

Health Acts (Further Amendment) Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 25 October 1989

(Brought in by Mr Roper and Ms Kirner)

A BILL

to amend the *Health Act* 1958 and certain other Acts and for other purposes

Health Acts (Further Amendment) Act 1989

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

Purpose

- 5 1. The purpose of this Act is to make miscellaneous amendments to the *Health Act* 1958 and to certain other Acts.

Commencement

- 10 2. (1) Section 37 (1) is deemed to have come into operation on 24 May 1988.
- (2) Sections 59 (1) and 60 are deemed to have come into operation on 14 May 1989.
- (3) Section 37 (2) comes into operation on the day that section 177 (1) (b) of the *Health Services Act* 1988 comes into operation.
- (4) The remainder of this Act comes into operation on a day or days to be proclaimed.

PART 2—AMENDMENT OF *AMBULANCE SERVICES ACT 1986*Amendment of *Ambulance Services Act 1986*

No. 114/1986.

3. (1) The *Ambulance Services Act 1986* is amended as follows:
- (a) In section 3, for the definition of “Centre” substitute—
“College” means the Victoria Ambulance College.”; 5
 - (b) In section 5, for “Centre” (wherever occurring) substitute “College”;
 - (c) In section 9, for “Centre” (wherever occurring) substitute “College”;
 - (d) In section 10— 10
 - (i) in sub-section (3), for “Centre” substitute “College”;
and
 - (ii) in sub-section (4), for “Centre” substitute “College”;
and
 - (iii) in sub-section (6), for “Centre” substitute “College”; 15
 - (e) In section 11, for “Centre” substitute “College”;
 - (f) In section 12, for “Centre” substitute “College”;
 - (g) In section 13—
 - (i) in sub-section (3), for “Centre” (where twice occurring)
substitute “College”; and 20
 - (ii) in sub-section (4), for “Centre” substitute “College”;
 - (h) In the heading to Part 6, for “Ambulance Officers Training Centre” substitute “Victoria Ambulance College”;
 - (i) In section 24—
 - (i) in sub-section (1), for “Ambulance Officers Training Centre” substitute “Victoria Ambulance College”; and 25
 - (ii) in sub-section (2), for “Centre” substitute “College”;
and
 - (iii) in sub-section (3), for “Centre” (where twice occurring)
substitute “College”; and 30
 - (iv) in sub-section (4)—
 - (A) for “Centre” substitute “College”; and
 - (B) for “Centre’s” substitute “College’s”; and
 - (v) in sub-section (5), for “Centre” substitute “College”;
 - (j) In section 25, for “Centre” substitute “College”; 35
 - (k) In section 26, for “Centre” substitute “College”;
 - (l) In section 27—
 - (i) in sub-section (1), for “Centre” substitute “College”;
and
 - (ii) in sub-section (2), for “Centre” (where twice occurring)
substitute “College”; 40

- (m) In section 28, for “Centre” (wherever occurring) substitute “College”;
- (n) In section 29 (1), for “Centre” substitute “College”;
- (o) In section 31—
 - 5 (i) in sub-section (1), for “Centre” (where twice occurring) substitute “College”; and
 - (ii) in sub-section (2), for “Centre” substitute “College”;
- (p) In section 33, for “Centre” substitute “College”;
- (q) In section 34—
 - 10 (i) in sub-section (1), for “Centre” substitute “College”; and
 - (ii) in sub-section (4), for “Centre” substitute “College”;
- (r) In section 35—
 - 15 (i) in sub-section (1), for “Centre” (where twice occurring) substitute “College”; and
 - (ii) in sub-section (3), for “Centre” substitute “College”;
- (s) In section 36—
 - 20 (i) in sub-section (1), for “Centre” substitute “College”; and
 - (ii) in sub-section (2) (d) (i), for “Centre” substitute “College”; and
 - (iii) in sub-section (4)—
 - (A) in paragraph (a), for “Centre” substitute “College”; and
 - 25 (B) in paragraph (b), for “Centre” substitute “College”.
- (t) In section 39 (1)—
 - (i) in paragraph (b), for “Centre” substitute “College”; and
 - (ii) in paragraph (c), for “Centre” substitute “College”;
- (u) In section 42—
 - 30 (i) in sub-section (2), for “Ambulance Officers Training Centre created by section 24” substitute “College”; and
 - (ii) in sub-section (3), for “the Centre” substitute “the College”; and
 - 35 (iii) in sub-section (4), for “the Centre” substitute “the College”;
 - (iv) sub-section (6) is repealed;
- (v) In section 43, for “Centre” (where twice occurring) substitute “College”;
- (w) In section 44—
 - 40 (i) in sub-section (2), for “Centre” substitute “College”; and
 - (ii) in sub-section (3), for “Centre” substitute “College”; and

- (iii) in sub-section (4), for “Centre” substitute “College”;
and
- (iv) in sub-section (5), for “Centre” (where twice occurring)
substitute “College”; and
- (v) in sub-section (8), for “Centre” substitute “College”; 5
and
- (vi) in sub-section (9), for “Centre” substitute “College”.

(2) The Victoria Ambulance College is deemed to be the same body after as before its change of name under the *Ambulance Services Act* 1986 as amended by this Act and the change of name does not affect its status or identity or anything done by it or its rights or liabilities or the continuing appointments of its committee of management, officers or staff. 10

PART 3—AMENDMENT OF *CANCER ACT* 1958

Amendment of *Cancer Act* 1958 15

No. 6213 as
amended by Nos
10262, 80/1986,
19/1988,
49/1988,
12/1989
and 23/1989.

4. (1) The *Cancer Act* 1958 is amended as follows:
- (a) In section 14 (2)—
 - (i) for “six” substitute “seven”; and
 - (ii) in paragraph (b), for “four” substitute “five”;
 - (b) In section 16 (2) (c)— 20
 - (i) for “eight” substitute “nine”; and
 - (ii) for “the Alfred” substitute “the Alfred Group of Hospitals, the Box Hill”; and
 - (iii) for “Prince Henry’s Hospital” substitute “the Monash Medical Centre”; and 25
 - (iv) for “Queen Victoria Memorial Hospital” substitute “Repatriation General Hospital”;
 - (c) In section 29 (4), for “Revenue at the Treasury in Melbourne” substitute “Fund”;
 - (d) In section 59 (1)— 30
 - (i) in the definition of “Medical practitioner”, after “1970” insert “or registered under a corresponding law of a State or Territory”; and
 - (ii) in paragraph (a) of the definition of “Prescribed register”, for “Cervical Register” substitute “Victorian Cervical Cytology Registry”; 35
 - (e) In section 62—
 - (i) in sub-section (4)—
 - (A) omit “, before a report is forwarded to an organisation under sub-section (1) or (2)”; and 40

(B) in paragraph (a), before “must” insert “before a report is forwarded to an organisation under sub-section (1) or (2),”; and

(C) in paragraph (b), after “that other person” insert “and as well as complying with sub-section (3)”; and

(ii) in sub-section (5), after paragraph (d) insert—
“; and

(e) to disclose information to a medical practitioner in accordance with sub-section (6).”.

(2) The finance committee is the same body after as before the change in its membership.

(3) The medical and scientific committee is the same body after as before the change in its membership.

PART 4—AMENDMENT OF *CEMETERIES ACT 1958*

Principal Act

5. In this Part, the *Cemeteries Act 1958* is called the Principal Act.

Rules and regulations by trustees

6. In section 9 of the Principal Act, after “damage” insert—

“; and for the regulating behaviour of persons in the cemetery and for prescribing conditions to be complied with (including the indemnification of the trustees of that cemetery) by persons who conduct burials and who are not undertakers”.

No. 6217.
Reprinted to No.
9660 and
subsequently
amended by Nos
9902, 10224,
10244, 10257,
10262, 16/1986,
60/1986,
60/1986,
60/1986,
110/1986,
121/1986,
12/1989,
18/1989
and 57/1989.

New section 14A inserted

7. After section 14 of the Principal Act insert—

Indemnity by Crown

“14A. If the trustees become subject to a liability, to any person as a result of legal proceedings brought in respect of the performance of any powers conferred on the trustees by this Act or any other Act and, in the performance of those powers, the trustees had acted in good faith and without wilful disregard of their duties, the Crown guarantees that liability.”.

Exhumations

8. Section 48 of the Principal Act is amended as follows:

(a) In sub-section (1), for “under the hand of the Minister” substitute “granted by the Chief General Manager”;

(b) In sub-section (2), for “\$2000” substitute “50 penalty units”;

- (c) In sub-section (3), for “Minister” substitute “Chief General Manager”;
- (d) In sub-section (4), omit “, which shall not exceed \$40,”;
- (e) After sub-section (4) insert—
“ (5) This section does not apply to the removal of cremated remains by the trustees of a cemetery.”.

