

FLUORIDATION OF PUBLIC WATER SUPPLIES.

No. 47 of 1966.

AN ACT relating to the Fluoridation of Public Water Supplies.

[Assented to 18th November, 1966.]

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

Short title. 1. This Act may be cited as the *Fluoridation of Public Water Supplies Act, 1966.*

**Commence-
ment.** 2. This Act shall come into operation on a date to be fixed by proclamation.

**Application
of Act to
Crown.** 3. This Act binds the Crown.

- (d) one shall be the person for the time being holding office of Director (Government Mineralogist, Analyst) of the Government Chemical Laboratories in the Public Service of the State, or a person who is an analyst employed in the Laboratories, from time to time nominated by the Director;
 - (e) three shall be persons appointed as provided in subsection (3) of this section and in this section are called the appointed members.
- (3) The appointed members shall consist of—
- (a) a person appointed by the Minister from a panel of the names of three persons willing to act as a member, submitted to the Minister for the purpose, by the body known as the Australian Medical Association (Western Australian Branch); and
 - (b) a person so appointed from a panel of the names of three persons willing to act as a member, submitted to the Minister for the purpose, by the body known as the Australian Dental Association (Western Australian Branch); and
 - (c) a person so appointed from a panel of the names of three persons willing to act as a member, submitted to the Minister for the purpose, by the body known as the Local Government Association of Western Australia.
- (4) The Commissioner shall be Chairman of the Committee, but where the Commissioner is unable for any reason to attend a meeting of the Committee, the person appointed deputy of the Commissioner under the Health Act, 1911, may act as Chairman at that meeting and while so acting has all the powers of the Chairman and of a member.
- (5) When a body referred to in subsection (3) of this section fails to submit to the Minister a panel of names in accordance with that subsection, within

thirty days after the receipt by that body of a written request from the Minister so to do, the Minister may appoint a person to the office of member in respect of which the panel of names has not been submitted to him.

(6) Subject to this Act, the appointed members shall be appointed to hold office for a period of three years and are eligible for re-appointment.

(7) When an appointed member ceases to hold office before the termination of the period of his appointment, a person eligible to be appointed to that office under the relevant provisions of this Act shall, in accordance with those provisions, be appointed a member by the Minister for the remainder of the term of office of the member in whose place he is appointed.

(8) (a) Where the Minister is satisfied that a member is incapacitated by illness, absence, or other sufficient cause, from performing the duties of his office, the Minister may appoint a person to be an acting member to act for that member during his incapacity and that person, while he so acts, shall be deemed to be a member.

(b) The Minister may at any time terminate the appointment of an acting member.

(c) No appointment of an acting member, and no acts done by him as such, shall, in any proceedings, be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

(9) Each appointed member and each acting member while acting in the place of an appointed member, shall be paid such remuneration for attending meetings of the Committee, travelling and other allowances, as the Governor from time to time determines.

(10) The Minister may terminate the appointment of any member or acting member for inability, inefficiency or misbehaviour.

Meetings of
Committee.

6. (1) The Committee shall hold such meetings as are necessary for the performance of its functions.

(2) The Minister or the Chairman may at any time convene a meeting of the Committee.

Vide s. 11
Act No. 30 of
1918.

(3) The Chairman shall convene the first meeting of the Committee as soon as practicable after the passing of this Act, and shall preside at all meetings of the Committee at which he is present.

(4) When the Chairman or his deputy is absent from a meeting of the Committee the members present at that meeting shall appoint one of their number to preside thereat.

(5) At a meeting of the Committee—

(a) four members form a quorum;

(b) a question arising at the meeting shall be determined by a majority of the valid votes of the members present at the meeting.

"This Act"
includes
regulations.
See s. 4,
Act No. 30
of 1918.

(6) Subject to this Act, the Committee may regulate its procedure in such manner as it thinks fit.

Functions of
Committee.

7. (1) The Committee shall consider, advise and make written recommendations to the Minister relating to—

(a) any proposal with respect to the addition of fluorine to any public water supply;

(b) any proposal for making, amending or revoking any regulation; and

(c) such other matters, being matters that are conducive to the achievement of the objects and effectual administration of this Act,

that is or are in writing referred to it for its consideration, advice and recommendation by the Minister.

(2) The Committee may initiate and make written recommendations to the Minister on all or any of the matters referred to in subsection (1) of this section.

