Western Australia

Health (Miscellaneous Provisions) Act 1911

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Defined terms

Western Australia

Health (Miscellaneous Provisions) Act 1911

An Act to deal with certain matters concerning public health.

[Long title amended: No. 19 of 2016 s. 4.]

Part I — Preliminary

1. Short title and commencement

(1) This Act may be cited as the *Health (Miscellaneous Provisions) Act 1911*, and shall come into operation on a day to be fixed by proclamation, not being later than 6 months from the passing of this Act.

(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.

[Section 1 amended: No. 19 of 2016 s. 5.]

*[**2.** Deleted: No. 26 of 1985 s. 3.]*

3. Terms used

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

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

analyst means analyst registered under section 203;

Analytical Committee has the meaning given in section 247AA;

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

authorised officer has the meaning given in subsection (2A);

cellar or ***underground room*** includes any room being part of a house, if the floor of such room is more than a depth of 1 m

below the surface of the adjoining street, or of the land adjoining or nearest to such room;

CEO has the meaning given by section 3 of the *Health Legislation Administration Act 1984*;

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

Chief Health Officer has the meaning given in the *Public Health Act 2016* section 4(1);

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

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

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

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

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

(a) removal;

(b) treatment;

(c) destruction;

(d) burial;

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

drain means any drain for the drainage of one building only, or of premises within the same curtilage, and made merely for the purpose of communicating therefrom with a receptacle for drainage, or with a sewer into which the drainage of 2 or more buildings or premises occupied by different persons is conveyed, and includes the whole length of any combined system of drainage from several premises up to the point at which it enters the public sewer;

food has the meaning given to that term in the *Food Act 2008* section 9;

HIV infection means human immunodeficiency virus infection;

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

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

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

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

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

(a) premises licensed under a publican's general licence, limited hotel licence, or wayside-house licence, granted under the *Licensing Act 1911* [2]; or

(b) residential accommodation for students in a non-government school within the meaning of the *School Education Act 1999*; or

(c) any building comprising residential flats;

meat 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 practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

midwife means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the midwifery profession;

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

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

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

newspaper means a newspaper generally circulating in the district;

nurse means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the nursing profession;

nurse practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the nursing profession whose registration under that Law is endorsed as nurse practitioner;

occupier includes a person having the charge, management, or control of premises, and in the case of a house which is let out in separate tenements, or in the case of a lodging-house which is let to lodgers, the person receiving the rent payable by the tenants or lodgers, either on his own account or as the agent of another person; and in the case of a vessel, the master or other person in charge thereof; the term also includes any person in occupation of the surface of any lands of the Crown, notwithstanding any want of title to occupy same;

offensive includes noxious;

offensive matter means and includes dust, mud, ashes, rubbish, filth, blood, offal, manure, soil or any other material which is offensive, and which is placed or found in or about any house, stable, cowhouse, pigsty, lane, yard, street, or place whatsoever;

owner means the person for the time being receiving the rack-rent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such premises were let at a rack-rent;

pesticide has the same meaning as ***agricultural chemical product*** has in the Agvet Code of Western Australia;

piggery means any building, enclosure, or yard in which one or more pigs are kept, bred, reared, or fattened for purposes of trade;

pig-swill means residues or wastes, whether solid or liquid or part of each, from kitchens, manufacturies, shops, abattoirs or markets, which residues or wastes may be used as food for pigs;

premises includes messuages, buildings, lands, and hereditaments;

prescribed means prescribed by this Act or by any regulation or local law thereunder;

private place includes every place other than a public place;

proclamation means a proclamation by the Governor published in the *Government Gazette*;

public house includes any house in respect of which a publican's general licence, an hotel licence, an Australian wine and beer licence, or wayside house licence is held under any Act regulating the sale of intoxicating liquor;

public place includes every place to which the public ordinarily have access, whether by payment of fee or not;

public vehicle includes a coach, cab, omnibus, motor car, wagon, or other vehicle carrying passengers for hire, and includes a tramcar and railway carriage;

rack-rent means rent which is not less than two-thirds of the full net annual value of the property out of which the rent arises; and the full net value shall be taken to be the rent at which the property might reasonably be expected to let from year to year, free from rates and taxes and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses (if any) necessary to maintain the same in a state to command such rent;

regulation, except in Part VIII, means a regulation made under this Act;

relative, in relation to a person, includes a de facto partner of the person;

sanitary convenience includes urinals, water-closets, earth-closets, privies, sinks, baths, wash troughs, apparatus for the treatment of sewage, ash-pits, ash-tubs, or other receptacle for the deposit of ashes, faecal matter, or refuse, and all similar conveniences;

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

sell includes —

(a) barter, offer or attempt to sell, receive for sale, have in possession for sale, expose for or on sale, send, forward or deliver for sale or cause or permit to be sold or offered for sale; and

(b) sell for resale; and

(c) in relation to food, supply or use under an agreement or arrangement or a contract, together with accommodation, service or entertainment, in consideration of an inclusive charge for the food supplied and the accommodation, service or entertainment;

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

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

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

therapeutic use means a use for the purpose of —

(a) preventing, diagnosing, curing or alleviating of a disease, ailment, defect or injury in persons;

(b) influencing, inhibiting or modifying of a physiological process in persons;

(c) testing of susceptibility to a disease or ailment in persons;

this Act includes the regulations and local laws made thereunder;

trade includes business and manufacture;

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

vessel includes a ship;

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

[(2) deleted]

(2A) A reference in a provision of this Act to an ***authorised officer*** is a reference to a person designated as an authorised officer under the *Public Health Act 2016* section 24(1) whose designation has effect for the purposes of that provision.

[Section 3 amended: No. 55 of 1915 s. 2; No. 17 of 1918 s. 2; No. 5 of 1922 s. 2; No. 50 of 1926 s. 3; No. 30 of 1932 s. 2; No. 32 of 1937 s. 2; No. 21 of 1944 s. 3; No. 71 of 1948 s. 3; No. 11 of 1952 s. 3; No. 25 of 1952 s. 2; No. 34 of 1954 s. 4; No. 21 of 1957 s. 4; No. 18 of 1964 s. 3; No. 24 of 1970 s. 4; No. 94 of 1972 s. 4(1) (as amended: No. 83 of 1973 s. 3); No. 102 of 1973 s. 4; No. 28 of 1984 s. 24; No. 26 of 1985 s. 4; No. 57 of 1985 s. 11; No. 80 of 1987 s. 4; No. 104 of 1990 s. 38; No. 59 of 1991 s. 4 and 6; No. 27 of 1992 s. 84; No. 73 of 1994 s. 4; No. 3 of 1995 s. 57; No. 88 of 1994 s. 100; No. 14 of 1996 s. 4; No. 28 of 1996 s. 4; No. 10 of 1998 s. 39(1); No. 62 of 1998 s. 4; No. 36 of 1999 s. 247; No. 24 of 2000 s. 16(1); No. 28 of 2003 s. 73; No. 59 of 2004 s. 141; No. 23 of 2006 s. 4; No. 28 of 2006 s. 249; No. 50 of 2006 Sch. 3 cl. 9; No. 22 of 2008 Sch. 3 cl. 23(2); No. 43 of 2008 s. 147(2) and (3); No. 35 of 2010 s. 69; No. 13 of 2014 s. 149; No. 17 of 2014 s. 23; No. 19 of 2016 s. 6 and 207; No. 4 of 2018 s. 111.]

*[**4.** Deleted: No. 14 of 1996 s. 4.]*

5. Savings

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

(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 Chief Health Officer or any local government (with the approval of the Minister) may, if in the Chief Health Officer's 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, 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 local 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 the subject of such conviction was sold to him as and for a food 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 local law, and under any other law or enactment.

[Section 5 amended: No. 14 of 1996 s. 4; No. 28 of 2006 s. 251; (correction: Gazette 14 Dec 2010 p. 6301); No. 13 of 2014 s. 150; No. 19 of 2016 s. 7.]

6. Power to suspend operation of Act

(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, CEO and Chief Health Officer

[Heading amended: No. 28 of 2006 s. 250; No. 19 of 2016 s. 99.]

7. Minister

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

8. Minister to be body corporate

(1) The Minister of the Crown for the time being administering this Act shall, for the purposes of this Act, be a body corporate and shall be known by such designation as is conferred on him by the Governor under the *Constitution Acts Amendment Act 1899* or the *Alteration of Statutory Designations Act 1974*, whichever applies, and shall have perpetual succession and a common seal, and by that name shall be capable of suing and being sued, acquiring, holding, letting and taking land on lease, and alienating real and personal property, and of doing and suffering all such other acts and things as may be necessary or expedient for carrying out the purposes of this Act.

(2) Where the Minister enters into any contract or agreement, under seal or otherwise, or makes any lease, under this Act all the rights and liabilities in respect thereof and all benefits and advantages thereunder or interest therein, shall vest in and be enforceable by or against his successor or successors in office, without the necessity of any transfer or assignment whatsoever.

(3) An alteration of the designation of the Minister is hereby declared not to affect and never to have affected the corporate identity of the Minister and by force of this section the corporate

identity of the Minister is continued under such designation as applies to him from time to time.

[Section 8 inserted: No. 101 of 1976 s. 4; amended: No. 28 of 1984 s. 25.]

*[**9-11.** Deleted: No. 28 of 1984 s. 26.]*

12. Powers of Chief Health Officer and authorised officers

(1) The Chief Health Officer, and any authorised officer acting with the Chief Health Officer's authority, has all the powers of an authorised officer of a local government, and may exercise those powers in any part of the State, and the Chief Health Officer has all the rights and powers that the local government would have in case its authorised officer exercised the power, or to enable its authorised officer to exercise the power.

(2) Any provision of this Act conferring any power on an authorised officer of a local government, or relating to or connected with the exercise or intended exercise, or the consequences of the exercise of any power by an authorised officer of a local government, are to be construed and have effect for the purposes of this section as if —

(a) the references in the provision to an authorised officer of the local government extended to the Chief Health Officer or any authorised officer acting with the Chief Health Officer's authority; and

(b) all references in the provision to a local government extended to the Chief Health Officer.

[Section 12 inserted: No. 19 of 2016 s. 8.]

13A. CEO and Chief Health Officer may delegate

(1) In this section —

departmental officer —

(a) means a public service officer employed in the Department; and

(b) includes a public service officer appointed for the purposes of, or to assist in the administration of, an Act to which the *Health Legislation Administration Act 1984* applies under section 4 of that Act;

employed in the Department includes seconded to perform functions or services for, or duties in the service of, the Department.

(2) The CEO may delegate to a departmental officer all or any of the functions that the CEO has under this Act, other than this power of delegation.

(3) The Chief Health Officer may delegate to a departmental officer all or any of the functions that the Chief Health Officer has under this Act, other than this power of delegation.

(4) A delegation made under subsection (2) or (3) may expressly authorise the delegate to further delegate the function to another person.

(5) A delegation or subdelegation made under this section must be in writing and signed by the delegator.

(6) A person performing a function that has been delegated to the person under, or as authorised under, this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.

(7) Nothing in this section limits the ability of the CEO or the Chief Health Officer to act through an officer or agent.

[Section 13A inserted: No. 19 of 2016 s. 8.]

*[**13, 14.** Deleted: No. 19 of 2016 s. 212.]*

*[**15.** Deleted: No. 19 of 2016 s. 213.]*

16. Chief Health Officer may act where no local government

The Chief Health Officer and all persons authorised by him may exercise and perform all or any of the powers and duties of a local government in any place which does not lie within the boundaries of a district, including the powers conferred by Part III.

[Section 16 amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

17. Expenditure to be paid out of appropriated moneys

All expenses incurred by the Chief Health Officer or incurred with sanction of the Governor by any local government may be defrayed out of the moneys that may from time to time be appropriated by Parliament for the purpose.

[Section 17 amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

Division 2 — Local governments

[Heading amended: No. 14 of 1996 s. 4.]

*[**18, 19, 19A.** Deleted: No. 14 of 1996 s. 4.]*

*[**20, 21.** Deleted: No. 57 of 1985 s. 12.]*

22. Annexation

(1) The Governor may place any area of land outside a district, and whether actually adjoining or not, under the jurisdiction of the local government of such district, for the purposes of this Act, and such area shall for all the purposes of this Act be deemed to be within the district while so placed under that jurisdiction and the Governor may remove the area of land from that jurisdiction and from that district and such adjustment and distribution of the assets and liabilities of the local government as the Chief Health Officer considers necessary as consequential to such

removal shall be made as and in the manner the Chief Health Officer directs.

(2) The Governor may, to secure proportionate representation in the council of the local government 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.

[Section 22, formerly section 21, renumbered as section 22: No. 38 of 1933 s. 42; amended: No. 25 of 1950 s. 3; No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

*[**23, 24.** Deleted: No. 57 of 1985 s. 12.]*

25. District may include water

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.

[Section 25, formerly section 24, renumbered as section 25: No. 38 of 1933 s. 42.]

26. Powers of local government

Every local government is hereby authorised and directed to carry out within its district the provisions of this Act and the regulations, local laws, and orders made thereunder:

Provided that a local government may appoint and authorise any person to be its deputy, and in that capacity to exercise and discharge all or any of the powers and functions of the local government for such time and subject to such conditions and limitations (if any) as the local government shall see fit from

time to time to prescribe, but so that such appointment shall not affect the exercise or discharge by the local government itself of any power or function.

[Section 26, formerly section 25, amended: No. 17 of 1918 s. 5; renumbered as section 26: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

*[**27-34.** Deleted: No. 19 of 2016 s. 9.]*

35. Proceedings on default of local government

(1) Where in the opinion of the Chief Health Officer any local government 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 local law or regulation thereunder, or of any order of the Chief Health Officer, which it is the duty of such local government to enforce, carry out, comply with, or exercise, the Chief Health Officer may make an order limiting a time for the performance of the duty of the local government.

(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 Chief Health Officer 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 government 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 government shall, in the performance, and for the purposes of such duty, be invested with all the powers of such local government, and may enter into contracts on its

behalf, and the Chief Health Officer may, from time to time, remove any person so appointed, and appoint another in his place.

(4) When the Chief Health Officer has required any local government to make any local law in regard to any matter concerning which it is the duty of such authority to make a local law when so required, and the authority has not, within a period of 2 months from the date of the requisition, made a local law regarding such matter which the Chief Health Officer is willing to confirm, then the Chief Health Officer may, in lieu of the local government, make such local law as he shall consider ought to be made regarding such matter, and any local law so made by the Chief Health Officer shall, subject to section 345, have effect as if made by the local government.

[Section 35, formerly section 34, amended: No. 17 of 1918 s. 7; renumbered as section 35: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

36. Review of orders and decisions of local governments by SAT

(1) Any person aggrieved by any order or decision of a local government may apply to the State Administrative Tribunal for a review of the order or decision.

(2) Upon the local government being given a copy of an application made under subsection (1) for review of a decision or order, any proceedings commenced by the local government under the decision or order to recover expenses incurred by it shall be stayed.

[Section 36, formerly section 35, renumbered as section 36: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4; No. 55 of 2004 s. 479.]

*[**37.** Deleted: No. 55 of 2004 s. 480.]*

38. Local governments to report annually

Every local government shall, in the prescribed form, during the month of February in every year, and at such other times as the Chief Health Officer may direct, report to the Chief Health Officer concerning the sanitary conditions of its district, and all works executed and proceedings taken by the local government.

[Section 38, formerly section 37, renumbered as section 38: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

Division 3 — The exercise of ministerial control

39. Powers of Minister

(1) All the powers, rights, and authorities vested in the CEO, Chief Health Officer or any local government 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 CEO, Chief Health Officer or local government; and every officer, and employee of the local government (whether a member thereof or not) and the CEO, Chief Health Officer and every other public officer and employee assisting in the administration of this Act, shall at all times obey any order or direction of the Minister; and such officers and employees, for the purpose of carrying out such orders and directions, shall have all the powers of the CEO, Chief Health Officer or local government, whether conferred by Act, regulation, local law, or otherwise.

(2) All orders, directions, authorities, consents, and receipts made or given, or purporting to be made or given, by such officer or employee 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 CEO, Chief Health Officer or local government.

(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.

[Section 39, formerly section 38, renumbered as section 39: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 27; No. 14 of 1996 s. 4; No. 28 of 1996 s. 20; No. 28 of 2006 s. 251; No. 19 of 2016 s. 10.]

Part III — Financial

40. Power to levy general health rate

(1) Every local government shall, under the *Local Government Act 1995*, 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:

(i) 5 cents in the dollar on the gross rental value; or

(ii) when the system of valuation on the basis of the unimproved value is adopted, 1¼ cents in the dollar on the unimproved value of the land in fee simple;

and

(b) in other districts —

(i) $3^1/_3$ cents in the dollar on the gross rental value; or

(ii) when the system of valuation on the basis of unimproved value is adopted, five-sixths of a cent in the dollar on the unimproved value of the land in fee simple.

(3) A minimum rate of 25 cents 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 gross rental value or the unimproved land value, as the case may be, would not amount to 25 cents.

[Section 40, formerly section 39, renumbered as section 40: No. 38 of 1933 s. 42; amended: No. 25 of 1950 s. 4; No. 113 of 1965 s. 4(1); No. 76 of 1978 s. 50; No. 14 of 1996 s. 4.]

41. Sanitary rate

Every local government 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 112, and the maintenance of any sewerage works constructed by the local government under Part IV.

Such annual rate shall not exceed —

(a) 12 cents in the dollar on the gross rental value; or

(b) where the system of valuation on the basis of the unimproved value is adopted, 3 cents in the dollar on the unimproved value of the land in fee simple:

Provided that the local government may direct that the minimum annual amount payable in respect of any one separate tenement shall not be less than $1.

Provided also, that where any land in the district is not connected with any sewer, and a septic tank or other sewerage system approved by the local government is installed and used upon such land by the owner or occupier thereof for the collection, removal, and disposal of nightsoil, urine, and liquid wastes upon such land, the local government may by an entry in the rate record exempt such land from assessment of the annual rate made and levied under this section, and, in lieu of such annual rate, may, in respect of such land, make an annual charge

under and in accordance with section 106 for the removal of sewage from such land.

[Section 41, formerly section 40, amended: No. 5 of 1933 s. 2; No. 38 of 1933 s. 2; renumbered as section 41: No. 38 of 1933 s. 42; amended: No. 25 of 1950 s. 5; No. 113 of 1965 s. 4(1); No. 2 of 1975 s. 3; No. 76 of 1978 s. 51; No. 14 of 1996 s. 4; No. 36 of 2007 Sch. 4 cl. 4(2).]

42. Supplementary rates

Every local government may, and when required so to do by the Governor shall make and levy as aforesaid, within the authorisation of the preceding sections, and cause to be collected, supplementary rates to meet any extraordinary or unanticipated expenditure.

[Section 42, formerly section 41, renumbered as section 42: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

*[**43.** Deleted: No. 57 of 1985 s. 12.]*

44. Borrowing powers

(1)(a) Subject to any express provisions of this Act, every local government may from time to time under the borrowing powers conferred by the *Local Government Act 1995*, raise a special loan for any of the purposes of this Act.

[(b) deleted]

(c) The period for the repayment of any such loan shall not exceed 50 years, and the proceeds of each such loan shall be kept in a separate bank account, and shall not be applied to any purpose other than the purpose aforesaid.

(d) Where a local government has obtained the consent of the Governor under Part IV to the carrying out of any sewerage or drainage works, and has, with the Governor's consent, borrowed or arranged to borrow moneys to carry out the works, the Governor may authorise the Treasurer, on behalf of the State, to

guarantee the repayment of any loans so borrowed or to be borrowed, in accordance with the terms and conditions of the loan, if the Governor is satisfied that the local government is by reason of such guarantee able to obtain more advantageous terms in respect of the loan and that such guarantee is desirable.

(e) The provisions of the preceding paragraph shall also apply to any loan which has been actually arranged by or made to any local government for the construction of sewerage or drainage works (including apparatus for the treatment of sewage) since 1 November 1933, under the provisions of the principal Act:

Provided the Governor is further satisfied that the works are sufficiently general in their scope. In connection with any such guarantee the local government is authorised on the giving of such guarantee to execute all documents and do all things necessary for varying the terms of any loan made, or agreed to be granted, in order to give effect to and take advantage of any better terms granted by the lender in consideration of the guarantee.

(2) A local government may, pending the collection of its annual health rate, and for the purpose of commencing, carrying on, or completing any works or meeting any expenses or liabilities which it is authorised under this Act to incur, obtain advances from any bank by overdraft on current account, but so that no such overdraft shall at any time exceed one-third of the annual revenue of the local government under this Act for the year then last preceding:

Provided that the bank making such advances shall not be concerned to inquire whether the same have been obtained for the purposes mentioned in this subsection, nor be required to see to the application of such advances.

This subsection shall be deemed to apply to all existing advances on overdraft to local governments to the extent hereby authorised, and any such advances are hereby validated.

[Section 44, formerly section 43, amended: No. 50 of 1926 s. 4; No. 30 of 1932 s. 7; No. 5 of 1933 s. 4; No. 38 of 1933 s. 3; renumbered as section 44: No. 38 of 1933 s. 42; amended: No. 16 of 1935 s. 2; No. 32 of 1937 s. 3; No. 59 of 1991 s. 7; No. 14 of 1996 s. 4.]

45. Special loan rate

Where in any year it becomes necessary to strike a rate for the purpose of providing the interest and sinking fund of any such loan, the local government shall, under the provisions of the *Local Government Act 1995*, make and levy a special annual rate, but where the local government has expended loan moneys in the installation of any appliances, drains, pipes, shafts, ventilating shafts and fittings on any lands, and the person responsible for the payment of the cost of such installations enters into an agreement with the local government under the provisions of this Act for the payment of same the local government —

(a) may in lieu of striking a special annual rate in the first instance place all repayments made to the credit of a special account for the liquidation of the loan by which the moneys expended were raised;

(b) if such repayments are insufficient to meet the periodical repayments of principal and/or interest on the loan, or to meet any payments to any fund for the liquidation of the loan, the local government shall levy a special annual rate from time to time, as occasion requires, to make good such deficiency.

[Section 45 inserted: No. 38 of 1933 s. 4 and 42; amended: No. 27 of 1994 s. 42; No. 14 of 1996 s. 4.]

46. Application of rating provisions of *Local Government Act 1995*

(1) Subject to any express provisions of this Act, with respect to every health rate, sanitary rate, supplementary rate, and special loan rate made and levied under this Act by a local government, all the provisions of the *Local Government Act 1995* relating to the making, payment, and recovery of general rates shall apply and be deemed to be incorporated with this Act.

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

Provided further, that where a local government has carried out sewerage or drainage works under Part IV which are of benefit to a particular portion of its district, which was specified at the time of making application for the approval of the Governor, any special loan rate imposed in connection with moneys borrowed for such works may be imposed in respect of land situate within that portion.

(2) A local government may utilise the same valuation, rate record, notice of assessment or valuation, or distress warrant for rates made under this Act and rates made under the *Local Government Act 1995*.

[Section 46 inserted: No. 38 of 1933 s. 5 and 42; amended: No. 38 of 1933 s. 5; No. 14 of 1996 s. 4.]

47. Health rate to be regarded in determining borrowing powers

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

[Section 47, formerly section 46, renumbered as section 47: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

48. Time for giving notice of rate may be extended

In case any local government 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 government may make and give notice of such rate.

[Section 48, formerly section 47, renumbered as section 48: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

49. Accounts and audit

[(1) deleted]

(2) Every local government shall, within one month from the close of its financial year, forward to the Chief Health Officer 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 Chief Health Officer.

[Section 49, formerly section 48, renumbered as section 49: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

*[**50.** Deleted: No. 57 of 1985 s. 12.]*

*[**51.** Deleted: No. 14 of 1996 s. 4.]*

52. Financial adjustment

(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* [3], or on the constitution of any new district, or the alteration of the boundaries of a district, the several local governments affected may, by agreement, make such adjustment of property, liabilities, contracts, and

engagements between the several districts as such local governments 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 government as the Minister may determine, and shall be applied and disposed of as the Minister may direct.

[Section 52, formerly section 51, renumbered as section 52: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

Part IV — Sanitary provisions

Division 1 — Sewerage and drainage schemes

[Heading inserted: No. 38 of 1933 s. 42.]

53. Sewers vested in local government

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

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

[Section 53 inserted: No. 38 of 1933 s. 10 and 42; amended: No. 14 of 1996 s. 4.]

54. Power of local government to construct and maintain sewers

A local government may —

(a) formulate or combine with any other local government in formulating a scheme or joint scheme for the construction and maintenance of all sewers, drains, and appliances necessary for carrying away or disposing of or treating any noxious or waste matter within its or their district or districts, or any portion or portions thereof;

(b) without limiting the generality of the provisions of paragraph (a) formulate a scheme for the installation of, and install on premises generally or in any specified portion of the district, apparatus for the treatment of sewage;

(c) subject to the provisions of this Part exercise beyond the district for the purpose of outfall or distribution of sewage all or any of the powers conferred by this Part;

(d) alter or improve any such works from time to time;

(e) install on any lands which such works are designed or intended, or capable of serving all such drains, fittings, ventilating shafts, pipes, or tubes as may be necessary effectually to enable noxious or waste matter on the said lands to be discharged into any such sewer.

[Section 54 inserted: No. 38 of 1933 s. 11 and 42; amended: No. 14 of 1996 s. 4; No. 28 of 1996 s. 5.]

55. Governor's approval necessary to all schemes

(1) No such sewer or drain or general scheme for the installation of appliances for the treatment of sewage (other than a sewer or drain for the disposal of storm water) shall be constructed or carried out without the approval of the Governor. Provided that this restriction shall not apply to the construction of any sewer or drain where the Chief Health Officer is first satisfied that the scheme is sound and that the carrying out of the work will not involve an expenditure exceeding $2 000.

(2) For the purpose of obtaining the approval of the Governor, the local government or authorities concerned shall prepare a general plan and description of the proposed works.

(3) The general plan shall be on a scale of not less than 1:1 000, and shall show the character and extent of the works proposed.

(4) The description shall clearly set forth —

(a) the object and purpose of the proposed works;

(b) the mode in which it is proposed to obtain funds for their construction;

(c) an estimate of their cost;

(d) a statement of the capital value of the property to be benefited thereby;

(e) the boundaries of the area proposed to be sewered and particulars of the premises proposed to be served;

(f) the proposed source of supply of water for carrying out the scheme;

(g) in the case of a joint scheme, the amount of money proposed to be spent by each local government concerned.

(5) The local government or authorities shall forward such general plan and description to the Chief Health Officer. The Chief Health Officer shall examine the same, and may avail himself of the assistance of any other Government department, or of any officer belonging to any other Government department, in the examination thereof and, after having made such examination, shall report thereon to the Minister.

(6) The local government or authorities concerned, shall, if required by the Chief Health Officer, furnish details of the proposed works, with the levels thereof, and details of all proposed interferences with any street, road, bridge, culvert, or permanent structure, or with any private property, and such information as he requires.

[Section 55 inserted: No. 38 of 1933 s. 12 and 42; amended: No. 113 of 1965 s. 4(1); No. 28 of 1984 s. 45; No. 59 of 1991 s. 8; No. 14 of 1996 s. 4; No. 8 of 2009 s. 71(2); No. 19 of 2016 s. 100.]

56. Power to do acts preliminary to formulating scheme

For any of the purposes hereinbefore specified the local government may by its officers, engineers, agents, or employees enter at all reasonable hours in the daytime any lands, whether within or without its district, and make surveys and take levels.

[Section 56 inserted: No. 38 of 1933 s. 13 and 42; amended: No. 14 of 1996 s. 4; No. 28 of 1996 s. 20.]

57. Notice of plans and specifications

(1) A notice stating that the application and general plan and description have been forwarded to the Chief Health Officer,

and stating in what place copies of the general plan and description have been deposited for inspection, shall be given by the local government making application to any other local government whose district is in whole or in part included in the area to be covered by the proposed works.

(2) A like notice shall be published by the local government making application at least once in every week for 3 weeks —

(a) in some newspaper circulating generally in the district of the local government; and

(b) in the *Gazette*.

(3) The Minister shall not forward any recommendation to the Governor in connection with any such proposed works until the requirements of the preceding section have been complied with and the Minister shall, when submitting any such application to the Governor, forward therewith a copy —

(a) of all notices given to any local governments affected; and

(b) of every newspaper and of the *Gazette* containing any publication of such notices.

[Section 57 inserted: No. 38 of 1933 s. 14 and 42; amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

58. Objections

(1) Within one month after the last publication of any such notice in the *Gazette* any corporation or person having any property or interest in the area the subject of the scheme, which is likely to be injuriously affected by the proposed works, may forward to the Minister a petition to the Governor to refuse the application, or to amend or alter the plan thereof, or to make such other order in reference thereto as the petitioner may claim.

(2) Every execution of a petition other than by the common seal of a local government shall be verified by the statutory declaration

of some person signing the petition, and no petition shall be received by the Minister unless the same is accompanied by such declaration.

[Section 58 inserted: No. 38 of 1933 s. 15 and 42; amended: No. 14 of 1996 s. 4.]

59. Copies of plans and specifications to be available for inspection

A true copy of the application, and of the general plan and description forwarded to the Chief Health Officer, shall be deposited for the inspection, without payment, of any person who desires to inspect the same, at the office of the local government and also at the office of the Chief Health Officer.

[Section 59 inserted: No. 38 of 1933 s. 16 and 42; amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

60. Conditions on which Minister may recommend scheme to Governor

After the expiration of one month from the date of the last publication of the notice in the *Gazette* prescribed by section 57, if the Minister is satisfied —

(a) that the provisions of this Act have been complied with; and

(b) that the revenue or periodical repayments estimated to be derived from the proposed works is sufficient to justify the undertaking; and

(c) that the works, if carried out in the manner designed, will be of benefit to the district of the local government, or to that portion of the district of the local government which the works are designed to serve; and

(d) that the objections, if any, lodged are not sufficient to require the approval of the Governor to be withheld from the proposed scheme,

he shall submit the general plans, specifications, and estimates to the Governor for approval, and if they are approved the Governor may forthwith make an order empowering the local government to undertake the construction of the works, and such order shall be notified in the *Gazette*.

[Section 60 inserted: No. 38 of 1933 s. 17 and 42; amended: No. 16 of 1935 s. 3; No. 14 of 1996 s. 4.]

61. Apportionment of costs and maintenance of joint schemes

On the completion of any joint scheme carried out by any 2 or more local governments, the cost of such scheme, and the maintenance thereof, shall be apportioned between each of the local governments concerned on an equitable basis, and in case of disagreement the Governor may decide the amount to be paid by each local government.

[Section 61 inserted: No. 38 of 1933 s. 18 and 42; amended: No. 14 of 1996 s. 4.]

62. Powers of local government in carrying out works

For the purpose of the construction, extension, maintenance, repair, alteration, or improvement of any such works, the local government, and all persons acting with its authority, may enter upon any lands and —

(a) make surveys and take levels of the same and set out such parts thereof as they may think fit;

(b) may dig or break up the soil of such lands, and trench and fence in the same, and remove or use any earth, stones, trees, and other things taken therefrom;

(c) erect buildings, pumping stations, and pumping machinery;

(d) make, maintain, alter, or discontinue drains and culverts upon any lands authorised to be taken;

(e) construct, alter, and maintain under any street, and through, across, or under any land any sewer pipes or drains;

(f) open and break up the soil of any streets or of any land, and excavate and sink trenches for the purpose of laying down, making, and constructing sewers, pipes, and drains therein;

(g) cause any sewers to discharge upon any such land as may be required by the local government for that purpose, or to communicate with the sea, or any arm thereof, or with any river or watercourse, either within or without the limits of the district of the local government;

(h) open, cleanse, and repair such sewers, pipes, and drains, or alter the position and construction thereof;

(i) make any sewers or drains from any main sewer laid in any street into any dwelling-house, public or private building or other premises for the purpose of cleansing and draining any such house, building, or premises by means of such sewers or drains;

(j) do all such other acts, matters, and things as the local government may deem proper for making, repairing, completing, or improving any such works:

Provided that nothing herein contained shall authorise the local government to make use of any sewer, drain, or outfall for the purpose of conveying any sewage or sullage water into any river, natural stream, watercourse, lake, or pond until such sewage or sullage water is freed from all excrementitious or other foul or noxious matter as would affect or deteriorate the

purity and quality of the water in the river, stream, watercourse, lake or pond:

Provided further, that the local government shall make to every person, or to any other local government aggrieved, compensation for any actionable damage actually sustained by any such person or local government through the exercise of the powers conferred by this Act, but any dispute as to the right of such person or local government to receive compensation or the amount thereof shall be heard and determined under the provisions of Part 10 of the *Land Administration Act 1997*.

[Section 62 inserted: No. 38 of 1933 s. 19 and 42; amended: No. 14 of 1996 s. 4; No. 31 of 1997 s. 32(1); No. 55 of 2004 s. 481.]

Limited or party schemes

[Heading inserted: No. 38 of 1933 s. 19.]

63. Recovery of cost of limited schemes from owners of premises served

(1) Where the local government proposes to carry out any sewerage or drainage works which will be of special benefit to a particular portion only of its district, the local government may decide that the cost of constructing such works (in so far as it is not defrayed out of loan moneys) shall be recoverable by action in any court of competent jurisdiction from the owners of rateable lands situated within the aforesaid portion of the district, and such moneys shall be recoverable accordingly: Provided that the respective amounts to be recoverable from the various owners shall be proportionate to the values of the rateable lands owned by them respectively within such portion of the district. No direction or order given or made under this section shall be subject to appeal or review.

