

HEALTH.*

2 Geo. V.
No. 26.THE HEALTH
ACT
AMENDMENT
ACT OF 1911.

An Act to Amend "The Health Act of 1900."

[ASSENTED TO 31ST DECEMBER, 1911.]

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

Short title,
construction,
and
commence-
ment of Act.

1. This Act may be cited as "*The Health Act Amendment Act of 1911*," and shall be read as one with "*The Health Act of 1900*,"† herein referred to as the Principal Act. That Act and this Act may together be cited as "*The Health Acts, 1900 to 1911*." This Act shall commence and take effect on and after the first day of January, one thousand nine hundred and twelve.

Amendments
of s. 3.

2. The following amendments are made in section three of the Principal Act:—

The words "*Inspection by Local Authority*" are repealed, and the word "*Preliminary*" is inserted in lieu thereof;

The words "*Sale of Food and Drugs*" are repealed, and the words "*Pure Food*" are inserted in lieu thereof; the words "*Subdivision III.—Sale of Bread*" are repealed;

The words "INFANT LIFE PROTECTION" are repealed, and the words "PRIVATE HOSPITALS AND NURSES" are inserted in lieu thereof.

Amendments
of s. 5.
Va. No. 2010,
s. 3.
1908, N.S.W.,
s. 4.

3. The following amendments are made in section five of the Principal Act:—

After the definition of "Analyst," the following definition is inserted:—

Appliance.

"Appliance" includes the whole or any part of any utensil, machinery, instrument, apparatus, or article used or intended for use in or for the making, manufacture, keeping, preserving, preparing, handling, serving, or supplying of any food, or which in the course of such use may come into contact with any food: the

* "*The Health Acts, 1900 to 1911*," are printed in Appendix B, *infra*.

† 64 Vic. No. 9, *supra*, page 888.

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term also includes any instrument or contrivance which is held out to any person or to the public as of use for curative purposes, or in relieving human suffering, or in overcoming or alleviating any physical defect ;

After the definition of " Area," the following definition is inserted :—

" Article " includes any substance, compound, or Article.
appliance ;

The definition of " Drug " is repealed, and the following definition is inserted in lieu thereof :—

" Drug"—Without limiting the ordinary meaning Drug.
of the term—Any article used for or in the composition or preparation of medicine for internal or external consumption or use by man : the term includes disinfectants, germicides, antiseptics, preservatives, deodorants, anæsthetics, tobacco, narcotics, soaps, cosmetics, dusting powders, essences, unguents, and all other toilet articles ;

The definition of " Food " is repealed, and the following definition is inserted in lieu thereof :—

" Food " includes every article which is used for Food.
food or drink by man, or which enters into or is used in the composition or preparation of any such article : the term includes infant foods, flavouring matters, colouring matters, essences, condiments, spices, and confectionery ;

After the definition of " Infectious Disease," the following definition is inserted :—

" Injurious " includes dangerous.

Injurious.

After the definition of " Inspector," the following definition is inserted :—

" Label"—A label, tag, brand, mark, or statement Label.
in writing, whether or not containing any pictorial or other descriptive matter ;

After the definition of " Occupier," the following definition is inserted :—

" Officer"—A State inspector ; or medical officer of Officer.
health ; or other officer authorised in that behalf by a Local Authority or the Commissioner ;

After the definition of "Owner," the following definition is inserted :—

Package.

"Package" (with its derivatives) includes every means by which goods are cased, covered, enclosed, contained, or packed: the term includes a cask, bottle, jar, vessel, bag, box or other receptacle;

The definition of "Prescribed" is repealed, and the following definitions are inserted in lieu thereof :—

Place.

"Place" includes any house, building, ship, barge, boat, vehicle, car, station, wharf, shed, land, or premises;

Prescribed.

"Prescribed"—Prescribed by this Act or by an Order in Council thereunder, or by the regulations, or by a by-law of a Local Authority in cases where a Local Authority has jurisdiction over the matter in question;

Prohibited.

"Prohibited article"—An article the manufacture, sale, or use of, or other dealing with which in its then state or condition is prohibited by this Act, either absolutely or conditionally;

After the definition of "Regulations," the following definition is inserted :—

Sale.

"Sale" (with its derivatives) includes barter, and also includes offering or attempting to sell, or receiving for sale, or having in possession for sale, or exposing for sale, or sending forwarding or delivering for sale, or causing or suffering or permitting or allowing to be sold or offered or exposed for sale: unless the context otherwise indicates, the term refers only to sale for consumption or use by man;

After the definition of "Sanitary Convenience," the following definition is inserted :—

School.

"School," for the purposes of Part VII., includes State schools, grammar schools, technical schools, private schools, Sunday schools, and all other schools at which children attend.

The definition of "Sewer" is repealed, and the following definition is inserted in lieu thereof :—

Sewer.

"Sewer"—Any sewer or underground channel vested in or under the control of a Local

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Authority which is not a drain as herein defined: the term does not include—

- (a) Any natural watercourse or natural stream into which sewage is received or discharged, or in which sewage flows; or
- (b) Any open water channel or water table in or upon any road; or
- (c) Any open or underground channel vested in the Local Authority and intended to be used for carrying off storm water only.

After the definition of "Street," the following definition is inserted:—

"This Act"—This Act and all regulations and ^{This Act.} by-laws made thereunder;

4. The second paragraph of section thirty-two of the ^{Amendment} Principal Act, including the form of certificate therein ^{of s. 32.} prescribed, is repealed, and the following paragraph is inserted in lieu thereof:—

"Such certificate shall be in the prescribed form."

5. In the proviso to section forty-one of the ^{Amendment} Principal Act, the words "among the owners of the several houses" ^{of s. 41.} are repealed, and the words "among the owners of the several premises the houses on which, whether then erected or to be erected at any future time, may be drained into such sewer" are inserted in lieu thereof.

6. After section forty-two of the Principal Act, the following section is inserted:—

[42A.] The Governor in Council may, by Order in ^{Power to} Council, regulate under conditions the discharge from any ^{regulate} house or premises of any waste water or house drainage ^{discharge of} of any description. ^{house water} ^{into street} ^{channels not} ^{being sewers.}

This section shall apply only to such Areas or such parts of Areas as the Governor in Council may from time to time declare or define by such Order:

Provided that before making any such Order the Local Authority shall be given one month's notice of the intention to make such Order.

Any owner or occupier of land within any such Area or part thereof as aforesaid who contravenes this provision shall be liable to a penalty not exceeding thirty pounds and to a daily penalty not exceeding forty shillings.

Amendment
of s. 56.

7. In subsection two of section fifty-six of the Principal Act, after the words "house in the Area" the words "whether built before or after the first day of January, one thousand nine hundred and one" are inserted.

8. Section sixty-two of the Principal Act is repealed, and the following section is inserted in lieu thereof:—

Removal of
house refuse,
&c.

[62.] (1.) A Local Authority may and when required by the Commissioner shall itself undertake or contract for the efficient execution of the following works within the whole or any part of the Area:—

- (i.) The removal, collection, and disposal of house refuse and other rubbish from houses and house premises: such premises to include stables, cowsheds, other outbuildings, and yards;
- (ii.) The cleansing of streets;
- (iii.) The cleansing of sanitary conveniences;
- (iv.) The collection, removal, and disposal of night-soil;
- (v.) The providing of suitable places, buildings, land, and appliances for the deposit, disposal, or destruction of refuse, rubbish, and nightsoil.

(2.) All work undertaken or contracted for by a Local Authority under this section shall be carried out to the satisfaction of the Commissioner, and shall be subject to such conditions as he may from time to time prescribe:

Provided that this section shall not affect contracts entered into by any Local Authority before the first day of September, one thousand nine hundred and eleven.

(3.) All matters collected by the Local Authority or contractor in pursuance of this section may be sold or otherwise disposed of in such manner as, with the approval of the Commissioner, the Local Authority thinks fit.

Any profits received by a Local Authority from such sale or disposition shall be paid into the Local Fund.

(4.) Any person who unlawfully removes any such matters, or obstructs or hinders a Local Authority or contractor in the execution of any work under this section, shall be liable to a penalty not exceeding five pounds, or in the case of a continuing offence to a penalty not exceeding forty shillings for each day or part of a day on which such offence is continued:

Provided that the occupier of a house shall not be liable to such penalty in respect of any house refuse or rubbish produced on his own premises and intended for

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his own use, or to be removed for his own use or for sale, and which is in the meantime kept so as not to be a nuisance or injurious to health.

9. Sections ninety to one hundred and sixteen, both inclusive, contained in Part VI. of the Principal Act, are repealed, and the following sections contained in the undermentioned Subdivisions are inserted in lieu thereof, respectively, which in the Principal Act shall bear the numbers respectively assigned to them in square brackets:—

Repeal of
ss. 90 to 116
of Principal
Act.

Subdivision I.—Preliminary.

10. [90.] For the purposes of this Act, a food or drug or article is deemed to be adulterated or falsely described—

Adulteration
or false
description.
Va., No. 2010,
s. 24.
1908, N.S.W.,
s. 5.

- (i.) If it contains or is mixed or diluted with any substance, in any quantity or in any proportion, which diminishes in any manner its nutritive or other beneficial properties as compared with the same in a pure and normal state and in an undeteriorated and sound condition, or which in any manner operates or may operate to the prejudice or disadvantage of the purchaser or consumer;
- (ii.) If it contains or is mixed or diluted with any substance of lower commercial value than the same in a pure and normal state and in an undeteriorated and sound condition;
- (iii.) If any substance, constituent, or ingredient has been wholly or in part extracted, abstracted, or omitted from it, and as a result its nutritive or other beneficial properties are less than those of the same in its pure and normal state, or the purchaser or consumer is or may be in any manner prejudiced or disadvantaged;
- (iv.) If, either wholly or in part, it does not comply with the prescribed standard for it;
- (v.) If it contains any prohibited article;
- (vi.) If it contains any substance in excess of any quantity or proportion permitted by this Act;
- (vii.) If it is mixed, coloured, powdered, coated, or stained in any manner whereby damage, deterioration, inferiority, or true character or quality is or may be concealed;

- (viii.) If it consists wholly or in part of a filthy, decomposed, or putrid animal or vegetable substance, or of any portion of an animal or vegetable unfit for use as or in a food or drug, whether manufactured or not ;
- (ix.) If it is the product of a diseased animal, or of one which has died otherwise than by slaughter ;
- (x.) If it is damaged, deteriorated, or perished ;
- (xi.) If being a food it contains methyl alcohol, or not having paid Customs or Excise duty it contains more than two parts per centum of proof spirit ;
- (xii.) If it is in a package, and—
 - (a) The contents of the package as originally put up have been removed in whole or in part, and other contents have been placed in such package ; or
 - (b) It fails to bear on the package, or on a label on or attached thereto, a statement of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, acetanilide, phenacetin, or any other substance prescribed to be so stated, or any derivative or preparation of any such substances contained therein ; or
 - (c) The contents are stated in terms of weight or measure on the outside of the package, or on a label on or attached thereto, and they are not correctly stated ; or
 - (d) The package or any label on or attached thereto bears a statement, word, brand, mark, design, or device regarding the nature, quality, strength, purity, composition, origin, age, or proportion of the food or drug, or the ingredients, constituents, or substance contained in the food or drug, which is false or misleading in any particular ;
- (xiii.) In the case of imported goods, if it has not applied thereto the trade or other description as required for its importation under the laws in force for the time being of the Commonwealth of Australia, or if it has applied thereto a false trade or other description within the meaning of the aforesaid laws regarding the importation of goods :

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Provided that, in any proceeding under this Act for selling a food or a drug to which paragraph (i.) or paragraph (ii.) applies, such food or drug shall not be deemed to be adulterated or falsely described if it is sold as a mixture in accordance with this Act.

