1) (2nd sentence) (vi)	33(1A)(g)
33(1) (2nd sentence) (viii)	33(1A)(h)
33(1) (2nd sentence) (ix)	33(1A)(i)
33(1) (2nd sentence) (x)	33(1A)(j)
33(1) (2nd sentence) (xi)	33(1A)(k)
33(1) (2nd sentence) (xii)	33(1A)(l)
33(1) (2nd sentence) (xiii)	33(1A)(m)
33(1) (2nd sentence) (xiv)	33(1A)(n)
33(1) (2nd sentence) (xiv) (2nd part)	33(1A)(o)
33(1) (2nd sentence) (xiv) (3rd part)	33(1A)(p)
33(1) (2nd sentence) (xv)	33(1A)(q)
33(1) (2nd sentence) (xv) (2nd part)	33(1A)(r)
33(1) (2nd sentence) (xv) (3rd part)	33(1A)(s)
33(1) (3rd sentence)	33(1B)
37 (1st sentence)	37(1)
37 (2nd sentence)	37(2)
37 (3rd sentence)	37(3)
39(1)	39(a)
39(2)	39(b)
39(3)	39(c)
47(1) (2nd sentence)	47(1A)
47(5) (2nd sentence)	47(5A)
47(6) (2nd sentence)	47(6A)
47(6) (3rd sentence)	47(6B)
47(7) (2nd sentence)	47(7A)
48(4) (penalty) (1st unnum para)	48(4) (penalty) (a)
48(4) (penalty) (2nd unnum para)	48(4) (penalty) (b)
49(1) (2nd sentence)	49(1A)
49(1) (3rd sentence)	49(1B)

64 (1st sentence)	64(1)
64 (2nd sentence)	64(2)
64 (3rd sentence)	64(3)
67 (1st sentence)	67(1)
67 (2nd sentence)	67(2)
68(2) (2nd sentence)	68(3)
68(2) (3rd sentence)	68(4)
68(2) (4th sentence)	68(5)
71(3) (2nd sentence)	71(3A)
72(1) (2nd sentence)	72(1A)
72(1) (2nd sentence) (i)	72(1A)(a)
72(1) (2nd sentence) (ii)	72(1A)(b)
72(1) (2nd sentence) (iii)	72(1A)(c)
72(1) (2nd sentence) (iv)	72(1A)(d)
72(1) (2nd sentence) (v)	72(1A)(e)
72(1) (2nd sentence) (vi)	72(1A)(f)
72(1) (2nd sentence) (vii)	72(1A)(g)
72(1) (2nd sentence) (viii)	72(1A)(h)
72(1) (2nd sentence) (ix)	72(1A)(i)
72(1) (2nd sentence) (x)	72(1A)(j)
74 (1st sentence)	74(1)
74 (2nd sentence)	74(2)
76 (1st sentence)	76(1)
76 (2nd sentence)	76(2)
76C(1) (2nd sentence)	76C(1A)
76C(3) (2nd sentence)	76C(3A)
76C(6) (2nd sentence)	76C(6A)
76D(2) (2nd sentence)	76D(3)
76E(2) (2nd sentence)	76E(2A)
76E(3) (2nd sentence)	76E(3A)
76F (1st sentence)	76F(1)
76F (2nd sentence)	76F(2)
76G(2)(a)	76G(2)
76G(2)(b)	76G(2A)
76G(2)(b)(i)	76G(2A)(a)
76G(2)(b)(ii)	76G(2A)(b)
76G(2)(c)	76G(2B)
76G(4) (2nd sentence)	76G(4A)
76G(5) (2nd sentence)	76G(5A)
76L(2B) (2nd sentence)	76L(2BA)
76L(2D)(a)	76L(2D)
76L(2D)(a)(i)	76L(2D)(a)
76L(2D)(a)(ii)	76L(2D)(b)
76L(2D)(b)	76L(2DA)
76L(2D)(b)(i)	76L(2DA)(a)
76L(2D)(b)(ii)	76L(2DA)(b)

