

## PUBLIC HEALTH (AMENDMENT) ACT.

### Act No. 16, 1944.

An Act to amend the Public Health Act, 1902, George VI.  
No. 16, 1944.  
the Public Health (Amendment) Act, 1915,  
the Public Health (Amendment) Act, 1921,  
and certain other Acts in certain respects;  
and for purposes connected therewith.  
[Assented to, 20th April, 1944.]

**B**E it enacted by the King's Most Excellent Majesty,  
by and with the advice and consent of the Legis-  
lative Council and Legislative Assembly of New South  
Wales in Parliament assembled, and by the authority of  
the same, as follows:—

**1.** (1) This Act may be cited as the "Public Health Short title,  
citation  
and  
commence-  
ment.  
(Amendment) Act, 1944."

(2) The Public Health Act, 1902, as amended by  
subsequent Acts, is in this Act referred to as the  
Principal Act.

(3) The Public Health Act, 1902, as amended by  
subsequent Acts and by this Act, may be cited as the  
Public Health Act, 1902-1944.

(4) This Act shall (except where otherwise  
expressly provided) commence upon a day to be  
appointed by the Governor and notified by proclamation  
published in the Gazette.

**2.** The Principal Act is amended—

(a) by omitting section three and by inserting in Amendment  
of Act No.  
30, 1902.  
Subst. sec. 3.  
lieu thereof the following section:—

3. In this Act, and in any regulations and Interpre-  
tation.  
by-laws made thereunder, unless the context or  
subject matter otherwise indicates or requires—

“Abatement” when used in relation to  
nuisances includes abatement, removal  
and discontinuance; and “to abate”  
has a corresponding interpretation.

“Bacteriolytic

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“Bacteriolytic tank” includes a septic tank or any other type of tank, chamber or other structure used for or in conjunction with the purification of sewage or other similar material by the action of bacteria, and includes all pipes apparatus and drains used or intended to be used in connection therewith.

“Board” means the Board of Health.

“Boarding-house” means any house (not being licensed premises in respect of which a publican’s license under the Liquor Act, 1912, as amended by subsequent Acts, is in force) in which three or more persons exclusive of the family of the proprietor thereof are boarded for hire or reward from week to week or for more than a week.

“Building” includes part of a building and the curtilage of a building.

“Chemical closet” means a closet in or in connection with which there is a fixed receptacle of water-tight material containing a chemical which effectively disintegrates and continuously maintains free from organisms of the colon, typhoid or cholera groups the contents thereof.

“Common lodging-house” means any house (not being licensed premises in respect of which a publican’s license under the Liquor Act, 1912, as amended by subsequent Acts, is in force) in which persons are harboured or lodged for hire for a single night or for less than a week at one time or part of which is let or may be let for any term less than a week at one time.

“Court” in enactments relating to penalties means the magistrate or justices by whom the penalty may be imposed.

“Drain”

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- “Drain” means any drain used for the purpose of conveying drainage from one building only or from premises within the same curtilage. No. 16, 1944.
- “Food” has the meaning given to that expression in the Pure Food Act, 1908.
- “Health inspector” includes health inspectors of the Board and all servants of local authorities employed to carry out the provisions of this Act or any other Acts relating to public health.
- “House” includes dwelling of any kind, school, licensed premises within the meaning of the Liquor Act, 1912, as amended by subsequent Acts, factory, work-room, shop, boarding-house, lodging-house, common lodging-house, and other buildings or structures (whether temporary or permanent) used or intended to be used for human habitation or occupation.
- “House” includes part of a house and the curtilage of a house.
- “Isolation” means the segregation and the separation from and interdiction of communication with others of persons who are infected or suspected of being infected with any infectious disease; and “isolate” has a corresponding meaning.
- “Justice” means justice of the peace.
- “Local authority” means council of a municipality or shire, and with respect to any police district outside a municipality or shire means such member of the police force as may be appointed by the Board under this Act to be a local authority.
- “Lodging-house” means any house (not being licensed premises in respect of which a publican’s license under the  
Liquor

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Liquor Act, 1912, as amended by subsequent Acts, is in force) in which three or more persons exclusive of the family of the proprietor thereof are lodged for hire or reward from week to week or for more than a week.

“Meat” means the whole or any part of an animal such as is used for human consumption but does not include tinned or canned goods.

“Medical officer of health” means a legally qualified medical practitioner appointed by the Governor to be a medical officer of health.

“Municipality” includes the City of Sydney.

“Night-soil” includes all human excrementitious or faecal matter and human urine.

“Occupier” includes a person having the charge, management, or control of the building or of the part of the building in which the patient is, or to which the enactment relates, and, in the case of a house, the whole of which is let out in separate tenements, or in the case of a lodging house, the whole of which is let out to lodgers, the person receiving the rent payable by the tenants or lodgers, either on his own account or as the agent of another person, and in the case of a vessel means the master or other person in charge thereof.

“Offensive matter” includes dust, sludge, mud, soil, ashes, rags, waste matter, filth, blood, offal, dung, manure, or any other material which is offensive or likely to become offensive.

“Officer” includes any medical officer of health, assistant medical officer of health, officer of the Board or servant  
of

of a local authority, or any superintendent, inspector, sub-inspector, or sergeant of police, or any constable specially authorised by the Commissioner of Police. No. 16, 1944.

“Owner” means the person for the time being receiving the rent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such premises were let at a rent.

“Premises” means any house, tenement or building of any description with the appurtenances to the same, any swimming pool, and also land whether built upon or not.

“Prescribed” means prescribed by this Act or by regulations or by-laws made under the authority of this Act.

“President” means President of the Board of Health.

“Public conveyance” includes a coach, cab, omnibus, motor car, waggon, or other vehicle or vessel in which passengers are carried for hire; and also includes a tramcar and railway carriage.

“Public place” includes every place to which the public ordinarily has access whether by payment or not.

“Refuse” includes offensive matter.

“Regulation” means regulation made or deemed to have been made under this Act.

