



ANNO VICESIMO

ELIZABETHAE II REGINAE

A.D. 1971

No. 104 of 1971**An Act to amend the Health Act, 1935-1971***[Assented to 9th December, 1971]*

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles and
commence-
ment.

1. (1) This Act may be cited as the "Health Act Amendment Act, 1971" and shall come into operation on a day to be fixed by proclamation.

(2) The Health Act, 1935-1971, as amended by this Act, may be cited as the "Health Act, 1935-1971".

(3) The Health Act, 1935-1971, is hereinafter referred to as "the principal Act".

Amendment of
principal Act,
s. 3—
Arrangement
of Act.

2. Section 3 of the principal Act is amended by striking out from the passage "PART IXaa—Private Hospitals, Maternity and Rest Homes" the word "Maternity" and inserting in lieu thereof the word "Nursing".

Amendment of
principal Act,
s. 4—
Interpretation.

3. Section 4 of the principal Act is amended by inserting after the definition of "Act" the following definition:—

"Appeal Board" means the Air Pollution Appeal Board appointed under this Act.

4. Section 91 of the principal Act is repealed.

Repeal of
s. 91 of
principal Act.

5. Section 94c of the principal Act is amended—

Amendment of
principal Act,
s. 94c—
Regulations as
to clean air.

(a) by inserting in paragraph (m) of subsection (1) after the word “Director” the word “General”;

(b) by inserting after paragraph (m) of subsection (1) the following paragraph:—

(ma) prescribing the composition, powers, functions and duties of the Appeal Board, the remuneration and allowances to be paid to the members thereof, the persons or classes of persons who may appeal to the Appeal Board, the procedures relating to appeals and the circumstances and manner in which those appeals may be made;;

and

(c) by striking out paragraph (r) of subsection (1) and inserting in lieu thereof the following paragraph:—

(r) imposing penalties recoverable summarily and not exceeding two thousand dollars for any contravention of or non-compliance with any regulation made under this section and not exceeding two hundred dollars for each day that such contravention or non-compliance continues.

6. The following section is enacted and inserted in Division I of Part VIII of the principal Act immediately after section 94c thereof:—

Enactment of
s. 94d of
principal Act—

94d. (1) The Governor shall appoint a body to be known as the “Air Pollution Appeal Board”.

Air Pollution
Appeal Board.

(2) The composition, powers, functions and duties of the Appeal Board and rights of appeal to the Appeal Board and procedures relating to appeals shall be as prescribed.

(3) The members of the Appeal Board shall be appointed for such terms of office and shall be paid such remuneration and allowances as may be prescribed.

7. The heading to Part IXaa of the principal Act is amended by striking out the word “MATERNITY” and inserting in lieu thereof the word “NURSING”.

Amendment of
heading to
Part IXaa of
principal Act.

Enactment of
s. 145a. of
principal Act—

Interpretation
and application
of this Part.

8. The following section is enacted and inserted in Part IXaa of the principal Act immediately before section 146 thereof:—

145a. (1) For the purposes of this Part—

“private hospital” means any building or part of a building in which persons are lodged for or receive medical or surgical treatment, including maternity care:

“nursing home” means any building or part of a building, not being a private hospital, in which persons are lodged for or receive oversight, care and control by way of nursing treatment for fee or reward:

“rest home” means any building or part of a building, not being a private hospital and not being a nursing home, in which persons are lodged for, or receive, for fee or reward, care applicable to the treatment of aged, infirm, helpless or partially helpless persons.

(2) For the purposes of this Part—

(a) a building or part of a building in which, at the material time, a person exercised or is exercising over another person (not being a relation of that first mentioned person) who was boarding or lodging in that building or part of the building any oversight, care or control by way of nursing treatment shall be deemed to be a nursing home;

and

(b) a building or part of a building in which, at the material time, a person exercised or is exercising over another person (not being a relation of the person first mentioned in this paragraph) who was boarding or lodging in that building or part of the building any care applicable to the treatment of aged, infirm, helpless or partially helpless persons shall be deemed to be a rest home,

unless it is proved that no fee or reward was paid or given or agreed to be paid or given for that exercise and that no fee or reward for that exercise had been included in any payment made or agreed to be made for the board or lodging of that other person in that building or part of the building at the material time.

(3) The provisions of this Part shall not apply to any building or part of a building licensed under section 165 of the Social Welfare Act, 1926-1965, as amended, or any enactment substituted for that section, or under Part VIIa of the Mental Health Act, 1935-1958, as amended, or any provisions substituted for

that Part, or a building or part of a building which is, or is part of, a psychiatric rehabilitation hostel as defined in the Mental Health Act, 1935-1958, as amended, or any Act substituted for that Act and shall not apply to any hospital declared by proclamation to be a hospital exempted from the provisions of this Part.

9. Section 146 of the principal Act is amended—

Amendment of
principal Act,
s. 146—
Licensing of
private
hospitals.

(a) by striking out from subsection (1) the passage “or maternity home”;

(b) by striking out from subsection (2) the passage “or maternity home”;

and

(c) by striking out from subsection (3) the passage “fifty pounds” and inserting in lieu thereof the passage “two hundred dollars”.

10. The following section is enacted and inserted in the principal Act immediately after section 146 thereof:—

Enactment of
s. 146aa of
principal Act—

146aa. (1) No building or part of a building shall, after a day to be fixed by proclamation for the purposes of this section or where it is, at the commencement of the Health Act Amendment Act, 1971, licensed under this Part, after the expiration of that licence, be used by any person for the purpose of a nursing home unless that building or part is licensed by the local board as a nursing home.

Licensing of
nursing homes.

(2) Every application for a licence in respect of a nursing home shall be accompanied by the name of the manager thereof.

(3) The licence fee in respect of a nursing home shall not exceed the amount from time to time prescribed.

(4) No person shall act as manager of a nursing home unless he is licensed by the local board for that purpose.

(5) A licence under this section shall be granted subject to and upon such conditions as may be prescribed.

(6) A nursing home shall be liable to be inspected at any time.

(7) The manager shall be responsible for the good management of the nursing home.

(8) Any person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars.

Amendment of
principal Act,
s. 146a—
Licensing of
rest homes.

11. Section 146a of the principal Act is amended—

(a) by striking out subsection (1);

(b) by striking out subsection (3a);

and

(c) by striking out from subsection (4) the passage “fifty pounds” and inserting in lieu thereof the passage “two hundred dollars”.

Amendment of
principal Act,
s. 147—
Regulations.

12. Section 147 of the principal Act is amended—

(a) by striking out from paragraph (f1) of subsection (1) the passage “for private hospitals and maternity homes may be granted and revoked” and inserting in lieu thereof the passage “of this Act may be granted, refused and revoked”;

(b) by striking out from paragraph (f1) of subsection (1) the passage “such private hospitals and maternity homes” and inserting in lieu thereof the passage “private hospitals”;

(c) by inserting in paragraph (f1) of subsection (1) after the word “grant” the passage “, refusal”;

and

(d) by striking out paragraph (f2) of subsection (1) and inserting in lieu thereof the following paragraphs:—

(f2) prescribing the conditions upon which licences under section 146aa of this Act may be granted, refused and revoked; prescribing the qualifications of persons acting as managers or persons in charge of nursing homes; and providing for

an appeal to the Central Board from any decision of the local board with respect to the grant, refusal or revocation of any such licence:

- (f3) prescribing the conditions upon which licences under section 146a of this Act may be granted, refused and revoked; prescribing the qualifications of persons acting as managers and persons in charge of rest homes; and providing for an appeal to the Central Board from any decision of a local board with respect to the grant, refusal or revocation of any such licence:.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor