



Australian Capital Territory

# **Public Health Act 1928**

**A1928-21**

**Republication No 2A**

**Effective: 29 November 1994 – 14 December 1994**

Republication date: 12 May 2014

Last amendment made by A1994-81

Authorised by the ACT Parliamentary Counsel

## **About this republication**

### **The republished law**

This is a republication of the *Public Health Act 1928* effective 29 November 1994 to 14 December 1994.

### **Kinds of republications**

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.



Australian Capital Territory

## **PUBLIC HEALTH ACT 1928**

### **TABLE OF PROVISIONS**

Section	
1.	Short title
2.	Commencement
3.	Repeal
4.	Interpretation
5.	Application of Act
5A.	Medical Officer of Health—appointment
5B.	Tenure
5C.	Terms and conditions
5D.	Remuneration and allowances
5E.	Leave of absence
5F.	Resignation
5G.	Termination of appointment
5H.	Acting Medical Officer of Health
5I.	Delegation
6.	Delegation
6A.	Appointment of Inspectors
7.	Powers of Medical Officer of Health
11A.	Power of Minister to determine fees
12.	Regulations





Australian Capital Territory

## **PUBLIC HEALTH ACT 1928**

An Act relating to Public Health

### **Short title**

1. This Act may be cited as the *Public Health Act 1928*.<sup>1</sup>

### **Commencement**

2. This Act shall commence on a date to be fixed by the Commission by notice in the *Gazette*.<sup>1</sup>

### **Repeal**

3. (1) The *Public Health Ordinance 1912* is repealed.  
(2) The Regulations may provide that any Act of the State of New South Wales shall, to the extent specified in the Regulations, cease to apply to the Territory, and that Act shall, to the extent so specified, thereupon cease to apply to the Territory.

### **Interpretation**

4. In this Act, unless the contrary intention appears—  
“authorized” means authorized in writing by the Minister;  
“determined fee” means the fee determined under section 11A for the purpose of the provision of this Act or the regulations in which the expression occurs;

“Drug” includes any article used for or in the composition or preparation of medicine for internal or external consumption or use by man, and includes disinfectants, germicides, antiseptics, preservatives, deodorants, anaesthetics, tobacco, narcotics, soaps, cosmetics, dusting powders, essences, unguents, and all other toilet articles;

“Food” includes every article which is used for food or drink by man, or which enters into or is used in the composition or preparation of any such article, and includes infant foods, flavouring matters, coloring matters, essences, condiments, spices, and confectionery;

“Inspector” means any Inspector of Health appointed by the Minister, and includes any acting or assistant inspector so appointed;

“The Medical Officer of Health” means the Medical Officer of Health appointed by the Minister;

“this Act” includes any Regulations made thereunder.

### **Application of Act**

**5. (1)** This Act shall not apply to the Territory accepted by the Commonwealth in pursuance of the *Jervis Bay Territory Acceptance Act 1915* of the Commonwealth unless and until the Minister, by notice published in the *Gazette*, declares it so to apply.<sup>2</sup>

**(2)** The Minister may by any such notice declare that this Act shall so apply wholly or only to the extent specified in the notice.

### **Medical Officer of Health—appointment**

**5A. (1)** The Minister may, in writing, appoint a person registered as a medical practitioner under the *Medical Practitioners Registration Act 1930* to be the Medical Officer of Health.

**(2)** A person who has attained the age of 65 years shall not be appointed to be the Medical Officer of Health and a person shall not be so appointed for a period that extends beyond the date on which the person will attain the age of 65 years.

### **Tenure**

**5B.** The Medical Officer of Health holds office for such period, not exceeding 6 years, as is specified in the instrument of his or her appointment.

### **Terms and conditions**

**5C.** The Medical Officer of Health holds office on such terms and conditions (if any), in respect of matters not provided for by this Act, as are determined by the Minister in writing.

### **Remuneration and allowances**

**5D. (1)** The Medical Officer of Health shall be paid such remuneration and allowances as are prescribed.

**(2)** Subsection (1) does not apply—

- (a)** in relation to remuneration—if there is a subsisting determination relating to the remuneration to be paid to the Medical Officer of Health; or
- (b)** in relation to an allowance of a particular kind—if there is a subsisting determination relating to an allowance of that kind to be paid to the Medical Officer of Health.

**(3)** In subsection (2), “determination” means a determination of the Remuneration Tribunal.

### **Leave of absence**

**5E.** The Minister may grant leave of absence to the Medical Officer of Health on such terms and conditions as to remuneration and otherwise as the Minister determines.

### **Resignation**

**5F.** The Medical Officer of Health may resign his or her office by writing delivered to the Minister.

### **Termination of appointment**

**5G. (1)** The Minister may terminate the appointment of the Medical Officer of Health for misbehaviour or physical or mental incapacity.

**(2)** If the Medical Officer of Health—

- (a)** becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit;
- (b)** engages in paid employment outside the duties of the office of Medical Officer of Health without the approval of the Minister;

- (c) is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or for 28 days in any period of 12 months;
- (d) is convicted, in Australia or elsewhere, of an offence punishable by imprisonment for 1 year or longer; or
- (e) ceases to be registered as a medical practitioner under the *Medical Practitioners Registration Act 1930*;

the Minister shall terminate the appointment of the Medical Officer of Health.

#### **Acting Medical Officer of Health**

**5H. (1)** The Minister may appoint a person to act as the Medical Officer of Health—

- (a) during a vacancy in the office of Medical Officer of Health, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Medical Officer of Health is absent from duty or from Australia or is for any other reason unable to perform the functions of that office;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

**(2)** The Minister shall not appoint a person under subsection (1) who—

- (a) is not registered as a medical practitioner under the *Medical Practitioners Registration Act 1930*; or
- (b) has attained the age of 65 years.

**(3)** Anything done by or in relation to a person purporting to act under subsection (1) is not invalid on the ground that—

- (a) the occasion for the person's appointment had not arisen;
- (b) there is a defect or irregularity in connection with the person's appointment;
- (c) the person's appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.



### **Delegation**

**5I.** The Medical Officer of Health may delegate any of his or her powers under this Act.

### **Delegation**

**6. (1)** The Minister may delegate any of his or her powers and functions under this Act (except this power of delegation) in relation to any matters or class of matters, so that the delegated powers and functions may be exercised by the delegate with respect to the matters or class of matters specified in the instrument of delegation.

**(2)** Every delegation under this section shall be revocable at will and no delegation shall prevent the exercise of any power or function by the Minister.

### **Appointment of Inspectors**

**6A.** The Minister may appoint such Inspectors of Health as he or she thinks necessary for the purposes of this Act and any Inspector so appointed shall have such powers and functions as are prescribed.

### **Powers of Medical Officer of Health**

**7.** The Medical Officer of Health has, in addition to his or her other powers under this Act, all the powers conferred by this Act on an inspector.

### **Power of Minister to determine fees**

**11A.** The Minister may, by notice in writing published in the *Gazette*, determine fees for the purposes of this Act.

### **Regulations**

**12.** The Executive may make Regulations not inconsistent with this Act prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for giving effect to this Act, and in particular prescribing matters providing for and in relation to—

- (a) the prevention of disease;
- (b) the maintenance of health;
- (c) sanitation in respect of any place, premises, vehicle or receptacle;
- (d) the care and treatment of sick persons;
- (e) the designation of diseases and measures for the control thereof;

- (f) the promotion of public health by the establishment of special clinics for the treatment and prevention of disease;
- (g) the medical and dental inspection of school children and measures to be instituted for the remedy and prevention of dental defects and diseases in children;
- (h) the licensing, control, and inspection of—
  - (i) preparation, sale, distribution and possession of food and drugs;
  - (ii) slaughtering of animals and sale of meat;
  - (iii) keeping of animals used for food or for the production of food products, and the food products of those animals;
  - (iv) dairies and milk supply;
  - (v) eating houses and food shops;
  - (vi) food manufactories;
  - (vii) boarding houses;
  - (viii) hospitals;
  - (ix) barbers' shops and hairdressing establishments;
  - (x) laundries, cleaning establishments and dye works;
  - (xi) second-hand trading establishments; and
  - (xii) the housing of birds or animals and the conditions under which they may be kept, and the registration of any premises used for any of these purposes;
- (i) the inspection of theatres, public halls, billiard saloons, hotels and other places open to public resort;
- (j) the prevention of pollution of natural water courses and the maintenance of the purity of water supply;
- (k) the disposal of garbage, refuse, and night-soil;
- (l) measures for the control or destruction of noxious vermin and insects;
- (ma) the disposal of dead animals;

- (mb) the registration, branding, testing, examination, isolation and destruction of bulls, cows or calves and the payment of compensation for the destruction of any such animals which are found to be diseased;
  - (o) the purposes for which and the conditions upon which licences, certificates and other documents may be issued; and
  - (p) the imposition of penalties for offences against the regulations not exceeding—
    - (i) if the offender is a natural person—10 penalty units; or
    - (ii) if the offender is a body corporate—50 penalty units.
-

## NOTES

1. The *Public Health Act 1928* as shown in this reprint comprises Act No. 21, 1928 amended as indicated in the Tables below.