New section 50A inserted

9. After section 50 of the Principal Act insert—

Exemptions

- “50A. (1) The Chief General Manager may in writing exempt any person, place or thing or class of persons, places or things from any rules or regulations made by trustees or by the Governor in Council under this Act and may impose conditions on any exemption.
 - (2) A person to whom an exemption applies must comply with any conditions imposed on that exemption.
- Penalty: 20 penalty units.”.

Cremation Certificates

- 10. (1) In section 77 (4) of the Principal Act, for “Minister” substitute “Chief General Manager”.
- (2) In section 78 of the Principal Act—
 - (a) in sub-section (1), for “Minister” substitute “Chief General Manager”; and
 - (b) in sub-section (2), for “Minister” substitute “Chief General Manager”.
- (3) In Part A of the Third Schedule to the Principal Act, for “seen the deceased within twenty-eight days of his death (or having seen and identified the body after death)” substitute “signed the notice prescribed under section 19 (1) (b) of the *Registration of Births Deaths and Marriages Act* 1959 in relation to the deceased”.

Penalties

- 11. The Principal Act is amended as follows:
 - (a) In section 11, for “\$500” substitute “10 penalty units”;
 - (b) In section 19 (3), for “\$2000” substitute “25 penalty units”;
 - (c) In section 21 (2), for “\$500” substitute “10 penalty units”;
 - (d) In section 27A (2), for “\$2000” substitute “50 penalty units”;
 - (e) In section 38, for “\$500” substitute “10 penalty units”;
 - (f) In section 40, for “\$1000” substitute “20 penalty units”;
 - (g) In section 45, for “\$500” substitute “20 penalty units”;

- (h) In section 49, for “\$500” substitute “20 penalty units”;
- (i) In section 50, for “\$500” substitute “10 penalty units”;
- (j) In section 74, for “\$500” substitute “10 penalty units”;
- (k) In section 80, for “\$5000” substitute “50 penalty units”.

5 PART 5—AMENDMENT OF *CHIROPODISTS ACT 1968*

Amendment of *Chiropodists Act 1968*

12. The *Chiropodists Act 1968* is amended as follows:

No. 7785 as
amended by Nos.
59/1986, 19/1989
and 57/1989.

(a) After section 5 (5) insert—

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“(6) Each member of the Board is entitled to receive such fees and allowances as are fixed from time to time by the Governor in Council.”;

(b) After section 7 (1) insert—

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“(1A) In exercising its powers or performing its duties, the Board shall from time to time consult the Chief General Manager of the Department of Health in regard to the existing and proposed activities of the Board and shall have regard to the Chief General Manager’s advice.”;

(c) In section 9 (1), for paragraphs (a) and (b) substitute—

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“(a) holds a prescribed degree, diploma or other qualification; or “;

(d) In section 21, paragraph (g) is repealed.

PART 6—AMENDMENT OF *CHIROPRACTORS AND OSTEOPATHS ACT 1978*

Amendment of *Chiropractors and Osteopaths Act 1978*

25 13. The *Chiropractors and Osteopaths Act 1978* is amended as follows:

No. 9161 as
amended by Nos.
9532, 9699,
9784, 59/1986,
110/1987,
83/1987,
84/1987 and
19/1989.

(a) In section 1, sub-section (3) is repealed;

(b) In section 3—

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(i) in sub-section (12), for “expenses and allowances as are prescribed” substitute “and allowances as are fixed from time to time by the Governor in Council”; and

(ii) in sub-section (13), for “expenses and allowances as are prescribed” substitute “and allowances as are fixed from time to time by the Governor in Council”; and

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(iii) in sub-section (14), for “expenses and allowances as are prescribed” substitute “and allowances as are fixed from time to time by the Governor in Council”; and

- (iv) in sub-section (15), for “expenses and allowances as are prescribed” substitute “and allowances as are fixed from time to time by the Governor in Council”; and
- (v) in sub-section (16)—
 - (A) for “expenses or allowances prescribed for the purposes of” substitute “ or allowances referred to in”; and 5
 - (B) in paragraph (a), omit “expenses”; and
 - (C) in paragraph (b), omit “expenses” (where twice occurring); 10
- (c) In section 8 (5), after “20” insert “,21A”;
- (d) In section 14 (1), after “section 13” insert “and 13A.”;
- (e) In section 25 (1)—
 - (i) in paragraph (c), omit “not exceeding \$100”; and
 - (ii) in paragraph (d), omit “not exceeding \$200”; and 15
 - (iii) in paragraph (e), omit “not exceeding \$200”; and
 - (iv) in paragraph (f), omit “not exceeding \$20”; and
 - (v) in paragraph (g), omit “not exceeding “\$10”.

PART 7—AMENDMENT OF *DENTAL TECHNICIANS ACT 1972*

Amendment of *Dental Technicians Act 1972* 20

No. 8366 as amended by Nos. 8808, 9000, 9233, 9479, 9678, 9784, 9863, 10221, 16/1986, 59/1986, 19/1989 and 57/1989.

14. The *Dental Technicians Act 1972* is amended as follows:
- (a) After section 3 (9) insert—
 - “(10) Each member of the Committee is entitled to receive such fees and allowances as are fixed from time to time by the Governor in Council.”; 25
 - (b) In section 15, paragraph (b) is repealed;
 - (c) After section 16 (8) insert—
 - “(9) Each the Board is entitled to receive such fees and allowances as are fixed from time to member of time by the Governor in Council.”; 30
 - (d) In section 25 (1), for paragraph (c) substitute—
 - “(c) is an alcoholic within the meaning of the *Alcoholics and Drug-dependent Persons Act 1968*—”; 35
 - (e) In section 27, after “or advanced dental technician” insert “or dental prosthetist”;
 - (f) In section 32, paragraph (aa) is repealed;

- (g) In section 33 (2), for “*Apprenticeship Act 1958*” substitute “*Industrial Training Act 1975*”.

PART 8—AMENDMENT OF *DENTISTS ACT 1972*

Amendment of *Dentists Act 1972*

No. 8287 as
amended by Nos.
10244,
16/1986,
59/1986,
110/1986,
119/1986,
12/1989 and
57/1989.

15. (1) The *Dentists Act 1972* is amended as follows:

- (a) In section 1—

(i) in sub-section (1), omit all words and expressions after “1972”; and

(ii) in sub-section (2), for “came” substitute “come”;

- (b) In section 3, after the definition of “Board” insert—

“Committee” means the Specialist Practitioners Qualification Committee constituted under Part IVA.”;

- (c) In section 4 (15), for “prescribed” substitute “fixed from time to time by the Governor in Council”;

- (d) In section 7, sub-section (2) is repealed;

- (e) In section 8 (6), for “prescribed” substitute “fixed from time to time by the Governor in Council”;

- (f) In section 9—

(i) paragraph (ha) is repealed; and

(ii) in paragraph (m)—

(A) for “\$500” substitute “10 penalty units”; and

(B) for “\$1000” substitute “20 penalty units”;

- (g) In section 15 (1), for “by him be published in the *Government Gazette*” substitute “be published by the Board in such manner as the Board sees fit”;

- (h) In section 17—

(i) omit “has attained the age of 21 years and who”; and

(ii) for paragraphs (a) and (b) substitute—

“(a) has passed the examinations for a prescribed qualification from a university in Victoria; or”;

- (i) In section 22 (1) after “such person” insert “, on payment of the prescribed fee,”;

- (j) In section 25 (1), for paragraph (b) substitute—

“(b) has been guilty in Victoria or elsewhere of professional misconduct; or

(ba) is dependent upon, habituated, or addicted to a drug of dependence within the meaning of section 4 of the

Drugs, Poisons and Controlled Substances Act 1981;
or”;

- (k) In section 25 (2)—
 - (i) for “\$500” substitute “10 penalty units”; and
 - (ii) for “\$1000” substitute “20 penalty units”; 5
- (l) In section 27 (1), for paragraph (c) substitute—

“(c) is an alcoholic within the meaning of the *Alcoholics and Drug-dependent Persons Act 1968*—”;
- (m) In section 28A—
 - (i) for sub-section (1) substitute— 10