(2) Any such sums shall be a charge, together with interest at such rate as may be prescribed (but not exceeded by more than 0.5% the rate of interest payable in respect of any loan moneys

expended on such works) on the premises to which such sum or sums relate.

[Section 63 inserted: No. 38 of 1933 s. 20 and 42; amended: No. 14 of 1996 s. 4; No. 55 of 2004 s. 482.]

63A. Interpretation

Without limiting the generality of sections 63 and 64, it is hereby declared that any sewerage or drainage works, or any sewer, carried out or constructed at the expense of the local government, are sewerage or drainage works, or is a sewer, carried out by or constructed by the local government for the purposes of those sections, notwithstanding that those works or that sewer are or is connected to a sewer or drain vested in a licensee as defined in the *Water Services Act 2012* section 3(1) and notwithstanding that the works or the sewer may not have been actually carried out or constructed by the local government.

[Section 63A inserted: No. 52 of 1968 s. 2; amended: No. 73 of 1995 s. 188; No. 14 of 1996 s. 4; No. 25 of 2012 s. 216.]

64. Agreements for recouping costs and paying maintenance in case of limited schemes

(1) When it shall appear to any local government that the use of any sewer constructed or to be constructed by the local government will be confined to the owners or occupiers of a limited number of premises, and will not be general, then the local government may enter into agreements relating to the use of the sewer with the respective owners of such premises.

(2) Any such agreement shall provide for the drainage into the sewer of sewage and liquid waste from the premises, and may provide for the local government constructing and providing any drain to connect the premises with the sewer.

(3) In every such agreement there shall be contained an undertaking on the part of the owner to pay to the local government such

annual sum as may in accordance with the agreement of the parties be necessary to cover —

(a) a reasonable instalment of a due proportion of the cost of making and providing the sewer and any incidental works;

(b) interest at such reasonable rate as may be stipulated on such proportion of the cost;

(c) the expenses of the local government for the year in maintaining and operating such sewer and works:

Provided that, in so far as the local government has expended loan moneys on the construction and provision of such sewer and works, the period over which such instalments shall be payable shall not extend beyond the period of the loan, and the rate of interest to be charged shall not exceed by more than 0.5% that payable on the loan.

(4) In the event of any person subsequently availing himself of the use of the sewer under agreement with the local government, any person who has entered into a prior agreement may apply to the local government for a revision and adjustment of the amount to be paid by him thereunder, and, in the event of no agreement thereon being arrived at within 2 months, then the application, and all questions connected therewith, shall be deemed to have been referred by the parties to arbitration under the *Commercial Arbitration Act 2012*.

(5) Whenever, in the opinion of the local government, the amount of any noxious or waste matter discharged into any sewer from any premises is greater than was estimated at the time any such agreement was entered into the local government may, by notice in writing served on the owner, increase the amount to be paid by the owner, pursuant to any agreement, and the remaining payments to fall due under the said agreement shall be adjusted accordingly; provided that if the owner concerned considers the increased amount excessive he may, within 2 months after the service on him of the notice, serve a notice on the local

government requiring the question of what (if any) is a fair sum by way of increase, and all questions connected therewith to be submitted to arbitration, and the provisions of the *Commercial Arbitration Act 2012*, shall apply as if the parties had agreed to a reference of such question.

The provisions of this subsection shall apply retrospectively as well as prospectively, and in their retrospective operation shall include all agreements made under section 53B [4] of the *Health Act 1911*, or made since 4 January 1934.

(6) Any amount payable to the local government under any such agreement shall be and remain until paid a charge upon the premises to which the agreement refers, and on all the owner's estate and interest therein, as if the agreement had contained an express charge to that effect, and the personal obligation to make the payments stipulated for in the agreement, and to perform and observe the terms thereof, shall be binding not only on the original party but on every subsequent owner of the premises, but so that no person shall be personally liable for the making of any payment or the discharge of any obligation which shall accrue due or arise after he has ceased to be owner of the premises.

(7) The obligations of the local government under any such agreement shall be enforceable by the owner for the time being of the premises as if had been entered into with him.

(8) Nothing in this section shall deprive the local government of any power of imposing any rate, except in so far as any such agreement as aforesaid may impose a restriction on such power for the benefit of any person liable under or entitled to the benefit of such agreement.

(9) In the event of the ownership of any premises to which an agreement refers becoming divided between 2 or more persons, then the benefit and burden of the agreement may be so apportioned and adjusted between the owners as the Minister

may determine, and the Minister's determination shall have effect as if embodied in an agreement under this section.

[Section 64 inserted: No. 38 of 1933 s. 21 and 42; amended: No. 16 of 1935 s. 4; No. 109 of 1985 s. 3(1); No. 14 of 1996 s. 4; No. 23 of 2012 s. 45.]

65. Power to acquire land

(a) The local government may take and acquire any land it may from time to time deem necessary for any of the purposes of this Part. Any such land shall be taken under and subject to the provisions of Part 9 of the *Land Administration Act 1997*.

(b) If a local government fails to serve an offer on any claimant against the local government for compensation under the said Act within the time limited for that purpose by that Act, the Minister may at any time thereafter serve an offer on behalf of the local government, and such offer shall be deemed to be an offer made by the local government for the purposes of the said Act.

[Section 65 inserted: No. 38 of 1933 s. 22 and 42; amended: No. 14 of 1996 s. 4; No. 31 of 1997 s. 142.]

66. Duty of local government where street broken up

When the local government opens or breaks up the soil or pavement of a street it shall —

(a) with all dispatch complete the work for which it is broken up, and fill in the ground and reinstate and make good the street or pavement so opened or broken up; and

(b) while any portion of such street or pavement continues to be opened up or broken up, cause such portion of the street or pavement to be fenced or guarded, and sufficient light to be kept there at night.

[Section 66 inserted: No. 38 of 1933 s. 23 and 42; amended: No. 14 of 1996 s. 4.]

67. Interfering with works of other authorities

If at any time the local government deems it necessary to raise, sink, or otherwise alter the situation of any tram rails, gas pipes, or gas works, hydraulic, steam, or other pipes, electric or telephone lines, pneumatic pipes or tubes, or other works laid in or under any street, it may by notice in writing require the person to whom the works belong to raise, sink, or otherwise alter the situation of the same in such manner and within such reasonable time as shall be specified in such notice, and the expense attendant on or connected with such alteration shall be paid by the local government, and if such notice shall not be complied with, the local government may make the alterations required.

[Section 67 inserted: No. 38 of 1933 s. 24 and 42; amended: No. 14 of 1996 s. 4.]

68. Alteration of sewerage works

The local government may open the ground, and change the level or otherwise amend or enlarge any sewer lying under any public or private street or place within the district for better communicating with the main sewer or stormwater drains: Provided that no person shall by means of any such alteration, amendment, or enlargement be deprived of the use and enjoyment of any private sewer or drain which he shall be entitled to use, but the local government may at its own cost so construct and alter such private sewer or drain as to render the same as effectual for the purposes for which it was intended as any such sewer or drain may be at the time of such alteration.

[Section 68 inserted: No. 38 of 1933 s. 25 and 42; amended: No. 14 of 1996 s. 4.]

69. Ventilating shafts etc. may be attached to walls and buildings

The local government may cause any ventilating shaft, pipe, or tube of any sewer or drain to be attached to any wall or building within its district; provided that the mouth of every such shaft, pipe, or tube shall be at least 1.8 m higher than any window or door situated at a distance of 9 m therefrom, and also make use of the chimney of any public building, or of any factory or any tramway building, for a ventilating shaft or tube: Provided that no ventilating shaft for the purpose of ventilating any sewer shall be attached to a private residence.

[Section 69 inserted: No. 38 of 1933 s. 26 and 42; amended: No. 94 of 1972 s. 4(1) (as amended: No. 83 of 1973 s. 3); No. 14 of 1996 s. 4.]

70. Maps of systems to be kept

The local government shall cause to be made a map of all sewerage works in its district, on such scale and with such indications of levels and particulars of sewers and other works as may be prescribed, and shall cause such map to be revised from time to time and such additions made thereto as may show any new sewers, drains, and works, and the date of every revision shall be expressed therein. A copy of every such map shall be kept in the office of the Chief Health Officer, and another copy shall be kept in the office of the local government, and shall be open at all reasonable times to the inspection of the owner or occupier of any land within the district of the local government.

[Section 70 inserted: No. 38 of 1933 s. 27 and 42; amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

71. Sewers to be kept cleansed

The local government shall cause all sewers and drains under its control to be constructed and kept so as not to be a nuisance or

injurious to health, and shall keep the same properly cleansed, and for that purpose may construct, either above or below the ground, such reservoirs, sluices, engines, and fittings as it may think necessary, and may cause all or any of such sewers or drains to connect with and to be emptied into such places as it may think fit, and may cause the sewage and refuse therefrom to be collected for sale or for any purpose whatever, but not so as to create a nuisance.

[Section 71 inserted: No. 38 of 1933 s. 28 and 42; amended: No. 14 of 1996 s. 4.]

Division 2 — Connection of premises to drains and sewers of local government

[Heading inserted: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

72. Owners or occupiers may be compelled to connect premises when works complete

(1) As soon as any sewer or any part of the sewer is complete and ready for use, the local government may by notice in writing demand that the owner or occupier of any land situate in its district and capable, in the opinion of the local government, of being drained into such sewer, shall construct such drains and fittings from and in connection with such land to connect with the sewer as the local government may determine.

(2) Such drains and fittings shall be made and attached and be supplied with water according to such plans and directions as the local government shall deem proper for effectually carrying off all impurities from the land.

[Section 72 inserted: No. 38 of 1933 s. 29 and 42; amended: No. 14 of 1996 s. 4.]

73. Notice to owner or occupier to carry out installation of fittings

(1) The local government may, after giving the prescribed notice to the owner or occupier of any land, require such drains and fittings to be constructed by the owner or occupier within such time as it may limit in that behalf, and may require ventilating shafts, pipes, or tubes to be attached to any building or erected apart from or otherwise than attached to any building and to be connected with the drains.

(2) If the same shall not be constructed within such time or according to such plans and directions as the local government shall think proper, the local government may construct and attach the same, and for that purpose may enter into or upon the land of any such owner or occupier and excavate the ground, and make and construct and attach such drains and fittings, and may attach any such ventilating shafts, pipes, or tubes as aforesaid.

(3) The local government may in such case recover from every such owner or occupier in any court of competent jurisdiction, the full amount of the expenses of making such drains and fittings, or attaching or connecting such ventilating shafts, pipes, or tubes, together with interest at such rates as may be prescribed, but not exceeding by more than 0.5% the rate of interest on any loan moneys expended in carrying out such work; and the cost of providing, laying down, constructing, and fixing in readiness for use such drains and fittings shall, as between the owner and occupier of the land, be payable by the owner.

(4) All such moneys, together with interest as aforesaid, shall be a charge on the lands in respect of which they were expended.

[Section 73 inserted: No. 38 of 1933 s. 30 and 42; amended: No. 14 of 1996 s. 4.]

74. Where local government makes installations it may enter into agreements with persons responsible for payment of cost

(1) Where any owner or occupier of land becomes liable to the local government for the expense of making drains or fittings, or attaching or constructing ventilating shafts, pipes, or tubes, the local government may, on the application of the owner or occupier, enter into an agreement with the owner or occupier for the payment of such expenses and any costs incurred by the local government in relation to such works, over a period not exceeding the period of any loan from which the moneys expended to pay for the same were derived, or in not more than 60 quarterly instalments from the date of the completion of the work, if that period does not exceed the period of the loan.

(2) Interest from time to time on the amount remaining, to be paid at such rate per centum per annum, not exceeding by more than 0.5% per annum the rate of interest on the loan moneys from which such moneys were expended, and in other cases, at such rate as may be prescribed, shall be added to each instalment, and all such moneys and interest shall be a charge on the land in respect of which such works have been carried out, and may be recovered from any owner of such land with costs.

(3) The obligation of any occupier under an agreement made pursuant to this section shall cease in respect of any instalments becoming due thereunder after his tenancy shall have determined, but without prejudice to the right of the local government to recover such instalments from the owner.

[Section 74 inserted: No. 38 of 1933 s. 31 and 42; amended: No. 16 of 1935 s. 5; No. 14 of 1996 s. 4.]

75. Right of owner or occupier to connect drains with sewer

The owner or occupier of any land in the district of the local government may, subject to such conditions as the local

government may impose and to the relative local laws, cause his drains to empty into the covered sewers of the local government.

[Section 75 inserted: No. 38 of 1933 s. 32 and 42; amended: No. 14 of 1996 s. 4.]

76. Owner or occupier of land outside district may connect sewer on conditions imposed by local government

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

[Section 76 inserted: No. 38 of 1933 s. 33 and 42; amended: No. 14 of 1996 s. 4.]

77. Restrictions on construction or alteration of certain drains and fittings

A person who constructs or alters any drain or fitting connected with a sewer —

(a) without having given not less than one week's written notice to the local government of his intention to do so; or

(b) otherwise than in accordance with —

(i) the conditions laid down in the local laws of the local government; and

(ii) such plans and in such manner as the local government directs,

commits an offence.

[Section 77 inserted: No. 80 of 1987 s. 5; amended: No. 14 of 1996 s. 4.]

78. Owner or occupier responsible for cleaning private drains

(1) All drains and fittings connected with any sewer shall from time to time be repaired and cleansed under the inspection or direction of the local government, at the expense of the owner or occupier of the land in respect of which the said drain shall be constructed.

(1a) An owner or occupier referred to in subsection (1) who, if the local government —

(a) does not give him a direction in respect of the repair or cleansing of a drain or fitting referred to in that subsection, repairs or cleanses that drain or fitting otherwise than under the inspection of the local government; or

(b) gives him a direction in respect of the repair or cleansing of a drain or fitting referred to in that subsection, does not repair or cleanse that drain or fitting in accordance with that direction,

commits an offence.

(2) Subject to any agreement between the owner and occupier of any premises, the cost of repairing drains and fittings shall, as between the owner and occupier, be payable by the owner, and the cost of cleansing drains shall, as between the owner and occupier, be payable by the occupier.

[Section 78 inserted: No. 38 of 1933 s. 35 and 42; amended: No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 6; No. 14 of 1996 s. 4.]

79. Obstructing or encroaching on sewers

(1) Every person who shall erect, construct, or place any building, wall, fence, or obstruction in, upon, or over or under any sewer, so as to interfere with or injuriously affect such sewer in the carrying away of sewage or drainage, and every person who shall obstruct, fill in, close up, or divert any sewer without the

previous consent in writing of the local government, commits an offence.

(2) The local government may perform any works necessary for restoring or reinstating such sewer; and the person offending shall be liable to pay the local government all expenses incurred in performing such works. All such expenses may be recovered in any court of competent jurisdiction.

[Section 79 inserted: No. 38 of 1933 s. 36 and 42; amended: No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 7; No. 14 of 1996 s. 4.]

80. Local government may enforce drainage of undrained houses

(1) Subject to the express provisions of section 72, when any house in the district is without a drain sufficient for effectual drainage, the local government 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 government which is not more than 91 m 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 government directs.

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

(3) If such notice is not complied with, the local government 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.

[Section 80 inserted: No. 38 of 1933 s. 37 and 42; amended: No. 94 of 1972 s. 4(1) (as amended: No. 83 of 1973 s. 4); No. 14 of 1996 s. 4.]

81. Owner may be required to connect premises with public sewer

(1) Subject to the express provisions of section 72, when there exists in any district any sewer (whether constructed by or under the control of the local government or not) ready for use and suitable for the removal of sewage on the water-carriage system, then the local government may, by notice in writing, require the owner of any house or land situated in the district within 91 m of the sewer, and capable, in the opinion of the local government, of being drained into such sewer, to provide for the removal of sewage from such house or land, and for that purpose to construct and provide, within a time specified in the notice, such drains and fittings as the authority having control of such sewer shall deem necessary, and to connect such drains with the sewer.

(2) Such drains and fittings shall be constructed and connected and be supplied with water in accordance with the laws and regulations applicable to the sewer, and in conformity with any directions given by the authority controlling the sewer.

(3) It shall be the duty of any owner to whom any such notice as aforesaid is given to comply with that notice within the time specified therein, and to carry the same into complete effect.

(4) If a notice given under this section is not complied with, the local government may, after the expiration of the time specified in the notice, do the work required, and for that purpose may enter into or upon the house or land of the owner and excavate the ground and construct and provide such drains and fittings and connect such drains with the sewer.

(5) The local government may recover from the owner in any court of competent jurisdiction the full amount of the expenses incurred by it in constructing and providing such drains and fittings and connecting such drains to the sewer pursuant to subsection (4), with interest at a rate, if loan moneys are expended in carrying out the work, not exceeding by more

than 0.5% the rate of interest payable on the loan but otherwise at such rate as the Minister may approve, and such amount and interest shall be and remain a charge upon the land in respect of which the expenses were so incurred, notwithstanding any change that may take place in the ownership of that land.

[Section 81 inserted: No. 38 of 1933 s. 38 and 42; amended: No. 8 of 1965 s. 2; No. 94 of 1972 s. 4(1) (as amended: No. 83 of 1973 s. 4); No. 14 of 1996 s. 4.]

82. Buildings without drains

(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 government deems necessary for the effectual drainage of the house are provided to the satisfaction of the local government.

(2) Subject to the express provisions of section 72 the drain or drains so to be constructed shall empty into some sewer of the local government which is within 91 m 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 local laws, empty into such place within that distance, not being under any house, as the local government 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 commits an offence.

[Section 82 inserted: No. 38 of 1933 s. 39 and 42; amended: No. 113 of 1965 s. 8(1); No. 94 of 1972 s. 4(1) (as amended: No. 83 of 1973 s. 4); No. 80 of 1987 s. 8; No. 14 of 1996 s. 4.]

82A. Where local government makes connections with sewers it may enter into agreement with person responsible for payment of cost

(1) Where the local government has been requested in writing by the owner of premises in the district of the local government to arrange for the connection of any of the drains of the premises with a sewer, whether constructed by or under the control of the local government or not or for the supply and installation in the premises of any bath, basin, sink or trough, and the pipes and fittings necessary for the proper functioning thereof, whether the supply and installation is by way of replacement or not, the local government may do the necessary work and provide the necessary materials, and may recover from the owner the expenses incurred by the local government in doing so.

(2) The local government may at the request of the owner enter into an agreement with the owner for the payment of the expenses, by such instalments extending over such period, not exceeding 15 years, and including such rate of interest, as the local government deems reasonable.

(3) So much of the expense, and so much of the interest due, as is not paid to the local government, is a charge upon the land on or in relation to which the expense is incurred, notwithstanding any change that may take place in the ownership of the land.

[Section 82A inserted: No. 29 of 1955 s. 2; amended: No. 38 of 1960 s. 2; No. 14 of 1996 s. 4.]

83. Making sewers and drains under private land

Without affecting the provisions of this Act relating to the powers of the local government in the carrying out of any sewerage and drainage works, and the compulsory connection of any premises to any such works, whenever in the opinion of the local government it is necessary for the proper drainage of

any land or premises to construct a sewer or drain through or under private land, the following provisions shall apply:

(a) The local government 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 or under such private land.

(b) After one month from the service of such notice on the owner and the occupier (if any), the local government, or any person authorised by the local government, may make such sewers or drains through or under such private land and may without notice enter into the premises to maintain or repair such sewer or drain.

(c) Where any sewer or drain is made by or with the authority of the local government, or the person so authorised, there shall be paid to the owner and to the occupier compensation for any damages occasioned by them in consequence of such works, and in relation to the assessment and determination of such compensation the provisions of Part 10 of the *Land Administration Act 1997* shall, with the necessary modifications, apply. There shall be payable to such owner in addition to any sum claimable under the last-mentioned Act all loss which may arise or be consequent upon the exercise by the local government of any of the powers herein, including the depreciation (if any) in the value of the land through or under which any sewer or drain may be made.

(d) Subject to the provisions of section 63 and section 64, all expenses incurred by the local government or by any person in making any sewer or drain through or under private land, and any compensation and costs shall be repaid to the local government or to the person so authorised —

(a) in the case of drainage of private land or premises, by the owner thereof; and

(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 government shall so require; and

(c) as between several owners, in such proportions as the local government may fix,

and may be recovered by action in any court of competent jurisdiction.

[Section 83 inserted: No. 38 of 1933 s. 40 and 42; amended: No. 14 of 1996 s. 4; No. 31 of 1997 s. 32(2).]

84. Recovery of expenses incurred by local government

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

(a) in the case of drainage of private land or premises, by the owner thereof; and

(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 government shall so require; and

(c) as between several owners, in such proportions as the local government may fix,

and shall be recoverable in a court of competent jurisdiction.

[Section 84, formerly section 64, renumbered as section 84: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4; No. 59 of 2004 s. 141.]

85. Dwelling-houses on low lying land

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 government and subject to and in accordance with such local laws as the local government may from time to time prescribe.

The local government may by such local 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.

[Section 85, formerly section 65, renumbered as section 85: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

86. Filling up low lying land

(1) Whenever the surface of any land is lower than the level of the street, road, sewer, or drain into which the water off the said land should, in the opinion of the local government, drain, the local government 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) An owner who neglects or refuses to comply with a notice given to him under subsection (1) commits an offence.

(2a) When an owner neglects or refuses to comply with a notice given to him under subsection (1), the local government may do the work required by that notice to be done and recover from the owner so 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.

[Section 86, formerly section 66, renumbered as section 86: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 9; No. 14 of 1996 s. 4.]

87. Stagnant water holes

The local government may, and, if required by the Chief Health Officer, 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.

[Section 87, formerly section 67, renumbered as section 87: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

88. Stagnant water in cellars etc.

(1) No person shall suffer any waste or stagnant water to remain in any cellar or premises in or about any dwelling-house for 24 hours after notice given and served upon him by the local government or its officer to remove same.

(2) If the local government has reason to suspect that there is any waste or stagnant water in or about any house or premises, such local government, after 24 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 government 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.

[Section 88, formerly section 68, renumbered as section 88: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

89. Paving and asphalting of cellars

The owner of any house to which there is a cellar shall, if so required by the local government, 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 government; 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 government, 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 24 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 in a court of competent jurisdiction the moneys expended by him on such paving or

asphalting, or on constructing such well, or may deduct the same from any rent payable by him to such owner.

[Section 89, formerly section 69, renumbered as section 89: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4; No. 59 of 2004 s. 141.]

90. Brickmaking and other excavations to be fenced

Any local government may, and, when so required by the Chief Health Officer, 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 government; and may further direct such owner or the occupier to take such measures as are in the opinion of the local government 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.

[Section 90, formerly section 70, renumbered as section 90: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

91. Storm water to be allowed its natural channel

(1) It shall not be lawful for a local government 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 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) Subject to subsection (3), a local government, an owner or occupier which or who contravenes subsection (1) commits an offence.

(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.

[Section 91, formerly section 71, renumbered as section 91: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 10; No. 14 of 1996 s. 4.]

92. Unauthorised building over sewers and under streets

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

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

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

commits an offence.

(2) The local government 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.

[Section 92, formerly section 72, renumbered as section 92: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 11; No. 14 of 1996 s. 4.]

93. Injurious matter not to pass into sewers

Any person who throws or suffers to be thrown or to pass into any sewer of a local government, 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, commits an offence.

[Section 93, formerly section 73, renumbered as section 93: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 12; No. 14 of 1996 s. 4.]

94. Chemical refuse, steam etc. not to be turned into sewers

(1) Any person who turns or permits to enter into any sewer of a local government or any drain communicating therewith any chemical refuse or any waste, condensing water, heated water or other liquid over a temperature of 43°C, which causes a nuisance or is injurious to health, or interferes with the disposal of sewage, commits an offence.

(2) A person shall not be liable to a penalty for an offence under subsection (1) until the local government has given him notice of the provisions of this section, nor for an offence committed before the expiration of 7 days from the service of such notice; but the local government shall not be required to give the same person such notice more than once.

[Section 94, formerly section 74, renumbered as section 94:: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 94 of 1972 s. 4(1) (as amended: No. 83 of 1973 s. 4); No. 80 of 1987 s. 13; No. 14 of 1996 s. 4.]

Division 3 — Disposal of sewage

[Heading, formerly Divison 2, renumbered as Division 3: No. 38 of 1933 s. 42.]

95. Disposing of sewage

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

(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 25 years, and as to the

execution and cost of works, either in or beyond the district, for the purpose of such supply:

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

[Section 95, formerly section 76, renumbered as section 95: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

96. Communication of sewers with sewers of adjoining district

A local government may, by agreement with the local government of any adjoining district, and with the sanction of the Chief Health Officer, cause its sewers to communicate with the sewers of the local government of such adjoining district in such manner and on such terms, and subject to such conditions, as may be agreed upon between the local governments, or in case of dispute, as may be settled by arbitration, under the provisions of the *Commercial Arbitration Act 2012*.

[Section 96, formerly section 77, renumbered as section 96: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 45; No. 109 of 1985 s. 3(1); No. 14 of 1996 s. 4; No. 23 of 2012 s. 45; No. 19 of 2016 s. 100.]

97. Dealing with land appropriated to sewage purposes

(1) The local government may, subject to the approval of the Chief Health Officer, 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 —

(a) by leasing the same for a period not exceeding 25 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 government 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.

(2) When a local government, with the approval of the Chief Health Officer, 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 government may contribute to the expense of carrying into execution by such person all or any of the purposes of such agreement.

[Section 97, formerly section 78, renumbered as section 97: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

98. Punishment for placing sewage in streets etc.

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 sewage into or upon any road, street, tramway, channel or tunnel, footway, lane or any land or place other than a place or depot duly authorised for the purpose, commits an offence.

[Section 98, formerly section 79, amended: No. 17 of 1918 s. 8; renumbered as section 98: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 102 of 1973 s. 5; No. 80 of 1987 s. 14.]

Division 4 — Sanitary conveniences

99. Houses to have sanitary conveniences

(1) No person shall erect, rebuild, maintain, or use any house, or keep or use or suffer to be kept or used any public place or private place without providing for the same sanitary

conveniences, and also bathroom and laundry and cooking facilities, to the number prescribed, constructed and equipped in accordance with the local laws of the local government.

[(2) deleted]

(3) If it appears to the local government to be advisable that any house, public place, or private place should be provided with an apparatus for the treatment of sewage, it may cause written notice to be served on the owner of the house or place requiring him within a time specified in the notice to provide and install such apparatus for and in connection with such house or place, and such owner shall comply with such notice, and shall observe in connection with the provision and installation of the apparatus the provisions of section 107 and of the relative local laws.

(4) A person who neglects or refuses to comply with the requirements of a notice served on him under subsection (3) commits an offence.

(4a) When a person neglects or refuses to comply with the requirements of a notice served on him under subsection (3), the local government may do the work required by that notice to be done and provide the material or apparatus required to be provided to carry out the requirements of the notice in respect of which default has been made, and may recover from the person so in default the expense incurred by it in so doing.

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

[Section 99, inserted as section 81: No. 30 of 1932 s. 12; renumbered as section 99: No. 38 of 1933 s. 42; amended: No. 32 of 1937 s. 4; No. 21 of 1944 s. 4; No. 45 of 1954 s. 2; No. 49 of 1962 s. 2; No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 15; No. 59 of 1991 s. 9; No. 14 of 1996 s. 4.]

100. Provision of apparatus for treatment of sewage

(1) Whenever the local government has been requested in writing by the owner of any premises to provide and install thereon an apparatus for the treatment of sewage, or to supply and install in the premises any bath, basin, sink or trough, and the pipes and fittings necessary for the proper functioning thereof, whether the supply and installation is by way of replacement or not, the local government may do the work and provide the material required to be done and provided, and recover from the owner the expenses incurred by it in so doing.

(2) When any owner is liable to the local government in respect of the provision and installation of any such apparatus as aforesaid in connection with any house, then the local government may, at the request of the owner, enter into an agreement with him for the payment of the amount due by instalments extending over such period as the local government shall deem reasonable, with interest at the rate indicated in the proviso hereto, or, in cases in which the proviso is not applicable, at a rate determined by the local government with the approval of the Minister: Provided that if the local government has paid the expenses out of any loan the period aforesaid shall not extend beyond the period within which the loan is repayable, and the rate of interest shall not exceed by more than 0.5% the rate of interest payable on the loan:

Provided further, that no such agreement shall be entered into in respect of any house the erection of which was not commenced before the date fixed for the district by a resolution passed for the purposes of this section by the local government and published in the *Government Gazette* but the provisions of this proviso do not apply in respect of any house which is the property of the Crown in right of the State.

(3) Such expenses, until paid, whether by instalment or otherwise, shall be and remain a charge upon the land upon or in relation to which the expenses were incurred, notwithstanding any change

that may take place in the ownership thereof, but where the Crown is liable for payment of the expenses under an agreement, the expenses are not a charge on the land and may be recovered by the local government, if they are not repaid in accordance with the terms of the agreement, as a debt in any court of competent jurisdiction.

(4)(a) In this section the expression, ***owner*** includes the Crown in right of the State and where the Crown is the owner of any premises the expression, ***apparatus for the treatment of sewage*** includes any buildings, fittings, works or appliances used or required for ablutionary purposes.

(b) The reference to the Crown in this section does not imply that the Crown is bound by the other provisions of this Act.

[Section 100, inserted as section 81a: No. 50 of 1926 s. 6; amended: No. 30 of 1932 s. 13; No. 38 of 1933 s. 8; renumbered as section 100: No. 38 of 1933 s. 42; amended: No. 22 of 1959 s. 2; No. 18 of 1964 s. 4; No. 59 of 1991 s. 10; No. 14 of 1996 s. 4.]

101. Sanitary conveniences for workshops etc.

(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 20 in number are gathered at one time, shall be provided with such sanitary conveniences as, in the opinion of the local government, are suitable and sufficient having regard to the number and sex of persons employed or gathered therein.

(2) When it appears to the local government that the provisions of this section are not complied with, the local government 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) An owner who neglects or refuses to comply with the requirements of a notice given to him under subsection (2) commits an offence.

(4) When an owner neglects or refuses to comply with the requirements of a notice given to him under subsection (2), the local government may do the work required by that notice to be done and recover from the owner so in default the expense incurred by it in so doing.

[Section 101, formerly section 82, renumbered as section 101: No. 38 of 1933 s. 42; amended: No. 18 of 1964 s. 5; No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 16; No. 14 of 1996 s. 4.]

102. Sanitary conveniences in connection with works

A person who undertakes work in the district of a local government and who does not provide and maintain for the use of persons engaged, whether as employees or as independent contractors or otherwise, on the work, sanitary conveniences of the number, situation, construction, dimensions and equipment prescribed by the regulations or local laws of that local government, or who does not remove those sanitary conveniences when required by the local government, commits an offence.

[Section 102 inserted: No. 25 of 1952 s. 3; amended: No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 17; No. 14 of 1996 s. 4.]

103. Persons to carry out sanitary work in certain cases

Where any person undertakes any work upon any land, whether such work necessitates the employment of workmen or not, such person shall, if required by the local government, collect and dispose of in accordance with the terms of the local government's requisition, all sewage, rubbish, or refuse present or found as the result of work being undertaken within the land

occupied or controlled by him in connection with or for the purpose of such work.

[Section 103, inserted as section 83A: No. 30 of 1932 s. 14; renumbered as section 103: No. 38 of 1933 s. 42; amended: No. 102 of 1973 s. 6; No. 14 of 1996 s. 4; No. 57 of 1997 s. 68(1).]

104. Earth-closets

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

[Section 104, formerly section 84, renumbered as section 104: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

105. Public sanitary conveniences

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

(3) The local government 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.

[Section 105, formerly section 85, renumbered as section 105: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

106. Power to make pan charges

(1) The local government may, in lieu of, or in addition to a sanitary rate, provide for the proper disposal of sewage, whether within the district or not, by making an annual charge per pan or

other receptacle, payable in one sum or by equal monthly or other instalments in advance, in respect of every house or place provided with the service.

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

(3) In the case of houses being erected and becoming occupied during the year for which payment is to be made, the charge thereon for the service provided under this section 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.

(4) Notice of any charge made under this section may be included in any document containing notice of any rates levied under this Act; but the omission to give any notice of such charge shall not affect the validity of the charge or the power of the local government to recover it.

(5) Any such charge may be limited to premises in a particular portion of the area under the control of the local government.

(6) Charges under this section may be levied in respect of and shall be payable for all premises in respect of which a service is provided under this section, whether such premises are rateable or not.

(7) A local government may, with the approval of the Chief Health Officer, make different charges for services rendered in different portions of its district.

(8) Where a local government has heretofore or shall hereafter establish a sewerage scheme as authorised by the provisions of Division 1 of Part IV, it may, in lieu of levying a rate as provided for in this Act, make an annual charge, according to the prescribed scale, at per pedestal, and all the provisions of

this Act shall apply to any such charge as if it were a rate as aforesaid.

[Section 106, formerly section 86, amended: No. 17 of 1918 s. 10; No. 30 of 1932 s. 15; No. 38 of 1933 s. 9; renumbered as section 106: No. 38 of 1933 s. 42; amended: No. 32 of 1937 s. 5; No. 102 of 1973 s. 7; No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 28 of 1996 s. 6; No. 36 of 2007 Sch. 4 cl. 4(3); No. 19 of 2016 s. 100.]

