
PUBLIC HEALTH ACT 1973.

ANALYSIS.

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| <ol style="list-style-type: none">1. Short title and citation.2. Delegation of powers.3. Liability of municipalities for cost of treatment, &c., of certain diseases.4. Certain places of assembly to be approved by the Minister.5. Interpretation.6. Analysis of food or drugs procured under sections seventy-five and one hundred and sixteen.7. Limit of time for prosecution.8. Copy of analyst's certificate; certificate of analysis or of examination.9. Onus of proof. | <ol style="list-style-type: none">10. Regulations; registration of food factories and restaurants; licensing of persons in charge thereof.
Certain premises to be approved by Minister.
Material compliance with regulations.11. Name of owner or occupier to be disclosed.12. Notices and orders to owners and occupiers.13. Regulations.14. Schedule of amendments to penalties, &c., contained in Principal Act.15. Transition provision. |
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**PUBLIC HEALTH.**

No. 54 of 1973.

AN ACT to amend the *Public Health Act 1962*.
[23 October 1973.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Public Health Act 1973*.

Short title and
citation.

(2) The *Public Health Act 1962*, as subsequently amended, is in this Act referred to as the Principal Act.

Delegation of powers.

2 Section six of the Principal Act is amended—

(a) by omitting from subsections (1) and (2) the words “ this Act or under any Act or enactment that is incorporated with this Act or with which this Act is incorporated ” and substituting therefor in each case the words “ an Act to which this section relates ”; and

(b) by adding at the end thereof the following subsection:—

“(8) In this section ‘ Act to which this section relates ’ means—

(a) this Act, section eight excepted, and any Act or enactment that is incorporated with this Act or with which this Act is incorporated;

(b) the *Waterworks Clauses Act* 1952;

(c) the *Sewers and Drains Act* 1954;

(d) the *Water Act* 1957; and

(e) the *Local Government Act* 1962.”.

Liability of municipalities for cost of treatment, &c., of certain diseases.

3—(1) Section twenty-nine of the Principal Act is amended by omitting, from subsection (8), the words “ twopence for each pound ” and substituting therefor the words “ one cent in each dollar ”.

(2) This section shall be deemed to have commenced on the fourteenth day of February 1966.

Certain places of assembly to be approved by the Minister.

4 Section fifty-seven of the Principal Act is amended—

(a) by omitting from paragraph (2) the word “ Two ” and substituting therefor the word “ Four ”;

(b) by omitting from paragraph (b) of subsection (3) the words “ building owner ” and substituting therefor the words “ person requiring it ”;

(c) by inserting, after that subsection, the following subsection:—

“(3A) The Minister’s approval for the purposes of this section may be—

(a) of plans and specifications as submitted to him; or

(b) conditional on—

(i) the making of specified alterations; or

(ii) the erection or alteration of the building concerned in a way different in specified respects from the way shown,

in such plans and specifications.”; and

(d) by omitting from subsections (4) and (7) the word “ Fifty ” and substituting therefor, in each case, the words “ One hundred ”.

5 Section sixty-two of the Principal Act is amended by omitting the definition of “ sale ” and substituting therefor the following definition:—

“ ‘ sell ’ means—

(a) sell;

(b) agree to sell;

(c) offer, or expose, for sale;

(d) keep, or have in possession, for sale;

(e) send, forward, deliver, or receive for or on sale;

(f) barter or exchange; and

(g) authorize, direct, cause, suffer, or permit any of those acts,

whether by wholesale or retail, for human consumption or use or for analysis and ‘ sale ’ has a corresponding meaning.”.

6 Section seventy-six of the Principal Act is amended by omitting paragraph (g) of subsection (1).

Analysis of food or drugs procured under sections seventy-five and one hundred and sixteen.

7 Section one hundred and five of the Principal Act is amended by adding at the end thereof the following words “ or after the expiration of such further period from that time, not exceeding twelve months, as a court, on application being made to it in that behalf, for any reason which to it seems to justify such a course, may allow ”.

Limit of time for prosecution.

8 Section one hundred and seven of the Principal Act is amended, by omitting the words “ analyst’s certificate ” and substituting therefor the words “ certificate of analysis or certificate of examination (as the case may be) of the analyst or inspector who analysed or inspected the food, drug, or article the subject of the prosecution ”.

Copy of analyst’s certificate; certificate of analysis or of examination.

9 Section one hundred and ten of the Principal Act is amended by omitting the words “ for consumption or use by man ”.

Onus of proof.

10 Section one hundred and twenty of the Principal Act is repealed and the following sections are substituted therefor:—

Regulations:
registration of
food factories
and restaurants;
licensing of
persons in
charge thereof.

“120—(1) The Governor may make regulations relating to and prescribing any premises or class of premises specified therein, being premises in which food is manufactured, prepared, packed, or stored for sale, or is sold to persons not resident in the premises, to be premises for the purposes of this Division, and—

- (a) any premises so prescribed shall be registered annually, without fee, under and subject to the prescribed terms and conditions; and
- (b) the person actually carrying on or conducting the process or the business of any premises registered, or required to be registered, as provided by this section shall hold an annual licence for that purpose which shall be subject to the prescribed terms and conditions.

“(2) Applications for the registration of premises or for the grant of a licence under this section or for the transfer thereof shall be made, in the prescribed manner, to the local authority which may, in its discretion, register the premises or grant the licence (as the case may be) or decline to do so.

“(3) Regulations under this section may prescribe—

- (a) the procedure to be followed and the conditions to be observed (including the particulars to be specified therein) in relation to applications for the registration of premises and for licences under this section;
- (b) the terms and conditions on and subject to which registration of premises and licences under this section, or the transfer thereof, may be granted; and
- (c) the fee not exceeding ten dollars which shall be payable on the grant of a licence under this section or the transfer of such a licence.

“(4) The terms and conditions on and subject to which premises are registered or a licence is granted under this section shall be specified in the document of registration or in the licence, as the case may be.

“(5) The local authority which registered premises and granted a licence under this section may, by notice served on the person to whom the licence was granted, or to whom it has been transferred, cancel or suspend the registration of the premises or the licence, or both the registration of the premises and the licence, on the ground

that any provision of this Act or any term or condition on or subject to which the premises were registered, or the licence was granted, during the currency of the registration of the premises or of the licence has not been, or is not being, complied with.

“(6) An applicant for the registration of premises or a licence under this section whose application is refused may, within twenty-eight days of being notified of that refusal, appeal therefrom to a stipendiary magistrate.

“(7) The holder of a licence under this section may, within twenty-eight days after the service of a notice of cancellation on him under subsection (5) of this section, appeal to a stipendiary magistrate against such cancellation.

“(8) The stipendiary magistrate hearing an appeal under this section may confirm the decision of the local authority that is appealed against or may uphold the appeal and revoke the cancellation or suspension (as the case may be) either absolutely or subject to such conditions as the stipendiary magistrate may see fit to impose.

“(9) Any person who actually carries on or conducts the processes or the business of any premises required to be registered under this section but which are not registered, or without being the holder of a licence under this section, commits an offence against this Act.

“(10) Notwithstanding subsection (9) of this section, where the registration of any premises or a licence has been cancelled under this section, the holder of the licence relating to those premises may continue to carry on or conduct the processes or business of those premises until the expiration of fourteen days after being served with a notice of such cancellation or, if an appeal is lodged under subsection (7) of this section, until the appeal is disposed of, whichever is applicable in the circumstances.

“120A—(1) A person shall not use premises for the manufacture, preparation, packing, or storage of food for sale that—

(a) were not so used at the commencement of this section; or

(b) being so used have undergone material alteration as mentioned in subsection (3) of this section,

without the Minister's approval as provided in this section.

Penalty: Two hundred dollars.

Certain premises to be approved by Minister.

Cf. No. 75 of 1962, s. 57.

“(2) The Minister’s approval for the purposes of this section shall—

- (a) in the case of a building the erection or alteration of which is subject to the Building Regulations under the *Local Government Act 1962*, be of the plans and specifications required under that Act to be approved by the corporation, which shall be forwarded by the corporation to the Secretary for Local Government and by him to the Minister to be approved by the Minister as prescribed; and
- (b) in any other case, be obtained by the person requesting the approval upon submitting to the Minister the prescribed information.

