

WESTERN AUSTRALIA

HEALTH AMENDMENT ACT 1991

No. 59 of 1991

AN ACT to amend the *Health Act 1911*.

[Assented to 23 December 1991]

The Parliament of Western Australia enacts as follows:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Health Amendment Act 1991*.

Commencement

2. The provisions of this Act shall come into operation on such day as is, or days as are, respectively, fixed by proclamation and in any event shall come into operation not later than 12 months after the date of 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 1990 Index to Legislation of Western Australia p. 71.]

PART 2—AMENDMENTS RELATING TO HEALTH SURVEYORS**Section 3 amended**

4. Section 3 of the principal Act is amended—

(a) by inserting after the definition of “drug” the following definition—

“ “environmental health officer” means an environmental health officer appointed under this Act and includes any acting or assistant environmental health officer; ”;

(b) by deleting the definition of “health surveyor”; and

(c) by repealing subsection (2).

General amendment

5. (1) The sections of the principal Act specified in the Table to this subsection are amended by deleting “health surveyor” wherever occurring and substituting in each case the following—

“ environmental health officer ”.

TABLE

12, 28, 29, 30, 31, 32, 33, 114, 145, 157, 181, 183, 184, 199, 204, 205, 206, 217, 227, 228, 234, 246D, 246Y, 246ZB, 246ZC, 246ZD, 246ZE, 246ZF, 246ZG, 246ZH, 246ZJ, 246ZM, 246ZP, 246ZR, 246ZT, 246ZU, 246ZZ, 253, 257, 258, 262, 265, 267, 277, 297, 352, 358.

(2) Sections 27 (1) and (2), 33 (1) and 252 of the principal Act are amended by deleting “health surveyors” wherever occurring and substituting in each case the following—

“ environmental health officers ”.

(3) Any person who at the time of the commencement of this section holds or acts in an office of health surveyor under the principal Act shall notwithstanding any thing in the instrument of his or her appointment be deemed to have been appointed as or to act as, as the case requires, an environmental health officer.

(4) Any reference in a written law or in any proclamation, document, notice, order or other thing to a health surveyor shall be read and construed as a reference to an environmental health officer and any such written law, document, notice, order or other thing shall have effect accordingly.

PART 3—AMENDMENTS RELATING TO TREATMENT OF SEWAGE

Section 3 amended

6. Section 3 of the principal Act is amended—

(a) in subsection (1) by deleting the definition of “apparatus for the bacteriolytic treatment of sewage” and substituting the following definition—

“ “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 Executive Director, Public Health 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; ”;

(b) in the definition of “cesspool” by deleting “appliance for bacteriolytic” and substituting the following—

“ apparatus for the ”; and

- (c) in the definition of “sanitary convenience” by deleting “bacteriolytic”.

Section 44 amended

7. Section 44 of the principal Act is amended in subsection (1) (e) by deleting “bacteriolytic”.

Section 55 amended

8. Section 55 of the principal Act is amended in subsection (1) by deleting “bacteriolytic”.

Section 99 amended

9. Section 99 of the principal Act is amended in subsection (3) by deleting “bacteriolytic”.

Section 100 amended

10. Section 100 of the principal Act is amended in subsections (1) and (4) (a) by deleting “bacteriolytic” wherever occurring.

Section 107 amended

11. Section 107 of the principal Act is amended—

- (a) by deleting “bacteriolytic” wherever occurring;
- (b) in subsection (6) by inserting after “, installation,” the following—
“ maintenance, ”; and
- (c) in subsection (7) by inserting after “effect,” the following—
“ including regulations with respect to maintenance of any apparatus for the treatment of sewage and charges in relation thereto, ”.

Section 108 amended

12. Section 108 of the principal Act is amended in subsection (1) by deleting “bacteriolytic”.

Section 134 amended

13. Section 134 of the principal Act is amended in paragraphs (1) and (1a) by deleting “bacteriolytic”.

PART 4—AMENDMENTS RELATING TO PUBLIC BUILDINGS

Part VI repealed and a Part substituted

14. Part VI of the principal Act is repealed and the following Part is substituted—

“ **PART VI—PUBLIC BUILDINGS**

Interpretation

173. In this Part—

“authorized person” means—

- (a) an environmental health officer or other officer of the local authority authorized in writing by the person holding or acting in the chief non-elective executive office of the local authority;
- (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 authorized in writing by the Executive Director, Public Health;

“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 part of a building where persons may assemble for—

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

(ii) educational purposes;

(iii) entertainment, recreational or sporting purposes; and

(iv) business purposes; and

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

but does not include a hospital;

“relevant certifying officer” means—

(a) in relation to a direction given by an authorized person referred to in paragraph (a) of the definition of “authorized person”, the person holding or acting in the chief non-elective executive office of the local authority;

(b) in relation to a direction given by an authorized person referred to in paragraph (b) of the definition of an “authorized person”, a superintendent of the Police Force of Western Australia;

- (c) in relation to a direction given by an authorized person referred to in paragraph (c) of the definition of “authorized person”, the Executive Director, Public Health.