“Rubbish” includes offensive matter.

“Sanitary convenience” includes pan closet, urinal, water closet, privy and any receptacle for the deposit of night-soil, refuse or rubbish.

“Schedule”

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“Schedule” means Schedule to this Act.

“Sewer” includes any drain other than a drain used for the purpose of conveying drainage from one building only or from premises within the same curtilage.

“Street” includes any highway and any public bridge and any road, lane, footway, square, court, alley, or passage whether a thoroughfare or not.

“Whole-time medical officer of health” means medical officer of health, the whole of whose time is devoted to the duties of his office.

Sec. 4.  
(Application  
of Act.)

- (b) by inserting in subsection two of section four after the word “boat” where firstly occurring the words “punt, lighter, house-boat.”

Further  
amendment  
of Act No. 30,  
1902.

Sec. 7.  
(Constitu-  
tion of  
Board.)

**3. The Principal Act is further amended—**

- (a) (i) by inserting at the end of subsection one of section seven the words:—

The person for the time being holding the office of Director-General of Public Health shall be a member of the Board and shall be the President thereof.

In the event of the absence through illness or any other cause of the Director-General of Public Health or during any vacancy in the office of Director-General of Public Health the person for the time being performing the duties of that office shall be a member of the Board and shall be the President thereof;

- (ii) by omitting from subsection two of the same section the words “such members” and by inserting in lieu thereof the words “the members of the Board, other than the President”;

(b)

- (b) by omitting from section ten the words “or by the Dairies Supervision Act, 1901” and by inserting in lieu thereof the words “or by the Local Government Act, 1919, as amended by subsequent Acts”; No. 16, 1944. Sec. 10. (Powers of Board.)
- (c) by inserting in section eleven after the word “Board” the words “or any person authorised in that behalf by the Board”; Sec. 11. (Powers of Board.)
- (d) by inserting at the end of section thirteen the words “and may take samples for the purpose of analysis of any substance or material found in or upon such premises”; Sec. 13. (Inquiries.)
- (e) (i) by inserting in subsection one of section seventeen after the word “municipality” wherever occurring the words “or shire”; Sec. 17. (Local authorities.)
- (ii) by inserting in subsection two of the same section after the word “municipal” the words “or shire”;
- (f) by inserting in subsection two of section eighteen after the word “municipality” the words “or shire”; Sec. 18. (Medical officers.)
- (g) by omitting from section nineteen the word “sanitary” and by inserting in lieu thereof the word “health”; Sec. 19. (Powers of medical officer.)
- (h) (i) by omitting from subsection one of section twenty the words “shall, when required by his local authority, and may at such other” and by inserting in lieu thereof the words “may, at such”; Sec. 20. (Reports by medical officer.)
- (ii) by omitting from the same subsection the words “the said authority” where firstly occurring and by inserting in lieu thereof the words “a local authority”;
- (iii) by omitting from the same subsection the word “their” and by inserting in lieu thereof the word “its”;
- (i) (i) by inserting at the end of subsection one of section twenty-one the following words:— Sec. 21. (Power to inspect registers of deaths, etc.)  
 An officer of the Board duly authorised in that behalf by the Board may at any reasonable time inspect the register

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register books of deaths within any district.

(ii) by inserting in subsection two of the same section after the words "of the district" the words "or of an officer of the Board duly authorised in that behalf";

**Sec. 22.**  
(Power to enter premises.)

(j) by omitting from section twenty-two the words "of the local authority";

**Sec. 24.**  
(Failure of local authority to exercise powers.)

(k) by inserting in subsection two of section twenty-four after the word "municipal" the words "or shire".

Further amendment of Act No. 30, 1902.  
New sec. 23A.

**4.** (1) The Principal Act is further amended by inserting next after section twenty-three the following new section:—

Health inspectors.

23A. After the commencement of the Public Health (Amendment) Act, 1944, no person shall be employed as a health inspector by a local authority unless he holds the prescribed qualifications: Provided that the Board may exempt from the operation of this section the employment of any specified person as health inspector for a specified district.

Amendment of Act No. 41, 1919.

(2) The Local Government Act, 1919, as amended by subsequent Acts, is amended—

New sec. 93A.

(a) by inserting next after section ninety-three the following new section:—

Appointment of health inspectors.

93A. (1) Where after the commencement of the Public Health (Amendment) Act, 1944, the council appoints a health inspector it shall, except as provided in subsection four of this section, appoint a person who holds a certificate as prescribed.

(2) Ordinances may be made prescribing the conditions upon which certificates of health inspectors may be issued.

(3) Subject to the approval of the Minister any person holding the prescribed certificate may be appointed health inspector of two or more councils.

(4) Notwithstanding subsection one of this section the council may appoint a person who does not hold such certificate where the appointment



appointment is made in conformity with an exemption granted under section 23A of the Public Health Act, 1902-1944.

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- (b) by inserting at the end of section ninety-four the following new subsection:—

Sec. 94.  
(Health inspectors.)

(3) (a) Subsection one of this section shall extend to authorise the Governor to make a requirement that two or more councils join in making the appointment, and to authorise the Governor to appoint a health inspector or health inspectors to act for the councils jointly and to fix the terms of any such appointment.

(b) In the application of subsection two of this section to a case in which the Governor appoints any health inspector or health inspectors to act for two or more councils jointly, that subsection shall be read and construed as if the words "the council" were omitted and the words "the respective councils in such shares or proportions as the Governor may determine" were inserted in lieu thereof.

5. The Principal Act is further amended—

Further amendment of Act No. 30, 1902.

- (a) (i) by omitting paragraph (b) of subsection one of section twenty-nine;

Sec. 29.  
(Notification of infectious diseases.)

