

SOUTH AUSTRALIA

HEALTH ACT 1935

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **10 March 1995**.*

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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being

Health Act 1935 No. 2238 of 1935
[Assented to 19 December 1935]

as amended by

Statute Law Revision Act 1936 No. 2293 of 1936 [Assented to 8 October 1936]
Health Act Amendment Act 1940 No. 33 of 1940 [Assented to 21 November 1940]
Health Act Amendment Act 1941 No. 35 of 1941 [Assented to 20 November 1941]
Health Act Amendment Act 1943 No. 13 of 1943 [Assented to 9 December 1943]
Noxious Trades Act 1943 No. 34 of 1943 [Assented to 23 December 1943]¹
Health Act Amendment Act 1947 No. 48 of 1947 [Assented to 11 December 1947]
Health Act Amendment Act 1950 No. 14 of 1950 [Assented to 2 November 1950]
Health Act Amendment Act (No. 2) 1950 No. 39 of 1950 [Assented to 30 November 1950]
Health Act Amendment Act 1951 No. 45 of 1951 [Assented to 13 December 1951]
Health Act Amendment Act 1952 No. 15 of 1952 [Assented to 16 October 1952]
Health Act Amendment Act 1953 No. 18 of 1953 [Assented to 19 November 1953]
Health Act Amendment Act 1954 No. 14 of 1954 [Assented to 21 October 1954]
Health Act Amendment Act 1955 No. 27 of 1955 [Assented to 1 December 1955]
Health Act Amendment Act 1956 No. 28 of 1956 [Assented to 15 November 1956]
Statute Law Revision Act 1957 No. 42 of 1957 [Assented to 14 November 1957]
Health Act Amendment Act 1959 No. 48 of 1959 [Assented to 17 December 1959]
Health Act Amendment Act 1960 No. 4 of 1960 [Assented to 19 May 1960]
Health Act Amendment Act 1961 No. 27 of 1961 [Assented to 9 November 1961]
Health Act Amendment Act 1963 No. 11 of 1963 [Assented to 24 October 1963]
Health Act Amendment Act 1966 No. 64 of 1966 [Assented to 24 November 1966]
Health Act Amendment Act 1967 No. 10 of 1967 [Assented to 30 March 1967]
Statutes Amendment (Metropolitan Milk Supply, Food and Drugs and Health) Act 1967 No. 70 of 1967 [Assented to 16 November 1967]²
Health Act Amendment Act 1968 No. 34 of 1968 [Assented to 19 December 1968]³
Age of Majority (Reduction) Act 1971 No. 15 of 1971 [Assented to 8 April 1971]⁴
Health Act Amendment Act 1971 No. 104 of 1971 [Assented to 9 December 1971]⁵
Health Act Amendment Act 1972 No. 123 of 1972 [Assented to 30 November 1972]⁶
Statute Law Revision Act 1973 No. 77 of 1973 [Assented to 6 December 1973]
Statute Law Revision Act 1975 No. 24 of 1975 [Assented to 27 March 1975]
Health Act Amendment Act 1975 No. 18 of 1976 [Assented to 4 March 1976]⁷
Health Act Amendment Act 1976 No. 70 of 1976 [Assented to 2 December 1976]⁸
South Australian Health Commission Act 1976 No. 76 of 1976 [Assented to 2 December 1976]⁹ (as amended by South Australian Health Commission Act Amendment Act 1977 No. 52 of 1977 [Assented to 15 December 1977])
Health Act Amendment Act 1978 No. 98 of 1978 [Assented to 7 December 1978]
Health Act Amendment Act 1980 No. 18 of 1980 [Assented to 17 April 1980]¹⁰
Radiation Protection and Control Act 1982 No. 49 of 1982 [Assented to 29 April 1982]¹¹
Health Act Amendment Act 1984 No. 13 of 1984 [Assented to 3 May 1984]¹²
South Australian Health Commission Act Amendment Act 1984 No. 55 of 1984 [Assented to 24 May 1984]¹³
Food Act 1985 No. 49 of 1985 [Assented to 2 May 1985]¹⁴
Public and Environmental Health Act 1987 No. 36 of 1987 [Assented to 23 April 1987]¹⁵
South Australian Health Commission Act Amendment Act 1987 No. 41 of 1987 [Assented to 30 April 1987]¹⁶

NOTE:

- Asterisks indicate repeal or deletion of text.
- For the legislative history of the Act see Appendix. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

