

HEALTH.

8° and 9° GEO. VI., No. XXI.

No. 21 of 1944.

AN ACT to amend the Health Act, 1911-1942.

[Assented to 23rd December, 1944.]

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

1. This Act may be cited as the *Health Act Amendment Act, 1944*, and shall be read as one with the Health Act, 1911-1942 (No. 34 of 1911 as reprinted pursuant to the Amendments Incorporation Act, 1938, in Volume 1 of the Reprinted Acts of the Parliament of Western Australia and amended by the Act No. 34 of 1942), hereinafter referred to as the principal Act.

Short title.
cf. No. 34 of
1942, s. 8.

2. Section two of the principal Act is amended as follows:—

Amendment
of s. 2

- (a) By deleting from the item which reads "Part V. ss. 134-158" the figures "158" and inserting in lieu thereof the figures and letter "158M."
- (b) By adding to the item which reads "Part V. ss. 134-158" the words "Division 3—Eating Houses ss. 158A-158M."

- (c) By deleting from the item which reads "Part VIII. ss. 186-226" the figures "226" and inserting in lieu thereof the figures and letter "226F."
- (d) By adding to the item which reads "Part VIII. ss. 186-226" the words "Division 4—Sale of horseflesh ss. 226A-226F."

Amendment
of s. 3.

3. Section three of the principal Act is amended as follows:—

- (a) By inserting in the definition of "Boarding-house" after the word "are" at the end of line seven of the definition the words "harboured or."
- (b) By adding to the definition of "Lodging-house" at the end thereof the words "or in which not more than six persons exclusive of the family of the keeper thereof, are lodged for hire or reward from week to week or for more than a week or in which rooms are let to more than two persons for living accommodation under a contract in the nature of a sub-tenancy running from week to week."
- (c) By inserting in the definition of "Sanitary convenience" after the word "privies" in line two of the definition the word "Sinks."

Amendment
of s. 98.

4. Section ninety-eight of the principal Act is amended as follows:—

- (a) By inserting in subsection (1) after the word "laundry" in line five of the said subsection the words "and cooking."
- (b) by inserting in subsection (2) after the word "laundry" in line three of the said subsection the words "or cooking."

Amendment
of s. 133.

5. Section one hundred and thirty-three of the principal Act is amended as follows:—

- (a) By inserting in subparagraph (1) of paragraph (14) after the word "Supplies" in line two of the said subparagraph (1) the words "and the reticulation thereof to bathrooms, kitchens and laundries."

(b) By inserting after paragraph (38) a new paragraph as follows:—

(38A) Defining areas within the district within which it shall not be lawful to keep animals or birds or particular species of animal or of bird, and prohibiting the keeping of animals or birds or of a particular species of animal or of bird in such areas.

6. Section one hundred and fifty-seven of the principal Act is amended by deleting from subparagraph (a) of paragraph (2) the words “boarders who may be received into” in lines two and three of the said subparagraph (a) and inserting in lieu thereof the words “persons who may be accommodated in.”

Amendment
of s. 157

7. A division is added to Part V. of the principal Act after section one hundred and fifty-eight as follows:—

New Division
added to
Part V.

Division 3—Eating-houses.

158A. In this division of this Act, unless the context requires otherwise—

Interpretation.

“Eating-house” means any house, building or structure or any part thereof in which meals are served to the public for gain or reward.

The term does not include—

- (a) Any premises licensed under the Licensing Act, 1911-1939; or
- (b) Any boarding-house or lodging-house; or
- (c) Any building or other structure used temporarily for serving meals to the public, at any fair, show, military encampment, races, or other public sports, games or amusements.

“Meals” means and includes any substance whether solid or liquid or partly solid and partly liquid used or intended to be used for food or drink by man.

The term does not include drugs, water, milk, ice cream, soda fountain or iced drinks commonly known as cool or soft drinks, or aerated waters.

“Prescribed date” in relation to any district means the date fixed by the by-laws of the local authority for such district.

“Proprietor” includes the owner, the occupier, and any person having the management or control of any eating-house.

