

Queensland



HEALTH ACT 1937

**Reprinted as in force on 7 March 2002
(includes amendments up to Act No. 103 of 2001)**

Warning—see last endnote for uncommenced amendments

Reprint No. 3L

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This Act is reprinted as at 7 March 2002. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

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HEALTH ACT 1937

[as amended by all amendments that commenced on or before 7 March 2002]

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

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Health Act 1937*.

5 Interpretation

(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 under a regulation.

“**approved form**” see section 15A.¹

“**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,

1 Section 15A (Approval of forms)

paint, poisons, drugs, biological preparations, pesticides, detergents, dangerous substances and substances declared under a regulation to be articles.

“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.

“controlled drug” means an article or substance prescribed under a regulation to be a controlled drug.

“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.

“dentist” means a person registered under the *Dental Practitioners Registration Act 2001*.

“district” means a health service district declared under the *Health Services Act 1991*.

“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 within the meaning of the *Therapeutic Goods Act 1989* (Cwlth), and an article or substance declared under a regulation to be a drug.

“drug dependent person” means a person—

- (a) who, as a result of repeated administration to the person of controlled or restricted drugs or poisons—
 - (i) demonstrates impaired control; or
 - (ii) exhibits drug-seeking behaviour that suggests impaired control;over the person’s continued use of controlled or restricted drugs or poisons; and
- (b) who, when the administration to the person of controlled or restricted drugs or poisons ceases, suffers or is likely to suffer mental or physical distress or disorder.

“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.

“health practitioner registration Act” means any 1 of the following Acts—

- *Chiropractors and Osteopaths Act 1979*
- *Dental Practitioners Registration Act 2001*
- *Dental Technicians and Dental Prosthetists Act 1991*
- *Medical Practitioners Registration Act 2001*
- *Occupational Therapists Registration Act 2001*
- *Optometrists Registration Act 2001*
- *Pharmacists Registration Act 2001*

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- *Physiotherapists Registration Act 2001*
- *Podiatrists Act 1969*
- *Psychologists Act 1977*
- *Speech Pathologists Registration Act 2001.*

“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 belonging to the Australian Defence Force or the defence force of a foreign country.

“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 that is in force under this Act.

“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*.

“manager”, for a district, means the manager for the district under the *Health Services Act 1991*.

“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.

“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.

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“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 Rail, 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 person registered under the *Pharmacists Registration Act 2001*.

“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.

“private health facility” see *Private Health Facilities Act 1999*, section 8.

“private hospital” see *Private Health Facilities Act 1999*, section 9.

“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.

“registrant” means a person registered under a health practitioner registration Act.

“registrant’s board”, for a registrant, means the board responsible for administering the health practitioner registration Act under which the registrant is registered.

“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 controlled 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.

PART 2—GENERAL POWERS

Division 1—Central government

7 Appointment of chief health officer

- (1) There is to be a chief health officer of the department.
- (2) The chief health officer must be a medical practitioner.
- (3) The chief health officer is to be appointed by the Governor in Council.

8 Delegation of chief health officer's powers

The chief health officer may delegate the chief health officer's powers under any Act to any person.

8A Manager of public health services for the State

- (1) There is to be a manager of public health services for the State.
- (2) The manager—
 - (a) must be a medical practitioner; and
 - (b) is to be employed as a public service officer, or as a health service employee under the *Health Services Act 1991*.
- (3) The manager must, subject to the chief executive, manage the delivery of services dealing with public health in the State, including, for example, the prevention and control of disease and sickness and the prevention of injury.

9 Default of local government

(1) The Governor in Council may, by order, 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 Governor in Council 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 Governor

in Council may deem to be necessary for promoting and maintaining the health of the local government's area and its inhabitants.

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

(3) 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.

(4) For the purposes of this section the chief executive and any person appointed by the chief executive 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.

(5) 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.

(6) 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 chief executive 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.

(7) The chief executive 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.

(8) After paying all sums of money so due, the surplus (if any) shall be paid by the chief executive to or to the order of the local government.

(9) The chief executive 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 chief executive 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 chief executive when confirmed by the Minister shall be conclusive as to all matters to which it relates.

(10) Whenever the chief executive so certifies a loan to be required the Treasurer may advance to the chief executive the amount of the loan so certified to be required; and the chief executive 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.

(11) The surplus (if any) of such loan, after payment of the costs and expenses aforesaid, shall, on the amount thereof being certified by the chief executive, be repaid to the Treasurer.

(12) In this section—

“**expenses**” includes all sums payable by or by the order of the chief executive.

(13) 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.

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

(1) The Governor in Council may, by order, prohibit within a time to be specified in the order—

- (a) the carrying-off of sewage 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 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 or stormwater drainage is already being carried off; or
 - (v) covered places; or

- (b) the disposal of sewage 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 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.

(2) If the local government makes default in compliance with any such order with the time limited therein the chief executive 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.

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

(4) Any order made by the chief executive upon the local government for the payment of costs and expenses incurred by the chief executive 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.

15 Power to make inspections etc.

(1) The Minister may from time to time cause to be made such inspections, investigations, and inquiries as the Minister thinks fit in relation to any matters concerning the public health in any place, or concerning any matters with respect to which the chief executives's sanction, approval, or consent is required by this Act, and the chief executive must 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.

(2) The chief executive may make orders as to the costs of an inspection, investigation or inquiry under subsection (1), and as to the parties by whom, or the fund out of which, such costs shall be borne.

(3) 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.

(4) When any inspection, investigation, or inquiry is directed to be made by the Governor in Council or the Minister, 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.

(5) Before the Minister causes an inspection, investigation or inquiry to be made under subsection (1), the Minister must seek advice from the chief executive and the chief health officer.

15A Approval of forms

The chief executive may approve forms for use under this Act.

16 Powers of chief executive in default of local government

(1) When the chief executive 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 chief executive may make an order directing the local government to do its duty in the matters within a time limited by the order.

(2) 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.

(3) 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 chief executive, and shall for all such purposes be as good, valid, and effectual as if signed by a medical officer of health.

17 Power in emergencies

(1) If the Minister, after seeking advice from the chief executive and the chief health officer, considers there is an emergency, the Minister may, and must when directed by the Governor 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 do such other acts, matters, or things as the Minister considers necessary or expedient or as are in the Minister's opinion calculated to promote, safeguard or maintain the health and wellbeing of the people, or to overcome such emergency, or to remove or abate the cause or causes of such emergency, whether express authority, power, or jurisdiction is conferred on the Minister, the chief executive, the chief health officer or the local government by this Act or the Local Government Act or not.

(2) All costs and expenses incurred by the Minister under and in pursuance of the provisions of this section shall upon the order of the Minister 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 Minister by the Minister's order may direct.

(3) Any order made by the Minister upon a local government for the payment of costs and expenses incurred by the Minister 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 chief executive, and shall for all such purposes be as good, valid, and effectual as if signed by a medical officer of health.

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

(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 chief executive stating the grounds of the person's complaint, and shall deliver a copy thereof to the local government.

(2) The chief executive may make such order in the matter as to the chief executive 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 chief executive may if the chief executive thinks fit by order direct the local government to pay to the person so proceeded against such sum as the chief executive considers to be a just compensation for the loss, damage, or grievance sustained by such person.

18A Chief executive to give notice of proceedings to boards

(1) This section applies if—

- (a) a health service employee, or public service employee within the department, starts proceedings against a registrant or a nurse for an offence against this Act or another Act administered by the Minister; or
- (b) the chief executive suspends or cancels, or imposes or varies conditions on, an authority held by a registrant, nurse or veterinary surgeon under the *Health (Drugs and Poisons) Regulation 1996*; or
- (c) the chief executive suspends or cancels, or imposes or varies conditions on, an approval held by a medical practitioner under the *Health (Drugs and Poisons) Regulation 1996*, section 122,² to dispense, prescribe, administer or supply a controlled drug to or for a class of drug dependent persons.

(2) The chief executive must, as soon as practicable after the chief executive or employee takes action mentioned in subsection (1), give written notice about it—

- (a) for a registrant—to the registrant’s board; or
- (b) for a nurse—to the Queensland Nursing Council; or
- (c) for a veterinary surgeon—to the Veterinary Surgeons Board of Queensland.

(3) For subsection (1)(a)—

“**health service employee**” means a person appointed under the *Health Services Act 1991*, section 24.³

2 *Health (Drugs and Poisons) Regulation 1996*, section 122 (Approval needed for treating drug dependent person with controlled drugs)

3 *Health Services Act 1991*, section 24 (Appointment of health service employees)

Division 3—Local government**19 Local governments to see to the execution of regulations**

The local government of any local government area within which or part of which any regulations, or orders of the chief executive, are in force shall if required by the chief executive 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.

20 Local governments to report

(1) Every medical officer of health shall make an annual report to the local government in such form as the chief executive 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 chief executive in the form directed by the chief executive 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 chief executive.

(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.

21 Power of local government to abate nuisance

(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, 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 approval is to be given until the local government shall first have been given at least 1 month's notice of the intention to give the approval, so as to enable any local government concerned to make representations to the Minister in reference to the proposal.

22 Appointment, remuneration, and duties of officers of local governments

(1) A local government may, and when required by order of the chief executive 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 chief executive 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.

(4) 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 chief executive may by order direct, or within 30 days after the occurrence of a vacancy in such office, the chief executive 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.

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

24 Local government analysts

(1) A State analyst may with the approval of the chief executive 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 chief executive for payment into the consolidated fund.

(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 chief executive a certified copy of such report.

25 Medical officer of health to have powers of inspectors

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.

26 Non-disqualification of medical practitioner by receipt of fees

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

27 Appointment of officers

(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.

(2) 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.

27A Prohibition on use of term State analyst

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.

27B Rules as to competency of officers

(1) The chief executive may from time to time make rules 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.

(2) A rule must be approved by the Governor in Council, and is subordinate legislation.

27C General powers and duties of officers

Every medical director, every medical inspector, and every health officer shall subject to the chief executive 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.

27D Officer may attend meetings of local government

An officer authorised by the chief executive in that behalf may attend any meeting of a local government or of any committee thereof.

27E Holders of certain offices health officers

A regulation may declare that the holder of a stated office is, without further appointment, a health officer.

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

Division 1—Notification of births

31 Definitions for division

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*.

31A Notification of births

(1) In any local government area or part of a local government area defined under a regulation 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.

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

(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.

(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.

(5) The notification shall be given by delivering the same to the district registrar concerned, and such notification must be in the approved form.

(6) 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.

(7) 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.

(8) 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.

(9) No provision of this section shall be construed so as to prejudice or affect the *Registration of Births, Deaths and Marriages Act 1962*.

Division 2—Notifiable diseases

31B Definitions for division

(1) In this division—

“hospital administrator” means the person having the control or management of a hospital.

“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.

(2) 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.

32 Declaration of notifiable diseases

(1) A regulation may declare a disease or disability to be a notifiable disease.

(2) A regulation may limit the declaration to part of the State.

32A Reporting of notifiable diseases

(1) Subject to subsection (2), a medical practitioner who, upon examining or treating a patient, believes the patient is suffering from a notifiable disease or has symptoms of a kind notified by the chief executive 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 chief executive in a form acceptable to the chief executive.

(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 chief executive 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 chief executive 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 chief executive in a form acceptable to the chief executive.

(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 chief executive 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 chief executive 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 chief executive pursuant to subsection (9).

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

(10) The chief executive may by gazette notice, declare that the duty imposed by any provision of this section to give a notice not apply in respect of any notifiable disease specified therein whether indefinitely or for a specified period.

32B Investigations in respect of notifiable diseases

(1) Where the chief executive 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.

33 Regulations with respect to notifiable diseases

(1) A regulation may make provision for or about—

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

(2) A regulation may provide for or about 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

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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 chief executive 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.

34 Public hospitals to provide facilities

The chief executive may, by instrument, require the hospital administrator of a public hospital to provide facilities for the isolation and treatment of any person the chief executive believes is suffering from a notifiable disease.

34A Duty of local government to prevent notifiable disease

The chief executive 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.

35 Temporary isolation places

(1) The chief executive 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 chief executive 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.

36 Removal and detention of person suffering from notifiable disease

(1) If a person suspected by a medical practitioner to be suffering from or to have been exposed to a notifiable disease—

- (a) fails or refuses to enter or remain in a hospital or temporary isolation place; or
- (b) refuses to submit to any reasonable examination, test or treatment in respect of that notifiable disease;

a justice may, upon the application of the chief executive 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 chief executive 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 chief executive and the order shall be sufficient authority for any person authorised in that behalf by the chief executive 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 chief executive, 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 chief executive 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.

37 Detention of infected person without proper lodging in hospital by order of stipendiary magistrate

(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.

38 Cleansing and disinfection of premises etc.

(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 chief executive;

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.

(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 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.

39 Power of local government as to disinfection etc.

The local government may, and when required by the chief executive 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.

40 Compensation

The owner of any building or structure or any article or thing destroyed under the provisions of this part shall—

- (a) if the destruction was at the direction of the chief executive (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.

43 Infectious rubbish

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.

47 Provisions as to school children

(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 under a regulation 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.

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

(3) 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.

(4) 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 chief executive, 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.

(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.

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

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

(8) 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.

(9) However, the chief executive 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 chief executive under this subsection.

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

(11) Every person concerned shall permit and aid in such inspection or examination.

(12) 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.

48 Controlled notifiable diseases

(1) A regulation may 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 18 months imprisonment.

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

Maximum penalty—200 penalty units or 2 years imprisonment.

(4) 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.

(5) A person does not commit an offence against subsection (3) 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.

(6) A complaint against a person for an offence against subsection (2) or (3) is sufficient if it states that the person charged carried out the act deliberately or recklessly.

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

(8) No report shall be made or published concerning any proceedings of the kind referred to in subsection (7) 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 chief executive.

Maximum penalty—

- (a) for a first offence—20 penalty units or 6 months imprisonment;
- (b) for a subsequent offence—80 penalty units or 12 months imprisonment.

49 Secrecy

(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.

Maximum penalty—20 penalty units.

(2) The chief executive at the chief executive's discretion may give such information to another government official or department as the chief executive 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 chief executive's opinion, a legitimate interest in possessing the information.

(3) The chief executive 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.

50 Protection for acts done under this division

No matter or thing done or omitted to be done—

- (a) by any person pursuant to this division; or
- (b) bona fide and without negligence by any person purporting to act pursuant to or for the purposes of this division;

shall subject that person to any liability.

Division 5—Hostels and nursing homes**76B Definitions**

(1) In this division—

“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”**.

76C Issue, renewal etc. of licences

(1) The chief health officer may, under, subject to and in accordance with this division and the applicable regulations issue, renew, suspend, or cancel licences.

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

(3) Every application for a licence or the renewal of a licence shall be made to the chief health officer in the approved form and shall be accompanied by the amount of the fee.

(4) 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.

(5) 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.

(6) 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 (7), be deemed to be the date of the renewal of any licence renewed under this division.

(7) 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.

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

(9) Compliance by a holder of a licence with the requirements of subsection (8) shall be an implied condition of every licence for breach whereof the chief health officer may cancel or suspend the licence.

(10) The chief health officer may refuse to issue or to renew a licence.

(11) The chief health officer may issue a licence or any renewal thereof to which this division applies subject to such terms and conditions (if any) as the chief health officer thinks fit to impose and all such terms and conditions shall form part of the licence.

76CA Cancellation and suspension of licences

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.

76D Who may hold licences

(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 chief health officer or a registered nurse whose name and registration number have been notified to the chief health officer.

(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 chief health officer may cancel or suspend the licence.

76E Offences

(1) 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.

(2) For the purposes of subsection (1) 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 (1) shall be guilty of an offence and liable to a penalty of not more than 10 penalty units.

(4) 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.

(5) 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.

76F Additions or alterations

(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 chief health officer by the licensee, and the written approval of the chief health officer 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.

76G Duties etc. of licensee

(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.

(3) Notwithstanding the provisions of subsection (2) the chief health officer may in a case where in the chief health officer'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 chief health officer thinks fit;
- (b) may be revoked by the chief health officer at any time.

(4) If the licensee fails to comply with a requirement of subsections (2) and (3) the chief health officer may cancel or suspend the licence.

(5) Where the person whose name has been notified to the chief health officer 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.

(6) A licensee of a hostel or a nursing home may, with the written approval of the chief health officer, transfer the licence.

(7) The transfer shall be effected by the production of the licence to the chief health officer and the endorsement thereon by the chief health officer of the name of the transferee, who thereupon shall become and be the licensee under and for all purposes of this Act.

(8) In the event of the death or incapacity of the licensee, the chief health officer 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.

(9) 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.

(10) 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 chief health officer, be made applicable either permanently or temporarily to other premises.

76H Regulations

(1) A regulation may be made for or about 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 chief health officer may issue or renew licences.

(2) In particular, a regulation may be made prescribing, providing for, regulating and controlling in respect of hostels and nursing homes—

- (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.

76I Inspection

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 chief health officer, who may for such purpose enter the premises of the hostel or nursing home with such assistants as may be required by the chief health officer.

76J Local Government Act to apply

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 6—Maltreatment of children***76K Notification of maltreatment**

(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 under a regulation to be so notified.

(2) 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 chief executive a further notification in the approved form.

(3) 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.

(4) A notification given pursuant to subsection (1) or subsection (2) shall state the observations and opinions upon which the medical practitioner's suspicion is based.

(5) In addition to receiving the notification pursuant to subsection (2), the chief executive may require the medical practitioner so notifying or any other medical practitioner associated with treatment of the child in question to forward to the chief executive any statement or further information that the chief executive considers the chief executive should have concerning the child; and the medical practitioner concerned shall comply with such requirement.

(6) 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.

(7) 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.

76L Temporary custody of children

(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.

(3) 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.

(4) Where the prescribed medical officer who makes an order in writing pursuant to either subsection (2) or (3) 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.

(5) 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.

(6) 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.

(7) 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 (3); 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.

(8) For the purpose of executing the warrant made pursuant to subsection (7) 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.

(9) 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.

(10) Where an order has been made by a prescribed medical officer in respect of a child pursuant to either subsection (2) or (3) 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.

(11) A person who—

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- (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 (3); 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 (3) has been made with respect to that child, harbours or conceals that child;

commits an offence against this Act.

(12) 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 (3), 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 (13).

(13) Where treatment is administered to a child pursuant to subsection (12)(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).

(14) 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.

(15) 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.

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

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

(17) Failure to comply with subsection (16) does not invalidate the order.

76M Meaning of “child” for division

In this division—

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

Division 7—Nuisances and offensive trades

77 Nuisances

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.

78 Detection of nuisances

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.

79 Abatement of nuisance

(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.

(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.

(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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

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

(10) 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.

(11) 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.

(12) 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.

80 Sale of materials

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.

81 Expenses of execution of provisions relating to nuisances

(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.

(3) 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.

82 Individual may complain to justice of nuisance

(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.

83 Cause of nuisance arising beyond local government area

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.

84 Nuisance caused by 2 or more persons

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.

85 Establishment of offensive trades

(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.

86 Complaint of nuisance

(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.

87 Certain nuisances on premises

- (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.

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

(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.

89 Removal of filth

(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.

90 Cleansing common courts and passages

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.

91 Apportionment of expenses

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.

92 Local laws

(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—

- (a) defining localities in its area within which the keeping of any swine or cattle or pigsty, cowbail, cowshed, byre, or dairy is forbidden;
- (b) prohibiting the keeping of animals on any premises so as to be injurious or prejudicial to health;
- (c) regulating the keeping of poultry, pigeons, and other birds upon any premises, and the destruction of pigeons not kept on premises;
- (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;
- (e) preventing the overcrowding of persons in houses and premises;
- (f) defining localities in its area within which noxious or offensive trades, businesses, or manufacturers may not be established or carried on;
- (g) licensing and regulating noxious or offensive trades, businesses, or manufactures;
- (h) the prevention of nuisances arising from smoke, ashes, soot, filth, dust, and rubbish;
- (i) regulating the cleansing, disinfection, and ventilation of theatres, picture shows, and places of amusement;
- (j) regulating the cleansing of public baths and providing clean water for the same.

