

THE HEALTH ACT, 1911.

(No. 34 of 1911.)

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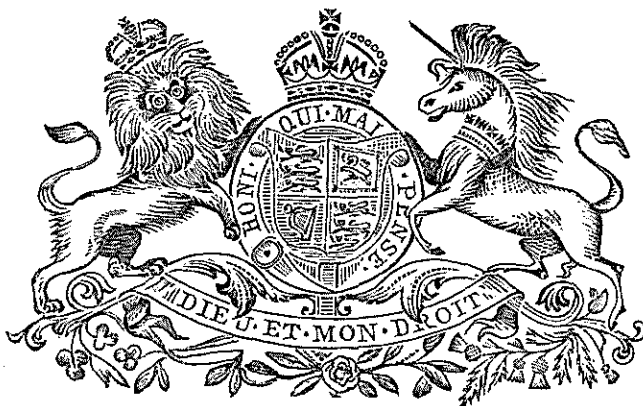
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WESTERN AUSTRALIA.



ANNO PRIMO

GEORGII QUINTI REGIS,

XLV.

No. 34 of 1911.

AN ACT to consolidate and amend the Law relating to Public Health.

[Assented to 16th February, 1911.]

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:—

PART I.—PRELIMINARY.

1. (1.) This Act may be cited as the *Health Act*, 1911, and shall come into operation on a day to be fixed by Proclamation,* not being later than six months from the passing of this Act.

Short title and
commencement.

(2.) The Governor may at any time after the passing of this Act make any such appointment of officers, to take effect upon the coming into operation of this Act, as he might have made if this Act had come into operation at the passing thereof.

2. This Act is divided into parts, as follows:—

Division of Act.

PART I.—PRELIMINARY, ss. 1–6.

PART II.—ADMINISTRATION, ss. 7–38.

Division 1.—The Minister, Commissioner, and Officers of Public Health, ss. 7–17.

Division 2.—Local Authorities, ss. 18–37.

Division 3.—The Exercise of Ministerial Control, s. 38.

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* Proclaimed to commence 1st June, 1911; see *Government Gazette*, 3rd March, 1911.

PART III.—FINANCIAL, ss. 39–51.

PART IV.—SANITARY PROVISIONS—ss. 52–115.

*Division 1.—Sewers and drains, ss. 52–75.**Division 2.—Disposal of sewage, ss. 76–79.**Division 3.—Sewage works beyond the district, s. 80.**Division 4.—Sanitary conveniences, ss. 81–92.**Division 5.—Scavenging, cleansing, etc., ss. 93–104.**Division 6.—Yards, ways, passages, etc., ss. 105–109.**Division 7.—Pollution of water, ss. 110–113.**Division 8.—Morgues, s. 114.**Division 9.—By-laws, s. 115.*

PART V.—DWELLINGS—ss. 116–136.

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PART VI.—PUBLIC BUILDINGS, ss. 137–144.

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ss. 145–161.*Division 1.—Nuisances, ss. 145–149.**Division 2.—Offensive trades, ss. 150–160.**Division 3.—By-laws, s. 161.*

PART VIII.—FOOD—ss. 162–201.

*Division 1.—Inspection, ss. 162–168.**Division 2.—Milk and dairy produce, ss. 169–176.**Division 3.—Sale of food and drugs, ss. 177–201.*

PART IX.—INFECTIOUS DISEASES—ss. 202–242.

*Division 1.—General provisions, ss. 202–228.**Division 2.—Notification of disease, ss. 229–242.*

PART X.—HOSPITALS, ss. 243–251.

*Division 1.—Public Hospitals, ss. 243–250.**Division 2.—Private Hospitals, s. 251.*

PART XI.—PROTECTION OF LIFE—ss. 252–264.

PART XII.—REGULATIONS AND BY-LAWS—ss. 265–272.

PART XIII.—MISCELLANEOUS PROVISIONS—ss. 273–300.

3. In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively:—

Interpretation.
See 1898, No. 24.
s. 3.

- “Analyst” means and includes the Government analyst and any person appointed or registered as an analyst for the purposes of this Act.
- “Boarding-house” means and includes any house, tent, or edifice, building or other structure, permanent or otherwise, and any part of such premises (not being premises licensed under a Publican’s General, Wayside House, or Hotel License) in which more than six persons, exclusive of the family of the keeper thereof, are lodged or boarded for hire or reward from week to week, or for more than a week.
- “By-law” means a by-law made under this Act.
- “Cellar” or “underground room” includes any room, being part of a house, if the floor of such room is more than a depth of three feet 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 appliance for bacteriolytic treatment of sewage, or other approved receptacle.
- “Commissioner” means the Commissioner of Public Health.
- “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.
- “District” means a municipal district, road district, or other district in which a local authority has jurisdiction, including any place under the control of the local authority outside the boundaries of the district.
- “Drain” means any drain used 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 two 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 tobacco and perfumes.

- “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 any substance, whether solid or liquid, or partly solid and partly liquid, used or intended to be used for food or drink by man, other than drugs or water, and includes any article intended to enter into or be used in the preparation or composition of such food, and confectionery, flavouring, and colouring matters and condiments.
- “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 His 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.
- “Infectious disease” means and includes leprosy, beri-beri, bubonic or Oriental plague, smallpox, cholera, yellow fever, cerebro-spinal meningitis, Malta fever, pulmonary tuberculosis, erysipelas, scarlatina, or scarlet fever, diphtheria, membranous croup, septicæmia, pyæmia, purulent ophthalmia, or the fevers known by any of the following names—typhus, typhoid, malarial, dengue, low, continued, colonial, relapsing, or puerperal, and also any other disease which the Governor, from time to time by notification in the *Government Gazette*, brings under the provisions 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 beforementioned diseases is found to be present in any person.
- “Inspector” means an inspector appointed under this Act and includes any acting or assistant inspector.
- “Land” includes houses, buildings, and structures thereon, and rivers, streams, wells, and waters, and easements of every description.
- “Local authority” means a municipality and the council thereof or the road board of a road district to which this Act applies, or a local board of health appointed under section *twenty* of this Act, and “the local authority” means the local authority for the particular district.

- “Local fund ” means the fund of a local authority to which its ordinary expenditure under this Act or its local governing Act is chargeable.
- “Local governing Act ” includes the Municipal Corporations Act, 1906, the Roads Act, 1902, and any Acts amending the same respectively.
- “Lodging-house ” means and includes any house, tent, or edifice, building or other structure, permanent or otherwise, and any part of such premises (not being premises licensed under a publican’s general, wayside house, or hotel license) in which more than three persons are harboured or lodged for hire for a single night, or for less than a week at one time.
- “Magistrate ” means a police magistrate, or resident magistrate.
- “Marine Store ” means any premises or place for the sale of Marine Stores within the meaning of the “ Marine Stores Act, 1902.”
- “Meat ” 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 authority.
- “Medical practitioner ” means a legally qualified medical practitioner duly registered under the Medical Act, 1894.
- “Midwife ” or “midwifery nurse ” means a female practitioner of obstetrics registered under this Act.
- “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 district ” means a district under the local government of a municipality constituted or deemed to be constituted under the Municipal Corporations Act, 1906.
- “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.
- “Piggery” means any building, enclosure, or yard in which one or more pigs are kept, bred, reared, or fattened for purposes of trade.
- “Premises” includes messuages, buildings, lands, and hereditaments.
- “Prescribed” means prescribed by this Act or by any regulation or by-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 an inspector or medical or other officer appointed under section eleven of this Act.
- “Public house” includes any house in respect of which a publican’s general license, an hotel license, an Australian wine and beer license, or wayside house license is held under any Act regulating the sale of intoxicating liquor.
- “Public place” 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” means a regulation made under this Act.
- “Road district” means a district under the local government of a road board constituted under the Roads Act, 1902.
- “Sanitary convenience” includes urinals, water-closets, earth-closets, privies, ash-pits, ash-tubs, or other receptacles for the deposit of ashes, fæcal 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.
- “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 authority.
- “Street” includes any highway, and any public bridge, and any road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not.
- “This Act” includes the regulations and by-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.
- “Vessel” includes a ship.
- “Writing” includes printing, and other modes of repeating and reproducing words in visible form.

4. The Acts specified in the First Schedule are hereby repealed to the extent therein stated:

Provided that, notwithstanding such repeal,—

- (1.) All things lawfully done or contracted to be done, and all regulations, by-laws, and orders lawfully made by the Central Board of Health or by any local board of health or district board of health thereunder shall, subject to the provisions hereinafter contained, be, and

Repeal.
Schedule I.
See 1898, No. 28,
s. 2.

continue to be, of full force and effect, as if the same had been done, or contracted to be done, or had been made by or on behalf of the Commissioner or the local authority, as the case may be, under the provisions of this Act.

- (2.) All penalties and forfeitures imposed under any such Act, or any regulation or by-law made thereunder, and incurred at the commencement of this Act, shall and may be enforced by the Commissioner and the local authority respectively under this Act.
- (3.) All rights, liabilities, contracts, and engagements of the Central Board of Health existing at the commencement of this Act shall, subject to the provisions hereinafter contained, be vested in, and shall attach to, and may be enforced by or against the Crown.
- (4.) All rights, liabilities, contracts, and engagements of every local board of health existing at the commencement of this Act shall, subject to the provisions hereinafter contained, be vested in, and shall attach to, and may be enforced by and against the local authority.
- (5.) All rights, liabilities, contracts, and engagements of every district board of health constituted under the Health Act Amendment Act, 1900, and dissolved by the operation of this Act, shall, subject to the provisions hereinafter contained, be vested in, and attach to, and may be enforced by or against the several local authorities of the districts which, immediately before the commencement of this Act, constituted the combined district.
- (6.) All actions and proceedings pending at the commencement of this Act by or against the Central Board of Health or a local board or district board may be continued under this Act, and no such action or proceeding shall abate or be discontinued or prejudicially affected by anything in this Act contained.
- (7.) All books and documents made evidence under such Act shall continue evidence to the same extent as if this Act had not been passed.
- (8.) Every license issued before the commencement of this Act, under the provisions of any Act hereby repealed, shall continue in force for the period specified in such license unless sooner suspended or cancelled under the provisions of this Act.

When in any enactment reference is made to a provision of any Act hereby repealed, it shall be taken, unless the context otherwise indicates, that such reference is made to the corresponding provision of this Act, and such enactment shall be construed accordingly; and when in any enactment or document

any reference is made to the Central Board of Health, such enactment or document shall, so far as regards its operation after the coming into force of this Act, be construed as referring to the Commissioner.

5. (1.) All powers given to a local authority under the provisions of this Act shall be deemed to be in addition to and not in derogation of any other powers conferred upon any municipal council or road board constituting such local authority by any other Act, and such other powers may be exercised in the same manner as if this Act had not been passed.

Savings.

See Q., 1900, No. 9
s. 9.

(2.) Nothing in this Act shall render lawful any act, matter, or thing whatsoever which but for this Act would be deemed to be a nuisance, nor exempt any person from any action, liability, prosecution, or punishment to which such person would have been otherwise subject in respect thereof.

(3.) The Commissioner or any local authority (with the approval of the Minister) may, if in his or its opinion summary proceedings would afford an inadequate remedy, cause any proceedings to be taken against any person in the Supreme Court to enforce the abatement or prohibition of any nuisance, or for the remedying of any sanitary defects, or for the recovery of any penalties from, or for the punishment of, any person offending against the provisions of this Act.

(4.) And, generally, the provisions of this Act relating to nuisances shall be deemed to be in addition to, and not to abridge or affect, any right, remedy, or proceeding under any other provisions of this Act, or any other Act, or at common law.

(5.) Nothing in this Act contained with respect to the sale of food and drugs shall affect the power of proceeding by indictment, or take away any other remedy against any offender under the provisions of this Act, or in any way interfere with contracts and bargains between individuals, and the rights and remedies belonging thereto.

(6.) Provided that in any action brought by any person for a breach of contract on the sale of any food or drug, such person may recover, alone or in addition to any other damages recoverable by him, the amount of any penalty adjudged to be paid by him under the provisions of this Act, or any regulation or by-law, together with the costs paid by him upon such conviction and those incurred by him in and about his defence thereto, if he proves that the food or drug the subject of such conviction was sold to him as and for a food or drug of the same nature, substance, and quality as that which was demanded of him, and that he purchased it not knowing it to be otherwise, and afterwards sold it, not knowing it to be otherwise, and in the same state in which he purchased it; but the defendant in such action shall nevertheless be at liberty to prove that the conviction was wrongful, or that the amount of costs awarded or claimed was not incurred or was unreasonable.

(7.) But no person shall be punished for the same offence both under the provisions of this Act or any regulation or by-law, and under any other law or enactment.

Power to suspend operation of Act. Q., 1902, No. 9, s. 4 (3).

Metropolitan Water Supply, Sewerage, and Drainage Act, 1909, not affected.

6. (1.) The Governor may, by proclamation, suspend the operation of any of the provisions of this Act in any district or a part thereof for any period.

(2.) Nothing in this Act shall affect the provisions of the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909.

PART II.—ADMINISTRATION.

Division 1.—The Minister, Commissioner, and Officers of Public Health.

Minister.

7. The general administration of this Act shall be under the control of a Minister of the Crown.

Appointment of Minister.

8. (1.) The Minister aforesaid shall be styled the Minister of Public Health.

(2.) The Colonial Secretary for the time being shall be Minister of Public Health except during such time as the office is held by some other member of the Executive Council whom the Governor has (in exercise of the power so to do which is hereby vested in him) appointed to the office.

Appointment of Commissioner.

9. (1.) The Governor shall, from time to time appoint, for the due administration of this Act, subject to the control of the Minister, a duly qualified medical practitioner to be a Commissioner of Public Health. Such Commissioner shall hold office during the Governor's pleasure, and shall not engage in private practice.

(2.) The Commissioner shall, on or before first day of July of each year, furnish to the Minister, for presentation to Parliament, a report on the public health of the State and the work of his Department.

Deputy Commissioner.

10. (1.) The Governor may from time to time appoint a person to act, for such time as the Governor thinks fit, as the deputy of the Commissioner during the absence or illness of that officer, or for other sufficient cause.

(2.) Such deputy shall, while so acting, have all the powers and authorities, and shall perform the duties of the Commissioner.

Appointment of officers. See 1898, No. 24, s. 5.

11. The Governor may from time to time appoint and remove such medical officers of health, inspectors, and other officers as he may consider necessary for the efficient administration of this Act; and one of such officers shall be clerk to the Commissioner.

12. The Commissioner, and any medical officer or inspector acting with his authority, shall have all the powers of a medical officer of health or inspector of a local authority, and may exercise such powers in any part of the State.

Powers of Commissioner and officers.

13. The Commissioner may, from time to time, hold or order to be held such inquiries or investigations as he may deem necessary in relation to any matter concerning public health in any place, or in relation to the administration of this Act, and may appoint such Public Health Official or any other person to conduct such inquiries or investigations as he may deem fit.

Inquiries.

See 1898, No. 24, s. 8.

Q., 1900, No. 9, s. 10.

14. When an inquiry is directed by the Commissioner to be made, the person authorised to make the same shall have free access to all books, plans, maps, documents, and other things belonging to any local authority or any contractor, and shall have in relation to witnesses and their examination, and the production of documents, similar powers to those conferred upon justices by the Justices Act, 1902, and may enter and inspect any building, premises, or place, the entry or inspection whereof appears to him requisite for the purpose of such inquiry.

Powers of persons directed to make inquiries.

See 1898, No. 24, s. 9.

Q., 1900, No. 9, s. 12.

15. (1.) In any emergency or necessity, of the existence of which emergency or necessity the Commissioner shall be sole and final judge, the Commissioner may—

Power of Commissioner to act in emergencies.

See 1898, No. 24, s. 10.

(a.) Exercise and perform in any part of the State any or all of the powers and duties vested in or imposed upon a local authority under this Act or any other Act relating to the public health;

(b.) Make any regulations for the abatement and prevention of nuisances for the protection from pollution of water used for domestic purposes, and for securing the healthfulness of persons collected in any encampment or otherwise.

(c.) Make such other regulations as he may deem necessary to cope with the emergency or necessity.

(2.) Where, in carrying out the provisions of this section, any medical certificate may be necessary for any of the purposes of this Act or any other Act relating to the public health, such certificate may, if there is no medical officer, be signed by any legally qualified medical practitioner, and shall for all such purposes be as effectual as if signed by a medical officer.

16. The Commissioner and all persons authorised by him may exercise and perform all or any of the powers and duties of a local authority in any place which does not lie within the boundaries of a district, including the powers conferred by Part III. of this Act.

Commissioner may act where no local authority.

See 1898, No. 24, s. 10.

Expenditure to be paid out of votes.
See 1898, No. 24, s. 7.

17. All expenses incurred by the Commissioner or incurred with the sanction of the Governor by any local authority, may be defrayed out of the moneys that may from time to time be appropriated by Parliament for the purpose.

Division 2.—Local Authorities.

Municipalities.

See 1906, No. 26, s. 2.

18. Every municipal district shall be a health district within the meaning of this Act, and the municipal council shall be the local authority for such district.

Districts constituted by Governor.
See 1898, No. 24, s. 15.

19. (1.) The Governor may, by Order in Council,—

(a.) constitute any portion of the State, not being a municipal district, a health district with such boundaries and by such name as may be specified in the order;

(b.) alter the boundaries of any such district;

(c.) abolish any such district.

(2.) If the boundaries of such district are conterminous with a road district, the road board shall be the local authority.

(3.) If the boundaries of such district are not conterminous with a road district, the local authority shall be—

(a.) the road board of the road district within the boundaries whereof the health district is situated; or

(b.) a local board of health constituted as hereinafter provided,

Local Boards.

See 1898, No. 24, s. 15.

as the Governor may from time to time direct.

20. (1.) A local board of health shall consist of not more than seven members to be appointed, from time to time, by the Governor.

(2.) The members of a local board shall be appointed for three years, and shall be eligible for re-appointment; but the Governor may from time to time remove all or any of the members, and on the removal, death, or resignation of any member, may from time to time appoint another person to fill the vacancy, and the term of office of the member so appointed shall be for his predecessor's unexpired term of office.

(3.) A majority of the members of a local board shall constitute a quorum.

(4.) The members of the local board so appointed shall appoint one of their number to be chairman.

(5.) In the event of the absence of the chairman from any meeting of such local board, the members present shall elect one of their number to be chairman of such meeting; and at all meetings of the local board all questions shall be decided by a majority of the members present, and the chairman shall have a vote, and in case of an equality of votes shall have a casting vote.

(6.) The local board may make, alter, and rescind rules for regulating their own proceedings.

(7.) Any member who is absent from the meetings of a local board for three consecutive months, unless with the consent, by resolution, of such local board, shall be deemed to have vacated his office by resignation.

(8.) During any vacancy in the local board the continuing members may act as if no vacancy had occurred.

(9.) The members of every local board of health constituted under section fifteen of the Health Act, 1898, in office at the commencement of this Act, shall be deemed to have retired immediately before the commencement of this Act, but shall be eligible for appointment under this Act.

(10.) Every local board shall be a body corporate under such name as the Governor may determine, with perpetual succession and a common seal, and may hold land.

21. (1.) The Governor may place any area of land outside a municipal district, and whether actually adjoining or not, under the jurisdiction of the council of such municipal district, for the purposes of this Act, and such area shall for all the purposes of this Act be deemed to be within the municipal district.

Annexation.
1898, No. 24, s. 14.

(2.) The Governor may, to secure proportionate representation in the council in respect of the annexed area, appoint members to represent the ratepayers of such annexed area, who shall sit with, and have all the powers of councillors, and every such appointment shall be made upon the nomination of the ratepayers in manner prescribed by regulations to be made by the Governor under this Act.

22. In the event of any district, for which a local board is appointed under the provisions of section twenty of this Act, being constituted or included in a municipality, the members of the local board shall, if and when the municipal council is properly constituted, cease to hold office, and all property, assets, and liabilities of the local board shall vest in and attach to the municipality, or, if directed by the Commissioner, shall be adjusted and distributed as to the Commissioner may seem fit.

Application of funds
when municipality
constituted.
1898, No. 24,
s. 16.

23. In the event—

(a.) of a road district being constituted a health district under the provisions of section nineteen, and such road district including a district for which a local board shall have been appointed under the provisions of section twenty, or

(b.) of a road board being appointed the local authority for any district in place of a local board,

Application of funds
where local boards
superseded by road
board.

the members of such local board shall cease to hold office, and all the property, assets, and liabilities of the local board shall vest in and attach to the road board or, if so directed by the Minister, shall be adjusted and distributed as to the Minister may seem fit.

District may include water.
N.S.W., 1902, No. 30, s. 5.

24. Any river, harbour, or other water shall be deemed, for the purposes of this Act, to be within such district as may be fixed by the Governor:

Provided that the Governor may revoke or vary any order made under this section.

Powers of local authorities.
N.S.W., 1902, No. 30, s. 17 (3).

25. Every local authority is hereby authorised and directed to carry out within its district the provisions of this Act and the regulations, by-laws, and orders made thereunder.

Officers of local authority.
See Q., 1900, No. 9, s. 29, s.s. (1).

26. (1.) Every local authority may, and when required by the Commissioner shall, appoint a medical practitioner as medical officer of health, and also such inspectors and analysts as may be deemed necessary by the Commissioner.

(2.) Such medical officer of health, inspectors, and analysts shall perform such duties as the local authority from time to time directs, and also such as are specially prescribed by any order addressed by the Commissioner to the local authority.

(3.) The medical officer of health shall also be a medical officer of schools and school children, and shall perform such duties and submit such reports in connection therewith as may be prescribed by the Commissioner.

(4.) Every medical officer of health shall be paid by the local authority as remuneration for his services a salary of not less than fifteen pounds per annum.

(5.) Every local authority may appoint such other officers as it deems necessary.

(6.) All officers of local authorities in office at the commencement of this Act shall be deemed to have been appointed under this Act.

Appointments to be approved.

27. (1.) Every appointment by a local authority of a medical officer of health, inspector, or analyst shall be subject to the approval of the Commissioner, who may require satisfactory proof of competency to be supplied, and may give his approval absolutely or with any modification or condition as to the period of appointment or otherwise.

(2.) No officer entrusted with moneys under this Act shall be appointed by a local authority until he shall have given security for the faithful discharge of his duties, nor shall any such officer be continued in his office except whilst such security is subsisting and in force.

Commissioner may appoint if local authority neglects to do so.
See Q., 1900, No. 9, s. 29, s.s. (5).

28. If the local authority does not appoint a medical officer of health, inspector, or analyst, the Commissioner may, with the approval of the Governor, appoint such officer and fix his remuneration; and the amount so fixed shall be a charge upon the local fund, and shall be paid to the officer by the local authority, and in default of payment may be recovered by him in any court of competent jurisdiction.

29. (1.) The local authorities of two or more districts may, and when required by the Commissioner shall, join in the appointment of a medical officer of health, inspector, or analyst, and in remunerating them.

Local authorities may join in appointing officers.

See Q., 1900, No. 9, s. 29, s.s. (3).

(2.) If the local authorities of two or more districts do not, when required by the Commissioner, join in appointing a medical officer of health, inspector, or analyst, the Commissioner may, with the approval of the Governor, appoint such officer and fix his remuneration and the proportional part of such remuneration to be paid by each local authority.

(3.) The remuneration so fixed shall be a charge on the local fund of each local authority, and in default of payment may be recovered by such officer from any of the local authorities concerned in any court of competent jurisdiction, subject to the right of contribution between the local authorities concerned.

30. All inspectors shall, within twelve months after the commencement of this Act, obtain such qualifying certificate of competency as may be approved by the Commissioner, and after the expiration of such period of twelve months no person shall be appointed or continue to be an inspector unless he holds an approved certificate of competency: Provided that the Commissioner may exempt from the operation of this section the office of inspector in any district or districts.

Qualification of inspectors.

31. (1.) The Commissioner may, by order, remove any medical officer of health, inspector, or analyst of a local authority appointed for the purposes of this Act.

Removal of officers.
See Q., 1900, No. 9, s. 30.

(2.) No person so removed shall be eligible for re-appointment without the previous approval of the Commissioner.

(3.) When a person is removed under the provisions of this section, the Commissioner may, by order, require the local authority to fill up the vacancy as hereinbefore provided; and if the local authority makes default in so doing, the Commissioner, with the approval of the Governor, may appoint a successor to the person so removed.

(4.) No medical officer of health, inspector, or analyst of a local authority shall have his remuneration reduced or be removed by the local authority without the previous approval of the Commissioner.

32. Every medical officer of health—

- (1.) may give to any inspector such directions and instructions as he may deem necessary, from time to time, for the due execution of this Act, and such inspectors shall obey and carry out directions or instructions so given; and
- (2.) shall have and may exercise, in addition to the powers conferred on him by or under this Act, all the powers of an inspector.

Medical officer may direct and exercise powers of inspector.
See 1898, No. 24, s.s. 21, 22.

Reports by medical
officer of health.
See N.S.W., 1902,
No. 30, s. 20.

33. (1.) Every medical officer of health shall, within one month after the expiration of every calendar year, and whenever required by the local authority, and may at such other times as he thinks proper, report to the local authority on the sanitary condition of the district, or any part thereof, with special reference to the provisions of and regulations made under this Act, and the by-laws of the local authority.

(2.) The local authority shall, at such times as may be prescribed, forward to the Commissioner copies of all such reports.

Proceedings on
default of local
authority.
See 1898, No. 45
ss. 12 and 197.

34. (1.) Where in the opinion of the Commissioner any local authority has made default in enforcing or carrying out or complying with any provisions of or in the exercise of any power conferred by this Act, or any by-law or regulation thereunder, or of any order of the Commissioner, which it is the duty of such local authority to enforce, carry out, comply with, or exercise, the Commissioner may make an order limiting a time for the performance of the duty of the local authority.

(2.) If such duty is not performed within the time limited in such order, the performance of such duty may be enforced by writ of *mandamus*, or the Commissioner may appoint some person to perform such duty, and shall order that the expenses of performing the same, together with a reasonable remuneration to the person appointed for superintending such performance, and amounting to a sum specified in the order, together with the costs of the proceedings, be paid out of the funds by the local authority in default; and any order made for the payment of such expenses and costs may be removed into the Supreme Court, and be enforced in the same manner as if the same were an order of such Court.

(3.) Any person appointed under this section to perform the duty of a defaulting local authority shall, in the performance, and for the purposes of such duty, be invested with all the powers of such local authority, and may enter into contracts on its behalf, and the Commissioner may, from time to time, remove any person so appointed, and appoint another in his place.

Appeal from orders
and decisions of
local authorities.
See N.S.W., 1902,
No. 30, s. 27.

35. (1.) Any person aggrieved by any order or decision of a local authority in any case in which the local authority is empowered to recover any expenses incurred by it may, within twenty-one days after notice of such order or decision, appeal against such order or decision to a magistrate sitting as a court of petty sessions within the district.