- ¹ Came into operation 1 January 1949: *Gaz.* 9 December 1948, p. 1744.
- ² Came into operation 1 January 1968: *Gaz.* 7 December 1967, p. 2445.
- ³ Came into operation (except ss. 12 and 13) 15 May 1969: *Gaz.* 15 May 1969, p. 1413; ss. 12 and 13 came into operation 26 February 1970: *Gaz.* 26 February 1970, p. 859.
- ⁴ Came into operation 15 April 1971: *Gaz.* 15 April 1971, p. 1598.
- ⁵ Came into operation 6 July 1972: *Gaz.* 6 July 1972, p. 3.
- ⁶ Came into operation 5 July 1973: *Gaz.* 5 July 1973, p. 8.
- ⁷ Came into operation 5 May 1977: *Gaz.* 5 May 1977, p. 1264.
- ⁸ Came into operation 14 July 1977: *Gaz.* 14 July 1977, p. 74.
- ⁹ Came into operation 20 January 1978: *Gaz.* 22 December 1977, p. 2268.
- ¹⁰ Came into operation 12 February 1981: *Gaz.* 12 February 1981, p. 359.
- ¹¹ Came into operation 1 April 1986: *Gaz.* 4 April 1985, p. 978.
- ¹² Came into operation 6 August 1984: *Gaz.* 26 July 1984, p. 334.
- ¹³ Came into operation 1 May 1985: *Gaz.* 14 March 1985, p. 622.
- ¹⁴ Came into operation 3 February 1986: *Gaz.* 23 January 1986, p. 124.
- ¹⁵ Repeal of ss. 5, 5A, Parts 9, 9A and Scheds. of the Health Act 1935 came into operation 7 December 1989: *Gaz.* 7 December 1989, p. 1700; repeal of ss. 2, 3, Parts 4, 6, ss. 71-73, 82-124, Parts 9D, 9E, ss. 147(2), 148-150, 152-155 of the Health Act 1935 came into operation 1 July 1991: *Gaz.* 6 June 1991, p. 1774; repeal of Part 9AA of the Health Act 1935 came into operation 10 March 1995: *Gaz.* 8 December 1994, p. 1943.
- ¹⁶ Came into operation 1 July 1987: *Gaz.* 25 June 1987, p. 1634.

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An Act to consolidate certain Acts relating to public health.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Health Act 1935*.

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Interpretation

4. In this Act, and in all proceedings thereunder, except where some other meaning is clearly intended—

"**Act**" includes regulations;

"**Appeal Board**" means the Air Pollution Appeal Board appointed under this Act;

"**Central Board**" means the Central Board of Health;

"**cesspool**" means any receptacle for nightsoil or liquid refuse;

"**district**" means the area within the jurisdiction of a local board;

"**drain**" means a drain used solely in connection with any building or premises within the same curtilage, and "**sewer**" means every other drain and sewer;

"**infectious disease**" means—

- (a) any disease included in schedule 2; and
- (b) any other disease which the Governor by proclamation declares to be an infectious disease;

"**local board**" means a local board of health, and "**the local board**" means the local board of health of the particular district;

"**metropolitan local boards**" means—

- (a) the municipal councils of Adelaide, Brighton, Burnside, Campbelltown, Enfield, Glenelg, Henley and Grange, Hindmarsh, Kensington and Norwood, Marion, Mitcham, Payneham, Prospect, St. Peters, Thebarton, Port Adelaide, Unley, Walkerville, West Torrens, and Woodville; and
- (b) the Garden Suburb Commissioner; and
- (c) such other local boards as the Governor by proclamation declares to be metropolitan local boards;

"notifiable disease" means—

- (a) any disease included in schedule 3; and
- (b) any other disease which the Governor by proclamation declares to be a notifiable disease;

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"owner" includes every person for the time being entitled, either on his own or on any account, to the receipt of any rent or profit of the premises referred to;

"public place" includes every place to which the public ordinarily have access;

"private place" means every place other than a public place;

"vermin" includes—

- (a) lice being of the variety *Pediculus humanis corporis*, *Pediculus capitis* or *Phthirus pubis*; and
- (b) fleas being of the variety *Pulex irritans*, *Xenopsylla cheopis*, *Ctenocephalides canis* or *Ctenocephalides felis*; and
- (c) mites being of the variety *Sarcoptes scabiei*;

"water supply" includes any river, stream, water-course, creek, swamp, waterhole, well, tank, or reservoir.

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Alternative procedure

6. In all cases where this Act, and any other Act, not hereby repealed, contain provisions for effecting the same or a similar object, but in different modes, proceedings may be had under either Act.

Other procedure not affected

7. Nothing in this Act shall affect any power of proceeding by indictment, complaint, or information, or take away or affect any other remedy under any other Act or otherwise.

Saving

8. Nothing in this Act shall affect any powers conferred upon the Minister of Works or the Central Board by the *Sewerage Act 1929* or limit the effect of any Act relating to factories or lodging-houses.