“(1) There is established a Specialist Practitioners Qualification Committee.”; and
 - (ii) in sub-section 2 (b), after “Board” insert “and shall be appointed by the Governor in Council”; and
 - (iii) in sub-section 2 (c), after “appointed” insert “by the Governor in Council”; and 15
 - (iv) in sub-section 2 (d), after “appointed” insert “by the Governor in Council”; and
 - (v) in sub-section 2 (e), after “appointed” insert “by the Governor in Council”; and 20
 - (vi) in sub-section (5), after “Committee” insert “other than the Chairman”;
- (n) In section 28B (1), after “Committee” insert “other than the Chairman”;
- (o) In section 28c (6), for “prescribed” substitute “fixed from time to time by the Governor in Council”; 25
- (p) In section 29 (2), omit “shall not be licensed to practise as a school dental therapist unless the person”;
- (q) In section 36 (4), for paragraph (iii) substitute—
 - “(iii) A public hospital, a denominational hospital or a community health centre with the meaning of the *Health Services Act 1988*,” 30
- (r) In section 42 (3), for “or any institution which is an affiliated college within the meaning of the *Victoria Institute of Colleges Act 1965*” substitute “Limited or any institution which is an autonomous college within the meaning of the *Post-Secondary Education Act 1978*”; 35
- (s) In section 44 (2) (a)—
 - (i) for “\$200” (where twice occurring) substitute “4 penalty units”; and 40
 - (ii) for “\$1000” substitute “20 penalty units”;
- (t) In section 44 (2) (b)—
 - (i) for “\$500” substitute “10 penalty units”; and

(ii) for “\$1000” substitute “20 penalty units”.

(2) The Specialist Practitioners Qualification Committee is deemed to be the same body after as before its reconstitution under the *Dentists Act 1972* as amended by this Act and that reconstitution does not affect the appointment or term of office of any member of the Committee holding office immediately before the commencement of this section.

PART 9—AMENDMENT OF *DIETITIANS ACT 1981*

Amendment of *Dietitians Act 1981*

16. The *Dietitians Act 1981* is amended as follows:

No. 9676 as amended by Nos. 8784, 10262 and 110/1986.

- 10 (a) In section 1, sub-section (3) is repealed;
- (b) In section 28 (f)—
 - (i) omit “, not exceeding”; and
 - (ii) omit “\$200”; and
 - 15 (iii) omit “\$120” (where 3 times occurring); and
 - (iv) omit “\$100”; and
 - (v) omit “\$20”.

PART 10—AMENDMENT OF *DRUGS, POISONS AND CONTROLLED SUBSTANCES ACT 1981*

Principal Act

20 17. In this Part, the *Drugs, Poisons, and Controlled Substances Act 1981* is called the Principal Act.

No. 9719. Reprinted to No. 10002 and subsequently amended by Nos. 10087, 10262, 21/1986, 101/1986, 110/1986, 12/1987, 20/1987, 41/1987, 97/1987, 51/1989, 56/1989 and 57/1989 and by proclamations and statutory rules.

Membership of Poisons Advisory Committee

25 18. In section 15 (2) (j) of the Principal Act, for “Department of Health and who is expert in industrial hygiene” substitute “public service”.

Licences

19. (1) In section 19 (1) of the Principal Act, paragraph (e) is repealed.

(2) In section 19 (5) of the Principal Act, paragraph (b) is repealed.

(3) In section 22 (7) of the Principal Act, paragraph (f) is repealed.

Repeal of section 25

20. Section 25 of the Principal Act is repealed.

New section 133A inserted

21. After section 133 of the Principal Act insert— 5

Certain regulations and proclamations exempt from Regulatory Impact Statements

“133A. The provisions of the *Subordinate Legislation Act* 1962 which require the preparation of regulatory impact statements do not apply to— 10

- (a) any regulation; or
- (b) any proclamation which amends Schedule One, Two, Three, Four, Five, Six, Seven or Eight—

if the regulation or proclamation—

- (c) is consistent with, and gives effect in Victoria to, the Standard for the Uniform Scheduling of Drugs and Poisons as published or amended from time to time by the National Health and Medical Research Council; and 15
- (d) has been recommended by the Committee.”. 20

PART 11—AMENDMENT OF *FOOD ACT* 1984

22. (1) The *Food Act* 1984 is amended as follows:

- (a) In section 3 (5), paragraph (c) is repealed;
- (b) In section 4 (1)—
 - (i) in the definition of “Authorized Officer”, after paragraph (b) insert— 25
 - “; or
 - (c) the Chief General Manager.”; and
 - (ii) in the definition of “National Food Standards Council Agreement”, after “Schedule 2” insert “and, if that agreement is amended or substituted, includes that agreement as so amended or substituted”; 30
- (c) In section 19—
 - (i) in sub-section (1)—
 - (A) after “disrepair” insert “or that food that is being prepared on any premises is unfit for human consumption or is adulterated”; and 35

(B) after “improved” insert “or specify steps to be taken to prevent or abate the unfitness for human consumption or adulteration of the food being prepared”; and

(ii) in sub-section (2)—

(A) after paragraph (a) insert—

“(aa) the food premises shall not be kept or used for the preparation of any food; or”; and

(B) after “improved” insert “or that steps have been carried out to prevent or abate the unfitness for human consumption or adulteration of the food being prepared”;

(d) In section 20—

(i) in sub-section (5), for “property of the Crown” substitute “operated by the Crown or a public body”; and

(ii) sub-section (6) is repealed;

(e) In section 29, for “For a first offence 25 penalty units, and for a second or subsequent offence 50” substitute “100”;

(f) In section 36 (2), for “with the Chief General Manager” substitute—

“with—

(a) the Chief General Manager; and

(b) if the food premises are not operated by the Crown or a public body, the council”;

(g) In section 37—

(i) sub-sections (1), (2), (3) and (4) are repealed; and

(ii) in sub-section (5) (a), omit “by the person in whose name the machine is registered or, if the machine is not registered or is not required to be registered,”;

(h) In section 38, sub-sections (1) and (2) are repealed;

(i) In section 39—

(i) in sub-section (1)—

(A) for “, food vehicle or food vending machine” substitute “or food vehicle”; and

(B) in paragraph (a), for “, vehicle or machine” substitute “or vehicle”; and

(C) for paragraph (b) substitute—

“(b) may require any alterations or improvements to be made to the premises or vehicle in order that the requirements of this Act with respect to those premises or that vehicle are complied with”; and

(ii) in sub-section (2)—

- (A) for “, food vehicle or food vending machine”
substitute “or food vehicle”; and
- (B) in paragraph (a), for “, vehicle or machine”
substitute “or vehicle”; and
- (C) for paragraph (b) substitute— 5
 - “(b) may require any alterations or improvements
to be made to the premises or vehicle in order
that the requirements of this Act with respect
to those premises or that vehicle are complied
with.”; and 10
- (iii) in sub-section (3) (b), omit “subject to sub-section (4),”;
and
- (iv) in sub-section (5), for “, food vehicle or food vending
machine” substitute “or food vehicle”;
- (j) In section 40— 15
 - (i) in sub-section (1)—
 - (A) omit “or food vending machine”; and
 - (B) omit “or machine”; and
 - (ii) in sub-section (3), for “an hotelkeeper’s licence under
the *Liquor Control Act* 1968” substitute “a licence or
permit within the meaning of the *Liquor Control Act*
1987”; 20
- (k) In section 41—
 - (i) in sub-section (1), for “, food vehicle or food vending
machine” substitute “or food vehicle”; and 25
 - (ii) in sub-section (2)—
 - (A) for “, food vehicle or food vending machine”
substitute “or food vehicle”; and
 - (B) for “, that vehicle or that machine” substitute “or
that vehicle”; and 30
 - (C) omit “or, in the case of a food vending machine, it
is in a faulty condition”; and
 - (iii) in sub-section (3)—
 - (A) for “, food vehicle or food vending machine”
substitute “or food vehicle”; and 35
 - (B) for “, that vehicle or that machine” substitute “or
that vehicle”; and
 - (C) omit “or, in the case of a food vending machine, it
is in a faulty condition”; and
 - (iv) in sub-section (4)— 40
 - (A) omit “or in respect of a food vending machine”;
and
 - (B) for “, that vehicle or that machine” (where twice
occurring) substitute “or that vehicle”; and

(v) in sub-section (5)—

(A) omit “or in respect of a food vending machine”;
and

(B) omit “or that machine”; and

(C) for “, that vehicle or that machine” substitute “or
that vehicle”;

(l) In section 41A (2) (a), for “, vehicle or machine” substitute
“or vehicle”;

(m) In section 42 (1), for “, food vehicle or food vending
machine” substitute “or food vehicle”;

(n) In section 43 (6)—

(i) omit “or food vending machine”; and

(ii) omit “or machine”;

(o) In section 50 (6)—

(i) in paragraph (a), for “Secretary or a deputy secretary of
the Liquor Control Commission” substitute “Chief
Executive Officer or Registrar of the Liquor Licensing
Commission”; and

(ii) in paragraph (b), for “an hotelkeeper’s licence”
substitute “a licence or permit within the meaning of
the *Liquor Control Act 1987*”; and

(iii) for “such a licence” substitute “such a licence or
permit”;

(p) In section 56, for “Commission” substitute “Chief General
Manager”;

(q) In section 60 (2)—

(i) in paragraph (b), for “Director-General of Agriculture”
substitute “Chief General Manager of the Department
of Agriculture and Rural Affairs”; and

(ii) in paragraph (e), for “Food Technology Association”
substitute “CAFTA Victoria Inc”.