(2.) Every such appellant shall state in writing to the magistrate the grounds of his complaint, and shall deliver a copy thereof to the local authority, and upon such delivery any proceedings that have been commenced for the recovery of such expenses by the local authority shall be stayed.

(3.) The magistrate may make such order in the matter as he may think just, and the order so made shall be binding and conclusive on all parties.

36. (1.) Any person aggrieved by an order or decision of a local authority from which an appeal does not lie under the last preceding section may, within fourteen days after notice of such order or decision, appeal against the same to the Commissioner. Appeal to Commissioner.

(2.) Every such appeal shall be brought and conducted in accordance with regulations made by the Governor.

(3.) Notice of such appeal shall be served on the secretary to the local authority within the said period of fourteen days, but such notice shall not operate as a stay of proceedings on the order or decision unless the Commissioner so directs.

(4.) The Commissioner may uphold, revoke, vary, or alter the order or decision of the local authority, and subject to the provisions of section thirty-eight, the order of the Commissioner shall be binding and conclusive on all parties.

37. Every local authority shall, in the prescribed form, during the month of February in every year, and at such other times as the Commissioner may direct, report to the Commissioner concerning the sanitary condition of its district, and all works executed and proceedings taken by the local authority. Local authorities to report annually. See Q., 1900, No. 9, s. 16.

Division 3.—The Exercise of Ministerial Control.

38. (1.) All the powers, rights, and authorities vested in the Commissioner or any local authority shall, whenever he deems fit, be exercisable by the Minister, and when so exercised shall, if so ordered by the Minister, supersede any act, direction, notice, or order of the Commissioner or local authority; and every officer, and servant of the local authority (whether a member thereof or not) and the Commissioner and every other public officer and servant assisting in the administration of this Act shall at all times obey any order or direction of the Minister; and such officers and servants, for the purpose of carrying out such orders and directions, shall have all the powers of the Commissioner or local authority, whether conferred by Act, regulation, by-law, or otherwise. Powers of the Minister. See 1898, No. 24, s. 25.

(2.) All orders, directions, authorities, consents, and receipts made or given, or purporting to be made or given, by such officer or servant in any way relating to the purpose in respect of which he was authorised by the Minister to act shall, by all courts, officers, and persons be deemed and taken to have the same force and effect as if such orders, directions, authorities, consents, or receipts (as the case may be) had been given by the Commissioner or local authority.

(3.) The Minister may make orders as to the costs of inquiries or proceedings under this Act, and as to the parties by whom, or the fund out of which, such costs shall be borne.

(4.) When any such order has been made, a verified copy thereof may be filed in the office of the Master of the Supreme Court,

and may thereupon be enforced in the same manner as if it were an order of that Court.

PART III.—FINANCIAL.

Power to levy
general health rate.
See 1898, No. 24,
s. 26.

39. (1.) Every local authority shall, under its local governing Act, make a levy on all rateable land in the district, and cause to be collected, in addition to the rates which it may be otherwise authorised to make and levy, such annual health rate as may be required for the purposes of this Act.

(2.) Such annual rate shall not exceed—

(a) in districts from time to time declared by the Governor by notice in the *Government Gazette* to be within this paragraph of this subsection—

(i.) ninepence in the pound on the annual assessment; or

(ii.) when the system of valuation on the basis of the unimproved value is adopted, one penny farthing in the pound on the capital unimproved value of the land in fee simple; and

(b) in other districts—

(i.) sixpence in the pound on the annual assessment; or

(ii.) when the system of valuation on the basis of unimproved value is adopted, three farthings in the pound on the capital unimproved value of the land in fee simple.

(3.) A minimum rate of two shillings and sixpence may be levied under this section on any rateable land, or on each of the several lots in which any rateable land may be subdivided, the annual rate in respect of which, on the annual rateable value or the capital unimproved land value, as the case may be, would not amount to two shillings and sixpence.

Sanitary rate.
See 1898, No. 24,
s. 178.

40. Every local authority may from time to time, as occasion may require, make and levy as aforesaid and cause to be collected an annual rate for the purpose of providing for the proper performance of all or any of the services mentioned in section ninety-three.

Such annual rate shall not exceed—

(a.) sixpence in the pound on the annual assessment; or

(b.) where the system of valuation on the basis of the unimproved value is adopted, three farthings in the pound on the capital unimproved value of the land in fee simple.

Provided that the local authority may direct that the minimum annual amount payable in respect of any one separate tenement shall not be less than ten shillings.

Supplementary
rates.

41. Every local authority may, and when required so to do by the Governor shall make and levy as aforesaid, within the authorisation of the preceding sections of this Part of this Act, and

cause to be collected, supplementary rates to meet any extraordinary or unanticipated expenditure.

42. (1.) Every local board constituted under section twenty shall make, levy, and cause to be collected such annual health rate, sanitary rate, and supplementary rates as may be required within its district for the purposes of this Act, but not exceeding the rates which a local authority is authorised to levy under the provisions of this Part of this Act.

Power of local board to levy rates.

(2.) For the purposes of such rate, all the provisions of Parts VI. and VIII. of the Roads Act, 1902, shall apply, and may be enforced by the local board as if such provisions were incorporated with this Act.

43. Every local authority may, with the approval of the Governor, from time to time, under the borrowing powers conferred by its local governing Act, raise a special loan for any of the purposes of this Act.

Borrowing powers.

44. For the purpose of providing the interest and sinking fund of any such loan, the local authority shall, under the provisions of its local governing Act, make and levy a special annual rate.

Special loan rate.

45. (1.) With respect to every health rate, sanitary rate, supplementary rate, and special loan rate made and levied under this Act by a local authority, all the provisions of its local governing Act relating to the making, payment, and recovery of general rates shall apply, and shall be deemed to be incorporated with this Act:

Application of rating provisions of local governing Acts.

Provided that the local authority, in the exercise of its powers conferred by this Part of this Act, may make and levy rates of different amounts in respect of portions of its districts defined for that purpose by proclamation.

(2.) A local authority may utilise the same valuation, rate-book, notice of assessment or valuation, or distress warrant for rates made under this Act and rates made under its local governing Act.

46. The health rate shall be deemed part of the ordinary income or general rates of the local authority in determining the amount which at any time the local authority may lawfully borrow for the purposes of this Act.

Health rate to be regarded in determining borrowing powers.

47. In case any local authority fails to make or give notice of any rate within the time limited in that behalf, the Governor may, by notice published in the "Government Gazette," appoint a further time within which such local authority may make and give notice of such rate.

Time for giving notice of rate may be extended.
1900, No. 25, s. 7.

48. (1.) The accounts of every local authority constituted under the provisions of section eighteen of this Act shall be kept and audited in the manner prescribed by Part XXV. of the

Accounts and audit.
1898, No. 24, s. 30.

Municipal Corporations Act, 1906, and the accounts of every local authority constituted under the provisions of sections nineteen and twenty of this Act shall be kept and audited in the manner prescribed by Part VIII. of the Roads Act, 1902, and such provisions respectively shall be deemed to be incorporated with this Act.

(2.) Every local authority shall, within one month from the close of its financial year, forward to the Commissioner a full statement of its accounts in the prescribed form, and shall furnish from time to time such information in regard to the state of the accounts and of its liabilities and of its assets as may be required by the Commissioner.

Recovery of rates
levied under re-
pealed Acts.

49. All rates and charges lawfully made and levied by any local board of health or district board of health before the commencement of this Act, under any Act repealed by this Act, shall be payable and paid to, and may be recovered by, the local authority constituted under this Act, for the district within which the land in respect of which such rates were made and levied is situated.

Validation of
certain rates.

50. All health rates and sanitary rates heretofore made and levied by any local authority under the procedure prescribed by the Roads Act, 1902, for making and levying rates under that Act, shall be deemed to have been lawfully made and levied.

Financial adjust-
ment.

51. (1.) On the dissolution, by the operation of this Act, of any district board of health constituted under the provisions of the Health Act Amendment Act, 1900, or on the constitution of any new district, or the alteration of the boundaries of a district, the several local authorities affected may, by agreement, make such adjustment of property, liabilities, contracts, and engagements between the several districts as such local authorities shall think fit; but in default of any such agreement being come to, the Minister may, at such time as he may think fit, make the adjustments and finally determine all rights, liabilities, and questions arising therefrom.

(2.) Upon the abolition of any district, or the alteration of the boundaries of any district, all rates which have accrued due in respect of any land situated within the district or the portion of any district affected, and remain unpaid at the date of the abolition of the district or alteration of boundaries, shall remain due and payable and shall vest in and may be recovered by such local authority as the Minister may determine, and shall be applied and disposed of as the Minister may direct.

PART IV.—SANITARY PROVISIONS.

Division 1.—Sewers and Drains.

Sewers vested in
local authority.
Q. 1900, No. 9,
s. 35.

52. (1.) All public sewers in a district made or to be made at the cost of or acquired or to be acquired by the local authority, with all the works and materials thereunto belonging, and the management of the same, shall vest in and belong to the local authority.

(2.) The Governor may place under the control of the local authority any public sewer in the district not made at the cost of the local authority.

53. The local authority may from time to time—

- (a.) Cause to be made such sewers as are necessary for effectually draining the district, or any part thereof; Maintenance and making of sewers. Q. 1900, No. 9, s. 36.
- (b.) Carry any such sewer through, across, or under any street, road, or place laid out as or intended for a street or road, and also, on making compensation therefor, into, through, or under any other land in the district;
- (c.) Enlarge, lessen, alter the course of, cover in, or otherwise improve any such sewer, and may discontinue, close up, or destroy any such sewer that has, in its opinion, become unnecessary;
But the discontinuance or closing up of any sewer shall be so done as not to create a nuisance;
- (d.) Subject to the provisions of this Act, and on making compensation therefor, exercise beyond the district, for the purpose of outfall or distribution of sewage, all or any of the powers given by this section.

54. The local authority shall cause its sewers to be constructed, ventilated, repaired, and kept so as not to be a nuisance or dangerous or injurious to health, and to be properly cleansed and emptied. Cleansing sewers. Q. 1900, No. 9, s. 37.

55. (1.) The local authority shall provide a map exhibiting its system of sewerage, and shall, whenever any covered sewer is made by it in the district, provide a map indicating the position of every such sewer. Map of system of sewerage. Q. 1900, No. 9, s. 38.

(2.) All such maps shall be kept at the office of the local authority, and shall be open to inspection by any ratepayer in the district.

56. The owner or occupier of any land in the district shall be entitled to cause his drains to empty into the covered sewers of the local authority, on condition of his giving such notice of his intention so to do as the local authority requires, and complying with the by-laws of the local authority in respect of the mode in which the connection is made, and subject to the control of any person appointed or licensed by the local authority to superintend or carry out the making of such communication. Right to drain into sewers of local authority. Q. 1900, No. 9, s. 39.

57. Any person causing a drain to empty into a sewer of a local authority without complying with the provisions of the last preceding section shall be liable to a penalty not exceeding fifty pounds, and to a daily penalty not exceeding forty shillings. Penalty. Q. 1900, No. 9, s. 39.

Use of sewers by owners beyond district.

Q. 1900, No. 9, s. 40.

58. The owner or occupier of any land beyond the district may cause any sewer or drain from such land to communicate with any sewer of the local authority, on such conditions as the local authority may impose.

Local authority may enforce drainage of undrained houses.

Q. 1900, No. 9, s. 41.

59. (1.) When any house in the district is without a drain sufficient for effectual drainage, the local authority may, by written notice, require the owner or occupier of such house, within a reasonable time therein specified, to make a drain or drains emptying into any sewer of the local authority which is not more than three hundred feet from the curtilage of such house; or, if no such means of drainage are within that distance, then emptying into such place within that distance, and not being under any house, as the local authority directs.

(2.) The local authority may require any such drain or drains to be of such materials and size, and to be laid at such level and in such direction and with such fall, as appear to the local authority to be necessary.

(3.) If such notice is not complied with, the local authority may, after the expiration of the time specified in the notice, do the work required, and recover the expenses incurred by it in so doing from the owner.

Local authority may require houses to be drained into new sewers.

Q. 1900, No. 9, s. 42.

60. (1.) When any house in the district has a drain communicating with any sewer, which drain, though sufficient for the effectual drainage of the house, is not adapted to the general sewerage system of the district, or is in the opinion of the local authority otherwise objectionable, the local authority may, on condition of providing a drain or drains equally effectual for the drainage of the house, and communicating with such other sewer as it thinks fit, close such first-mentioned drain, and may do any works necessary for that purpose.

(2.) The expense of those works, and of the construction of any drain or drains provided by the local authority under the provisions of this section shall be deemed to be expenses properly incurred by the local authority in the execution of this Act.

Building without drains.

Q. 1900, No. 9, s. 43.

61. (1.) No person shall—

(a.) erect any house; or

(b.) rebuild any house which has been pulled down to or below the ground floor; or

(c.) occupy any house so erected or rebuilt;

unless or until such drains (if any) as the local authority deems necessary for the effectual drainage of the house are provided to the satisfaction of the local authority.

(2.) The drain or drains so to be constructed shall empty into some sewer of the local authority which is within three hundred feet from the curtilage of the house to be built or rebuilt; or, if no

such means of draining are within that distance, shall, subject to the by-laws, empty into such place within that distance, not being under any house, as the local authority directs.

(3.) Any person who causes any house to be erected or rebuilt, or any drain to be constructed, contrary to the provisions of this section shall be liable to a penalty not exceeding fifty pounds, and to a daily penalty not exceeding forty shillings.

62. (1.) Whenever, in the opinion of the local authority, it is necessary for the proper drainage of any land or premises, or of any street, road, or way, that a sewer or drain should be made through or under private land, the local authority may, by notice in writing to the owner, and to the occupier, if any, require him or them to permit such sewers or drains to be made through such private land.

Drains and sewers.
through private
land.
1898, No. 24,
s. 158.

(2.) After one month from the service of such notice on the owner and the occupier, if any, the local authority, or any person authorised by the local authority, may make such sewers or drains through or under such private land; and may by like notice enter into the premises to maintain such sewer or drain.

(3.) But such sewers or drains shall be made and maintained so as not to be a nuisance or injurious to health.

63. Where any sewer or drain is made by, or by any person authorised by, the local authority through or under private land, there shall be paid by the local authority, or such other person, to the owner and occupier such reasonable compensation as, in case of dispute, may be assessed by arbitration under the Arbitration Act, 1895.

Compensation.
1898, No. 24,
s. 158.

64. All expenses incurred by the local authority in making any sewer or drain through or under private land, and in compensation and costs, shall be repaid to the local authority:

Recovery of expense
incurred by local
authority.
1898, No. 24,
s. 158.

- (a.) In the case of drainage of private land or premises, by the owner thereof;
- (b.) In the case of the drainage of any street, road, or way, by the owner of the land and premises fronting or abutting thereon, if the local authority shall so require; and
- (c.) As between several owners, in such proportions as the local authority may fix, and shall be recoverable summarily before any two justices.

65. It shall not be lawful for any person, upon land which is so situated as not to admit of being drained by gravitation into an existing sewer, to erect any building to be used wholly or in part as a dwelling-house, or to adapt any building to be used wholly or in part as a dwelling-house, except with the permission of the local authority, and subject to and in accordance with such by-laws as the local authority may from time to time prescribe.

Dwelling-houses on
low-lying land.
Q., 1900, No. 9,
s. 45.

The local authority may, by such by-laws,—

- (a.) Prohibit the erection of dwelling-houses or the adaptation of any buildings for use as dwelling-houses on such land, or any defined area or areas of such land ;
- (b.) Regulate the erection of dwelling-houses or the adaptation of buildings for use as dwelling-houses on such land, or any defined area or areas of such land ;
- (c.) Prescribe the level at which the under side of the lowest floor of any permitted building shall be placed on such land, or any defined area of such land, and as to the provision to be made and maintained by the owner for securing efficient and proper drainage of the buildings.

Filling up low-lying land.

Q., 1900, No. 9,
s. 44.

66. (1.) Whenever the surface of any land is lower than the level of the street, road, sewer, or drain into which water off the said land should, in the opinion of the local authority, drain, the local authority may give notice to the owner to fill up such land within a time limited by the notice, so that the same may be so drained.

(2.) Any such person who neglects or refuses to comply with any such notice within the time therein specified shall be liable to a daily penalty not exceeding forty shillings, and the local authority may do the work required to be done, and recover from the person in default the expense incurred by it in so doing.

(3.) Such expense, until paid, shall be and remain a charge upon the land, notwithstanding any change that may take place in the ownership thereof.

Stagnant water-holes.

1898, No. 24,
s. 161.

67. The local authority may, and, if required by the Commissioner, shall cause to be drained, cleansed, covered, or filled up all ponds, pools, open ditches, sewers, drains, and places containing or used for the collection of any drainage, filth, water, matter, or thing of an offensive nature or likely to be prejudicial to health, by making and serving an order upon the person causing any such nuisance, or upon the overseer, owner, or occupier of any premises whereon the same exists, requiring him within a time to be specified in such order to drain, cleanse, cover, or fill up any such pond, pool, ditch, sewer, drain, or place, or to construct a proper sewer or drain for the discharge thereof, as the case may require.

Stagnant water in cellars, etc.

1898, No. 24,
s. 162.

68. (1.) No person shall suffer any waste or stagnant water to remain in any cellar or premises in or about any dwelling house for twenty-four hours after notice given and served upon him by the local authority or its officer to remove same.

(2.) If the local authority has reason to suspect that there is any waste or stagnant water in or about any house or premises, such local authority, after twenty-four hours' notice, in writing, to the occupier or owner of such house may direct its officers to make entry into or upon such house or premises, and cause any floor or portion

thereof to be opened up in order to ascertain whether there is in or about any such house any waste or stagnant water; if there is no waste or stagnant water found underneath any floor so removed, such local authority shall cause to be repaired and made good any such floor or portion thereof so removed as aforesaid; but if there is found any waste or stagnant water under any such floor, then in such case all expenses incurred in the removal and repair of such floor or portion thereof shall be chargeable to the owner of the house or premises, and may be recovered from such owner as hereinafter provided.

(3.) Before any waste or stagnant water having an offensive smell is emptied from any cellar or other premises, the occupier of such premises shall cause such water to be thoroughly deodorised.

69. The owner of any house to which there is a cellar shall, if so required by the local authority, and within a time to be specified, cause such cellar to be paved or asphalted in manner directed by and to the satisfaction of the local authority; and if such cellar is subject to the leakage of water thereinto, and there is no drain for the discharge of such water, such owner shall likewise, if so required by the local authority, construct in such cellar where, when, and as directed, a well for the gathering of such leakage, and upon completion of such well shall cause the same to be regularly emptied at intervals not exceeding twenty-four hours: Provided that in case the occupier of any such house has paved or asphalted any such cellar, or constructed any such well, he may, subject to any agreement previously made between him and the owner of such house, recover before any two justices the moneys expended by him on such paving or asphaltting, or on constructing such well, or may deduct the same from any rent payable by him to such owner.

Cellars, asphaltting, etc.
1898, No. 24,
s. 163.

70. Any local authority may, and, when so required by the Commissioner, shall, by order addressed to the owner of any land which has been excavated for brickmaking, quarrying, mining, or other purposes, whether before or after the commencement of this Act, direct such owner to have any excavation so made securely fenced round to the satisfaction of such local authority; and may further direct such owner or the occupier to take such measures as are in the opinion of the local authority necessary, and as are specified in such order for preventing any noxious or offensive drainage or other matter from flowing or being thrown into any such excavation.

Brickmaking and other excavations to be fenced in, etc.
1898, No. 24,
s. 165.

71. (1.) It shall not be lawful for a local authority to deal with any highway or any land under its control, or for any owner or occupier of any land to deal with the same, in such a manner that the free flow of storm water along any natural channel through or across

Storm water to be allowed its natural channel.
Q., 1900, No. 9,
s. 46.

such highway or land is so impeded or interfered with as to cause or be likely to cause any collection or pool of stagnant or offensive water or liquid.

(2.) Any local authority or person offending against the provisions of this section shall be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding forty shillings.

(3.) Nothing in this section shall apply to dams constructed for mining or other industrial purposes, provided that no offensive matter is allowed to accumulate in such dams.

Unauthorised
building over sewers
and under streets.
Q., 1900, No. 9,
s. 47.

72. (1.) Any person who, in any district, without the written consent of the local authority,—

(a.) causes any house to be erected over any sewer or drain of the local authority; or

(b.) causes any vault, arch, or cellar to be built or constructed under any street;

shall be liable to a penalty not exceeding five pounds, and to a daily penalty not exceeding forty shillings.

(2.) The local authority may cause any house, vault, arch, or cellar erected or constructed contrary to the provisions of this section to be altered, pulled down, or otherwise dealt with as it thinks fit, and may recover from the offender any expense incurred by it in so doing.

Injurious matter
not to pass into
sewers.
Q., 1900, No. 9,
s. 48.

73. Any person who throws or suffers to be thrown or to pass into any sewer of a local authority, or any drain communicating therewith, any matter or substance by which the free flow of the sewage or surface or storm water may be interfered with, or by which any such sewer or drain may be injured, shall be liable to a penalty not exceeding ten pounds, and to a daily penalty not exceeding twenty shillings.

Chemical refuse,
steam, etc., not
to be turned into
sewers.
See Q., 1900, No. 9,
s. 49.

74. (1.) Any person who turns or permits to enter into any sewer of a local authority or any drain communicating therewith any chemical refuse or any waste, condensing water, heated water or other liquid over a temperature of 110° Fahrenheit which causes a nuisance or is injurious to health, or interferes with the disposal of sewage shall be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding five pounds.

(2.) A person shall not be liable to a penalty for an offence against this section until the local authority has given him notice of the provisions of this section, nor for an offence committed before the expiration of seven days from the service of such notice; but the local authority shall not be required to give the same person such notice more than once.

As to local authority
making communica-
tions with or alter-
ing, etc., drains and
sewers.
Q., 1900, No. 9,
s. 50.

75. (1.) When the owner or occupier of any premises is entitled to cause any sewer or drain from those premises to communicate with any sewer of the local authority, the local authority shall, if requested

to do so by such owner or occupier, and upon the cost thereof being paid in advance to the local authority, itself make the communication and execute all works necessary for that purpose.

(2.) The cost of making such communication (including all costs incidental thereto) shall be estimated by an officer of the local authority; but if the owner or occupier of the premises is dissatisfied with such estimate, he may apply to any two justices to settle the amount to be paid by him; and such justices shall settle the same accordingly, and their decision shall be final and binding upon the parties.

(3.) A local authority may agree with the owner of any premises that any sewer or drain which such owner is required or desires to make, alter, or enlarge, or any part of such sewer or drain, shall be made, altered, or enlarged by the local authority.

Division 2.—Disposal of Sewage.

76. For the purpose of receiving, storing, disinfecting, deodorising, purifying, distributing, or otherwise disposing of sewage, a local authority may—

Disposing of
sewage.
Q., 1900, No. 9,
s. 51.

- (1.) Construct any works in the district or (subject to the provisions of this Act) beyond the district;
- (2.) Contract for the use of, purchase, or take on lease any land, buildings, engines, materials, or apparatus either within or beyond the district;
- (3.) Make contracts for the supply of sewage to any person for any period not exceeding twenty-five years, and as to the execution and cost of works, either in or beyond the district, for the purposes of such supply:

Provided that no nuisance shall be created in the exercise of any of the powers conferred by this section.

77. A local authority may, by agreement with the local authority of any adjoining district, and with the sanction of the Commissioner, cause its sewers to communicate with the sewers of the local authority of such adjoining district in such manner and on such terms, and subject to such conditions, as may be agreed upon between the local authorities, or, in case of dispute, as may be settled by arbitration, under the provisions of the Arbitration Act, 1895.

Communication of
sewers with sewers
of adjoining dis-
trict.
Q., 1900, No. 9,
s. 52.

78. (1.) The local authority may, subject to the approval of the Commissioner, deal with any land held by it for the purpose of receiving, storing, disinfecting, or distributing sewage, in such manner as it deems most profitable,—

Dealing with land
appropriated to
sewage purposes.
Q., 1900, No. 9,
s. 53.

- (a.) by leasing the same for a period not exceeding twenty-five years for agricultural purposes; or

(b.) by contracting with some person to take the whole or a part of the produce of such land ; or

(c.) by farming such land and disposing of the produce thereof ;

but in dealing with such land, the local authority shall see that provision is made for effectually disposing of all the sewage brought to such land without creating a nuisance or endangering the public health.

Contribution to
sewage works.
Q., 1900, No. 9,
s. 54.

(2.) When a local authority, with the approval of the Commissioner, agrees with any person as to the supply of sewage, or as to works to be made for the purpose of such supply, the local authority may contribute to the expense of carrying into execution by such person all or any of the purposes of such agreement.

Punishment for
placing nightsoil in
streets, etc.
1898, No. 24,
s. 176.

79. Any person spilling, casting, throwing, or otherwise putting down or depositing or causing or allowing to be spilt, cast, thrown or otherwise put down or deposited any nightsoil into or upon any road, street, tramway, channel or tunnel, footway, lane or any land or place other than a place or depôt duly authorised for the purpose, shall be guilty of an offence, and shall be liable to a penalty not exceeding fifty pounds nor less than five pounds, or to imprisonment, with or without hard labour, for a period not exceeding six months.

Division 3.—Sewage Works beyond the District.

Notice before com-
mencing sewage
works beyond
district.
Q., 1900, No. 9,
s. 55.

80. (1.) The local authority shall, three months at least before commencing the construction or extension of any sewer or other work for sewage purposes beyond its district, give notice of the intended work by advertisement in a newspaper.

Such notice shall—

(a.) describe the nature of the intended work ;

(b.) state the intended termini thereof ;

(c.) state particulars of the streets and other lands (if any) through, across, under, or on which the work is to be done ;

(d.) name a place where a plan of the intended work is open to inspection.

(2.) A copy of such notice shall be served on the owners and occupiers of such lands, and on the local authority having the care of such streets.

(3.) If any such owner or occupier, or any such local authority, or any other owner or occupier, who would be affected by the

intended work objects to such work, and serves notice, in writing, of such objection on the local authority at any time within the period of three months, the intended work shall not be commenced without the sanction of the Commissioner after such inquiry as hereinafter mentioned, unless such objection is withdrawn.

(4.) The Commissioner may appoint an inspector to make inquiry on the spot into the propriety of the intended work, and into the objections thereto, and to report on all such matters.

(5.) Upon receiving the report of the inspector, the Commissioner may make an order disallowing the intended work, or allowing it with such modifications, if any, as he may consider necessary.

Division 4.—Sanitary Conveniences.

81. (1.) No person shall erect or rebuild any house without providing for such house sanitary conveniences constructed in accordance with the by-laws of the local authority.

Houses to have
sanitary con-
veniences.