11. [90A.] For the purposes of this Act, any drug sold under any name included in the British Pharmacopœia which does not comply with the description given of and tests prescribed for such drug in the latest edition, with amendments, of the British Pharmacopœia shall, unless such drug is included in a list of exceptions published in the *Gazette* under the authority of the Minister, be deemed to be a drug which is not of the substance of the drug demanded by the purchaser.

Drugs to comply with British Pharmacopœia. 1908, N.S.W., s. 12 (4).

12. [90B.] For the purposes of this Act, every person shall be deemed to sell any food, drug, or article who sells the same either on his own account or as the agent or servant of any other person.

Sales by agent or servant.

*Subdivision II.—Pure Food.**Prohibitions.*

13. [91.] No person shall sell any food or drug or article which is adulterated or falsely described, or which is packed or enclosed for sale or labelled in any manner contrary to this Act.

Adulterated food or drug not to be sold. Va., No. 2010, s. 10. 1908, N.S.W., s. 10.

14. [91A.] (1.) No person shall—

- (a) For purposes of sale, mix or cause or permit to be mixed with any food any ingredient or material which the Governor in Council by Order in Council declares to be an injurious ingredient or injurious material or colour, or cause or permit to be coloured any food with any ingredient or material so declared to be injurious;

Mixing food so as to be injurious. 1908, N.S.W., ss. 11, 12.

- (b) For purposes of sale, mix or cause or permit to be mixed any ingredient or material with any drug, or colour or cause or permit to be coloured any drug, so as to affect injuriously the quality or potency of such drug;

Mixing drug so as to injure quality.

- (c) Sell any food or drug mixed with any such ingredient or material, as in paragraph (a) or (b) hereof stated, or so coloured as in the said paragraphs stated;

Selling same.

Mixing to
increase bulk,
&c.

- (d) For purposes of sale, mix or cause or permit to be mixed any ingredient or material with any food or drug in order thereby fraudulently to increase its weight, bulk, or measure, or to conceal its inferior quality;

Selling same.

- (e) Sell any food or drug mixed with any ingredient or material whereby the weight, bulk, or measure of such food or drug has been fraudulently increased or its inferior quality concealed;

Selling not of
the nature
demanded.

- (f) Sell any food or drug which is not of the nature, substance, or quality of the food or drug demanded by the purchaser;

Compounded
articles.

- (g) Sell any compounded food or drug which is not composed of ingredients in accordance with the demand of the purchaser.

(2.) In any prosecution, it shall be no defence to prove that the food or the drug, the subject of the prosecution, though defective in nature or in substance or in quality, was not defective in all three respects.

Mixtures.

Sale of
mixture.
1908, N.S.W.,
s. 13.

15. [92.] (1.) Where any person sells a food or drug which is a mixture, the ingredients shall be pure and in an undeteriorated and sound condition.

He shall deliver the mixture to the purchaser in a package, on or attached to which is a label stating that the food or drug is a mixture and the names of the ingredients legibly and uniformly written; and, if the mixture is a food, the proportions of ingredients when so prescribed.

But it shall not be necessary so to supply a label in the case of—

- (a) A food or drug generally known to users as a compounded article or a drug not recognised by the British Pharmacopœia, if such food or drug is mixed with any ingredient or material not injurious and not intended fraudulently to increase its bulk, weight, or measure, or to conceal its inferior quality; or
- (b) A drug supplied by prescription or order signed by a medical practitioner for his patient, or a drug compounded and supplied by a registered pharmaceutical chemist; or

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(c) A mixture exempted from this section by the regulations, which exemption may be applied to classes of articles.

(2.) No person shall sell any food or drug which is a mixture in respect of which this section has been contravened or has not been complied with.

Food in Packages.

16. [93.] (1.) Except in the case of a package of food which, by the regulations, has been exempted from any or all of the provisions of this section, there shall be supplied on or attached to every package of food packed or enclosed for sale a label indicating the trade name or description, the net weight or number or true measure or volume of the contents thereof, and the name and address of the vendor or maker of such contents, or of the agent therefor, or of the owner of rights of manufacture. No person shall, after the first day of July, one thousand nine hundred and twelve, sell in a package any food unless such a label is supplied on or attached to such package:

Packages to be labelled with description, weight, &c., of contents. Va., No. 2010, s. 15. 1908, N.S.W., s. 14.

Provided that where such vendor, maker, agent, or owner is a company registered under any law in force in Queensland relating to the registration of companies, whether local, British, or foreign, or is a firm registered under "*The Registration of Firms Act of 1902*,"* the address of such company or firm may be omitted.

(2.) In the case of any liquors paying Customs or Excise duty, the measures set forth in any Act dealing with such liquors shall be held to satisfy the requirements of this section in regard to measure or volume.

(3.) Weights and measures closely approximating to those indicated on the label are allowed, but the degree of approximation may be fixed by the regulations, either generally or with respect to any particular food.

Approximate weights and measures.

Advertised Articles.

17. [94.] (1.) The Commissioner may from time to time cause to be examined any food, drug, or article which is advertised, for the purpose of ascertaining its composition, properties, and efficiency, and shall compare the results of the examination with any advertisement which relates to the food, drug, or article, and with the price at which it is sold, and shall prepare and forward to the Minister a

Examination and report upon articles advertised. 1908, N.S.W., s. 16.

* 2 Edw. VII. No. 12, *supra*, page 2173.

report upon the whole matter, which may include any comment which the Commissioner thinks desirable in the public interest.

(2.) The Commissioner may thereupon, with the approval of the Minister, cause the report to be published in the *Gazette* and in any newspaper or public print which circulates within Queensland, and to be distributed among the public in any other way; and no action shall lie in respect of such publication. But no such approval shall be given and no such publication shall be made until a reasonable opportunity has been given to the manufacturer, importer, vendor, or owner of such food, drug, or article, or his agent, to place his objections to the proposed publication before the Commissioner:

Provided that the Commissioner shall have the power pending the consideration of any such objection to prohibit, by order, the sale or further advertisement of any such food, drug, or article:

Provided further that any cost of publication incurred by the Commissioner under this section shall be borne and paid by the importer, vendor, or owner of the food, drug, or article.

(3.) Any proprietor or manager of a newspaper or public print may republish therein any such report which has been published by the Commissioner as aforesaid, and no action shall lie against such proprietor or manager in respect of the republication.

Prohibition of
sale of
injurious
articles.
1908, N.S.W.,
s. 17.

18. [94A.] (1.) On the recommendation of the Commissioner, the Governor in Council may, by notification in the *Gazette*, prohibit, after the date therein mentioned, the advertising or sale of any food, drug, or article which, in the opinion of the Commissioner, is injurious to life or health, or which by reason of its inactivity or inefficiency is useless for the advertised purposes of cure.

But no such recommendation shall be made until a reasonable opportunity has been given to the manufacturer, importer, vendor, or owner of such food, drug, or article, or his agent, to place his objections to the proposed prohibition before the Commissioner.

Advertise-
ment.

(2.) No person shall advertise or sell any food, drug, or article in contravention of such prohibition, and no person shall print any advertisement so prohibited, and no proprietor or manager of a newspaper or other public print shall publish any advertisement so prohibited.

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(3.) This section shall not apply to the advertisement of drugs in *bonâ fide* trade journals or price lists by or on behalf of manufacturers to the retail trades only, or to the sale of drugs supplied by prescription or order signed by a medical practitioner or by him given to his patient or to any other person on behalf of such patient.

Saving.

19. [94B.] The two last preceding sections shall apply to any article or apparatus alleged to be useful or efficacious in relieving human suffering, or in curing, overcoming, or alleviating any physical defect.

Extension of foregoing provisions.

Disinfectants and Preservatives.

20. [95.] (1.) On the recommendation of the Commissioner, the Governor in Council may, by notification in the *Gazette*, prohibit the sale of any article as a disinfectant, germicide, antiseptic, preservative, or deodorant.

Prohibition of sale of disinfectants and preservatives. 1908, N.S.W., s. 18.

(2.) But no such recommendation shall be made until a reasonable opportunity has been given to the manufacturer, importer, vendor, or owner of the article, or his agent to place his objections to the proposed prohibition before the Commissioner.

(3.) No person shall sell any article so prohibited.

21. [95A.] (1.) The Commissioner, by notification in the *Gazette*, may require, concerning any substance or compound sold or intended to be sold as a disinfectant, germicide, antiseptic, preservative, or deodorant that such information or directions as he deems fit shall be set out on a label written on or attached to any package containing the same.

Labelling of disinfectant. 1908, N.S.W., s. 19.

(2.) After such notification, no person shall sell any such article unless such information or directions are set out as aforesaid.

Milk.

22. [96.] (1.) No person shall sell milk unless he is licensed and his premises are registered under this Act.

Licensing of milk-sellers.

(2.) No person shall in any street sell milk from a vehicle or from a can or other receptacle, unless the name and registered premises of the licensed milk-seller are conspicuously inscribed on the vehicle or receptacle.

Name and address of person selling milk in a public place.

(3.) No person shall convey or carry water, separated or skimmed milk, or any other fluid capable of being used for diluting milk in any vehicle in which milk is conveyed or carried for sale, or in any can or other receptacle used in the sale of such milk.

Water or other diluting fluid not to be carried.

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(4.) This section shall apply only in such Areas as the Governor in Council from time to time, by notification in the *Gazette*, so orders.

Sale of milk of infected cow.
1908, N.S.W.,
s. 21.

23. [96A.] (1.) No person shall sell or knowingly use the milk of a cow suffering from any disease.

(2.) The fact that a diseased cow is in the milking-herd of a person who sells milk shall be *prima facie* evidence that the milk of such cow has been sold for the food of man.

(3.) The Governor in Council, on the recommendation of the Commissioner, may from time to time declare what are diseases in cattle for the purposes of this section.

Bread.

Bread to be sold in loaves of certain weights.
64 Vic. No. 9,
s. 108.

24. [97.] All bread made for sale, except as herein-after excepted, shall be made into loaves weighing not less than one pound, two pounds, or four pounds, according to the standard weight by law established, and such loaves shall be called the one pound loaf, two pounds loaf, and four pounds loaf respectively.

Any baker who—

(i.) Makes for sale, or sells or exposes for sale, bread of any other denomination or size; or

(ii.) Sells or exposes for sale any loaf found to be deficient of its due weight, and which has been baked within eighteen hours next preceding the time of its being so sold or offered for sale;

shall be liable to a penalty not exceeding five pounds.

In case of dispute, the proof of the bread not having been baked within eighteen hours shall lie on the baker:

Rolls excepted.

Provided that all bread weighing eight ounces or less shall be called and deemed to be rolls, and may be made and sold of such size or weight as the baker thinks fit.

Shops may be searched for bread short of weight within eighteen hours after baking.
64 Vic. No. 9,
s. 109.

25. [97A.] (1.) Any justice, or any officer or any member of the police force authorised by warrant under the hand of a justice, may enter into any house or premises belonging to or in the occupation of any baker, and search for, examine, and in the presence of the baker or of any servant or agent of the baker or any person apparently in charge of the premises, weigh any bread therein which has been baked within eighteen hours next preceding the time of search, and may search for, examine, and weigh any such bread in or on any vehicle or other means used for the transit or delivery of bread in any place.

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Such bread shall be weighed in sets of four loaves of the same denomination or size, or in any larger or smaller quantity, as may be found most convenient.

In case of dispute the proof of the bread not having been baked within eighteen hours shall lie upon the baker.

(2.) If on the weighing of such bread any deficiency is found in its due weight, on the average of the whole weight of all the loaves of bread of the same denomination or size which are then weighed, such justice, officer, or member of the police force weighing the bread shall give to the baker or his servant or agent, or any person apparently in charge of the premises, who is present at the weighing a certificate in writing and signed by him showing the correct particulars of such weighing. Penalty for deficiency.

The person offending shall be liable to a penalty not exceeding five shillings for every ounce of bread so found deficient, unless it is proved that the deficiency arose wholly from some unavoidable accident in baking or otherwise, or was occasioned by or through some contrivance or confederacy to injure the accused person.