Operation of
this division.

158B. The provisions contained in this division of this Part of this Act shall operate and have effect—

- (a) in the health district of the City of Perth; and
- (b) in the health district of the City of Fremantle; and
- (c) in the health district of any other local authority, within the meaning of this Act, in which the Governor may from time to time declare by Order in Council that the said provisions shall operate and have effect, and such Order in Council remains unrevoked.

Eating-houses
to be regis-
tered and pro-
prietors to be
licensed.

158C. (1) Subject as hereinafter provided, no person shall establish or carry on the business of an eating-house in any district after the prescribed date unless—

- (a) the eating-house is registered; and
- (b) the proprietor thereof is licensed in accordance with the provisions of this division of this Part of this Act;

Provided that—

- (i) Any proprietor already carrying on the business of an eating-house on the prescribed date may make application for the requisite registration of the eating-house and for the requisite license as the proprietor thereof at any time within one month after the prescribed date, and pending the consideration of the said application may continue to carry on the said business; and
- (ii) A person already carrying on the business of an eating-house on the prescribed date shall not have or be deemed to have any right to the grant of registration of such eating-house or

any right to the issue to the proprietor thereof of a license in respect of such eating-house under the provisions of this Act.

(2) Subject to this Act the registration of an eating-house and the issue of a license to the proprietor of an eating-house shall be under the control and subject to the by-laws of the local authority for the district in which such eating-house is situated.

(3) Application for registration of an eating-house or application for the issue of a license to the proprietor thereof shall be made to the local authority in accordance with the by-laws of the local authority and shall be accompanied by the registration fee or license fee (as the case may be) for the time being prescribed by such by-laws.

(4) Any person who establishes or carries on an eating-house without the same being registered, or who acts as the proprietor of an eating-house without holding the requisite license as required by this section shall be guilty of an offence.

Penalty in either case—Fifty pounds, and in addition a daily penalty of two pounds for every day or part of a day during which the offender acts in contravention of this section after complaint of such offence has been made.

158D. (1) Registration of an eating-house, and a license for the proprietor of an eating-house shall be applied for annually on or before a date to be prescribed by the local authority by its by-laws, and shall have effect for one year from such date.

Registrations
and licenses to
be annual.

Provided that where any such registration or license is applied for within fourteen days after the date prescribed by the local authority as aforesaid, and is granted, such registration or license (as the case may be) shall be deemed to have been applied for as from such date; and where such registration or license (as the case may be) is applied for on a day more than fourteen days after the date prescribed by the local authority as aforesaid in any year such registration or license (as the case may be) shall take effect as from the day when the same

is actually granted or issued, but shall continue in force only for the unexpired portion of the then current year commencing on the date prescribed by the local authority as aforesaid.

Eating-houses
may be classi-
fied.

158E. For the purposes of registration, and for the fixation and assessment of registration fees, and for any other purpose which it may think necessary or expedient under its by-laws the local authority may classify eating-houses and register the same as—

- (a) Restaurants.
- (b) Dining Rooms.
- (c) Tea Rooms; or
- (d) Refreshment Rooms.

Power to
grant, refuse
and cancel
registration of
an eating-
house.

158F. (1) Subject to section thirty-six of this Act, the local authority may—

- (a) grant registration of an eating-house; or
- (b) refuse registration of an eating-house for any reason mentioned in subsection (2) of this section; or
- (c) cancel the registration of an eating-house during the currency of such registration for any reason mentioned in subsection (3) of this section.

(2) The local authority may refuse registration of an eating-house for any one of the following reasons:—

- (a) if it considers the premises intended to be used as an eating-house are unsuitable for the purpose;
- (b) if the said premises are not constructed in any respect in accordance with the by-laws; or
- (c) if in its opinion the proprietor of the premises in respect of which registration is applied for, is not a fit and proper person to have the conduct and management of an eating-house; or
- (d) in the case of an application for renewal of a previous registration, if it considers that the eating-house is not being maintained, or the business therein is not being conducted, in accordance with the requirements of the by-laws, or the proprietor thereof has been convicted of an offence against the by-laws in respect of such eating-house.