(2) An authorisation by the Chief General Manager under section
20 (6) of the *Food Act 1984* existing immediately before the coming
into operation of this section is deemed to be a delegation made by the
Chief General Manager under section 8A of the *Health Act 1958* and
may be amended or revoked accordingly.

(3) If, before the date of commencement of this section, a council
purported to register under the *Food Act 1984* food premises being the
property of the Crown or a food vehicle being the property of the
Crown and to collect a registration fee and, at the date of that
commencement, the purported registration has not been cancelled or
suspended, the purported registration is and is deemed always to have
been valid and effective as if, since the purported registration and
collection was first made, section 36 (2) of the *Food Act 1984* as amended
by this section had been in operation.

(4) The amendments made to the *Food Act* 1984 by sub-section (1) (q) do not affect the identity of the Food Standards Committee or the appointment or term of office of its members.

PART 12—AMENDMENT OF *HEALTH ACT* 1958

Principal Act

5

No. 6270.
Reprinted to No.
10262 and
subsequently
amended by Nos.
16/1986,
80/1986,
119/1986,
121/1986,
124/1986,
127/1986,
9/1987,
16/1987,
24/1987,
41/1987,
72/1987,
73/1987,
81/1987,
73/1987,
81/1987,
97/1987,
48/1988,
49/1988,
12/1989,
18/1989,
19/1989 and
57/1989.

23. In this Part, the *Health Act* 1958 is called the Principal Act.

Radiation safety

24. (1) In section 108AB of the Principal Act, in the definition of “Radio-active Substance”, for the expression commencing “and includes” and ending at the end of the definition, substitute “which consists of or contains any radio-active element or compound whether natural or artificial, and includes any device or thing that contains such a substance”.

10

(2) After section 108AF. (1) of the Principal Act insert—

“(1A) A person who is registered under section 108AL to practise in radiography or nuclear medicine technology is exempt from the requirement to obtain a licence.”.

15

(3) In section 108AK.(5) of the Principal Act, for “prescribed” substitute “fixed from time to time by the Governor in Council”.

(4) In section 108AL. of the Principal Act—

20

(a) in sub-section (1), for “Radiographers and” substitute “Medical”; and

(b) in sub-section (2) (b), for “radiation” substitute “nuclear medicine”; and

(c) after sub-section (2) insert—

“(2A) The Board may register persons to practice in radiography or nuclear medicine technology as medical imaging technologists, radiation therapy technologists and nuclear medicine technologists.

(2B) Each member of the Board is entitled to receive such fees and allowances as are fixed from time to time by the Governor in Council.”.

(5) Section 108AL (3) of the Principal Act is amended as follows:

(a) In paragraph (a), for “radiographers and radiation technologists” substitute “medical imaging technologists, radiation therapy technologists and nuclear medicine technologists”;

(b) In paragraph (b), for “Radiographers and” substitute “Medical”;

(c) For paragraph (c) substitute—

“(c) defining the practice of radiography and nuclear medicine technology;”;

(d) In paragraph (d), for “radiographers and radiation technologists” substitute “medical imaging technologists, radiation therapy technologists and nuclear medicine technologists”;

(e) After paragraph (d) insert—

“(da) the granting of provisional registration subject to conditions, limitations or restrictions;”;

(f) For paragraph (f) substitute—

“(f) providing for the Board to hold an inquiry into the conduct of any person registered by the Board and to cancel or suspend registration as a result of the inquiry;”;

(g) For paragraph (i) substitute—

“(i) prohibiting a person not registered by the Board from practising as a medical imaging technologist, a radiation therapy technologist or a nuclear medicine technologist or from using (either alone or in combination with any other word) the name or title of medical imaging technologist, radiation therapy technologist, nuclear medicine technologist, radiographer, medical diagnostic radiographer or medical therapy radiographer or any other name, title or description implying that the person is registered by the Board or qualified to practise in radiography or nuclear medicine technology and generally regulating the practice of persons in connection with the practice of radiography or nuclear medicine technology;

- (ia) empowering the Board to impose fines of not more than 20 penalty units for any contravention of the regulations and to impose conditions on registration or both; and”.

(6) A person who, at the date of commencement of this section, is licensed under the Health (Radiation Safety) Regulations 1984— 5

- (a) as a medical diagnostic radiographer, is deemed to be qualified for registration as a medical imaging technologist; or

- (b) as a medical therapy radiographer, is deemed to be qualified for registration as a radiation therapy technologist; or 10

- (c) as a nuclear medicine technologist, is deemed to be qualified for registration as a nuclear medicine technologist—

by the Medical Radiation Technologists Registration Board of Victoria established under section 108AL of the Principal Act. 15

(7) The Medical Radiation Technologists Registration Board of Victoria is deemed to be the same body after as before its change of name under the Principal Act as amended by this Act and the change of name does not affect its status or identity or anything done by it or its rights or liabilities or the continuing appointments of members of the Board. 20

New Parts VII and VIII substituted for Part VII

25. For Part VII of the Principal Act substitute—

“PART VII—IMMUNISATION”

Definitions 25

“143. In this Part and in Part VIII—

“**Prescribed infectious diseases**” means the infectious diseases prescribed by the regulations for the purposes of this Part.

“**Primary school**” means a registered school wholly or partly attended by children between five and eleven years of age.” 30

Immunisation status certificates to be produced upon enrolment at primary school

“144. (1) The parent or a guardian of a child must give an immunisation status certificate in respect of each prescribed infectious disease to the person in charge of each primary school that the child attends, before the child first attends that school. 35

Penalty: 5 penalty units.

(2) A person in charge of a primary school must not refuse a child admission to the school only because an immunisation status certificate has not been produced in respect of that child.

(3) An immunisation status certificate—

(a) must be in the prescribed form; and

(b) must be completed by a person authorised to do so by the council of the municipal district—

(i) in which the child resides; or

(ii) in which the primary school first attended by the child is located.

(4) The person authorised to do so by a council must issue an immunisation status certificate if the parent or guardian of a child produces for each prescribed infectious disease—

(a) evidence that the child—

(i) has been immunised against that disease; or

(ii) has not been immunised against that disease because a medical practitioner has reasonably believed that the child may suffer an adverse reaction to the immunisation; or

(b) a statutory declaration that—

(i) the parent or guardian believes the child has been immunised against that disease; or

(ii) the parent or guardian has a conscientious objection to immunisation against that disease; or

(c) a written undertaking by the parent or guardian to have the child immunised against that disease within the period not exceeding six months specified in the undertaking.

(4) A parent or guardian who gives an undertaking under sub-section (3) (c) must carry out that undertaking.

Penalty: 5 penalty units.

(5) A person in charge of a primary school may rely on statements in an immunisation status certificate.

(6) A statement in an immunisation status certificate as to the reasonable belief of a medical practitioner is conclusive proof that the belief was reasonable.”