76L(2D)(b)(iii)	76L(2DA)(c)
76L(2D)(b)(iv)	76L(2DA)(d)
76L(2D)(b) (2nd sentence)	76L(2DB)
77(1)	77(a)
77(2)	77(b)
77(3)	77(c)
77(4)	77(d)
77(5)	77(e)
77(6)	77(f)
77(7)	77(g)
77(8)	77(h)
79(4) (2nd sentence)	79(4A)
79(5) (2nd sentence)	79(5A)
79(6) (2nd sentence)	79(6A)
79(6) (3rd sentence)	79(6B)
85 (1st sentence)	85(1)
85 (2nd sentence)	85(2)
85 (3rd sentence)	85(3)
87 (1st sentence)	87(1)
87 (1st sentence) (1)	87(1)(a)
87 (1st sentence) (2)	87(1)(b)
87 (1st sentence) (3)	87(1)(c)
87 (1st sentence) (4)	87(1)(d)
87 (1st sentence) (5)	87(1)(e)
87 (2nd sentence)	87(2)
88 (1st sentence)	88(1)
88 (2nd sentence)	88(2)
89 (1st sentence)	89(1)
89 (2nd sentence)	89(2)
89 (3rd sentence)	89(3)
92 (1st sentence)	92(1)
92 (1st sentence) (1)	92(1)(a)
92 (1st sentence) (2)	92(1)(b)
92 (1st sentence) (3)	92(1)(c)
92 (1st sentence) (4)	92(1)(d)
92 (1st sentence) (5)	92(1)(e)
92 (1st sentence) (6)	92(1)(f)
92 (1st sentence) (7)	92(1)(g)
92 (1st sentence) (8)	92(1)(h)
92 (1st sentence) (9)	92(1)(i)
92 (1st sentence) (10)	92(1)(j)
92 (2nd sentence)	92(2)
95(1)(i)	95(1)(a)
95(1)(ii)	95(1)(b)
95(1)(iii)	95(1)(c)
95(1)(iv)	95(1)(d)

95(1)(v)	95(1)(e)
95(2) (2nd sentence)	95(2A)
95(3) (2nd sentence)	95(4)
96(1) (2nd sentence)	96(1A)
99A(1)(a) (2nd part)	99A(1)(aa)
99A(1)(b) (2nd part)	99A(1)(ba)
99A(1)(c)	99A(1)(ca)
100 (1st sentence)	100(1)
100 (2nd sentence)	100(2)
100 (3rd sentence)	100(3)
100A (1st sentence)	100A(1)
100A (2nd sentence)	100A(2)
101(1) (2nd sentence)	101(1A)
103 (1st sentence)	103(1)
103 (2nd sentence)	103(2)
104A(1) (2nd sentence)	104A(1A)
104A(2) (2nd sentence)	104A(3)
106(2) (2nd sentence)	106(2A)
107(1) (2nd sentence)	107(1A)
107(1) (3rd sentence)	107(1B)
109(2) (2nd sentence)	109(2A)
109(2) (3rd sentence)	109(2B)
110(1) (2nd sentence)	110(1A)
112 (1st sentence)	112(1)
112 (2nd sentence)	112(2)
112 (3rd sentence)	112(3)
114 (1st sentence)	114(1)
114 (2nd sentence)	114(2)
124(2)(i)	124(2)(a)
124(2)(ii)	124(2)(b)
124(2)(iii)	124(2)(c)
124(2)(iv)	124(2)(d)
124(2)(v)	124(2)(e)
124(2)(vi)	124(2)(f)
127(5) (2nd sentence)	127(5A)
127(6) (2nd sentence)	127(6A)
128 (1st sentence)	128(1)
128 (2nd sentence)	128(2)
129A(1) (2nd sentence)	129A(1A)
129A(1) (3rd sentence)	129A(1B)
129B (1st sentence)	129B(1)
129B (2nd sentence)	129B(2)
130B(1) (2nd sentence)	130B(1A)
130B(1) (2nd sentence) def “evidence adduced before it” (i)	130B(1A) def “evidence adduced before it” (a)