Sec. Q., 1900, No. 9,
s. 56.

(2.) Any person who causes any house to be erected or rebuilt in contravention of this section shall be liable to a penalty not exceeding twenty pounds.

(3.) If any house in the district appears to the local authority not to have such sanitary conveniences constructed as hereinbefore prescribed, the local authority shall, by written notice, require the owner or occupier of the house, within a time therein specified, to provide the same.

(4.) Any person who neglects or refuses to comply with any such notice shall be liable to a daily penalty not exceeding forty shillings; and the local authority may do the work required to be done, and recover from the owner the expenses incurred by it in so doing.

82. (1.) Every house used as a workshop or manufactory, or where persons are employed or intended to be employed in any trade or business, and every house in which persons above twenty in number are gathered at one time, shall be provided with such sanitary conveniences as, in the opinion of the local authority, are suitable and sufficient, having regard to the number of persons employed or gathered therein; and also where persons of both sexes are employed or gathered therein, with proper separate accommodation for persons of each sex.

Sanitary
conveniences for
manufactories, etc.

See Q., 1900, No. 9,
s. 57; and
1898, No. 24,
s. 182.

(2.) When it appears to the local authority that the provisions of this section are not complied with, the local authority shall, by written notice, require the owner of the house, within a time therein specified, to make such alterations and additions therein as may be required to give such sufficient and suitable accommodation.

(3.) Any person who neglects or refuses to comply with any such notice within the time therein specified shall be liable to a daily penalty not exceeding forty shillings; and the local authority may do

the work required to be done, and recover from the owner the expenses incurred by it in so doing.

Sanitary conveniences in connection with works.

83. (1.) No person shall undertake any building, engineering, or other work, necessitating the employment of workmen, without providing sufficient sanitary conveniences for the use of such workmen.

Any person who neglects to comply with the requirements of this section shall be liable to a daily penalty not exceeding forty shillings.

Earth-closets.

Q., 1900, No. 9,
s. 58.

84. The local authority may itself undertake or contract with any person to undertake to supply dry earth or other deodorising substances within the district, for the purpose of any earth-closet.

Public necessities.
Q., 1900, No. 9,
s. 59.

85. (1.) The local authority may provide and maintain, in proper and convenient situations,—

(a.) sanitary conveniences for public accommodation;

(b.) receptacles for the temporary deposit and collection of dust, ashes, and rubbish.

(2.) The local authority may levy and collect charges for the use of such conveniences and receptacles.

(3.) The local authority may also provide and maintain fit buildings and places, either within or beyond the district, for the deposit of any matters collected by it in pursuance of this Part of this Act.

Power to make
pan charges.
1898, No. 24,
s. 179.

86. (1.) The local authority may, in lieu of, or in addition to a sanitary rate, provide for the proper removal and disposal of nightsoil, urine, or refuse, whether within the district or not, by making an annual charge per pan or other receptacle, payable by equal monthly or other instalments in advance, for the removal thereof, in respect of every house or place from whence the receptacles for nightsoil, urine, or refuse have to be removed.

(2.) Such charge shall be levied on the owner or occupier, as the local authority may decide, of every house in which any nightsoil pan or other receptacle is in use, and may be recovered by the local authority in the same way as rates in arrear are recoverable.

(3.) In the case of houses being erected or becoming occupied during the year for which payment is to be made, the charge thereon for the pans shall be such sum as will proportionately represent the period between the occupation of the house and the ending of the year for which payment is made.

Sanitary charge in
respect of non-
rateable property.
See 1 & 2 Edw.
VII., No. 23, s.
5.

87. The local authority may provide for the removal and disposal of nightsoil, urine, or refuse from any public buildings or other premises exempted by law from liability to the payment of rates, and may, with the approval of the Minister, make

an annual charge, payable by equal monthly or other instalments in advance, for the removal and disposal of such nightsoil or refuse from such premises, and may levy and make such annual charge upon and against the owner or occupier of such exempted premises as the local authority may by resolution decide, and may recover such charge in the same way as if the charge were a public health rate, and such owner or occupier were liable to pay such rate :

88. The local authority shall provide that all drains, sanitary conveniences, and any apparatus for the bacteriolytic treatment of sewage within the district are constructed and kept so as not to be a nuisance or dangerous or injurious to health.

Drains, privies, etc., to be properly kept Q., 1900, No. 9, s. 60.

89. (1.) If the local authority suspects that any drain sanitary convenience, or apparatus for the bacteriolytic treatment of sewage in the district is a nuisance or injurious to health, the local authority may, after twenty-four hours' written notice to the occupier of the land, or in case of emergency, of which the local authority 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 drain, sanitary convenience, or apparatus.

Examination of drains, etc. Sec Q., 1900, N. 9, s. 61.

(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 authority.

(3.) If the same, on examination, appears to be in a bad condition, or to require alteration or amendment, the local authority shall forthwith cause notice, in writing, to be given to the owner or occupier of the land requiring him forthwith, or within a time therein specified, to do the necessary works.

(4.) If the notice is not obeyed, the person to whom it is given shall be liable to a daily penalty not exceeding ten shillings, and the local authority may execute such works, and recover from the owner or occupier the expenses incurred in so doing.

(5.) Where two or more houses belonging to different owners are connected with a public sewer by a single private drain, a notice may be given under this section to the several owners and occupiers, and the local authority 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 authority thinks just, or as, in case of dispute, may be settled by any two justices.

90. The owner of land whereon there is a cesspool for the reception of nightsoil shall, upon being so required by notice from

Cesspools below ground to be abolished. 1898, No. 24, s. 184.

the local authority, fill up the same within a time to be expressed in such notice, or in default be liable to a penalty not exceeding fifty pounds, and to a daily penalty not exceeding five pounds for each day such default shall continue.

New cesspools for
nightsoil forbidden
See 1898, No. 24,
s. 185.

91. From and after the commencement of this Act, no cesspool for the reception of nightsoil below the ground shall be constructed except within such portion (if any) of the district as may be prescribed by the local authority.

Local authority may
supply receptacles.
1898, No. 24.
s. 39.

92. Whenever the local authority shall determine by by-law to adopt a system of pans or receptacles for nightsoil, interchangeable or otherwise, or boxes or receptacles for the reception of refuse, it shall be lawful for the local authority to supply the necessary pans or receptacles, or any portion of them, out of its own funds; and the local authority may reserve the exclusive right to sell such pans or receptacles, and may charge a reasonable price, not exceeding the cost, for the same, and may recover the price of the required number supplied to any owner or occupier who is under obligation to take one or more.

Division 5.—Scavenging, Cleansing, etc.

Local authority to
provide for removal
of refuse and
cleansing works.
N.Z. 1900, No. 25,
s. 53.

93. A local authority may, and, when the Commissioner so requires, shall undertake or contract for the efficient execution of the following works within its district, or any specified part of its district:—

- (a.) The removal of house and trade refuse and other rubbish from premises:
- (b.) The supply of some sufficient disinfectant for use in sanitary conveniences:
- (c.) The cleansing of sanitary conveniences and drains:
- (d.) The collection, removal, and disposal of nightsoil, urine, and liquid wastes:
- (e.) The cleaning and watering of streets:
- (f.) The providing, in proper and suitable places, of receptacles for the temporary deposit of refuse and rubbish collected under this section:
- (g.) The providing of suitable places, buildings, and appliances for the deposit or destruction of refuse, rubbish, and nightsoil:

Provided that it shall not be lawful to deposit nightsoil in any place where it will be a nuisance or injurious or dangerous to health.

Power of contractor
to recover.

94. Whenever any local authority contracts with any person for the removal within its district of nightsoil, urine, offensive materials, or house or trade refuse, such local authority shall thereupon publish in some newspaper circulating in the district the scale

of charges fixed by the contract; and if any person neglects or refuses to pay to the contractor any charge made by him under his contract with such local authority for services rendered on behalf of such person such charge may be recovered by the contractor from such person by action in any Court of competent jurisdiction.

95. Every person shall be liable to a penalty not exceeding five pounds if he in any way obstructs or hinders the local authority or its contractor in the execution of any works under section ninety-three:

Penalty for obstruction.
N.Z., 1900, No. 25, s. 55.

Provided that the occupier of a house shall not be liable to such penalty by reason merely of himself collecting and removing, or using, selling, or otherwise disposing of, his own house-refuse, or rubbish, except nightsoil, urine, or liquid wastes, if in so doing he takes sufficient precautions to the satisfaction of an inspector to prevent the creation of any nuisance or anything offensive or injurious to health.

96. All refuse, rubbish, nightsoil, and waste matter collected by the local authority or its contractor may be destroyed, or, after such material has been rendered innocuous by some method prescribed by the Commissioner, sold, or otherwise disposed of, and any profits derived therefrom shall be paid into the local fund.

Disposal of refuse and waste matter.
N.Z., 1900, No. 25, s. 54.

97. In every case where the local authority has undertaken or contracted for the execution of any of the works referred to in section ninety-three, the following provisions shall apply:—

Procedure when local authority undertakes work.
N.Z., 1900, No. 25, s. 56.

- (1.) The work shall be executed promptly, efficiently, and at regular and prescribed intervals, to the satisfaction of the Commissioner and the local authority.
- (2.) If in respect of any house-premises default is made in executing any such work efficiently or at the prescribed intervals, and by reason thereof refuse, rubbish, or nightsoil has accumulated, or any sanitary convenience or drain is offensive or is not cleansed, the occupier of the house may serve notice thereof on the local authority.
- (3.) If the notice is served as aforesaid, the local authority shall forthwith inform the contractor (if any).
- (4.) If such notice is served on the local authority, then, unless within forty-eight hours after the service the requisite work is done and the cause of complaint is removed, the person in default shall be liable to a penalty not exceeding one pound for each day thereafter until the requisite work is efficiently done and the cause of complaint is removed.
- (5.) For the purposes of the last preceding subsection hereof "the person in default" means the contractor if the

work is being executed by contract, or the officer in charge of the work if it is being executed by the local authority.

Cleansing common courts and passages.
See Q., 1900, No. 9, s. 69.

98. (1.) When any court or private way, common yard, urinal or other sanitary convenience, 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 authority, it may cause such court, private way, common yard, urinal, or other sanitary convenience or passage to be swept and cleaned.

(2.) The expenses thereby incurred shall be apportioned between the occupiers of the buildings situated in the court or to the back of which the private way or passage leads, or between the several occupiers of premises having the common use of such yard, urinal, or sanitary convenience, in such shares as may be determined by the local authority, or as, in case of dispute, may be settled by any two justices, and in default of payment any share so apportioned may be recovered from the occupier on whom it is apportioned.

Obtaining destructors, etc.
See 1898, No. 24, s. 172.

99. (1.) A local authority, or two or more local authorities in combination, may, and if so required by the Commissioner shall, provide a site and a machine or machinery for destroying, or some process for rendering inoffensive, nightsoil and other refuse matter and rubbish.

(2.) If two or more local authorities combine in providing such site, machinery, or process, the Commissioner may, by order, fix the proportion of the cost of obtaining and maintaining such site, machine, machinery, or process, to be borne by each local authority.

(3.) The obtaining or providing such site, machine, machinery, or process, shall be deemed a permanent work or undertaking within the meaning of any Act relating to local government.

Reserves for deposit of nightsoil and refuse.
1898, No. 24, s. 171.

100. With the consent of the Governor the local authority may, from time to time, set apart any portion of its reserves or other lands as a site for the deposit and disposal of nightsoil or refuse:

Provided that, in using any land for such purpose, the local authority shall in every case conform to the requirements of the Commissioner, and if it fails or neglects so to do, then the Governor may revoke his consent, whereupon it shall be unlawful for the local authority to use the land for such purpose.

Power to close depôts.
See 1898, No. 24, s. 174.

101. (1.) The Commissioner may make such orders as it may think fit for improving the condition of, or for closing and prohibiting the further use of, any place for the reception, utilisation, or deposit of nightsoil, refuse matter, or rubbish.

(2.) Any person who deposits any nightsoil, refuse matter, or rubbish in such place, contrary to such order, shall be guilty of an offence against this Act.

(3.) Where the Commissioner makes an order prohibiting the further use of any such place, he may also order the surface of such place to be covered with a layer of clean earth, not less than nine inches in depth.

(4.) It shall be the duty of the owner of such place, and of any person, local authority, or other authority by whom such place shall have been used for the deposit of nightsoil, refuse matter, or rubbish, to carry out the order of the Commissioner.

102. (1.) The Commissioner may order that no building shall be erected on any such place until the whole surface is rendered impervious by asphalt or other means.

Building on sanitary depôts.

See 1898, No. 24, s. 174.

(2.) Any person who, without the consent of the Commissioner, erects any building on such place, and who fails to remove the same when ordered so to do, shall be liable to a penalty not exceeding fifty pounds, and to a daily penalty not exceeding forty shillings.

103. In any case where any river (whether tidal or otherwise), watercourse, stream, or open ditch or drain, lying near to or on the boundaries of two or more districts, or running into two or more districts, is foul or offensive, or out of repair, or otherwise defective, the following provisions shall apply:—

Provision for obtaining order for cleansing offensive watercourse or ditch on boundaries of districts.

N.Z., 1900, No. 25, s. 60.

(1.) On the application of the Commissioner or of any local authority of any of the said districts, any two justices may summon the local authorities of all the said districts to show cause why an order should not be made directing them, or any of them, to cleanse the river, watercourse, stream, ditch, or drain, and remedy all defects affecting the same, and prohibiting the recurrence of the defect.

(2.) After hearing the parties, or such of them as appear to the summons, and after making such inquiry as they think necessary, the justices may, by order,—

(a.) specify the works that are necessary in order to effectually cleanse the watercourse, stream, ditch, or drain, amend all defects in the same, and effect any requisite structural or non-structural improvements to the same;

(b.) direct one of the local authorities to execute the whole of the works, or apportion the works and the execution thereof between two or more of the local authorities;

(c.) direct one of the local authorities to pay the whole cost of the works, or apportion the cost between two or more of the local authorities;

- (d.) prohibit the recurrence of the defect ;
- (e.) give such other directions in the premises as they think fit.
- (3.) The justices' order may be varied or amended from time to time by subsequent order made by them on the application of the Commissioner or any of the local authorities, and after summons to show cause.
- (4.) Every order made by the justices under this section shall, according to its tenor, bind all the local authorities concerned.
- (5.) The Commissioner may appoint an engineer or other competent person to supervise the execution of the works, and the expenses of such supervision shall be deemed to be part of the cost of the works.
- (6.) The works shall be executed with all reasonable diligence, and to the satisfaction of the Commissioner or the person appointed to supervise as aforesaid ; and if default is made in so doing, the Commissioner may cause the works or any portion thereof to be executed at the cost in all things of the local authority in default.
- (7.) For the purpose of executing the works, the local authority or person executing the same may enter on land and there do whatever may be reasonably necessary in the premises.
- (8.) The jurisdiction of the justices under this section shall not be affected by the fact that, independently of this section, the watercourse, stream, ditch, or drain would not be under the control of the local authority executing the work, or of any of the local authorities.
- (9.) If, independently of this section, any person (other than a local authority) would be liable in law to cleanse the watercourse, stream, ditch, or drain, or to keep the same in repair, or would be responsible in law for the defects, the local authority executing, or by the justices' order directed to execute, any work under this section shall be entitled to recover from such person the whole or a duly proportionate part of the costs incurred by it under this section.

Access to sanitary reserves.

104. The local authority may, with the approval of the Commissioner, apply its funds in the construction and maintenance of roads or tramways outside its district so far as necessary to afford access to any sanitary reserve.

Division 6.—Yards, Ways, Passages, etc.

Power to require yards, etc., to be paved.

105. The local authority may, by written notice, require the owner of any house or premises to pave and drain any yard, passage,

or way belonging to or used with such house or premises, within such time, in such manner, and with such material as may be approved by the local authority.

106. In case any street, way, lane, yard, or passage, or other premises formed or set out on private property, or in case any street lane, or passage formed or set out on public property in such manner as to afford means of back access to or drainage from property adjacent to such street, way, lane, or passage is not formed, paved, levelled, or drained to the satisfaction of the local authority, the local authority may from time to time, by notice to the respective owners of the premises fronting, adjoining, or abutting upon such parts thereof as may require to be formed, paved, levelled, drained, or made good, require them to form, pave, level, drain, or make good the same in such manner and according to such levels and specifications as may be approved by the local authority, and within a time to be named in such notice.

Power to require private streets, ways, etc., to be paved.

1898, No. 24, s. 155.

107. (1.) If any notice served under either of the two last preceding sections is not complied with, every owner to whom such notice has been given shall be liable to a penalty not exceeding ten pounds for each day during which such notice is not complied with, and the local authority may, if it thinks fit, subsequently to or in lieu of prosecuting for such non-compliance, execute the works mentioned or referred to in the notice, and the expenses incurred by it in so doing shall be paid by the owner or owners in default, in such proportions as may be fixed by the local authority, and shall be recoverable as hereinafter provided:

Penalty for default. See 1898, No. 24, s. 155.

Provided that, in the case of lanes or passages, only such owners of premises fronting, abutting, or adjoining upon such lanes or passages as by themselves or their tenants have the right to use or commonly do, without trespass, use any such lane or passage shall, for the purposes of this section, be deemed to be owners of premises.

(2.) In any proceeding by the local authority for the recovery of the cost of executing the works mentioned in the last preceding section, it shall not be a good defence that the defendant's premises do not actually touch or abut upon any street, lane, or passage within the meaning of that section, if it appears to the court that such street lane, or passage is for the general advantage or benefit of such defendant, and is or may be used by him as a means of access to such premises, and he has a right of using such road for a period of not less than twenty-one years.

108. (1.) In case it is necessary for the formation, completion, or continuance through any private premises, from one street to another, of any right-of-way or passage, the local authority may make an order on the owner or owners of such premises requiring such owner or owners to permit the formation, completion, or continuance of

Formation of ways. 1898, No. 24, s. 157.

such right-of-way; and after the expiration of one month from the making of such order, the local authority may form, complete, and continue such right-of-way through such premises.

(2.) Where the local authority has, under the powers conferred by this section, formed, completed, or continued any right-of-way through private premises, there shall be paid by the local authority to the owner or owners of such premises such compensation as is agreed upon, or awarded summarily by any two justices.

(3.) The amount of compensation so paid, and all costs and expenses incurred by the local authority in connection therewith, together with the cost of forming or making the way, shall be repaid to the local authority by the owners of the premises benefited by the said way in such proportion as may be fixed by the local authority.

Recovery of expenses.
See 1898, No. 24,
s. 156.

109. All expenses incurred by the local authority in the exercise of its powers conferred by this Division of this Act shall be repaid to the local authority by the owner of the premises, and as between several owners, in such proportions as the local authority may fix, and shall be a charge until paid on the premises, and shall be recoverable with interest not exceeding seven pounds per centum per annum, summarily before any two justices, from the owner of the premises or any subsequent owner.

Division 7.—Pollution of Water.

Pollution of water supply.
See N.Z., 1900,
No. 25, s. 61.

110. Any person who—

(a.) defiles or pollutes any water supply, or the catchment area thereof; or

(b.) permits or suffers any water supply or the catchment area thereof to become defiled or polluted,

shall be liable to a penalty not exceeding one hundred pounds, or to imprisonment, with or without hard labour, not exceeding six months.

“Water Supply” in this Division of this Act includes any river, stream, watercourse, creek, swamp, water-hole, well, tank, lake, or reservoir containing water intended for human consumption.

Riparian rights.
S.A., No. 711, s. 91.

111. Whenever the pollution of any water supply becomes or is likely to become injurious to health, the local authority shall, for the purpose of preventing such pollution, have within its district the rights of a riparian proprietor, and may enforce such rights by proceedings in any Court of competent jurisdiction against the person in default, and may generally prevent the pollution of water.

Sources of water supply may be closed.
S.A., 1899, No.
711, s. 92.

112. (1.) The local authority may, and if so required by the Commissioner, shall, direct that any water supply, which in the opinion

of any medical officer of health or of any two legally qualified medical practitioners is so polluted or unwholesome as to be unfit for human consumption, shall be closed, and that the contents thereof shall cease to be used for human consumption either absolutely or for such time as the local authority may direct.

(2.) No person shall use or permit to be used for human consumption any well or other source of water while any such direction shall remain in force.

113. (1.) Any local authority may cause to be conspicuously posted up in the neighbourhood of any water supply notice that the water thereof is required for drinking purposes, and that pigs, dogs, ducks, and geese are prohibited from trespassing thereon.

Power to seize and destroy pigs, etc., trespassing on rivers, etc.
1898, No. 24, s. 195.

(2.) If after the posting up of such notice any person suffers or permits any pigs, dogs, ducks, or geese to trespass on any such water supply, or the catchment area thereof, such person shall be guilty of an offence against this Act.

(3.) If any pigs, dogs, ducks, or geese belonging to such person shall, within one month after his conviction under this section, trespass on any such water supply, then the local authority may cause any pigs, dogs, ducks, or geese so trespassing to be destroyed or seized and sold, and the proceeds thereof shall be paid into the funds of such local authority.

Division 8.—Morgues.

114. (1.) The local authority may grant a license for any place for the temporary reception of the bodies of the dead, and for keeping such bodies for the purpose of view, examination, identification, or other lawful purpose before burial or cremation, and may license any private premises for the temporary reception and keeping of such bodies awaiting burial at an annual fee to be prescribed by the by-laws.

Local authority may license morgues.
1898, No. 24, s. 196.

(2.) Any person who, in the course or for the purpose of any business, keeps the body of any dead person awaiting burial on premises for which no such license has been granted shall be liable to a penalty not exceeding fifty pounds, and shall also be liable to a penalty of two pounds for every day during which the body of any dead person remains on such unlicensed premises.

(3.) The provisions of this section shall not apply to any public hospital, or to any morgue established by the local authority, or to any police morgue.

Division 9.—By-laws.

115. The local authority may, and when the Commissioner so requires shall, make by-laws with respect to any of the following matters:—

By-laws.
See Q., 1900, No. 9, s. 70.

(1.) The construction, situation, inspection, maintenance, and control of sewers and drains, and apparatus for the

- bacteriolytic treatment of sewage, and house fittings and appliances connected therewith ;
- (2.) Prescribing the conditions on which any connection of a private drain with a public sewer or drain may be made, cut off, or repaired ;
 - (3.) Requiring that all buildings be provided with spouting, downpipes, and drains sufficient to carry off all storm or rain water ;
 - (4.) Requiring the foundations of any new building, and the ground on which the same is erected, to be dry, sound, and well drained ;
 - (5.) The establishment, use, and control of sanitary conveniences for public accommodation ;
 - (6.) The establishment, use, and control of receptacles for the deposit and collection of dust, ashes, rubbish, and other offensive matter, whether temporary or otherwise ;
 - (7.) Preventing or regulating the deposit of filth, dust, ashes, rubbish, sludge, or offensive matter upon streets and other lands and places under the control of the local authority ;
 - (8.) Imposing upon the occupier of any premises the duties of the cleansing of footways and pavements adjoining such premises, the removal of house refuse from such premises, and the cleansing of sanitary conveniences belonging to such premises, when a local authority does not itself undertake or contract for such cleansing or removal, and prescribing the manner in which such duties are to be performed ; or when a local authority itself undertakes or contracts for such cleansing or removal, imposing on such occupier duties in connection with such cleansing or removal so as to facilitate the work undertaken or contracted for ;
 - (9.) Requiring all house, yard, and street refuse to be rendered inoffensive or be incinerated in destructors, desiccators, or incinerators provided by the local authorities, either singly or in concert ;
 - (10.) Requiring rubbish from houses and yards to be placed without delay in covered non-absorbent receptacles, into which a sufficient quantity of some efficient deodorant shall be introduced when necessary ;
 - (11.) Providing at least once a week, or so much more frequently as the local authority may from time to time direct, that the contents of these receptacles be removed and either rendered inoffensive or removed to a destructor ;
 - (12.) Prohibiting the placing of receptacles in streets or lanes by the householders, and requiring the same to be taken from the yards and replaced by the scavengers ;

- (13.) Requiring that the householders be held responsible for the keeping of the receptacles in an efficient and inoffensive condition ;
- (14.) The construction and situation of sanitary conveniences on any premises and prescribing the classes or descriptions of sanitary conveniences which alone may lawfully be in use in the district generally, or in specified parts of the district ;
- (15.) Abolishing the ordinary system of pans for nightsoil, and providing that every closet be furnished with a double-pan service ;
- (16.) Requiring for each closet the supply of a sufficient number of receptacles for excrementitious matter, and to determine the size, shape, style, and materials to be used in the construction of such receptacles, and especially that they be interchangeable with others in the same district ;
- (17.) Prescribing that at least once a week, or so much more frequently as the local authority may from time to time direct, the pan in use be closed with a tight-fitting lid, and removed in a suitable cart, and that a pan cleansed by superheated steam, or some equally efficient means approved by the local authority, be left in its place ;
- (18.) Fixing the charge which may be made, when no annual charge is made under section eighty-six, for removing each receptacle and replacing it by a clean one and for any other sanitary service ;
- (19.) Fixing the charge for the removal of trade or house refuse ;
- (20.) Determining to whom and on what conditions licenses to remove nightsoil shall be issued ;
- (21.) Imposing penalties on licensees for breach of conditions ;
- (22.) Making the use of a sufficient quantity of a suitable disinfectant or deodorant compulsory ;
- (23.) Regulating the disposal of nightsoil, urine, and refuse ;
- (24.) Requiring that all nightsoil removed be either rendered inoffensive or treated in a destructor, desiccator, or incinerator, or be trenched or ploughed into land ;
- (25.) Prescribing the times for the removal or carriage through the streets of any faecal or offensive or noxious matter or liquid, whether into or out of or through the district ; providing that the utensils, receptacles, and vehicles used therefor shall be properly constructed and covered so as to prevent the escape of any such matter or liquid or of any offensive smell ; and compelling the cleansing of any place whereon such matter or liquid has been dropped or spilt in such removal or carriage ;

- (26.) Prescribing and regulating the construction, ventilation, paving, drainage, and situation of stables, pig sties, poultry yards, or other premises other than dairies on which animals are kept ;
- (27.) Regulating the keeping of animals or birds so as not to be a nuisance, injurious, or dangerous to health ;
- (28.) For the prevention of the pollution of any water supply ;
- (29.) Regulating the sanitation and cleanliness of the premises of hair-dressers, and the precautions to be observed by persons carrying on the business of a hair-dresser ;
- (30.) For the cleansing of public vehicles ;
- (31.) For the annual registration of plumbers and gasfitters, and prescribing the fees for registration, and prohibiting any unregistered person from undertaking any work as a plumber or gasfitter ;
- (32.) Prescribing the fees to be paid for the licensing of morgues, not exceeding one pound per annum for each license, and the conditions on which such licenses may be granted ;
- (33.) For the regulation and control of the sanitation of camps ;
- (34.) For any other purpose which the Governor deems necessary and notifies in the *Government Gazette* as calculated to safeguard the public health.