(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 8—Sewers, stormwater drains, sanitary conveniences, camping grounds and moveable dwellings

93 Sewers, stormwater drains etc. to be properly kept

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.

94 Examination of stormwater drains etc.

(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.

100 Camping grounds

(1) A regulation may make provision for or about the control and regulation of camping grounds, whether public or private, or moveable dwellings.

(2) In particular, a regulation may make provision for or about the following matters—

- (a) prescribing the conveniences to be provided for any camping ground, or moveable dwelling, or place where any moveable dwelling is for the time being situated, and the persons by whom such facilities are to be provided 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, or moveable dwellings, 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 Governor in Council 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 9—Tattooing and ear-piercing

100A Regulations

(1) A regulation may make provision 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) In particular, a regulation may make provision for or about the following matters—

- (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.

Division 10—Cancer

100B Definitions for div 10

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.

“contractor” see section 100DA(1).

“health service employee” means a person appointed under the *Health Services Act 1991*, section 24.⁴

“nursing home” see section 76B(1).

“prescribed person” means—

- (a) in relation to a public hospital—the manager for the district in which the hospital is situated;
- (b) in relation to a nursing home—the person in control of the nursing home;
- (c) in relation to a private health facility—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.

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

“register” means the register established under section 100D.

“return about cancer” means a return under section 100C.

⁴ *Health Services Act 1991*, section 24 (Appointment of health service employees)

100C Returns about cancer to be given to chief executive

(1) Where a patient in or attending, or resident of, a nursing home, private health facility, public hospital or other hospital is known or found to be suffering from cancer and belongs to a class of patient or resident to whom this subsection applies by reason of the regulations the prescribed person in relation to the home, facility or hospital must, at or within the prescribed time, give to the chief executive a return in the approved form completed by a person required by the regulations to complete such returns.

Maximum penalty—10 penalty units.

(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) must complete a return in the approved form for the person; and
- (b) must give the completed 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 chief executive, as such person in charge elects;
 - (ii) in any other case—to the chief executive at or within the prescribed time.

Maximum penalty—10 penalty units.

(3) A medical practitioner to whom a completed return is given under subsection (2)(b) must give the return, or a copy of it, to the chief executive within the time prescribed under a regulation.

Maximum penalty for subsection (3)—10 penalty units.

100D Register

The chief executive must establish and maintain a register of the persons in relation to whom returns about cancer have been given to the chief executive or the contractor.

100DA Responsibility for maintenance of register

(1) The chief executive may enter into a written agreement with a person prescribed under a regulation (the “**contractor**”) for the contractor to maintain the register for the chief executive.

(2) The chief executive must take reasonable steps to ensure the contractor complies with the agreement.

100DB Directions to give returns about cancer to contractor

(1) If a person must, under section 100C(1),(2)(b)(ii) or (3), give a completed return about cancer to the chief executive, the chief executive may give a written direction to the person to give the return to the contractor in place of the chief executive.

(2) If a person may, under section 100C(2)(b)(i), give a completed return about cancer to the chief executive, the chief executive may give a written direction to the person to give the return to the contractor in place of the chief executive.

(3) A direction must state—

- (a) the name and address of the contractor; and
- (b) the day the direction is to take effect.

(4) A person to whom a direction is given under subsection (1) must comply with the direction.

Maximum penalty—10 penalty units.

(5) A person to whom a direction is given under subsection (2) must comply with the direction, unless the person has given the return about cancer to a medical practitioner under section 100C(2)(b)(i).

Maximum penalty—10 penalty units.

(6) If, under a direction, a person gives a return about cancer to the contractor and does not give it to the chief executive, the person does not contravene section 100C in relation to the return.

(7) The chief executive must monitor compliance with this section.

100DC Further information may be required

(1) The chief executive or contractor may ask a person who has completed a return about cancer to give further information about the

return to the chief executive or contractor to ensure the accuracy, completeness or integrity of the data making up the register.

(2) If the chief executive considers further information is required in relation to a return about cancer to ensure the accuracy, completeness or integrity of the data making up the register, the chief executive may give the person who completed the return a written notice mentioned in subsection (3).

(3) The written notice must—

- (a) require the person who completed the return to give the further information stated in the notice to the chief executive within the time prescribed under a regulation; and
- (b) warn the person that failure to comply with the notice is an offence under this Act.

(4) A person given a notice under subsection (2) must comply with the notice.

Maximum penalty for subsection (4)—10 penalty units.

100E Confidentiality

(1) This section applies to—

- (a) the chief executive; and
- (b) a person involved in administering this Act, including, for example, a delegate of the chief executive; and
- (c) a person who in any way helps in the administration of this Act, including, for example, a contractor and an employee of a contractor.

(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—50 penalty units.

(3) However, the chief executive may disclose information from the register if the disclosure is made—

- (a) in a form the chief executive reasonably believes does not identify any person; or
- (b) to a contractor, or an employee of a contractor, for maintaining the register; or
- (c) to a person when the chief executive is asking or requiring the person to give information under section 100DC; or
- (d) to a person authorised to conduct scientific research and studies under section 154M;⁵ or
- (e) to the Commonwealth, another State or an entity of the Commonwealth or other State and the disclosure—
 - (i) is decided by the chief executive to be in the public interest; and
 - (ii) is required to be made, or may be made, under an agreement that—
 - (A) is between the State and the Commonwealth, the other State or the entity; and
 - (B) is prescribed under a regulation for this subsection.

(4) Also, a contractor may disclose information from the register if the disclosure is made—

- (a) in a form the contractor reasonably believes does not identify any person; or
- (b) to the chief executive, at the written request of the chief executive stating the chief executive considers the disclosure is necessary for ensuring the proper administration of this division; or
- (c) to a person when the contractor is asking the person to give information under section 100DC(1); or
- (d) to a person or entity to which the chief executive may make the disclosure under subsection (3)(d) or (e), if the chief executive authorises the contractor, in writing, to disclose the information.

(5) The Commonwealth, another State or an entity, that receives information under subsection (3)(e) or (4)(d)—

- (a) must not disclose it to anyone else; and

⁵ Section 154M (Authority to conduct scientific research and studies)

- (b) must ensure the information is used only for the purpose for which it was given under the agreement.

(6) The *Health Services Act 1991*, section 63,⁶ does not apply to a person to whom this section applies in relation to information gained by the person under this division.

(7) The chief executive must monitor compliance with this section.

100EA Arrangements about transfer of information

(1) The chief executive may arrange for the transfer of information in the register for inclusion in the register required to be established under section 100FC.⁷

(2) A person does not commit an offence against section 100E merely because the person does something under the arrangement.

100F Regulations for division

A regulation may make provision for or about—

- (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 given under this division; and
- (c) the obligations of persons required by the regulations to complete returns to be given under this division.

6 Section 100E(2) protects information gained under this division by providing for an offence for disclosing or making use of confidential information. As a specific offence is created under subsection (2), subsection (6) provides that the more general provision in the *Health Services Act 1991*, section 63 (Confidentiality) does not apply.

7 Section 100FC (Pap Smear Register)

*Division 11—Pap Smear Register**Subdivision 1—Definitions and application***100FA Definitions for div 11**

In this division—

“abnormal Pap smear” means a Pap smear indicating abnormal cell growth and appearances in the cervix of the woman from whom the Pap smear was obtained.

“clinical information” means the following information about a woman appearing in the register as part of her registered screening history—

- (a) the dates and results of the Pap smear tests and histology tests for the woman;
- (b) other information prescribed under a regulation.

“clinical management” means a course of action for managing a precursor to cancer of a woman’s cervix or cancer of a woman’s cervix, including, for example, diagnosing, treating, monitoring and following up with the woman, and making recommendations to her.

“confidential information” means all information in the register about a woman.

“director”, of a pathology laboratory, means the person who has effective control of—

- (a) the laboratory premises, whether or not the person has an interest in the premises; and
- (b) the use of equipment used at the laboratory; and
- (c) the work performed by the staff in the laboratory.

“disclosure section” means section 100FP, 100FQ, 100FR, 100FV or 100FW.⁸

8 Section 100FP (Disclosures about woman’s registered screening history), 100FQ (Access to register by health practitioners), 100FR (Access to register by directors of, and nominated persons at, pathology laboratories), 100FV (Agreements for sending out notices under ss 100FK and 100FL) or 100FW (Arrangements about transfer of information)

“health practitioner” means—

- (a) a medical practitioner; or
- (b) a registered nurse under the *Nursing Act 1992*, section 4; or
- (c) a person designated as a health practitioner for this division.⁹

“health service employee” means a person appointed under the *Health Services Act 1991*, section 24.¹⁰

“histological sample” means a biopsy or excision of the cervix, uterine body or vagina of a woman.

“histology test” means the processes for testing a histological sample.

“identifying information” means the following information about a woman appearing in the register as part of her registered screening history—

- (a) full name or names, including, for example, other names previously or currently used;
- (b) date of birth;
- (c) address for correspondence;
- (d) other information prescribed under a regulation.

“nominated person”, at a pathology laboratory, means a person nominated by the director of the laboratory under section 100FR(1).

“Pap smear” means the cells scraped from a woman’s cervix for detecting whether the woman has—

- (a) a precursor to cancer of the cervix; or
- (b) cancer of the cervix.

“Pap Smear Register” see section 100FC.¹¹

“Pap smear test” means the processes for testing a Pap smear for—

- (a) a precursor to cancer of the cervix; or
- (b) cancer of the cervix.

9 See section 100FX (Chief executive may designate certain persons as health practitioners).

10 *Health Services Act 1991*, section 24 (Appointment of health service employees)

11 Section 100FC (Pap Smear Register)

“**pathology laboratory**” means premises used for the pathological examination of Pap smears and histological samples.

“**provider**” see section 100FF.¹²

“**register**” means the Pap Smear Register.

“**registered screening history**”, for a woman, means her identifying and clinical information, as appearing in the register.

“**woman**” means a female person.

“**written**” or “**in writing**”, in relation to a consent by or request from a woman, means a consent or request signed by the woman.

100FB Application of division

(1) This division applies to a procedure performed in Queensland after the commencement of this section to obtain a Pap smear or histological sample from a woman.

(2) However, this division does not apply to the procedure if the woman’s usual place of residence is outside of Queensland when the Pap smear or histological sample is obtained.

Subdivision 2—Establishment and purposes of register

100FC Pap Smear Register

(1) The chief executive must establish and keep a register under this Act to record identifying and clinical information about women.

(2) The chief executive may keep the register in a form the chief executive considers appropriate, including an electronic form.

(3) The register is to be known as the Pap Smear Register.

100FD Purposes of register

The purposes for establishing the register are as follows—

¹² Section 100FF (Definition for sdiv 3)

- (a) to establish mechanisms to advise a woman who has an abnormal Pap smear result about appropriate medical investigation and intervention;
- (b) to establish mechanisms to advise a woman to have the procedure to obtain another Pap smear because her previous Pap smear is technically unsatisfactory and cannot be assessed, including, for example, due to poor fixation of the smear;
- (c) to supply a woman's registered screening history to the director of, or a nominated person at, the pathology laboratory, where a Pap smear or histological sample obtained from the woman is being tested, to help the director or person interpret the smear or sample and make clinical management recommendations;
- (d) to supply a woman's registered screening history to a health practitioner to help the practitioner in advising the woman about options for clinical management;
- (e) to use information in the register for sending notices to certain women about Pap smears, or the results of Pap smear tests or histology tests;
- (f) to enhance access by pathology laboratories to information to help in assessing the proportion of correct predictions of detected lesions made by the pathology laboratory;
- (g) to supply data to help—
 - (i) in monitoring changing disease trends; and
 - (ii) in studying the efficacy of the management and treatment of abnormal Pap smears; and
 - (iii) in monitoring and evaluating the effectiveness of cervical screening programs; and
 - (iv) in increasing public awareness of cancer of the cervix;
- (h) to help in formulating strategies to encourage all women to participate in regular Pap smear testing, and, in particular—
 - (i) women who have not had a procedure to obtain a Pap smear; and
 - (ii) women who, according to their registered screening histories, are overdue for their next procedure to obtain a Pap smear.

100FE Women may elect to withhold, remove or change information on register

(1) Clinical and identifying information about a woman is to be included in the register unless the woman elects for it not to be included.

(2) The process stated in subdivision 3 is designed to achieve a balance between maximising participation and ensuring women are informed about their right to elect not to have their clinical and identifying information included in the register.¹³

(3) However, a woman may, in writing, ask for—

- (a) her registered screening history to be removed from the register; or
- (b) her identifying information to be changed.¹⁴

Subdivision 3—Duties of persons involved in obtaining and testing Pap smears and histological samples**100FF Definition for sdiv 3**

In this subdivision—

“**provider**” means—

- (a) a medical practitioner who intends to perform a procedure to obtain a Pap smear or histological sample from a woman; or
- (b) another person who intends to perform a procedure to obtain a Pap smear from a woman.

100FG Initial duty of person obtaining Pap smear or histological sample

A provider must be satisfied, on reasonable grounds, the woman has been informed about each of the following—

- (a) the existence and purposes of the register;

13 Subdivision 3 (Duties of persons involved in obtaining and testing Pap smears and histological samples)

14 See sections 100FM (Duty of chief executive to remove registered screening history) and 100FN (Duty of chief executive to change identifying information).

- (b) the identifying and clinical information about the woman that may be recorded in the register;
- (c) that the woman may elect for her identifying and clinical information not to be automatically included in the register.

100FH Duty if woman elects for her identifying and clinical information not to be included on register

(1) This section applies if—

- (a) a provider's health records do not indicate the woman has previously elected not to have her identifying and clinical information automatically included in the register; and
- (b) the woman tells the provider she does not want her identifying and clinical information to be automatically included.

(2) The provider must make a notation in the provider's health records—

- (a) about the woman's decision; and
- (b) that the woman's identifying and clinical information must not be given to the chief executive.

(3) Also, the provider must ensure each request by the provider for a Pap smear test or histology test for the woman includes a notation that the woman's identifying and clinical information must not be given to the chief executive.

100FI Provider's duty if woman previously elected for information not to be included on register

(1) This section applies to a provider if the provider's health records indicate the woman has previously elected not to have her identifying and clinical information automatically included in the register.

(2) The provider must ask the woman whether she wants to reconsider her decision.

(3) If the woman reconsiders her decision and tells the provider she now wants her identifying and clinical information to be automatically included in the register, the provider must make a notation in the provider's health records—

- (a) about the woman's decision; and

- (b) that the woman's identifying and clinical information must be given to the chief executive.

(4) If the woman reconsiders her decision and tells the provider she still does not want her identifying and clinical information to be automatically included in the register, the provider must ensure each request by the provider for a Pap smear test or histology test for the woman includes a notation that the woman's identifying and clinical information must not be given to the chief executive.

100FJ Duty of director to provide information

(1) The director of a pathology laboratory, who receives a request to test a Pap smear or histological sample obtained from a woman, must give the woman's identifying and clinical information, as required under a regulation, to the chief executive.

(2) The director must give the information to the chief executive no later than 4 weeks after the results of the tests are given to the person who asked for the test.

(3) However, if the request for the test of the Pap smear or histological sample includes a notation that the woman's identifying and clinical information must not be given to the chief executive, the director must not give the information to the chief executive.

Subdivision 4—Duties of chief executive concerning registered screening histories and authority to send reminder notices

100FK Duty of chief executive on receipt of information

(1) This section applies if the chief executive receives identifying and clinical information under this division for a woman about whom there is no registered screening history.

(2) After the identifying and clinical information is included in the register, the chief executive must send the woman a notice stating that the information has been included in the register.

(3) The notice must also state—

- (a) the woman may have her registered screening history removed from the register; and

- (b) the woman may have her identifying information changed if she considers the information is incorrect; and
- (c) the way the woman may have her registered screening history removed or her identifying information changed.

100FL Chief executive may send reminder notices to certain women

The chief executive may send a written notice to a woman who, according to her registered screening history, may—

- (a) be overdue for the procedure for obtaining her next Pap smear; or
- (b) need to have the procedure for obtaining a Pap smear repeated because her previous Pap smear is technically unsatisfactory and cannot be assessed; or
- (c) require appropriate medical investigation and intervention because of an abnormal Pap smear result.

100FM Duty of chief executive to remove registered screening history

(1) This section applies if a woman, in writing, asks the chief executive to remove her registered screening history from the register.

(2) As soon as is practicable after 6 weeks from receiving the request, the chief executive must remove the woman's history from the register, unless the woman withdraws her request before the period ends.

(3) If the woman's request states or otherwise indicates that her registered screening history was included in the register when, under this division, it should not have been included, the chief executive must remove the history from the register as soon as is practicable after receiving the request.

100FN Duty of chief executive to change identifying information

If a woman, in writing, asks the chief executive to change her identifying information because she considers the information is incorrect, the chief executive must comply with the request as soon as is practicable after its receipt.

Subdivision 5—Confidentiality of, and access to, registered screening histories of women

100FO Confidentiality of all information in register

(1) This section applies to the chief executive and each of the following persons involved in keeping the register or exercising powers involving the register, whether under a delegation from the chief executive or otherwise—

- (a) a health service employee;
- (b) a public service employee within the department.

(2) A person to whom this section applies must not, whether directly or indirectly—

- (a) disclose confidential information gained by the person under this division, unless the disclosure is made under a disclosure section; or
- (b) make use of confidential information gained by the person under this division, unless the information is used for this division.

Maximum penalty—50 penalty units.

(3) The *Health Services Act 1991*, section 63,¹⁵ does not apply to a person to whom this section applies in relation to a woman's registered screening history.

100FP Disclosures about woman's registered screening history

(1) This section applies to a person to whom section 100FO applies.

(2) If the person receives a written request from a woman for her registered screening history, the person must give the woman a copy of her history.

(3) Also, the person may disclose confidential information if—

15 Section 100FO(2) protects information gained under this division by providing for an offence for disclosing or making use of confidential information. As a specific offence is created under subsection (2), subsection (3) provides that the more general provision in the *Health Services Act 1991*, section 63 (Confidentiality) does not apply.

- (a) the woman to whom the confidential information relates gives her written consent for the disclosure; or
- (b) the disclosure is made in a form the person reasonably believes does not identify any woman; or
- (c) the disclosure is authorised or permitted under an Act or is required by law.

(4) Further, the person may disclose confidential information to the following—

- (a) a health service employee, or public service employee within the department, who is involved in maintaining the accuracy, completeness or integrity of the data making up the register;
- (b) a person authorised to conduct scientific research and studies under section 154M;¹⁶
- (c) the Commonwealth, another State or an entity of the Commonwealth or other State if the disclosure—
 - (i) is decided by the chief executive to be in the public interest; and
 - (ii) is required to be made, or may be made, under an agreement that—
 - (A) is between the State and the Commonwealth, the other State or the entity; and
 - (B) is prescribed under a regulation for this subsection.

(5) The Commonwealth, another State or an entity, that receives confidential information under subsection (4)—

- (a) must not give it to anyone else; and
- (b) must ensure the information is used only for the purpose for which it was given under the agreement.

100FQ Access to register by health practitioners

(1) This section applies if a health practitioner asks the chief executive to give the health practitioner a woman's registered screening history.

16 Section 154M (Authority to conduct scientific research and studies)

(2) The chief executive may give the health practitioner a woman's registered screening history if the chief executive is satisfied, on reasonable grounds—

- (a) the woman is a patient of the health practitioner; and
- (b) the registered screening history may help the health practitioner make—
 - (i) a clinical diagnosis about the woman; or
 - (ii) decisions about clinical management for the woman; or
 - (iii) decisions about the timing for performing a procedure for obtaining another Pap smear from the woman.

(3) Subsection (2) does not authorise—

- (a) the disclosure of a woman's address to a health practitioner; or
- (b) the disclosure of information identifying another health practitioner or a pathology laboratory, without the written consent of the other health practitioner or the director of the pathology laboratory, identified in the disclosure.

100FR Access to register by directors of, and nominated persons at, pathology laboratories

(1) The director of a pathology laboratory may nominate, by written notice to the chief executive, a person or persons employed at the laboratory to whom a woman's registered screening history may be given for the laboratory.

(2) Subsection (3) applies if—

- (a) a Pap smear or histological sample from a woman has been sent to a pathology laboratory for testing; and
- (b) the director of, or a nominated person at, the pathology laboratory asks the chief executive to give the director or nominated person the woman's registered screening history.

(3) The chief executive may give the director or nominated person the woman's registered screening history if the chief executive is satisfied, on reasonable grounds—

- (a) the director or person is interpreting results of the Pap smear test or histology test and making recommendations about clinical management for the woman; or

- (b) the pathology laboratory has tested a Pap smear or histological sample for the woman and the director or person is assessing the performance of the pathology laboratory in accurately assessing the proportion of correct predictions of detected lesions, including, for example, for quality assurance purposes.
- (4) Subsection (3) does not authorise—
- (a) the disclosure of a woman's address to the director of, or a nominated person at, a pathology laboratory; or
 - (b) the disclosure of information identifying a particular health practitioner or another pathology laboratory, without the written consent of the health practitioner, or the director of the other pathology laboratory, identified in the disclosure.

100FS Unauthorised access to registered screening histories

A person must not knowingly obtain, or attempt to obtain, from the register or any of the following persons confidential information the person is not authorised under this division to obtain—

- (a) the chief executive;
- (b) a health service employee, or a public service employee within the department, involved in keeping the register or exercising powers involving the register, whether under a delegation from the chief executive or otherwise.

Maximum penalty—50 penalty units.

100FT Health practitioners, directors and nominated persons to keep registered screening histories confidential

(1) This section applies to a person to whom confidential information is given under section 100FQ or 100FR.¹⁷

(2) The person must not, whether directly or indirectly, disclose the confidential information given to the person, unless the disclosure is made under subsection (3) or (4).

Maximum penalty—50 penalty units.

¹⁷ Section 100FQ (Access to register by health practitioners) or 100FR (Access to register by directors of, and nominated persons at, pathology laboratories)

(3) A health practitioner may disclose a woman's registered screening history to any of the following persons—

- (a) the woman;
- (b) another health practitioner to whom the health practitioner has referred, or intends to refer, the woman or with whom the health practitioner considers it necessary or desirable to discuss the woman's history for the clinical management for the woman.

(4) The director of, or a nominated person at, a pathology laboratory may disclose a woman's registered screening history to any of the following persons—

- (a) the woman;
- (b) the person who performed the procedure to obtain the Pap smear or histological sample;
- (c) a medical practitioner that the director or nominated person is satisfied, on reasonable grounds, is involved in the clinical management for the woman;
- (d) another person employed at the pathology laboratory involved in—
 - (i) the interpretation of Pap smear tests or histology tests, to the extent the director or nominated person considers it necessary or desirable to discuss the history with the other person; or
 - (ii) assessing the performance of the laboratory in accurately assessing the proportion of correct predictions of detected lesions, including, for example, for quality assurance purposes.

100FU Chief executive to monitor access to information

(1) The chief executive must cause processes to be put into place to monitor access to the registered screening history of women by—

- (a) health practitioners; and
- (b) the directors of, and nominated persons at, pathology laboratories.

(2) The processes for a health practitioner must allow the chief executive to decide—

- (a) whether the health practitioner is accessing only the registered screening history for women for whom the health practitioner is making—
 - (i) clinical diagnoses; or
 - (ii) decisions about clinical management; or
 - (iii) decisions about the timing for performing procedures for obtaining Pap smears; and
 - (b) whether someone else is accessing a woman's registered screening history other than the woman's health practitioner.
- (3)** The processes for a pathology laboratory must allow the chief executive to decide—
- (a) whether the director of, or nominated persons at, a pathology laboratory are accessing only the registered screening histories of women for whom the pathology laboratory—
 - (i) is testing Pap smears or histological samples, interpreting the results of the Pap smear tests or histology tests and making recommendations about clinical management for the women; or
 - (ii) tested Pap smears or histological samples and the director or nominated persons are assessing the performance of the pathology laboratory in accurately assessing the proportion of correct predictions of detected lesions, including, for example, for quality assurance purposes; and
 - (b) whether someone is accessing the registered screening history of women, other than the director of, or a nominated person at, the pathology laboratory.

Subdivision 6—Agreements and arrangements about confidential information, and designation of certain persons

100FV Agreements for sending out notices under ss 100FK and 100FL

(1) The chief executive may enter into a written agreement with a person (the “**contractor**”) for the contractor to send out notices under section 100FK or 100FL¹⁸ for the chief executive.

(2) The chief executive may disclose confidential information to the contractor to the extent it is necessary for the contractor to perform the contractor’s functions under the agreement.

(3) For sending out a notice under section 100FK or 100FL—

- (a) the contractor may disclose confidential information to the contractor’s employees and the persons to whom the notices are sent; and
- (b) the contractor’s employees may disclose confidential information to the persons to whom the notices are sent.

(4) A contractor, or an employee of the contractor, in receipt of confidential information must not disclose it to another person, or use the information, other than for sending out notices as mentioned in subsection (3).

Maximum penalty for subsection (4)—50 penalty units.

100FW Arrangements about transfer of information

(1) The chief executive may arrange for the transfer of confidential information for inclusion in the register required to be established under section 100D.¹⁹

(2) A person does not commit an offence against section 100FO merely because the person does something under the arrangement.²⁰

18 Section 100FK (Duty of chief executive on receipt of information) or 100FL (Chief executive may send reminder notices to certain women)

19 Section 100D (Register)

20 Section 100FO (Confidentiality of all information in register)

100FX Chief executive may designate certain persons as health practitioners

The chief executive may, by gazette notice, designate a person who performs procedures to obtain Pap smears as a health practitioner for this division.

Example—

An enrolled nurse working in a remote area.

Division 12—Peri-natal statistics**100G Interpretation**

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; or
 - (ii) in relation to a public hospital—the manager for the district in which the hospital is situated; or
 - (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.

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

100H Furnishing returns to chief executive

- (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 chief executive a return in the approved form completed by a person required by the regulations to complete such returns.

(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 the *Registration of Births, Deaths and Marriages Act 1962*.

100I Confidentiality

- (1) This section applies to—
- (a) the chief executive; 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 chief executive 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 chief executive.

100J Regulations for division

A regulation may make provisions for or about—

- (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.

PART 4—DRUGS AND OTHER ARTICLES

Division 1—Preliminary

101 Adulteration of drug or article

(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;
- (f) if it contains any substance in excess of any quantity or proportion permitted by this Act;
- (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;
- (k) if another substance has been substituted, wholly or in part, for such drug or article.

(2) 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.

101A False description of drug

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 controlled 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 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.

102 Drugs to comply with description or standard

For the purposes of this Act—

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

103 Sales by agents or servants etc.

(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.

104 Adulterated drug not to be sold

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.

104A Adulterated drug not to be tendered or despatched for or on sale

(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.

(2) 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.

(3) 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.

(4) 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 Mixing other ingredients or material with a drug

(1) No person shall—

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

106 Offences in relation to automatic machines

(1) In this section—

“**contraceptive**” includes any condom and any other fitting or appliance sold for use as a contraceptive or capable of being used as a contraceptive.

(2) Subject to subsection (3), a regulation may prohibit the sale or supply, by means of any automatic machine or similar mechanical device, of any drug, poison or contraceptive specified in the regulation.

(3) A regulation 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) contravenes a regulation made under subsection (2); or
- (b) installs any automatic machine or similar mechanical device at any place for a purpose prohibited under a regulation made under 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.

107 Sale of mixture

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

(2) 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.

(3) But (except as otherwise prescribed in respect of poisons, restricted drugs, controlled drugs, 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.

(4) 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.

109 Examination and report upon articles advertised

(1) The chief executive 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 chief executive thinks desirable in the public interest.

(2) The chief executive 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 chief executive.

(3) However, the chief executive 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.

(4) In addition, any cost of publication or distribution incurred by the chief executive under this section shall be borne and paid by the importer, vendor, or owner of the drug or article.

(5) Any such report which has been published by the chief executive 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.

110 Prohibition of sale of injurious articles etc.

(1) A regulation may prohibit the advertising or sale of any drug or article which, in the chief executive's opinion is injurious to life or health, or which by reason of its inactivity or inefficiency is useless for the advertised purposes.

(2) However, a regulation may be made only if the manufacturer, importer, seller, or owner of the drug or article has been given a reasonable opportunity to object to the chief executive about the proposed prohibition.

(3) 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.

111 Extension of ss 109 and 110

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.

112 Use of catheters etc.

(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.

113 Prohibition of sale of disinfectants and preservatives

(1) A regulation may prohibit the sale of any article as a disinfectant, germicide, antiseptic, preservative, or deodorant.

(2) However, a regulation may be made only if the manufacturer, importer, seller or owner of the article has been given a reasonable opportunity to object to the chief executive about the proposed prohibition.

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

114 Labelling of disinfectants etc.

(1) A regulation may require a label to be supplied on or attached to a package of disinfectant, germicide, antiseptic or deodorant packed or enclosed for sale.

(2) A person must not sell, in a package, a disinfectant, germicide, antiseptic or deodorant that contravenes a requirement of a regulation made under subsection (1).

Maximum penalty—20 penalty units.

Division 3—Cooking utensils, toys, wearing apparel, matches and use of lead

123 Cooking utensils and food receptacles

(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.

124 Substances prohibited in toys etc.

(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;
- (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;
- (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;
- (f) any tubed nursing bottle for infants' food other than a tubed nursing bottle approved by the chief executive by gazette notice.

(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.

124A Powers respecting articles capable of causing bodily harm or discomfort to humans

(1) If the chief executive 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 chief executive may by

signed writing 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 chief executive may, with the approval of the Minister, by gazette notice, 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 chief executive has not exercised with respect to the article concerned the powers conferred upon the chief executive 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.

125 Prohibition of white phosphorus in matches

(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.

129A Prohibition of the use of leaded metal for structural purposes in certain buildings

(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.

(2) 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*.

(3) 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.

(4) 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.

129B Prohibition of the use of means for conservation of water contaminated by lead

(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.

129C Unlawful use of leaded metal or metal sheets a nuisance

(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.

129D Prescribing methods of analysis

A regulation may prescribe 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 3A—Paint***129E Definitions**

In this division—

“**standard**” means—

- (a) appendix I of the uniform standard; or
- (b) if appendix I of the uniform standard is changed under a regulation—appendix I as changed; or
- (c) if another standard is prescribed under a regulation—the other standard.

“**uniform standard**” means the ‘Standard for the uniform scheduling of drugs and poisons’ prepared by the National Drugs and Poisons

Schedule Committee under the *Therapeutic Goods Act 1989* (Cwlth) and published by the Commonwealth.

129F Person must comply with standard

A person manufacturing, selling, supplying or using paint must comply with the standard.

Maximum penalty—20 penalty units.

129G Officer may take sample of paint

(1) This section applies to an officer who, under section 160, enters a house or premises to examine whether the standard has been, or is being, contravened.

(2) The officer may take, for examination or analysis—

- (a) a sample of paint from—
 - (i) the house or premises; or
 - (ii) a fence, wall, post, gate or other structure or furniture in the house or on the premises; or
- (b) a sample of the paint the person is using to paint—
 - (i) the house or premises; or
 - (ii) a fence, wall, post, gate or other structure or furniture in the house or on the premises.

(3) Subsection (2) applies only if—

- (a) the officer believes, on reasonable grounds, that the standard has been, or is being, contravened; and
- (b) the officer has—
 - (i) the consent of the occupier of the house or premises to take the sample; or
 - (ii) entered the house or premises under an order under section 160.

(4) If the officer is an officer of a local government, the officer may only exercise the powers mentioned in subsection (2) in the local government's area.

129H Chief executive may give notice

(1) This section applies if, on the examination or analysis of a sample of paint taken under section 129G, the chief executive is satisfied—

- (a) the paint has been used, or is being used, in a way that contravenes the standard; or
- (b) the paint has been used in a way that, if it had been used after section 129F commenced, it would have contravened the standard.

(2) The chief executive may give a written notice (“**notice to comply**”) to—

- (a) the person who has allegedly contravened the standard; or
- (b) the owner of the house, premises, structure or furniture.

(3) The notice to comply must state—

- (a) the act or omission comprising the alleged contravention; and
- (b) the action the person must take to rectify the alleged contravention; and
- (c) the day by which the person must take the action (the “**due date**”).

Example of subsection (3)(b)—

The notice may require the owner of a building painted in contravention of the standard to clean down and remove the paint.

(4) The period to elapse between the day the notice is given to the person and the due date must be reasonable, having regard to the action the person must take.

(5) The person must comply with the notice unless the person has a reasonable excuse for not complying with it.

Maximum penalty for subsection (5)—20 penalty units.

129I Method of analysis may be prescribed

A regulation may, for this division, prescribe the method of analysis to be used for deciding whether paint manufactured, sold, supplied or used by a person complies with the standard.

Division 4—Drug dependent persons and poisons**130B Detention of drug offender for treatment**

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

- (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 under a regulation to be an institution for the purposes of this section.

(2) 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.

(3) 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.

(4) 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.

(5) 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 chief executive (the chief executive being thereunto empowered) until the offender is discharged in accordance with this Act.

(6) 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.

(7) In this section—

“**treatment**” includes medical treatment, care, training, education, social rehabilitation, help and advice.

130C Examination of drug offender detained for treatment

(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 130B shall be examined by a medical practitioner appointed by the chief executive either generally or in a particular case.

(2) A medical practitioner for the time being charged with the treatment of a person detained under an order made pursuant to section 130B 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 (3).

(3) The examining medical practitioner shall make to the chief executive 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.

130D Order made upon medical practitioner's recommendation

(1) The chief executive shall, upon receipt of a recommendation made pursuant to section 130C(3), 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 130C(3) as the chief executive 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 chief executive, classified as a person to whom leave of absence may be granted the person or persons designated by the chief executive 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 chief executive orders that a detainee be released on parole the chief executive 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 chief executive upon the recommendation of any medical practitioner.

130E Conditional leave of absence or release on parole

(1) The chief executive 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.

(2) 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.

(3) Where the chief executive makes an order under section 130D(1) 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 chief executive shall specify the conditions in the order.

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

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

130F Liability to further detention of person released on leave or on parole

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

- (a) for a police officer, or other person authorised by the chief executive 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(5) 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 5, 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.

(4) In this section—

“declared institution” means an institution declared to be an institution for section 130B.

“treatment” includes medical treatment, care, training, education, supervision, social rehabilitation, help and advice.

130G Discharge of person on parole

(1) The chief executive may at any time for reason that appears to the chief executive 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.

130H Absence without leave

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 chief executive in that behalf.

131 Inorganic salts of hydrocyanic acid

(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.

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

(3) 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.

(4) 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.

(5) 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.

Division 5—Detention Review Tribunal

131C Tribunal to be constituted

(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.

131D Applications to tribunal

(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.

131E Restricted number of applications

(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.

131F Tribunal's determination of application

(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 chief executive 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(3)(b) or (c)—may recommend to the chief executive 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.

131G Procedure of tribunal

(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.

131H Rules of practice of tribunal

(1) A regulation may make provision for—

- (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.

Division 6—Labelling of drugs and poisons**131I Drugs and poisons to be labelled**

(1) Every package containing any drug or poison for sale shall bear a label which complies in all respects with what is prescribed under a regulation.

(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 7—Pest control operators**131J Interpretation**

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 under a regulation 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 under a regulation to be a regulated pesticide, and includes any admixture, preparation or solution that contains that pesticide.

131K Uses of pesticides by unlicensed or immature persons

(1) A person shall not hold himself or herself out as a pest control operator unless the person is a licensee.

Maximum penalty—20 penalty units.

(2) A pest control operator must not use a pesticide unless the pest control operator is a licensee.

Maximum penalty—20 penalty units.

(3) Subsection (2) does not apply to a pest control operator who uses a pesticide in the presence, and under the personal supervision, of a licensee.

(4) A licensee must not permit a person who is not a licensee to use or prepare a pesticide for use in carrying out a licensee's activities as a pest control operator, unless—

- (a) the person is 18 years or more; and
- (b) the licensee is present during, and personally supervises, the use or preparation.

Maximum penalty—20 penalty units.

131KA Prohibited pesticides not to be used

A pest control operator shall not use a prohibited pesticide.

Maximum penalty—20 penalty units.

131KB Regulated pesticide

(1) A regulation 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).

131L Application for licence

(1) An application for a licence shall be made to the chief executive in the approved form and shall be accompanied by the prescribed fee.

(2) If an applicant for a licence satisfies the chief executive 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 chief executive in respect of such other matters as the chief executive considers relevant, the chief executive may grant and issue to the applicant a licence.

131M Licence

A licence—

- (a) shall be in the approved 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.

131N Duration of licence

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.

131O Renewal of licence

(1) An application for renewal of a licence shall be made to the chief executive in the approved 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 chief executive shall renew a licence if the chief executive 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.

131P Imposition of conditions of licence

(1) The chief executive may upon the grant or renewal of a licence impose such conditions as the chief executive thinks fit by inserting in or affixing to the approved 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 chief executive to impose conditions pursuant to this section, the chief executive 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.

131Q Conditions of licence

(1) 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.

131R Cancellation or suspension of licences

(1) The chief executive 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 chief executive 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 chief executive—

- (a) within 28 days after written notice of the chief executive's decision has been given to the person; or
- (b) where an appeal against the chief executive'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.

131S Appeal from chief executive

Any person—

- (a) whose application for a licence or renewal of a licence is refused by the chief executive; or
- (b) who feels aggrieved by the imposition or variation of any conditions by the chief executive; or
- (c) who feels aggrieved by the cancellation or suspension of the person's licence by the chief executive;

may within 28 days after notification to the person of the chief executive's decision appeal to the Minister whose decision shall be final.

131T Notice of accidents

(1) A pest control operator shall give notice in writing to the chief executive 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 chief executive 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.

131U Immediate notice concerning loss of life

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 chief executive by the quickest means of communication available to the pest control operator all information concerning the accident then available to the pest control operator.

131V Powers of inspectors

Without derogating from the powers of an inspector under any other provision of this Act, an inspector authorised by the chief executive 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.

131W Regulations

A regulation may make provision for or about—

- (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.

Division 8—Application of agricultural chemicals

131WA Interpretation

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, nematicide or vermin destroyer, and includes any substance prescribed to be an agricultural chemical for the purposes of this division, but does not include any substance

prescribed not to be an agricultural chemical for the purposes of this division.

“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.

131WB Powers of inspectors

(1) Without derogating from the powers of an inspector under any other provision of this Act, an inspector authorised by the chief executive 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.

131WC Use of agricultural chemicals by persons under 17 years

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.

131WD Regulations

A regulation may make provision for or about the following matters—

- (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.

Division 9—Hazardous substances

131WE Interpretation

In this division—

“hazardous substance” means any substance declared under a regulation to be a hazardous substance for the purposes of this division, and includes any admixture, preparation or solution that contains a hazardous substance.

131WF Powers of inspectors

(1) Without derogating from the powers of an inspector under any other provision of this Act, an inspector authorised by the chief executive 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.

131WG Regulations

A regulation may make provision for or about the following matters—

- (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.

Division 10—Inspection, removal, sampling, analysis

132 Powers of officers

(1) Any officer authorised by the chief executive 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 declared under a regulation to be an article to which the provisions of this section apply, and inspect any such article;

- (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 declared under a regulation 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;
- (c) examine and open any such article or any package enclosing the same in any such place, or conveyed as aforesaid;
- (d) remove for examination or analysis any such article or portions or samples of any such article;
- (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;
- (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;
- (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.

(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.

(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.

(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.

(5) 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.

(6) 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.

(7) 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.

(8) 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—

- (a) 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
- (b) that the article is a prohibited article; or
- (c) 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.

(9) 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.

(10) 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.

(11) Where pursuant to subsection (4) to (6) 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.

(12) Any portion of a drug or article sent to an address pursuant to subsection (11) shall be deemed to have been delivered at the time at which it ought to be delivered in the ordinary course of post.

133 Power to demand, select, and take samples

(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.

134 Manner in which sample may be dealt with

(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.

(2) 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).

(3) The officer shall subsequently deliver another of such parts to an analyst, and shall retain the third of such parts.

(4) Where pursuant to section 132(5) or subsection (3) 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.

(5) Anything sent by registered post to the laboratory of an analyst pursuant to subsection (4) shall be deemed to have been delivered at the time at which it ought to be delivered in the ordinary course of post.

134A Manner of dealing with particular samples

(1) This section applies only to a drug or article declared under a regulation to be a drug or article to which this section applies.

(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 (2) 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.

135 Any person may have sample analysed

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.

136 Duty of analyst etc.

(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 chief executive or, if the first officer is an officer of a local government, the local government.

(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 applies; and if any person so uses such correspondence or communication the person shall be liable to a penalty not exceeding 10 penalty units.

137 Obstruction of officer etc.

Any person who—

- (a) assaults, intimidates, or obstructs the chief executive 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 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.

139 Liability for offence by agent or employee

(1) Notwithstanding the Criminal Code, sections 7 or 23, 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.

(2) It shall be immaterial that the offence was committed without the authority or contrary to the instructions of the principal or employer.

(3) 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.

(4) Save as provided by subsection (3), 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.

140 Agent or servant may recover from principal

(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.

140A Principal may recover from agent or servant

(1) 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.

(2) Where a principal or employer 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 principal or employer to recover from his or her agent or servant the penalty and costs as mentioned in the subsection.

141 When importer or manufacturer liable

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.

142 Guarantees

(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) a regulation may require the guarantee to be in the approved form.

(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.

(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.

(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.

(5) A person must not 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 any other law.

143 Penalty for offence

(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.

(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.

144 Forfeiture

(1) In the case of any conviction under this Act, any drug or article (other than a poison, a restricted drug, a controlled drug, or a biological preparation) to which the convictions relate may by order of the court be forfeited to Her Majesty.

(2) 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.

(3) In the case of any conviction under this Act, any poison, restricted drug, controlled drug or biological preparation to which the conviction relates shall be and be deemed to be forfeited to Her Majesty.

(4) All drugs and articles forfeited under this Act shall be disposed of as the Minister may direct.

145 Proceedings for offences

(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.

(2) 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.

(3) 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.

(4) There shall be served with the summons a copy of the analyst's certificate (if any) obtained on behalf of the prosecution.

(5) The endorsement of the analyst's certificate with an oath of service shall be prima facie evidence of the service of such copy.

(6) When any drug or article has been taken or obtained for analysis pursuant to division 10, 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.

(7) Neither subsection (3) nor subsection (4) shall apply or extend with respect to proceedings against a person who has been arrested under this Act.

146 Analyst's certificate prima facie evidence

(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.

(4) 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.

(5) 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.

147 Independent analysis

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 chief executive 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 chief executive shall comply with every such order accordingly.

148 Expenses of analysis to be paid by offenders on conviction

(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.

149 Onus of proof

(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.

150 Power to require information to be made available

(1) If in the opinion of the chief executive 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 chief executive may require such person to produce for the chief executive's inspection, or to produce to any officer specially authorised in that behalf by the chief executive, 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 chief executive 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.

151 Publication of names of offenders

(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 chief executive 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 chief executive, but may be so published within 21 days after a final order has been made on appeal affirming the conviction or dismissing the appeal.

152 Regulations about drugs, articles, substances, appliances etc.

A regulation may be made about the following matters—

- (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;
 - (c) prohibiting the addition of any specified thing, or of more than the specified quantity or proportion thereof, to any drug or article;
 - (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;
 - (e) the substances which shall not be used in making any package;
 - (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;
 - (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 chief executive 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 chief executive, be sold, manufactured, prepared, stored, packed, served, kept or had;

- (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;
- (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;
- (t) defining or prescribing poisons or restricted drugs or controlled drugs 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, controlled drugs, biological preparations or goods for therapeutic use under and within the meaning of the *Therapeutic Goods Act 1989* (Cwlth);
- (v) the licensing of persons or classes of persons to manufacture, pack, re-pack or sell poisons or restricted drugs or controlled drugs, or biological preparations or goods for therapeutic use under and within the meaning of the *Therapeutic Goods Act 1989* (Cwlth);

- (w) the siting, construction, layout, condition and registration of licensee's premises;
- (x) regulating the supply of drugs to drug dependent persons;
- (y) providing for the inspection, sampling, seizure, and analysis of poisons, controlled drugs, restricted drugs, biological preparations or goods for therapeutic use under and within the meaning of the *Therapeutic Goods Act 1989* (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, controlled drugs, restricted drugs, biological preparations or goods for therapeutic use under and within the meaning of the *Therapeutic Goods Act 1989* (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;
- (za) the registration by the chief executive 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) 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;
- (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;
- (zh) fixing rates for payment for samples of drugs or articles taken or obtained under this Act;

Production of certificates

- (zi) the production to officers of certificates and other documents granted or issued for the purposes of this part.

153 Suggestive names for drugs

(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.

(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.

154 Proceedings by indictment and contracts not to be affected

(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 5—SCIENTIFIC RESEARCH AND STUDIES

154M Authority to conduct scientific research and studies

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 gazette notice, authorise such person to conduct such research and studies under this part.

154N Information obtained and reports made under this part

(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.

(2) A person shall not, by virtue of subsection (1), be compellable to supply any such information or make any such report.

(3) 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.

(4) 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.

(5) 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.

PART 6—MISCELLANEOUS PROVISIONS

155 Vessels or aircraft

(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 a regulation declares, and, if a regulation is not in force for the water, 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.

157 Source of information or reports

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.

158 Protection to persons acting in execution of Act

(1) The Minister, the chief executive, the chief health officer, a local government and any officer or other person acting or purporting to act under the direction of the Minister, the chief executive, the chief health officer 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.

159 No officer to be concerned in contract

(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.

160 Entry

(1) The chief executive, the chief health officer, the local government and an officer of the department or local government may 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, or of executing any work or making any

inspection authorised to be executed or made under the provisions of this Act or any order, or local law, or making any inquiry under the provisions of this Act, or generally for the purpose of enforcing the provisions of this Act or any 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.

(3) 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.

(4) 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.

(5) 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.

161 Compensation in case of damage

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.

162 Compensation payable, how to be fixed

(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.

163 Local laws

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.

164 Service of notice

(1) Any notice, order, process, or other document, under the provisions of this Act or any 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) A document may be served on the chief executive by delivering it to the chief executive or an officer appointed by the chief executive for the purpose, or by forwarding it by post in a prepaid letter addressed to the chief executive.

(5A) A document may be served on the chief health officer by delivering it to the chief health officer or an officer appointed by the chief health officer for the purpose, or by forwarding it by post in a prepaid letter addressed to the chief health officer.

(5B) A document may be served on a local government by delivering it to the chief executive officer of the local government, or by forwarding it by post in a prepaid letter addressed to the local government.

(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.

165 Offences

Any person who is guilty of any contravention of any regulation, or order made by the chief executive, 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.

166 Neglect of duty by officer an offence

If any officer neglects to perform any duty imposed upon the officer by this Act or any local law, or wilfully neglects to prosecute offenders against the provisions of this Act or any local law, the officer shall be liable to a penalty not exceeding 10 penalty units.

167 Obstructing execution of Act

(1) Any person who—

- (a) assaults, intimidates, threatens, abuses or insults the chief executive, the chief health officer, 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 chief executive, the chief health officer, 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, the chief executive, the chief health officer 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 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 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.

(4) 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 order, or local law.

(5) Any occupier of premises who, when requested by or on behalf of the chief executive, the chief health officer 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.

170 Power to proceed against local government for nuisance

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 chief executive 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 chief executive 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 chief executive under this section shall be a debt due from the local government to the Crown, and shall be recoverable with full costs by the chief executive in any court of competent jurisdiction.

171 Who may act for local government in cases of emergency

(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.

172 No abatement

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.

173 Reference to ‘owner’ and ‘occupier’

Whenever in any proceeding under the provisions of this Act, or any local law, or any order of the chief executive 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.

174 Contribution

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.

175 General penalty

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.

176 Recovery of penalties etc.

(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.

177 Limitation of time for summary proceedings to be taken

(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 chief executive 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 chief executive or by the chief executive officer or mayor of a local government stating the date on which the chief executive 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.

178 Evidence

In any legal proceeding under this Act, or any 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 signatures of the chief executive and chief health officer must be judicially noticed;
- (c) 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;
- (d) 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;

- (e) with respect to any licence, certificate, authority or approval which the chief executive or the chief health officer is authorised by any provision of this Act to grant, issue or give, a document signed by the chief executive or the chief health officer 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;
- (f) 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 controlled 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.

180 Regulation making power

(1) The Governor in Council may make regulations under 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) the inspection of State premises;
- (d) the suspension or cancellation of licences, certificates, approvals and other instruments under this Act;
- (e) the information to be given to the chief executive for entering in the Pap Smear Register and the timing for giving the information;
- (f) prescribing penalties of not more than 80 penalty units, and daily penalties of not more than 4 penalty units, for offences against a regulation.

181 References to certain regulations and provisions

In an Act or document, a reference to any of the following regulations may, if the context permits, be taken to be a reference to the *Health Regulation 1996*, and a reference (whether express or implied) to a provision of any of the following regulations may, if the context permits, be taken to be a reference to the corresponding provision of the *Health Regulation 1996*—

- Camping Ground Regulation 1987
- Cancer Registration Regulation 1981
- Hairdressers Regulation 1989

- Hazardous Substances (Placarding) Regulation 1988
- Health (Analysis Fees) Regulation 1981
- Health (Analyst's Certificate) Regulation 1993
- Health (Dispensary) Regulation 1993
- Health (Pest Control Operators) Regulation 1977
- Health (Poisons—Fumigation) Regulation 1973
- Health (Radioactive Substances) Regulation 1994
- Health (Scientific Research and Studies) Regulation 1993
- Hyperbaric Chamber Therapy Regulation 1989
- Maltreatment of Children Regulation 1980
- Mosquito Prevention and Destruction Regulation 1982
- Perinatal Statistics Regulation 1986
- Prescribed Substances Standards and Methods Regulation 1987
- Skin Penetration Regulation 1987
- Therapeutic Goods and Other Drugs Regulation 1982
- Vermin Control Regulation 1991.

PART 7—TRANSITIONAL PROVISIONS FOR THE HEALTH AND OTHER LEGISLATION AMENDMENT ACT 1998

182 Chief health officer may transfer documents to chief executive

(1) This section applies to a document that, before the commencement of this section—

- (a) was filed with, served on or otherwise given to the chief health officer; or
- (b) the chief health officer was required to prepare or keep under this Act or another Act; or

- (c) was created by or for, or otherwise possessed or controlled by, the chief health officer because the document was necessary or convenient for, or incidental to, performing functions or exercising powers under this Act or another Act by the chief health officer.

(2) The chief health officer may make the document available to the chief executive.

(3) If the chief health officer makes a document available to the chief executive under subsection (2), the chief health officer does not contravene a provision of this Act or another Act that—

- (a) states the chief health officer must not publish or disclose the document or the information in the document, other than as prescribed in this Act or the other Act; or
- (b) states the chief health officer must not use the document for a purpose other than a purpose allowed under this Act or the other Act.

183 Preservation of certain evidentiary matters

(1) This section applies to a provision of this Act or another Act, that, as in force immediately before the commencement of the *Health and Other Legislation Amendment Act 1998*, section 14(1), (the “**commencement**”) provided it was not necessary to prove—

- (a) the appointment of the chief health officer; or
- (b) a signature purporting to be the chief health officer’s signature.

(2) The provision, as in force immediately before the commencement, continues to apply in a proceeding in relation to a matter that arose before the commencement.

ENDNOTES

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 7 March 2002. Future amendments of the Health Act 1937 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 79 of 1993	26 March 1994
2	to Act No. 58 of 1995	20 December 1995
2A	to Act No. 61 of 1996	17 February 1997
3	to Act No. 61 of 1996	29 April 1998
3A	to Act No. 41 of 1998	6 January 1999
3B	to Act No. 41 of 1998	12 March 1999
3C	to Act No. 60 of 1999	19 December 1999
3D	to Act No. 60 of 1999	9 February 2000
3E	to Act No. 5 of 2000	14 April 2000
3F	to Act No. 16 of 2000	14 July 2000
3G	to Act No. 46 of 2000	8 November 2000
3H	to Act No. 46 of 2000	14 December 2000
3I	to Act No. 103 of 2001	15 January 2002
3J	to Act No. 103 of 2001	8 February 2002
3K	to Act No. 103 of 2001	28 February 2002

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1, 2
Changed names and titles	1, 2
Corrected minor errors	1, 2
Obsolete and redundant provisions	1
Renumbered provisions	1, 2

6 List of legislation

Health Act 1937 1 Geo 6 No. 31

date of assent 2 December 1937

commenced 1 January 1938 (proc pubd gaz 11 December 1937 p 2020)

amending legislation—

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

s 4 commenced 21 June 1947 (see s 4(2) and proc pubd gaz 21 June 1947 p 2275)

remaining provisions commenced on date of assent

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 and Water Supply Act 1949 13 Geo 6 No. 55 pt 6 (prev Sewerage, Water Supply, and Gasfitting Act 1949)

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 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
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 rep 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 (see s 2(1))
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 1981

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 (see s 2(1))

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 (see s 2(1))

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 (see s 2(1))

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 (see s 2(1))

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 o in c 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 ss 1.1–1.2, 7.3 sch 3

date of assent 5 June 1991

ss 1.1–1.2 commenced on date of assent

remaining provisions commenced 1 July 1991 (proc pubd gaz 22 June 1991 p 974)

Statute Law (Miscellaneous Provisions) Act 1991 No. 97 ss 1–3 sch 2

date of assent 17 December 1991

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1992 No. 36 ss 1–2 sch 1

date of assent 2 July 1992

amdt 1 commenced 1 August 1994 (1994 SL No. 283)

remaining provisions commenced on date of assent

Nursing Act 1992 No. 55 ss 1–2, 163 sch 2

date of assent 30 November 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 1 November 1993 (1993 SL No. 393)

Health Legislation Amendment Act 1992 No. 66 pts 1, 6

date of assent 7 December 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 18 December 1992 (1992 SL No. 450)

Local Government Act 1993 No. 70 ss 1–2, 804 sch

date of assent 7 December 1993

ss 1–2 commenced on date of assent

remaining provisions 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)

Environmental Protection Act 1994 No. 62 ss 1–2, 223 sch 3

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 1995 (1995 SL No. 47)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2 (this Act is amended, see amending legislation below)

date of assent 1 December 1994

amdts 4, 8 never proclaimed into force and rep 1995 No. 57 s 4 sch 2

remaining provisions commenced on date of assent

amending legislation—

Statute Law Revision Act 1995 No. 57 ss 1, 4 sch 2

date of assent 28 November 1995

commenced on date of assent

Environmental Legislation Amendment Act (No. 2) 1995 No. 52 pts 1, 3

date of assent 22 November 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 2 February 1996 (1996 SL No. 16)

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1 (this Act is amended, see amending legislation below)

date of assent 28 November 1995

commenced on date of assent

amending legislation—

Health Legislation Amendment Act 1996 No. 60 pts 1, 7

date of assent 9 December 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 28 November 1995 (see s 2(2))

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 2

date of assent 28 November 1995

commenced on date of assent

Health Legislation Amendment Act 1996 No. 60 pts 1, 3

date of assent 9 December 1996

ss 8–10 commenced 20 December 1996 (1996 SL No. 401)

ss 7, 16–17 commenced 1 January 1997 (1996 SL No. 438)

remaining provisions commenced on date of assent

Health Legislation Amendment Act (No. 2) 1996 No. 61 ss 1–2, 15 sch

date of assent 9 December 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 20 December 1996 (1996 SL No. 402)

Health and Other Legislation Amendment Act 1998 No. 41 ss 1, 2(2) pts 2–3 schs 1–2

date of assent 27 November 1998

ss 1–2 commenced on date of assent

ss 3–8, 13, 14(1) sch 1, 14(2) sch 2 commenced 21 December 1998 (1998 SL No. 346)

ss 9–10, 11 (except so far as the section ins new s 100FJ), 12 commenced 8 February 1999 (1999 SL No. 3)

remaining provisions commenced 27 November 1999 (automatic commencement under AIA s 15DA(2))

Child Protection Act 1999 No. 10 ss 1, 2(2), 205 sch 3

date of assent 30 March 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 23 March 2000 (2000 SL No. 45)

Health Practitioners (Professional Standards) Act 1999 No. 58 ss 1–2 pt 14 div 4

date of assent 18 November 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 7 February 2000 (1999 SL No. 327)

Private Health Facilities Act 1999 No. 60 ss 1–2, 165 sch 2

date of assent 29 November 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 30 November 2000 (automatic commencement under AIA s 15DA(2))

Police Powers and Responsibilities Act 2000 No. 5 ss 1, 2(1)–(2), 373 sch 2

date of assent 23 March 2000

commenced on date of assent (see s 2(1)–(2))

Guardianship and Administration Act 2000 No. 8 ss 1–2, 263 sch 3

date of assent 20 April 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2000 (2000 SL No. 125)

Mental Health Act 2000 No. 16 ss 1–2, 590 sch 1 pt 2

date of assent 8 June 2000

ss 1–2, 590 commenced on date of assent (see s 2(1))

remaining provisions commenced 28 February 2002 (2002 SL No. 27) (provisions were to commence 8 June 2002 (automatic commencement under AIA s 15DA(2) (2001 SL No. 46 s 2)))

Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 3 sch

date of assent 25 October 2000

commenced on date of assent

Chiropractors Registration Act 2001 No. 3 ss 1–2, 241 sch 2

date of assent 11 May 2001

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force

Dental Practitioners Registration Act 2001 No. 4 ss 1–2, 267 sch 2

date of assent 11 May 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2002 (2001 SL No. 258)

Dental Technicians and Dental Prosthetists Registration Act 2001 No. 5 ss 1–2, 247 sch 2

date of assent 11 May 2001

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force

Medical Practitioners Registration Act 2001 No. 7 ss 1–2, 302 sch 2

date of assent 11 May 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 2002 (2002 SL No. 30)

Medical Radiation Technologists Registration Act 2001 No. 8 ss 1–2, 237 sch 2

date of assent 11 May 2001

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force

Occupational Therapists Registration Act 2001 No. 9 ss 1–2, 239 sch 2

date of assent 11 May 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 2002 (2001 SL No. 259)

Optometrists Registration Act 2001 No. 10 ss 1–2, 237 sch 2

date of assent 11 May 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 2002 (2001 SL No. 260)

Pharmacists Registration Act 2001 No. 12 ss 1–2, 245 sch 2

date of assent 11 May 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 2002 (2001 SL No. 261)

Physiotherapists Registration Act 2001 No. 13 ss 1–2, 242 sch 2

date of assent 11 May 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 2002 (2001 SL No. 262)

Podiatrists Registration Act 2001 No. 14 ss 1–2, 238 sch 2

date of assent 11 May 2001

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force**Psychologists Registration Act 2001 No. 15 ss 1–2, 255 sch 2**

date of assent 11 May 2001

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force**Speech Pathologists Registration Act 2001 No. 16 ss 1–2, 236 sch 2**

date of assent 11 May 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 2002 (2001 SL No. 263)

Dangerous Goods Safety Management Act 2001 No. 28 ss 1–2, 189(1) sch 1

date of assent 25 May 2001

ss 1–2 commenced on date of assent

remaining provision not yet proclaimed into force**Health Legislation Amendment Act 2001 No. 78 pts 1, 6**

date of assent 15 November 2001

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (see s 2)**Pest Management Act 2001 No. 103 ss 1–2, 145 sch 2**

date of assent 19 December 2001

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force

7 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 9.

Commencement of Act

s 2 om 1995 No. 57 s 4 sch 1

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 “**analyse**” ins 2001 No. 78 s 45(2)
def “**analyst**” sub 1990 No. 59 s 2.2(a)
amd 1995 No. 57 s 4 sch 1
sub 2001 No. 78 s 45
def “**approved form**” ins 1995 No. 57 s 4 sch 1
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; 1995 No. 57 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 “**controlled drug**” ins 1996 No. 60 s 7(3)
def “**dairy produce**” om 1981 No. 44 s 4 sch 1
def “**dangerous drug**” om 1996 No. 60 s 7(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 “**dentist**” sub 2001 No. 4 s 267 sch 2
def “**Deputy Director-General**” om 1991 No. 24 s 7.3 sch 3
def “**Director-General**” om 1995 No. 57 s 4 sch 1
def “**disposal**” ins 1975 No. 70 s 4(b)
om 1995 No. 52 s 13
def “**district**” ins 1996 No. 61 s 15 sch
def “**document certification requirement**” ins 2001 No. 78 s 45(2)
def “**document production requirement**” ins 2001 No. 78 s 45(2)
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; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(2) sch 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); 1996 No. 60 s 7(2)
- def “**endorsement**” ins 2001 No. 78 s 45(2)
- def “**executive officer**” ins 2001 No. 78 s 45(2)
- def “**food**” om 1981 No. 44 s 4 sch 1
- def “**General fund**” om 1993 No. 70 s 804 sch
- def “**health practitioner registration Act**” ins 1999 No. 58 s 429
 amd 2001 No. 3 s 241 sch 2; 2001 No. 4 s 267 sch 2; 2001 No. 5 s 247 sch 2; 2001 No. 7 s 302 sch 2; 2001 No. 8 s 237 sch 2; 2001 No. 9 s 239 sch 2; 2001 No. 10 s 237 sch 2; 2001 No. 12 s 245 sch 2; 2001 No. 13 s 242 sch 2; 2001 No. 14 s 238 sch 2; 2001 No. 15 s 255 sch 2; 2001 No. 16 s 236 sch 2
- def “**health service employee**” ins 2001 No. 78 s 45(2)
- 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); 1994 No. 87 s 3 sch 2
- 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; 2001 No. 78 s 45
- def “**licence**” amd 1971 No. 20 s 2; 1975 No. 70 s 4(c)
 sub 1995 No. 57 s 4 sch 1
- 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 “**manager**” ins 1996 No. 61 s 15 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)
 om 1995 No. 52 s 13
- def “**notifiable disease**” amd 1988 No. 25 s 5(c)
- def “**offence against a relevant provision**” ins 2001 No. 78 s 45(2)
- 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 “**personal particulars requirement**” ins 2001 No. 78 s 45(2)
- 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)
 sub 2001 No. 12 s 245 sch 2
- def “**private health facility**” ins 1999 No. 60 s 165 sch 2
- def “**private hospital**” ins 1999 No. 60 s 165 sch 2
- 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 “**registrant**” ins 1999 No. 58 s 429
- def “**registrant’s board**” ins 1999 No. 58 s 429
- def “**regulations**” om 1991 No. 97 s 3 sch 2
- def “**relevant provisions**” ins 2001 No. 78 s 45(2)
- def “**sale**” amd 1959 8 Eliz 2 No. 57 s 3(m); 1981 No. 44 s 4 sch 1; amd 1996
No. 60 s 16
- 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 “**State analyst**” ins 2001 No. 78 s 45(2)
- def “**stormwater drain**” ins 1949 13 Geo 6 No. 55 s 27(ii)
- def “**thing**” ins 2001 No. 78 s 45(2)
- 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)

Savings of this Act generally

- s 6 om 1995 No. 57 s 4 sch 1

PART 2—GENERAL POWERS**Division 1—Central government****Appointment of chief health officer**

- s 7 amd 1975 No. 70 s 5; 1991 No. 24 s 7.3 sch 3; 1992 No. 66 s 36; R1 (see RA
s 38)
sub 1995 No. 57 s 4 sch 1

Delegation of chief health officer’s powers

- s 8 sub 1995 No. 57 s 4 sch 1

Manager of public health services for the State

- s 8A ins 1998 No. 41 s 4

Default of local government

- s 9 amd 1959 8 Eliz 2 No. 57 s 4; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1)
sch 1

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; 1995 No. 57 s 4
sch 1; 1998 No. 41 s 14(1) sch 1

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
om 1994 No. 62 s 223 sch 3

General power to make order in council

s 11 amd 1975 No. 70 s 6
 om 1995 No. 57 s 4 sch 1

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

s 12 om 1994 No. 87 s 3 sch 2

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; R1 (see RA s 38); 1994 No. 87 s 3 sch 2
 om 1995 No. 57 s 4 sch 1

Orders of Director-General when confirmed binding

s 14 om 1995 No. 57 s 4 sch 1

Division 2—Chief health officer

div hdg sub 1995 No. 57 s 4 sch 1
 om 1998 No. 41 s 14(1) sch 1

Power to make inspections etc.

prov hdg sub 1995 No. 57 s 4 sch 1
s 15 amd 1971 No. 20 s 2; 1994 No. 87 s 3 sch 2 (never proclaimed into force and
 om 1995 No. 57 s 4 sch 2); 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1)
 sch 1

Approval of forms

s 15A ins 1995 No. 57 s 4 sch 1
 amd 1998 No. 41 s 14(1) sch 1

Powers of chief executive in default of local government

prov hdg amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1
s 16 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Power in emergencies

prov hdg amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1
s 17 amd 1959 8 Eliz 2 No. 57 s 7; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1)
 sch 1

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

s 18 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Chief executive to give notice of proceedings to boards

s 18A ins 1999 No. 58 s 430
 amd 2001 No. 78 s 46

Division 3—Local government**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; 1995 No. 57
 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Local governments to report

s 20 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Power of local government to abate nuisance

s 21 amd 1959 8 Eliz 2 No. 57 s 9; 1993 No. 70 s 804 sch; 1995 No. 57 s 4 sch 1

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; 1995 No. 57 s 4 sch 1;
1998 No. 41 s 14(1) sch 1

Removal of officers

s 23 om 1993 No. 70 s 804 sch

Local government analysts

prov hdg sub 1995 No. 57 s 4 sch 1

s 24 amd 1987 No. 22 s 6; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

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

s 27 amd 1959 8 Eliz 2 No. 57 s 11; 1995 No. 57 s 4 sch 1

Prohibition on use of term State analyst

s 27A (prev s 27(1A)) ins 1968 No. 19 s 3
amd 1995 No. 57 s 4 sch 1
renum 1995 No. 57 s 4 sch 1
amd 2001 No. 78 s 47

Rules as to competency of officers

prov hdg amd 1995 No. 57 s 4 sch 1

s 27B (prev s 27(2)–(2A)) amd 1990 No. 59 s 2.4; 1995 No. 57 s 4 sch 1
renum 1995 No. 57 s 4 sch 1
amd 1998 No. 41 s 14(1) sch 1

General powers and duties of officers

s 27C (prev s 27(3)) amd 1995 No. 57 s 4 sch 1
renum 1995 No. 57 s 4 sch 1
amd 1998 No. 41 s 14(1) sch 1

Officer may attend meetings of local government

s 27D (prev s 27(4)) amd 1995 No. 57 s 4 sch 1
renum 1995 No. 57 s 4 sch 1
amd 1998 No. 41 s 14(1) sch 1

Holders of certain offices health officers

s 27E ins 1995 No. 57 s 4 sch 1

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 prev div 1 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

Definitions for division

- prov hdg** sub 1995 No. 57 s 4 sch 1
s 31 amd 1995 No. 57 s 4 sch 1
 def “**district registrar**” sub 1967 No. 20 s 2(a)

Notification of births

- prov hdg** ins 1995 No. 57 s 4 sch 1
s 31A (prev s 31(2)–(8)) amd 1939 3 Geo VI No. 34 s 2; 1967 No. 20 s 2(b);
 1975 No. 70 s 28 sch 1; 1987 No. 22 ss 7, 44; 1995 No. 57 s 4 sch 1
 renum 1995 No. 57 s 4 sch 1
 amd 1999 No. 10 s 205 sch 3

Division 2—Notifiable diseases

- div hdg** amd 1959 8 Eliz 2 No. 57 s 15
 sub 1988 No. 25 s 9

Definitions for division

- prov hdg** (prev s 32 hdg) sub 1995 No. 57 s 4 sch 1
s 31B pres s 31B (prev 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; 1995 No. 57 s 4 sch 1
 renum 1995 No. 57 s 4 sch 1
 def “**hospital administrator**” sub 1996 No. 61 s 15 sch

Declaration of notifiable diseases

- s 32** ins 1995 No. 57 s 4 sch 1

Reporting of notifiable diseases

- s 32A** ins 1988 No. 25 s 9
 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Investigations in respect of notifiable diseases

- s 32B** ins 1988 No. 25 s 9
 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

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); 1995 No. 57
 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Public hospitals to provide facilities

- s 34** amd 1959 8 Eliz 2 No. 57 s 18
 sub 1988 No. 25 s 11
 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

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
 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

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; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

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
 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

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; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Power of local government as to disinfection etc.

- s 39** amd 1959 8 Eliz 2 No. 57 s 23; 1988 No. 25 s 15; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Compensation

- s 40** sub 1988 No. 25 s 16
 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

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; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Controlled notifiable diseases

s 48 sub 1988 No. 25 s 21
amd 1993 No. 79 s 26; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

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; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

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

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)

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

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

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

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

Division 3—Infirmity

div hdg om 2000 No. 8 s 263 sch 3

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); 1995 No. 57 s 4 sch 1
om 2000 No. 8 s 263 sch 3

Division 4—Private hospitals

div hdg orig div 4 hdg amd 1959 Eliz 2 No. 57 s 30
om 1998 No. 25 s 20
prev div 4 hdg om 1999 No. 60 s 165 sch 2

Definitions for division

prov hdg sub 1995 No. 57 s 4 sch 1
s 63 amd 1995 No. 57 s 4 sch 1
om 1999 No. 60 s 165 sch 2
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
om 1999 No. 60 s 165 sch 2

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; 1995 No. 57 s 4 sch 1
om 1999 No. 60 s 165 sch 2

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
sub 1982 No. 57 s 16
amd 1995 No. 57 s 4 sch 1
om 1999 No. 60 s 165 sch 2

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; 1995
 No. 57 s 4 sch 1
 om 1999 No. 60 s 165 sch 2

Licence

- prov hdg** amd 1971 No. 20 s 2
s 67 amd 1962 No. 27 s 4; 1971 No. 20 s 2; 1995 No. 57 s 4 sch 1
 om 1999 No. 60 s 165 sch 2

Duration of licence

- prov hdg** amd 1971 No. 20 s 2
s 68 amd 1962 No. 27 s 5(a); 1971 No. 20 s 2; 1978 No. 65 s 7(a); 1982 No. 57
 s 18; 1995 No. 57 s 4 sch 1
 om 1999 No. 60 s 165 sch 2

Renewals

- s 68AA** (prev s 68(2)–(5)) amd 1962 No. 27 s 5(b); 1971 No. 20 s 2; 1978
 No. 65 s 7(b); 1995 No. 57 s 4 sch 1
 renum 1995 No. 57 s 4 sch 1
 om 1999 No. 60 s 165 sch 2

Cancellation and suspension of licences

- s 68A** ins 1978 No. 65 s 8
 amd 1982 No. 57 s 19; 1995 No. 57 s 4 sch 1
 om 1999 No. 60 s 165 sch 2

Delivery of licence to chief health officer

- prov hdg** amd 1995 No. 57 s 4 sch 1
s 68B ins 1978 No. 65 s 8
 amd 1982 No. 57 s 20; 1995 No. 57 s 4 sch 1
 om 1999 No. 60 s 165 sch 2

Fees

- s 69** amd 1962 No. 46 s 4(2) sch 2; 1971 No. 20 s 2
 sub 1975 No. 70 s 12
 om 1999 No. 60 s 165 sch 2

Additions and alterations to premises

- s 70** amd 1971 No. 20 s 2; 1995 No. 57 s 4 sch 1
 om 1999 No. 60 s 165 sch 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); 1995
 No. 57 s 4 sch 1
 om 1999 No. 60 s 165 sch 2

Monthly reports

- s 71A** ins 1992 No. 66 s 39
 om 1999 No. 60 s 165 sch 2

Confidentiality

s 71B ins 1992 No. 66 s 39
om 1999 No. 60 s 165 sch 2

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; 1995 No. 57 s 4 sch 1
om 1999 No. 60 s 165 sch 2

Inspection

s 73 amd 1982 No. 57 s 23; 1995 No. 57 s 4 sch 1
om 1999 No. 60 s 165 sch 2

Evidence

s 74 amd 1987 No. 22 s 15
om 1999 No. 60 s 165 sch 2

Interment of stillborn children

s 75 amd 1958 7 Eliz 2 No. 32 s 3(1) sch 1; 1967 No. 20 s 3
om 1999 No. 60 s 165 sch 2

Penalty in respect of interment of children not born alive

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
om 1999 No. 60 s 165 sch 2

Regulations respecting extern nurses

s 76A ins 1939 3 Geo 6 No. 34 s 4
om 1992 No. 55 s 163 sch 2

Division 5—Hostels and nursing homes

div hdg prev div 5 hdg om 1998 No. 25 s 24
pres div 5 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); 1995 No. 57 s 4 sch 1
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; 1995 No. 57 s 4 sch 1

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; 1995 No. 57
 s 4 sch 1

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; 1995 No. 57 s 4 sch 1

Additions or 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; 1995
 No. 57 s 4 sch 1

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; 1995 No. 57
 s 4 sch 1

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; 1995 No. 57 s 4 sch 1

Inspection

s 76I ins 1962 No. 27 s 10
 amd 1971 No. 20 s 3(c); 1987 No. 22 s 24; 1995 No. 57 s 4 sch 1

Local Government Act to apply

s 76J ins 1962 No. 26 s 10
 amd 1971 No. 20 ss 2, 3(c); 1987 No. 22 s 25

Division 6—Maltreatment of children

div hdg prev div 6 hdg om 1978 No. 65 s 6(a)
 pres div 6 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
 amd 1995 No. 57 s 4 sch 1; 1995 No. 58 s 4 sch 2; 1998 No. 41 s 14(1) sch 1

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; 1995 No. 58 s 4 sch 2; 1998
 No. 41 s 14(1) sch 1

Meaning of “child” for division

prov hdg sub 1995 No. 57 s 4 sch 1

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
om 1995 No. 57 s 4 sch 1

Division 7—Nuisances and offensive trades

div hdg prev div 7 hdg om 1998 No. 25 s 26

Nuisances

s 77 amd 1991 No. 24 s 7.3 sch 3
sub 1992 No. 36 s 2 sch 1

Abatement of nuisance

prov hdg sub 1995 No. 57 s 4 sch 1

s 79 amd 1959 8 Eliz 2 No. 57 s 45; 1975 No. 70 s 28 sch 1; 1987 No. 22 s 44;
1995 No. 57 s 4 sch 1

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 local government areas

s 88 amd 1959 8 Eliz 2 No. 57 s 47

Local laws

s 92 amd 1995 No. 57 s 4 sch 1

Division 8—Sewers, stormwater drains, sanitary conveniences, camping grounds and moveable dwellings

div hdg prev div 8 hdg om 1988 No. 25 s 28
pres div 8 hdg amd 1949 13 Geo 6 No. 55 s 30
sub 1995 No. 52 s 14

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; 1995 No. 57 s 4 sch 1
om 1995 No. 52 s 15

Place for depositing refuse

s 96 amd 1975 No. 70 s 15; 1990 No. 59 s 2.7; 1995 No. 57 s 4 sch 1
om 1995 No. 52 s 15

Offence to use unauthorised land

s 96A ins 1975 No. 70 s 16
amd 1995 No. 57 s 4 sch 1
om 1995 No. 52 s 15

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
om 1995 No. 52 s 15

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;
1995 No. 57 s 4 sch 1
om 1995 No. 52 s 15

Refuse removal by private contractors

s 98A ins 1975 No. 70 s 17
amd 1987 No. 22 s 26; 1995 No. 57 s 4 sch 1; 1995 No. 58 s 4 sch 2
om 1995 No. 52 s 15

Offence to remove refuse etc. without authority

s 98B ins 1975 No. 70 s 17
amd 1987 No. 22 s 44
om 1995 No. 52 s 15

Sanitary conveniences for public accommodation, seaside resorts etc.

s 99 amd 1975 No. 70 s 18(1); 1995 No. 57 s 4 sch 1
om 1995 No. 52 s 15

Regulations and conditions relating to refuse etc.

s 99A ins 1975 No. 70 s 19
amd 1995 No. 57 s 4 sch 1
om 1995 No. 52 s 15

Camping grounds

s 100 amd 1982 No. 57 s 31; 1995 No. 57 s 4 sch 1

Division 9—Tattooing and ear-piercing

div hdg prev div 9 hdg amd 1959 8 Eliz 2 No. 57 s 39; 1989 No. 22 s 12
om 1989 No. 63 s 3(2) sch 2
pres div 9 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; 1995 No. 57 s 4 sch 1

Division 10—Cancer

div hdg ins 1980 No. 61 s 3

Definitions for div 10

prov hdg sub 1998 No. 41 s 5(1)
s 100B ins 1980 No. 61 s 3

def “**charitable institution**” om 1991 No. 24 s 7.3 sch 3
 def “**contractor**” ins 1998 No. 41 s 5(3)
 def “**health service employee**” ins 1998 No. 41 s 5(3)
 def “**nursing home**” sub 1998 No. 41 s 5(2)–(3)
 def “**prescribed person**” sub 1991 No. 24 s 7.3 sch 3
 amd 1996 No. 61 s 15 sch; 1998 No. 41 s 5(4); 1999 No. 60 s 165 sch 2
 def “**private hospital**” om 1999 No. 60 s 165 sch 2
 def “**psychiatric hospital**” om 2000 No. 16 s 590 sch 1 pt 2
 def “**public hospital**” sub 1991 No. 24 s 7.3 sch 3
 def “**register**” ins 1998 No. 41 s 5(3)
 def “**return about cancer**” ins 1998 No. 41 s 5(3)

Returns about cancer to be given to chief executive

prov hdg amd 1995 No. 57 s 4 sch 1

sub 1998 No. 41 s 6(1)

s 100C ins 1980 No. 61 s 3

amd 1987 No. 22 s 44; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 6(2)–(11); 1999
 No. 60 s 165 sch 2; 2000 No. 16 s 590 sch 1 pt 2

Register

s 100D ins 1980 No. 61 s 3

amd 1995 No. 57 s 4 sch 1

sub 1998 No. 41 s 7

Responsibility for maintenance of register

s 100DA ins 1998 No. 41 s 7

Directions to give returns about cancer to contractor

s 100DB ins 1998 No. 41 s 7

Further information may be required

s 100DC ins 1998 No. 41 s 7

Confidentiality

s 100E sub 1993 No. 79 s 30

amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 8

Arrangements about transfer of information

s 100EA ins 1998 No. 41 s 9

Regulations for division

prov hdg sub 1995 No. 57 s 4 sch 1

s 100F ins 1980 No. 61 s 3

amd 1987 No. 22 s 44; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(2) sch 2

Division 11—Pap Smear Register

div hdg ins 1998 No. 41 s 11

Subdivision 1—Definitions and application

sdiv hdg ins 1998 No. 41 s 11

Definitions for div 11

s 100FA ins 1998 No. 41 s 11

Application of division

s 100FB ins 1998 No. 41 s 11

Subdivision 2—Establishment and purposes of register

sdiv hdg ins 1998 No. 41 s 11

Pap Smear Register

s 100FC ins 1998 No. 41 s 11

Purposes of register

s 100FD ins 1998 No. 41 s 11

Women may elect to withhold, remove or change information on register

s 100FE ins 1998 No. 41 s 11

Subdivision 3—Duties of persons involved in obtaining and testing Pap smears and histological samples

sdiv hdg ins 1998 No. 41 s 11

Definition for sdiv 3

s 100FF ins 1998 No. 41 s 11

Initial duty of person obtaining Pap smear or histological sample

s 100FG ins 1998 No. 41 s 11

Duty if woman elects for her identifying and clinical information not to be included on register

s 100FH ins 1998 No. 41 s 11

Provider's duty if woman previously elected for information not to be included on register

s 100FI ins 1998 No. 41 s 11

Duty of director to provide information

s 100FJ ins 1998 No. 41 s 11

Subdivision 4—Duties of chief executive concerning registered screening histories and authority to send reminder notices

sdiv hdg ins 1998 No. 41 s 11

Duty of chief executive on receipt of information

s 100FK ins 1998 No. 41 s 11

Chief executive may send reminder notices to certain women

s 100FL ins 1998 No. 41 s 11

Duty of chief executive to remove registered screening history

s 100FM ins 1998 No. 41 s 11

Duty of chief executive to change identifying information

s 100FN ins 1998 No. 41 s 11

Subdivision 5—Confidentiality of, and access to, registered screening histories of women

sdiv hdg ins 1998 No. 41 s 11

Confidentiality of all information in register

s 100FO ins 1998 No. 41 s 11

Disclosures about woman's registered screening history

s 100FP ins 1998 No. 41 s 11

Access to register by health practitioners

s 100FQ ins 1998 No. 41 s 11

Access to register by directors of, and nominated persons at, pathology laboratories

s 100FR ins 1998 No. 41 s 11

Unauthorised access to registered screening histories

s 100FS ins 1998 No. 41 s 11

Health practitioners, directors and nominated persons to keep registered screening histories confidential

s 100FT ins 1998 No. 41 s 11

Chief executive to monitor access to information

s 100FU ins 1998 No. 41 s 11

Subdivision 6—Agreements and arrangements about confidential information, and designation of certain persons

sdiv hdg ins 1998 No. 41 s 11

Agreements for sending out notices under ss 100FK and 100FL

s 100FV ins 1998 No. 41 s 11

Arrangements about transfer of information

s 100FW ins 1998 No. 41 s 11

Chief executive may designate certain persons as health practitioners

s 100FX ins 1998 No. 41 s 11

Division 12—Peri-natal statisticsdiv hdg (prev div 11 hdg) ins 1984 No. 26 s 4
renum 1998 No. 41 s 10**Interpretation**s 100G ins 1984 No. 26 s 4
def "prescribed person" sub 1991 No. 24 s 7.3 sch 3
amd 1996 No. 61 s 15 sch; 1999 No. 60 s 165 sch 2
def "private hospital" om 1999 No. 60 s 165 sch 2
def "public hospital" sub 1991 No. 24 s 7.3 sch 3**Furnishing returns to chief executive**prov hdg amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1
s 100H ins 1984 No. 26 s 40
amd 1988 No. 24 s 33; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1; 1999
No. 10 s 205 sch 3**Confidentiality**s 100I sub 1993 No. 79 s 31
amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Regulations for division**prov hdg** sub 1995 No. 57 s 4 sch 1**s 100J** ins 1984 No. 26 s 4

amd 1988 No. 25 s 35; 1995 No. 57 s 4 sch 1

PART 4—DRUGS AND OTHER ARTICLES**pt hdg** amd 1981 No. 44 s 4 sch 1**Division 1—Preliminary****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; 1995 No. 57 s 4 sch 1**False description of drug****s 101A** amd 1996 No. 60 s 16**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**Prohibitions****hdg prec s 104** om 1994 No. 87 s 3 sch 2**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

Mixing other ingredients or material with a drug**prov hdg** ins 1994 No. 87 s 3 sch 2**s 105** amd 1981 No. 44 s 4 sch 1; 1984 No. 22 s 13; 1995 No. 57 s 4 sch 1**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

amd 1995 No. 57 s 4 sch 1

Sale of mixture

s 107 amd 1981 No. 44 s 4 sch 1; 1995 No. 57 s 4 sch 1; 1996 No. 60 s 17

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; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Prohibition of sale of injurious articles etc.

prov hdg amd 1995 No. 57 s 4 sch 1

s 110 amd 1962 No. 27 s 11; 1981 No. 44 s 4 sch 1; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) 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

Prohibition of sale of disinfectants and preservatives

s 113 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Labelling of disinfectants etc.

s 114 sub 1978 No. 65 s 12; 1995 No. 57 s 4 sch 1

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 use of lead

div hdg amd 1987 No. 22 s 27
sub 1996 No. 60 s 8

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; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

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

s 124A ins 1939 3 Geo 6 No. 34 s 6
amd 1975 No. 70 s 28 sch 1; 1987 No. 22 s 44; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1; 2001 No. 78 s 48

Prohibition of white phosphorus in matches

s 125 om 2001 No. 78 s 49

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; 1994 No. 87 s 3 sch 2; 1995 No. 57 s 4 sch 1
om 1996 No. 60 s 9

Labelling of paint

s 128 amd 1959 No. 57 s 62; 1973 No. 29 s 5; 1995 No. 57 s 4 sch 1
om 1996 No. 60 s 9

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 the 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

Prescribing methods of analysis

prov hdg sub 1995 No. 57 s 4 sch 1
s 129D ins 1987 No. 22 s 33
amd 1995 No. 57 s 4 sch 1

Division 3A—Paint

div hdg ins 1996 No. 60 s 10

Definitions

- s 129E** ins 1996 No. 60 s 10
 def “**standard**” amd 2000 No. 46 s 3 sch
 def “**uniform standard**” sub 2000 No. 46 s 3 sch

Person must comply with standard

- s 129F** ins 1996 No. 60 s 10

Officer may take sample of paint

- s 129G** ins 1996 No. 60 s 10

Chief executive may give notice

- prov hdg** amd 1998 No. 41 s 14(1) sch 1
s 129H ins 1996 No. 60 s 10
 amd 1998 No. 41 s 14(1) sch 1

Method of analysis may be prescribed

- s 129I** ins 1996 No. 60 s 10

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; 1995 No. 57 s 4 sch 1;
 1998 No. 41 s 14(1) sch 1

Examination of drug offender detained for treatment

- s 130C** ins 1971 No. 20 s 10
 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Order made upon medical practitioner’s recommendation

- s 130D** ins 1971 No. 20 s 10
 amd 1995 No. 57 s 4 sch 1; 1996 No. 60 s 11; 1998 No. 41 s 14(1) sch 1

Conditional leave of absence or release on parole

- s 130E** ins 1971 No. 20 s 10
 amd 1995 No. 57 s 4 sch 1; 1996 No. 60 s 12; 1998 No. 41 s 14(1) sch 1

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

- s 130F** ins 1971 No. 20 s 10
 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Discharge of person on parole

- s 130G** ins 1971 No. 20 s 11
 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Absence without leave

s 130H ins 1971 No. 20 s 11
amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

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
om 1995 No. 57 s 4 sch 1

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; R1 (see RA
s 38); 1995 No. 57 s 4 sch 1
om 2001 No. 78 s 50

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
om 2000 No. 5 s 373 sch 2

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 5—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
 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

Procedure of tribunal

- s 131G** ins 1971 No. 20 s 17

Rules of practice of tribunal

- s 131H** ins 1971 No. 20 s 17
 amd 1995 No. 57 s 4 sch 1

Division 6—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
 amd 1995 No. 57 s 4 sch 1

Division 7—Pest control operators

- div hdg** ins 1976 No. 88 s 10
 om 2001 No. 103 s 145 sch 2

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); 1995 No. 57 s 4 sch 1
 def “**regulated pesticide**” ins 1982 No. 57 s 32(c)
 amd 1995 No. 57 s 4 sch 1
 om 2001 No. 103 s 145 sch 2

Uses of pesticides by unlicensed or immature persons

- s 131K** ins 1976 No. 88 s 10
 amd 1996 No. 60 s 13
 om 2001 No. 103 s 145 sch 2

Prohibited pesticides not to be used

s 131KA ins 1978 No. 65 s 14
amd 1996 No. 60 s 14
om 2001 No. 103 s 145 sch 2

Regulated pesticide

s 131KB ins 1982 No. 57 s 33
amd 1995 No. 57 s 4 sch 1
om 2001 No. 103 s 145 sch 2

Application for licence

s 131L ins 1976 No. 88 s 10
amd 1978 No. 65 s 15; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1
om 2001 No. 103 s 145 sch 2

Licence

s 131M ins 1976 No. 88 s 10
amd 1995 No. 57 s 4 sch 1
om 2001 No. 103 s 145 sch 2

Duration of licence

s 131N ins 1976 No. 88 s 10
amd 1987 No. 22 s 36
om 2001 No. 103 s 145 sch 2

Renewal of licence

s 131O ins 1976 No. 88 s 10
amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1
om 2001 No. 103 s 145 sch 2

Imposition of conditions of licence

s 131P ins 1976 No. 88 s 10
amd 1978 No. 65 s 16; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1
om 2001 No. 103 s 145 sch 2

Conditions of licence

s 131Q ins 1976 No. 88 s 10
amd 1993 No. 79 s 32
om 2001 No. 103 s 145 sch 2

Cancellation or suspension of licences

s 131R ins 1976 No. 88 s 10
amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1
om 2001 No. 103 s 145 sch 2

Appeal from chief executive

prov hdg amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1
s 131S ins 1976 No. 88 s 10
amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1
om 2001 No. 103 s 145 sch 2

Notice of accidents

s 131T ins 1976 No. 88 s 10
amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1
om 2001 No. 103 s 145 sch 2

Immediate notice concerning loss of life

s 131U ins 1976 No. 88 s 10
amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1
om 2001 No. 103 s 145 sch 2

Powers of inspectors

s 131V ins 1976 No. 88 s 10
sub 1978 No. 65 s 17
amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1
om 2001 No. 103 s 145 sch 2

Regulations

s 131W ins 1976 No. 88 s 10
amd 1978 No. 65 s 18; 1987 No. 22 s 44; 1995 No. 57 s 4 sch 1
om 2001 No. 103 s 145 sch 2

Division 8—Application of agricultural chemicals

div hdg ins 1987 No. 22 s 37
om 2001 No. 103 s 145 sch 2

Interpretation

s 131WA (prev s 131AA) ins 1987 No. 22 s 37
renum 1988 No. 25 s 38
amd 1995 No. 57 s 4 sch 1
om 2001 No. 103 s 145 sch 2

Powers of inspectors

s 131WB (prev s 131AB) ins 1987 No. 22 s 37
renum 1988 No. 25 s 38
amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1
om 2001 No. 103 s 145 sch 2

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
om 2001 No. 103 s 145 sch 2

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; 1995 No. 57 s 4 sch 1
om 2001 No. 103 s 145 sch 2

Division 9—Hazardous substances

div hdg ins 1987 No. 22 s 37
om 2001 No. 28 s 189(1) sch 1

Interpretation

s 131WE (prev s 131AE) ins 1987 No. 22 s 37
 renum 1988 No. 25 s 38
 amd 1995 No. 57 s 4 sch 1
 om 2001 No. 28 s 189(1) sch 1

Powers of inspectors

s 131WF (prev s 131AF) ins 1987 No. 22 s 37
 renum 1988 No. 25 s 38
 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1
 om 2001 No. 28 s 189(1) sch 1

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; 1995 No. 57 s 4 sch 1
 om 2001 No. 28 s 189(1) sch 1

Division 10—Inspection, removal, sampling, analysis**Powers of officers**

prov hdg sub 1995 No. 57 s 4 sch 1; 2001 No. 78 s 51
s 132 (prev 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; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1)
 sch 1
 om 2001 No. 78 s 52
 pres s 132 (prev s 152) renum 2001 No. 78 s 54

Power to demand, select, and take samples

s 133 (prev s 133) amd 1971 No. 20 s 18; 1981 No. 44 s 4 sch 1
 om 2001 No. 78 s 52
 pres s 133 (prev s 153) renum 2001 No. 78 s 54

PART 4A—MONITORING, INVESTIGATION AND ENFORCEMENT

pt hdg ins 2001 No. 78 s 55

Division 1—Preliminary

div hdg ins 2001 No. 78 s 55

Manner in which sample may be dealt with

s 134 (prev 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
 om 2001 No. 78 s 52
 pres s 134 ins 2001 No. 78 s 55

Manner of dealing with particular samples

s 134A ins 1971 No. 20 s 19
 amd 1981 No. 44 s 4 sch 1; 1995 No. 57 s 4 sch 1
 om 2001 No. 78 s 52

Any person may have sample analysed

s 135 (prev s 135) amd 1981 No. 44 s 4 sch 1
 om 2001 No. 78 s 52
 pres s 135 ins 2001 No. 78 s 55

Duty of analyst etc.

- s 136** (prev s 136) amd 1975 No. 70 s 28 sch 1; 1981 No. 44 s 4 sch 1; 1987 No. 22 ss 40, 44; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1
om 2001 No. 78 s 52
pres s 136 ins 2001 No. 78 s 55

Division 2—Inspectors

- div hdg** ins 2001 No. 78 s 55

Obstruction of officer etc.

- s 137** (prev 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; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1
om 2001 No. 78 s 52
pres s 137 ins 2001 No. 78 s 55

Possession of ingredients for adulteration

- s 138** (prev 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
pres s 138 ins 2001 No. 78 s 55

Liability for offence by agent or employee

- prov hdg** (prev prov hdg) amd 1981 No. 44 s 4 sch 1
om 2001 No. 78 s 52
pres prov hdg ins 2001 No. 78 s 55
- s 139** (prev s 139) sub 1959 8 Eliz 2 No. 57 s 68
 amd 1981 No. 44 s 4 sch 1
om 2001 No. 78 s 52
pres s 139 ins 2001 No. 78 s 55

Agent or servant may recover from principal

- s 140** (prev s 140) amd 1981 No. 44 s 4 sch 1
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- s 140A** (prev s 140(3)–(4)) amd 1959 8 Eliz 2 No. 57 s 69; 1981 No. 44 s 4 sch 1
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- s 141** (prev s 141) amd 1981 No. 44 s 4 sch 1
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- prov hdg** (prev prov hdg) sub 1995 No. 57 s 4 sch 1
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- s 142** (prev s 142) amd 1981 No. 44 s 4 sch 1; 1995 No. 57 s 4 sch 1
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s 143 (prev 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; 1995 No. 57 s 4 sch 1
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pubd gaz 27 March 1998 p 1304

**Form 2 Version 1—Application for renewal of a permit to keep more than one
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**Form 3 Version 1—Permit to keep more than one hundred vermin (rats, mice and
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- Form 5 Version 1—Application for a licence to manufacture poisons and/or sell poisons by wholesale**
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- Form 6 Version 1—Application for a general licence to sell poisons**
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- Form 8 Version 1—Application for a strychnine permit**
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- Form 9 Version 1—Application for a cyanide permit**
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- Form 10 Version March 97—Application for a licence to sell poisons for purposes other than human therapeutic use**
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- Form CDM—Application for a licence to manufacture controlled drugs**
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- Form CG1 Version 1—Application for approval to use land as a camping ground**
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- Form HDPR—Nov 98 Version 2—Application for a strychnine permit**
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- Form HDPR—Nov 98 Version 2—Strychnine permit**
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- Form HDPR—Nov 98 Version 2—Cyanide permit**
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- Form P—Application for a licence to sell poisons for purposes other than human therapeutic use**
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- Form PMW—Application for a licence to manufacture poisons and/or sell poisons by wholesale**
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129A(1A)	129A(2)
129A(1B)	129A(3)
129A(2)	129(4)
130B(1A)	130B(2)
130B(1B)	130B(3)
130B(2)	130B(4)
130B(3)	130B(5)
130B(4)	130B(6)
130B(5)	130B(7)
130C(1A)	130C(2)
130C(2)	130C(3)
130E(1A)	130E(2)
130E(2)	130E(3)
130E(3)	130E(4)
130E(4)	130E(5)
131(1A)	131(2)
131(2)	131(3)
131(3)	131(4)
131(4)	131(5)
pt 4, div 4A	pt 4, div 5
pt 4, div 4B	pt 4, div 6
pt 4, div 4C	pt 4, div 7
pt 4, div 4D	pt 4, div 8
pt 4, div 4E	pt 4, div 9
pt 4, div 5	pt 4, div 10
132(4A)	132(5)
132(4B)	132(6)
132(5)	132(7)
132(6)	132(8)
132(6)(b)	132(8)(a)
132(6)(c)	132(8)(b)
132(6)(d)	132(8)(c)
132(6A)	132(9)
132(7)	132(10)
132(8)	132(11)
132(9)	132(12)
134(1A)	134(2)
134(2)	134(3)
134(3)	134(4)

Previous	Renumbered as
134(4)	134(5)
139(1A)	139(2)
139(2)	139(3)
139(3)	139(4)
144(1A)	144(2)
144(1B)	144(3)
144(2)	144(4)
145(1A)	145(2)
145(2)	145(3)
145(3)	145(4)
145(3A)	145(5)
145(4)	145(6)
145(5)	145(7)
146(3A)	146(4)
146(4)	146(5)
152(zj)	152(zi)
pt 4C	pt 5
154N(1A)	154N(2)
154N(2)	154N(3)
154N(2A)	154N(4)
154N(2B)	154N(5)
pt 5	pt 6
160(2A)	160(3)
160(3)	160(4)
160(4)	160(5)
167(3A)	167(4)
167(4)	167(5)
178(e)	178(c)
178(f)	178(d)
178(g)	178(e)
178(h)	178(f)
pt 6	pt 7

10 Provisions that have not commenced and are not incorporated into reprint

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

Chiropractors Registration Act 2001 No. 3 s 241 sch 2 reads as follows—

HEALTH ACT 1937

1. Section 5(1), definition “health practitioner registration Act”, ‘Chiropractors and Osteopaths Act 1979’—

omit, insert—

‘Chiropractors Registration Act 2001’.

2. Section 5(1), definition “health practitioner registration Act”—

insert—

• Osteopaths Registration Act 2001’.

Dental Technicians and Dental Prosthetists Registration Act 2001 No. 5 s 247 sch 2 reads as follows—

HEALTH ACT 1937

1 Section 5(1), definition “health practitioner registration Act”, ‘Dental Technicians and Dental Prosthetists Act 1991’—

omit, insert—

‘Dental Technicians and Dental Prosthetists Registration Act 2001’.

Medical Radiation Technologists Registration Act 2001 No. 8 s 237 sch 2 reads as follows—

HEALTH ACT 1937

1. Section 5(1), definition “health practitioner registration Act”—

insert—

- *Medical Radiation Technologists Registration Act 2001’.*

Podiatrists Registration Act 2001 No. 14 s 238 sch 2 reads as follows—

HEALTH ACT 1937

1. Section 5(1), definition “health practitioner registration Act”, ‘Podiatrists Act 1969’—

omit, insert—

- ‘Podiatrists Registration Act 2001’.*

Psychologists Registration Act 2001 No. 15 s 255 sch 2 reads as follows—

HEALTH ACT 1937

1. Section 5(1), definition “health practitioner registration Act”, ‘Psychologists Act 1977’—

omit, insert—

- ‘Psychologists Registration Act 2001’.*

Dangerous Goods Safety Management Act 2001 No. 28 s 189(1) sch 1 reads as follows—

HEALTH ACT 1937

1 Part 4, division 9—

omit.

Health Legislation Amendment Act 2001 No. 78 pt 6 reads as follows—

PART 6—AMENDMENT OF HEALTH ACT 1937

44 Act amended in pt 6

This part amends the *Health Act 1937*.

45 Amendment of s 5 (Interpretation)

(1) Section 5(1), definitions “analyst” and “inspector”—

omit.

(2) Section 5(1)—

insert—

‘**“analyse”**, for part 4A, see section 136.

“analyst”, other than for a relevant provision or part 4A, means a person appointed under section 27 as a State analyst or a person holding accreditation of a kind prescribed under a regulation.

“document certification requirement”, for part 4A, see section 136.

“document production requirement”, for part 4A, see section 136.

“endorsement”, for part 4A, see section 136.

“executive officer”, for part 4A, see section 136.

“health service employee”, for part 4A, see section 136.

“inspector”—

- (a) for a relevant provision or part 4A—means an inspector appointed under section 137; or
- (b) otherwise—means an inspector appointed under section 22(1) or 27(1) and includes a chief inspector, a medical or engineering inspector, an assistant inspector and an environmental health officer.

“offence against a relevant provision”, for part 4A, see section 136.

“personal particulars requirement”, for part 4A, see section 136.

“relevant provisions” see section 134.

“State analyst”, for a relevant provision or part 4A, means a State analyst appointed under section 153Z(1).

“thing”, for part 4A, see section 136.’.

46 Amendment of s 18A (Chief executive to give notice of proceedings to boards)

(1) Section 18A(1)(a), ‘or a nurse’—

omit, insert—

‘, nurse or veterinary surgeon’.

(2) Section 18A(1)(c)—

omit.

47 Amendment of s 27A (Prohibition on use of term State analyst)

Section 27A, all words after paragraph (b)(ii)—

omit, insert—

‘unless the person is appointed as an analyst under section 27(1), or as a State analyst under section 153Z(1) or another law of the State.’.

48 Amendment of s 124A (Powers respecting articles capable of causing bodily harm or discomfort to humans)

Section 124A(1), ‘section 132’—

omit, insert—

‘part 4A’.

49 Omission of s 125 (Prohibition of white phosphorus in matches)

Section 125—

omit.

50 Omission of s 131 (Inorganic salts of hydrocyanic acid)

Sections 131—

omit.

51 Replacement of pt 4, div 10 hdg (Inspection, removal, sampling, analysis)

Part 4, division 10, heading—

omit, insert—

‘Division 10—Miscellaneous’.

52 Omission of ss 132—151

Sections 132 to 151—

omit.

53 Amendment of s 152 (Regulations about drugs, articles, substances, appliances etc.)

(1) Section 152(k), (y) and (z)—

omit.

(2) Section 152(zi) and heading above the paragraph—

omit.

54 Renumbering of ss 152 and 153

Sections 152 and 153—

renumber as sections 132 and 133.

55 Insertion of new pt 4A, divs 1–2

After section 133 (as renumbered)—

insert—

‘PART 4A—MONITORING, INVESTIGATION AND ENFORCEMENT

‘Division 1—Preliminary

‘134 Application of pt 4A

‘This part applies for the purposes of the following (the “**relevant provisions**”)—

- (a) part 4, divisions 1, 2, 3, 6 and 10;²¹
- (b) a regulation made under part 4, division 1, 2, 3, 6 or 10.

‘135 Relationship of this part to pt 2, div 4

‘Part 2, division 4²² does not limit this part.

‘136 Definitions for pt 4A

‘In this part—

“**analyse**” includes measure and test.

“**conviction**”, relating to an offence against a relevant provision or this part, means being found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction is recorded.

21 Part 4 (Drugs and other articles), divisions 1 (Preliminary), 2 (Drugs etc.), 3 (Cooking utensils, toys, wearing apparel, matches and the use of lead), 6 (Labelling of drugs and poisons) and 10 (Miscellaneous)

22 Part 2 (General provisions), division 4 (Appointment of officers under and for the purposes of the Act)

“document certification requirement” means a document certification requirement under section 153N(5).

“document production requirement” means a document production requirement under section 153N(6).

“endorsement” means an endorsement as defined under a regulation made under section 132.

“executive officer”, of a corporation, means a person who is concerned with, or takes part in, the corporation’s management, whether or not the person is a director or the person’s position is given the name of executive officer.

“health service employee” means a person appointed as a health service employee under the *Health Services Act 1991*, section 24.

“offence against a relevant provision”, includes an offence under section 175²³ relating to a relevant provision.

“personal particulars requirement” means a personal particulars requirement under section 153L(5).

“thing” includes a sample of, or from, a thing.

‘Division 2—Inspectors

‘137 Appointment and qualifications

‘(1) The chief executive may appoint any of the following persons as an inspector—

- (a) an officer of the department;
- (b) a health service employee;
- (c) a person prescribed under a regulation.

‘(2) However, the chief executive may appoint a person as an inspector only if the chief executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.

‘138 Appointment conditions and limit on powers

‘(1) An inspector holds office on any conditions stated in—

- (a) the inspector’s instrument of appointment; or
- (b) a signed notice given to the inspector; or
- (c) a regulation.

‘(2) The instrument of appointment, a signed notice given to the inspector or a regulation may limit the inspector’s powers under this part.

‘(3) In this section—

“signed notice” means a notice signed by the chief executive.

‘139 Issue of identity card

‘(1) The chief executive must issue an identity card to each inspector.

‘(2) The identity card must—

- (a) contain a recent photo of the inspector; and
- (b) contain a copy of the inspector’s signature; and
- (c) identify the person as an inspector under this part; and
- (d) state an expiry date for the card.

‘(3) This section does not prevent the issue of a single identity card to a person for this part and other purposes.

‘140 Production or display of identity card

‘(1) In exercising a power under this part in relation to a person, an inspector must—

- (a) produce the inspector’s identity card for the person’s inspection before exercising the power; or
- (b) have the identity card displayed so it is clearly visible to the person when exercising the power.

‘(2) However, if it is not practicable to comply with subsection (1), the inspector must produce the identity card for the person’s inspection at the first reasonable opportunity.

‘(3) For subsection (1), an inspector does not exercise a power in relation to a person only because the inspector has entered a place as mentioned in section 144(1)(b) or (2).

‘141 When inspector ceases to hold office

‘(1) An inspector ceases to hold office if any of the following happens—

- (a) the term of office stated in a condition of office ends;
- (b) under another condition of office, the inspector ceases to hold office;
- (c) the inspector’s resignation under section 142 takes effect.

‘(2) Subsection (1) does not limit the ways an inspector may cease to hold office.

‘(3) In this section—

“**condition of office**” means a condition on which the inspector holds office.

‘142 Resignation

‘(1) An inspector may resign by signed notice given to the chief executive.

‘(2) However, if holding office as an inspector is a condition of the inspector holding another office, the inspector may not resign as an inspector without resigning from the other office.

‘143 Return of identity card

‘A person who ceases to be an inspector must return the person’s identity card to the chief executive within 21 days after ceasing to be an inspector unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.’.

56 Insertion of new pt 4A, div 3, sdivs 1–3

After section 143, as inserted by this Act—

insert—

‘Division 3—Powers of inspectors***‘Subdivision 1—Entry of places*****‘144 Power to enter places**

‘(1) An inspector may enter a place if—

- (a) its occupier consents to the entry; or
- (b) it is a public place and the entry is made when the place is open to the public; or
- (c) the entry is authorised by a warrant; or
- (d) the entry is to account for controlled drugs, restricted drugs or poisons kept at the place by the holder of an endorsement and the place is open for carrying on business or otherwise open for entry.

‘(2) For the purpose of asking the occupier of a place for consent to enter, an inspector may, without the occupier’s consent or a warrant—

- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
- (b) enter part of the place the inspector reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

‘(3) Subsection (4) applies if the holder of an endorsement is an individual who carries on business at a place and also resides at the place.

‘(4) Subsection (1)(d) does not authorise an inspector to enter a part of the place in which the individual resides.

‘Subdivision 2—Procedure for entry**‘145 Consent to entry**

‘(1) This section applies if an inspector intends to ask an occupier of a place to consent to the inspector or another inspector entering the place under section 144(1)(a).

‘(2) Before asking for the consent, the inspector must tell the occupier—

- (a) the purpose of the entry; and
- (b) that the occupier is not required to consent.

‘(3) If the consent is given, the inspector may ask the occupier to sign an acknowledgment of the consent.

‘(4) The acknowledgment must state—

- (a) the occupier has been told—
 - (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
- (b) the purpose of the entry; and
- (c) the occupier gives the inspector consent to enter the place and exercise powers under this division; and
- (d) the time and date the consent was given.

‘(5) If the occupier signs an acknowledgment, the inspector must immediately give a copy to the occupier.

‘(6) If—

- (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
- (b) an acknowledgment complying with subsection (4) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

‘146 Application for warrant

‘(1) An inspector may apply to a magistrate for a warrant for a place.

‘(2) The application must be sworn and state the grounds on which the warrant is sought.

‘(3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

‘147 Issue of warrant

‘(1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the “**evidence**”) that may provide evidence of an offence against a relevant provision or this part; and
- (b) the evidence is at the place, or may be at the place within the next 7 days.

‘(2) The warrant must state—

- (a) that a stated inspector may, with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for entry; and
 - (ii) exercise the inspector’s powers under this division; and
- (b) the offence for which the warrant is sought; and
- (c) the evidence that may be seized under the warrant; and
- (d) the hours of the day or night when the place may be entered; and
- (e) the date, within 14 days after the warrant’s issue, the warrant ends.

‘148 Special warrant

‘(1) An inspector may apply for a warrant (a “**special warrant**”) by phone, fax, radio or another form of communication if the inspector considers it necessary because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the inspector’s remote location.

‘(2) Before applying for the warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.

‘(3) The inspector may apply for the warrant before the application is sworn.

‘(4) After issuing the warrant, the magistrate must immediately fax a copy to the inspector if it is reasonably practicable to fax the copy.

‘(5) If it is not reasonably practicable to fax a copy to the inspector—

- (a) the magistrate must tell the inspector—
 - (i) what the terms of the warrant are; and
 - (ii) the date and time the warrant was issued; and
- (b) the inspector must complete a form of warrant (a “**warrant form**”) and write on it—
 - (i) the magistrate’s name; and
 - (ii) the date and time the magistrate issued the warrant; and
 - (iii) the terms of the warrant.

‘(6) The facsimile warrant, or the warrant form properly completed by the inspector, authorises the entry and the exercise of the other powers stated in the warrant issued by the magistrate.

‘(7) The inspector must, at the first reasonable opportunity, send to the magistrate—

- (a) the sworn application; and
- (b) if the inspector completed a warrant form—the completed warrant form.

‘(8) On receiving the documents, the magistrate must attach them to the warrant.

‘(9) If—

- (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a special warrant; and
- (b) the warrant is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a special warrant authorised the exercise of the power.

‘149 Warrant—procedure before entry

‘(1) This section applies if an inspector named in a warrant issued under this division for a place is intending to enter the place under the warrant.

‘(2) Before entering the place, the inspector must do or make a reasonable attempt to do the following—

- (a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the inspector's identity card or other document evidencing the appointment;
- (b) give the person a copy of the warrant or, if the entry is authorised by a facsimile warrant or warrant form mentioned in section 148(6), a copy of the facsimile warrant or warrant form;
- (c) tell the person the inspector is permitted by the warrant to enter the place;
- (d) give the person an opportunity to allow the inspector immediate entry to the place without using force.

‘(3) However, the inspector need not comply with subsection (2) if the inspector believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

‘150 Stopping motor vehicles

‘(1) This section applies if an inspector suspects on reasonable grounds, or is aware, that a thing in or on a motor vehicle may provide evidence of an offence against a relevant provision or this part.

‘(2) For the purpose of exercising the powers of an inspector under this division, an inspector may—

- (a) if the motor vehicle is moving—ask or signal the person in control of the motor vehicle to stop the motor vehicle; and
- (b) whether or not the motor vehicle is moving—ask or signal the person in control of the motor vehicle to bring the motor vehicle to a convenient place within a reasonable distance to allow the inspector to exercise the inspector's powers under this division.

‘(3) Despite section 140,²⁴ for the purpose of exercising a power under subsection (2)(a), the inspector must—

- (a) have with him or her the inspector's identity card; and
- (b) produce the identity card for the person's inspection immediately after the motor vehicle is stopped.

‘(4) The person must comply with the inspector's request or signal, unless the person has a reasonable excuse.

24 Section 140 (Production or display of identity card)

Maximum penalty—50 penalty units.

‘(5) If the motor vehicle is stopped, the inspector may direct the person—

- (a) not to move the motor vehicle until the inspector has exercised the inspector’s powers under this division; or
- (b) to move the motor vehicle to, and keep it at, a stated reasonable place to allow the inspector to exercise the inspector’s powers under this division.

‘(6) When giving the direction, the inspector must warn the person it is an offence not to comply with the direction, unless the person has a reasonable excuse.

‘(7) The person must comply with the inspector’s direction, unless the person has a reasonable excuse

Maximum penalty—50 penalty units.

‘(8) In this section—

“**motor vehicle**” means a vehicle propelled by a motor that forms part of the vehicle, and includes a trailer attached to the vehicle.

‘Subdivision 3—Powers after entry

‘151 General powers after entering place

‘(1) This section applies to an inspector who enters a place.

‘(2) However, if an inspector enters a place to get the occupier’s consent to enter a place, this section applies to the inspector only if the consent is given or the entry is otherwise authorised.

‘(3) For monitoring or enforcing compliance with a relevant provision or this part, the inspector may—

- (a) search any part of the place; or
- (b) inspect, measure, test, photograph or film any part of the place or anything at the place; or
- (c) take a thing at the place for analysis; or
- (d) take an extract from, or copy of, a document at the place; or

- (e) take into or onto the place any person, equipment and materials the inspector reasonably requires for exercising a power under this division; or
- (f) require the occupier of the place, or a person at the place, to give the inspector reasonable help to exercise the inspector's powers under paragraphs (a) to (e); or
- (g) require the occupier of the place, or a person at the place, to give the inspector information to help the inspector find out whether a relevant provision or this part is being complied with.

‘(4) When making a requirement under subsection (3)(f) or (g), the inspector must warn the person it is an offence not to comply with the requirement unless the person has a reasonable excuse.

‘152 Failure to help inspector

‘(1) A person required to give reasonable help under section 151(3)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

‘(2) If an individual is required under section 151(3)(f) to give information or produce a document, it is a reasonable excuse for the individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

‘153 Failure to give information

‘(1) A person of whom a requirement is made under section 151(3)(g) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

‘(2) It is a reasonable excuse for an individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.’.

57 Insertion of new pt 4A, div 3, sdiv 4

After section 153, as inserted by this Act—

insert—

‘Subdivision 4—Power to seize evidence

‘153A Seizing evidence at a place that may be entered without consent or warrant

‘An inspector who enters a place that may be entered under this division without the consent of the occupier and without a warrant, may seize a thing at the place if the inspector reasonably believes the thing is evidence of an offence against a relevant provision or this part.

‘153B Seizing evidence at a place that may only be entered with consent or warrant

‘(1) This section applies if—

- (a) an inspector is authorised to enter a place under this division only with the consent of the occupier or a warrant; and
- (b) the inspector enters the place after obtaining the necessary consent or warrant.

‘(2) If the inspector enters the place with the occupier’s consent, the inspector may seize a thing at the place if—

- (a) the inspector reasonably believes the thing is evidence of an offence against a relevant provision or this part; and
- (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier’s consent.

‘(3) If the inspector enters the place with a warrant, the inspector may seize the evidence for which the warrant was issued.

‘(4) The inspector also may seize anything else at the place if the inspector reasonably believes—

- (a) the thing is evidence of an offence against a relevant provision or this part; and
- (b) the seizure is necessary to prevent the thing being—
 - (i) hidden, lost or destroyed; or

(ii) used to continue, or repeat, the offence.

‘(5) Also, the inspector may seize a thing at the place if the inspector reasonably believes it has just been used in committing an offence against a relevant provision or this part.

‘153C Securing seized thing

‘Having seized a thing, an inspector may do 1 or more of the following—

- (a) move the thing from the place where it was seized (the “**place of seizure**”);
- (b) leave the thing at the place of seizure but take reasonable steps to restrict access to it;

Examples of restricting access to a thing—

- 1. Sealing a thing and marking it to show access to it is restricted.
- 2. Sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted.

- (c) if the thing is equipment—make it inoperable.

Example of making equipment inoperable—

Dismantling equipment or removing a component of equipment without which the equipment is not capable of being used.

‘153D Tampering with seized thing

‘(1) If an inspector restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an inspector’s approval.

Maximum penalty—100 penalty units.

‘(2) If an inspector makes seized equipment inoperable, a person must not tamper, or attempt to tamper, with the equipment, without an inspector’s approval.

Maximum penalty—100 penalty units.

‘153E Powers to support seizure

‘(1) To enable a thing to be seized, an inspector may require the person in control of it—

- (a) to take it to a stated reasonable place by a stated reasonable time; and
- (b) if necessary, to remain in control of it at the stated place for a stated reasonable period.

‘(2) The requirement—

- (a) must be made by notice in the approved form; or
- (b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by notice in the approved form as soon as practicable.

‘(3) A further requirement may be made under this section about the thing if it is necessary and reasonable to make the further requirement.

‘(4) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—50 penalty units.

‘153F Receipt for seized thing

‘(1) As soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.

‘(2) However, if for any reason it is not practicable to comply with subsection (1), the inspector must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.

‘(3) The receipt must describe generally each thing seized and its condition.

‘(4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt (given the thing’s nature, condition and value).

‘153G Forfeiture of seized thing

‘(1) A seized thing is forfeited to the State if the inspector who seized the thing—

- (a) can not find its owner, after making reasonable inquiries; or
- (b) can not return it to its owner, after making reasonable efforts; or

- (c) reasonably believes it is necessary to keep the thing to prevent it being used to commit an offence against a relevant provision or this part.

‘(2) In applying subsection (1)—

- (a) subsection (1)(a) does not require the inspector to make inquiries if it would be unreasonable to make inquiries to find the owner; and
- (b) subsection (1)(b) does not require the inspector to make efforts if it would be unreasonable to make efforts to return the thing to its owner.

Example for paragraph (b)—

The owner of the thing has migrated to another country.

‘(3) If the inspector makes a decision under subsection (1)(c), resulting in the thing being forfeited to the State, the inspector must immediately give the owner a written notice stating—

- (a) the reasons for the decision; and
- (b) that the owner may appeal against the decision within 28 days; and
- (c) how the owner may appeal against the decision.

‘(4) Subsection (3) does not apply if—

- (a) the inspector can not find the owner, after making reasonable inquiries; or
- (b) it is impracticable or would be unreasonable to give the notice.

‘(5) Regard must be had to a thing’s nature, condition and value—

- (a) in deciding—
 - (i) whether it is reasonable to make inquiries or efforts; and
 - (ii) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable; or
- (b) in deciding whether it would be unreasonable to give the written notice.

‘153H Forfeiture on conviction

‘(1) On the conviction of a person for an offence against a relevant provision or this part, the court may order the forfeiture to the State of—

- (a) anything used to commit the offence; or
- (b) anything else the subject of the offence.

‘(2) The court may make the order—

- (a) whether or not the thing has been seized; or
- (b) if the thing has been seized, whether or not the thing has been returned to its owner.

‘(3) The court may make any order to enforce the forfeiture it considers appropriate.

‘(4) This section does not limit the court’s powers under the *Penalties and Sentences Act 1992* or another law.

‘153I Dealing with forfeited things etc.

‘(1) On the forfeiture of a thing to the State, the thing becomes the State’s property and may be dealt with by the chief executive as the chief executive considers appropriate.

‘(2) Without limiting subsection (1), the chief executive may destroy or dispose of the thing.

‘(3) Despite subsection (1), the chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal, relevant to the thing, of which the chief executive is aware.

‘153J Return of seized thing

‘(1) If a seized thing is not forfeited, the inspector must return it to its owner—

- (a) at the end of 6 months; or
- (b) if a proceeding for an offence against a relevant provision or this part involving the thing is started within 6 months, at the end of the proceeding and any appeal from the proceeding.

‘(2) Despite subsection (1), unless the thing is forfeited, the inspector must immediately return a thing seized as evidence to its owner if the

inspector stops being satisfied its continued retention as evidence is necessary.

‘153K Access to seized thing

‘(1) Until a seized thing is forfeited or returned, an inspector must allow its owner to inspect it and, if it is a document, to copy it.

‘(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.’.

58 Insertion of new pt 4A, div 3, sdiv 5 and div 4

After section 153K, as inserted by this Act—

insert—

‘Subdivision 5—Power to obtain information

‘153L Power to require name and address

‘(1) This section applies if—

- (a) an inspector finds a person committing an offence against a relevant provision or this part; or
- (b) an inspector finds a person in circumstances that lead, or has information about a person that leads, the inspector to reasonably suspect the person has just committed an offence against a relevant provision or this part.

‘(2) The inspector may require the person to state the person’s name and residential address.

‘(3) When making the requirement, the inspector must warn the person it is an offence to fail to state the person’s name or residential address, unless the person has a reasonable excuse.

‘(4) The inspector may require the person to give evidence of the correctness of the stated name or residential address if the inspector reasonably suspects the stated name or address is false.

‘(5) A requirement under subsection (2) or (4) is called a **“personal particulars requirement”**’.

