

South Australia

## Public and Environmental Health Act 1987

An Act dealing with public and environmental health; to repeal the *Health Act 1935*, the *Noxious Trades Act 1934* and the *Venereal Diseases Act 1947*; and for other purposes.

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**The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *Public and Environmental Health Act 1987*.

### **3—Interpretation**

(1) In this Act, unless the contrary intention appears—

*the authority* means—

- (a) in relation to a local government area—the local council for that area; and
- (b) in relation to a part of the State that is not within a local government area—the Minister,

(but where powers are withdrawn from a local council and vested in the Minister or the Minister is, by agreement with a local council, discharging duties of the council, a reference to the authority in relation to those powers or duties is a reference to the Minister rather than that council);

*authorised officer* means a person—

- (a) holding an appointment as an authorised officer under Part 2; or
- (b) authorised by the Minister to exercise the powers of an authorised officer under this Act;

*building* includes a structure;

*Chief Executive* means the Chief Executive of the Department and includes a person for the time being acting in that position;

*Chief Medical Officer* means the Chief Medical Officer of the Department and includes a person for the time being acting in that position;

*child* means a person under the age of 16 years;

*controlled notifiable disease* means—

- (a) a notifiable disease included in Schedule 2; or
- (b) a notifiable disease prescribed by regulation to be a controlled notifiable disease;

**controlling authority** means a controlling authority constituted under the *Local Government Act 1934*;

**the Council** means the Public and Environmental Health Council constituted under Part 2;

**the Department** means the department of the Minister to whom the administration of this Act is committed;

**director** of a body corporate includes any member of the governing body of the body corporate;

**emergency** has the same meaning as in the *Emergency Management Act 2004*;

**emergency officer** means a police officer or a person holding an appointment as an emergency officer under section 7A;

**local council** means a council constituted under the *Local Government Act 1934*;

**medical practitioner** means a legally qualified medical practitioner;

**notifiable disease** means—

- (a) a communicable disease included in Schedule 1; or
- (b) a communicable disease prescribed by regulation to be a notifiable disease;

**occupier**, in relation to premises, means a person who has, or is entitled to, possession or control of the premises and includes a person who is in charge of the premises;

**owner**, in relation to premises, includes an occupier of the premises;

**place of public assembly** includes a building (in public or private ownership) at which more than 20 persons gather on a regular or irregular basis;

**pollution**, in relation to water, connotes a degree of impurity that renders the water unfit for human consumption;

**premises** means—

- (a) any land, building or place (including a public place, or a movable building or structure); or
- (b) a part of premises;

**public health emergency**—see section 37B;

**public health incident**—see section 37A;

**Public Health Emergency Management Plan** means a plan (or a series of plans) prepared by the Chief Executive and approved by the Minister comprising strategies to be administered by the Department for the prevention of emergencies in this State and for ensuring adequate preparation for emergencies in this State, including strategies for the containment of emergencies, response and recovery operations and the orderly and efficient deployment of resources and services in connection with response and recovery operations;

**Note**—

It is contemplated that the Public Health Emergency Management Plan will form part of, or be recognised in, the State Emergency Management Plan prepared under the *Emergency Management Act 2004*.

**public place** includes a place to which the public ordinarily has access;

**recovery operations** has the same meaning as in the *Emergency Management Act 2004*;

**refuse** includes rubbish and other forms of waste material;

**response operations** has the same meaning as in the *Emergency Management Act 2004*;

**State Co-ordinator** means the person holding or acting in the position of State Co-ordinator under the *Emergency Management Act 2004*;

**vehicle** includes an aircraft or vessel;

**vermin** includes lice, fleas and mites;

**waste control system** means any system that provides for the collection, treatment or disposal of human, commercial or industrial waste through—

- (a) a drainage or sewerage system; or
- (b) a system of pipes, pumps, appliances, plant or storage or treatment facilities that deals with the waste in solid or liquid form, or in a combination of both; or
- (c) a system that incorporates the use of biological, chemical or artificial means, or any combination of such means, to collect, treat or dispose of the waste, or any residues,

and includes any fixture, fitting, appliance, plant or process associated with any such system but does not include any system of a class excluded by regulation from the ambit of this definition;

**water supply** includes any natural or artificial accumulation or source of water.

- (2) Premises are in an insanitary condition if—
  - (a) the condition of the premises gives rise to a risk to health; or
  - (b) the premises are so filthy or neglected that there is a risk of infestation by rodents or other pests; or
  - (c) the condition of the premises is such as to cause justified offence to the owner of any land in the vicinity; or
  - (d) offensive material or odours are emitted from the premises; or
  - (e) the premises are for some other reason justifiably declared by the authority to be in an insanitary condition.

**Note—**

For definition of divisional penalties (and divisional expiation fees) see Appendix.

#### **4—Act to bind the Crown**

This Act binds the Crown.

## Part 2—Administration

### Division 1—General

#### 6—Delegation

- (a1) The Minister may, by instrument in writing, delegate any of the Minister's powers or functions under this Act.
- (1) A local council may, by instrument in writing, delegate any of its powers or functions under this Act.
- (1aa) The Chief Executive may, by instrument in writing, delegate any of the Chief Executive's powers or functions under this Act.
- (1a) A power or function delegated under this section may, if the instrument of delegation so provides, be further delegated.
- (2) A delegation under this section—
  - (a) may be absolute or conditional; and
  - (b) does not derogate from the powers of the delegator to act in a matter; and
  - (c) is revocable at will.
- (3) No delegation may be made to a local council under this section without the concurrence of the local council.
- (4) The Minister or the Chief Executive must not revoke a delegation made to a local council under this section without first consulting with the local council.

#### 7—Authorised officers

- (1) Authorised officers may be appointed by the Minister or a local council.
- (2) Subject to subsection (3), a person is not eligible for appointment as an authorised officer unless the person—
  - (a) holds qualifications approved by the Minister; or
  - (b) held, immediately before the commencement of this Act, an appointment as an officer or health surveyor under the *Health Act 1935*.
- (3) Where, in the opinion of the Minister, a local council cannot reasonably be expected to appoint a qualified person as an authorised officer, the local council may, with the consent of the Minister, appoint a person as an authorised officer even though he or she does not comply with subsection (2).
- (4) The Minister must not appoint an officer or employee of a local council as an authorised officer unless the local council consents to the appointment.
- (5) Every authorised officer must be furnished with a certificate of authority and the certificate must be produced by the authorised officer on demand.

#### 7A—Emergency officers

- (1) The Chief Executive may appoint, individually or by class, such persons to be emergency officers for the purposes of this Act as the Chief Executive thinks fit.

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- (2) An appointment under subsection (1) may be subject to conditions specified by the Chief Executive.
  - (3) An emergency officer, other than a police officer, must be issued with an identity card in a form approved by the Chief Executive—
    - (a) containing the person's name and a photograph of the person; and
    - (b) stating that the person is an emergency officer for the purposes of this Act.
  - (4) An emergency officer must, at the request of a person in relation to whom the officer intends to exercise any powers under this Act, produce for the inspection of the person—
    - (a) in the case of an emergency officer who is a police officer and is not in uniform—his or her certificate of authority; or
    - (b) in the case of an emergency officer who is not a police officer—his or her identity card.
  - (5) An emergency officer appointed under this Act must, on ceasing to be an emergency officer for any reason, surrender his or her identity card and any insignia or special apparel or equipment issued to the emergency officer for the purposes of this Act to the Chief Executive or a person nominated by the Chief Executive.

Penalty: Division 8 fine.

## **Division 2—The Public and Environmental Health Council**

### **8—The Public and Environmental Health Council**

- (1) The Public and Environmental Health Council is established.
- (2) The Council will consist of six members appointed by the Governor, of whom—
  - (a) one (the presiding member) will be a member of the staff of the Department; and
  - (b) two will be persons selected by the Minister from a panel of five nominated by the Executive Council of the Local Government Association of South Australia; and
  - (c) two will be persons nominated by the Minister, being persons who are qualified in, and have extensive experience in, public and environmental health; and
  - (d) one will be an officer or employee of a local council, selected by the Minister from a panel of three nominated by the Australian Institute of Health Surveyors (South Australian Division).
- (3) Where the Minister, by notice in writing, requests a body to make nominations for the purposes of this section, and the body fails to make the nominations within the time allowed in the notice, a person may be appointed to the Council on the Minister's nomination and that member will be taken to have been appointed on the nomination of the body in default.
- (4) The Governor may appoint a suitable person to be the deputy of a member of the Council, and the deputy may, in the absence of that member, act as a member of the Council.

- (5) The provisions of this section relating to the qualification and nomination of a member extend to a deputy to that member.

### **9—Term of office of members**

- (1) Subject to this section, a member of the Council will be appointed for a term of three years.
- (3) A member of the Council is, on the expiration of a term of office, eligible for reappointment.
- (4) The Governor may remove a member of the Council from office if the member—
- (a) becomes mentally or physically incapable of carrying out official duties satisfactorily; or
  - (b) is guilty of neglect of duty or dishonourable conduct.
- (5) The office of a member of the Council becomes vacant if the member—
- (a) dies; or
  - (b) completes a term of office and is not reappointed; or
  - (c) resigns by written notice addressed to the Minister; or
  - (d) is removed from office by the Governor pursuant to subsection (4).
- (6) On the office of a member of the Council becoming vacant, a person must be appointed to that office in accordance with this Act (but a person who is to fill a casual vacancy in the office of a member will only be appointed for the balance of the term of the person's predecessor).

### **10—Conduct of business**

- (1) The presiding member will, if present at a meeting of the Council, preside at that meeting and, in the absence of that member, his or her deputy will preside.
- (2) If a person is not available to preside at a meeting of the Council in accordance with subsection (1), the members present may elect one of their number to preside at the meeting.
- (3) Four members constitute a quorum of the Council.
- (4) A decision carried by a majority of the votes cast by the members present at a meeting of the Council is a decision of the Council.
- (5) Each member present at a meeting of the Council is entitled to one vote on a question arising for decision at the meeting and, in the event of an equality of votes, the person presiding is entitled to a second, or casting, vote.
- (6) Subject to this Act, the business of the Council may be conducted in such manner as it determines.

### **11—Validity of acts of Council and immunity of members**

- (1) An act or proceeding of the Council is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.



- (2) No liability attaches to a member of the Council for an act or omission by that member or the Council in good faith in the exercise, performance or discharge, or purported exercise, performance or discharge, of the member's or the Council's powers, functions or duties under this Act.
- (3) A liability that would, but for subsection (2), lie against a member of the Council lies against the Crown.

## **12—Functions of Council**

- (1) The functions of the Council are—
  - (a) to report (on its own initiative or at the request of the Minister or the Chief Executive) to the Minister or the Chief Executive on any matter relating to public or environmental health;
  - (b) to initiate, carry out or oversee programmes and activities designed to improve or promote public and environmental health;
  - (c) to promote or, with the approval of the Minister, conduct inquiries into any aspect of public and environmental health;
  - (d) to keep the operation, administration and enforcement of this Act under review and to recommend to the Minister any legislative or administrative change that appears necessary or appropriate;
  - (e) to consider and report to the Minister on regulations proposed to be made under this Act;
  - (f) to carry out any other function or duty assigned to the Council by the Minister or by or under this Act.
- (2) The Council may establish such committees and sub-committees as it thinks fit (which may, but need not consist of, or include, members of the Council) to advise it on any aspect of its functions under this Act.
- (3) The Council may, by instrument in writing, delegate any of its powers or functions under this Act.
- (4) A delegation under subsection (3)—
  - (a) may be absolute or conditional; and
  - (b) does not derogate from the powers of the Council itself; and
  - (c) is revocable at will.

## **Division 3—Enforcement of proper standards**

### **12A—Powers and duties of relevant authorities**

- (1) It is the duty of the Minister—
  - (a) to promote proper standards of public and environmental health in the State generally; and
  - (b) without derogating from the powers of a local council under this Act (but subject to this section), to take adequate measures to ensure that the provisions of this Act are observed within the State.

- (2) Subject to this section, it is the duty of a local council—
  - (a) to promote proper standards of public and environmental health in its area; and
  - (b) to take adequate measures to ensure that the provisions of Part 3 are observed in its area; and
  - (c) to take reasonable steps—
    - (i) to prevent the occurrence and spread of notifiable diseases within its area; and
    - (ii) to prevent any infestation or spread of vermin, rodents or other pests within its area.
- (3) If, in the opinion of the Council, a local council has failed to discharge its duty under this section, the Council must consult with the local council in relation to the matter.
- (4) If, after taking action to comply with subsection (3), the Council considers that the matter remains unresolved, the Council may take such action as appears appropriate.
- (5) Without limiting the generality of subsection (4), the Council may, by notice in the Gazette, withdraw powers from a local council and transfer them to the Minister.
- (6) Before taking action under subsection (5)—
  - (a) the Council must, by notice in writing—
    - (i) inform the local council of its proposed course of action (setting out the grounds on which that action is proposed); and
    - (ii) invite the local council to make written submissions in relation to the matter; and
  - (b) if the local council so requests in written submissions to the Council—the Council must discuss the matter with a delegation representing the local council.
- (7) The Council must, as soon as is reasonably practicable after publishing a notice under subsection (5), furnish the local council with written reasons for its decision.
- (8) The Minister may recover as a debt costs and expenses reasonably incurred in exercising powers transferred under subsection (5) from the local council from which the powers are withdrawn.
- (9) The Council may, by subsequent notice in the Gazette, revoke a notice under subsection (5).
- (10) The Minister may agree to discharge on behalf of a local council any part of its duty under subsection (2).
- (11) An agreement under subsection (10) may be made subject to conditions and limitations.
- (12) Where the Minister enters into an agreement under subsection (10), the Minister is, to the extent contemplated by the agreement, vested with the powers of the local council in respect of which the agreement is made.
- (13) A breach of duty under this section does not give rise to any civil liability.

## **Part 3—Protection of public health**

### **Division 2—Provisions relating to sanitation, drainage etc**

#### **15—Prevention of insanitary conditions on premises**

- (1) If premises are in an insanitary condition, the authority may, by notice in writing, require an owner of the premises or any other person who is apparently responsible for causing the insanitary condition or allowing the insanitary condition to occur—
  - (a) to take specified action to improve the condition of the premises; or
  - (b) to desist from a specified activity to which the condition of the premises is apparently attributable.
- (2) If residential premises are, by reason of their insanitary condition, unfit for human habitation, the authority may include in a notice under subsection (1), a direction that, after a date specified in the notice, the premises must not be occupied until—
  - (a) specified action to render the premises fit for human habitation has been taken; and
  - (b) the authority is satisfied that the premises are fit for human habitation.
- (3) A person to whom a notice under subsection (1) is addressed shall not, without reasonable excuse, fail to comply with the notice.  
Penalty: Division 5 fine.  
Expiation fee: Division 6 fee.
- (4) Where a notice under subsection (1) includes a direction under subsection (2), the authority must have a copy of the notice affixed to a conspicuous part of the premises to which it relates.
- (5) A person shall not, knowing that a direction exists under subsection (2), occupy premises in contravention of that direction.  
Penalty: Division 6 fine.  
Expiation fee: Division 7 fee.
- (6) The authority may, by further notice in writing, vary or revoke a notice given under this section.

#### **16—Offence in relation to insanitary conditions on premises**

- (1) If premises are in an insanitary condition, any person who is responsible for causing the condition or allowing the condition to occur is guilty of an offence.  
Penalty: Division 5 fine.  
Expiation fee: Division 6 fee.
- (2) It is a defence to a charge for an offence against subsection (1) to prove that there is a reasonable excuse for the condition of the premises.

## **17—Control of offensive activities**

- (1) If an activity—
- (a) gives rise to a risk to health; or
  - (b) results in the emission of offensive material or odours,
- the authority may, by notice in writing to the person responsible for the activity, require that person to desist from the activity or to observe requirements stipulated in the notice in relation to the carrying on of the activity.
- (2) A person who, without reasonable excuse, fails to comply with a notice under subsection (1) is guilty of an offence.
- Penalty: Division 5 fine.  
Expiation fee: Division 6 fee.

## **18—Discharge of wastes in a public place**

- (1) A person who discharges waste into a public place is guilty of an offence.  
Penalty: Division 3 fine.
- (2) A person who, without lawful permission, discharges waste into premises of which he or she is not an owner is guilty of an offence.  
Penalty: Division 3 fine.
- (3) The authority may, by notice in writing, require the owner to take specified action (immediately or within a period specified in the notice)—
- (a) to prevent the discharge or potential discharge of waste from those premises into a public place or other premises; or
  - (b) to remove waste discharged by the owner into a public place or other premises.
- (4) A person to whom a notice under subsection (3) is addressed shall not, without reasonable excuse, fail to comply with the notice.  
Penalty: Division 3 fine.  
Expiation fee: Division 6 fee.
- (5) The authority may, by further notice in writing, vary or revoke a notice given under this section.

## **19—Private thoroughfare**

- (1) The owner of a private thoroughfare shall keep the thoroughfare clean and free of refuse.  
Penalty: Division 6 fine.  
Expiation fee: Division 7 fee.
- (2) Where the owner of a private thoroughfare fails to comply with subsection (1), the authority may, by notice in writing, require the owner to take specified action to remedy the default within such time as the authority allows in the notice.

- (3) A person to whom a notice under subsection (2) is addressed shall not, without reasonable excuse, fail to comply with the notice.

Penalty: Division 6 fine.

Expiation fee: Division 7 fee.

- (4) The authority may, by further notice in writing, vary or revoke a notice given under this section.
- (5) In this section—

*private thoroughfare* means a private street, road, lane, footway, alley, court or thoroughfare that the public is allowed to use.

## 20—Provision of adequate sanitation

- (1) Where the authority is of the opinion that premises have inadequate facilities for sanitation or personal hygiene, the authority may, by notice in writing, require an owner of the premises to take such action as the authority thinks necessary, and specifies in the notice, to provide adequate facilities within such time, and in such manner, as is specified in the notice.

- (2) A person to whom a notice under subsection (1) is addressed shall not, without reasonable excuse, fail to comply with the notice.

Penalty: Division 6 fine.

Expiation fee: Division 7 fee.

- (3) The authority may, by further notice in writing, vary or revoke a notice given under this section.

- (4) The owner of a building that is used as a place of public assembly shall keep the building clean and properly ventilated.

Penalty: Division 6 fine.

Expiation fee: Division 7 fee.

## Division 3—Protection of water supplies

### 21—Pollution of water

- (1) A person who pollutes a water supply is guilty of an offence.

Penalty: Division 1 fine.

- (2) If the authority is of the opinion that a water supply may become polluted in consequence of a particular activity, the authority may, by notice in writing addressed to the person responsible for the activity, require the person—

- (a) to take specified action to prevent pollution of the water supply within such time as the authority specifies in the notice; or
- (b) to desist from the activity.

- (3) A person to whom a notice under subsection (2) is addressed shall not, without reasonable excuse, fail to comply with the notice.

Penalty: Division 1 fine.

- (4) The authority may, by further notice in writing, vary or revoke a notice given under this section.
- (5) This section does not apply to, or in relation to—
  - (a) the pollution of water supply that is authorised by or under the *Water Resources Act 1990*;
  - (b) a person in relation to the pollution of a water supply if that person is exempted by or under the *Water Resources Act 1990* from the operation of Division 2 of Part 5 of that Act in relation to the pollution of that water supply;
  - (c) the pollution of a water supply if the pollution does not constitute an offence under the *Water Resources Act 1990* because of a regulation under that Act declaring that the Act, or a particular provision of the Act, does not apply to, or in relation to, the water supply.

## **22—Sources of water supply may be closed**

- (1) If the authority is of the opinion that a water supply is polluted and that action is necessary under this subsection to prevent human consumption of the water, it may, by notice published in the Gazette, restrict or prohibit the taking of water from that water supply, or the use of water taken from that water supply, for human consumption.
- (2) A person, knowing that a notice has been given under subsection (1), shall not, without reasonable excuse, contravene the notice.  
Penalty: Division 4 fine.
- (3) The authority may, by further notice in the Gazette, vary or revoke a notice given under this section.

## **Division 4—Action on default, recovery of costs etc**

### **23—Action on default**

- (1) Where the requirements of a notice under this Part are not complied with, the authority may cause the requirements to be carried out.
- (2) A person authorised to do so by the authority may enter premises at any reasonable time for the purposes of carrying out the requirements of a notice, but shall not break into the premises unless authorised to do so by warrant of a justice.
- (3) A justice may issue a warrant under subsection (2) if satisfied, by affidavit or other sworn evidence, that the warrant is reasonably required in the circumstances of the case.
- (4) The authority may recover the costs and expenses reasonably incurred in exercising the powers under subsection (1) from the person who failed to comply with the notice, as a debt.
- (5) Any costs and expenses reasonably incurred in exercising powers under subsection (1) in respect of land will be a charge against the land and may be recovered as if they were rates in arrear.

## **24—Recovery of costs by one person from another**

Where—

- (a) a person is required by a notice under this Part to take any action; and
- (b) the circumstances out of which the requirement arose are attributable to the act or default of another,

the person may recover the amount of the costs and expenses reasonably incurred in complying with the notice from that other person as a debt.

## **Division 5—Appeals**

### **25—Grounds for, and manner of, appeal**

- (1) A person may appeal against a requirement imposed under this Part.
- (2) An appeal under this section lies to the Council and must be instituted by a written notice of appeal setting out, in detail, the grounds of appeal.
- (3) An appeal must be instituted within 14 days of the requirement being imposed under this Part unless the Council, in its discretion, allows an extension of time for instituting the appeal.
- (4) Subject to a determination by the Council to the contrary in relation to a particular appeal, where an appeal has been instituted, the requirement appealed against is suspended until the appeal has been determined or withdrawn.
- (5) An appeal under this section is to be conducted as a full review of the matter to which the appeal relates.
- (6) An appeal under this section must be dealt with as expeditiously as possible.

### **26—Constitution of special committee**

- (1) An appeal will be heard and determined by a review committee, constituted by the Council, consisting of—
  - (a) the member of the staff of the Department appointed to the Council (who will preside); and
  - (b) one of the members of the Council who were appointed on the nomination of the Local Government Association of South Australia; and
  - (c) either one of the members of the Council who were appointed on the nomination of the Minister on account of their qualifications and experience in public and environmental health or the member of the Council appointed on the nomination of the Australian Institute of Health Surveyors (South Australian Division).
- (2) A decision in which two members of a review committee concur is a decision of the Council and takes effect without further action by the Council.

### **27—Proceedings of review committee**

- (1) For the purposes of dealing with an appeal, a review committee may adopt such procedures as it thinks appropriate.

- (2) A party is entitled to appear personally or, with leave of the committee, by representative, in proceedings before a review committee.
- (3) A review committee may proceed to determine an appeal in the absence of a party if the party has had notice of the time and place of the proceedings and fails to appear.
- (4) In any proceedings before a review committee, the review committee is not bound by the rules of evidence but may inform itself upon any matter relating to the proceedings in such manner as it thinks fit.

## **28—Determination of an appeal**

Upon hearing an appeal, a review committee may—

- (a) revoke the requirement appealed against and, where appropriate, discharge any notice given to the appellant;
- (b) substitute any requirement or notice that could have been made or given in the first instance;
- (c) dismiss the appeal;
- (d) refer the matter back to the authority for re-consideration;
- (e) make an order for costs;
- (f) make any ancillary order that the committee thinks fit.

## **29—Further appeal**

- (1) A right of appeal exists to the Administrative and Disciplinary Division of the District Court against a decision of the Council under this Division.
- (1a) An appeal must be instituted within 14 days of the decision of the Council.

# **Part 4—Notifiable diseases and the prevention of infection**

## **Division 1—Notification of diseases**

### **30—Notification**

- (1) Where a medical practitioner or person of a class prescribed by regulation suspects that a person is suffering from or has died from a notifiable disease, the medical practitioner or person of a prescribed class—
  - (a) shall as soon as practicable and, in any event, within three days of forming that suspicion, report the case to the Department; and
  - (b) shall furnish the Department with such further information as the Department may require.

Penalty: Division 7 fine.

Expiation fee: Division 8 fee.

- (2) A report under subsection (1)—
  - (a) must be made in a manner and form determined by the Department; and
  - (b) must be accompanied by the required information.



- (3) On the receipt of a report under subsection (1) that relates to a person in a local government area, the Department must, where there is an immediate threat to public health in the area, immediately communicate the contents of the report to the local council for the area.
- (4) A medical practitioner (other than a person of a class prescribed by regulation) who suspects that a person is suffering from a notifiable disease is not required to make a report under subsection (1) with respect to that case if the practitioner knows or reasonably believes that a report has already been made to the Department by another medical practitioner who is or who has been responsible for the treatment of that person.
- (5) A medical practitioner or person of a class prescribed by regulation who makes a report to the Department in accordance with this section is, subject to any prescribed exception, entitled to be paid the prescribed fee.
- (6) No civil liability arises from a statement made honestly and without malice in a report under this section.

## **Division 2—Examination and treatment of diseases**

### **31—Power of Chief Executive to require a person to undergo an examination**

- (1) Where the Chief Executive has reasonable grounds to suspect that a person is or may be suffering from a controlled notifiable disease, the Chief Executive may, by notice in writing addressed to the person, require the person to present himself or herself for examination by a medical practitioner at such time and place as is specified in the notice.
- (2) If a person who has been served with a notice under subsection (1) fails to comply with the notice, a magistrate may issue a warrant for the apprehension and examination of that person.
- (3) Reasonable force may be exercised in the execution of a warrant under subsection (2).
- (4) A person apprehended in pursuance of a warrant may be detained for a period not exceeding 48 hours for the purpose of examination.
- (5) Where—
  - (a) a person is examined pursuant to this section; and
  - (b) the examination discloses that the person is not suffering from a controlled notifiable disease,the person is entitled to reasonable compensation from the Department for costs and expenses directly incurred by the person in attending for the examination.
- (6) Compensation payable under subsection (5) may be recovered as a debt.

### **32—Power of Chief Executive, in the interests of public health, to detain persons suffering from diseases**

- (1) Where—
  - (a) a medical practitioner has certified that a person is suffering from a controlled notifiable disease; and

- (b) the Chief Executive is of the opinion that in the interests of public health the person should be kept at a suitable place of quarantine,
- a magistrate may, on the application of the Chief Executive, issue a warrant for the detention of the person at a suitable place of quarantine.
- (2) An application for a warrant under subsection (1) may, in an emergency, be made by telephone.
- (3) A person held in detention under subsection (1) must be given a notice setting out the reason for his or her detention and such other information as may be prescribed.
- (4) A person may not be held in detention under subsection (1) for more than 72 hours unless—
- (a) the Chief Executive applies to a magistrate for an extension of the period of detention; and
- (b) the magistrate, after considering any representations made by or on behalf of the person under detention, extends the period of detention.
- (5) Subject to subsection (6), a person must not be detained under this section for more than six months.
- (6) A person may be detained for more than six months on the authorisation of a Supreme Court judge.
- (7) A person who is being detained pursuant to the decision of a magistrate under subsection (4) or the authorisation of a Supreme Court judge under subsection (6) must be examined by a medical practitioner at intervals not exceeding—
- (a) four weeks; or
- (b) such shorter period or periods as the magistrate or judge may determine having regard to the nature of the particular notifiable disease and the extent of the infection.
- (8) An examination under subsection (7) is not to proceed if the person objects to being examined.

### **33—Power of Chief Executive to give directions to persons suffering from diseases**

- (1) Where—
- (a) a medical practitioner has certified that a person is suffering from a controlled notifiable disease; and
- (b) the Chief Executive is of the opinion that the person should take or refrain from certain action to prevent the risk of infection spreading to others,
- the Chief Executive may, by notice in writing, give appropriate directions to the person.
- (2) The directions that may be given to a person under subsection (1) include—
- (a) a direction that the person reside at a specified place;
- (b) a direction that the person place himself or herself under the supervision of a member of the staff of the Department or a medical practitioner nominated by the Chief Executive and obey the reasonable directions of that person;

- (c) a direction that the person submit himself or herself to examination by a medical practitioner at such intervals as the Chief Executive may require;
  - (d) a direction that the person refrain from performing specified work or any work other than specified work;
  - (e) such other directions as to the person's conduct or supervision that the Chief Executive considers should apply in order to prevent the spread of infection.
- (3) A person to whom a direction is given under this section may apply to a magistrate for a review of the direction.
- (4) On a review under subsection (3), the magistrate may—
- (a) confirm, vary or quash the direction;
  - (b) make any further or other direction.
- (5) A person who, without reasonable excuse, contravenes or fails to comply with a direction under this section is guilty of an offence.  
Penalty: Division 5 fine.  
Expiation fee: Division 6 fee.
- (6) If a person fails to comply with a direction under this section, a magistrate may issue a warrant for the apprehension of that person.
- (7) A person apprehended in pursuance of a warrant must be brought as soon as practicable before the magistrate who may—
- (a) add to, or vary, the directions; or
  - (b) issue a warrant for the detention of the person under this Part in a place of quarantine.

### **34—Right of appeal against a decision of a magistrate**

- (1) A right of appeal exists to the Supreme Court (constituted of a single judge) against a decision of a magistrate under this Division.
- (2) On an appeal, the Supreme Court may—
- (a) vary or quash the magistrate's decision;
  - (b) make any order that the justice of the case may require.

## **Division 3—Control and prevention of infection**

### **35—Reporting to local councils**

The Department—

- (a) shall, on a monthly basis, provide each local council with a report on the occurrence of notifiable diseases in its area and any problems caused by such diseases that may exist in the area; and
- (b) shall inform a local council of the occurrence of any notifiable disease in its area that constitutes, or may constitute, a threat to public health.

### **36—Action to prevent the spread of infection**

- (1) Where there is danger to public health from the possible spread of a notifiable disease, the Chief Executive or an authorised officer authorised by the Chief Executive for the purposes of this section may give directions and take such action as may be appropriate to avert that danger.
- (2) Without limiting the generality of subsection (1), the Chief Executive or authorised officer may—
  - (a) direct that any premises, vehicle or article be cleansed or disinfected;
  - (b) direct the destruction of any article, substance or food;
  - (c) seize any vehicle, article, substance or food;
  - (d) impose areas of quarantine or close premises;
  - (e) restrict movement into and out of any place or premises;
  - (f) take such other action as may be prescribed.
- (3) A person who is given a direction under subsection (1) or (2) shall not, without reasonable excuse, fail to comply with the direction.  
Penalty: Division 5 fine.  
Expiation fee: Division 6 fee.
- (4) For the purpose of exercising a power under subsection (1) or (2), an authorised officer may be accompanied by such assistants as may be necessary or desirable in the circumstances.
- (5) Where a person fails to take action in accordance with a direction, the Chief Executive or an authorised officer may take that action or cause it to be taken.
- (6) The Crown may recover as a debt costs and expenses reasonably incurred in exercising powers under subsection (5) from the person who failed to take the required action.
- (7) For the purpose of exercising any power under this section, a person authorised to do so by the Chief Executive may enter premises at any reasonable time, but shall not break into the premises unless authorised to do so by warrant of a justice.
- (8) A justice may issue a warrant under subsection (7) if satisfied, by affidavit or other sworn evidence, that the warrant is reasonably required in the circumstances of the case.
- (9) Where the Chief Executive informs a local council of the occurrence of a notifiable disease in its area that constitutes a threat to public health, the local council must take such action as is reasonably open to the local council to assist in preventing the spread of that disease.

### **37—Person infected with disease must prevent transmission to others**

- (1) A person infected with a controlled notifiable disease shall take all reasonable measures to prevent transmission of the disease to others.

Penalty: Division 3 fine.

## **Part 4A—Management of emergencies**

### **37A—Public health incidents**

- (1) If it appears to the Chief Executive that the nature or scale of an emergency that has occurred, is occurring or is about to occur, is such that it should be declared to be a public health incident, the Chief Executive may, with the approval of the Minister, declare the emergency to be a public health incident.
- (2) A declaration under this section—
  - (a) may be made orally (but if made orally must, as soon as is reasonably practicable, be reduced to writing and a copy provided to the Minister); and
  - (b) subject to this section, remains in force while response operations are being carried out in relation to the emergency (but not for a period exceeding 12 hours).
- (3) The Chief Executive may, at any time, revoke a declaration under this section.

### **37B—Public health emergencies**

- (1) If it appears to the Chief Executive that an emergency has occurred, is occurring or is about to occur, the Chief Executive may, with the approval of the Minister, declare the emergency to be a public health emergency (whether or not the emergency has previously been declared to be a public health incident under section 37A).
- (2) A declaration under this section—
  - (a) must be in writing and published in a manner and form determined by the Minister; and
  - (b) remains in force for a period specified in the declaration (which must not exceed 14 days) and for such further periods (which may be of any length) as may be approved by the Governor.
- (3) The Chief Executive may, at any time, revoke a declaration under this section.

### **37C—Making and revocation of declarations**

- (1) The Public Health Emergency Management Plan may contain guidelines setting out circumstances in which an emergency should be declared to be a public health incident or to be a public health emergency.
- (2) Before making a declaration under this Part, the Chief Executive must consult with—
  - (a) the Chief Medical Officer; and
  - (b) the State Co-ordinator.
- (3) The Chief Executive must revoke a declaration under this Part at the request of the State Co-ordinator.

### **37D—Powers and functions of Chief Executive**

- (1) On the declaration of a public health incident or public health emergency, and while that declaration remains in force, the Chief Executive must take any necessary action to implement the Public Health Emergency Management Plan and cause such response and recovery operations to be carried out as he or she thinks appropriate.

- (2) The Chief Executive must provide information relating to a public health incident or public health emergency to the State Co-ordinator in accordance with any requirements of the State Co-ordinator.

### **37E—Application of Emergency Management Act**

- (1) On the declaration of a public health incident or public health emergency, the following provisions of the *Emergency Management Act 2004* apply in relation to the emergency as if those provisions formed part of this Act but subject to the modifications specified in subsection (2) and any other prescribed modifications:
- (a) Part 4 Division 4 (Powers that may be exercised in relation to declared emergencies) except section 25(1) and (2)(n);
  - (b) Part 4 Division 5 (Recovery operations);
  - (c) Part 5 (Offences);
  - (d) Part 6 (Miscellaneous) except sections 37 and 38;
  - (e) definitions in section 3 of terms used in the above provisions.
- (2) The provisions of the *Emergency Management Act 2004* applied under subsection (1) are modified as follows:
- (a) a reference to the Minister is to be read as a reference to the Minister responsible for the administration of this Act;
  - (b) a reference to the State Co-ordinator is to be read as a reference to the Chief Executive;
  - (c) a reference to an authorised officer is to be read as a reference to an emergency officer;
  - (d) a reference to the State Emergency Management Plan is to be read as a reference to the Public Health Emergency Management Plan;
  - (e) a reference to an identified major incident is to be read as a reference to a public health incident;
  - (f) a reference to a major emergency is to be read as a reference to a public health emergency;
  - (g) a reference to a declaration is to be read as a reference to a declaration under this Part;
  - (h) a reference to this Act (meaning the *Emergency Management Act 2004*) is to be read as a reference to this Part;
  - (i) a reference to section 25(1) of the *Emergency Management Act 2004* is to be read as a reference to section 37D(1) of this Act;
  - (j) section 25(2)(m) is to be read as if it did not include the words in brackets.

## Part 5—Miscellaneous

### 38—Inspections etc

- (1) An authorised officer may, for purposes connected with the exercise, performance or discharge of any power, function or duty under this Act—
  - (a) at any reasonable time, enter or inspect any premises or vehicle; and
  - (b) during the course of the inspection of any premises or vehicle—
    - (i) ask questions of any person found in the premises or vehicle; and
    - (ii) inspect any article or substance found in the premises or vehicle; and
    - (iii) take and remove samples of any substance found in the premises or vehicle; and
    - (iv) require any person to produce any plans, specifications, books, papers or documents; and
    - (v) examine, copy and take extracts from any plans, specifications, books, papers or documents; and
    - (vi) take photographs, films or video recordings; and
    - (vii) take measurements, make notes and carry out tests; and
    - (viii) remove any article that may constitute evidence of the commission of an offence against this Act; and
  - (c) require any person to answer any question that may be relevant to—
    - (i) ascertaining whether the person is suffering from a notifiable disease; or
    - (ii) the administration or enforcement of this Act.
- (2) In the exercise of powers under subsection (1), an authorised officer may be accompanied by such assistants as may be necessary or desirable in the circumstances.
- (2a) An authorised officer may use force to enter any premises or vehicle—
  - (a) on the authority of a warrant issued by a magistrate; or
  - (b) if the officer believes, on reasonable grounds, that the circumstances require immediate action to be taken.
- (2b) A magistrate must not issue a warrant under subsection (2a) unless satisfied, on information given on oath—
  - (a) that there are reasonable grounds to suspect that an offence against this Act has been, is being, or is about to be, committed; or
  - (b) that the warrant is reasonably required in the circumstances.
- (3) Where an authorised officer is inspecting premises or a vehicle under this section, the person in charge of the premises or vehicle shall provide such assistance as the authorised officer reasonably requires to facilitate the inspection.

- (4) A person who—
- (a) hinders or obstructs an authorised officer, or a person assisting an authorised officer, in the exercise of a power under this section; or
  - (b) having been asked a question under this section, does not answer the question to the best of his or her knowledge, information and belief; or
  - (c) being the person in charge of premises or a vehicle subject to an inspection and having been required to provide reasonable assistance to facilitate the inspection, refuses or fails to provide such assistance,

is guilty of an offence.

Penalty: Division 6 fine.

- (5) A person is not required to answer a question under this section if the answer would tend to incriminate him or her.

### **39—Councils may appoint officers of health**

A local council may appoint a person to act as the officer of health for its area.

### **40—Immunity from liability**

- (1) No personal liability attaches to—
- (a) an authorised officer or a person assisting an authorised officer in the exercise or purported exercise of a power under this Act; or
  - (b) a member of the staff of the Department or any other person authorised by the Minister or the Chief Executive to act under this Act,

for an act or omission on his or her part in good faith in the exercise, performance or discharge, or purported exercise, performance or discharge, of any power, function or duty conferred or imposed by this Act.

- (2) A liability that would, but for subsection (1), lie against a person on whom an immunity is conferred by that subsection lies instead against the Crown.

### **41—Power to require information**

- (1) The Minister, the Chief Executive or a local council may require a person to furnish such information relating to public or environmental health as may be reasonably required for the purposes of this Act.
- (2) Subject to subsection (3), a person who fails to comply with a requirement under subsection (1) is guilty of an offence.
- Penalty: Division 6 fine.
- Expiation fee: Division 7 fee.
- (3) A person is not required to furnish information under subsection (1) if the information would tend to incriminate him or her.
- (4) A person who furnishes information under this section cannot, by virtue of doing so, be held to have breached any law or any principle of professional ethics.



## 42—Confidentiality

Where a person, in the course of official duties, obtains—

- (a) medical information relating to another; or
- (b) information the disclosure of which would involve the disclosure of information relating to the personal affairs of another,

the person shall not intentionally disclose that information unless—

- (c) the disclosure is made in the course of official duties; or
- (d) the disclosure is made with the consent of the other person; or
- (e) the disclosure is required by a court or tribunal constituted by law.

Penalty: Division 6 fine.

## 42A—Provision of certain information

- (1) This section applies to a person employed or engaged by the State for the purpose of—
  - (a) monitoring public health in the State; or
  - (b) investigating public health problems within the State; or
  - (c) assessing and improving the quality of public health in the State.
- (2) The Governor may, by instrument in writing, authorise a person to whom this section applies to have access to confidential information relating to the performance of any function referred to in subsection (1).
- (3) Confidential information may be disclosed to a person authorised under subsection (2), and to any person providing technical, administrative or secretarial assistance to that person, without breach of any law or any principle of professional ethics.
- (4) A person must not disclose confidential information obtained directly or indirectly pursuant to this section unless—
  - (a) the disclosure is made in the course of official duties; or
  - (b) the disclosure is made with the consent of the person to whom the information relates; or
  - (c) the disclosure is required by a court or tribunal constituted by law.

Penalty: Division 6 fine.

- (5) In this section—

*confidential information* means—

- (a) medical information; or
- (b) information relating to a person's personal affairs.

## 43—Manner of giving notice

A notice required or authorised by this Act may be given or served—

- (a) personally; or

- (b) by post; or
- (c) if the notice relates to premises and is to be served on an owner of those premises—by affixing the notice to a conspicuous part of the premises.

#### **43A—Person infested with vermin must prevent transmission to others**

- (1) A person infested with vermin must take all reasonable measure to prevent transmission of the vermin to others.  
Penalty: Division 9 fine.
- (2) If a child is infested with vermin, a parent of the child must take all reasonable measures to prevent transmission of the vermin to others.  
Penalty: Division 9 fine.

#### **44—Reporting**

- (1) Every local council shall, on or before the thirtieth day of September in each year, submit to the Council a report on the work of the local council under this Act during the financial year ending on the thirtieth day of June in that year, and the report must include, in respect of that financial year—
  - (a) a report on the standard of public and environmental health in the local council's area;
  - (b) details of the measures that the local council has taken under Part 3.
- (2) The Council shall, on or before the thirtieth day of October in each year, submit to the Minister—
  - (a) a report on the work of the Council under this Act during the financial year ending on the thirtieth day of June in that year; and
  - (b) a copy of each report of a local council submitted to the Council under subsection (1).
- (3) The Department shall, on or before the thirty-first day of December in each year, submit to the Minister a report on the operation of this Act during the financial year ending on the thirtieth day of June in that year, and the report must include, in respect of that financial year a report on the standard of public and environmental health in the State generally.
- (4) The Minister shall within 12 sitting days after the receipt of the two reports under subsection (3), cause a copy of each report to be laid before each House of Parliament.

#### **45—Offences**

- (1) Subject to subsection (1a), an offence against this Act is a summary offence.
- (1a) An offence against this Act for which the maximum penalty prescribed by this Act is a division 1 fine is a minor indictable offence.
- (2) Proceedings for an offence against this Act cannot be commenced except upon the complaint of—
  - (a) an authorised officer; or
  - (b) a member of the staff of the Department; or
  - (c) the chief executive officer of a local council; or

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- (d) a member of the police force; or
  - (e) a person acting on the written authority of the Minister.
- (2a) An apparently genuine document purporting to be under the hand of the Minister and to authorise the commencement of proceedings under this Act must be accepted in legal proceedings, in the absence of proof to the contrary, as proof of an authorisation under subsection (2)(e).
- (3) Proceedings for an offence against this Act must be commenced within one year after the date on which the offence is alleged to have been committed.
- (4) Where a person is convicted of an offence against this Act and after that conviction the act or omission of the person that constituted the offence continues, that person is guilty of a separate and further offence in respect of each day during which the act or omission continues.

Penalty: Division 10 fine for each separate and further offence.

#### **46—Offences by bodies corporate**

Where a body corporate is guilty of an offence against this Act, each director of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the director could not by the exercise of reasonable diligence have prevented the commission of the offence by the body corporate.

#### **47—Regulations**

- (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), those regulations may—
- (a) provide for the removal or destruction of any object or substance that creates a risk to public health;
  - (b) prohibit, restrict or regulate the manufacture, possession or use of substances that may create a risk to public health;
  - (c) prohibit or restrict the construction of premises that may create a risk to public health;
  - (d) prohibit or regulate the keeping of animals of a particular class;
  - (e) authorise or require the taking of specified measures to prevent the occurrence or spread of any notifiable disease;
  - (f) require the furnishing of reports to the Chief Executive relating to notifiable diseases;
  - (fa) provide for such matters as are necessary in consequence of conditions directly or indirectly caused by an emergency declared to be a public health incident or public health emergency under this Act;
  - (g) regulate the construction, installation, maintenance and operation, and provide for the inspection, of swimming pools, spa pools, waterslides, wave pools or any other similar structure designed for human use;

- (h) prescribe standards that must be observed in relation to the installation and operation of waste control systems;
  - (ha) regulate the construction, installation, maintenance, alteration and operation of waste control systems;
  - (hb) provide for the inspection and testing of waste control systems;
  - (hc) require the provision of technical reports or other forms of information in relation to any waste control system, or any proposed waste control system;
  - (i) provide for the provision of returns and information to the Minister, the Chief Executive or the Council by prescribed persons or persons of prescribed classes;
  - (j) on the recommendation of the Council, prescribe guidelines to assist local councils in the administration of this Act;
  - (k) prescribe fees and expenses in connection with any matter arising under this Act, which may be of varying amounts according to factors prescribed in the regulations or determined by the Minister from time to time and published in the Gazette;
  - (ka) provide for the payment and recovery of prescribed fees and expenses;
  - (kb) empower or require the Minister or local council to refund, reduce or remit any fee payable under this Act;
  - (l) prescribe forms for the purposes of this Act;
  - (la) regulate the requirements and prescribe information that must be provided in connection with any application made for the purposes of this Act;
  - (m) exempt, either absolutely or subject to prescribed conditions or limitations—
    - (i) persons or classes of persons;
    - (ii) areas of the State,from this Act or specified provisions of this Act;
  - (n) prescribe penalties not exceeding a division 6 fine for breach of any regulation.
- (3) Regulations made under subsection (2)(d) in relation to the keeping of animals may provide for—
- (a) the nature and condition of land or buildings in which the animals may be kept;
  - (b) the inspection of any place where the animals are kept;
  - (c) the maximum number of animals that may be kept per unit area;
  - (d) the storage of animal food;
  - (e) the control of vermin;
  - (f) the disposal of wastes.

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- (4) A regulation may not be made under subsection (2)(d) unless the Governor is satisfied—
- (a) that the regulation is reasonably necessary to prevent the transmission of disease from the animals to humans or to prevent insanitary conditions; and
  - (b) that there has been reasonable consultation with the persons who would be directly affected by the regulation, or with their representatives.
- (5) The regulations may adopt, wholly or partially and with or without modification—
- (a) a code or standard relating to matters in respect of which regulations may be made under this Act; or
  - (b) an amendment to such a code or standard.
- (6) Any regulations adopting a code or standard, or an amendment to a code or standard, may contain such incidental, supplementary and transitional provisions as appear to the Governor to be necessary.
- (7) The regulations or a code or standard adopted by the regulations may—
- (a) refer to or incorporate, wholly or partially and with or without modification, a standard or other document prepared or published by a prescribed body, either as in force at the time the regulations are made or as in force from time to time; and
  - (b) be of general or limited application; and
  - (c) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
  - (d) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Chief Executive or a local council.
- (8) Where—
- (a) a code or standard is adopted by the regulations; or
  - (b) the regulations, or a code or standard adopted by the regulations, refers to a standard or other document prepared or published by a prescribed body,
- then—
- (c) a copy of the code, standard or other document must be kept available for inspection by members of the public, without charge and during normal office hours, at an office or offices specified in the regulations; and
  - (d) in any legal proceedings, evidence of the contents of the code, standard or other document may be given by production of a document purporting to be certified by or on behalf of the Minister as a true copy of the code, standard or other document; and
  - (e) the code, standard or other document has effect as if it were a regulation made under this Act.

## Schedule 1—Notifiable diseases

### Acquired Immuno-Deficiency Syndrome

Arbovirus Infection  
Brucellosis  
Campylobacter Infection  
Chlamydia Infection  
Cholera  
Cryptosporidiosis  
Diphtheria  
Food Poisoning  
Gonococcal Infection  
Haemophilus Influenzae Infection  
Human Immunodeficiency Virus Infection  
Hydatid Disease  
Legionellosis  
Leptospirosis  
Listeriosis  
Malaria  
Measles  
Meningococcal Infection  
Mumps  
Mycobacterial Infection  
Pertussis  
Plague  
Poliomyelitis  
Q Fever  
Rabies  
Rubella  
Salmonella Infection  
Shigella Infection  
Syphilis  
Tetanus  
Viral Haemorrhagic Fever  
Viral Hepatitis  
Yellow Fever  
Yersinia Infection

## **Schedule 2—Controlled notifiable diseases**

Acquired Immuno-Deficiency Syndrome  
Cholera  
Diphtheria  
Haemophilus Influenzae Infection  
Human Immunodeficiency Virus Infection  
Measles  
Meningococcal Infection  
Mycobacterial Infection  
Plague  
Poliomyelitis  
Rabies  
Salmonella Infection  
Shigella Infection  
Viral Haemorrhagic Fever  
Viral Hepatitis  
Yellow Fever

## **Schedule 3—Repeal of certain Acts and transitional provisions**

### **1—Repeal of certain Acts**

- (1) The following Acts are repealed:

*The Health Act 1935*

*The Noxious Trades Act 1943*

*The Venereal Diseases Act 1947.*

- (2) The Governor may, by proclamation, suspend the repeal of specified provisions of the *Health Act 1935* until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

- 2 The following transitional provisions apply in relation to the repeal of the *Health Act 1935*:

- (a) a proclamation made by the Governor under the *Health Act 1935* declaring a disease to be an infectious disease or a notifiable disease and in force immediately before the repeal of the provisions of that Act providing for the making of the proclamation shall be deemed to be a prescription under this Act that the disease is a notifiable disease; and

- (b) a resolution passed by a local board of health under the *Health Act 1935*, and in force immediately before the repeal of the provisions of that Act providing for the passing of the resolution shall be deemed to be a resolution passed pursuant to this Act by the local council that constituted that local board; and
  - (c) where a county board of health was in existence immediately before the repeal of those provisions of the *Health Act 1935*, that provide for county boards of health, the assets and liabilities of the county board shall be divided—
    - (i) by agreement, between the local councils in respect of which the county board was constituted; or
    - (ii) if agreement cannot be reached by those local councils, according to the directions of the Minister of Local Government; and
  - (d) all actions and proceedings which but for the repeal of provisions of the *Health Act 1935*, could have been taken or commenced by an authorised officer or local board of health may be taken or commenced by an authorised officer or a local council; and
  - (e) all actions and proceedings which before the repeal of provisions of the *Health Act 1935*, had been taken or commenced by an authorised officer or local board of health under that Act may be continued in all respects by the authorised officer or a local council; and
  - (f) the Council may require a local council to provide a report (in a form approved by the Council) on the sanitary condition of its area immediately before the repeal of any of the provisions of the *Health Act 1935*.
- 3 The *Acts Interpretation Act 1915* shall, except to the extent of any inconsistency with the provisions of this Schedule, apply to the repeal of the Acts referred to in clause 1.



## Legislative history

### Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1987	36	<i>Public and Environmental Health Act 1987</i>	23.4.1987	7.12.1989 ( <i>Gazette</i> 7.12.1989 p1700) except ss 7, 13—29, 39, 44, Sch 3 (cl 2(b), (c) & (f)) and the repeal of the <i>Noxious Trades Act 1943</i> —1.7.1991 ( <i>Gazette</i> 6.6.1991 p1774) and except the repeal of Pt 9AA of the <i>Health Act 1935</i> —10.3.1995 ( <i>Gazette</i> 8.12.1994 p1943) and except the repeal of the remainder of the <i>Health Act 1935</i> —15.5.1995 ( <i>Gazette</i> 11.5.1995 p2135)
1991	7	<i>Statutes Amendment (Water Resources) Act 1991</i>	28.3.1991	15.7.1991 ( <i>Gazette</i> 11.7.1991 p244)
1992	71	<i>Statutes Amendment (Expiation of Offences) Act 1992</i>	19.11.1992	1.3.1993 ( <i>Gazette</i> 18.2.1993 p600)
1993	9	<i>Public and Environmental Health (Review) Amendment Act 1993</i>	25.3.1993	1.7.1993 ( <i>Gazette</i> 1.7.1993 p196)
1996	14	<i>Public and Environmental Health (Notification of Diseases) Amendment Act 1996</i>	24.4.1996	1.8.1996 ( <i>Gazette</i> 1.8.1996 p223)
2000	4	<i>District Court (Administrative and Disciplinary Division) Amendment Act 2000</i>	20.4.2000	Sch 1 (cl 34)—1.6.2000 ( <i>Gazette</i> 18.5.2000 p2554)
2000	34	<i>South Australian Health Commission (Administrative Arrangements) Amendment Act 2000</i>	6.7.2000	Sch 1 (cl 13)—6.7.2000 ( <i>Gazette</i> 6.7.2000 p5)
2008	3	<i>Health Care Act 2008</i>	13.3.2008	Sch 4 (cll 22—31)—1.7.2008 ( <i>Gazette</i> 26.6.2008 p2563)
<b>2009</b>	<b>29</b>	<b><i>Statutes Amendment (Public Health Incidents and Emergencies) Act 2009</i></b>	<b>25.6.2009</b>	<b>Pt 8 (ss 24—27)—25.6.2009</b>

## Public and Environmental Health Act 1987—25.6.2009 to 31.1.2010

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2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 124 (ss 283 & 284)—1.2.2010 ( <i>Gazette 28.1.2010 p320</i> )
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## Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 3		
s 3(1)		
the authority	amended by 34/2000 Sch 1 cl 13(a)	6.7.2000
authorised officer	amended by 34/2000 Sch 1 cl 13(b)	6.7.2000
Chief Executive	inserted by 3/2008 Sch 4 cl 22(1)	1.7.2008
<b>Chief Medical Officer</b>	<b>inserted by 29/2009 s 24(1)</b>	<b>25.6.2009</b>
child	inserted by 9/1993 s 3(a)	1.7.1993
<i>the Commission</i>	<i>deleted by 3/2008 Sch 4 cl 22(2)</i>	<i>1.7.2008</i>
the Department	inserted by 34/2000 Sch 1 cl 13(c)	6.7.2000
<b>emergency</b>	<b>inserted by 29/2009 s 24(2)</b>	<b>25.6.2009</b>
<b>emergency officer</b>	<b>inserted by 29/2009 s 24(2)</b>	<b>25.6.2009</b>
notifiable disease	substituted by 9/1993 s 3(b)	1.7.1993
<b>public health emergency</b>	<b>inserted by 29/2009 s 24(3)</b>	<b>25.6.2009</b>
<b>public health incident</b>	<b>inserted by 29/2009 s 24(3)</b>	<b>25.6.2009</b>
<b>Public Health Emergency Management Plan</b>	<b>inserted by 29/2009 s 24(3)</b>	<b>25.6.2009</b>
<b>recovery operations</b>	<b>inserted by 29/2009 s 24(4)</b>	<b>25.6.2009</b>
<b>response operations</b>	<b>inserted by 29/2009 s 24(5)</b>	<b>25.6.2009</b>
<b>State Co-ordinator</b>	<b>inserted by 29/2009 s 24(5)</b>	<b>25.6.2009</b>
vermin	inserted by 9/1993 s 3(c)	1.7.1993
waste control system	inserted by 9/1993 s 3(c)	1.7.1993
Pt 2		
Pt 2 Div 1		
s 5	<i>deleted by 34/2000 Sch 1 cl 13(d)</i>	6.7.2000
s 6		

s 6(a1)	inserted by 34/2000 Sch 1 cl 13(e)	6.7.2000
s 6(1)	substituted by 9/1993 s 4(a)	1.7.1993
	amended by 3/2008 Sch 4 cl 23(1)	1.7.2008
s 6(1aa)	inserted by 3/2008 Sch 4 cl 23(2)	1.7.2008
s 6(1a)	inserted by 9/1993 s 4(a)	1.7.1993
s 6(2)	amended by 9/1993 s 4(b)	1.7.1993
	amended by 34/2000 Sch 1 cl 13(f)	6.7.2000
s 6(4)	amended by 34/2000 Sch 1 cl 13(g)	6.7.2000
	amended by 3/2008 Sch 4 cl 23(3)	1.7.2008
s 7		
s 7(1)—(4)	amended by 34/2000 Sch 1 cl 13(h)	6.7.2000
<b>s 7A</b>	<b>inserted by 29/2009 s 25</b>	<b>25.6.2009</b>
Pt 2 Div 2		
s 8		
s 8(2)	amended by 34/2000 Sch 1 cl 13(i), (j)	6.7.2000
s 9		
s 9(2)	<i>deleted by 34/2000 Sch 1 cl 13(k)</i>	6.7.2000
s 12		
s 12(1)	amended by 3/2008 Sch 4 cl 24(1), (2)	1.7.2008
Pt 2 Div 3	inserted by 9/1993 s 5	1.7.1993
s 12A		
s 12A(1)	amended by 34/2000 Sch 1 cl 13(l)	6.7.2000
s 12A(5)	amended by 34/2000 Sch 1 cl 13(m)	6.7.2000
s 12A(8)	amended by 34/2000 Sch 1 cl 13(n)	6.7.2000
s 12A(10)	amended by 34/2000 Sch 1 cl 13(o)	6.7.2000
s 12A(12)	amended by 34/2000 Sch 1 cl 13(p)	6.7.2000
Pt 3		
<i>Pt 3 Div 1</i>	<i>deleted by 9/1993 s 6</i>	1.7.1993
Pt 3 Div 2		
s 15		
s 15(3) and (5)	amended by 71/1992 s 3(1) (Sch)	1.3.1993
	amended by 9/1993 s 18	1.7.1993
s 16		
s 16(1)	amended by 71/1992 s 3(1) (Sch)	1.3.1993
	amended by 9/1993 s 18	1.7.1993
s 17		
s 17(2)	amended by 71/1992 s 3(1) (Sch)	1.3.1993
	amended by 9/1993 s 18	1.7.1993
s 18		
s 18(1) and (2)	amended by 9/1993 s 18	1.7.1993
s 18(4)	amended by 71/1992 s 3(1) (Sch)	1.3.1993
	amended by 9/1993 s 18	1.7.1993
s 19		

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s 19(1) and (3)	amended by 71/1992 s 3(1) (Sch)	1.3.1993
	amended by 9/1993 s 18	1.7.1993
s 20		
s 20(2) and (4)	amended by 71/1992 s 3(1) (Sch)	1.3.1993
	amended by 9/1993 s 18	1.7.1993
Pt 3 Div 3		
s 21		
s 21(1) and (3)	amended by 9/1993 s 18	1.7.1993
s 21(5)	inserted by 7/1991 s 6(a)	15.7.1991
s 22		
s 22(1)	substituted by 7/1991 s 6(b)	15.7.1991
s 22(2)	amended by 9/1993 s 18	1.7.1993
Pt 3 Div 5		
s 26		
s 26(1)	amended by 34/2000 Sch 1 cl 13(q), (r)	6.7.2000
s 29		
s 29(1)	amended by 4/2000 s 9(1) (Sch 1 cl 34(a))	1.6.2000
s 29(1a)	inserted by 9/1993 s 7	1.7.1993
	amended by 4/2000 s 9(1) (Sch 1 cl 34(b))	1.6.2000
s 29(2)	<i>deleted by 4/2000 s 9(1) (Sch 1 cl 34(c))</i>	1.6.2000
Pt 4		
s 30		
s 30(1)	amended by 71/1992 s 3(1) (Sch)	1.3.1993
	amended by 9/1993 s 18	1.7.1993
	amended by 14/1996 s 3(a), (b)	1.8.1996
	amended by 34/2000 Sch 1 cl 13(s)	6.7.2000
s 30(2) and (3)	amended by 34/2000 Sch 1 cl 13(s)	6.7.2000
s 30(4)	substituted by 14/1996 s 3(c)	1.8.1996
	amended by 34/2000 Sch 1 cl 13(s)	6.7.2000
s 30(5)	amended by 14/1996 s 3(d)	1.8.1996
	amended by 34/2000 Sch 1 cl 13(s)	6.7.2000
s 30(7)	<i>deleted by 14/1996 s 3(e)</i>	1.8.1996
s 31		
s 31(1)	amended by 3/2008 Sch 4 cl 25(1)	1.7.2008
s 31(5)	amended by 3/2008 Sch 4 cl 25(2)	1.7.2008
s 32		
s 32(1)	amended by 3/2008 Sch 4 cl 26(1)	1.7.2008
s 32(4)	amended by 3/2008 Sch 4 cl 26(2)	1.7.2008
s 33		
s 33(1)	amended by 3/2008 Sch 4 cl 27(1)	1.7.2008
s 33(2)	amended by 34/2000 Sch 1 cl 13(t)	6.7.2000
	amended by 3/2008 Sch 4 cl 27(2)	1.7.2008
s 33(5)	amended by 71/1992 s 3(1) (Sch)	1.3.1993

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	amended by 9/1993 s 18	1.7.1993
s 35	amended by 34/2000 Sch 1 cl 13(u)	6.7.2000
s 36		
s 36(1)	amended by 9/1993 s 8(a)	1.7.1993
	amended by 3/2008 Sch 4 cl 28(1)	1.7.2008
s 36(3)	amended by 71/1992 s 3(1) (Sch)	1.3.1993
	amended by 9/1993 s 18	1.7.1993
s 36(5)	amended by 3/2008 Sch 4 cl 28(2)	1.7.2008
s 36(6)	amended by 3/2008 Sch 4 cl 28(3)	1.7.2008
s 36(7)	amended by 3/2008 Sch 4 cl 28(4)	1.7.2008
s 36(9)	amended by 9/1993 s 8(b)	1.7.1993
	amended by 3/2008 Sch 4 cl 28(5)	1.7.2008
s 37		
s 37(1)	amended by 9/1993 s 18	1.7.1993
s 37(2)—(4)	<i>deleted by 9/1993 s 9</i>	1.7.1993
<b>Pt 4A</b>	<b>inserted by 29/2009 s 26</b>	<b>25.6.2009</b>
Pt 5		
s 38		
s 38(1)	amended by 9/1993 s 10(a)	1.7.1993
s 38(2a) and (2b)	inserted by 9/1993 s 10(b)	1.7.1993
s 38(4)	amended by 9/1993 s 18	1.7.1993
s 40		
s 40(1)	amended by 34/2000 Sch 1 cl 13(v)	6.7.2000
	amended by 3/2008 Sch 4 cl 29	1.7.2008
s 41		
s 41(1)	substituted by 34/2000 Sch 1 cl 13(w)	6.7.2000
	amended by 3/2008 Sch 4 cl 30	1.7.2008
s 41(2)	amended by 71/1992 s 3(1) (Sch)	1.3.1993
	amended by 9/1993 s 18	1.7.1993
s 41(4)	inserted by 9/1993 s 11	1.7.1993
s 42	amended by 9/1993 s 18	1.7.1993
s 42A	inserted by 9/1993 s 12	1.7.1993
s 43A	inserted by 9/1993 s 13	1.7.1993
s 44		
s 44(2)	amended by 34/2000 Sch 1 cl 13(x)	6.7.2000
s 44(3)	amended by 34/2000 Sch 1 cl 13(y)—(za)	6.7.2000
s 45		
s 45(1)	substituted by 9/1993 s 14(a)	1.7.1993
s 45(1a)	inserted by 9/1993 s 14(a)	1.7.1993
s 45(2)	amended by 34/2000 Sch 1 cl 13(zb)	6.7.2000
s 45(2a)	inserted by 9/1993 s 14(b)	1.7.1993
s 45(4)	amended by 9/1993 s 18	1.7.1993
s 47		

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s 47(2)	amended by 9/1993 ss 15(a)—(e), 18	1.7.1993
	amended by 34/2000 Sch 1 cl 13(zc), (zd)	6.7.2000
	amended by 3/2008 Sch 4 cl 31(1), (2)	1.7.2008
	<b>amended by 29/2009 s 27</b>	<b>25.6.2009</b>
s 47(5) and (6)	substituted by 9/1993 s 15(f)	1.7.1993
s 47(7)	inserted by 9/1993 s 15(f)	1.7.1993
	amended by 34/2000 Sch 1 cl 13(ze)	6.7.2000
	amended by 3/2008 Sch 4 cl 31(3)	1.7.2008
s 47(8)	inserted by 9/1993 s 15(f)	1.7.1993
Sch 1	substituted by 9/1993 s 16	1.7.1993
Sch 2	substituted by 9/1993 s 17	1.7.1993

## Historical versions

Reprint No 1—15.11.1991  
 Reprint No 2—1.3.1993  
 Reprint No 3—1.7.1993  
 Reprint No 4—1.8.1996  
 Reprint No 5—1.6.2000  
 Reprint No 6—6.7.2000  
 1.7.2008

## Appendix—Divisional penalties and expiation fees

At the date of publication of this version divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	—	\$500	\$100
10	—	\$200	\$75
11	—	\$100	\$50
12	—	\$50	\$25

*Note: This appendix is provided for convenience of reference only.*