107. Drains, privies etc. to be properly kept

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

(2) A person who constructs or installs, or permits or authorises the construction or installation of, any apparatus for the treatment of sewage commits an offence unless —

(a) the local government has approved of that construction or installation, where it is prescribed by regulation that the apparatus is to be approved for the purpose of this paragraph by the local government; or

(b) the Chief Health Officer has approved of that construction or installation, where it is prescribed by regulation that the apparatus is to be approved for the purposes of this paragraph by the Chief Health Officer.

(3) Application for approval under subsection (2) is to be made as prescribed by regulation and may be granted subject to such conditions as are specified in writing and given to the applicant.

(4) A person who uses, or permits or authorises another person to use, any apparatus for the treatment of sewage commits an offence unless —

(a) the local government has granted permission for the apparatus to be used under subsection (5); and

(b) the apparatus conforms to all relevant requirements prescribed by regulation and any conditions imposed on an approval granted under subsection (3) in respect of the apparatus.

(5) A local government may grant permission for apparatus for the treatment of sewage to be used only after the apparatus has been inspected by, or on behalf of, the local government to ensure that the apparatus conforms to all relevant requirements prescribed by regulation and any condition imposed on an approval granted under subsection (3) in respect of the apparatus.

(6) The provisions of this section shall apply, so far as capable of application, to contractors, officers, and others acting on behalf of or under contract with a local government in or about the construction, installation, maintenance, or provision of apparatus for the treatment of sewage.

(7) The Governor may make regulations for the purpose of carrying this section into effect, including regulations with respect to maintenance of any apparatus for the treatment of sewage and charges in relation thereto, and regulations prescribing fees to be paid with respect to applications and inspections for the purposes of this section.

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

[Section 107, formerly section 88, amended: No. 50 of 1926 s. 7; renumbered as section 107: No. 38 of 1933 s. 42; amended: No. 21 of 1957 s. 6; No. 113 of 1965 s. 8(1); No. 28 of 1984 s. 45; No. 80 of 1987 s. 18; No. 59 of 1991 s. 11

and 20; No. 14 of 1996 s. 4; No. 28 of 1996 s. 7; No. 19 of 2016 s. 100.]

107A. Articles in use in construction or operation of sewers etc. to be of prescribed standard

Any person who manufactures, sells or offers for sale an article designed for use in the construction or operation of any sewer, drain, sanitary convenience or receptacle for drainage, commits an offence if the article is not of the prescribed standard and construction.

[Section 107A inserted: No. 35 of 1966 s. 3.]

108. Examination of drains etc.

(1) If the local government suspects that any drain, sanitary convenience, or apparatus for the treatment of sewage in the district is a nuisance or injurious to health, the local government may, after 24 hours' written notice to the occupier of the land, or in case of emergency, of which the local government 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 drains, sanitary convenience or apparatus.

(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 government.

(3) If the same, on examination, appears to be in a bad condition, or to require alteration or amendment, the local government 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) An owner or occupier who neglects or refuses to comply with the requirements of a notice given to him under subsection (3) commits an offence.

(4a) When an owner or occupier neglects or refuses to comply with the requirements of a notice given to him under subsection (3), the local government may do the works required by that notice to be done and recover from the owner or occupier so in default the expense incurred by it in so doing.

(5) Where 2 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 government 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 government thinks just, or as, in case of dispute, may be decided by a court of competent jurisdiction.

[Section 108, formerly section 89, renumbered as section 108: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 19; No. 59 of 1991 s. 12; No. 14 of 1996 s. 4; No. 59 of 2004 s. 141.]

109. Local government may require filling up of certain cesspools

An owner of land on which there is a cesspool for the reception of nightsoil who, on being required to fill up that cesspool by notice in writing given to him by the local government within a time specified in that notice, does not comply with that requirement commits an offence.

[Section 109 inserted: No. 80 of 1987 s. 20; amended: No 14 of 1996 s. 4.]

110. New cesspools for nightsoil forbidden

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 government.

[Section 110, formerly section 91, renumbered as section 110: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

111. Local government may supply receptacles

Whenever the local government shall determine by local law to adopt a system of pans or receptacles for sewage, interchangeable or otherwise, it shall be lawful for the local government to supply the necessary pans or receptacles, or any portion of them, out of its own funds; and the local government 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.

[Section 111, formerly section 92, renumbered as section 111: No. 38 of 1933 s. 42; amended: No. 102 of 1973 s. 8; No. 14 of 1996 s. 4; No. 36 of 2007 Sch. 4 cl. 4(4).]

Division 5 — Scavenging, cleansing, etc.

112. Local government to provide for removal of refuse and cleansing works

(1) A local government may, and when the Chief Health Officer 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) deleted]

(b) The supply of disinfectants for the prevention or control of disease, and pesticides for the destruction of pests.

(c) The cleansing of sanitary conveniences and drains.

(d) The collection and disposal of sewage.

(e) The cleaning and watering of streets.

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.

(2) Any local government which has undertaken or contracted for the efficient execution of any such work as aforesaid within its district or any part thereof may by local law prohibit any person executing or undertaking the execution of any of the work undertaken or contracted for within the district or within such part thereof as aforesaid, as the case may be, so long as the local government or its contractor executes or continues the execution of the work or is prepared and willing to execute or continue the execution of the work.

(3) After the end of the year 1934 no nightsoil collected in one district shall be deposited in any other district, except with the consent of the local government of such other district, or of the Chief Health Officer.

[Section 112, formerly section 93, amended: No. 17 of 1918 s. 11; No. 30 of 1932 s. 17; renumbered as section 112: No. 38 of 1933 s. 42; amended: No. 45 of 1954 s. 3; No. 38 of 1960 s. 3; No. 102 of 1972 s. 9; No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 28 of 1996 s. 8; No. 36 of 2007 Sch. 4 cl. 4(5); No. 19 of 2016 s. 100.]

*[**112A.** Deleted: No. 36 of 2007 Sch. 4 cl. 4(6).]*

113. Power of contractor to recover

Whenever any local government enters into a contract with any person for the execution of any works referred to in section 112(1) such local government 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 government for services rendered on behalf of such person, such charge may be recovered by the contractor or

by the local government on his behalf from such person by action in any court of competent jurisdiction.

[Section 113, formerly section 94, amended: No. 30 of 1932 s. 18; renumbered as section 113: No. 38 of 1933 s. 42; amended: No. 102 of 1973 s. 10; No. 14 of 1996 s. 4; No. 28 of 1996 s. 9.]

114. Obstruction or hindrance of certain works penalised

(1) A person who obstructs or hinders the local government or its contractor in the execution of any works under section 112 commits an offence.

[(2) deleted]

[Section 114 inserted: No. 80 of 1987 s. 21; amended: No. 59 of 1991 s. 5; No. 14 of 1996 s. 4; No. 28 of 1996 s. 21; No. 36 of 2007 Sch. 4 cl. 4(6); No. 14 of 2025 s. 26(2).]

*[**115.** Deleted: No. 36 of 2007 Sch. 4 cl. 4(6).]*

116. Procedure when local government undertakes work

In every case where the local government has undertaken or contracted for the execution of any of the works referred to in section 112, the following provisions shall apply:

(a) The work shall be executed promptly, efficiently, and at regular and prescribed intervals, to the satisfaction of the Chief Health Officer and the local government.

(b) If in respect of any house-premises default made in executing any such work efficiently or at the prescribed intervals, and by reason thereof, refuse, rubbish, or sewage 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 government.

(c) If the notice is served as aforesaid, the local government shall forthwith inform the contractor (if any).

(d) If such notice is served on the local government, then, unless within 48 hours after the service the requisite work is done and the cause of complaint is removed, the person in default commits an offence.

(e) In paragraph (d) 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 government.

[Section 116, formerly section 97, renumbered as section 116: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 102 of 1973 s. 13; No. 28 of 1984 s. 45; No. 80 of 1987 s. 22; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

117. Cleansing common courts and passages

(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 occupation, is not regularly and effectually swept and kept clean and free from rubbish or other accumulation to the satisfaction of the local government, 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 government, or as, in case of dispute, may be decided by a court of competent jurisdiction, and in default of payment any share so apportioned may be recovered from the occupier on whom it is apportioned.

[Section 117, formerly section 98, renumbered as section 117: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4; No. 59 of 2004 s. 141.]

*[**118.** Deleted: No. 36 of 2007 Sch. 4 cl. 4(6).]*

119. Reserves for deposit of sewage, rubbish or refuse

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

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

[Section 119, formerly section 100, renumbered as section 119: No. 38 of 1933 s. 42; amended: No. 102 of 1973 s. 15; No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

120. Power to close depots

(1) The Chief Health Officer may make such orders as he 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 sewage, refuse matter, or rubbish.

(2) Any person who deposits any sewage, refuse matter, or rubbish in such place, contrary to such order, commits an offence.

(3) Where the Chief Health Officer 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 230 mm in depth.

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

[Section 120, formerly section 101, amended: No. 17 of 1918 s. 12; renumbered as section 120: No. 38 of 1933 s. 42; amended: No. 94 of 1972 s. 4(1) (as amended: No. 93 of 1973 s. 4); No. 102 of 1973 s. 16; No. 28 of 1984 s. 45; No. 80 of 1987 s. 23; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

121. Building on sanitary depots

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

(2) Any person who, without the consent of the Chief Health Officer, erects any building on such place, and who fails to remove the same when ordered so to do, commits an offence.

[Section 121, formerly section 102, renumbered as section 121: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 28 of 1984 s. 45; No. 80 of 1987 s. 24; No. 19 of 2016 s. 100.]

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

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 2 or more districts, or running into 2 or more districts, is foul or offensive, or out of repair, or otherwise defective, the following provisions shall apply —

(1) On the application of the Chief Health Officer or of any local government of any of the said districts to the Magistrates Court, the court may summon the local governments 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 it thinks necessary, the court 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 governments to execute the whole of the works, or apportion the works and the execution thereof between 2 or more of the local governments;

(c) direct one of the local governments to pay the whole cost of the works, or apportion the cost between 2 or more of the local governments;

(d) prohibit the recurrence of the defect;

(e) give such other directions in the premises as it thinks fit.

(3) The court's order may be varied or amended from time to time by subsequent order made by it on the application of the Chief Health Officer or any of the local governments, and after summons to show cause.

(4) Every order made by the court under this section shall, according to its tenor, bind all the local governments concerned.

(5) The Chief Health Officer 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 Chief Health Officer or the person appointed to supervise as aforesaid; and if default is made in so doing, the Chief

Health Officer may cause the works or any portion thereof to be executed at the cost in all things of the local government in default.

(7) For the purpose of executing the works, the local government 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 court 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 government executing the work, or of any of the local governments.

(9) If, independently of this section, any person (other than a local government) 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 government executing, or by the court's 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.

[Section 122, formerly section 103, renumbered as section 122: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 59 of 2004 s. 141; No. 19 of 2016 s. 100.]

123. Access to sanitary reserves

The local government may, with the approval of the Chief Health Officer, 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.

[Section 123, formerly section 104, renumbered as section 123: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

[Division 6 (124-128) deleted: No. 19 of 2016 s. 11.]

Division 7 — Pollution of water

129. Pollution of water supply

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,

commits an offence.

Water supply in this Division includes any river, stream, watercourse, creek, swamp, water-hole, well, tank, lake, or reservoir containing water intended or available for human consumption.

[Section 129, formerly section 110, amended: No. 17 of 1918 s. 13; renumbered as section 129: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 26.]

130. Riparian rights

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

[Section 130, formerly section 111, renumbered as section 130: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

131. Sources of water supply may be closed

(1) The local government may, and if so required by the Chief Health Officer shall, direct that any water supply, which in the

opinion of the Chief Health Officer, 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 government may direct.

(2) A person who uses or permits to be used for human consumption a water supply to which a direction made under subsection (1) relates while that direction remains in force commits an offence.

(3) When any water supply has been directed to be closed the local government may, and shall, if the Chief Health Officer so directs, take all such steps, whether by filling in the water supply or otherwise, as shall be necessary to prevent the further use of such supply.

[Section 131, formerly section 112, amended: No. 17 of 1918 s. 14; renumbered as section 131: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 45; No. 80 of 1987 s. 27; No. 14 of 1996 s. 4; No. 19 of 2016 s. 99 and 100.]

132. Power to seize and destroy pigs etc. trespassing on rivers etc.

(1) Any local government 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.

(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 commits an offence.

(3) If any pigs, dogs, ducks, or geese shall after the posting up of a notice as aforesaid trespass on any such water supply, then the local government 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 government.

[Section 132, formerly section 113, amended: No. 30 of 1932 s. 19; renumbered as section 132: No. 38 of 1933 s. 42; amended: No. 80 of 1987 s. 28; No. 14 of 1996 s. 4.]

Division 8 — Morgues

133. Local government may license morgues

(1) The local government may grant a licence 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 local laws.

(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 licence has been granted commits an offence.

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

[Section 133, formerly section 114, renumbered as section 133: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 29; No. 14 of 1996 s. 4.]

Division 9 — Local laws

[Heading amended: No. 14 of 1996 s. 4.]

134. Purposes for which local laws may be made

Local laws may be made in accordance with Part XIV for all or any of the following purposes:

(1) The provision, construction, situation, inspection, maintenance, and control of sewers and drains, and apparatus for the treatment of sewage, and house fittings and appliances connected therewith.

(1a) Prescribing the nature, quality and dimensions of and marks to be applied to fittings or parts of apparatus for the treatment of sewage and prohibiting the use in the construction of the apparatus of fittings or parts not in conformity with the standards prescribed.

(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) Prescribing the purposes for which any drains or sewers shall be used or applied.

(4) Prescribing the dimensions, material, form, construction, and arrangement of and the maintenance or alteration of ventilators for drains or sewers.

(5) Prescribing the disinfection and cleansing of or otherwise dealing with any substance or matter for the discharge thereof into any drain or sewer.

(6) Prescribing the fees payable for tapping the mains or connecting with the sewers of the local government.

(7) Providing for the proper keeping and repair by owners and occupiers of drains and fittings on or communicating with premises owned or occupied by them.

(8) Prohibiting any alteration or interference with any drains or fittings without the consent of or notice to the local government.

(9) Enabling the local government to repair all such drains or fittings with a view to preventing nuisances and for the efficient working of sewers with which they may communicate.

[(10), (11) deleted]

(12) Prescribing scales of charges to be made periodically or otherwise, as the case may require, in respect of non-rateable premises which are served by any sewer or drain, or for any services rendered in respect of such premises under this Act, and for the recovery of such charges in the same manner as rates.

(13) Requiring that all buildings be provided with spouting, downpipes, and drains sufficient to carry off all storm or rain water.

(14) The provision of water for sanitation purposes by either of the following methods, namely —

(i) the supply of water from established water supplies and the reticulation thereof to bathrooms, kitchens and laundries; or

(ii) the provision of wells and equipment; or

(iii) the provision and maintenance of water storage tanks with catchment facilities and with a prescribed capacity for premises in prescribed areas;

Provided that a water storage tank used for sanitation purposes in connection with a house or other premises shall be deemed sufficient if it has a capacity of not less than 4.5 m^3.

(15) Requiring the foundations of any new building, and the ground on which the same is erected, to be dry, sound, and well drained.

(16) The establishment, use, and control of sanitary conveniences for public accommodation.

(17) The establishment, use, and control of receptacles for the deposit and collection of dust, ashes, rubbish, and other offensive matter, whether temporary or otherwise.

(18) 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 government.

(19) 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 government 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 government 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.

[(20)-(24) deleted]

(25) The provision, 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.

(25a) The provision, number, situation, construction, equipment, dimensions, maintenance, period of maintenance and removal of sanitary conveniences on the site of works undertaken in the district for the use of persons engaged on the work.

(26) Abolishing the ordinary system of pans for nightsoil and providing that every closet be furnished with a double-pan service.

(27) 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.

(28) Prescribing that at least once a week, or so much more frequently as the local government may from time to time direct, the pan in use be closed with a tightfitting lid, and removed in a suitable cart, and that a pan cleansed by superheated steam, or some equally efficient means approved by the local government be left in its place.

(29) Fixing the charge which may be made, when no annual charge is made under section 106 for removing each receptacle and replacing it by a clean one and for any other sanitary service.

[(30) deleted]

(31) Determining to whom and on what conditions licences to remove nightsoil shall be issued.

(32) Imposing penalties on licensees for breach of conditions.

(33) Making the use of a sufficient quantity of suitable disinfectant or deodorant compulsory.

(34) Regulating the disposal of nightsoil, urine, and refuse.

(35) Regulating the collection and disposal of pig swill, providing for the annual registration of collectors of pig swill, prescribing the conditions of and fees for registration, prohibiting any unregistered person from undertaking such collection or from disposing of pig swill, prescribing the mode, means and hours of collection, and compelling notification to the local government of the premises from which a collector has contracted to collect pig swill.

(36) Requiring that all nightsoil removed be either rendered inoffensive or treated in a destructor, desiccator, or incinerator, or be trenched or ploughed into land.

(37) 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 removal or carriage.

(38) 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.

(39) Regulating the keeping of animals or birds so as not to be a nuisance, injurious, or dangerous to health.

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

(41) For the prevention of the pollution of any water supply.

(42) Regulating the sanitation and cleanliness of the premises of hairdressers, and the precautions to be observed by persons carrying on the business of a hairdresser.

(43) For the cleaning of public vehicles.

[(44) deleted]

(45) Prescribing the fees to be paid for the licensing of morgues, and the conditions on which such licences may be granted.

(46) Prescribing the fees to be paid to a local government for any sanitary or other services rendered by it in connection with any camp.

(47) For the regulation and control of the sanitation of camps.

(48) For the prevention of the pollution of any water used for bathing purposes.

(48a) Regulating the construction, equipment, maintenance and use of lakes used for cable skiing, spa pools, swimming baths, swimming pools, waterslides, wave pools and any other aquatic amenities or facilities that are controlled or used by or in connection with any club, school, business, association or body corporate, and prescribing the quality and treatment of the water to be used in those amenities or facilities and the measures to be taken —

(i) to prevent and abate any nuisance in such an amenity or facility; and

(ii) to cause any such amenity or facility to be closed and to prevent any person from using such an amenity or facility while it is closed.

[(49) deleted]

(50) Prescribing what matters and things shall be observed and done and by what persons, for the purposes of —

(i) preventing rodents entering premises;

(ii) rendering premises free of rodents;

(iii) keeping premises free of rodents;

including what method of construction and what materials shall be used in the building of and alteration and addition to any premises, and what alterations and additions shall be made to existing premises.

(51) The provision, construction, situation, inspection and maintenance of bathroom and laundry facilities, including the provision of plunge baths, shower baths, wash hand basins and the connection of those facilities with an adequate water supply.

(52) Prescribing the precautions to be observed by dealers in second-hand clothes or books.

(53) For any other purpose which the Governor deems necessary and notifies in the *Government Gazette* as calculated to safeguard the public health.

[Section 134, formerly section 115, amended: No. 17 of 1918 s. 15; No. 50 of 1926 s. 8; No. 30 of 1932 s. 20; No. 38 of 1933 s. 41; renumbered as section 134: No. 38 of 1933 s. 42; amended: No. 16 of 1935 s. 6; No. 21 of 1944 s. 5; No. 71 of 1948 s. 4; No. 25 of 1952 s. 4; No. 45 of 1954 s. 6; No. 33 of 1962 s. 2; No. 113 of 1965 s. 8(1); No. 35 of 1966 s. 4; No. 94 of 1972 s. 4(1) (as amended: No. 83 of 1973 s. 4); No. 28 of 1984 s. 45; No. 80 of 1987 s. 30; No. 59 of 1991 s. 13 and 21; No. 14 of 1996 s. 4; No. 39 of 1999 s. 11(5); No. 36 of 2007 Sch. 4 cl. 4(6); No. 43 of 2008 s. 147(4).]

Part V — Dwellings

Division 1 — Houses unfit for occupation

135. Dwellings unfit for habitation

(1) Any local government may, of its own motion, and shall, when required by order of the Chief Health Officer 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.

[Section 135, formerly section 116, renumbered as section 135: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

136. Such house not to be let or occupied

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, commits an offence.

[Section 136, formerly section 117, renumbered as section 136: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 31.]

137. Condemned building to be amended or removed

A notice may be served by the local government 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.

Provided that —

(i) the notice may direct the owner to take down and remove the house, without giving him the alternative of amending the same; and

(ii) any person aggrieved by any notice under this section may apply to the State Administrative Tribunal for a review of the decision.

[Section 137, formerly section 118, amended: No. 30 of 1932 s. 21; renumbered as section 137: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4; No. 55 of 2004 s. 483.]

138. Land to be cleaned up after removal of house or building therefrom

Any person who dismantles any house, building, or other structure, whether in pursuance of a notice from the local government or not, shall forthwith clean the land to the satisfaction of the local government, and remove all rubbish to a place appointed by the local government.

[Section 138 inserted as section 118A: No. 30 of 1932 s. 22; renumbered as section 138: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

139. Owner may be required to clean or repair house

In addition to the powers contained in the preceding sections of this Part, a local government may, if in its opinion any house is unfit for human habitation by reason of uncleanness or want of repair, require the owner of such house by a notice served on such owner to render clean or to repair such house within the time and in the manner specified in such notice.

[Section 139 inserted: No. 32 of 1937 s. 6; amended: No. 14 of 1996 s. 4.]

140. Local government may act in default of owner

(1) Whenever any owner fails to comply with a notice served upon him under any of the foregoing provisions of this Part, within a time therein specified, he commits an offence, and the local government may carry out the terms of the notice and recover all expenses from the owner:

Provided that the local government 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.

(2) Where, pursuant to subsection (1), a local government is empowered and has resolved to take down and remove a house, any person or authority that supplies electricity, gas or water to the house may, and shall if so requested by the local government, take such action as is necessary to ensure that all equipment, fixtures and fittings on or about the house for the purposes of the supply thereto of electricity, gas or water, as the case may be, are removed or are left in such a state as will not interfere with the taking down and removal of the house.

[Section 140, formerly section 119, renumbered as section 140: No. 38 of 1933 s. 42; amended: No. 32 of 1937 s. 7; No. 113 of 1965 s. 8(1); No. 52 of 1968 s. 4; No. 80 of 1987 s. 32; No. 14 of 1996 s. 4.]

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

(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 government, been properly removed by excavation or otherwise, or has been rendered or has become innocuous.

(2) Every person who does or causes or permits to be done any act in contravention of this section commits an offence.

[Section 141, formerly section 120, renumbered as section 141: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 33; No. 14 of 1996 s. 4.]

142. Occupying cellar dwellings

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

(2) When 2 convictions have taken place within 3 months (whether the persons so convicted were or were not the same), a court of summary jurisdiction may direct the closing of the cellar so occupied for such time as it thinks necessary, or may empower the local government 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.

[Section 142, formerly section 121, renumbered as section 142: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4; No. 59 of 2004 s. 141.]

143. Plans of buildings to be submitted to local government

(1) No building shall, after the commencement of this Act, be erected within any 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 and also as to the area of the open space appurtenant to such building, by the local government.

(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 district.

[Section 143, formerly section 122, amended: No. 17 of 1918 s. 16; renumbered as section 143: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

144. Building not erected as dwelling not to be converted into one

No person shall convert into or adapt or use as a dwelling any building not originally constructed or erected as a dwelling-house, and no person shall let, or lease, or sublet, or sublease, or otherwise permit, whether for any consideration or gratuitously, the use of, the building as a dwelling, without having first obtained the consent of the local government of the district in which the building is situated, and complied (in case a conditional consent is given) with such conditions as the local government has seen fit to impose.

[Section 144 inserted as section 122a: No. 17 of 1918 s. 17; renumbered as section 144: No. 38 of 1933 s. 42; amended: No. 21 of 1957 s. 7; No. 14 of 1996 s. 4.]

145. Authorised officer may order house or things to be cleansed

(1) Any authorised officer may order that any house or part of a house, or any furniture, goods, or things therein shall be cleansed to the satisfaction of an authorised officer, and the occupier shall forthwith comply with such order.

(2) In case default is made in compliance with such order, the local government may take such steps as in the opinion of an authorised officer are necessary to carry out the terms of the order, and may recover the cost and expenses of so doing from the person guilty of the default by action in any court of competent jurisdiction; but nothing in this section shall be deemed to relieve such person from any penalty to which he has rendered himself liable by his default.

(3) In this section the word ***occupier*** includes the owner of any premises which are in fact unoccupied.

[Section 145 inserted as section 123A: No. 30 of 1932 s. 23; renumbered as section 145: No. 38 of 1933 s. 42; amended: No. 24 of 1970 s. 12; No. 59 of 1991 s. 5; No. 14 of 1996 s. 4; No. 28 of 1996 s. 21; No. 19 of 2016 s. 99.]

Division 2 — Lodging-houses

[Heading amended: No. 18 of 1964 s. 6.]

146. Registers of lodging-houses

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

(2) A copy of any entry in the register certified by the chief executive officer of the local government 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 chief executive officer to any person applying at a reasonable time for the same, on payment of the prescribed fee.

[Section 146, formerly section 123, renumbered as section 146: No. 38 of 1933 s. 42; amended: No. 18 of 1964 s. 7; No. 113 of 1965 s. 8(1); No. 59 of 1991 s. 22; No. 14 of 1996 s. 4; No. 57 of 1997 s. 68(3).]

147. Registration

(1) A person shall not keep a 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, the widow or widower of the person, a person who was a de facto partner of the person immediately before the death of the person, or any member of the person's family may continue to keep such house, for not more than 4 weeks after the person's death, without being registered.

[Section 147, formerly section 124, renumbered as section 147: No. 38 of 1933 s. 42; amended: No. 18 of 1964 s. 8; No. 28 of 2003 s. 74.]

148. Conditions of registration

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

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

[Section 148, formerly section 125, renumbered as section 148: No. 38 of 1933 s. 42; amended: No. 18 of 1964 s. 9; No. 14 of 1996 s. 4.]

149. Notice of registration to be affixed

Every keeper of a lodging-house shall, if required in writing by the local government 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.

[Section 149, formerly section 126, renumbered as section 149: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

150. Supply of water

(1) When it appears to the local government that any lodging-house is without a proper supply of water for the use of the lodgers, the local government 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 government may remove such house from the register until it is complied with.

[Section 150, formerly section 127, renumbered as section 150: No. 38 of 1933 s. 42; amended: No. 18 of 1964 s. 10; No. 14 of 1996 s. 4.]

151. Cleansing of walls etc.

Every keeper of a lodging-house shall, from time to time when required by the local government, cleanse the walls and ceilings of such house, and if he fails to do so, commits an offence.

[Section 151, formerly section 128, renumbered as section 151: No. 38 of 1933 s. 42; amended: No. 18 of 1964 s. 11; No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 34; No. 14 of 1996 s. 4.]

152. Notification of disease

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 Chief Health Officer and to the secretary of the local government.

[Section 152, formerly section 129, renumbered as section 152: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4; No. 19 of 2016 s. 99.]

153. Inspection

(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 government 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, commits an offence.

[Section 153, formerly section 130, renumbered as section 153: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 35; No. 14 of 1996 s. 4.]

154. Offences by keepers

Every such keeper who —

(a) after being required in writing by the local government so to do, refuses or neglects to affix or renew any notice; or

(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,

commits an offence.

[Section 154, formerly section 131, renumbered as section 154: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 36; No. 14 of 1996 s. 4.]

155. Conviction for third offence

When any such keeper is convicted of a third or subsequent offence, a court of summary jurisdiction may adjudge that he shall not keep a lodging-house at any time within 5 years after the conviction, or within such shorter period after the conviction as it thinks fit.

[Section 155, formerly section 132, renumbered as section 155: No. 38 of 1933 s. 42; amended: No. 18 of 1964 s. 12; No. 59 of 2004 s. 141.]

156. Lodging-house keepers to report deaths

Upon any death occurring in any lodging-house, the manager or keeper thereof shall, within 12 hours thereafter, give notice of every such death and the cause thereof and the circumstances attendant thereon to the Chief Health Officer and to the nearest coroner; and if there is no coroner residing within 8 km of such lodging-house, then to the police.

[Section 156, formerly section 133, renumbered as section 156: No. 38 of 1933 s. 42; amended: No. 18 of 1964 s. 13; No. 30 of 1982 s. 4; No. 19 of 2016 s. 99.]

157. Register of lodgers to be kept

(1) The keeper of a lodging-house shall keep a register of lodgers in the form prescribed, and shall enter or cause to be entered therein the name and previous address of every lodger for the time being in the lodging-house and the date of the commencement of his lodging therein, and the register shall be signed by the lodger.

(2) The register of lodgers shall be kept in the lodging-house, and shall be open to inspection at any time on demand by any member of the police force or authorised officer.

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

(4) Any keeper of a lodging-house who —

(a) neglects or fails to keep a register of lodgers as provided by this section; or

(b) neglects or fails to enter or cause to be entered in the register of lodgers the particulars required by this section to be entered therein; or

(c) makes or causes to be made, or retains, in the register of lodgers any false or misleading entry in respect of any of the particulars required to be entered therein; or

(d) refuses or neglects to produce the register of lodgers when required so to do under subsection (2),

commits an offence.

[Section 157 inserted: No. 18 of 1964 s. 14; amended: No. 113 of 1965 s. 8(1); No. 24 of 1970 s. 12; No. 80 of 1987 s. 37; No. 59 of 1991 s. 5; No. 14 of 1996 s. 4; No. 19 of 2016 s. 99.]

158. Local laws in respect of lodging-house

Local laws may be made in accordance with Part XIV for all or any of the following purposes:

(1) The registration and inspection of lodging-houses.

(2)(a) Fixing and from time to time varying the number of lodgers who may be received into a lodging-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, 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.

(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 government.

(g) Enforcing the provision of proper and sufficient bathrooms and ablutionary appliances, including plunge baths and heaters.

(h) Requiring unsuitable bedsteads, bedding and bed-clothing to be removed from the premises.

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

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

(4) Prescribing the form of register of lodgers to be kept by keepers of lodging-houses and the form of report to be made to the local government under section 157(3).

[Section 158, formerly section 135, amended: No. 30 of 1932 s. 24; renumbered as section 158: No. 38 of 1933 s. 42; amended: No. 21 of 1944 s. 6; No. 18 of 1964 s. 15; No. 113 of 1965 s. 8(1); No. 2 of 1975 s. 4; No. 28 of 1984 s. 45; No. 59 of 1991 s. 23; No. 14 of 1996 s. 4.]

159. Evidence as to family in proceedings

If, in any proceedings for a breach of any of the provisions of this Act or of any local law relating to 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:

Provided that, for the purposes of this section, no person shall be deemed to be a member of the family who is not the spouse or de facto partner or a child, parent, grand-parent, grand-child, brother or sister, nephew or niece of the occupier of the premises.

[Section 159, formerly section 136, amended: No. 30 of 1932 s. 25; renumbered as section 159: No. 38 of 1933 s. 42; amended: No. 18 of 1964 s. 16; No. 14 of 1996 s. 4; No. 28 of 2003 s. 75.]

[Division 3 (s. 160-172) deleted: No. 43 of 2008 s. 147(5).]

Part VI — Public buildings

[Heading inserted: No. 59 of 1991 s. 14.]

173. Terms used

In this Part —

authorised person means —

(a) an authorised officer; or

(b) a commissioned police officer, a non-commissioned police officer or the police officer in charge of the nearest police station; or

(c) a person authorised in writing by the Chief Health Officer;

certificate of approval means the certificate of approval issued in relation to the public building under section 178(1);

public building means —

(a) a building or place or part of a building or place where persons may assemble for —

(i) civic, theatrical, social, political or religious purposes; and

(ii) educational purposes; and

(iii) entertainment, recreational or sporting purposes; and

(iv) business purposes;

and

(b) any building, structure, tent, gallery, enclosure, platform or other place or any part of a building, structure, tent, gallery, enclosure, platform or other place in or on which numbers of persons are usually or occasionally assembled,

but does not include a hospital.

[Section 173 inserted: No. 59 of 1991 s. 14; amended: No. 14 of 1996 s. 4; No. 50 of 1996 s. 4; No. 19 of 2016 s. 12 and 100.]

174. Application to Crown

(1) This Part does not bind the Crown.

(2) Nothing in this section affects the question whether or not the Crown in right of the State is bound by any provision of this Act outside this Part.

[Section 174 inserted: No. 59 of 1991 s. 14.]

175. Relationship to other laws

The provisions of this Part are in addition to and not in derogation of the requirements of the *Local Government Act 1995* and the *Building Act 2011* and any subsidiary legislation made under those Acts but where a provision of those Acts or any subsidiary legislation made under those Acts is inconsistent with a provision of this Part or subsidiary legislation made under this Part the provision of this Part or the subsidiary legislation made under this Part prevails to the extent of the inconsistency.

[Section 175 inserted: No. 59 of 1991 s. 14; amended: No. 14 of 1996 s. 4; No. 24 of 2011 s. 161(2).]

175A. Chief Health Officer may act in relation to major event

(1) In this section —

major event and ***major event area*** have the meanings given in the *Major Events Act 2023* section 4.

(2) The Chief Health Officer may exercise and perform any of the powers or duties of a local government under this Part in relation to the construction, extension or alteration of a public building in a major event area for the purpose of a major event.