(3) The local authority may cancel the registration of an eating-house during the currency of such registration for any one of the following reasons:—

- (a) If in its opinion the premises in which the eating-house is established are not being maintained or the business of the eating-house is not being carried on in accordance with the requirements of the by-laws; or
- (b) If the proprietor fails or refuses to make in or to the premises in which the eating-house is established alterations, amendments or repairs as required by the local authority by notice given by the local authority under the provisions of this Act; or
- (c) If the proprietor of the eating-house has been convicted of any offence against the by-laws in respect of such eating-house.

158G. (1) Subject to section thirty-six of this Act the local authority may—

Power to grant, refuse and cancel licenses to proprietors.

- (a) grant a license to the proprietor of an eating-house; or
- (b) refuse to issue a license to the proprietor of an eating-house for any reason mentioned in subsection (2) of this section; or
- (c) cancel the existing license of the proprietor of an eating-house during the currency thereof for any reason mentioned in subsection (3) of this section.

(2) The local authority may refuse to issue a license to the proprietor of an eating-house for any one of the following reasons:—

- (a) the eating-house is not registered or the registration of the eating-house has been cancelled; or
- (b) if in its opinion the said proprietor is not a suitable or a fit and proper person to have the management or control of an eating-house; or
- (c) if the applicant for the license, while previously licensed as the proprietor of an eating-house has been convicted of an offence against the by-laws of any local authority in respect of an eating-house.

(3) The local authority may cancel the existing license of the proprietor of an eating-house for any one of the following reasons:—

- (a) the holder of the license has ceased to be the proprietor of an eating-house; or
- (b) the registration of the eating-house of which he is the proprietor has expired or has been cancelled; or
- (c) the holder of the license has been convicted of an offence against the by-laws in respect of the eating-house; or
- (d) the holder of the license has procured the issue of such license to him by means of any fraud or deceit; or
- (e) the holder of the license transfers or assigns or attempts to transfer or assign the license to any other person; or
- (f) if it considers that the holder of the license has during the currency of the license by reason of his conduct or on any other grounds become unsuitable or ceased to be a fit and proper person to have the control and management of an eating-house.

Commissioner may require local authority to refuse or cancel registration or license.

158H. (1) The Commissioner may by notice in writing to the local authority direct the local authority:—

- (a) to refuse to grant registration of an eating-house for which application has been made or is about to be made to the local authority; or
- (b) to cancel the existing registration of an eating-house during the currency thereof.

(2) The local authority shall comply with and give effect to any direction given to it by the Commissioner under this section according to the tenour thereof.

(3) If the local authority fails or refuses to comply with any direction given by the Commissioner under this section, any registration granted or any existing registration not cancelled by reason of such failure or refusal on the part of the local authority as aforesaid shall as from a date to be fixed by the Commissioner and to be communicated to the proprietor of the eating-house concerned by notice in writing under the hand of the Commissioner be null and void.

(4) When in accordance with the provisions of subsection (3) of this section the registration of an eating-house has become null and void, any current license held by the proprietor of such eating-house shall also simultaneously become null and void.

158I. (1) Registration of an eating-house shall run with the eating-house registered notwithstanding any change of proprietor thereof during the currency of such registration.

Registration to run with premises. License personal to holder.

(2) Every license issued to a proprietor shall be personal to the proprietor to whom it is issued, and shall not in any manner or in any event be transferable or assignable to any other person during the currency thereof.

Provided always that the local authority may in its discretion on application in writing by the licensee and a proposed transferee on the prescribed form and on payment of the prescribed fee transfer at any time during its currency the license of any licensee to such transferee by endorsement upon the license. Thereupon, subject to this Act, every transferee shall, until the end of the yearly period for which the license was granted, possess all the rights of the original licensee, and shall be liable to the same duties, obligations and penalties as if such license had been originally granted to him.

