

3. Interpretation

- (1) In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively —

“**Agvet Code of Western Australia**” has the same meaning as it has in the *Agricultural and Veterinary Chemicals (Western Australia) Act 1995*;

“**analyst**” means analyst registered under section 203;

“**Analytical Committee**” means the Local Health Authorities Analytical Committee established under section 247A;

“**apparatus for the treatment of sewage**” means any apparatus for the bacteriolytic or aerobic treatment of sewage or any other apparatus for the treatment of sewage approved by the Executive Director, Public Health and includes any buildings, fittings, works, or appliances used or required in connection with the bacteriolytic or aerobic treatment of sewage, and the disposal of effluent or any residue of such treatment;

“**cellar**” or “**underground room**” includes any room being part of a house, if the floor of such room is more than a depth of one metre below the surface of the adjoining street, or of the land adjoining or nearest to such room;

“**cesspool**” includes any receptacle for nightsoil or for noxious or offensive matter below or above the ground, but does not include any regulation sanitary pan, or any apparatus for the treatment of sewage, or other approved receptacle;

“**Commissioner**” means the person holding or acting in the office of Commissioner of Health in the Department;

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

“**dairy**” includes all buildings, yards, and premises occupied or used, or intended to be occupied or used, for the carrying on of any dairy business, or the production or manufacture or storage of any dairy produce;

“**dairy produce**” means milk, cream, butter, cheese, and any other product of milk intended for the food of man;

“**Department**” means the department of the Public Service of the State principally assisting the Minister in the administration of this Act;

“**disposal**” in relation to sewage, rubbish or refuse, includes disposal by one or more of the following methods —

- (a) removal;
- (b) treatment;
- (c) destruction;
- (d) burial;

“**district**” means an area that has been declared to be a district under the *Local Government Act 1995* plus any place under the control of the local government which is outside the boundaries of the district;

“**drain**” means any drain for the drainage of one building only, or of premises within the same curtilage, and made merely for the purpose of

communicating therefrom with a receptacle for drainage, or with a sewer into which the drainage of 2 or more buildings or premises occupied by different persons is conveyed, and includes the whole length of any combined system of drainage from several premises up to the point at which it enters the public sewer;

“drug” means any substance, organic or inorganic, used as medicine, or in the composition or preparation of medicines, whether for external or internal use, and includes soap and perfumes, cosmetics, absorbent cotton wool and surgical dressings and also includes therapeutic substances;

“environmental health officer” means an environmental health officer appointed under this Act and includes any acting or assistant environmental health officer;

“Executive Director, Personal Health” means the person holding or acting in the office of Executive Director, Personal Health Services in the Department;

“Executive Director, Public Health” means the person holding or acting in the office of Executive Director, Public Health and Scientific Support Services in the Department;

“false trade description” means a trade description which, by reason of anything contained therein or omitted therefrom, is false or likely to mislead in a material respect, as regards the articles to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement, or otherwise, which makes the description false or likely to mislead in a material respect;

“food” means substance or matter ordinarily consumed or intended for consumption by man and includes —

- (a) drink;
- (b) chewing gum;
- (c) ingredient, food additive or other substance that enters into or is capable of entering into or is used in the composition or preparation of food; and
- (d) other substance or matter for the time being declared under subsection (1a) to be food,

but does not include substance or matter used only as a drug or declared under subsection (1a) not to be food;

“house” means any building or structure, whether temporary or otherwise, including tents and vans, and includes a place of worship, school, factory, workroom, shop, hotel, public house, or other premises of a licensed victualler; the term also includes any vessel lying in any river, harbour, or other water within the territorial waters of Western Australia other than a vessel which is under the command or charge of any officer bearing Her Majesty’s commission, or which belongs to the government of any foreign state. It is immaterial whether the house is on alienated land or Crown land:

Provided that where any building is let or occupied in flats, each flat shall be deemed to be a separate house;

“infectious disease” means and includes typhoid fever (which shall include paratyphoid fever), scarlet fever, diphtheria, poliomyelitis, plague,

leprosy, tuberculosis (which shall include all forms of tuberculosis), cholera, yellow fever, typhus fever (all forms), malaria, ancylostomiasis, filariasis, anthrax; and also any other disease which the Governor from time to time by notification in the *Government Gazette* declares to be an infectious disease for the purposes of this Act, either generally or with respect to any particular place, and also the condition in which the organism presumed to cause any of the diseases is found to be present in any person;

