

## HEALTH.

6° Elizabeth II., No. XXI.

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No. 21 of 1957.

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### AN ACT to amend the Health Act, 1911-1956.

[Assented to 9th October, 1957.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Health Act Amendment Act, 1957*. Short title and citation.

(2) In this Act the Health Act, 1911-1956,

Act No. 34 of 1911, as reprinted with amendments to and including Act No. 17 of 1956, incorporated pursuant to the provisions of the Amendments Incorporation Act, 1938,

Approved  
for reprint  
5th June,  
1957.

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Health Act, 1911-1957.

Commence-  
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

S. 2  
amended.

3. Section two of the principal Act is amended by adding before the heading, "Part X", the following heading:—

Part IXA.—Prevention and Alleviation of Certain Non-infectious Disease Processes and Physical or Functional Abnormalities.

S. 3  
amended.

4. Section three of the principal Act is amended by adding after the word, "confectionery" in line seven of the interpretation, "Food", the words, "which shall be deemed to include any preparation which is known as chewing gum or bubble gum or which the Governor by regulation prescribes to be chewing gum".

S. 19A  
added.

5. The principal Act is amended by adding after section nineteen the following section:—

19A. (1) In this section—

"alteration" means alteration to the boundaries of a district, or to the status of a local authority from that of a road board to that of a municipality or *vice versa*; and

"delegated legislation" includes Orders in Council, Proclamations, regulations, and by-laws, validly made under this Act.

(2) Delegated legislation which is in force in any part of the State immediately before an alteration is effected, is by virtue of this subsection continued in force in that part of the State after the alteration has been effected, until cancelled or revoked, but this subsection does not render valid any delegated legislation which is disallowed, pursuant to section thirty-six of the Interpretation Act, 1918, after the alteration has been effected.

Delegated  
legislation—  
not affected  
by alteration  
of district.  
Cf. s. 4 as to  
"district"  
and "local  
authority."

Cf. No. 30 of  
1918, s. 36 (2).

6. Section one hundred and seven of the principal Act is amended— S. 107 amended.

(a) by substituting for the words, “two pounds” in line six of subsection (7), the words, “five pounds”; and

(b) by adding the following subsection:—

(8) Where an owner or occupier instals apparatus for the bacteriolytic treatment of sewage, a local authority, if satisfied that the installation of the apparatus renders unnecessary the continuation of any sanitary service provided by the local authority under this Act, may remit or refund so much of any rate or charge as was imposed under this Act in respect of the service so rendered unnecessary.

Health Act.  
Cf. ss. 41,  
106 (1) and  
112 (1).

7. Section one hundred and forty-four of the principal Act is amended by adding after the word, “dwelling-house” in line three, the passage, “, and no person shall let, or lease, or sublet, or sublease, or otherwise permit, whether for any consideration or gratuitously, the use of, the building as a dwelling”.

S. 144  
amended.

8. The principal Act is amended by adding after section one hundred and seventy-four, the following section:—

S. 174A  
added.

174A. (1) In this section

“building proprietor” means any person who is required to give notice to the Commissioner by subsection (1) of section one hundred and seventy-four of this Act; and

“building contractor” means any person who undertakes the building, alteration, or extension, of a public building or a building intended for use as a public building, for or on behalf of the building proprietor.

(2) A person who, whether as building proprietor or as building contractor, builds, alters, or extends, or commences or proceeds with the

building, alteration, or extension of, a public building, or a building intended for use as a public building

- (a) commits an offence if the Commissioner has not authorised the building proprietor to commence the building, alteration, or extension; and
- (b) commits an offence if he does so otherwise than in compliance with plans and specifications approved by the Commissioner.

Penalty.  
Health Act,  
s. 360.

Cf. Municipal  
Corporations  
Act, s. 314.

(3) The Commissioner may during, or within six months after, the completion, erection, alteration, or extension, of the building serve on the building proprietor or building contractor, or both, written notice

- (a) specifying any defect in the construction of the building
  - (i) which renders or tends to render the building unsafe or prejudicial to the public interest; or
  - (ii) which is not in compliance with the plans and specifications approved by the Commissioner; and
- (b) requiring him to remedy the defects specified in the notice within such time after service of it as is specified in it.

(4) A person on whom a notice mentioned in subsection (3) of this section is correctly served, commits an offence, if he does not comply with the requirements of the notice within the time specified in the notice, and is liable on conviction of the offence to a maximum penalty of one hundred pounds and in addition to a maximum penalty of two pounds for each day during which the offence continues.

(5) Notwithstanding the provisions of subsections (2), (3) and (4) of this section, a building contractor is not liable for an offence against this section for anything done or

omitted, if the building, alteration, or extension, of the public building is supervised by a qualified architect, engaged by the building proprietor.

9. Section one hundred and seventy-nine of the principal Act is amended by substituting for the words, "five pounds" in the last line, the words "fifty pounds".

S. 179  
amended.

10. The principal Act is amended by adding after section two hundred and forty and before the sub-heading, "Penalties", the following section:—

S. 241A  
added.

240A. A person commits an offence if, in a district in which a regulation made under subsection (18) of section two hundred and forty of this Act is in force, he sells or offers or exposes for sale, or supplies or offers to supply for reward, any meal, or prepared article of food, which consists wholly or partly of meat from a carcass which has not been marked or branded as required by the regulation.

Cf. Gazette  
1st December, 1950,  
p. 2693, Reg.

11. The principal Act is amended by adding after section two hundred and eighty-nine, the following Part:—

Part IXA  
added.

PART IXA.—PREVENTION AND ALLEVIATION OF CERTAIN NON-INFECTIOUS DISEASE PROCESSES AND PHYSICAL OR FUNCTIONAL ABNORMALITIES.

289A. The objects of this Part are to promote the prevention and alleviation of such disease processes, and of such physical or functional abnormalities, as are not infectious and as are prescribed.

Objects of  
this Part.

289B. In this Part,

Interpre-  
tation.

"prescribed condition of health" means such disease processes and physical or functional abnormalities as are prescribed as conditions of health to which this Part applies, but does not include any infectious disease.

Regulation-  
making  
power.

289C. For the purpose of achieving the objects of this Part power is conferred on the Governor to prescribe by regulation such matters as appear to him to be necessary, desirable, or convenient, for achieving the objects of this Part, including without limiting or otherwise affecting the generality of the power hereby conferred, power to prescribe by regulation

- (a) conditions of health to which this Part applies, excluding infectious diseases;
- (b) how, when, by whom, and to whom, cases of prescribed conditions of health must be notified;
- (c) fees payable to any person, or class of person, required to notify cases of prescribed conditions of health; and
- (d) functions, powers, and duties of any person or class of person, whether the Minister, the Commissioner, a medical officer, medical practitioner, person having any prescribed condition of health, or any other person or class of person, but so that a regulation made under this paragraph is limited to the necessities of achieving the objects of this Part and does not require any person to submit to treatment without his consent.

Powers  
conferred by  
this Part are  
cumulative.

289D. The powers conferred by, or pursuant to, section two hundred and eighty-nine C of this Act, are in addition to, and not in derogation of, any other powers conferred by this Act.

S. 340  
amended.

12. Section three hundred and forty of the principal Act is amended—

- (a) by adding after the section designation, “340”, the subsection designation, “(1)”;
- (b) by adding after the word, “cough” in line three, the passage, “, poliomyelitis,”;

- (c) by adding after the word, "tetanus" in line four, the passage, "and such other diseases as the Governor prescribes and is hereby authorised to prescribe by regulation as diseases to which this section applies"; and
- (d) by adding the following subsection:—

(2) The Commissioner may provide for immunisation of any person who consents to treatment against any disease which is mentioned in subsection (1) of this section or which is prescribed as a disease to which this section applies, wholly free of cost to the person treated and the cost involved shall be paid from money appropriated by Parliament for the purposes of this Act.

13. The principal Act is amended by adding after section three hundred and sixty-one, the following section:—

S. 361A  
added

361A. (1) In this section

"proclaimed day" means the day fixed by proclamation for the coming into operation of the Health Act Amendment Act, 1957.

(2) Where an offence under this Act is committed on or after the proclaimed day

"This Act" includes regulations and by-laws. Cf. No. 30 of 1918, s. 4.

- (a) the maximum pecuniary penalty for the offence is the sum of twenty pounds, unless a greater sum is prescribed as the maximum pecuniary penalty for the offence by any provision of this Act in operation as at the proclaimed day, or any provision of a regulation or by-law in force as at the proclaimed day,

"Prescribed". Cf. s. 3 Health Act, and No. 30 of 1918, s. 4.

in which case the greater sum is the maximum pecuniary penalty for the offence; and

- (b) any provision of this Act in operation as at the proclaimed day, or any provision of a regulation or by-law in force as at the proclaimed day, providing for the imposition of a minimum pecuniary penalty does not apply in respect of the offence.

(3) In order to avoid any doubt which but for the enactment of this subsection may arise, it is expressly enacted that the provisions of subsection (2) of this section

- (a) have effect notwithstanding any other provision of this Act, or the provisions of section eleven of the Criminal Code; and
- (b) do not affect any provision of this Act providing for—
  - (i) the imposition of a daily maximum pecuniary penalty, or a penalty of imprisonment;
  - (ii) a forfeiture or confiscation;
  - (iii) a liability of an offender for any expense incurred by the Commissioner or a local authority; or
  - (iv) a suspension or cancellation of any license or registration.