



# Health Act 1937

Reprinted as in force on 1 December 2005

Reprint No. 5A

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

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

**Also see endnotes for information about—**

- **when provisions commenced**
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## Queensland

# Health Act 1937

## Contents

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|                   |   | Page |
|-------------------|---|------|
| <b>Part 1</b>     | <b>Preliminary</b>  |      |
| 1                 | Short title . . . . .   | 9    |
| 5                 | Interpretation . . . . .  | 9    |
| <b>Part 2</b>     | <b>General powers</b>   |      |
| <b>Division 1</b> | <b>Central government</b>   |      |
| 6                 | Definition for div 1 . . . . .  | 16   |
| 9                 | Default of local government . . . . .   | 16   |
| 15A               | Approval of forms . . . . .   | 18   |
| 16                | Powers of chief executive in default of local government . . . . .                                  | 18   |
| 18                | Power to make order on memorial of party aggrieved by<br>decision of the local government . . . . . | 19   |
| 18A               | Chief executive to give notice of proceedings to boards . . . . .                                   | 19   |
| 18B               | Chief executive may inform boards about particular matters . . . . .                                | 20   |
| <b>Division 3</b> | <b>Local government</b>   |      |
| 19                | Local governments to see to the execution of regulations . . . . .                                  | 21   |
| 20                | Local governments to report . . . . .   | 21   |
| 21                | Power of local government to abate nuisance . . . . .   | 21   |
| 22                | Appointment, remuneration, and duties of officers of local<br>governments . . . . .                 | 22   |
| 24                | Local government analysts . . . . .   | 23   |
| 25                | Medical officer of health to have powers of inspectors . . . . .                                    | 24   |
| 26                | Non-disqualification of medical practitioner by receipt of fees . . . . .                           | 24   |
| <b>Division 4</b> | <b>Appointment of officers under and for the purposes of the<br/>Act</b>                            |      |
| 27                | Appointment of officers . . . . .   | 24   |
| 27A               | Prohibition on use of term State analyst . . . . .  | 24   |
| 27B               | Rules as to competency of officers . . . . .  | 25   |
| 27C               | General powers and duties of officers . . . . .   | 25   |

|                   |   |    |
|-------------------|---|----|
| 27D               | Officer may attend meetings of local government . . . . .   | 25 |
| 27E               | Holders of certain offices health officers . . . . .  | 26 |
| <b>Part 3</b>     | <b>Prevention, notification and treatment of disease or disability</b>                                  |    |
| <b>Division 6</b> | <b>Harm to children</b>   |    |
| 76K               | Definitions for div 6 . . . . .   | 26 |
| 76KA              | Meaning of parent for div 6 . . . . .   | 27 |
| 76KB              | Relationship with Child Protection Act 1999 . . . . .   | 27 |
| 76KC              | Mandatory reporting—immediate notice . . . . .  | 27 |
| 76KD              | Mandatory reporting—follow-up notice . . . . .  | 28 |
| 76KE              | Offence . . . . .   | 29 |
| 76KF              | Further information may be required . . . . .   | 29 |
| 76KG              | Protection from liability for giving information to professional. . . . .                               | 30 |
| 76KH              | Confidentiality of notifiers . . . . .  | 30 |
| 76L               | Temporary custody of children . . . . .   | 32 |
| <b>Division 7</b> | <b>Nuisances and offensive trades</b>   |    |
| 77                | Nuisances . . . . .   | 37 |
| 78                | Detection of nuisances . . . . .  | 38 |
| 79                | Abatement of nuisance . . . . .   | 38 |
| 80                | Sale of materials . . . . .   | 40 |
| 81                | Expenses of execution of provisions relating to nuisances . . . . .                                     | 41 |
| 82                | Individual may complain to justice of nuisance . . . . .  | 41 |
| 83                | Cause of nuisance arising beyond local government area . . . . .  | 42 |
| 84                | Nuisance caused by 2 or more persons . . . . .  | 42 |
| 85                | Establishment of offensive trades . . . . .   | 43 |
| 86                | Complaint of nuisance . . . . .   | 43 |
| 87                | Certain nuisances on premises . . . . .   | 44 |
| 88                | Order for cleansing offensive ditches near to or forming boundaries of local government areas . . . . . | 45 |
| 89                | Removal of filth . . . . .  | 45 |
| 90                | Cleansing common courts and passages . . . . .  | 46 |
| 91                | Apportionment of expenses . . . . .   | 46 |
| 92                | Local laws . . . . .  | 46 |
| <b>Division 8</b> | <b>Sewers, stormwater drains, sanitary conveniences, camping grounds and moveable dwellings</b>         |    |
| 93                | Sewers, stormwater drains etc. to be properly kept . . . . .  | 47 |
| 94                | Examination of stormwater drains etc. . . . .   | 47 |
| 100               | Camping grounds . . . . .   | 48 |

---

|                    |   |    |
|--------------------|---|----|
| <b>Division 9</b>  | <b>Skin penetration, including acupuncture</b>  |    |
| 100A               | Regulation-making power . . . . .   | 50 |
| <b>Part 4</b>      | <b>Drugs and other articles</b>   |    |
| <b>Division 1</b>  | <b>Preliminary</b>  |    |
| 101                | Adulteration of drug or article . . . . .   | 51 |
| 101A               | False description of drug . . . . .   | 52 |
| 102                | Drugs to comply with description or standard . . . . .  | 53 |
| 103                | Sales by agents or servants etc. . . . .  | 54 |
| <b>Division 2</b>  | <b>Drugs etc.</b>   |    |
| 104                | Adulterated drug not to be sold . . . . .   | 54 |
| 104A               | Adulterated drug not to be tendered or despatched for or on sale . . . . .                    | 54 |
| 105                | Mixing other ingredients or material with a drug . . . . .                                    | 55 |
| 106                | Offences in relation to automatic machines . . . . .  | 56 |
| 107                | Sale of mixture . . . . .   | 57 |
| 109                | Examination and report upon articles advertised . . . . .                                     | 57 |
| 110                | Prohibition of sale of injurious articles etc. . . . .  | 58 |
| 111                | Extension of ss 109 and 110 . . . . .   | 59 |
| 113                | Prohibition of sale of disinfectants and preservatives. . . . .                               | 59 |
| 114                | Labelling of disinfectants etc. . . . .   | 59 |
| <b>Division 3</b>  | <b>Cooking utensils, toys, wearing apparel, matches and use of lead</b>                       |    |
| 123                | Cooking utensils and food receptacles . . . . .   | 59 |
| 124                | Substances prohibited in toys etc. . . . .  | 60 |
| 124A               | Powers respecting articles capable of causing bodily harm or discomfort to humans. . . . .    | 61 |
| 129A               | Prohibition of the use of leaded metal for structural purposes in certain buildings . . . . . | 62 |
| 129B               | Prohibition of the use of means for conservation of water contaminated by lead . . . . .      | 63 |
| 129C               | Unlawful use of leaded metal or metal sheets a nuisance . . . . .                             | 63 |
| 129D               | Prescribing methods of analysis. . . . .  | 64 |
| <b>Division 3A</b> | <b>Paint</b>  |    |
| 129E               | Definitions . . . . .   | 64 |
| 129F               | Person must comply with standard. . . . .   | 64 |
| 129G               | Officer may take sample of paint . . . . .  | 65 |
| 129H               | Chief executive may give notice . . . . .   | 65 |
| 129I               | Method of analysis may be prescribed. . . . .   | 66 |

---

|                      |   |    |
|----------------------|---|----|
| <b>Division 6</b>    | <b>Labelling of drugs and poisons</b>   |    |
| 131I                 | Drugs and poisons to be labelled . . . . .  | 66 |
| <b>Division 10</b>   | <b>Miscellaneous</b>  |    |
| 132                  | Regulations about drugs, articles, substances, appliances etc. . .                        | 67 |
| 133                  | Suggestive names for drugs. . . . .   | 70 |
| <b>Part 4A</b>       | <b>Monitoring, investigation and enforcement</b>  |    |
| <b>Division 1</b>    | <b>Preliminary</b>  |    |
| 134                  | Application of pt 4A . . . . .  | 71 |
| 135                  | Relationship of this part to pt 2, div 4. . . . .   | 71 |
| 136                  | Definitions for pt 4A . . . . .   | 71 |
| <b>Division 2</b>    | <b>Inspectors</b>   |    |
| 137                  | Appointment and qualifications . . . . .  | 72 |
| 138                  | Appointment conditions and limit on powers . . . . .                                      | 72 |
| 139                  | Issue of identity card . . . . .  | 73 |
| 140                  | Production or display of identity card . . . . .  | 73 |
| 141                  | When inspector ceases to hold office. . . . .   | 74 |
| 142                  | Resignation . . . . .   | 74 |
| 143                  | Return of identity card . . . . .   | 74 |
| <b>Division 3</b>    | <b>Powers of inspectors</b>   |    |
| <b>Subdivision 1</b> | <b>Entry of places</b>  |    |
| 144                  | Power to enter places. . . . .  | 75 |
| <b>Subdivision 2</b> | <b>Procedure for entry</b>  |    |
| 145                  | Consent to entry. . . . .   | 76 |
| 146                  | Application for warrant . . . . .   | 77 |
| 147                  | Issue of warrant . . . . .  | 77 |
| 148                  | Special warrant. . . . .  | 78 |
| 149                  | Warrant—procedure before entry. . . . .   | 79 |
| 150                  | Stopping motor vehicles . . . . .   | 80 |
| <b>Subdivision 3</b> | <b>Powers after entry</b>   |    |
| 151                  | General powers after entering place . . . . .   | 81 |
| 152                  | Failure to help inspector . . . . .   | 82 |
| 153                  | Failure to give information . . . . .   | 82 |
| <b>Subdivision 4</b> | <b>Power to seize evidence</b>  |    |
| 153A                 | Seizing evidence at a place that may be entered without<br>consent or warrant . . . . .   | 82 |
| 153B                 | Seizing evidence at a place that may only be entered with<br>consent or warrant . . . . . | 83 |

---

|                      |  |    |
|----------------------|--|----|
| 153C                 | Securing seized thing . . . . .                      | 83 |
| 153D                 | Tampering with seized thing . . . . .                | 84 |
| 153E                 | Powers to support seizure . . . . .                  | 84 |
| 153F                 | Receipt for seized thing . . . . .                   | 85 |
| 153G                 | Forfeiture of seized thing . . . . .                 | 85 |
| 153H                 | Forfeiture on conviction . . . . .                   | 86 |
| 153I                 | Dealing with forfeited things etc. . . . .           | 87 |
| 153J                 | Return of seized thing . . . . .                     | 87 |
| 153K                 | Access to seized thing . . . . .                     | 88 |
| <b>Subdivision 5</b> | <b>Power to obtain information</b>                   |    |
| 153L                 | Power to require name and address . . . . .          | 88 |
| 153M                 | Failure to give name or address . . . . .            | 88 |
| 153N                 | Power to require production of documents. . . . .    | 89 |
| 153O                 | Failure to produce document . . . . .                | 89 |
| 153P                 | Failure to certify copy of document. . . . .         | 90 |
| 153Q                 | Power to require information. . . . .                | 90 |
| <b>Division 4</b>    | <b>General enforcement matters</b>                   |    |
| 153R                 | Compliance notice . . . . .                          | 90 |
| 153S                 | Notice of damage . . . . .                           | 92 |
| 153T                 | Compensation . . . . .                               | 93 |
| 153U                 | False or misleading statements . . . . .             | 93 |
| 153V                 | False or misleading documents . . . . .              | 94 |
| 153W                 | Obstructing inspector . . . . .                      | 94 |
| 153X                 | Impersonation of inspector. . . . .                  | 94 |
| 153Y                 | Dealing with certain things . . . . .                | 95 |
| <b>Division 5</b>    | <b>Analysis of things</b>                            |    |
| 153Z                 | Appointment and qualifications . . . . .             | 96 |
| 153ZA                | Appointment conditions and limit on powers . . . . . | 96 |
| 153ZB                | When State analyst ceases to hold office . . . . .   | 97 |
| 153ZC                | Resignation . . . . .                                | 97 |
| 153ZD                | Analysis . . . . .                                   | 97 |
| 153ZE                | Certificate must indicate methodology used. . . . .  | 98 |
| <b>Division 6</b>    | <b>Legal proceedings</b>                             |    |
| <b>Subdivision 1</b> | <b>Application</b>                                   |    |
| 153ZF                | Application of division. . . . .                     | 98 |
| <b>Subdivision 2</b> | <b>Evidence</b>                                      |    |
| 153ZG                | Appointments and authority . . . . .                 | 98 |

---

|                      |  |     |
|----------------------|--|-----|
| 153ZH                | Signatures . . . . .   | 98  |
| 153ZI                | Evidentiary aids . . . . .   | 99  |
| <b>Subdivision 3</b> | <b>Proceedings</b>   |     |
| 153ZJ                | Summary proceedings for offences against a relevant provision<br>or this part . . . . .                | 100 |
| 153ZK                | Recovery of costs of investigation . . . . .   | 101 |
| 153ZL                | Application for order for payment of costs under s 153ZK . . . . .                                     | 101 |
| 153ZM                | Responsibility for acts or omissions of representatives . . . . .                                      | 101 |
| 153ZN                | Executive officers must ensure corporation complies with<br>relevant provisions and this part. . . . . | 102 |
| <b>Division 7</b>    | <b>Appeals</b>   |     |
| 153ZO                | Who may appeal. . . . .  | 103 |
| 153ZP                | Starting an appeal . . . . .   | 103 |
| 153ZQ                | Hearing procedures . . . . .   | 103 |
| 153ZR                | Powers of court on appeal . . . . .  | 104 |
| 153ZS                | Appeal to District Court . . . . .   | 104 |
| <b>Division 8</b>    | <b>Miscellaneous</b>   |     |
| 153ZT                | Protecting officials from liability . . . . .  | 104 |
| <b>Part 5</b>        | <b>Scientific research and studies</b>   |     |
| 154M                 | Authority to conduct scientific research and studies . . . . .   | 105 |
| 154N                 | Information obtained and reports made under this part. . . . .   | 105 |
| <b>Part 6</b>        | <b>Miscellaneous provisions</b>  |     |
| 154O                 | Application of pt 6. . . . .   | 106 |
| 155                  | Vessels or aircraft. . . . .   | 106 |
| 157                  | Source of information or reports. . . . .  | 106 |
| 158                  | Protection to persons acting in execution of Act. . . . .  | 106 |
| 159                  | No officer to be concerned in contract . . . . .   | 107 |
| 160                  | Entry. . . . .   | 107 |
| 161                  | Compensation in case of damage . . . . .   | 108 |
| 162                  | Compensation payable, how to be fixed. . . . .   | 108 |
| 163                  | Local laws. . . . .  | 109 |
| 164                  | Service of notice. . . . .   | 109 |
| 165                  | Offences . . . . .   | 110 |
| 166                  | Neglect of duty by officer an offence . . . . .  | 111 |
| 167                  | Obstructing execution of Act. . . . .  | 111 |
| 170                  | Power to proceed against local government for nuisance . . . . .                                       | 112 |
| 171                  | Who may act for local government in cases of emergency . . . . .                                       | 113 |



---

|                     |   |     |
|---------------------|---|-----|
| 172                 | No abatement. . . . .   | 113 |
| 173                 | Reference to 'owner' and 'occupier' . . . . .                                       | 113 |
| 174                 | Contribution . . . . .  | 114 |
| 175                 | General penalty . . . . .   | 114 |
| 176                 | Recovery of penalties etc. . . . .  | 114 |
| 177                 | Limitation of time for summary proceedings to be taken . . . . .                    | 114 |
| 178                 | Evidence. . . . .   | 115 |
| 180                 | Regulation-making power. . . . .  | 116 |
| 181                 | References to certain regulations and provisions . . . . .                          | 117 |
| <b>Part 8</b>       | <b>Transitional provisions for Health Legislation Amendment Act 2001</b>            |     |
| 184                 | Transitional provision for things done etc. before this section commences . . . . . | 118 |
| 185                 | Transitional provisions about certain authorities. . . . .                          | 119 |
| <br><b>Endnotes</b> |   |     |
| 1                   | Index to endnotes. . . . .  | 121 |
| 2                   | Date to which amendments incorporated. . . . .                                      | 121 |
| 3                   | Key . . . . .   | 122 |
| 4                   | Table of reprints . . . . .   | 122 |
| 5                   | Tables in earlier reprints. . . . .   | 123 |
| 6                   | List of legislation. . . . .  | 123 |
| 7                   | List of annotations . . . . .   | 132 |
| 8                   | List of forms notified or published in the gazette . . . . .                        | 171 |
| 9                   | Table of renumbered provisions . . . . .  | 175 |



# Health Act 1937

[as amended by all amendments that commenced on or before 1 December 2005]

## An Act about particular matters relating to public health

### Part 1 Preliminary

#### 1 Short title

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

#### 5 Interpretation

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.

***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.

***approved form*** see section 15A.<sup>1</sup>

***article*** without limit to the generality of its meaning, includes any textile product, any toys, any medical or surgical apparatus or appliance, any absorbent wool or surgical dressing, and also includes boots, shoes, paint, poisons, drugs, biological preparations, pesticides, detergents, dangerous substances and 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.

***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 executive (child safety)***, for part 3, division 6, see section 76K.

***child***, for part 3, division 6, see section 76K.

***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*.

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1 Section 15A (Approval of forms)

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

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

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

***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.

***endorsement***, for part 4A, see section 136.

***executive officer***, for part 4A, see section 136.

***harm***, for part 3, division 6, see section 76K.

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

- *Chiropractors Registration Act 2001*
- *Dental Practitioners Registration Act 2001*

*Health Act 1937*

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- *Dental Technicians and Dental Prosthetists Registration Act 2001*
- *Medical Practitioners Registration Act 2001*
- *Medical Radiation Technologists Registration Act 2001*
- *Occupational Therapists Registration Act 2001*
- *Optometrists Registration Act 2001*
- *Osteopaths Registration Act 2001*
- *Pharmacists Registration Act 2001*
- *Physiotherapists Registration Act 2001*
- *Podiatrists Registration Act 2001*
- *Psychologists Registration Act 2001*
- *Speech Pathologists Registration Act 2001.*

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

**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**—

- (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.

**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.

**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.

**nurse**, for part 2, division 1, see section 6.

**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.

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

**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 chief executive 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.

**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

*Health Act 1937*

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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**, for part 3, division 6, see section 76KA.

**person** includes a company, partnership, and any body or association of persons.

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

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

**professional**, for part 3, division 6, see section 76K.

**registered nurse**, for part 3, division 6, see section 76K.

**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.

**relevant provisions** see section 134.

**restricted drug** means every substance or article prescribed as such.

**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.

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

**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.

**thing**, for part 4A, see section 136.

**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.

## **Part 2                      General powers**

### **Division 1                Central government**

#### **6                      Definition for div 1**

In this division—

*nurse* means a nurse, midwife, or other person authorised to practise nursing, under the *Nursing Act 1992*.

#### **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

*Health Act 1937*

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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.

## **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.

**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, nurse or veterinary surgeon 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*.

- (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.<sup>2</sup>

### **18B Chief executive may inform boards about particular matters**

- (1) This section applies if the chief executive reasonably believes—
- (a) a registrant, nurse or veterinary surgeon has committed an offence against this Act; or
  - (b) a ground exists for the chief executive to suspend or cancel, or impose or vary conditions on, an approval or authority held by a registrant, nurse or veterinary surgeon under the *Health (Drugs and Poisons) Regulation 1996*.
- (2) The chief executive may give information about the belief, including the grounds for the belief—
- (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.

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<sup>2</sup> *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 chief executive 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 chief executive thinks necessary.
- (2) The chief executive may if the chief executive 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 is appointed as an analyst under section 27(1), or as a State analyst under section 153Z(1) or another law of the State.

### **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 chief executive 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 6 Harm to children****76K Definitions for div 6**

In this division—

*chief executive (child safety)* means the chief executive of the department in which the *Child Protection Act 1999* is administered.

*child* means an individual who is under 18.

*harm*, to a child, means any detrimental effect on the child's physical, psychological or emotional wellbeing—

- (a) that is of a significant nature; and
- (b) that has been caused by—
  - (i) physical, psychological or emotional abuse or neglect; or
  - (ii) sexual abuse or exploitation.

*parent*, for part 3, division 6, see section 76KA.

*professional* means a doctor or registered nurse.

*registered nurse* means a person registered under the *Nursing Act 1992* as a registered nurse.

**76KA Meaning of *parent* for div 6**

- (1) For this division, a *parent* of a child is the child's mother, father or someone else, other than the chief executive (child safety), having or exercising parental responsibility for the child.
- (2) However, a person standing in the place of a parent of a child on a temporary basis is not a parent of the child.
- (3) A parent of an Aboriginal child includes a person who, under Aboriginal tradition, is regarded as a parent of the child.
- (4) A parent of a Torres Strait Islander child includes a person who, under Island custom, is regarded as a parent of the child.
- (5) A reference in this division to the parents of a child or to one of the parents of a child is, if the child has only 1 parent, a reference to the parent.

**76KB Relationship with Child Protection Act 1999**

- (1) The *Child Protection Act 1999*, sections 22 and 186,<sup>3</sup> include provision relevant to a professional giving a notice or other information to the chief executive (child safety) under this division.
- (2) If there is in force, for a child, both an order under the *Child Protection Act 1999* and an order under section 76L, the order under the *Child Protection Act 1999* prevails to the extent of any inconsistency.

**76KC Mandatory reporting—immediate notice**

- (1) This section applies if—
  - (a) a professional becomes aware, or reasonably suspects, during the practice of his or her profession, that a child has been, is being, or is likely to be, harmed; and

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3 *Child Protection Act 1999*, sections 22 (Protection from liability for notification of, or information given about, alleged harm or risk of harm) and 186 (Confidentiality of notifiers of harm or risk of harm)

- (b) as far as the professional is aware, no other professional has notified the chief executive (child safety) under this section about the harm or likely harm.
- (2) The professional must immediately give notice of the harm or likely harm to the chief executive (child safety)—
  - (a) orally; or
  - (b) by facsimile, email or similar communication.
- (3) The notice must include—
  - (a) the following information, to the extent the professional has it or can reasonably obtain it—
    - (i) the child's name;
    - (ii) the place or places where the child lives;
    - (iii) the names of the child's parents;
    - (iv) the place or places where the parents live or may be contacted; and
  - (b) details of the harm or likely harm of which the professional is aware or that the professional suspects; and
  - (c) the professional's name, address and telephone number.
- (4) To remove any doubt, it is declared that a professional may need to seek further information about harm or likely harm to a child before forming a reasonable suspicion about the matter.

*Example—*

After physically examining a child, a professional considers it possible that the child has been harmed. The professional obtains more information by consulting with a colleague. After obtaining the further information, the professional forms a reasonable suspicion that the child has been harmed.

### **76KD Mandatory reporting—follow-up notice**

- (1) This section applies if a professional gives notice orally under section 76KC.

- (2) Within 7 days after giving the oral notice, the professional must give the chief executive (child safety) a written notice about the harm or likely harm.
- (3) The written notice must include the information, as at the time the written notice is given, about the matters stated in section 76KC(3).
- (4) The professional must give the written notice even if the professional no longer believes or suspects the child has been, is being, or is likely to be, harmed.

**76KE Offence**

A professional who fails to give a notice under section 76KC or 76KD commits an offence.

Maximum penalty—50 penalty units.

**76KF Further information may be required**

- (1) This section applies to a professional who has given the chief executive (child safety) a notice about harm or likely harm under section 76KC or 76KD.
- (2) The chief executive (child safety) may ask the professional, orally or in writing, for stated further information that the chief executive (child safety) reasonably considers is needed to properly assess the harm or likely harm.
- (3) The professional must comply with the request, unless the professional has a reasonable excuse.

Maximum penalty—50 penalty units.

- (4) A professional is not liable to be prosecuted for an offence against subsection (3) unless the chief executive (child safety), when making the request, warns the professional it is an offence to fail to comply with the request unless the professional has a reasonable excuse.

**76KG Protection from liability for giving information to professional**

- (1) This section applies if a person, acting honestly, gives information to a professional by—
  - (a) telling the professional that the person is aware, or suspects, that a child has been, is being, or is likely to be, harmed; or
  - (b) giving other information relating to the harm mentioned in paragraph (a).

*Examples of persons who may give information to a professional under this section—*

- a fellow professional seeking help to decide whether there are reasonable grounds for forming a suspicion that the child has been harmed
  - a health professional, administrative worker in a health practice, emergency services officer, teacher or other person who, in the course of the person's employment, observed something that raised a suspicion the child had been harmed
  - a relative or friend of the child
- (2) The person is not liable, civilly, criminally or under an administrative process, for giving the information.
  - (3) Without limiting subsection (2)—
    - (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and
    - (b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—
      - (i) does not contravene the Act, oath or rule of law or practice by giving the information; and
      - (ii) is not liable to disciplinary action for giving the information.

**76KH Confidentiality of notifiers**

- (1) This section applies if a person (the *notifier*) gives information under section 76KG(1) to a professional.
- (2) The professional to whom the information is given, or another person who becomes aware of the identity of the notifier, must



not disclose the identity of the notifier to another person except—

- (a) as permitted or required under this division; or
- (b) in the course of performing functions under a child protection law to another person performing functions under a child protection law; or
- (c) under the *Child Protection (International Measures) Act 2003*, part 6;<sup>4</sup> or
- (d) to the ombudsman for the conduct of an investigation under the *Ombudsman Act 2001*; or
- (e) by way of evidence given in a legal proceeding under subsections (4) and (5).

Maximum penalty—40 penalty units.

- (3) Also, the chief executive (child safety) may disclose the identity of the notifier to the Commissioner for Children and Young People and Child Guardian under the *Commission for Children and Young People and Child Guardian Act 2000*, section 46.
- (4) Subject to subsection (5)—
  - (a) evidence of the identity of the notifier or from which the identity of the notifier could be deduced must not be given in a proceeding before a court or tribunal without leave of the court or tribunal; and
  - (b) unless leave is granted, a party or witness in the proceeding—
    - (i) must not be asked, and, if asked, can not be required to answer, any question that can not be answered without disclosing the identity of, or leading to the identification of, the notifier; and
    - (ii) must not be asked to produce, and, if asked, can not be required to produce, any document that identifies, or may lead to the identification of, the notifier.

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<sup>4</sup> *Child Protection (International Measures) Act 2003*, part 6 (Co-operation and other matters)

- (5) The court or tribunal must not grant leave unless—
- (a) it is satisfied—
    - (i) the evidence is of critical importance in the proceeding; and
    - (ii) there is compelling reason in the public interest for disclosure; or
  - (b) the notifier agrees to the evidence being given in the proceeding.
- (6) In deciding whether to grant leave, the court or tribunal must take into account—
- (a) the possible effects of disclosure on the safety or welfare of the notifier and the notifier's family; and
  - (b) the public interest in maintaining confidentiality of notifiers.
- (7) As far as practicable, an application for leave must be heard in a way that protects the identity of the notifier pending a decision on the application.
- (8) In this section—
- child protection law*** means—
- (a) the *Child Protection Act 1999*; or
  - (b) a child welfare law or interstate law of another State within the meanings given by the *Child Protection Act 1999*, schedule 3.

## **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—

*Health Act 1937*

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- (a) a child has presented itself or been presented at a hospital; and
  - (b) the prescribed medical officer becomes aware, or reasonably suspects, that the child has been, is being, or is likely to be, harmed;
- 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 becomes aware, or reasonably suspects, that the child has been, is being, or is likely to be, harmed, 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.

*Health Act 1937*

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- (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

*Health Act 1937*

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- (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), that officer 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—
- (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;

*Health Act 1937*

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- (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 any person recorded at the hospital as being the parent, guardian or person claiming to be entitled to the custody of the child.
- (17) As soon as practicable after making an order under subsection (2) or (3), the prescribed medical officer must give the chief executive (child safety) a notice about the order.
- (18) Failure to comply with subsection (16) or (17) does not invalidate the order.

## **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 can not be found, on the owner or occupier of the land on which the nuisance exists, requiring the owner or



*Health Act 1937*

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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 can not 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 can not 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—

*Health Act 1937*

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- (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                      Skin penetration, including    acupuncture**

### **100A Regulation-making power**

- (1) The Governor in Council may make a regulation about any process by which a person's skin is penetrated, including acupuncture.
- (2) Without limiting subsection (1), a regulation may prescribe in relation to the following for the process mentioned in subsection (1) and the premises where the process is carried out—
  - (a) the minimum standards in relation to the structure, floor area and ventilation of the premises;
  - (b) the cleanliness of the premises;
  - (c) the hygienic conduct of the process at the premises including the cleansing, disinfection and sterilisation of the appliances, implements, tools and things used in the process;
  - (d) safeguards for the health of customers at the premises and persons employed or otherwise engaged at the premises;
  - (e) inspection of the premises.
- (3) However, a regulation may not be made under this section about a personal appearance service to which the *Public Health (Infection Control for Personal Appearance Services) Act 2003* applies.

## **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.

**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 part 4A, 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.

### **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*.<sup>5</sup>
- (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

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<sup>5</sup> Now see the *Plumbing and Drainage Act 2002*, section 146.



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 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 10                      Miscellaneous**

### **132      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

*Health Act 1937*

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- 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;
  - (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

*Health Act 1937*

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- 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;
  - (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.

**133 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.



## 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;<sup>6</sup>
- (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 4<sup>7</sup> 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.

*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.

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

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

*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 175<sup>8</sup> 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.

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8      Section 175 (General penalty)

- (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.

## **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,<sup>9</sup> 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.  
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.

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<sup>9</sup> Section 140 (Production or display of identity card)

- (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.

## **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—
  - (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.

**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 3<sup>10</sup>—
  - (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’.

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10 Division 3 (Powers of inspectors)

**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),<sup>11</sup> 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
    - (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.

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11 Section 151 (General powers after entering place)

(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.

## **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, under section 151(3)(c),<sup>12</sup> takes a thing 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.

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12 Section 151 (General powers after entering place)

- (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.

## **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),<sup>13</sup> or seized under section 153A or 153B,<sup>14</sup> 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 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.

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13 Section 151 (General powers after entering place)

14 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)

**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.

## **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.

## **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**

### **154O Application of pt 6**

Except for sections 175, 178(f) and 180(1) and (2)(f),<sup>15</sup> this part does not apply to part 4A<sup>16</sup> or a relevant provision.

### **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

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15 Sections 175 (General penalty), 178 (Evidence), and 180 (Regulation-making power)

16 Part 4A (Monitoring, investigation and enforcement)

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 9a.m. and 6p.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 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 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.<sup>17</sup>
- (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

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<sup>17</sup> *Acts Interpretation Act 1954*, section 20 (Saving of operation of repealed Act etc.)



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.

## **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 4<sup>18</sup> 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.

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18 *Health (Drugs and Poisons) Regulation 1996*, chapter 1 (Introduction), part 5 (Endorsements), division 4 (Suspension or cancellation of endorsement)

- (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*.

## **Endnotes**

### **1 Index to endnotes**

|  | Page |
|--|------|
| 2 Date to which amendments incorporated . . . . .              | 121  |
| 3 Key . . . . .  | 122  |
| 4 Table of reprints . . . . .                                  | 122  |
| 5 Tables in earlier reprints . . . . .                         | 123  |
| 6 List of legislation . . . . .                                | 123  |
| 7 List of annotations . . . . .                                | 132  |
| 8 List of forms notified or published in the gazette . . . . . | 171  |
| 9 Table of renumbered provisions . . . . .                     | 175  |

### **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 1 December 2005. 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)  | = previously                            |
| amd    | = amended                      | proc    | = proclamation                          |
| amdt   | = amendment                    | prov    | = provision                             |
| ch     | = chapter                      | pt      | = part                                  |
| def    | = definition                   | pubd    | = published                             |
| div    | = division                     | R[X]    | = Reprint No.[X]                        |
| exp    | = expires/expired              | RA      | = Reprints Act 1992                     |
| gaz    | = gazette                      | reloc   | = relocated                             |
| hdg    | = heading                      | renum   | = renumbered                            |
| ins    | = inserted                     | rep     | = repealed                              |
| lap    | = lapsed                       | (retro) | = retrospectively                       |
| notfd  | = notified                     | rv      | = revised edition                       |
| o in c | = order in council             | s       | = section                               |
| om     | = omitted                      | sch     | = schedule                              |
| orig   | = original                     | sdiv    | = subdivision                           |
| p      | = page                         | SIA     | = Statutory Instruments Act 1992        |
| para   | = paragraph                    | SIR     | = Statutory Instruments Regulation 2002 |
| prec   | = preceding                    | SL      | = subordinate legislation               |
| pres   | = present                      | sub     | = substituted                           |
| prev   | = previous                     | unnum   | = unnumbered                            |

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

| Reprint No. | Amendments to    | Effective        | Reprint date     |
|-------------|------------------|------------------|------------------|
| 1           | 1993 Act No. 79  | 26 March 1994    | 26 March 1994    |
| 2           | 1995 Act No. 58  | 28 November 1995 | 20 December 1995 |
| 2A          | 1996 Act No. 61  | 1 January 1997   | 17 February 1997 |
| 3           | 1996 Act No. 61  | 1 January 1997   | 29 April 1998    |
| 3A          | 1998 Act No. 41  | 21 December 1998 | 6 January 1999   |
| 3B          | 1998 Act No. 41  | 8 February 1999  | 12 March 1999    |
| 3C          | 1999 Act No. 60  | 27 November 1999 | 19 December 1999 |
| 3D          | 1999 Act No. 60  | 7 February 2000  | 9 February 2000  |
| 3E          | 2000 Act No. 5   | 23 March 2000    | 14 April 2000    |
| 3F          | 2000 Act No. 16  | 1 July 2000      | 14 July 2000     |
| 3G          | 2000 Act No. 46  | 25 October 2000  | 8 November 2000  |
| 3H          | 2000 Act No. 46  | 30 November 2000 | 14 December 2000 |
| 3I          | 2001 Act No. 103 | 1 January 2002   | 15 January 2002  |
| 3J          | 2001 Act No. 103 | 1 February 2002  | 8 February 2002  |
| 3K          | 2001 Act No. 103 | 28 February 2002 | 28 February 2002 |
| 3L          | 2001 Act No. 103 | 1 March 2002     | 7 March 2002     |
| 3M          | 2001 Act No. 103 | 1 May 2002       | 1 May 2002       |

| Reprint No. | Amendments to    | Effective   | Reprint date |
|-------------|------------------|-------------|--------------|
| 3N          | 2001 Act No. 103 | 7 May 2002  | 10 May 2002  |
| 3O          | 2001 Act No. 103 | 12 May 2002 | 17 May 2002  |
| 3P          | 2001 Act No. 103 | 31 May 2002 | 14 June 2002 |

  

| Reprint No. | Amendments included | Effective         | Notes                 |
|-------------|---------------------|-------------------|-----------------------|
| 3Q          | 2001 Act No. 78     | 1 August 2002     |                       |
| 3R          | 2003 Act No. 9      | 28 March 2003     | R3R withdrawn, see R4 |
| 4           | —                   | 28 March 2003     |                       |
| 4A          | 2001 Act No. 103    | 20 September 2003 |                       |
| 4B          | 2003 Act No. 68     | 22 October 2003   |                       |
| 4C          | 2003 Act No. 31     | 1 February 2004   |                       |
| 4D          | 2003 Act No. 81     | 1 July 2004       |                       |
| 4E          | 2005 Act No. 10     | 29 April 2005     |                       |
| 4F          | 2004 Act No. 36     | 31 August 2005    | R4F withdrawn, see R5 |
| 5           | —                   | 31 August 2005    |                       |
| 5A          | 2005 Act No. 48     | 1 December 2005   |                       |

## 5 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 September 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 (amends 1994 No. 87 above)**

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 (amends 1995 No. 57 above)**

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)

**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 commenced 1 May 2002 (2002 SL No. 73)

**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 commenced 1 May 2002 (2002 SL No. 74)

**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 commenced 12 May 2002 (automatic commencement under AIA s 15DA(2))

**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 commenced 1 May 2002 (2002 SL No. 76)

**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 commenced 1 May 2002 (2002 SL No. 77)

**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 provisions commenced 7 May 2002 (2002 SL No. 86)

**Health Legislation Amendment Act 2001 No. 78 pts 1, 6**

date of assent 15 November 2001

ss 1–2 commenced on date of assent

s 64 (to the extent it ins new pt 8 hdg and s 185) commenced 31 May 2002 (2002 SL No. 97)

remaining provisions commenced 1 August 2002 (2002 SL No. 183)

**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 commenced 20 September 2003 (automatic commencement under AIA s 15DA(2) (2002 SL No. 345 s 2))

**Health and Other Legislation Amendment Act 2003 No. 9 s 1, pt 3**

date of assent 28 March 2003

commenced on date of assent

**Births, Deaths and Marriages Registration Act 2003 No. 31 ss 1–2, 59 sch1**

date of assent 23 May 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 2004 (2003 SL No. 360)

**Health Legislation Amendment Act 2003 No. 68 s 1, pt 5**

date of assent 22 October 2003

commenced on date of assent

**Public Health (Infection Control for Personal Appearance Services) Act 2003 No. 81 ss 1–2, 162(1) sch 1**

date of assent 6 November 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2004 (2003 SL No. 351)

**Child Safety Legislation Amendment Act (No. 2) 2004 No. 36 pts 1, 8**

date of assent 27 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 31 August 2005 (2005 SL No. 62)

**Health Legislation Amendment Act 2005 No. 10 pt 1, s 50 sch**

date of assent 1 April 2005

ss 1–2 commenced on date of assent

sch amdt 3 not yet proclaimed into force (see s 2)

remaining provisions commenced 29 April 2005 (2005 SL No. 72)

**Public Health Act 2005 No. 48 ss 1–2, 492 sch 1**

date of assent 2 November 2005

ss 1–2 commenced on date of assent

sch 1 amdt 2 (to the extent it om s defs “air cushion vehicle”, “analyst”, “authorised person”, “British pharmaceutical codex”, “British veterinary codex”, “daily penalty”, “district”, “house”, “inspector”, “licence”, “Local Government Act”, “manager”, “medical officer of health”, “officer”, “owner”, “paint”, “person”, “pesticide”, “prescribed”, “private hospital”, “school”, “shoes”, “stormwater drain”, “vessel”), 3, 4, 5, 6, 8 (to the extent it om s 9), 9 (to the extent it om s 16, 18), 10, 11 (to the extent it om pt 3 divs 6–9), 13 (to the extent it om pt 4 divs 3, 3A), 14, 15, 17, 18, 19, 20, 21, 23 not yet proclaimed into force (see s 2)

sch 1 amdt 16 commences 16 January 2006 (2005 SL No. 280)

remaining provisions commenced 1 December 2005 (2005 SL No. 280)

**7 List of annotations**

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

**Title** amd 2005 No. 48 s 492 sch 1

**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** amd 2005 No. 48 s 492 sch 1  
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)  
om 2003 No. 81 s 162 sch 1
- def “**barber’s shop**” om 2003 No. 81 s 162 sch 1
- 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 executive (child safety)**” ins 2004 No. 36 s 64(2)
- def “**chief health officer**” ins 1992 No. 66 s 35(1)  
om 2005 No. 48 s 492 sch 1
- def “**child**” ins 2004 No. 36 s 64(2)
- 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 “**harm**” ins 2004 No. 36 s 64(2)
- def “**have in possession**” om 2005 No. 48 s 492 sch 1
- 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  
om 2005 No. 48 s 492 sch 1
- 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)  
om 2005 No. 48 s 492 sch 1
- def **“nurse”** ins 2003 No. 9 s 6
- def **“offence against a relevant provision”** ins 2001 No. 78 s 45(2)
- def **“officer”** amd 2003 No. 68 s 38
- def **“opium”** amd 1959 8 Eliz 2 No. 57 s 3(j)  
om 2005 No. 48 s 492 sch 1
- 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 **“parent”** sub 2004 No. 36 s 64
- 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  
om 2005 No. 48 s 492 sch 1
- def **“private hospital”** ins 1999 No. 60 s 165 sch 2
- def **“professional”** ins 2004 No. 36 s 64(2)
- def **“prohibited article”** om 2005 No. 48 s 492 sch 1
- 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  
om 2005 No. 48 s 492 sch 1
- def **“registered nurse”** ins 2004 No. 36 s 64(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 “**road**” om 2005 No. 48 s 492 sch 1  
 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  
 om 2005 No. 48 s 492 sch 1  
 def “**State**” om 2005 No. 48 s 492 sch 1  
 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)

**Definition for div 1**

- s 6** prev s 6 om 1995 No. 57 s 4 sch 1  
 pres s 6 ins 2003 No. 9 s 7

**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  
 om 2005 No. 48 s 492 sch 1

**Delegation of chief health officer’s powers**

- s 8** sub 1995 No. 57 s 4 sch 1  
 om 2005 No. 48 s 492 sch 1

**Manager of public health services for the State**

- s 8A** ins 1998 No. 41 s 4  
 om 2005 No. 48 s 492 sch 1

**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  
 om 2005 No. 48 s 492 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; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1  
              om 2005 No. 48 s 492 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  
              om 2005 No. 48 s 492 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

**Chief executive may inform boards about particular matters**

s 18B       ins 2003 No. 9 s 8

**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; 2003 No. 68 s 39

**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; 2003 No. 68 s 40

**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

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**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 births**

**div hdg** orig div 1 hdg sub 1959 8 Eliz 2 No. 57 s 12  
om 1988 No. 25 s 6  
pres div 1 hdg om 2003 No. 31 s 59 sch 1

**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)  
om 2003 No. 31 s 59 sch 1

**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  
om 2003 No. 31 s 59 sch 1

**Division 2—Notifiable diseases**

**div hdg** amd 1959 8 Eliz 2 No. 57 s 15  
sub 1988 No. 25 s 9  
om 2005 No. 48 s 492 sch 1

**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  
amd 1996 No. 61 s 15 sch  
om 2005 No. 48 s 492 sch 1

**Declaration of notifiable diseases**

**s 32** ins 1995 No. 57 s 4 sch 1  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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; 2003 No. 81 s 162 sch 1  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 sch 1

**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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 sch 1

**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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 sch 1

**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 ss 11, 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  
om 2005 No. 48 s 492 sch 1

**Definitions**

**s 76B** ins 1962 No. 27 s 7  
amd 1971 No. 20 ss 2, 3(b); 1982 No. 57 s 24; 1987 No. 22 s 17; 1992 No. 55  
s 163 sch 2; 1995 No. 57 s 4 sch 1  
om 2005 No. 48 s 492 sch 1

**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  
om 2005 No. 48 s 492 sch 1

**Cancellation and suspension of licences**

**s 76CA** ins 1982 No. 57 s 26  
amd 1987 No. 22 s 18  
om 2005 No. 48 s 492 sch 1

**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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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  
 om 2005 No. 48 s 492 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  
 om 2005 No. 48 s 492 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  
 om 2005 No. 48 s 492 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  
 om 2005 No. 48 s 492 sch 1

**Division 6—Harm to children**

**div hdg** prev div 6 hdg om 1978 No. 65 s 6(a)  
 pres div 6 hdg ins 1980 No. 26 s 4  
 sub 2004 No. 36 s 65

**Definitions for div 6**

**s 76K** 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  
 sub 2004 No. 36 s 66

**Meaning of “parent” for div 6**

**s 76KA** ins 2004 No. 36 s 66

**Relationship with Child Protection Act 1999**

**s 76KB** ins 2004 No. 36 s 66

**Mandatory reporting—immediate notice**

**s 76KC** ins 2004 No. 36 s 66

**Mandatory reporting—follow-up notice**

**s 76KD** ins 2004 No. 36 s 66

**Offence**

**s 76KE** ins 2004 No. 36 s 66

**Further information may be required**

**s 76KF** ins 2004 No. 36 s 66

**Protection from liability for giving information to professional**

**s 76KG** ins 2004 No. 36 s 66

**Confidentiality of notifiers**

**s 76KH** ins 2004 No. 36 s 66

**Temporary custody of children**

**s 76L** 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; 2004 No. 36 s 67

**Meaning of “child” for division**

**prov hdg** sub 1995 No. 57 s 4 sch 1  
**s 76M** ins 1980 No. 26 s 4  
 om 2004 No. 36 s 68

**Regulations**

**s 76N** 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—Skin Penetration, including acupuncture**

- 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  
 sub 2003 No. 81 s 162 sch 1

**Regulation-making power**

- 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  
 sub 2003 No. 81 s 162 sch 1

**Division 10—Cancer**

- div hdg** ins 1980 No. 61 s 3  
 om 2005 No. 48 s 492 sch 1

**Definitions for div 10**

- prov hdg** sub 1998 No. 41 s 5(1)
- s 100B** ins 1980 No. 61 s 3  
 om 2005 No. 48 s 492 sch 1  
 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  
 om 2005 No. 48 s 492 sch 1

**Register**

- s 100D** ins 1980 No. 61 s 3  
 amd 1995 No. 57 s 4 sch 1  
 sub 1998 No. 41 s 7  
 om 2005 No. 48 s 492 sch 1

**Responsibility for maintenance of register**

- s 100DA** ins 1998 No. 41 s 7  
 om 2005 No. 48 s 492 sch 1

**Directions to give returns about cancer to contractor**

- s 100DB** ins 1998 No. 41 s 7  
 om 2005 No. 48 s 492 sch 1

**Further information may be required**

- s 100DC** ins 1998 No. 41 s 7  
 om 2005 No. 48 s 492 sch 1

**Confidentiality**

- s 100E** sub 1993 No. 79 s 30  
 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 8; 2005 No. 10 s 50 sch  
 om 2005 No. 48 s 492 sch 1

**Arrangements about transfer of information**

- s 100EA** ins 1998 No. 41 s 9  
 om 2005 No. 48 s 492 sch 1

**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  
 om 2005 No. 48 s 492 sch 1

**Division 11—Pap Smear Register**

- div hdg** ins 1998 No. 41 s 11  
 om 2005 No. 48 s 492 sch 1

**Subdivision 1—Definitions and application**

- sdiv hdg** ins 1998 No. 41 s 11  
 om 2005 No. 48 s 492 sch 1

**Definitions for div 11**

- s 100FA** ins 1998 No. 41 s 11  
 om 2005 No. 48 s 492 sch 1

**Application of division**

- s 100FB** ins 1998 No. 41 s 11  
 om 2005 No. 48 s 492 sch 1

**Subdivision 2—Establishment and purposes of register**

- sdiv hdg** ins 1998 No. 41 s 11  
 om 2005 No. 48 s 492 sch 1

**Pap Smear Register**

- s 100FC** ins 1998 No. 41 s 11  
 om 2005 No. 48 s 492 sch 1

**Purposes of register**

- s 100FD** ins 1998 No. 41 s 11  
 om 2005 No. 48 s 492 sch 1

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

- s 100FE** ins 1998 No. 41 s 11  
 om 2005 No. 48 s 492 sch 1

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

- sdiv hdg** ins 1998 No. 41 s 11  
 om 2005 No. 48 s 492 sch 1

**Definition for sdiv 3**

s 100FF ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

**Initial duty of person obtaining Pap smear or histological sample**

s 100FG ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

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

s 100FH ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

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

s 100FI ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

**Duty of director to provide information**

s 100FJ ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

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

sdiv hdg ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

**Duty of chief executive on receipt of information**

s 100FK ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

**Chief executive may send reminder notices to certain women**

s 100FL ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

**Duty of chief executive to remove registered screening history**

s 100FM ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

**Duty of chief executive to change identifying information**

s 100FN ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

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

sdiv hdg ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

**Confidentiality of all information in register**

s 100FO ins 1998 No. 41 s 11  
amd 2005 No. 10 s 50 sch  
om 2005 No. 48 s 492 sch 1



**Disclosures about woman's registered screening history**

**s 100FP** ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

**Access to register by health practitioners**

**s 100FQ** ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

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

**s 100FR** ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

**Unauthorised access to registered screening histories**

**s 100FS** ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

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

**s 100FT** ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

**Chief executive to monitor access to information**

**s 100FU** ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

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

**sdiv hdg** ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

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

**s 100FV** ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

**Arrangements about transfer of information**

**s 100FW** ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

**Chief executive may designate certain persons as health practitioners**

**s 100FX** ins 1998 No. 41 s 11  
om 2005 No. 48 s 492 sch 1

**Division 12—Peri-natal statistics**

**div hdg** (prev div 11 hdg) ins 1984 No. 26 s 4  
renum 1998 No. 41 s 10  
om 2005 No. 48 s 492 sch 1

**Interpretation**

**s 100G** ins 1984 No. 26 s 4  
om 2005 No. 48 s 492 sch 1  
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  
 om 2005 No. 48 s 492 sch 1

**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  
 om 2005 No. 48 s 492 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  
 om 2005 No. 48 s 492 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  
 om 2005 No. 48 s 492 sch 1

**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  
om 2005 No. 48 s 492 sch 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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 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  
om 2005 No. 48 s 492 sch 1

**Tribunal to be constituted**

**s 131C** ins 1971 No. 20 s 17  
om 2005 No. 48 s 492 sch 1

**Applications to tribunal**

**s 131D** ins 1971 No. 20 s 17  
om 2005 No. 48 s 492 sch 1

**Restricted number of applications**

**s 131E** ins 1971 No. 20 s 17  
om 2005 No. 48 s 492 sch 1

**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  
om 2005 No. 48 s 492 sch 1

**Procedure of tribunal**

**s 131G** ins 1971 No. 20 s 17  
om 2005 No. 48 s 492 sch 1

**Rules of practice of tribunal**

- s 131H** ins 1971 No. 20 s 17  
 amd 1995 No. 57 s 4 sch 1  
 om 2005 No. 48 s 492 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  
 om 2001 No. 103 s 145 sch 2  
 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

**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—Miscellaneous**

**div hdg** sub 2001 No. 78 s 51

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

- prov hdg** prev s 132 hdg sub 1995 No. 57 s 4 sch 1; 2001 No. 78 s 51  
pres s 132 hdg (prev s 152 hdg) sub 1995 No. 57 s 4 sch 1
- 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) amd 1959 8 Eliz 2 No. 57 s 73; 1960 No. 49 s 2; 1962 No. 27 s 12; 1967 No. 20 s 5; 1971 No. 20 ss 2, 23; 1973 No. 29 s 15; 1975 No. 70 ss 23(1), 28 sch 1; 1976 No. 88 s 12; 1978 No. 65 s 20; 1979 No. 46 s 2; 1981 No. 44 s 4 sch 1; 1986 No. 36 s 60(1) sch 6 pt 1; 1987 No. 22 ss 41, 44; 1988 No. 25 s 41; 1991 No. 24 s 7.3 sch 3; 1992 No. 66 s 40; 1995 No. 57 s 4 sch 1; 1996 No. 60 s 17; 1998 No. 41 s 14 schs 1–2; 2001 No. 12 s 245 sch 2; 2001 No. 78 s 53  
renum 2001 No. 78 s 54

**Suggestive names for drugs**

- 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) amd 1981 No. 44 s 4 sch 1; 1995 No. 57 s 4 sch 1  
renum 2001 No. 78 s 54

**PART 4A—MONITORING, INVESTIGATION AND ENFORCEMENT**

- pt hdg** prev pt 4A hdg ins 1945 9 Geo 6 No. 9 s 6  
om 1975 No. 70 s 25(1)  
pres pt 4A hdg ins 2001 No. 78 s 55

**Division 1—Preliminary**

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

**Application of pt 4A**

- 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

**Relationship of this part to pt 2, div 4**

- 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

**Definitions for pt 4A**

- 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

**Appointment and qualifications**

**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

**Appointment conditions and limit on powers**

**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

**Issue of identity card**

**prov hdg** amd 1981 No. 44 s 4 sch 1  
**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

**Production or display of identity card**

**s 140** prev s 140 amd 1981 No. 44 s 4 sch 1  
om 2001 No. 78 s 52  
pres s 140 ins 2001 No. 78 s 55

**Principal may recover from agent or servant**

**s 140A** (prev s 140(3)–(4)) amd 1959 8 Eliz 2 No. 57 s 69; 1981 No. 44 s 4 sch 1  
renum 1995 No. 57 s 4 sch 1  
amd 1998 No. 41 s 14(2) sch 2  
om 2001 No. 78 s 52

**When inspector ceases to hold office**

**s 141** prev s 141 amd 1981 No. 44 s 4 sch 1  
om 2001 No. 78 s 52  
pres s 141 ins 2001 No. 78 s 55

**Resignation**

**prov hdg** sub 1995 No. 57 s 4 sch 1  
**s 142** prev s 142 amd 1981 No. 44 s 4 sch 1; 1995 No. 57 s 4 sch 1  
om 2001 No. 78 s 52  
pres s 142 ins 2001 No. 78 s 55

**Return of identity card**

**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  
om 2001 No. 78 s 52  
pres s 143 ins 2001 No. 78 s 55

**Division 3—Powers of inspectors**

**div hdg** ins 2001 No. 78 s 56

**Subdivision 1—Entry of places**

**sdiv hdg** ins 2001 No. 78 s 56

**Power to enter places**

- s 144** prev s 144 amd 1971 No. 20 s 20; 1973 No. 29 s 13; 1981 No. 44 s 4 sch 1;  
1996 No. 60 s 16  
om 2001 No. 78 s 52  
pres s 144 ins 2001 No. 78 s 56

**Subdivision 2—Procedure for entry**

- sdiv hdg** ins 2001 No. 78 s 56

**Consent to entry**

- s 145** prev s 145 amd 1939 3 Geo 6 No. 34 s 9; 1959 8 Eliz 2 No. 57 s 71; 1971 No.  
20 s 21; 1981 No. 44 s 4 sch 1  
om 2001 No. 78 s 52  
pres s 145 ins 2001 No. 78 s 56

**Application for warrant**

- prov hdg** amd 1976 No. 88 s 11(a); 1986 No. 36 s 60(1) sch 6 pt 1  
**s 146** prev s 146 amd 1939 3 Geo 6 No. 34 s 10; 1973 No. 29 s 14; 1976 No. 88 s  
11(b); 1986 No. 36 s 60(1) sch 6 pt 1  
om 2001 No. 78 s 52  
pres s 146 ins 2001 No. 78 s 56

**Issue of warrant**

- s 147** prev s 147 amd 1981 No. 44 s 4 sch 1; 1995 No. 57 s 4 sch 1; 1998 No. 41 s  
14(1) sch 1  
om 2001 No. 78 s 52  
pres s 147 ins 2001 No. 78 s 56

**Special warrant**

- s 148** prev s 148 amd 1978 No. 65 s 19; 1981 No. 44 s 4 sch 1; 1986 No. 36 s 60(1)  
sch 6 pt 1  
om 2001 No. 78 s 52  
pres s 148 ins 2001 No. 78 s 56

**Warrant—procedure before entry**

- s 149** prev s 149 amd 1971 No. 20 s 22; 1981 No. 44 s 4 sch 1  
om 2001 No. 78 s 52  
pres s 149 ins 2001 No. 78 s 56

**Stopping motor vehicles**

- s 150** prev s 150 amd 1959 8 Eliz 2 No. 57 No. 72; 1975 No. 70 s 28 sch 1; 1981 No.  
44 s 4 sch 1; 1987 No. 22 s 44; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1)  
sch 1  
om 2001 No. 78 s 52  
pres s 150 ins 2001 No. 78 s 56

**Subdivision 3—Powers after entry**

- sdiv hdg** ins 2001 No. 78 s 56

**General powers after entering place**

- s 151** prev s 151 amd 1981 No. 44 s 4 sch 1; 1995 No. 57 s 4 sch 1; 1998 No. 41 s  
14(1) sch 1  
om 2001 No. 78 s 52  
pres s 151 ins 2001 No. 78 s 56

**Failure to help inspector**

s 152 ins 2001 No. 78 s 56

**Defined poisons, restricted drugs, dangerous drugs and biological preparations deemed prescribed**

s 152A ins 1978 No. 65 s 21  
om 1995 No. 57 s 4 sch 1

**Failure to give information**

s 153 ins 2001 No. 78 s 56

**Subdivision 4—Power to seize evidence**

sdiv hdg ins 2001 No. 78 s 57

**Seizing evidence at a place that may be entered without consent or warrant**

s 153A ins 2001 No. 78 s 57

**Seizing evidence at a place that may only be entered with consent or warrant**

s 153B ins 2001 No. 78 s 57

**Securing seized thing**

s 153C ins 2001 No. 78 s 57

**Tampering with seized thing**

s 153D ins 2001 No. 78 s 57

**Powers to support seizure**

s 153E ins 2001 No. 78 s 57

**Receipt for seized thing**

s 153F ins 2001 No. 78 s 57

**Forfeiture of seized thing**

s 153G ins 2001 No. 78 s 57

**Forfeiture on conviction**

s 153H ins 2001 No. 78 s 57

**Dealing with forfeited things etc.**

s 153I ins 2001 No. 78 s 57

**Return of seized thing**

s 153J ins 2001 No. 78 s 57

**Access to seized thing**

s 153K ins 2001 No. 78 s 57

**Subdivision 5—Power to obtain information**

sdiv hdg ins 2001 No. 78 s 58

**Power to require name and address**

s 153L ins 2001 No. 78 s 58

**Failure to give name or address**

s 153M ins 2001 No. 78 s 58

**Power to require production of documents**

s 153N ins 2001 No. 78 s 58

**Failure to produce document**

s 153O ins 2001 No. 78 s 58

**Failure to certify copy of document**

s 153P ins 2001 No. 78 s 58

**Power to require information**

s 153Q ins 2001 No. 78 s 58

**Division 4—General enforcement matters**

div hdg ins 2001 No. 78 s 58

**Compliance notice**

s 153R ins 2001 No. 78 s 58

**Notice of damage**

s 153S ins 2001 No. 78 s 58

**Compensation**

s 153T ins 2001 No. 78 s 58

**False or misleading statements**

s 153U ins 2001 No. 78 s 58

**False or misleading documents**

s 153V ins 2001 No. 78 s 58

**Obstructing inspector**

s 153W ins 2001 No. 78 s 58

**Impersonation of inspector**

s 153X ins 2001 No. 78 s 58

**Dealing with certain things**

s 153Y ins 2001 No. 78 s 58  
amd 2003 No. 9 s 9

**Division 5—Analysis of things**

div hdg ins 2001 No. 78 s 59

**Appointment and qualifications**

s 153Z ins 2001 No. 78 s 59

**Appointment conditions and limit on powers**

s 153ZA ins 2001 No. 78 s 59

**When State analyst ceases to hold office**

s 153ZB ins 2001 No. 78 s 59

**Resignation**

s 153ZC ins 2001 No. 78 s 59

**Analysis**

s 153ZD ins 2001 No. 78 s 59  
amd 2003 No. 9 s 10

**Certificate must indicate methodology used**

s 153ZE ins 2001 No. 78 s 59

**Division 6—Legal proceedings****div hdg** ins 2001 No. 78 s 60**Subdivision 1—Application****sdiv hdg** ins 2001 No. 78 s 60**Application of division****s 153ZF** ins 2001 No. 78 s 60**Subdivision 2—Evidence****sdiv hdg** ins 2001 No. 78 s 60**Appointments and authority****s 153ZG** ins 2001 No. 78 s 60**Signatures****s 153ZH** ins 2001 No. 78 s 60**Evidentiary aids****s 153ZI** ins 2001 No. 78 s 60**Subdivision 3—Proceedings****sdiv hdg** ins 2001 No. 78 s 60**Summary proceedings for offences against a relevant provision or this part****s 153ZJ** ins 2001 No. 78 s 60**Recovery of costs of investigation****s 153ZK** ins 2001 No. 78 s 60**Application for order for payment of costs under s 153ZK****s 153ZL** ins 2001 No. 78 s 60**Responsibility for acts or omissions of representatives****s 153ZM** ins 2001 No. 78 s 60**Executive officers must ensure corporation complies with relevant provisions and this part****s 153ZN** ins 2001 No. 78 s 60**Division 7—Appeals****div hdg** ins 2001 No. 78 s 61**Who may appeal****s 153ZO** ins 2001 No. 78 s 61**Starting an appeal****s 153ZP** ins 2001 No. 78 s 61**Hearing procedures****s 153ZQ** ins 2001 No. 78 s 61**Powers of court on appeal****s 153ZR** ins 2001 No. 78 s 61**Appeal to District Court****s 153ZS** ins 2001 No. 78 s 61



**Division 8—Miscellaneous****div hdg** ins 2001 No. 78 s 61**Protecting officials from liability****s 153ZT** ins 2001 No. 78 s 61**Proceedings by indictment and contracts not to be affected****s 154** amd 1981 No. 44 s 4 sch 1  
om 2001 No. 78 s 62**Administration of Part 4A****s 154A** ins 1945 9 Geo 6 No. 9 s 6  
om 1975 No. 70 s 25(1)**Constitution of Queensland Health Education Council****s 154B** ins 1945 9 Geo 6 No. 9 s 6  
om 1975 No. 70 s 25(1)**To be a body corporate****s 154C** ins 1945 9 Geo 6 No. 9 s 6  
om 1975 No. 70 s 25(1)**Dissolution of Cancer Trust****s 154D** ins 1945 9 Geo 6 No. 9 s 6  
om 1975 No. 70 s 25(1)**Functions of the Council****s 154E** ins 1945 9 Geo 6 No. 9 s 6  
om 1975 No. 70 s 25(1)**Queensland Health Education Council Fund****s 154F** ins 1945 9 Geo 6 No. 9 s 6  
om 1975 No. 70 s 25(1)**Audit****s 154AF** ins 1975 No. 70 s 24  
om 1975 No. 70 s 25(1)**Regulations****s 154G** ins 1945 9 Geo 6 No. 9 s 6  
om 1975 No. 70 s 25(1)**PART 4B—QUEENSLAND RADIUM INSTITUTE****pt hdg** ins 1945 9 Geo 6 No. 9 s 7  
om 1991 No. 24 s 7.3 sch 3**Administration of Part 4B****s 154H** ins 1945 9 Geo 6 No. 9 s 7  
om 1991 No. 24 s 7.3 sch 3**Constitution of the Queensland Radium Institute****s 154I** ins 1945 9 Geo 6 No. 9 s 7  
sub 1959 8 Eliz 2 No. 57 s 74  
amd 1964 No. 71 s 5; 1976 No. 88 No. 13; 1978 No. 65 s 22; 1982 No. 57 s 34  
om 1991 No. 24 s 7.3 sch 3

**To be a body corporate**

s 154J ins 1945 9 Geo 6 No. 9 s 7  
 amd 1982 No. 57 s 35  
 om 1991 No. 24 s 7.3 sch 3

**Funds of Institute**

s 154K ins 1945 9 Geo 6 No. 9 s 7  
 sub 1982 No. 57 s 36  
 om 1991 No. 24 s 7.3 sch 3

**Audit of accounts**

s 154KA ins 1982 No. 57 s 37  
 om 1991 No. 24 s 7.3 sch 3

**Regulations**

s 154L ins 1945 9 Geo 6 No. 9 s 7  
 amd 1982 No. 57 s 38  
 om 1991 No. 24 s 7.3 sch 3

**PART 5—SCIENTIFIC RESEARCH AND STUDIES**

pt hdg ins 1964 No. 71 s 6

**Authority to conduct scientific research and studies**

s 154M ins 1964 No. 71 s 6  
 amd 1995 No. 57 s 4 sch 1

**Information obtained and reports made under this part**

s 154N ins 1964 No. 71 s 6  
 amd 1995 No. 57 s 4 sch 1

**PART 6—MISCELLANEOUS PROVISIONS****Application of pt 6**

s 154O ins 2001 No. 78 s 63

**Vessels or aircraft**

s 155 amd 1995 No. 57 s 4 sch 1

**Notice of action**

s 156 om 1974 No. 75 s 4 sch 1

**Protection to persons acting in execution of Act**

s 158 sub 1980 No. 61 s 4  
 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

**No officer to be concerned in contract**

s 159 amd 1959 8 Eliz 2 No. 57 s 75; 1975 No. 70 s 28 sch 1; 1987 No. 22 s 44

**Entry**

s 160 amd 1975 No. 70 s 26; 1975 No. 70 s 28 sch 1; 1987 No. 22 s 44; 1995 No. 57  
 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

**Compensation payable, how to be fixed**

s 162 amd 1959 8 Eliz 2 No. 57 s 76

**Service of notice**

s 164 amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

**Offences**

**s 165** 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

**Neglect of duty by officer an offence**

**s 166** amd 1959 8 Eliz 2 No. 57 s 77; 1975 No. 70 s 28 sch 1; 1987 No. 22 s 44; 1995 No. 57 s 4 sch 1

**Obstructing execution of Act**

**s 167** amd 1959 8 Eliz 2 No. 57 s 78; 1975 No. 70 s 28 sch 1; 1987 No. 22 ss 42, 44; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

**Duty of police officers**

**s 168** amd 1975 No. 70 s 28 sch 1; 1987 No. 22 s 44; 1995 No. 57 s 4 sch 1  
om 2000 No. 5 s 373 sch 2

**Power to obtain search warrant in certain cases**

**s 168A** ins 1939 3 Geo 6 No. 34 s 11  
om 2000 No. 5 s 373 sch 2

**Blood transfusions to minors**

**s 168B** ins 1959 8 Eliz 2 No. 57 No. 79  
amd 1974 No. 57 s 8 sch 1  
om 1979 No. 74 s 54(4)

**Prosecution of offences**

**s 169** amd 1993 No. 70 s 804 sch  
om 1995 No. 57 s 4 sch 1

**Power to proceed against local government for nuisance**

**s 170** amd 1987 No. 22 s 43; 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

**Who may act for local government in cases of emergency**

**s 171** amd 1993 No. 70 s 804 sch

**Reference to ‘owner’ and ‘occupier’**

**s 173** amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

**General penalty**

**s 175** amd 1959 8 Eliz 2 No. 57 s 80; 1975 No. 70 s 28 sch 1; 1978 No. 65 s 23; 1987 No. 22 s 44

**Recovery of penalties etc.**

**s 176** amd 1939 3 Geo 6 No. 34 s 12; 1971 No. 20 s 24; 1993 No. 70 s 804 sch; 1995 No. 57 s 4 sch 1

**Limitation of time for summary proceedings to be taken**

**s 177** sub 1971 No. 20 s 25  
amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 14(1) sch 1

**Evidence**

**s 178** amd 1959 8 Eliz 2 No. 57 s 81; 1971 No. 20 s 2; 1976 No. 41 s 6; 1986 No. 36 s 60(1) sch 6 pt 1; 1990 No. 59 s 2.10; 1995 No. 57 s 4 sch 1; 1996 No. 60 s 16; 1998 No. 41 s 14(1) sch 1

**Power of local governments to borrow for certain works**

**s 179** om 1993 No. 70 s 804 sch

**Regulation-making power**

**prov hdg** sub 1995 No. 57 s 4 sch 1

**s 180** ins 1975 No. 70 s 27

amd 1988 No. 25 s 42; 1991 No. 97 s 3 sch 2

sub 1992 No. 36 s 2 sch 1

amd 1995 No. 57 s 4 sch 1; 1998 No. 41 s 12; 2005 No. 48 s 492 sch 1

**References to certain regulations and provisions**

**s 181** prev s 181 ins 1995 No. 57 s 4 sch 1

exp 28 November 1995 (see s 181(2))

pres s 181 ins 1996 No. 60 s 15

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

**pt hdg** ins 1995 No. 57 s 4 sch 1

sub 1998 No. 41 s 13

om 2005 No. 48 s 492 sch 1

**Chief health officer may transfer documents to chief executive**

**s 182** ins 1995 No. 57 s 4 sch 1

sub 1998 No. 41 s 13

om 2005 No. 48 s 492 sch 1

**Preservation of certain evidentiary matters**

**s 183** prev s 183 ins 1995 No. 57 s 4 sch 1 (amd 1996 No. 60 s 68)

AIA s 20A applies (see s 183(4))

exp 28 November 1995 (see s 183(5))

pres s 183 ins 1998 No. 41 s 13

om 2005 No. 48 s 492 sch 1

**Validation of order under s 95**

**s 183A** ins 1995 No. 52 s 16

exp 2 February 1996 (see s 183A(3))

**PART 8—TRANSITIONAL PROVISIONS FOR HEALTH LEGISLATION AMENDMENT ACT 2001**

**pt hdg** ins 2001 No. 78 s 64

**Transitional provision for things done etc. before this section commences**

**s 184** prev s 184 ins 1995 No. 57 s 4 sch 1

om R2 (see RA s 37)

pres s 184 ins 2001 No. 78 s 64

**Transitional provisions about certain authorities**

**s 185** ins 2001 No. 78 s 64

**SCHEDULES**

**hdg** om R1 (see RA s 37)

**SCHEDULE A—ACTS REPEALED**

om 1991 No. 97 s 3 sch 2

**SCHEDULE B—FORMS**

amd 1973 No. 29 s 16  
om 1995 No. 57 s 4 sch 1

**SCHEDULE C**

ins 1945 9 Geo 6 No. 9 s 8  
om 1978 No. 65 s 24

## **8 List of forms notified or published in the gazette**

(The following information about forms is taken from the gazette. Because failure to notify or publish a form in the gazette does not invalidate the form, it may be necessary to check with the relevant government department for the latest information about forms (see SIA s 58(8)).)

**Form 1 Version 1—Application for a permit to keep more than one hundred vermin (rats, mice and guinea pigs)**

pubd gaz 27 March 1998 p 1304

**Form 2 Version 1—Application for renewal of a permit to keep more than one hundred vermin (rats, mice and guinea pigs)**

pubd gaz 27 March 1998 p 1304

**Form 3 Version 1—Permit to keep more than one hundred vermin (rats, mice and guinea pigs)**

pubd gaz 27 March 1998 p 1304

**Form 4 Version 1—Application for a licence to sell controlled drugs by wholesale**

pubd gaz 28 February 1997 p 818

**Form 5 Version 1—Application for a licence to manufacture poisons and/or sell poisons by wholesale**

pubd gaz 28 February 1997 p 820

**Form 6 Version 1—Application for a general licence to sell poisons**

pubd gaz 28 February 1997 p 819

**Form 7 Version 1—Application for a wholesale representative's authority**

pubd gaz 28 February 1997 pp 811–12

**Form 8 Version 1—Application for a strychnine permit**

pubd gaz 28 February 1997 pp 823–4

**Form 9 Version 1—Application for a cyanide permit**

pubd gaz 28 February 1997 pp 825–6

**Form 10 Version March 97—Application for a licence to sell poisons for purposes other than human therapeutic use**

pubd gaz 21 March 1997 p 1230

**Form CDM—Application for a licence to manufacture controlled drugs**

pubd gaz 7 May 1999 p 87

- Form CDW—Application for a licence to sell controlled drugs by wholesale**  
pubd gaz 7 May 1999 p 87
- Form CG1 Version 1—Application for approval to use land as a camping ground**  
pubd gaz 6 September 1996 pp 77–8
- Form CG2 Version 1—Approval to use land as a camping ground**  
pubd gaz 6 September 1996 pp 77–8
- Form CG3 Version 1—Application for approval to make alterations or additions to a camping ground**  
pubd gaz 6 September 1996 pp 77–8
- Form CG4 Version 1—Approval to make alterations or additions to a camping ground**  
pubd gaz 6 September 1996 pp 77–8
- Form CG5 Version 1—Application for approval to transfer an approval granted to use land as a camping ground**  
pubd gaz 6 September 1996 pp 77–8
- Form CG6 Version 1—Approval to transfer an approval to use land as a camping ground**  
pubd gaz 6 September 1996 pp 77–8
- Form GP—Application for a general licence to sell poisons**  
pubd gaz 7 May 1999 p 87
- Form H1 Version 1—Application for a hairdresser’s shop licence**  
pubd gaz 6 September 1996 pp 77–8
- Form H2 Version 1—Application for renewal of a hairdresser’s shop licence**  
pubd gaz 6 September 1996 pp 77–8
- Form H3 Version 1—Hairdresser’s shop licence/licence renewal**  
pubd gaz 6 September 1996 pp 77–8
- Form H4 Version 1—Application for transfer of a hairdresser’s shop licence**  
pubd gaz 6 September 1996 pp 77–8
- Form H5 Version 1—Application for a mobile hairdressing service licence**  
pubd gaz 6 September 1996 pp 77–8
- Form H6 Version 1—Application for renewal of a mobile hairdressing service licence**  
pubd gaz 6 September 1996 pp 77–8
- Form H7 Version 1—Mobile hairdressing service licence/licence renewal**  
pubd gaz 6 September 1996 pp 77–8
- Form H8 Version 1—Application for transfer of a mobile hairdressing service licence**  
pubd gaz 6 September 1996 pp 77–8
- Form HDPR Version 2 November 1998—Application for a strychnine permit**  
pubd gaz 7 May 1999 p 87
- Form HDPR Version 2 November 1998—Strychnine permit**  
pubd gaz 7 May 1999 p 87

- Form HDPR Version 2 November 1998—Application for a cyanide permit**  
pubd gaz 7 May 1999 p 87
- Form HDPR Version 2 November 1998—Cyanide permit**  
pubd gaz 7 May 1999 p 87
- Form HDPR18(3) Version January 2003—Reasons relating to the inclusion of conditions on an endorsement**  
pubd gaz 31 January 2003 p 315
- Form HDPR18(7) Version January 2003—Refusal to grant endorsement/renew licence/ treatment approval**  
pubd gaz 31 January 2003 p 315
- Form HDPR24(1) Version January 2003—Proposal to suspend/cancel endorsement**  
pubd gaz 31 January 2003 p 315
- Form HDPR24(5) Version January 2003—Suspension/cancellation of endorsement**  
pubd gaz 31 January 2003 p 315
- Form HDPR27(1) Version January 2003—Refusal to replace endorsement**  
pubd gaz 31 January 2003 p 315
- Form HDPR28(4) Version January 2003—Refusal to amend endorsement**  
pubd gaz 31 January 2003 p 315
- Form HDPR29(2) Version January 2003—Amendment of endorsement without application**  
pubd gaz 31 January 2003 p 315
- Form HDPR29(3) Version January 2003—Amendment of endorsement without application**  
pubd gaz 31 January 2003 p 315
- Form HDPR30(2) Version January 2003—Minor amendment of endorsement**  
pubd gaz 31 January 2003 p 315
- Form HDPR32(1) Version January 2003—Surrender of endorsement**  
pubd gaz 31 January 2003 p 315
- Form HDPR96.01 Version July 2004—Application for a General Licence to Sell Poisons**  
pubd gaz 12 November 2004 p 879
- Form HDPR96.02A Version July 2004—Application for a Licence to Manufacture Poisons**  
pubd gaz 12 November 2004 p 879
- Form HDPR96.02B Version July 2004—Application for a Licence to Sell Poisons by Wholesale**  
pubd gaz 12 November 2004 p 879
- Form HDPR96.03 Version July 2004—Application for a Licence to Sell Poisons for Purposes other than Human Therapeutic Use**  
pubd gaz 12 November 2004 p 879

