

HEALTH.

1° Elizabeth II., No. XI.

No. 11 of 1952.

AN ACT to amend the Health Act, 1911-1950.

[Assented to 4th November, 1952.]

BE 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:—

Short title
and citation.

1. (1) This Act may be cited as the *Health Act Amendment Act, 1952*.

(2) In this Act, the Health Act, 1911-1950, Act No. 34 of 1911, as reprinted with amendments to and including Act No. 71 of 1948, incorporated pursuant to the provisions of the *Amendments Incorporation Act, 1938*, and as directed by section forty-two of Act No. 38 of 1933, and as approved for reprint on the 17th March, 1949, in Volume 3 of the Reprinted Acts of the Parliament of Western Australia, 1950, and as further amended by Act No. 25 of 1950, is referred to as the principal Act.

(3) The principal Act, as amended by this Act, may be cited as the *Health Act, 1911-1952*.

S. 2
amended.

2. Section two of the principal Act is amended by—

(a) adding after the words, "Part VIII.—Food," the words, "Drugs, Disinfectants, Pesticides, etc.";

(b) adding after the words, "Division 3.—Sale of Food and Drugs, ss. 216-241," the words, "Division 3A.—Pesticides, ss. 241A-241E."

3. Section three of the principal Act is amended S. 3 amended. by adding after the interpretation, "Owner," the following interpretation:—

"pesticide" means a substance or compound used or intended for use for agricultural, pastoral, horticultural, domestic, or industrial purposes for controlling, destroying, or preventing the growth and development of, any fungus, virus, insect, mite, mollusc, nematode, plant or animal, or for any other purpose prescribed by the regulations.

4. The heading of Part VIII. of the principal Act is amended by adding after the word, "Food," the words, "Drugs, Disinfectants, Pesticides, etc." Heading of Part VIII. amended.

5. The following subsection is added to section two hundred and twenty-eight of the principal Act:— S. 228 amended.

(14) The provisions of this section apply to disinfectants and pesticides in all respects as if they were drugs, but where a disinfectant or a pesticide is contained in packages it shall be a sufficient compliance with the provisions of subsection (3) of this section if, instead of a division into three parts, three unopened packages are purchased, in which case each package shall be regarded as a division of the disinfectant or pesticide into one third, and shall be marked and sealed or fastened in accordance with the provisions of that subsection. Application to disinfectants and pesticides.

6. The following Division, to follow section two hundred and forty-one, is added to Part VIII. of the principal Act:— Division 3A added to Part VIII.

Division 3A.—Pesticides.

241A. In this Division, unless the context requires otherwise— Interpretation.

"to sell" means to sell by wholesale or retail and includes barter, supply for profit, offer for sale, receive for sale, have in

possession for sale, expose for sale, send forward or deliver for sale, cause or suffer or allow to be sold, and inflections and derivatives of the verb "to sell" have correlative meanings.

Pharmacy and
Poisons Act
not affected.

241B. The provisions of this Division do not affect those of the *Pharmacy and Poisons Act, 1910*.

Committee.
Advisory

241C. (1) The Governor may, for the purpose of this Division, appoint an Advisory Committee.

(2) The Advisory Committee shall—
consist of the Commissioner, the Government Analyst, the Registrar Pharmaceutical Council and the Director of Agriculture or his nominee,

and may

co-opt a person or persons who is or are conversant with trade requirements.

(3) Any member of the Advisory Committee may be removed by the Governor.

(4) The Commissioner shall be Chairman of the Advisory Committee.

(5) At all meetings of the Advisory Committee the Chairman shall have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

(6) Three members of the Committee shall constitute a quorum.

(7) The members of the Advisory Committee, except those employed in the State Public Service, may be paid such attendance fees as may be prescribed.

Regulations.

241D. (1) The Governor, on the advice of the Advisory Committee, may make regulations prescribing forms, fees, and other matters and things, which appear to him to be necessary or convenient for the protection of health in relation to pesticides, including regulating and prohibiting the m a n u f a c t u r e, preparation,

package, labelling, storage, carriage, distribution, sale, use and registration of pesticides, prescribing a substance or compound to be a pesticide where used for a prescribed purpose and prescribing the purpose, and may, in respect of pesticides also make regulations which are authorised by section two hundred and forty of this Act to be made in respect of drugs.

(2) The regulations may be prescribed to be of general application or to apply in particular cases, circumstances or localities, and may prescribe the cases, circumstances and localities in which and the conditions upon which pesticides or classes of pesticides, or persons or classes of persons are subject to or exempted from the application of the regulations, either wholly or to such extent as is prescribed by the regulations.

(3) A regulation shall not be invalid on the ground that it delegates to or confers upon an inspector or other person authority to determine or direct how or where a pesticide may be used, or any other discretionary authority.

241E. Where a person is charged with having committed an offence against any of the regulations made pursuant to the provisions of this Division relating to a pesticide, the charge shall be dismissed if he proves that he did not know and could not with reasonable diligence have ascertained the composition of that pesticide.