(3) Before making a recommendation with respect to the addition of fluorine to any public water supply the Committee—

- (a) shall ascertain the amount of fluorine, if any, already contained in the water in respect of which it proposes to make the recommendation; and
- (b) shall ensure that the amount of fluorine so ascertained together with the amount of fluorine that the Committee proposes to recommend should be added to the water, will not result in a concentration in excess of one part by weight of fluorine per million parts of water.

8. A person who is or has been a member or acting member is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any power conferred, or the carrying out of any duty imposed, on the Committee by this Act.

Exemption
from
personal
liability.

9. (1) Where the Committee makes a written recommendation to the Minister that fluorine be added to any public water supply, if the Minister approves the recommendation, the Minister shall—

Fluoridation
of public
water
supplies.

- (a) send the water supply authority having control of the public water supply a copy of the recommendation; and
- (b) direct in writing the water supply authority to give effect to such matters contained in the recommendation, as are specified in the direction, within a time so specified.

(2) (a) Notwithstanding anything contained in any other Act, a water supply authority to whom a direction has been given by the Minister under

"This Act" includes regulations. See s. 4, Act No. 30 of 1918.

subsection (1) of this section shall, subject to this Act, add fluorine to any public water supply under its control and to which the direction relates, within such period as the Minister specifies in the direction.

(b) The Minister may, from time to time, by subsequent direction extend the period so specified.

(3) Subject to section thirteen of this Act, the cost of and incidental to the fluoridation of the public water supply pursuant to the direction of the Minister shall be borne by the water supply authority.

(4) A water supply authority shall not add fluorine to any public water supply except—

(a) pursuant to and in accordance with a direction of the Minister given under this section; and

(b) in accordance with this Act.

(5) A person, not being a water supply authority who is directed to do so under this Act, shall not add fluorine to any public water supply.

Penalty: One thousand dollars and, in the case of a continuing offence, an additional sum not exceeding forty dollars for each day on which the offence continues after conviction.

Power of Committee to add fluorine to public water supply if water supply authority defaults.

10. (1) When a water supply authority fails to add fluorine to a public water supply under its control, as directed by the Minister under section nine of this Act, the Minister may—

(a) cause the fluorine to be added as so directed; and

(b) send to the water supply authority a statement of account showing the cost of and incidental to the fluoridation of the public water supply under this subsection.

(2) If the water supply authority fails to pay to the Minister the cost referred to in that statement of account within thirty days of the receipt by it of the statement, the cost may be recovered from the water supply authority by the Minister in a court of competent jurisdiction, as a debt due by the water supply authority to the Crown in right of the State.

11. (1) For the purposes of enabling the Committee to effectually carry out its functions under this Act the Committee, or any person authorised by the Committee to act under this section—

Power of
Committee
to require
information
and enter
land.

- (a) may require any water supply authority to furnish to it or him such information in relation to any public water supply under its control as the Committee or the person so authorised may from time to time require;
- (b) may, at all reasonable times, enter upon any land of, or under the control of, a water supply authority in or on which land any public water supply or apparatus or equipment used in connection therewith is situate, for the purpose of inspecting, testing or obtaining information from the public water supply or any apparatus or equipment used or proposed to be used for adding fluorine to that public water supply;
- (c) may require any person to furnish the Committee with such information in his possession as it or he from time to time requires in relation to any public water supply;
- (d) with the consent of the Minister administering any department of the Public Service of the State, co-opt the services of any person employed in that department upon such terms as may be agreed between that Minister and the Minister.

(2) A person shall not, without reasonable excuse,—

- (a) obstruct a person acting in accordance with paragraph (b) of subsection (1) of this section; or
- (b) refuse or fail to furnish any information when so required under subsection (1) of this section.

Penalty: One hundred dollars.

Maximum and minimum concentration of fluorine in water.

12. (1) A water supply authority that adds fluorine to any public water supply under its control pursuant to a direction of the Minister given under this Act shall—

- (a) maintain the content of fluorine in that public water supply at a concentration of not more than the maximum nor less than the minimum concentration, calculated as parts per million, as is specified in the direction;
- (b) not add to that public water supply fluorine in a form other than that specified in the direction; and
- (c) not fail to comply with any conditions, as may in any case be determined by the Committee and specified in the direction.