“(3) Premises shall be deemed to undergo material alteration for the purposes of this section if the alteration—

- (a) is subject to the Building Regulations under the *Local Government Act 1962*; or
- (b) not being so subject, affects the compliance of the premises with the regulations made for the purposes of this Part.

“(4) The Minister may, in the prescribed manner, withdraw an approval given under this section where the premises—

- (a) have not been erected or altered in substantial accordance with so much of the plans and specifications or other information on which the approval was based as affects compliance with the regulations made for the purposes of this Part; or
- (b) have undergone an alteration that affects their compliance with the regulations made for the purposes of this Part,

and a person who knowingly causes the premises to be used as mentioned in subsection (1) of this section after the Minister’s approval thereof has been withdrawn is liable for a first offence to a penalty of two hundred dollars and for a second or subsequent offence to a penalty of five hundred dollars.

Material compliance with regulations.
Cf. *Ibid.*, s. 56.

“120B—(1) If the Minister is of the opinion that any premises used or proposed to be used for the manufacture, preparation, packing, or storage of food for sale have, or will if erected or altered as proposed have, such characteristics, other than those required by the regulations made for the purposes of this Part, that the object of those regulations will be attained as fully as if they complied, or

would if so erected or altered comply, with those regulations, he may issue in respect thereof a certificate (to be called a 'certificate of material compliance') as provided in subsection (2) of this section.

“(2) A certificate of material compliance shall specify both the characteristics required in the regulations and those that the Minister accepts instead of them, and while, or when and while, the premises in respect of which the certificate is issued have the specified characteristics so specified they shall be deemed to have the characteristics so required.”.

11 Section one hundred and thirty-one of the Principal Act is amended by omitting the words “or a health officer or municipal medical officer of health” and substituting therefor the words “, a health officer, a municipal medical officer of health, or a municipal health inspector”.

Name of owner or occupier to be disclosed.

12 Section one hundred and thirty-six of the Principal Act is amended by inserting in paragraph (b) of subsection (1), after the word “owner” (first occurring), the words “or occupier”.

Notices and orders to owners and occupiers.

13 Section one hundred and forty-two of the Principal Act is amended—

Regulations.

(a) by omitting subsections (8) and (8A) and substituting therefor the following subsection:—

“(8) Regulations for the purposes of Part V may—

(a) prescribe—

(i) the conditions that shall be complied with by or in respect of any land used as a place of assembly within the meaning of that Part in respect of—

(A) ventilation;

(B) sanitation;

(C) the well-being of persons in the place and its neighbourhood; and

(D) the sale of articles of food; and

(ii) the conduct of such places of assembly with respect to the use and maintenance of anything required under sub-paragraph (i) of this paragraph;

- (b) as conditions for the purposes of sub-paragraph (i) of paragraph (a) of this subsection, require compliance with specified provisions of the Building Regulations made under the *Local Government Act 1962*;
- (c) put any matter or thing that might otherwise be prescribed under paragraph (a) of this subsection in the discretion of the Minister or a health officer; and
- (d) empower the Minister or a health officer to give directions about any such matter or thing and provide a penalty for failure to comply with such a direction.”; and
- (b) by inserting, in subsection (9) of that subsection, after paragraph (d), the following paragraph:—
- “(da) incorporate by reference any standard rules, specifications, or drawings approved by the Minister and published as he may direct;”.

Schedule of amendments to penalties, &c., contained in Principal Act.

14 The sections of the Principal Act that are specified in the first column of the schedule to this Act are amended as respectively specified in the second column of that schedule.

Transition provision.

15 Notwithstanding the repeal of section one hundred and twenty of the Principal Act effected by this Act, any premises which were registered, and any person who was licensed, under that section at the commencement of this Act shall be deemed to have been registered or licensed (as the case may be) under that section as substituted by section ten of this Act for the period of one year commencing on the date of the commencement of this Act.

THE SCHEDULE.

(Section 14.)

AMENDMENTS TO PENALTIES PROVIDED BY PRINCIPAL ACT.

FIRST COLUMN. Section amended.	SECOND COLUMN. How amended.
14	By omitting from subsection (2) the word “four” and substituting therefor the word “eight”.
21	By omitting from subsection (1) the word “four” and substituting therefor the word “Eight” and by omitting from that subsection the word “eighty” and substituting therefor the words “one hundred and fifty”.