[Section 175A inserted: No. 12 of 2023 s. 110(2).]

176. Approval of plans

(1) A person who proposes to construct, extend or alter a public building shall make application for that purpose to the local government.

(2) An application under subsection (1) —

(a) shall be made in the prescribed manner;

(b) shall be accompanied by —

(i) such plans, certificates and other information as are specified by the local government; and

(ii) the fee prescribed by the regulations.

(3) A person shall not construct, extend or alter a public building unless —

(a) an application for that purpose has been made under subsection (1); and

(b) the local government has approved of the application.

(4) A person who contravenes or fails to comply with a provision of this section commits an offence.

(5) This section does not apply to or in relation to building work, as defined in the *Building Act 2011* section 3, for which a building permit is required under that Act.

[Section 176 inserted: No. 59 of 1991 s. 14; amended: No. 14 of 1996 s. 4; No. 24 of 2011 s. 161(3).]

177. Approval

An approval referred to in section 176 shall be in writing and may be issued subject to such conditions as may be specified in the approval including a condition limiting the time for which the approval is valid.

[Section 177 inserted: No. 59 of 1991 s. 14.]

178. Certificate of approval

(1) A person shall not open or use a public building unless the local government has issued a certificate of approval in relation to the public building specifying —

(a) the purpose or purposes for which the public building may be used; and

(b) the maximum number of persons that the building may be used to accommodate.

(2) Where a public building has been extended or altered the certificate of approval issued in relation to the public building before such extension or alteration ceases to be valid and any person who desires to open or use the public building shall apply for the issue of a certificate of approval under subsection (1) in relation to the public building as so extended or altered.

(3) A person shall not —

(a) use a public building, or permit a public building to be used, for a purpose other than a purpose specified in the certificate of approval; or

(b) use a public building, or permit a public building to be used, to accommodate any number of persons in excess of the number specified in the certificate of approval.

(4) A person who contravenes a provision of this section commits an offence.

[Section 178 inserted: No. 59 of 1991 s. 14; amended: No. 14 of 1996 s. 4.]

179. Inspection and control of public buildings

(1) For the purposes of ascertaining whether any of the provisions of this Part or any regulation made under this Part has been contravened or is not being complied with an authorised person may at any time enter any public building.

(2) An authorised person may direct a person to remove any obstruction from —

(a) any exit, entrance, gangway, passageway or aisle of a public building;

(b) any road, thoroughfare, lane, right of way or land abutting on an exit or entrance of a public building.

(3) If it appears to an authorised person that —

(aa) a person has opened or is using a public building in respect of which no valid certificate of approval has been issued; or

(bb) the number of persons in a public building exceeds the number specified in the relevant certificate of approval; or

(cc) there are reasonable grounds to believe that a public building is going to be used to accommodate a number of persons in excess of the number specified in the relevant certificate of approval; or

(dd) whether or not a valid certificate of approval is issued in respect of a public building, the public building is unsafe or is unsuitable for the use to which it is being put, or is about to be put,

then the authorised person may do any one or more of the following —

(a) close, or cause the closing of, the doors of the public building;

(b) exclude any person or cause any person to be excluded from entering the public building;

(c) direct any person to leave the public building;

(d) direct the occupier, owner or person in charge of the public building to comply with one or both of the following requirements —

(i) to close the public building;

(ii) to refuse to allow any person to enter or remain in the public building.

(4) A direction under subsection (2) or subsection (3)(c) or (d) may be given orally or in writing and if given orally shall be reduced to writing as soon as is practicable.

(4a) A direction given under subsection (3)(d)(i) to close a public building remains in force until it is withdrawn by the written direction of an authorised person given to the occupier, owner or person in charge of the public building.

(5) A person who —

(a) hinders or obstructs an authorised person from entering a public building; or

(b) enters a public building that has been closed under subsection (3)(a); or

(c) has been excluded from a public building under subsection (3)(b) and who enters the public building; or

(d) refuses or fails to comply with a direction given under subsection (2) or subsection (3)(c) or (d); or

(e) publishes or disseminates material stating that an assembly is to be held, or inviting a person or persons to an assembly, in a public building contrary to action taken by an authorised person under subsection (3) with respect to the proposed assembly,

commits an offence.

(6) In any proceedings for an offence referred to in subsection (5)(d) a statement signed or purporting to be signed by the authorised person who gave a direction under subsection (2) or (3)(c) or (d), to which is attached a copy of the direction, and stating that the direction —

(a) was given; and

(b) was given by the authorised person referred to in the statement; and

(c) was in force at the time specified in the statement,

is, in the absence of evidence to the contrary, sufficient evidence of the direction and the facts set out in the statement.

(7) Any statement made under subsection (6) before the *Public Health (Consequential Provisions) Act 2016* section 13 (***section 13***) comes into operation and that would have been sufficient evidence in accordance with subsection (6) (as that subsection existed immediately before section 13 comes into operation) continues to be sufficient evidence in accordance with subsection (6) as if it had been made by the authorised person who gave the direction to which the statement relates.

[Section 179 inserted: No. 59 of 1991 s. 14; amended: No. 50 of 1996 s. 5; No. 19 of 2016 s. 13.]

180. Regulations

(1) The Governor may make regulations providing for the safety and health of persons in public buildings.

(2) Without derogating from the generality of subsection (1), regulations may be made —

(a) prescribing the design, strength and stability requirements applicable to public buildings;

(b) for the prevention of over-crowding of public buildings;

(c) prohibiting the obstruction of gangways, passageways, aisles, exits, entrances of public buildings and any roads, thoroughfares, lanes, rights of way or land abutting on an exit or entrance of a public building;

(d) for the prevention of fires in public buildings and protection of persons in the public building from fire;

(e) prescribing lighting and electrical requirements applicable to public buildings;

(f) limiting the number of persons that may be accommodated in a public building, and prescribing the minimum space to be provided for each person;

(g) prescribing proper and sufficient means of ingress and egress and access for a public building;

(h) prescribing the floor-space and air-space, ventilation, drainage and sanitation to be provided for a public building;

(i) prescribing the material to be used in the construction of seating accommodation and the design of seats;

(j) providing for health, safety and convenience of persons in and about public buildings whether as members of the public or persons who are in public buildings in pursuance of their occupation or employment;

(k) providing, where no structural alteration or extension of a public building is proposed, for the variation of a certificate of approval in relation to —

(i) the purpose for which a public building may be used; or

(ii) the maximum number of persons that a public building may be used to accommodate,

or both, and enabling the local government to impose conditions in relation to such a variation;

(l) requiring occupiers of public buildings to formulate emergency evacuation arrangements satisfactory to the local government in respect of prescribed public buildings or prescribed classes of public buildings whenever required to do so by the local government;

[(m) deleted]

(n) prescribing such incidental, supplementary, savings and transitional provisions as are convenient or necessary.

[Section 180 inserted: No. 59 of 1991 s. 14; amended: No. 14 of 1996 s. 4; No. 28 of 1996 s. 11.]

Part VII — Nuisances and offensive trades

Division 1 — Nuisances

181. Removal of offensive matter

In any case where it appears to an authorised officer 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:

(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, commits an offence.

(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 government.

(4) The offensive matter so removed shall be destroyed, sold, or otherwise disposed of by or on behalf of the local government.

(5) The surplus money (if any) remaining from such disposal after defraying the expenses of the removal and disposal shall be paid into the municipal fund, and the deficiency (if any) shall be recoverable by the local government 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.

[Section 181, formerly section 145, renumbered as section 181: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 24 of 1970 s. 12; No. 80 of 1987 s. 47; No. 59 of 1991 s. 5; No. 14 of 1996 s. 4; No. 28 of 1996 s. 21; No. 19 of 2016 s. 99.]

182. Definition of nuisances

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

(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 whatever and does not as far as practicable consume its own smoke; or

(11) where any chimney sends forth smoke in such quantity or of such a 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; or

(13) where any building or portion of any building set aside for the purpose of parking more than 3 vehicles is not so ventilated as to prevent the presence therein of carbon monoxide in excess of the concentration that is prescribed for the purposes of this subsection,

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 accused satisfies the court of summary jurisdiction —

(a) in the case of an alleged nuisance under subsection (3), 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 (9), 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 (10) 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 commits an offence.

[Section 182, formerly section 146, renumbered as section 182: No. 38 of 1933 s. 42; amended: No. 2 of 1975 s. 5; No. 80 of 1987 s. 48; No. 61 of 2004 s. 4; No. 59 of 2004 s. 141; No. 84 of 2004 s. 82.]

182A. Regulations as to section 182(13)

The Governor may make such regulations as are necessary or convenient for the purposes of section 182(13) and any

regulation so made may be general in application or restricted in operation as to time, place or circumstance and may discriminate according to different buildings or different classes of buildings.

[Section 182A inserted: No. 2 of 1975 s. 6.]

183. Immediate action in respect of nuisances

If an authorised officer 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 260, and in such case the provisions of that section shall, *mutatis mutandis*, apply, and the provisions of the next following section shall not apply.

[Section 183, formerly section 147, renumbered as section 183: No. 38 of 1933 s. 42; amended: No. 24 of 1970 s. 12; No. 59 of 1991 s. 5; No. 28 of 1996 s. 21; No. 19 of 2016 s. 99.]

184. Mode of dealing with nuisances

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

(1) On the report of any authorised officer or other person that the nuisance exists on any premises, the local government may, and, if the Chief Health Officer 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 each commits an offence.

(4) If such default occurs, the local government 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 government from the owner and occupier by action in a court of competent jurisdiction, 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.

[Section 184, formerly section 148, renumbered as section 184: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 24 of 1970 s. 12; No. 28 of 1984 s. 45; No. 80 of 1987 s. 49; No. 59 of 1991 s. 5; No. 14 of 1996 s. 4; No. 59 of 2004 s. 141; No. 19 of 2016 s. 99 and 100.]

185. Proceedings when nuisance caused by default outside district

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 government 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.

[Section 185, formerly section 149, renumbered as section 185: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

Division 2 — Offensive trades

186. Term used: offensive trade

(1) In this Division the term ***offensive trade*** means and includes any of the trades specified in Schedule 2, and any other trade declared to be offensive by proclamation [5].

(2) The Governor may by proclamation —

(a) amend Schedule 2 by deleting therefrom any of the trades specified therein; or

(b) declare that any process or class of trade within any trade that is an offensive trade for the purposes of this Division, is a process or class of trade to which the provisions of this Division, other than section 194, do not apply.

(3) A proclamation made under subsection (1) or subsection (2), whether before or after the commencement of this subsection, may be cancelled or from time to time varied by a subsequent proclamation.

[Section 186, formerly section 150, renumbered as section 186: No. 38 of 1933 s. 42; amended: No. 35 of 1966 s. 5; No. 26 of 1985 s. 6.]

187. Consent necessary for establishing offensive trade

(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 government.

[(2) deleted]

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

[Section 187, formerly section 151, renumbered as section 187: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 55 of 2004 s. 486.]

188. Penalty for breach

Every person who establishes an offensive trade in breach of this Act commits an offence.

[Section 188, formerly section 152, renumbered as section 188: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 50.]

189. Penalty for illegally carrying on offensive trade

Every person who carries on any offensive trade established in breach of this Act, or of any Act repealed by this Act, commits an offence, whether there has or has not been a conviction in respect of the establishing of the trade.

[Section 189, formerly section 153, renumbered as section 189: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 51.]

190. Local laws regulating offensive trades

Local laws may be made in accordance with Part XIV to regulate the conditions on which offensive trades may be carried on in order to prevent or diminish the offensiveness of the trades and to safeguard the public health.

[Section 190 inserted: No. 14 of 1996 s. 4.]

191. Offensive trades to be registered

(1) Subject to the provisions of subsection (4) 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 government during the first week in July in every year.

[(2) deleted]

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

(4) A person who carries on a piggery is not required to register the premises, in or upon which it is carried on unless —

(a) the premises are situated in an area prescribed as one in which a piggery may be carried on, only if registered as required by this section; or

(b) the pigs in the piggery, wherever the premises are situated, are fed wholly or partly on pig-swill.

[Section 191, formerly section 155, renumbered as section 191: No. 38 of 1933 s. 42; amended: No. 25 of 1952 s. 5; No. 113 of 1965 s. 8(1); No. 2 of 1975 s. 7; No. 59 of 1991 s. 25; No. 14 of 1996 s. 4.]

192. Local government may refuse to register or to renew registration

(1) The local government 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 local laws.

(2) Without limiting section 36, that section applies to any decision of the local government to grant or renew the registration or to refuse to grant or renew the registration.

[Section 192, formerly section 156, renumbered as section 192: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 55 of 2004 s. 487.]

193. Power to restrict offensive trades to certain portions of proclaimed areas

(1) The Governor may by proclamation declare that no offensive trade or no offensive trade of any specified class shall be established within any area defined in the proclamation, except within such portion of the area as may be declared in the proclamation to be open to the establishment of such trade; and the Governor may in like manner revoke or vary any such proclamation, and every such proclamation shall, notwithstanding anything in this Act, be observed and have effect according to its tenor.

(2) A person who in any manner contravenes a proclamation issued under this section commits an offence.

[Section 193 inserted as section 156a: No. 17 of 1918 s. 18; renumbered as section 193: No. 38 of 1933 s. 42; amended: No. 80 of 1987 s. 52.]

194. Offensive trades

Where any trade process, whether an offensive trade or not, has been established in any district, and is of such a nature that the carrying on thereof will unavoidably result in fumes, dust, vapour, gas, or other chemical elements which, in the opinion of the Chief Health Officer, are likely to be injurious to health, escaping into the air, the Governor may, on the recommendation of the Chief Health Officer, by proclamation —

(a) define any area surrounding the place where such trade process is carried on, within which, after the issue of the proclamation and whilst the same remains unrevoked, no dwelling-house shall be erected or used for habitation; and

(b) define any area surrounding the place where such trade process is carried on, within which, after the issue of the proclamation and whilst the same remains unrevoked, no rainwater tanks shall be erected or used, and no rainwater shall be collected or stored for human consumption:

Provided that, where any dwelling-house has, prior to the issue of a proclamation under this subsection, been erected within the area defined by such proclamation as an area within which dwelling-houses shall not be erected or used, the Chief Health Officer may, notwithstanding the proclamation, grant a permit in writing signed by him to any person to use such dwelling-house for purposes of habitation, upon and subject to such conditions as the Chief Health Officer may deem fit to impose and which are specified in the permit so granted.

[Section 194 inserted as section 158A: No. 30 of 1932 s. 26; renumbered as section 194: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 45; No. 19 of 2016 s. 100.]

195. Construction, drainage and equipment of slaughter-houses

A person who uses any premises as a slaughter-house commits an offence unless the construction, drainage and equipment of the premises are of the prescribed standards.

[Section 195 inserted: No. 52 of 1968 s. 5; amended: No. 80 of 1987 s. 53.]

196. Slaughter-houses to be kept in accordance with Act

(1) If, in the opinion of the local government, any slaughter-house, or any premises connected therewith, are not constructed and kept in accordance with this Act, the local government 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 fails to comply with a notice served upon him under subsection (1), he commits an offence.

(3) The local government may, and shall if the Chief Health Officer 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 government may, and shall if the Chief Health Officer so recommends, cancel or refuse to renew the registration of the premises.

[Section 196, formerly section 158, renumbered as section 196: No 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 28 of 1984 s. 45; No. 80 of 1987 s. 54; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

197. No swine, dog or poultry to be kept at slaughter-house

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.

[Section 197, formerly section 159, renumbered as section 197: No 38 of 1933 s. 42.]

198. Swine not to be fed on raw offal etc.

No person shall permit any swine to feed upon any offal, unless such offal has been first boiled for at least 2 hours, or upon any blood, manure, filth, or any other refuse matter.

[Section 198, formerly section 160, renumbered as section 198: No 38 of 1933 s. 42; amended: No. 29 of 1955 s. 3.]

Division 3 — Local laws

[Heading amended: No. 14 of 1996 s. 4.]

199. Local laws in respect of nuisances and offensive trades

Local laws may be made in accordance with Part XIV for all or any of the following purposes:

(1) Defining localities in the district within which the keeping of any swine or pigsty is forbidden.

(1a) Prescribing areas in which piggeries may be carried on, only if the premises in or upon which they are carried on, are registered as required by section 191.

(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 government, 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 government, 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 be established or carried on and prohibiting the establishing or carrying on of noxious or offensive trades, businesses, or manufactures, elsewhere than in localities so defined.

(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) deleted]

(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 material used or stored in premises of a type prescribed by regulation, or flock, bedding, or furniture manufactories.

(17) Prohibiting the sale or storage for sale in any place of any second-hand furniture, bedding, or clothing which is filthy or verminous, and prescribing the method of cleansing or purifying the same, or requiring or authorising the destruction thereof.

(18) Prohibiting any person who is in a verminous condition from entering or remaining in any public vehicle, lodging-house, public house or public place, but so that no prosecution for a breach of any local law made under this paragraph shall be instituted except by an authorised officer.

(19) 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.

(20) The destruction of mosquitoes and Argentine ants and other insect pests as may by regulations be prescribed from time to time.

(21) Specifying what are toxic substances and what are hazardous substances, prescribing generally, or in any class or case, or in any particular case, how they shall be branded or labelled; and with respect to the prevention of nuisance or injury to health from the transport, deposit, use, manufacture, sale or storage, of substances so specified.

[Section 199, formerly section 161, amended: No. 3 of 1912 s. 2; No. 30 of 1932 s. 27; renumbered as section 199: No. 38 of 1933 s. 42; amended: No. 22 of 1948 s. 3; No. 25 of 1952 s. 6; No. 29 of 1955 s. 4; No. 18 of 1964 s. 18; No. 24 of 1970 s. 12; No. 28 of 1984 s. 45; No. 59 of 1991 s. 5; No. 88 of 1994 s. 100; No. 14 of 1996 s. 4; No. 28 of 1996 s. 21; No. 84 of 2004 s. 80; No. 43 of 2008 s. 147(6); No. 19 of 2016 s. 99.]

200. Regulations as to medical examinations for persons in prescribed industries

The Governor may make regulations requiring persons engaged in prescribed industries to submit themselves for periodical medical examination at the times and in the manner prescribed.

[Section 200 inserted: No. 71 of 1948 s. 6.]

Part VIIA — Pesticides

[Heading inserted: No. 13 of 2014 s. 151.]

Division 1 — Registration of analysts

[Heading inserted: No. 13 of 2014 s. 152.]

*[**201.** Deleted: No. 80 of 1987 s. 55.]*

*[**202.** Deleted: No. 13 of 2014 s. 153.]*

203. Registration of analysts

(1) Subject to subsection (3), the Chief Health Officer shall cause —

(a) to be maintained a register of analysts; and

(b) every analyst —

(i) who is appointed as an analyst under the *Health Legislation Administration Act 1984* section 6; or

(ii) who is a qualified person approved by the Chief Health Officer for the purpose of this section,

to be registered in the register referred to in paragraph (a) on payment of the prescribed fee.

(2) A person who performs the functions of an analyst under this Act without being registered under subsection (1) commits an offence.

(3) The Minister may by notice published in the *Gazette* —

(a) exempt any analyst or class of analysts from the obligation to pay the prescribed fee referred to in subsection (1)(b); or

(b) revoke an exemption granted under this subsection,

and every such notice shall have effect according to its tenor.

[Section 203 inserted: No. 26 of 1985 s. 7; amended: No. 80 of 1987 s. 56; No. 19 of 2016 s. 15.]

[Divisions 2, 2A, 3, 3A and 4 (s. 203A-220) deleted: No. 43 of 2008 s. 147(8).]

[Divisions 5, 6 and 7 (s. 221-245) deleted: No. 13 of 2014 s. 154.]

Division 8 — Pesticides

[Heading inserted: No. 26 of 1985 s. 7.]

246. Term used: Pesticides Advisory Committee

In this Division, unless the context requires otherwise —

Pesticides Advisory Committee means the Pesticides Advisory Committee referred to in section 246B.

[Section 246 inserted: No. 26 of 1985 s. 7.]

246A. Crown bound, but *Health Practitioner Regulation National Law (Western Australia)* and *Medicines and Poisons Act 2014* not affected by Division 8

(1) This Division binds the Crown in right of the State.

(2) Nothing in subsection (1) affects the question whether or not the Crown in right of the State is bound by any provision of this Act outside this Division.

(3) The provisions of this Division do not affect the provisions of the *Health Practitioner Regulation National Law (Western Australia)* or the *Medicines and Poisons Act 2014*.

[Section 246A inserted: No. 80 of 1987 s. 84; amended: No. 35 of 2010 s. 70; No. 13 of 2014 s. 155.]

246B. Pesticides Advisory Committee

(1) The Pesticides Advisory Committee which was, immediately before the coming into operation of the *Health Amendment Act 1985*, appointed by the Minister under section 241C as section 241C existed immediately before that coming into operation is hereby preserved and continued in existence under this Act.

(2) The Pesticides Advisory Committee shall consist of 6 members of whom —

(a) one shall be the Chief Health Officer or a medical practitioner nominated by the Chief Health Officer; and

(b) one shall be the chief executive officer of the Chemistry Centre (WA) or an analyst from the Chemistry Centre (WA) nominated by the chief executive officer; and

(c) one shall be the chief executive officer of the department principally assisting in the administration of the *Biosecurity and Agriculture Management Act 2007*, or an officer of that department nominated by that chief executive officer; and

(d) one shall be the person who is for the time being holding the office of Secretary of the Pesticides Advisory Committee under subsection (7); and

(e) one shall be the chief executive officer of the Department within the meaning of the *Environmental Protection Act 1986* or an officer of that department nominated by the chief executive officer; and

(f) one shall be the chief executive officer of the WHS department within the meaning of the *Work Health and Safety Act 2020*, or an officer of that department nominated by the chief executive officer,

together with such person or persons as the regular members may for the time being co-opt to advise the Pesticides Advisory Committee on the pesticides industry.

(3) The Chief Health Officer, or the medical practitioner referred to in subsection (2)(a), as the case requires, shall be the Chairman of the Pesticides Advisory Committee (in this section called the ***Chairman***).

(4) The Minister may appoint a deputy for a regular member and, at any meeting of the Pesticides Advisory Committee at which the regular member is not present but his deputy is present, his deputy shall have all the functions of the regular member.

(5) Those members of the Pesticides Advisory Committee and their deputies who were appointed by the Minister and who held office immediately before the coming into operation of the *Health Amendment Act 1985* shall, subject to this section, continue in office until the expiry of the respective terms of their appointments.

(6) At any meeting of the Pesticides Advisory Committee —

(a) the Chairman, or in his absence, his deputy shall preside, but if neither the Chairman nor his deputy is present the other regular members present shall elect one of their number to preside; and

(b) each regular member present and, in relation to matters in respect of which he is co-opted under subsection (2), each co-opted member present has a deliberative vote and, in the event of an equality of votes, the person presiding at that meeting shall also have a second or casting vote; and

(c) any 2 regular members constitute a quorum.

(7) The Minister shall appoint a person to the office of Secretary of the Pesticides Advisory Committee, but that office may be held in conjunction with any other office under Part 3 of the *Public Sector Management Act 1994*.

(8) Each member may be paid such attendance fees as are prescribed in his case.

(9) In this section —

co-opted member means person co-opted under subsection (2);

member means regular member or co-opted member;

regular member means person referred to in subsection (2)(a), (b), (c) or (d).

[Section 246B inserted: No. 26 of 1985 s. 7; amended: No. 32 of 1994 s. 3(2); No. 28 of 1996 s. 13; No. 10 of 2007 s. 43; No. 24 of 2007 s. 10; No. 19 of 2016 s. 27, 99 and 100; No. 36 of 2020 s. 356.]

246BA. General powers of Pesticides Advisory Committee

Subject to section 246C, the Pesticides Advisory Committee may —

(a) advise the Chief Health Officer on any matter whatsoever concerning pesticides, whether that matter is referred to it by the Chief Health Officer or not; or

(b) consider and adopt or reject wholly or in part any recommendations made in relation to pesticides by a body prescribed for the purposes of this paragraph; or

(c) exercise any power or perform any duty conferred or imposed on it by regulations made under section 341 as read with section 246C.

[Section 246BA inserted: No. 80 of 1987 s. 85; amended: No. 19 of 2016 s. 28.]

246C. Regulations relating to pesticides

(1) The Governor on the advice of the Pesticides Advisory Committee may make regulations under section 341 —

(a) prescribing a substance or compound to be a pesticide; and

(b) prescribing forms and fees (including fees payable in respect of applications for registration or licences or in respect of the analysis or examination of pesticides); and

(c) providing for the registration by the Chief Health Officer of pesticides and labels relating thereto and for the imposition by him of conditions on any such registration; and

(d) prohibiting the registration by the Chief Health Officer of any pesticide in respect of which a body prescribed for the purposes of section 246BA(b) has recommended against the use of that pesticide; and

(e) regulating or prohibiting the manufacture, preparation, packaging, labelling, storage, carriage, distribution, sale and use of pesticides; and

(f) regulating or prohibiting the advertising of pesticides; and

(g) requiring disclosure by an applicant for the registration of a pesticide of the composition of the pesticide and of other information relevant to his application; and

(h) requiring disclosure by an applicant for the licensing of a person or firm in respect of the use of pesticides of information relevant to his application; and

(i) regulating the disposal of pesticides and used pesticide containers; and

(j) providing for the registration by the Chief Health Officer of firms in respect of the undertaking or carrying out of fumigation and for the imposition by him of conditions on any such registration; and

(k) providing for the licensing by the Chief Health Officer of persons in respect of the carrying out of fumigation and for the imposition by him of conditions on the granting by him of any such licence; and

(l) providing for the registration by the Chief Health Officer of firms carrying on the trade, business or profession of the use of pesticides for reward and for the imposition by him of conditions on any such registration; and

(m) providing for the licensing by the Chief Health Officer of persons in respect of the use of pesticides for reward as pesticide operators or provisional pesticide operators and for the imposition by him of conditions on the granting by him of any such licence; and

(n) prescribing the qualifications required of applicants for licensing as pesticide operators or provisional pesticide operators; and

(o) prescribing the records to be kept by firms registered or persons licensed under regulations made under section 341 as read with this section; and

(p) requiring the notification to the Chief Health Officer of accidents involving the use of pesticides; and

(q) enabling the Chief Health Officer to require persons using pesticides to submit themselves to medical examinations or tests for the purpose of ascertaining the effect on their health of exposure to pesticides; and

(r) setting standards for the composition of pesticides; and

(s) prohibiting persons from adulterating any pesticide, or having in their possession for sale any pesticide which has been adulterated, by the admixture of any foreign substance; and

(t) prescribing standards of the amount of deterioration or variation from nominal strength, if any, to be permitted in any pesticide; and

(u) prescribing methods of analysis and examination (either exclusive or optional) whereby the composition, quality or conformity or want of conformity with a prescribed standard of any pesticide shall or may be ascertained; and

(v) requiring any pesticide to be labelled, prescribing what information relating to the pesticide should be set out on its label, prohibiting the use on its label of any particular words or expressions, regulating generally the wording,

printing, size, colour and styles of labels of pesticides to be used under this Act, prohibiting the sale (except to an officer appointed under section 6 of the *Health Legislation Administration Act 1984* demanding a sample of the pesticide concerned under this Act) of any pesticide which is not labelled in accordance with this Act, and granting conditional exemption from any requirement of regulations so made relating to the labelling of any pesticide and prescribing the conditions of that exemption; and

(w) preventing the adulteration or contamination of pesticides and prohibiting the sale (except to an officer appointed under section 6 of the *Health Legislation Administration Act 1984* demanding a sample of the pesticide concerned under this Act) of any pesticides not in conformity with a prescribed standard; and

(x) providing for the isolation or removal of pesticides which are or may be hazardous; and

(y) prescribing all matters that are required or permitted by this Division to be prescribed or are necessary or convenient to be prescribed for giving effect to the purposes of this Division or for the protection of health in relation to pesticides.

(2) Nothing in subsection (1)(d) affects any power conferred by regulations made under section 341 as read with this section on the Chief Health Officer to register or refuse to register any pesticide or label relating thereto.

[Section 246C inserted: No. 80 of 1987 s. 86; amended: No. 19 of 2016 s. 29.]

[Division 9: s. 246D deleted: No. 13 of 2014 s. 156; s. 246E-FB deleted: No. 43 of 2008 s. 147(10)-(13).]

[Part VIII (s. 246G-247) deleted: No. 43 of 2008 s. 147(14).]

Part VIIIA — Analytical services

[Heading inserted: No. 24 of 1970 s. 5.]

247AA. Terms used

In this Division —

Analytical Committee means the Local Health Authorities Analytical Committee established by section 247A(1);

member means a member of the Analytical Committee;

metropolitan area has the meaning given in the *Local Government Act 1995* section 1.4;

scheme means a scheme for the provision of analytical services for use by local governments, operated by the Analytical Committee under this Division;

WALGA has the meaning given in the *Local Government Act 1995* section 1.4.

[Section 247AA inserted: No. 19 of 2016 s. 31.]

247A. Local Health Authorities Analytical Committee

(1) For the purpose of providing analytical services for use by local governments, a body to be known as the Local Health Authorities Analytical Committee is hereby established.

(2) The Analytical Committee —

(a) is a body corporate with perpetual succession and shall have a common seal; and

(b) is capable, in its corporate name, of acquiring, holding and disposing of real and personal property and of suing and being sued in that name; and

(c) is capable of doing all such acts and things as bodies corporate may do and suffer.

(3) The Analytical Committee is to consist of 10 members appointed by the Minister, made up as follows —

(a) 7 members, who are to be persons nominated by WALGA to represent local government districts that are in the metropolitan area;

(b) 3 members, who are to be persons nominated by WALGA to represent local government districts that are not in the metropolitan area.

(4) The Minister is to appoint one of the members of the Analytical Committee to be the Chairperson.

[Section 247A inserted: No. 24 of 1970 s. 5; amended: No. 30 of 1982 s. 11; No. 14 of 1996 s. 4; No. 19 of 2016 s. 32.]

247BA. Term of office and vacation of office

(1) The members hold office for a term of 3 years.

(2) A member ceases to hold office —

(a) at the expiry of the term for which he or she is appointed, unless he or she —

(i) continues to hold office under subsection (4); or

(ii) is reappointed;

or

(b) if he or she resigns by written notice given to the Minister; or

(c) if he or she dies; or

(d) if his or her nomination as a member is withdrawn by written notice given to the Minister by WALGA; or

(e) if he or she is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or

(f) if the member's appointment is terminated under subsection (3).

(3) The Minister may, by written notice given to a member, terminate the appointment of the member —

(a) if, in the Minister's opinion, the member is unable to perform the functions of office because of —

(i) illness; or

(ii) mental or physical incapacity impairing the performance of his or her duties; or

(iii) absence from the State;

or

(b) if, in the Minister's opinion, the member misbehaves, neglects his or her duties or is incompetent; or

(c) if the member is absent, without leave and without reasonable excuse, from 3 consecutive meetings of the Analytical Committee of which the member had notice; or

(d) for any other act or omission, or any circumstance arising, that, in the Minister's opinion, may adversely affect the functioning of the Analytical Committee.

(4) Even though the term for which a member was appointed has expired, the member continues in office until he or she is reappointed or his or her successor comes into office, unless he or she resigns or is removed from office.

(5) However, a member cannot continue in office under subsection (4) for longer than 3 months.

[Section 247BA inserted: No. 19 of 2016 s. 33.]

247B. Meetings and procedure of Analytical Committee

(1) The Analytical Committee shall hold such meetings as are necessary for the performance of its functions.

(2) At any meeting of the Analytical Committee —

(a) 6 members constitute a quorum; and

(b) the Chairperson is to preside if he or she is present, but in his or her absence —

(i) the members present are to elect one of their number to preside at the meeting; and

(ii) that member, while presiding, has all the powers and duties of the Chairperson;

and

(c) each member present (including the member presiding) has a deliberative vote; and

(d) a question arising is to be decided by a majority of the votes of the members present, but if the votes are equal the member presiding has a casting vote.

(3A) A resolution in writing to which at least 6 members of the Analytical Committee have each indicated their agreement by signing it or assenting to it by letter, fax, email or other written means has the same effect as if it had been passed at a meeting of the Analytical Committee.

(3B) A meeting of the Analytical Committee may be held —

(a) by a quorum of the members assembled together at the time and place appointed for the meeting; or

(b) by telephone or audio visual or other electronic means, as long as —

(i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and

(ii) a quorum of members can simultaneously communicate with each other throughout the meeting.

(3) Subject to this Part and the regulations made thereunder, the Analytical Committee may regulate its own procedure in such manner as it thinks fit.

[Section 247B inserted: No. 24 of 1970 s. 6; amended: No. 19 of 2016 s. 34.]

247C. Powers and functions of Analytical Committee

(1) The functions of the Analytical Committee are —

(a) to formulate and operate a scheme for the provision of analytical services for use by local governments, by employing such analysts and other persons as are necessary for the purpose or by entering into contracts with persons for the provision of those services, or by both so employing analysts and other persons and so entering into contracts; and

(b) to fix fees to be paid by local governments for participation in any scheme referred to in this section and fees to be paid for analytical services rendered under the scheme; and

(c) to do such other acts and things as are necessary or convenient for the purposes of this Part.