(2) Where a water supply authority fails to comply with any requirement of subsection (1) of this section, the Minister may—

- (a) take, or cause to be taken, such action as he deems necessary to ensure that the water supply authority complies with that requirement;
- (b) send to the water supply authority a statement of account showing the cost of and incidental to the taking of any such action; and
- (c) where the water supply authority fails to pay to the Minister the cost referred to in that statement of account within thirty

days of the receipt by it of the statement, recover the cost from the water supply authority in a court of competent jurisdiction, as a debt due by the water supply authority to the Crown in right of the State.

13. (1) The Committee may at any time after making—

Power of
Committee
to rescind
or vary
any recom-
mendation

(a) a recommendation that fluorine be added to any public water supply—

(i) rescind the recommendation;

(ii) revoke or vary any condition specified in the recommendation; or

(iii) attach new conditions to the recommendation;

(b) any other recommendation, rescind or vary it.

(2) (a) Where the Minister approves of any action taken by the Committee pursuant to paragraph (a) of subsection (1) of this section, he shall in writing advise the water supply authority to whom the recommendation relates of the action so taken by the Committee and shall direct in writing the water supply authority to comply with the recommendation as altered by the Committee under that paragraph within the time specified in such direction.

(b) Where a water supply authority fails to comply with a direction given to it under this subsection, the Minister may take, or cause to be taken, such action as he deems necessary to ensure that the water supply authority complies with the direction and the provisions of paragraphs (b) and (c) of subsection (2) of section twelve of this Act apply to any costs incurred by the Minister in so doing.

Compensation.

(3) Where a water supply authority has provided equipment or apparatus to be used for the purposes of adding fluorine to any public water supply under its control pursuant to a direction made under this Act, if—

- (a) the Committee rescinds any recommendation made by it under section thirteen of this Act pursuant to which the direction was made; and
- (b) the water supply authority is no longer required by or under this Act to add fluorine to the water supply,

the Minister shall pay, to the water supply authority for the purpose of defraying the costs incurred by it in providing the equipment or apparatus, such amount as may be agreed upon between the Minister and the water supply authority and in default of agreement such amount as may be determined by arbitration under and in accordance with the Arbitration Act, 1895, unless the Minister and the water supply authority agree on some other method of determination.

Certificate to be evidence.

14. A certificate that purports to be signed by the Minister certifying that—

- (a) any water supply authority has or has not been directed in writing by him to add fluorine to a public water supply specified in the certificate;
- (b) any such direction has or has not been revoked; or
- (c) the direction contained the conditions specified in the certificate,

is, without proof of the signature or of the official character of the person appearing to have signed the certificate, evidence of the matters certified in and by the certificate.

15. (1) An analyst analysing any substance submitted to him for the purpose of assisting the determination of any matter arising under or in connection with this Act may give a certificate of the result of the analysis.

Proof of
certificate
of analyst

(2) In any legal proceedings instituted under this Act the production of such certificate purporting to be signed by the analyst is evidence of the identity of the substance analysed and of the result of such analysis without proof of the signature, employment, appointment or registration of the person appearing to have signed the certificate.

(3) In this section "analyst" means the person for the time being employed in the Public Service of the State as Director (Government Mineralogist, Analyst) of the Government Chemical Laboratories or a person certified by the Committee as having the qualifications necessary to carry out any analysis required by or permitted under this Act, and appointed by the Minister.

16. (1) The Governor on the recommendation of the Committee may make regulations not inconsistent with this Act for or with respect to—

Regulations.

- (a) the protection of persons employed in adding fluorine to any public water supply from inhaling fumes or dust containing fluorine;
- (b) the qualifications of persons, other than persons employed in the Public Service of the State, employed in operating plant, equipment or apparatus used for adding fluorine to any public water supply;
- (c) the disposal or destruction of containers from which fluorine has been removed for addition to any public water supply;
- (d) requiring a water supply authority to cause to be made analyses and prescribed tests of samples of water taken for such purposes as the Committee determines from

such public water supply under its control as the Committee directs and to forward to the Committee the result of those analyses and tests and to forward to the Committee such samples of water so taken from that public water supply as are prescribed;

- (e) prescribing the method of making the analyses and tests referred to in paragraph (d) of this subsection and the times or intervals at which those analyses and tests shall be made;
- (f) the records to be kept for the purposes of this Act by a water supply authority that has been directed by the Minister to add fluorine to any public water supply under its control;
- (g) all matters that are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may—

- (a) relate to one or more water supply authorities and different regulations may be made in relation to different water supply authorities; and
 - (b) impose a penalty not exceeding four hundred dollars for a breach of any regulation and, in the case of a continuing breach, a daily penalty not exceeding forty dollars.
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