Application to the Crown

174. (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.

Relationship to other laws

175. The provisions of this Part are in addition to and not in derogation of the requirements of the *Local Government Act 1960* and any subsidiary legislation made under that Act but where a provision of that Act or any subsidiary legislation made under that Act 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.

Approval of plans

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

(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 authority; 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 authority 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 the construction, extension or alteration of a public building in relation to which construction, extension or alteration a licence is issued under section 374 of the *Local Government Act 1960*.

Approval

177. 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.

Certificate of approval

178. (1) A person shall not open or use a public building unless the local authority 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.

Inspection and control of buildings used as public buildings

179. (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 authorized person may at any time enter any public building.

(2) An authorized 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 authorized person that the number of persons in a public building, is such as to exceed the number specified in the certificate of approval the authorized 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 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.

(5) A person who—

- (a) hinders or obstructs an authorized person from entering a public building;
- (b) enters a public building that has been closed under subsection (3) (a);
- (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),

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 relevant certifying officer to which is attached a copy of a direction given under subsection (2) or subsection (3) (c) or (d) and stating that the direction—

- (a) was given;
- (b) was given by the authorized 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.

Regulations

180. (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 authority to impose conditions in relation to such a variation;

- (l) requiring occupiers of public buildings to formulate emergency evacuation arrangements satisfactory to the local authority in respect of prescribed public buildings or prescribed classes of public buildings whenever required to do so by the local authority;
- (m) adopting or incorporating codes and standards, as amended from time to time, issued by or on behalf of the Department or any other department, authority, person, body or association, either wholly or with such modification (if any) as are specified in the regulations;
- (n) prescribing such incidental, supplementary, savings and transitional provisions as are convenient or necessary. ”.

Savings and transitional

15. (1) In this section—

“commencement day” means the day on which section 14 comes into operation;

“Executive Director, Public Health” means the Executive Director, Public Health as defined in the principal Act;

“former provisions” means Part VI of the principal Act as in force before the commencement day;

“public building” means a public building as defined under the former provisions.

(2) Any permit or other document issued in relation to a public building or any alteration or extension of a public building under the former provisions continues in force for the purposes of the principal Act as in force after the commencement day.

(3) Any notice relating to a public building given under the former provisions within the period of 30 days prior to the commencement day shall continue to be dealt with by the Executive Director, Public Health as though the former provisions continued in force after that day.

(4) Notwithstanding anything in subsection (3), the Executive Director, Public Health may direct that any notice relating to a public building given under the former provisions that is pending in the office of the Executive Director, Public Health at the commencement day be dealt with by the local authority in question and cause the notice and any fee paid in connection with the notice to be transmitted to the local authority for that purpose.

(5) A local authority to which a notice is transmitted under subsection (4) shall deal with the notice as though the notice were an application under Part VI of the principal Act as in force after the commencement day.

PART 5—AMENDMENTS RELATING TO GAME MEAT

Part VIIA, Division 2A inserted

16. Part VIIA of the principal Act is amended by inserting after Division 2 the following Division—

“ *Division 2A—Game meat*

Interpretation in Division 2A

207A. In this Division—

“field depot” means a building, tent, trailer or other structure, whether permanent or temporary, used or intended to be used for the storage and preliminary treatment of game carcasses intended for sale;

“game” means buffalo, goat, kangaroo, pig, rabbit, or such other kind or class of animal or bird as is prescribed, in its wild state;

“game carcass” means the body or any portion of the body of any game;

“game meat” means the flesh or any other edible product, including offal, derived from a game carcass for the purpose of sale;

“processing establishment” means premises used or intended to be used for the preparation, handling, treatment or packing of game meat;

“sale” means sale for human consumption.

**Executive Director, Public Health
may prohibit slaughter of game**

207B. (1) The Executive Director, Public Health may, by notice published in the *Gazette*—

- (a) prohibit the slaughter for sale of all game or a specified kind or class of game in a specified district or specified part of a district; and
- (b) vary or revoke a prohibition under this section.

(2) In subsection (1)—

“specified” means specified in the notice.

(3) A person who slaughters game in contravention of a notice published under subsection (1) commits an offence.

Slaughter of game

207C. A person who—

- (a) slaughters for sale any game that shows signs of disease or injury; or

- (b) takes for sale the carcass of any game that died naturally or otherwise than by a method of slaughter prescribed in the regulations,

commits an offence.

Regulations

207D. The Governor may make regulations under section 341—

- (a) with respect to the precautions to be taken in, and the methods to be used for, the slaughter of game for the purpose of sale;
- (b) regulating the handling, treatment and storage of game carcasses intended for sale;
- (c) with respect to the qualifications, training and duties of persons engaged in the slaughter of game for the purpose of sale;
- (d) regulating the transport of game carcasses intended for sale and the capacity, construction, equipment and maintenance of vehicles used for that transport;
- (e) providing for the registration of field depots and processing establishments;
- (f) regulating the construction, equipment, operation and maintenance of field depots and processing establishments;
- (g) requiring plans and specifications to be lodged with and approved by the Executive Director, Public Health before field depots or processing establishments are constructed or altered;
- (h) providing for the inspection, classification and branding of game carcasses;

- (i) prescribing the design, dimensions and other particulars of brands to be applied to game carcasses after inspection;
- (j) with respect to the removal or disposal of game carcasses that, on inspection, are found to be diseased, unwholesome or otherwise unfit for human consumption;
- (k) prohibiting the use of brands other than brands that comply with the requirements of the regulations;
- (l) prohibiting the manufacture or possession of brands falsely purporting to be, or resembling, brands referred to in paragraph (i);
- (m) with respect to the precautions to be taken in the preparation, handling, treatment, storage and packing of game meat at processing establishments;
- (n) prohibiting the preparation, handling, treatment or packing of game meat otherwise than at a processing establishment registered under those regulations;
- (o) providing for the hygiene requirements to be observed by persons employed at field depots or processing establishments;
- (p) providing for the duties of persons employed at field depots or processing establishments who are or may be suffering from disease or injury or are or may be carriers of disease and the precautions to be taken in respect of any such person;
- (q) providing for the inspection of vehicles used for the transport of game carcasses or game meat, field depots and processing establishments;

- (r) regulating or prohibiting the movement of game carcasses or game meat within the State or the importation of game carcasses or game meat from another State or a Territory;
- (s) prescribing the fees payable in respect of the registration of field depots and processing establishments;
- (t) prescribing the fees payable for the inspection of game carcasses for the purposes of those regulations, which fees may vary according to the class, description or kind of inspection carried out, and prescribing the persons by whom and to whom and the places and times where and when those fees shall be paid;
- (u) prescribing the forms to be used for the purposes of those regulations; and
- (v) adopting by reference specifications, standards or requirements of codes of practice specified in those regulations, either wholly or in part or with modifications and as amended from time to time.

Saving of other laws

207E. Nothing in this Division, or in regulations made under this Division, shall be construed as in any way derogating from the requirements of any other written law. ”.

Section 246F amended

17. Section 246F of the principal Act is amended in subsection (1) in the definition of “the meat inspection regulations” by inserting before “246D (2) (a)” the following—

“ 207D or ”.

Section 360 amended

18. Section 360 of the principal Act is amended in subsection (4) (b) by inserting before “212B” the following—

“ 207D, ”.

Schedule 5 amended

19. Schedule 5 to the principal Act is amended in Part IV by inserting in the appropriate numerical order the following—

“ 207B (3), 207C, ”.

PART 6—AMENDMENTS RELATING TO FEES AND CHARGES

Section 107 amended

20. Section 107 of the principal Act is amended in subsection (7)—

(a) by deleting “not exceeding \$10 and not less than \$1.”; and

(b) by deleting “half” and substituting the following—

“ the prescribed proportion ”.

Section 134 amended

21. Section 134 of the principal Act is amended in paragraph (45) by deleting “not exceeding \$2 per annum for each licence.”.

Section 146 amended

22. Section 146 of the principal Act is amended in subsection (3) by deleting “a fee of 10 cents” and substituting the following—

“ the prescribed fee ”.

Section 158 amended

23. Section 158 of the principal Act is amended in paragraph (3) by deleting “, but so that the fee in respect of any one lodging-house shall not exceed \$20 per annum”.

Section 172 amended

24. Section 172 of the principal Act is amended in paragraph (3) by deleting the proviso.

Section 191 amended

25. Section 191 of the principal Act is amended—

(a) by deleting “January” where occurring in subsections (1) and (3) and substituting in each case the following—

“ July ”; and

(b) by repealing subsection (2).

PART 7—AMENDMENT RELATING TO PENALTIES

Section 360 amended

26. Section 360 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting “\$500.” in paragraph (g) (ii) and substituting the following—

“ \$500; ”; and

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

“ (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. ”;

and

(b) by repealing subsection (5).

Section 361 inserted

27. After section 360 of the principal Act the following section is inserted—

General Penalty

“ 361. A person who contravenes or fails to comply with this Act or any regulation, by-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. ”.

Schedule 5 amended

28. Schedule 5 to the principal Act is amended—

(a) in Part II by inserting in the appropriate numerical order the following—

“ 144, 147, ”;

- (b) in Part IV, by deleting “174 (4) and (8),”;
- (c) in Part VI, by deleting “174A (4), 177 (1),”; and
- (d) by adding after Part VII, the following Part—

“

Part VIII

Section 178 (4)

”.