- (ii) by inserting next after the same subsection the following new subsection:—

(1A) Every legally qualified medical practitioner who is attending or is called in to visit a patient suffering from an infectious disease or who becomes aware or has reasonable grounds for believing that any patient whom he is attending or is called in to visit is suffering from an infectious disease, or who becomes aware by post-mortem examination that any person has died from an infectious disease, shall—

- (a) forthwith prepare a certificate setting forth the full name of the patient or deceased person, the situation of the house in which the patient resides or the deceased person

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person died, the infectious disease from which, in the opinion of the medical practitioner, the patient is suffering or the deceased person died, and particulars of such other matters as may be prescribed, and shall forthwith send such certificate—

- (i) in any case where the infectious disease is tuberculosis, leprosy or puerperal infection or any other infectious disease to which the provisions of this subparagraph are extended by the Governor by proclamation published in the Gazette—to the secretary to the Board: Provided that in the case of tuberculosis such certificate shall be so prepared and sent only where the medical practitioner has definite pathological evidence of the existence of the disease;
  - (ii) in any case where the infectious disease is plague, smallpox or cholera—to the secretary to the Board; and in the case of such diseases the medical practitioner shall also forthwith communicate by telephone to the secretary to the Board the contents of such certificate;
  - (iii) in any other case—to the local authority;
- (b) except where the infectious disease is tuberculosis or puerperal infection inform the head of the household or the occupier of the house in which the patient resides or the deceased person died and any person nursing or in immediate attendance on the patient or deceased person of the infectious

infectious nature of the disease and the precautions to be taken to prevent its conveyance to others. No. 16, 1944.

(iii) by omitting from subsection three of the same section the words "three shillings and sixpence" and by inserting in lieu thereof the words "two shillings and sixpence";

(b) by omitting sections thirty-one and thirty-two; Secs. 31, 32.  
(Notification of small-pox and leprosy.)

(c) by inserting at the commencement of Division 3 of Part III the following new section:— New sec. 32A.

32A. (1) A medical officer of health or a legally qualified medical practitioner authorised in any particular case in that behalf by the President may by order in writing direct that the person named therein (being a person suffering from an infectious disease) be removed to the hospital named in the order (being a hospital available for the reception and treatment of persons suffering from the infectious disease). Power to direct removal to hospital.

(2) (a) A medical officer of health or a legally qualified medical practitioner so authorised may make an order under this section in respect of a person suffering from an infectious disease in any case where he deems it expedient so to do in the interests of public health.

(b) A medical officer of health or a legally qualified medical practitioner so authorised shall make an order under this section in respect of a person suffering from an infectious disease in any case where he is satisfied that such person is without proper lodging or accommodation or is living in a house in which he cannot be effectually isolated so as to prevent the risk of the infection spreading to other persons living in the house.

(3) An order under subsection one of this section shall be addressed generally to the local authority and its officers and to all members of the police force; and the directions of the order

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order shall be carried into effect by any officer of the local authority or any member of the police force upon whom the order is served.

(4) Any such officer or member of the police force upon whom the order has been served who, without just cause, neglects or fails to carry into effect the directions of the order, shall be guilty of an offence and shall be liable to a penalty not exceeding ten pounds.

(5) Any person who obstructs or hinders any such officer or member of the police force carrying into effect the directions of the order shall be guilty of an offence and shall be liable to a penalty not exceeding ten pounds.

Sec. 34.  
(Notice to  
disinfect  
property.)

- (d) (i) by omitting from subsection one of section thirty-four the words "or, where the said authority is a municipal council, the mayor";
- (ii) by omitting from subsection two of the same section the words "the officers of the local authority, under the superintendence of a legally qualified medical practitioner" and by inserting in lieu thereof the words "the local authority";

Sec. 36.  
(Compensation.)

- (e) by inserting at the end of section thirty-six the words "unless the owner has previously agreed to forego such compensation";

Sec. 37.  
(Disinfection  
or destruction  
of  
bedding.)

- (f) (i) by omitting from subsection three of section thirty-seven the words "may, and when required by order of the Board shall" and by inserting in lieu thereof the words "shall, where a pan removal service is controlled by such local authority,";
- (ii) by inserting in the same subsection after the word "fire" the words "or by other means approved by the Board";

Sec. 38.  
(Duties of  
persons  
ceasing to  
occupy  
infected  
house.)

- (g) (i) by omitting from paragraph (a) of subsection one of section thirty-eight the words "a legally qualified medical practitioner" and by inserting in lieu thereof the words "the local authority";

(ii)

- (ii) by omitting from the same paragraph the words "signed by him" and by inserting in lieu thereof the words "issued by such local authority";
- (iii) by omitting from subsection three of the same section the words "their officers to serve notice of the provisions of this section" and by inserting in lieu thereof the words "notice of the provisions of this section to be served";
- (iv) by omitting from the same subsection the words "they are aware" and by inserting in lieu thereof the words "twenty-nine";
- (h) by omitting from subsection one of section forty-eight the word "thirty-two" and by inserting in lieu thereof the word "twenty-nine";
- (i) by inserting next after section forty-nine the following new section:—
- 49A. If a medical officer of health or assistant medical officer of health has reason to believe that any person is suffering from leprosy or is a contact of a case of leprosy he may by order in writing direct such person to submit to medical examination at such time and place as may be specified in the order.
- The power conferred by the foregoing provisions of this section may be exercised more than once in relation to the same person.
- Any person upon whom an order under this section is served shall comply with the directions of the order, and if he neglects or refuses to do so he shall be liable to a penalty not exceeding five pounds.
- (j) by inserting in Part III next after section fifty the following new division:—

DIVISION 5.—*Public Welfare.*

50A. (1) Where an officer certifies in writing to the local authority that any articles on specified premises within its area are verminous or likely to be verminous or dangerous or prejudicial to health by reason of having been used by any person infested with vermin such local authority

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Sec. 48.  
(Powers of board in cases of leprosy.)

New sec.  
49A.

Power to compel certain persons to submit to medical examination.

New Division 5.

Disinfection or destruction of verminous articles.

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authority may by order in writing authorise the officer named in the order to enter such premises, by force if necessary, and to seize any articles therein which are verminous, filthy, dangerous or unwholesome or likely to endanger health or to promote infectious disease, and to disinfect or destroy such articles either on the premises or elsewhere.