130B(1) (2nd sentence) def “evidence adduced before it” (ii)	130B(1A) def “evidence adduced before it” (b)
130B(1) (2nd sentence) def “evidence adduced before it” (iii)	130B(1A) def “evidence adduced before it” (c)
130B(1) (3rd sentence)	130B(1B)
130C(1) (2nd sentence)	130C(1A)
130D(3) (2nd sentence)	130D(4)
130E(1) (2nd sentence)	130E(1A)
130G (1st sentence)	130G(1)
130G (2nd sentence)	130G(2)
130O(b)	130O def “declared institution”
130O(c)	130O def “treatment”
131(1) (2nd sentence)	131(1A)
131(2) (2nd sentence)	131(3)
131(2) (3rd sentence)	131(4)
131A (1st sentence)	131A(1)
131A (2nd sentence)	131A(2)
131D (1st sentence)	131D(1)
131D (2nd sentence)	131D(2)
131I (1st sentence)	131I(1)
131I (2nd sentence)	131I(2)
131P (1st sentence)	131P(1)
131P (2nd sentence)	131P(2)
132(6) (2nd sentence)	132(6A)
134(1) (2nd sentence)	134(1A)
136(1) (2nd sentence)	136(2)
139(1) (2nd sentence)	139(1A)
142(1)(i)	142(1)(a)
142(1)(ii)	142(1)(b)
142(1)(iii)	142(1)(c)
142(1)(a)	142(1)(d)
142(1)(b)	142(1)(e)
142(1)(c)	142(1)(f)
142(1)(d)	142(1)(g)
142(1)(e)	142(1)(h)
142(1)(f)	142(1)(i)
142(1)(g)	142(1)(j)
142(1)(h)	142(1)(k)
144(1) (2nd sentence)	144(1A)
144(1) (3rd sentence)	144(1B)
145(1) (2nd sentence)	145(1A)
145(3) (2nd sentence)	145(3A)
146(3) (2nd sentence)	146(3A)
152(1)(i)	152(1)(a)

152(1)(i) (2nd part)	152(1)(b)
152(1)(ii)	152(1)(c)
152(1)(iv)	152(1)(d)
152(1)(v)	152(1)(e)
152(1)(vi)	152(1)(f)
152(1)(vii)	152(1)(g)
152(1)(vii) (2nd part)	152(1)(h)
152(1)(vii) (3rd part)	152(1)(i)
152(1)(vii) (4th part)	152(1)(j)
152(1)(vii) (5th part)	152(1)(k)
152(1)(viii) (6th part)	152(1)(l)
152(1)(viii)	152(1)(m)
152(1)(viii) (2nd part)	152(1)(n)
152(1)(viii) (3rd part)	152(1)(o)
152(1)(viii) (4th part)	152(1)(p)
152(1)(viii) (5th part)	152(1)(q)
152(1)(viii) (6th part)	152(1)(r)
152(1)(ix)	152(1)(s)
152(1)(xvi)	152(1)(t)
152(1)(xvii)	152(1)(u)
152(1)(xvii) (2nd part)	152(1)(v)
152(1)(xvii) (3rd part)	152(1)(w)
152(1)(xvii) (4th part)	152(1)(x)
152(1)(xvii) (5th part)	152(1)(y)
152(1)(xvii) (6th part)	152(1)(z)
152(1)(xviiA)	152(1)(za)
152(1)(xviiA) (2nd part)	152(1)(zb)
152(1)(xviii)	152(1)(zc)
152(1)(xix)	152(1)(zd)
152(1)(xx)	152(1)(ze)
152(1)(xx)(a)	152(1)(ze)(i)
152(1)(xx)(b)	152(1)(ze)(ii)
152(1)(xx)(c)	152(1)(ze)(iii)
152(1)(xxi)	152(1)(zf)
152(1)(xxii)	152(1)(zg)
152(1)(xxiii)	152(1)(zh)
152(1)(xxiv)	152(1)(zi)
152(1)(xxvi)	152(1)(zj)
152(1)(xxvii)	152(1)(zk)
152(1)(xxviii)	152(1)(zl)
152(1)(xxix)	152(1)(zm)
154 (1st sentence)	154(1)
154 (2nd sentence)	154(2)
154 (3rd sentence)	154(3)
154N(1) (2nd sentence)	154N(1A)
154N(2) (2nd sentence)	154N(2A)