FIRST COLUMN. Section amended.	SECOND COLUMN. How amended.
26	By omitting from subsection (2) the word "Forty" and substituting therefor the word "Eighty".
27	By omitting from subsection (4) the word "eighty" and substituting therefor the words "One hundred and fifty".
28	By omitting from subsection (4) the word "Eighty" and substituting therefor the words "One hundred and fifty".
30	By omitting from subsection (1) the word "Eighty" and substituting therefor the words "One hundred and fifty".
31	By omitting from subsection (2) the word "eighty" and substituting therefor the words "one hundred and fifty".
32	By omitting from subsection (1) the word "Eighty" and substituting therefor the words "One hundred and fifty".
33	By omitting from subsections (3) and (7) the word "Eighty" and substituting therefor in each case the words "Three hundred".
35	By omitting from subsection (1) the word "Four" and substituting therefor the word "Eight".
36	By omitting from subsection (2) the word "Two" and substituting therefor the word "Four".
36A	By omitting from subsections (2) and (5) the word "two" and substituting therefor in each case the word "Four".
37	By omitting from subsection (3) the word "Two" and substituting therefor the word "Four".
38	By omitting from subsection (1) the words "one hundred and sixty" and substituting therefor the words "three hundred" and by omitting from that subsection the word "eight" and substituting therefor the words "one thousand five hundred".
39	By omitting from subsection (2) the words "one hundred and sixty" (twice occurring) and substituting therefor in each case the words "three hundred" and by omitting from that subsection the word "eight" and substituting therefor the words "one thousand five hundred".
40	By omitting from subsection (2) the word "forty" and substituting therefor the word "eighty".
42	By omitting from subsection (4) the word "One" and substituting therefor the word "Two".
44	By omitting from subsection (10) the words "one hundred and sixty" and substituting therefor the words "three hundred".
47	By omitting from subsection (2) the word "Four" and substituting therefor the word "six".
53	By omitting from subsection (4) the word "Four" and substituting therefor the word "Six".
55	By omitting from subsections (1) and (4) the word "Two" and substituting therefor in each case the word "Four".
60	By omitting from subsection (1A) the word "One" and substituting therefor the word "Two".

FIRST COLUMN. Section amended.	SECOND COLUMN. How amended.
85	By omitting the word "Twenty" and substituting therefor the word "Forty".
91	By omitting from paragraph (a) of subsection (2) the word "twenty" and substituting therefor the word "forty"; by omitting from paragraph (b) of that subsection the word "fifty" and substituting therefor the words "one hundred", and by omitting from paragraph (c) of that subsection the words "one hundred" and substituting therefor the words "two hundred".
92	By omitting from subsection (1) the word "twenty" and substituting therefor the word "forty"; by omitting from that subsection the word "two" and substituting therefor the word "four"; by omitting from that subsection the word "four" and substituting therefor the word "five", and by omitting from that subsection the words "one hundred" and substituting therefor the words "two hundred".
101	By omitting from subsection (1) the words "two", "five hundred", and "one" and substituting therefor respectively the words "four", "one thousand", and "two".
102	By omitting the word "two" and substituting therefor the word "four".
102A	By omitting from subsections (1) and (3) the word "Two" and substituting therefor the word "Four".
117	By omitting from subsection (3) the words "five hundred" and substituting therefor the words "one thousand".
123	By omitting from subsection (1) the word "Two" and substituting therefor the word "Four"; by omitting from subsection (2) the word "Four" and substituting therefor the word "Eight", and by omitting from subsection (3) the word "one" and substituting therefor the word "two".
124	By omitting from subsection (1) the word "Two" and substituting therefor the word "Four".
125	By omitting the words "forty" and "one hundred" and substituting therefor respectively the words "eighty" and "two hundred".
130	By omitting the word "Forty" and substituting therefor the word "Eighty".
131	By omitting the word "Forty" and substituting therefor the word "Eighty".
132	By omitting the words "one" and "twenty" and substituting therefor respectively the words "two" and "forty".
134	By omitting the word "Forty" (twice occurring) and substituting therefor in each case the words "one hundred".