

# **Health and Community Services (General Amendment) Act 1993**

**No. 42 of 1993**

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**Victoria**

**No. 42 of 1993**

## **Health and Community Services (General Amendment) Act 1993**

[Assented to 1 June 1993]

**The Parliament of Victoria enacts as follows:**

### **PART 1—PRELIMINARY**

#### **1. *Purposes***

The purposes of this Act are to—

- (a) amend the **Drugs, Poisons and Controlled Substances Act 1981** to enable national uniformity in drugs and poisons scheduling and to make other minor amendments; and
- (b) make various amendments to the **Health Act 1958** with respect to the radiation safety provisions and other provisions; and

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- (c) amend the **Health Services Act 1988** with respect to the quality assurance provisions and to make other minor amendments; and
- (d) make various amendments to the **Mental Health Act 1986**; and
- (e) make miscellaneous amendments to various other Acts.

**2. Commencement**

- (1) Part 1 comes into operation on the day on which this Act receives the Royal Assent.
- (2) Section 23 (1) is deemed to have come into operation on 14 May 1989.
- (3) Section 63 is deemed to have come into operation on 23 April 1991.
- (4) Section 67 is deemed to have come into operation on 21 March 1989.
- (5) Section 68 is deemed to have come into operation on 28 November 1989.
- (6) Subject to sub-section (7), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (7) If—
  - (a) Part 5 does not come into operation within a period of 2 years beginning on and including the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period; and
  - (b) any other provision referred to in sub-section (6) does not come into operation within a period of 1 year beginning on and including the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period.

**PART 2—AMENDMENTS TO THE HEALTH ACT 1958**

**3. *Principal Act***

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

No. 6270.  
Reprinted to  
No. 59/1991.

**4. *Amendment of definition of Chief General Manager***

In section 3 of the **Principal Act**, for the definition of **“Chief General Manager”** substitute—

**“Chief General Manager”** means—

- (a) in relation to any act to which section 6 (3) applies, the body corporate established under section 6; and
- (b) in any other case, the Secretary to the Department of Health and Community Services;’.

**5. *Chief General Manager***

(1) In section 6 of the **Principal Act**, for sub-sections (1) and (2) substitute—

(1) The person who is for the time being the Department Head (within the meaning of the **Public Sector Management Act 1992**) of the Department and the successors in office of that person are a body corporate under the name **“Secretary to the Department of Health and Community Services”** and by that name—

- (a) has perpetual succession and a corporate seal; and
- (b) is capable in law—
  - (i) of suing and being sued; and
  - (ii) of acquiring, holding and disposing of real and personal property; and
  - (iii) of doing and suffering all such acts and things as bodies corporate may by law do and suffer and that are necessary for or incidental to the purposes of this or any other Act.

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- (2) The body corporate under sub-section (1) is the successor in law of the body corporate established under section 6 (2) of this Act as in force immediately before the commencement of section 5 of the **Health and Community Services (General Amendment) Act 1993**.
- (2) At the end of section 6 of the Principal Act, insert—
- “(3) Any act required to be done by the Chief General Manager under this Act or any other Act that requires dealing with an interest in land or that is intended to bind any person holding the office of Department Head (within the meaning of the **Public Sector Management Act 1992**) of the Department and that person’s successors in office must be done by the body corporate established under this section.
- (4) A reference in any Act other than this Act or in any document to the Chief General Manager of the Department (however expressed) must be taken to be a reference to the Chief General Manager within the meaning of section 3.”.

**6. Amendment of section 24A**

After section 24A (2) of the Principal Act insert—

- “(2A) Sub-section (2) has effect despite anything to the contrary in section 44A of the **Audit Act 1958**.”.

**7. Amendment of Definitions**

In section 108AB of the Principal Act—

- (a) in the definition of “**non-ionizing radiation**” for “**ultra sonic**” substitute “**ultrasonic**”; and
- (b) the definition of “**owner**” is **repealed**; and
- (c) for the definition of “**radio-active substance**” substitute—

“**radio-active substance**” means any natural or artificial substance whether in solid or liquid form or in the form of a gas or vapour and

includes any article or compound whether it has or has not been subject to any artificial treatment or process—

- (a) which emits ionizing radiation spontaneously with a specific activity which is equal to or greater than the prescribed amount and which is not a prescribed item; or
  - (b) which emits ionizing radiation spontaneously with a specific activity less than the prescribed amount and which occurs in the prescribed circumstances; and
- (d) for the definition of “registered owner” substitute—

“registered person” with respect to an ionizing radiation apparatus or a non-ionizing radiation apparatus of a prescribed class means the person in the name of whom the Chief General Manager has registered the apparatus or source under section 108AE (2A) or into whose name the Chief General Manager has transferred the registration of the apparatus or source under section 108AEA;’.

**8. Amendment of registration procedures for radiation apparatus etc.**

- (1) In section 108AE of the Principal Act, for sub-section (1) substitute—
- “(1) A person may apply to the Chief General Manager for registration of—
- (a) an ionizing radiation apparatus; or
  - (b) a non-ionizing radiation apparatus of a prescribed class; or
  - (c) a sealed radio-active source.”.
- (2) In section 108AE of the Principal Act, after sub-section (2) insert—



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- “(2A) When the Chief General Manager registers an apparatus or source, he or she must register it in the name of the applicant for registration.”
- (3) In section 108AE of the Principal Act, in sub-section (3), for “registered owner” substitute “registered person”.
  - (4) In section 108AE of the Principal Act, in sub-section (4) (d), after “person” insert “and, in the case of an apparatus or source to be used in the diagnosis or therapy of human beings, the apparatus or source is unlikely to result in excessive or unnecessary doses of radiation to the person undergoing the diagnosis or therapy”.
  - (5) In section 108AE of the Principal Act, sub-section (5) is **repealed**.
  - (6) In section 108AE of the Principal Act, in sub-section (5A)—
    - (a) for “(3), (4) and (5)” substitute “(3) and (4)”; and
    - (b) for “(4) or (5)” substitute “(4)”.
  - (6) In section 108AE of the Principal Act, sub-sections (7) to (15) are **repealed**.

**9. Substitution of Section 108AEA**

For section 108AEA of the Principal Act **substitute—**

**“108AEA. Transfer of registration**

- (1) The Secretary may transfer the name in which an apparatus or source is registered to another person during the currency of the registration of the apparatus or source, if the first registered person has applied to the Secretary for the transfer of that name.
- (2) The transfer of the name in which an apparatus or source is registered is

subject to any conditions that the Secretary thinks fit.”.

**10. Licences for radiation apparatus and radio-active substances**

- (1) In section 108AF of the Principal Act, for sub-sections (1) and (1A) substitute—

“(1) A person must not operate, use, manufacture, store, transport, sell, possess, install, service, maintain, repair, test, dispose of or otherwise deal with an ionizing radiation apparatus or non-ionizing radiation apparatus of a prescribed class unless the person is the holder of a licence issued under this Part, or is exempt from the requirement to hold a licence under this Part.

(1A) In any prosecution for an offence under sub-section (1) it is a defence if the act which is the subject of the prosecution was done by a person as agent for another person and the agent reasonably believed the principal was the holder of a licence.

