

WESTERN AUSTRALIA

HEALTH AMENDMENT ACT 1996

No. 28 of 1996

AN ACT to amend the *Health Act 1911*.

[Assented to 22 July 1996.]

The Parliament of Western Australia enacts as follows:

Short title

- 1.** This Act may be cited as the *Health Amendment Act 1996*.

Commencement

2. (1) This Act, other than sections 7 and 13, comes into operation on the day on which it receives the Royal Assent.

(2) Sections 7 and 13 come into operation on such day as is, or days as are respectively, fixed by proclamation.

(3) Unless brought into operation sooner under subsection (2), sections 7 and 13 come into operation on the day that is 12 months after the day on which this Act receives the Royal Assent.

Principal Act

3. In this Act the *Health Act 1911** is referred to as the principal Act.

[* Reprinted as at 18 December 1990.

For subsequent amendments see 1995 Index to Legislation of Western Australia, Table 1, pp. 97-9 and Act No. 88 of 1994.]

Section 3 amended

4. Section 3 (1) of the principal Act is amended —

(a) by inserting in the appropriate alphabetical position the following definition —

“**“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.

”;

and

- (b) in the definition of “Lodging-house” by deleting “4” and substituting the following —

“ 6 ”.

Section 54 amended

- 5. Section 54 (b) of the principal Act is amended by deleting “bacteriolytic”.

Section 106 amended

- 6. (1) Section 106 (1) of the principal Act is amended —

- (a) by deleting “removal and”;
- (b) by deleting “for the removal thereof,”; and
- (c) by deleting “from whence the receptacles have to be removed” and substituting the following —

“ provided with the service ”.

- (2) Section 106 (3) of the principal Act is amended by deleting “pan removals” and substituting the following —

“ service provided under this section ”.

- (3) Section 106 (6) of the principal Act is amended by deleting “removal and disposal services are rendered” and substituting the following —

“ a service is provided under this section ”.

Section 107 amended

7. (1) Section 107 of the principal Act is amended by repealing subsections (2), (3), (4) and (5) and substituting the following subsections —

“

(2) A person who constructs or installs, or permits or authorizes 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 Executive Director, Public Health 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 Executive Director, Public Health.

(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 authorizes 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.

”.

(2) Section 107 (7) of the principal Act is amended by deleting “and may thereby prescribe such rules as may be necessary or convenient for achieving its objects. A regulation made under this power may fix the fee, which shall be paid on the submission of any plans and specifications, and may provide that the prescribed proportion of such fee shall be paid to the local authority.” and substituting the following —

“

and regulations prescribing fees to be paid with respect to applications and inspections for the purposes of this section.

”.

Section 112 amended

8. Section 112 (1) of the principal Act is amended —

- (a) in paragraph (d) by deleting “, removal,”;
- (b) in paragraph (g) by deleting “deposit or destruction of refuse, rubbish and nightsoil” and substituting the following —

“ disposal of refuse, rubbish and sewage”; and

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(c) by inserting after paragraph (g) the following paragraph —

“

(ga) The construction and installation of plant for the disposal of refuse, rubbish and sewage;

”.

Section 113 amended

9. Section 113 of the principal Act is amended by deleting “contracts with any person for the removal within its district of sewage, offensive materials, or house or trade refuse,” and substituting the following —

“

enters into a contract with any person for the execution of any works referred to in section 112 (1)

”.

Section 118 amended

10. Section 118 (1) of the principal Act is amended by deleting “destroying” and substituting the following —

“ the disposal of ”.

Section 180 amended

11. Section 180 (2) of the principal Act is amended by deleting paragraph (m).

Section 203A inserted

12. After the heading to Division 2 in Part VIIA of the principal Act the following section is inserted —

“

Interpretation

203A. In this Division, unless the contrary intention appears —

“**animal**” includes the carcass of an animal, whether dressed or not.

”.

Section 246B amended

13. Section 246B (2) of the principal Act is amended —

(a) by deleting “4” and substituting the following —

“ 6 ”;

(b) by deleting paragraph (b) and substituting the following paragraph —

“

(b) one shall be the Director of the Chemistry Centre (WA) or an analyst from the Chemistry Centre (WA) nominated by the Director;

”;

(c) by deleting “and” after paragraph (c);

(d) by deleting the comma after paragraph (d) and substituting a semicolon; and

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(e) by inserting after paragraph (d) the following paragraphs —

- “
- (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 department within the meaning of the *Occupational Safety and Health Act 1984*, or an officer of that department nominated by the chief executive officer,
- ”.

Section 246F amended

14. (1) Section 246F (1) of the principal Act is amended by inserting after “section” where it first occurs the following —

“ and sections 246FA and 246FB ”.

(2) Section 246F (6) of the principal Act is amended by deleting “of a account” and substituting the following —

“ of an account ”.

Sections 246FA and 246FB inserted

15. After section 246F of the principal Act the following sections are inserted —

“
Financial security may be required in respect of meat inspection fees

246FA. (1) The Executive Director, Public Health or a local government may, at any time, require

financial security in relation to the payment of fees in respect of inspections of meat under the meat inspection regulations.