PART V.—DWELLINGS.

Division 1.—Houses unfit for occupation.

Dwellings unfit for habitation.
See S.A., 1899, No. 711, s. 116.

116. (1.) Any local authority may, of its own motion, and shall, when required by order of the Commissioner by notice in writing, declare that any house, or any specified part thereof, is unfit for human habitation.

(2.) The notice may direct that such house or part thereof shall not, after a time to be specified in the notice, be inhabited or occupied by any person.

(3.) The notice shall be affixed to some conspicuous part of the house, and a copy of such notice shall be served upon the owner or occupier thereof.

Not to be let or occupied.
S.A. 1899, No. 711, s. 117.

117. Any person who, after the expiration of the specified time, inhabits or occupies, or suffers to be inhabited or occupied, such house or part thereof, shall be liable to a daily penalty not exceeding forty shillings.

Condemned building to be amended or removed.
See S.A., 1899, No. 711, s. 118.

118. A notice may be served by the local authority upon the owner of such house directing him, within a time limited by such notice, either to amend the same in some specified manner or take down and remove the same.

Local authority may act in default of owner.
See S.A., 1899, No. 711, s. 118.

119. Whenever any owner shall fail to comply with a notice served upon him under the last preceding section, within a time therein specified, he shall be liable to a penalty not exceeding

twenty pounds and to a daily penalty not exceeding forty shillings, and the local authority may carry out the terms of the notice and recover all expenses from the owner:

Provided that the local authority may sell or dispose of the material taken from a demolished or amended building, but the proceeds of sale shall be applied towards the expense of carrying out the terms of the notice—the surplus (if any) to be paid to the owner.

120. (1.) No person shall erect a building on any ground which has been filled up with any matter impregnated with faecal, animal, or vegetable matter, or upon which any such matter has been deposited, unless or until such matter has, to the satisfaction of the local authority, been properly removed by excavation or otherwise, or has been rendered or has become innocuous.

Penalty for erecting buildings on ground filled up with offensive matter.

Q., 1900, No. 9, s. 73.

(2.) Every person who does or causes or permits to be done any act in contravention of this section shall be liable to a penalty not exceeding twenty pounds, and to a daily penalty not exceeding forty shillings.

121. (1.) No person shall let or occupy or suffer to be occupied as a dwelling any cellar, after notice in writing from the local authority to discontinue such letting or occupation.

Occupying cellar dwellings.

Q., 1900, No. 9, s. 74.

(2.) When two convictions have taken place within three months (whether the persons so convicted were or were not the same), any two justices may direct the closing of the cellar so occupied for such time as they think necessary, or may empower the local authority permanently to close the same.

(3.) Any cellar, vault, or underground room, in which any person passes the night, is deemed to be a cellar occupied as a dwelling.

122. (1.) No building shall, after the commencement of this Act, be erected within any municipal district unless and until plans and specifications thereof have, before the commencement of such building, been submitted by the owner or occupier to, and have been approved, in relation to ventilation, lighting and sanitary construction, by the local authority.

Plans of buildings to be submitted to local authority.

(2.) The Governor may from time to time declare by proclamation that subsection (1.) shall apply in any other district or in any portion of any other district, and may at any time revoke any such proclamation, and while such declaration remains in force subsection (1.) shall apply in such district or portion as if it were a municipal district.

Division 2.—Boarding-houses and Lodging-houses.

123. (1.) Every local authority shall keep a register in which shall be entered the names and residences of the keepers of all boarding-houses and lodging-houses within its district, and the situation of every such house, and the number of persons authorised by the local authority to be received therein.

Registers of boarding houses and lodging-houses.

Q., 1900, No. 9, s. 76, s.s.(1) and (2).

(2.) A copy of any entry in the register certified by the clerk or secretary of the local authority shall be received as evidence in all courts, and shall be sufficient proof of the matter registered without production of the register or of any document or thing on which the entry is founded.

(3.) A certified copy of any such entry shall be supplied by the clerk or secretary to any person applying at a reasonable time for the same, on payment of a fee of one shilling.

Registration.
Ibid., s.s. (3.)

124. (1.) A person shall not keep a boarding-house or lodging-house or receive a lodger therein unless the house is registered, nor unless his name as the keeper thereof is entered in the register.

(2.) But on the death of a person so registered, his widow or any member of his family may continue to keep such house, for not more than four weeks after his death, without being registered.

Conditions of
registration.
Ibid., s.s. (4) and
(5).

125. (1.) A house shall not be so registered until it has been inspected and approved by the local authority.

(2.) The local authority may refuse to register as the keeper of a boarding-house or lodging-house a person who is, in the opinion of the local authority, an unfit person.

Notice of registra-
tion to be affixed.
Ibid., s.s. (6).

126. Every keeper of a lodging-house shall, if required in writing by the local authority so to do, affix and keep undefaced and legible a notice with the words "Registered Lodging-house" in some conspicuous place on the outside of such house.

Supply of water.
Ibid., s.s. (7).

127. (1.) When it appears to the local authority that any boarding-house or lodging-house is without a proper supply of water for the use of the boarders or lodgers, the local authority may, by notice in writing, require the owner or keeper of such house, within a time specified therein, to obtain such supply, and to do all works necessary for that purpose.

(2.) If the notice is not complied with accordingly, the local authority may remove such house from the register until it is complied with.

Limewashing.
Ibid., s.s. (8).

128. Every keeper of a boarding-house or lodging-house shall, from time to time when required by the local authority, limewash or otherwise cleanse the walls and ceilings of such house, and shall, if he fails to do so, be liable to a daily penalty not exceeding forty shillings.

Notification of
disease.
Ibid., s.s. (9).

129. Every such keeper shall, immediately it comes within his knowledge that a person in such house is affected with any infectious disease, give notice thereof to the medical officer of health and to the secretary of the local authority.

Inspection.
Ibid., s.s. (10).

130. (1.) Every such keeper, and every other person having or acting in the care or management of such house, shall, at all times when required by any officer of the local authority, give him free access to such house or any part thereof.

(2.) Every such keeper or person who refuses such access, or otherwise prevents or obstructs such officer, shall be liable to a penalty not exceeding five pounds.

131. Every such keeper who—

- (a.) after being required in writing by the local authority so to do, refuses or neglects to affix or renew any notice ;
- (b.) receives any lodger in such house while the same is not registered under this Act ; or
- (c.) fails to give notice when any person in such house is affected with any infectious disease,

shall be liable to a penalty not exceeding five pounds, and in the case of a continuing offence to a daily penalty not exceeding forty shillings.

Offences by
keepers.
Ibid., s.s. (11).

132. When any such keeper is convicted of a third or subsequent offence, the justices may adjudge that he shall not keep a boarding-house or lodging-house at any time within five years after the conviction, or within such shorter period after the conviction as they think fit.

Conviction for third
offence.
Ibid., s.s. (12).

133. Upon any death occurring in any boarding-house or lodging-house, the manager or keeper thereof shall, within twelve hours thereafter, give notice of every such death and the cause thereof and the circumstances attendant thereon to the medical officer and to the nearest coroner ; and if there is no coroner residing within five miles of such lodging-house, then to the police.

Lodging-house
keepers to report
deaths.
1898, No. 24,
s. 83.

134. The keeper of a lodging-house shall from time to time, if required by the local authority, report to the local authority in the prescribed form the name of every person who resorted to such house during the preceding day or night.

To make return of
lodgers.
1898, No. 24,
s. 88.

135. The local authority may, of its own motion, and shall, when the Commissioner so requires, make by-laws with respect to all or any of the following matters:—

By-laws.
Q., 1900, No. 9,
s. 77.

- (1.) (a.) Fixing, and from time to time varying, the number of persons who may occupy a boarding-house ;
- (b.) The registration and inspection of such houses, enforcing drainage and the provision of sanitary conveniences for such houses, and promoting cleanliness and ventilation therein ;
- (c.) The cleansing, limewashing, or painting at stated times of the premises, and the paving of the courts and court-yards thereof ; and
- (d.) Enforcing the giving of notices, and the taking of precautions, in case of any infectious disease occurring in any such house ;
- (2.) (a.) Fixing, and from time to time varying, the number of lodgers who may be received into a lodging-

Boarding-houses.

Lodging-houses.

house, and for the separation of the sexes therein ;

(b.) Regulating the construction, cleanliness, lighting, ventilation, drainage, and sanitation thereof ;

(c.) Enforcing the destruction of vermin therein ;

(d.) The cleansing, limewashing, or painting, and disinfecting of the premises, and the paving of the courts and court-yards thereof ;

(e.) Enforcing the giving of notices, and the taking of precautions, in the case of any infectious disease occurring in such house ; and

(f.) Enforcing the construction of approved facilities for escape in case of fire, and the maintenance in approved places of fire extinguishing appliances approved by the local authority ;

(g.) Generally for the good conduct of such houses.

Fees

(3.) Prescribing fees to be paid for the registration of boarding-houses and lodging-houses :

Provided that the scale of fees so prescribed shall not exceed one pound per house per annum :

Evidence as to family in proceedings.

Q., 1900, No. 9, s. 78.

136. If, in any proceedings for a breach of any of the provisions of this Act or of any by-law relating to boarding-houses or lodging-houses, it is alleged that any inmates of any house or part of a house are members of the same family, the burden of proving such allegation shall lie on the person making it.

PART VI.—PUBLIC BUILDINGS.

Interpretation.
1898, No. 24,
s. 153.

137. In this part of this Act the words “public building” mean any hospital or benevolent or other asylum, or any theatre, opera house, concert room, music or assembly hall, whether forming part of or appurtenant to a licensed victualler’s premises or not, or any school, church, chapel, or meeting house, and shall include any other building, structure, tent, gallery, enclosure, or platform whatsoever in or upon which numbers of persons are usually or occasionally assembled.

Notice to be given of intention to build or open public buildings.
1898, No. 24,
s. 153.

138. (1.) Whenever it is intended to build, open, alter, or extend any public building, the owner or occupier or the manager, trustees, or other persons by whose authority such public building is intended to be so built, opened, altered, or extended shall give notice to the Commissioner and to the local authority of such intention.

(2.) Such notice to the Commissioner shall be accompanied by—

(a.) a plan and specification or description showing the mode or proposed mode of constructing, draining, ventilating and lighting such public building, and

(b.) a block plan showing the position of such public building in relation to adjacent premises, and the

public thoroughfares on which such public building abuts, and showing the position and distribution of sanitary conveniences in connection with such building.

(3.) The plan of such public building shall be drawn to a scale of one-eighth of an inch to the foot, and the block plan shall be drawn to a scale of not less than one-twentieth of an inch to the foot, and detail plan of any part of the building drawn to a scale of half an inch to the foot, shall also be supplied, if required by the Commissioner.

(4.) No such public building shall be built, opened, altered, or extended as aforesaid until the Commissioner has approved thereof in writing.

(5.) It shall be unlawful to commence the construction, alteration, or extension of any public building until the plans and specifications have been approved by the Commissioner and lodged with the local authority.

139. It shall be the duty of the local authority of any district wherein the erection of a public building is commenced to forthwith give notice in writing thereof to the Commissioner.

Local authority to
notify Central
Board.

140. (1.) Every public building heretofore built or hereafter to be built, opened, altered, or extended, may from time to time be inspected by any public health official or the local authority, within whose jurisdiction such public building is situated.

Inspection.
1898, No. 24,
s. 153.

(2.) In the case of theatres, opera houses, music or assembly halls, circuses, or places of public amusement, such buildings may be inspected by any public health official or officer of the local authority, at any time during the day, or at night when such building is open.

(3.) The Commissioner may from time to time—

(a.) Direct or order such means to be taken by the owner or occupier, or by the trustees of any public building, for the proper or better ventilation, lighting, and draining thereof, and for the provision of proper and sufficient privy and urinal accommodation, and for the safe and proper construction thereof as to the Commissioner seem fit; and

(b.) Direct or order other or better provisions for ingress and egress to be made in any such public building, and additional gangways, aisles, or passages to be provided; and

(c.) Direct or order the erection or provision therein of suitable appliances for the extinction of fire, and require and order the employment and attendance of skilled persons sufficient in number for the proper using of such appliances.

(4.) When such direction or order is in writing, and has been served on the owner or occupier, or the trustees or other

person having the charge or control of such public building, and has not been complied with within fourteen days after such service, the Commissioner may, by order in writing, direct the owner or occupier, or the trustees or other person having the charge or control of such public building, to close such public building until such order is complied with to the satisfaction of the Commissioner, and the same shall be closed accordingly, and remain closed until the Commissioner otherwise, by writing, directs.

(5.) Notwithstanding anything hereinbefore contained the Commissioner may, if in the opinion of the Commissioner the necessity of the case so requires, order any public building which he deems unsafe to be closed forthwith, and the same shall be closed accordingly, and remain closed until the Commissioner otherwise, by writing, directs.

Penalty for opening
without approval of
Board.

1898, No. 24,
s. 153.

141. (1.) If any public building or addition thereto is opened without the written approval of the Commissioner the owner or occupier or the manager, trustees, or other persons by whose authority such building or addition has been opened shall be liable to a penalty not exceeding one hundred pounds and to a further penalty not exceeding ten pounds for every day or night during which such building or addition thereto remains open without such approval.

(2.) After the Commissioner has given his approval to the opening of any public building or addition thereto, no alteration shall, without the written approval of the Commissioner, be made in the provision therein made for the safety or stability of such building or for drainage, ventilation, lighting, means of ingress or egress, or the extinction of fire.

Regulations as to
overcrowding, etc.,
in public buildings
1898, No. 24,
s. 154.

142. (1.) The Governor may from time to time make, alter, and rescind regulations for the prevention of overcrowding and obstruction in gangways, passages, and aisles in any public building and for the prevention of fires in such public buildings and in all boarding houses and lodging-houses and licensed premises of a licensed victualler, or other buildings in which twenty-five or more persons can be accommodated, and generally for securing the public safety and convenience in the same.

(2.) Such regulations may impose for any breach thereof a penalty not exceeding One hundred pounds.

(3.) Such regulations may empower a public health official or police officer to close or cause to be closed the doors of any public building when there are within such building sufficient persons to completely occupy the seating accommodation, computed in accordance with the regulations.

(4.) Every local authority and its officers are directed and empowered to enforce the provisions of such regulations, and to take such measures as will secure the maintenance of the public buildings in its district in a sanitary condition.

143. The Commissioner may charge a prescribed fee for the examination of the plans and specifications for any public building, or for any alteration of or addition to any public building: Provided that the minimum fee shall be five shillings and the maximum fee five pounds.

Fees.

144. In any proceedings under this Part of this Act the averment in the complaint that the public building was opened without the consent of the Commissioner shall be deemed to be proved in the absence of proof to the contrary.

Proof that building opened without consent.
1898, No. 24,
s. 231 (7).

PART VII.—NUISANCES AND OFFENSIVE TRADES.

Division 1.—Nuisances.

145. In any case where it appears to an inspector or other officer that on any premises within any district there exists any such accumulation of manure, dung, filth, or other offensive matter as to be a nuisance or injurious or dangerous to health, the following provisions shall apply:—

Removal of offensive matter.
See N.Z., 1900,
No. 25, s. 70.

- (1.) He may, by requisition to the occupier, or if there is no occupier, to the owner of the premises, require him within a specified time to remove such matter and destroy the same, or otherwise dispose of it so that it shall cease to be offensive.
- (2.) If default is made in duly complying with the requisition within the time specified in that behalf, then the owner or occupier, as the case may be, shall be liable to a penalty not exceeding one pound for every day thereafter, until such matter is removed and disposed of as aforesaid.
- (3.) If such default occurs, the officer by whom the requisition was issued shall cause the offensive matter to be removed at the expense of the local authority.
- (4.) The offensive matter so removed shall be destroyed, sold, or otherwise disposed of by or on behalf of the local authority.
- (5.) The surplus money (if any) remaining from such disposal after defraying the expenses of the removal and disposal shall be paid into the local fund, and the deficiency (if any) shall be recoverable by the local authority in a summary way from the occupier or owner, as the case may be, of the premises, who shall be jointly and severally liable therefor.

146. A nuisance shall be deemed to be created in any of the following cases:—

Definition of nuisances.
See N.Z., 1900,
No. 25, s. 72.

- (1.) Where a pool, ditch, gutter, watercourse, sanitary convenience, or drain is so foul or out of repair, or otherwise in such a state as to be offensive or injurious or dangerous to health; or

- (2.) Where any animal is so kept as to be a nuisance or injurious or dangerous to health ; or
- (3.) Where there exists an accumulation or deposit which is offensive or injurious or dangerous to health ; or
- (4.) Where any house or premises are in such a state as to be a nuisance or injurious or dangerous to health ; or
- (5.) Where any way, lane, passage, yard, land, or premises are in such a state in regard to drainage as to be offensive or injurious or dangerous to health ; or
- (6.) Where any house or part thereof is so overcrowded as to be injurious or dangerous to the health of the inmates ; or
- (7.) Where any factory, workroom, laundry, shop, office, warehouse, or other business-place, or any portion thereof—
 - (a.) is so structurally defective, or is so dilapidated as to be unsafe or dangerous or injurious to the health of the inmates ; or
 - (b.) is so unclean as to be offensive or injurious or dangerous to health ; or
 - (c.) is not with regard to the inmates sufficiently supplied with fresh air ; or
 - (d.) is not so ventilated as to render harmless, as far as practicable, all gases, fumes, dust, or other impurities generated in the course of the work carried on therein ; or
 - (e.) is so overcrowded as to be injurious or dangerous to the health of the persons employed therein ; or
 - (f.) is insufficiently supplied with natural light ; or
 - (g.) is not provided with sufficient sanitary conveniences ; or
- (8.) Where any house or premises are in such a state as to harbour rats ; or
- (9.) Where an offensive trade is so carried on as to be injurious or dangerous to health or unnecessarily offensive to the public ; or
- (10.) Where any fireplace or furnace is used in working engines by steam or in any manufacturing or trade process whatsoever, and does not as far as practicable consume its own smoke ; or
- (11.) Where any chimney (not being the chimney of a private dwelling-house) sends forth smoke in such quantity or of such nature as to be offensive to the public, or injurious or dangerous to health ; or

- (12.) Where any drainage falls into any harbour or river or on to any foreshore so as to be offensive or injurious or dangerous to health:

and any such nuisance may be abated and dealt with under any of the provisions of this Act applicable for the purpose.

Provided that, in summary proceedings under this Act, as hereinafter provided, it shall be a sufficient defence if the defendant satisfies the justices—

Defence in summary proceedings.

- (a.) In the case of an alleged nuisance under subsection three of this section, that the accumulation or deposit is incident to the reasonable and proper carrying-on of a trade, and also that it has not been kept longer than was necessary, and also that the best practicable means have been taken to prevent a nuisance and injury to health, and also that no danger to health exists; or

- (b.) In the case of an alleged nuisance under subsection nine of this section, that the offensiveness is not greater than might reasonably be expected, having regard to the nature of the trade, and also that the best practicable means have been used to minimise the offensiveness and abate any nuisance, and also that no danger to health exists; or

- (c.) In the case of an alleged nuisance under subsection ten of this section, that the fireplace or furnace is so constructed as to consume its own smoke as far as practicable, having regard to the nature of the process in connection with which the fireplace or furnace is used, and also that it has been carefully attended to by a competent person, and also that no danger to health exists.

Every person by whose act, default, or sufferance any nuisance within the meaning of this Act arises or continues, shall be guilty of an offence against this Act.

Nuisance an offence.

147. If an inspector or other officer is satisfied that the nuisance exists, and that immediate action for its abatement is necessary in order to check or prevent the spread of infectious disease, he may act under section two hundred and thirteen, and in such case the provisions of that section shall, *mutatis mutandis*, apply, and the provisions of the next following section shall not apply.

Immediate action in respect of nuisances.
N.Z., 1900, No. 25, s. 72.

148. Subject as last aforesaid, any nuisance may be dealt with in manner following, that is to say:—

Mode of dealing with nuisances.
N.Z., 1900, No. 25, 74.

- (1.) On the report of any inspector or other person that the nuisance exists on any premises, the local authority may, and, if the Commissioner so requires, shall, by requisition to the owner and occupier of the premises, require them to abate the nuisance in the manner and within the time specified in the requisition.

- (2.) The owner and occupier are hereby jointly and severally empowered and required to comply with the requisition, and do whatever is necessary in order to effectually abate the nuisance.
- (3.) If default is made in duly complying with the requisition within the time specified therein, then the owner and occupier shall be severally liable to a penalty not exceeding five pounds for every day thereafter until the requisite work is done.
- (4.) If such default occurs, the local authority shall cause the requisite work to be done at the expense in all things of the owner and occupier, who shall be jointly and severally liable therefor.
- (5.) All such expenses shall be recoverable by the local authority from the owner and occupier by action or summarily before any two justices of the peace, and until paid shall be a charge on the house and buildings, and also on the land on which the same is built or to which it appertains.

Proceedings when nuisance caused by default outside district.

N.Z., 1900, No. 25, s. 81.

149. In any case where it appears that a nuisance existing within a district is wholly or partly caused by some act or default outside the district, proceedings may be taken by the local authority against any person in respect of such act or default in the same manner and with the same incidents and consequences as if the act or default were wholly inside the district.

Division 2.—Offensive Trades.

Definition.

Second schedule.
See 1898, No. 24,
s. 146.

150. In this Division of this Act the term "offensive trade" means and includes any of the trades specified in the Second Schedule, and any other trade declared to be offensive by proclamation.

Consent necessary for establishing offensive trade.

See N.Z., 1900, No. 25, s. 82.

151. (1.) After the commencement of this Act, it shall not be lawful to establish any offensive trade, unless with the consent, in writing, of the local authority, or in case of appeal, as hereinafter provided, of the Commissioner.

(2.) Any person aggrieved by the refusal or the granting of such consent by the local authority may appeal to the Commissioner, who may affirm or reverse the decision of the local authority.

(3.) Any person applying for such consent shall, with his application, lodge with the local authority plans and specifications of any proposed buildings.

Penalty for breach.
N.Z., 1900, No. 25,
s. 83.

152. Every person who establishes an offensive trade in breach of this Act shall be liable to a penalty not exceeding fifty pounds.

153. Every person who carries on any offensive trade established in breach of this Act, or of any Act repealed by this Act, shall be liable to a penalty not exceeding five pounds for every day on which he carries it on, whether there has or has not been a conviction in respect of the establishing of the trade.

Penalty for illegally carrying on offensive trade.
N.Z., 1900, No. 25,
s. 84.

154. With respect to offensive trades heretofore or hereafter lawfully established within any district, the local authority may, of its own motion, and shall, when the Commissioner so requires, from time to time make by-laws to regulate the conditions subject to which such trades may be carried on, to prevent or diminish the offensiveness of the trades, and to safeguard the public health.

By-laws regulating carrying on of offensive trades.
N.Z., 1900, No. 25,
s. 85.

155. (1.) No person shall carry on an offensive trade within a district unless the house or premises in or upon which such trade is carried on, whether established before or after the commencement of this Act, is registered annually at the office of the local authority during the first week in January in every year.

Offensive trades to be registered.
1898, No. 24,
s. 147.

(2.) A fee of five pounds, or of such lesser amount as may be prescribed, shall be payable on registration.

(3.) Where an offensive trade is established after the first week in January in any year, the house or premises shall be registered within one week after such trade is established.

156. (1.) The local authority may refuse to register or to renew the registration of any house or premises used for an offensive trade unless constructed and maintained in accordance with its by-laws.

Local authority may refuse to renew registration.
See 1898, No. 24,
s. 148.

(2.) Any person aggrieved by such refusal, or, in case the local authority grants or renews the registration, any person aggrieved by such registration or renewal, may appeal to the Commissioner, who may affirm, vary, or rescind such refusal or registration, or renewal of registration.

(3.) The decision of the Commissioner shall, subject to the provisions of section thirty-eight, be final.

157. (1.) No person shall use any slaughter-house, or other premises connected therewith, unless the same shall, to the satisfaction of the local authority, be constructed of suitable material, and be paved with brick, stone, cement, asphalt, or other impervious material.

Slaughter-houses to be suitably constructed and paved.
1898, No. 24,
s. 188.

(2.) Every slaughter-house and premises shall be provided with impervious drains and receptacles for blood, offal, dung, and other refuse.

158. (1.) If, in the opinion of the local authority, any slaughter-house, or any premises connected therewith, are not constructed and kept in accordance with this Act, the local authority may,

Slaughter-houses to be kept in accordance with Act.
1898, No. 24,
s. 188.

may, by notice in writing, require the owner or occupier to make such improvements as may be specified in such notice within a time to be therein stated.

(2.) Whenever any owner or occupier shall fail to comply with a notice served upon him under the last preceding subsection, he shall be liable to a daily penalty not exceeding five pounds ;

(3.) The local authority may, and shall if the Commissioner so requires, carry out the requirements of such notice ; and may, by summary proceedings, recover all expenses incurred from the owner or occupier in addition to the penalties incurred ; or

(4.) The local authority may, and shall if the Commissioner so recommends, cancel or refuse to renew the registration of the premises.

No swine, etc., to be kept at slaughter-house.

See S.A., 1899, No. 711, s. 96.

159. No person in charge of any slaughter-house shall keep or permit or suffer to be, in or about any slaughter-house, any swine, unless intended for immediate slaughter, or any dog or poultry.

Swine not to be fed on raw offal.

1898, No. 24, s. 187.

160. No person shall permit any swine to feed upon any offal, unless such offal has been first boiled for at least one hour, or upon any blood, manure, filth, or any other refuse matter.

Division 3.—By-laws.

By-laws.

See Q., 1900, No. 9, s. 80.

161. A local authority may, of its own motion, and shall, when the Commissioner so requires, make by-laws with respect to all or any of the following matters, namely:—

- (1.) Defining localities in the district within which the keeping of any swine or pigsty is forbidden ;
- (2.) Prohibiting the keeping of animals on any premises so as to be a nuisance or injurious to health
- (3.) Regulating the situation, construction, and cleansing of structures, stables, and other buildings in which animals are kept.
- (4.) Regulating the keeping of poultry, pigeons, and other birds upon any premises ;
- (5.) The removal and destruction of dead, dying, or diseased animals found upon any street or land under the control of the local authority, or any land not securely fenced off from such street or land ;
- (6.) Compelling any owner of a diseased animal to forthwith destroy same, and empowering any officer of the local authority, on default being made by such owner, to seize and destroy such animal, and for that purpose to enter upon any premises ;
- (7.) Preventing the overcrowding of persons in houses and premises ;

- (8.) Prohibiting expectoration on any public place, or on any public vehicle, and for the cleansing of public vehicles ;
- (9.) Defining localities in the district within which noxious or offensive trades, businesses, or manufactures may not be established or carried on ;
- (10.) The registration of and regulating offensive trades, businesses, or manufactures, and prescribing fees for registration ;
- (11.) Prescribing the construction, drainage, ventilation, lighting, and cleanliness of premises occupied for the purpose of any offensive trade ;
- (12.) Defining localities in the district within which no animal shall be slaughtered ;
- (13.) The prevention of nuisances ;
- (14.) Prohibiting the sale, within its district, of any fresh meat of any animal slaughtered in any slaughter-house situated outside the district, unless such slaughter-house has been approved by the local authority or the Commissioner.
- (15.) For the prevention of danger to the public from manufactories, or places for the storage, keeping, or sale of inflammable materials ;
- (16.) For the disinfection of and the prevention of a nuisance, or injury or danger to health from rags or other materials used or stored in marine stores, or flock, bedding, or furniture manufactories.
- (17.) The prevention of nuisances or injury to health from the transport, deposit, use or storage as manure, of nightsoil, urine, offal, blood, or other offensive matter.