(1B) The holder of a licence under this Part must comply with any conditions or restrictions on the licence.

(1C) A person acting under an exemption from the requirement to hold a licence under this Part must comply with any conditions or restrictions on the exemption.

(1D) An application for a licence issued under this Part must be made to the Chief General Manager.

(1E) 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 under this Part.”.

- (2) In section 108AF of the Principal Act, for sub-section (2) substitute—

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“(2) The Chief General Manager may issue a licence and may impose conditions, limitations or restrictions on that licence.

(2A) A licence issued by the Chief General Manager may authorise the holder to do all or any of the following: to operate, use, manufacture, store, transport, sell, possess, install, service, maintain, repair, dispose of, test or otherwise deal with any ionizing radiation apparatus or non-ionizing radiation apparatus of a prescribed class.”.

(3) In section 108AF of the Principal Act, sub-section (5) is repealed.

(4) In section 108AF of the Principal Act, in sub-section (6), for “two years from the date of its issue” substitute “the period, not exceeding three years from the date of its issue, determined by the Chief General Manager”.

**11. *Alteration of references to registered owner and surrender of licence***

(1) In section 108AG of the Principal Act, in sub-section (1), for “registered owner” (wherever occurring) substitute “registered person”.

(2) In section 108AG of the Principal Act, in sub-section (2) (a), for “registered owner” substitute “registered person”.

(3) In section 108AG of the Principal Act, after sub-section (4) insert—

“(5) A person may surrender a licence by notice in writing given to the Chief General Manager.”.

**12. *Amendment of regulation making powers***

After section 108AJ (1) of the Principal Act insert—

“(2) The regulations—

(a) may be of general or limited application; and

- (b) may differ according to differences in time, place or circumstance; and
- (c) may confer discretion or powers or impose duties on the Chief General Manager; and
- (d) may leave anything to the approval or satisfaction of a specified person.”.

**13. *Insertion of new Division 9 in Part VI***

In Part VI of the Principal Act, after Division 8 insert—

**“Division 9—Disease Notification**

**138. *Regulations about disease notification***

The Governor in Council may make regulations for or with respect to—

- (a) prescribing diseases or abnormal bodily conditions the occurrence or existence of which must be notified to the Chief General Manager;
- (b) the particulars to be furnished by medical practitioners when making notifications of prescribed diseases or abnormal bodily conditions;
- (c) the notification to the Chief General Manager by medical practitioners of the occurrence or existence of any prescribed disease or abnormal bodily condition;
- (d) any matter or thing necessary or expedient to be prescribed with respect to the notification of prescribed diseases or abnormal bodily conditions.”.

**14. *Disclosure of information***

After section 162H (3) of the Principal Act insert—

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“(4) Sub-section (1) has effect despite anything to the contrary in section 44A of the **Audit Act 1958**.”.

**15. Amendment of regulation making powers**

In section 391 (1) (g) of the Principal Act—

- (a) at the end of sub-paragraphs (i) and (ii), for “and” substitute “or”; and
- (b) after sub-paragraph (ii) insert—
  - “(iii) formulated, issued, prescribed or published from time to time; and”.

**16. Statute Law Revision**

- (1) Section 2 of the Principal Act and the First Schedule to the Principal Act are **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”.

**17. Transitional provision**

- (1) Any act done under the seal of the body corporate established under section 6 of the Principal Act before the coming into operation of section 5 of this Act, which was an act which was required to be done in the name of the Chief General Manager of the Department of Health, is not invalid merely because it was done under that seal.
- (2) Any act done—
  - (a) in the name of the Secretary to the Department of Health and Community Services; or
  - (b) under seal in the name of the Secretary to the Department of Health and Community Services—
 before the coming into operation of section 5 of this Act, which was an act which was required to be done in the name of the Chief General Manager of the

Department of Health, is not invalid merely because it was done in the name of the Secretary to the Department of Health and Community Services or under seal in that name.

**PART 3—AMENDMENTS TO THE HEALTH SERVICES ACT  
1988**

**18. *Principal Act***

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

No. 48/1988.  
Reprinted to  
No. 53/1990  
and  
subsequently  
amended by  
No. 2/1992 and  
G.G. 4/9/91,  
p. 2478,  
18/12/1991  
p. 3541,  
22/1/1992  
p. 149,  
29/1/1992  
p. 212,  
17/6/1992  
p. 1504,  
22/7/1992  
p. 1900,  
5/8/1992  
pp. 2082, 2085  
and 7/10/1992  
p. 2998.

**19. *Amendment of Definition***

In section 3 of the Principal Act, in the definition of “**Department**”, after “**Health**” insert “**and Community Services**”.

**20. *New sections 126A and 157A inserted***

(1) After section 126 of the Principal Act insert—

**“126A. *Immunity of visitors***

No civil or criminal proceedings lie against a visitor for anything done in good faith and with reasonable care in reliance on any authority or document apparently given or made in accordance with the requirements of this Act.”.

(2) After section 157 of the Principal Act insert—

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**“157A. Supreme Court—limitation of jurisdiction**

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the bringing before the Supreme Court of an action of the kind referred to in section 126A.”.

**21. Quality assurance**

- (1) In section 139 (2) (a) of the Principal Act, after “that” **insert** “, in the case of a committee, council or body which is not a psychiatric service owned or managed by the Department,”.
- (2) In section 139 (2A) of the Principal Act, in the definition of “**professional association**”, for “only of medical practitioners” **substitute** “principally of health care providers”.
- (3) After section 139 (3) of the Principal Act **insert**—  
“(3A) Sub-section (3) has effect despite anything to the contrary in section 44A of the **Audit Act 1958**.”.
- (4) After sub-section (4) of the Principal Act **insert**—  
“(4A) Sub-sections (3) and (4) do not apply to information that does not identify, either expressly or by implication, a particular individual or particular individuals.  
(4B) Sub-section (4) does not apply to a document that does not identify, either expressly or by implication, a particular individual or particular individuals.”.

**22. Incorporation of documents**

- (1) In section 158 (2) of the Principal Act, paragraph (c) is **repealed**.
- (2) In section 158 of the Principal Act, after sub-section (2) **insert**—

- “(2A) The regulations may apply adopt or incorporate any matter contained in any document, code, standard, rule, specification or method (including any document fixing a fee) formulated, issued, prescribed or published by any person whether—
- (a) wholly or partially or as amended by the regulations; and
  - (b) as formulated, issued, prescribed or published at the time the regulations are made or at any time before then; and
  - (c) as formulated, issued, prescribed or published from time to time.”.

**23. Statute Law Revision**

- (1) In sections 136 (3) (c) and 137 of the Principal Act, omit “Welfare” (wherever occurring).
- (2) In section 167 (4) of the Principal Act, omit “the” before “The Tweddle Baby Hospital”.
- (3) Parts 9, 10, 11 and 12 of the Principal Act are repealed.

**PART 4—AMENDMENTS TO THE MENTAL HEALTH ACT  
1986**

**24. Principal Act**

In this Part the **Mental Health Act 1986** is called the **Principal Act**.