(2) The Analytical Committee may from time to time vary or terminate any scheme formulated under this section and may formulate and operate a new scheme in place of any scheme so terminated.

(3) The Analytical Committee may do all such things as are necessary or convenient to be done for or in connection with the performance of its functions.

[Section 247C inserted: No. 24 of 1970 s. 7; amended: No. 14 of 1996 s. 4.]

247D. Participation in scheme by local governments

(1) Any local government may, by notice in writing addressed to the Analytical Committee, advise the Analytical Committee that it desires to participate in a scheme, and thereupon the local government shall, for the purpose, of this Part, become a participant in the scheme.

(2) If the Chief Health Officer considers that a local government that is not a participant in a scheme ought to be a participant —

(a) the Chief Health Officer may, by written notice served on the local government, direct it to participate in the scheme; and

(b) on the service of the direction, the local government is a participant in the scheme for the purposes of this Division and, in particular, for the purposes of subsection (4).

(3) A local government which is a participant in the scheme may, if it has first obtained the consent in writing of the Chief Health Officer, withdraw from a scheme by serving notice in writing to that effect upon the Analytical Committee.

(4) Any local government which is, or has been, a participant in a scheme shall pay to the Analytical Committee, on demand —

(a) the fees fixed by the Analytical Committee under section 247C for participation in the scheme; and

(b) the fees so fixed for any services rendered to the local government under the scheme,

and any fees due but not paid may be recovered by the Analytical Committee, as a debt due to it, in any court of competent jurisdiction.

[Section 247D inserted: No. 24 of 1970 s. 8; amended: 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 19 of 2016 s. 35 and 100.]

247E. Application of *Financial Management Act 2006* and *Auditor General Act 2006*

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Analytical Committee and its operations.

[Section 247E inserted: No. 98 of 1985 s. 3; amended: No. 77 of 2006 Sch. 1 cl. 80(2).]

247F. Regulations as to Part VIIIA

The Governor may make regulations, not inconsistent with this Part, prescribing all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Part.

[Section 247F inserted: No. 24 of 1970 s. 10.]

[Part VIIIB deleted: No. 103 of 1994 s. 18.]

Part IX — Infectious diseases

Division 1 — General provisions

*[**248.** Deleted: No. 19 of 2016 s. 240.]*

249. Local laws to prevent spread of infectious disease

Local laws may be made in accordance with Part XIV in relation to all or any of the following matters for the purpose of preventing or controlling the spread of an infectious disease —

(1) for house-to-house visitation, and inspection of the houses, the occupants thereof, and the things therein, as also of the out-buildings, 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 and buildings, or of rooms therein;

(4) for the isolating, disinfecting and 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.

[Section 249, formerly section 203, amended: No. 3 of 1912 s. 3; renumbered as section 249: No. 38 of 1933 s. 42; amended: No. 71 of 1948 s. 10; No. 28 of 1984 s. 45; No. 80 of 1987 s. 112; No. 14 of 1996 s. 4.]

*[**250-275.** Deleted: No. 19 of 2016 s. 242.]*

*[Division 2: s. 276-280 deleted: No. 19 of 2016 s. 243;
s. 281 deleted: No. 24 of 2000 s. 16(2);
s. 282-289 deleted: No. 19 of 2016 s. 243.]*

Part IXA — Prevention and alleviation of certain non-infectious disease processes and physical or functional abnormalities

[Heading inserted: No. 21 of 1957 s. 11.]

289A. Objects of this Part

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

[Section 289A inserted: No. 21 of 1957 s. 11.]

289B. Term used: prescribed condition of health

In this Part —

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

[Section 289B inserted: No. 21 of 1957 s. 11]

289C. Regulation as to Part IXA

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

(a) conditions of health to which this Part applies, excluding infectious diseases; and

(b) how, when, by whom, and to whom, cases of prescribed conditions of health must be notified; and

(c) fees payable to any person, or class of person, required to notify cases of prescribed conditions of health; and

(d) functions, powers, and duties of any person or class of person, whether the Minister, the Chief Health Officer, a medical practitioner, person having any prescribed condition of health, or any other person or class of person, but so that a regulation made under this paragraph is limited to the necessities of achieving the objects of this Part and does not require any person to submit to treatment without his consent.

[Section 289C inserted: No. 21 of 1957 s. 11; amended: No. 28 of 1984 s. 45; No. 19 of 2016 s. 99 and 100.]

289D. Powers conferred by this Part are cumulative

The powers conferred by, or pursuant to, section 289C, are in addition to, and not in derogation of, any other powers conferred by this Act.

[Section 289D inserted: No. 21 of 1957 s. 11.]

[Part IXB (s. 289E-289I) deleted: No. 5 of 2006 s. 126.]

[Part X: s. 290 deleted: No. 19 of 2016 s. 245;
s. 291 deleted: No. 53 of 1985 s. 6;
s. 292-296 deleted: No. 19 of 2016 s. 245.]

[Part XI: s. 297-299 deleted: No. 23 of 2006 s. 7;
s. 300, 300A deleted: No. 19 of 2016 s. 246;
s. 301-305 deleted: No. 23 of 2006 s. 10;
s. 306, 307 deleted: No. 19 of 2016 s. 246;
s. 308 deleted: No. 34 of 2004 Sch. 2 cl. 12(2);
s. 309-314 deleted: No. 19 of 2016 s. 246;
s. 315 deleted: No. 23 of 2006 s. 12;
s. 316 deleted: No. 19 of 2016 s. 246.]

Part XII — Hospitals

Division 1 — Public hospital

*[**316A, 317-323, 323A, 323B.** Deleted: No. 47 of 1978 s. 31.]*

324. Local governments may establish or subsidise hospitals

(1) Every local government may subsidise any district nursing system or infant health centre and may contribute money for the establishment and carrying out of a scheme for providing, for any period, nursing aid and or domestic help in the home of any person who is sick, diseased, convalescent or physically incapacitated.

(2) Every local government —

(a) may provide, establish and maintain; and

(b) may grant financial aid towards the establishment and maintenance of;

any scheme or any institution or centre, whether residential or otherwise, for the care, recreation, comfort and convenience of the aged.

[Section 324 inserted: No. 17 of 1956 s. 2; amended: No. 33 of 1962 s. 5; No. 53 of 1985 s. 11; No. 14 of 1996 s. 4.]

324A. Power for CEO to enter into agreement for establishment of maternal and health centres and provide nursing staff etc.

The CEO may enter into an agreement with a local government in respect to all or any of the following matters:

(a) The erection, purchase, and maintenance of premises for the establishment of maternal and infant health centres and sub-centres and living accommodation for staff employed therein.

(b) The provision of nursing and other staff.

(c) The area to be served by a maternal and infant health centre and sub-centre.

(d) The provision of furnishings, fittings, appliances, vehicles and equipment necessary for the conduct of a maternal and infant health centre and sub-centre.

(e) The provisions of moneys for any purpose necessary for the establishment or carrying on of a maternal and infant health centre and sub-centre.

[Section 324A inserted: No. 45 of 1954 s. 11; amended: No. 14 of 1996 s. 4; No. 28 of 2006 s. 251.]

[Division 2 (s. 325) and Division 3 (s. 326-330) deleted: No. 53 of 1985 s. 12.]

Part XIIA — Community health centres, etc.

[Heading inserted: No. 101 of 1976 s. 11.]

330A. Land may be acquired or leased for community health centres

(1) The Minister may, with the consent of the Governor, in the manner provided by Part 9 of the *Land Administration Act 1997*, acquire land for the purposes of establishing community health centres, child health centres, clinics for the treatment of venereal and other diseases, immunisation clinics, community health services clinics, and children's assessment centres and for purposes associated therewith.

(2) Where any land is owned by or vested in the Minister for any of the purposes set out in subsection (1), the land may, with the consent of the Governor, be leased to a person or persons to enable it to be used for a purpose or purposes associated with any of the purposes set out in subsection (1).

[Section 330A inserted: No. 101 of 1976 s. 11; amended: No. 31 of 1997 s. 142.]

330B. Local governments may subsidise certain medical centres

(1) For the purpose of providing for the needs of the inhabitants of the district a local government may provide and maintain or grant financial or other assistance towards the provision and maintenance of —

(a) land, buildings or facilities associated therewith acquired or to be acquired by the Minister pursuant to section 330A;

(b) land or buildings to provide practice or living accommodation required for the use of any medical practitioner or dental practitioner in practice on his own account.

(2) For the purposes of this section a local government may enter into an agreement with another local government, the CEO, a medical or dental practitioner in practice on his own account, or any other person necessary to make provision for the erection, purchase, taking on lease, letting out, use or maintenance of the facilities provided or to be provided.

(3) The facilities to be provided or assistance to be given under this section may be so provided or assisted jointly with another local government, and may relate to a centre or services established or provided elsewhere than in the district.

[Section 330B inserted: No. 47 of 1978 s. 32; amended: No. 14 of 1996 s. 4; No. 28 of 2006 s. 251.]

Part XIII — Child health and preventive medicine

[Heading inserted: No. 102 of 1973 s. 21.]

331. Terms used

In this Part —

birth has the meaning given in the *Births, Deaths and Marriages Registration Act 1998* section 4;

dentist means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the dental profession whose name is entered on the Dentists Division of the Register of Dental Practitioners kept under that Law;

neonatal death has the meaning given in the *Births, Deaths and Marriages Registration Act 1998* section 4;

perform an abortion has the meaning given in the *Public Health Act 2016* section 202MB;

school dental service means the service established under section 337A;

school dental therapist means a person who holds or is taken to hold general registration under the *Health Practitioner Regulation National Law (Western Australia)* in the dental therapist profession;

still-birth has the meaning given in the *Births, Deaths and Marriages Registration Act 1998* section 4.

[Section 331 inserted: No. 35 of 2010 s. 72; amended: No. 20 of 2023 s. 56.]

332. Application of Part to abortion

(1) Regulations made under section 333 cannot make provision in relation to —

(a) the performance of abortions; or

(b) any matter related to or connected with the performance of abortions (including births, still-births or neonatal deaths that result from the performance of abortions).

(2) Despite anything in sections 335 and 336A, no person is required under those provisions to give any report or notification to the Chief Health Officer or to any other person in relation to —

(a) the performance of an abortion on a person; or

(b) any birth, still-birth or neonatal death that results from the performance of the abortion.

(3) If a person dies as a result of the performance of an abortion on the person, or as a result of any complications arising from or following upon the performance of an abortion on the person, the death is to be treated as the result of pregnancy for the purposes of section 336 and that section applies accordingly.

(4) This section does not affect the obligations of a person under the *Births, Deaths and Marriages Registration Act 1998*.

[Section 332 inserted: No. 20 of 2023 s. 57.]

333. Regulations

The Governor may make regulations for any purpose tending to protect the lives of mothers and infants.

[Section 333 inserted: No. 27 of 1992 s. 84.]

*[**334.** Deleted: No. 20 of 2023 s. 58.]*

335. Reports to be furnished

(1) It shall be the duty of every midwife to furnish to the Chief Health Officer a report in writing in the manner and at the time and in the form prescribed of every case attended by the midwife, whether of living, premature or full term birth, or stillbirth.

(2) A report furnished under subsection (1) shall state the name and address of the mother, and shall be furnished to the Chief Health Officer within 48 hours of the event.

(3) A midwife who contravenes subsection (1) as read with subsection (2) commits an offence.

[(4) deleted]

(5)(a) When a medical practitioner attends on the happening of any premature birth or stillbirth, the medical practitioner shall send to the Chief Health Officer within 48 hours of the happening a report in the prescribed form.

(b) A medical practitioner, or where a medical practitioner is not in attendance, a midwife, who attends a woman at the delivery of a foetus at any time after the 20th week of pregnancy shall notify the Chief Health Officer of the attendance in the prescribed form.

(c) A medical practitioner who, for the purposes of section 44 of the *Births, Deaths and Marriages Registration Act 1998*, certifies the cause of a neonatal death shall notify the Chief Health Officer of the fact in the prescribed form within 48 hours of the certification.

[(d), (e) deleted]

(6)(a) The Governor may from time to time proclaim that the provisions of this subsection shall apply in respect of any district or part of a district and may from time to time proclaim that those provisions shall cease to apply in respect of, or having ceased to apply shall again apply in respect of any district or part of a district.

(b) The provisions of this subsection shall apply in respect of a district and part of a district so long as those provisions remain the subject of a proclamation to that effect under the provisions of the last preceding paragraph.

(c) The Chief Health Officer shall appoint medical practitioners upon such terms and conditions as the Chief Health Officer considers fit to conduct a post mortem examination upon the body of every stillborn child where the still birth happens in any district or part of a district to which the provisions of this subsection apply.

(d) The Chief Health Officer shall notify in the prescribed manner all medical practitioners and midwives of the name and address of every medical practitioner appointed under the provisions of the last preceding paragraph and acting under the appointment.

(e) When a stillbirth happens in any district or part of a district to which the provisions of this subsection apply, the medical practitioner attending or, if there is no medical practitioner attending, the midwife attending, shall, so soon as reasonably possible after the happening, report it in the manner and form prescribed, to a medical practitioner appointed under paragraph (c) and acting under the appointment, who shall, unless otherwise authorised or directed by the Chief Health Officer, thereupon conduct a post mortem examination on the body of the stillborn child.

[Section 335, formerly section 263, amended: No. 17 of 1918 s. 48; renumbered as section 335: No. 38 of 1933 s. 42; amended: No. 14 of 1944 s. 12; No. 71 of 1948 s. 12; No. 45 of 1954 s. 12; No. 113 of 1965 s. 8(1); No. 102 of 1973 s. 25; No. 28 of 1984 s. 45; No. 80 of 1987 s. 151; No. 27 of 1992 s. 84; No. 15 of 1998 s. 7(2); No. 40 of 1998 s. 14(4); No. 19 of 2016 s. 36, 99 and 100; No. 20 of 2023 s. 59.]

336. Death of woman as result of pregnancy or childbirth to be reported to Chief Health Officer

(1) Whenever any woman shall die as the result of pregnancy or of childbirth, or as the result of any complications arising from or following upon pregnancy or childbirth, the fact of such death shall be reported forthwith to the Chief Health Officer by the

medical practitioner and any nurse who were at the time of the death attending such woman.

(2) On receiving the report, the Chief Health Officer must, by notice in writing signed by the Chief Health Officer —

(a) direct the investigator appointed under Part XIIIA to inquire into the circumstances of the death; and

(b) require the investigator to present to the Chairperson of the Maternal Mortality Committee appointed under that Part, within a time specified in the notice, a full report of the investigation made by the investigator.

(3) The report of the investigator presented to the Chairperson shall be in the form of a connected medical case history relating to the deceased woman but shall not contain any particulars from which it may be possible to ascertain the identity of that woman.

(4) For the purposes of this section all information, records of interviews, reports, statements, memoranda or other particulars obtained by the investigator during an investigation made by the investigator pursuant to the provisions of this section shall be confidential and shall not be communicated or divulged, either in whole or in part, by the investigator to any person other than the Chairperson of the Maternal Mortality Committee, or by the Chairperson or any other member of the Committee, except for the purposes and in accordance with the provisions of Part XIIIA.

(5) Information, records of interviews, reports, statements, memoranda and other particulars referred to in subsection (4) are not admissible in any court or before any tribunal, board or person in any action, cause or inquiry of any kind whatsoever.

(5a) A person employed by or acting with or under the instructions or under the authority of the Maternal Mortality Committee who exhibits, communicates or divulges in whole or in part any information, record of interview, report, statement, memorandum or other particular referred to in subsection (4)

except for the purposes of, and in accordance with, Part XIIIA commits an offence.

(6) No person, corporate body, association, or institution shall be liable in any action for damages or other relief by reason of the furnishing to the investigator, or to the Maternal Mortality Committee, of any information, record, report, statement, memorandum or particulars referred to in subsection (4).

(7) Nothing in this section shall prejudice or otherwise affect any of the provisions of the *Coroners Act 1996*, or of any other Act so far as the same relates to prosecutions for indictable and other offences and the obtaining and adducing of evidence relative thereto, but this section shall be read and construed as separate and distinct from the provisions of those Acts.

[Section 336 inserted: No. 32 of 1937 s. 9; amended: No. 23 of 1960 s. 3; No. 28 of 1984 s. 45; No. 80 of 1987 s. 152; No. 2 of 1996 s. 61; No. 19 of 1996 s. 37 and 100.]

336A. Certain deaths of children to be reported to Chief Health Officer

(1) Whenever any child of more than 20 weeks gestation is stillborn or any child under the age of one year shall die from any cause whatsoever, the fact shall be reported forthwith to the Chief Health Officer by the medical practitioner who, for the purposes of section 44 of the *Births, Deaths and Marriages Registration Act 1998*, certified the cause of the child's death.

(2) On receiving the report, the Chief Health Officer must, by notice in writing signed by the Chief Health Officer —

(a) direct an investigator appointed under Part XIIIB to enquire into the circumstances of that stillbirth or death; and

(b) require the investigator to present to the Chairperson of the Perinatal and Infant Mortality Committee appointed under that Part, within a time specified in the notice, a full report of the investigation made by the investigator.

(3A) Subsection (2) does not apply if the Chief Health Officer is satisfied that the cause of death arose from —

(a) a specific injury; or

(b) an illness that the Committee has directed does not require further investigation.

(3) The report of the investigator presented to the Chairperson shall be in the form of connected medical case history relating to the deceased child but shall not contain any particulars from which it may be possible to ascertain the identity of that child.

(4) For the purposes of this section all information, records of interviews, reports, statements, memoranda or other particulars obtained by the investigator during an investigation made by the investigator pursuant to the provisions of this section shall be confidential and shall not be communicated or divulged, either in whole or in part, to any person other than the Chairperson of the Perinatal and Infant Mortality Committee, or by the Chairperson or any other member of the Committee, except for the purposes and in accordance with the provisions of Part XIIIB.

(5) Information, records of interviews, reports, statements, memoranda and other particulars referred to in subsection (4) are not admissible in any court or before any tribunal, board or person in any action, cause or inquiry of any kind whatsoever.

(5a) A person employed by or acting with or under the instructions or under the authority of the Perinatal and Infant Mortality Committee who exhibits, communicates or divulges in whole or in part any information, record of interview, report, statement, memorandum or other particular referred to in subsection (4) except for the purposes of, and in accordance with, Part XIIIB commits an offence.

(6) No person, corporate body, association, or institution shall be liable in any action for damages or other relief by reason of the furnishing to the investigator, or to the Perinatal and Infant Mortality Committee, of any information, record, report,

statement, memorandum or particulars referred to in subsection (4).

(7) Nothing in this section shall prejudice or otherwise affect any of the provisions of the *Coroners Act 1996*, or of any other Act so far as the same relates to prosecutions for indictable and other offences and the obtaining and adducing of evidence relative thereto, but this section shall be read and construed as separate and distinct from the provisions of those Acts.

[Section 336A inserted: No. 47 of 1978 s. 33; amended: No. 28 of 1984 s. 45; No. 80 of 1987 s. 153; No. 2 of 1996 s. 61; No. 40 of 1998 s. 14(5); No. 19 of 2016 s. 38 and 100.]

336B. Death of persons under anaesthetic to be reported to Chief Health Officer

(1) Whenever any person shall die within the period of 48 hours following the administration of an anaesthetic agent or as the result of any complications arising from the administration of an anaesthetic, the fact of such death shall be reported forthwith to the Chief Health Officer by the person who administered the anaesthetic to the deceased.

(2) Where a medical practitioner who attended a person prior to the death of that person is of the opinion that anaesthesia or the administration of an anaesthetic may reasonably be suspected as the cause of death or as contributing to the cause of death of that person, that medical practitioner shall forthwith report to the Chief Health Officer that the medical practitioner has formed such an opinion.

(3) On receiving a report made under subsection (1) or (2), the Chief Health Officer must, by notice in writing signed by the Chief Health Officer —

(a) direct an investigator appointed under Part XIIIC to enquire into the circumstances of the death; and

(b) require the investigator —

(i) if in the opinion of the investigator the death is likely to have been due to anaesthesia, to carry out the investigation and present to the Chairperson of the Anaesthetic Mortality Committee appointed under that Part, within a time specified in the notice, a full report of the investigation made by the investigator; or

(ii) if in the opinion of the investigator the death was not likely to have been due to anaesthesia, to report the investigator's finding to the Chief Health Officer.

(4) Where the circumstances are such that an investigation is being or will be undertaken by the Maternal Mortality Committee in accordance with Part XIIIA then notwithstanding the provisions of subsection (3) the Chief Health Officer shall not be required to direct an investigation pursuant to this section.

(5) The report of the investigator presented to the Chairperson shall be in the form of connected medical case history relating to the deceased person but shall not contain any particulars from which it may be possible to ascertain the identity of that person.

(6) For the purposes of this section all information, records of interviews, reports, statements, memoranda or other particulars obtained by the investigator during an investigation made by the investigator pursuant to the provisions of this section shall be confidential and shall not be communicated or divulged, either in whole or in part, to any person other than the Chairperson of the Anaesthetic Mortality Committee, or by the Chairperson or any other member of the Committee, except for the purposes and in accordance with the provisions of Part XIIIC.

(7) Information, records of interviews, reports, statements, memoranda and other particulars referred to in subsection (6) are not admissible in any court or before any tribunal, board or person in any action, cause or inquiry of any kind whatsoever.

(7a) A person employed by or acting with or under the instructions or under the authority of the Anaesthetic Mortality Committee who exhibits, communicates or divulges in whole or in part any information, record of interview, report, statement, memorandum or other particular referred to in subsection (6) except for the purposes of, and in accordance with, Part XIIIC commits an offence.

(8) No person, corporate body, association, or institution shall be liable in any action for damages or other relief by reason of the furnishing to the investigator, or to the Anaesthetic Mortality Committee, of any information, record, report, statement, memorandum or particulars referred to in subsection (6).

(9) Nothing in this section shall prejudice or otherwise affect any of the provisions of the *Coroners Act 1996*, or of any other Act so far as the same relates to prosecutions for indictable and other offences and the obtaining and adducing of evidence relative thereto, but this section shall be read and construed as separate and distinct from the provisions of those Acts.

[Section 336B inserted: No. 47 of 1978 s. 35; amended: No. 28 of 1984 s. 45; No. 80 of 1987 s. 154; No. 2 of 1996 s. 61; No. 19 of 2016 s. 39 and 100.]

337. Examination of school children

(1) Any medical practitioner or any nurse duly authorised in this behalf by the Chief Health Officer may examine medically and physically any child attending any school or child care centre, and such child shall submit to, and the parents or guardians of such child shall permit such examination as the medical practitioner or nurse deems necessary.

(2A) In subsection (1) —

child care centre means a place where —

(a) an education and care service as defined in the *Education and Care Services National Law (WA)* section 5(1) operates; or

(b) a child care service as defined in the *Child Care Services Act 2007* section 4 is provided.

(2) Any school dental therapist employed in a school dental service, or any dentist authorised to do so by the Chief Health Officer, may 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.

(3) Any medical practitioner or any nurse duly authorised in this behalf by the Chief Health Officer who finds that any such child is in an unclean or verminous condition may, by writing under the hand of such medical practitioner or nurse, notify any parent or guardian of the child of the fact, and require such parent or guardian to remedy such condition forthwith, and to keep such child clean or free from vermin.

(4) In addition to making the requisition mentioned in subsection (3), the medical practitioner or nurse may, by writing under the hand of the medical practitioner or nurse, require the parent or guardian to keep the child's hair cut short to the satisfaction of the medical practitioner or nurse.

(5) Every such requisition as is mentioned in subsection (3) or subsection (4) shall, in so far as it is of a continuing character, remain in force for 12 months.

(6) A parent or guardian who does not comply with a requisition made under subsection (3) or (4) commits an offence.

[Section 337, formerly section 264, amended: No. 17 of 1918 s 49; No. 5 of 1922 s. 8; No. 30 of 1932 s. 4; renumbered as section 337: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 102 of 1973 s. 26; No. 30 of 1982 s. 12; No. 28 of 1984 s. 45; No. 80 of 1987 s. 155; No. 14 of 1996 s. 4; No. 64 of 1996 s. 18; No. 35 of 2010 s. 73; No. 11 of 2012 s. 35; No. 19 of 2016 s. 99 and 100; No. 2 of 2026 s. 102.]

337A. Schools dental service

(1) There shall be established in accordance with this section a school dental service to provide dental care and treatment for pre-school and school children.

(2) With the approval of the Minister, the CEO may establish and maintain teaching schools and facilities for the training of persons as school dental therapists.

(3) There shall be appointed under and subject to Part 3 of the *Public Sector Management Act 1994*, such dentists, school dental therapists and other officers and staff as may be required for the purposes of this section.

(4) The Governor may make regulations prescribing the manner in which acts of dentistry are to be undertaken by a school dental therapist.

[Section 337A inserted: No. 102 of 1973 s. 27; amended: No. 30 of 1982 s. 13; No. 32 of 1994 s. 3(2); No. 64 of 1996 s. 18; No. 10 of 1998 s. 39(4); No. 28 of 2006 s. 251; No. 35 of 2010 s. 74.]

*[**338.** Deleted: No. 19 of 2016 s. 40.]*

*[**338A.** Deleted: No. 116 of 1982 s. 36.]*

*[**338B-338C.** Deleted: No. 19 of 2016 s. 40.]*

*[**339.** Deleted: No. 102 of 1973 s. 29.]*

*[**340.** Deleted: No. 19 of 2016 s. 247.]*

Part XIIIA — Maternal Mortality Committee

[Heading inserted: No. 23 of 1960 s. 4.]

340A. Terms used

In this Part unless the context requires otherwise —

Committee means the Maternal Mortality Committee constituted under this Part;

investigator means the obstetrician from time to time appointed under this Part;

member means a person appointed to be a member of the Committee, and includes the Chairperson of the Committee;

metropolitan area has the meaning given in the *Local Government Act 1995* section 1.4.

[Section 340A inserted: No. 23 of 1960 s. 4; amended: No. 94 of 1972 s. 4(1) (as amended: No. 83 of 1973 s. 4); No. 19 of 2016 s. 41.]

340B. Constitution and offices of Committee

(1) For the purposes of this Part a body to be called the "Maternal Mortality Committee" and having the functions prescribed by this Part shall be constituted as provided in this section.

(2) The Committee is to consist of 9 members appointed by the Minister, made up as follows —

(a) one is to be the Professor of Obstetrics at the University of Western Australia, who is to be Chairperson of the Committee;

(b) one is to be a medical practitioner specialising in obstetrics, nominated by the Royal Australian and New Zealand College of Obstetricians and Gynaecologists (W.A. Branch);

(c) 5 are to be medical practitioners, of whom —

(i) 2 are to be general medical practitioners practising in the metropolitan area, nominated by the Australian Medical Association (WA) Incorporated; and

(ii) 2 are to be general medical practitioners having not less than 5 years' practice outside the metropolitan area, nominated by the Australian Medical Association (WA) Incorporated; and

(iii) one is to be nominated by the Chief Health Officer;

(d) 2 are to be midwives, nominated by the Chief Health Officer.

[Section 340B inserted: No. 23 of 1960 s. 4; amended: No. 63 of 1981 s. 4; No. 30 of 1982 s. 14; No. 27 of 1992 s. 84; No. 10 of 1998 s. 39(5); No. 24 of 2000 s. 16(3); No. 28 of 2006 s. 251; No. 8 of 2009 s. 71(4); No. 19 of 2016 s. 42.]

340C. Appointment of deputies

(1) The Minister may appoint persons as deputies to act in the respective places of the Chairperson and other members of the Committee when not able or available to act, and persons so appointed may while acting exercise the same powers and are entitled to the same rights and subject to the same liabilities as the members for whom they act as deputies.

(2) A person is not eligible for appointment as a deputy of a member of the Committee (other than as the deputy of the Chairperson) unless he or she is nominated as deputy by the body by which the member is required under section 340B to be nominated or unless he or she is appointed by the Minister under the provisions of section 340D(3).

[Section 340C inserted: No. 23 of 1960 s. 4; amended: No. 19 of 2016 s. 43.]

340D. Nominations to be made to Minister

(1) The bodies mentioned in section 340B(2)(b) and (c)(i) and (ii) must nominate to the Minister, when the Minister so requests, or when a vacancy occurs in accordance with section 340F, one or more appropriately qualified persons to become members of the Committee.

(2) Without affecting the generality of the power conferred by subsection (1), the Minister may from time to time as occasion requires request a body referred to in section 340B(2)(b) or (c)(i) or (ii) to nominate, within a specified period, for appointment as a member of the Committee, or as a deputy member, any number of persons not exceeding 3, and may appoint such one, or as the case may be, more of them as the Minister thinks fit.

(3) If no nomination is made within the period specified by the Minister, the Minister may appoint such person or persons as the Minister thinks fit to fill the office or offices or deputy, as the case may be.

[Section 340D inserted: No. 23 of 1960 s. 4; amended: No. 19 of 2016 s. 44.]

340E. Tenure of office

(1) The term of tenure of office of a person appointed as a member of the Committee (other than the Chairperson) expires on effluxion of time on the expiration of a period of 3 years commencing on the day specified in the notice of the appointment published in the *Government Gazette* as the commencing day of that term.

(2) The term of tenure of office of the member referred to in section 340B(2)(a) continues until terminated by the Minister.

[Section 340E inserted: No. 23 of 1960 s. 4; amended: No. 19 of 2016 s. 45.]

340F. When office of member becomes vacant

(1) The office of a member of the Committee becomes vacant if —

(a) he or she dies; or

(b) he or she resigns by written notice given to the Minister; or

(c) his or her term of office expires by effluxion of time, unless he or she —

(i) continues to hold office under subsection (3); or

(ii) is reappointed;

or

(d) the member's appointment is terminated under subsection (2); or

(e) in the case of the member referred to in section 340B(2)(a), the Minister terminates the term of tenure of his or her office; or

(f) he or she is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws.

(2) The Minister may, by written notice given to a member, terminate the appointment of the member —

(a) if, in the opinion of the Minister, the member is unable to perform the functions of office because of —

(i) illness; or

(ii) mental or physical incapacity impairing the performance of his or her duties; or

(iii) absence from the State;

or

(b) if, in the opinion of the Minister, the member misbehaves, neglects his or her duties or is incompetent; or

(c) if the member is absent, without leave and without reasonable excuse, from 3 consecutive meetings of the Committee of which the member had notice.

(3) Even though the term for which a member was appointed has expired, the member continues in office until he or she is reappointed or his or her successor comes into office, unless he or she resigns or is removed from office.

(4) However, a member cannot continue in office under subsection (3) for longer than 3 months.

[Section 340F inserted: No. 19 of 2016 s. 46.]

340G. Vacancies in offices of members to be filled

(1) When a vacancy occurs in the office of a member of the Committee, the Minister is to appoint a person to fill the vacancy.

(2) If, under section 340B(2), a specified body has the right to nominate that member, the Minister is not to appoint a person unless he or she is nominated by the appropriate body mentioned in that section, or unless section 340D(3) applies to the office.

(3) A person is not rendered ineligible for appointment to office of member or deputy because he or she has previously occupied office as such.

[Section 340G inserted: No. 23 of 1960 s. 4; amended: No. 19 of 2016 s. 47.]

340H. Meetings and procedure of Committee

(1) The Committee is to hold the meetings that are necessary for the performance of its functions.

(2) At any meeting of the Committee, 5 members of the Committee or their respective deputies, including the Chairperson or his or her deputy, constitute a quorum.

(3) A meeting of the Committee may be held —

(a) by a quorum of the members assembled together at the time and place appointed for the meeting; or

(b) by telephone or audio-visual or other electronic means, as long as —

(i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and

(ii) a quorum of members can simultaneously communicate with each other throughout the meeting.

(4) Subject to this section, the Committee may regulate its own procedure in whatever manner it thinks fit.

(5) Nothing done by the Committee is invalid or defective on the ground only that, when done, there was —

(a) a vacancy in the office of any member; or

(b) a defect in the appointment of any member or any deputy of a member.

[Section 340H inserted: No. 19 of 2016 s. 48.]

340I. Reimbursement of expenses of members of Committee

The Chairperson and other members of the Committee and their respective deputies are entitled to such reimbursements of expenditure as the Minister from time to time determines, and is hereby authorised to determine.

[Section 340I inserted: No. 23 of 1960 s. 4; amended: No. 19 of 2016 s. 49.]

340J. Appointment of investigator

(1) The Minister may in order to give effect to and carry out the purposes of section 336 appoint an investigator for such term, at such remuneration and subject to such conditions of service as the Minister determines, and is hereby authorised to determine.

(2) The person appointed to be investigator pursuant to the provisions of subsection (1) shall be a medical practitioner who is a specialist in obstetrics.

(3) The Minister may at any time appoint a person having the necessary qualifications to act, and who shall act, as investigator during the absence of the investigator appointed under subsection (1), or during any vacancy in that office.

[Section 340J inserted: No. 23 of 1960 s. 4.]

340K. Functions of Committee

(1) Whenever an investigator presents to the Chairperson of the Committee a report under section 336, the Chairperson —

(a) must consider the report; and

(b) having regard to the circumstances disclosed by the report and the nature of the medical case history of the deceased woman, may notify the Chief Health Officer of the receipt of the report.

(2) On receiving a notification under subsection (1), the Chief Health Officer must convene a meeting of the Committee to be held within whatever period after the receipt by the Chief Health Officer of the notification the Chairperson of the Committee considers appropriate.

