

Health (Amendment) Bill

No.

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LEGISLATIVE COUNCIL

Read 1° 7 April 1987

(Brought in by the Honourable D. R. White)

A BILL

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

Health (Amendment) Act 1987

The Parliament of Victoria enacts as follows:

Purposes.

1. The main purposes of this Act are—

- 5 (a) to enable various fees payable under the *Health Act* 1958 to be prescribed by regulation; and
- (b) to enable a council to delegate to its officers various powers under the *Health Act* 1958; and
- (c) to amend requirements of the *Health Act* 1958 with respect to the registration of public buildings; and
- 10 (d) to make various other amendments to the *Health Act* 1958, and to other Acts.

Commencement.

2. (1) This Act (except sections 4, 5, 6, 7, 8, 9, 10 and 13 and items 5, 7, 8, 9, 10, 11, 12 and 13 in Schedule 2) comes into operation on the day on which it receives the Royal Assent.

(2) Sections 4, 5, 6, 7, 8, 9 and 13 come into operation on a day or days to be proclaimed.

(3) Item 5 in Schedule 2 is deemed to have come into operation immediately before the commencement of the *Health (General Amendment) Act 1984*.

(4) Section 10 and items 7, 8, 9, 10, 11, 12 and 13 in Schedule 2 are deemed to have come into operation on 10 December 1985.

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Principal Act.

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

No. 6270
Reprinted to
No. 10262
Subsequently
amended by
Nos. 16/1986,
80/1986,
119/1986,
121/1986,
124/1986 and
127/1986

Fees under Part IV.

4. The Principal Act is amended as follows:

(a) In section 65 (2) (d)—

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(i) for “shall not exceed \$45” substitute “must not exceed the maximum fee prescribed in the regulations”; and

(ii) for “shall not exceed the sum of \$30” substitute “must not exceed the maximum fee prescribed in the regulations”; and

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(iii) for “shall not exceed \$1.50” substitute “must not exceed the maximum fee prescribed in the regulations”; and

(iv) for “shall not exceed \$6” substitute “must not exceed the maximum fee prescribed in the regulations”;

(b) In section 92—

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(i) omit “and” at the end of paragraph (m); and

(ii) after paragraph (m), insert—

“(ma) prescribing maximum fees for the purposes of this Part; and”;

(c) In section 93 (m), for the “the sum of \$4” (where twice occurring) substitute “the maximum fee prescribed in the regulations”.

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Fees for licences in respect of dangerous substances.

5. In section 108 (1) (ea) of the Principal Act, omit “not exceeding \$130”.

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Fees for registration of hairdressers' shops, etc.

6. In section 142 (a) of the Principal Act, omit “not exceeding \$15”.

Fees for registration of skin penetration premises.

7. In section 142A (a) of the Principal Act, omit “not exceeding \$150”.

Fees in respect of public buildings.

5 8. (1) In section 192 of the Principal Act, omit “, being not less than \$5 nor more than \$250,”.

(2) In section 195 (4) of the Principal Act, omit “, being not less than \$5 nor more than \$100,”.

10 (3) In section 196 (2) (c) of the Principal Act, omit “(not exceeding \$100)”.

Fees for registration of premises.

9. The Principal Act is amended as follows:

(a) For section 368 (2) substitute—

15 “(2) The fees payable for registration, renewal and transfer of registration are—

(a) if registration is made with the council, as the council by resolution determines; or

(b) in any other case, as prescribed in the regulations.

20 (2A) Any fee determined by a council under sub-section (2) (a) must not exceed the relevant fee prescribed in the regulations.”;

(b) in section 371 (4), omit “not exceeding \$10”;

(c) For section 376 (d) substitute—

25 “(d) prescribing—

(i) fees for registrations, renewals and transfers of registration for different classes of premises which fees may vary according to the extent and character of the premises; and

30 (ii) proportionate fees if registration is granted during the currency of any year; and

(iii) additional fees for renewals of registration if late applications for renewal are lodged;”;

(d) The Eleventh Schedule is repealed.

Delegation of functions by Chief General Manager and Minister.

35 10. (1) In section 8A of the Principal Act, after “any power” insert “or function”.

(2) In section 8B of the Principal Act, after “any power” insert “or function”.

Delegation of powers of councils.

11. (1) In section 76 of the Principal Act, after sub-section (2) insert—

“(3) The council may delegate to one or more of its officers any of its powers under this section except this power of delegation. 5

(4) The refusal by an officer to give a consent is of no effect until it is ratified by the council.”.

(2) In section 206 of the Principal Act, after sub-section (3) insert—

“(4) A council may delegate to one or more of its officers any of its powers under this section except this power of delegation. 10

(5) The decision by an officer to refuse to consent to the removal of a house or to refuse to grant a certificate is of no effect until it is ratified by the council.”.

(3) After section 374 of the Principal Act insert—

Delegation of councils’ powers in relation to registration of premises. 15

“374A. (1) A council may delegate to one or more of its officers any of its powers under this Part except this power of delegation.

(2) The refusal by an officer to grant, renew or transfer the registration of any premises is of no effect until it is ratified by the council.”. 20

Offences in relation to cattle.

12. In section 83 (1) of the Principal Act, for “\$20” substitute “1 penalty unit”.

Requirements in respect of public buildings.

13. (1) Section 193 of the Principal Act is repealed. 25

(2) After section 199 of the Principal Act insert—

Exemptions.

“199A. (1) The Chief General Manager may by notice published in the *Government Gazette* exempt the proprietor of any specified public building or of any specified class of public buildings from complying with all or any of the requirements of this Division. 30

(2) The Chief General Manager may grant an exemption under sub-section (1) subject to any conditions the Chief General Manager thinks fit.

(3) The Chief General Manager may revoke or vary any exemption granted under sub-section (1).” 35

Seizure of drugs, substances, animals or things.

14. The Principal Act is amended as follows:
- (a) In section 407 (1), after “substance” insert “or animal”;
 - 5 (b) In section 408 (1), after “drug” insert “or substance or animal”;
 - (c) In section 408 (1A), for “any two justices” substitute “a magistrate”;
 - (d) In section 408 (2), after “animal” insert “or thing”.

Increase in jurisdiction for recovery of certain debts.

- 10 15. In section 446 of the Principal Act, for “\$2000” substitute “\$5000”.

Miscellaneous amendments to the Principal Act.

16. The Principal Act is amended as set out in Schedule 1.

Amendment of *Health (Radiation Safety) Act 1983*.

- 15 17. In section 5 (2) of the *Health (Radiation Safety) Act 1983*, after “Principal Act” (where secondly occurring) insert “and the registration relates to the same premises to which the licence applied”.

Amendments to other Acts.

- 20 18. On the coming into operation of an item in Schedule 2 amending or repealing an Act, that Act is amended or repealed as set out in that item.

SCHEDULES

SCHEDULE 1

Section 16

Amendments to the Principal Act

Item	Provisions of Principal Act	Extent of Amendment
1.	Section 3	In the definition of "Boarding-house", for "licensed victualler" substitute "licensed hotelkeeper".
2.	"	In the definition of "Common lodging-house", for "licensed victualler" substitute "licensed hotelkeeper".
3.	"	Omit the definition of "Daily penalty".
4.	"	In the definition of "House", for "licensed victuallers' premises" substitute "licensed hotelkeepers' premises".
5.	"	For the definition of "Licensed victualler" substitute— ' "Licensed hotelkeeper" means licensed hotelkeeper within the meaning of the <i>Liquor Control Act 1968</i> .'
6.	"	Omit the definition of "Minister".
7.	"	In the definition of "Piggery", for "five" substitute "four" and omit "for purposes of trade".
8.	"	In paragraph (b) of the definition of "Public building" for "an amusement structure under Division 1A of Part XI." substitute "a structure that is operated for hire or reward and is intended for use by members of the public for their entertainment or amusement, where the entertainment or amusement is intended to be derived by those persons when there is movement of the structure or a part thereof or when they are travelling on around or along the structure or a part thereof".
9.	Section 4	In the definition of "Chairman of the Board of Public Health" omit "the chairman of".
10.	Section 31 (5)	For "an" substitute "a".
11.	Section 66 (1)	For " <i>Public Service Act 1958</i> " substitute " <i>Public Service Act 1974</i> ".
12.	Section 82 (5)	The proviso is repealed.
13.	Section 95 (3A)	For "Minister for Minerals and Energy" substitute "Minister for the time being administering the <i>Minerals and Energy Act 1976</i> ".
14.	Section 107	For "Commission" substitute "Chief General Manager".
15.	Section 108 (1)	For "Commission" (wherever occurring) substitute "Chief General Manager".
16.	Section 108 (1) (ee)	For "it" substitute "the Chief General Manager".
17.	Section 108 (1) (eg)	Omit "relating to any dangerous substance".
18.	Section 118 (2)	For " <i>Poisons Act 1962</i> " substitute " <i>Drugs, Poisons and Controlled Substances Act 1981</i> ".
19.	Section 124 (2)	After "council" (where secondly occurring) insert "or by the Department".

SCHEDULE 1—continued

<i>Item</i>	<i>Provisions of Principal Act</i>	<i>Extent of Amendment</i>
20.	Section 126 (2)	For “licensed victualler” substitute “licensed hotelkeeper”.
21.	Section 135 (a)	For “licensed victualler’s premises” substitute “licensed hotelkeeper’s premises”.
22.	Section 146 (1)	For “ <i>Public Service Act 1958</i> ” substitute “ <i>Public Service Act 1974</i> ” and for “Revenue” substitute “Fund”.
23.	Section 179 (9) (b)	For “it” substitute “the Chief General Manager”.
24.	Section 183 (4) (c)	For “of copies” substitute “copies”.
25.	Section 197A	For “1000 square feet” substitute “92.9 square metres”.
26.	Section 201 (1)	For “court of petty sessions” substitute “magistrates’ court”.
27.	Section 208 ^{FA} (a) (ii) and (iii)	Omit “that”.
28.	Section 209A (5)	In paragraph (a) after “Schedule 2” insert “or Schedule 3” and for paragraph (b) substitute— “(b) that is an Agricultural College within the meaning of section 2 of the <i>Victorian College of Agriculture and Horticulture Act 1982</i> ”.
29.	Section 213A (5)	In paragraph (a) after “Schedule 2” insert “or Schedule 3” and for paragraph (b) substitute— “(b) that is an Agricultural College within the meaning of section 2 of the <i>Victorian College of Agriculture and Horticulture Act 1982</i> ”.
30.	Section 228 (1) (b)	For “Licensed victuallers’ premises” substitute “Licensed hotelkeepers’ premises”.
31.	Section 259 (1)	In paragraph (b) (i) of the definition of “Proprietary medicine”, for “British Pharmaceutical Codex” substitute “Pharmaceutical Codex incorporating the British Pharmaceutical Codex”.
32.	Section 263 (5)	For “ <i>Poisons Act 1962</i> ” substitute “ <i>Drugs, Poisons and Controlled Substances Act 1981</i> ”.
33.	Section 270	For “ <i>Poisons Act 1962</i> ” substitute “ <i>Drugs, Poisons and Controlled Substances Act 1981</i> ”.
34.	Section 270A (1) (b)	For “British Pharmaceutical Codex” substitute “Pharmaceutical Codex incorporating the British Pharmaceutical Codex”.
35.	Section 270B (1)	In paragraph (b) (i) of the definition of “Contraceptive”, for “British Pharmacopoeia Codex” substitute “Pharmaceutical Codex incorporating the British Pharmaceutical Codex”.
36.	Section 270E (3)	For “ <i>Poisons Act 1962</i> ” substitute “ <i>Drugs, Poisons and Controlled Substances Act 1981</i> ”.
37.	Section 270J (3)	For “\$250” substitute “2½ penalty units”.
38.	Section 270P	For “ <i>Poisons Act 1962</i> ” substitute “ <i>Drugs, Poisons and Controlled Substances Act 1981</i> ”.

SCHEDULE 1—continued

<i>Item</i>	<i>Provisions of Principal Act</i>	<i>Extent of Amendment</i>
39.	Section 371 (1)	Omit "in the prescribed form and".
40.	Section 384 (b)	For "Justices Acts" substitute " <i>Magistrates' Courts Act 1971 and the Magistrates (Summary Proceedings) Act 1975</i> ".
41.	Section 390 (2A)	Omit "and" after paragraph (b).
42.	Section 398 (1)	For "Consolidated Revenue" substitute "Consolidated Fund".
43.	Section 418	For "Commissioner of Crown lands and Survey" substitute "Director-General of Conservation, Forests and Lands".
44.	Section 431	This section is repealed.
45.	Section 445	Omit "justices or" (wherever occurring) and in sub-section (1) for "County Court" (where secondly occurring) substitute "the County Court".
46.	Section 450 (2)	For "consolidated revenue" substitute "Consolidated Fund".
47.	Section 451 (1)	For " <i>Public Service Act 1958</i> " substitute " <i>Public Service Act 1974</i> ".
48.	Part XX.	The heading "Division 6—Transitory Provisions" is repealed.

SCHEDULE 2

Section 18

Amendments to other Acts

<i>Item</i>	<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Amendment</i>
1.	9720	<i>Building Control Act 1981</i>	In Schedule item 26 relating to the <i>Health Act 1958</i> , for "Section 182" substitute "Sections 182 and 182A".
2.			In Schedule item 28 relating to the <i>Health Act 1958</i> — (a) proposed section 188 is repealed; and (b) in proposed section 189 (2) (b), for "\$500" substitute "10 penalty units".
3.			In Schedule item 29 relating to the <i>Health Act 1958</i> , for "Sections 204 and 208G" substitute "Sections 204, 208G and 208H".
4.	10032	<i>Medical Practitioners (Private Hospitals) Act 1984</i>	In section 8— (a) in proposed section 184A (a) to be inserted in the <i>Health Act 1958</i> , omit "and value"; and (b) in proposed sections 184A (c), 184C (2) and 184D (1) to be inserted in the <i>Health Act 1958</i> , for "Commission" (wherever occurring) substitute "Chief General Manager".

SCHEDULE 2—continued

<i>Item</i>	<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Amendment</i>
5.	10158	<i>Health (General Amendment) Act 1984</i>	In Schedule item 18 (b) after "further" insert "daily".
6.	10262	<i>Health (Amendment) Act 1985</i>	Section 9 (7) (b) is repealed.
7.			In the Schedule item relating to the <i>Health Act 1958</i> , section 49A, after "occurring)" insert "except after "Rural Water" (wherever occurring)".
8.			In the Schedule item relating to the <i>Health Act 1958</i> , section 82, after "occurring)" insert "except after "Rural Water" (wherever occurring)".
9.			In the Schedule item relating to the <i>Historic Buildings Act 1981</i> , for "13" substitute "3".
10.			In the Schedule item relating to the <i>Hospitals and Charities Act 1958</i> , section 18, after "it" insert "(where secondly occurring)".
11.			In the Schedule item relating to the <i>Hospitals Remuneration Tribunal Act 1978</i> , section 32A (2), before "32A (2)" insert "7354 <i>Hospitals Superannuation Act 1965</i> ".
12.			In the Schedule item relating to the <i>Hospitals Remuneration Tribunal Act 1978</i> , section 32B (3), for "9163 <i>Hospitals Remuneration Tribunal Act 1978</i> " substitute "7354 <i>Hospitals Superannuation Act 1965</i> ".
13.			In the Schedule item relating to the <i>St Nicholas Hospital (Sale of Land) Act 1982</i> for "1982 Services" substitute "Services".

