

WESTERN AUSTRALIA

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# HEALTH AMENDMENT ACT

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No. 80 of 1987

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AN ACT to amend the *Health Act 1911*.

[Assented to 28 November 1987]

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

## Short title

1. This Act may be cited as the *Health Amendment Act 1987*.

## Commencement

2. The provisions of this Act shall come into operation on such day as is, or days as are respectively, fixed by proclamation.

**Principal Act**

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

[\*Reprinted as approved 14 May 1981 and amended by Acts Nos. 63 of 1981, 30 and 116 of 1982, 28 of 1984, 26, 53, 57, 98 and 109 of 1985 and 93 of 1986.]

**Section 3 amended**

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

(a) by inserting in the definition of “Meat” before “means” the following—

“ , except in Division 3A of Part VIIA, ”;

(b) by deleting the definition of “pesticide” and substituting the following definition—

“ “pesticide” means substance or compound—

(a) which is used or intended to be used for agricultural, horticultural, pastoral, industrial or domestic purposes—

(i) for controlling, destroying or preventing the growth and development of any fungus, virus, insect, mite, mollusc, nematode, plant or animal; or

(ii) for enhancing, diminishing, modifying or otherwise regulating the growth or development of any plant;

or

(b) which is prescribed under section 341 as read with section 246C to be a pesticide; ”;

(c) by inserting after the definition of “Street” the following definition—

“ “the Drug Advisory Committee” means the Drug Advisory Committee established by section 202 (1); ”;

and

(d) by deleting the definitions of “Therapeutic substance” and “Therapeutic use”.

**Section 77 repealed and substituted**

5. Section 77 of the principal Act is repealed and the following section is substituted—

Restrictions on construction or alteration  
of certain drains and fittings

“ 77. 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 authority of his intention to do so; or

(b) otherwise than in accordance with—

(i) the conditions laid down in the by-laws of the local authority; and

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

commits an offence. ”.

**Section 78 amended**

6. Section 78 of the principal Act is amended—

(a) in subsection (1) by deleting “, and in case any such owner or occupier shall neglect to repair or cleanse any such drain according to the direction of the local authority, he shall on conviction for every such offence, forfeit and pay a penalty not exceeding twenty dollars”; and

(b) by inserting after subsection (1) the following subsection—

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

(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 authority; 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. ”.

**Section 79 amended**

7. Section 79 of the principal Act is amended in subsection (1) by deleting "Penalty: Forty dollars and a daily penalty of ten dollars for every day during which the offence continues after written notice from the local authority."

**Section 82 amended**

8. Section 82 of the principal Act is amended in subsection (3) by deleting ", shall be liable to a penalty not exceeding one hundred dollars and to a daily penalty not exceeding four dollars" and substituting the following—

" commits an offence ".

**Section 86 amended**

9. Section 86 of the principal Act is amended by repealing subsection (2) and substituting the following subsections—

" (2) An owner who neglects or refuses to comply with a notice given to him under subsection (1) commits an offence.

(2a) When a owner neglects or refuses to comply with a notice given to him under subsection (1), the local authority 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 91 amended**

10. Section 91 of the principal Act is amended by repealing subsection (2) and substituting the following subsection—

" (2) Subject to subsection (3), a local authority, an owner or occupier which or who contravenes subsection (1) commits an offence. ".

**Section 92 amended**

11. Section 92 of the principal Act is amended in subsection (1) by deleting “shall be liable to a penalty not exceeding ten dollars, and to a daily penalty not exceeding four dollars” and substituting the following—

“ commits an offence ”.

**Section 93 amended**

12. Section 93 of the principal Act is amended by deleting “shall be liable to a penalty not exceeding twenty dollars, and to a daily penalty not exceeding two dollars” and substituting the following—

“ commits an offence ”.

**Section 94 amended**

13. Section 94 of the principal Act is amended—

- (a) in subsection (1) by deleting “shall be liable to a penalty not exceeding twenty dollars and to a daily penalty not exceeding ten dollars” and substituting the following—

“ commits an offence ”; and

- (b) in subsection (2) by deleting “against this section” and substituting the following—

“ under subsection (1) ”.

**Section 98 amended**

14. Section 98 of the principal Act is amended by deleting “, shall be guilty of an offence, and shall be liable to a penalty not exceeding one hundred dollars nor less than ten dollars, or to imprisonment, with or without hard labour, for a period not exceeding six months” and substituting the following—

“ commits an offence ”.

**Section 99 amended**

**15.** Section 99 of the principal Act is amended by repealing subsection (4) and substituting the following subsections—

“ (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 authority 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. ”.

**Section 101 amended**

**16.** Section 101 of the principal Act is amended by repealing subsection (3) and substituting the following subsections—

“ (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 authority 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 102 amended**

**17.** Section 102 of the principal Act is amended by deleting “Penalty-Four dollars for each day the offence continues.”.

**Section 107 amended**

**18.** Section 107 of the principal Act is amended by repealing subsections (3) and (4) and substituting the following subsections—

“ (3) A person who constructs or installs, or permits, authorizes or commences the construction or installation of, any apparatus for the bacteriolytic treatment of sewage, except with the approval of, and in accordance with plans and specifications approved by, the Executive Director, Public Health, commits an offence.

(4) A person who uses, authorizes or permits to be used any apparatus for the bacteriolytic treatment of sewage, which apparatus has not been—

(a) constructed and installed with the approval of, and in accordance with plans and specifications approved by, the Executive Director, Public Health;

(b) inspected by or on behalf of the local authority; and

(c) certified by the local authority or by a person authorized in that behalf by the local authority as having been duly constructed and installed in accordance with the plans and specifications referred to in paragraph (a),

commits an offence. ”.

**Section 108 amended**

**19.** Section 108 of the principal Act is amended by repealing subsection (4) and substituting the following subsections—

“ (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 authority 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. ”.

**Section 109 repealed and substituted**

**20.** Section 109 of the principal Act is repealed and the following section is substituted—

Local authority may require filling  
up of certain cesspools

“ 109. 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 authority within a time specified in that notice, does not comply with that requirement commits an offence. ”.

**Section 114 repealed and substituted**

**21.** Section 114 of the principal Act is repealed and the following section is substituted—

Obstruction or hindrance of certain  
works penalized

“ 114. (1) Subject to subsection (2), a person who obstructs or hinders the local authority or its contractor in the execution of any works under section 112 commits an offence.

(2) The occupier of a house does not commit an offence under subsection (1) by reason only of himself collecting or using, selling or otherwise disposing of his own house-refuse or rubbish (other than sewage) if in so doing he takes sufficient precautions to the satisfaction of a health surveyor to prevent the creation of any nuisance or anything offensive or injurious to health. ”.

**Section 116 amended**

**22.** Section 116 of the principal Act is amended—

(a) in paragraph (1) by deleting “(1)” and substituting the following—

“ (a) ”;

(b) in paragraph (2) by deleting “(2)” and substituting the following—

“ (b) ”;

- (c) in paragraph (3) by deleting “(3)” and substituting the following—

“ (c) ”;

- (d) in paragraph (4) by deleting—

- (i) “(4)” and substituting the following—

“ (d) ”; and

- (ii) “shall be liable to a penalty not exceeding two dollars for each day thereafter until the requisite work is efficiently done and the cause of complaint is removed” and substituting the following—

“ commits an offence ”;

and

- (e) in paragraph (5) by deleting “(5) For the purposes of the last preceding subsection hereof” and substituting the following—

“ (e) In paragraph (d) ”.

## **Section 120 amended**

**23.** Section 120 of the principal Act is amended in subsection (2) by deleting “shall be guilty of an offence against this Act” and substituting the following—

“ commits an offence ”.

## **Section 121 amended**

**24.** Section 121 of the principal Act is amended in subsection (2) by deleting “shall be liable to a penalty not exceeding one hundred dollars, and to a daily penalty not exceeding four dollars” and substituting the following—

“ commits an offence ”.

**Section 126 amended**

**25.** Section 126 of the principal Act is amended—

- (a) in subsection (1) by deleting “every owner to whom such notice has been given shall be liable to a penalty not exceeding twenty dollars for each day during which such notice is not complied with, and”; and
- (b) by inserting after subsection (1) the following subsection—

“ (1a) An owner who neglects or refuses to comply with the requirements of a notice given to him under section 124 or 125 commits an offence. ”.

**Section 129 amended**

**26.** Section 129 of the principal Act is amended by deleting “shall be liable to a penalty not exceeding two hundred dollars, or to imprisonment, with or without hard labour, not exceeding six months” and substituting the following—

“ commits an offence ”.

**Section 131 amended**

**27.** Section 131 of the principal Act is amended by repealing subsection (2) and substituting the following subsection—

“ (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. ”.

**Section 132 amended**

**28.** Section 132 of the principal Act is amended in subsection (2) by deleting “shall be guilty of an offence against this Act” and substituting the following—

“ commits an offence ”.

**Section 133 amended**

**29.** Section 133 of the principal Act is amended in subsection (2) by deleting “shall be liable to a penalty not exceeding one hundred dollars, and shall also be liable to a penalty of four dollars for every day during which the body of any dead person remains on such unlicensed premises” and substituting the following—

“ commits an offence ”.

**Section 134 amended**

**30.** Section 134 of the principal Act is amended by deleting paragraph (48a) and substituting the following paragraph—

“ (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; ”.

**Section 136 amended**

**31.** Section 136 of the principal Act is amended by deleting “shall be liable to a daily penalty not exceeding four dollars” and substituting the following—

“ commits an offence ”.

**Section 140 amended**

**32.** Section 140 of the principal Act is amended in subsection (1) by deleting—

(a) “shall fail” and substituting the following—

“ fails ”; and

(b) “shall be liable to a penalty not exceeding forty dollars and to a daily penalty not exceeding four dollars” and substituting the following—

“ commits an offence ”.

**Section 141 amended**

**33.** Section 141 of the principal Act is amended in subsection (2) by deleting “shall be liable to a penalty not exceeding forty dollars, and to a daily penalty not exceeding four dollars” and substituting the following—

“ commits an offence ”.

**Section 151 amended**

**34.** Section 151 of the principal Act is amended by deleting “shall, if he fails to do so, be liable to a daily penalty not exceeding four dollars” and substituting the following—

“ , if he fails to do so, commits an offence ”.

**Section 153 amended**

**35.** Section 153 of the principal Act is amended in subsection (2) by deleting “shall be liable to a penalty not exceeding ten dollars” and substituting the following—

“ commits an offence ”.

**Section 154 amended**

**36.** Section 154 of the principal Act is amended by deleting “shall be liable to a penalty not exceeding ten dollars and in the case of a continuing offence to a daily penalty not exceeding four dollars” and substituting the following—

“ commits an offence ”.

**Section 157 amended**

**37.** Section 157 of the principal Act is amended in subsection (4) by deleting “, and is liable on conviction to a penalty not exceeding ten dollars, and in addition to a penalty of four dollars for each day during which the offence continues”.

**Section 162 amended**

**38.** Section 162 of the principal Act is amended in subsection (4) by deleting—

(a) “shall be guilty of” and substituting the following—

“ commits ”; and

(b) “Penalty in either case—One hundred dollars, and in addition a daily penalty of four dollars for every day or part of a day during which the offender acts in contravention of this section after complaint of such offence has been made.”.

**Section 171 amended**

**39.** Section 171 of the principal Act is amended in subsection (2) by deleting—

(a) “shall be guilty of” and substituting the following—

“ commits ”; and

(b) “Penalty—One hundred dollars and in addition a daily penalty of four dollars for every day or part of a day during which the offence is continued after complaint of such offence has been made.”.

**Section 172 amended**

**40.** Section 172 of the principal Act is amended—

- (a) in subsection (1) by deleting “(1) A local authority” and substituting the following—

“ A local authority ”; and

- (b) by repealing subsection (2).