“land” includes houses, buildings, and structures thereon, and rivers, streams, wells, and waters, and easements of every description;

“lodging-house” means any building or structure, permanent or otherwise, and any part thereof, in which provision is made for lodging or boarding more than 6 persons, exclusive of the family of the keeper thereof, for hire or reward; but the term does not include —

- (a) premises licensed under a publican’s general licence, limited hotel licence, or wayside-house licence, granted under the *Licensing Act 1911*²;
- (b) residential accommodation for students in a non-government school within the meaning of the *School Education Act 1999*; or
- (c) any building comprising residential flats;

“meat” except in Division 3A of Part VIIA, means the flesh of any animal when killed which is intended to be used for the food of man, whether fresh, or prepared by freezing, chilling, preserving, salting, or by any other process;

“medical officer” includes all medical officers of health appointed pursuant to this Act, and whether appointed by the Governor or by a local government;

“medical practitioner” means a legally qualified medical practitioner duly registered under the *Medical Act 1894*;

“midwife” means a person whose name is entered in division 1 of the register kept under the *Nurses Act 1992* and who holds and has entered in that division, in respect of his or her name, qualifications in midwifery;

“milk” means the natural lacteal fluid, product of an animal;

“Minister” means the Minister of the Crown charged with the general administration of this Act;

“municipal fund” means the municipal fund of the local government established under section 6.6 of the *Local Government Act 1995*;

“newspaper” means a newspaper generally circulating in the district;

“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 his own account or as the agent of another person; and in the case of a vessel, the master or other person in charge thereof; the term also includes any person in occupation of the surface of any lands of the Crown, notwithstanding any want of title to occupy same;

“offensive” includes noxious;

- “offensive matter”** means and includes dust, mud, ashes, rubbish, filth, blood, offal, manure, soil or any other material which is offensive, and which is placed or found in or about any house, stable, cowhouse, pigsty, lane, yard, street, or place whatsoever;
- “owner”** means the person for the time being receiving the rack-rent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such premises were let at a rack-rent;
- “pesticide”** has the same meaning as “agricultural chemical product” has in the Agvet Code of Western Australia;
- “piggery”** means any building, enclosure, or yard in which one or more pigs are kept, bred, reared, or fattened for purposes of trade;
- “pig-swill”** means residues or wastes, whether solid or liquid or part of each, from kitchens, manufactories, shops, abattoirs or markets, which residues or wastes may be used as food for pigs;
- “premises”**, except in Part VIII, includes messuages, buildings, lands, and hereditaments;
- “prescribed”** means prescribed by this Act or by any regulation or local law thereunder;
- “private place”** includes every place other than a public place;
- “proclamation”** means a proclamation by the Governor published in the *Government Gazette*;
- “public health official”** means a person appointed or designated as a medical officer of health, environmental health officer, inspector or public health official under section 6 or 7, as the case requires, of the *Health Legislation Administration Act 1984*;
- “public house”** includes any house in respect of which a publican’s general licence, an hotel licence, an Australian wine and beer licence, or wayside house licence is held under any Act regulating the sale of intoxicating liquor;
- “public place”**, except in Part IXB, includes every place to which the public ordinarily have access, whether by payment of fee or not;
- “public vehicle”** includes a coach, cab, omnibus, motor car, wagon, or other vehicle carrying passengers for hire, and includes a tramcar and railway carriage;
- “rack-rent”** means rent which is not less than two-thirds of the full net annual value of the property out of which the rent arises; and the full net value shall be taken to be the rent at which the property might reasonably be expected to let from year to year, free from rates and taxes and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses (if any) necessary to maintain the same in a state to command such rent;
- “regulation”**, except in Part VIII, means a regulation made under this Act;
- “relative”**, in relation to a person, includes a de facto partner of the person;
- “sanitary convenience”** includes urinals, water-closets, earth-closets, privies, sinks, baths, wash troughs, apparatus for the treatment of sewage, ash-pits, ash-tubs, or other receptacle for the deposit of ashes, faecal matter, or refuse, and all similar conveniences;

“school” means and includes any premises in or upon which children or other persons are assembled for the purpose of instruction, including religious instruction;