No. 69/1986.  
Reprinted to  
No. 32/1990  
and  
subsequently  
amended by  
Nos. 49/1991,  
68/1992 and  
69/1992.

**25. Amendment of Definitions**

In section 3 of the Principal Act—

- (a) for the definition of “**Chief General Manager**” substitute—

“**Chief General Manager**” means—

- (a) in relation to any act to which section 6 (3) of the **Health Act 1958** applies, the body corporate established under section 6 of that Act; and



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- (b) in any other case, the Secretary to the Department of Health and Community Services;'
- (b) in the definition of "Department", after "Health" insert "and Community Services".

**26. Functions of the Chief General Manager**

In section 6 of the Principal Act—

- (a) in paragraph (e), for "employ and train" substitute "encourage the employment and training of"; and
- (b) in paragraph (g), for "develop and maintain" substitute "promote, encourage and assist the development and maintenance of".

**27. Conditions on community treatment orders**

After section 14 (2) of the Principal Act insert—

- "(2A) A community treatment order may specify where the patient must live, if this is necessary for the treatment of the patient's illness."

**28. Repeal of functions of the Board**

In section 22 (1) of the Principal Act, paragraphs (d), (e) and (f) are repealed.

**29. Reviews**

In section 30 (a) of the Principal Act, for "between four and six weeks" substitute "within 8 weeks".

**30. Amendment of various reporting provisions**

- (1) In section 73 (5) of the Principal Act, omit "the Board and".
- (2) In section 81 (3) of the Principal Act, omit "the Board and".

- (3) In section 82 (5) of the Principal Act, omit “the Board and”.
- (4) In section 85 of the Principal Act—
  - (a) in sub-section (2), omit “the Board and”; and
  - (b) in sub-section (3), for “The Board” substitute “The chief psychiatrist”.

**31. Awards of costs**

In section 131 (1) of the Principal Act, after “circumstances” insert “which are contemptuous or vexatious and”.

**32. Constitution of the Board when conducting reviews**

- (1) In clause 1 of Schedule 2 to the Principal Act—
  - (a) after sub-clause (1) insert—
    - “(1A) A division consists of 3 members, selected by the President, or, in the case of a review under section 30 (b), a division may consist of either 1 member or 3 members, selected by the President.
    - (1B) The size of a division in the case of a review under section 30 (b) is to be determined by the President.”; and
  - (b) in sub-clause (2), for “A division consists of three members selected by the President, of whom” substitute “In the case of a division consisting of 3 members”; and
  - (c) after sub-clause (2) insert—
    - “(2A) A division of 1 member must consist of a person having any 1 or more of the qualifications set out in sub-clause (2) (a), (b) and (c).”.
  - (d) in sub-clause (3), after “a division” insert “of 3 members”.
- (2) In clause 3 of Schedule 2 to the Principal Act—
  - (a) before “Where” insert “(1)”; and

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- (b) after “a division” insert “of 3 members”; and
- (c) at the end of the clause insert—

“(2) Where a question of law arises in proceedings before a division of 1 member who is not eligible to act as a chairperson of a 3 member division, the member must refer the question to a member who is eligible to act as a chairperson of a 3 member division for determination.”.

- (3) In clause 6 of Schedule 2 to the Principal Act—

- (a) in sub-clause (1), for “signed by the members” substitute “signed by the member or members”; and
- (b) in sub-clause (2), after “a division” insert “of 3 members”.

**PART 5—AMENDMENT OF THE DRUGS, POISONS AND CONTROLLED SUBSTANCES ACT 1981**

No. 9719.  
Reprinted to  
No. 25/1990  
and SR No.  
314/1990 and  
subsequently  
amended by  
Nos 49/1991,  
67/1991,  
90/1991 and  
46/1992 and  
SR Nos  
230/1992,  
263/1992,  
308/1992 and  
350/1992.

**33. *Principal Act***

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

**34. *Amendment of section 3***

In section 3 of the Principal Act, sub-sections (1), (2) (b), (5), (6) and (8) are **repealed**.

**35. *Amendment of definitions***

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

- (a) the definitions of “**dangerous poison**”, “**drug of addiction**”, “**hazardous substance**”,

**“industrial and agricultural poison”,  
“medicinal poison”, “potent substance”,  
“restricted substance” and “special poison” are  
repealed;**

**(b) for the definition of “Chief General Manager”  
substitute—**

**“Chief General Manager” means—**

**(a) in relation to any act to which section 6  
(3) of the Health Act 1958 applies, the  
body corporate established under  
section 6 of that Act; and**

**(b) in any other case, the Secretary to the  
Department of Health and Community  
Services;’**

**(c) after the definition of “Committee” insert—**

**“Commonwealth standard” means—**

**(a) the document called “the Standard for  
the Uniform Scheduling of Drugs and  
Poisons”, being recommendations of the  
Public Health Committee of the  
National Health and Medical Research  
Council, published by or by the  
authority of that Council; or**

**(b) if the title, formulator or publisher of  
that document changes, a document  
prescribed to be the Commonwealth  
standard—**

**and, except in sections 12 to 12I, includes  
that standard as published or amended from  
time to time;’;**

**(d) in the definition of “Label” after “Label”  
insert—**

**“(a) in section 27A, means a statement in writing  
on a container of a poison or controlled  
substance; and**

**(b) in any other case—”;**

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(e) for the definition of **“Poison or controlled substance”** substitute **“poison or controlled substance”** means—

- (a) a Schedule 1 poison; or
- (b) a Schedule 2 poison; or
- (c) a Schedule 3 poison; or
- (d) a Schedule 4 poison; or
- (e) a Schedule 5 poison; or
- (f) a Schedule 6 poison; or
- (g) a Schedule 7 poison; or
- (h) a Schedule 8 poison; or
- (i) a Schedule 9 poison; or
- (j) a regulated poison other than a Schedule 7 poison.’;

(f) after the definition of **“poison or controlled substance”** insert—

**“Poisons Code”** means the Poisons Code prepared under section 12 as amended and in force for the time being;

**“Poisons List”** means the Poisons List in the Poisons Code;’;

(g) after the definition of **“Proclamation”** insert—

**“regulated poison”** means—

- (a) a Schedule 7 poison; or
- (b) a substance included in the Poisons Code in the list of substances that are not for general sale by retail;’;

(h) after the definition of **“Regulations”** insert—

**“Schedule 1 Poison”** means a substance in Schedule 1 in the Poisons List;

**“Schedule 2 Poison”** means a substance in Schedule 2 in the Poisons List;

**“Schedule 3 Poison”** means a substance in Schedule 3 in the Poisons List;

**“Schedule 4 Poison”** means a substance in Schedule 4 in the Poisons List;

“**Schedule 5 Poison**” means a substance in Schedule 5 in the Poisons List;

“**Schedule 6 Poison**” means a substance in Schedule 6 in the Poisons List;

“**Schedule 7 Poison**” means a substance in Schedule 7 in the Poisons List;

“**Schedule 8 Poison**” means a substance in Schedule 8 in the Poisons List;

“**Schedule 9 Poison**” means a substance in Schedule 9 in the Poisons List;’;

(i) after the definition of “**Supply**” insert—

“**Therapeutic use**” means use in or in connection with—

(a) the preventing, diagnosing, curing or alleviating of a disease, ailment, defect or injury in human beings or animals; or

(b) influencing, inhibiting, or modifying of a physiological process in human beings or animals; or

(c) the testing of the susceptibility of human beings or animals to a disease or ailment’.