(3) The Committee must consider the report of the investigator, and for the purpose of assisting it in its consideration may co-opt any medical practitioners, nurses, midwives or other persons with specialised knowledge the Committee thinks necessary.

(4) On its consideration of the report, the Committee must determine whether in the opinion of the Committee the death the subject of the report might have been avoided, and may add to its determination any constructive comments the Committee considers advisable for the future assistance and guidance of medical practitioners, nurses and midwives.

(5) The determination of the Committee, including the comments referred to in subsection (4) —

(a) must be notified in writing by the Chairperson to —

(i) the medical practitioner (if any) who was attending the woman at the time of the occurrence of her death; and

(ii) the nurse or midwife (if any) who was attending the woman at that time;

and

(b) may be notified in writing by the Chairperson to any other medical practitioner, nurse or midwife who attended the woman before the occurrence of her death if the Committee considers that that medical practitioner, nurse or midwife should be informed of that determination and those comments.

[Section 340K inserted: No. 19 of 2016 s. 50.]

340LA. Further provisions relating to proceedings of Committee

(1) As soon as practicable after the Committee has made a determination under section 340K, the Chairperson must forward to the Chief Health Officer all records, reports, statements, memoranda and other documents submitted to and considered by the Committee in making that determination.

(2) The Chief Health Officer is to have the care and control of those records, reports, statements, memoranda and other documents, and is to keep them, or cause them to be kept, in safe custody.

(3) Except as provided by this Part and with the Chief Health Officer's permission in writing, the Chief Health Officer must not permit any of those records, reports, statements, memoranda or other documents to be inspected.

(4) The Chairperson must forward to the Chief Health Officer a summary of the cases investigated by the investigator and considered by the Committee during each year.

[Section 340LA inserted: No. 19 of 2016 s. 50.]

340LB. Contents of notification confidential

(1) The contents of a notification made under section 340K(5) are not admissible in any court or before any tribunal, board or person in any action, cause or inquiry of any kind whatever.

(2) A person who exhibits, communicates or divulges in whole or in part the contents of a notification made under section 340K(5) to any person except for the purposes of, and in accordance with, this Part commits an offence.

[Section 340LB inserted: No. 19 of 2016 s. 50.]

340L. When report of investigator may be published

(1) The Committee may publish, or cause to be published, in any medical journal, or may make available to any educational institution for use in the teaching of students or for purposes of medical research, any investigator's report considered by the Committee and its determination relating thereto and any comments made by it, but all reasonable steps shall be taken to preclude disclosure or identification of the person or persons concerning whom the investigation and resultant report was made.

(2) The Committee may impart, or cause to be imparted to medical practitioners, nurses, midwives and students of any educational institution such education and instruction in medical theory and practice as it may deem necessary or advisable from time to time so to do for their assistance and guidance in avoiding and preventing maternal morbidity or mortality.

[Section 340L inserted: No. 23 of 1960 s. 4; amended: No. 8 of 2009 s. 71(4); No. 19 of 2016 s. 51.]

340M. Information given for research not to be disclosed

(1) A person engaged in research relating to any matter necessitating the use of or reference to any information, record, report, statement, memorandum or particulars referred to in section 336(4) who in any way, directly or indirectly, discloses or divulges any information obtained by him or her therefrom, except as may be strictly essential in or for carrying out the research, commits an offence.

(2) A member of the Committee, or any person employed by or acting with the instructions or under the authority of the Committee, except an investigator appointed under section 340J in the course of his or her duties, who interviews or in any way communicates with any person referred to in any report of the investigator or any relative of that person, commits an offence, unless the consent in writing of the medical practitioner, nurse or midwife attending that person is first obtained.

[Section 340M inserted: No. 23 of 1960 s. 4; amended: No. 80 of 1987 s. 157; No. 19 of 2016 s. 52.]

*[**340N.** Deleted: No. 19 of 2016 s. 53.]*

Part XIIIB — Perinatal and Infant Mortality Committee

[Heading inserted: No. 47 of 1978 s. 34.]

340AA. Terms used

In this Part unless the context requires otherwise —

Committee means the Perinatal and Infant Mortality Committee constituted under this Part;

investigator means the medical practitioner from time to time appointed under this Part;

member means a person appointed to be a member of the Committee, and includes the Chairperson of the Committee;

metropolitan area has the meaning given in the *Local Government Act 1995* section 1.4.

[Section 340AA inserted: No. 47 of 1978 s. 34; amended: No. 19 of 2016 s. 54.]

340AB. Constitution and offices of Committee

(1) For the purposes of this Part a body to be called the "Perinatal and Infant Mortality Committee" and having the functions prescribed by this Part shall be constituted as provided in this section.

(2) The Committee is to consist of 13 members appointed by the Minister.

(3) Of the persons appointed as members of the Committee —

(a) one is to be the Professor of Obstetrics at the University of Western Australia; and

(b) one is to be a medical practitioner specialising in obstetrics, nominated by the Chief Health Officer; and

(c) 2 are to be medical practitioners nominated by the chief executive of the health service provider for King

Edward Memorial Hospital under the *Health Services Act 2016*, of whom —

(i) one is to be a medical practitioner specialising in neonatal paediatrics at that hospital; and

(ii) one is to be a medical practitioner specialising in obstetrics at that hospital;

and

(d) one is to be a medical practitioner specialising in neonatal paediatrics at Perth Children's Hospital, nominated by the chief executive of the health service provider for that hospital under the *Health Services Act 2016*; and

(e) one is to be a medical practitioner specialising in obstetrics and perinatal care, nominated by the Royal Australian and New Zealand College of Obstetricians and Gynaecologists (W.A. Branch); and

(f) 3 are to be general medical practitioners (one of whom practises outside the metropolitan area), of whom —

(i) one is to be nominated by the Australian Medical Association (WA) Incorporated; and

(ii) one is to be nominated by the Royal Australian College of General Practitioners; and

(iii) one is to be nominated by the Chief Health Officer;

and

(g) one is to be a medical practitioner specialising in clinical epidemiology, nominated by the Chief Health Officer; and

(h) one is to be a medical practitioner specialising in perinatal pathology, nominated by the Chief Health Officer; and

(i) one is to be a midwife in clinical practice, nominated by the Chief Health Officer; and

(j) one is to be a nurse specialising in neonatal paediatrics, nominated by the Chief Health Officer.

(4) The Chairperson of the Committee is to be appointed by the Minister from among the members of the Committee.

[Section 340AB inserted: No. 47 of 1978 s. 34; amended: No. 30 of 1982 s. 15; No. 28 of 1984 s. 31; No. 27 of 1992 s. 84; No. 10 of 1998 s. 39(6); No. 24 of 2000 s. 16(3); No. 28 of 2006 s. 251; No. 8 of 2009 s. 71(4); No. 11 of 2016 s. 291(3); No. 19 of 2016 s. 55 and 248.]

340AC. Appointment of deputies

(1) The Minister may appoint persons as deputies to act in the respective places of the Chairperson and other members of the Committee when not able or available to act, and persons so appointed may while acting exercise the same powers and are entitled to the same rights and subject to the same liabilities as the members for whom they act as deputies.

(2) Where a member is required under section 340AB to be nominated by a specified body, a person is not eligible for appointment as a deputy of that member of the Committee unless he or she is nominated as deputy by that body or unless he or she is appointed by the Minister under the provisions of section 340AD(3).

[Section 340AC inserted: No. 47 of 1978 s. 34; amended: No. 19 of 2016 s. 56.]

340AD. Nominations to be made to Minister

(1) The bodies mentioned in section 340AB(3) must nominate to the Minister, when he or she so requests, or when a vacancy occurs in accordance with section 340AF, one or more appropriately qualified persons to become members of the Committee.

(2) Without affecting the generality of the power conferred by subsection (1) the Minister may from time to time as occasion requires request a body referred to in section 340AB(3) to nominate, within a specified period, for appointment as a member of the Committee, or as a deputy member, any number of persons not exceeding 3, and may appoint such one as the Minister thinks fit.

(3) If no nomination is made within the period specified by the Minister, the Minister may appoint such a person or persons as the Minister thinks fit to fill the office or to be a deputy as the case may be.

[Section 340AD inserted: No. 47 of 1978 s. 34; amended: No. 19 of 2016 s. 57.]

340AE. Tenure of office

(1) The term of tenure of office of a person appointed as a member of the Committee expires by effluxion of time on the expiration of a period of 3 years commencing on the day specified in the notice of the appointment published in the *Government Gazette* as the commencing day of that term.

(2) The Chairperson holds that office at the pleasure of the Minister.

[Section 340AE inserted: No. 47 of 1978 s. 34; amended: No. 19 of 2016 s. 58.]

340AF. When office of member becomes vacant

(1) The office of a member of the Committee becomes vacant if —

(a) he or she dies; or

(b) he or she resigns by written notice given to the Minister; or

(c) his or her term of office expires by effluxion of time, unless he or she —

(i) continues to hold office under subsection (3); or

(ii) is reappointed;

or

(d) the member's appointment is terminated under subsection (2); or

(e) in the case of the Chairperson, the Minister terminates the term of tenure of his or her office; or

(f) he or she is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws.

(2) The Minister may, by written notice given to a member, terminate the appointment of the member —

(a) if, in the opinion of the Minister, the member is unable to perform the functions of office because of —

(i) illness; or

(ii) mental or physical incapacity impairing the performance of his or her duties; or

(iii) absence from the State;

or

(b) if, in the opinion of the Minister, the member misbehaves, neglects his or her duties or is incompetent; or

(c) if the member is absent, without leave and without reasonable excuse, from 3 consecutive meetings of the Committee of which the member had notice.

(3) Even though the term for which a member was appointed has expired, the member continues in office until he or she is reappointed or his or her successor comes into office, unless he or she resigns or is removed from office.

(4) However, a member cannot continue in office under subsection (3) for longer than 3 months.

[Section 340AF inserted: No. 19 of 2016 s. 59.]

340AG. Vacancies in offices of members to be filled

(1) When a vacancy occurs in the office of a member of the Committee, the Minister is to appoint a person to fill the vacancy.

(2) If, under section 340AB(3), a specified body has the right to nominate that member, the Minister is not to appoint a person unless he or she is nominated by the appropriate body mentioned in that section, or unless section 340AD(3) applies to the office.

(3) A person is not rendered ineligible for appointment to the office of member or as a deputy because he or she has previously occupied office as such.

[Section 340AG inserted: No. 47 of 1978 s. 34; amended: No. 19 of 2016 s. 60.]

340AH. Meetings and procedure of Committee

(1) The Committee is to hold the meetings that are necessary for the performance of its functions.

(2) At any meeting of the Committee, 6 members of the Committee or their respective deputies, of whom one is to be the Chairperson or his or her deputy, constitute a quorum.

(3) A meeting of the Committee may be held —

(a) by a quorum of the members assembled together at the time and place appointed for the meeting; or

(b) by telephone or audio-visual or other electronic means, as long as —

(i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and

(ii) a quorum of members can simultaneously communicate with each other throughout the meeting.

(4) Subject to this section, the Committee may regulate its own procedure in whatever manner it thinks fit.

(5) Nothing done by the Committee is invalid or defective on the ground only that, when done, there was —

(a) a vacancy in the office of any member; or

(b) a defect in the appointment of any member or any deputy of a member.

[Section 340AH inserted: No. 19 of 2016 s. 61.]

340AI. Reimbursement of expenses of members

The Chairperson and other members of the Committee and their respective deputies are entitled to such reimbursements of expenditure as the Minister from time to time determines, and is hereby authorised to determine.

[Section 340AI inserted: No. 47 of 1978 s. 34; amended: No. 19 of 2016 s. 62.]

340AJ. Appointment of investigator

(1) The Minister may, in order to give effect to the purposes of section 336A, appoint not more than 4 medical practitioners to be investigators for such term, at such remuneration and subject to such conditions of service as the Minister determines, and is hereby authorised to determine, in the case of each investigator.

(2) The following provisions apply to the appointment of investigators under subsection (1) —

(a) if one investigator is appointed, he or she must be a specialist in obstetrics or neonatal paediatrics;

(b) if 2 investigators are appointed, both of them must be specialists in obstetrics or neonatal paediatrics;

(c) if 3 or 4 investigators are appointed, 2 of them must be specialists in obstetrics or neonatal paediatrics.

(3) The Minister may at any time appoint a person having the necessary qualifications to act, and who shall act, as investigator during the absence of an investigator appointed under subsection (1), or where through any cause such an investigator is unable to perform the functions of his or her office, or during a vacancy in the office of such an investigator.

[Section 340AJ inserted: No. 47 of 1978 s. 34; amended: No. 80 of 1987 s. 158; No. 19 of 2016 s. 63.]

340AK. Functions of Committee

(1) Whenever an investigator presents to the Chairperson of the Committee a report under section 336A, the Chairperson —

(a) must consider the report; and

(b) having regard to the circumstances disclosed by the report and the nature of the medical case history of the stillborn or deceased child, may notify the Chief Health Officer of the receipt of the report.

(2) On receiving a notification under subsection (1), the Chief Health Officer must convene a meeting of the Committee to be held within whatever period after the receipt by the Chief Health Officer of the notification the Chairperson of the Committee considers appropriate.

(3) The Committee must consider the report of the investigator, and for the purpose of assisting it in its consideration may co-opt any medical practitioners, nurses, midwives or other persons with specialised knowledge the Committee thinks necessary.

(4) On its consideration of the report, the Committee must determine whether in the opinion of the Committee the stillbirth or death the subject of the report might have been avoided, and may add to its determination any constructive comments the Committee considers advisable for the future assistance and guidance of medical practitioners, nurses and midwives.

(5) The determination of the Committee, including the comments referred to in subsection (4) —

(a) must be notified in writing by the Chairperson to —

(i) the medical practitioner (if any) who was attending the child concerned at the time of the occurrence of the stillbirth or death investigated under section 336A; and

(ii) the nurse or midwife (if any) who was attending the child concerned at that time;

and

(b) may be notified in writing by the Chairperson to any other medical practitioner, nurse or midwife who attended the child concerned or his or her mother or both before the occurrence of the stillbirth or death if the Committee considers that that medical practitioner, nurse or midwife should be informed of that determination and those comments.

[Section 340AK inserted: No. 19 of 2016 s. 64.]

340ALA. Further provisions relating to proceedings of Committee

(1) As soon as practicable after the Committee has made a determination under section 340AK, the Chairperson must forward to the Chief Health Officer all records, reports, statements, memoranda and other documents submitted to and considered by the Committee in making that determination.

(2) The Chief Health Officer is to have the care and control of those records, reports, statements, memoranda and other documents, and is to keep them, or cause them to be kept, in safe custody.

(3) Except as provided by this Part and with the Chief Health Officer's permission in writing, the Chief Health Officer must not permit any of those records, reports, statements, memoranda or other documents to be inspected.

(4) The Chairperson must forward to the Chief Health Officer a summary of the cases investigated by the investigators and considered by the Committee during each year.

[Section 340ALA inserted: No. 19 of 2016 s. 64.]

340ALB. Contents of notification confidential

(1) The contents of a notification made under section 340AK(5) are not admissible in any court or before any tribunal, board or person in any action, cause or inquiry of any kind whatever.

(2) A person who exhibits, communicates or divulges in whole or in part the contents of a notification made under section 340AK(5) to any person except for the purposes of, and in accordance with, this Part commits an offence.

[Section 340ALB inserted: No. 19 of 2016 s. 64.]

340AL. When report may be published

(1) The Committee may publish, or cause to be published, in any medical journal, or may make available to any educational institution for use in the teaching of students or for purposes of medical research, any investigator's report considered by the Committee and its determination relating thereto and any comments made by it, but all reasonable steps shall, subject to this section, be taken to preclude disclosure or identification of the person or persons, child or children concerning whom the investigation and resultant report was made.

(1a) The Committee may, if it considers that it is essential for the purposes of medical research that the identity of a person or child to whom the report of an investigator relates be divulged by the investigator to a person carrying out or about to carry out medical research (in this section called the ***researcher***), recommend to the Chief Health Officer that the identity of that child be so divulged.

(1b) The Chief Health Officer may, if he or she agrees with a recommendation made to him or her under subsection (1a), authorise the investigator concerned to divulge the identity of the person or child to whom his or her report relates to the researcher and that investigator shall thereupon divulge that identity to the researcher.

(1c) The researcher who divulges to any other person the identity of a person or child divulged to him or her under subsection (1b) commits an offence.

(2) The Committee may impart, or cause to be imparted, to medical practitioners, nurses, midwives and students of any educational institution such education and instruction in medical theory and practice as it may deem necessary or advisable from time to time so to do for their assistance and guidance in avoiding and preventing perinatal or infant morbidity or mortality.

[Section 340AL inserted: No. 47 of 1978 s. 34; amended: No. 80 of 1987 s. 160; No. 8 of 2009 s. 71(4); No. 19 of 2016 s. 65.]

340AM. Information for research not to be disclosed

(1) A person engaged in research relating to any matter necessitating the use of or reference to any information, record, report, statement, memorandum or particulars referred to in section 336A(4) who in any way, directly or indirectly, discloses or divulges any information obtained by him or her therefrom, except as may be strictly essential in or for carrying out the research, commits an offence.

(2) A member of the Committee, or any person employed by or acting with the instructions or under the authority of the Committee, except an investigator appointed under section 340AJ acting in the course of his or her duties, who interviews or in any way communicates with any person referred to in any report of the investigator or any relative of that person commits an offence, unless the consent in writing of

the medical practitioner, nurse or midwife who was attending the child at the time of the occurrence of the stillbirth or death being investigated is first obtained.

[Section 340AM inserted: No. 47 of 1978 s. 34; amended: No. 80 of 1987 s. 161; No. 19 of 2016 s. 66.]

*[**340AN.** Deleted: No. 19 of 2016 s. 67.]*

Part XIIIC — Anaesthetic Mortality Committee

[Heading inserted: No. 47 of 1978 s. 36.]

340BA. Terms used

In this Part unless the context requires otherwise —

Committee means the Anaesthetic Mortality Committee constituted under this Part;

investigator means the specialist anaesthetist from time to time appointed under this Part;

member means a person appointed to be a member of the Committee, and includes the Chairperson of the Committee;

metropolitan area has the meaning given in the *Local Government Act 1995* section 1.4.

[Section 340BA inserted: No. 47 of 1978 s. 36; amended: No. 19 of 2016 s. 68.]

340BB. Constitution and offices of Committee

(1) For the purposes of this Part a body to be called the "Anaesthetic Mortality Committee" and having the functions prescribed by this Part shall be constituted as provided in this section.

(2) The Committee is to consist of 12 members appointed by the Minister.

(3) Of the persons appointed as members of the Committee —

(a) one is to be nominated by the State Branch of the Australian and New Zealand College of Anaesthetists, and that person is the Chairperson of the Committee; and

(b) one is to be the Professor of Anaesthesia at the University of Western Australia; and

(c) one is to be a medical practitioner specialising in anaesthetics, nominated by the State Branch of the

Australian and New Zealand College of Anaesthetists; and

(d) one is to be a medical practitioner specialising in anaesthetics, nominated by the Australian Medical Association (WA) Incorporated; and

(e) one is to be a medical practitioner specialising in obstetrics and gynaecology, nominated by the Royal Australian and New Zealand College of Obstetricians and Gynaecologists (W.A. Branch); and

(f) 2 are to be general medical practitioners with at least 5 years' experience and special interest in anaesthesia, nominated by the State Branch of the Royal Australian College of General Practitioners, of whom one practices within the metropolitan area and one outside that area; and

(g) one is to be a medical practitioner specialising in surgery, nominated by the State Branch of the Royal Australasian College of Surgeons; and

(h) one is to be a medical practitioner, nominated by the Chief Health Officer; and

(i) one is to be a midwife having not less than 5 years' experience in, and currently practising, midwifery, nominated by the Chief Health Officer; and

(j) one is to be a dental practitioner, nominated by the State Branch of the Australian Dental Association; and

(k) one is to be the Professor of Clinical Pharmacology at the University of Western Australia.

[Section 340BB inserted: No. 47 of 1978 s. 36; amended: No. 30 of 1982 s. 16; No. 27 of 1992 s. 84; No. 10 of 1998 s. 39(7) and (9); No. 24 of 2000 s. 16(3); No. 28 of 2006 s. 251; No. 8 of 2009 s. 71(4); No. 19 of 2016 s. 69.]

340BC. Appointment of deputies

(1) The Minister may appoint persons as deputies to act in the respective places of the Chairperson and other members of the Committee when not able or available to act, and persons so appointed may while acting exercise the same powers and are entitled to the same rights and subject to the same liabilities as the members for whom they act as deputies.

(2) Where a member is required under section 340BB to be nominated by a specified body, a person is not eligible for appointment as a deputy of that member of the Committee unless he or she is nominated as deputy by that body or unless he or she is appointed by the Minister under the provisions of section 340BD(3).

[Section 340BC inserted: No. 47 of 1978 s. 36; amended: No. 19 of 2016 s. 70.]

340BD. Nominations to be made to Minister

(1) The bodies mentioned in section 340BB(3) must nominate to the Minister, when he or she so requests, or when a vacancy occurs in accordance with section 340BF, one or more appropriately qualified persons to become members of the Committee.

(2) Without affecting the generality of the power conferred by subsection (1) the Minister may from time to time as occasion requires request a body referred to in section 340BB(3) to nominate, within a specified period, for appointment as a member of the Committee, or as a deputy member, any number of persons not exceeding 3, and may appoint such one as he or she thinks fit.

(3) If no nomination is made within the period specified by the Minister, he or she may appoint such a person or persons as he

or she thinks fit to fill the office or to be a deputy as the case may be.

[Section 340BD inserted: No. 47 of 1978 s. 36; amended: No. 19 of 2016 s. 71.]

340BE. Tenure of office

(1) The term of tenure of office of a person appointed as a member of the Committee (other than the Chairperson) expires by effluxion of time on the expiration of a period of 3 years commencing on the day specified in the notice of the appointment published in the *Government Gazette* as the commencing day of that term, and in the case of the Chairperson the period shall be 4 years.

[(2) deleted]

[Section 340BE inserted: No. 47 of 1978 s. 36; amended: No. 19 of 2016 s. 72.]

340BF. When office of member becomes vacant

(1) The office of a member of the Committee becomes vacant if —

(a) he or she dies; or

(b) he or she resigns by written notice given to the Minister; or

(c) his or her term of office expires by effluxion of time, unless he or she —

(i) continues to hold office under subsection (3); or

(ii) is reappointed;

or

(d) the member's appointment is terminated under subsection (2); or

(e) in the case of the member referred to in section 340BB(3)(a), the Minister terminates the term of tenure of his or her office; or

(f) he or she is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws.

(2) The Minister may, by written notice given to a member, terminate the appointment of the member —

(a) if, in the opinion of the Minister, the member is unable to perform the functions of office because of —

(i) illness; or

(ii) mental or physical incapacity impairing the performance of his or her duties; or

(iii) absence from the State;

or

(b) if, in the opinion of the Minister, the member misbehaves, neglects his or her duties or is incompetent; or

(c) if the member is absent, without leave and without reasonable excuse, from 3 consecutive meetings of the Committee of which the member had notice.

(3) Even though the term for which a member was appointed has expired, the member continues in office until he or she is reappointed or his or her successor comes into office, unless he or she resigns or is removed from office.

(4) However, a member cannot continue in office under subsection (3) for longer than 3 months.

[Section 340BF inserted: No. 19 of 2016 s. 73.]

340BG. Vacancies in offices of members to be filled

(1) When a vacancy occurs in the office of a member of the Committee, the Minister is to appoint a person to fill the vacancy.

(2) If, under section 340BB(3), a specified body has the right to nominate that member, the Minister is not to appoint a person unless he or she is nominated by the appropriate body mentioned in that section, or unless section 340BD(3) applies to the office.

(3) A person is not rendered ineligible for appointment to the office of member or as a deputy because he or she has previously occupied office as such.

[Section 340BG inserted: No. 47 of 1978 s. 36; amended: No. 19 of 2016 s. 74.]

340BH. Meetings and procedure of Committee

(1) The Committee is to hold the meetings that are necessary for the performance of its functions.

(2) At any meeting of the Committee, 6 members of the Committee or their respective deputies, of whom one is to be the Chairperson or his or her deputy, constitute a quorum.

(3) A meeting of the Committee may be held —

(a) by a quorum of the members assembled together at the time and place appointed for the meeting; or

(b) by telephone or audio-visual or other electronic means, as long as —

(i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and

(ii) a quorum of members can simultaneously communicate with each other throughout the meeting.

(4) Subject to this section, the Committee may regulate its own procedure in whatever manner it thinks fit.

(5) Nothing done by the Committee is invalid or defective on the ground only that, when done, there was —

(a) a vacancy in the office of any member; or

(b) a defect in the appointment of any member or any deputy of a member.

[Section 340BH inserted: No. 19 of 2016 s. 75.]

340BI. Reimbursement of expenses of members

The Chairperson and other members of the Committee and their respective deputies are entitled to such reimbursements of expenditure as the Minister from time to time determines, and is hereby authorised to determine.

[Section 340BI inserted: No. 47 of 1978 s. 36; amended: No. 19 of 2016 s. 76.]

340BJ. Appointment of investigator

(1) The Minister may, in order to give effect to the purposes of section 336B, appoint an investigator for such term, at such remuneration and subject to such conditions of service as the Minister determines, and is hereby authorised to determine.

(2) A person appointed to be an investigator pursuant to the provisions of subsection (1) shall be selected from medical practitioners who specialise in anaesthetics.

(3) The Minister may at any time appoint a person having the necessary qualifications to act, and who shall act, as investigator during the absence of the investigator appointed under subsection (1), or where through any cause such investigator is unable to perform the functions of his or her office, or during any vacancy in that office.

[Section 340BJ inserted: No. 47 of 1978 s. 36; amended: No. 19 of 2016 s. 77.]

340BK. Functions of Committee

(1) Whenever an investigator presents to the Chairperson of the Committee a report under section 336B, the Chairperson —

(a) must consider the report; and

(b) having regard to the circumstances disclosed by the report and the nature of the medical case history of the deceased, may notify the Chief Health Officer of the receipt of the report.

(2) On receiving a notification under subsection (1), the Chief Health Officer must convene a meeting of the Committee to be held within whatever period after the receipt by the Chief Health Officer of the notification the Chairperson of the Committee considers appropriate.

(3) The Committee must consider the report of the investigator, and for the purpose of assisting it in its consideration may co-opt any medical practitioners, dental practitioners, nurses, midwives or other persons with specialised knowledge the Committee thinks necessary.

(4) On its consideration of the report, the Committee must determine whether in the opinion of the Committee the death the subject of the report might have been avoided, and may add to its determination any constructive comments the Committee considers advisable for the future assistance and guidance of medical practitioners, dental practitioners, nurses and midwives.

(5) The determination of the Committee, including the comments referred to in subsection (4) —

(a) must be notified in writing by the Chairperson to —

(i) the medical practitioner or dental practitioner, or each medical practitioner or dental practitioner, (if any) who was attending the deceased at the time of the occurrence of the death; and

(ii) the nurse or midwife (if any) who was attending the deceased at that time;

and

(b) may be notified in writing by the Chairperson to any other medical practitioner, dental practitioner, nurse or midwife who attended the deceased before the occurrence of the death if the Committee considers that that medical practitioner, dental practitioner, nurse or midwife should be informed of that determination and those comments.

[Section 340BK inserted: No. 19 of 2016 s. 78.]

340BLA. Further provisions relating to proceedings of Committee

(1) As soon as practicable after the Committee has made a determination under section 340BK, the Chairperson must forward to the Chief Health Officer all records, reports, statements, memoranda and other documents submitted to and considered by the Committee in making that determination.

(2) The Chief Health Officer is to have the care and control of those records, reports, statements, memoranda and other documents, and is to keep them, or cause them to be kept, in safe custody.

(3) Except as provided by this Part and with the Chief Health Officer's permission in writing, the Chief Health Officer must not permit any of those records, reports, statements, memoranda or other documents to be inspected.

(4) The Chairperson must forward to the Chief Health Officer a summary of the cases investigated by the investigator and considered by the Committee during each year.

[Section 340BLA inserted: No. 19 of 2016 s. 78.]

340BLB. Contents of notification confidential

(1) The contents of a notification made under section 340BK(5) are not admissible in any court or before any tribunal, board or person in any action, cause or inquiry of any kind whatever.

(2) A person who exhibits, communicates or divulges in whole or in part the contents of a notification made under section 340BK(5) to any person except for the purposes of, and in accordance with, this Part commits an offence.

[Section 340BLB inserted: No. 19 of 2016 s. 78.]

340BL. When report may be published

(1) The Committee may publish, or cause to be published, in any reputable health journal, or may make available to any educational institution for use in the teaching of students or for purposes of medical or dental research, any investigator's report considered by the Committee and its determination relating thereto and any comments made by it, but all reasonable steps shall be taken to preclude disclosure or identification of the person or persons concerning whom the investigation and resultant report was made.

(2) The Committee may impart, or cause to be imparted to medical practitioners, dental practitioners, nurses, midwives and students of any educational institution such education and instruction in anaesthetic theory and practice as it may deem necessary or advisable from time to time so to do for their assistance and guidance in avoiding and preventing anaesthetic morbidity or mortality.

[Section 340BL inserted: No. 47 of 1978 s. 36; amended: No. 8 of 2009 s. 71(4); No. 19 of 2016 s. 79.]

340BM. Information for research not to be disclosed

(1) A person engaged in research relating to any matter necessitating the use of or reference to any information, record,

report, statement, memorandum or particulars referred to in section 336B(6) who in any way, directly or indirectly, discloses or divulges any information obtained by him or her therefrom, except as may be strictly essential in or for carrying out the research, commits an offence.

(2) A member of the Committee, or any person employed by or acting with the instructions or under the authority of the Committee, except an investigator appointed under section 340BJ in the course of his or her duties, who interviews or in any way communicates with any person referred to in any report of the investigator or any relative of that person commits an offence, unless the consent in writing of the medical practitioner, dental practitioner, nurse or midwife, or any of them, attending that person at the time of the occurrence of the death being investigated is first obtained.

[Section 340BM inserted: No. 47 of 1978 s. 36; amended: No. 30 of 1982 s. 17; No. 80 of 1987 s. 162; No. 19 of 2016 s. 80.]

*[**340BN.** Deleted: No. 19 of 2016 s. 81.]*

Part XIV — Regulations and local laws

[Heading amended: No. 14 of 1996 s. 4.]

341. Regulations

(1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act.

(2) The CEO or the Chief Health Officer 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 CEO or the Chief Health Officer.

[Section 341, formerly section 265, renumbered as section 341: No. 38 of 1933 s. 42; amended: No. 80 of 1987 s. 163; No. 28 of 2006 s. 251; No. 19 of 2016 s. 82.]

342. Local laws

(1) Every local government —

(a) may, if the Chief Health Officer consents; and

(b) shall, if the Chief Health Officer so directs,

make local laws in accordance with subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* for the purposes specified in this Act or generally for carrying into effect the provisions of this Act.

(2) A local government shall repeal, amend or suspend the operation of a local law if directed to do so by the Chief Health Officer.

(3) Sections 3.14 and 3.17 of the *Local Government Act 1995* do not apply in relation to local laws made under this Act.

(4) Sections 3.12(3) to (4) and 3.13 of the *Local Government Act 1995* do not apply if a local government is acting on the direction of the Chief Health Officer under subsection (1)(b) or (2).

(5) A local law made under this section is inoperative to the extent that it is inconsistent with this Act or a regulation (including a regulation made under section 343A) made under this Act.

[Section 342 inserted: No. 14 of 1996 s. 4; amended: No. 28 of 2006 s. 251; No. 19 of 2016 s. 83; No. 47 of 2024 s. 168.]

343. Model local laws

(1) The Governor may cause to be prepared and published in the *Gazette* model local laws the provisions of which a local law made under this Act may adopt by reference, with or without modification.

(2) Model local laws have no effect except to the extent that they are adopted.

(3) The Governor may, by notice published in the *Gazette*, amend a model local law published under this section.

(4) An amendment to a model local law does not affect any local law that adopted the model local law before the amendment but the amendment may be adopted by a further local law.

[Section 343 inserted: No. 14 of 1996 s. 4.]

343A. Regulations to operate as local laws

(1) The Governor may make regulations that are to operate as if they were local laws for each district to which they apply.

(2) Regulations made under this section may deal with any matter in respect of which local laws may be made under this Act.

(3) Regulations under this section, other than those that only repeal or amend other regulations, are to contain a statement to the effect that they apply as if they were local laws.

(4) A local government is to administer any regulation made under this section to the extent that it relates to any place where the local government may perform functions, as if the regulation was a local law.

(5) Unless a contrary intention appears, a reference to an offence against a local law includes a reference to an offence against a regulation made under this section.

(6) A regulation made under this section is inoperative to the extent that it is inconsistent with this Act or a regulation made under this Act (other than this section).

[Section 343A inserted: No. 14 of 1996 s. 4.]

343B. Governor may amend or repeal local laws

(1) The Governor may make a local law to amend the text of, or repeal, a local law.

(2) Subsection (1) does not include the power to amend a local law to include in it a provision that bears no reasonable relationship to the local law as in force before the amendment.

(3) The Minister is to give a local government notice in writing of any local law that the Governor makes to amend the text of, or repeal, any of the local government's local laws.