(3.) Any such justice, officer, or member of the police force may seize all loaves so found deficient, and the court before which proceedings are taken may dispose thereof as it thinks fit. Deficient loaves may be seized.

26. [97B.] Every baker shall cause to be fixed in some conspicuous part of his shop, on or near the counter, a correct beam and scales, with proper weights or other sufficient balance, for weighing loaves of bread. Bakers to provide in their shops scales and weights. 64 Vic. No. 2, s. 110.

Any person who purchases any loaf of bread from any baker may require the same to be immediately weighed in his presence.

Any baker who neglects to fix such beam and scales, or to provide and keep for use such weights or balance, or who refuses to weigh any loaf purchased in his shop in the presence of the purchaser, shall be liable to a penalty not exceeding five pounds.

Short Weights.

27. [98.] Any officer shall have power at any time to stop and detain any vehicle by which any groceries or like articles of food are being conveyed apparently in the course of or for the purpose of sale or delivery by retail to customers, and to demand the production of any Inspection of foods in course of delivery to detect short weight.

bills of parcels, delivery notes, orders, or labels having reference to the goods then being so conveyed, and to inspect the same, and to compare the weights of any such goods with the weights thereof as alleged in such bills, notes, orders, or labels. If any such weights are found to be apparently deficient or otherwise unjust to the prejudice of the customer, such officer may seize and detain any such goods, together with the bills, notes, orders, or labels relating to the same, and shall, as soon thereafter as conveniently may be, have such weights compared and verified by a duly appointed inspector of weights and measures, who shall give a certificate of the result. And if upon such comparison and verification such weights are found to be deficient or otherwise unjust to the prejudice of the customer, the vendor and the person delivering such goods shall each be liable to a penalty not exceeding five pounds, unless it is proved to the satisfaction of the court that the deficiency or other injustice arose wholly from some unavoidable accident, or was occasioned by or through some contrivance or confederacy to injure the accused person.

Olive Oil.

Blended
olive oil.

28. [99.] (1.) No person shall sell or supply or keep for sale or supply any olive oil consisting of a mixture or blend of two or more of such oils the produce of different countries, unless there is upon or attached to every package containing the same a label stating that the oil is mixed or blended and the respective countries of origin.

Pure olive oil.

(2.) No person shall sell or supply or keep for sale or supply as olive oil any oil which does not solely consist of pure olive oil.

Adulteration,
&c.

(3.) Any oil which is sold or supplied or kept for sale or supply in contravention of this section shall be deemed to be a food adulterated and falsely described within the meaning of this Act.

Beer.

Substances
prohibited in
beer.

29. [99A.] (1.) No person shall sell in any licensed or registered premises or from any brewery any beer which contains—

- (a) Arsenic, lead, copper, strychnine, cocculus indicus, picric acid, tobacco, or nicotine;
- (b) Any other substance or compound in excess of any proportion permitted by regulation.

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(2.) No person shall use, for drawing from any receptacle any beer for purposes of sale, any pipe— Pipe for drawing beer.

- (a) Made wholly or partly of lead; or
- (b) Which is not kept in a clean and wholesome condition, or which contains any matter, sediment, or growth likely to be injurious to health.

(3.) In this section the word “beer” includes ale, porter, stout, lager beer, and any beer liable to Customs or Excise duties.

Cooking Utensils, &c.

30. [100.] (1.) No person shall, unless so permitted by the regulations, sell or use in the manufacture, preserving, storage, transit, or conducting of any food for any purposes of sale any cooking utensil or any appliance— Injurious utensil or appliance.

- (a) Consisting wholly or in part of lead or of any metal alloy containing more than ten per centum by weight of lead; or
- (b) Soldered (where in contact with any food) with a metal alloy containing more than a prescribed proportion of lead; or
- (c) Tinned inside with a metal alloy containing more than one per centum by weight of lead; or
- (d) Containing enamel, glaze, india-rubber, or gutta-percha, which, on boiling for thirty minutes with dilute acetic acid containing four per centum by weight of acetic acid, yields lead to the latter; or
- (e) Containing more than one-fourth of one grain of arsenic per pound of metal alloy, enamel, glaze, india-rubber, or gutta-percha.

(2.) On the recommendation of the Commissioner, the Governor in Council may exempt any food or any package of food from any of the provisions of this section.

31. [100A.] No person shall manufacture or sell or supply or keep for sale or supply— Substances prohibited in toys, &c.

- (i.) Any toys, or wallpaper or other decorative paper, or paper serviettes, or paper used in the enclosure of any food, in or upon which is paint, colour, facing, dressing, size, or varnish containing—
- (a) Arsenic, or lead, or antimony, in any form or compound; or

Substances
prohibited in
textile
articles, &c.

- (b) Any specified substance, exceeding such allowable quantity as is prescribed ;
- (ii.) Any textile substance or leather intended for or capable of being used in the making of human clothing containing—
 - (a) Arsenic, or lead, or antimony, or barium, in any form or compound ; or
 - (b) Any specified substance or weighting material exceeding such allowable quantity as is prescribed ;

Boot soles,
counters, or
stiffeners.

- (iii.) On and after the first day of July, one thousand nine hundred and twelve, any boots, shoes, or slippers the whole or any part of the soles or counters or stiffeners whereof consist, whether wholly or in part, of or contain cardboard or paper ;

Woollen
goods.

- (iv.) Any clothing or wearing apparel described or designated, whether by the vendor or the purchaser, as woollen or made of wool or by any other description or designation denoting wool, unless the same contains at least ninety per centum of wool or such percentage of wool as may be from time to time prescribed ;

Tubed
nursing
bottle.

- (v.) Any tubed nursing bottle for infants' food.

Boots, &c.,
to bear name
of
manufacturer.

32. [100B.] On and after the first day of January, one thousand nine hundred and thirteen, no person shall sell or supply or keep for sale or supply any boots, shoes, or slippers which do not bear stamped upon the soles thereof in legible characters the name or registered trade mark of the manufacturer or maker.

Aerated Waters.

Filtration of
aerated
waters.

33. [101.] No person shall manufacture or prepare for sale soda water, spa water, lithia water, lemonade, ginger ale, or any other artificially aerated water, or any cordial or fruit syrup or ginger beer, hop beer, or any similar beverage, unless the water used in the manufacture or preparation thereof and contained therein has been passed through a filter or filters or steriliser approved by the Commissioner, and thereafter before use has been so kept as to be free from contamination and impurity.

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*Health Act Amendment Act.**Inspection, Removal, Sampling, Analysis.*

- 34. [102.]** (1.) Any officer authorised, either generally or for any limited period or for any particular case, may—
- (a) Enter and inspect any place which he has reasonable ground for believing is kept or used for the making, manufacture, sale, storage, delivery, conveyance, or preparation for sale of any article used, or which he has reasonable ground for suspecting is intended to be used, as a food or drug, or which he has reasonable ground for suspecting is a prohibited article, and inspect any such article ;
- (b) Inspect any article used or which he has reasonable ground for suspecting is intended to be used as a food or drug, or which he has reasonable ground for suspecting is a prohibited article, and which is being conveyed through or on any street, or conveyed by water in any vessel or boat, or by railway, or tramway, or other means of transit, apparently for the purposes of trade, sale, or delivery ;
- (c) Examine and open any such article or any package enclosing the same in any such place, or conveyed as aforesaid ;
- (d) Remove for examination or analysis any such article or portions or samples of any such article ;
- (e) Weigh, count, measure, gauge, or mark such article or package, and fasten, secure, or seal the same or any door or opening affording access to the same ;
- (f) Inspect and for that purpose, where deemed necessary, open up, take apart, and test any appliance or utensil used in the manufacture, preparation, storing, preservation, packing, delivering, or serving of any food, drug, or article ;
- (g) Seize any such article, appliance, or utensil which is, or appears to him to be, injurious or unwholesome, or unfit for use, or to be a prohibited article, and any package enclosing or containing the same ;
- (h) Without any limit to the foregoing powers, enter any licensed or registered premises where are sold, and, with or without purchasing or taking any quantity, test the alcoholic strength of such spirits.

Entry and inspection.
Va., No. 2010,
ss. 4, 5.
1908, N.S.W.,
s. 22.

Articles in transit.

Examination.

Samples.

Sealing, &c.

Inspection of appliance.

Seizure.

Testing of spirits.

Time for
entering and
inspection.

(2.) When any such article is usually made, manufactured, sold, delivered, conveyed, or prepared for sale during the night, such entry and inspection may be made at any reasonable time in the day or night; otherwise, such entry and inspection shall only be made at a reasonable time in the day.

Officer of
Local
Authority.

(3.) Where the officer is an officer of a Local Authority, his powers under this section may be exercised within the Area of the Local Authority, and on any part of a street, harbour, river, stream, or watercourse which is within or runs through or lies at the boundary of such Area.

Portion of
sample to be
sent to
consignor or
consignee.

(4.) In the case of a portion of any food or drug or article having been removed or seized by any officer in accordance with this section, the officer shall forthwith deliver or forward a portion marked and sealed or fastened up in such a manner as its nature permits to the consignor or manufacturer thereof if his name and address are on or attached to such food or drug or article, or any package enclosing or containing the same, and if such address is in Queensland; otherwise, such portion shall be delivered or forwarded to the owner of the article seized or the person in whose possession it has been found: Provided that where the article removed or seized is liable to decomposition the officer may, in lieu of delivering or forwarding such article as herein prescribed, forthwith place the same in cold storage, and shall thereupon notify that fact to the consignor, manufacturer, owner, or person in whose possession it has been found.

Summons.

(5.) Any justice may grant a summons calling upon the owner of the article, appliance, or utensil so seized, or the person in whose possession it has been found, to appear before any police magistrate to show cause why it and any package aforesaid should not be forfeited and destroyed.

Proceedings
upon such
summons.

(6.) Upon the said owner or person so appearing, or if after being so summoned he fails to appear, the said magistrate may, after inquiry into the matter, and if satisfied by reasonable proof—

- (a) That the article was used or was intended to be sold or used as food, and was unfit for consumption by man; or
- (b) That the article was used or was intended to be sold or used as a drug, and was unfit for use, or might, if sold to a purchaser and used by him in a proper manner, injuriously affect him; or

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Health Act Amendment Act.

(c) That the article is a prohibited article ; or

(d) That such appliance or utensil is injurious or unwholesome or unfit for use ;

adjudge such article, appliance, or utensil, and also every such package, to be forfeited.

In default of such reasonable proof, the article, appliance, or utensil and the said package shall be forthwith restored to the owner or person in whose possession they were found.

(7.) This section shall, without restricting its general application, extend and apply to articles packed, bottled, or tinned, and to articles sold or made up or included in or prepared or cooked for any meal at any shop, factory, eating-house, lodging-house, licensed house, or other place, whether consumed or to be consumed on the premises or elsewhere.

Application
of section.

35. [103.] (1.) On payment or offer to any person selling, delivering or carrying for delivery, or manufacturing or preparing for sale any food or drug or article, or to any person apparently acting as his agent or servant or apparently in charge of the food or drug or article, of the current market value thereof or at the rate of payment prescribed therefor, any officer may demand and select and take or obtain samples of the said food or drug or article for the purposes of this Act.

Power to
demand,
select, and
take samples.
1908, N.S.W.,
s. 23.

(2.) Any officer may require any person as aforesaid to show and permit the inspection of the package in which such food or drug or article is at the time kept, and may take or draw or may require the said person to take or draw therefrom the samples demanded.

(3.) Where any food or drug or article is kept for retail sale and is usually sold in a closed package, no person shall be required by any officer to sell less than the whole of such package.

(4.) If any rates have been fixed by regulation for the payment for samples of any food or drug or article, it shall not be necessary for any officer to tender any higher price for such sample.

36. [104.] (1.) An officer taking or obtaining any sample of food or drug or article as last aforesaid shall divide the sample into three parts, and shall mark and seal or fasten up each such part in such manner as its nature permits, and shall offer one of such parts to the person from whom he took or obtained the sample :

Manner in
which sample
may be dealt
with.
1908, N.S.W.,
ss. 24, 25.

Provided that when any food or drug or article is contained in a package in such quantity that its division into three parts, as hereinbefore provided, would furnish parts insufficient for accurate analysis, additional packages, which purport to contain a similar food or drug or article under the same label, may be taken or obtained; and the contents of two or more packages may be mixed together and the mixture divided and submitted for analysis as hereinbefore provided.

(2.) He shall subsequently deliver another of such parts to an analyst, and shall retain the third of such parts.

(3.) Such delivery to an analyst may be effected either personally or by sending the thing by registered post addressed to the analyst at his usual address or in such other manner as may be prescribed.

Any person
may have
sample
analysed.
1908, N.S.W.,
s. 23 (4).

37. [105.] Any person may, on payment of the prescribed fee, together with the cost of the sample, require any officer to purchase a sample of any food or drug or article and submit the same for analysis.

Duty of
analyst, &c.
1908, N.S.W.,
ss. 30, 31, 34,
35.

38. [106.] (1.) Where any method of analysis, chemical or physical, has been prescribed for the analysis of any food, or drug, or article, any analyst, either for the prosecution or defence, shall in his certificate of analysis declare that he has followed the prescribed method in his analysis.

But evidence shall be admissible on the part of the defence of analysis made by other than the prescribed method, and to show that the prescribed method is not correct.

(2.) For the purpose of determining the degree of strength of any spirits, such apparatus shall be used and such method observed as may be prescribed.

(3.) A copy of the result of any analysis of any food, or drug, or article, procured by an officer may be obtained from the analyst by the person from whom the thing so analysed was purchased or obtained, on payment of the prescribed fee not exceeding two shillings and six pence.

(4.) No copy of any such analysis shall be used in any writing for trade purposes or as an advertisement, and if any person so uses it he shall be liable to a penalty not exceeding fifty pounds.

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*Health Act Amendment Act.***39. [107.]** Any person who—

- (a) Assaults, intimidates, or obstructs any officer in the exercise of his powers or in the discharge of his duties under this Part or attempts so to do; Obstruction of officer, &c. Va., No. 2010, ss. 10, 14. 1908, N.S.W., ss. 37, 38.
- (b) Refuses to allow to be taken any sample demanded in accordance with this Part;
- (c) Gives, procures, offers, or promises any bribe, recompense, inducement, or reward to influence any officer in the exercise of his powers or in the discharge of his duties under this Part;
- (d) Retakes or attempts to retake any food, drug, or article seized, taken, or obtained under this Part, or resists or attempts to prevent such seizure;
- (e) Without authority opens, alters, breaks, removes, or erases any mark, fastening, or seal placed by any officer, in pursuance of this Part, upon any food, drug, or article, or upon any package, place, door, or opening containing or affording access to the same;

shall be guilty of an offence.

40. [108.] Every maker, manufacturer, or seller of food in whose house, premises, or possession any ingredient or mixture is found, which is adjudged by any police magistrate to have been deposited or kept there or had in possession for the purpose of being used for adulterating any food or any constituent of any article of food, shall be liable to a penalty not exceeding five pounds for the first offence, ten pounds for the second offence, and fifty pounds for every subsequent offence, unless the police magistrate is satisfied that such ingredient or mixture was so deposited, kept, or had in possession without the knowledge or consent of the defendant. Possession of ingredients for adulteration.

Agency, &c.

41. [109.] In any prosecution under this Act with respect to any food, drug, or article, it shall be no defence that the defendant is only the agent or servant of the owner of or person dealing in the food, drug, or article, or having the same for sale, but the agent or servant and also the owner or person aforesaid shall be liable: Agent or servant liable in addition to principal. 1908, N.S.W., No. 48.

Provided that a servant shall not be liable if he proves that the offence was committed in a place in which business

was, at the time of the committing of the offence, conducted under the personal superintendence of the owner of the business or some manager or other person representing such owner, and that the offence was committed with the knowledge of the owner or his representative.

Agent or
servant may
recover from
principal.
1908, N.S.W.,
No. 49.

42. [109A.] (1.) If the defendant, being an agent or servant, proves that he sold the food, drug, or article without knowledge that any provision of this Act with regard to the nature, substance, quality, description, labelling, constituents, or mode of manufacture of the food, drug, or article, or any package in which it was contained, had been contravened or had not been complied with, he may, whether his principal or employer has or has not been convicted and punished, recover in any court of competent jurisdiction from his principal or employer the amount of any penalty in which he himself has been convicted in respect of such prosecution, together with the costs thereof paid or payable by him upon his conviction, and those paid or payable by him in and about his defence to the prosecution.

(2.) Where an agent or servant has been convicted as aforesaid, the court may, if it thinks fit, suspend the operation of the conviction for any period not exceeding three months, to enable him to recover from his principal or employer the penalty and costs as aforesaid.

When
importer or
manufacturer
liable.
1908, N.S.W.,
s. 15.

43. [109B.] Where any food or drug or article in connection with which there is a breach of this Act is purchased or obtained in a closed package by any officer, any person who appears from any statement or label thereon or attached thereto to have imported or manufactured or prepared such food or drug or article or to have enclosed it in such package shall, unless he proves the contrary, be deemed to have so imported, manufactured, prepared, or enclosed the same, and (unless the breach is shown to be due to the default of the person on whose premises the package is found, or to deterioration or other causes beyond the control of the person named on the package or label) shall be guilty of an offence.

Defences.

Guarantee,
when a
defence.
1908, N.S.W.,
ss. 47, 50.

44. [110.] (1.) Where any person is prosecuted under this Act for the sale of any food, drug, or article which is adulterated or falsely described, or is mixed, coloured,

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composed, or constituted in contravention of this Act, he shall be entitled to be discharged from such prosecution upon proving—

- (i.) That he has received from the person from whom he purchased such food, drug, or article, or his duly authorised agent, a guarantee in writing that the same is not adulterated or falsely described, or mixed, coloured, composed, or constituted as aforesaid; and
- (ii.) That he had no reason to believe that the same was adulterated or falsely described, or mixed, coloured, composed, or constituted as aforesaid; and
- (iii.) That he sold it in the same state as when he purchased it,

subject however to the following conditions:—

- (a) The person giving the guarantee must be resident in Queensland, or, if a company or firm must have a registered office in Queensland;
- (b) The guarantee must state the name and the place of business of the guarantor, and the name under which he trades;
- (c) A guarantee may be general or specific;
- (d) A general guarantee shall apply to the sale of the description of goods or classes of goods named therein, and a copy of the same shall be filed in the office of the Commissioner. A serial number shall be allotted to each such guarantee, which number shall be placed by the guarantor on each package of such goods sold by him, with the words, "Guaranteed under the Health Acts," or, in the case of a general guarantee given under the analogous provisions of an Act of the Commonwealth of Australia or of some other State of the Commonwealth, with the words "Guaranteed under [*insert title of such Act*]," and in every case with the name of the guarantor inserted as prescribed. Such guarantee shall not apply to any package of goods unless such number and words are placed thereon;

- (e) A specific guarantee shall apply to the sale of specific goods, and shall refer to a sale note bill of sale, invoice, bill of lading, or other document describing the goods and the weight, measure, and number of the same, but shall not be available as a defence unless the defendant has, within seven days after service of the summons, sent to the purchaser a copy of such guarantee with a written notice stating that he intends to rely on the same as a defence, and specifying the name and place of business of the person giving the guarantee, and the name under which he trades, and has also sent a like notice of his intention to the person giving the guarantee ;
- (f) The person by whom any guarantee is alleged to have been given under this section shall be entitled to offer evidence at the hearing, and the court may, if it thinks fit, adjourn the hearing to enable him to do so ;
- (g) The form of any guarantee under this section may be prescribed.

Penalty on
guarantor.

(2.) Any person who gives any such guarantee which is false shall, in addition to any penalty for the sale of any food, drug, or article in contravention of this Act, be guilty of an offence, unless he proves that when he gave the guarantee he had reason to believe, and did believe, that the statements or descriptions contained therein were true ; and it shall be no defence to any prosecution under this Act of the person giving such guarantee that he gave it more than six months or any prescribed period of time before the institution of such prosecution.

Proceedings
for such
penalty.

(3.) Proceedings under the last preceding subsection against the person who has given the guarantee may be taken before a court having jurisdiction in the place where the food, drug, or article was sold, or before a court having jurisdiction in the place where the guarantee was given.

Agents or
servants.

(4.) When the defendant is a servant or agent of the person who purchased the food, drug, or article under such a guarantee, he shall be entitled to the benefit of this section in the same manner and to the same extent as his employer or principal would have been if he had been the defendant, unless it is proved that the servant or agent knew or had reason to suspect that the food, drug, or article did not conform to the said guarantee.

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*Health Act Amendment Act.**Proceedings.*

45. [111.] (1.) If any person contravenes or does not comply with or is guilty of an offence against any provision of this Part of this Act, and no other penalty is by this Act expressly provided in that behalf, he shall be liable for the first offence to a penalty not exceeding twenty pounds, and for a second offence in respect of the same provision to a penalty of not less than ten pounds nor exceeding fifty pounds, and for any subsequent offence in respect of the same provision to a penalty of not less than thirty pounds nor exceeding one hundred pounds.

Penalty for
offence.
1908, N.S.W.
s. 36.

(2.) Where a person is found guilty of an offence under this Part of the Act, and the offence is found by the court to have been committed wilfully or by the culpable negligence of the person accused, that person shall be liable, in addition to or in lieu of such penalty (unless the court is of opinion that a penalty only will meet the circumstances of the case), to imprisonment, with or without hard labour, for a period not exceeding twelve months.

Imprisonment
in certain
cases.

46. [111A.] (1.) In the case of any conviction under this Act, any food, drug, or article to which the conviction relates may, by order of the court, be forfeited to His Majesty.

Forfeiture.
Va., No. 2010,
s. 38.
1908, N.S.W.,
s. 39.

Such forfeiture may extend to the whole of the food, drug, or article, and to the whole of any similar food, drug, or article, and to all packages containing any similar food, drug, or article belonging to the defendant, or found on the defendant's premises or in his possession at the time of the committing of the offence.

(2.) All foods, drugs, and articles forfeited under this Act shall be disposed of as the Minister may direct.

47. [111B.] (1.) All proceedings in respect of an offence against this Part of this Act shall be taken in a summary manner before a police magistrate sitting alone.

Proceedings
for offences.
Va., No. 2010,
ss. 21, 22.
1908, N.S.W.,
ss. 40, 41, 42,
43.

(2.) The summons in any such proceedings shall not be made returnable in less than fourteen days from the day on which it is served.

(3.) There shall be served with the summons a copy of the analyst's certificate (if any) obtained on behalf of the prosecution.

(4.) When any food, drug, or article has been taken or obtained for analysis, no prosecution under this Act in respect thereof shall be instituted after the expiration of ninety days from the time when it was so taken or obtained.

Analyst's
certificate
prima facie
evidence.

48. [111c.] (1.) The production by the prosecutor of a certificate of analysis purporting to be under the hand of an analyst shall be sufficient evidence of the facts stated therein, unless the defendant requires that the analyst shall be called as a witness, in which case he shall give notice thereof to the prosecutor not less than three clear days before the return day.

(2.) In like manner the production by the defendant of a certificate of analysis purporting to be under the hand of an analyst shall be sufficient evidence of the facts stated therein, unless the prosecutor requires that the analyst be called as a witness. A copy of such last-mentioned certificate shall be sent to the prosecutor at least three clear days before the return day, and if it is not so sent the court may adjourn the hearing on such terms as it thinks proper.

Court may
order
independent
analysis to be
made.

49. [111d.] The court shall, on the request of either party to any proceedings for an offence against this Part, and may, if it thinks fit, without such request, order the Commissioner to procure that the part of a sample retained by the officer when purchasing or obtaining the sample shall be submitted to another analyst for analysis; and the Commissioner shall comply with every such order accordingly.