**36. Amendment of section 8**

In section 8 of the Principal Act, paragraph (a) is repealed.

**37. Amendment of section 9—Proclamations**

In section 9 of the Principal Act—

(a) sub-section (2) is repealed;

(b) in sub-section (3) omit “(not being a proclamation mentioned in sub-section (2))”.

**38. New sections 12 to 12M**

For section 12 of the Principal Act substitute—

**“12. Poisons Code**

- (1) The Minister may prepare a Poisons Code.
- (2) The Poisons Code must contain—
  - (a) a Poisons List; and
  - (b) any provisions (including appendices) of the Commonwealth standard concerning the labelling, storing, packaging or advertising of poisons or controlled substances that the Minister considers are in a form suitable for inclusion in the Code; and
  - (c) any provisions (including appendices) of the Commonwealth standard relating to the interpretation of provisions included in the Code under paragraph (a) or (b).

**12A. The Poisons List**

- (1) The Poisons List must contain—
  - (a) 9 Schedules; and
  - (b) a list of any of the substances in those Schedules or the Appendices to the Commonwealth standard that are not for general sale by retail but can only be supplied to persons specifically authorised by this Act or the Regulations, or with a permit or warrant under this Act, to obtain them; and
  - (c) a list of exemptions from those Schedules.
- (2) The headings of the 9 schedules are set out in the table at the end of this section but those headings may be amended in accordance with section 12E.

- (3) The Poisons List may specify—
- (a) the substances to be included in any Schedule in the list by incorporating by reference the substances in the Schedule in the Commonwealth standard with a heading corresponding as nearly as practicable with the heading to the Schedule in the Poisons List; and
  - (b) any substance in the list of substances that are not for general sale by retail by incorporating by reference any provisions (including appendices) in the Commonwealth standard relating to that matter, and any provision of that standard relating to the interpretation of any part of the standard so incorporated; and
  - (c) any substances in the list of exemptions by incorporating by reference any provisions (including appendices) in the Commonwealth standard relating to substances that are wholly or partially exempted from the standard.
- (4) In this Act a reference to a substance in a particular Schedule in the Poisons List excludes that substance to the extent that it is included in the list of exceptions under sub-section (1) (c).

**TABLE**

Schedule No.	Heading
1.	Poisons of plant origin of such danger to health as to warrant their being available only from medical practitioners, pharmacists or veterinary surgeons.



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Schedule No.	Heading
2.	Poisons for therapeutic use that should be available to the public only from pharmacies; or where there is no pharmacy service available, from persons licensed to sell or supply Schedule 2 poisons.
3.	Poisons for therapeutic use that are dangerous or are so liable to abuse as to warrant their availability to the public being restricted to supply by pharmacists or medical practitioners, dentists or veterinary surgeons.
4.	Poisons that should, in the public interest, be restricted to medical, dental or veterinary prescription or supply, together with substances or preparations intended for therapeutic use, the safety or efficacy of which requires further evaluation.
5.	Poisons of a hazardous nature that must be readily available to the public but require caution in handling, storage and use.
6.	Poisons that must be available to the public but are of a more hazardous or poisonous nature than those classified in Schedule 5.
7.	Poisons which require special precautions in manufacture, handling, storage or use, or special individual regulations regarding labelling or availability.
8.	Poisons to which the restrictions recommended for drugs of dependence by the 1980 Australian Royal Commission of Inquiry into Drugs should apply.
9.	Poisons which are drugs of abuse, the manufacture, possession, sale or use of which should be prohibited by law except for amounts which may be necessary for medical or scientific research conducted with the approval of the Chief General Manager.

**12B. *Requirements for labelling and other matters***

Without limiting section 12 (2) (b), in determining for the purposes of that provision whether a provision of the Commonwealth standard is suitable for inclusion in the Poisons Code, the matters which the Minister may take into account include but are not limited to—

- (a) whether the provision applies to the State or an individual;
- (b) whether the provision is in the form of a recommendation or suggestion, rather than an obligation;
- (c) whether the provision is in terms sufficiently certain to enable it to be understood and complied with.

**12c. *What if the Poisons Code conflicts with the Act or regulations?***

If there is an inconsistency between the Poisons Code and a provision of this Act or the regulations, the provision of this Act or the regulations prevails.

**12d. *Incorporation of the Commonwealth standard***

- (1) Any part of the Commonwealth standard to be incorporated by reference in the Poisons Code may be so incorporated as in force at a particular time or from time to time.
- (2) To the extent that it is incorporated by reference in the Poisons Code, the Commonwealth standard forms part of that Code.
- (3) Subject to sub-section (4), if any part of the Commonwealth standard, as in force from time to time, is incorporated by reference in the Poisons Code the part so incorporated must be taken to include that part as amended, varied, remade or superseded from time to time.
- (4) If part of the Commonwealth standard, as in force from time to time, is incorporated by reference in the Poisons

Code and that part is amended, varied, remade or superseded, then until the date fixed under section 12K as the date on which the new matter takes effect the matter so incorporated must be taken not to have been so amended, varied, remade or superseded.

**12E. Amendment of Code**

- (1) The Minister may at any time amend the Poisons Code—
  - (a) to correct—
    - (i) a clerical error or an error arising from an accidental slip or omission; or
    - (ii) an evident material mistake in the description of the Commonwealth standard or a provision of that standard; or
  - (b) if the Code incorporates a part of the Commonwealth standard as in force at a particular date—
    - (i) to change that date; or
    - (ii) to provide that the part of the Commonwealth standard is incorporated as in force from time to time; or
  - (c) if part of the Commonwealth standard is incorporated as in force from time to time to provide that the part is incorporated as in force at a particular time; or
  - (d) to alter the heading to any of the Schedules in the Poisons List so that it corresponds more closely with the heading of the appropriate Schedule in the Commonwealth standard; or

- (e) if a standard is prescribed for the purpose of paragraph (b) of the definition of “**Commonwealth standard**” in section 4 (1), to give effect to that new standard.
- (2) The provisions of this Act applying to the preparation, notification, tabling and availability of the Poisons Code apply to an amendment to that Code.

**12F. *Status of the Poisons Code***

- (1) The Poisons Code is not a statutory rule for the purposes of the **Subordinate Legislation Act 1962**.
- (2) The Poisons Code is a subordinate instrument for the purposes of the **Interpretation of Legislation Act 1984** except section 32 of that Act.
- (3) Section 41A of the **Interpretation of Legislation Act 1984** does not apply to the Poisons Code.

**12G. *Procedure for preparation of the Poisons Code***

- (1) As soon as possible after preparing the Poisons Code, the Minister must publish notice of its preparation in a daily newspaper circulating generally throughout Victoria.
- (2) The Minister may do anything else he or she considers appropriate to bring the preparation of the Code to the attention of the public.
- (3) After complying with sub-sections (1) and (2) the Minister must publish notices of the preparation of the Code in the Government Gazette.