In the application of this subsection to and in respect of a local authority which is the council of a municipality or shire the word "officer" means a medical officer of health, or an assistant medical officer of health or an officer of the Board or servant of the council authorised in that behalf by the Board or council as the case may be.

(2) Any person who obstructs or hinders any officer so authorised carrying the order into effect shall be guilty of an offence and shall be liable to a penalty not exceeding ten pounds.

(3) Where a person sustains damage by reason of the disinfection or destruction of any article pursuant to this section and the condition of the article by reason of which it was disinfected or destroyed is not attributable to his act or default the local authority shall make reasonable compensation to that person.

Sec. 51A.  
(Regulations  
with respect  
to cemeteries.)

(k) by inserting in subsection one of section 51a after the word "Governor" where firstly occurring the words "on the recommendation of the Board";

Sec. 52.  
(Power of  
local authorities  
to make  
by-laws.)

(l) by inserting in section fifty-two after the word "may" where firstly occurring the words "and when directed by the Board shall".

Further  
amendment  
of Act No.  
30, 1902.

Sec. 53.  
(Application  
of Part  
VI.)

6. (1) The Principal Act is further amended—

(a) by omitting from section fifty-three the words "only to districts administered by municipal councils" and by inserting in lieu thereof the words "to every place in New South Wales";

(b)

- (b) by inserting at the end of section fifty-five the following new subsection:—

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Sec. 55.

(Powers of Minister.)

(3) Where any person occupies or uses a building which has been erected upon any land in contravention of a notice under subsection one of this section the Board or a local authority may, unless the measures referred to in the notice and specified in the document deposited in the office of the local authority have been taken or the notice has been revoked by the Minister, by instrument in writing, direct such person to vacate or cease to use such building within a period (not being less than fourteen days) to be specified in the instrument.

Any person who neglects or fails to comply with the directions contained in any such instrument within the period specified therein shall be liable to a penalty not exceeding two pounds for every day during which he continues to occupy or use the building after the expiration of the period specified in the instrument.

- (c) (i) by omitting subsection one of section fifty-seven and by inserting in lieu thereof the following subsection:—

Sec. 57.

(Duties of local authorities in respect of dwelling-houses.)

(1) It shall be the duty of every local authority to cause to be made, from time to time, inspection of its district, with a view to ascertaining whether any house or building therein is in a state so injurious or dangerous to health as to be unfit or unsafe for human habitation or occupation; and if on the representation of a medical officer of health, or on information given by any other person, any house or building appears to it to be in such a state, to take proceedings against the owner or occupier for closing the house or building under the provisions of this Act.

- (ii) by omitting from subsection two of the same section the word "dwelling-house" and by inserting in lieu thereof the words "house or building";

(d)

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Section 58.  
(Closing  
order.)

- (d) by inserting at the end of subsection three of section fifty-eight the following words:—

A person shall be deemed to occupy such house or building or such part thereof in contravention of the order if at any time after the expiration of the time specified in the order he is in actual occupation of such house, building, or part, whether such occupation is as owner, occupier or tenant or is adverse to the owner; and, in the case of a tenant or person in occupation adversely to the owner, whether or not he has notice of the order.

New sec.  
58A.

- (e) by inserting next after section fifty-eight the following new section:—

58A. (1) No person shall furnish, let or occupy or permit or suffer to be occupied as a dwelling any cellar, vault or underground room.

(2) The fact that any cellar, vault or underground room is furnished so as to be capable of being used as a living room or as a bedroom shall be prima facie evidence that the same is occupied as a dwelling.

cf. Act No.  
3697, 1923  
(Vict.) s. 3.

(3) In this section the expression "cellar, vault or underground room" includes any room being part of a house if the floor of such room is more than three feet below the surface of the adjoining street or of the land adjoining or nearest to such room and such room has no direct access to the outer air otherwise than at a level of more than three feet above the floor thereof.

Sec. 60.  
(Effect of  
closing  
order on  
tenancy.)

- (f) (i) by omitting from subsection one of section sixty the word "dwelling-house" and by inserting in lieu thereof the words "house or building";
- (ii) by inserting in the same subsection after the words "the house" wherever occurring the words "or building";
- (iii) by inserting in subsection two of the same section after the word "house" the words "or building";

(g)



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- (g) (i) by inserting in subsection one of section sixty-one after the words "rendered fit" the words "or safe";
- (ii) by omitting from the same subsection the words "and that the continuance of the house or building or any part thereof is dangerous to the health of the public or of the inhabitants of the neighbouring dwelling-houses" and by inserting in lieu thereof the words "or safe";
- (iii) by inserting in subsection three of the same section after the word "fit" the words "or safe".

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Sec. 61.

(Resolution for demolition of closed house or building.)

(2) The amendments made by paragraphs (b) to (g) both inclusive of subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

The day so appointed shall be later than the day appointed and notified pursuant to subsection four of section one of this Act.

7. (1) The Principal Act is further amended by inserting next after section sixty-three the following new Part:—

Further amendment of Act No. 80, 1902. New Part VIA.

**PART VIA.**

**UNDERTAKERS AND MORTUARIES.**

63A. (1) After the expiration of three months after the commencement of the Public Health (Amendment) Act, 1944, no person shall carry on business as an undertaker unless he is the holder of a license authorising him to carry on the business of an undertaker.

Undertakers to be licensed.

(2) Every license to carry on the business of an undertaker shall be issued by the local authority of the district in which the office of the undertaker (or, where there is more than one such office, the principal office) is situated.

No license under this section shall be granted by a local authority except with the approval of the board.

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(3) The local authority may refuse to issue a license to or may cancel the license of any person who, in its opinion, is unfit or unsuitable to carry on the business of an undertaker.

Mortuaries to be registered.

63B. (1) After the expiration of three months after the commencement of the Public Health (Amendment) Act, 1944, no undertaker shall use, in connection with his business as such, any mortuary unless the same is registered with the local authority within whose district the mortuary is situated.