Citation of Laws—The *Self-Government (Citation of Laws) Act 1989* (No. 21, 1989) altered the citation of most Ordinances so that after Self-Government day they are to be cited as Acts. That Act also affects references in ACT laws to Commonwealth Acts.

Table 1

Table of Ordinances

Ordinance	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Public Health Ordinance 1928</i>	21, 1928	8 Nov 1928	12 Dec 1929 (see <i>Gazette</i> 1929, p. 2487)	
<i>Public Health Ordinance 1930</i>	18, 1930	16 Oct 1930	16 Oct 1930	—
<i>Cemeteries Ordinance 1933</i>	29, 1933	23 Nov 1933	S. 22: 1 Aug 1929 Remainder: 23 Nov 1933	—
<i>Public Health Ordinance 1951</i>	3, 1951	26 Apr 1951	26 Apr 1951	—
<i>Ordinances Revision (Decimal Currency) Ordinance 1966</i>	19, 1966	23 Dec 1966	23 Dec 1966	—
<i>Ordinances Revision (Health Commission) Ordinance 1975</i>	17, 1975	1 July 1975	1 July 1975	—
<i>Ordinances Revision (Penalties) Ordinance 1979</i>	26, 1979	31 Aug 1979	31 Aug 1979	—
<i>Community and Health Service (Consequential Provisions) Ordinance 1988</i>	29, 1988	30 June 1988	2 July 1988	S. 4
<i>Public Health (Amendment) Ordinance 1989</i>	10, 1989	8 Mar 1989	8 Mar 1989	—
<i>Self-Government (Consequential Amendments) Ordinance 1989</i>	38, 1989	10 May 1989	Ss. 1 and 2: 10 May 1989 Remainder: 11 May 1989 (see s. 2 (2) and <i>Gazette</i> 1989, No. S164)	—

**Self-Government day 11 May 1989**

## NOTES—continued

Table 2

## Table of Acts

Act	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Director of Public Prosecutions (Consequential Provisions) Act 1990</i>	23, 1990	25 June 1990	Ss. 1 and 2: 25 June 1990 Remainder: 1 July 1990 (see <i>Gazette</i> 1990, No. S44, p. 2)	S. 4
<i>Health Services (Consequential Provisions) Act 1990</i>	63, 1990	28 Dec 1990	Ss. 1 and 2: 28 Dec 1990 Remainder: 1 Jan 1991 (see s. 2 (2) and <i>Gazette</i> 1991, No. S4)	Ss. 6-17
<i>Health (Consequential Provisions) Act 1993</i>	14, 1993	1 Mar 1993	1 Mar 1993 (see s. 2)	Parts IV-VI (ss. 14-34)
<i>Statute Law Revision (Penalties) Act 1994</i>	81, 1994	29 Nov 1994	Ss. 1 and 2: 29 Nov 1994 Remainder: 29 Nov 1994 (see <i>Gazette</i> 1994, No. S269, p. 2)	—

## Table of Amendments

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
S. 4 .....	am. No. 18, 1930; No. 17, 1975; No. 29, 1988; No. 10, 1989; Act No. 63, 1990; No. 14, 1993
S. 5 .....	am. No. 18, 1930
Ss. 5A-5I .....	ad. No. 10, 1989
S. 6 .....	am. No. 18, 1930; No. 10, 1989
S. 6A .....	ad. No. 18, 1930 am. No. 10, 1989
S. 7 .....	am. No. 18, 1930; No. 17, 1975 rs. No. 29, 1988
S. 7A .....	ad. No. 3, 1951 am. No. 17, 1975 rep. No. 29, 1988
S. 8 .....	rs. No. 18, 1930 am. No. 17, 1975 rs. No. 29, 1988

**NOTES—continued****Table of Amendments—continued**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision	How affected
	am. Act No. 63, 1990 rep. No. 14, 1993
S. 9 .....	rep. No. 26, 1979
S. 10 .....	am. No. 19, 1966 rep. No. 26, 1979
S. 11 .....	am. No. 18, 1930 rep. Act No. 23, 1990
S. 11A.....	ad. No. 10, 1989
S. 11B.....	ad. No. 10, 1989 am. Act No. 63, 1990 rep. No. 14, 1993
S. 12 .....	am. No. 18, 1930; No. 29, 1933; No. 19, 1966; No. 26, 1979; Nos. 10 and 38, 1989; Act No. 81, 1994

2. S. 5—By notice dated 24 October 1952 this Act (including the regulations from time to time in force thereunder, other than regulations made after the date of publication of the notice and expressed not to apply to the Jervis Bay Territory) was declared to apply to the Territory accepted by the Commonwealth in pursuance of the *Jervis Bay Territory Acceptance Act 1915* of the Commonwealth (see Gazette 1952, p. 4219).

© Australian Capital Territory 2014