**Section 173 repealed and substituted**

**41.** Section 173 of the principal Act is repealed and the following section is substituted—

Interpretation in Part VI

“ 173. In this Part—

“building contractor” means person who undertakes the building, alteration or extension of—

- (a) a public building; or

- (b) a building intended for use as a public building,

for or on behalf of the building proprietor concerned;

“building proprietor” means person who is required by section 174(1) to give notice to the Executive Director, Public Health, and to the local authority;

“public building” means benevolent or other asylum, or theatre, opera house, concert room, music or assembly hall, whether forming part of or appurtenant to a licensed victualler’s premises or not, or school, church, chapel or meeting house, and includes other building, structure, tent, gallery, enclosure or platform whatsoever in or on which numbers of persons are usually or occasionally assembled, but does not include hospital. ”.

**Section 174 amended****42. Section 174 of the principal Act is amended—**

(a) in subsection (2) by deleting—

(i) “Such notice to the Executive Director, Public Health”  
and substituting the following—

“ Subject to this section, notice given to the Executive  
Director, Public Health, under subsection (1)”; and

(ii) “a plan and specification or description” in paragraph (a)  
and substituting the following—

“ plans and specifications or descriptions ”;

and

(b) by repealing subsections (4) and (5) and substituting the  
following subsections—

“ (4) Subject to this section, a person who, whether as  
building proprietor or as building contractor or otherwise,  
builds, alters or extends or commences or proceeds with the  
building, alteration or extension of, a public building, or a  
building intended for use as a public building, commits an  
offence if—

(a) the Executive Director, Public Health, has not  
authorized the building proprietor concerned to  
commence that building, alteration or extension;

or

(b) that person does so otherwise than in compliance  
with plans, block plan and specifications or  
descriptions which have been—

(i) lodged with the local authority concerned;

and

(ii) approved by the Executive Director, Public  
Health.

(5) The Executive Director, Public Health, may require  
any person seeking his authority or approval under  
subsection (4) to deliver to him, whether in addition to or in  
lieu of the plans, block plan and specifications or  
descriptions referred to in subsection (2), a certificate of  
structural soundness in respect of the public building  
concerned—

(a) framed in such form as he approves; and

(b) made by a structural engineer approved by him.

(6) The Executive Director, Public Health, may charge such fee as is prescribed for the examination of the plans, block plan and specifications or descriptions referred to in subsection (2).

(7) If, in the opinion of the Executive Director, Public Health, it is unnecessary for all or any of the plans, block plan and specifications or descriptions referred to in subsection (2) to be approved by him and lodged with the local authority before the commencement of the building, alteration or extension of the public building concerned, he may permit that building, alteration or extension to be commenced, subject to such conditions, restrictions and limitations as he thinks fit to impose, and, if he so permits, subsection (4) does not apply to or in relation to that building, alteration or extension.

(8) A person who builds, alters or extends a public building in respect of which a permit has been granted under subsection (7) otherwise than in accordance with the conditions, restrictions and limitations to which the permit is subject commits an offence. ”.

### **Section 174A amended**

43. Section 174A of the principal Act is amended—

- (a) by repealing subsections (1) and (2);
- (b) in subsection (4) by deleting “, and is liable on conviction of the offence to a maximum penalty of two hundred dollars and in addition to a maximum penalty of four dollars for each day during which the offence continues ”; and
- (c) in subsection (5) by deleting—
  - (i) “the provisions of subsections (2), (3) and (4) of this section” and substituting the following—

“ anything in subsections (3) and (4) ”; and
  - (ii) “against this section” and substituting the following—

“ under subsection (4) ”.

**Section 177 amended**

44. Section 177 of the principal Act is amended in subsection (1) by deleting “, shall be liable to a penalty not exceeding two hundred dollars and to a further penalty not exceeding twenty dollars for every day or night during which such building or addition thereto remains open without such approval” and substituting the following—

“ commits or commit an offence ”.

**Section 178 amended**

45. Section 178 is amended by repealing subsection (2).

**Section 179 repealed**

46. Section 179 of the principal Act is repealed.

**Section 181 amended**

47. Section 181 of the principal Act is amended in paragraph (2) by deleting “shall be liable to a penalty not exceeding two dollars for every day thereafter, until such matter is removed and disposed of as aforesaid” and substituting the following—

“ commits an offence ”.

**Section 182 amended**

48. Section 182 of the principal Act is amended in the last paragraph by deleting “, shall be guilty of an offence against this Act” and substituting the following—

“ commits an offence ”.

**Section 184 amended**

**49.** Section 184 of the principal Act is amended in paragraph (3) by deleting “shall be severally liable to a penalty not exceeding ten dollars for every day thereafter until the requisite work is done” and substituting the following—

“ each commits an offence ”.

**Section 188 amended**

**50.** Section 188 of the principal Act is amended by deleting “shall be liable to a penalty not exceeding one hundred dollars” and substituting the following—

“ commits an offence ”.

**Section 189 amended**

**51.** Section 189 of the principal Act is amended by deleting “shall be liable to a penalty not exceeding ten dollars for every day on which he carries it on” and substituting the following—

“ commits an offence ”.

**Section 193 amended**

**52.** Section 193 of the principal Act is amended by repealing subsection (2) and substituting the following subsection—

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

**Section 195 amended**

**53.** Section 195 of the principal Act is amended by deleting “No person shall use any premises as a slaughter-house” and substituting the following—

“ A person who uses any premises as a slaughter-house commits an offence ”.

**Section 196 amended**

**54.** Section 196 of the principal Act is amended in subsection (2) by deleting—

(a) “shall fail” and substituting the following—

“ fails ”; and

(b) “the last preceding subsection, he shall be liable to a daily penalty not exceeding ten dollars” and substituting the following—

“ subsection (1), he commits an offence ”.

**Section 201 repealed**

**55.** Section 201 of the principal Act is repealed.

**Section 203 amended**

**56.** Section 203 of the principal Act is amended in subsection (2) by deleting “and is liable to a penalty not exceeding \$500”.

**Section 205 amended**

**57.** Section 205 of the principal Act is amended in subsection (6) by deleting “and is liable to a penalty not exceeding \$5 000”.

**Section 207 amended**

**58.** Section 207 of the principal Act is amended by repealing subsection (4).

**Section 209 amended**

**59.** Section 209 of the principal Act is amended in subsections (1) and (2) by deleting “and is liable to a penalty not exceeding \$2 500”.

**Section 210 amended**

**60.** Section 210 of the principal Act is amended by deleting “and is liable to a penalty not exceeding \$2 500”.

**Section 211 amended**

**61.** Section 211 of the principal Act is amended in subsections (1), (2), (3), (4) and (5) by deleting “and is liable to a penalty not exceeding \$2 500”.

**Section 212 amended**

**62.** Section 212 of the principal Act is amended by deleting “and is liable to a penalty not exceeding \$5 000”.

**Division 3A inserted in Part VIIA**

**63.** Part VIIA of the principal Act is amended by inserting after Division 3 the following Division—

“ *Division 3A—Pet meat*

**Interpretation in Division 3A**

**212A.** In this Division—

“pet meat” means flesh of any source animal intended to be used for pet food;

“source animal” means buffalo, camel, cattle, donkey, emu, goat, horse, kangaroo, mule, pig, poultry, rabbit or sheep.

**Regulations**

**212B.** (1) The Governor may make regulations under section 341 providing for—

- (a) the handling and treatment of carcasses of source animals from the time of slaughter onwards;
- (b) the chilling of carcasses of source animals;

- (c) the capacity, construction, operation and maintenance of the freezers and boxes used by persons shooting animals for pet food;
- (d) the mode of transport of carcasses of source animals and the capacity, construction, operation and maintenance of any insulated boxes or refrigerated units or vehicles used for that transport;
- (e) the registration and conduct of knackeries and the circumstances in which carcasses of source animals or pet meat can be sold at knackeries;
- (f) the registration and conduct of pet meat processing establishments;
- (g) the capacity, construction, operation and maintenance of pet meat processing establishments;
- (h) the equipment and utensils to be provided at pet meat processing establishments and the location, installation, size, construction, characteristics, operation and maintenance of that equipment and those utensils;
- (i) the construction of the floors of chiller units in pet meat processing establishments;
- (j) the handling and treatment of carcasses of source animals at pet meat processing establishments;
- (k) the means by which pet meat processing establishments may or shall be allocated brands identifying themselves and belonging to the Department, and the fees, if any, payable in respect of those brands;
- (l) the use of brands referred to in paragraph (k) for the brand marking of pet meat processed in pet meat processing establishments to which those brands relate;
- (m) the design, dimensions and other particulars of brands referred to in paragraph (k);
- (n) the prohibition of the use of devices other than brands referred to in paragraph (k) for the brand marking of pet meat processed in pet meat processing establishments;
- (o) the prohibition of the manufacture or possession of brands falsely purporting to be, or resembling, brands referred to in paragraph (k);

- (p) the prohibition of the affixing or implantation, or the attempted affixing or implantation, or the causing or permitting of the affixing or implantation, of a brand mark to or in any pet meat unless the pet meat has been processed at a pet food processing establishment to which the relevant brand referred to in paragraph (k) has been allocated;
- (q) the prohibition of the removal or defacing, or the attempted removal or defacing, or the causing or permitting of the removal or defacing, of any brand mark affixed to or implanted in any pet meat under those regulations;
- (r) in the case of pet meat packed in closed cartons, the labelling of any such cartons and the information to be contained in the labels of any such cartons and the colouring and lettering of any such labels;
- (s) in the case of pet meat packed in bulk in plastic bags, the sealing of any such plastic bags with tags, the information to be contained in any such tags and the colouring and lettering of any such tags;
- (t) the prohibition of the removal of any pet meat from any pet meat processing establishment until the pet meat has been brand marked under those regulations;
- (u) the seizure and destruction of any pet meat not correctly identified by brand marking or labelling under those regulations;
- (v) the prohibition of the storage, handling or processing of the flesh of animals other than pet meat at a pet meat processing establishment;
- (w) the removal from any meat or carcass brand marked as fit for consumption by man of any such brand marking on the arrival of that meat or carcass at a pet meat processing establishment and the immediate brand marking of that meat or carcass as pet meat under those regulations;
- (x) the prohibition of the use of the word "butcher" or any name resembling or related to that word in connection with the premises of a pet meat processing establishment, or the use of any other word or expression implying or suggesting that those premises are not those of a pet meat processing establishment;

- (y) in the case of pet meat enclosed in casings, whether made of natural or artificial substances, the printing of statements on those casings;
- (z) the colour marking of carcasses of source animals used for pet food immediately after the removal of hide, skin or hair from those carcasses, including the distinctive colour marking of carcasses belonging to different kinds of source animals;
- (za) the recognition, if any, to be extended to the colour marking outside the State of carcasses of source animals brought into the State and used for pet meat;
- (zb) the inspection of pet meat in carcass or boneless form;
- (zc) the inspection of pet meat processing establishments;
- (zd) the registration of any body corporate, whether formed or incorporated within or outside the State, carrying on within the State the business of importing pet meat in carcass or boneless form into the State;
- (ze) the prohibition of the storage, handling or processing of pet meat otherwise than at a pet meat processing establishment registered under those regulations;
- (zf) the prohibition, except with the approval in writing of the Executive Director, Public Health, of the processing of pet meat derived from unhealthy source animals;
- (zg) the prohibition of the manufacture of pet food derived from animals which are not source animals;
- (zh) the brand marking and colour marking of pet meat exported from the State to any part of Australia outside the State and a requirement to notify the Executive Director, Public Health, before any such export takes place;
- (zi) the brand marking, colour marking and packing of pet meat exported from the State to any country outside Australia;
- (zj) the adoption by those regulations of the whole or any part of a law of another State or of a Territory or of the Commonwealth;

- (zk) the issue of certificates containing such details as are prescribed of consignments of pet meat exported from or imported into the State and the use to which any such certificate or copies thereof shall be put;
- (zl) the hygiene requirements to be observed by persons employed at pet meat processing establishments;
- (zm) the precautions to be taken in the storage, handling and dressing of carcasses of source animals at pet meat processing establishments, and in the preparation, storage, handling and packing of pet meat or products derived therefrom at pet meat processing establishments;
- (zn) the duties of persons employed at pet meat 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;
- (zo) the cleansing and disinfection of the clothing, equipment, furniture and areas used by or occupied by persons employed at pet meat processing establishments;
- (zp) the precautions to be taken in connection with detergents, disinfectants and other cleansing or sanitizing agents used in pet meat processing establishments;
- (zq) the prohibition of the preparation, processing or sale of pet meat on premises other than premises registered under those regulations;
- (zr) the registration of shops at which pet meat is sold;
- (zs) the fees payable in respect of the registration of knackeries, pet meat processing establishments and shops referred to in paragraph (zr); and
- (zt) the forms to be used for the purposes of those regulations.