(2) No mortuary shall be registered unless it is constructed and equipped in accordance with the requirements of the regulations made under this Part.

Regulations.

63C. (1) The Governor may, on the recommendation of the Board, make regulations relating to:—

- (a) registration of mortuaries;
- (b) granting of licenses to carry on the business of an undertaker;
- (c) the inspection of mortuaries and premises reasonably suspected of being used as mortuaries;
- (d) the site, construction and lay-out of the premises to be used as, and the equipment to be provided in, mortuaries;
- (e) vehicles used by an undertaker in connection with his business as such;
- (f) mortuaries or preparation rooms;
- (g) generally for carrying into effect the provisions of this Part.

(2) The Governor may, on the recommendation of the Board, also make regulations relating to—

- (a) the embalming or the interment of the dead;
- (b) the exhumation of the remains of deceased persons; and
- (c) the prohibition of burials in certain areas.

(3) The regulations made in relation to the matters referred to in this section may prescribe the fees to be paid in respect of the matters therein specified.

(4)

(4) The regulations made in relation to the matters referred to in this section may impose a penalty not exceeding twenty pounds for any breach of the regulations, or where the breach is a continuing one, not exceeding two pounds for every day during which the breach continues. No. 16, 1944.

(2) Subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

The day so appointed shall be later than the day appointed and notified pursuant to subsection four of section one of this Act.

S. The Principal Act is further amended—

(a) by omitting section sixty-four and by inserting in lieu thereof the following section:—

64. For the purposes of this Act—

- (a) any premises including those owned by the Government or by public bodies, in such a state as to be or to tend to become a nuisance or injurious or dangerous or prejudicial to health;
- (b) any swamp, pool, ditch, gutter, water-course, or accumulation of water on any land or public place, any receptacle holding water, any sanitary convenience or drain, any premises, vessel, tent, camp, vehicle or place so foul or in such a state as to be a nuisance or injurious or dangerous or prejudicial to health or in such a state as to be or to tend to become a breeding place for mosquitoes or to afford a breeding place for flies or other vermin;
- (c) any animal or the carcase of any animal or any part thereof in such a state or so kept or left on any premises or vessel or on any land, street or thoroughfare as to be a nuisance or injurious or dangerous or prejudicial to health;

(d)

Further amendment of Act No. 30, 1902. Subst. sec. 64.

Nuisances liable to be dealt with summarily.

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- (d) any accumulation or deposit which is a nuisance or injurious or dangerous or prejudicial to health;
- (e) any premises, vessel or place including those owned by the Government or by public bodies in such a state as to harbour or to be likely to harbour rats or mice or which upon inspection by an officer are found to be infested by rats or mice;
- (f) any house or building or part of a house or building so overcrowded as to be or to be likely to become injurious or dangerous or prejudicial to the health of the inmates whether or not members of the same family;
- (g) any premises from which smoke, soot or other matter, or dust or effluvia are emitted so as to be dangerous or prejudicial to health or offensive;
- (h) any premises or part thereof which are damp or in a state of disrepair or in which adequate means of permanent ventilation are not provided or of which the roof, guttering, spouting or down piping or drainage is defective or insufficient or in which an adequate wholesome water supply or closet or bathing accommodation is not provided;
- (i) any dwelling-house or part thereof in which adequate means of natural lighting are not provided;
- (j) any yard or place used for or in connection with the collecting, trucking, selling or exposing for sale of any animal which—
  - (i) is not kept in such a state as to prevent dust or offensive odours arising therefrom;
  - (ii) is in such a state as to become or tend to become a nuisance or injurious or prejudicial or dangerous to health;

(k)

- (k) any well or other like source of water supply or any cistern or other receptacle for water (if the water therein or therefrom is or is likely to be used for human consumption or for domestic purposes or for any purpose in connection with a dairy-farm or dairy) which well, source, cistern or receptacle is polluted or is liable to render any water contained therein dangerous to health or offensive; No. 16, 1944.
- (l) any factory, workshop or workplace which is not under the operation of any general Act for the regulation of factories, and
- (i) is not kept in a cleanly state and free from effluvia arising from any drain, sanitary convenience, bacteriolytic tank, earth-closet, or other source of nuisance; or
  - (ii) is not ventilated in such a manner as to render harmless, so far as practicable, any gases, vapours, dust, or other impurities generated in the course of the work carried on therein, that are a nuisance or injurious or dangerous or prejudicial to health,

shall be nuisances liable to be dealt with summarily under this Act:

Provided that any accumulation or deposit necessary for the effectual carrying on of any business or manufacture shall not be liable to be dealt with summarily under this Act, if it is proved to the satisfaction of the magistrate or justices hereinafter referred to that the accumulation or deposit has not been kept longer than is necessary for the purposes of the business or manufacture, and that the best available means have been taken for preventing injury thereby to the public health.

(b).

## No. 16, 1944.

Sec. 65.  
(Notice  
requiring  
abatement  
of nuisance.)

## Sec. 66.

(Proceedings  
on default  
of complying  
with notice.)

(b) by inserting in subsection one of section sixty-five after the word "authority" where firstly occurring the words "or its health inspector";

(c) (i) by inserting at the end of subsection two of section sixty-six the following words:—

Where the magistrate is or the justices are satisfied that the alleged nuisance exists he or they may, in addition to making such order, impose a penalty not exceeding twenty pounds.

(ii) by inserting at the end of the same section the following new subsection:—

(4) In any case where it appears that a nuisance existing within the district of a local authority is wholly or partly caused by some act, default or sufferance outside the district, proceedings may be taken against any person in respect of such act, default or sufferance in the same manner and with the same incidents and consequences as if the act, default or sufferance were wholly inside the district.

But no person shall be liable to proceedings by more than one local authority in respect of the same act, neglect or default.