(4) A local law made under this section is to be taken, for all purposes, to be a local law made by the local government which made the local law that is amended or repealed.

[Section 343B inserted: No. 14 of 1996 s. 4.]

344. Penalties, fees etc.

(1) In all cases not otherwise provided for, any regulation or local law —

(a) may impose reasonable fees or charges for or in respect of licences granted or registrations made thereunder; and

(b) may provide that, in addition to a penalty, any expense incurred by the CEO, the Chief Health Officer or the local government in consequence of any breach or non-observance of such regulation or local 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

(c) may provide for the suspension or cancellation by the local government of any licence or registration upon breach or successive breaches by the licensee or person registered under the provisions thereof.

(2) Any regulation or local law under this Act may be so made as to require a matter affected by it to be in accordance with a specified standard or specified requirement; or as approved by, or to the satisfaction of, a specified person or body or class of person or body, and so as to delegate to or confer upon a specified person or body, or class of person or body, a discretionary authority.

[Section 344, formerly section 268, renumbered as section 344: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 35 of 1966 s. 7; No. 52 of 1968 s. 9; No. 28 of 1984 s. 33; No. 80 of 1987 s. 164; No. 14 of 1996 s. 4; No. 28 of 2006 s. 251; No. 19 of 2016 s. 84.]

344A. Incorporation by reference

(1) Any regulations or local laws made under this Act may adopt wholly or partly (or varied as specified in the regulation or local law) a code published under subsection (2) or any of the standards, rules, codes or other provisions of Standards Australia, or other Australian and international bodies of well established high repute, as in force at the time of adoption or as amended from time to time.

(2) The CEO or the Chief Health Officer may cause to be published, and amended from time to time, a code of practice in respect of any matter or thing relating to the public health of the people of Western Australia.

(3) If any standard, rule, code or other provision is adopted under subsection (1), the relevant local government (in the case of adoption by a local law) or the Chief Health Officer (in the case of adoption by any regulations) must ensure that a copy of the standard, rule, code or other provision (as amended, if applicable) is available for public inspection, without charge, during normal office hours at a place prescribed by regulation.

[Section 344A inserted: No. 28 of 1996 s. 18; amended: No. 74 of 2003 s. 64(2); No. 28 of 2006 s. 251; No. 19 of 2016 s. 85.]

344B. Evidence of contents of standard etc. adopted

In any proceedings under this Act, production of a copy of a standard, rule, code or other provision adopted under section 344A(1) purporting to be certified by the CEO or the Chief Health Officer to be a true copy as at any date or during any period is, without proof of the signature of the CEO or the Chief Health Officer, sufficient evidence of the contents of the standard, rule, code or other provision as at that date or during that period.

[Section 344B inserted: No. 28 of 1996 s. 18; amended: No. 28 of 2006 s. 251; No. 19 of 2016 s. 86.]

344C. Fees and charges may be fixed by resolution

(1) Where a local government is empowered to make a local law setting fees or charges under a provision set out in the Table to this section, it may fix that fee or charge by resolution in accordance with this section.

(2) Fees or charges fixed under this section shall be fixed by resolution of a local government and notice of the resolution shall be published at least 14 days before the day on which the resolution is to take effect —

(a) in the *Gazette*; and

(b) in a newspaper circulating generally throughout the district of the local government.

(3) Notice of a resolution under subsection (2) shall specify —

(a) the day on which the resolution is to take effect; and

(b) the amounts of the fees or charges.

(4) Notwithstanding anything else in this Act, where a local government fixes a fee or charge by resolution under this section, that fee or charge applies in respect of the district of the local government and the fee or charge prescribed by local law which otherwise would have applied does not apply in respect of that district.

(5) A resolution made by a local government under this section may revoke a resolution previously made by that local government under this section.

(6) Sections 41(2), 42, 43, 45 and 46 of the *Interpretation Act 1984* apply to a resolution made under this section as if the resolution were a regulation.

(7) A fee or charge fixed under this section may be enforced and recovered as if it were prescribed by local law made under this Act.

(8) Where a resolution made under this section is inconsistent with a regulation made under this Act —

(a) the regulation prevails to the extent of the inconsistency; and

(b) the Minister may, by order published in the *Gazette*, revoke or amend the resolution, whether or not the resolution has taken effect.

Table

Sections 133(1), 134(6), (11), (12), (29), (44), (45) and (46), 146(3), 158(3), 199(10) and 344(1)(a).

[Section 344C inserted: No. 28 of 1996 s. 18; amended: No. 36 of 2007 Sch. 4 cl. 4(7); No. 43 of 2008 s. 147(15).]

345. Regulations to be confirmed

(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) deleted]

[Section 345 formerly section 269, renumbered as section 345: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4.]

*[**346-347.** Deleted: No. 14 of 1996 s. 4.]*

348. Evidence of local laws

The *Government Gazette* containing any regulation or local law, or the resolution of the local government to adopt any model local 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.

[Section 348 formerly section 272, renumbered as section 348: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

348A. Proclamations etc. may be revoked or varied

(1) Power given by this Act to make proclamations, orders in council or declarations includes power from time to time —

(a) to revoke or cancel those proclamations, orders in council or declarations, wholly or in part, either absolutely or for the purpose of substituting other proclamations, orders in council or declarations for those revoked or cancelled; and

(b) to otherwise vary those proclamations, orders in council or declarations,

unless the terms used in conferring that power, or the nature of the subject matter or the objects of the power, indicate that it is intended to be exercised either finally in the first instance, or only subject to certain restrictions.

(2) The provisions of this section apply to proclamations, orders in council and declarations made under this Act whether made before or after the coming into operation of the *Health Act Amendment Act (No. 2) 1960*.

[Section 348A inserted: No. 38 of 1960 s. 7.]

Part XV — Miscellaneous provisions

349. Entry

(1) Authorised 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 local law, and generally for the purpose of enforcing the provisions of this Act or any regulation, order, or local law, at any time between the hours of 7.00 a.m. and 6.00 p.m. 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.

(2) Any person who wilfully and unreasonably refuses to admit any such officer to any house or premises commits an offence.

(3) For the purpose of making any entry or doing anything authorised under this section, it shall be lawful to employ all such assistance as may be deemed necessary, and (whenever deemed necessary) to use force whether by breaking open doors or otherwise, and to search all parts of any house or premises entered, using such assistance and force as may be deemed necessary for the purpose.

[Section 349, formerly section 273, amended: No. 17 of 1918 s. 50; renumbered as section 349: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 28 of 1984 s. 34; No. 80 of 1987 s. 165; No. 14 of 1996 s. 4; No. 28 of 2006 s. 251; No. 19 of 2016 s. 87.]

350. Vessels

(1) Any vessel lying within any river, harbour, or other water, not within the district of a local government, shall be deemed to be within the district of such local government, as the Governor, by

notification in the *Government Gazette*, declares, and where no such notification has been given, then of the local government whose district is nearest to the place where such vessel is lying.

(2) This section shall not apply to any vessel which is under the command or charge of any officer bearing Her Majesty's Commission, or to any vessel which belongs to the Government of any Foreign State.

[Section 350, formerly section 274, renumbered as section 350: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

351. Obstructing execution of Act

(1) Any person who obstructs, hinders, resists, or in anywise opposes the CEO, the Chief Health Officer, any authorised officer, or any officer or other person appointed, employed, or authorised under this Act or any regulation or local law in the performance of any thing which he is empowered or required to do by this Act or any regulation, order, or local law commits an offence.

(2) Any person who wilfully destroys, pulls down, injures, or defaces any exhibited regulation, local law, notice, order, or other matter commits an offence, if the same was put up by authority of the CEO, the Chief Health Officer, an authorised officer or the local government.

(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 local 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 local law; and any such occupier who does not, within 48 hours after the making of the order, comply with such a requirement commits an offence.

(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 local law.

(5) Any occupier of premises who, when requested by or on behalf of the CEO, the Chief Health Officer, an authorised officer or the local government to state the name of the owner of such premises, refuses or wilfully omits to disclose, or wilfully misstates the name of such owner, commits an offence.

[Section 351, formerly section 275, renumbered as section 351: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 28 of 1984 s. 35; No. 80 of 1987 s. 166; No. 14 of 1996 s. 4; No. 28 of 2006 s. 251; No. 19 of 2016 s. 88.]

352. Duty of police officers and authorised officers

(1) It shall be the duty of every member of the police force and authorised officer who shall produce his authority who finds any person committing a breach of any of the provisions of this Act, or of any regulation or local 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 or authorised officer who produces his authority so to do, may, without any other warrant than this Act, be apprehended by such officer 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, commits an offence.

[Section 352, formerly section 276, renumbered as section 352: No. 38 of 1933 s. 42; amended: No. 71 of 1948 s. 14; No. 113 of 1965 s. 8(1); No. 24 of 1970 s. 12; No. 80 of 1987 s. 167;

No. 59 of 1991 s. 5; No. 14 of 1996 s. 4; No. 59 of 2004 s. 141; No. 19 of 2016 s. 99.]

353. Power to take possession of and lease land or premises on which expenses are due

Where any land or premises are unoccupied and any expenses incurred by the local government in respect of such land or premises under the provisions of this Act have been unpaid for 3 years, the local government 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 Government Act 1995* enforceable by the local government 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 government accordingly.

[Section 353, formerly section 277, renumbered as section 353: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

354. Service of notice

(1) Except where otherwise provided, any notice, order, process, or other document, under the provisions of this Act or any regulation or local law, required or authorised to be given or served to or upon any person may be served —

(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 pre-paid 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 3 times, at intervals of not less than one week between any 2 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 accused 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 prosecutor 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 government or the CEO, 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.

[Section 354, formerly section 278, amended: No. 17 of 1918 s. 52; renumbered as section 354: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 36; No. 14 of 1996 s. 4; No. 84 of 2004 s. 80 and 82; No. 28 of 2006 s. 251.]

355. Continued operation of notices and orders

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.

[Section 355, formerly section 279, renumbered as section 355: No. 38 of 1933 s. 42.]

356. Proof of ownership

(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 and transfers or his substitute, or any assistant registrar of deeds and transfers, 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 the Register 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.

[Section 356, formerly section 280, amended: No. 28 of 1912 s. 9; renumbered as section 356: No. 38 of 1933 s. 42; amended: No. 81 of 1996 s. 153(1).]

357. Power to suspend or cancel licences

On the conviction of any person for any offence under this Act, the CEO, the Chief Health Officer or the local government may suspend or cancel any licence issued to or the registration of any such person under the provisions of this Act, and may refuse any subsequent application from such person for a similar licence or registration.

[Section 357, formerly section 281, amended: No. 30 of 1932 s. 44; renumbered as section 356: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 37; No. 80 of 1987 s. 168; No. 14 of 1996 s. 4; No. 28 of 2006 s. 251; No. 19 of 2016 s. 89.]

358. Prosecution of offences

(1) The local government may from time to time order proceedings to be taken for the recovery of any penalties, and for the punishment of any person committing an offence under this Act or any local law which it is the duty of the local government to enforce, and may order the expenses of such prosecution or other proceedings to be paid out of the municipal fund.

(2) An authorised officer of a local government may, by virtue of his office, and without receiving express authority from such local government, institute and carry on proceedings against any person for an alleged offence under this Act, or any local law or regulation made thereunder, and he shall be reimbursed out of the funds of the local government all costs and expenses which he may incur or be put to in or about such proceedings.

[Section 358, formerly section 282, renumbered as section 358: No. 38 of 1933 s. 42; amended: No. 24 of 1970 s. 12; No. 80 of 1987 s. 169; No. 59 of 1991 s. 5(1); No. 14 of 1996 s. 4; No. 28 of 1996 s. 21; No. 19 of 2016 s. 99.]

359. No abatement

Proceedings against several persons included in one prosecution 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.

[Section 359, formerly section 283, renumbered as section 359: No. 38 of 1933 s. 42; amended: No. 84 of 2004 s. 80.]

360. Penalties

(1) A person who is convicted of an offence under a provision of this Act specified in —

(a) Part I of Schedule 5 is liable to —

(i) a penalty which is not more than $500 and not less than —

(A) in the case of a first such offence, $50; and

(B) in the case of a second such offence, $100; and

(C) in the case of a third or subsequent such offence, $250;

and

(ii) if that offence is a continuing offence, a daily penalty which is not more than $50 and not less than $25;

(b) Part II of Schedule 5 is liable to —

(i) a penalty which is not more than $1 000 and not less than —

(A) in the case of a first such offence, $100; and

(B) in the case of a second such offence, $200; and

(C) in the case of a third or subsequent such offence, $500;

and

(ii) if that offence is a continuing offence, a daily penalty which is not more than $100 and not less than $50;

(c) Part III of Schedule 5 is liable to —

(i) a penalty which is not more than $2 000 and less than —

(A) in the case of a first offence, $200; and

(B) in the case of a second offence, $400; and

(C) in the case of a third or subsequent such offence, $1 000;

and

(ii) if that offence is a continuing offence, a daily penalty which is not more than $200 and not less than $100;

(d) Part IV of Schedule 5 is liable to —

(i) a penalty which is not more than $2 500 and not less than —

(A) in the case of a first such offence, $250; and

(B) in the case of a second such offence, $500; and

(C) in the case of a third or subsequent such offence, $1 250;

and

(ii) if that offence is a continuing offence, a daily penalty which is not more than $250 and not less than $125;

(e) Part V of Schedule 5 is liable to —

(i) a penalty which is not more than $3 000 and not less than —

(A) in the case of a first such offence, $300; and

(B) in the case of a second such offence, $600; and

(C) in the case of a third or subsequent offence, $1 500;

and

(ii) if that offence is a continuing offence, a daily penalty which is not more than $300 and not less than $150;

(f) Part VI of Schedule 5 is liable to —

(i) a penalty which is not more than $5 000 and not less than —

(A) in the case of a first such offence, $500; and

(B) in the case of a second such offence, $1 000; and

(C) in the case of a third or subsequent offence, $2 500;

and

(ii) if that offence is a continuing offence, a daily penalty which is not more than $500 and not less than $250;

or

(g) Part VII of Schedule 5 is liable to —

(i) a penalty which is not more than $10 000 or imprisonment for a period of 12 months and not less than —

(A) in the case of a first such offence, $1 000; and

(B) in the case of a second such offence, $2 000; and

(C) in the case of a third or subsequent such offence, $5 000;

and

(ii) if that offence is a continuing offence, a daily penalty which is not more than $1 000 and not less than $500;

(h) Part VIII of Schedule 5 is liable to —

(i) a penalty which is not more than $15 000; and

(ii) if that offence is a continuing offence, a daily penalty which is not more than $1 000.

(2) Local laws and regulations made under this Act may create offences with —

(a) a maximum penalty of not more than $10 000; and

(b) if the offence is a continuing offence, a daily penalty of not more than $1 000.

(3) For the purposes of subsection (2) —

(a) local laws and regulations may provide for the imposition of a minimum penalty for an offence; and

(b) the level of the penalty for an offence (whether the maximum penalty or a minimum penalty) may be related to either or both of the following —

(i) the circumstances or extent of the offence;

(ii) whether the offender has committed previous offences and, if so, the number of previous offences that the offender has committed.

[Section 360 inserted: No. 80 of 1987 s. 170; amended: No. 59 of 1991 s. 18 and 26; No. 78 of 1995 s. 147; No. 14 of 1996 s. 4; No. 57 of 1997 s. 68(2); No. 62 of 1998 s. 6; No. 50 of 2003 s. 71(2); No. 43 of 2008 s. 147(16); No. 13 of 2014 s. 157; No. 19 of 2016 s. 90.]

361. General penalty

A person who contravenes or fails to comply with this Act or any regulation, local law, notice or order under this Act is guilty of an offence and is liable, if no other penalty is prescribed to a penalty not exceeding $10 000 and if the offence is a continuing offence to a penalty not exceeding $1 000 and not less than $25 for each day that the offence continues.

[Section 361 inserted: No. 59 of 1991 s. 27; amended: No. 14 of 1996 s. 4.]

*[**361A.** Deleted: No. 35 of 1966 s. 10.]*

362. Proceedings for offence

[(1) deleted]

(2) Proceedings for an offence under this Act or any regulation or local law shall not be taken by any person other than by a party aggrieved, or by the CEO, the Chief Health Officer or the local government of the district in which the offence is committed, or an officer of the local government, or a member of the police force, without the consent in writing of the Attorney General.

[Section 362, formerly section 286, renumbered as section 362: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 38; No. 80 of 1987 s. 171; No. 14 of 1996 s. 4; No. 59 of 2004 s. 141; No. 28 of 2006 s. 251; No. 19 of 2016 s. 91.]

*[**363.** Deleted: No. 59 of 2004 s. 141.]*

*[**364.** Deleted: No. 35 of 1935 s. 48A (as amended: No. 73 of 1954 s. 8).]*

365. Protection against personal liability

(1) No matter or thing done, and no contract entered into, by or on behalf of the CEO, the Chief Health Officer or the local government, and no matter or thing done by any officer or other person acting under the direction of the CEO, the Chief Health Officer or of the local government, 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 CEO, the Chief Health Officer or local government 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.

[Section 365, formerly section 289, renumbered as section 365: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 39; No. 14 of 1996 s. 4; No. 28 of 2006 s. 251; No. 19 of 2016 s. 92.]

366. No officer to be concerned in contract

(1) No CEO or Chief Health Officer, and no member of the council of a local government or person employed by a local government, 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 government respectively.

But this subsection shall not apply to any such bargain or contract entered into by a member of the council of a local government as he or she, while being such member, could lawfully enter into.

(2) If the CEO, the Chief Health Officer or any member or person is concerned or interested in the circumstances referred to in subsection (1), or if the CEO, the Chief Health Officer or any member or person, under colour of his or her office or employment, exacts, takes, or accepts any fee or reward whatsoever, other than his or her proper salary, wages, remuneration, and allowances, he or she shall be incapable of afterwards holding or continuing in any office or employment under this Act, and commits an offence.

[Section 366, formerly section 290, renumbered as section 366: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 28 of 1984 s. 40; No. 80 of 1987 s. 173; No. 14 of 1996 s. 4; No. 28 of 2006 s. 251; No. 19 of 2016 s. 93.]

367. Recovery of expenses from local government

(1) All expenses incurred by the Chief Health Officer on behalf of a local government, or for which a local government is liable under this Act, shall be recoverable as a debt due to the Crown.

(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 government in respect of subsidy or otherwise.

[Section 367, formerly section 291, renumbered as section 367: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 45; No. 14 of 1996 s. 4; No. 19 of 2016 s. 100.]

368. Contribution

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.

[Section 368, formerly section 292, renumbered as section 368: No. 38 of 1933 s. 42.]

369. Liability of owner and occupier under requisition or order

(1) In every case where, under this Act, the owner and occupier of any house, building, land, or other premises —

(a) are jointly and severally liable to do any cleansing, disinfecting, or other sanitary work of any description; or

(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 CEO, the Chief Health Officer or a local government 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.

(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.

[Section 369, formerly section 293, renumbered as section 369: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 41; No. 14 of 1996 s. 4; No. 28 of 2006 s. 251; No. 19 of 2016 s. 100.]

370. Penalty if owner or occupier hinders the other

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 commits an offence.

[Section 370, formerly section 294, renumbered as section 370: No. 38 of 1933 s. 42; amended: No. 113 of 1965 s. 8(1); No. 80 of 1987 s. 174.]

371. Money owing to local government to be charge against land in certain cases

In every case where a local government carries out work on any land or premises, whether such work be done by agreement with the owner, or on account of default on the part of the owner of such land or premises, the amount due to the local government in respect of such work may be recovered from the owner in any court of competent jurisdiction, and until paid shall be and remain a charge upon the said land.

[Section 371, inserted as section 322A: No. 30 of 1932 s. 45; renumbered as section 371: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

372. Provisions as to charge on land or premises

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 by the Magistrates Court, constituted by a magistrate, whose decision shall be final.

(2) Subject to the court's decision a certificate under the hand of the CEO, or of the chief executive officer of the local government, 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 court's decision may be registered against the land affected thereby.

(4) The charge shall be registered, enforced and be discharged in such manner as is prescribed by regulations under this Act.

(5) Such charge shall rank, if the expenses are due to the Crown, *pari passu* with land tax, and in other cases it shall rank *pari passu* with rates due to the local government.

Provided that such regulations shall not authorise any land to be sold, except pursuant to an order of the Magistrates Court which shall not be made unless 3 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 records of the Western Australian Land Information Authority established by the *Land Information Authority Act 2006* section 5, appears to be entitled to any estate or interest or mortgage or other security in or over the land.

[Section 372, formerly section 295, amended: No. 17 of 1918 s. 52; No. 30 of 1932 s. 46; renumbered as section 372: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 42; No. 14 of 1996

s. 4; No. 81 of 1996 s. 153(2); No. 57 of 1997 s. 68(3); No. 59 of 2004 s. 141; No. 28 of 2006 s. 251; No. 60 of 2006 s. 135(2).]

373. References to owner and occupier

Whenever in any proceeding under the provisions of this Act, or any local 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.

[Section 373, formerly section 296, renumbered as section 373: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

374. Appearance of local governments in legal proceedings

Any local government 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 government, and the secretary or any officer or member so authorised shall be at liberty in the name of the local government to institute and carry on any proceeding which such local government is authorised to institute and carry on under this Act.

[Section 374, formerly section 297, renumbered as section 374: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4.]

375. Power to inspect register of births and deaths

Any authorised officer at all reasonable times —

(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

(b) may search in the records of the Western Australian Land Information Authority established by the *Land Information Authority Act 2006* section 5, of the department principally assisting in the administration of

the *Land Administration Act 1997*, or of the department principally assisting in the administration of the *Mining Act 1978*, and may inspect all plans, grants, transfers, certificates of title, and memorials free of charge.

[Section 375, formerly section 298, renumbered as section 375: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4; No. 81 of 1996 s. 153(2); No. 60 of 2006 s. 135(3); No. 19 of 2016 s. 99.]

376. Authentication of documents

Every document required to be signed, made, or authenticated by the CEO, the Chief Health Officer or by any local government shall (unless otherwise provided) be sufficiently authenticated if appearing to be signed by an officer of the Department authorised for that purpose by the CEO or the Chief Health Officer, or by any member or officer of the local government.

[Section 376, formerly section 299, amended: No. 17 of 1918 s. 52; renumbered as section 376: No. 38 of 1933 s. 42; amended: No. 28 of 1984 s. 43; No. 14 of 1996 s. 4; No. 28 of 2006 s. 251; No. 19 of 2016 s. 94.]

377. Evidence

In any prosecution or other legal proceeding under this Act or any regulation or local law —

(1) the signature of the CEO, the Chief Health Officer, an officer of the Department authorised for that purpose by the CEO and of the chief executive officer of the local government shall be judicially noticed;

(2) the production of a copy of the *Government Gazette* containing any regulation or local law, or any order purporting to be made by the Governor, the Minister, CEO, the Chief Health Officer or a local government, under the provisions of this Act, or the production of a document purporting to be a copy of any such

regulation, local law, or order, and purporting to be printed by the Government Printer or by the authority of the Government, shall be for all purposes conclusive evidence of such regulation, local 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;

(3a) the production of a certificate purporting to be signed by a medical practitioner and to certify for the purposes of Part XI that the person named therein is suffering from a venereal disease in an infectious stage, or has ceased treatment for a venereal disease, or has not attended for treatment as required by this Act shall be sufficient prima facie evidence of the facts stated therein;

(4) no proof shall be required of the particular or general appointment or qualification of any authorised officer or any officer of a local government;

[(5) deleted]

(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 government, nor the appointment of the members thereof;

(9) it shall not be necessary to prove the presence of a quorum of the local government making any order at the making thereof until evidence is given to the contrary;

[(10) deleted]

(11) the averment in a prosecution notice that an accused is the parent or guardian of a child in any proceedings under sections 337 and 338 shall be deemed sufficient proof until the contrary is proved.

[Section 377, formerly section 300, amended: No. 28 of 1912 s. 10; No. 17 of 1918 s. 51 and 52; No. 30 of 1932 s. 47; renumbered as section 377: No. 38 of 1933 s. 42; amended: No. 21 of 1944 s. 14; No. 28 of 1984 s. 44; No. 80 of 1987 s. 175; No. 14 of 1996 s. 4; No. 57 of 1997 s. 68(3); No. 59 of 2004 s. 141; No. 84 of 2004 s. 80 and 82; No. 28 of 2006 s. 251; No. 43 of 2008 s. 147(17); No. 13 of 2014 s. 158; No. 19 of 2016 s. 95.]

378. Regulations and local laws to be judicially noticed

All courts shall take judicial notice of all local laws and regulations under this Act.

[Section 378 inserted as section 301: No. 55 of 1915 s. 4; renumbered as section 378: No. 38 of 1933 s. 42; amended: No. 14 of 1996 s. 4; No. 59 of 2004 s. 141.]

379. Transitional provisions for *Public Health (Consequential Provisions) Act 2016*

Schedule 6 sets out transitional provisions.

[Section 379 inserted: No. 19 of 2016 s. 96.]

[Schedule 1 deleted: No. 19 of 2016 s. 272.]

Schedule 2

[Section 186]

[Heading amended: No. 26 of 1985 s. 10.]

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 —

[Schedule 2 amended: No. 25 of 1952 s. 10; No. 26 of 1985 s. 10; and Gazette 20 Sep 1918 p. 1453; 26 Nov 1993 p. 6321; 17 Nov 2000 p. 6289; SL 2024/53 cl. 4.]

[Schedule 3 deleted: No. 43 of 2008 s. 147(14).]

[Schedule 4 deleted: No. 19 of 2016 s. 274.]

Schedule 5

[Section 360(1)]

Penalties

[Heading inserted: No. 80 of 1987 s. 176.]

Part I

Sections 77, 78(1a), 86(2), 92(1), 101(3), 102, 114(1), 116(d), 120(2), 126(1a), 151, 153(2), 157(4), 181(2), 184(3), 189, 203(2), 263(4), 285(1), 306(1) and (2), 311, 349(2), 351(2) and (5) and 352(3).

[Part I inserted: No. 80 of 1987 s. 176; amended: No. 23 of 2006 s. 13(1); No. 36 of 2007 Sch. 4 cl. 4(8); No. 43 of 2008 s. 147(18); No. 13 of 2014 s. 159(a).]

Part II

Sections 79(1), 91(2), 93, 94(1), 107(2) and (4), 107A, 132(2), 136, 140(1), 141(2), 144, 147, 154, 196(2), 260(3), 262(4), 266, 268, 269, 273(4) and (6), 277(5), 280(4), 294(7)(a), 307(8), 332(2), 335(3), 337(6), 338(1), 351(1) and (3) and 370.

[Part II inserted: No. 80 of 1987 s. 176; amended: No. 59 of 1991 s. 28(a); No. 28 of 1996 s. 19; No. 28 of 2003 s. 77(3); No. 23 of 2006 s. 13(2); No. 43 of 2008 s. 147(19); No. 13 of 2014 s. 159(b).]

Part III

Sections 276(5), 276A(5) and 300(5).

[Part III inserted: No. 80 of 1987 s. 176; amended: No. 57 of 1997 s. 68(4); No. 23 of 2006 s. 13(3); No. 43 of 2008 s. 147(20).]

Part IV

Sections 98, 99(4), 108(4), 109, 188, 267(1), 278(1), 279, 282(2), 310(1), 313(1), 332(1), 336(5a), 336A(5a), 336B(7a), 340LB(2), 340M(1) and

(2), 340ALB(2), 340AM(1) and (2), 340BLB(2), 340BM(1) and (2) and 366(2).

[Part IV inserted: No. 80 of 1987 s. 176; amended: No. 59 of 1991 s. 19 and 28(b); No. 74 of 2003 s. 64(3); No. 23 of 2006 s. 13(4); No. 43 of 2008 s. 147(21); No. 13 of 2014 s. 159(c); No. 19 of 2016 s. 97.]

Part V

Sections 82(3), 121(2), 133(2), 171(2), 246FO, 246FR(1), (2) and (3), 246FS(1), 246FT(4) and (5), 246FY(2), 246FZB, 246FZC(4), 255 and 264(1).

[Part V inserted: No. 80 of 1987 s. 176; amended: No. 43 of 2008 s. 147(22).]

Part VI

Sections 182, 193(2), 195, 246FD(1), 246FE(1), 246FF(1), 246FG(1), 297(1), 314(1) and 340AL(1c).

[Part VI inserted: No. 80 of 1987 s. 176; amended: No. 59 of 1991 s. 28(c); No. 43 of 2008 s. 147(23); No. 13 of 2014 s. 159(d).]

Part VII

Sections 129, 131(2) and 312.

[Part VII inserted: No. 80 of 1987 s. 176; amended: No. 43 of 2008 s. 147(24); No. 13 of 2014 s. 159(e).]

Part VIII

Sections 178(4) and 179(5).

[Part VIII inserted: No. 50 of 1996 s. 6.]

Schedule 6 — Transitional provisions for *Public Health (Consequential Provisions) Act 2016*

[s. 379]

[Heading inserted: No. 19 of 2016 s. 98.]

1. References to *Health Act 1911* may be taken to be references to *Health (Miscellaneous Provisions) Act 1911*

(1) A reference in a document (other than a written law) to the *Health Act 1911* may be taken to be a reference to the *Health (Miscellaneous Provisions) Act 1911* if it would be appropriate in the context to do so.

(2) This clause does not prejudice or affect the application of the *Interpretation Act 1984* section 16(1).

[Clause 1 inserted: No. 19 of 2016 s. 98.]

2. Continuing effect of things done by Executive Director, Public Health and Executive Director, Personal Health

A thing done or omitted to be done by, to or in relation to the Executive Director, Public Health or the Executive Director, Personal Health before the day on which the *Public Health (Consequential Provisions) Act 2016* section 96 comes into operation (the ***commencement day***), whether under this Act or any other written law, has the same effect on and from the commencement day, to the extent that it has any force or significance on or after the commencement day, as if it had been done or omitted by, to or in relation to the Chief Health Officer.

[Clause 2 inserted: No. 19 of 2016 s. 98.]

3. References to former titles

(1) A reference in a written law or document to the Executive Director, Public Health or the Executive Director, Personal Health may, if the context permits, be taken to be a reference to the Chief Health Officer.

(2) A reference in a written law or document to an environmental health officer, medical officer or public health official may, if the context permits, be taken to be a reference to an authorised officer.

[Clause 3 inserted: No. 19 of 2016 s. 98.]

4. Transitional provisions for Local Health Authorities Analytical Committee

Despite sections 247A(3) and 247BA(1), the members of the Local Health Authorities Analytical Committee who held office immediately before the day on which the *Public Health (Consequential Provisions) Act 2016* section 32 comes into operation (the ***commencement day***) continue in office, under and subject to Part VIIIA, as members of that Committee —

(a) in the case of the members appointed under section 247A(3)(a) (as that subsection was in force immediately before the commencement day) —

(i) as if they had been appointed by the Minister on the nomination of WALGA; and

(ii) each with a term of office of 3 years beginning on the commencement day;

and

(b) in the case of the members appointed under section 247A(3)(b) or (c) (as that subsection was in force immediately before the commencement day) —

(i) as if they had been appointed by the Minister on the nomination of WALGA; and

(ii) each with a term of office beginning on the commencement day that is the balance of the member's term of office remaining immediately before the commencement day.

[Clause 4 inserted: No. 19 of 2016 s. 98.]

5. Transitional provisions for Maternal Mortality Committee, Perinatal and Infant Mortality Committee and Anaesthetic Mortality Committee

(1) The persons who held office under Part XIIIA as permanent or provisional members of the Maternal Mortality Committee, or as deputies of members of that Committee, immediately before the coming into operation of the *Public Health (Consequential Provisions) Act 2016* section 42 —

(a) continue in office, under and subject to Part XIIIA, as members or, as the case requires, deputies of members of that Committee until the expiry of their respective terms (if any); and

(b) in the case of those persons who held office as permanent or provisional members, continue in office without distinction as to whether they were appointed as permanent or provisional members.

(2) The persons who held office under Part XIIIB as permanent or provisional members of the Perinatal and Infant Mortality Committee, or as deputies of members of that Committee, immediately before the coming into operation of the *Public Health (Consequential Provisions) Act 2016* section 55 —

(a) continue in office, under and subject to Part XIIIB, as members or, as the case requires, deputies of members of that Committee until the expiry of their respective terms (if any); and

(b) in the case of those persons who held office as permanent or provisional members, continue in office without distinction as to whether they were appointed as permanent or provisional members.

(2A) The persons who held office under section 340AB(3)(d) as members of the Perinatal and Infant Mortality Committee, or as deputies of those members, immediately before the coming into operation of the *Public Health (Consequential Provisions) Act 2016* section 248 continue in office, under and subject to Part XIIIB, as members or, as the case requires, deputies of members of the Committee until the expiry of their respective terms as if they had been appointed by the Minister on the nomination of the chief executive of the health service

provider for Perth Children's Hospital under the *Health Services Act 2016*.

(3) The persons who held office under Part XIIIC as permanent or provisional members of the Anaesthetic Mortality Committee, or as deputies of members of that Committee, immediately before the coming into operation of the *Public Health (Consequential Provisions) Act 2016* section 69 —

(a) continue in office, under and subject to Part XIIIC, as members or, as the case requires, deputies of members of that Committee until the expiry of their respective terms (if any); and

(b) in the case of those persons who held office as permanent or provisional members, continue in office without distinction as to whether they were appointed as permanent or provisional members.