154N(2) (3rd sentence)	154N(2B)
159 (1st sentence)	159(1)
159 (2nd sentence)	159(2)
160(2) (2nd sentence)	160(2A)
162 (1st sentence)	162(1)
162 (2nd sentence)	162(2)
162 (3rd sentence)	162(3)
162 (4th sentence)	162(4)
167(3) (2nd sentence)	167(3A)
168 (1st sentence)	168(1)
168 (2nd sentence)	168(2)
168 (3rd sentence)	168(3)
168A(1)(i)	168A(1)(a)
168A(1)(ii)	168A(1)(b)
168A(1)(iii)	168A(1)(c)
168A(3)(i)	168A(3)(a)
168A(3)(ii)	168A(3)(b)
168A(3)(iii)	168A(3)(c)
168A(3) (2nd sentence)	168A(4)
169 (1st sentence)	169(1)
169 (2nd sentence)	169(2)
171 (1st sentence)	171(1)
171 (2nd sentence)	171(2)
171 (2nd sentence) (2nd part)	171(3)
176 (1st sentence)	176(1)
176 (2nd sentence)	176(2)
176 (3rd sentence)	176(3)
176 (4th sentence)	176(4)
176 (5th sentence)	176(5)
176 (6th sentence)	176(6)
176 (7th sentence)	176(7)
177 (1st sentence)	177(1)
177 (2nd sentence)	177(2)
178(1)	178(a)
178(2)	178(b)
178(3)	178(c)
178 (2nd sentence)	178(d)
178(4)	178(e)
178(5)	178(f)
178(6)	178(g)
178(7)	178(h)
178(7)(a)	178(h)(i)
178(7)(b)	178(h)(ii)
178(7)(c)	178(h)(iii)
178(7)(d)	178(h)(iv)
178(7)(d)(i)	178(h)(v)

178(7)(d)(ii)
178(7)(d)(iii)

178(h)(vi)
178(h)(vii)

10 Transitional and savings provisions

Sections 18(2), 23(2)–(4) and 25(2)–(3) of the Health Act Amendment Act 1975 provides—

Amendment of s.99

18.(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.

11 Provisions that have not commenced and are not incorporated into reprint

The following provision is not incorporated in this reprint because it has not commenced before the reprint date (see s (5)(c) *Reprints Act 1992*)

Statute Law (Miscellaneous Provisions) Act 1992, section 2 Schedule 1, Health Act amendment 1 reads as follows—

Amendments

1. Section 77—

omit, insert—

‘Nuisances

‘77. Each of the following is taken to be a nuisance for the purposes of this Act—

- (a) premises in such a state as to be a nuisance or injurious or prejudicial to health;

- (b) a swamp, pool, ditch, gutter, watercourse, sanitary convenience, or other accumulation of water on any land or street or a receptacle holding water (other than a reservoir, or a storage of water used in connection with manufacturing purposes), in such a state as to be—
 - (i) a nuisance or injurious or prejudicial to health; or
 - (ii) a breeding-ground for mosquitoes;
- (c) an animal so kept as to be a nuisance or injurious or prejudicial to health;
- (d) an accumulation or deposit that is a nuisance or injurious or prejudicial to health;
- (e) a house or part of a house so overcrowded as to be dangerous or injurious or prejudicial to the health of the residents whether or not members of the same family;
- (f) a workplace—
 - (i) that is not kept in a clean state; or
 - (ii) that is not ventilated in a way that renders harmless, so far as practicable, any gases, vapours, dust or other impurities—
 - (A) that are generated in the course of the work carried on in the workplace; and
 - (B) that are a nuisance or injurious or prejudicial to health; or
 - (iii) that is so overcrowded while work is carried on that it is dangerous or injurious or prejudicial to the health of persons employed in the workplace;
- (g) a chimney emitting smoke in such a way as to be a nuisance;
- (h) the infestation of any place or premises by—
 - (i) rats, mice or other vermin; or
 - (ii) any form of insect life declared by regulation to be injurious or prejudicial to health.?