(d) (i) by omitting from section sixty-eight the word "them" and by inserting in lieu thereof the word "it";

(ii) by inserting at the end of the same section the following new subsection:—

(2) The local authority may recover from the owner of the premises any expenses incurred by it in abating or doing what is necessary to prevent the recurrence of a nuisance, or so much of such expenses as is not satisfied out of the moneys referred to in subsection one of this section.

## Sec. 68.

(Power to  
sell things  
removed in  
abating  
nuisance.)

(e) (i) by omitting from subsection one of section seventy-one the words "deposit of house" and by inserting in lieu thereof the words "collection, removal and disposal of night-soil";

(ii)

## Sec. 71.

(Sanitary  
areas.)

- (ii) by omitting from the same subsection the words "disused cesspits, and for the disposal of night-soil" and by inserting in lieu thereof the word "cesspits";
- (iii) by omitting from subsection two of the same section the word "populous";
- (iv) by omitting from the same subsection all words after the word "regulations" and by inserting in lieu thereof the words "for the conservation, collection, removal and disposal of refuse, rubbish and night-soil, the cleaning of pans, vehicles and appliances, the maintenance of depots, the filling in of cesspits, the degree, situation and construction of sanitary conveniences and the payment for services rendered in connection therewith and for supervision of such activities";
- (v) by inserting at the end of the same section the following new subsection:—

(3) The local authority within whose district any locality has been constituted a sanitary area under subsection two of this section shall make written application to the secretary to the Board for approval of the site proposed to be used for disposal of refuse, rubbish and night-soil, prior to the use of such site.

9. The Principal Act is further amended by inserting next after section seventy-one the following new Part:—

Further amendment of Act No. 30, 1902.

PART VIIA.

New Part VIIA.

USE OF HYDROCYANIC ACID AND OTHER DANGEROUS SUBSTANCES.

71A. In this Part the expression "dangerous substance" includes hydrocyanic acid and any other substance declared by the Governor by proclamation published in the Gazette to be a dangerous substance for the purposes of this Part.

Definition.

71B.

## No. 16, 1944.

Restriction  
on use of  
dangerous  
substance  
for purpose  
of  
fumigation.

71B. (1) No person other than a person licensed in that behalf by the Board shall use any dangerous substance for the purpose of fumigating any building, vessel or other enclosed space and any such fumigation shall be carried out under the personal supervision of a person so licensed.

Any person so licensed shall, when so using any dangerous substance, observe and comply with the prescribed conditions.

(2) Any person who uses any dangerous substance in contravention of any of the provisions of this section shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding twenty pounds.

## Regulations.

71c. (1) The Governor may, on the recommendation of the Board, make regulations with respect to—

- (a) the granting of licenses under this Part;
- (b) the conditions to be observed and complied with by persons using any dangerous substance for the purpose of fumigating any building, vessel or other enclosed space;
- (c) the conditions to be observed and complied with by persons using any dangerous substance in any trade process.

(2) The power to make regulations in relation to the matters referred to in paragraph (c) of subsection one of this section shall not extend to authorise the making of regulations with relation to any matter which is regulated by the Factories and Shops Act, 1912-1943, or the Explosives Act, 1905, as amended by subsequent Acts, or by any orders or regulations made under either of those Acts.

## 10. The Principal Act is further amended—

- (a) (i) by inserting in subsection one of section seventy-two after the word "Board" the words "and when directed by the Board shall";
- (ii) by inserting in the same subsection after the words "local authority" where lastly occurring the words "with the consent of the Board";
- (iii)

Further  
amendment of  
Act No. 30,  
1902.  
Sec. 72.  
(Power to  
prohibit use  
of polluted  
water.)



- (iii) by inserting next after the same subsection **No. 16, 1944.** the following new subsection:—

(1A) A local authority may, and when directed by the Board shall cause to be posted and kept posted in the neighbourhood of any source of water supply to which a notification in force under subsection one of this section relates, a notice prohibiting the use of such water for drinking or domestic purposes or take steps to prevent animals from having access to the source of water supply.

- (iv) by inserting at the end of the same section the following new subsection:—

(4) Where any water supply has by notification under subsection one of this section been directed to be closed the local authority may and shall if so directed by the Board take all such steps as may be necessary to prevent the further use of water derived from such supply.

- (b) by inserting at the end of section seventy-four the following new subsection:—

(2) Any person who causes or allows any solid or liquid matter which is capable of polluting any water used for drinking or domestic purposes to be deposited in such a manner or in such a situation as to be likely to fall or flow or be carried into such water shall be liable to a penalty not exceeding five pounds.

If such person when ordered by an officer to remove such solid or liquid matter fails to do so he shall be liable to a penalty not exceeding five pounds for each day during which the order is not complied with.

Sec. 74.  
(Penalty for polluting drinking water.)

**11.** The Principal Act is further amended—

- (a) by inserting next after section one hundred and two the following new section:—

102A. The Governor on the recommendation of the Board may make regulations prescribing fees to be charged in any case where, under

Further amendment of Act No. 30, 1902.  
New sec. 102A.

Regulations to fix fees in certain cases.

this

No. 16, 1944.

this Act or the regulations the Board or a local authority—

- (a) makes any registration; or
- (b) grants or issues any license; or
- (c) examines or approves of any plan; or
- (d) tests any apparatus including a chemical closet or other appliance relating to public health.

Sec. 107.  
(Recovery  
of  
penalties.)

- (b) by inserting next after subsection one of section one hundred and seven the following new subsection:—

(1A) In any proceedings for the recovery of any penalty imposed by this Act or by any regulations or by-laws made thereunder or in respect of any offence against this Act the information or complaint may (unless otherwise expressly provided) be laid or made by the Board or a local authority or by an officer authorised in that behalf by the Board or a local authority in any particular case.

Sec. 108.  
(Proof in  
certain  
cases.)