Provided further, that if a licensee shall—

- (a) die;
- (b) become bankrupt or assign his estate for the benefit of his creditors;
- (c) be declared or become an insane person or insane patient under the Lunacy Act, 1903, or be declared an incapable person under that Act—

then the license shall terminate so far as regards the licensee and shall enure for the benefit of and shall vest in—

- (a) the widow, husband, next-of-kin or executor entitled to apply for Letters of Administration of the deceased's estate or probate of his Will;
- (b) the licensee's Trustee in Bankruptcy or his assignee;
- (c) his Committee or the Master or the person appointed by the Supreme Court to undertake

the control and management of his property, respectively, as the case may require.

Every successor may exercise the license for the unexpired balance of the then current yearly period thereof.

Certificates of registration and licenses to be in prescribed form.

158J. Every certificate of registration of an eating-house, and every license issued to a proprietor shall be in the form prescribed by the by-laws of the local authority which grants or issues the same.

Registration and license, how cancelled.

158K. The registration of an eating-house, or a license issued to a proprietor, may be cancelled by the local authority which granted or issued the same by notice in writing signed by the chairman of the local authority with the approval of the local authority, and served upon the owner of the eating-house or the holder of the license as the case may be.

Local authority may make requisitions regarding maintenance of eating-house.

158L. (1) If in the opinion of the local authority any building used as an eating-house which is registered under this Act or any premises appurtenant thereto or used in connection therewith are not being maintained or kept in accordance with the requirements of the by-laws of the local authority, the local authority may by notice in writing under the hand of the chairman of the local authority and served upon the owner or occupier of such eating-house, require such owner or occupier to make in or to such building or premises such repairs, amendments or improvements as may be specified in such notice within a time to be stated in the notice.

(2) If the owner or occupier who has received notice as aforesaid makes default in the due compliance with the requisition thereof he shall be guilty of an offence.

Penalty—Fifty pounds and in addition a daily penalty of two pounds for every day or part of a day during which the offence is continued after complaint of such offence has been made.

(3) If the owner or occupier who has received notice under subsection (1) of this section makes default in the due compliance with the requisitions of such notice the local authority may, and shall if the Commissioner so directs, cause the requisitions of the notice to be carried out at the expense of the owner or occupier aforesaid.

Any expenses incurred by the local authority in the exercise of the power conferred by this subsection may be recovered by summary proceedings from the owner or occupier who has made default as aforesaid.

(4) No provision of this section and no notice given or proceeding taken by the local authority under this section shall prejudice or affect the right or power of the local authority to cancel the registration of the eating-house in respect of which such notice has been given or such proceeding has been taken.

158M. (1) A local authority may of its own motion, and shall if the Commissioner so directs, make by-laws for the purposes of this division of this Part of this Act with respect to all or any of the following matters—

Local authority may make by-laws.

- (1) Regulating the registration of eating-houses under any of the following classifications:—
 - (i) Restaurants.
 - (ii) Dining Rooms.
 - (iii) Tea Rooms.
 - (iv) Refreshment Rooms.
- (2) Regulating the issue of licenses to proprietors and prescribing the terms and conditions upon which such licenses shall be issued and held.
- (3) Prescribing fees for registration of eating-houses, and for licenses issued to proprietors.

Provided that the fee for registration of an eating-house shall not exceed five pounds per annum, and the fee for the issue of a license to a proprietor shall not exceed one pound per annum.
- (4) Prescribing forms of application, certificate of registration, license to a proprietor, notices and any other forms.
- (5) Prescribing the construction, drainage, ventilation, lighting, maintenance and cleanliness of buildings or premises occupied or used as an eating-house.
- (6) Prescribing and enforcing the provision of proper and sufficient sanitary and ablutionary conveniences.