[Clause 5 inserted: No. 19 of 2016 s. 98; amended: No. 19 of 2016 s. 276.]

Notes

This is a compilation of the *Health (Miscellaneous Provisions) Act 1911* and includes amendments made by other written laws [6, 7]. For provisions that have come into operation, and for information about any reprints, see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
Health Act 1911 [8]	34 of 1911 (1 Geo. V No. 45)	16 Feb 1911	1 Jun 1911 (see s. 1 and *Gazette* 3 Mar 1911 p. 961)
Health Act Amendment Act 1911	3 of 1912 (2 Geo. V No. 11)	9 Jan 1912	9 Jan 1912
Health Act Amendment Act 1912	28 of 1912 (3 Geo. V No. 9)	27 Sep 1912	27 Sep 1912
Health Act Amendment Act 1915	55 of 1915 (6 Geo. V No. 22)	8 Dec 1915	8 Dec 1915
Health Act Amendment Act 1918	17 of 1918 (9 Geo. V No. 7)	13 Jun 1918	13 Jun 1918
Health Act Amendment Act 1919	15 of 1919 (10 Geo. V No. 3)	30 Sep 1919	30 Sep 1919
Reprint of the *Health Act 1911* in Appendix to Session Volume 1919 (includes amendments listed above)			
Health Act Continuation Act 1920	12 of 1920 (11 Geo. V No. 12)	29 Nov 1920	29 Nov 1920
Health Act Amendment Act 1921	5 of 1922 (12 Geo. V No. 39)	31 Jan 1922	31 Jan 1922
Health Act Amendment Act 1926	50 of 1926 (17 Geo. V No. 50)	24 Dec 1926	24 Dec 1926
Reprint of the *Health Act 1911* in Appendix to Session Volume 1931 (includes amendments listed above)			

Short title	Number and year	Assent	Commencement
Health Act Amendment Act 1932	30 of 1932 (23 Geo. V No. 30)	30 Dec 1932	30 Dec 1932
Health Act Amendment Act 1933	5 of 1933 (24 Geo. V No. 5)	2 Oct 1933	2 Oct 1933
Health Act Amendment Act 1933 (No. 2)	38 of 1933 (24 Geo. V No. 38) (as amended by No. 16 of 1935)	4 Jan 1934	4 Jan 1934
Health Act Amendment Act 1937	32 of 1937 (1 and 2 Geo. VI No. 32)	18 Jan 1938	18 Jan 1938
Reprint of the *Health Act 1911* in Volume 1 of Reprinted Acts (includes amendments listed above)			
Health Act Amendment Act 1942	34 of 1942 (6 and 7 Geo. VI No. 34)	23 Dec 1942	23 Dec 1942
Nurses Registration Act Amendment Act 1944 s. 12	14 of 1944 (8 Geo. VI No. 14)	8 Dec 1944	8 Dec 1944
Health Act Amendment Act 1944	21 of 1944 (8 and 9 Geo. VI No. 21)	23 Dec 1944	23 Dec 1944
Reprint of the *Health Act 1911* not in a Volume (includes amendments listed above)			
Health Act Amendment Act 1948	22 of 1948 (12 Geo. VI No. 22)	18 Nov 1948	18 Nov 1948
Health Act Amendment Act (No. 2) 1948	70 of 1948 (12 and 13 Geo. VI No. 70)	21 Jan 1949	21 Jan 1949

Short title	Number and year	Assent	Commencement
Health Act Amendment Act (No. 3) 1948	71 of 1948 (12 and 13 Geo. VI No. 71)	21 Jan 1949	21 Jan 1949
Reprint of the *Health Act 1911* approved 17 Mar 1949 in Volume 3 of Reprinted Acts (includes amendments listed above)			
Health Act Amendment Act 1950	25 of 1950 (14 Geo. VI No. 25)	5 Dec 1950	5 Dec 1950
Health Act Amendment Act 1952	11 of 1952 (1 Eliz. II No. 11)	4 Nov 1952	4 Nov 1952
Health Act Amendment Act (No. 2) 1952	25 of 1952 (1 Eliz. II No. 25)	28 Nov 1952	28 Nov 1952
Health Act Amendment Act (No. 2) 1954	34 of 1954 (3 Eliz. II No. 34)	18 Nov 1954	12 Apr 1957 (see s. 2 and *Gazette* 12 Apr 1957 p. 1081)
Health Act Amendment Act 1954	45 of 1954 (3 Eliz. II No. 45)	8 Dec 1954	8 Dec 1954
Limitation Act 1935 s. 48A(1)	35 of 1935 (26 Geo. V No. 35) (as amended by No. 73 of 1954 s. 8)	14 Jan 1955	Relevant amendments (see s. 48A and Second Sch. [9]) took effect on 1 Mar 1955 (see s. 2 and *Gazette* 18 Feb 1955 p. 343)
Health Act Amendment Act 1955	29 of 1955 (4 Eliz. II No. 29)	15 Nov 1955	15 Nov 1955
Health Act Amendment Act 1956	17 of 1956 (5 Eliz. II No. 17)	26 Oct 1956	26 Oct 1956
Reprint of the *Health Act 1911* approved 5 Jun 1957 in Volume 11 of Reprinted Acts (includes amendments listed above)			
Health Act Amendment Act 1957	21 of 1957 (6 Eliz. II No. 21)	9 Oct 1957	1 Dec 1957 (see s. 2 and *Gazette* 29 Nov 1957 p. 3445)

Short title	Number and year	Assent	Commencement
Health Act Amendment Act 1959	22 of 1959 (8 Eliz. II No. 22)	8 Oct 1959	8 Oct 1959
Health Act Amendment Act 1960	23 of 1960 (9 Eliz. II No. 23)	11 Oct 1960	11 Oct 1960
Health Act Amendment Act (No. 2) 1960	38 of 1960 (9 Eliz. II No. 38)	3 Nov 1960	3 Nov 1960
Health Act Amendment Act 1962	33 of 1962 (11 Eliz. II No. 33)	29 Oct 1962	29 Oct 1962
Health Act Amendment Act (No. 3) 1962	49 of 1962 (11 Eliz. II No. 49)	20 Nov 1962	20 Nov 1962
Health Act Amendment Act 1964	18 of 1964 (13 Eliz. II No. 18)	8 Oct 1964	8 Oct 1964
Health Act Amendment Act 1965	8 of 1965	15 Sep 1965	15 Sep 1965
Decimal Currency Act 1965	113 of 1965	21 Dec 1965	Act other than s. 4-9: 21 Dec 1965 (see s. 2(1)); s. 4-9: 14 Feb 1966 (see s. 2(2))
Reprint of the *Health Act 1911* approved 1 Jun 1966 in Volume 19 of Reprinted Acts (includes amendments listed above)			
Health Act Amendment Act 1966	35 of 1966	31 Oct 1966	16 Dec 1966 (see s. 2 and *Gazette* 16 Dec 1966 p. 3315)
Health Act Amendment Act 1968	52 of 1968	12 Nov 1968	12 Nov 1968
Health Act Amendment Act 1970	24 of 1970	20 May 1970	1 Oct 1970 (see s. 2 and *Gazette* 25 Sep 1970 p. 3015)
Age of Majority Act 1972 s. 6(2)	46 of 1972	18 Sep 1972	1 Nov 1972 (see s. 2 and *Gazette* 13 Oct 1972 p. 4069)

Short title	Number and year	Assent	Commencement
Metric Conversion Act 1972	94 of 1972 (as amended by No. 19, 83 of 1973 and 42 of 1975)	4 Dec 1972	Relevant amendments (see Third Sch. [10]) took effect on 8 Feb 1974 (see s. 4(2) and *Gazette* 8 Feb 1974 p. 325); Relevant amendments (see Fourth Sch. [10]) took effect on 19 Dec 1975 (see s. 4(2) and *Gazette* 19 Dec 1975 p. 4577)
Health Act Amendment Act 1973	102 of 1973	28 Dec 1973	22 Mar 1974 (see s. 2 and *Gazette* 22 Mar 1974 p. 902)
Reprint of the *Health Act 1911* approved 14 Apr 1975 (includes amendments listed above except those listed in the *Metric Conversion Act 1972* Fourth Sch.)			
Health Act Amendment Act 1975	2 of 1975	9 May 1975	Act other than s. 7: 9 May 1975 (see s. 2(1)); s. 7: 6 Feb 1976 (see s. 2(2) and *Gazette* 6 Feb 1976 p. 273)
Health Act Amendment Act 1976	101 of 1976	17 Nov 1976	18 Feb 1977 (see s. 2 and *Gazette* 18 Feb 1977 p. 467)
Health Act Amendment Act 1978	47 of 1978	29 Aug 1978	Act other than s. 3(a) and 30: 16 Mar 1979 (see s. 2 and *Gazette* 16 Mar 1979 p. 676); s. 3(a) and 30: 21 Dec 1979 (see s. 2 and *Gazette* 21 Dec 1979 p. 3906)
Acts Amendment and Repeal (Valuation of Land) Act 1978 Pt. VII	76 of 1978	20 Oct 1978	1 Jul 1979 (see s. 2 and *Gazette* 11 May 1979 p. 1211)
Health Act Amendment Act 1979	72 of 1979	27 Nov 1979	27 Nov 1979
Reprint of the *Health Act 1911* approved 14 May 1981 (includes amendments listed above)			
Acts Amendment (Statutory Designations) and Validation Act 1981 s. 4 [11]	63 of 1981	13 Oct 1981	13 Oct 1981
Health Amendment Act 1982	30 of 1982	27 May 1982	30 Jul 1982 (see s. 2 and *Gazette* 30 Jul 1982 p. 2931)
Human Tissue and Transplant Act 1982 s. 36(2)	116 of 1982	8 Dec 1982	1 Mar 1983 (see s. 2)

Short title	Number and year	Assent	Commencement
Health Legislation Amendment Act 1984 Pt. VIII [12]	28 of 1984	31 May 1984	1 Jul 1984 (see s. 2 and *Gazette* 15 Jun 1984 p. 1629)
Health Amendment Act 1985 [13]	26 of 1985	6 May 1985	6 Nov 1985 (see s. 2)
Acts Amendment and Repeal (Statutory Bodies) Act 1985 Pt. II	57 of 1985	28 Oct 1985	25 Nov 1985
Acts Amendment (Hospitals) Act 1985 Pt. II	53 of 1985	5 Nov 1985	23 Jan 1987 (see s. 2 and *Gazette* 23 Jan 1987 p. 179)
Acts Amendment (Financial Administration and Audit) Act 1985 s. 3 [14]	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and *Gazette* 30 Jun 1986 p. 2255)
Commercial Arbitration Act 1985 s. 3(1) [15]	109 of 1985	7 Jan 1986	1 Apr 1986 (see s. 2 and *Gazette* 28 Feb 1986 p. 605)
Health Amendment Act 1986	93 of 1986	10 Dec 1986	10 Dec 1986 (see s. 2)
Health Amendment Act 1987 [16]	80 of 1987 (as amended by No. 8 of 2009 s. 72)	28 Nov 1987	s. 1 and 2: 28 Nov 1987; Act other than s. 1, 2, 4(d), 83 and 90: 1 Jan 1988 (see s. 2 and *Gazette* 31 Dec 1987 p. 4567)
Guardianship and Administration Act 1990 s. 123	24 of 1990	7 Sep 1990	20 Oct 1992 (see s. 2 and *Gazette* 2 Oct 1992 p. 4811)
Reprint of the *Health Act 1911* as at 18 Dec 1990 (includes amendments listed above except those in the *Guardianship and Administration Act 1990*)			
Tobacco Control Act 1990 s. 38(1) [17]	104 of 1990	2 Jan 1991	8 Feb 1991 (see s. 2(1) and *Gazette* 8 Feb 1991 p. 575)
Health Amendment Act 1991 [18, 19]	59 of 1991	23 Dec 1991	s. 1 and 2: 23 Dec 1991; s. 3-5, 20-24, 28(a): 24 Jan 1992 (see s. 2 and *Gazette* 24 Jan 1992 p. 349); s. 14, 15, 26, 27 and 28(b), (c) and (d): 1 Apr 1992 (see s. 2 and *Gazette* 1 Apr 1992 p. 1427); s. 25: 1 Jul 1992 (see s. 2 and *Gazette* 26 Jun 1992 p. 2644);

Short title	Number and year	Assent	Commencement
			Pt. 3: 4 Sep 1992 (see s. 2 and *Gazette* 4 Sep 1992 p. 4453); Pt. 5: 23 Dec 1992 (see s. 2 and *Gazette* 23 Dec 1992 p. 6209)
Nurses Act 1992 s. 84	27 of 1992	23 Jun 1992	29 Oct 1993 (see s. 2 and *Gazette* 29 Oct 1993 p. 5881)
Financial Administration Legislation Amendment Act 1993 s. 11	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
Untitled proclamation published by *Gazette* p. 6321		26 Nov 1993	26 Nov 1993
Local Government Amendment Act 1994 s. 42	27 of 1994	23 Jun 1994	1 Jul 1994 (see s. 2)
Acts Amendment (Public Sector Management) Act 1994 s. 3(2)	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and *Gazette* 30 Sep 1994 p. 4948)
Statutes (Repeals and Minor Amendments) Act 1994 s. 4	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
Pawnbrokers and Second-hand Dealers Act 1994 s. 100	88 of 1994	5 Jan 1995	1 Apr 1996 (see s. 2 and *Gazette* 29 Mar 1996 p. 1495)
Hospitals Amendment Act 1994 s. 18	103 of 1994	11 Jan 1995	17 Dec 1997 (see s. 2 and *Gazette* 16 Dec 1997 p. 7313)
Agricultural and Veterinary Chemicals (Western Australia) Act 1995 Pt. 11 Div. 2	3 of 1995	17 May 1995	24 Jun 1995 (see s. 2 and *Gazette* 23 Jun 1995 p. 2419)
Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995 s. 188	73 of 1995	27 Dec 1995	1 Jan 1996 (see s. 2(2) and *Gazette* 29 Dec 1995 p. 6291)
Sentencing (Consequential Provisions) Act 1995 s. 147	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and *Gazette* 25 Oct 1996 p. 5632)

Short title	Number and year	Assent	Commencement
Coroners Act 1996 s. 61	2 of 1996	24 May 1996	7 Apr 1997 (see s. 2 and *Gazette* 18 Mar 1997 p. 1529)
Local Government (Consequential Amendments) Act 1996 s. 4 [20]	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
Health Amendment Act 1996	28 of 1996	22 Jul 1996	s. 1 and 2: 22 Jul 1996; Act other than s. 1, 2, 7 and 13: 22 Jul 1996 (see s. 2(1)); s. 7 and 13: 23 Jul 1997 (see s. 2(2) and (3))
Financial Legislation Amendment Act 1996 s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
Acts Amendment (Assemblies and Noise) Act 1996 Pt. 2	50 of 1996	31 Oct 1996	4 Dec 1996 (see s. 2 and *Gazette* 3 Dec 1996 p. 6695)
Dental Amendment Act 1996 s. 18	64 of 1996	11 Nov 1996	1 Jan 1997 (see s. 2 and *Gazette* 31 Dec 1996 p. 7427)
Transfer of Land Amendment Act 1996 s. 153(1) and (2)	81 of 1996	14 Nov 1996	14 Nov 1996 (see s. 2(1))
Reprint of the *Health Act 1911* as at 11 Mar 1997 (includes amendments listed above except those in the *Hospitals Amendment Act 1994*, *Coroners Act 1996* and the *Health Amendment Act 1996* s. 7 and 13) (correction by *Gazette* 2 Dec 1997 p. 7058)			
Acts Amendment (Land Administration) Act 1997 Pt. 30 and s. 142	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and *Gazette* 27 Mar 1998 p. 1765)
Statutes (Repeals and Minor Amendments) Act 1997 s. 68	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
Statutes (Repeals and Minor Amendments) Act (No. 2) 1998 s. 39 [21, 22]	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
Acts Amendment (Abortion) Act 1998 s. 7 [23]	15 of 1998	26 May 1998	26 May 1998 (see s. 2)
Acts Repeal and Amendment (Births, Deaths and Marriages	40 of 1998	30 Oct 1998	14 Apr 1999 (see s. 2 and *Gazette* 9 Apr 1999 p. 1433)

Short title	Number and year	Assent	Commencement
Registration) Act 1998 s. 14			
Health Amendment Act 1998	62 of 1998	12 Jan 1999	12 Jan 1999 (see s. 2)
School Education Act 1999 s. 247	36 of 1999	2 Nov 1999	1 Jan 2001 (see s. 2 and *Gazette* 29 Dec 2000 p. 7904)
Water Services Coordination Amendment Act 1999 s. 11(5)	39 of 1999	9 Nov 1999	19 Jun 2000 (see s. 2 and *Gazette* 16 Jun 2000 p. 2939)
Reprint of the *Health Act 1911* as at 31 Mar 2000 (includes amendments listed above except those in the *School Education Act 1999* and the *Water Services Coordination Amendment Act 1999*)			
Statutes (Repeals and Minor Amendments) Act 2000 s. 16	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)
Untitled proclamation published by *Gazette* p. 6289		17 Nov 2000	17 Nov 2000
Corporations (Consequential Amendments) Act 2001 Pt. 30	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and *Gazette* 29 Jun 2001 p. 3257 and Cwlth *Gazette* 13 Jul 2001 No. S285)
Acts Amendment (Equality of Status) Act 2003 Pt. 26	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and *Gazette* 30 Jun 2003 p. 2579)
Sentencing Legislation Amendment and Repeal Act 2003 s. 71	50 of 2003	9 Jul 2003	15 May 2004 (see s. 2 and *Gazette* 14 May 2004 p. 1445)
Statutes (Repeals and Minor Amendments) Act 2003 s. 64	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
Children and Community Services Act 2004 Sch. 2 cl. 12	34 of 2004	20 Oct 2004	1 Mar 2006 (see s. 2 and *Gazette* 14 Feb 2006 p. 695)
Courts Legislation Amendment and Repeal Act 2004 s. 141 [24]	59 of 2004 (as amended by No. 2 of 2008 s. 77(13))	23 Nov 2004	1 May 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7128)

Short title	Number and year	Assent	Commencement
State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 58 [25]	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7130)
Health Legislation Amendment Act 2004 Pt. 2	61 of 2004	24 Nov 2004	24 Nov 2004 (see s. 2)
Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 78, 80 and 82	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7129 (correction by *Gazette* 7 Jan 2005 p. 53))
Reprint 13: The *Health Act 1911* as at 15 Jul 2005 (includes amendments listed above except those in the *Children and Community Services Act 2004*)			
Tobacco Products Control Act 2006 s. 126	5 of 2006	12 Apr 2006	31 Jul 2006 (see s. 2 and *Gazette* 25 Jul 2006 p. 2701)
Health Amendment Act 2006	23 of 2006	9 Jun 2006	7 Jul 2006 (see s. 2)
Machinery of Government (Miscellaneous Amendments) Act 2006 Pt. 9 Div. 2 [26]	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and *Gazette* 27 Jun 2006 p. 2347)
Nurses and Midwives Act 2006 Sch. 3 cl. 9	50 of 2006	6 Oct 2006	19 Sep 2007 (see s. 2 and *Gazette* 18 Sep 2007 p. 4711)
Land Information Authority Act 2006 s. 135	60 of 2006	16 Nov 2006	1 Jan 2007 (see s. 2(1) and *Gazette* 8 Dec 2006 p. 5369)
Financial Legislation Amendment and Repeal Act 2006 Sch. 1 cl. 80	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and *Gazette* 19 Jan 2007 p. 137)
Chemistry Centre (WA) Act 2007 s. 43	10 of 2007	29 Jun 2007	1 Aug 2007 (see s. 2(1) and *Gazette* 27 Jul 2007 p. 3735)
Reprint 14: The *Health Act 1911* as at 5 Oct 2007 (includes amendments listed above)			
Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007 s. 10	24 of 2007	12 Oct 2007	24 Oct 2007 (see s. 2(1) and *Gazette* 23 Oct 2007 p. 5645)
Waste Avoidance and Resource Recovery Act 2007 Sch. 4 cl. 4	36 of 2007	21 Dec 2007	1 Jul 2008 (see s. 2(b) and *Gazette* 20 Jun 2008 p. 2705)

Short title	Number and year	Assent	Commencement
Duties Legislation Amendment Act 2008 Sch. 1 cl. 13	12 of 2008	14 Apr 2008	1 Jul 2008 (see s. 2(d))
Medical Practitioners Act 2008 Sch. 3 cl. 23	22 of 2008	27 May 2008	1 Dec 2008 (see s. 2 and *Gazette* 25 Nov 2008 p. 4989)
Criminal Law Amendment (Homicide) Act 2008 s. 34	29 of 2008	27 Jun 2008	1 Aug 2008 (see s. 2(d) and *Gazette* 22 Jul 2008 p. 3353)
Food Act 2008 s. 147 [27]	43 of 2008	8 Jul 2008	24 Oct 2009 (see s. 2(1)(b) and (2) and *Gazette* 23 Oct 2009 p. 4157)
Statutes (Repeals and Miscellaneous Amendments) Act 2009 s. 71	8 of 2009	21 May 2009	22 May 2009 (see s. 2(b))
Reprint 15: The *Health Act 1911* as at 20 Nov 2009 (includes amendments listed above) (correction by *Gazette* 14 Dec 2010 p. 6301)			
Health Practitioner Regulation National Law (WA) Act 2010 Pt. 5 Div. 22	35 of 2010	30 Aug 2010	18 Oct 2010 (see s. 2(b) and *Gazette* 1 Oct 2010 p. 5075-6)
Building Act 2011 s. 161	24 of 2011	11 Jul 2011	2 Apr 2012 (see s. 2(b) and *Gazette* 13 Mar 2012 p. 1033)
Education and Care Services National Law (WA) Act 2012 Pt. 4 Div. 6	11 of 2012	20 Jun 2012	1 Aug 2012 (see s. 2(c) and *Gazette* 25 Jul 2012 p. 3411)
Commercial Arbitration Act 2012 s. 45 it. 9	23 of 2012	29 Aug 2012	7 Aug 2013 (see s. 1B(b) and *Gazette* 6 Aug 2013 p. 3677)
Water Services Legislation Amendment and Repeal Act 2012 s. 216	25 of 2012	3 Sep 2012	18 Nov 2013 (see s. 2(b) and *Gazette* 14 Nov 2013 p. 5028)
Reprint 16: The *Health Act 1911* as at 6 Dec 2013 (includes amendments listed above)			
Medicines and Poisons Act 2014 Pt. 11 Div. 1	13 of 2014	2 Jul 2014	30 Jan 2017 (see s. 2(b) and *Gazette* 17 Jan 2017 p. 403)
Statutes (Repeals and Minor Amendments) Act 2014 s. 23	17 of 2014	2 Jul 2014	6 Sep 2014 (see s. 2(b) and *Gazette* 5 Sep 2014 p. 3213)
Health Services Act 2016 s. 291	11 of 2016	26 May 2016	1 Jul 2016 (see s. 2(b) and *Gazette* 24 Jun 2016 p. 2291)

Short title	Number and year	Assent	Commencement
Public Health (Consequential Provisions) Act 2016 Pt. 2, Pt. 4 Div. 1, Div. 2 (s. 207), Div. 3 (s. 212 and 213), Div. 10 (s. 240, 242 and 243), Div. 12-15 and Div. 16 (s. 272, 274 and 276)	19 of 2016	25 Jul 2016	Pt. 2: 24 Jan 2017 (see s. 2(1)(b) and *Gazette* 10 Jan 2017 p. 165); Pt. 4 Div. 1, Div. 2 (s. 207), Div. 3 (s. 212 and 213), Div. 10 (s. 240, 242 and 243), Div. 12-14 and Div. 16 (s. 272 and 274): 20 Sep 2017 (see s. 2(1)(c) and *Gazette* 19 Sep 2017 p. 4880); Pt. 4 Div. 15 and s. 276: 12 Jan 2019 (see s. 2(1)(c) and *Gazette* 11 Jan 2019 p. 23)
Reprint 17: The *Health (Miscellaneous Provisions) Act 1911* as at 15 Dec 2017 (includes amendments listed above except those listed in the *Public Health (Consequential Provisions) Act 2016* Pt. 4 Div. 15 and s. 276)			
Health Practitioner Regulation National Law (WA) Amendment Act 2018 s. 111	4 of 2018	19 Apr 2018	1 Dec 2018 (see s. 2(d) and *Gazette* 13 Nov 2018 p. 4427-8)
Work Health and Safety Act 2020 Pt. 15 Div. 4 Subdiv. 4	36 of 2020	10 Nov 2020	31 Mar 2022 (see s. 2(1)(c) and SL 2022/18 cl. 2)
Major Events Act 2023 s. 110	12 of 2023	22 May 2023	23 May 2023 (see s. 2(b))
Abortion Legislation Reform Act 2023 Pt. 4 Div. 6	20 of 2023	27 Sep 2023	27 Mar 2024 (see s. 2(b) and SL 2024/21 cl. 2)
Health (Miscellaneous Provisions) (Offensive Trades) Proclamation 2024 Pt. 2 (SL 2024/53)			4 Jun 2024 (see cl. 2(b))
Local Government Amendment Act 2024 Pt. 3 Div. 3	47 of 2024	6 Dec 2024	7 Dec 2024 (see s. 2(1)(g))
Statutes (Repeals and Minor Amendments) Act 2025 s. 26	14 of 2025	25 Sep 2025	26 Sep 2025 (see s. 2(b))
Education and Care Services National Law Application Act 2026 Pt. 6 Div. 7	2 of 2026	31 Mar 2026	1 May 2026 (see s. 2(1)(d) and SL 2026/50 cl. 2)

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

Short title	Number and year	Assent	Commencement
Public Health (Consequential Provisions) Act 2016 Pt. 4 Div. 2 (s. 208 and 209), Div. 3 (s. 210, 211, 214-222), Div. 4-9, Div. 10 (s. 239 and 241), Div. 11 and Div. 16 (s. 249-271, 273 and 275)	19 of 2016	25 Jul 2016	To be proclaimed (see s. 2(1)(c))

Other notes

[1] Footnote no longer applicable.

[2] The *Licensing Act 1911* was repealed by the *Liquor Act 1970*, which was repealed by the *Liquor Control Act 1988*.

[3] The *Health Act Amendment Act 1900* was repealed by section 4 of this Act.

[4] Section 53B was deleted by the *Health Act Amendment Act 1933 (No. 2)* s. 6.

[5] Proclamations relating to offensive trades were published by *Gazette* on —

20 September 1918
10 March 1967
16 February 1968
5 December 1969
16 April 1987
13 November 1987
26 November 1993
16 June 1995

[6] Renumbering of sections of the Act and certain Part and Division headings was effected in earlier reprints under the *Health Act Amendment Act 1919* s. 4 and the *Health Act Amendment Act 1933 (No. 2)* s. 42.

[7] The amendment in the *Caravan Parks and Camping Grounds Act 1995* s. 33 is not included as the section it sought to amend had been deleted by the *Local Government (Consequential Amendments) Act 1996* s. 4 before the amendment came into operation.

[8] Now known as the *Health (Miscellaneous Provisions) Act 1911*; short title changed (see note under s. 1).

[9] Section 48A and the Second Schedule were inserted by the *Limitation Act Amendment Act 1954* s. 8.

[10] The Third and Fourth Schedules were inserted by the *Metric Conversion Act Amendment Act (No. 2) 1973*.

[11] The *Acts Amendment (Statutory Designations) and Validation Act 1981* s. 5 is a validation provision that is of no further effect.

[12] The *Health Legislation Amendment Act 1984* s. 104 is a savings and transitional provision that is of no further effect.

[13] The *Health Amendment Act 1985* s. 13 is a transitional provision that is of no further effect.

[14] The *Acts Amendment (Financial Administration and Audit) Act 1985* s. 4 is a savings and transitional provision that is of no further effect.

[15] The *Commercial Arbitration Act 1985* s. 3(2) is a savings and transitional provision that is of no further effect.

[16] The *Health Amendment Act 1987* s. 4(d), 83 and 90 did not come into operation and were deleted by the *Statutes (Repeals and Miscellaneous Amendments) Act 2009* s. 72.

[17] The *Tobacco Control Act 1990* s. 38(2) is a transitional provision that is of no further effect.

[18] The *Health Amendment Act 1991* s. 5(3) and (4) are transitional provisions that are of no further effect.

[19] The *Health Amendment Act 1991* s. 15 is a savings and transitional provision that is of no further effect.

[20] In relation to the *Health Act 1911*, the *Local Government (Consequential Amendments) Act 1996* Sch. 1 reads as follows:

> **Savings**
>
> The repeal of any provision by the previous clause does not affect the continuation of any thing done by or under that provision prior to its repeal.
>
> **Transitional**
>
> On the day on which this Act comes into operation a regulation under section 343(5) of the *Health Act 1911* as in force before this Act came into operation, becomes a regulation under section 343A of the *Health Act 1911*.

[21] The amendment in the *Statutes (Repeals and Minor Amendments) Act (No. 2) 1998* s. 39(3) is not included because the section it sought to amend had been deleted by the *Hospitals Amendment Act 1994* s. 18 before the amendment came into operation.

[22] The *Statutes (Repeals and Minor Amendments) Act (No. 2) 1998* s. 39(8) is a transitional provision that is of no further effect.

[23] The *Acts Amendment (Abortion) Act 1998* s. 8 is a transitional provision that is of no further effect.

[24] The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 23 was deleted by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13) before it came into operation.

[25] The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

[26] The *Machinery of Government (Miscellaneous Amendments) Act 2006* Pt. 9 Div. 13 reads as follows:

Division 13 — Transitional provisions

289. Commissioner of Health

(1) A thing done or omitted to be done by, to or in relation to, the Commissioner of Health before commencement under, or for the purposes of, an enactment has the same effect after commencement, to the extent that it has any force or significance after commencement, as if it had been done or omitted by, to or in relation to, the CEO.

(2) In this section —

CEO has the meaning given by section 3 of the *Health Legislation Administration Act 1984* as in force after commencement;

commencement means the time at which this Division comes into operation;

Commissioner of Health means the Commissioner of Health referred to in section 6(1)(a) of the *Health Legislation Administration Act 1984* as in force before commencement.

[27] The *Food Act 2008* Pt. 14 reads as follows:

Part 14 — Transitional provisions

150. Definition

In this Part —

commencement day means the day on which this Part comes into operation.

151. *Interpretation Act 1984* not affected

Nothing in this Part is to be construed so as to limit the operation of the *Interpretation Act 1984*.

152. Orders under *Health Act 1911* section 246W

An order under the *Health Act 1911* section 246W(1) that is in force immediately before the commencement day has effect on and after that day as if it were an emergency order made under section 32(b).

153. Orders under *Health Act 1911* section 246Y

(1) An order under the *Health Act 1911* section 246Y(1) that is in force immediately before the commencement day has effect on and after that day as if it were an improvement notice.

(2) An order under the *Health Act 1911* section 246Y(2) that is in force immediately before the commencement day has effect on and after that day as if it were a prohibition order.

154. Transitional regulations

(1) If this Act does not provide sufficiently for a matter or issue of a transitional nature that arises as a result of the amendment of an Act by this Act or the coming into operation of this Act, the Governor may make regulations prescribing all matters that are required, necessary or convenient to be prescribed for providing for that matter or issue.

(2) If regulations made under subsection (1) provide that a specified state of affairs is taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the commencement day, the regulations have effect according to their terms.

(3) In subsection (2) —

specified means specified or described in the regulations.

(4) If regulations contain a provision referred to in subsection (2), the provision does not operate so as —

(a) to affect in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the day of publication; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication.

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
Agvet Code of Western Australia	3(1)
analyst	3(1)
Analytical Committee	3(1), 247AA
apparatus for the treatment of sewage	3(1), 100(4)(a)
authorised officer	3(1), (2A)
authorised person	173
birth	331
cellar	3(1)
CEO	3(1)
certificate of approval	173
cesspool	3(1)
Chairman	246B(3)
Chief Health Officer	3(1)
child care centre	337(2A)
commencement day	Sch. 6 cl. 2 and 4
Committee	340A, 340AA, 340BA
co-opted member	246B(9)
daily penalty	3(1)
dairy	3(1)
dairy produce	3(1)
dentist	331
Department	3(1)
departmental officer	13A(1)
disposal	3(1)
district	3(1)
drain	3(1)
employed in the Department	13A(1)
food	3(1)
HIV infection	3(1)
house	3(1)
infectious disease	3(1)
investigator	340A, 340AA, 340BA
land	3(1)
lodging-house	3(1)
major event	175A(1)
major event area	175A(1)
meat	3(1)
medical practitioner	3(1)
member	246B(9), 247AA, 340A, 340AA, 340BA

metropolitan area 247AA, 340A, 340AA, 340BA
midwife ..... 3(1)
milk ..... 3(1)
Minister ..... 3(1)
municipal fund ..... 3(1)
neonatal death 331
newspaper ..... 3(1)
nurse ..... 3(1)
nurse practitioner ..... 3(1)
occupier ..... 3(1), 145(3)
offensive ..... 3(1)
offensive matter ..... 3(1)
offensive trade ..... 186(1)
owner ..... 3(1), 100(4)(a)
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