(2) In subsection (1)—

“knackery” means establishment at which source animals are slaughtered and processed. ”.

### Section 214 amended

64. Section 214 of the principal Act is amended in subsection (1) by deleting “and is liable to a penalty not exceeding \$5 000”.

**Section 216 amended**

**65.** Section 216 of the principal Act is amended in subsection (2) by deleting “and is liable to a penalty not exceeding \$5 000”.

**Section 217 amended**

**66.** Section 217 of the principal Act is amended in subsections (1) and (2) by deleting “and is liable to a penalty not exceeding \$500”.

**Sections 218 and 219 repealed**

**67.** Sections 218 and 219 of the principal Act are repealed.

**Section 220 amended**

**68.** Section 220 of the principal Act is amended by repealing subsection (3).

**Section 221 amended**

**69.** Section 221 of the principal Act is amended in subsection (1) by deleting “and is liable to a penalty not exceeding \$5 000”.

**Section 222 amended**

**70.** Section 222 of the principal Act is amended by deleting “and is liable to a penalty not exceeding \$5 000”.

**Section 223 amended**

**71.** Section 223 of the principal Act is amended in subsection (1) by deleting “and is liable to a penalty not exceeding \$2 500”.

**Section 224 amended**

**72.** Section 224 of the principal Act is amended in subsection (2) by deleting “and is liable to a penalty not exceeding \$1 000”.

**Section 225 amended**

**73.** Section 225 of the principal Act is amended—

- (a) in subsection (1) by deleting “and is liable to a penalty not exceeding \$500”; and
- (b) in subsection (2) by deleting “and is liable to a penalty not exceeding \$2 500”.

**Section 227 amended**

**74.** Section 227 of the principal Act is amended in subsection (2) by deleting “and is liable to a penalty not exceeding \$2 500”.

**Section 228 amended**

**75.** Section 228 of the principal Act is amended in subsection (2) by deleting “and is liable to a penalty not exceeding \$10 000”.

**Section 231 amended**

**76.** Section 231 of the principal Act is amended in subsection (2) by deleting “and is liable to a penalty not exceeding \$2 500”.

**Section 234 amended**

**77.** Section 234 of the principal Act is amended in subsection (1) by deleting “and is liable to a penalty not exceeding \$2 500”.

**Section 236 amended**

**78.** Section 236 of the principal Act is amended in subsection (1) by deleting “and is liable to a penalty not exceeding \$5 000”.

**Section 237 amended**

**79.** Section 237 of the principal Act is amended in subsection (2) by deleting “and is liable to a penalty not exceeding \$10 000”.

**Section 238 amended**

**80.** Section 238 of the principal Act is amended—

- (a) in subsection (1) by deleting “and is liable to a penalty not exceeding \$10 000”;
- (b) in subsection (3) by deleting “and are each of them liable to a penalty not exceeding \$500”; and
- (c) in subsection (5) by deleting “and is liable to a penalty not exceeding \$500”.

**Section 240 amended**

**81.** Section 240 of the principal Act is amended in subsection (1) by deleting “and is liable to a penalty not exceeding \$2 500”.

**Section 241 amended**

**82.** Section 241 of the principal Act is amended in subsection (1) by deleting “and is liable to a penalty not exceeding \$5 000”.

**Division 7 of Part VIIA repealed and transitional**

**83.** (1) Division 7 of Part VIIA of the principal Act is repealed.

(2) Notwithstanding the repeal effected by subsection (1), a licence which was in force under Division 7 of Part VIIA of the principal Act immediately before the commencement of this section shall, subject to the principal Act, continue in force after that commencement for the remainder of the period for which it would, but for that commencement, have been in force and shall during its continuance in force by virtue of this subsection be deemed to be a licence—

- (a) issued under section 246FK; and
- (b) referred to in section 246FH (1) (a),

of the principal Act.

**Section 246A repealed and substituted**

**84.** Section 246A of the principal Act is repealed and the following section is substituted—

Crown bound, but *Pharmacy Act 1964* and *Poisons Act 1964* not affected, by Division 8

“ 246A. (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 *Pharmacy Act 1964* or the *Poisons Act 1964*. ”.

**Section 246BA inserted**

**85.** The principal Act is amended by inserting after section 246B the following section—

General powers of Pesticides Advisory Committee

“ 246BA. Subject to section 246C, the Pesticides Advisory Committee may—

- (a) advise the Executive Director, Public Health, on any matter whatsoever concerning pesticides, whether that matter is referred to it by the Executive Director, Public Health, or not;
- (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 246C repealed and substituted**

**86.** Section 246C of the principal Act is repealed and the following section is substituted—

Regulations relating to pesticides

“ 246C. (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;

- (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);
- (c) providing for the registration by the Executive Director, Public Health, of pesticides and labels relating thereto and for the imposition by him of conditions on any such registration;
- (d) prohibiting the registration by the Executive Director, Public Health, 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;
- (e) regulating or prohibiting the manufacture, preparation, packaging, labelling, storage, carriage, distribution, sale and use of pesticides;
- (f) regulating or prohibiting the advertising of pesticides;
- (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;
- (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;
- (i) regulating the disposal of pesticides and used pesticide containers;
- (j) providing for the registration by the Executive Director, Public Health, of firms in respect of the undertaking or carrying out of fumigation and for the imposition by him of conditions on any such registration;
- (k) providing for the licensing by the Executive Director, Public Health, 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;
- (l) providing for the registration by the Executive Director, Public Health, 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;

- (m) providing for the licensing by the Executive Director, Public Health, 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;
- (n) prescribing the qualifications required of applicants for licensing as pesticide operators or provisional pesticide operators;
- (o) prescribing the records to be kept by firms registered or persons licensed under regulations made under section 341 as read with this section;
- (p) requiring the notification to the Executive Director, Public Health, of accidents involving the use of pesticides;
- (q) enabling the Executive Director, Public Health, 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;
- (r) setting standards for the composition of pesticides;
- (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;
- (t) prescribing standards of the amount of deterioration or variation from nominal strength, if any, to be permitted in any pesticide;
- (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;
- (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, colours 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;

- (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;
- (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 Executive Director, Public Health, to register or refuse to register any pesticide or label relating thereto. ”.

### Section 246D amended

87. Section 246D of the principal Act is amended by repealing subsection (3).

### Section 246E amended

88. Section 246E of the principal Act is amended by deleting—

(a) “A person—

(a) commits an offence; and

(b) is liable to a penalty not exceeding \$2 500,

if, in a district” and substituting the following—

“ A person commits an offence if, in a district”; and

(b) “, any meal,” and substituting the following—

“ , any meat, ”.

**Section 246F amended**

**89.** Section 246F of the principal Act is amended in subsections (4) and (5) by deleting “Director” and substituting in each case the following—

“ Executive Director, Public Health, ”.

**Part VIIB inserted**

**90.** The principal Act is amended by inserting after Part VIIA the following Part—

“ PART VIIB—THERAPEUTIC DEVICES, GOODS AND  
SUBSTANCES AND COSMETICS

*Division 1—Preliminary*

**Interpretation in Part VIIB**

**246FA.** (1) In this Part, unless the contrary intention appears—

“advertisement”, in relation to any goods, means advertisement published—

- (a) in a newspaper, magazine or other publication;
- (b) in a circular, handbill, poster or other notice;
- (c) on the goods or any part of the goods, or on any other goods or any part of those other goods;
- (d) on any label, container or package of the goods or any other goods;
- (e) orally or by any means of producing or transmitting light or sound; or
- (f) in any other manner,

for the purposes of promoting, directly or indirectly, the sale or use of those goods;

“analysis”, in relation to any goods, means any bacteriological, biochemical, biological, chemical, electrical, electrochemical, microscopical, pathological, physical or other examination or test for ascertaining the presence or absence of any substance or organism or the composition or other qualities of the goods;

“automatic machine” means machine or mechanical device used or capable of being used for the purpose of selling or supplying goods without the personal manipulation or attention of the seller or supplier or his employee or other agent at the time of that sale or supply;

“container”, in relation to any goods, means vessel, bottle, tube, tin, box, case, wrapper, cover or other like receptacle or envelope which immediately covers the goods;

“cosmetic” means substance that—

- (a) is included in a class of substances the sole or principal use of which is, or ordinarily is, a cosmetic use; or
- (b) is represented to be, or might reasonably be taken to be, for cosmetic use,

and includes goods in respect of which an order under section 246FB (3) is in force declaring those goods to be a cosmetic, but does not include—

- (c) therapeutic goods; or
- (d) goods in respect of which an order under section 246FB (3) is in force declaring those goods not to be a cosmetic;

“dentist” has the meaning given by the *Dental Act 1939*;

“device” means instrument, apparatus or contrivance, and includes component, part or accessory thereof;

“expiry date”, in relation to any goods, means day after which the goods may be expected to cease to conform to any standards applicable thereto;

“goods for animal use only”, subject to subsection (2), means goods that—

- (a) bear any particulars that constitute, or might reasonably be taken for, a statement that the goods are intended for animal use and are not intended for human use; or
- (b) are otherwise represented, whether by writing or otherwise, or otherwise purport, to be intended for animal use and not to be intended for human use;

“label” includes tag, brand, mark or statement in writing on, or attached to, or used in connection with, any container or package containing any goods;

“licence” means valid licence that is issued under this Part and is not cancelled or suspended;

“manufacture”, in relation to any goods, means manufacture or preparation of the goods and includes—

(a) any part of the manufacture or preparation of the goods; and

(b) the packaging and labelling of the goods;

“medical practitioner” has the meaning given by the *Medical Act 1894*;

“nurse” means registered nurse within the meaning of the *Nurses Act 1968*;

“package”, in relation to any goods, includes every means by which the goods may, for transport or for carriage or for storage or for sale, be cased, covered, enclosed, contained or packed;

“pharmacist” means pharmaceutical chemist within the meaning of the *Pharmacy Act 1964*;

“premises” includes land, and ship, aeroplane or other vehicle or vessel;

“public institution” means—

(a) any Government Department, public hospital or university within the State; or

(b) any other institution or establishment declared under subsection (3) to be a public institution for the purposes of this Part;

“publish” includes cause, allow or permit to be published;

“regulations” means regulations made under section 341 as read with section 246FZI;

“sale” includes sale whether by wholesale or retail, and includes dealing in, or agreeing to sell, or offering or exposing for sale, or keeping or having in possession for sale, or sending, forwarding, delivering or receiving for sale or on sale, or authorising, directing, causing, suffering, permitting or attempting any of those acts or things;

“standards” means requirements referred to in section 246FM(2);

“substance” includes preparation or admixture and all salts and derivatives of any substance;

“therapeutic device” means device that is—

- (a) included in a class of devices the sole or principal use of which is, or ordinarily is, a therapeutic use;
- (b) represented to be, or might reasonably be taken to be, for therapeutic use;
- (c) included in a class of devices the sole or principal use of which is, or ordinarily is, a use for the purpose of or in connection with measuring or weighing therapeutic goods by the person using or administering the therapeutic goods; or
- (d) represented to be, or might reasonably be taken to be, for a use of the kind referred to in paragraph (c),

and includes goods in respect of which an order under section 246FB (2) is in force declaring those goods to be a therapeutic device, but does not include—

- (e) any goods for animal use only; or
- (f) any goods in respect of which an order under section 246FB (2) is in force declaring those goods not be a therapeutic device;

“therapeutic goods” means therapeutic substance or therapeutic device, and includes container or package thereof;

“therapeutic substance” means substance that is—

- (a) included in a class of substances the sole or principal use of which is, or ordinarily is, a therapeutic use;