(2) The financial security referred to in subsection (1) may take such form as the Executive Director, Public Health or the local government considers appropriate.

(3) If the Executive Director, Public Health or a local government requests that security in the form of a contract of insurance be taken out under this section, then the Executive Director, Public Health or the local government may require that the Executive Director, Public Health or the local government be a joint insured or a beneficiary.

(4) A person who has provided financial security under this section may apply in writing to the Executive Director, Public Health or the local government, as is relevant, at any time to have the security discharged.

(5) Where fees due under the meat inspection regulations are not paid within 30 days after notice requiring the payment of outstanding fees has been served on the person by whom the fees are owed then the Executive Director, Public Health or the local government, as is relevant, may use any financial security provided by that person to recover the amount of outstanding fees due from that person.

(6) Subsection (5) does not affect any other means of recovering fees that are owed under the meat inspection regulations.

Meat inspection service may be withdrawn

246FB. (1) Subject to subsection (2), the Executive Director, Public Health or a local government may refuse to inspect meat for a person until —

- (a) any fees owed by that person under the meat inspection regulations are paid;
- (b) a lawful direction given to the person under this Act is complied with; or
- (c) financial security requested of the person under section 246FA has been provided.

(2) Before refusing to inspect meat for a person because fees are owed under subsection (1) (a) or financial security has not been provided under subsection (1) (c), the Executive Director, Public Health or the local government shall give at least 7 days written notice to the person.

”.

Section 246ZX amended

16. Section 246ZX (6) of the principal Act is amended —

- (a) by deleting “If” and substituting the following —

“
 Notwithstanding anything else in this section, if

”;

and

- (b) by deleting “that — ” and paragraphs (a) and (b) and the “and” between paragraphs (a) and (b) and substituting the following —

“
 that the offence was due to the act or omission of another person (in this section called “**the later accused**”)

”.

Section 247 amended

17. Section 247 of the principal Act is amended —

- (a) in subsection (3) by deleting paragraph (a); and
- (b) by repealing subsection (5).

Sections 344A, 344B and 344C inserted

18. After section 344 of the principal Act the following sections are inserted —

“

Incorporation by reference

344A. (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 the body known as the Standards Association of 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 Executive Director, Public Health, the Executive Director, Personal Health or the Commissioner 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) The Commissioner is to ensure that any standard, rule, code or other provision adopted under subsection (1) is available (as amended, if applicable) for public inspection, without charge, during normal office hours at a place prescribed by regulation.

Evidence of contents of standard etc. adopted

344B. 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 Commissioner of Health to be a true copy as at any date or during any period is, without proof of the signature of the Commissioner of Health, sufficient evidence of the contents of the standard, rule, code or other provision as at that date or during that period.

Fees and charges may be fixed by resolution

344C. (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 112A (1) (b) and (3) (b), 133 (1), 134 (6), (11), (12), (29), (30), (44), (45) and (46), 146 (3), 158 (3), 172 (3), 199 (10), 220 (1) (l) and 344 (1) (a).

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Schedule 5 amended

19. Schedule 5 to the principal Act is amended in Part II by deleting “107 (3) and (4)” and substituting the following —

“ 107 (2) and (4) ”.

References to “master” and “servant” deleted

20. (1) Each provision of the principal Act referred to in the Table to this subsection is amended by deleting “servant” or “a servant” in each place where it occurs and substituting in each place the following —

“ employee ” or “ an employee ”,

as is appropriate.

Table

Sections 39 (1) and (2), 217 (4), (5) and (6), 227 (2), (3), (4), (5), (6) and (7), 232 (1), (2), (3) and (4), 246ZC (3) (b) and 246ZV (1) and (3).

(2) Each provision of the principal Act referred to in the Table to this subsection is amended by deleting “servants” and substituting the following —

“ employees ”.

Table

Sections 39 (1) and 56.

(3) Section 232 (3) and (4) is amended by deleting “, employer or master” in each place where it occurs and substituting in each place the following —

“ or employer ”.

Amendment of “environmental officer”

21. Each provision of the principal Act referred to in the Table to this section is amended by deleting “a environmental health officer” or “A environmental health officer” in each place where it occurs and substituting in each place the following —

“ an environmental health officer ” or

“ An environmental health officer ”,

as is appropriate.

Table

Sections 33 (2), 114 (2), 145 (1), 181, 183, 199 (18), 217 (3), 246D (1) (k) and (o) and (2) (b), 246Y (1), (2), (4), (6) and (10), 246ZB (1), (2) and (5), 246ZC (1), (2), (3), (5), (6) and (7), 246ZD, 246ZE, 246ZF, 246ZG (1) and (6), 246ZH (1), 246ZJ, 246ZM (2), 246ZP (2), 246ZR (1), 246ZU, 246ZZ (1), 262 (3), 265 (1), 267 (1) (c), 277 (1) (b) and 358 (2).