“sell” includes —

- (a) barter, offer or attempt to sell, receive for sale, have in possession for sale, expose for or on sale, send, forward or deliver for sale or cause or permit to be sold or offered for sale;
- (b) sell for resale; and
- (c) in relation to food, supply or use under an agreement or arrangement or a contract, together with accommodation, service or entertainment, in consideration of an inclusive charge for the food supplied and the accommodation, service or entertainment;

“sewage” means any kind of sewage, nightsoil, faecal matter or urine, and any waste composed wholly or in part of liquid;

“sewer” includes sewers and drains of every description, except drains to which the word **“drain”** as above defined applies, also water channels constructed of stone, brick, concrete, or any other material, the property of a local government;

“street” includes any highway, and any public bridge, and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

“the Drug Advisory Committee” means the Drug Advisory Committee established by section 202(1);

“the Food Advisory Committee” means the Food Advisory Committee established by section 246H(1);

“therapeutic substance” means a substance which has a therapeutic use and which is prescribed under Division 7 of Part VIIA to be a therapeutic substance, and includes a surgical ligature, suture or dressing, but does not include a vaccine prepared from microscopic organisms from the body of a person or animal for use in the treatment of that person only;

“therapeutic use” means a use for the purpose of —

- (a) preventing, diagnosing, curing or alleviating of a disease, ailment, defect or injury in persons;
- (b) influencing, inhibiting or modifying of a physiological process in persons;
- (c) testing of susceptibility to a disease or ailment in persons;

“this Act” includes the regulations and local laws made thereunder;

“trade” includes business and manufacture;

“trade description”, in relation to any food or drug, means any description, statement, indication, or suggestion, direct or indirect —

- (a) as to the nature, number, quality, quantity, purity, class, grade, measure, gauge, size, or weight of the articles; or
- (b) as to the country or place in or at which the articles were made or produced; or
- (c) as to the manufacturer or producer of the articles, or the person by whom they were selected, packed, or in any way prepared for the market; or

- (d) as to the mode of manufacturing, producing, selecting, packing, or otherwise preparing the articles; or
- (e) as to the materials or ingredients of which the articles are composed, or from which they are derived; or
- (f) as to the article being the subject of an existing patent, privilege, or copyright; or
- (g) as to the efficacy of the article, or as to the effects which have followed, or may be expected to follow the use thereof;

“**venereal disease**” means and includes gonorrhoea, syphilis (including congenital syphilis), soft chancre, venereal warts and granuloma;

“**vessel**” includes a ship;

“**writing**” includes printing, and other modes of repeating and reproducing words in visible form.

- (1a) The Executive Director, Public Health, may by notice published in the *Gazette* —
- (a) declare any substance or matter to be food or not to be food, as the case requires, for the purposes of this Act or any provision thereof; and
 - (b) amend or repeal a declaration made under this subsection.

[(2) *repealed*]

[Section 3 amended by No. 55 of 1915 s. 2; No. 17 of 1918 s. 2; No. 5 of 1922 s. 2; No. 50 of 1926 s. 3; No. 30 of 1932 s. 2; No. 32 of 1937 s. 2; No. 21 of 1944 s. 3; No. 71 of 1948 s. 3; No. 11 of 1952 s. 3; No. 25 of 1952 s. 2; No. 34 of 1954 s. 4; No. 21 of 1957 s. 4; No. 18 of 1964 s. 3; No. 24 of 1970 s. 4; No. 94 of 1972 s. 4(1) (as amended by No. 83 of 1973 s. 3); No. 102 of 1973 s. 4; No. 28 of 1984 s. 24; No. 26 of 1985 s. 4; No. 57 of 1985 s. 11; No. 80 of 1987 s. 4; No. 104 of 1990 s. 38; No. 59 of 1991 s. 4 and 6; No. 27 of 1992 s. 84; No. 73 of 1994 s. 4; No. 3 of 1995 s. 57; No. 88 of 1994 s. 100; No. 14 of 1996 s. 4; No. 28 of 1996 s. 4; No. 10 of 1998 s. 39(1); No. 62 of 1998 s. 4; No. 36 of 1999 s. 247; No. 24 of 2000 s. 16(1); No. 28 of 2003 s. 73; No. 59 of 2004 s. 141.]