PART VIII.—FOOD.

Division 1.—Inspection.

162. Any medical officer, inspector, or other officer of the local authority may, at any time, enter into or upon any house, land, or premises, and

Power to inspect
food offered for sale.
N.Z., 1900, No. 25,
s. 86.

- (a.) Inspect any animal offered for sale or slaughter, or being prepared for sale or slaughter, for human consumption ;
or
- (b.) Inspect, take samples of, and examine any food exposed or offered for sale, or deposited for the purpose of sale or of preparation for sale, or that has recently been sold, for human consumption, whether such food is fresh or preserved, or in tins or other closed packages or not.

- (c.) Submit such samples to an expert authority recognised by the Commissioner for examination, and in any proceedings under the next following section the evidence of such expert shall, in the absence of proof to the contrary, be received as conclusive evidence of the condition of the samples examined by him.

Diseased or unsound food may be seized and destroyed.
N.Z., 1900, No. 25,
s. 87.

163. If, on such inspection and examination, it appears to such officer that there are reasonable grounds to believe that any such animal or food is diseased or unsound, or unwholesome or unfit for human consumption, he may cause it to be seized and carried away, in order that it may be dealt with in a manner as follows, that is to say :—

- (1.) If the medical officer is satisfied that the animal or food is utterly unfit for human consumption, and should be forthwith destroyed, he may cause it to be destroyed accordingly.
- (2.) In any other case the following provisions shall apply—
- (a.) The animal or food shall be kept at the expense of the owner for a period of forty-eight hours, and the owner may within such period complain to a justice of such seizure, and notify the officer thereof in writing, and of the time appointed for the hearing of the complaint.
- (b.) The complaint may be heard and determined by any two justices.
- (c.) If on such complaint it appears to the justices that the animal or food so seized is diseased, unsound, unwholesome, or unfit for human consumption, they may, by order,—
- (i.) Condemn it, and direct it to be destroyed or otherwise disposed of, so as to prevent it being used for human consumption, at the expense in all things of the complainant; and
- (ii.) Fix the expenses incurred in seizing and keeping the animal or food to abide the proceedings, and require the complainant to pay the same and costs of the proceedings.
- (d.) If on such complaint it appears to the justices that the animal or food so seized is not diseased, unsound, unwholesome, or unfit for human consumption they may order such animal or food to be restored to the complainant.
- (e.) If no complaint is made and notified as aforesaid within forty-eight hours of the seizure, the officer may cause the animal or food to be destroyed.

- (3.) All expenses incurred by the local authority in the examination, seizure or destruction of any animal or food under this section shall, if such animal or food was diseased or unsound, or unwholesome or unfit for human consumption, be paid by the owner to the local authority, and in default of payment may be recovered in a summary way before any two justices.
- (4.) In the case of any consignment of tinned or packed foods, if it appears on examination that the contents of ten per centum of the tins or packages are unsound, the whole consignment shall be deemed unsound and may be seized and dealt with as hereinbefore provided.
- (5.) Wherever an officer has the right to seize unwholesome food, such officer shall be deemed to have the power to detain for not longer than twenty-four hours any food of the unwholesomeness of which he has reasonable ground for suspicion, to permit of examination of samples of such food being made.
- (6.) For all the purposes of this section—
- (a.) It shall, until the contrary is proved, be presumed that the animal or food was intended to be sold or prepared for sale for human consumption ; and
 - (b.) the packing cases, tins, wrappers, coverings, and all other packing material may be dealt with in the same manner as the food contained therein ; and
 - (c.) the word “ owner ” shall include consignor, consignee, indenter, importer, agent, broker, manufacturer's or seller's agent, or the person in possession of the animal or food

164. Any person who sells, offers or delivers for sale, or keeps or has in his possession for sale, or supplies to any person, any food which is unwholesome, or deleterious to health, or any meat which has been spouted, greased, stuffed, or pricked shall be guilty of an offence against this Division of this Act.

Offence of selling unwholesome food.
1898, No. 24,
s. 55.

165. No public health official or officer of the local authority seizing any animal or food shall be liable for any damages, expenses, or costs on account of any such seizure if he acted under a reasonable belief that such animal or food was diseased, or unsound, or unwholesome, or unfit for human consumption.

Officer acting under reasonable belief immune.

166. All imported food products, apparently intended for human consumption, shall be subject to examination and the taking of samples by any inspector or other officer acting under the authority of the Commissioner ; and if, upon inspection, such food

Imported food products subject to examination.
S.A. 1899, No. 711,
s. 114.

products shall, in the opinion of the inspector or other officer, be found unfit for human consumption, the same may be forfeited and destroyed, or otherwise disposed of in such manner as the Commissioner may direct.

By-laws.

See Q., 1900, No. 9,
s. 92.

167. The local authority may, of its own motion, and shall, when the Commissioner so requires, make by-laws with respect to the following matters:—

- (1.) The precautions to be taken and the method and times to be observed for the slaughtering of animals, and the transport, preparation, manufacture, storage, or carriage of meat, and for the protection of meat from flies and dust when exhibited for sale.
- (2.) The precautions to be taken in the method of carriage, storage, distribution, manufacture, inspection, preparation, sale, and exposure for sale of food, ice, ice cream, and other similar products, and the construction, cleanliness, lighting, ventilation, drainage, and sanitation of premises in which these operations are conducted, and the precautions to be taken in and the construction and method of cleansing vehicles and utensils used in connection therewith.
- (3.) The destruction and disposal of unsound food, and the destruction of cases and packing material which may have contained or surrounded the same.
- (4.) Prescribing some place or places at which all fish, meat, or perishable food must be produced for inspection before being sold or offered or exposed for sale within the district.
- (5.) Prescribing and limiting the hours of slaughtering at any slaughter house.
- (6.) Prohibiting the exchange by or the return to the vendor of any food, except for reason of such food being unwholesome.
- (7.) Prohibiting the sale of food by itinerant vendors without the license of the local authority.
- (8.) Requiring their registration, without fee, with the local authority of all makers and vendors (not being persons licensed to sell liquor) of icecreams, ices, aerated waters, temperance drinks, cordials, and syrups.

Penalty.

168. Every person guilty of an offence against this Division of this Act, or against any By-law made under this Division, shall be liable on conviction—

- (a.) for a first offence to a penalty not exceeding twenty pounds; and

- (b.) for every subsequent offence to a penalty not exceeding fifty pounds, or imprisonment with or without hard labour for not exceeding six months.

Division 2.—Milk and Dairy Produce.

169. (1.) Any person who—

Contamination of milk.

- (1.) sells, offers, or delivers for sale, keeps or has in his possession for sale, or supplies to any person—

See S.A., 1899, No. 711, s. 111.

- (a.) impure or unwholesome milk, or milk drawn from animals fed on unwholesome food, or from animals affected with any disease of live stock, whether contagious, infectious, or otherwise, capable of causing the milk to become unwholesome for food, or

- (b.) milk drawn from animals within thirty days before or five days after parturition; or

- (2.) uses any such milk for human consumption; or

- (3.) mixes any such milk with other milk intended for human consumption, sale, or for butter or cheese-making; or

- (4.) uses any milk to which paragraph (a) of subsection one applies for the food of swine, or other animals; or

- (5.) allows any person suffering from any infectious or contagious disease to—

- (a.) milk any animal;

- (b.) handle any vessel used for the reception of milk intended for sale or for human consumption;

- (c.) take part or assist in the business of dairyman, cowkeeper, or vendor of milk; or

- (d.) be employed in a dairy;

commits an offence against this division of this Act.

(2) It shall be no defence to any prosecution under this section that the owner did not know that the animal was diseased, or that the person was suffering from an infectious disease, unless he shall also show that it was not practicable to discover the fact by the exercise of reasonable diligence.

(3.) Notwithstanding anything in this Act or the Justices Act, 1902, the irreducible minimum penalty for the commission (either as a first or as a subsequent offence) of any act described in paragraph one, two, three, or five of subsection (one) of this section shall be half the (pecuniary or other) maximum penalty, to which the offender is liable.

Dairy premises to be properly constructed.

170. The local authority may refuse to register or to renew the registration of any premises as a dairy, unless constructed in accordance with the by-laws.

List of customers to be furnished.
S.A., 1899, No. 711, s. 112.

171. Every person, on production of a certificate of a medical officer of health that an epidemic of infectious disease exists, or that the milk supplied by such person, or from his dairy, is suspected of causing disease, shall furnish to the local authority and, if so required, to the Commissioner, a list of the names and addresses of his customers, and a full statement of the names and residences of the persons from whom the milk is obtained.

Sale of milk.
See 1898, No. 24, s. 52.

172. (1.) No person shall sell or offer or deliver for sale any milk which has been carried over a milk round, or any part thereof, and returned to the dairy premises, milk depôt, or refrigerating or cooling chamber.

(2.) No person engaged in the carriage, delivery, or sale of milk shall have, at the same time and in the same vehicle, any water.

(3.) In any prosecution with respect to the sale or delivery of milk, it shall be no defence that the defendant is only the servant or agent of the owner of the milk, or is only entrusted for the time being with the milk by such owner, but the servant or agent and the owner shall both be liable.

(4.) If the defendant, being a servant or agent, proves that he delivered the milk in the same state in which he received it from his employer, and without knowledge that the nature, substance, or quality of the milk was injuriously affected, he may, notwithstanding that his employer has himself been convicted and fined, recover from such employer the amount of any penalty in which he may have been convicted in respect of such prosecution, together with the costs paid, or to be paid, by him upon such conviction, and those incurred by him in and about his defence thereto.

(5.) Where a servant or agent is so convicted, the justices may, if they think fit, suspend the operation of the conviction for any period not exceeding three months to enable the defendant to recover the amount of the fine and costs from his employer. For the purposes of this section "cream" shall be deemed to be "milk."

Regulation of sale of spurious butters.
1898, No. 24, s. 53.

173. (1.) No person shall make, prepare, or compound for sale, sell, offer, keep, or expose for sale any compound of fats, oils, or similar substances other than the fat of milk, or any article not made exclusively of milk or cream, or both, with or without salt, and with or without the addition of colouring matter, and not the legitimate product of the dairy, in imitation of or as a substitute for butter, unless a conspicuous and legible brand or mark indicating the nature of such compound is placed upon each piece or pat, and on every jar, parcel, cask, case, or package that contains any such compound or article.

(2.) Any such compound or article not being genuine butter, and not being branded or marked as herein provided, may be forthwith seized and destroyed or otherwise disposed of by any public health official or any officer of any local authority.

174. No person shall sell any imitation or filled cheese unless distinctly marked with the true and appropriate name of the article, and a label bearing such name is delivered to the purchaser at the time of the sale.

Imitation cheese to be labelled.

175. (1.) The local authority may of its own motion, and shall, when the Commissioner so requires, make by-laws—

By-laws as to dairies.

See 1898, No. 24, s. 33.

- (1.) For the annual licensing of cowkeepers, dairymen, and vendors of milk;
- (2.) For the annual registration of dairies, milk stores, and milk shops;
- (3.) Prohibiting the sale of milk by other than licensed persons, and except from registered dairies, milk stores, or milk shops;
- (4.) For the inspection of cattle bred or kept for dairying purposes and of dairy farms and grazing grounds, dairies, milk stores, and milk shops, and prohibiting the use thereof if likely, in the opinion of a medical officer of health, to be injurious or dangerous to health by affecting the milk or otherwise;
- (5.) For preserving the health and good and cleanly condition of cattle kept at any dairy, and for the inspection and the testing for the presence of tuberculosis in and among the same, and empowering the local authority to order the isolation or destruction of diseased cattle bred or kept for dairying purposes;
- (6.) Prescribing and regulating the situation, construction, lighting, ventilation, cleansing, paving, draining, and water supply of dairies, milk stores, and milk shops;
- (7.) Prescribing the precautions to be taken for protecting milk against infection or contamination;
- (8.) For the sterilisation and delivery of milk.
- (9.) For cleansing and disinfecting dairies, milk stores, and milk shops, and for destroying or removing any diseased animals, and for removing any sick persons from the premises of any dairy, milk store, or milk shop;
- (10.) For the prevention of the adulteration of milk and dairy produce.
- (11.) For temporarily prohibiting the sale of milk from dairies where animals are diseased or supposed to be diseased, or where persons are suffering, or supposed to be

suffering, from an infectious disease, or where there are reasonable grounds for suspecting that the milk supply from such dairies is causing the spread of infectious disease;

- (12.) Prescribing the fees to be paid for every annual license and registration: Provided that the amount of such annual fee shall not exceed one pound, or, if the licensee is already licensed in another district, two shillings and sixpence.

Saving of existing
by-laws.

(2.) Until by-laws are made by the local authority under this Division of this Act, all by-laws made by the Central Board of Health under the provisions of section thirty-three of the Health Act, 1898, and in force at the commencement of this Act, shall be deemed to have been duly made and published by the local authority as by-laws under the provisions of this Act, and may be enforced by the local authority accordingly.

(3.) The Governor may make regulations providing for payment of such compensation as he may deem just by the local authority to the owner of any cattle destroyed pursuant to any such by-law, and providing for such total or partial reimbursement of the local authority as he may think just out of such moneys as may be provided by Parliament for the purpose.

Penalty

176. Every person guilty of an offence against this Division of this Act, or against any By-law made under this Division, shall be liable on conviction—

- (a.) for a first offence to a penalty not exceeding twenty pounds; and
- (b.) for every subsequent offence to a penalty not exceeding fifty pounds, or imprisonment with or without hard labour for not exceeding six months.

Division 3.—Sale of Food and Drugs.

Advisory Com-
mittee.

177. (1.) The Governor may, for the purpose of this Part of the Act, appoint an Advisory Committee.

(2.) The Advisory Committee shall consist of the Commissioner, the Government Analyst, a Bacteriologist, and two other persons conversant with trade requirements who shall be appointed for not exceeding one year, but eligible for re-appointment.

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

(4.) The Commissioner shall be the 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.) Any three members of the Advisory Committee shall constitute a quorum.

(7.) The Clerk to the Commissioner shall be the Clerk of the Advisory Committee.

(8.) The members of the Advisory Committee, except those employed in the State Public Service, may be paid such attendance fees as may be prescribed, but such fees shall not exceed one guinea per member for each sitting, and no member shall receive fees aggregating more than fifty pounds in any one year.

178. (1.) The Commissioner may approve of qualified persons as analysts, and upon payment of the prescribed fee such persons may be registered as analysts at the office of the Commissioner. Registered analysts.

(2.) Any person performing the duties of an analyst under this division of this Act, without being so registered, shall be guilty of an offence against this division of this Act.

179. (1.) Any person who—

- (a.) mixes, colours, stains, or powders, or orders or permits any other person to mix, colour, stain, or powder, any food with any ingredient or material so as to render the food injurious or dangerous to health or unfit for the food of man, with intent that the same may be sold in that state; or
- (b.) mixes, colours, stains, or powders, or orders or permits any other person to mix, colour, stain, or powder, any food with any ingredient or material which the Governor by Order in Council under the provisions of this section declares to be an injurious ingredient, with intent that the same may be sold in that state; or
- (c.) sells any food so mixed, coloured, stained, or powdered as in the two last preceding subsections mentioned; or
- (d.) except for the purpose of compounding, as hereinafter described, mixes, colours, stains, or powders, or orders or permits any other person to mix, colour, stain, or powder, any drug with any ingredient or material, so as to affect injuriously the quality or potency of such drug, with intent that the same may be sold in that state; or
- (e.) sells any drug so mixed, coloured, stained, or powdered,

Mixture of food, etc., with injurious ingredients, and selling the same.
Q., 1900, No. 9,
s. 93.

shall, for a first offence, be liable to a penalty not exceeding fifty pounds, and for a second or any subsequent offence to be imprisoned for any period not exceeding six months, with or without hard labour.

(2.) But no person shall be liable to be convicted under this section in respect of the sale of any food or drug, if he shows, to the satisfaction of the justices, that he did not know of the food or drug sold by him being so mixed, coloured, stained, or powdered, and that he could not with reasonable diligence have obtained that knowledge.

(3.) Notwithstanding anything in this Act or the Justices Act, 1902, the irreducible minimum penalty for the commission (either as a first or as a subsequent offence) of any act described in paragraphs (a) or (b) of subsection (1) of this section shall be half the maximum penalty (pecuniary or other) to which the offender is liable.

Mixing or selling
food or drugs to
increase bulk.
N.S.W., 1902, No.
30. s. 88.

180. Every person who for purposes of sale, mixes or causes or permits to be mixed any ingredient or material with any food or drug in order thereby fraudulently to increase its weight, bulk, or measure, or to conceal its inferior quality, shall be liable to a penalty not exceeding twenty pounds, and for any subsequent offence to a penalty not exceeding fifty pounds.

Sale of food and
drugs not of nature,
substance, and
quality demanded.
See N.S.W., 1902,
No. 30, s. 88 (2).

181. (1.) Any person who—

(a.) sells any food or drug which is not of the nature, substance, and quality of the food or drug demanded by the purchaser; or

(b.) sells any compounded food or drug which is not compounded of ingredients in accordance with the demand of the purchaser,

shall be liable to a penalty not exceeding twenty pounds, and for a subsequent offence to a penalty not exceeding fifty pounds.

(2.) In any prosecution under this section, it shall be no defence to prove that—

(a.) the purchaser bought only for examination or analysis; or

(b.) the food or drug, though defective in nature or in substance or in quality, was not defective in all three respects.

Reduction allowed
in spirits.
Q., 1900, No. 9,
s. 94.
W.A., 1897., No. 25
s. 7.

(3.) In any prosecutions under this or the next succeeding section for selling spirits not adulterated otherwise than by the admixture of water, it shall be a good defence to prove, except in the case of spirits sold under a trade mark, that such admixture has

not reduced the spirit to more than twenty-five degrees under proof for brandy, whisky, or rum, or to more than thirty-five degrees under proof for gin.

182. (1.) Any person who sells any food or drug shall deliver the same to the purchaser in its pure state, and in strict accordance with its labelled description (if any), and with the name under which it is sold, unless it is sold as a mixture, in which case the added ingredients shall be pure; and the fact of the admixture, with the names of the added ingredients, shall be distinctly and legibly written or printed on a label affixed to the outside of the containing vessel or parcel, or to the outside wrapper of the food or drug.

Labelled description.

See N.S.W., 1902, No. 30, s. 39.

(2.) A breach of this section shall render the offender liable to a penalty not exceeding twenty pounds, and for a subsequent offence to a penalty not exceeding fifty pounds.

183. (1.) Every person who exhibits for sale frozen or chilled meat shall affix and keep affixed thereto a label stating distinctly and legibly, in printed or written characters, that such meat is frozen meat or chilled meat as the case may be.

Frozen or chilled meat to be labelled.
64 Vic., No. 3, ss. 2 and 3.

(2.) Any person who fails to comply with the provisions of this section shall be guilty of an offence, and upon conviction thereof shall be liable to a penalty not exceeding fifty pounds.

184. (1.) No person who is suffering from any infectious or contagious disease shall engage or be employed in the manufacture, manipulation, preparation, handling, storage, or sale of food or drugs.

(2.) The medical officer may examine any person so employed who is suspected of suffering from any infectious or contagious disease, and every person who refuses to submit to such examination on being required by such officer so to do shall be guilty of an offence against this division.

Employment of infected persons prohibited.

185. (1.) Any person who, with the intent that the same may be sold in its altered state, without notice, abstracts from any food any part of it so as to affect injuriously its quality, substance, or nature, or sells any article so altered without making disclosure of the alteration, shall be liable to a penalty not exceeding twenty pounds.

Abstraction of any part of food, and selling without notice.
Q., 1900, No. 9, s. 97.

(2.) In any proceedings under this section it shall not be a good defence to prove that milk has been reduced in value merely by the removal of the whole or a portion of its cream, and such removal shall be deemed to injuriously affect the quality of such milk.

(3.) But nothing in this section shall prevent the sale of skimmed or separated milk if the vessel containing such milk has the words "skimmed milk" or "separated milk," as the case may be, legibly marked thereon in some conspicuous place.

Commissioner
may examine
and report on
advertised food,
etc.
N.S.W., 1908, No.
31, s. 61.

186. (1.) The Commissioner may, at his own instance or at the request of any local authority, cause to be examined any food, drug, or appliance which is advertised, exhibited, or offered for sale, for the purpose of ascertaining its composition and properties, and shall compare the results of the examination with any advertisement which relates to the food, drug, or appliance, and with the price at which it is sold, and shall prepare and forward to the Minister a report thereon, and such report may include any comment which the Commissioner thinks desirable in the public interest.

(2.) The Commissioner may thereupon, with the approval of the Minister, cause the report to be published in the *Government Gazette*, and in any newspaper or public print which circulates within Western Australia, and to be distributed among the public in any other way, and no action shall lie in respect of such publication.

(3.) Any proprietor or manager of a newspaper or public print may republish any such report which has been published by the Commissioner as aforesaid, and no action shall lie against such proprietor or manager in respect of the republication.

(4.) In this section "appliance" includes any instrument or contrivance which is advertised, exhibited, or offered for sale as of use for curative purposes.

Sale of patent medi-
cines may be
prohibited.

187. The Commissioner may, from time to time, on the advice of the Advisory Committee, prohibit the sale of any patent or proprietary medicine which, in the opinion of the Committee, is deleterious or dangerous to health.

Any person who sells, or offers to sell, or advertises for sale, or has in his possession for sale, any patent or proprietary medicine, the sale of which has been so prohibited, shall be guilty of an offence against this Act.

For the purposes of this section "patent or proprietary medicine" means and includes any medicine or medicinal preparation for external or internal use which the maker or vendor has any exclusive right to make under the authority of letters patent, or which is recommended to the public by advertisement, price list, handbill, or label for the prevention, cure, or relief of any malady or disorder incident to or otherwise affecting the human body.

Publication of
false statements
concerning
medicines, etc.

188. (1.) Every person who publishes, or causes to be published, any statement which is intended by such person or any other person, to promote the sale of any article as a medicine, preparation, or appliance for the prevention, alleviation, or cure of any human ailment or physical defect, and which is false in any material particular relating to the ingredients, composition, structure, nature, or operation of that article, or to the effects which have followed, or may follow, the use thereof, shall be guilty of an offence against this division.

(2.) A statement shall be deemed to be published within the meaning of this section if it is inserted in any newspaper printed and published within the State, or is publicly exhibited in view of persons in any road, street, or other public place, or is contained in any document which is gratuitously sent to any person through the Post Office, or which is gratuitously delivered to any person, or left upon premises, in the occupation of any person.

(3.) If any statement be inserted in breach of this section in a newspaper printed and published in Western Australia, the printer, publisher, and proprietor of that newspaper shall severally, and without excluding the liability of any other person, be guilty of an offence against this division. Provided that no prosecution shall be instituted against the printer, publisher, or proprietor of any newspaper printed and published in Western Australia, for the publication of any statement in breach of this section, unless within the three months immediately preceding the day of the publication thereof a warning has been delivered to such printer, publisher, or proprietor, as the case may be, under the hand of the Commissioner, that such statement, or some other statement substantially to the same effect, is false, and that the publication thereof is an offence against this division.

(4.) If any person shall sell, or offer for sale, or have in his possession for sale, any newspaper or publication published outside of Western Australia containing any statement which is intended or apparently intended to promote the sale of any article as a medicine, preparation, or appliance for the prevention, alleviation, or cure of any human ailment or physical defect, and which is false in any material particular relating to the ingredients, composition, structure, nature, or operation of that article, or to the effects which have followed or may follow the effects thereof, he shall be guilty of an offence against this Division. Provided that no prosecution shall be instituted against any such person unless within the three months immediately preceding the day on which such newspaper came into his possession he shall have been warned by the Commissioner of the falsity of such statement or of some other statement substantially to the same effect.

189. (1.) Any medical officer of health, or inspector, or any other officer authorised in that behalf by the Commissioner or a local authority may procure a sample of food or drug, and submit the same to an analyst.

Sample of food or drug may be obtained for analysis.
See Q., 1900, No. 9, s. 98.

(2.) If, when such officer applies to purchase any food or drug from any person having the same for sale, or the servant or agent of such person, and tenders the price for the quantity which he requires for the purpose of analysis, such person, or his servant or agent, refuses to sell the same, he, and also the servant or agent, if any, shall be guilty of an offence against this division.

Penalty for refusing to sell article to officer.

(3.) Every such officer who purchases any food or drug, with the intention of submitting the same to analysis, shall forth-

Dealing with samples when purchased.

with notify to the seller or his servant or agent selling the same his intention to have the same analysed, and shall offer to divide the food or drug so purchased into three parts to be then and there separated, and each part to be marked and sealed or fastened up in such manner as its nature permits by the purchaser in the presence of the seller or his servant or agent, and, if such seller or his servant or agent so desires, with the seal or distinguishing mark of such seller or his servant or agent as well as of the inspector.

Purchaser may retain one part.

(4.) The purchaser shall, if required so to do, proceed accordingly, and shall deliver one of the parts to the seller or his servant or agent; he shall afterwards retain one of the parts for future comparison, and submit the third part to the analyst, if he thinks it right to have the food or drug analysed.

When sample is not divided.

(5.) If the seller or his servant or agent does not accept the offer of the purchaser to divide such food or drug, the analyst receiving the same shall divide it into two parts, and shall seal or fasten up one of the parts, and cause it to be delivered to the purchaser, either when he receives the same or when he supplies his certificate to the purchaser; and such purchaser shall retain the part so delivered to him, and produce the same if any proceedings are afterwards taken in the matter.

Sending article to the analyst through the post office.

(6.) If the analyst does not reside within two miles of the residence of the person requiring the food or drug to be analysed, such food or drug may be forwarded to the analyst through the post office as a registered letter or packet.

Certificate of analyst evidence.

(7.) The analyst shall give a certificate of the result of his analysis and examination in the prescribed form, and in any proceedings before any court the production of a certificate purporting to be signed by the analyst shall be sufficient evidence of the identity of the food or drug analysed and of the result of the analysis, without proof of the signature of the person appearing to have signed the same.