Expenses of
analysis to be
paid by
offenders on
conviction.

50. [111e.] (1.) Where any person is convicted of an offence, the court shall order that all fees and other expenses incident to the analysis of any food, drug, or article in respect of which the conviction is obtained (including an analysis made under the last preceding section) shall be paid by the person convicted.

(2.) All such fees and expenses shall be deemed to be part of the costs attending the conviction, and shall be recoverable in the same manner as such costs are recoverable.

Onus of
proof.

51. [111f.] (1.) The burden of proof that any food or drug or article was not made or manufactured or dealt with or prepared or treated or offered or received or had in possession or kept or exposed or sent or forwarded or

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supplied or delivered or intended for sale or for purposes of sale, or sold, or that the same was not for consumption or use by man, shall in every case be on the defendant.

(2.) The purchase and sale of a sample of any food or drug or article under this Act for the purpose of analysis shall be deemed to be a purchase and sale of such food or drug or article for consumption or use by man, unless the seller proves that the bulk from which such sample was taken was not offered, exposed, or intended for sale for consumption or use by man.

(3.) In every such proceeding the presence of food in any place shall be evidence that such food was intended to be sold or used for consumption by man; and the presence of drugs in any place shall be evidence that such drugs were intended to be sold or used.

52 [111G.] No prosecutor or witness on behalf of any prosecution under this Part of this Act shall be compelled to disclose the fact that he received any information, or the nature of such information, or the name of any person who gave such information; and no officer appearing as a prosecutor or witness shall be compelled to produce any reports or documents made or received by him in his official capacity or containing confidential information, or to make any statement in relation thereto.

Source of
information
or reports.
Va., No. 2010,
s. 10.
1908, N.S.W.,
s. 45.

53. [111H.] (1.) If in the opinion of the Commissioner there is reasonable ground for suspecting that any person is in possession of any food, drug, or article for the purpose of sale, or of manufacturing or preparing the same for sale in breach of this Act, he may require such person to produce for his inspection, or to produce to any officer specially authorised in that behalf by the Commissioner, any books or documents of the nature of store records or which deal with the reception, possession, purchase, sale, or delivery of any such food or drug or article.

Power to
require
information
to be made
available.
Va., No. 2010,
s. 11.
1908, N.S.W.,
s. 51.

(2.) The Commissioner may make or cause to be made copies of or extracts from any such books or documents, and such copies or extracts, certified as such by such specially authorised officer, shall be deemed to be true and correct copies or extracts, unless the contrary is proved.

(3.) Every person who refuses or neglects to comply with any requisition made in pursuance of this section shall be liable to a penalty not exceeding fifty pounds.

(4.) Every officer who does not maintain the secrecy of all matters which come to his knowledge in the performance of his official duties under this section, or who communicates any such matter to any person whomsoever, except for the purpose of carrying into effect this Act, shall be liable to a penalty not exceeding fifty pounds, and may be dismissed from his office.

Publication
of names of
offenders.
Va., No 2010,
s. 39.
1908, N.S.W.,
s. 53.

54. [111J.] (1) Where any person or any of his servants or agents has been convicted of an offence against this Act relating to the sale of any food, drug, or article, and such person or any of his servants or agents is subsequently convicted of any such offence (whether of the same offence or not), a notification of the name of such person may be published by the Commissioner in the *Gazette*, and also by posting it up for a period of twenty-one days on his place of business, within twenty-one days after such last conviction, together with the address of his place of business, the trade or firm or company name under which he trades, and a description of the nature of the subsequent offence, the decision of the court, and the penalty imposed, and any forfeiture incurred.

(2.) When the food, drug, or article was supplied to the said person by some other person, and was sold by the first-mentioned person in the state in which he received it, then the name of the supplier, and the address of his place of business, and the nature of the trade carried on by him may also be included in the notification.

(3.) Such notification may be republished in any newspaper circulating in Queensland; and no action for such republication shall lie against the proprietor, publisher, or printer of such newspaper.

(4.) During the pendency of any appeal against a conviction for any offence, a notification as aforesaid in respect of such offence shall not be published by the Commissioner, but may be so published within twenty-one days after a final order has been made on appeal affirming the conviction or dismissing the appeal.

Regulations.

Regulations.
Va., No. 2010,
s. 41.
1908, N.S.W.,
s. 54.
Definitions.
Standards, &c.

55. [112.] (1.) The Commissioner may from time to time make regulations with respect to all or any of the following matters, namely:—

- (i.) Defining foods and drugs;
- (ii.) Prescribing standards for the composition, strength, weight, quantity, purity, or quality

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of any food or drug, or of any ingredient or component part thereof, or for the nature or proportion of any substance which may be mixed with or used in the preparation or preservation thereof, or prohibiting the addition of any article to any food or drug; the permitted variations, if any, from standards or from statements of measure or volume :

Provided that the standard so prescribed for spirits shall be for—

Brandy, not more than twenty-five degrees under proof;

Whisky, not more than twenty-five degrees under proof;

Rum, not more than thirty-five degrees under proof;

Gin, not more than thirty-five degrees under proof;

- (iii.) Prohibiting the addition of any specified thing, Foreign substances. or of more than the specified quantity or proportion thereof, to any food or drug;
- (iv.) Prohibiting any modes of manufacture, preparation, Mode of manufacture. or preservation of food;
- (v.) Prohibiting in the manufacture, preparation, Appliances. storing, preservation, packing, or in the delivering or serving, of any food or drug or article for sale, the use of appliances containing any substance that may be specified and any substance in or exceeding any proportion that may be specified, and prohibiting the sale, use, serving, or supply of such appliances;
- (vi.) The substances which shall not be used in Packages, &c. making any package; the mode of making containers, wrappers, and other packages for food, so as to avoid contact with injurious substances; the use of boiler preservatives where such boilers are used in any process of food preparation or manufacture;
- (vii.) Securing the purity of water used in the Water. preparation or manufacture of any food or drug, or used in any boiler producing steam for any process of such preparation or manufacture;
- (viii.) Securing the wholesomeness, cleanliness, and Contamination, &c. freedom from contamination or adulteration of any food or drug or article in the course of

its manufacture, preparation, storage, packing, carriage, transit, or delivery, and securing the cleanliness of places, receptacles, appliances, and vehicles used in such manufacture, preparation, storage, packing, carriage, or delivery;

Labelling.

- (ix.) Prescribing the mode of labelling any food or drug sold in packages, and the matter to be contained or not to be contained in such labels; exempting any package or any food or drug from any provision of this Act relating to labelling; the degree of approximation allowed between the weight or measure of the food or drug and the weight or measure indicated on the label; requiring labels that may be specified to be written on or attached to any food or drug, or to packages containing such food or drug and prohibiting the use in such labels of words that may be specified; the statement of measure or volume in labels; the use of the word "pure" or any like word;

Capture of live food.

- (x.) Prohibiting the use of substances or methods that may be specified in the catching, feeding, or drugging of animals shortly prior to death, such animals or the carcass or any part thereof being intended for sale for the food of man;

Destruction of food.

- (xi.) Requiring the destruction or denaturation of food that has become deteriorated or impoverished in such degree as may be specified, and of such food as may be specified; the destruction and disposal of unsound food;

Perishable food.

- (xii.) The carriage, storage, distribution, inspection, and sale of poultry, eggs, fish, fruit, vegetables, and other kinds of perishable food;

Milk-sellers.

- (xiii.) In notified Areas, licensing milk-sellers and registering their premises;

Registration of food factories.

- (xiv.) The registration of all or any premises at which the business of manufacturing or preparing for sale any particular class or classes of food is carried on, and in particular the registration of premises at which the business of manufacturing or preparing for sale ice cream, or ginger beer, or hop beer, or any similar beer, or soda water, spa water, lithia water, or other mineral

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- water or lemonade, or other aerated water or cordials is carried on; licensing the persons carrying on any such business;
- (xv.) Prescribing the method of analysis of any food, drug, or article; Analysis.
- (xvi.) The conditions on which licenses and registrations may be granted, suspended, or revoked; Conditions.
- (xvii.) Prescribing the fees to be paid— Fees for approval of analysts, &c.
- (a) For licenses and registrations;
- (b) By persons applying to be approved and registered as public analysts or public experts;
- (c) In respect of the analysis of any food or drug or article by an analyst;
- (xviii.) Fixing rates for payment for samples of food or drugs or articles taken or obtained under this Act; Prices.
- (xix.) Prescribing forms to be used for the purposes of this Part of this Act; Forms.
- (xx.) Prohibiting the sale of specified kinds of food otherwise than by weight; Sale by weight.
- (xxi.) The production to officers of certificates and other documents granted or issued for the purposes of this Part of this Act; Production of certificates.
- (xxii.) Prescribing penalties not exceeding fifty pounds for the breach of any regulation; and Penalties.
- (xxiii.) Generally for carrying out the purposes of this Part of this Act. Generally.

(2.) Any such regulations may be made applicable to the whole State or to any part thereof and either to foods, drugs, or articles generally or to specified foods, drugs, or articles only, and may vary in their application according to the time, place, or destination of the article referred to in the regulations.

Application of Act.

56. [113.] No food sold under any fancy or suggestive or proprietary or registered name, which is a substitute or is intended to be or may be used as a substitute, either wholly or in part, for any food, shall, by reason only of being so sold under such name, be exempt from this Act. Suggestive names for articles of food. Va. No. 2010, s. 34. 1908 N.S.W., s. 52.

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Saving as to
proprietary
foods.
Va. No. 2010,
s. 24.

57. [114.] Nothing in this Act shall be construed as requiring proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredient to disclose their trade formulæ, except in so far as this Act may require to secure freedom from adulteration or false description.

Proceedings
by indictment
and contracts
not to be
affected.

58. [115.] Nothing in this Part of this Act contained shall affect the power of proceeding by indictment or take away any other remedy against any offender under this Act, or in any way interfere with contracts and bargains between individuals, and the rights and remedies belonging thereto :

Provided that, in any action brought by any person for a breach of contract on the sale of any food, drug, or article, such person may recover, alone or in addition to any other damages recoverable by him, the amount of any penalty in which he has been convicted under this Act, together with the costs paid by him upon such conviction and those incurred by him in and about his defence thereto, if he proves that the food, drug, or article, the subject of such conviction, was sold to him as and for a food, drug, or article of the same nature, substance, and quality as that which was demanded of him, and that he purchased it not knowing it to be otherwise, and afterwards sold it in the same state in which he purchased it; the defendant in such action being nevertheless at liberty to prove that the conviction was wrongful, or that the amount of costs awarded or claimed was unreasonable.

Notwithstanding this section, no person shall be punished for the same offence both under this Act and under any other law or enactment.

Consequential
amendments.

59. Subsection three of section nine and section one hundred and sixty-nine and subsection five of section one hundred and eighty of the Principal Act are repealed.

Infectious Diseases.

60. After section one hundred and eighteen of the Principal Act, the following section is inserted:—

Buildings,
&c., to be
approved by
Commissioner.

[118A.] The site, size, and plans of every hospital or temporary place of reception provided by a Local Authority under this Part, and any extension or building forming part of an existing hospital to which patients

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are or may hereafter be admitted by arrangement with or on behalf of a Local Authority under this Part, shall be subject to the approval of the Commissioner.

61. The following amendments are made in section Amendment of s. 123. one hundred and twenty-three of the Principal Act :—

(1.) In subsection one, before the word “destruction,” the words “disinfection or” are inserted.

(2.) In subsection three, the words “and may cause any articles brought for disinfection to be disinfected free of charge” are repealed.

(3.) After subsection four, the following subsections are inserted :—

[4 (a).] Cause to be removed from any premises any bedding, clothing, articles, or things which have been exposed to the infection of infectious disease, for the purpose of disinfection or destruction: Provided that the Local Authority shall cause all such articles so removed for disinfection to be returned to the premises whence they were removed forthwith upon the completion of disinfection.