- (b) represented to be, or might reasonably be taken to be, for therapeutic use;
- (c) represented to be, or might reasonably be taken to be, for use as an ingredient, or the sole ingredient, in the manufacture of a substance referred to in paragraph (a) or (b), whether or not the substance that is so represented or might reasonably be so taken is to be itself the subject of manufacture or of further manufacture; or
- (d) included in a class of substances the sole or principal use of which is, or ordinarily is, a use of the kind referred to in paragraph (c),

and includes—

- (e) gelatin capsule or other substance enclosing a substance referred to in paragraph (a), (b), (c) or (d), if that capsule or other substance is intended to be consumed or otherwise administered together with the substance so referred to; and
- (f) goods in respect of which an order under section 246FB (1) is in force declaring those goods to be a therapeutic substance,

but does not include—

- (g) article of food;
- (h) goods for animal use only; or
- (i) goods in respect of which an order under section 246FB (1) is in force declaring those goods not to be a therapeutic substance;

“therapeutic use” means use for the purpose of or in connection with—

- (a) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in man;
- (b) influencing, inhibiting or modifying a physiological process in man;
- (c) testing the susceptibility of man to a disease or ailment; or
- (d) destroying or inhibiting micro-organisms that may be harmful to man;

“veterinary surgeon” means registered veterinary surgeon within the meaning of the *Veterinary Surgeons Act 1960*;

“wholesale dealing”, in relation to any goods—

- (a) means sale or supply of the goods in the ordinary course of wholesale dealing for the purposes of resale; and
- (b) includes sale or supply in wholesale quantities in the ordinary course of wholesale dealing and for use in any public institution or in connection with any prescribed profession, business, trade or industry carried on by any person who satisfies the wholesale dealer that he *bona fide* requires those goods for use, but not for resale, in connection with that profession, business, trade or industry.

(2) For the purposes of the definition of “goods for animal use only” in subsection (1), goods are deemed to bear any particulars if those particulars are set out on—

- (a) the goods or any part of the goods;
- (b) a container or package of the goods or any part of the goods;
- (c) a label attached to the goods or any part of the goods; or
- (d) a label attached to a container or package of the goods or any part of the goods.

(3) For the purposes of the definition of “public institution” in subsection (1), the Governor may by order—

- (a) declare an institution or establishment to be a public institution for the purposes of this Part; and
- (b) revoke or amend a declaration made under this subsection.

Orders as to certain goods

246FB. (1) The Minister may by order declare any goods specified or described in the order—

- (a) to be a therapeutic substance; or

(b) not to be a therapeutic substance,

if he is of the opinion that, but for the order, doubt would exist or may arise about whether or not those goods are a therapeutic substance.

(2) The Minister may by order declare any goods specified or described in the order—

(a) to be a therapeutic device; or

(b) not to be a therapeutic device,

if he is of the opinion that, but for the order, doubt would exist or may arise about whether or not those goods are a therapeutic device.

(3) The Minister may by order declare any goods specified or described in the order—

(a) to be a cosmetic; or

(b) not to be a cosmetic,

if he is of the opinion that, but for the order, doubt would exist or may arise about whether or not those goods are a cosmetic.

(4) The Minister may by order revoke or amend a declaration made under this section.

### Exemptions

246FC. (1) The Minister may by order exempt any person or class of persons, or any goods or class of goods, specified or described in the order from all of the provisions of this Part or such of the provisions of this Part as are specified or described in the order.

(2) An order made under subsection (1) may be made unconditionally or subject to such conditions as are specified or described therein.

(3) The Minister may by order revoke or amend an exemption granted under subsection (1).

*Division 2—Licences**Subdivision 1—Matters for which licences required*

Manufacture of therapeutic substances  
or cosmetics without licence

246FD. (1) As from the expiry of 3 months after the commencement of this section, the person who conducts or has the control of any premises on which any substance to which this section applies is manufactured for sale commits an offence, unless the manufacture of that substance on those premises is authorized under the terms of a licence.

(2) This section applies to a substance that is—

- (a) a therapeutic substance; or
- (b) a cosmetic prescribed as being a substance to which this section applies,

but does not apply to—

- (c) a therapeutic substance prescribed as being a substance to which this section does not apply;
- (d) a therapeutic substance that is manufactured by a medical practitioner or dentist for use in the treatment of a patient under his care; or
- (e) a therapeutic substance that is manufactured by a pharmacist—
  - (i) on premises on which the business of a pharmacist is carried on in open shop;
  - (ii) on the premises of a dispensary carried on by a friendly society registered under the *Friendly Societies Act 1894*; or
  - (iii) on the premises of a public hospital or public institution,

for sale (otherwise than by wholesale) on or from those premises.

Sale by wholesale of therapeutic substances  
and cosmetics without licence

246FE. (1) As from the expiry of 3 months after the commencement of this section, a person who sells by wholesale any substance to which this section applies commits an offence, unless that sale is authorized under the terms of a licence.

(2) This section applies to a substance that is—

- (a) a therapeutic substance; or
- (b) a cosmetic prescribed as being a substance to which this section applies,

but does not apply to a therapeutic substance prescribed as being a substance to which this section does not apply.

Manufacture of therapeutic devices without licence

246FF. (1) As from the expiry of 3 months after the commencement of this section, the person who conducts or has the control of any premises on which any device to which this section applies is manufactured for sale commits an offence, unless the manufacture of that device on those premises is authorized under the terms of a licence.

(2) This section applies to a therapeutic device prescribed as being a device to which this section applies.

Sale by wholesale of therapeutic devices without licence

246FG. (1) As from the expiry of 3 months after the commencement of this section, a person who sells by wholesale any device to which this section applies commits an offence, unless that sale is authorized under the terms of a licence.

(2) This section applies to a therapeutic device prescribed as being a device to which this section applies.

*Subdivision 2—Provisions applicable to licences*

Classes of licences which may be issued

246FH. (1) Licences authorizing—

- (a) the manufacture for sale of any substance to which section 246FD applies;
- (b) the sale by wholesale of any substance to which section 246FE applies;
- (c) the manufacture for sale of any device to which section 246FF applies; or
- (d) the sale by wholesale of any device to which section 246FG applies,

may be issued under section 246FK.

(2) Nothing in this Part prevents the issue of one licence authorizing any 2 or more of the types of matters referred to in subsection (1) (a), (b), (c) and (d).

Duration of licence

246FI. A licence shall remain in force until cancelled or suspended.

Conditions attaching to licence and variation of licence

246FJ. (1) A licence may be issued unconditionally.

(2) The Executive Director, Public Health, may attach any conditions to a licence on its issue.

(3) The Executive Director, Public Health, may, by notice in writing served on the holder of a licence—

- (a) attach any conditions to the licence after its issue;
- (b) vary or remove any conditions attached to the licence; or
- (c) otherwise vary the licence.

### Application for and issue of licences

246FK. (1) When an application for a licence is made to the Executive Director, Public Health, in or to the effect of the prescribed form and is accompanied by the prescribed application fee, the Executive Director, Public Health, may—

- (a) refuse the application; or
- (b) issue the licence.

(2) Different application fees may be prescribed for the purposes of subsection (1) for different classes of licences.

(3) A licence shall be in or to the effect of the prescribed form.

(4) When an application for a licence is refused, the application fee accompanying that application shall be refunded.

### Cancellation or suspension of licence

246FL. (1) The Executive Director, Public Health, may, by notice in writing served on the holder of a licence, cancel or suspend the licence—

- (a) if the prescribed licence fee is not paid in accordance with the regulations at the prescribed time;
- (b) if the holder of the licence has been convicted of an offence under this Part or the regulations;
- (c) if the holder of the licence has not complied with any of the conditions attached to the licence; or
- (d) if the holder of the licence requests in writing that it be cancelled or suspended.

(2) Different licence fees may be prescribed for the purposes of subsection (1) (a) for different classes of licences.

(3) The Executive Director, Public Health, may restore any licence that is suspended, notwithstanding that any period during which the suspension is to continue has not expired.

(4) A licence shall be deemed not to be in force during any period of its suspension.

(5) When the Executive Director, Public Health, suspends a licence, he shall specify the period during which the suspension is to continue and may specify further such periods from time to time.

*Division 3—Standards*

Standards

246FM. (1) In this section—

“goods” means therapeutic goods or cosmetics.

(2) The regulations may make provision for or with respect to the determination of the requirements to which any goods are to conform when sold.

(3) Without affecting the generality of subsection (2), a standard in relation to any goods may relate to—

- (a) the composition, strength, potency, stability, purity, quality, construction or other properties thereof;
- (b) the quantity thereof;
- (c) the manner in which they were manufactured;
- (d) the packaging and labelling thereof; or
- (e) the manner in which they have been stored, handled or conveyed.

(4) Without affecting the generality of subsection (2) or (3), a standard in relation to any goods may—

- (a) prohibit the goods from—
  - (i) containing any prescribed substance; or
  - (ii) containing any prescribed substance in a prescribed quantity or proportion;

- (b) require prescribed information or statements to appear on the label, container or package of the goods; or
- (c) prohibit prescribed information or statements from appearing on the label, container or package of the goods.

(5) Without affecting the generality of subsection (2) or (3), a standard in relation to any goods may require an expiry date, determined in accordance with the regulations, to be stated on the goods or on the label, container or package of the goods.

(6) The regulations may make provision for or with respect to the determination of the person whose duty it shall be to ensure conformity with any standard before or at the time of sale of the goods to which the standard relates.

(7) When any goods are sold after the expiry date that is, in accordance with a standard referred to in subsection (5), stated in relation to the goods, the goods shall, except in such circumstances as may be prescribed, be deemed not to conform to that standard.

(8) When, in accordance with a standard in relation to any goods, any prescribed information or statement appears on the label, container or package of the goods, the goods shall be deemed not to conform to that standard if there is included thereon any comment, reference or explanation that expressly or impliedly contradicts, qualifies or modifies that information or statement.

#### Adoption by reference of standards

246FN. (1) In this section—

“a prescribed publication” means—

- (a) an edition of the British Pharmacopoeia;
- (b) an edition of the Pharmaceutical Codex; or
- (c) an edition of some other publication,

(whether published before or after the commencement of this section) that is specified in the regulations, together with any additions or amendments thereto (whether published or made before or after that commencement) that are so specified;

“the British Pharmacopoeia” means the book of that name published before the coming into operation of Part VII of the *Medicines Act 1968* of the United Kingdom under the direction of the General Medical Council of the United Kingdom or published after that coming into operation in accordance with the provisions of that Part;

“the Pharmaceutical Codex” means the book of that name published by direction of the Council of the Pharmaceutical Society of Great Britain.

(2) The regulations may, in making provision for or with respect to the determination of any standards, adopt by reference the whole or any part of any monograph or other material contained in a prescribed publication or any such monograph or other material as modified under subsection (3).

(3) The regulations may provide for the modification of any monograph or other material adopted under subsection (2).

#### Sale of goods not in conformity with standards

246FO. A person who sells any therapeutic goods or cosmetics that do not conform to any standard applicable thereto commits an offence.

#### Defence

246FP. In any prosecution for an offence under section 246FO in respect of the sale of any therapeutic goods or cosmetics (which goods or cosmetics are in this section referred to as “the goods”) that did not conform to a standard applicable thereto, it shall be a defence if the seller proves that at the time of the sale he had no reason to suppose, and did not in fact suppose, that the goods did not conform to the standard and—

- (a) if the regulations make provision for or with respect to the determination of the person whose duty it is to ensure conformity with that standard in relation to the goods, that it was not his duty to ensure conformity therewith;

or

- (b) if the regulations do not make provision for or with respect to the determination of the person whose duty it is to ensure conformity with that standard in relation to the goods, that it was not reasonable to expect that he should have been able to ensure conformity with that standard in so far as the ensuring of conformity therewith related to acts, matters or things outside his control.

*Division 4—Advertisements and related matters*

## Interpretation in Division 4

246FQ. In this Division—

“representation”, in relation to any therapeutic goods, means representation, whether express or implied, with respect to the use or consumption of the therapeutic goods for the purpose of or in connection with—

- (a) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in man;
- (b) influencing, inhibiting or modifying a physiological process in man;
- (c) testing the susceptibility of man to a disease or ailment; or
- (d) destroying or inhibiting any micro-organisms that may be harmful to man.

Prohibition of certain representations  
in advertisements

246FR. (1) A person who publishes an advertisement in respect of—

- (a) any therapeutic goods commits an offence if it contains a representation prescribed as a prohibited representation;
- (b) any prescribed therapeutic goods commits an offence if it contains a representation prescribed as a prohibited representation;
- (c) any prescribed therapeutic goods commits an offence unless it contains a representation prescribed as a required representation; or
- (d) any prescribed therapeutic goods commits an offence if it contains a representation other than a representation prescribed as a required representation under paragraph (c).

(2) A person who publishes an advertisement in respect of any prescribed therapeutic goods commits an offence.

(3) A person who publishes an advertisement that contains any representation commits an offence if that advertisement contains any comment, reference or explanation that expressly or impliedly contradicts, qualifies or modifies any representation prescribed for the purposes of subsection (1).

(4) The regulations may prescribe in relation to any prescribed therapeutic goods or all therapeutic goods a representation for the purposes of subsection (1) (a), (b) and (c) notwithstanding that the regulations prescribe a representation in relation to those therapeutic goods for the purposes of all other or another of those paragraphs.

(5) Nothing in subsection (1) or (2) applies in respect of any representation contained in an advertisement that is contained in any journal the circulation of which is intended to be limited to persons who are medical practitioners, pharmacists, dentists, veterinary surgeons or nurses or who are engaged in the business of selling by wholesale therapeutic goods, or that is contained in any other document that is intended to be published exclusively to or among any such persons.

(6) Nothing in this section affects the operation of any other provision of this Part that relates to standards with respect to the labelling of therapeutic goods.

Advertisement to contain name, address, etc.

246FS. (1) Except as provided by the regulations, a person who publishes an advertisement for any therapeutic goods and does not include in that advertisement the name and address of the person authorizing the publication of that advertisement and such other information as may be prescribed commits an offence.

(2) Nothing in this section—

- (a) applies in respect of any advertisement that is published orally or by any means of producing or transmitting light or sound; or
- (b) affects the operation of any other provision of this Part that relates to standards with respect to the labelling of therapeutic goods.

Order prohibiting false or misleading representations or names

246FT. (1) When the Executive Director, Public Health, is of the opinion that—

- (a) a representation, if made in respect of therapeutic goods;
- or
- (b) a claim, if made in respect of a cosmetic,

would be false or misleading, he may, by order in writing served on a person specified or described in that order, prohibit that person from publishing any advertisement that contains the representation or claim (whether express or implied) made in respect of any such therapeutic goods or cosmetic.

(2) When the Executive Director, Public Health, is of the opinion that the name of any therapeutic goods or cosmetic, if sold or advertised under that name, would be misleading, he may, by order in writing served on a person specified or described in that order, prohibit that person from selling the therapeutic goods or cosmetic under that name or from publishing any advertisement advertising the therapeutic goods or cosmetic under that name.

(3) An order made under this section takes effect from a date specified therein, which date shall be not earlier than 7 days after the service of that order.

(4) A person who publishes any advertisement in contravention of an order in force under this section commits an offence.

(5) A person who sells any therapeutic goods or cosmetic in contravention of an order in force under this section commits an offence.

(6) An order may be made under this section in relation to a representation whether or not that representation may be made under section 246FR.

(7) A person who commits an offence under section 246FR or this section in respect of a representation contained in an advertisement is not liable to be punished for an offence under the other of those sections in respect of the same representation contained in the advertisement.

*Division 5—Inspection and seizure of goods*

**Powers of public health officials under this Part**

246FU. (1) This section applies to goods—

- (a) which are therapeutic goods or cosmetics and are for sale or are (whether or not those goods are to be the subject of further manufacture) intended for sale, other than goods that are prescribed as being goods to which this section does not apply; or
- (b) which a public health official believes on reasonable grounds are goods referred to in paragraph (a).

(2) For the purpose of ascertaining whether the provisions of this Part or the regulations are being complied with, a public health official may, on production of his certificate of appointment—

- (a) enter, inspect or search, at any reasonable time, any premises which he believes on reasonable grounds are used for or with respect to the manufacture, distribution, conveyance, storage, handling or sale of goods;
- (b) require the production of and inspect and make copies of, or take extracts from, any books or documents relating to the manufacture of or any dealings in any goods;
- (c) require the production of any goods;
- (d) open and examine any receptacle, container or package which he believes on reasonable grounds may contain goods;
- (e) examine any goods;

(f) seize and remove for analysis portions or samples of goods; or

(g) subject to subsection (3), seize any goods,

to which this section applies.

(3) Without affecting his powers under subsection (2) (f) and notwithstanding anything contained in this section, a public health official shall not seize goods under subsection (2) (g)—

(a) unless the public health official believes on reasonable grounds that there has been a contravention of any of the provisions of this Part or the regulations with respect to the goods; and

(b) in the case of goods that are in the possession, care, custody or control of any manufacturer of those goods, unless the public health official also believes on reasonable grounds that the goods are for sale or are, without further manufacture other than packaging or labelling, intended for sale.

#### Release of seized goods

246FV. (1) Subject to subsection (5), goods seized under section 246FU shall be released on the expiry of the prescribed period after that seizure unless—

(a) the forfeiture of the goods is consented to under section 246FZ; or

(b) a Local Court orders under section 246FW that the goods be forfeited.

(2) Goods seized under section 246FU may be released before the expiry of the prescribed period.

(3) The release of any goods under subsection (1) or (2) shall be made—

(a) by or at the direction of the public health official who seized them or of the Executive Director, Public Health;

and

(b) to the owner of the goods or the person in whose possession, care, custody or control they were at the time of the relevant seizure.

(4) Nothing in this section requires the release of any goods or any part thereof damaged or destroyed in the course of an analysis thereof.

(5) A Local Court may, in any particular case, extend the period referred to in subsection (1).

#### Order that seized goods be forfeited

246FW. (1) A Local Court may order that, on the expiry of any period specified in that order, any goods seized under section 246FU and specified in that order be forfeited to the Crown.

(2) An order made under this section shall not have effect in respect of any goods released under section 246FV.

#### Making of orders under this Division

246FX. (1) If the regulations provide for the manner of making an application for an order under section 246FW in any case or class of cases, the order shall be applied for in that manner.

(2) Before a Local Court makes an order under section 246FW, the Local Court may require such notice as it thinks fit to be given to such persons as it thinks fit.

#### Storage of and interference with seized goods

246FY. (1) Subject to any direction of the Executive Director, Public Health, goods seized under this Division may, at the option of the public health official who seized them, be—

- (a) kept or stored on the premises on which they were seized;
- or
- (b) taken to such other place as the public health official who seized them thinks fit to be kept or stored,

until released or disposed of under this Division.

(2) A person who removes, alters or interferes in any way with goods seized under this Division without the authority of a public health official or the Executive Director, Public Health, commits an offence.

#### Forfeiture of goods with consent

246FZ. When a public health official has seized any goods under section 246FU and the owner of the goods or the person in whose possession, care, custody or control they were at the time of the seizure consents in writing to their forfeiture, the goods are thereupon forfeited to the Crown.

#### Disposal of forfeited goods

246FZA. Any goods forfeited to the Crown under this Division may be disposed of in such manner as the Executive Director, Public Health, generally or in any particular case or class of cases, directs.

#### Obstruction of public health official

246FZB. A person who—

- (a) wilfully delays or obstructs a public health official in the exercise of any of the powers of the public health official under this Part commits an offence; or
- (b) fails to produce any goods, books or documents which he is required to produce under this Part commits an offence, unless those goods, books or documents are not in his possession, care, custody or control.

#### Analysis

246FZC. (1) A public health official may submit any goods seized under section 246FU(2) (f) or (g) to an analyst for analysis.

(2) When an analysis has been made by an analyst or under his personal supervision in respect of any goods submitted therefor under subsection (1), the analyst may issue a certificate setting out the results of the analysis.

(3) When a certificate has been issued under subsection (2) setting out the results of an analysis made in respect of any goods, the owner of the goods or the person in whose possession, care, custody or control they were at the time of their seizure shall, on payment of the prescribed fee, be entitled to be supplied with a copy of the certificate.

(4) A person who, for trade purposes or advertisement, uses any analysis made for the purposes of this Part commits an offence.

*Division 6—Miscellaneous*

*Subdivision 1—General*

Executive Director, Public Health, may require information about therapeutic goods or cosmetics

246FZD. (1) The Executive Director, Public Health, may, by notice in writing served on any person who manufactures in, or imports into, this State, or sells, any therapeutic goods or cosmetics, require that person to furnish, in writing, to the Executive Director, Public Health, or such other person as is specified in that notice, within such period, not being less than 14 days, as may be specified therein, such information relating to the therapeutic goods or cosmetics as is referred to in that notice.

(2) A notice referred to in subsection (1) may be served on any person whether or not the therapeutic goods or cosmetics referred to in that notice are therapeutic goods or cosmetics in respect of which information has previously been furnished.

(3) Any person on whom a notice referred to in subsection (1) is served who does not comply with that notice within the period specified in that notice commits an offence.

(4) Any person on whom a notice referred to in subsection (1) is served who, in purported compliance with that notice, knowingly furnishes any information that is false or misleading in a material particular commits an offence.

Selling therapeutic goods by automatic machines prohibited

246FZE. A person who—

- (a) whether on or about his premises or elsewhere—
  - (i) installs any automatic machine for sale or supply of any therapeutic goods; or
  - (ii) sells or supplies any therapeutic goods by means of any automatic machines;
- (b) allows, permits or suffers any automatic machine referred to in paragraph (a) to be installed on his premises;
- (c) places or allows, permits or suffers to be placed any therapeutic goods in any automatic machine on his premises or under his control; or
- (d) allows, permits or suffers any person to purchase or be supplied with or otherwise obtain any therapeutic goods by means of any automatic machine on the premises or under the control of that first mentioned person,

commits an offence.

Hawking, etc., of therapeutic goods

246FZF. (1) A person who sells in any street or from house to house or hawks or peddles or distributes free or as samples in any street or public place or from house to house any therapeutic goods commits an offence.

(2) Subsection (1) does not apply to the free distribution of clinical samples of therapeutic goods to a medical practitioner, pharmacist, dentist or veterinary surgeon by a person engaged in the manufacture of, or wholesale dealing in, therapeutic goods, if that distribution is made to the medical practitioner, pharmacist, dentist or veterinary surgeon personally or by posting a letter or parcel containing the goods addressed to him.

(3) The regulations may make provision for or with respect to the conditions to be complied with in respect of the free distribution of clinical samples of therapeutic goods, as referred to in subsection (2), and, without affecting the generality of this subsection, may provide that any of the prescribed provisions of this Part and the regulations shall apply to and in respect of those samples as if their distribution or intended distribution were a sale or intended sale.

Prohibition of sale or supply of certain  
therapeutic devices

246FZG. The regulations may prohibit or regulate the sale or supply of a therapeutic device that is of a class of therapeutic devices specified or described in the regulations.

Service of notices, etc.

246FZH. A notice referred to in section 246FJ(3), 246FL(1) or 246FZD(1), or an order made under section 246FT, may be served on a person—

- (a) by delivering it personally to the person;
- (b) by delivering it to the place last known to the Executive Director, Public Health, as the place of abode or business of the person and by leaving it there with some person for him; or
- (c) by posting it in an envelope duly stamped and addressed to the person at the place last known to the Executive Director, Public Health, as the place of abode or business of the person.

*Subdivision 2—Regulations and orders*

Regulations

246FZI. The Governor may make regulations under section 341 for or with respect to—

- (a) any forms to be used for the purposes of this Part;
- (b) the procedure for the calling of meetings of the Drug Advisory Committee and the conduct of business at those meetings;
- (c) prescribing the conditions to be complied with concerning the situation and construction of premises used for the manufacture or storage of therapeutic goods or cosmetics, securing the sanitation of those premises, and the provision of facilities for protecting those therapeutic goods or cosmetics from contamination or deterioration;

- (d) prescribing the conditions to be complied with in the manufacture, distribution, conveyance, storage or handling of therapeutic goods or cosmetics;
- (e) methods of analysis of therapeutic goods or cosmetics to determine conformity with standards;
- (f) the delivery up of licences issued under this Part and the issue of substitute or duplicate licences;
- (g) requiring persons engaged in the manufacture, distribution, conveyance, storage, handling or sale of therapeutic goods or cosmetics to keep records; and
- (h) all matters which by this Part are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Part.

#### Provisions applicable to regulations and orders

246FZJ. (1) Regulations and orders made under this Part may be made so as to differ according to time, place and circumstances.

(2) A regulation or order made under this Part may authorize any matter or thing to be from time to time determined, applied or regulated by any person or body specified therein.

(3) Any goods may be specified or described in a regulation or order made under this Part by reference to any act, matter or thing specified or described in that regulation or order, and, without affecting the generality of subsections (1) and (2), may be specified or described by reference to any one or more of the following—

- (a) the common or scientific name of the goods;
- (b) any class of goods;
- (c) the composition of the goods;
- (d) the use or intended use of the goods;
- (e) the purpose for which the goods may be used;
- (f) any dealing or proposed dealing in respect of the goods; or
- (g) the manner in which the goods are packed.

(4) A regulation or order made under this Part may be made so as to apply to or in respect of—

- (a) any matter, or all matters, or any class of matters, specified or described in that regulation or order; or
- (b) all matters, or any class of matters, specified or described in that regulation or order, other than any matter or class of matters so specified or described that is expressed to be excluded.

(5) When any provision of this Part authorizes any matter to be prescribed or to be specified or described in any regulation or order made under this Part, subsection (4) applies, without affecting the generality of that subsection, to a regulation or order prescribing or specifying or describing that matter.

(6) Nothing in this section affects the application of the *Interpretation Act 1984* to regulations and orders made under this Part.

(7) In subsections (4) and (5)—

“matter” means goods, representation or act, or any other matter or thing.

*Subdivision 3—Legal proceedings*

**Proceedings for offences**

246FZK. Proceedings for an offence under this Part or the regulations shall be taken before a court of petty sessions constituted by a magistrate sitting alone.

**Appeal to District Court in certain cases**

246FZL. (1) A person aggrieved—

- (a) by a decision of the Executive Director, Public Health, under Subdivision 2 of Division 2; or
- (b) by an order made by the Executive Director, Public Health, under section 246FT,

may, in the manner prescribed by rules of court and within the time so prescribed, appeal against that decision or order to the District Court.

(2) An appeal made under this section—

- (a) shall not be entertained unless at least 10 days' notice, in writing, of the appeal has been given to the Executive Director, Public Health; and
- (b) shall be by way of a re-examination and re-assessment of the facts on which the decision or order appealed against was made.

(3) The District Court may confirm the decision or order appealed against under this section or give such directions in the matter as seem proper or otherwise determine the matter.

(4) The decision of the District Court on an appeal made under this section shall be final, and shall be binding on the Executive Director, Public Health, and the appellant, and shall be carried into effect accordingly.

#### Evidence

246FZM. (1) In any legal proceedings under this Part, a certificate purporting to be signed by the Executive Director, Public Health, or an officer of the Department authorized generally or specially by the Executive Director, Public Health, to do so, and to certify that the person specified therein was or was not the holder of a licence on any day, or during any period, specified therein shall be admissible in evidence and shall be *prima facie* evidence of the fact so certified.

(2) In any legal proceedings under this Part, a certificate purporting to be signed by a public health official and to certify that any matter specified therein is a copy of, or extract from, any book or document made or taken by him under this Part shall be admissible in evidence without production of the book or document.

(3) In any legal proceedings under this Part, a certificate purporting to be signed by an analyst and setting out the results of an analysis of any goods under section 246FZC shall be *prima facie* evidence of the identity of the goods analysed and of the result of that analysis, and that that analysis was carried out in such manner as may be specified therein.

Offence by employer when employee  
has committed offence

246FZN. (1) When an employee (in this section called "the employee") of an employer (in this section called "the employer") commits an offence under this Part or the regulations, the employer commits the same offence if it is proved that he—

(a) knowingly authorized or permitted; or

(b) did not exercise due diligence to prevent,  
the commission of that offence by the employee.

(2) The employer may be proceeded against and convicted under subsection (1) whether or not the employee has been proceeded against or been convicted under this Part or the regulations.

(3) Nothing in subsection (1) prejudices or affects any liability imposed by this Part or the regulations on any person by whom an offence under this Part or the regulations is actually committed.

Offences by bodies corporate

246FZO. When a body corporate is convicted of an offence under this Part or the regulations, every director and every officer concerned in the management of the body corporate commits the same offence if he knowingly authorized or permitted the commission of that offence. "

## Section 246H amended

91. Section 246H of the principal Act is amended—

(a) in subsection (2) (a) by inserting before "Director" the following—

" Executive "; and

(b) in subsection (3) by deleting "Director" and substituting the following—

" Executive Director, Public Health ".

**Section 246L amended**

**92.** Section 246L of the principal Act is amended by deleting “and is liable to a penalty not exceeding \$2 500”.

**Section 246M amended**

**93.** Section 246M of the principal Act is amended—

(a) in subsection (1) by deleting “and is liable to a penalty not exceeding \$5 000”; and

(b) in subsection (2) by deleting—

“standard—

(a) commits an offence; and

(b) is liable to a penalty not exceeding \$3 000,

unless” and substituting the following—

“ standard commits an offence unless ”.

**Section 246N amended**

**94.** Section 246N of the principal Act is amended—

(a) in subsection (1) by deleting “and is liable to a penalty not exceeding \$2 500”; and

(b) by repealing subsection (2) and substituting the following subsection—

“ (2) A person who packs for sale food for which there is a prescribed standard commits an offence unless that food complies with the prescribed standard. ”.

**Section 246O amended**

**95.** Section 246O of the principal Act is amended—

- (a) in subsection (1) by deleting “and is liable to a penalty not exceeding \$2 500”; and
- (b) in subsection (2) by deleting “and is liable to a penalty not exceeding \$2 000”.

**Section 246P amended**

**96.** Section 246P of the principal Act is amended by deleting—

“a prescribed standard—

- (c) commits an offence; and
- (d) is liable to a penalty not exceeding \$2 000,

unless” and substituting the following—

“ a prescribed standard commits an offence unless ”.

**Section 246Q amended**

**97.** Section 246Q of the principal Act is amended—

- (a) in subsection (1) by deleting “and is liable to a penalty not exceeding \$3 000”;
- (b) in subsection (2) by deleting “and is liable to a penalty not exceeding \$2 500”; and
- (c) in subsections (3) and (4) by deleting “and is liable to a penalty not exceeding \$2 000”.

**Section 246R amended**

**98.** Section 246R of the principal Act is amended in subsection (1) by deleting “and is liable to a penalty not exceeding \$3 000”.

**Section 246S amended**

**99.** Section 246S of the principal Act is amended by deleting “and is liable to a penalty not exceeding \$5 000”.

**Section 246T amended**

**100.** Section 246T of the principal Act is amended by deleting “and is liable to a penalty not exceeding \$2 500”.

**Section 246W amended**

**101.** Section 246W of the principal Act is amended in subsection (2) by deleting—

“that order—

(a) commits an offence; and

(b) is liable to a penalty not exceeding \$5 000,

unless” and substituting the following—

“ that order commits an offence unless ”.

**Section 246X amended**

**102.** Section 246X of the principal Act is amended—

(a) in subsection (1) by deleting “and is liable to a penalty not exceeding \$500”; and

(b) in subsection (2) by deleting “and is liable to a penalty not exceeding \$2 500”.

**Section 246Y amended**

**103.** Section 246Y of the principal Act is amended in subsection (10) by deleting “and is liable to a penalty not exceeding \$5 000”.

**Section 246Z amended**

**104.** Section 246Z of the principal Act is amended in subsections (5) and (6) by deleting “and is liable to a penalty not exceeding \$2 000”.

**Section 246ZD amended**

**105.** Section 246ZD of the principal Act is amended by deleting “and is liable to a penalty not exceeding \$5 000”.

**Section 246ZH amended**

**106.** Section 246ZH of the principal Act is amended in subsection (2) by deleting “and is liable to a penalty not exceeding \$2 000”.

**Section 246ZK amended**

**107.** Section 246ZK of the principal Act is amended by deleting “and is liable to a penalty not exceeding \$1 000”.

**Section 246ZM amended**

**108.** Section 246ZM of the principal Act is amended in subsection (1) by deleting “and is liable to a penalty not exceeding \$2 000”.

**Section 246ZR amended**

**109.** Section 246ZR of the principal Act is amended in subsection (5) by deleting “90 days” and substituting the following—

“ 12 months ”.

**Section 246ZT amended**

**110.** Section 246ZT of the principal Act is amended in paragraph (b) by deleting “to the analyst” and substituting the following—

“ the analyst ”.

**Section 247 amended**

**111.** Section 247 of the principal Act is amended in subsection (3) by—

(a) inserting after “time;” in paragraph (a) the following—

“ and ”;

(b) deleting “; and” at the end of paragraph (b) and substituting a full stop; and

(c) deleting paragraph (c).

**Section 249 amended**

**112.** Section 249 of the principal Act is amended by deleting the proviso.

**Section 250 amended**

**113.** Section 250 of the principal Act is amended by deleting the proviso.

**Section 255 amended**

**114.** Section 255 of the principal Act is amended by deleting “, and shall be liable to a penalty not exceeding one hundred dollars, and in the case of a continuing offence to a further penalty not exceeding ten dollars for every day on which the offence is continued after the first day”.

**Section 260 amended**

**115.** Section 260 of the principal Act is amended in paragraph (3) by deleting “shall be severally liable to a penalty not exceeding ten dollars for every day thereafter until the requisite works are duly done” and substituting the following—

“ each commits an offence ”.

**Section 262 amended**

**116.** Section 262 of the principal Act is amended in paragraph (4) by deleting “shall be liable to a penalty not exceeding one hundred dollars” and substituting the following—

“ commits an offence ”.

**Section 263 amended**

**117.** Section 263 of the principal Act is amended in paragraph (4) by deleting “shall be liable to a penalty not exceeding twenty dollars” and substituting the following—

“ commits an offence ”.

**Section 264 amended**

**118.** Section 264 of the principal Act is amended in subsection (1) by deleting “shall be liable to a penalty not exceeding one hundred dollars” and substituting the following—

“ commits an offence ”.

**Section 266 amended**

**119.** Section 266 of the principal Act is amended by deleting “subsection (1) of the last preceding section, he shall be liable to a penalty not exceeding twenty dollars” and substituting the following—

“ section 265 (1), he commits an offence ”.

**Section 267 amended**

**120.** Section 267 of the principal Act is amended in subsection (1) by deleting “shall be liable to a penalty not exceeding one hundred dollars” and substituting the following—

“ commits an offence ”.

**Section 268 amended**

**121.** Section 268 of the principal Act is amended by deleting “shall be liable to a penalty not exceeding twenty dollars” and substituting the following—

“ commits an offence ”.

**Section 269 amended**

**122.** Section 269 of the principal Act is amended by deleting “shall be liable to a penalty not exceeding forty dollars” and substituting the following—

“ commits an offence ”.

**Section 273 amended**

**123.** Section 273 of the principal Act is amended in subsections (4) and (6) by deleting “shall be guilty of an offence against this Act” and substituting in each case the following—

“ commits an offence ”.

**Section 276 amended**

**124.** Section 276 of the principal Act is amended in paragraphs (b) and (d) of subsection (1) by deleting “shall be liable to a penalty not exceeding twenty dollars” and substituting in each case the following—

“ commits an offence ”.

**Section 277 amended**

**125.** Section 277 of the principal Act is amended in paragraph (5) by deleting “shall be liable to a penalty not exceeding four dollars, and in the case of a second or subsequent offence, not exceeding forty dollars” and substituting the following—

“ commits an offence ”.

**Section 278 amended**

**126.** Section 278 of the principal Act is amended in subsection (1) by deleting “shall be liable to a penalty not exceeding forty dollars” and substituting the following—

“ commits an offence ”.

**Section 279 amended**

**127.** Section 279 of the principal Act is amended by deleting “shall be liable to a penalty not exceeding forty dollars” and substituting the following—

“ commits an offence ”.

**Section 280 amended**

**128.** Section 280 of the principal Act is amended in subsection (4) by deleting “shall be liable to a penalty not exceeding forty dollars” and substituting the following—

“ commits an offence ”.

**Section 282 amended**

**129.** Section 282 of the principal Act is amended in subsection (2) by deleting “shall be guilty of an offence against this Act” and substituting the following—

“ commits an offence ”.

**Section 285 amended**

**130.** Section 285 of the principal Act is amended in subsection (1) by deleting “shall be liable to a penalty not exceeding ten dollars” and substituting the following—

“ commits an offence ”.

**Section 294 amended**

**131.** Section 294 of the principal Act is amended in subsection (7)(a) by deleting “against this Act”.

**Section 295 amended**

**132.** Section 295 of the principal Act is amended by deleting “Commissioner’s order” and substituting the following—

“ order of the Executive Director, Public Health, ”.

**Section 296 amended**

**133.** Section 296 of the principal Act is amended—

- (a) in subsection (1) by deleting “(1)”; and
- (b) by repealing subsection (2).

**Section 297 amended**

**134.** Section 297 of the principal Act is amended—

(a) in subsection (1) by deleting—

(i) “No person” and substituting the following—

“ A person, ”;

(ii) “shall attend upon or prescribe” and substituting the following—

“ , who attends on or prescribes ”;

(iii) “or not.” and substituting the following—

“ or not, commits an offence ”; and

(iv) “Penalty: One hundred dollars, or six months’ imprisonment with hard labour.”;

and

(b) in subsection (2) by deleting “two hundred and twenty-six of this Act” and substituting the following—

“ 237(3) ”.

**Section 298 amended**

**135.** Section 298 of the principal Act is amended in subsection (1) by deleting—

(a) “shall,” and substituting the following—

“ who does not, ”;

(b) “such practitioner.” and substituting the following—

“ the medical practitioner commits an offence. ”; and

(c) “Penalty: Forty dollars.”.

**Section 299 amended**

**136.** Section 299 of the principal Act is amended—

(a) in subsection (1) by deleting—

(i) “medical practitioner shall” and substituting the following—

“ medical practitioner and who does not ”;

(ii) “every such person shall” and substituting the following—

“ who does not ”;

(iii) “such practitioner.” and substituting the following—

“ the medical practitioner commits an offence. ”; and

(iv) “Penalty: Forty dollars.”;

and

(b) in subsection (2) by deleting—

(i) “any such person shall at any time decide” and substituting the following—

“ a person referred to in subsection (1) at any time decides ”;

(ii) “such person shall die, or for any reason be” and substituting the following—

“ that person dies, or is for any reason ”;

(iii) “then such person shall” and substituting the following—

“ and that person does not ”;

(iv) “doing so shall inform” and substituting the following—

“ doing so inform ”;

(v) “his last previous adviser,” and substituting the following—

“ his last previous adviser, that person commits an offence; ”; and

(vi) “Penalty: Ten dollars.”.

**Section 300 amended**

**137.** Section 300 of the principal Act is amended in subsection (1) by deleting—

- (a) “shall forthwith” and substituting the following—  
“ who does not forthwith ”;
- (b) “infectious stage” and substituting the following—  
“ infectious stage commits an offence ”;  
and
- (c) “Penalty: Ten dollars.”.

**Section 301 amended**

**138.** Section 301 of the principal Act is amended by deleting—

- (a) “shall send” and substituting the following—  
“ , if he does not send ”;
- (b) “the patient” and substituting the following—  
“ the patient, commits an offence ”; and
- (c) “Penalty: Ten dollars.”.

**Section 302 amended**

**139.** Section 302 of the principal Act is amended—

- (a) in subsection (1) by deleting—
  - (i) “shall, by written notice” and substituting the following—  
“ and who does not, by written notice ”;
  - (ii) “shall by such notice” and substituting the following—  
“ by such notice ”;
  - (iii) “certified as cured” and substituting the following—  
“ certified as cured, commits an offence ”; and

- (iv) “Penalty: Ten dollars.”;
- and
- (b) by inserting after subsection (2) the following subsection—
  - “ (3) A medical practitioner who contravenes subsection (2) commits an offence. ”.

### **Section 303 amended**

**140.** Section 303 of the principal Act is amended by inserting after—

- (a) “303.” the following—
  - “ (1) ”;
  - and
- (b) the existing section the following subsection—
  - “ (2) A medical practitioner who contravenes subsection (1) commits an offence. ”.

### **Section 304 amended**

**141.** Section 304 of the principal Act is amended—

- (a) in subsection (1) by deleting—
  - (i) “(1) No person shall knowingly give” and substituting the following—
    - “ (1) A person who knowingly gives ”;
  - (ii) “of any such disease” and substituting the following—
    - “ of venereal disease commits an offence ”;
  - (iii) “, and no person shall make use of any such certificate for the purpose of or in relation to or in connection with prostitution”; and

- (iv) "Penalty: Forty dollars.";
- and
- (b) by inserting after subsection (1) the following subsection—

" (1a) A person who makes use of a certificate referred to in subsection (1) for the purpose of or in relation to or in connection with prostitution commits an offence. "

### **Section 306 amended**

**142.** Section 306 of the principal Act is amended—

- (a) in subsection (1) by deleting—

- (i) ", shall" and substituting the following—

" and who does not ";

- (ii) "as aforesaid." and substituting the following—

" , commits an offence. "; and

- (iii) "Penalty: Twenty dollars.";

and

- (b) in subsection (2) by deleting—

- (i) "any such person as aforesaid" and substituting the following—

" a person referred to in subsection (1) ";

- (ii) ", shall" and substituting the following—

" and who does not ";

- (iii) "Public Health." and substituting the following—

" Public Health, commits an offence. "; and

- (iv) "Penalty: Twenty dollars.".

**Section 307 amended**

**143.** Section 307 of the principal Act is amended in subsection (8) by deleting—

- (a) “, shall be guilty of an offence against this Act.” and substituting the following—

“ commits an offence. ”; and

- (b) “Penalty: Forty dollars.”.

**Section 310 amended**

**144.** Section 310 of the principal Act is amended in subsection (1) by deleting—

- (a) “No person shall knowingly infect” and substituting the following—

“ A person who knowingly infects ”;

- (b) “do or suffer” and substituting the following—

“ does or suffers ”;

- (c) “such a disease.” and substituting the following—

“ a venereal disease commits an offence. ”; and

- (d) “Penalty: One hundred dollars or imprisonment with hard labour for six months.”.

**Section 311 amended**

**145.** Section 311 of the principal Act is amended in subsection (2) by—

- (a) deleting “shall examine” and substituting the following—

“ who does not examine ”;

and

- (b) inserting after “and treatment” the following—

“ commits an offence ”.

**Section 312 amended**

**146.** Section 312 of the principal Act is amended by deleting—

- (a) “it shall be unlawful to publish” and substituting the following—  
“ a person who publishes ”;
- (b) “any such proceedings,” and substituting the following—  
“ any such proceedings commits an offence, ”;
- (c) “prohibition shall” and substituting the following—  
“ offence does ”; and
- (d) “Penalty: For a first offence, two hundred dollars, or imprisonment with or without hard labour for not exceeding six months; for any subsequent offence one thousand dollars, or imprisonment with or without hard labour for not exceeding twelve months.”.

**Section 313 amended**

**147.** Section 313 of the principal Act is amended—

- (a) in subsection (1) by deleting—
  - (i) “No person shall publish” and substituting the following—  
“ A person who publishes ”; and
  - (ii) “irregularities.” and substituting the following—  
“ irregularities, commits an offence. ”;
- (b) in subsection (2) by inserting before “be deemed to have published” the following—  
“ for the purposes of subsection (1) ”;
- (c) by repealing subsection (5); and
- (d) in subsection (6) by deleting “against this section” and substituting the following—  
“ under subsection (1) ”.

**Section 314 amended**

**148.** Section 314 of the principal Act is amended in subsection (1) by deleting—

- (a) “the provisions of the next succeeding subsection” and substituting the following—  
“ subsection (2), ”;
- (b) “part of this Act shall” and substituting the following—  
“ Part who does not ”;
- (c) “shall not communicate” and substituting the following—  
“ communicates ”;
- (d) “this Act.” and substituting the following—  
“ this Act commits an offence. ”; and
- (e) “Penalty: Two hundred dollars.”.

**Section 332 amended**

**149.** Section 332 of the principal Act is amended—

- (a) in paragraph (1) by deleting—
  - (i) “shall not be entitled to take or use” and substituting the following—  
“ who takes or uses ”;
  - (ii) “to keep, conduct or manage” and substituting the following—  
“ who keeps, conducts or manages ”;
  - (iii) “cases are received” and substituting the following—  
“ cases are received commits an offence, ”; and
  - (iv) “Penalty—For a first offence, forty dollars; for a subsequent offence, one hundred dollars or imprisonment for six months.”;

(b) in paragraph (2) by deleting—

(i) “shall not for gain undertake” and substituting the following—

“ and who for gain undertakes ”;

(ii) “nursing.” and substituting the following—

“ nursing commits an offence. ”; and

(iii) “Penalty—For the first offence, forty dollars; for a subsequent offence, one hundred dollars or imprisonment for six months.”;

and

(c) in paragraph (3) by deleting “five miles” and substituting the following—

“ 8 kilometres ”.

### **Section 333 amended**

**150.** Section 333 of the principal Act is amended—

(a) in subsection (1) by deleting “(1)”; and

(b) by repealing subsection (2).

### **Section 335 amended**

**151.** Section 335 of the principal Act is amended—

(a) in subsection (2) by deleting “Such report” and substituting the following—

“ A report furnished under subsection (1) ”; and

(b) by repealing subsection (3) and substituting the following subsection—

“ (3) A midwife or midwifery nurse who contravenes subsection (1) as read with subsection (2) commits an offence. ”.

**Section 336 amended**

**152.** Section 336 of the principal Act is amended by repealing subsection (5) and substituting the following subsections—

“ (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 XIII A commits an offence. ”.

**Section 336A amended**

**153.** Section 336A of the principal Act is amended by repealing subsection (5) and substituting the following subsections—

“ (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 XIII B commits an offence. ”.

**Section 336B amended**

**154.** Section 336B of the principal Act is amended by repealing subsection (7) and substituting the following subsections—

“ (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 XIIC commits an offence. ”.

### **Section 337 amended**

**155.** Section 337 of the principal Act is amended—

- (a) in subsection (3) by deleting “Failure to comply with any such requisition shall be an offence against this Act, punishable on summary conviction by a penalty not exceeding ten dollars.”;
- (b) in subsection (4) by deleting—
  - (i) “; and such parent or guardian shall comply with the requisition and do what is necessary to ensure continued compliance therewith”;
  - (ii) “Penalty: Ten dollars.”;

and

- (c) by inserting after subsection (5) the following subsection—

“ (6) A parent or guardian who does not comply with a requisition made under subsection (3) or (4) commits an offence. ”.

### **Section 338 amended**

**156.** Section 338 of the principal Act is amended in subsection (1) by deleting—

- (a) “shall,”;
- (b) “be guilty of an offence against this Act” and substituting the following—
  - “ commits an offence ”; and
- (c) “(appointed under section eleven of this Act)”.

**Section 340M amended**

**157.** Section 340M of the principal Act is amended—

(a) in subsection (1) by deleting—

(i) “No person” and substituting the following—

“ A person ”;

(ii) “of this Act shall” and substituting the following—

“ who ”;

(iii) “disclose or divulge” and substituting the following—

“ discloses or divulges ”; and

(iv) “out the research.” and substituting the following—

“ out the research, commits an offence. ”;

and

(b) in subsection (2)—

(i) by deleting “No member” and substituting the following—

“ A member ”;

(ii) by deleting “shall interview” and substituting the following—

“ who interviews ”;

(iii) by deleting “communicate with” and substituting the following—

“ communicates with ”; and

(iv) by inserting after “relative of that person” the following—

“ commits an offence. ”.

**Section 340AJ amended**

**158.** Section 340AJ of the principal Act is amended—

(a) in subsection (1) by deleting—

(i) “two” and substituting the following—

“ not more than 4 medical practitioners to be ”; and

(ii) “determine.” and substituting the following—

“ determine, in the case of each investigator. ”;

(b) by repealing subsection (2) and substituting the following subsection—

“ (2) If under subsection (1)—

(a) 1 investigator is appointed, he shall be;

(b) 2 investigators are appointed, each of them shall be; or

(c) 3 or 4 investigators are appointed, 2 of them shall each be,

a specialist in obstetrics or neonatal paediatrics. ”; and

(c) in subsection (3) by deleting—

(i) “either of the investigators” and substituting the following—

“ an investigator ”; and

(ii) “any vacancy in those offices” and substituting the following—

“ a vacancy in the office of such an investigator ”.

**Section 340AK amended**

**159.** Section 340AK of the principal Act is amended by repealing subsection (5) and substituting the following subsections—

“ (5) The Chairman of the Committee—

- (a) shall notify in writing the determination made, and any comments added, by the Committee under subsection (4) to the medical practitioner who was attending the child concerned at the time of the occurrence of the still-birth or death investigated under section 336A; and
- (b) may notify in writing the determination and comments referred to in paragraph (a) to any medical practitioner (not being the medical practitioner referred to in that paragraph) who attended the child concerned or his mother or both prior to the occurrence of the still-birth or death referred to in that paragraph if the Committee considers that that medical practitioner should be informed of that determination and those comments.

(5a) The contents of a notification made under subsection (5) are not admissible in any court or before any tribunal, board or person in any action, cause or inquiry of any kind whatsoever.

(5b) A person who exhibits, communicates or divulges in whole or in part the contents of a notification made under subsection (5) to any person except for the purposes of, and in accordance with, this Part commits an offence. ”.

**Section 340AL amended**

**160.** Section 340AL of the principal Act is amended—

- (a) in subsection (1) by inserting after “all reasonable steps shall” the following—

“ , subject to this section, ”; and

- (b) by inserting after subsection (1) the following subsections—

“ (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 Executive Director, Public Health, that the identity of that child be so divulged.

(1b) The Executive Director, Public Health, may, if he agrees with a recommendation made to him under subsection (1a), authorize the investigator concerned to divulge the identity of the person or child to whom his 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 under subsection (1b) commits an offence. ”.

### **Section 340AM amended**

**161.** Section 340AM of the principal Act is amended—

(a) in subsection (1) by deleting—

(i) “No person” and substituting the following—

“ A person ”;

(ii) “of this Act shall” and substituting the following—

“ who ”;

(iii) “disclose or divulge” and substituting the following—

“ discloses or divulges ”; and

(iv) “out the research.” and substituting the following—

“ out the research, commits an offence. ”;

and

(b) in subsection (2)—

(i) by deleting “No member” and substituting the following—

“ A member ”;

(ii) by deleting “shall interview or in any way communicate” and substituting the following—

“ who interviews or in any way communicates ”; and

(iii) by inserting after “relative of that person” the following—

“ commits an offence. ”.

**Section 340BM amended**

**162.** Section 340BM of the principal Act is amended—

(a) in subsection (1) by deleting—

(i) “No person” and substituting the following—

“ A person ”;

(ii) “of this Act shall” and substituting the following—

“ who ”;

(iii) “disclose or divulge” and substituting the following—

“ discloses or divulges ”; and

(iv) “out the research.” and substituting the following—

“ out the research, commits an offence. ”;

and

(b) in subsection (2)—

(i) by deleting “No member” and substituting the following—

“ A member ”;

(ii) by deleting “shall interview or in any way communicate” and substituting the following—

“ who interviews or in any way communicates ”; and

(iii) by inserting after “relative of that person” the following—

“ commits an offence. ”.

**Section 341 amended**

**163.** Section 341 of the principal Act is amended by repealing subsection (1) and substituting the following subsection—

- “ (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. ”.

**Section 344 amended**

**164.** Section 344 of the principal Act is amended in subsection (1) by—

- (a) deleting paragraph (1); and
- (b) redesignating paragraphs (2), (3) and (4) as paragraphs (a), (b) and (c), respectively.

**Section 349 amended**

**165.** Section 349 of the principal Act is amended in subsection (2) by deleting “shall be liable to a penalty of ten dollars and to a daily penalty of two dollars” and substituting the following—

- “ commits an offence ”.

**Section 351 amended**

**166.** Section 351 of the principal Act is amended—

- (a) in subsection (1) by deleting “, shall be liable to a penalty not exceeding forty dollars, and, if the offence is a continuing one, to a daily penalty not exceeding four dollars” and substituting the following—

“ commits an offence ”;

- (b) in subsection (2) by deleting—

- (i) “shall,” and substituting the following—

“ commits an offence, ”; and

- (ii) “, be liable to a penalty not exceeding ten dollars”;

(c) in subsection (3) by deleting—

(i) “; and if,” and substituting the following—

“ ; and any such occupier who does not, ”; and

(ii) “such occupier fails to comply therewith, he shall be liable to a daily penalty not exceeding ten dollars” and substituting the following—

“ comply with such a requirement commits an offence ”;

and

(d) in subsection (5) by deleting “shall be liable to a penalty not exceeding twenty dollars” and substituting the following—

“ commits an offence ”.

### **Section 352 amended**

**167.** Section 352 of the principal Act is amended in subsection (3) by deleting “shall be liable to a penalty not exceeding twenty dollars” and substituting the following—

“ commits an offence ”.

### **Section 357 amended**

**168.** Section 357 of the principal Act is amended by deleting “against this Act,” and substituting the following—

“ under this Act, ”.

### **Section 358 amended**

**169.** Section 358 of the principal Act is amended—

(a) in subsection (1) by deleting “offending against the provisions of” and substituting the following—

“ committing an offence under ”; and

(b) in subsection (2) by deleting “against this Act,” and substituting the following—

“ under this Act, ”.

**Sections 360 and 361 repealed and section 360 substituted**

**170.** Sections 360 and 361 of the principal Act are repealed and the following section is substituted—

**Penalties**

“ 360. (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;

(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;

(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;

(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 or imprisonment for a period of 3 months and not less than—

(A) in the case of a first such offence, \$250;

(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 or imprisonment for a period of 4 months and not less than—

(A) in the case of a first such offence, \$300;

(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 or imprisonment for a period of 6 months and not less than—

(A) in the case of a first such offence, \$500;

(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;

(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.

(2) By-laws and regulations made under this Act may create offences and provide in respect of any such offence—

(a) a penalty which is not more than \$1 000 and not less than—

(i) in the case of a first such offence, \$100;

(ii) in the case of a second such offence, \$200; and

(iii) in the case of a third or subsequent such offence, \$500;

and

(b) if that offence is a continuing offence, a daily penalty which is not more than \$100 and not less than \$50.

(3) Notwithstanding anything in subsection (2), by-laws and regulations to which this subsection applies may create offences and provide in respect of any such offence—

(a) a penalty which is not more than \$2 500 and not less than—

(i) in the case of a first such offence, \$250;

(ii) in the case of a second such offence, \$500; and

(iii) in the case of a third or subsequent such offence, \$1 250;

and

(b) if that offence is a continuing offence, a daily penalty which is not more than \$250 and not less than \$125.

(4) Subsection (3) applies to—

- (a) by-laws made under section 342 as read with section 172, 207 (1) or (3) or 220 (1); and
- (b) regulations made under section 341 as read with section 212B, 220 (2), 246C, 246D (1) or (2) or 247.

(5) Notwithstanding subsection (2), regulations made under section 341 as read with section 178 may create offences and provide in respect of any such offence—

- (a) a penalty which is not more than \$15 000; and
- (b) if that offence is a continuing offence, a daily penalty which is not more than \$1 000. ”.

### **Section 362 amended**

**171.** Section 362 of the principal Act is amended in subsection (1) by deleting “against the provisions of” and substituting the following—

“ under ”.

### **Section 363 amended**

**172.** Section 363 of the principal Act is amended by deleting “consolidated revenue” and substituting the following—

“ Consolidated Revenue Fund ”.

### **Section 366 amended**

**173.** Section 366 of the principal Act is amended in subsection (2) by deleting “shall be liable to a penalty not exceeding one hundred dollars” and substituting the following—

“ commits an offence ”.

**Section 370 amended**

**174.** Section 370 of the principal Act is amended by deleting “shall be liable to a penalty not exceeding ten dollars for every day on which he does so” and substituting the following—

“ commits an offence ”.

**Section 377 amended**

**175.** Section 377 of the principal Act is amended in paragraph (10) by deleting—

- (a) “article for analysis pursuant to the provisions of section two hundred and twenty-eight of this Act” and substituting the following—

“ drug for analysis under section 227 ”;

and

- (b) “such article” and substituting the following—

“ that drug ”.

**Schedule 5 inserted**

**176.** The principal Act is amended by inserting after Schedule 4 the following Schedule—

“ **SCHEDULE 5** (Section 360 (1))

**PENALTIES**

*Part I*

Sections 77, 78 (1a), 86 (2), 92 (1), 101 (3), 102, 112A (4), 114 (1), 116 (d), 120 (2), 126 (1a), 151, 153 (2), 157 (4), 181 (2), 184 (3), 189, 203 (2), 217 (1) and (2), 225 (1), 238 (3) and (5), 246X (1), 263 (4), 276 (1) (d), 285 (1), 299 (2), 300 (1), 301, 302 (1), 306 (1) and (2), 311, 349 (2), 351 (2) and (5) and 352 (3).

*Part II*

Sections 79 (1), 91 (2), 93, 94 (1), 107 (3) and (4), 107A, 132 (2), 136, 140 (1), 141 (2), 154, 162 (4), 196 (2), 224 (2), 227 (13), 246ZK, 260 (3), 262 (4), 266, 268, 269, 273 (4) and (6), 276 (1) (b), 277 (5), 280 (4), 294 (7) (a), 302 (3), 303 (2), 304 (1) and (1a), 307 (8), 332 (2), 335 (3), 337 (6), 338 (1), 351 (1) and (3) and 370.

*Part III*

Sections 246FZD (3) and (4), 246FZE, 246FZF (1), 246O (2), 246P, 246Q (3) and (4), 246Z (5) and (6), 246ZH (2) and 246ZM (1).

*Part IV*

Sections 98, 99 (4), 108 (4), 109, 174 (4) and (8), 188, 209 (1) and (2), 210, 211 (1), (2), (3), (4) and (5), 223 (1), 225 (2), 227 (2), 231 (2), 234 (1), 240 (1), 246E, 246L, 246N (1), 246O (1), 246Q (2), 246T, 246X (2), 267 (1), 278 (1), 279, 282 (2), 298 (1), 299 (1), 310 (1), 313 (1), 332 (1), 336 (5a), 336A (5a), 336B (7a), 340M (1) and (2), 340AK (5b), 340AM (1) and (2), 340BM (1) and (2) and 366 (2).

*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), 246M (2), 246N (2), 246Q (1), 246R (1), 255 and 264 (1).

*Part VI*

Sections 174A (4), 177 (1), 182, 193 (2), 195, 205 (6), 212, 214 (1), 216 (2), 221 (1), 222, 236 (1), 241 (1), 246FD (1), 246FE (1), 246FF (1), 246FG (1), 246M (1), 246S, 246W (2), 246Y (10), 246ZD, 297 (1), 314 (1) and 340AL (1c).

*Part VII*

Sections 129, 131 (2), 228 (2), 237 (2), 238 (1), 246E and 312.

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