Analyst to be called if required

(8.) Provided that in any proceedings, the defendant may require the analyst to be called as a witness, and the part of the food or drug retained by the person who purchased the same to be produced.

Court may have food or drug analysed.

(9.) The court before which any complaint is made, or any appeal is heard, may cause any food or drug to be sent to an analyst to make an analysis or examination thereof and give a certificate to the court of the result.

Cost of analysis.

(10.) The costs of any analysis shall be paid as the court in its discretion directs.

Certificate evidence without further proof.

190. In any proceeding under this Act the production of a certificate purporting to be signed by a bacteriologist or pathologist appointed under section eleven of this Act that any food is diseased,

deleterious to health or unwholesome, or unfit for human consumption, shall, without further proof, be sufficient evidence of the facts therein stated, but the defendant may require that the bacteriologist or pathologist, as the case may be, shall be called as a witness.

191. Any medical officer of health, or inspector, or any other officer authorised in that behalf by the local authority or the Commissioner, may, in exercise of the powers conferred by this Act,—

Powers of inspector etc.

Q., 1900, No. 9, s. 99.

- (1.) At all reasonable hours, have access to all public or private salerooms occupied or used by merchants, brokers, wholesale dealers, or other persons, and to all public and private warehouses, factories, stores, quays, sheds, ships, or barges where food or drugs are offered for sale, or deposited for the purpose of sale, and seize or procure samples of any such food or drugs ;
- (2.) Seize or procure samples of any food or drugs at the place of delivery, or at any railway station or other place during transit, or upon the premises of or elsewhere in the possession of any person for the purpose of carriage ;
- (3.) Seize on board any vessel or procure at the port of entry or elsewhere samples of any food or drugs imported as merchandise ;
- (4.) For any of the purposes aforesaid, open any parcel, box, barrel, basket, bag, case, tin, or other package in which such food or drugs may be contained.

192. (1.) In every proceeding under the provisions of this Act with respect to any food or drug, the standard settled and appointed by regulations under this Act shall be the standard, or if no such standard shall have been settled and appointed in respect of any drug, the pharmacopœia as defined by *The British Pharmacopœia* shall be taken as the standard.

The appointed standard or the *British Pharmacopœia* to be standard.

See Q., 1900, No. 9, s. 102.

(2.) Any purchaser of any food or drug for which a standard exists shall, in the absence of proof to the contrary, be deemed to have demanded the standard quality of such food or drug.

(3.) A food or drug for which a standard exists shall, for the purposes of this Act, be deemed to be pure if it is in conformity with such standard.

193. (1.) In any prosecution under this Act for the sale of any food or drug it shall, subject to the provisions hereinafter contained, be a good defence if the defendant proves that he purchased the article sold by him in reliance on a written warranty or other written statement as to the nature of the article purchased, and that if the article had truly conformed to such warranty or statement, the sale of the article by the defendant would not have constituted the offence charged against him.

Defence that article purchased under warranty and sold as received allowed in certain cases.

See N.Z. 1908, No. 107, s. 14.

Provided that no such warranty or statement shall be any defence—

- (a.) If given or made by a person not resident in the State, unless the defendant proves that he had taken reasonable steps to ascertain the truth regarding the matters set forth therein, and in fact believed the allegations therein to be true ;
- (b.) If it is proved that the defendant knew or had reason to suspect that the article sold did not conform thereto.
- (c.) Unless the defendant has given the prosecutor or his solicitor or agent reasonable notice that he will rely on such defence.

(2.) When the defendant is a servant or agent of the person who purchased the article under such a warranty or statement, he shall be entitled to the benefit of this section in the same manner and to the same extent as his employer or principal would have been if he had been defendant, unless it is proved that the servant or agent knew or had reason to suspect that the article did not conform to the said warranty or statement.

Right of recourse
by defendant in
certain cases.

N.S.W., 1902, No.
30, s. 92, ss. (2).

(3.) If the defendant, having purchased the food or drug, proves that he sold it in the state in which he received it from the person from whom he purchased, and without knowledge, as the case may be—

- (a.) that the nature, substance, or quality was not that of the food or drug demanded by the purchaser ; or
- (b.) that any material or ingredient had been mixed with the food or drug contrary to any provisions of this Act ; or
- (c.) that the food or drug was unfit for human consumption or use ; or
- (d.) that otherwise any provisions of this Act with regard to the nature, substance, quality, or labelling of the food or drug had been contravened,

he may recover, in any court of competent jurisdiction, from the person from whom he purchased the food or drug, the amount of any penalty in which he may have been convicted in respect of such prosecution, together with the costs thereof, paid or payable by him upon his conviction, and those paid or payable by him in and about his defence thereto ; and the court that inflicts the penalty on him may suspend the operation of the conviction for any period not exceeding three months to enable him to recover, as hereinbefore provided, from the person from whom he purchased the food or drug.

Liability of agent
or servant.
N.S.W., 1902, No.
30, s. 93.

194. (1.) In any prosecution under this Act for the sale of any food or drug, it shall be no defence that the defendant is only the agent or servant of the owner of or person dealing in the food or drug or having the same for sale, but the agent or servant and the owner or person aforesaid shall be liable :

Provided that a servant shall not be liable if he proves that the offence was committed in a store, shop, stall, or other similar place

in which business was, at the time of the committing of the offence, conducted under the personal superintendence of some other person.

(2.) If the defendant, being an agent or servant, prove that he sold the food or drug without knowledge, as the case may be— Master's liability to agent or servant.

(a.) that the nature, substance, or quality was not that of the food or drug demanded by the purchaser; or

(b.) that any material or ingredient had been mixed with the food or drug contrary to any provisions of this Act; or

(c.) that the food or drug was unfit for human consumption or use; or

(d.) that otherwise any provisions of this Act with regard to the nature, substance, quality, or labelling of the food or drug had been contravened,

he may, notwithstanding that his employer or master has been convicted and fined, recover in any court of competent jurisdiction from his employer or master the amount of any penalty in which he may have been convicted in respect of such prosecution, together with the costs thereof paid or payable by him upon his conviction, and those paid or payable by him in and about his defence thereto.

(3.) Where an agent or servant has been convicted as aforesaid, the court may, if it thinks fit, suspend the operation of the conviction for any period not exceeding three months, to enable him to recover from his employer or master the penalty and costs as aforesaid. Agent or servant may recover.

195. Whenever, after the conviction of any person for selling any food or drug, the justices are of opinion that it is unfit for the food of man, or for use as a drug, they may order such food or drug to be forfeited, and to be destroyed or otherwise disposed of as they think fit. Unfit food or drug may be destroyed. Q., 1900, No. 9, s. 101.

196. (1.) The consignee or other person having the custody of any food or drug imported into Western Australia shall permit any medical officer of health, or inspector, or any other officer authorised in that behalf by the local authority or the Commissioner to take such samples of any such consignment as may be necessary for the enforcement of the provisions of this Act. Importation of adulterated foods, etc. Q., 1900, No. 9, s. 103.

(2.) When such officer takes a sample of any such consignment, he shall divide it into three parts, and shall deliver or send one of the parts to the consignee or his agent; he shall retain one of the parts for future comparison, and shall submit the third part to an analyst.

(3.) If upon analysis or examination the same is found to be adulterated or impoverished, or if it has been mixed with any other substance, or if any part of it has been abstracted so as in any case to affect injuriously its quality, substance, or nature, the food or drug shall not be delivered to the consignee except with the sanction of the

Commissioner and subject to such terms and conditions as he thinks fit to impose.

(4.) If upon such analysis or examination any food is found to be unfit for the food of man, such consignment shall be destroyed or otherwise dealt with as the local authority or the Commissioner may direct.

Disinfectants.

Q., 1900, No. 9,
s. 104.

197. (1.) Any person who sells or exposes for sale any substances or compound under the name or description of or with intent that the same may be used as a disinfectant, deodoriser, germicide, preservative, antiseptic, sanitary powder, or sanitary fluid, without disclosing the name or names of such substance or compound, and the percentage of the active ingredients contained in the same, by a label distinctly and legibly written or printed on or with the substance or compound, shall be liable to a penalty not exceeding fifty pounds.

(2.) The provisions of this Act relating to the analysis or examination of food and drugs shall apply to all substances and compounds in this section referred to.

False trade
description.

198. No person shall sell, or exchange, or offer, store, keep, expose, advertise or deliver for sale or exchange, or authorise, direct, or allow the sale or exchange of any food, disinfectant, or drug to which a false trade description is applied, or bearing a description which, or the advertised description of which, is misleading, or if relied on might cause injury or danger to health.

Definition of trade
description.

199. (1.) A trade description shall be deemed to be applied to any article of food, disinfectant, or drug, if it is—

(a.) applied to the article itself; or

(b.) applied to any covering, label, reel, or thing used in connection with the article.

(2.) "Covering" includes any stopper, glass, bottle, vessel, box, capsule, case, frame, or wrapper, and "label" includes any band or ticket.

Regulations.

See Q., 1900, No. 9,
s. 105.

200. The Governor on the advice of the Advisory Committee may from time to time make regulations with respect to all or any of the following matters, namely:—

(1.) Prescribing the fees to be paid by persons applying to be approved and registered as analysts.

(2.) Prescribing the fees to be paid by persons for the analysis or examination of foods, drugs, or disinfectants.

(3.) For the taking of samples of foods, drugs, and disinfectants, and for the examination or analysis thereof.

(4.) Settling and appointing standards for the composition of foods, drugs, and disinfectants, and, subject as hereinbefore provided with regard to spirits, the amount of dilution, if any, to be allowed in the sale by retail of any foods or drugs.

- (5.) Settling and appointing standards of the amount of deterioration or natural poverty, if any, in any food or drug to be permitted without prosecution under the provisions of this Act.
- (6.) Settling and appointing standards of the amount and kind, if any, of foreign substances to be allowed for the preservation, colouring, or flavouring of foods.
- (7.) Prohibiting the sale of milk or any other food whatsoever containing bacteria in excess of a prescribed number.
- (8.) Regulating the printing and wording upon labels and brands to be used in the sale of mixed or altered foods, drugs, or disinfectants.
- (9.) Requiring tinned or packed food to bear upon the tin or package the date of the manufacture, preparation, packing, or importation thereof.
- (10.) Regulating marks to be applied to food, drugs, or disinfectants deemed by the Commissioner wholesome or effective, and prescribing the fees to be paid for the inspection and marking of food, drugs, or disinfectants.
- (11.) Requiring medicine supplied by pharmaceutical chemists, otherwise than on an order of a legally qualified medical practitioner, to be specially labelled if it contains certain prescribed drugs.
- (12.) Prescribing the marks or brands to be applied to food which is condemned.
- (13.) Prohibiting the sale, or the offer or exposure for sale, within prescribed districts, of meat which is not marked or branded with prescribed marks or brands, and appointing places within such districts at which all unmarked or unbranded meat shall be exhibited for inspection.
- (14.) For the prevention of adulteration of foods, drugs, and disinfectants, and for the prohibition of the sale of foods, drugs, or disinfectants not in conformity with the appointed standard.
- (15.) Generally for all other matters and things necessary to give effect to this Division of this Act.

Penalties.

201. Any person guilty of an offence against this Division or against any by-law or regulation made under this Division shall be liable on conviction, if there is no penalty specially provided for such offence—

Penalties or offences against this Division.

- (a.) For a first offence, to a penalty not exceeding twenty pounds; and
- (b.) For every subsequent offence, to a penalty not exceeding fifty pounds, or imprisonment with or without hard labour for a period not exceeding six months.

PART IX.—INFECTIOUS DISEASES.

Division 1.—General Provisions.

Infectious diseases
may be declared
dangerous.

See N.Z., 1900,
No. 25, s. 13.

202. The Governor may from time to time, by notice in the *Government Gazette*, declare any infectious disease to be a dangerous infectious disease within the meaning of this Act, and in such case, and so long as such notice remains unrevoked, the disease specified therein shall be deemed a dangerous infectious disease accordingly. Provided that venereal disease shall not be an infectious disease within the meaning of this division.

By-laws to prevent
the spread of infec-
tious disease.

See N.Z., 1900,
No. 25, s. 14.

203. For the purpose of preventing or checking the spread of infectious disease, the local authority may, from time to time, of its own motion, and shall, when the Commissioner so requires, make by-laws—

- (1.) For house-to-house visitation, and inspection of the houses, the occupants thereof, and the things therein, as also of the outbuildings, yards, drains, and sewers connected with any house;
- (2.) For the cleansing and disinfecting of houses, buildings, yards, drains, sewers, and things;
- (3.) For the ventilating of houses or buildings, or of rooms therein;
- (4.) For the isolating or disinfecting of persons, houses, buildings, places, and things;
- (5.) For the providing of medical and nursing aid and accommodation for the sick;
- (6.) For the removal and curative treatment of the sick;
- (7.) For the speedy disposal of the dead;
- (8.) For the destruction or amendment of insanitary houses, buildings, and things;
- (9.) For the destruction of infected animals, or of animals or insects suspected or liable to be infected, or to convey infection.
- (10.) Generally for promoting and enforcing all such cleansing, ventilating, disinfecting, and other measures as are deemed necessary in order to prevent or check the spread of infectious disease.

Power of local
authority to check
infectious disease.

204. In order to check or prevent the spread of any infectious disease, the local authority may, from time to time, of its own motion, and shall, when the Commissioner so requires,—

- (1.) Exercise any function or power conferred by this Act or its local governing Act;
- (2.) Remedy any sanitary defect or execute any sanitary work within the powers possessed by the local authority under this Act or its local governing Act.

205. The Commissioner may, if authorised by the Minister, from time to time and for such time as the Minister thinks fit, exercise and delegate to any public health official the following special powers within or with respect to any district, or any part thereof, for the purpose of more effectually checking or preventing the spread of any dangerous infectious disease:—

Special powers
when authorised
by Minister.

See N.Z., 1900,
No. 25, s. 19.

- (1.) He may declare any land, building, or thing to be insanitary, and may forbid any insanitary building to be used or occupied for any purpose.
- (2.) He may cause any insanitary building to be pulled down, and the timber and other materials thereof to be destroyed or otherwise disposed of as he thinks fit.
- (3.) He may cause insanitary or infected things to be destroyed or otherwise disposed of as he thinks fit.
- (4.) He may cause animals infected, or suspected or liable to be infected, or to convey infection, to be destroyed in such manner as he thinks fit.
- (5.) He may require persons to report themselves or submit themselves for medical examination at specified times and places.
- (6.) He may order persons, places, houses, premises, buildings, ships, animals, and things to be isolated, quarantined, or disinfected as he thinks fit.
- (7.) He may forbid persons, ships, animals, or things to come or be brought to any port or place in a district from any port or place which is, or is supposed to be, infected with any dangerous infectious disease.
- (8.) He may forbid persons to leave the district or the place in which they are isolated or quarantined until they have been medically examined and found to be free from dangerous infectious disease, and may enforce the return of any person who unlawfully leaves such district or place.
- (9.) He may regulate the control and direction of ships from infected ports or places, and the discharge and the treatment of the cargo ;
- (10.) He may cause vessels and ships to be fumigated, and may require or undertake the destruction of rats in vessels and ships, and may recover from the owner of or agent for any vessel or ship all reasonable expenses incurred in the exercise of such powers.
- (11.) He may forbid the removal of animals or things from any district, or part thereof to another, or from the place where they are isolated or quarantined.

- (12.) He may cause places, houses, buildings, animals, and things to be inspected and examined.
- (13.) He may order owners and occupiers to destroy all rodents on their premises.
- (14.) He may require watercourses and the sources of water-supply to be purified.
- (15.) He may forbid the discharge of sewage, drainage, or insanitary matter of any description into any watercourse, stream, lake, or source of water-supply.
- (16.) He may require the effectual cleansing of streets and public ways and places by those entrusted by law with the care and management thereof.
- (17.) He may, with the approval of the Minister, use as a temporary site for a special hospital or place of isolation or quarantine ground any reserve or endowment suitable for the purpose, notwithstanding that such use may conflict with any trusts, enactment, or condition affecting the reserve or endowment.
- (18.) He may exercise any other power conferred upon him by the Governor.

Assistance and co-operation therein.

See N.Z., 1900, No. 25, s. 20.

206. In the exercise of his functions and powers under the last preceding section, the Commissioner may employ inspectors and workmen, and shall be entitled to the co-operation and assistance of officers of local authorities and members of the police force, and such members and officers are hereby enjoined to co-operate and assist accordingly.

Commissioner may delegate special powers.

207. The local authority shall, if requested by the Commissioner, exercise all or any of the functions and powers which the Commissioner is authorised to exercise under section two hundred and five.

Penalty for obstructing or refusing to comply with directions.

See N.Z., 1900, No. 25, s. 21.

208. Every person who in any way, directly or indirectly, by act or default,—

- (a.) obstructs or hinders the Commissioner or the local authority in the execution of his or its functions and powers under the provisions of this Part of this Act; or
- (b.) does anything which the Commissioner or the local authority in the exercise of the aforesaid functions and powers forbids to be done; or
- (c.) refuses, delays, or neglects to promptly and satisfactorily comply with any direction or requirement of the Commissioner or the local authority in the exercise of the aforesaid functions and powers,

commits an offence, and shall be liable to a penalty not exceeding fifty pounds, and in the case of a continuing offence to a further penalty not exceeding five pounds for every day on which the offence is continued after the first day.

209. (1.) If the offence consists of not doing any sanitary work or remedying any sanitary defect, then, irrespective of the penalty to which the offender is liable, the Commissioner or the local authority may itself cause the work to be done, or the defect to be remedied, at the expense in all things of the offender.

On default, work may be done at expense of offender. See N.Z., 1900, No. 25, s. 22.

(2.) All such expenses, as also all penalties under the last preceding section, shall be recoverable in a summary manner before two justices of the peace by the Commissioner or the local authority.

(3.) All such expenses shall also, by force of this Act, be deemed to be a charge on the land in respect of which they have been incurred.

210. For the purposes of the foregoing provisions of this Act any medical officer of health or inspector may at any time, with or without assistants,—

Power to enter on lands and do works. N.Z., 1900, No. 25, s. 23.

- (1.) Enter any land, house, or building, and inspect and examine the same and all things thereon or therein ;
- (2.) Do on or in any land, house, or building any sanitary or other work which the medical officer of health authorises or directs ;
- (3.) Generally do with respect to persons, places, land, houses, buildings, animals, or things whatever is necessary or expedient in order to carry out the foregoing provisions of this Part of this Act or any direction or requirement of the medical officer of health thereunder.

211. In no case shall the Commissioner or any medical officer of health, or any inspector or assistant, incur any personal liability by reason of anything done by him under the powers conferred by this Act.

No personal liability. See N.Z., 1900, No. 25, s. 24.

212. In every case where, under the foregoing provisions or powers of this Part of this Act, any building, animal, or thing is destroyed by direction of the Commissioner or the local authority, the owner shall be entitled to compensation to the extent and subject to the conditions following, that is to say:—

Compensation for building, animal, or thing destroyed. N.Z., 1900, No. 25, s. 25.

- (1.) The compensation shall not exceed the actual market-value of the building, animal, or thing destroyed.
- (2.) If the destruction has been rendered necessary by reason of any breach or neglect of duty, or of the ordinary rules of sanitary carefulness or cleanliness on the part

of the owner or of any person for whose acts or defaults the owner is responsible, then no compensation shall be payable.

- (3.) If, in the case of buildings, the destruction thereof has been rendered necessary by reason of any such breach or neglect as aforesaid on the part of the occupier of the building, or of any person for whose acts or defaults the occupier is responsible, then the compensation shall be payable by the occupier.
- (4.) If the destruction has been rendered necessary by reason of any such breach or neglect aforesaid on the part of the local authority, then the compensation shall be payable by such authority.
- (5.) If the destruction has been rendered necessary, in the interests of the public health, and without any such breach or neglect as aforesaid, then the compensation shall be payable out of moneys to be appropriated by Parliament for the purpose.
- (6.) All questions and disputes relating to claims for compensation shall, in the prescribed manner, be heard and determined by a magistrate.

Power to require
cleansing and
disinfecting of
buildings, etc.

See N.Z., 1900,
No. 25, s. 27.

213. Whenever the local authority is of opinion that the cleansing or disinfecting of any house or building, or of any articles therein, or of any outbuilding, yard, drain, sewer, sanitary convenience, or other appurtenance belonging to or connected therewith, would tend to prevent or check infectious disease, the following provisions shall apply:—

- (1.) It may, by requisition to the owner and occupier of the house or building, require them to do whatever works are necessary in order that the house, building, articles, or appurtenances may be effectually cleansed and disinfected in the manner and within the time specified in the requisition.
- (2.) The owner and occupier are hereby jointly and severally empowered and required to do whatever works are necessary in order to duly comply with the requisition.
- (3.) If default is made in duly complying with the requisition within the time specified therein, then the owner and occupier shall be severally liable to a penalty not exceeding five pounds for every day thereafter until the requisite works are duly done.
- (4.) If such default occurs or the abatement of the nuisance is, in the opinion of the local authority, of immediate necessity, the local authority may cause the requisite works to be done at the expense in all things of the owner and occupier, who shall be jointly and severally liable therefor.

- (5.) All such expenses shall be recoverable by the local authority from the owner and occupier in a summary way, and until paid shall, by force of this Act, be deemed to be a charge on the house and building, and also on the land on which the same is built or to which it appertains.
- (6.) When the owner or occupier of any such house or part thereof is from poverty or otherwise unable, in the opinion of the local authority, effectually to carry out the requirements of this section, the local authority may cleanse or disinfect such house or part thereof or articles, and itself defray the expenses of so doing.
- (7.) The local authority shall enforce the provisions of this section in every case in which the death from the disease known as tuberculosis occurs.

214. The local authority may, and when the Commissioner so requires shall—

Local authority may provide for destroying or disinfecting infected things and provide vehicles.
See N.Z., 1900, No. 25, s. 28.

- (1.) Cause disinfection or destruction of any bedding, clothing, or other articles or things which have been exposed to infection from any infectious disease, and pay compensation for the things damaged or destroyed not to exceed their reasonable market value;
- (2.) Provide a proper place, with all necessary apparatus and attendance, for the disinfection or destruction of bedding, clothing, or other things which have been exposed to infection from any infectious disease;
- (3.) Provide and maintain vehicles suitable for the conveyance of infected things to the place of disinfection or destruction;
- (4.) Provide and maintain vehicles suitable for the conveyance of persons affected with infectious disease, to a hospital or other place of reception.

215. For the purposes of the last preceding section, the following provisions shall apply:—

Restrictions on use of such vehicles.
N.Z., 1900, No. 25, s. 29.

- (1.) Vehicles for the conveyance of infected things shall not be used for the conveyance of infected persons;
- (2.) Forthwith after being used for the conveyance of infected persons or things the vehicle shall be effectually disinfected;
- (3.) A vehicle which has been used for the conveyance of infected persons or things shall not be used for any other purpose until the medical officer of health or an inspector certifies in writing that it has been effectively disinfected;

- (4.) If any vehicle is used in breach of this section every person who so uses it, or permits it to be used, shall be liable to a penalty not exceeding fifty pounds ;
- (5.) The work of providing and maintaining vehicles, and of disinfecting and destroying infected things, and of conveying infected persons and things, shall be done by the local authority at its own cost in all things :

Provided that the local authority shall be entitled to recover from the owner the reasonable cost of disinfecting infected things.

Removal of persons suffering from infectious disease to hospital.
N.Z., 1900, No. 25, s. 31.

216. On the order of a medical officer of health, any person who is suffering from any infectious disease may be removed to any hospital available for the reception and treatment of persons suffering from such disease ; and with respect to such order the following provisions shall apply :—

- (1.) The order may be made by the medical officer of health in any case where, in the interests of public health, he thinks it expedient so to do.
- (2.) The order shall be made in every case where the medical officer of health is satisfied that the patient is without proper lodging or accommodation, or is living in a house in which he cannot be effectually isolated so as to prevent the risk of the infection spreading to other persons living in the house.
- (3.) The order need not be addressed to any specified person but shall be obeyed by every officer of the local authority upon whom it is served or to whose knowledge it comes
- (4.) Every person who wilfully disobeys the order, or in any way obstructs or delays the prompt execution thereof, shall be liable to a penalty not exceeding ten pounds.

Exposure of infected persons and things.
See Q., 1900, No. 9, s. 125.
N.Z., 1900, No. 25, s. 32.

217. (1.) Any person who,—

- (a.) while affected with any infectious disease, wilfully exposes himself in any public house, or in any public place, or public vehicle without proper precautions against spreading the infection ; or
- (b.) while affected as aforesaid, enters any public vehicle without previously notifying to the owner, conductor, or driver thereof that he is so affected ; or
- (c.) being in charge of any person so affected, so exposes such person or allows him to do anything in breach of this section ;

shall be liable to a penalty not exceeding fifty pounds.

(2.) Any person who, while affected with any infectious disease, enters any public vehicle without previously notifying to the owner or driver that he is so affected, shall, in addition, be

ordered by the justices to pay such owner and driver the amount of any expense and loss they may respectively incur in carrying into effect the provisions of this Act with respect to disinfection of the conveyance:

Provided that no proceedings shall be taken against persons transmitting with proper precautions any bedding, clothing, or other things for the purpose of having the same disinfected.

218. Every owner, driver, or conductor of a public vehicle—

- (1.) Shall immediately cause the disinfection, to the satisfaction of an inspector, of such vehicle after it has to his knowledge conveyed any person affected with any infectious disease;

- (2.) May also require such person to pay or deposit a sum sufficient to defray the expenses of effectually disinfecting the vehicle.

Precautions when infected person enters public vehicle.

See N.Z., 1900, No. 25, s. 33.

219. If the owner, driver, or conductor of a public vehicle fails or neglects to comply with subsection one of the last preceding section, he shall be liable to a penalty not exceeding ten pounds.

Penalty for non-compliance.

N.Z., 1900, No. 25, s. 34.

220. (1.) Every person shall be liable to a penalty not exceeding fifty pounds who—

- (a.) Sells, gives, lends, transmits, or exposes any things which have been exposed to infection from any infectious disease, unless they have first been effectively disinfected, or proper precautions have been taken against spreading the infection; or

- (b.) Lets for hire any house, room, or part of a house or room, to be shared or occupied in common by or with any person suffering from any infectious disease; or

- (c.) Lets for hire any house, room, or part of a house or room, in which there then is, or has been, any person suffering from any infectious disease, unless, before the person hiring goes into occupation, the house, room, or part let, and all things therein liable to infection, have been effectually disinfected to the satisfaction of a medical officer of health or an inspector, as certified by certificate under his hand; or

- (d.) When letting or negotiating to let to any person for hire any house, room, or part of a house or room, conceals the fact that any person suffering from any dangerous infectious disease then is, or within the previous six weeks has been, living in the house or in any part thereof.