[4 (b).] Recover from the owner the reasonable cost of disinfecting any bedding, clothing, or other articles under this section.

(4.) In subsection five, the words “the first three subsections hereof” are repealed, and the words “this section” are inserted in lieu thereof.

62. After section one hundred and twenty-five of the Principal Act, the following section is inserted :—

[125A.] (1.) No person shall knowingly send to or Provisions as to school children. allow to attend at any school any child who then is or within the space of eight weeks has been suffering from scarlet fever, diphtheria, or any other disease to which this section may, from time to time, be extended by the Governor in Council by Order in Council, unless there is previously presented to the head teacher a written certificate from a medical practitioner stating that such child is free from infectious disease and infection, and that the clothing of such child is similarly free from risk of conveying infection.

No teacher shall knowingly admit to any school any child in contravention of this section.

Any person who acts in contravention of this section shall be liable to a penalty not exceeding five pounds.

(2.) The clerk of the Local Authority shall give immediate notice in writing to the head teacher of any case of scarlet fever, diphtheria, or any other disease to which this section has been extended as aforesaid, reported to the Local Authority as occurring at any house from which any child is, or is believed by him to be, in attendance at the school within the Area under such head teacher.

(3.) Whenever any infectious disease occurs or is suspected to have occurred amongst children attending any school, any medical officer of health, or any medical practitioner authorised in writing for the purpose by the Commissioner, may enter any house from which any child attends such school and examine all or any of the persons or children found in or residing at such house for the purpose of ascertaining whether such persons or children are in an infectious condition. And all persons concerned shall permit such examination.

63. After section one hundred and thirty-two of the Principal Act, the following sections are inserted:—

Venereal
diseases.

[132A.] (1.) The Governor in Council, on the recommendation of the Commissioner, may from time to time by Order in Council, declare that, in such Area or Areas as are therein named, any venereal disease named in such Order shall be a disease to which this section shall apply, and may from time to time alter, revoke, or vary any such Order. Thereupon the following provisions shall apply in respect of every such venereal disease:—

(2.) Every medical practitioner in every Area to which this section applies shall forthwith give notice to the Commissioner in the prescribed form upon becoming aware that any person attended or treated by him is suffering from such venereal disease.

Any medical practitioner who fails to give any notice prescribed by this section shall be liable to a penalty of not less than ten pounds nor more than one hundred pounds.

(3.) No person other than a medical practitioner or a person acting under the direct instructions of a medical practitioner shall attend upon or treat any person suffering from such disease. Every person who contravenes this

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subsection shall be liable to a penalty not exceeding fifty pounds, or to imprisonment for any period not exceeding six months.

This subsection shall not apply to a registered pharmaceutical chemist who dispenses to the patient of a medical practitioner the prescription of such medical practitioner, or to any pharmaceutical chemist who, under a permit in writing from the Commissioner (which permit the Commissioner is hereby empowered to grant), prescribes any medicine or drug for any person suffering from such disease, or to any person who under a permit in writing from the Commissioner (which permit the Commissioner is hereby empowered to grant) sells any proprietary medicine or drug to any person suffering from such disease: Provided always that such proprietary medicine or drug is approved of by the Commissioner.

(4.) Every person who acts or assists in the administration of this section shall preserve and aid in preserving secrecy with regard to all matters which come to his knowledge in his official capacity, and shall not communicate such matters to any other person except in the performance of his duties under this section. Any person who contravenes this subsection shall be liable to a penalty not exceeding fifty pounds.

[132B.] In addition and without prejudice to the provisions of the last preceding section, the Governor in Council may from time to time, on the recommendation of the Commissioner, make regulations for the following purposes in respect of any venereal disease:—

Power to
make
regulations.

- (a) Prescribing the forms of notification to be used in notifying cases of venereal diseases in Areas where the last preceding section is in force: Provided that the name and address of the patient shall not be disclosed; but he shall be denoted by a number or other reference in or to the records of the medical practitioner;
- (b) For the gratuitous treatment at hospitals and otherwise of venereal diseases;
- (c) For the establishment, management, and control of dispensaries or other places for gratuitous treatment;
- (d) Requiring prostitutes within the Metropolitan Area—that is to say, the Cities of Brisbane and South Brisbane; the Towns of Hamilton, Ithaca, Toowong, Windsor; the Shire of

Stephens, and so much of the Shire of Balmoral as lies to the west of Bulimba Creek; and such other localities to which the regulations may from time to time, by Order in Council, be extended—to submit themselves for periodical examination by a medical officer at specified times and places;

- (e) For the examination by clinical and bacteriological methods, and by specified tests of persons suspected of being infected with venereal disease, and for requiring such persons to submit themselves to such examination at specified times and places;
- (f) For prescribing penalties for breaches of the Regulations.

Detention of
diseased
persons.

[132c.] When any two medical practitioners certify in writing that any person is suffering from venereal disease and is likely to convey such disease to others, the following provisions shall apply:—

- (a) A police magistrate may order such person to be detained for any period not exceeding two weeks in a hospital or other suitable place for the purpose of bacteriological and other investigations, and it shall be lawful to make such investigations;
- (b) If thereafter such person is found to the satisfaction of the Commissioner to be suffering from venereal disease in an infectious condition, the Governor in Council, on the recommendation of the Commissioner, may from time to time order that such person shall be detained under such conditions in such place and for such time as may be necessary to ensure that such person shall be no longer infectious, or as may be named in such order, and may extend or vary such order from time to time, or at any time terminate its operation, and thereafter if found necessary renew such order. And every such order shall be sufficient warrant for the apprehension, if necessary, and for the removal and detention of the person named therein;
- (c) If such person is actually undergoing imprisonment in any prison within the State, the order under paragraph (a) hereof may be made by the visiting justice of the prison, and any

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order under paragraph (a) or paragraph (b) hereof shall have effect notwithstanding that it extends beyond the period of such person's imprisonment.

[132D.] Any person who knowingly infects any other person with any venereal disease shall be liable to a penalty not exceeding fifty pounds, or to imprisonment for any period not exceeding six months.

Persons infect
others liable.

[132E.] (1.) Any person who—

(i.) Being a prostitute—

Persons
deemed
vagrants.

(a) Is in any public place, and behaves in a riotous, disorderly, or indecent manner; or

(b) Solicits or importunes for immoral purposes any person who is in any public place or within the view or hearing of any person therein; or

Being a male person, knowingly lives wholly or in part on the earnings of prostitution;

(ii.) In any public place, solicits or importunes on behalf of any female for immoral purposes;

(iii.) Is the occupier of or resides in a house frequented by prostitutes;

shall be deemed to be a vagrant, and shall be liable to a penalty not exceeding fifty pounds or to imprisonment for any period not exceeding six months.

(2.) Provided that when a female is convicted of any offence included under paragraph (i.) of this subsection the court may—

(a) Commit the female to be detained for any period not exceeding twelve months in an institution approved by the Governor in Council, by Order in Council published in the *Gazette*, as a reformatory for the purposes of this section; or

(b) Impose imprisonment as aforesaid; or

(c) By its sentence impose either of the above punishments, and suspend the execution of such sentence upon such conditions as it thinks fit, which it shall embody in its recorded decision.

If any female whose sentence has been so suspended fails to observe any of such conditions, she may be arrested by any police officer and brought before a court, and, on proof of such failure on her part being given to its

satisfaction, the court may direct that the original sentence shall be put into force, and may give all orders and grant any warrants necessary for such enforcement.

(3.) For the purposes of this section, "public place" includes every road, and also every place of public resort open to or used by the public as of right: the term also includes—

- (a) Any vessel, vehicle, building, room, licensed premises, field, ground, park, reserve, garden, wharf, pier, jetty, platform, market, passage, or other place for the time being used for a public purpose or open to access by the public, whether on payment or otherwise, or open to access by the public by the express or tacit consent or sufferance of the owner, and whether the same is or is not at all times so open; and
- (b) Any place declared by the Governor in Council, by Order in Council, to be a public place for the purposes of this section.

Power to
declare rats,
&c. to be
noxious, and
direct
measures
to be taken.

[132F.] (1.) Whenever the Governor in Council is satisfied that a visitation of any epidemic, endemic, or infectious disease may be prevented, or that the spread or continuance of any such disease may be checked, diminished, or prevented, by taking measures for the destruction of rats, mice, or other vermin, or any insect life, he may, by Order in Council, published in the *Gazette* and in such newspapers as the Commissioner directs—

- (a) Declare rats, mice, or other vermin, or any specified form of insect life to be noxious; and
- (b) Direct that owners and occupiers of all or any premises shall adopt such measures as are prescribed in the Order for the purpose of destroying such vermin or insect life, and preventing their breeding and preventing their access to such premises, and destroying, removing, and preventing the accumulation of any articles, matters, or things which provide or are likely to provide harbourage or food for the same upon such premises.

Form and
scope of
Order.

(2.) Any such Order may be in general terms or may be of limited duration or of limited application to any specified Areas or localities, and may prescribe any special measures to be adopted in connection with any locality or any premises, trade, or business, or class of premises,

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trade, or business. Every such Order shall have the same effect as if it were enacted in this Act.

(3.) Forthwith upon the publication of any such Duty. Order it shall be the duty of every owner and occupier of premises to which the Order relates to comply with the same at his own expense, and continue such compliance during the continuance of the Order.

(4.) If any such owner or occupier makes default in Default. compliance with any of the provisions of such Order, the Commissioner may give to such owner or occupier notice in writing of such default, stating therein the matters in respect of which default has been made, and requiring compliance within a time to be specified in such notice.

(5.) If any such owner or occupier, after such notice of Notice and penalty. default, fails to comply with the same within the time therein limited, the Commissioner may, by himself, his officers, or agents, enter upon the premises and cause the Order and notice to be complied with in all respects; and any expense incurred by the Commissioner in so doing may be recovered by him from such owner or occupier by complaint before a police magistrate, and in addition such owner or occupier shall be liable to a penalty not exceeding fifty pounds.

(6.) Provided that in the case of occupied premises Powers and duty of owner. whereof the owner is not also the actual occupier it shall be the duty of the actual occupier in the first instance to comply with the said Order, and, if he fails so to do, the Commissioner may serve notice of default as well upon the owner as upon the occupier, in which case such owner shall equally be liable for any further default. In such case, for the purpose of enabling such owner to comply with the said Order and notice, he shall have the right to enter by himself, his servants, or agents upon the premises, and remain thereon so long as may be necessary; and all expenses incurred by him, not being in respect of drainage works or structural defects, shall be recoverable from the actual occupier as a debt.

64. Section one hundred and thirty-three of the Principal Act is repealed, and the following section is inserted in lieu thereof:—

[133.] The Commissioner may, from time to time, Regulations. for the purpose of preventing or checking the spread of infectious disease, make regulations providing for all or any purposes, whether general or to meet particular cases that may be convenient for the administration of this Part, or that may be necessary or expedient to

carry out the objects and purposes of this Part, and, where there may be in this Part no provision or no sufficient provision in respect of any matter or thing necessary or expedient to give full effect to this Part, providing for and supplying such omission or insufficiency, and, without prejudice to the foregoing powers, providing for all or any of the matters following, that is to say,—

- (i.) For the cleansing and disinfection of bedding, clothing, and other articles which have been exposed to infection from any infectious disease;
- (ii.) For the cleansing and disinfecting of houses or parts thereof, and of articles and things therein;
- (iii.) For the disinfection of second-hand wearing apparel and second-hand books and periodicals in the possession of persons carrying on business as dealers in such articles before any such articles are sold or otherwise disposed of by such dealers;
- (iv.) For the cleansing, disinfection, and sterilisation of the implements, tools, and utensils of barbers and hairdressers;
- (v.) For prescribing the means by which such cleansing and disinfection shall be performed, and the equipment, apparatus, materials, and attendance which shall be provided, and, where considered necessary, the means by which the fact of disinfection having been carried out may be certified;
- (vi.) For house-to-house visitation and inspection of houses and premises, of the occupants thereof, and the articles and things therein, and also of any sanitary conveniences, outbuildings, yards, drains, sewers, and land or premises connected therewith;
- (vii.) For requiring persons to submit themselves to medical examination at specified times and places, or otherwise;
- (viii.) For the safe and proper isolation of the infected sick, and for prescribing the measures to be employed in respect of dealings with faecal or other discharges from infected persons, and with articles or things liable to carry infection from them;

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- (ix.) For prescribing the details of construction and situation and the class or description of sanitary conveniences which alone may be used on any premises or class of premises;
- (x.) For prohibiting the construction or use of cesspits, and for prescribing the means by which existing cesspits shall be cleansed and their contents disposed of;
- (xi.) For prescribing measures for the protection and purification of domestic water supplies, and for the prevention of pollution thereof;
- (xii.) For prohibiting expectoration on any footpath, or on the floor or sides of any public building or public conveyance;
- (xiii.) For declaring by what person or authority such regulations or any specified part or parts thereof shall be enforced and executed;
- (xiv.) For prescribing by whom or from what fund or account the expenses of the execution of such regulations shall be borne or paid, and where necessary fixing the amount of such expenses or of any specific or necessary charge or payment, and apportioning such expenses between any persons or authorities concerned.