- (c) (i) by omitting from section one hundred and eight the words “instituted by or under the direction of the Board or a local authority, or by a Government medical officer, officer of health, or by any inspector or other officer of the Board, or of a local authority, or by any member of the police force”;
- (ii) by omitting from paragraph (b) of the same section the words “medical officer of health, sanitary inspector, officer, analyst,” and by inserting in lieu thereof the words “officer or analyst”;
- (iii) by omitting paragraph (c) of the same section;
- (iv) by inserting at the end of the same section the following words and new subsection:—

Production of a document purporting to be signed by the President of the Board or by the mayor or president of the municipality or shire or the member of the police force appointed by the Board under this Act

to .

to be the local authority, and to authorise No. 16, 1944.  
the officer named therein to lay or make the  
information or complaint shall, without  
proof of the signature of the person signing  
the same or that he holds the office or  
appointment in virtue of which he signs  
the same, be accepted as sufficient proof of  
the authority of such officer.

(2) In any legal proceeding or prosecution under the provisions of this Act proof shall not, until evidence is given to the contrary, be required of—

- (a) the incorporation of any local authority being a municipal or shire council;
- (b) the persons constituting or the extent of the jurisdiction of the local authority;
- (c) the fact that any particular place is within the district controlled by the local authority;
- (d) the fact that the defendant is or at any relevant time was the owner or occupier of any premises in question.

**12.** The Principal Act is further amended by omitting from the Schedule thereto the heading "Schedule" and by inserting in lieu thereof the heading "First Schedule". Further amendment of Act No. 30, 1902. (Schedule.)

**13. (1)** The Public Health (Amendment) Act, 1915, is amended— Amendment of Act No. 7, 1915.

(a) by omitting section two; Sec. 2. (Definitions.)

(b) (i) by inserting at the commencement of section three the following words:— Sec. 3. (Board may require council to do specified acts.)

The Public Health Act, 1902, as amended by subsequent Acts, is amended by inserting next after section twenty-six the following new section:—

26A.

(ii) by inserting in the same section before the word "Schedule" the word "Second";

(c)

**Public Health (Amendment) Act.****No. 16, 1944.****Sec. 4.**

(Certain regulations, etc., to be submitted to Board.)

- (c) (i) by inserting at the commencement of section four the following words:—

The Public Health Act, 1902, as amended by subsequent Acts, is amended by inserting next after section 26A, as inserted by section three of this Act, the following new section:—

26B.

- (ii) by inserting in the same section before the word "Schedule" the word "Second";

**Sec. 5.**

(Unsuitable or inadequate regulations, etc.)

- (d) (i) by inserting at the commencement of section five the following words:—

The Public Health Act, 1902, as amended by subsequent Acts, is amended by inserting next after section 26B, as inserted by section four of this Act, the following new section:—

26c.

- (ii) by inserting in the same section before the word "Schedule" the word "Second";

**Sec. 6.**

(By-laws under Sydney Corporation Act.)

- (e) (i) by inserting at the commencement of section six the following words:—

The Public Health Act, 1902, as amended by subsequent Acts, is amended by inserting next after section 26c, as inserted by section five of this Act, the following new section:—

26D.

- (ii) by inserting in the same section before the word "Schedule" the word "Second";

**Sec. 7.**

(Regulations under Factories and Shops Act.)

- (f) (i) by inserting at the commencement of section seven the following words:—

The Public Health Act, 1902, as amended by subsequent Acts, is amended by inserting next after section 26D, as inserted by section six of this Act, the following new section:—

26E.

- (ii) by inserting in the same section after the figures "1912" the words "as amended by subsequent Acts";

- (iii) by inserting in the same section before the word "Schedule" the word "Second";

(g)

- (g) (i) by inserting at the commencement of section **No. 16, 1944.**  
eight the following words:—

Sec. 8.

The Public Health Act, 1902, as amended (Licensed premises.)  
by subsequent Acts, is amended by insert-  
ing next after section 26E, as inserted by  
section seven of this Act, the following new  
section:—

26F.

- (ii) by omitting from the same section the words  
“A sanitary inspector” and by inserting  
in lieu thereof the words “A medical officer  
of health or assistant medical officer of  
health or an inspector”;
- (iii) by inserting in the same section after the  
figures “1912” the words “as amended by  
subsequent Acts”;
- (iv) by omitting from the same section the words  
“privies, urinals, or”;
- (v) by inserting in the same section after the  
word “ordinances” the words “regulations  
or by-laws”;
- (vi) by omitting from the same section the words  
“such inspector” where firstly occurring  
and by inserting in lieu thereof the words  
“such medical officer of health, assistant  
medical officer of health or inspector”;
- (vii) by inserting in the same section after the  
word “premises” where thirdly and  
fourthly occurring the words “sanitary con-  
veniences or appliances”;
- (viii) by omitting from the same section the  
words “such inspector” where lastly occur-  
ring and by inserting in lieu thereof the  
words “an inspector of the Board”;
- (h) by omitting section nine;

Sec. 9.

(Application  
of secs.  
10-12 incl.)

Sec. 10.

(Notifica-  
tion of  
tubercu-  
losis.)

- (i) (i) by inserting at the commencement of section  
ten the following words:—

The Public Health Act, 1902, as amended  
by subsequent Acts, is amended by insert-  
ing next after section 32A, as inserted by  
paragraph

No. 16, 1944.

paragraph (c) of section five of the Public Health (Amendment) Act, 1944, the following new section:—

32B.

- (ii) by omitting subsections one and two of the same section;
- (iii) by inserting in subsection three of the same section after the word "health" where secondly occurring the words "or legally qualified medical practitioner";
- (iv) by omitting from the same subsection the word "of" and by inserting in lieu thereof the word "by";
- (v) by omitting from the same subsection the words "the patient then is" and by inserting in lieu thereof the words "any patient certified as suffering from an infectious disease is residing";
- (vi) by omitting from subsection four of the same section the words "The board shall give";
- (vii) by inserting at the end of the same subsection the words "shall be paid out of moneys provided by Parliament";
- (j) by omitting sections eleven and twelve;

Secs. 11  
and 12.(Application  
of certain  
provisions  
of Public  
Health Act,  
1902.)