- Form HDPR96.04 Version July 2004—Application for a Licence as a Wholesale Representative**  
pubd gaz 12 November 2004 p 879
- Form HDPR96.05 Version July 2004—Application for a Licence to Sell Controlled Drugs by Wholesale**  
pubd gaz 12 November 2004 p 879
- Form HDPR96.06 Version July 2004—Application for a Licence to Manufacture Controlled Drugs**  
pubd gaz 12 November 2004 p 879
- Form HDPR96.07 Version July 2004—Application for a Licence to Sell Restricted Drugs by Wholesale**  
pubd gaz 12 November 2004 p 879
- Form HDPR96.08 Version July 2004—Application for a Licence to Sell Controlled Drugs by Wholesale**  
pubd gaz 12 November 2004 p 879
- Form HDPR96.09 Version July 2004—Application for Renewal of Licence**  
pubd gaz 12 November 2004 p 879
- Form P—Application for a licence to sell poisons for purposes other than human therapeutic use**  
pubd gaz 7 May 1999 p 87
- Form PMW—Application for a licence to manufacture poisons and/or sell poisons by wholesale**  
pubd gaz 7 May 1999 p 87
- Form RDM—Application for a licence to manufacture restricted drugs**  
pubd gaz 7 May 1999 p 87
- Form RDW—Application for a licence to sell restricted drugs by wholesale**  
pubd gaz 7 May 1999 p 87
- Form SP1 Version 1—Application for registration of premises for skin penetration**  
pubd gaz 6 September 1996 pp 77–8
- Form SP2 Version 1—Application for renewal of registration of premises for skin penetration**  
pubd gaz 6 September 1996 pp 77–8
- Form SP3 Version 1—Certificate of registration/renewal of registration of premises for skin penetration**  
pubd gaz 6 September 1996 pp 77–8



## 9 Table of renumbered provisions

under the Reprints Act 1992 s 43 as required by the Health Act 1937 s 184 [Reprint No. 2]

| Previous               | Renumbered as   |
|------------------------|-----------------|
| 9(2) .....             | 9(1)            |
| 9(3) .....             | 9(2)            |
| 9(3A) .....            | 9(3)            |
| 9(3B) .....            | 9(4)            |
| 9(3C) .....            | 9(5)            |
| 9(3D) .....            | 9(6)            |
| 9(3E) .....            | 9(7)            |
| 9(3F) .....            | 9(8)            |
| 9(3G) .....            | 9(9)            |
| 9(3H) .....            | 9(10)           |
| 9(3I) .....            | 9(11)           |
| 9(3J) .....            | 9(12)           |
| 9(4) .....             | 9(13)           |
| 15(1A) .....           | 15(2)           |
| 15(1B) .....           | 15(3)           |
| 15(1C) .....           | 15(4)           |
| 16(1A) .....           | 16(2)           |
| 16(2) .....            | 16(3)           |
| 22(5) .....            | 22(4)           |
| 22(6) .....            | 22(5)           |
| 27(1AA) .....          | 27(2)           |
| pt 3, div 2 hdg .....  | pt 3, div 1 hdg |
| pt 3, div 3 hdg .....  | pt 3, div 2 hdg |
| 33(1A) .....           | 33(2)           |
| 33(1A) .....           | 33(2)           |
| 47(1A) .....           | 47(2)           |
| 47(2) .....            | 47(3)           |
| 47(3) .....            | 47(4)           |
| 47(5A) .....           | 47(6)           |
| 47(6) .....            | 47(7)           |
| 47(6A) .....           | 47(8)           |
| 47(6B) .....           | 47(9)           |
| 47(7) .....            | 47(10)          |
| 47(7A) .....           | 47(11)          |
| 47(8) .....            | 47(12)          |
| 48(2A) .....           | 48(3)           |
| 48(2B) .....           | 48(4)           |
| 48(2C) .....           | 48(5)           |
| 48(2D) .....           | 48(6)           |
| 48(3) .....            | 48(7)           |
| 48(4) .....            | 48(8)           |
| 49(1A) .....           | 49(2)           |
| 49(2) .....            | 49(3)           |
| pt 3, div 10 hdg ..... | pt 3, div 3 hdg |

| Previous                    | Renumbered as   |
|-----------------------------|-----------------|
| pt 3, div 11 hdg . . . . .  | pt 3, div 4 hdg |
| 68(1A) . . . . .            | 68(2)           |
| 71(3) . . . . .             | 71(2)           |
| 71(3A) . . . . .            | 71(3)           |
| 72(1A) . . . . .            | 72(2)           |
| 72(2) . . . . .             | 72(3)           |
| pt 3, div 11A hdg . . . . . | pt 3, div 5 hdg |
| 76C(1A) . . . . .           | 76C(2)          |
| 76C(2) . . . . .            | 76C(3)          |
| 76C(3) . . . . .            | 76C(4)          |
| 76C(3A) . . . . .           | 76C(5)          |
| 76C(4) . . . . .            | 76C(6)          |
| 76C(5) . . . . .            | 76C(7)          |
| 76C(6) . . . . .            | 76C(8)          |
| 76C(6A) . . . . .           | 76C(9)          |
| 76C(7) . . . . .            | 76C(10)         |
| 76C(8) . . . . .            | 76C(11)         |
| 76E(2) . . . . .            | 76E(1)          |
| 76E(2A) . . . . .           | 76E(2)          |
| 76E(3A) . . . . .           | 76E(4)          |
| 76E(4) . . . . .            | 76E(5)          |
| 76G(2A) . . . . .           | 76G(3)          |
| 76G(2B) . . . . .           | 76G(4)          |
| 76G(3) . . . . .            | 76G(5)          |
| 76G(4) . . . . .            | 76G(6)          |
| 76G(4A) . . . . .           | 76G(7)          |
| 76G(5) . . . . .            | 76G(8)          |
| 76G(5A) . . . . .           | 76G(9)          |
| 76G(6) . . . . .            | 76G(10)         |
| 76H(1A) . . . . .           | 76H(2)          |
| pt 3, div 11B hdg . . . . . | pt 3, div 6 hdg |
| 76K(3) . . . . .            | 76K(2)          |
| 76K(4) . . . . .            | 76K(3)          |
| 76K(5) . . . . .            | 76K(4)          |
| 76K(6) . . . . .            | 76K(5)          |
| 76K(7) . . . . .            | 76K(6)          |
| 76K(8) . . . . .            | 76K(7)          |
| 76L(2A) . . . . .           | 76L(3)          |
| 76L(2B) . . . . .           | 76L(4)          |
| 76L(2BA) . . . . .          | 76L(5)          |
| 76L(2C) . . . . .           | 76L(6)          |
| 76L(2D) . . . . .           | 76L(7)          |
| 76L(2DA) . . . . .          | 76L(8)          |
| 76L(2DB) . . . . .          | 76L(9)          |
| 76L(2E) . . . . .           | 76L(10)         |
| 76L(2F) . . . . .           | 76L(11)         |
| 76L(3) . . . . .            | 76L(12)         |
| 76L(4) . . . . .            | 76L(13)         |

*Health Act 1937*

| Previous               | Renumbered as    |
|------------------------|------------------|
| 76L(5) .....           | 76L(14)          |
| 76L(6) .....           | 76L(15)          |
| 76L(7) .....           | 76L(16)          |
| 76L(8) .....           | 76L(17)          |
| pt 3, div 12 hdg ..... | pt 3, div 7 hdg  |
| 79(4A) .....           | 79(5)            |
| 79(5) .....            | 79(6)            |
| 79(5A) .....           | 79(7)            |
| 79(6) .....            | 79(8)            |
| 79(6A) .....           | 79(9)            |
| 79(6B) .....           | 79(10)           |
| 79(7) .....            | 79(11)           |
| 79(8) .....            | 79(12)           |
| 81(4) .....            | 81(3)            |
| pt 3, div 13 hdg ..... | pt 3, div 8 hdg  |
| 95(2A) .....           | 95(3)            |
| 95(3) .....            | 95(4)            |
| 95(4) .....            | 95(5)            |
| 96(1A) .....           | 96(2)            |
| 96(2) .....            | 96(3)            |
| 96(3) .....            | 96(4)            |
| 96(4) .....            | 96(5)            |
| 99A(1)(aa) .....       | 99A(1)(b)        |
| 99A(1)(b) .....        | 99A(1)(c)        |
| 99A(1)(ba) .....       | 99A(1)(d)        |
| 99A(1)(c) .....        | 99A(1)(e)        |
| 99A(1)(ca) .....       | 99A(1)(f)        |
| 99A(1)(d) .....        | 99A(1)(g)        |
| pt 3, div 14 hdg ..... | pt 3, div 9 hdg  |
| pt 3, div 15 hdg ..... | pt 3, div 10 hdg |
| pt 3, div 16 hdg ..... | pt 3, div 11 hdg |
| 101(1)(l) .....        | 101(1)(k)        |
| 101(1A) .....          | 101(2)           |
| 104A(1A) .....         | 104A(2)          |
| 104A(2) .....          | 104A(3)          |
| 104A(3) .....          | 104A(4)          |
| 105(1)(b) .....        | 105(1)(a)        |
| 105(1)(c) .....        | 105(1)(b)        |
| 105(1)(d) .....        | 105(1)(c)        |
| 105(1)(e) .....        | 105(1)(d)        |
| 105(1)(f) .....        | 105(1)(e)        |
| 105(1)(g) .....        | 105(1)(f)        |
| 107(1A) .....          | 107(2)           |
| 107(1B) .....          | 107(3)           |
| 107(2) .....           | 107(4)           |
| 109(2A) .....          | 109(3)           |
| 109(2B) .....          | 109(4)           |
| 109(3) .....           | 109(5)           |

*Health Act 1937*

| Previous                   | Renumbered as    |
|----------------------------|------------------|
| 110(1A) . . . . .          | 110(2)           |
| 110(2) . . . . .           | 110(3)           |
| 127(4) . . . . .           | 127(3)           |
| 127(5) . . . . .           | 127(4)           |
| 127(5A) . . . . .          | 127(5)           |
| 127(6A) . . . . .          | 127(7)           |
| 127(7) . . . . .           | 127(8)           |
| 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 hdg . . . . . | pt 4, div 5 hdg  |
| pt 4, div 4B hdg . . . . . | pt 4, div 6 hdg  |
| pt 4, div 4C hdg . . . . . | pt 4, div 7 hdg  |
| pt 4, div 4D hdg . . . . . | pt 4, div 8 hdg  |
| pt 4, div 4E hdg . . . . . | pt 4, div 9 hdg  |
| pt 4, div 5 hdg . . . . .  | pt 4, div 10 hdg |
| 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)           |
| 134(4) . . . . .           | 134(5)           |
| 139(1A) . . . . .          | 139(2)           |

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| Previous        | Renumbered as |
|-----------------|---------------|
| 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 hdg ..... | pt 5 hdg      |
| 154N(1A) .....  | 154N(2)       |
| 154N(2) .....   | 154N(3)       |
| 154N(2A) .....  | 154N(4)       |
| 154N(2B) .....  | 154N(5)       |
| pt 5 hdg .....  | pt 6 hdg      |
| 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 hdg .....  | pt 7 hdg      |