With respect to such regulations, the following provisions shall apply:—

- (1) The regulations shall be published in the *Gazette*;
- (2) Such regulations shall not come into force except in pursuance of an order made by the Commissioner as hereinafter provided;
- (3) The Commissioner may from time to time make an order declaring that the whole or any part of such regulations shall be in force within any locality in the State of Queensland, comprising an Area or several Areas, or part or parts thereof, or any other locality comprising part of an Area, or if more than one Area, which can be conveniently defined;
- (4) The regulations or parts thereof so declared in force shall be set forth in every such order;
- (5) The regulations or parts thereof so declared shall remain in force for such time as is specified in the order, but may from time to time

be renewed for a further specified period for the same locality or part thereof by a further order;

- (6) For the time during which any such regulations are in force in any such locality, any By-laws of any Local Authority having jurisdiction therein for purposes similar to those dealt with in such regulations shall be superseded.

65. Sections one hundred and thirty-four and one hundred and thirty-five of the Principal Act are repealed, and the following sections are respectively inserted in lieu thereof :—

Notifications
of infectious
disease.

[134.] (1.) Whenever in any house as defined by this Act any person is found to be suffering from any infectious disease or from any sickness the symptoms of which raise a reasonable suspicion that it may be an infectious disease, the following provisions shall apply :—

- (a) Upon the day on which the occupier of the house becomes aware of the nature of the disease of which the patient is sick or is suspected to be sick, he shall give notice thereof to the Local Authority ;
- (b) If the occupier fails to give such notice, he shall be liable to a penalty not exceeding five pounds ;
- (c) The clerk shall immediately report in writing to the Commissioner every notice received from an occupier under this section ;
- (d) Every medical practitioner who attends upon or is called in to visit the patient shall, upon the day on which he becomes aware of the nature of the disease or suspected disease, give notice thereof to the occupier and also to the Commissioner and to the Local Authority ;
- (e) Such notice to the Commissioner and to the Local Authority shall be given by the medical practitioner in writing, in such form as the Commissioner may from time to time prescribe ;
- f) If the medical practitioner fails to give such notice, he shall be liable to a penalty not exceeding twenty pounds ;

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(2.) Every hospital and institution, public or private, shall be deemed to be a house within the meaning of this section.

[135.] The Commissioner shall pay to every medical practitioner for each certificate duly sent by him in accordance with the requirements of the foregoing section a fee of two shillings and six pence if the case occurs in the medical practitioner's private practice, and of one shilling if the case occurs in his practice as medical officer of any public hospital or institution. Fee for certificate.

[135A.] (1.) Where any two medical practitioners give a certificate in writing that any person is suspected of being a typhoid carrier—that is to say, a person in any of whose body discharges the bacillus associated with typhoid fever and known as the bacillus typhosus is occasionally or constantly found, and who does not show clinical evidence of typhoid fever—the following provisions shall apply:— Typhoid carriers.

(2.) A police magistrate may order such person to be detained for any period not exceeding one week in a hospital or other suitable place for purposes of bacteriological investigations, and it shall be lawful to make such investigations.

(3.) If thereafter such person is found to be a typhoid carrier to the satisfaction of the Commissioner, the Commissioner may require him to register his name, address, and occupation in the office of the Commissioner and, for such period as he may fix, to forthwith report to the Commissioner any change of such address or occupation; and thereupon for any failure so to report such change of address or occupation such person shall be liable to a penalty not exceeding fifty pounds or to be dealt with by isolation as next hereinafter provided.

(4.) Moreover, the Governor in Council, on the recommendation of the Commissioner, may from time to time order that any person found to be a typhoid carrier to the satisfaction of the Commissioner shall be isolated and detained under such conditions, in such place, and for such time as shall be named in such order, and may extend or vary such order from time to time or at any time terminate its operation, and thereafter, if found necessary, renew such order. And every such order shall be sufficient warrant for the apprehension, if necessary, and for the isolation and detention of the person named therein.

New Part.

66. After section one hundred and fifty-one of the Principal Act, the following Part is inserted—namely, Part VIII.—Private Hospitals and Nurses; and the following sections thereof shall, in the Principal Act, bear the numbers respectively assigned to them in square brackets :—

Interpretation.

67. [152.] In this Part of this Act—

“Private Hospital” means any house, apartment, or premises which is used or intended to be used for the reception, care, and treatment of sick persons or of women for the purposes of their lying-in or confinement, and which is not a hospital subject to “*The Hospitals Acts, 1847 to 1891*” *; -

“Registered nurse” means a nurse registered as a general nurse or midwifery nurse under this Act.

Private Hospitals.

Registration of private hospitals.

68. [153.] It shall not be lawful in any Area to use any house, apartment, or premises as a private hospital unless or until the same is registered under this Act. If any house, apartment, or premises is being used as a private hospital in any Area at the commencement of this Act, it shall be sufficient if registration thereof is effected within three months after that date.

Persons who may apply for and hold registration certificate.

69. [153A.] No person shall be entitled to apply for or hold a certificate of registration of a private hospital unless such person is either a medical practitioner or a registered nurse.

Kinds of certificate.

70. [153B.] Certificates of registration of private hospitals shall be of two classes, namely—

(a) Of a general private hospital for the reception, care, and treatment of any cases, including midwifery cases;

(b) Of a lying-in hospital for the reception, care, and treatment of midwifery cases only.

Application, &c.

71. [153c.] (1.) A person who desires to obtain the registration of a private hospital or the renewal thereof shall make written application therefor to the Local Authority.

* 11 Vic. No. 59; 13 Vic. No. 20; 26 Vic. No. 1; 29 Vic. No. 19; and 55 Vic. No. 35, *supra*, pages 951 *et seq.*

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(2.) Such application shall be in the prescribed form, and shall be accompanied by the prescribed fee, and shall set forth the class of private hospital for which registration is desired, and also a true and full description of the premises and of the estate or interest of the applicant therein.

(3.) The application, when made for premises which have not been previously registered, must be accompanied by a plan of the premises to be drawn upon a scale of not less than one-eighth of an inch to a foot, with a description of the situation of the premises, and of the dimensions and height of every room or apartment therein, and of the system of drainage and situation of all sanitary conveniences, and of the accommodation exclusively provided for the nurses, and a statement of the quantity of land, not covered by any building, to be appropriated to the exclusive use, exercise, and recreation of the patients proposed to be received, and also a statement of the number of patients proposed to be received.

(4.) Every application for a renewal shall be accompanied by a statement signed by the applicant containing the names and number of the patients, distinguishing sex, then in the private hospital.

72. [153D.] (1.) Upon receipt of any application for the registration of a private hospital or the renewal thereof, the Local Authority shall refer the same to its medical officer of health and any other officer or officers it may consider necessary, and such medical or other officer, after making all such inspections and inquiries as are necessary, shall report in writing upon the application. Such report shall deal with the suitability of the premises for a private hospital, having regard to locality, site, buildings, accommodation (including accommodation for the nurses), drainage, sanitary arrangements, and other matters necessary to be considered, and if so desired by the Local Authority shall also deal with the competency and repute of the applicant: Provided that, if such medical officer is himself the applicant or interested in the application, the Commissioner shall cause some other medical practitioner to furnish the prescribed report. Report on application.

(2.) The Local Authority having considered such report may grant or refuse to grant a certificate of registration to the applicant.

(3.) Every such certificate shall have effect for the period of one year from the granting thereof, and shall be in such form and subject to such conditions as may be prescribed by the regulations.

Fees.

73. [153E.] The annual fee payable for the registration of a private hospital or the renewal thereof shall be—

(a) For a general private hospital, five pounds ;

(b) For a lying-in hospital, two pounds.

Accommodation for nurses.

74. [153F.] There shall be provided and kept at every private hospital proper and sufficient accommodation for the nurses employed therein or in connection therewith, and such accommodation shall be of the class and kind prescribed by the regulations.

Additions and alterations to premises.

75. [153G.] No addition or alteration shall be made to, in, or about the premises of a registered private hospital until notice in writing of the proposed addition or alteration, accompanied by a plan of the addition or alteration drawn upon the scale aforesaid, has been given to the Local Authority by the person to whom the certificate has been granted, and the written approval of the Local Authority has been given thereto.

Applicant to reside, &c.

76. [153H.] (1.) The person to whom a certificate of registration of a private hospital is granted shall be held responsible for the due conduct thereof. Such registered person, if a registered nurse, shall continuously reside on the premises ; and, if a medical practitioner, shall either personally continuously so reside, or some registered nurse or medical practitioner appointed by him in that behalf, and whose name is notified to the Local Authority, shall continuously so reside.

(2.) Leave of absence for any period not exceeding three months at any one time may be granted by the Local Authority to such person upon application being made in writing to it : Provided that during such period a person qualified to hold a certificate under this Act must reside on the registered premises and undertake the responsibility aforesaid.

(3.) A certificate of registration may be transferred, for the term then unexpired, to a person qualified to hold the same under this Act upon the written approval of the Local Authority being first obtained.

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The transfer shall be completed by the production to the Local Authority of the certificate of registration and the endorsement thereon of the name of the transferee, who shall thereupon be deemed for all the purposes of this Act to be the person to whom such certificate was granted.

(4.) If the holder of a certificate by sickness or other cause becomes incapable of keeping the private hospital or dies before the expiration of the current year, the Local Authority may, by writing endorsed on the certificate under the hand of the clerk, transfer it with all the privileges and obligations annexed thereto, for the term then unexpired, to another qualified person, and thenceforth the certificate shall remain in force and have the same effect as if granted to such person; and where a certificate is granted to two or more persons, and before the expiration thereof any of such persons dies, leaving the other or others surviving, the certificate shall remain in force and have the same effect as if it had been granted to such survivors or survivor alone.

(5.) In the case of fire, flood, tempest, or other unforeseen calamity rendering the premises unfit for the accommodation of patients, the certificate of registration thereof may, by endorsement by the order of the Local Authority under the hand of the clerk and without further fee for the current year, be made applicable either for the current year or temporarily to other premises.

77. [153J.] Every registered private hospital and all records prescribed to be kept thereat shall at all times be open to the inspection of the medical officer of health or other officer authorised by the Local Authority, who shall for that purpose be permitted to enter the premises with such assistants as may be required by him. Inspection.

78. [153K.] Proof that any house, apartment, or premises was or were let, hired, engaged, or used for gain by any person for the accommodation of a female during her lying-in or confinement shall be *prima facie* evidence that such house, apartment, or premises is or are kept as a lying-in hospital, and it shall not be necessary in any case to prove the letting, hiring, or engagement, or use on more than one occasion. Evidence.