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- (4) A notice under this section must—
- (a) give a brief and general description of the content of the Code; and
  - (b) fix a date, being a date on or after the date of publication of the notice in the Government Gazette, on which the Code takes effect; and
  - (c) state where and when the Code is available for inspection by members of the public; and
  - (d) give details of where, when and from whom a copy of the Code can be obtained.

**12H. *Tabling before Parliament***

- (1) The Minister must cause a copy of the Poisons Code prepared under section 12 and of the notice of its preparation to be laid before the Legislative Council and the Legislative Assembly on or before the 7th sitting day of that House after the date of publication of that notice in the Government Gazette.
- (2) If the Poisons Code incorporates by reference a part of the Commonwealth standard, the Minister must include that incorporated material in the material tabled under sub-section (1).
- (3) If the Poisons Code incorporates by reference a part of the Commonwealth standard as in force from time to time, and that part is amended, varied, remade or superseded, the Minister must, as the case requires—
  - (a) cause a copy of the amendment or variation; or

- (b) cause a copy of any matter superseding or remaking the earlier matter—

to be laid before the Legislative Council and the Legislative Assembly on or before the 7th sitting day of that House after the date of publication in the Government Gazette of notice that the amendment, variation, remaking or superseding of that matter has taken effect.

**12i. Availability of Code**

- (1) The Minister must ensure that the documents listed in sub-section (2) are kept available at the principal office of the Chief General Manager and at any other appropriate public office specified by the Minister by notice published in the Government Gazette, during normal office hours, for inspection by members of the public, without charge.
- (2) The documents are—
  - (a) the Poisons Code as amended and in force for the time being;
  - (b) any matter incorporated by reference in the Poisons Code and, if the Code incorporates matter as in force from time to time, that matter as amended, varied, remade or superseded and in force for the time being;
  - (c) if any matter is incorporated in the Code as in force from time to time, a copy of each amendment or variation of the matter;
  - (d) a copy of any amendment to the Code;

- (e) a copy of each notice published in the Government Gazette under section 12G.

**12J. *What if documents are not notified or made available?***

- (1) A failure to comply with section 12G, 12H or 12I does not affect the validity, operation or effect of the Poisons Code or any matter incorporated in it.
- (2) Despite sub-section (1), a person must not be convicted of an offence against this Act or the regulations, based on any provision in the Poisons Code if, at the time of the commission of the offence, there was, in relation to that provision, a contravention of section 12G or 12I.
- (3) Despite sub-section (1), a person is not prejudicially affected or made subject to any liability under this Act or the regulations based on any provision in the Poisons Code, if it is proved that, at the relevant time, in relation to that provision there was a contravention of section 12G or 12I.

**12K. *Commencement of Poisons Code and incorporated materials***

- (1) The Poisons Code or an amendment to that Code takes effect on the date fixed for that purpose by notice under section 12G.
- (2) If the Poisons Code incorporates by reference a part of the Commonwealth standard as in force from time to time, and that part is amended, varied, superseded or remade, the amendment, variation or superseding or remaking

material takes effect on the date fixed for that purpose by notice published in the Government Gazette.

- (3) On the date of commencement of material incorporated by reference in the Poisons Code that remakes or supersedes any earlier matter, that earlier matter ceases to have effect to the extent that it is part of the Code.

**12L. Evidence**

A document certified in writing purporting to be signed by the Chief General Manager and purporting to be—

- (a) a copy of or an extract from the Poisons Code; or
- (b) a copy of or an extract from any matter incorporated by reference in the Poisons Code; or
- (c) a copy of an amendment of the Poisons Code; or
- (d) a copy of or an extract from any matter amending, varying, remaking or superseding any matter incorporated by reference in the Poisons Code—

is evidence and, in the absence of evidence to the contrary, is proof of the matters stated in the document.

**12M. Amendment of Schedule Eleven**

The regulations may amend a column in Schedule Eleven by adding an item to, deleting an item from, or substituting or altering an item in, that column.



**39. Authority for retail sale of certain poisons**

- (1) In section 13 (2) of the Principal Act after “substance” insert “(other than a Schedule 5 poison or a Schedule 6 poison)”.
- (2) After section 13 (3) of the Principal Act insert—
  - “(4) A person is authorised to sell or supply by retail, subject to and in accordance with the regulations, any Schedule 5 poison or Schedule 6 poison.”.

**40. Membership and functions of Poisons Advisory Committee**

- (1) In section 15 (2) (g) of the Principal Act—
  - (a) in sub-paragraph (ii) for “hazardous substances” substitute “Schedule 5 poisons”;
  - (b) in sub-paragraph (iii) for “industrial and agricultural poisons” substitute “Schedule 6 poisons”.
- (2) In section 16 of the Principal Act—
  - (a) in paragraph (a) for “the Schedules to this Act” substitute—  
“Schedule Eleven”;
  - (b) after paragraph (a) insert—  
“(aa) any necessity to make regulations amending the Commonwealth standard, in so far as it is incorporated in the Poisons Code;”.

**41. Licence not required to retail Schedule 5 and 6 poisons**

- (1) In section 19 (1) of the Principal Act—
  - (a) in paragraphs (a), (b), (c) and (d) for “drug of addiction” substitute “Schedule 8 poison or Schedule 9 poison”; and
  - (b) paragraphs (e) and (h) are repealed; and
  - (c) in paragraph (f) for “poison or controlled substance specified in Schedules Two, Five, Six and Seven” substitute “Schedule 2 poison or

Schedule 7 poison (other than a regulated poison)”; and

(d) for paragraph (g) **substitute—**

“(g) to sell or supply by retail any Schedule 7 poison (other than a regulated poison).”

(2) In section 19 (5) of the Principal Act—

(a) in paragraph (a) for “poison or controlled substance specified in Schedules Two, Five, Six and Seven” **substitute** “Schedule 2 poison or Schedule 7 poison (other than a regulated poison)”; and

(b) paragraphs (b) and (d) are **repealed**; and

(c) for paragraph (c) **substitute—**

“(c) to sell or supply by retail any Schedule 7 poison (other than a regulated poison)—”

#### **42. Regulated poisons**

(1) For the heading to Division 5 of Part II of the Principal Act **substitute—**

##### **“Division 5—Regulated Poisons”**

(2) In section 20 (1) and (2) of the Principal Act for “special poison” (wherever occurring) **substitute** “regulated poison”.

#### **43. Amendment of section 22**

In section 22 (7) of the Principal Act—

(a) in paragraph (a), (b), (c) and (d) for “drug of addiction” **substitute** “Schedule 8 poison or Schedule 9 poison”; and

(b) in paragraph (e) for “poison or controlled substance specified in Schedules Two, Five, Six and Seven” **substitute** “Schedule 2 poison or Schedule 7 poison (other than a regulated poison)”; and

(c) paragraphs (f) and (h) are **repealed**; and

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(d) for paragraph (g) substitute—

“(g) for a licence to sell or supply by retail any Schedule 7 poison (other than a regulated poison), shall not exceed \$300;”.