Sec. 13.

(Persons em-  
ployed in  
preparing  
or packing  
food for  
sale.)

- (k) (i) by inserting at the commencement of section thirteen the following words:—

The Public Health Act, 1902, as amended by subsequent Acts, is amended by inserting next after section 32B, as inserted by section ten of this Act, the following new section:—

32c.

- (ii) by omitting from the same section the word "pulmonary" wherever occurring;
- (iii) by inserting in the same section after the word "packing" wherever occurring the words "or handling or delivering";

(l)

**Public Health (Amendment) Act.**

151

- (l) (i) by inserting at the commencement of section fourteen the following words:—

No. 16, 1944.  
Sec. 14.

The Public Health Act, 1902, as amended by subsequent Acts, is amended by inserting next after section 32c, as inserted by section thirteen of this Act, the following new section:—

(Regulations respecting guests in hotels and boarding houses.)

32d.

- (ii) by omitting subsection two of the same section;

- (m) (i) by inserting at the commencement of section fifteen the following words:—

Sec. 15.  
(Declaration of infected areas.)

The Public Health Act, 1902, as amended by subsequent Acts, is amended by inserting next after section thirty the following new Division:—

DIVISION 1A.—*Infected Areas.*

30A.

- (ii) by inserting in subsection one of the same section after the word "disease" the words "or of a case of any other infectious disease to which the provisions of this section are extended by the Governor by proclamation published in the Gazette";

- (n) (i) by inserting at the commencement of section twenty the following words:—

Sec. 20.  
(Application of certain enactments to the Crown.)

The Public Health Act, 1902, as amended by subsequent Acts, is amended by inserting next after section one hundred and ten the following new Division:—

DIVISION 7.—*The Crown and Government Departments.*

111.

- (ii) by omitting from the same section the words "the Public Health Act, 1902, of the Pure Food Act, 1908, and of this Act" and by inserting in lieu thereof the words "this Act and of the Pure Food Act, 1908";

- (iii) by inserting in the same section before the word "Schedule" wherever occurring the word "Second";

(o)

**Public Health (Amendment) Act.**

**No. 16, 1944.**  
 Secs. 21-25.  
 (Regulations,  
 penalties,  
 etc.)

- (o) (i) by omitting sections twenty-one to twenty-five, both inclusive, and the word "Schedule" immediately after the said section twenty-five and by inserting in lieu of the word so omitted the following words:—

26. The Public Health Act, 1902, is amended by inserting next after the First Schedule the following new Schedule:—

**SECOND SCHEDULE.**

- (ii) by inserting in item 2 of Part 1 of the Schedule after the word "meat" the words "poultry, game";
- (iii) by inserting in item 3 of the same Part after the word "regulating" the words "the handling of";
- (iv) by inserting at the end of the same item the words "and yards for collecting, trucking and selling cattle";
- (v) by omitting item 5 of the same Part and by inserting in lieu thereof the following item:—
5. The removal, disposal or destruction of night-soil, filth, refuse, trade waste and garbage.
- (vi) by omitting item 6 of the same Part and by inserting in lieu thereof the following item:—
6. The construction and situation of sanitary conveniences, the regulation of the number and type of closets and the degree of closet accommodation.
- (vii) by omitting from item 7 of the same Part the words "urinals, closets" and by inserting in lieu thereof the words "sanitary conveniences";
- (viii) by omitting from item 9 of the same Part all words after the words "control of" and by inserting in lieu thereof the words "boarding-houses, lodging-houses and common lodging-houses";

(ix)



- (ix) by inserting in the same Part next after No. 16, 1944. item 11 the following new item:—

12. Action to be taken for the purpose of preventing the breeding of mosquitoes or other noxious insects.

(2) The regulations made under the Public Health (Amendment) Act, 1915, as amended by subsequent Acts, and in force at the commencement of this Act shall continue in force and shall be as valid and effectual for all purposes as if made under the relevant provisions of the Principal Act as amended by this Act.

The regulations so continued in force may be amended or repealed by regulations made under the Principal Act as amended by this Act.

14. (1) The Public Health (Amendment) Act, 1921, as amended by subsequent Acts, is amended—

(a) by omitting section three;

(b) by inserting at the commencement of section four the following words:—

The Public Health Act, 1902, as amended by subsequent Acts, is amended by inserting next after section forty-three the following new section:—

43A.

(2) The regulations made under the Public Health (Amendment) Act, 1921, as amended by subsequent Acts, and in force at the commencement of this Act shall continue in force and shall be as valid and effectual for all purposes as if made under section 43A of the Principal Act as amended by this Act.

The regulations so continued in force may be amended or repealed by regulations made under the Principal Act as amended by this Act.

15. The Principal Act is further amended—

(a) by inserting in section one next after the matter relating to Division 1 of Part III the following new matter:—

DIVISION 1A.—*Infected Areas*—s. 30A.

(b) by omitting from the same section the figures “33” and by inserting in lieu thereof the figures and letter “32A”;

(c)

Amendment  
of Act No.  
18, 1921.

Sec. 3.  
(Rat-infested  
premises.)

Sec. 4.  
(Regula-  
tions.)

Further  
amendment  
of Act No.  
30, 1902.

Sec. 1.  
(Revision.)

No. 16, 1944.

- (c) by inserting in the same section at the end of the matter relating to Part III the following new matter:—

DIVISION 5.—*Public Welfare*—s. 50A.

- (d) by inserting in the same section next after the matter relating to Part VI the following new matter:—

PART VIA.—UNDERTAKERS AND MORTUARIES  
—ss. 63A-63C.

- (e) by inserting in the same section next after the matter relating to Part VII the following new matter:—

PART VIIA.—USE OF HYDROCYANIC ACID  
AND OTHER DANGEROUS SUBSTANCES—ss.  
71A-71C.

- (f) by inserting in the same section at the end of the matter relating to Part X the following new matter:—

DIVISION 7.—*The Crown and Government  
Departments*—s. 111.

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