79. [153L.] When a female is delivered in a private hospital of a still-born child, no interment or other disposal of the body of such child shall take place without its being Interment of still-born children.

authorised by the written certificate of a medical practitioner or police magistrate. Any person who inters or otherwise disposes of the body of any such still-born child without such certificate having been previously obtained shall be liable to a penalty not exceeding one hundred pounds or to be imprisoned with or without hard labour for any period not exceeding twelve months.

Charges for infectious cases removed from private to public hospital for treatment.

80. [153M.] In every case where an inmate of a private hospital is found to be suffering from an infectious disease and is removed to any public hospital established for the treatment of infectious diseases, which is situated outside the Area in which such inmate resides, all charges and expenses of or in connection with the treatment of such inmate in such public hospital shall be payable by and recoverable from the Local Authority of the Area in which such inmate resides.

Application of this Part as to lying-in hospitals.

81. [153N.] The foregoing provisions of this Part relating to lying-in hospitals shall apply in such localities, being an Area or division thereof or Areas or divisions of Areas, as the Governor in Council may declare by Order in Council.

Nurses.

Registration of nurses.

82. [154.] (1.) There shall be established a Board for the registration of duly qualified nurses. The Board shall consist of five members, and shall be constituted as follows:—

- (a) Two members shall be medical practitioners, and shall be nominated by the Medical Board constituted under the "*Medical Act of 1867*"* or any Act amending or in substitution of that Act;
- (b) Two members shall be medical practitioners or qualified nurses, and shall be nominated by the registered nurses in accordance with rules to be approved by the Minister in that behalf;
- (c) One member shall be a medical practitioner employed by the State in connection with an asylum for the insane.

The members shall be appointed by the Governor in Council, and shall hold office for three years, but shall be eligible for reappointment.

* 31 Vic. No. 33, *supra*, page 2108.

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Extraordinary vacancies shall be filled in like manner, but a member appointed to fill such vacancy shall go out of office at the same time as all other members.

The first appointments shall be made as soon as may be after the first day of January, one thousand nine hundred and twelve, and shall take effect as from the first day of March following. Thereafter the members shall be appointed on or before the first day of March in every third year.

The business and procedure of the Board shall be conducted and carried out in manner prescribed by the regulations.

(2.) The Board shall cause such nurses to be registered in a register to be kept for the purpose in three classes—

- (a) General nurses ;
- (b) Midwifery nurses ;
- (c) Mental nurses.

(3.) A copy of the register of nurses, distinguishing the three classes, shall be published in the *Gazette* annually in the month of January.

83. [154A.] Before registration of any person as a nurse, the Board shall be satisfied that the applicant is a person of good fame and character. a Proof of good character.

84. [154B.] (1.) Every person who, on the first day of January, one thousand nine hundred and twelve, holds a certificate of three years' training as a nurse in a hospital recognised by the Board under this Act, and proves to the satisfaction of the Board that during her training she received systematic instruction in theoretical and practical nursing from the medical officer and matron, shall be entitled to registration as a general nurse on payment of a fee of ten shillings, and on making application on or before the thirty-first day of December, one thousand nine hundred and twelve. Who may be registered as general nurses.

(2.) Every person who, on the first day of January, one thousand nine hundred and twelve, has had three years' training as a general nurse in such hospital, and passes the prescribed examination, shall be entitled to such registration on payment of a fee of one pound towards the cost of examination.

(3) After the first day of January, one thousand nine hundred and twelve, every person who has attained the age of twenty-one years, and is certified as having had three

years' training as a general nurse in such hospital, together with systematic instruction in theoretical and practical nursing from the medical officer and the matron of such hospital, and who passes the prescribed examination, shall be entitled to such registration on payment of a fee of one pound.

(4.) For the purpose of enabling nurses who, previous to the first day of January, one thousand nine hundred and twelve, have obtained certificates issued by any such hospital, or who have had not less than three years' experience as general nurses, and who do not come within the foregoing provisions, to be registered under this Act, the regulations may prescribe the qualifications or form of examination required and the fee to be paid for the issue of a certificate which shall entitle the holder to such registration under this Act:

Provided that no such certificate shall be issued after the thirty-first day of December, one thousand nine hundred and twelve.

Who may be
registered as
midwifery
nurses.

85. [154c.] (1.) Every person who, on the first day of January, one thousand nine hundred and twelve, holds a certificate of midwifery from some hospital or other institution recognised by the Board under this Act, and proves to the satisfaction of the Board that during her training she received systematic instruction in midwifery from the medical officer and matron of that hospital or institution, shall be entitled to registration as a midwifery nurse on payment of a fee of ten shillings, and on making application on or before the thirty-first day of December, one thousand nine hundred and twelve.

(2.) After the first day of January, one thousand nine hundred and twelve, every person who has attained the age of twenty-one years, and holds the certificates herein-after mentioned, and passes the prescribed examination, shall be entitled to such registration on payment of the fee of one pound.

For the purpose of such examination every person desiring to be registered as a midwifery nurse must hold the following certificates:—

- (a) If registered as a general nurse, of having attended for not less than six months, and, in all other cases, of having attended for not less than twelve months, the practice of a lying-in hospital recognised by the Board; and

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- (b) Of having received systematic instruction in theoretical and practical nursing, as prescribed by the regulations.

For the purposes of enabling nurses who, previous to the first day of January, one thousand nine hundred and twelve, have obtained certificates issued by any such hospital, or who have had not less than three years' experience as midwifery nurses, and who do not come within the foregoing provisions, to be registered under this Act, the regulations may prescribe the qualifications or form of examination required and the fee to be paid for the issue of a certificate which shall entitle the holder to such registration under this Act :

Provided that no such certificate shall be issued after the thirty-first day of December, one thousand nine hundred and twelve.

86. [154D.] (1.) Every person who, on the first day of January, one thousand nine hundred and twelve, holds a certificate of three years' training as a mental nurse in a hospital recognised by the Board under this Act, and proves to the satisfaction of the Board that during her training she received systematic instruction in theoretical and practical nursing from the medical officer and matron, shall be entitled to registration as a mental nurse on payment of a fee of ten shillings, and on making application on or before the thirty-first day of December, one thousand nine hundred and twelve. Who may be registered as mental nurses.

(2.) After the first day of January, one thousand nine hundred and twelve, every person who has attained the age of twenty-one years and holds the certificates of training and hospital experience prescribed for qualification as a mental nurse, and who passes the prescribed examination, shall be entitled to registration as a mental nurse on payment of the fee of one pound.

(3.) For the purpose of enabling nurses who, previous to the first day of January, one thousand nine hundred and twelve, have obtained certificates issued by any such hospital, or who have had not less than three years' experience as mental nurses, and who do not come within the foregoing provisions, to be registered under this Act, the regulations may prescribe the qualifications or form of examination required and the fee to be paid for the issue of a certificate which shall entitle the holder to such registration under this Act :

Provided that no such certificate shall be issued after the thirty-first day of December, one thousand nine hundred and twelve.

Discretion of
Minister.

87. [154E.] Notwithstanding anything hereinbefore contained, the Minister may dispense with such of the certificates, examinations, or other conditions for the registration of nurses under this Act as to him may seem just in favour of any person who, during the three years immediately preceding the first day of January, one thousand nine hundred and twelve, has been employed in the calling of a nurse.

Commissioner
may prohibit
nurse
practising.

88. [154F.] Notwithstanding anything hereinbefore contained, the Commissioner may prohibit for any specified period the practising by any midwifery nurse, whether registered or not, of her calling in any case where he is satisfied that danger exists of her communicating any transmissible disease to any patient; and any nurse who disobeys any such prohibition shall be liable to a penalty not exceeding twenty pounds.

Certificate
and badge of
registration.

89. [154G.] When a nurse is duly registered, she shall receive a certificate in the prescribed form, together with a badge bearing her name and the date of registration.

Fraudulent
registration.

90. [154H.] Every person who procures herself to be registered as a nurse under this Act by means of any false or fraudulent representation, or by the production of any false certificate or testimonial, shall be liable to a penalty not exceeding twenty pounds, and her name shall be erased from the register.

Registration
may be
cancelled for
misconduct.

91. [154J.] Any registered nurse who is convicted of any indictable offence shall have her name erased from the register by order of the Governor in Council; and any registered nurse who is proved to the satisfaction of the Board or any police magistrate to have been guilty of grave misconduct shall be liable to have her name erased from the register by order of the Governor in Council.

Preference to
be given to
registered
nurses.

92. [154K.] In all appointments of nurses in hospitals subject to "*The Hospitals Acts, 1847 to 1891*,"* and in asylums for the insane, preference of employment in regard to future vacancies shall be given to registered

* 11 Vic. No. 59; 13 Vic. No. 20; 26 Vic. No. 1; 29 Vic. No. 19; and 55 Vic. No. 35, *supra*, pages 951 *et seq.*

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nurses: Provided that nothing herein contained shall be construed to interfere with the employment of probationer nurses in such institutions.

General.

93. [155.] All fees and penalties received under this Act in respect of private hospitals shall be paid into the Local Fund, and in respect of nurses shall be paid into the Consolidated Revenue. Application of fees, &c.

94. [156.] The Governor in Council may from time to time make such regulations as are necessary to carry this Part of this Act into effect. Regulations.

95. After section one hundred and seventy-four of the Principal Act, the following sections are inserted:—

[174A.] Without prejudice to the powers contained in sections nineteen and twenty of this Act, and notwithstanding anything contained in this Act, in any case where a nuisance or a condition injurious to health is caused by any act, default, sufferance, or neglect of a Local Authority or any of its officers or employees, or on any land or premises owned or occupied by a Local Authority, and also in any case where any Local Authority fails to exercise or perform wholly or in part any power, authority, or jurisdiction which by this Act is conferred upon or vested in it, the Commissioner may abate or remedy such nuisance or injurious condition, or may exercise or perform such power, authority, or jurisdiction, or may institute and carry on any legal or other proceeding as fully and completely as if he were the Local Authority concerned, including any proceedings against the Local Authority or its officer or employee; and any costs, charges, or expenses incurred by the Commissioner under this section shall be a debt due from the Local Authority to the Crown, and shall be recoverable with full costs by the Commissioner in any court of competent jurisdiction. Power to proceed against Local Authority for nuisance.

Section one hundred and sixty of this Act shall not apply to any proceedings taken by the Commissioner under this section.

[174B.] In every case where a Local Authority is authorised or required by this Act to cause any work to be done, or any order or direction to be issued, for the purpose of preventing or removing any nuisance or checking or preventing the spread of infectious diseases, Who may act for Local Authority in cases of emergency.

it shall be lawful for the Chairman or, if the matter is one of emergency, the clerk to cause such work to be done or such order or direction to be issued. And thereupon the same consequences shall ensue as if the work had been done or the order or direction issued by the resolution of the Local Authority: Provided that a statement of all such work caused to be done and every such order or direction issued shall at the next meeting be submitted to the Local Authority.

96. After section one hundred and eighty of the Principal Act, the following section is inserted:—

Power to
Local
Authorities
to borrow for
certain works.

[181.] In order to facilitate the construction of drainage and sewerage works, refuse-destroying works, disinfecting stations, hospitals, and other sanitary works, and the installation of services for the collection, removal, and disposal of nightsoil, garbage, and other offensive matter by Local Authorities, the following provisions shall apply:—

- (1) The Local Authority may borrow money from the Treasurer, under and subject to "*The Local Authorities Act of 1902*,"* and for the purpose of constructing such work or installing such service;
- (2) In any case where the work to be constructed or service to be installed has been recommended by the Commissioner and approved by the Minister, the Local Authority may, for the purpose of constructing the work or installing the service, borrow money as aforesaid without taking any poll of the ratepayers or obtaining their consent to the work or service or to the loan;
- (3) Any two or more Local Authorities may combine to construct any such work or to instal any such service in common, and for that purpose may raise a joint loan under this section in such manner and upon such terms as the Local Authorities concerned agree upon and the Treasurer approves.