Penalty for selling infected things or letting house where infected person is lodging.

See N.Z., 1900, No. 25, s. 35.

(2.) For the purposes of this section the keeper of a public house or common lodging-house or boarding house shall be deemed to let for hire part of a house to any person admitted as a guest or lodger into such house.

Ceasing to occupy houses without previous disinfection, or giving notice to owner making false answers.

See Q., 1900, No. 9, s. 128.

221. Every person who ceases to occupy any house or part of a house in which, within six weeks previously, any person affected with any infectious disease has resided—

(a.) without having such house, or part thereof, and all articles therein liable to retain infection, disinfected to the satisfaction of a medical officer, as testified by a certificate signed by him, or without first giving to the owner of such house, room, or part of a house, and to the local authority, notice of the previous existence of such disease; or

(b.) being questioned by the owner thereof, or by any person negotiating for the hire of such house, room, or part of a house, as to the fact of there having, within six weeks previously, been therein any person suffering from any infectious disease, knowingly makes a false answer to such question:

shall be liable to a penalty not exceeding ten pounds.

Infected matter thrown into ash-pits, etc., to be disinfected.

Q., 1900, No. 9, s. 130.

222. Any person who knowingly casts, or causes or permits to be cast, into any ash-pit, ash-tub, or other receptacle for the deposit of refuse matter any infected matter or thing without previous disinfection, shall be liable to a penalty not exceeding twenty pounds.

Temporary shelter, etc.

Q., 1900, No. 9, s. 131.

223. The local authority shall from time to time provide, free of charge, temporary shelter or house accommodation for the members of any family in which any infectious disease has appeared, who have been compelled to leave their dwelling for the purpose of enabling such dwelling to be disinfected by the local authority.

Special sanitary service in typhoid cases.

1898, No. 24, s. 115.

224. Whenever typhoid fever exists in a district the local authority shall provide and maintain a separate sanitary service for the removal and efficient disinfection of the excreta of persons suffering or suspected to be suffering from such disease, and may make a charge for such service in addition to the rate or charge for the ordinary service.

Work to be done to satisfaction of Commissioner.

See N.Z., 1900, No. 25, s. 30.

225. In carrying out any work under the provisions of this Part of this Act, the local authority shall do so to the satisfaction of the Commissioner, and in conformity with any directions he may think fit to give; and if the local authority fails or neglects so to do, the Commissioner may cause the work to be done at the cost of the local authority.

226. (1.) The Governor may from time to time, by order published in the *Government Gazette*, set apart any suitable place for the reception and medical treatment of lepers, and may make regulations for the safe custody of such lepers therein.

Treatment and custody of lepers.
1898, No. 24,
s. 113.

(2.) The Commissioner may, on the certificate of a medical officer or any two legally qualified medical practitioners that any person is suffering from leprosy, direct that such person be removed to and detained in such place until released by order of the Minister.

(3.) Any person who wilfully refuses or neglects to obey any such order of the Commissioner, or escapes, or attempts to escape, from such place, may, with such necessary force as the case may require, be removed or brought back to such place.

(4.) An order of the Commissioner under this section may be addressed to such member of the police force or other person as the Commissioner may consider expedient; and any person who wilfully disobeys or obstructs the execution of such order, or who trespasses on such place, or communicates or improperly interferes with any person detained therein, shall be guilty of an offence against this Act.

227. The Governor may make regulations for the purpose of preventing or checking the spread of tuberculosis.

Regulations as to spread of tuberculosis.

228. (1.) No parent or other person shall be liable to conviction or to any penalty for neglecting or refusing to have any child vaccinated or to take any child or to cause any child to be taken to be vaccinated as a protection against any infectious disease, if, in the case of a child born before the commencement of this Act, within four months after the commencement of this Act, or in the case of a child born after the commencement of this Act, within four months from the birth of the child, he makes a statutory declaration that he conscientiously believes that vaccination would be prejudicial to the health of the child, and within seven days thereafter delivers the declaration to the district registrar of births and deaths in the registry district within which the birth of such child was registered.

Conscientious objection to vaccination.

(2.) A statutory declaration made for the purposes of this section shall be exempt from stamp duty.

(3.) A statutory declaration for the purposes of this section shall be made in the form set out in the Third Schedule to this Act or in a form to the like effect.

Third schedule.

Division 2.—Notification of Disease.

229. (1.) Whenever in any house any person is found to be suffering from any infectious disease, or from any sickness the symptoms of which raise a reasonable suspicion that it may be an infectious disease, the following provisions shall apply:—

Notice of infectious disease.
See N.Z., 1900,
No. 25, s. 26.
See N.Z., 1900,

- (a.) Upon the day on which the occupier of the house becomes aware of the nature of the disease of which the patient is sick or suspected to be sick he shall give notice thereof to the local authority.
 - (b.) If the occupier fails or neglects to give such notice he shall be liable to a penalty not exceeding ten pounds.
 - (c.) The medical practitioner who attends the patient shall, upon the day on which he becomes aware of the nature of the disease or suspected disease, give notice thereof to the occupier and also to the local authority and the Commissioner, and on the death of any such patient forthwith notify the local authority of such death.
 - (d.) If the medical practitioner fails or neglects to give such notice he shall be liable to a penalty not exceeding ten pounds.
- (2.) The local authority shall pay to medical practitioners a fee of two shillings for every case notified in accordance with this section.
- (3.) Whenever any infectious or contagious disease occurs in any house in which a child attending any school resides, the occupier of such house and the parent or guardian of the child shall immediately give notice in writing to the head teacher of such school of the occurrence of such disease.
- (4.) The local authority may, by resolution, order that the provisions of this section shall extend in its district to any disease not specifically mentioned in this Act, and any such order may be permanent or temporary, and, if temporary, the period during which it is to continue shall be specified therein, and any such order may be revoked or varied.
- The local authority shall send a copy of every such order to each registered medical practitioner residing or practising in its district, and shall give public notice thereof by advertisement in a newspaper.
- (5.) Every hospital, public or private, shall be deemed a house, and the keeper or the medical officer in charge thereof shall be deemed the occupier thereof, within the meaning of this section, and shall be paid a fee of one shilling for each notification made under the provisions of this section.
- (6.) The local authority shall give immediate notice to the head teacher of every school within its district of any case of infectious disease reported to the local authority contracted by a child who has been an attendant at such school.

(7.) The occupier of any house or part thereof from which any person suffering from an infectious disease is removed, shall forthwith notify the local authority of such removal.

230. In the case of persons employed in such classes of work as may from time to time be prescribed by the Governor, by Order in Council—

Lists of out workers to be kept in certain trades.

(1.) The occupier of every factory and workshop or any other place from which any work is given out, and every contractor employed by any such occupier in the business of the factory, workshop, or place shall—

- (a.) keep in the prescribed form and manner, and with the prescribed particulars, lists showing the names and addresses of all persons directly employed by him, either as workmen or as contractors, in the business of the factory or workshop outside the factory or workshop, and the places where they are employed; and
- (b.) send to an inspector such copies of or extracts from those lists as the inspector may from time to time require; and
- (c.) send on or before the first day of February and the first day of August in each year copies of those lists to the Commissioner and the local authority of the district in which the factory or workshop is situate.

(2.) Every local authority shall cause the lists received in pursuance of this section to be examined, and shall furnish the name and place of employment of every out-worker included in any such list whose place of employment is outside its district to the local authority of the district in which his place of employment is.

(3.) The lists kept by the occupier or contractor shall be open to inspection by any inspector under this Act, and by any officer duly authorised by the local authority or the Commissioner, and the copies sent to the local authority and the Commissioner, and the particulars furnished by one local authority to another, shall be open to inspection by any inspector under this Act.

(4.) This section shall apply to any place from which any work is given out, and to the occupier of that place and to every contractor employed by any such occupier in connection with the said work, as if that place were a workshop.

(5.) In the event of a contravention of this section by the occupier of a factory, workshop, or place, or by a contractor, the occupier or contractor shall be liable to a penalty not exceeding forty shillings, and, in the case of a second or subsequent offence, not exceeding twenty pounds.

231. (1.) If the Commissioner or local authority within whose district is situate a place in which work is carried on for the purpose of or in connection with the business of a factory or workshop give

Employment of person in unwholesome premises.

notice in writing to the occupier of the factory or workshop, or to any contractor employed by any such occupier, that such place is injurious or dangerous to the health of the persons employed therein, then, if the occupier or contractor, after the expiration of one month from receipt of the notice, gives out work to be done in that place, and the place is found by the court having cognizance of the case to be so injurious or dangerous, he shall be liable to a penalty not exceeding twenty pounds.

(2.) This section shall apply in the case of the occupier of any place from which any work is given out as if that place were a workshop.

(3.) This section shall not apply except in the case of persons employed in such classes of work as the Governor may prescribe by Order in Council.

Making of wearing apparel where there is any infectious disease.

232. If the occupier of a factory or workshop or of any place from which any work is given out, or any contractor employed by any such occupier, causes or allows wearing apparel to be made, cleaned, or repaired in any dwelling-house or building occupied therewith whilst any inmate of the dwelling-house is suffering from any infectious disease, then, unless he proves he was not aware of the existence of the illness in the dwelling-house and could not reasonably have been expected to become aware of it, he shall be liable to a penalty not exceeding twenty pounds.

Prohibition of home work in places where there is infectious disease.

233. (1.) If any inmate of a house is suffering from an infectious disease, the Commissioner or the local authority of the district in which the house is situate may make an order forbidding any work to which this section applies to be given out to any person living or working in that house or such part thereof as may be specified in the order, and any order so made may be served on the occupier of any factory or workshop or any other place from which work is given out or on the contractor employed by any such occupier.

(2.) The order may be made notwithstanding that the person suffering from an infectious disease may have been removed from the house, and the order shall be made either for a specified time or subject to the condition that the house or part thereof liable to be infected shall be disinfected to the satisfaction of the medical officer of health, or that other reasonable precautions shall be adopted.

(3.) In any case of urgency the powers conferred on the local authority by this section may be exercised by any two or more members of the local authority acting on the advice of a medical officer of health.

(4.) If any occupier or contractor on whom an order under this section has been served contravenes the provisions of the order, he shall be liable to a penalty not exceeding twenty pounds.

(5.) The work to which this section applies is the making, cleaning, washing, altering, ornamenting, finishing, and repairing of wearing apparel, and any work incidental thereto and such other classes of work as may be prescribed by the Governor by Order in Council.

234. If death occurs in any case where there is a septic condition of the parturient canal within fourteen days after the expulsion of the contents it shall be immediately reported by the occupier of the house in which the death occurs, and by the medical practitioner attending the case, or if there be no medical practitioner, by the midwife, to the local authority and to the nearest magistrate and such magistrate shall inquire into the circumstances and determine whether an inquest be held. Puerperal fever.

235. (1.) For the purposes of this Part of this Act the Commissioner may, from time to time, issue orders, either generally or specifically, to such local authorities as may be named in such orders; and the officers of such local authorities shall observe and give effect to such orders. Local authorities to give effect to orders of Commissioner.

(2.) Any officer of a local authority who neglects to observe and give effect to any order of the Commissioner under this section shall be guilty of an offence against this Act.

236. The master or any other person, except the pilot, being in charge of any vessel lying in Western Australian waters shall report to the local authority of the district in which or nearest to the place where such ship is lying, or to the water police, any illness of a suspicious kind, or any infectious or contagious disease, or any complaint attended with eruption or eruptive symptoms, which may occur in the said ship, immediately on the existence of such illness, disease, or complaint coming to his knowledge, whether such ship has been previously inspected by an officer of health or not. Eruptive diseases to be reported.
1900, No. 25, s. 2.

237. (1.) It shall be the duty of every medical practitioner, annually in the month of January, to report to the Commissioner on each person who has at any time during the preceding twelve months been under his care suffering from tuberculosis. Medical practitioners to notify cases of tuberculosis.
See S.A., 1899, No. 711, s. 128.

(2.) The Commissioner shall pay to every medical practitioner, for each case duly reported by him in accordance with this section, a fee of two shillings and sixpence if the case occurs in his private practice, or to a fee of one shilling if the case occurs in a public institution.

(3.) Every medical practitioner who gives a death certificate in any case of tubercular disease shall forthwith notify the local authority of the death.

Infection in schools.

238. (1.) Any person who knowingly or negligently sends to any school a child who, within the space of three months, has been suffering from any dangerous infectious or contagious disease, or who has been resident in any house in which such disease has existed within the space of six weeks, without a certificate from some legally qualified medical practitioner that such child is free from disease and infection, and unless the clothes of such child have been properly disinfected, shall be liable to a penalty not exceeding five pounds.

(2.) In the case of diphtheria any medical officer shall have the power to examine any child, and if found to be infected such child shall not be permitted to return to the school without a certificate from the medical officer that such child is free from infection.

Local authority to report epidemic disease, etc., to Commissioner.
1898, No. 24,
s. 109.

239. Upon the appearance of any epidemic, endemic, or contagious disease, or of any indication thereof or of any peculiar circumstances or occurrences involving or affecting or likely to involve or affect the sanitary condition of any district, the local authority of such district shall immediately report the same to the Commissioner; and the report shall be accompanied by such remarks or information as such local authority may possess in regard to the disease, locality, or other facts that may have come to its knowledge, and may tend or appear to tend towards the better and more full comprehension of the disease, indications, occurrences, or circumstances so reported.

Certain persons to report occurrence of infectious disease
1898, No. 24,
s. 114.

240. (1.) Whenever, in the opinion of the Commissioner, any place in Western Australia is affected by any dangerous infectious or contagious disease, the Commissioner may require all medical practitioners, deputy registrars, school teachers, and members of the police force residing in such place, and the occupier or person in charge of any house in which any case of such disease may occur, to report such occurrence by telegraph, or in case there is no telegraphic communication, by letter to the Commissioner and the local authority.

(2.) Whenever it may be necessary to prove that any infectious or contagious disease exists in any place in Western Australia, a copy of a declaration by the Commissioner that such disease exists in such place purporting to be signed and certified to be a true copy by the clerk to the Commissioner, shall be evidence, until the contrary be proved, of the existence of such disease.

Monthly reports of infectious diseases.

241. Whenever any infectious or contagious disease exists in any district the local authority shall, at least once in every month, and oftener if required, report thereon in the prescribed form to the Commissioner.

242. No medical practitioner shall be liable to any proceedings for any misstatement made in good faith in a notification of any infectious disease, if he promptly notifies to the local authority any change in his diagnosis.

Medical practitioners protected.

X.—HOSPITALS.

Division 1.—Public Hospitals.

243. The local authority may from time to time, of its own motion, provide, equip, and maintain hospitals suitable and sufficient for the reception and treatment of persons suffering from infectious disease, and the reception of persons who have been in contact with infected persons.

Local authority to provide hospitals.

See N.Z., 1900, No. 25, s. 37.

The words “infectious disease” in this and the next following section mean and include diphtheria, membranous croup, scarlet fever or scarlatina, typhoid fever and enteric fever, and also any other disease which the Governor may from time to time by notification in the *Government Gazette* bring under the operation of this and the next following section.

244. With respect to such hospitals, the following provisions shall apply:—

Special provisions with regard thereto.

See N.Z., 1900, No. 25, s. 38.

- (1.) The site, size, and plans of the hospital shall be subject to the approval of the Commissioner.
- (2.) The local authority may itself build or acquire the hospital, or may contract for the building thereof;
- (3.) The local authority may contract for the use as a hospital of any existing hospital or suitable building, or for the extension of any existing hospital, and the use of the extension as a hospital;
- (4.) The hospital may be for persons suffering, or who have been in contact with persons suffering, from infectious diseases, or any specified infectious diseases;
- (5.) The hospital may be permanent or temporary;
- (6.) In cases of special emergency a temporary hospital for persons suffering, or who have been in contact with persons suffering, from any infectious disease may, with the authority of the Governor, be erected on any reserve, any enactment, condition, or trust affecting such reserve to the contrary notwithstanding:

Provided that when the Governor is satisfied that the emergency has ceased he shall, by notice in the *Government Gazette*, cancel his authority, and thereafter any such enactment, condition, and trust shall have

effect as if this section had not been passed, and the hospital shall be removed, utilised, or otherwise disposed of in such manner as the Governor directs, consistently with any such enactment, condition, or trust as aforesaid ;

- (7.) The local authority shall in every case properly equip the hospital with all requisites, and provide and maintain an efficient staff of medical officers, nurses, and attendants ;
- (8.) Two or more local authorities may, if they think fit, combine in providing and maintaining a common hospital, and for that purpose join in any of the works under this section ;
- (9.) The expenses incurred in providing and maintaining such common hospital shall be apportioned amongst the local authorities concerned, in such shares as they agree on, or as, in the absence of agreement, the Commissioner, by order, after due inquiry decides ;
- (10.) A contribution of one half of the costs and expenses incurred in providing hospitals under this section, and in the treatment of indigent patients, shall be paid to the local authority out of moneys appropriated by Parliament to that purpose.

Committee of
management of
common hospitals.

245. (1.) When two or more local authorities combine in providing a common hospital, the Governor may, if he think fit, appoint a committee of management of such hospital.

- (2.) The committee of management shall consist of such number of persons as the Governor may determine, and shall be appointed on the nomination of the local authorities, subject to regulations to be made by the Governor under this Act: Provided that each local authority shall nominate a prescribed number of the members of the committee: Provided also that if any local authority shall make default in such nomination the appointment may be made without nomination.
- (3.) On the appointment of the committee of management the hospital shall, by force of this Act alone, be vested in, and for the purposes of this Act shall be deemed the property of, the committee of management, and such committee of management shall be charged with its equipment and maintenance, and may appoint and dismiss officers and servants, and may, by the name of "The committee of management of the —— hospital" (*naming the hospital*), enter into contracts, and by that name sue and be sued.

(4.) The expenses incurred in the maintenance, management, and control of such common hospital as apportioned between the several local authorities shall be paid by such local authorities to the committee of management, and may be recovered by the committee of management from any local authority in default by action in any court of competent jurisdiction.

246. The board or managing authority of any hospital receiving aid from the State may be required, by an order from the Commissioner, to enter into reasonable arrangements with any local authority for the reception into such hospital and treatment of persons suffering from infectious disease in its district, and of the reasonableness of such arrangements the Commissioner shall be judge and shall decide finally.

Hospitals to arrange for reception of patients.
See Vic. 1900, No. 1098, s. 155.

247. (1.) The local authority of any district may, from time to time, and when the Commissioner so requires shall enter into an agreement with the board or managing authority of any hospital for the reception into such hospital and the treatment and maintenance of persons suffering from infectious disease.

Agreements by local authority with hospitals for reception of patients.
See 1898, No. 24, s. 131.

(2.) The proper charges of the board or managing authority of any hospital into which a person is received pursuant to such agreement for the treatment and maintenance of such person shall be a debt due from the local authority to the board or managing authority of such hospital, and may be recovered by the board or managing authority of such hospital from the local authority by action in any court of competent jurisdiction:

Provided that, if in any case it appears to the Commissioner that the charges for the treatment and maintenance of any such person should be a liability of some other local authority, the Commissioner may order and direct the payment of such charges by such other local authority, and thereupon such charges shall be a debt due from such other local authority to the board or managing authority of such hospital, and may be recovered by the board or managing authority of such hospital from such other local authority by action in any court of competent jurisdiction.

Provided also that if it is proved to the satisfaction of the Commissioner, and the Commissioner so certifies, that any person suffering from infectious disease contracted such disease outside the State, the local authority shall be exempt from liability for the treatment and maintenance of such person.

Provided also that the Minister shall repay to the local authority, out of any moneys appropriated by Parliament to such purpose, one half of the charges paid for the treatment and maintenance of patients proved by the local authority to the satisfaction of the Commissioner to be indigent persons.

Recovery of costs of maintenance of patient in hospital
Vic. 1900, No. 1098, s. 155.

248. Any expenses incurred by a local authority in or about the treatment and maintenance of a patient in a hospital or in a temporary place for the reception of the sick shall be a debt due from such patient and also, if such patient is an infant, from the parent or other person liable for the maintenance of such infant, to the local authority, and may be recovered from him, or in the event of his death from his legal representatives, or in the case of an infant from such parent or other person, by action in any Court of competent jurisdiction.

Governor may establish hospitals for infectious diseases.

249. (1.) The Governor may establish and maintain hospitals for infectious diseases for any prescribed areas.

(2.) The local authorities of the districts within such areas shall, from time to time, contribute to the expense of the establishment and maintenance of such hospitals in such proportions as may be agreed upon.

Local authorities may establish or subsidise hospitals.

250. Every local authority may subsidise any district nursing system, or hospital, public or private, for the reception of the sick generally, but any expenditure under this section shall not exceed ten per centum of the ordinary income under this Act of the local authority.

Division 2.—Private Hospitals.

Local authority may make by-laws for private hospitals.
See 1895, No. 35, s. 24.

251. (1.) Every local authority may from time to time, and when the Commissioner so requires shall make, alter, amend, or repeal by-laws for any or all of the following matters (that is to say):—

- (a.) Requiring the annual registration of all private hospitals, and specifying the terms and conditions upon which registration shall be granted and continued, and providing for the suspension, revocation, or cancellation of any such registration ;
- (b.) For the inspection, drainage, good management, and sanitary regulation of such hospitals ;
- (c.) Requiring the keeping and using of a proper register for the registration of all cases admitted into or treated in any such hospital, and for the inspection of such register by any officer of the Commissioner or local authority ;
- (d.) Providing for the separation or removal of any patients suffering from any fever or infectious or contagious disease ;

- (e.) Regulating the number of patients to be admitted, and of nurses or assistants to be maintained, or the class or classes of disease or cases to be admitted into or treated at any such hospital ;
- (f.) Providing for the qualification of any person or persons keeping, nursing, or assisting in any such hospital.
- (2.) Such by-laws may apply to the whole or any part of the district of the local authority making the same, and all such by-laws may apply to every private hospital, whether heretofore or hereafter established.
- (3.) After the making of such by-laws no person shall open, occupy, or conduct, or keep open, occupied, or conducted any private hospital as aforesaid, unless the same is duly registered, nor after registration thereof has been revoked or cancelled.
- (4.) A fee of ten shillings shall be paid to the local authority for each registration.
- (5.) Every person offending against the provisions of this section, and every person nursing or otherwise assisting at any such private hospital after written notice that the same is opened, occupied, or conducted in contravention of this section shall be guilty of an offence against this Act.
- (6.) " Private hospital " shall mean and include all houses, whether permanent or otherwise, in which persons are received and lodged for medical or surgical treatment or care, but shall not include any houses in which maternity cases only are received, or institutions within the meaning of the Hospitals Act, 1894, or any Government hospital, or any hospital in receipt of any subsidy from the State.
- Provided that no premises which are not registered as a private hospital at the time of the passing of this Act shall be registered after such time as a private hospital unless such premises are at least fifteen feet from the nearest boundary of the land of any adjoining owner or occupier.

PART XI.—PROTECTION OF LIFE.

- 252.** (1.) For the purposes of this Part of this Act there shall be a Midwives' Registration Board. The Midwives'
Registration Board
- (2.) The Board shall consist of five members.
- (3.) The Commissioner shall be *ex officio* a member and the Chairman of the Board, and the other members shall be two medical practitioners and two nurses to be appointed by the Governor for a term not to exceed three years, and to be eligible for re-appointment.
- (4.) The clerk to the Commissioner shall be the clerk to the Midwives' Registration Board.

Registration of
midwives.

253. (1.) From and after the first day of January, one thousand nine hundred and twelve, no woman shall be entitled to take or use the name or title of midwife or midwifery nurse or to keep, conduct, or manage a private hospital wherein maternity cases are received, or to act as an assistant nurse in any such hospital, unless she is registered under this Part of this Act.

Penalty on
unregistered
midwife acting as
such.

(2.) No woman whose name is not on the register shall, after the first day of January, one thousand nine hundred and twelve, for gain, attend or undertake to attend any lying-in woman under a penalty not exceeding two pounds for the first offence, and ten pounds for any subsequent offence:

Provided that this subsection shall not apply to any person attending any lying-in woman who does not reside within five miles from the residence of any legally qualified medical practitioner or registered midwife, nor in any case in which no legally qualified medical practitioner shall be able and willing to attend, and no registered midwife is available.

Register to be kept.

254. A register, to be styled the "Midwifery Nurses' Register," shall be kept by the Clerk to the Midwives' Registration Board, and shall contain the names of all midwives or midwifery nurses registered under this Act, together with their qualifications and places of residence.

Provisions for
existing midwives.

255. (1.) Any woman who produces to the Midwives' Registration Board proof that she has obtained a certificate in midwifery from some hospital, dispensary, obstetrical society, or other authority approved by the Board, and satisfactory evidence of good character, shall, at any time prior to the first day of January, one thousand nine hundred and twelve, be entitled to have her name entered on the register, and to receive a certificate of registration on payment of a fee of five shillings.

(2.) Any woman who, within two years after the commencement of this Act, applies to have her name entered on the register, may have her name so entered, after examination or without examination, as the Board may think fit, if she produces to the Board satisfactory evidence that at the commencement of this Act she had been for at least two years in *bona fide* practice as a midwife, and satisfies the Board of her competency, cleanliness, and repute.

Regulations for
examination of
midwifery nurses.

256. (1.) For the examination of women desiring to be registered as midwifery nurses, the Midwives' Registration Board shall, as soon as may be after the passing of this Act, make regulations prescribing the qualifying examination, and for the appointment of examiners.

(2.) Such regulations shall provide, amongst other things, that candidates for registration shall produce evidence of having undergone at least twelve months' training at an approved institution; and may provide that candidates shall produce evidence of having conducted a prescribed number of cases.

257. (1.) Every woman who presents a certificate from the examiners that she has passed the prescribed examination shall be entitled to have her name entered on the register, and to receive a certificate of registration on payment of a fee of five shillings. Qualification of midwifery nurses.

(2.) Every nurse so registered shall, during the month of January in each year succeeding the year in which she was first registered apply, in the prescribed manner, for re-registration, and any nurse who shall not apply for such re-registration shall be liable to have her name erased from the register.

(3.) No fee shall be payable for re-registration.

(4.) Every registered nurse shall notify to the Clerk to the Midwives' Registration Board any change of her address, and if any notification addressed and duly posted to any nurse at her last registered address remains undelivered for a period of two months, such nurse shall be liable to have her name erased from the register.

258. A copy of the register, certified by the Clerk to the Midwives' Registration Board, shall be published annually in the *Government Gazette*; and any copy of the register so published shall be *prima facie* evidence in all courts that the women therein named are registered according to the provisions of this Act; and the absence of the name of any woman from the copy of the register so published shall be *prima facie* evidence that such woman is not registered according to the provisions of this Act: Provided always, that in the case the name of any woman is omitted from the copy of the register so published, a certified copy under the hand of the Clerk of the entry of the name of such woman on the register shall be evidence in any court that such woman is registered under the provisions of this Act. Publication of register.

259. (1.) If any midwifery nurse shall be convicted of a crime or misdemeanour or shall, after due inquiry, be adjudged by the Midwives' Registration Board to be incompetent or to have been guilty of misconduct as a midwifery nurse, the Board may direct the Clerk to erase the name of such midwifery nurse from the register: Removal from register.

Provided that the Midwives' Registration Board may, if it thinks fit, restore to the register the name of any midwifery nurse whose name has been removed therefrom.

(2.) Any woman who thinks herself aggrieved by any decision of the Board in refusing to enter her name in the register,

or of the Board in removing her name from the register, may within three months after the date of the decision appeal to a Judge of the Supreme Court.

(3.) The Judge may make such order as he thinks just, and such order shall have effect accordingly.

Penalty for wilful
falsification of
register.

260. Any person who wilfully makes, or causes to be made, any falsification in any matter relating to the register shall be guilty of an offence, and shall be liable, on conviction, to a fine not exceeding twenty pounds, or to be imprisoned for any term not exceeding six months.

Registration of
midwives registered
elsewhere in British
dominions.

261. (1.) The Midwives' Registration Board may, by resolution published in the *Government Gazette*, decide that any woman who produces a certificate from the examiners that she has passed the prescribed examination, and proof of identity, and that she has been duly registered under the provisions of a statute in force in any part of the British dominions specified in such resolution, shall be entitled to have her name entered on the register, and to receive a certificate of registration on payment of a fee of five shillings.

(2.) The Midwives' Registration Board may from time to time revoke, alter, or amend such resolution.

Regulations as to
midwives.

262. The Midwives' Registration Board may make regulations for supervising, regulating, and restricting within due limits the practice of midwives, and for any other purpose tending to protect the lives of mothers and infants.

Reports to be
furnished.

263. (1.) It shall be the duty of every midwife and midwifery nurse registered under this Act to furnish to the medical officer of health of the district in which she practises a report in writing of every case attended by her, whether of living, or still birth, or abortion.

(2.) Such report shall state the name and address of the mother, and shall be furnished to the medical officer of health within forty-eight hours of the event.

(3.) Every midwife or midwifery nurse who neglects to comply with the requirements of this section shall be liable, on conviction—

(a.) for a first offence to a penalty not exceeding forty shillings; and

(b.) for a second or subsequent offence to a penalty not exceeding twenty pounds, and the Midwives' Registration Board may remove the name of the offender from the register.

(4.) The occupier of any house at which a female, not usually resident in such house, is attended, whether for gain or not, during childbirth or abortion or miscarriage, shall forthwith notify to the medical officer of health that such female is being so attended.

264. (1.) Any medical officer may examine medically and physically any child attending any school, and such child shall submit to, and the parents or guardians of such child shall permit such examination as the medical officer deems necessary. Examination of school children.

(2.) Any duly registered dentist may, if so authorised by the Commissioner or the local authority examine the teeth of any such child, and the child shall submit to, and the parents or guardians of such child shall permit, the examination.

PART XII.—REGULATIONS AND BY-LAWS.

265. (1.) The Governor may make regulations as hereinbefore provided, and generally for carrying into effect the provisions of this Act. Regulations.

(2.) The Commissioner may, from time to time, and shall, when the Minister so requires, make regulations as hereinbefore provided, and generally for carrying into effect the provisions of this Act, and the exercise of any powers conferred on the Commissioner.

266. (1.) Every local authority may from time to time, of its own motion, and shall, when the Commissioner so requires, make by-laws as hereinbefore provided, and generally for carrying into effect the provisions of this Act within its district; and shall repeal, amend, vary or suspend the operation of any by-law if the Commissioner so requires. By-laws.

(2.) Any by-law may be restricted in its operation to any defined portion of a district.

267. (1.) The Governor may cause to be prepared model by-laws for all or any of the purposes for which by-laws may be made by a local authority under any of the provisions of this Act. Such model by-laws shall be published in the *Government Gazette*. Model by-laws. See 1900, No. 25, s. 11.

(2.) A local authority may, of its own motion, by resolution adopt the whole or any portion of such by-laws.

(3.) Such resolution shall be published in the *Government Gazette*, and thereupon shall operate to extend such by-laws or portion of by-laws so adopted to the district, and with the same legal effect for all purposes as if the by-laws or portion so adopted had been passed by the local authority and duly brought into effect as hereinafter provided.

(4.) Whenever a local authority adopts the whole or any portion of such by-laws, the by-laws so adopted shall in all courts

be deemed to be within the powers conferred on the local authority to make by-laws under this Act.

Penalties may be imposed.

See Q., 1900, No. 9, s. 106.

268. In all cases not otherwise provided for, any regulation or by-law—

- (1.) May impose any penalty not exceeding twenty pounds for any breach or non-observance thereof, and, in the case of a continuing breach, not exceeding forty shillings for each day that the breach is continued;
- (2.) May impose reasonable fees or charges for or in respect of licenses granted or registrations made thereunder;
- (3.) May provide that, in addition to a penalty, any expense incurred by the Commissioner or the local authority in consequence of any breach or non-observance of such regulation or by-law, or in the execution of work directed to be executed by any person and not executed by him, shall be paid by the person committing the breach or failing to execute the work; and
- (4.) May provide for the suspension or cancellation by the local authority of any license or registration upon breach or successive breaches by the licensee or person registered under the provisions thereof.

Regulations and by-laws to be confirmed.

269. (1.) All regulations—

- (a.) Shall be subject to the approval of the Governor; and
- (b.) When so approved, shall be published in the *Government Gazette*, and shall take effect from the date of such publication, or from a later date specified in such regulations.

(2.) All by-laws—

- (a.) Shall be subject to—
 - (1.) Confirmation by the Commissioner; and
 - (2.) The approval of the Governor; and
- (b.) When so confirmed and approved, shall be published in the *Government Gazette*, and shall take effect from the date of such publication, or from a later date specified in such by-laws.

By-laws to be laid before Parliament.

270. All regulations and by-laws shall be laid before both Houses of Parliament within thirty days of the making thereof, if Parliament is then in session, and if not, then within thirty days after the next meeting of Parliament.

Parliament may annul by-laws.

271. If either House of Parliament, within thirty days next after any regulations or by-laws have been so laid before it, resolves that such regulations or by-laws ought to be annulled, the same shall, after the date of such resolution, be of no effect, without prejudice to the validity of anything done in the meantime under the same.

272. The *Government Gazette* containing any regulation or by-law, or the resolution of the local authority to adopt any model by-laws, shall be conclusive evidence of the due making and approval or the adoption thereof, and of due compliance with all conditions necessary to bring the same into effect as hereinbefore provided. Evidence of by-laws.

PART XIII.—MISCELLANEOUS PROVISIONS.

273. (1.) The Commissioner and all public health officials, and the local authority and its officers, shall have power to enter from time to time into and upon any house or premises, for the purpose of examining as to the existence of any nuisance, 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 regulation, order, or by-law, and generally for the purpose of enforcing the provisions of this Act or any regulation, order, or by-law, at any time between the hours of seven in the forenoon and six in the afternoon of any day, or in the case of a nuisance or contravention arising in respect of any business, then at any hour when such business is in progress or is usually carried on. Entry.
Q., 1900, No. 9,
s. 163.
See 1898, No. 24,
s. 200.

(2.) Any person who wilfully and unreasonably refuses to admit any such officer to any house or premises shall be liable to a penalty of five pounds and to a daily penalty of twenty shillings.

274. (1.) Any vessel lying within any river, harbour, or other water, not within the district of a local authority, shall be deemed to be within the district of such local authority as the Governor, by notification in the *Government Gazette*, declares, and where no such notification has been given, then of the local authority whose district is nearest to the place where such vessel is lying. Vessels.
Q., 1900, No. 9,
s. 159.

(2.) This section shall not apply to any vessel which is under the command or charge of any officer bearing His Majesty's Commission, or to any vessel which belongs to the Government of any Foreign State.

275. (1.) Any person who obstructs, hinders, resists, or in anywise opposes the Commissioner or any member of any local authority, or any officer or other person appointed, employed, or authorised under this Act or any regulation or by-law, in the performance of anything which he is empowered or required to do by this Act or any regulation, order, or by-law, shall be liable to a penalty not exceeding twenty pounds, and, if the offence is a continuing one, to a daily penalty not exceeding forty shillings. Obstructing
execution of Act.
Q., 1900, No. 9,
s. 172.
See 1898, No. 24,
s. 201.

(2.) Any person who wilfully destroys, pulls down, injures, or defaces any exhibited regulation, by-law, notice, order, or other matter shall, if the same was put up by authority of the Commissioner, or the local authority, be liable to a penalty not exceeding five pounds.

(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 regulation, order, or by-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 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 regulation, order, or by-law; and if, within forty-eight hours after the making of the order, such occupier fails to comply therewith, he shall be liable to a daily penalty not exceeding five pounds.

(4.) Every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in carrying into effect any of the provisions of this Act or of such regulation, order, or by-law.

(5.) Any occupier of premises who, when requested by or on behalf of the Commissioner or the local authority 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 ten pounds.

Duty of police
officers.
Q., 1900, No. 9,
s. 173.

276. (1.) It shall be the duty of every member of the police force who finds any person committing a breach of any of the provisions of this Act, or of any regulation or by-law, to demand from such person his name and place of abode, and to report the fact of such breach and the name and place of abode of such person, as soon as conveniently may be, to the proper authority.

(2.) Any such person who refuses to state his name and place of abode when required by a member of the police force so to do, may, without any other warrant than this Act, be apprehended by such officer and taken before justices, there to be dealt with according to law.

(3.) Any person who refuses to state his name and place of abode, or states a false name or place of abode, shall be liable to a penalty not exceeding ten pounds.

Power to take pos-
session of and lease
property on which
expenses are due.
1898, No. 24,
s. 207.

277. Where any land or premises are unoccupied and any expenses incurred by the local authority in respect of such land or premises under the provisions of this Act have been unpaid for three years, the local authority may take possession of such land or premises and may hold the same as against any person interested therein; and all the provisions of the local governing Act enforceable by the local authority for the recovery of rates by the letting or

sale of the land shall apply and be deemed to be incorporated with this Act, and the powers and duties thereby conferred and imposed may be exercised and shall be observed by the local authority accordingly.

278. (1.) Except where otherwise provided, any notice, order, process, or other document, under the provisions of this Act or any regulation or by-law, required or authorised to be given or served to or upon any person may be served—

Service of notice.
See Q., 1900, No.
9, s. 168.

- (a.) By delivering the same to such person ; or
- (b.) By leaving the same at his usual or last known place of abode ; or
- (c.) By forwarding the same by post in a prepaid letter addressed to such person at his usual or last known place of abode.

(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 and address are unknown, the notice may be served by publishing it in the *Government Gazette* and some newspaper circulating within the district three times, at intervals of not less than one week between any two 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 him 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.) Any document forwarded by post shall be deemed to have been given 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.

(6.) If there are more owners or occupiers than one, it shall be sufficient if the requisition is served on any one of them and the name of any one of them is specified, with the addition of the words "and others."

(7.) Non-service on the owner shall not affect the validity of service on the occupier, and non-service on the occupier shall not affect the validity of service on the owner.

(8.) In all proceedings in which the notice, order, or other document has to be proved, the defendant shall be deemed to have received notice to produce it ; and, until the contrary is shown, the

same and its due service may be sufficiently proved by or on behalf of the complainant by the production of what purports to be a copy, bearing what purports to be a certificate under the hand of the officer authorised to issue the original or of the Secretary to the local authority or the clerk to the Commissioner, as the case may be, that the copy is a true copy of the original, and that the original was served on the date specified in the certificate.

(9.) The validity of any notice, order, or other document or of the service thereof shall not be affected by any error, misdescription, or irregularity which is not calculated to mislead, or which in fact does not mislead.

Continued operation
of notices and
orders.

1898, No. 24,
s. 222.

279. All notices or orders required under this Act to be served on any owner or occupier shall, if due service thereof has been once made on any owner or occupier, be binding on all persons claiming by, from, or under such owner or occupier, and all subsequent owners or occupiers, to the same extent as if such order or notice had been served on such last-mentioned persons respectively.

Proof of ownership.
1898, No. 24,
s. 238.

280. (1.) In any prosecution or other legal proceedings under the provisions of this Act—

- (a.) evidence that the person proceeded against is rated in respect of any land or premises to any general rate for the district within which such land or premises are situated; and
- (b.) evidence by the certificate of the registrar of deeds or his substitute that any person appears from any memorial of registration of any deed, conveyance, or other instrument to be the owner or proprietor of any land, and evidence by a certificate signed by the registrar of titles or any assistant registrar that any person's name appears in any register book kept under the Transfer of Land Act, 1893, as owner or proprietor of any land—

shall, until the contrary is proved, be evidence that such person is owner, proprietor, or occupier (as the case may be) of such land or premises.

(2.) All courts and all persons having by law or by consent of parties authority to hear, receive, and examine evidence shall, for the purposes of this Act, take judicial notice of the signatures of such registrar and assistant registrar whenever such signature is attached to such certificate.

(3.) If the person appearing to be the owner of any land is absent from Western Australia, or cannot, after reasonable inquiries, be found, any agent or other person, advertising or notifying himself, by placard or otherwise, as authorised to deal with such land in any way shall, for the purposes of any legal proceedings under this Act, be deemed to be such owner:

Provided that such agent or person, who has on conviction paid any penalty, or has been compelled to bear any expenses, or to pay any costs in respect of such lands, whether under compulsion of legal process or not, may recover from such owner such penalty, expenses, and costs:

Provided also, that nothing in this section shall exclude or take away existing methods of proof.

281. On the conviction of any person for any offence against this Act the Commissioner or the local authority may suspend or cancel any license issued to or the registration of any such person under the provisions of this Act.

Power to suspend or cancel licenses.

282. (1.) The local authority may from time to time order proceedings to be taken for the recovery of any penalties, and for the punishment of any person offending against the provisions of this Act or any by-law which it is the duty of the local authority to enforce, and may order the expenses of such prosecution or other proceedings to be paid out of the local fund.

Prosecution of offences.

Q., 1900, No. 9, s. 174.

(2.) An inspector of a local authority may, by virtue of his office, and without receiving express authority from such local authority, institute and carry on proceedings against any person for an alleged offence against this Act, or any by-law or regulation made thereunder, and he shall be reimbursed out of the funds of the local authority all costs and expenses which he may incur or be put to in or about such proceedings.

283. Proceedings against several persons included in one 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.

No abatement.

Q., 1900, No. 9, s. 175.

284. Every person failing to do any act directed to be done, or doing any act forbidden to be done by this Act, or by any regulation, by-law, notice, or order under this Act, shall be guilty of an offence against this Act and shall be liable, if no other penalty is imposed, to a penalty not exceeding twenty pounds, and to a daily penalty not exceeding forty shillings.

General penalty.

See Q., 1900, No. 9, s. 178.

285. Notwithstanding anything contained in the Justices Act, 1902, the minimum pecuniary penalty for any offence against this Act, or any regulation or by-law thereunder, shall be one-tenth of the maximum penalty prescribed.

Minimum penalty.

286. (1.) All offences against the provisions of this Act or the regulations or by-laws may be prosecuted, and all penalties, forfeitures, moneys, costs, and expenses thereunder may be recovered in a summary way before any two or more justices of the peace.

Recovery of penalties.

Q., 1900, No. 9, s. 179.

(2.) Proceedings for the recovery of any penalty under this Act or any regulation or by-law shall not be taken by any person other than by a party aggrieved, or by the Commissioner or the local authority of the district in which the offence is committed, or a public health official or an officer of the local authority, or a member of the police force, without the consent in writing of the Attorney General.

Application of penalties.

287. All penalties and other moneys recovered on the complaint of a local authority or its officers shall be paid to the local authority within whose jurisdiction such penalties may have been incurred to the credit of the local fund, and in all other cases the same shall be paid into the consolidated revenue.

Notice of action.
Q., 1900, No. 9,
s. 160.

288. (1.) An action shall not be brought against a local authority, or any member thereof, or any officer or other person for anything done or intended or omitted to be done under the provisions of this Act or any regulation, by-law, or order made thereunder, until the expiration of one month after notice in writing has been served on such local authority, member, officer, or person, stating the cause of action, and the name and place of abode or business of the intended plaintiff, and of his solicitor (if any).

(2.) On the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action which is not stated in such notice.

(3.) Unless such notice is proved, judgment shall be entered for the defendant.

(4.) Every such action shall be commenced within six months next after the accruing of the cause of action, and not afterwards.

Protection of Commissioner and local authorities and their officers from personal liability.
Q., 1900, No. 9,
s. 161.

289. (1.) No matter or thing done, and no contract entered into, by or on behalf of the Commissioner, or the local authority, and no matter or thing done by any officer or other person acting under the direction of the Commissioner or of the local authority, shall, if the matter or thing was done or the contract was entered into *bona fide* for the purpose of executing this Act, subject the Commissioner or local authority or any member thereof respectively, or any such officer or person to any personal liability in respect thereof.

(2.) Any expense incurred by any member, officer, or other person acting as last aforesaid shall be deemed to be an expense authorised by this Act.

No officer to be concerned in contract.
See Q., 1900, No. 9, s. 162.

290. (1.) No Commissioner of public health or public health official, and no member of or person employed by a local authority, shall be personally concerned or interested directly or indirectly in any bargain or contract entered into by or on behalf of the Government of the State or such local authority respectively.

But this subsection shall not apply to any such bargain or contract entered into by a member of a municipal council or road board as he, while being such member, could lawfully enter into.

(2.) If any such Commissioner, official, member, or person is so concerned or interested or if any such Commissioner, official, member or person, under colour of his office or employment, exacts, takes, or accepts any fee or reward whatsoever, other than his proper salary, wages, remuneration, and allowances, he 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 fifty pounds.

291. (1.) All expenses incurred by the Commissioner on behalf of a local authority, or for which a local authority is liable under this Act, shall be recoverable as a debt due to the Crown.

Recovery of expenses from local authority.

(2.) Without affecting any other mode of recovering such expenses they may, on the warrant of the Minister, be deducted and retained out of any moneys at any time payable out of the public funds to the local authority in respect of subsidy or otherwise.

292. 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.

Contribution.

Q., 1900, No. 9, s. 177.

293. (1.) In every case where, under this Act, the owner and occupier of any house, building, land, or other premises—

Liability of owner and occupier under requisition or order.

(a.) are jointly and severally liable to do any cleansing, disinfecting, or other sanitary work of any description; or

See N.Z., 1900, No. 25, s. 97.

(b.) are severally liable to a penalty for any default in connection with any such work; or

(c.) are jointly and severally liable for any expenses incurred by or on behalf of the Commissioner or a local authority in connection with any such work,

then, for the purpose of regulating the rights and obligations of the owner and occupier as between one another, the following provisions of this section shall apply.

(2.) The owner who does or pays for the work, or pays the penalty or expenses, shall be entitled to recover from the occupier as a debt the cost of the work so done or the amount so paid if he satisfies the court in which he seeks to recover the debt that the work was rendered necessary through no fault of his own or of any person for whose acts or default he was responsible, but solely through the fault of the occupier or some person for whose acts or defaults the occupier was responsible.

Payment for works done as between owner and occupier. N.Z., 1900, No. 25, s. 98.

(3.) The occupier who does or pays for the work, or pays the penalty or expenses, shall be entitled to recover from the owner as a debt the cost of the work so done or the amount so paid if he satisfies

the court in which he seeks to recover the debt that the work was rendered necessary through no fault of his own or of any person for whose acts or defaults he was responsible, but solely through the fault of the owner or some person for whose acts or defaults the owner was responsible.

(4.) The amount of the debt recoverable as aforesaid by the occupier may be set off against rent due or to accrue due by him to the owner.

(5.) In determining the rights and obligations of the owner and occupier under this section, regard shall be had to the conditions or covenants of any written instrument of lease of the premises.

Penalty if owner or occupier hinders the other.

N.Z., 1900, No. 25, s. 88.

294. If in the performance of any duty imposed on him by this Act the owner of any premises is in any way obstructed or hindered by the occupier, or the occupier by the owner, the one who obstructs or hinders the other shall be liable to a penalty not exceeding five pounds for every day on which he does so.

Provisions as to charge on land or premises.

N.Z., 1900, No. 25, s. 99.

295. In every case where by this Act any expenses are declared to be a charge on land or premises, the following provisions shall apply:—

- (1.) If any question or dispute arises as to the fact or amount of the charge, or as to the land or premises subject thereto, or as to the persons liable to pay the same, then the question shall be determined in a summary manner by a magistrate, whose decision shall be final.
- (2.) Subject to the magistrate's decision a certificate under the hand of the clerk to the Commissioner, or of the clerk or secretary of the local authority, shall be sufficient evidence of the amount of the charge, the land and premises subject to the charge, and the persons liable to pay the charge.
- (3.) Such certificate, or, as the case may be, a certificate of the magistrate's decision under the hand of the magistrate, may be registered against the land affected thereby.
- (4.) The charge shall be enforced and be discharged in such manner as is prescribed by regulations under this Act.

Provided that such regulations shall not authorise any land to be sold, except pursuant to an order of a Magistrate, which shall not be made unless three months before the making thereof notice of intention to apply for such order has been published in the *Government Gazette* and given to every person who, upon search in the office of Titles or Registry of Deeds, as the case may require, appears to be entitled to any estate or interest or mortgage or other security in or over the land.

296. Whenever in any proceeding under the provisions of this Act, or any by-law, or order, it becomes necessary to mention or refer to the owner or occupier of any premises, it shall be sufficient to designate him as the "owner" or "occupier" of such premises, without name or further description.

Reference to
"owner" and
"occupier."

297. Any local authority may appear before any Court or in any legal proceeding by its secretary or by any officer or member authorised generally or in respect of any special proceeding by resolution of such local authority, and the secretary or any officer or member so authorised shall be at liberty in the name of the local authority to institute and carry on any proceeding which such local authority is authorised to institute and carry on under this Act.

Appearance of local
authorities in legal
proceedings.

298. Any public health official or officer of the local authority, at all reasonable times—

Power to inspect
register of births
and deaths.

(a.) may inspect any register of births and deaths and may obtain extracts therefrom free of charge, and the registrar of births and deaths shall permit such inspection and supply such extracts; and

1898, No. 24,
s. 218.

(b.) may search in the Office of Titles and Registry of Deeds, or any office of the Department of Lands and Surveys, or of the Department of Mines, and may inspect all plans, grants, transfers, certificates of title, and memorials free of charge.

299. Every document required to be signed, made, or authenticated by the Commissioner, or by any local authority shall (unless otherwise provided) be sufficiently authenticated if appearing to be signed by the clerk to the Commissioner, or by any member or officer of the local authority.

Authentication of
documents.

300. In any prosecution or other legal proceeding under this Act or any regulation or by-law—

Evidence.

Q., 1900, No. 9,
s. 180.

(1.) The signature of the Commissioner and the clerk to the Commissioner and of the clerk or secretary of the local authority shall be judicially noticed;

(2.) The production of a copy of the *Government Gazette* containing any regulation or by-law, or any order purporting to be made by the Governor, the Minister, Commissioner, or a local authority, under the provisions of this Act, shall be for all purposes conclusive evidence of such regulation, by-law, or order;

(3.) The production of a certificate purporting to be signed by a Government bacteriologist, an analyst, or other person authorised to grant the same shall be sufficient *prima facie* evidence of the facts therein stated;

- (4.) No proof shall be required of the particular or general appointment of any public health official or any officer of a local authority.
- (5.) The burden of proof that any article of food was not exposed for sale, or deposited in any place for the purpose of sale or preparation for sale, or was not intended for the food of man, shall be upon the party charged;
- (6.) The fact that infectious disease has existed upon any premises for a period of one 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.
- (7.) The burden of proof that any persons or premises have been licensed or registered under the provisions of this Act shall be upon the party charged.
- (8.) It shall not be necessary to prove the constitution or limits of the district of the local authority, nor the appointment of the members thereof.
- (9.) It shall not be necessary to prove the presence of a quorum of the local authority making any order at the making thereof until evidence is given to the contrary.
- (10.) The person purchasing any article for analysis pursuant to the provisions of section one hundred and eighty-nine of this Act need not use the exact words of such section so long as it appears to the Justices that the seller was substantially informed of such person's intention to have such article analysed.

The First Schedule.

Section 4.

Date.	Title.	Extent of Repeal.
62 Vict., No. 24 ...	The Health Act, 1898... ..	The whole.
64 Vict., No. 3 ...	An Act to repeal Duties on Live Stock and Frozen Meat	The whole.
64 Vict., No. 25 ...	The Health Act Amendment Act, 1900	The whole
1 & 2 Edwd. VII., No. 23	The Health Act Amendment Act, 1902	The whole.
2 Edwd. VII., No. 36	The Health Act Amendment Act, 1902	The whole.
3 Edwd. VII., No. 37 (No. 22 of 1904)	The Factories Act, 1904	Section 54, except the first two lines thereof.
6 Edwd. VII., No. 26	The Health Act Amendment Act, 1906	The whole.
9 Edwd. VII., No. 9 (No. 13 of 1909)	The Health Amendment Act, 1909 ...	Section 3.

The Second Schedule.

Section 150.

OFFENSIVE TRADES.

Any of the trades, businesses, or occupations usually carried on, in, or connected with the undermentioned works or establishments, that is to say—

Abattoirs or slaughter houses ;
 Bone mills or bone manure depôts ;
 Chemical works ;
 Cleaning establishments, dye works ;
 Fat rendering establishments ;
 Fellmongeries, tanneries, or wool-scouring establishments ;
 Fish-curing establishments, fish shops ;
 Flock factories ;
 Glue factories ;
 Laundries ;
 Manure works ;
 Marine stores ;
 Piggeries ;
 Places for storing, drying, or preserving bones, hides, hoofs, or skins
 Soap or candle works or factories ;
 Tripe-boiling establishments ;
 Works for boiling down meat, bones, blood, or offal, or any trade,
 business, process, or manufacture whatsoever causing effluvia, offen-
 sive fumes, vapours, or gases, or discharging dust, foul liquid, blood,
 or other impurity, or any noxious or offensive trade, business, or
 manufacture ;

and any trade that, unless preventive measures are adopted, may become a nuisance to the health of the inhabitants of the district.

Section 228.

The Third Schedule.

Form of Declaration.

I,....., of....., in the State
of Western Australia,.....being the parent (or person
having the custody) of a child named.....,who was born
on.....day of....., 19....., do hereby
solemnly and sincerely declare that I conscientiously believe that vaccination
would be prejudicial to the health of the child, and I make this solemn declara-
tion by virtue of section one hundred and six of "The Evidence Act, 1906."

Declared at.....this.....day
of....., 19.....

Before me,
Justice of the Peace
(or as the case may be).