- (7) Requiring the production of plans and specifications in respect of buildings intended to be used for an eating-house when application for registration is made.
- (8) Requiring the provision of suitable stores or storage places for the keeping and storage of food for human consumption properly constructed, situated and ventilated and sufficient in capacity, and the making of proper provision for the cleansing of cooking, eating and drinking utensils.
- (9) Requiring that stores and storage places for the keeping and storage of food shall be so constructed and maintained as to exclude flies and rodents and other vermin therefrom.
- (10) Prescribing the precautions to be taken in the method of preparation, sale and exposure for sale of food, and the construction, cleanliness, lighting, ventilation and sanitation of premises in which those operations are conducted.
- (11) The destruction and disposal of unsound food.
- (12) The disposal of all waste food, garbage and refuse.
- (13) Inspections of eating-houses.
- (14) Prohibiting or regulating the keeping or storing of kerosene, petrol, fuel oil or other volatile liquids in or about eating-houses.
- (15) Generally carrying into effect the purposes of the provisions of this division of this Part of this Act.

(2) Such by-laws may impose a penalty not exceeding fifty pounds for a breach of any by-laws, and, where such breach is of a continuing nature, in addition a daily penalty not exceeding two pounds for every day or part of a day during which the breach is continued after complaint of such breach has been made.

8. Section one hundred and ninety-one of the principal Act is amended by deleting therefrom paragraph (9).

9. A division, to stand as Division 4, is added to Part VIII. of the principal Act after section two hundred and twenty-six as follows:—

New division added to Part VIII.

Division 4—Sale of Horseflesh.

226A. In this Division, unless the context otherwise requires—

Interpretation. Vic. No. 4711 (1939), s. 2.

“Horse” includes ass or mule.

“Horseflesh” includes any part of the carcass of a horse.

226B. (1) Subject to the provisions of the Abattoirs Act, 1909-1941, and of any regulations made and in force thereunder, any person who slaughters or causes or permits or suffers any other person to slaughter any horse at any abattoir or slaughter house at which any animals are slaughtered for human consumption shall be guilty of an offence.

Prohibition of slaughter of horses at abattoirs, etc., where meat for human consumption is killed. *ibid* s. 3.

(2) Any person who at any place slaughters or causes or permits or suffers any other person to slaughter any horse for human consumption shall be guilty of an offence.

Prohibition of slaughter of horses for human consumption.

226C. Any person who—

(a) Sells any horseflesh or any food substance or article containing any horseflesh; or

(b) Prepares any horseflesh or prepares or manufactures any food substance or article containing any horseflesh—

for human consumption shall be guilty of an offence.

Prohibition of sale, preparation, etc., of horseflesh for human consumption. *ibid* s. 4.

226D. (1) Any person who sells any horseflesh or any food substance or article containing horseflesh—

(a) at or from any shop, stall, vehicle or place at or from which any fresh uncooked meat (including sausages) is sold for human consumption;

or

(b) at or from any shop, stall, vehicle or place at or from which any food substance or article is sold for human consumption unless such horseflesh or food substance or article containing

Prohibition of sale of horseflesh at butchers' shops and except in sealed containers at food shops, etc., *ibid* s. 5.

horseflesh is contained in a sealed metal container bearing a label indicating that the contents of such container consist wholly or partly of horseflesh and are not for human consumption—

shall be guilty of an offence.

Prohibition of having horseflesh at butchers' shops or factories where food for human consumption is prepared, etc.

(2) The owner or occupier of—

- (a) Any shop, stall or other place at or from which any fresh uncooked meat (including sausages) is sold for human consumption; or
- (b) Any factory or other place at which any food substance or article is prepared or manufactured for human consumption—

who has at such shop, stall, factory or place or causes or permits or suffers to be or to remain at such shop, stall, factory or place any horseflesh or any food substance or article containing horseflesh shall be guilty of an offence.

Prohibition of having horseflesh at food shops except in sealed containers.

(3) The owner or occupier of any shop, stall or place at or from which any food substance or article is sold for human consumption who has at such shop, stall or place or causes or permits or suffers to be or to remain at such shop, stall or place any horseflesh or food substance or article containing horseflesh which is not contained in a sealed metal container labelled as aforesaid shall be guilty of an offence.

Prohibition of having horseflesh on butchers' vehicles.

(4) The owner or person in charge of any vehicle from or upon which any fresh uncooked meat (including sausages) is sold or carried for human consumption who has in or upon such vehicle or causes or permits or suffers to be or to remain in or upon such vehicle any horseflesh or any food substance or article containing horseflesh shall be guilty of an offence.

Prohibition of having horseflesh on certain vehicles except in sealed containers.

(5) The owner or person in charge of any vehicle from or upon which any food substance or article is sold or carried for human consumption who has in or upon such vehicle or causes or permits or suffers to be or to remain in or upon such vehicle any horseflesh or any food substance or article containing horseflesh which is not contained in a sealed metal container labelled as aforesaid shall be guilty of an offence.

226E. Any person who at or from any works for boiling down meat, blood, bones or offal sells for human consumption any part of the carcass of any animal shall be guilty of an offence.

Prohibition of sale of meat, etc., from boiling down works. *Ibid* s. 6.

226F. Any person convicted of any offence under this division shall for a first offence be liable to a penalty of not less than ten pounds and not more than fifty pounds, and for a second or any subsequent offence to a penalty of not less than twenty pounds and not more than one hundred pounds.

Penalties.

10. Section two hundred and seventy-one of the principal Act is amended by adding thereto a subsection as follows:—

Amendment of s. 271.

- (3) If a person fails to attend for treatment as required by this section or, if while continuing to attend for such treatment, a person is likely to transmit venereal disease to another person, then in relation to such person the Commissioner may forthwith exercise, with such adaptations thereof as may be necessary the powers conferred upon him by subsections (2) to (8) both inclusive of section two hundred and seventy-nine of this Act.

11. Section two hundred and seventy-six of the principal Act is amended by adding thereto a subsection as follows:—

Amendment of s. 276.

- (2) When any woman or girl to which subsection (1) of this section relates has been attending a medical practitioner for treatment, and such medical practitioner is satisfied that such woman or girl is no longer suffering from venereal disease in an infectious stage he shall furnish to the Commissioner a certificate of cure in the prescribed form.

12. Section two hundred and eighty-two of the principal Act is amended by adding thereto a subsection as follows:—

Amendment of s. 282.

- (2) Where a woman who is a prostitute, and while residing in a brothel or in premises reputed to

be a brothel has received notice under subsection (1) of section two hundred and seventy-nine of this Act, and after the receipt of such notice continues to reside in a brothel or in premises reputed to be a brothel, such woman shall by reason of such continued residence be deemed knowingly to be doing an act likely to lead to the infection of any other person with a venereal disease within the meaning and for the purposes of this section.

Amendment
of s. 296.

13. Section two hundred and ninety-six of the principal Act is amended as follows:—

- (a) By deleting from subsection (1) the words “Every local authority may from time to time and when the Commissioner so requires shall” in lines one and two, and inserting in lieu thereof the words “The Governor on the recommendation of the Commissioner may.”
- (b) By deleting from subsection (1) the word “by-laws” in line three of the subsection and inserting in lieu thereof the word “regulations.”
- (c) By deleting from paragraph (c) of subsection (1) the words “or local authority” at the end of the said paragraph.
- (d) By deleting subsection (2).
- (e) By deleting from subsection (3) the word “by-laws” in line one of the subsection and inserting in lieu thereof the word “regulations.”
- (f) by deleting from subsection (4) the words “local authority” and inserting in lieu thereof the word “Commissioner.”

Amendment
of s. 355.

14. Section three hundred and fifty-five of the principal Act is amended by inserting therein after paragraph (3) a new paragraph as follows:—

- (3a) The production of a certificate purporting to be signed by a medical practitioner and to certify for the purposes of Part X. of this Act that the person named therein is suffering

from a venereal disease in an infectious stage, or has ceased treatment for a venereal disease, or has not attended for treatment as required by this Act shall be sufficient *prima facie* evidence of the facts stated therein.

15. The principal Act as amended by this Act may be cited as the Health Act, 1911-1944.

Citation of
principal Act
as amended.
