



PUBLIC HEALTH AMENDMENT ACT 1983

No. 46 of 1983

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AN ACT to amend the Public Health Act 1962 to enable the Director of Public Health to delegate the exercise and performance of certain powers, discretions, and functions to municipal health inspectors and to provide for a general protection from personal liability under that Act and certain other Acts.

[Royal Assent 28 September 1983]

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—This Act may be cited as the *Public Health Amendment Act* Short title. 1983.

Principal Act.

2—In this Act, the *Public Health Act 1962** is referred to as the Principal Act.

Amendment of section 3 of Principal Act (Interpretation).

3—Section 3 of the Principal Act is amended by inserting “ or performing ” after “ exercising ” in the definition of “ Minister ”.

Amendment of section 6 of Principal Act (Delegation of exercise and performance of powers, discretions, and functions).

4—(1) Section 6 (1) of the Principal Act is amended as follows:—

(a) by omitting “ or temporary employee as defined by the *Public Service Act 1923* ” and substituting “ within the meaning of the *Public Service Act 1973* or a person employed under that Act as a temporary employee the exercise and performance of ”;

(b) by inserting “ or performed ” after “ exercised ”.

(2) Section 6 (2) of the Principal Act is amended as follows:—

(a) by inserting “ or performance ” after “ exercise ”;

(b) by inserting “ the exercise or performance of ” before “ that power ”, where firstly occurring;

(c) by inserting “ or performed ” after “ exercised ”.

(3) Section 6 (3) of the Principal Act is amended by inserting “ or performance ” after “ exercise ”.

(4) Section 6 (5) of the Principal Act is amended as follows:—

(a) by omitting “ subsection (6) of ”;

(b) by inserting “ or to a municipal health inspector the exercise or performance of ” after “ officer ”;

(c) by omitting paragraph (a) and substituting the following paragraph:—

(a) the exercise or performance of which has been delegated to him under this section; or

(d) by inserting “ or performed ” after “ exercised ”.

(5) Section 6 of the Principal Act is further amended by inserting the following subsections after subsection (5):—

* No. 75 of 1962. Subsequently amended by No. 55 of 1965, No. 35 of 1966, Nos. 86 and 87 of 1968, No. 37 of 1970, Nos. 35, 54, and 75 of 1973, No. 72 of 1974, Nos. 16 and 21 of 1976, No. 46 of 1977, No. 63 of 1978, and No. 9 of 1982.

(5A) The Director may delegate to a municipal health inspector the exercise of any powers or discretions, or the performance of any functions, referred to in subsection (5) only at the request of the municipality by which the inspector was appointed pursuant to section 140 (1) (k) or 142 (3A) of the *Local Government Act* 1962 or for which the inspector was appointed pursuant to section 142 (4) of that Act, and subject to such conditions or limitations as to the exercise of those powers or discretions, or the performance of those functions, as are specified in the instrument of delegation.

(5B) A municipal health inspector to whom the Director delegates the exercise of a power or discretion, or the performance of a function, referred to in subsection (5)—

- (a) shall exercise that power or discretion, or perform that function, only in the municipal district of the municipality by which the inspector was appointed as mentioned in subsection (5A) or for which the inspector was appointed as so mentioned; and
- (b) does not, by virtue of the delegation to him under that subsection, become a health officer, whether within that municipal district or within any other municipal district.

(6) Section 6 (6) of the Principal Act is amended by inserting “exercise and performance of the ” before “powers”.

(7) Section 6 of the Principal Act is further amended by omitting subsection (7) and substituting the following subsection:—

(7) A person who, while acting under a delegation pursuant to this section, does any matter or thing, or omits to do any matter or thing, in good faith has all the rights of indemnity and immunity of the person giving the delegation.

5—Section 23 of the Principal Act is repealed.

Repeal of section 23 of Principal Act (Indemnity).

6—Section 52 (1) of the Principal Act is amended by omitting “execution of any power or authority or the performance of any duty conferred or imposed” and substituting “exercise of any power or authority conferred, or the performance of any duty imposed,”.

Amendment of section 52 of Principal Act (Indemnity in respect of action taken under this Part).

Insertion in
Principal Act
of new
section 140A.

General
protection from
liability.

7—After section 140 of the Principal Act, the following section is inserted:—

140A—(1) Subject to subsection (2), any matter or thing done, or omitted to be done, in good faith by a person (other than a person referred to in section 140) for the purpose or purported purpose of—

(a) the exercise by him of—

- (i) the powers, authorities, or discretions conferred on him by or under this Act (other than any power, authority, or discretion under Part IV); or
- (ii) the powers or discretions the exercise of which he may delegate under section 6 (other than a power or discretion conferred on him by or under this Act or a power the exercise of which is delegated to him under that section); or

(b) the performance by him of—

- (i) the functions or duties imposed on him by or under this Act (other than a function or duty under Part IV); or
- (ii) the functions the performance of which he may delegate under section 6 (other than a function imposed on him by or under this Act or a function the performance of which is delegated to him under that section),

shall not subject him personally to any action, liability, claim, or demand.

(2) Subsection (1) does not preclude the Crown from being subject to any action, liability, claim, or demand to which the Crown would, but for that subsection, have been subject.