

PUBLIC HEALTH.

No. 46 of 1949.

AN ACT to amend the *Public Health Act 1935*. [29 November, 1949.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Public Health Act* Short title and citation. 1949.

(2) The *Public Health Act 1935**, as subsequently amended, is in this Act referred to as the Principal Act.

2 Section three of the Principal Act is amended by inserting in the definition of "House", after the word "workroom", the words "boarding-house," Interpretation.

3 Section sixty-nine of the Principal Act is amended— Purposes for which by-laws may be made by local authority.

(a) by inserting in paragraph 1., after the word "accumulation", the words "and the depositing or dropping in or on any street, public place, or land vested in or under the control of the local authority,";

(b) by inserting after paragraph 1. the following paragraphs:—

"IA. Regulating and controlling the deposit of nightsoil and refuse on any reserve or land set apart under section seventy:

IB. Prescribing and regulating the treatment of refuse resulting from any trade, manufacture, or business, either generally or in the case of any prescribed class or classes of refuse, and prohibiting the deposit, on any reserve or land set apart under section seventy, of any such refuse which has not been treated in accordance with the requirements of the by-laws:".

* 26 Geo. V. No. 43. For this Act, as amended to 1936, see Reprint of Statutes, Vol. VI., p. 134. Subsequently amended by 2 Geo. VI. No. 10, 3 Geo. VI. No. 26, 4 Geo. VI. Nos. 23 and 52, 5 Geo. VI. No. 63, 7 Geo. VI. No. 41, 8 & 9 Geo. VI. No. 44, 9 Geo. VI. No. 29, and 11 Geo. VI. No. 28.

Restriction
on erection
and use of
stables, &c.

4 Section ninety of the Principal Act is amended by omitting from subsection (2) the words "horse, ox, sheep, pig, dog, or poultry", and substituting therefor the words "animal or bird".

Nuisances.

5 Section ninety-one of the Principal Act is amended—

- (a) by inserting in paragraph II., after the word "animal", the words "or bird"; and
- (b) by inserting in paragraph IV., after the word "be", the words "offensive or".

Procedure as
to summary
non-judicial
proceedings.
Cf. 26 Geo. 5
and 1 Edw.
8, c. 49, s. 93.

6 Section ninety-three of the Principal Act is amended—

- (a) by omitting paragraph I. and substituting therefor the following paragraph:—

"I. On the report of any inspector or other person that a nuisance exists on any premises, the Director or any inspector appointed under section seven, or the local authority or a municipal health officer, or an inspector of a local authority who holds a certificate of competency approved by the Director shall, if satisfied of the existence of the nuisance, by requisition to the person by whose act, default, or sufferance the nuisance arises or continues, or, if that person cannot be ascertained or found, to the occupier or owner of the premises, require such person, occupier, or owner to abate the nuisance in the manner, and within the time, specified in the requisition:

Provided that where a nuisance arises from any want or defect of a structural character in any premises, or where the premises are unoccupied, any such requisition shall be served upon the owner of the premises:"

- (b) by omitting from paragraph II. the words "The owner and occupier are hereby jointly and severally" and substituting therefor the words "Any person on whom a requisition under paragraph I. is served is hereby";
- (c) by omitting from paragraph III. the words "owner and occupier shall be severally" and substituting therefor the words "person on whom the requisition is served shall unless he satisfies the Court that he has used all due diligence to comply with the requisition be"; and
- (d) by omitting from paragraph IV. the words "owner and occupier who shall be jointly and severally liable therefor" and substituting therefor the words "person on whom the requisition is served."

7 Section ninety-five of the Principal Act is repealed and the following section is substituted therefor:—

“ 95.—(1) In any case where the Director or any officer or other person or any local authority is empowered by any of the provisions of this Act to inspect or enter any premises, the following provisions shall apply, that is to say:—

Rules as to entry and inspection of occupied premises.

Cf. N.S.W., No. 30 of 1902, s. 96.