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Public buildings subject to this Act

9. (1) Premises owned or occupied by the Government or by public bodies shall be subject to the provisions of this Act in the same manner as if they were owned or occupied privately.

(2) The officer having the use or control of any such premises shall be liable for any breach of the provisions of this Act as if he were the actual owner or occupier of the premises.

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PART 2
THE CENTRAL BOARD

Central Board

11. The Central Board shall be charged with the execution of this Act for securing the proper sanitary condition of the State.

Constitution of Central Board

12. The Central Board shall consist of a chairman appointed by the Governor and four other members, two of whom shall be appointed by the Governor and two shall be elected as hereinafter provided. At least one of the members shall be a legally qualified medical practitioner.

Quorum, etc.

13. (1) A quorum shall consist of any three members.

(2) If the chairman is not present within five minutes after the time for which any meeting has been convened, any three members present may elect one of their number to be chairman for that meeting until the permanent chairman arrives.

(3) Every chairman shall have a deliberative vote, and also a casting vote in case of equality of voting.

Permanent head

14. The chairman of the Central Board shall be a person nominated by the Minister.

Term of office of appointed members

14A. (1) An appointed member shall, subject to this Act, hold office for a term of two years upon such conditions as the Governor determines, and, upon the expiration of his term of office, shall be eligible for re-appointment.

(2) Upon the office of an appointed member becoming vacant, a person shall be appointed in accordance with this Act to the vacant office, but where the office of an appointed member becomes vacant before the expiration of the term for which he was appointed, a person appointed in his place shall be appointed only for the balance of the term of his predecessor.

(3) The offices of the appointed members in office immediately before the commencement of the *Health Act Amendment Act 1975* shall, upon that commencement, become vacant.

(4) In this section "**appointed member**" means a member, other than the Chairman, of the Central Board, appointed by the Governor under this Part.

Vacation of office

14B. (1) The Governor may remove a member, other than the Chairman, of the Central Board from office for—

- (a) mental or physical incapacity; or
- (b) neglect of duty; or
- (c) dishonourable conduct; or
- (d) any other cause considered sufficient by the Governor.

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(2) The office of a member, other than the Chairman, of the Central Board shall become vacant if—

- (a) he dies; or
- (b) his term of office expires; or
- (c) he resigns by written notice addressed to the Minister; or
- (d) he is removed from office by the Governor pursuant to subsection (1) of this section.

Nominations

15. Before the first day of February, 1937, and before the first day of February in every second year thereafter, nominations of candidates willing to act as representatives on the Central Board may be made by the constituent boards to the Minister.

Voting

16. The names of persons so nominated shall be forwarded to the constituent boards, who may, before the first day of March in that year, each vote for a representative from persons so nominated, and advise the Minister of their vote.

Representative members of Central Board

17. (1) The elective members of the Central Board shall be elected as follows:—

- I. (a) One member shall be elected by the metropolitan local boards:
(b) The other member shall be elected by all the other local boards:
- II. In the month of March following every biennial election, and so soon as practicable after each extraordinary election, the Minister shall, by notice in the *Government Gazette*, declare the names of the persons elected, and the notice shall be conclusive evidence of the election:
- III. When the seat of any elective member becomes vacant from any cause whatever other than by effluxion of time, the vacancy shall be filled up by an extraordinary election of a new member, to hold office only for the unexpired portion of the term of his predecessor. On the happening of the vacancy the Minister shall notify the constituent boards and fix a date not less than six weeks thereafter for such boards to advise him of their votes. If any such vacancy occurs within three months of the time when the seat would become vacant by effluxion of time, the Minister may, in his discretion, not hold an election to fill the vacancy and in such case the seat shall be filled at the next biennial election:
- IV. In the case of equality of votes amongst the constituent boards the Minister shall have a casting vote.

(2) If at any election for a member only one candidate is nominated, the candidate nominated shall be deemed to have been elected and no vote shall be taken.

Term of office

18. The elective members shall hold office until notification of the election of their successors.

Recovery of expenses

19. All reasonable expenses incurred by the Central Board in carrying out any duty imposed on or in exercising any power vested in any local board shall be paid by and recovered from the local board in any case where the expense incurred was due to the neglect of the local board.

Powers of Central Board

20. Any powers which a local board and its officers may exercise with respect to its particular district may be exercised by the Central Board and its officers with respect to the whole State.

Access to all papers of local boards

21. The Central Board shall have access to all papers and things whatsoever belonging to or in the custody of any local board.

Appointment of officers

22. The Governor may appoint such officers of the Central Board as he may deem necessary.

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**PART 3
LOCAL BOARDS**

Constitution of local boards

- 23.** (1) Every municipal council shall be the local board of health for its municipality.
- (2) Every district council shall be the local board of health for its district council district.

Duties of local board

24. Every local board shall be charged with the due execution of this Act for securing the proper sanitary condition of its district, and in particular shall abide by and carry out all such directions as it shall receive in that behalf from the Central Board.

Power of local board to establish committee

25. (1) The local board may—

- (a) appoint a committee or committees of its members:
- (b) delegate to any such committee such of the powers and duties of the local board under this Act as the local board thinks fit:
- (c) pass such resolutions as the local board thinks fit for the guidance of any such committee:
- (d) remove any members of any such committee and appoint in the stead of them, or any of them, other members of the local board:
- (e) fix the quorum (which shall be not less than three members) of any such committee.

(2) The proceedings of a committee shall, unless otherwise ordered by the local board, require the approval of the local board.

(3) No expenditure or payment or contract to expend or pay any sum of money exceeding forty dollars, made by a committee, shall be lawful or valid unless the expenditure, payment, or contract is afterwards approved or ratified by the local board.

(4) A committee appointed under this Act may (subject to any resolution passed by the local board) meet from time to time and adjourn as the committee thinks fit, but no business shall be transacted at any meeting of the committee unless three members are present.

(5) At the first meeting of any committee one of its members shall be appointed chairman of the committee and all questions in committee shall be determined by a majority of votes of the members present. The chairman of the committee shall have a deliberative vote and a casting vote also.

(6) The chairman of the local board shall be *ex officio* a member of every committee of the local board.

Expenses, penalties, etc.

26. Except where otherwise specially directed, all expenses, penalties, and fees recovered by any local board, and the proceeds of the sale of any refuse and other like matter, shall be paid over to and applied by the local board for the purposes of this Act.

Separate accounts

27. Every local board shall keep separate accounts of its revenue and expenditure and minutes of its proceedings.

Expenditure

28. The moneys required by a local board for the purposes of this Act shall be provided out of the general rate declared under the *Local Government Act 1934* for the purposes of the municipality or district council district comprised within the district of the local board.

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**PART 5
OFFICERS**

Officers

47. Every local board shall appoint an officer of health, and such health surveyors and officers as may be deemed necessary by the Central Board.

Officer of health

48. The appointment and dismissal of every officer of health shall be subject to the approval of the Central Board. The officer of health shall—

- (a) be when practicable a legally qualified medical practitioner; and
- (b) possess all the powers vested in any health surveyor.

Appointment of health surveyors

49. (1) The appointment of every health surveyor shall be in writing, in duplicate, under the hand of the chairman of the Central Board, or if the appointment be by a local board, under the hand of the chairman and the secretary of the local board.

(2) Every health surveyor shall be furnished with one of such duplicates, and, if required, shall produce the same to any person whose premises he may be inspecting or about to inspect.

(3) Any person for the time being appointed to be an inspector under this Act shall, on and after the commencement of the *Health Act Amendment Act 1976* be deemed to have been appointed to be a health surveyor under this Act.

Power to enter and inspect

50. For the purposes of any inspection, a health surveyor may, with or without others, enter into and upon any premises between the hours of nine in the forenoon and six in the afternoon, or in the case of any business or trade premises at any time when the business or trade is in progress or is usually carried on, and for the purposes of inspection may open up drains and execute any other necessary works.

Provided that the officer of health may, with or without others, enter any premises at any hour.

Obstruction of officers and members

51. (1) Any person who obstructs, or incites any other person to obstruct, any person acting in the execution of this Act, or of any power thereunder, shall be guilty of an offence against this Act, and liable to a penalty not exceeding two hundred dollars.

(2) Every member of the police force shall assist all persons acting as aforesaid.

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**PART 7
REPORTS AND INQUIRIES**

Annual report

70. Every local board shall, during January in every year and at such other times as the Central Board may direct, report to the Central Board concerning the sanitary condition of its district in such form as the Central Board may require.

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Central board to report annually to Minister

74. The Central Board shall annually, not later than the month of March, and also whenever required by the Minister, report to him concerning all matters affecting the public health.

Annual report to be laid before Parliament

75. The annual report of the Central Board shall be laid before Parliament.

Power to institute inquiries

76. Whenever it appears to the Central Board necessary or proper to make formal inquiry into any matter for the purposes of this Act, the following provisions shall have effect:—

- I. The Central Board shall specify in writing the general scope and object of the inquiry, and such general directions as it may think proper to secure its due performance:
- II. The inquiry shall be thereupon held by the chairman or such other person as the board may appoint:

The chairman or such other person is hereinafter included in the expression "the chairman":
- III. The inquiry shall be held either in public or with closed doors, and at such place or places as the chairman may think fit:
- IV. The chairman shall hold sittings at such places, with power from time to time to adjourn the same. He may summon and examine witnesses and receive any evidence that may be offered respecting the subject of the inquiry:
- V. All parol evidence shall be reduced to writing:
- VI. The chairman may require any person to sign any evidence given by him:
- VII. Witnesses may be summoned by being served with a notice in writing under the hand of the chairman calling upon them to attend and give evidence at a time and place to be therein specified. The notice shall be served so long before the time appointed as the chairman may deem reasonable.

Penalty for non-attendance

77. If any person is served with any such notice, and having been paid or tendered in advance such moneys as he would have been entitled to receive had he been a witness summoned to attend a local court, fails to comply with the same, or, having attended, refuses to give evidence or sign the same, he shall be guilty of an offence against this Act, and liable to a penalty not exceeding one hundred dollars.

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Certificate of chairman to be sufficient proof

78. A certificate under the hand of the chairman to that effect shall be sufficient proof of non-compliance with the notice to attend and give evidence, and of all other facts necessary to be proved to show it was incumbent upon such person to comply therewith.

Power of inspection

79. The chairman, either alone or with others, for the purposes of the inquiry, may enter and inspect any land or premises between sunrise and sunset.

Chairman to report to Central Board

80. The chairman may, at any time during the progress of the inquiry, and shall, on its completion, make to the Central Board a written report under his hand setting forth the result of the inquiry, his opinion thereon, and his reasons for that opinion. The report shall be accompanied by all evidence and information received during the inquiry.

False evidence

81. Any person who wilfully gives false evidence on any inquiry shall be guilty of an offence against this Act, and liable to a penalty not exceeding five hundred dollars.

**PART 8
SANITATION**

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Definition of lodging-house

125. Whenever any building, or part thereof, is let in lodgings or for the purpose of board and lodging, the same shall be deemed to be a lodging-house.

Limit of number of inmates in a lodging-house

126. The local board may fix the number of persons who may occupy any lodging-house, and may, by regulation—

- (a) provide for the registration of lodging-houses; and
- (b) prescribe the manner in which an application for registration of a lodging-house must be made; and

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- (c) prescribe a registration fee; and
- (d) prescribe the conditions upon and subject to which a certificate of registration may be granted or held; and
- (e) provide for the inspection of lodging-houses; and
- (f) vary or revoke any regulation made under this section.

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**PART 10
REGULATIONS**

Regulations

147. (1) The Governor, on the recommendation of the Central Board, may make regulations for or with respect to—

- (a) the measures to be taken for preventing the spread of or for limiting, mitigating, or eradicating any infectious disease or notifiable disease:
- (b) the prevention of the spread of infectious disease or notifiable disease by persons who though not at the time suffering from such disease are "**contacts**" or "**carriers**" and liable to disseminate the infection thereof, and the keeping of such persons under medical surveillance and the restriction of the movements of such persons:
- (c) defining "**contacts**" and "**carriers**" for the purposes of this Act:
- (d) the prohibition of spitting in public places or in public conveyances except into receptacles provided for the purpose:
- (d1) prescribing the fee payable by the local board to a medical practitioner pursuant to section 129 of this Act:
- (d2) prescribing the fee payable by the Central Board to a medical practitioner pursuant to section 129 of this Act:
- (e) the imposition and enforcement of isolation or of medical observation and surveillance in respect of persons suffering or suspected to be suffering from any infectious disease or notifiable disease, the premises in which such persons are accommodated, those in charge of or in attendance on such persons, and other persons living in or visiting such premises or who may otherwise have been exposed to the infection of such disease; and the inspection of any such premises:
- (f) the disinfection of ambulances and other vehicles in which persons suffering from infectious disease are conveyed; the measures to be taken to prevent the spread of infectious disease from the bodies of persons who have died from infectious disease including the disinfection of any vehicles in which any such bodies are conveyed:

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- (f2) prescribing the conditions upon which licences under section 146AA of this Act may be granted, refused and revoked; prescribing the qualifications of persons acting as managers or persons in charge of nursing homes; and providing for an appeal to the Central Board from any decision of the local board with respect to the grant, refusal or revocation of any such licence:
- (f3) prescribing the conditions upon which licences under section 146A of this Act may be granted, refused and revoked; prescribing the qualifications of persons acting as managers and persons in charge of rest homes; and providing for an appeal to the Central Board from any decision of a local board with respect to the grant, refusal or revocation of any such licence:

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- (g) the regulation of trade in flock, rags, and in secondhand clothing, bedding, or any similar articles, and requiring the cleaning and disinfection of any such articles before removal, sale, or exposure for sale, or use in any manufacturing process:
- (h) the installation, maintenance, and inspection of bacteriolytic tanks, and the fittings and drains and water closets used in connection therewith:
- (h1) prescribing the fee for the examination by the Central Board of plans of proposed bacteriolytic or septic tanks and the inspection by the Central Board of any such tank after its installation:

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- (m1) regulating the fumigation of premises for the destruction of animal or insect pests or disease germs by means of gases, vapours, fumes, mists or smokes which are or may be dangerous to human life or health:
- (m2) for prohibiting or regulating the removal from any premises of any furniture or other chattels which are vermin infested or the removal of any furniture or other chattels from any vermin infested premises, and for requiring and regulating the fumigation of any such furniture and other chattels:
- (m3) declaring that any substances (which term shall in this and the following three paragraphs include solids, liquids, and gases) shall be dangerous substances and that any processes shall be dangerous processes:
- (m4) regulating or restricting the production, manufacture, use, storage, sale or other disposal of any substances declared by regulation to be dangerous substances:
- (m5) regulating or restricting the use or application of processes declared by regulation to be dangerous processes:
- (m6) prescribing any other matters which it is necessary or convenient to prescribe for the purpose of ensuring that adequate precautions shall be taken to prevent death, injury or ill health from substances declared by regulation to be dangerous substances or from processes declared by regulation to be dangerous processes.
- (m7) prescribing qualifications for persons employed as health surveyors by local boards and county boards; authorising the Central Board to examine persons and grant certificates of competency to persons passing such examinations or who are otherwise qualified therefor; providing that any such examinations may be conducted by persons appointed by the Central Board; prescribing the mode of determining such qualifications and obtaining recognition therefor in other States of Australia; providing for the cancellation or suspension of such certificates and the grounds upon and the manner in which such cancellation or suspension may be effected; and providing that after a day fixed in the regulations no person shall be employed by a local board or a county board as an health surveyor for the purposes of this Act or the *Food and Drugs Act 1908-1954* who does not hold such a certificate which is in force: Provided that no such regulation shall apply to or affect the status of any health surveyor who holds such office at the time the regulation comes into operation:

- (m8) regulating and controlling the construction, installation, maintenance and operation of swimming pools and providing for the inspection of swimming pools:
- (m9) pest controllers and pesticides prescribing—
 - (i) the manner and form in which an application for a pest controller's licence is to be made;
 - (ii) the fee to be paid for such a licence;
 - (iii) the conditions upon which such a licence may be granted or revoked;
 - (iv) the manner and form in which an application for a pest controller's certificate is to be made;
 - (v) the fee to be paid for such a certificate;
 - (vi) the conditions upon which such a certificate may be granted or revoked;
 - (vii) the standards or requirements of education, practical skill or experience for entitlement to hold a pest controller's certificate;
 - (viii) the possession or use of any pesticide:
- (m10) prescribing the manner and form of any report to the Central Board by the owner or occupier of a building used as a hospital that an inmate is suffering from cancer:
- (n) generally carrying into effect the purposes of this Act:
- (o) imposing penalties not exceeding one hundred dollars for the breach of any regulation.

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Penalties may be imposed

151. In all cases not otherwise provided for any regulation may impose any penalty not exceeding one hundred dollars for any breach or non-observance of the same, or in the case of a continuing breach not exceeding twenty dollars for each day that the breach is continued.

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**PART 11
MISCELLANEOUS**

Penalties

156. To secure the due execution of this Act all persons failing to do any act directed to be done or doing any act forbidden to be done by any provision or by any part of any provision of this Act, or by any regulation, notice, or order of the Central Board, or of any local board, or any notice of any officer, or order of court, shall be guilty of an offence against this Act, and shall be liable—

- (a) to any sum not exceeding the particular penalty specified in or at the foot of the provision or regulation, or in or at the foot of the particular provision under which any such notice or order is given or made:
- (b) if there be no specified penalty, then in the case of a breach—
 - (i) of a provision of this Act to a penalty not exceeding two hundred dollars; or
 - (ii) of any regulation to a penalty not exceeding one hundred dollars.

Summary proceedings

157. All complaints and informations shall be heard and determined, and all moneys, costs, and expenses shall be recovered in a summary way.

Appropriation of penalties

158. All penalties for an offence against this Act which are recovered on the complaint of any health surveyor or officer of a local board shall be paid to that local board. All other penalties shall be paid into the general revenue of the State.

Legal proceedings

159. All complaints, informations, and legal proceedings by or against the Central Board or any local board, may be preferred, prosecuted, or defended in the name of that board, or in the name of the chairman, secretary, or health surveyor.

No proceedings to be taken without authority

160. Except where otherwise provided, no proceedings shall be instituted under this Act, except by or on behalf, or with the authority of the Central Board or of the local board. The authority may be either general or particular, and may be proved by the production of the authority in writing under the hand of the chairman or secretary of the board, or a copy of a resolution under the hand of the chairman or secretary.

Constitution of board need not be proved

161. It shall not be necessary in any legal proceedings to prove the existence, constitution, or appointment of the Central Board, or any local board, or of any chairman, officer, or member thereto.

Proof of boundaries and appointment of officers

162. (1) A certificate under the hand of any person appearing to be the chairman or secretary, or the oath of any officer, shall be sufficient evidence of—

- (a) the boundaries of any district:

(b) the appointment of any officer,

until the contrary be proved.

(2) Any notice thereof in the *Government Gazette* shall be conclusive evidence.

Presumption where goods are exposed in shop, etc

163. In any proceedings under this Act, on proof that an article was exposed in any place to which the public had access, or in any market or shop, it shall be presumed that the article was exposed for sale, unless the defendant proves the contrary.

Authentication of documents

164. Every document required to be made or authenticated by any board shall (unless otherwise provided) be sufficiently authenticated if appearing to be signed by any member or officer of the board.

Service of documents

165. (1) Any document required to be served may be served by posting the same in an envelope addressed to the person for whom it is intended at his last known or most usual place of abode or business, or by delivering the same to the said person or at the said place.

(2) In the case of unoccupied land or premises it shall be sufficient to affix any necessary notice on some conspicuous part of the land or premises.

(3) Any notice, consent, permission, or licence by this Act required to be given or obtained shall be in writing.

(4) Any document posted pursuant to this section shall be deemed to have been duly served at the time when in the ordinary course of post it would have arrived at its address.

Neglect of duty

166. Whenever any person fails to perform any duty cast upon him by this Act, or fails to comply with any order or notice, the local board may perform the duty or carry out the terms of the order or notice, and recover all expenses from the person in default.

Board not to be liable in certain cases

167. No board shall, except where otherwise expressly provided, be liable for anything in good faith done or caused or omitted to be done by it in carrying out the provisions of this Act, and every person acting under the authority of any board shall be indemnified by the board for all liability in so acting.

Actions against board

168. Every legal proceeding against any such person or against any board or person in good faith acting or intending to act under this Act, on account of anything done or omitted to be done shall be commenced within two months after the cause of action shall have arisen, and not afterwards.

Members and officers of boards interested in contracts, etc.

169. Any member or officer of any board who—

(a) is directly or indirectly interested in any bargain or contract entered into by the board;
or

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- (b) exacts, takes, or accepts any fee or reward whatsoever other than his proper remuneration,

shall be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars.

Incorporation of Compulsory Acquisition of Land Act 1925

170. The *Compulsory Acquisition of Land Act 1925*, except sections 49, 79, 80, 81, and 82, is incorporated with this Act. The board of health shall be deemed to be the promoters of an undertaking, and this Act shall be deemed to be the special Act.

Provision as to sale and manufacture of bacteriolytic or septic tanks

171. (1) Any person who—

- (a) sells; or
- (b) exposes for sale; or
- (c) manufactures or constructs for the purpose of sale; or
- (d) has in his possession for the purpose of sale,

any bacteriolytic or septic tank, which is not of a size, or is not constructed of such material and in such manner, as is approved by the Central Board shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(2) Any such approval of the Central Board may be given by way of a specific or a general approval.

(3) In any proceedings for an offence against this section, a certificate purporting to be signed by the chairman or secretary of the Central Board and stating that any bacteriolytic or septic tank is not of the size or is not constructed of such materials or in such manner as is approved by the Central Board shall be *prima facie* evidence of the statement in the certificate.

(4) A complaint in respect of any offence against this section or against any regulation made in pursuance of paragraph (h) of subsection (1) of section 147 shall be made within twelve months from the time when the matter of complaint arose.

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APPENDIX

LEGISLATIVE HISTORY

· Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 4 of The Public General Acts of South Australia 1837-1975 at page 598.

· Legislative history since 3 February 1976 (**entries in bold type indicate amendments incorporated since the last reprint**) is as follows:

Section 2: repealed by 36, 1987, Sched.3. cl. 1(1)
Section 3: amended by 18, 1976, s. 3; 70, 1976, s. 3; 49, 1982, s. 3(1)(a); repealed by 36, 1987, Sched. 3 cl. 1(1)

Sections 5 and 5A: repealed by 36, 1987, Sched. 3 cl. 1(1)
Section 14: amended by 76, 1976, s. 5(4) (Sched. 1 Pt. 4)
Sections 14A and 14B: inserted by 18, 1976, s. 4

Part 4 comprising ss. 29 - 46 and headings amended by 18, 1976, ss. 5 and 6; 70, 1976, s. 4; 49, 1985, s. 4(2) (Sched. 3 Pt. 1); repealed by 36, 1987, Sched. 3 cl. 1(1)

Section 47: amended by 70, 1976, s. 5
Section 48: amended by 70, 1976, s. 6
Section 49(1): amended by 70, 1976, s. 7(a)
Section 49(2): amended by 70, 1976, s. 7(b)
Section 49(3): inserted by 70, 1976, s. 7(c)
Section 50: amended by 70, 1976, s. 8

Part 6 comprising ss. 52 - 69 and heading amended by 70, 1976, ss. 9-15; repealed by 36, 1987, Sched. 3 cl. 1(1)

Sections 71 - 73: repealed by 36, 1987, Sched. 3 c. 1(1)
Heading preceding section 82: repealed by 18, 1976, s. 7
Sections 82 - 86: repealed by 36, 1987, Sched. 3 cl. 1(1)
Section 87: amended by 18, 1980, s. 3; repealed by 36, 1987, Sched. 3 cl. 1(1)
Section 88: substituted by 18, 1976, s. 8; repealed by 36, 1987, Sched. 3 cl. 1(1)
Sections 89 and 90: repealed by 36, 1987, Sched. 3 cl. 1(1)
Sections 94A - 94D: amended by 70, 1976, s. 16; 76, 1976, s. 5(4) (Sched. 1 Pt. 4); 98, 1978, s. 2; repealed by 13, 1984, s. 3

Heading preceding section 95: repealed by 18, 1976, s. 9
Sections 95 - 100: repealed by 36, 1987, Sched. 3 cl. 1(1)
Section 101: repealed by 18, 1980, s. 4
Section 102: repealed by 36, 1987, Sched. 3 cl. 1(1)
Sections 103 - 109: repealed by 18, 1980, s. 5
Sections 110 - 115: repealed by 49, 1985, s. 4(2) (Sched. 3 Pt. 2)
Heading preceding section 116: repealed by 18, 1976, s. 10
Sections 116 - 122: repealed by 36, 1987, Sched. 3 cl. 1(1)
Section 123: amended by 18, 1976, s. 11; repealed by 36, 1987, Sched. 3 cl. 1(1)
Section 124: repealed by 36, 1987, Sched. 3 cl. 1(1)

Part 9 comprising ss. 127 - 145 and heading amended by 18, 1976, s. 12; 70, 1976, ss. 17-19; repealed by 36, 1987, Sched. 3 cl. 1(1)

Part 9AA comprising ss. 145A - 146A and heading amended by 55, 1984, s. 13(a); repealed by 36, 1987, Sched. 3 cl. 1(1)

Part 9A comprising ss. 146B - 146N and heading amended by 76, 1976, s. 5(4) (Sched. 1 Pt. 4); repealed by 36, 1987, Sched. 3 cl. 1(1)

Part 9B comprising ss. 146O - 146Q and heading amended by 18, 1976, s. 13; 76, 1976, s. 5(4) (Sched. 1 Pt. 4); repealed by 49, 1982, s. 3(1)(b)

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Part 9C comprising ss. 146R, 146S and heading repealed by 41, 1987, s. 34

Part 9D comprising ss. 146T - 146X and heading inserted by 18, 1976, s. 14; repealed by 36, 1987, Sched. 3 cl. 1(1)

Part 9E comprising ss. 146Y, 146Z and heading inserted by 70, 1976, s. 20; repealed by 36, 1987, Sched. 3 cl. 1(1)

Section 147(1):	amended by 18, 1976, s. 15; 70, 1976, s. 21
Section 147(1)(f1):	repealed by 55, 1984, s. 13(b)
Section 147(1)(i) - (m):	repealed by 18, 1980, s. 6
Section 147(2):	repealed by 36, 1987, Sched. 3 cl. 1(1)
Sections 148 - 150:	repealed by 36, 1987, Sched. 3 cl. 1(1)
Sections 152 - 155:	repealed by 36, 1987, Sched. 3 cl. 1(1)
Section 158:	amended by 70, 1976, s. 22
Section 159:	amended by 70, 1976, s. 23
Schedule 1:	repealed by 36, 1987, Sched. 3 cl. 1(1)
Schedules 2 and 3:	substituted by 70, 1976, s. 24; repealed by 36, 1987, Sched. 3 cl. 1(1)