‘153M Failure to give name or address

‘(1) A person of whom a personal particulars requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

‘(2) A person does not commit an offence against subsection (1) if—

- (a) the person was required to state the person’s name and residential address by an inspector who suspected the person had committed an offence against a relevant provision or this part; and
- (b) the person is not proved to have committed the offence.

‘153N Power to require production of documents

‘(1) An inspector may require a person to make available for inspection by an inspector, or produce to the inspector for inspection, at a reasonable time and place nominated by the inspector—

- (a) a document issued to the person under a relevant provision; or
- (b) a document required to be kept by the person under a relevant provision.

‘(2) The inspector may keep the document to copy it.

‘(3) If the inspector copies a document mentioned in subsection (1)(b), or an entry in the document, the inspector may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.

‘(4) The inspector must return the document to the person as soon as practicable after copying it.

‘(5) However, if a requirement (a “**document certification requirement**”) is made of a person under subsection (3), the inspector may keep the document until the person complies with the requirement.

‘(6) A requirement under subsection (1) is called a “**document production requirement**”.

‘153O Failure to produce document

‘(1) A person of whom a document production requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

‘(2) It is not a reasonable excuse for a person not to comply with a document production requirement that complying with the requirement might tend to incriminate the person.

‘153P Failure to certify copy of document

‘A person of whom a document certification requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

‘153Q Power to require information

‘(1) This section applies if an inspector reasonably believes—

- (a) an offence against a relevant provision or this part has been committed; and
- (b) a person may be able to give information about the offence.

‘(2) The inspector may, by written notice given to the person, require the person to give information about the offence to the inspector at a stated reasonable time and place.

‘(3) The person must comply with a requirement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

‘(4) It is a reasonable excuse for an individual to fail to give information if giving the information might tend to incriminate the individual.

Division 4—General enforcement matters

‘153R Compliance notice

‘(1) This section applies if the chief executive or an inspector reasonably believes—

- (a) a person—
 - (i) is contravening a relevant provision or a provision of this part; or

- (ii) has contravened a relevant provision or a provision of this part in circumstances that make it likely the contravention will continue or be repeated; and
 - (b) a matter relating to the contravention is reasonably capable of being rectified; and
 - (c) it is appropriate to give the person an opportunity to rectify the matter.
- ‘(2) The chief executive or inspector may give the person a notice (a “**compliance notice**”) requiring the person to rectify the matter.

‘(3) The compliance notice must state—

- (a) that the chief executive or inspector believes the person—
 - (i) is contravening a relevant provision or a provision of this part; or
 - (ii) has contravened a relevant provision or a provision of this part in circumstances that make it likely that the contravention will continue or be repeated; and
- (b) the provision the chief executive or inspector believes is being, or has been, contravened; and
- (c) briefly, how it is believed the provision is being, or has been contravened; and
- (d) the matter relating to the contravention that the chief executive or inspector believes is reasonably capable of being rectified; and
- (e) the reasonable steps the person must take to rectify the matter; and
- (f) that the person must take the steps within a stated reasonable period of not less than 21 days; and
- (g) that it is an offence to fail to comply with the compliance notice unless the person has a reasonable excuse.

‘(4) The person must comply with the compliance notice, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

‘(5) The person can not be prosecuted for contravention of the provision unless the person—

- (a) fails to comply with the compliance notice within the stated period; and
- (b) does not have a reasonable excuse for failing to comply with the notice.

‘153S Notice of damage

‘(1) This section applies if—

- (a) an inspector damages property when exercising or purporting to exercise a power; or
- (b) a person (the **“other person”**) acting under the direction or authority of an inspector damages property.

‘(2) The inspector must immediately give notice of particulars of the damage to the person who appears to the inspector to be the owner of the property.

‘(3) If the inspector believes the damage was caused by a latent defect in the property or circumstances beyond the inspector’s or other person’s control, the inspector may state the belief in the notice.

‘(4) If, for any reason, it is impracticable to comply with subsection (2), the inspector must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.

‘(5) This section does not apply to damage the inspector reasonably believes is trivial.

‘(6) In this section—

“owner”, of property, includes the person in possession or control of it.

‘153T Compensation

‘(1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under any of the following subdivisions of division 3²⁵—

- (a) subdivision 1 (Entry of places)
- (b) subdivision 3 (Powers after entry)

(c) subdivision 4 (Power to seize evidence)

‘(2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under the subdivision.

‘(3) Compensation may be claimed and ordered to be paid in a proceeding—

- (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
- (b) for an offence against a relevant provision or this part brought against the person claiming compensation.

‘(4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

‘153U False or misleading statements

‘(1) A person must not state anything to an inspector the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

‘(2) In a proceeding for an offence against subsection (1), it is enough for a charge to state that the statement was, without specifying which, ‘false or misleading’.

‘153V False or misleading documents

‘(1) A person must not give an inspector a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

‘(2) Subsection (1) does not apply to a person if the person, when giving the document—

- (a) tells the inspector, to the best of the person’s ability, how it is false or misleading; and
- (b) if the person has, or can reasonably obtain, the correct information, gives the correct information.

‘(3) In a proceeding for an offence against subsection (1), it is enough for a charge to state that the statement was, without specifying which, ‘false or misleading’.

‘153W Obstructing inspector

‘(1) A person must not obstruct an inspector in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

‘(2) If a person has obstructed an inspector and the inspector decides to proceed with the exercise of the power, the inspector must warn the person that—

- (a) it is an offence to obstruct the inspector, unless the person has a reasonable excuse; and
- (b) the inspector considers the person’s conduct is an obstruction.

‘(3) In this section—

“**obstruct**” includes hinder and attempt to obstruct or hinder.

‘153X Impersonation of inspector

‘A person must not pretend to be an inspector.

Maximum penalty—50 penalty units.

‘153Y Dealing with certain things

‘(1) If an inspector takes a thing under section 151(3)(c),²⁶ or seizes a thing under section 153A or 153B²⁷ for analysis by a State analyst, the inspector must—

- (a) divide the thing into 3 separate parts and—
 - (i) seal or fasten each part in a way that will, so far as is practicable, prevent a person tampering with the part; and

26 Section 151 (General powers after entering place)

27 Sections 153A (Seizing evidence at a place that may be entered without consent or warrant) and 153B (Seizing evidence at a place that may only be entered with consent or warrant)

- (ii) attach a label containing the label details to each part; and
- (b) leave 1 part with the owner of the thing or the person from whom the thing was obtained; and
- (c) deal with 1 of the remaining parts under section 153ZD; and
- (d) keep the other remaining part for future comparison.

‘(2) Subsection (3) applies if a thing is in more than 1 package and the inspector reasonably believes that, because of the size of the packages, dividing 1 package of the thing for analysis into 3 separate parts would—

- (a) affect the composition or quality of the thing in a way that would make the separate parts unsuitable for accurate analysis; or
- (b) make the parts insufficient for accurate analysis; or
- (c) make the thing in any other way unsuitable for analysis.

‘(3) If the inspector reasonably believes the packages contain the same substance, the inspector may—

- (a) mix 2 or more of the packages and deal with the mixture under subsection (1); or
- (b) use more than 1 of the packages to make up each part mentioned in subsection (1).

‘(4) Subsections (1) to (3) do not apply to a thing to the extent that, because of its nature, it is impossible or impractical to deal with it in the way mentioned in the subsections.

‘(5) In this section—

“**label details**” means—

- (a) an identification number; and
- (b) a description of the thing; and
- (c) the date it was taken or seized; and
- (d) the place where it was taken or seized; and
- (e) the inspector’s signature.’.

59 Insertion of new pt 4A, div 5

After section 153Y, as inserted by this Act—

insert—

Division 5—Analysis of things**‘153Z Appointment and qualifications**

‘(1) The chief executive may appoint any of the following persons as a State analyst—

- (a) an officer of the department;
- (b) a health service employee;
- (c) a person prescribed under a regulation.

‘(2) However, the chief executive may appoint a person as a State analyst only if the chief executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.

‘153ZA Appointment conditions and limit on powers

‘(1) A State analyst holds office on any conditions stated in—

- (a) the State analyst’s instrument of appointment; or
- (b) a signed notice given to the State analyst; or
- (c) a regulation.

‘(2) The instrument of appointment, a signed notice given to the State analyst or a regulation may limit the State analyst’s powers under this part.

‘(3) In this section—

“signed notice” means a notice signed by the chief executive.

‘153ZB When State analyst ceases to hold office

‘(1) A State analyst ceases to hold office if any of the following happens—

- (a) the term of office stated in a condition of office ends;
- (b) under another condition of office, the State analyst ceases to hold office;
- (c) the State analyst’s resignation under section 153ZC takes effect.

‘(2) Subsection (1) does not limit the ways a State analyst may cease to hold office.

‘(3) In this section—

“**condition of office**” means a condition on which the State analyst holds office.

‘153ZC Resignation

‘(1) A State analyst may resign by signed notice given to the chief executive.

‘(2) However, if holding office as a State analyst is a condition of the State analyst holding another office, the State analyst may not resign as a State analyst without resigning from the other office.

‘153ZD Analysis

‘(1) If an inspector who takes a thing at a place under section 151(3)(c)²⁸, or seizes a thing under section 153A or 153B for analysis, is not a State analyst, the inspector must, as soon as practicable, give it to a State analyst for analysis.

‘(2) The State analyst must, as soon as practicable, complete a certificate of analysis for the thing and give the certificate to the inspector.

‘(3) If an inspector who takes a thing as mentioned in subsection (1) is a State analyst, the inspector must, as soon as practicable, complete a certificate of analysis for the thing.

‘(4) For dealing with a part of a thing mentioned in section 153Y(1)(c), subsections(1) and (3) apply as if a reference to a thing were a reference to a part.

‘153ZE Certificate must indicate methodology used

‘The certificate of analysis must include information about the methodology used to conduct the analysis.’.

60 Insertion of new pt 4A, div 6

After section 153ZE, as inserted by this Act—

insert—

‘Division 6—Legal proceedings

‘Subdivision 1—Application

‘153ZF Application of division

‘This division applies to a proceeding under a relevant provision or this part.

‘Subdivision 2—Evidence

‘153ZG Appointments and authority

‘It is not necessary to prove—

- (a) the chief executive’s appointment; or
- (b) the appointment of an inspector or State analyst; or
- (c) the authority of the chief executive, an inspector or State analyst to do anything under this part.

‘153ZH Signatures

‘A signature purporting to be the signature of the chief executive, an inspector or State analyst is evidence of the signature it purports to be.

‘153ZI Evidentiary aids

‘(1) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

- (a) a stated document is an appointment, endorsement or notice made, given, issued or kept under a relevant provision or this part;
- (b) a stated document is a document given to the chief executive under a relevant provision;
- (c) a stated document is a copy of a thing mentioned in paragraph (a) or (b);

- (d) on a stated day, or during a stated period, a stated person was or was not the holder of an endorsement;
- (e) on a stated day, or during a stated period, an endorsement—
 - (i) was or was not in force; or
 - (ii) was or was not subject to a stated condition;
- (f) on a stated day, an endorsement was suspended or cancelled;
- (g) on a stated day, or during a stated period, an appointment as an inspector or State analyst was, or was not, in force for a stated person;
- (h) on a stated day, a stated person was given a stated notice under this part;
- (i) on a stated day, a stated requirement was made under a relevant provision or this part of a stated person.

‘(2) A statement in a complaint for an offence against a relevant provision or this part that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant’s knowledge.

‘(3) A certificate purporting to be that of a State analyst in relation to a thing taken by an inspector at a place under section 151(3)(c),²⁹ or seized under section 153A or 153B,³⁰ stating any of the following matters is evidence of the matters—

- (a) the analyst’s qualifications;
- (b) the analyst took, or received from a stated person, the thing;
- (c) the thing was analysed at a stated place on a stated day or during a stated period;
- (d) the methodology used to analyse the thing;
- (e) the results of the analysis.

‘(4) In a proceeding in which the chief executive applies under section 153ZK to recover costs incurred by the chief executive, a certificate by the chief executive stating that stated costs were incurred and

29 Section 151 (General powers after entering place)

30 Section 153A (Seizing evidence at a place that may be entered without consent or warrant) or 153B (Seizing evidence at a place that may only be entered with consent or warrant)

the way in which, and purpose for which, they were incurred is evidence of the matters stated.

‘Subdivision 3—Proceedings

‘153ZJ Summary proceedings for offences against a relevant provision or this part

‘(1) A proceeding for an offence against a relevant provision or this part is to be taken in a summary way under the *Justices Act 1886*.

‘(2) The proceeding must start—

- (a) within 1 year after the commission of the offence; or
- (b) within 6 months after the offence comes to the complainant’s knowledge, but within 2 years after the commission of the offence.

‘153ZK Recovery of costs of investigation

‘(1) This section applies if—

- (a) a court convicts a person of an offence against a relevant provision or this part; and
- (b) the chief executive applies to the court for an order against the person for the payment of the costs the chief executive has incurred in taking a thing, conducting an analysis or doing something else during the investigation of the offence; and
- (c) the court finds the chief executive has reasonably incurred the costs.

‘(2) The court may order the person to pay the chief executive an amount equal to the costs if it is satisfied it would be just to make the order in the circumstances of the particular case.

‘(3) This section does not limit the court’s powers under the *Penalties and Sentences Act 1992* or another law.

‘153ZL Application for order for payment of costs under s 153ZK

‘(1) An application to a court under section 153ZK is, and any order made by the court on the application is, a judgment in the court’s civil jurisdiction.

‘(2) Any issue on the application is to be decided on the balance of probabilities.

‘153ZM Responsibility for acts or omissions of representatives

‘(1) This section applies in a proceeding for an offence against a relevant provision or this part.

‘(2) If it is relevant to prove a person’s state of mind about a particular act or omission, it is enough to show—

- (a) the act was done or omitted to be done by a representative of the person within the scope of the representative’s actual or apparent authority; and
- (b) the representative had the state of mind.

‘(3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative’s actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

‘(4) In this section—

“representative” means—

- (a) for a corporation—an executive officer, employee or agent of the corporation; or
- (b) for an individual—an employee or agent of the individual.

“state of mind”, of a person, includes—

- (a) the person’s knowledge, intention, opinion, belief or purpose; and
- (b) the person’s reasons for the intention, opinion, belief or purpose.

‘153ZN Executive officers must ensure corporation complies with relevant provisions and this part

‘(1) The executive officers of a corporation must ensure the corporation complies with the relevant provisions and this part.

‘(2) If a corporation commits an offence against a relevant provision or a provision of this part, each of the corporation’s executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

‘(3) Evidence that the corporation has been convicted of an offence against a relevant provision or a provision of this part is evidence that each of the executive officers committed the offence of failing to ensure the corporation complies with the provision.

‘(4) However, it is a defence for an executive officer to prove—

- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
- (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.’.

61 Insertion of new pt 4A, divs 7 and 8

After section 153ZN, as inserted by this Act—

insert—

‘Division 7—Appeals**‘153ZO Who may appeal**

‘An owner of a thing forfeited to the State under section 153G(1)(c) who is dissatisfied with the decision resulting in the forfeiture may appeal against the decision.

‘153ZP Starting an appeal

‘(1) An appeal may be started at—

- (a) the Magistrates Court nearest the place where the person lives or carries on business; or
- (b) a Magistrates Court at Brisbane.

‘(2) The notice of appeal under the *Uniform Civil Procedure Rules 1999* must be filed with the registrar of the court within 28 days after—

- (a) if the person is given notice of the decision under section 153G(3)—the day the person is given the notice; or
- (b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the forfeiture.

‘(3) The court may, at any time, extend the time for filing the notice of appeal.

‘153ZQ Hearing procedures

‘(1) In hearing the appeal, the court is not bound by the rules of evidence and must comply with natural justice.

‘(2) The appeal is by way of rehearing, unaffected by the inspector’s decision, on the material before the inspector and any further evidence allowed by the court.

‘153ZR Powers of court on appeal

‘(1) In deciding the appeal, the court may confirm the inspector’s decision or substitute another decision for the inspector’s decision.

‘(2) The chief executive or inspector must give effect to the court’s decision.

‘153ZS Appeal to District Court

‘An appeal lies to the District Court from a decision of a Magistrates Court under section 153ZR, but only on a question of law.

‘Division 8—Miscellaneous

‘153ZT Protecting officials from liability

‘(1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under a relevant provision or this part.

‘(2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.

‘(3) In this section—

“official” means—

- (a) the chief executive; or
- (b) an inspector or State analyst; or
- (c) a person acting under the direction of an inspector.’.

62 Omission of s 154 (Proceedings by indictment and contracts not to be affected)

Section 154—

omit.

63 Insertion of new s 1540

Part 6, before section 155—

insert—

‘1540 Application of pt 6

‘Except for sections 175, 178(f) and 180(1) and (2)(f),³¹ this part does not apply to part 4A³² or a relevant provision.’.

31 Sections 175 (General penalty), 178 (Evidence), and 180 (Regulation making power)

32 Part 4A (Monitoring, investigation and enforcement)

64 Insertion of new pt 8

After section 183—

insert—

**‘PART 8—TRANSITIONAL PROVISIONS FOR
HEALTH LEGISLATION AMENDMENT ACT 2001**

**‘184 Transitional provision for things done etc. before this
section commences**

‘(1) Subsection (2) applies in relation to anything done, omitted or started under, or in relation to, a section 184 provision before the commencement.

‘(2) The pre-amended Act continues to apply as if the *Health Legislation Amendment Act 2001* had not been passed.

‘(3) Subsections (1) and (2) do not limit the *Acts Interpretation Act 1954*, section 20.³³

‘(4) Without limiting subsections (1) to (3), a proceeding for an offence against a section 184 provision committed before the commencement may be started or continued, and the pre-amended Act applies in relation to the proceeding, as if the *Health Legislation Amendment Act 2001* had not been passed.

‘(5) In this section—

“commencement” means the commencement of this section.

“pre-amended Act” means this Act as in force before the commencement.

“relevant provision” means a relevant provision as in force before the commencement.

“repealed provision” means any of sections 132 to 151 of the pre-amended Act.

“section 184 provision” means a relevant provision or a repealed provision.

³³ *Acts Interpretation Act 1954*, section 20 (Saving or operation of repealed Act etc.)

‘185 Transitional provisions about certain authorities

‘(1) Subsection (2) applies if, immediately before the commencement, a person’s authority under section D2 of the repealed regulation to take an old action in relation to all dangerous drugs and restricted drugs was cancelled under section D3 of that regulation.

‘(2) To remove any doubt, it is declared that starting on the commencement, the person’s authority under the new regulation to take a new action in relation to all controlled drugs and restricted drugs is taken to be cancelled by a decision of the chief executive properly made under chapter 1, part 5, division 4³⁴ of the new regulation, and subject to subsection (5), continues to be cancelled.

‘(3) Subsection (4) applies if, immediately before the commencement, a person’s authority under section D2 of the repealed regulation to take an old action in relation to a particular substance that was a dangerous drug or restricted drug under that regulation was cancelled under section D3 of that regulation.

‘(4) To remove any doubt, it is declared that starting on the commencement, the person’s authority under the new regulation to take a new action in relation to the substance is taken to be cancelled by a decision of the chief executive properly made under chapter 1, part 5, division 4 of the new regulation, and subject to subsection (5), continues to be cancelled.

‘(5) Subsections (2) and (4) do not prevent the chief executive repealing, under section 26A of the new regulation, the decision of the chief executive.

‘(6) In this section—

“**commencement**” means the commencement of the new regulation.

“**new action**” means administer, dispense, issue, obtain, possess, including possess at a particular place, prescribe, sell or supply.

“**new regulation**” means the *Health (Drugs and Poisons) Regulation 1996*.

“**old action**” means administer, buy, dispense, obtain, possess, including possess on particular premises or at a particular place, prescribe, procure or offer to procure, sell, or supply or offer to supply.

“**repealed regulation**” means the *Poisons Regulation 1973*.’.

34 *Health (Drugs and Poisons) Regulation 1996*, chapter 1 (Introduction), part 5 (Endorsements), division 4 (Suspension or cancellation of endorsement)

Pest Management Act 2001 No. 103 s 145 sch 2 reads as follows—

HEALTH ACT 1937

1 Part 4, divisions 7 and 8—

omit.