- I. The person so claiming the right to enter (if such person is not the Director) shall, if required, produce some written document, properly authenticated on the part of the Director or local authority, showing the right of the person producing the same to enter:
- II. The entry and inspection may be carried out at any reasonable hour: and
- III. If a police magistrate or two justices is or are satisfied upon complaint—

(a) That there is reasonable ground for such entry, and that there has been a refusal or failure to admit to such premises, and either that reasonable notice of the intention to apply for a warrant has been given, or that the giving of notice would defeat the object of the entry: or

(b) That there is reasonable cause to believe that there is on the said premises some contravention of this Act, or of any regulation or by-law under this Act, and that an application for admission, or notice of an application for the warrant, would defeat the object of the entry,

the police magistrate may, by warrant under his hand, or, as the case may be, the two justices may, by warrant under their hands, authorise the person claiming the right to enter the premises to enter the same, and if need be by force and with such assistance as he may require, and there execute his duties under this Act.

(2) Any person obstructing the execution of any such warrant shall be liable to a penalty of twenty pounds, or, where the offence is a continuing one, to a penalty of two pounds for every day that the offence is continued.

(3) Every warrant under this section shall continue in force until the purposes for which the entry is necessary have been satisfied.

8 Section one hundred and five of the Principal Act is amended by omitting therefrom all the words after the word “ Act ”.

Inspection of public buildings.

9 Section one hundred and eight of the Principal Act is amended by omitting paragraph XVII. thereof.

Local Authority may make by-laws for abatement of nuisances.

Regulations.

10 Section one hundred and twelve of the Principal Act is amended by omitting from subsection (3) the word "and", after paragraph v., and by adding after that paragraph the following paragraph:—

"and

"VII. The disinfection of, and the prevention of nuisances or injury to health from, rags or other materials used or stored in marine stores, or flock, bedding, or furniture manufactories."

New sections
118 to 118C.

11 Section one hundred and eighteen of the Principal Act is repealed and the following sections are substituted therefor:—

"118.—(1) Upon—

- I. The certificate of the Director or of the municipal health officer that an occupied or inhabited building in the district is so unhealthy that no man can safely occupy or inhabit it: and
- II. A report of the building surveyor or of an architect or experienced builder on the state of the building and whether or how and at what cost it can be put in reasonable order—

the local authority may, and shall if the Director so recommends, make an order under this section, to be called a closure order.

(2) By a closure order—

- I. The owner shall, unless the local authority is satisfied that the building cannot be put in reasonable order at a reasonable cost, be required within a specified time, which is reasonable and not less than twenty-one days, to do such works as the local authority considers necessary to put the building in reasonable order: and
- II. Human occupation or habitation of the building shall be forbidden after a date specified in the order by the local authority which shall have regard to both the safety and convenience of any occupiers or inhabitants.

(3) The local authority shall forthwith cause the order to be served on the owner and the occupier of the building, and a duplicate of it to be affixed to some conspicuous part of the building.

(4) In determining whether for the purposes of this section a building can be put in reasonable order at a reasonable cost, regard shall be had to the estimated cost of what is ordered or proposed to be done to the building and the value which it is estimated that the building would have if that were done.

(5) If within the time specified in the closure order or within any extension of the time allowed by the local authority the owner does not complete the specified works, the local authority shall cause them to be completed at the owner's expense.

Unhealthy buildings may be evacuated and then rectified or demolished.
Cf. 26 Geo. V. No. 43, s. 118, and 26 Geo. V. & 1 Edw. VIII., c. 51, s. 9.

(6) In a case where the local authority is satisfied that the building can not be put in reasonable order at a reasonable cost, it shall by the closure order only forbid human occupation or habitation and may, or if the Director so recommends, shall, at the owner's expense—

- I. Where the building is in a city or town, cause it to be demolished: and
- II. Where the building is not in a city or town, if the building is occupied or inhabited contrary to the order, unroof it or demolish it or first unroof it and later complete its demolition.

(7) The local authority shall revoke a closure order—

- I. Upon the certificate of its building surveyor, architect, engineer, or inspector that the works required by the order have been properly carried out: or
- II. Upon the certificate of the Director or of the municipal health officer that such permanent improvements or alterations have been made to the building that it has become fit and safe for human occupation or habitation.

(8) Any person who, during the currency of a closure order—

- I. Lets for human occupation or habitation:
- II. Occupies or inhabits: or
- III. Knowingly suffers human occupation or habitation of—

the building subject to the order contrary to that order shall be liable to a daily penalty not exceeding five pounds.

“118A.—(1) When it appears to the local authority on the report of the Director or the municipal health officer or of a health officer, inspector appointed under section seven, or municipal health inspector that people resort to a deserted building or to a hovel, ruin, or cave and that the place is in consequence injurious or dangerous to health, the local authority may order the owner to pull it down or close it up, as the case requires.