Outbreaks of prescribed infectious diseases in primary schools

“145. A person in charge of a primary school may direct that a child enrolled at the school not attend the school if he or she believes the child is not immunised against a prescribed infectious disease and—

- (a) the person in charge of the school reasonably believes that there is an outbreak of that disease at that school; or
- (b) a medical officer of health has advised the person in charge of the school that he or she reasonably believes there is an outbreak of that disease in the community in which the school is situated.” 5

“PART VIII—REGULATIONS”

Regulations

- “146. (1) The Governor in Council may make regulations for or with respect to all or any of the following matters: 10
- (a) Prescribing those diseases and conditions which are infectious diseases for the purposes of this Act;
 - (b) Diagnosing infectious diseases;
 - (c) The procedures to be taken to stop, limit or prevent the spread of any infectious disease including— 15
 - (i) the examination, testing, counselling, isolation, quarantine or immunisation of persons; and
 - (ii) the evacuation or disinfection of buildings, places or things; and 20
 - (iii) the disposal of infective materials and the destruction or control of animals who spread infectious diseases; and
 - (iv) any other procedures;
 - (d) The tracing of persons having contact with persons infected with infectious diseases; 25
 - (e) Prescribing infectious diseases for the purposes of Part VII;
 - (f) Defining “immunised” in relation to each prescribed infectious disease; 30
 - (g) The form of immunisation status certificates for the purposes of Part VII;
 - (h) The retention of immunisation status certificates by persons in charge of primary schools;
 - (i) The persons to whom and the circumstances in which the person in charge of a primary school must allow access to immunisation status certificates; 35
 - (j) Providing that immunisation status certificates need not be produced for a class or classes of persons generally or for a specified period; 40
 - (k) The closing of schools and children’s service centres (within the meaning of Part XIA) or the regulation or restriction of school or centre attendance because of an infectious disease;

- (l) In the case of premises where infectious diseases may be spread which are premises on which a business is conducted or to which the public has access—
- 5 (i) requirements to be observed by the proprietor of the business or person in charge of the premises including requirements as to—
- (A) the registration and cleanliness of the premises; and
- 10 (B) the provision at the premises of information about infectious diseases; and
- (C) the general safeguarding of the health of persons likely to be using the premises; and
- (ii) power to inspect the premises;
- 15 (m) The investigating of outbreaks of infectious diseases, including the power to enter premises and search for and seize goods without a warrant to do so;
- (n) The preparation, keeping and use of pathogenic micro-organisms or other material capable of causing disease in humans;
- 20 (o) The reporting or notification of infective conditions or diseases by specified persons or classes of persons to the Chief General Manager and the giving of information to other persons or the collection and analysis of information about infectious diseases;
- 25 (p) The classes of persons who may give information required to be given under Part VI;
- (q) Offences for contravening the regulations, including offences for failing to act in accordance with directions given by persons authorised by the regulations to give directions;
- 30 (r) Forms for the purposes of the Act;
- (s) Any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- 35 (2) The regulations—
- (a) may be of general or limited application; and
- (b) may differ according to differences in time, place or circumstances; and
- 40 (c) may impose any discretionary authority or duty on or leave any matter to be approved or determined by a specified person or body or a specified class of persons or bodies; and
- (d) may impose penalties not exceeding 100 penalty units for a contravention of the regulations.

(3) Regulations made under this section may be disallowed, in whole or in part, by resolution of either House of Parliament in accordance with the requirements of section 6 (2) of the *Subordinate Legislation Act 1962*.”.

Statute Law Revision

5

26. (1) In Part X. of the Principal Act, the heading to Division 1 is repealed.

(2) In section 208FA. (a) of the Principal Act—

(a) in sub-paragraph (i), omit “that”; and

(b) in sub-paragraph (ii), omit “that”; and

(c) in sub-paragraph (iii), omit “that”.

10

(3) In section 242 (2) of the Principal Act, omit “which shall thereupon refer the matter to the Food Standards Committee for consideration and advice”.

Fees to be paid to advisory committee

15

27. The Principal Act is amended as follows:

(a) In section 260 (10), for “for their services as are prescribed” substitute “and allowances as are fixed from time to time by the Governor in Council”;

(b) In section 269 (a), omit “and the fees to be paid to the several members thereof”.

20

Sale of “over the counter” HIV tests

28. In section 289 of the Principal Act, before paragraph (d) insert—

“(c) prohibiting or regulating the sale or offering for sale of any article intended to be used to diagnose a specimen of human blood for HIV (except by specified persons or classes of persons);”.

25

New section 369A inserted

29. After section 369 of the Principal Act insert—

Registration may be subject to conditions

30

“369A. The Chief General Manager or the council (as the case may be)—

(a) may grant or renew the registration of any premises subject to any terms and conditions that the Chief General Manager or the council (as the case may be) thinks fit; and

35

(b) may at any time during the currency of any registration vary the terms and conditions of the registration.”.

Appeals

30. In section 387 (1) of the Principal Act—

(a) for the expression beginning “council refuses or neglects” and ending with “under this Act—” substitute—

“council—

(a) refuses or neglects—

(i) to give approval or consent to any application made pursuant to this Act; or

(ii) to grant any application for or for the renewal of any registration under this Act; or

(b) imposes terms and conditions on any registration or renewal of any registration under this Act; or

(c) varies terms and conditions of any registration under this Act during the currency of the registration—”; and

(b) after “withheld” insert “or why terms and conditions have been imposed or varied”.

Exemptions

31. In section 391 (1) of the Principal Act, after paragraph (c) insert—

“(ca) may confer a power on the Chief General Manager to grant exemptions from all or any of the requirements of this Act or the regulations.”.

PART 13—AMENDMENT OF *HEALTH (GENERAL AMENDMENT) ACT 1988*

Principal Act

32. In this Part, the *Health (General Amendment) Act 1988* is called the Principal Act.

No. 48/1988 as amended by No. 1/1989.

Substitution of proposed s. 118 of *Health Act 1958*

33. In section 20 (1) of the Principal Act, for proposed new section 118 to be inserted in the *Health Act 1958* substitute—

Definitions

‘118. In this Part—

“Test” means diagnostic procedure.’.

Substitution of proposed Division 3 of Part VI of the *Health Act 1958*

34. In section 20 (1) of the Principal Act, for proposed new Division 3 of Part VI to be inserted in the *Health Act 1958* substitute—

“Division 3—Examining, Testing, Counselling, Restriction and Isolation Orders” **5**

Orders

“121. (1) If the Chief General Manager reasonably believes that a person—

- (a) has an infectious disease; and
- (b) is likely to transmit that infectious disease to another person who does not voluntarily accept the risk of being infected with that infectious disease— 10

the Chief General Manager may make an order in writing, stating why he or she believes the person is infected with the infectious disease and why he or she believes it is likely to be transmitted, and requiring that the person be examined and tested for that disease. 15

(2) If a person has been examined and tested for an infectious disease and the results of the test are positive, the Chief General Manager may make an order in writing requiring that the person undergo counselling about that disease, if counselling is appropriate having regard to the nature of the disease. 20

(3) If the Chief General Manager is satisfied that a person—

- (a) has an infectious disease or has been exposed to an infectious disease in circumstances where a person is reasonably likely to contract the disease; and 25
- (b) is a serious risk to public health; and
- (c) where counselling is—

- (i) appropriate, the person has been counselled but without success in achieving appropriate and responsible behaviour change; or 30
 - (ii) inappropriate, having regard to the nature of the disease—

the Chief General Manager may make an order in writing imposing restrictions on the person’s behaviour or movements. 35

(4) If sub-section (3) applies but—

- (a) the Chief General Manager considers that an order referred to in sub-section (3) is inappropriate, having regard to the nature of the infectious disease; or 40

- (b) the person who is the subject of the order fails to comply with the restrictions imposed by an order under that sub-section—

the Chief General Manager may make an order requiring that the person be isolated and detained at the place, for the period and in the manner stated in the order.

(5) If an order is made under sub-section (1) but the person refuses to undergo a test for an infectious disease, the Chief General Manager may make an interim order for the isolation and detention of a person for a period not exceeding 72 hours for the purpose of examining the person and testing for that disease and may renew the order for a further period or periods not exceeding 72 hours.

- (6) An order under this section must—

- (a) name the infectious disease; and
- (b) identify the person believed to be infected; and
- (c) if applicable, name the counsellor; and
- (d) if applicable, state the period for which the person is to be isolated; and
- (e) if applicable, state the type of examination, testing or counselling required; and
- (f) if applicable, state the type of restrictions imposed.

(7) The Chief General Manager may make an order subject to conditions and may vary or revoke the order.

(8) The Chief General Manager must review an isolation order at intervals not exceeding 28 days and may renew the order for a further period or periods not exceeding 28 days.

(9) An order lapses if the testing of the person identified in the order shows that that person is not infected with the infectious disease named in the order and no test shows that the person is or may be infected with that infectious disease.

(10) The person who is identified in an order must comply with it.

Penalty: 50 penalty units.

(11) The Chief General Manager may authorise a medical officer of the Department to carry out an isolation order.

(12) If, to enforce the order, the medical officer finds that it is necessary to arrest the person who is the subject of the order, the medical officer may obtain the assistance of any member of the police force to do so.

(13) For the purposes of arresting a person under sub-section (12), the medical officer may with any assistance that is required—

- (a) enter any premises; and

(b) use any force that may reasonably be necessary.

(14) The medical officer who has arrested a person under sub-section (12) must take that person to the place stated in the order.

(15) A person who acts in reliance on an authorisation of the Chief General Manager under sub-section (11) is not liable to any civil or criminal action for so acting, whether or not there was any defect in the authorisation.” 5

Appeals

“122. (1) A person to whom a restriction order, isolation order or interim isolation order under section 121 relates may at any time but not more than— 10

(a) in the case of an interim isolation order, once during the period of the order; or

(b) in the case of any other order, once during a period of 28 days— 15

apply to the Chief General Manager for a review of the order.

(2) The Chief General Manager must review the order and—

(a) revoke the order; or

(b) vary the order; or 20

(c) confirm the order—

within the period of 5 days after receiving the application for review.

(3) A person to whom an order relates may appeal to the Supreme Court against an order made by the Chief General Manager. 25

(4) An order against which an appeal has been lodged remains in force despite the lodging of the appeal.

(5) The Court must hear and determine an appeal against an order urgently. 30

(6) When determining an appeal, the Court must consider the following matters:

(a) The method by which the disease is transmitted;

(b) The seriousness of the risk of other people being infected; 35

(c) The past behaviour and likely conduct of the person identified in the order;

(d) The extent of the restriction imposed on the person identified in the order.

(7) Upon determining an appeal against an order, the Supreme Court may make an order in substitution for the order made by the Chief General Manager, being an order of a kind that the Chief General Manager may make under section 121. 40

(8) If an appeal against an order has been determined but there has been a change in circumstances, the person to whom the order relates may apply to the Chief General Manager under sub-section (1) for a review of the order.”.

5 Pathologists to be exempt from s. 127 (1) of *Health Act 1958*

35. In section 20 (1) of the Principal Act, in proposed new section 127 to be inserted in the *Health Act 1958*, after sub-section (1) insert—

10 “(1A) Sub-section (1) does not apply to the authorising or carrying out of a test for HIV by a pathologist if the pathologist authorises or carries out the test on the authority of another medical practitioner.”.

Information about HIV

36. In section 20 (1) of the Principal Act, in proposed new section 130 to be inserted in the *Health Act 1958*—

- 15 (a) in sub-section (2), omit “of behaviour” (wherever occurring); and
(b) in sub-section (7), for “category of risk behaviour” substitute “particular prescribed category”.

Definition of “Hospital”

20 37. (1) In section 20 (1) of the Principal Act, in proposed new section 131 to be inserted in the *Health Act 1958*, for paragraph (a) of the definition of “Hospital” substitute—

“(a) a public hospital or denominational hospital within the meaning of the *Health Services Act 1988*; or”.

25 (2) In section 20 (1) of the Principal Act, in proposed new section 131 to be inserted in the *Health Act 1958*, for paragraph (b) of the definition of “Hospital” substitute—

“(b) a private hospital within the meaning of the *Health Services Act 1988*.”.

30 Substitution of proposed Division 8 of Part VI of *Health Act 1958*

38. In section 20 (1) of the Principal Act, for proposed Division 8 of Part VI to be inserted in the *Health Act 1958* substitute—

“Division 8—Immunity”

Immunity for giving information

35 “138. If a pathologist gives information to the Chief General Manager about an infectious disease, an action does not lie against that pathologist for—

- (a) giving that information; or

- (b) because the information is given without the consent of the person to whom it relates or the person for whom it was prepared.”.

Definitions

- 39. Section 20 (2) of the Principal Act is amended as follows: 5
 - (a) After paragraph (a) insert—
 - “(aa) after the definition of “Health officer” insert—
 - ‘ “HIV” means the human immuno-deficiency virus which is a causative agent of the acquired immune deficiency syndrome and other related conditions.’; 10
 - (b) For paragraphs (c) and (d) substitute—
 - ‘(c) for the definition of “Infectious disease” substitute—
 - ‘ “Infectious disease” means a disease or condition prescribed by the regulations to be an infectious disease.’; and 15
 - (d) for the definition of “Isolation” substitute—
 - ‘ “Isolation” means the segregation and separation of persons who are infected or suspected of being infected from other persons.’.”.

Repeal of section 21 20

- 40. Section 21 of the Principal Act is repealed.

Exempt businesses or premises

- 41. In section 28 of the Principal Act, in proposed new section 366c (2) to be inserted into the *Health Act 1958*—
 - (a) for “sub-section (1) if that” substitute “sub-section (1)— 25
 - (a) if the”; and
 - (b) after “exempt business” insert “; or
 - (b) if the person conducts a business from premises prescribed by the regulations as exempt premises; or
 - (c) if the regulations state that premises are exempt if they 30
 - are not the principal place of conduct of the business and the person conducts the business from those premises”.

Penalties

- 42. In section 35 (a) of the Principal Act, after “XII,” insert “or 35 section”.

Amendment of *Prostitution Regulation Act 1986*

- 43. In section 49 of the Principal Act, for “Section 71” substitute “Section 70”.

PART 14—AMENDMENT OF *HEALTH SERVICES ACT 1988*

Principal Act

44. In this Part, the *Health Services Act 1988* is called the Principal Act.

No. 49/1988 as
amended by Nos.
1/1989 and
57/1989.

5 **Amendment of definition of “Supported residential service”**

45. In section 3 of the Principal Act, in the definition of “Supported residential service”, for “profit” substitute “fee or reward”.

Exemptions

- 10 46. In section 11 (1) of the Principal Act—
 (a) for “declare that any” substitute—
 “declare that—
 (“a”) any”; and
 (b) at the end of the sub-section insert—
 “; and
 15 (b) any or all of the provisions of this Act do not apply to a
 specified supported residential service”.

Boards of management of community health centres

- 20 47. (1) In section 46 (1) (b) of the Principal Act—
 (a) for sub-paragraph (i) substitute—
 “(i) a nominee of one or more of the municipalities in the
 area served by the centre; and”;
 (b) in sub-paragraph (ii), for “a representative of a” substitute
 “a nominee of a public hospital or denominational”.
 (2) After section 46 (1) of the Principal Act insert—
 25 ‘(1A) In sub-section (1) (b), “nominee” means a member of
 or a person employed by the municipality, public hospital or
 denominational hospital (as the case may be).’.
 (3) In section 47 of the Principal Act, for sub-section (1)
 substitute—
 30 “(1) A member of a board of a community health centre
 holds offices for the term not exceeding three years specified in
 the regulations or the by-laws of the agency to the intent that, as
 nearly as possible, one third of the positions of elected members
 are or become vacant at each annual meeting of the centre.
 35 (1A) Unless the by-laws of a community health centre
 otherwise provide, a member of the board is eligible for re-
 election or re-appointment.
 “(1B) If—

- (a) the number of candidates for election to a board of a community health centre is less than the number of vacancies to be filled; or
- (b) a member of a board of a community health centre resigns during the member's term of office and no person is available who is eligible and available for election to the board by virtue of the regulations—
the board may co-opt a person to be a member of the board if that person is not ineligible to be a member of the board by virtue of section 46 (2).”.
- (4) In section 47 (2) of the Principal Act, after “appointed” insert “or co-opted”.
- (5) In section 48 (a) of the Principal Act, after “election” insert “or co-option”.
- (6) In section 51 (a) of the Principal Act, for “representatives” substitute “nominees”.

Approval of site for health service establishment

48. The Principal Act is amended as follows:

- (a) In section 70 (1) (a), for “land or of particular” substitute “a particular site or”;
- (b) In section 71—
 - (i) in sub-section (1)—
 - (A) in paragraph (a), for “land” substitute “a site”; and
 - (B) in paragraph (a) (ii), for “land” substitute “site”; and
 - (C) in paragraph (c) (ii), for “land” substitute “site”; and
 - (ii) in sub-section (2), for “land” substitute “a site”;
- (c) In section 73 (c)—
 - (i) for “approval of land” substitute “approval of a site”; and
 - (ii) in sub-paragraph (iii), for “land” substitute “the site”.

Endorsement of certificates of approval in principle

49. After section 74 (2) of the Principal Act insert—

- “(3) The person who is the holder for the time being of a certificate of approval in principle must produce the certificate to the Chief General Manager for endorsement by the Chief General Manager of the particulars of—
 - (a) the variation of the certificate or variation of any condition to which it is subject; or
 - (b) the transfer to another person.”.

Design approval

50. In section 76 (1) (b) of the Principal Act, after “used” insert “or proposed to be used”.

Endorsement of certificates of design approval

5 **51.** (1) In section 81 (1) (a) of the Principal Act, after “certificate” insert “or any condition to which it is subject”.

(2) After section 81 (2) of the Principal Act insert—

10 “(3) The person who is the holder for the time being of a certificate of design approval must produce the certificate to the Chief General Manager for endorsement by the Chief General Manager of the particulars of—

(a) the variation of the certificate or variation of any condition to which it is subject; or

(b) the transfer to another person.”.

15 **Application for renewal of registration**

52. In section 88 (1) of the Principal Act—

(a) for “any time within the period of” substitute “least”;

(b) After sub-section (2) insert—

20 “(2A) An application under sub-section (1) may be made at any time within the period of three months before the expiration of the registration on payment of an additional fee of one half of the prescribed fee.”.

Transfer of registration

25 **53.** In section 92 (2) (c) (ii) of the Principal Act, after “proprietor” insert “or a person who intends to become a proprietor”.

Decisions of Administrative Appeals Tribunal

54. In section 110 of the Principal Act—

(a) for “110.A” substitute “110.(1) A”; and

(b) at the end of the section insert—

30 “(2) The Minister and the Chief General Manager must do everything necessary to give effect to a decision of the Administrative Appeals Tribunal under this section.”.

Victoria Ambulance College

35 **55.** In section 135 of the Principal Act, for “Ambulance Officers Training Centre” substitute “Victoria Ambulance College”.

Quality assurance bodies

56. In section 139 of the Principal Act—
- (a) in sub-section (3), after “member” (where first occurring) insert “, officer or employee”; and
 - (b) in sub-section (4), after “member” (where first occurring) insert “, officer or employee”; and 5
 - (c) in sub-section (5), omit “other”.

Confidentiality

57. In section 141 (2) (c), for “or permitted” substitute “, permitted or required”. 10

Amendment of regulation-making powers

58. Section 158 of the Principal Act is amended as follows:
- (a) In sub-section (1), omit “prescribing”;
 - (b) In sub-section (1) (d), for “for safety, cleanliness and hygiene, to be complied with” substitute “to be complied with for safety, cleanliness and hygiene and the standards of care”; 15
 - (c) In sub-section (1) (k), for “and supported residential services” substitute ‘, private hospitals and supported residential services, including prohibiting or regulating the use of the words “nursing home”, “hostel”, “private hospital” and “supported residential service”’; 20
 - (d) In sub-section (1) (m), after “requirements for” insert “the provision of and”;
 - (e) In sub-section (2), after paragraph (b) insert—
 - “(ba) may leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by any government department, municipal council or public authority or an officer thereof; and 25
 - “(bb) may prescribe fees payable for accommodation in, or health care or any other service provided by a public hospital, denominational hospital, prescribed nursing home or prescribed hostel in terms of being a percentage of the pension and rental allowance under any Commonwealth law as payable from time to time; and”. 30

Transitional provisions—Peter MacCallum Cancer Institute 35

59. (1) In section 166 of the Principal Act—
- (a) in sub-section (1), for “(1) A” substitute “(1) Subject to sub-section (2), a”; and
 - (b) in sub-section (2), after “the Cancer Institute” insert “and the Cancer Institute Board”. 40

- 5 (2) A decision purported to have been made on or after 14 May 1989 by the members constituting the Cancer Institute Board immediately before that date and made before the appointment or election of a new board of the Peter MacCallum Cancer Institute pursuant to section 170 (2) of the Principal Act is deemed to be and always to have been a decision of the Peter MacCallum Cancer Institute.

Transitional provisions—Community health centres

- 10 60. (1) In section 168 of the Principal Act, for “deemed to be a community health centre within the meaning of this Act” substitute “deemed to be an agency registered under Division 2 of Part 3”.

(2) In section 171 (5) of the Principal Act—

- (a) omit “of the board”; and
 (b) in paragraph (a), after “members” insert “of the board”; and
 15 (c) in paragraph (b), for “an equal number of members retire” substitute “one third of the positions of elected members are or become vacant”.

New section 185A inserted

61. After section 185 of the Principal Act insert—

20 **Amendment of *Retirement Villages Act 1986***

‘185A. In section 5 of the *Retirement Villages Act 1986*, for sub-section (1) substitute—

- 25 “(1) This Act does not apply to a supported residential service registered as a health service establishment under the *Health Services Act 1988*.”’

PART 15—AMENDMENT OF *HEALTH SERVICES (CONCILIATION AND REVIEW) ACT 1987*

Amendment of *Health Services (Conciliation and Review) Act 1989*

- 30 62. (1) Section 32 of the *Health Services (Conciliation and Review) Act 1987* is amended as follows:

(a) In sub-section (1)—

- (i) in the definition of “Confidential information”, after “position” insert “and includes a return prepared under section 33”; and
 35 (ii) in paragraph (a) of the definition of “Position”, after “Commissioner” insert “and includes an officer or employee on the staff of the Commissioner”;
 (b) In sub-section (6), after “this Act” insert “or included in a return under section 33 of this Act”.

No. 25/1987 as amended by No. 60/1987.

(2) In the Schedule to the *Health Services (Conciliation and Review) Act 1987*, for “Radiographers and Radiation Technologists Registration Board of Victoria” substitute “Medical Radiation Technologists Registration Board of Victoria”.

PART 16—AMENDMENT OF *MEDICAL PRACTITIONERS ACT 1970* 5

Principal Act

63. In this Part, the *Medical Practitioners Act 1970* is called the Principal Act.

Fees to be paid to Board and Committee

No. 8061 as
amended by Nos.
10244, 10262,
59/1986,
110/1986,
83/1987 and
49/1988.

64. (1) The Principal Act is amended as follows: 10

(a) In section 4 (11), for “prescribed by the regulations” substitute “fixed from time to time by the Governor in Council”;

(b) After section 7A.(11) insert—

“(12) Each member of the Committee is entitled to receive such fees and allowances as are fixed from time to time by the Governor in Council.”; 15

(c) In section 37, paragraph (b) is repealed.

Removal of name from register

65. (1) In section 11 (1) of the Principal Act, for paragraph (d) substitute— 20

“(d) the name of a person is removed from the register;

(da) the restoration of a person’s name to the register is refused; or”.

(2) In section 17 (6) of the Principal Act, for “or (h)” substitute “, (h) or (i)”. 25

New section 18B inserted

66. After section 18A of the Principal Act insert—

Suspension or removal from register without inquiry

“18B. (1) Where— 30

(a) a person is registered as a medical practitioner in Victoria and is or has been registered in another State or Territory; and

(b) the registration board of the other State or Territory has held an inquiry into the conduct of the medical practitioner; and 35

(c) the medical practitioner was entitled to make submissions to that inquiry and to be present at that inquiry and to have legal representation; and

(d) as a result of that inquiry—

(i) the registration of the medical practitioner in the other State or Territory has been suspended or the person's name has been removed from the register of medical practitioners (whether before or after the commencement of this section); and

(ii) the person's name has not been restored to the register in the other State or Territory; and

(e) if the Board had held an inquiry into that conduct of the medical practitioner pursuant to section 17, the Board would have been authorised under this Act to suspend the person's registration or remove the person's name from the register of medical practitioners—

the Board may without inquiry—

(f) suspend the person's registration as a medical practitioner in Victoria for the remainder of the period of suspension in the other State or Territory; or

(g) remove the person's name from the register of medical practitioners.

(2) Where an appeal has been brought pursuant to section 11 (2) against a decision of the Board under this section, the decision of the Board does not take effect, unless the court otherwise orders, until the appeal has been determined in favour of the Board.

(3) If under this section—

(a) the Board suspends a person's registration or removes a person's name from the register; and

(b) the person's name is subsequently restored to the register in the other State or Territory—

the Board must restore the person's name to the register.”.

PART 17—NURSES ACT 1958

Amendment of *Nurses Act 1958*

67. The *Nurses Act 1958* is amended as follows:

(a) In section 1, omit all words and expressions after “Government Gazette”;

(b) In section 9, for sub-section (3) substitute—

“(3) In carrying out its functions the Council shall from time to time consult the Chief General Manager in regard to the existing and proposed activities of the Council and shall have regard to the Chief General Manager's advice.”;

(c) In section 38, sub-section (2) is repealed;

(d) In section 38A (7), paragraph (b) is repealed;

No. 6328 as amended by Nos. 10251, 10262, 16/1986 50/1988 and 57/1989.

(e) In section 45—

- (i) in paragraph (b), omit “and the remuneration of the examiners”; and
- (ii) in paragraph (jb), omit “not exceeding the amounts specified in this Act”; and
- (iii) in paragraph (m), omit “not exceeding in any case the amount (if any) specified in this Act”.

5

68. After section 14 of the *Nurses Act* 1958 insert—

Examiners

“14A. (1) The Council may appoint examiners for the purposes of this Act.

10

(2) Each examiner is entitled to receive such fees and allowances as are fixed from time to time by the Governor in Council.”.

PART 18—AMENDMENT OF *OPTOMETRISTS REGISTRATION ACT* 1958 15

Amendment of *Optometrists Registration Act* 1958

69. The *Optometrists Registration Act* 1958 is amended as follows:

(a) In section 5, for sub-section (12A) substitute—

“(12A) Each member of the Board is entitled to receive such fees and allowances as are fixed from time to time by the Governor in Council.”;

20

(b) In section 14—

(i) sub-section (2) is repealed; and

(ii) in sub-section (3)—

25

(A) omit “being not more than \$150”; and

(B) omit “not exceeding \$1.00”;

(c) In section 26 (1), paragraph (ba) is repealed.

PART 19—AMENDMENT OF *PATHOLOGY SERVICES ACCREDITATION ACT* 1984 30

New section 33A inserted

70. After section 33 of the *Pathology Services Accreditation Act* 1984 insert—

No. 6329 as amended by No. 10087 and 19/1989.

No. 10083 as amended by Nos. 40/1988 and 25/1988 and 57/1989.

Exemptions

“33A. (1) If the Board is of the opinion that it is in the public interest to do so, the Board may exempt an accredited pathology service in which is performed one or a limited range of pathology tests as determined by the Board from all or any of the requirements of this Act or regulations.

(2) The Board may in writing grant an exemption under sub-section (1) subject to any conditions, limitations or restrictions the Board thinks fit.

(3) The proprietor and the person in charge of an accredited pathology service must comply with any conditions, limitations or restrictions imposed under sub-section (2).”.

PART 20—AMENDMENT OF *PHARMACISTS ACT 1974*

Amendment of *Pharmacists Act 1974*

71. The *Pharmacists Act 1974* is amended as follows:

(a) In section 1, sub-section (2) is repealed;

(b) In section 4—

(i) in sub-section (1) (a), for “The Pharmaceutical Society of Victoria” substitute “The Pharmaceutical Society of Australia (Victoria Branch) Ltd”; and

(ii) in sub-section (1) (c), for “The Pharmaceutical Society of Victoria” substitute “The Pharmaceutical Society of Australia (Victoria Branch) Ltd”; and

(iii) in sub-section (1) (e), for “Salaried Pharmaceutical Chemists Association” substitute “Salaried Pharmacists Association”; and

(iv) in sub-section (11), for “expenses and allowances as are prescribed” substitute “and allowances as are fixed from time to time by the Governor in Council”;

(c) In section 5 (2) (c), for “attendance fees and travelling expenses as are prescribed” substitute “fees and allowances as are fixed from time to time by the Governor in Council”;

(d) In section 11, for sub-sections (1) and (2) substitute—

“(1) As soon as practicable after 1 March in each year, the Board must publish a copy of the register in such manner as the Board sees fit.

(2) Copies of the register must be available for sale from the Board.”;

No. 8593.
Reprinted to No.
9784 and
subsequently
amended by Nos.
10244, 10262,
110/1986,
119/1986,
49/1988 and
57/1989.

- (e) In section 12 (1) (a)—
 - (i) in sub-paragraph (ii), after “Pharmacy” insert “Limited”; and
 - (ii) in sub-paragraph (iii), after “Pharmacy” insert “Limited”; 5
- (f) In section 13 (1), after “Pharmacy” insert “Limited”;
- (g) In section 15 (1)—
 - (i) omit “but not to exceed the maximum amount shown against each such matter”; and
 - (ii) omit the column of fees; 10
- (h) In section 16, for sub-section (6) substitute—

“(6) The Board must publish in the *Government Gazette* in the months of June and July in every year a copy of the record corrected to the end of the last preceding month.”;
- (i) In section 18 (3) (d), for “*Poisons Act 1962*” substitute “*Drugs, Poisons and Controlled Substances Act 1981*”; 15
- (j) In section 18 (3) (iv), for “\$500” substitute “25 penalty units”;
- (k) In section 21—
 - (i) in sub-section (4), for “hospital” substitute “registered funded agency within the meaning of the *Health Services Act 1988*”; and 20
 - (ii) in sub-section (8), for “\$500” substitute “25 penalty units”;
- (l) In section 22 (2), for “\$500” substitute “25 penalty units”; 25
- (m) In section 24 (2), for “an institution within the meaning of the *Hospitals and Charities Act 1958*” substitute “a registered funded agency within the meaning of the *Health Services Act 1988*”;
- (n) In section 27 (5), for the expression commencing “shall within 14 days” and ending “changes his place of residence” substitute— 30

“shall—

 - (a) within 14 days after the pharmacist—
 - (i) commences practice as a pharmacist; or 35
 - (ii) changes his place of residence; or
 - (b) without delay after 28 days after the pharmacist changes the place at which he practises as a pharmacist (if he has practised at the same place for the whole of that 28 days period)”; 40
- (o) In section 28 (2), for “\$500” substitute “25 penalty units”;
- (p) In section 33 (2), for “\$500” substitute “25 penalty units”;
- (q) In section 37—

- (i) for “37.” The” substitute “37. (1)” The”; and
- (ii) paragraphs (a) and (b) are repealed; and
- (iii) after paragraph (n) insert—
 “(na) defining the words “student” and “trainee”;” and
- (iv) in paragraph (w), for “*Poisons Act 1962*” substitute
 “*Drugs, Poisons and Controlled Substances Act 1981*”;
 and

(v) at the end of the section insert—

“(2) The regulations—

- (a) may leave any matter to be approved or determined
 by the Board; and
- (b) may apply, adopt or incorporate, with or without
 modification, any matter contained in any
 document, code, standard, rule, specification or
 method formulated, issued, prescribed or published
 by any authority or body as formulated, issued,
 prescribed or published at the time the regulation
 is made or at any time before the regulation is
 made.”.

PART 21—AMENDMENT OF *PHYSIOTHERAPISTS ACT 1978*

Amendment of *Physiotherapists Act 1978*

72. The *Physiotherapists Act 1978* is amended as follows:

- (a) In section 1, sub-section (3) is repealed;
- (b) In section 5 (5), for “prescribed” substitute “fixed from time
 to time by the Governor in Council”;
- (c) In section 7 (1), for “1959” substitute “1986”;
- (d) In section 13 (2) (a), omit “granted in a place outside
 Victoria”;
- (e) In section 28—
 (i) in paragraph (c), omit “, not exceeding \$100”; and
 (ii) in paragraph (d), omit “, not exceeding \$50”; and
 (iii) in paragraph (e), omit “, not exceeding \$60”; and
 (iv) in paragraph (f), omit “, not exceeding \$20”; and
 (v) in paragraph (g), omit “, not exceeding \$10”.

No. 9147 as
 amended by Nos.
 9427, 9689,
 9784, 110/1986,
 83/1987 and
 19/1989

PART 22—AMENDMENT OF OTHER ACTS

Amendment of *Emergency Services Superannuation Act 1986*

No. 94/1986.
Reprinted to No.
81/1988.

73. The *Emergency Services Superannuation Act 1986* is amended as follows:

- (a) In section 3, in paragraph (f) of the definition of “Employee”, for “Ambulance Officers’ Training Centre” substitute “Victoria Ambulance College”; 5
- (b) In section 4 (2), for “Ambulance Officers’ Training Centre” substitute “Victoria Ambulance College”; 10
- (c) In section 7—
 - (i) in sub-section (2) (b), for “Ambulance Officers’ Training Centre” substitute “Victoria Ambulance College”;
 - (ii) in sub-section (3) (d), for “Ambulance Officers’ Training Centre” substitute “Victoria Ambulance College”.

Amendment of *Prince Henry’s Institute of Medical Research Act 1988* 15

No. 43 of 1988.

74. In section 20 (1) of the *Prince Henry’s Institute of Medical Research Act 1988*, for “purposes of this section” substitute “purposes of this Part”.

PART 23—REPEALS

Repeals 20

No. 8642 as
amended by No.
9863.
No. 9244.
amended by No.
9863 and 48 of
1988.

75. (1) The *Health (Contraceptives) Act 1974* is repealed.

(2) The *Health (Amendment) Act 1978* is repealed.