**44. Section 24 substituted**

For section 24 of the Principal Act substitute—

**“24. Wholesaling of certain poisons**

A person must not sell or supply by wholesale any poison or controlled substance (other than a Schedule 5 poison or a Schedule 6 poison) to any person who is not expressly authorised by this Act or the Regulations, or by a licence, permit or warrant under this Act, to obtain that substance by wholesale.”

**45. Abolition of some offences concerning sale to licensed retailers**

- (1) Section 25 of the Principal Act is repealed.
- (2) In section 26 of the Principal Act after “substance” insert “(other than a Schedule 5 poison or Schedule 6 poison)”.
- (3) In section 27 of the Principal Act after “substance” insert “(other than a Schedule 5 poison or a Schedule 6 poison)”.

**46. Section 27A inserted**

After section 27 of the Principal Act insert—

**“27A. Offences concerning labelling and other matters**

- (1) A person must not sell or supply a poison or controlled substance with a label, or in a container with a label, that

does not comply with the requirements of the Poisons Code.

Penalty: 20 penalty units.

- (2) A person must not sell or supply a poison or controlled substance—
- (a) which the person has stored or packaged otherwise than in accordance with the Poisons Code; or
  - (b) which the person knows to have been stored or packaged otherwise than in accordance with the Poisons Code.

Penalty: 20 penalty units.

- (3) A person must not advertise for sale or supply a poison or controlled substance otherwise than in accordance with the Poisons Code.

Penalty: 20 penalty units.”.

**47. Amendment of references in various sections**

- (1) In section 29 (2) of the Principal Act, after “this Act” insert “, the Poisons Code”.
- (2) In the heading to Division 10 of Part II of the Principal Act, for “Drugs of Addiction and Restricted Substances” substitute “Schedule 8 poisons, Schedule 9 poisons and Schedule 4 poisons”.
- (3) In section 32 of the Principal Act, for “drug of addiction” (wherever occurring) substitute “Schedule 8 poison or Schedule 9 poison”.
- (4) In section 33 (2), (3) and (5) of the Principal Act for “drug of addiction” (wherever occurring) substitute “Schedule 8 poison or Schedule 9 poison”.
- (5) In section 34 (1) of the Principal Act for “drug of addiction” (wherever occurring) substitute “Schedule 8 poison or Schedule 9 poison”.

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- (6) In section 35 (1), (2) and (3) of the Principal Act for “drug of addiction” (wherever occurring) **substitute** “Schedule 8 poison or Schedule 9 poison”.
- (7) In section 36 of the Principal Act for “drug of addiction or restricted substance” **substitute** “Schedule 8 poison, Schedule 9 poison or Schedule 4 poison”.
- (8) In section 36A of the Principal Act for “drug of addiction or restricted substance” **substitute** “Schedule 8 poison, Schedule 9 poison or Schedule 4 poison”.
- (9) In section 36B (1), (2) and (3) of the Principal Act for “drug of addiction or restricted substance” (wherever occurring) **substitute** “Schedule 8 poison, Schedule 9 poison or Schedule 4 poison”.

**48. Substitution of section 38 and new section 38A inserted**

For section 38 of the Principal Act **substitute**—

**“38. Record of sale or supply of prescribed poisons**

A person who sells or supplies by retail any Schedule 6 poison prescribed for the purposes of this section or any Schedule 1 poison or any Schedule 7 poison must make a true record in a sale of poisons book in the prescribed form of each sale or supply in the manner and of the particulars that are prescribed.

**38A. Authorised possession of certain poisons**

A person who purchases or obtains a poison or controlled substance to which section 38 applies and which is supplied to the person in accordance with that section and sections 39 and 40 is authorised by this Act to purchase or obtain and to possess the poison or controlled substance so supplied.”

**49. Amendment of section 40**

In section 40 of the Principal Act, for the expression beginning “any poison” (where first occurring) and ending “section” substitute “any Schedule 6 poison prescribed for the purposes of section 38 or any Schedule 1 poison or any Schedule 7 poison”.

**50. Authorised officers**

- (1) In section 41 (1) of the Principal Act for the expression beginning “any officer” and ending at the end of the sub-section substitute “any of the following persons to exercise and perform the powers, duties and functions of an authorised officer under this Act and the regulations—
  - (a) any officer or employee of the Department of Health and Community Services;
  - (b) any officer or employee of the public service;
  - (c) any officer or employee of a public statutory authority;
  - (d) any member of staff of a municipal council.”.
- (2) In section 41 (4) of the Principal Act after “Department of Health” insert “and Community Services or a public statutory authority or a member of staff of a municipal council”.

**51. Section 118 substituted**

For section 118 of the Principal Act substitute—

**“118. List of licences and permits**

- (1) The Chief General Manager must keep a list of the persons holding current licences or permits under this Act, except licences or permits under section 20, 34 or 56.

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- (2) The list must contain—
  - (a) the full name and the residential or business address of each holder of a licence or permit; and
  - (b) any other prescribed particulars.
- (3) The Chief General Manager must ensure that a copy of the list is kept available for inspection by members of the public during normal office hours without charge, at the Chief General Manager's principal office.
- (4) The Chief General Manager may take any steps that he or she considers appropriate to bring the existence of the list to the notice of members of the public.
- (5) In any proceedings the production of a document certified in writing purporting to be signed by the Chief General Manger and purporting to be a copy of or an extract from the list as at a particular date is evidence and, in the absence of evidence to the contrary is proof—
  - (a) of the matters stated; and
  - (b) that at that date the persons whose names appear in the document held current licences or permits under this Act.
- (6) In any proceedings, the absence of a person's name from a document that complies with sub-section (5) is evidence and in the absence of evidence to the contrary is proof that on the relevant date the person was not the holder of a licence or permit under this Act and that is required to be listed under this section.”.

**52. Amendment of section 119**

In section 119 (a) of the Principal Act—

- (a) omit “or lists” (wherever occurring); and
- (b) omit “and of persons holding licences or permits under this Act”; and
- (c) omit “or a person who holds a licence or permit under this Act”.

**53. Amendment of section 122**

In section 122 (b) of the Principal Act—

- (a) for ‘or “Schedule 8”’ substitute ““Schedule 8” or “Schedule 9””; and
- (b) for ‘or “S. 8”’ substitute ““, S. 8” or “S. 9””.

**54. Amendment of regulation-making powers**

- (1) In section 129 (1) of the Principal Act for “drugs of addiction and restricted substances” substitute “Schedule 4 poisons, Schedule 8 poisons and Schedule 9 poisons”.
- (2) In section 131 of the Principal Act—
  - (a) for “special poisons” (wherever occurring) substitute “regulated poisons”;
  - (b) for “special poison” (wherever occurring) substitute “regulated poison”.
- (3) After section 132 (zc) of the Principal Act insert—
  - “(zca) amending the Commonwealth Standard in so far as it is incorporated in the Poisons Code;
  - (zcb) amending Schedule Eleven in accordance with section 12M;”.

**55. Consequential amendments to section 132**

In section 132 of the Principal Act—

- (a) in paragraph (j) for “potent substances” (wherever occurring) substitute “Schedule 3 poisons”;



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- (b) in paragraph (y)—
  - (i) for “potent substances” substitute “Schedule 3 poisons”;
  - (ii) for “potent substance” substitute “Schedule 3 poison”;
- (c) in paragraph (z) for “potent substance” substitute “Schedule 3 poison”;
- (d) in paragraphs (za) and (zb) for “potent substances” substitute “Schedule 3 poisons”;
- (e) in paragraph (zc)—
  - (i) for “restricted substances” substitute “Schedule 4 poisons”;
  - (ii) for “restricted substance” (wherever occurring) substitute “Schedule 4 poison”.

**56. Section 132A inserted**

After section 132 of the Principal Act insert—

**“132A. Regulations may incorporate other documents**

- (1) Regulations under any provision of this Act may apply, adopt or incorporate by reference any document formulated or published by a person or body, either—
  - (a) without modification or as modified by the regulations; or
  - (b) as formulated or published on or before the date when the regulations are made; or
  - (c) as formulated or published from time to time.
- (2) Regulations under any provision of this Act may apply, adopt or incorporate by reference the Poisons Code or any part of that Code.

- (3) Section 32 of the **Interpretation of Legislation Act 1984** applies to regulations under any provision of this Act that incorporate by reference any part of the Poisons Code as if that part were a statutory rule."

**57. Exemption from regulatory impact statement procedure**

- (1) In section 133A of the Principal Act for sub-section (1) substitute—  
“(1) The provisions of the **Subordinate Legislation Act 1962** with respect to the preparation of regulatory impact statements do not apply to a regulation which is consistent with, and gives effect in Victoria to, the Commonwealth standard.”
- (2) In section 133A (2) and (3) of the Principal Act omit “or proclamation”.

**58. New Part XII substituted**

For Part XII of the Principal Act substitute—

**‘PART XII—TRANSITIONAL PROVISIONS  
CONCERNING THE POISONS CODE**

**134. References**

- (1) In this section “**Subordinate instrument**” has the same meaning as in the **Interpretation of Legislation Act 1984**.
- (2) In—
- (a) an Act other than this Act; or
  - (b) a subordinate instrument made under this Act or any other Act; or
  - (c) any licence, warrant, permit or other instrument under this Act; or
  - (d) any other document whatever—

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a reference of a kind listed in Column 1 of the Table must in relation to any period occurring on or after the commencement of this section and unless inconsistent with the context or subject matter be taken to be a reference of the kind listed opposite in Column 2.

**TABLE**

<b>Column 1</b> Old Reference	<b>Column 2</b> New Reference
Domestic poison	Schedule 5 poison
Special poison (if the reference relates to a Schedule 1 poison)	Schedule 1 poison
Narcotic drug	Schedule 8 poison or Schedule 9 poison
Hallucinogenic drug	Schedule 8 poison or Schedule 9 poison
Dangerous poison (if the reference relates to a Schedule 1 poison)	Schedule 1 poison
Medicinal poison	Schedule 2 poison
Potent substance	Schedule 3 poison
Restricted substance	Schedule 4 poison
Hazardous substance	Schedule 5 poison
Industrial and Agricultural poison	Schedule 6 poison
Dangerous poison (if the reference relates to a Schedule 7 poison)	Schedule 7 poison
Special poison (if the reference relates to a Schedule 7 poison)	Schedule 7 poison
Special poison (if the reference relates to a regulated poison)	Regulated poison
Drug of addiction	Schedule 8 poison or Schedule 9 poison
Substance specified in Schedule One of the <b>Drugs, Poisons and Controlled Substances Act 1981</b>	Schedule 1 poison
Substance specified in Schedule Two of the <b>Drugs, Poisons and Controlled Substances Act 1981</b>	Schedule 2 poison

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<b>Column 1</b> Old Reference	<b>Column 2</b> New Reference
Substance specified in Schedule Three of the <b>Drugs, Poisons and Controlled Substances Act 1981</b>	Schedule 3 poison
Substance specified in Schedule Four of the <b>Drugs, Poisons and Controlled Substances Act 1981</b>	Schedule 4 poison
Substance specified in Schedule Five of the <b>Drugs, Poisons and Controlled Substances Act 1981</b>	Schedule 5 poison
Substance specified in Schedule Six of the <b>Drugs, Poisons and Controlled Substances Act 1981</b>	Schedule 6 poison
Substance specified in Part 1 of Schedule Seven of the <b>Drugs, Poisons and Controlled Substances Act 1981</b>	Schedule 7 poison
Substance specified in Part 2 of Schedule Seven of the <b>Drugs, Poisons and Controlled Substances Act 1981</b>	Regulated poison
Substance specified in Schedule Eight of the <b>Drugs, Poisons and Controlled Substances Act 1981</b>	Schedule 8 poison or Schedule 9 poison

**135. Instruments to continue**

- (1) The amendments made to this Act by the **Health and Community Services (General Amendment) Act 1993** do not affect the continuity of status, operation or effect of any licence, permit, warrant or authority in force under this Act immediately before the commencement of this section.
- (2) Sub-section (1) does not affect the operation of section 134.

**136. Continuity of Poisons Advisory Committee**

The Poisons Advisory Committee is the same body after as before the commencement of the **Health and Community Services (General Amendment) Act 1993.**'.

**59. Repeal of Schedules One to Nine**

Schedules One to Nine of the Principal Act are repealed.

No. 49/1991  
as amended  
by Nos  
81/1991 and  
90/1991.

**60. Amendment of Sentencing Act 1991**

In section 3 of the **Sentencing Act 1991** after the definition of "**Drug-dependent person**" insert "**drug of addiction**" means a drug of dependence within the meaning of the **Drugs, Poisons and Controlled Substances Act 1981.**'.

**61. Transitional Provisions Regarding Licences**

- (1) On the date of commencement of this section each licence under the Principal Act authorising only the sale or supply by retail of a hazardous substance or an industrial and agricultural poison ceases to have effect.
- (2) On the date of commencement of this section, any reference in a licence under the Principal Act authorising the sale or supply by retail of a poison or controlled substance specified in Schedules Two, Five, Six and Seven to Schedules Five and Six of the Principal Act must be taken to be deleted.
- (3) This section does not affect the continuity of status operation and effect of a licence under the Principal Act of a kind referred to in sub-section (2).
- (4) An application made under the Principal Act for a licence of a kind mentioned in sub-section (1) and not dealt with before the commencement of this section must be taken never to have been made.

**PART 6—AMENDMENT OF VARIOUS ACTS**

**62. Amendment of Cemeteries Act 1958**

No. 6217.  
Reprinted to  
No. 7/1991.

**In the Cemeteries Act 1958—**

(a) In section 2 (3), for the definition of “Chief General Manager”, substitute—

“Chief General Manager” means—

(a) in relation to any act to which section 6 (3) of the **Health Act 1958** applies, the body corporate established under section 6 of that Act; and

(b) in any other case, the Secretary to the Department of Health and Community Services; and

(b) In section 3 (1), for “Crown Land (Reserves) Act 1958” substitute “Crown Land (Reserves) Act 1978”; and

(c) In section 19 (2) (b), for “Coroners Act 1958” substitute “Coroners Act 1985”; and

(d) In the Third Schedule, in Part A, 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”; and

(e) In the Fourth Schedule, after “Coburg Public Cemetery”, insert “Northcote Public Cemetery”.

**63. Amendment of Dental Technicians Act 1972**

In section 34A of the **Dental Technicians Act 1972**, for “(2)” (where secondly occurring), substitute “(3)”.

No. 8366 as amended by Nos 8808, 9000, 9233, 9479, 9678, 9699, 9784, 9863, 10221, 16/1986, 59/1986, 19/1989, 57/1989, 45/1990 and 10/1991.

*Health and Community Services (General Amendment) Act 1993*  
*Act No. 42/1993*

s. 64

No. 10082.  
Reprinted to  
No. 97/1987  
and  
subsequently  
amended by  
Nos 12/1989,  
57/1989,  
26/1990,  
6/1991 and  
36/1991.

**64. Amendment of Food Act 1984**

In the Food Act 1984—

- (a) Section 3 (1) and (2) and Schedule 1 are **repealed**; and
- (b) In section 4 (1), in the definition of “**Prescribed**”, for “or the regulations.” **substitute** “, the regulations or a prescribed food standard;”; and
- (c) In section 23 (2), for “Where the regulations do not otherwise prescribe” **substitute** “If a prescribed food standard does not otherwise prescribe”; and
- (d) In section 23 (4) (c), for “the regulations” **substitute** “a prescribed food standard”.

No. 36/1991.

**65. Amendment of the Food (Amendment) Act 1991**

After section 5 (2) of the Food (Amendment) Act 1991 insert—

- ‘(3) Subject to section 63A of the Food Act 1984, a standard contained in the Food Standards Code—
  - (a) is deemed to have had effect in Victoria as a prescribed food standard on and after 19 August 1991; and
  - (b) has effect and continues to have that effect.
- (4) In sub-section (3) “**Food Standards Code**” means the Food Standards Code referred to in the Food Standards Regulations 1987 as amended by the amendments to that Code referred to in those regulations.’

No. 76/1990.

**66. Amendment of the Health (Radiographers) Act 1990**

In section 7 (1) of the Health (Radiographers) Act 1990, after “Health Act 1958” insert “(as amended by section 5 of this Act) and may be registered by that Board subject to any conditions, limitations or restrictions imposed on the licence of that person.”.

*Health and Community Services (General Amendment) Act 1993*  
*Act No. 42/1993*

s. 67

**67. Amendment of the Health Acts (Amendment) Act 1989**

No. 1/1989.

In section 4 (g) of the **Health Acts (Amendment) Act 1989**, omit "Welfare".

**68. Amendment of Health (General Amendment) (Amendment) Act 1989**

No. 78/1989.

In the **Health (General Amendment) (Amendment) Act 1989** for section 2 (2) substitute—

"(2) Section 8 (2) comes into operation on 14 May 1990."

**69. Amendment of the Health Services (Conciliation and Review) Act 1987**

No. 25/1987  
as amended  
by Nos  
60/1987,  
69/1990,  
78/1990,  
42/1991 and  
83/1992.

After section 32 (2) of the **Health Services (Conciliation and Review) Act 1987** insert—

"(2A) Despite anything to the contrary in section 44A of the **Audit Act 1958**, sub-section (2) of this section applies to a conciliator in relation to confidential information gained by the conciliator while performing conciliation functions under section 20."

**70. Amendment of the Pharmacists Act 1974**

No. 8593.  
Reprinted to  
No. 9784 and  
subsequently  
amended by  
Nos 10244,  
10262,  
110/1988,  
119/1988,  
49/1988,  
57/1989,  
53/1990,  
10/1991 and  
83/1992.

In the **Pharmacists Act 1974**—

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

(b) In section 3—

(i) after the definition of "Board" insert—

"financial year" means the period of 12 months ending on 31 December; and

(ii) after the definition of "Sale" insert—

"student" means a person who has passed the prescribed annual examination of the first year of the course of academic instruction, but has not passed the prescribed final examination; and



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s. 70

- (c) In section 4—
- (i) in sub-section (1) (a), for “The Pharmaceutical Society of Victoria” substitute “The Pharmaceutical Society of Australia (Victorian Branch) Ltd”; and
  - (ii) in sub-section (1) (c), for “The Pharmaceutical Society of Victoria” substitute “The Pharmaceutical Society of Australia (Victorian Branch) Ltd”; and
  - (iii) in sub-section (1) (e), for “Salaried Pharmaceutical Chemists Association” substitute “Salaried Pharmacists Association”; and
- (d) In section 18 (3) (iv), for “\$500” substitute “25 penalty units”; and
- (e) In section 21 (8), for “\$500” substitute “25 penalty units”; and
- (f) In section 22 (2), for “\$500” substitute “25 penalty units”; and
- (g) For section 27 (5), substitute—
- “(5) A pharmacist must—
- (a) within 14 days after the pharmacist—
    - (i) commences practice as a pharmacist; or
    - (ii) changes his or her place of residence; or
  - (b) without delay after 28 days after the pharmacist changes the place at which he or she practises as a pharmacist (if he or she has practised at the same place for the whole of that 28 days period)—  
notify the Board of the current address of the place at which he or she practices as a pharmacist or of his or her place of residence (whichever is applicable).”; and
- (h) In section 28 (2), for “\$500” substitute “25 penalty units”; and

- (i) In section 33 (2), for “\$500” substitute “25 penalty units”; and
- (j) In section 37—
  - (i) for “37. The” substitute “37 (1) The”; and
  - (ii) 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 regulations are made or at any time before then.”.

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

No. 43/1988.

**In the Prince Henry’s Institute of Medical Research Act 1988—**

- (a) for section 14 (1) (b) substitute—
    - “(b) may be present during any deliberations of the Board or of the sub-committee with respect to, but may not vote on any matter relating to that contract or arrangement.”; and
  - (b) in section 20 (1), for “purposes of this section” substitute “purposes of the Part”.
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*Health and Community Services (General Amendment) Act 1993*  
*Act No. 42/1993*

NOTES

1. *Minister's second reading speech—*

*Legislative Council: 28 April 1993*

*Legislative Assembly: 13 May 1993*

2. The long title for the Bill for this Act was "A Bill to amend the **Drugs, Poisons and Controlled Substances Act 1981**, to amend the **Health Act 1958**, to amend the **Health Services Act 1988**, to amend the **Mental Health Act 1986**, to make miscellaneous amendments to various other Acts and for other purposes."

3. **Constitution Act 1975:**

*Section 85 (5) statement:*

*Legislative Council: 28 April 1993*

*Legislative Assembly: 13 May 1993*

*Absolute majorities:*

*Legislative Council: 12 May 1993*

*Legislative Assembly: 18 May 1993*

4. Section headings appear in bold italics and are not part of the Act. (See **Interpretation of Legislation Act 1984**.)