Unhealthy
ruins, &c.,
may be
pulled down.

(2) If the owner does not, within sixty days, comply with the order, the local authority may, at the owner's expense, do the work ordered to be done.

“118B.—(1) On the report of any inspector or other person that any building used, or intended to be used, or capable of being used, for human habitation or occupation—

Repair of
unhealthy
buildings.
Cf. 26 Geo. V.
No. 43, ss. 93,
118.

- (a) Is so damp, or is in such a state of disrepair, as to be offensive or injurious or dangerous to health:
- (b) Is not provided with adequate means of permanent ventilation and is, by reason thereof, injurious or dangerous to health:

- (c) Is not provided with adequate means of natural lighting and by reason thereof is or is likely to become injurious or dangerous or prejudicial to the health of the inmates:
- (d) Of which the roof guttering, spouting, drainpipes, or drainage (including storm water drainage) is, in the opinion of the Director, or of a municipal health officer, seriously defective or insufficient:
- (e) Being a house, has not, in the opinion of the Director or of a municipal health officer, an adequate and wholesome water supply and satisfactory bathing facilities:
- (f) Is so foul or dirty or so made or decayed that it cannot be cleaned properly by normal means:
or
- (g) Has some unfenced opening or drop, some unfenced machinery, or some part ill-built, broken, decayed, or dilapidated, which is a danger to life or limb—

the Director or any inspector appointed under section seven, or the local authority or a municipal health officer or a municipal health inspector who holds a certificate of competency approved by the Director may, by requisition to the person by whose act, default, or sufferance the defect arises or continues, or, if that person cannot be ascertained or found, to the occupier or owner of the premises, require such person, occupier, or owner to rectify the defect in the manner, and within the time, specified in the requisition:

Provided that where the defect arises from any want or defect of a structural character in the building or where the building is unoccupied, any such requisition shall be served upon the owner of the building.

(2) Any person on whom a requisition under subsection (1) is served shall comply with it, and may do whatever is necessary for that purpose.

(3) If that person fails to comply with the requisition within the time specified in it or within any further time that the local authority with the consent of the Director allows, he shall, unless he proves that he could not with all due diligence have so complied, be liable to a daily penalty of two pounds.

(4) If such default occurs the local authority shall cause the requisite work to be done at the expense of the person on whom the requisition is served.

Public
vehicles
dangerous
to health to
be rectified.

“ 118C.—(1) When it appears to the Director that any railway carriage, tram-car, bus, or other public vehicle or any compartment thereof is not provided with adequate means of permanent ventilation and is by reason thereof injurious or dangerous to health, he may order the owner thereof to make specified alterations within a specified time, and if those

alterations are not made within that time the owner shall be liable to a daily penalty of two pounds if he continues to use the vehicle or compartment for carrying passengers.

(2) The Transport Commission shall be subject to this section.”.

12—(1) After section one hundred and thirty-six of the Principal Act the following section is inserted:— New section 136A.

“ 136A.—(1) Any person aggrieved by an order under section one hundred and eighteen or section one hundred and eighteen A or by a requisition under section ninety-three or section one hundred and eighteen B may obtain from a justice a summons calling on the person making the order or requisition to show cause before a Police Magistrate why the order or requisition should not be quashed. Appeals against orders and requisition.

(2) The Police Magistrate before whom the summons is returned may, if he thinks that the order or requisition should not have been made or that compliance is not in the circumstances reasonably to be required, quash the order or requisition, and may make such order as to costs as he thinks fit.”.

13 The Principal Act is amended by inserting in the second schedule thereto, in proper alphabetical sequence, the following items:— Offensive trades.

- “ Extraction of fish oils.
- “ Fish gutting and cleaning.
- “ Poultry gutting and cleaning.
- “ Poultry keeping for the purposes of trade (but only in the cities of Hobart and Launceston).”.

SESQUICENTENARY.

No. 47 of 1949.

AN ACT to make provision for the commemoration of the one hundred and fiftieth anniversary of the foundation of British settlement in Tasmania.

[29 November, 1949.]

WHEREAS it is almost one hundred and fifty years since PREAMBLE
the first British settlement in Tasmania was founded at Risdon by Lieutenant *John Bowen*, Royal Navy, on the twelfth day of September, 1803: