VACCINATION ACT, 1936.

No. 2300 of 1936.

An Act to consolidate certain Acts relating to vaccination.

[Assented to 5th November, 1936.]

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

PART I.

PART I.

PRELIMINARY.

- 1. This Act may be cited as the "Vaccination Act, 1936".
- 2. This Act shall come into operation on a day to be fixed commence-ment. by proclamation.
- 3. This Act is a consolidation of the Acts mentioned in the Consolidation first schedule, and the said Acts are hereby repealed.
 - **4.** The provisions of this Act are arranged as follows:—

Arrangement.

Part I.—Preliminary.

Part II.—Administration.

Part III.—Compulsory Vaccination.

PART IV.—General.

5. In this Act, unless the context or subject matter other- Interpretation. wise requires :--

"medical practitioner" means a legally qualified medical c. 84, s. 35.

practitioner registered pursuant to the Medical c. 98, s. 4. Practitioners Act, 1919:

"parent" includes any person having the custody of a child:

s. 2. This Act was proclaimed to commence on 1st June, 1937: Gazette 25th March, 1937,

- "principal registrar" means the Principal Registrar of Births, Deaths, and Marriages:
- "registrar of births" means the principal registrar, any deputy registrar, and any district registrar of births, deaths, and marriages or assistant district registrar of births and deaths.

PART II.

PART II.

ADMINISTRATION.

Districts. 248, 1882, s. 4. Cf. U.K. 30 & 31 Vict. c. 84, s. 2.

- 6. (1) The Governor may, by proclamation, divide the State into districts for the purpose of affording facilities for vaccination, and may appoint a place or places in each such district for the performance of such vaccination. The Governor may from time to time vary or revoke any such proclamation and establish other districts and places for the purposes aforesaid.
- (2) The Governor shall cause effectual means to be taken for giving all persons resident within any such district notice of the days and hours at which the medical officer or practitioner, hereinafter called the public vaccinator, duly appointed for such purpose as hereinafter mentioned, will attend at such place to vaccinate all persons not already successfully vaccinated who may then appear there, and also of the days and hours at which the public vaccinator will attend at such place to inspect the progress of such vaccination in the persons so vaccinated.

Appointment of officers.
248, 1882, s. 7.
Cf. U.K.
30 & 31 Vict.
c. 84, s. 3
(part).

7. The Governor may appoint a vaccination officer and such public vaccinators and other officers as may be necessary for carrying the provisions of this Act into execution.

Vaccine matter to be kept. 248, 1882, s. 8.

8. The vaccination officer shall, as far as is practicable, procure and preserve a sufficient supply of animal and humanized lymph, and shall furnish the same, without charge, to the public vaccinators and medical practitioners who apply for the same.

PART III.

PART III.

COMPULSORY VACCINATION.

9. The Governor may, on the breaking out of small-pox in Power to this State or any other State of the Commonwealth, declare vaccination. that from such date and for such period as is specified in the 1319, 1917, s. 4. proclamation, and either in respect of the whole of the State or any part or parts thereof specified in the proclamation, the provisions of section 10 shall operate.

10. (1) The parent of any child born in the State after and children to during the operation of a proclamation made pursuant to section 9 and in any part of the State to which the proclamation applies, shall, within six months after the birth of the child, take or cause to be taken the said child to the public vaccinator duly appointed in and for the district or any part thereof in which the child is resident, for the purpose of being vaccinated, unless the child has been previously vaccinated by some medical practitioner or some other public vaccinator in the State.

be vaccinated.

- (2) The public vaccinator shall, and is hereby required thereupon, or as soon after as it may conveniently and properly be done, to vaccinate the child.
- 11. (1) Upon the same day in the following week when the provision for operation has been performed by the public vaccinator, the vaccination. parent shall again take the child, or cause it to be taken, to cf. U.K. him, that he may inspect it and ascertain the result of the c. 84, 8.17. operation, and if he see fit, take from the child lymph for the performance of other vaccinations.

- (2) In the event of the vaccination being unsuccessful, the parent shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated and inspected as on the previous occasion.
- 12. (1) If any public vaccinator appointed as aforesaid or reducing the unfitness of the child for vaccination.

 Provision for the unfitness of the child for vaccination. medical practitioner is of opinion that the child is not in a corresponding to the parent a certificate under his hand, according to the form in the third schedule, or to the like effect, that the constitution of the constitut

(2) The certificate shall remain in force for two months, and shall be renewable for successive periods of two months, until a public vaccinator appointed as aforesaid or medical practitioner deems the child to be in a fit state for successful vaccination, when the child shall with all reasonable Part in.

dispatch be vaccinated and the certificate of successful vaccination duly given if warranted by the result.

Provision for successive certificates. 248, 1882, s. 12. 13. At or before the end of each successive period the parent shall take or cause the child to be taken to the public vaccinator appointed as aforesaid or medical practitioner, who shall then examine the child and give the certificate, according to the said form in the third schedule, so long as he deems requisite under the circumstances of the case.

Provision where child is not susceptible of successful vaccination.

248, 1882, s. 13. U.K. 30 & 31 Vict. c. 84, s. 20. U.K. 34 & 35 Vict. c. 98, s. 7.

14. If any public vaccinator or any medical practitioner finds that a child whom he has three times unsuccessfully vaccinated is unsusceptible of successful vaccination, or that a child brought to him for vaccination has already had the small-pox, he shall deliver to the parent a certificate under his hand, according to the form in the fourth schedule, or to the like effect, and the parent shall thenceforth not be required to cause such child to be vaccinated.

Certificates of successful vaccination to be delivered. 248, 1882, s. 14. U.K. 30 & 31 Vict. c. 84, s. 21. U.K. 34 & 35 Vict. c. 98, ss. 7, 12.

- 15. (1) Within seven days after the successful vaccination of any child the public vaccinator appointed as aforesaid who has performed the operation, or ascertained the same to have been successfully performed, shall deliver to the parent of the said child a certificate under his hand according to the form set forth in the fifth schedule, that the said child has been successfully vaccinated, and shall also transmit a duplicate of the said certificate to the principal registrar in Adelaide.
- (2) The certificate shall, without further proof, be admissible as evidence of the successful vaccination of the child on the hearing of any complaint which is brought against the parent of the child as aforesaid for non-compliance with the provisions of this Act.

Parent or guardian may require calf lymph. 554, 1892, s. 1. 908, 1906, s. 4.

- 16. (1) Every parent shall be entitled, upon giving notice by letter addressed to "The Vaccination Officer, Adelaide," within six months after the birth of any child, to require that the vaccination of the child shall be performed with calf lymph, and shall in the notice state the name and address of the qualified medical practitioner or public vaccinator by whom he desires the child shall be vaccinated.
- (2) After receipt of such notice the said vaccination officer shall forward to the said practitioner or public vaccinator calf lymph for the vaccination, and shall send notice by letter to the parent of the forwarding of the lymph.

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- (3) No parent who has attended within six days after the posting of such last mentioned letter, or within such further time or times as may be fixed by the practitioner or public vaccinator, and has then submitted the child for vaccination with calf lymph, shall be punishable for neglecting or refusing to take the child or cause it to be taken to be vaccinated.
- 17. (1) Any medical practitioner, or vaccination officer, or public vaccinator may be required by any parent or other person having the custody of a child about to be vaccinated to state whether the lymph he is about to use for the vaccination of the child is calf lymph or humanised lymph.

Vaccinator to state which lymph he is using.

- (2) Any medical practitioner, or vaccination officer, public vaccinator who refuses to make such statement, or wilfully makes a false statement in reference thereto, shall be guilty of an offence against this Act and liable to a penalty not exceeding ten pounds.
- **18.** Wherever in sections 16 and 17 the words "calf lymph" occur they shall be taken to mean that the lymph so used shall, where practicable, be glycerinated.

Glycerinated calf lymph to be used. 908, 1906, s. 6.

19. No fee or remuneration shall be charged by any public vaccinator to the parent for any certificate or duplicate certificate given, nor for any vaccination done under this Act.

Public vaccinator not to charge parents. 248, 1882, s. 15. Cf. U.K. 30 & 31 Vict. c. 84, s. 22.

20. (1) Notwithstanding anything contained in this Act, any medical practitioner in the State may give a certificate of the operation of vaccination having been successfully performed upon any child, or of the incapacity of any child to receive the vaccine disease, or of any child being in an unfit state for vaccination.

practitioners may give certificates. 248, 1882, s. 16. Of. U.K. 34 & 35 Vict. c. 98, s. 12.

- (2) Every such certificate shall be valid for the purposes of this Act, in the same manner as any certificate to be granted by a public vaccinator appointed under this Act.
- 21. Where vaccination is performed by a medical practitioner not being a public vaccinator, the parent causing the child to be vaccinated shall submit to the medical practitioner a certificate in duplicate, according to the form set forth in the fifth schedule hereto, to be filled up and signed by the medical practitioner, who shall, within seven days after the successful performance of the operation of vaccination, transmit one copy of the certificate so signed, by post or otherwise, to the principal registrar.

Transmission of certificates. 248, 1882, s. 17. Cf. U.K. 30 & 31 Vict. c. 84, s. 23. PART III.

Notice of the requirement of vaccination. 248, 1882, s. 19. U.K. 30 & 31 Viet. c. 84, s. 15.

- 22. (1) The registrar of births in every district shall, on the registration of the birth of any child not already vaccinated within the said district, cause notice in writing, according to the form set forth in the second schedule, to be given to the person registering the said child, or sent by post or otherwise to the parent of the child, that it is the duty of the parent to take care that the said child is vaccinated and taken for inspection in the manner directed by this Act.
- (2) The notice shall contain the name and address of the public vaccinator who resides nearest to the child's place of abode, and shall have attached thereto, or sent therewith, forms according to those given in the third, fourth, and fifth schedules, respectively, of which forms that given in the fourth and fifth schedules shall be delivered in duplicate.
- (3) If after such notice is given, or sent, or placed in any post office addressed to the parent of the said child, he or she does not accordingly cause the child to be vaccinated, or does not upon the same day in the following week as the day when the vaccination has been performed, take, or cause to be taken, the child for inspection by the public vaccinator, or refuses to permit the public vaccinator to remove and retain the vaccine matter from the arm of the said child, or to again vaccinate the child if the previous vaccination has proved unsuccessful, then the parent so offending shall be guilty of an offence against this Act and liable to a penalty of not less than ten shillings, and not exceeding forty shillings, upon conviction of the first offence, and shall, in the case of any subsequent conviction for a like offence in respect of the same child be liable to a penalty which shall be twice the amount of the penalty inflicted on the person for the offence immediately preceding the subsequent conviction: Provided that the total amount of the penalties imposed in any conviction in respect of the same child shall not exceed five pounds.

Power to order general vaccination of contacts. 1319, 1917, s. 5.

- 23. (1) The Governor may, on the breaking out of small-pox in this State, or in any other State of the Commonwealth, by proclamation require all persons who have been contacts with a case of small-pox to be vaccinated or re-vaccinated within such time as is specified in the proclamation.
- (2) Any person to whom such proclamation applies who fails to become vaccinated or re-vaccinated within the time specified in such proclamation, or who fails to have any child in his custody to whom such proclamation applies vaccinated or re-vaccinated within such time, shall be guilty of an offence against this Act and liable to a penalty of not more than ten shillings for every day after the expiration of such time during which the failure continues.

24. (1) The vaccination officer may, whenever a case of Power to order vaccination of small-pox occurs in the State, by notice in writing addressed to contacts in certain cases. all persons who have been contacts with the case of small-pox, 1319, 1917, 8.6. require those persons to be vaccinated or re-vaccinated within such time as is specified in the notice.

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- (2) Any person to whom any such notice is addressed who fails to become vaccinated or re-vaccinated within the time specified in the notice, or who fails to have any child in his custody mentioned in the notice vaccinated or re-vaccinated within the said time, shall be guilty of an offence against this Act and liable to a penalty of not more than ten shillings for every day after the expiration of the said time during which the failure continues.
- (3) Any notice under this section may be served by post, or by delivering the same to the person to whom notice is desired to be given, or by leaving the same at his last known or most usual place of abode or business with some adult person.

PART IV.

PART IV.

GENERAL.

25. The principal registrar shall keep a register of the Register of persons of whose successful vaccination a certificate has been ful vaccination. transmitted to him as herein provided by the said public vac- $^{248}_{U.K.}$ $^{1882, s. 18}_{30}$ cinator or medical practitioner, and shall at all reasonable $^{Vict.}_{s. 24}$ $^{OCC}_{s. 24}$ times allow searches to be made in any such register-book in his keeping, and shall give a copy certified under his hand of any entry in the same on payment of the fee of one shilling.

26. The principal registrar shall, from time to time in each Report to police where year, forward to the Commissioner of Police a list of all cases vaccination is neglected. of children who are living, in which certificates of vaccination 248, 1882, s. 21. have not been duly received by him during the last preceding six months. The Commissioner of Police shall forthwith make inquiry into the circumstances of the cases contained in the list, and if he finds that the provisions of this Act have been neglected, he shall cause proceedings to be taken against any such person in default, if such person resides within fifty miles of a public vaccinator.

27. Any public vaccinator who refuses or neglects to deliver refusal to sign, deliver, or transmit certificate required of him under this Act to the parent deliver, or transmit certificates. any certificate required of him under this Act to the parent bringing a child for vaccination, or any public vaccinator who neglects to transmit to the principal registrar the duplicate of any certificate required by the provisions of this Act to be by him so transmitted completely filled up and legibly written

248, 1882, s. 22.

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within the time hereinbefore specified, or any medical practitioner who refuses or neglects to fill up and sign in duplicate and deliver to the person submitting the same the certificate given in the fifth schedule, or who neglects or refuses to deliver to such person any other of the certificates mentioned in sections 12, 13, and 14, when any of such certificates is required in consequence of a child's unfitness for or insusceptibility of vaccination, as the case may be, shall be guilty of an offence against this Act and liable to a penalty not exceeding forty shillings nor less than ten shillings.

Power to make inquiries as to compliance with Act. 248, 1882, s. 20.

- 28. (1) Any officer of police, or other person appointed by the Government for that purpose, may—
 - (a) make or cause inquiries to be made as to whether the provisions of this Act have, from time to time, been complied with;
 - (b) for that purpose call upon every householder to declare, in writing, the number, age, and sex of any children in his or her house, and when and where each of the said children were vaccinated.
- (2) In the event of any such householder refusing to make any such declaration, or making any such declaration falsely or incorrectly, the householder shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

Persons signing false certificates. 248, 1882, s. 23. Cf. U.K. 30 & 31 Vict. c. 84, s. 30 (part).

29. Any person who wilfully signs a false return or certificate, or duplicate thereof, under this Act, or under any regulations made under this Act, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for a period not exceeding twelve nor less than three months.

Payment for re-vaccination in certain cases. 248, 1882, s. 24. Cf. U.K. 34 & 35 Vict. c. 98, s. 9.

30. No public vaccinator shall be entitled to any fee or reward under this Act for successfully vaccinating any person who has been previously successfully vaccinated, unless the re-vaccination is performed in pursuance of or in compliance with any directions or instructions issued under the authority of the Governor, in which case the public vaccinator shall be entitled to receive for each case of such successful re-vaccination the fee appointed for successful vaccination by the regulations made under this Act.

Cases of smallpox to be reported. 248, 1882, s. 25.

31. If any time the disease of small-pox is, by a notice in the Government Gazette, declared to be present in the State, any person who neglects to report to the Central Board of

Health, or to the local board of health, or to the officer of police for the district in which the person resides, any case of small-pox or disease resembling small-pox, immediately on the existence of any case of such disease coming to that person's knowledge, shall be guilty of an offence against this Act and liable to a penalty not exceeding fifty pounds nor less than twenty pounds.

32. (1) If any vessel arrives in the State on board of which any case of small-pox exists at the time of the arrival of the vessel, or on board of which any case of small-pox has occurred within forty days previous to the arrival of the vessel in the voyage to be re-vaccinated. State, any public vaccinator, or duly qualified medical prac- 248, 1882, s. 26. titioner may vaccinate or re-vaccinate every person who is on board the vessel, or who is landed from the vessel in the State.

Persons arriv-ing in vessels in which small-pox exists or has existed during the

- (2) Any person arriving in the State in any such vessel who refuses to submit to be vaccinated or re-vaccinated, or who refuses to permit any child in his custody to be vaccinated or re-vaccinated by the public vaccinator, or duly qualified medical practitioner, shall be guilty of an offence against this Act and liable to a penalty of not more than ten shillings nor less than five shillings for every day after such refusal during which the person remains without being vaccinated or re-vaccinated as aforesaid, and for every day after such refusal during which any child in the custody of such person remains without being vaccinated or re-vaccinated as aforesaid.
- (3) This section shall be construed subject to the provisions of the Quarantine Act, 1908-1924 of the Commonwealth, and any other Act of the Commonwealth relating to quarantine.
- empowered to frame and provide such books and forms as he carrying out the provisions of this Act. of this Act, and shall transmit the same to the registrars of births of each district, together with copies of such regulations as may be made under this Act or any Act repealed by this Act, and shall deliver to the public vaccinators appointed as aforesaid such of the said books, forms, and regulations as they may require for the performance of the duties imposed upon them by this Act.

248, 1882 s. 27

34. Any person who produces, or attempts to produce, in person sincular person by inoculation with variolous matter, or by wilful atting or other wise producing exposure to variolous matter, or to any matter, article, or thing small-pox. impregnated with variolous matter, or wilfully or by any other U.K. 30 & 31 means whatsoever produces the disease of smallpox in any side. 84, 882, 8, 29. person in the State shall be guilty of an offence against this

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Act and liable to a penalty not exceeding one hundred pounds, or to be imprisoned for any term not exceeding twelve months.

Not necessary for prosecutor to prove service of notice. 248, 1882, s. 30. Cf. U.K. 30 & 31 Vict. c. 84, s. 34.

35. In any prosecution for neglect to comply with the provisions of this Act it shall not be necessary in support thereof to prove that the registrar of births or any other officer has given or sent, by post or otherwise, notice of the requirements of this Act. But if the defendant produces any such certificate as hereinbefore described, or the register of vaccinations kept by the principal registrar as hereinbefore provided, in which register the certificate of successful vaccination of the child is duly entered, the same shall be a sufficient defence for him, except in regard to the certificate set forth in the third schedule when the time specified herein for the postponement of the vaccination has expired before the time when the complaint has been laid.

Regulations may be made and fees fixed. 248, 1882, s. 5.

36. The Governor may from time to time make, alter, vary, or revoke regulations for the purpose of carrying this Act into execution, and may by such regulations direct what fees shall be paid to any officers appointed under this Act, or to any registrar of births, for the registration of cases of successful vaccination. All such regulations shall, within one month of the making thereof, be published in the Government Gazette.

On breaking out of small-pox, Governor may proclaim State infected. 248, 1882, s. 6.

37. On the breaking out of small-pox in the State, the Governor may, by proclamation, declare the State infected by small-pox, and may thereupon make such additional regulations as may be necessary for the safety of the public.

Summary proceedings.

38. All proceedings for offences against this Act (not being 248, 1882, s. 31. misdemeanours) shall be disposed of summarily.

SCHEDULES.

FIRST SCHEDULE.

ACTS CONSOLIDATED AND REPEALED.

- Number and Year of Act.	Title or Short Title of Act.		
No. 248 of 1882 No. 554 of 1892 No. 761 of 1901 No. 908 of 1906 No. 919 of 1907 No. 1036 of 1911 No. 1319 of 1917	An Act to amend "The Vaccination Act," No. 248 of 1882 An Act to abolish Compulsory Vaccination The Abolition of Compulsory Vaccination Extension Act, 1906 The Compulsory Vaccination Exemption Extension Act, 1907 The Compulsory Vaccination Exemption Extension Act, 1911		

SECOND SCHEDULE.

I, the undersigned, hereby give you notice that you are required to have the child [insert name of child], whose birth is now registered, vaccinated within six months from the date of its birth, pursuant to the provisions and directions of the Vaccination Act, 1936, and that on the same day in the following week on which the child is vaccinated, you are to take the child to the public vaccinator or medical practitioner by whom the vaccination has been performed, in order that the vaccinator or practitioner may inspect the result of the vaccination, and remove the vaccine matter from the child; and that in default of your doing so, you will be liable to the penalties imposed in the said Act for neglect of those provisions.

vaccinator residing nearest your place of abode.

You are required to produce to the public vaccinator or medical practitioner to whom you apply the forms herewith supplied to you, for him to fill up and sign. day of

Dated this

(Signed)

C. D., District Registrar of Births, Deaths, and Marriages, for the district of

THIRD SCHEDULE.

248, 1882. I, the undersigned, hereby certify that I am of opinion that \mathbf{aged} Second the child of of the of Schedule is not now in a fit and proper state to be successfully vaccinated, and I do hereby postpone the vaccination of such child until the day of This must not exceed two calendar months from the date of this certificate.] Dated this 19 day of

(Signed)

Public Vaccinator for the district of or A.B.

Medical Practitioner [i.e. M.D., or M.R.C.S., or otherwise, as the case may be.]

Memo.—This is to be kept by the parent or other person to whom it is given.

FOURTH SCHEDULE.

248, 1882. Third Schedule

I, the undersigned, hereby certify that I have vaccinated

times unsuccessfully

the child of

in the [or that the child has already had smallpox, as the case may be], and I am of opinion that the child is insusceptible of successful vaccination. Dated this day of 19

(Signed)

A. B., Public Vaccinator for the District of or A. B.,

aged

Medical Practitioner [i.e., M.D., or M.R.C.S., or otherwise, as the case may be].

MEMO.—This is to be kept by the parent or other person to whom it is given.

FIFTH SCHEDULE.

248, 1882. Fourth Schedule

Name (in full) and Surname of Child.	Age.	Where Born.	Name and Surname of Father (or if child is illegitimate, of Mother).	Residence of Parents.
John Thomas Brown	3 months	Hindley Street, Adelaide	Thomas Brown	Hindley Street, Adelaide

I, the undersigned, hereby certify that the above-named child has been successfully vaccinated by me. (Signed)

Note.-This certificate is to be given to the parent or other person procuring the vaccination, and a duplicate thereof is to be transmitted within seven days from the successful performance of the operation by the public vaccinator or medical practitioner to the Principal Registrar of Births, Deaths, and Marriages.

In each case of default the Vaccination Act, 1936, imposes a penalty of from ten to

forty shillings.

Regulations.

The following regulations were in force under this Act on 8th November, 1937:—

Gazette—17th May, 1894, p. 1112. 29th January, 1903, p. 186. 7th August, 1913, p. 301. 18th December, 1913, p. 1734.