

## New Zealand



### ANALYSIS

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Conservation of public health in areas outside jurisdiction of local authorities to be a function of Department.</p> <p>3. As to obligation of local authorities to provide sanitary works.</p> <p>4. Certain Boards deemed to be local authorities for purposes of drainage-works and water-supply works. Consequential repeal.</p> <p>5. Amending provisions as to appointment of Sanitary Inspectors by local authorities. Repeal.</p> <p>6. Amendment of procedure as to issue of closing-orders in respect of insanitary premises.</p> <p>7. Section 54 of principal Act amended.</p> <p>8. Power to isolate "carriers" of infectious diseases.</p> | <p>9. Definition of term "contact" extended for purposes of principal Act.</p> <p>10. Modification of provisions of principal Act as to quarantine of ships.</p> <p>11. Quarantine provisions in respect of aircraft.</p> <p>12. Medical examination of pupils in attendance at private schools.</p> <p>13. Extension of provisions for protection of infirm or neglected persons.</p> <p>14. Protection from civil or criminal liability of persons acting under authority of principal Act.</p> <p>15. Additional powers to make regulations under section 132 of principal Act.</p> <p>16. Extending statutory list of infectious diseases.</p> <p>17. Special provisions as to pulmonary tuberculosis.</p> <p>18. Miscellaneous amendments of principal Act. Schedule.</p> |
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1940, No. 17

Title.

AN ACT to amend the Health Act, 1920.

[30th August, 1940

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Health Amendment Act, 1940, and shall be read together with and deemed part of the Health Act, 1920 (hereinafter referred to as the principal Act).

2. (1) The promotion and conservation of the public health in any outlying islands or other areas that are not for the time being within the jurisdiction of any local authority or of any Harbour Board shall be a function of the Department, which shall, for the purposes of this section, be deemed to be a local authority.

(2) The powers of the Department for the purposes of this section shall be exercisable by the Director-General or by any other officer or officers of the Department acting with the authority of the Director-General.

(3) The Governor-General may by Order in Council make regulations for the purpose of giving effect to this section and by any such Order in Council may apply, with the necessary modifications, any regulations made under the authority of the principal Act.

(4) Any regulations made for the purposes of this section may prescribe reasonable fees to be payable by the owners or occupiers of lands within any area over which the Department has jurisdiction in accordance with this section for the purpose of recouping the expenditure incurred by the Department in the exercise of its functions in such areas. All fees payable in accordance with such regulations shall be recoverable as a debt due to the Crown. For the purposes of this subsection the term "occupier" in relation to any land shall include a person in temporary occupation thereof, whether or not such person is in occupation as of right.

(5) Subject to the foregoing provisions of this section and to any regulations for the time being in force thereunder, all expenses incurred by the Department in the exercise of its powers and functions under this section shall be paid out of moneys to be appropriated by Parliament.

Short Title.

See Reprint  
of Statutes,  
Vol. VI,  
p. 1061

Conservation  
of public health  
in areas outside  
jurisdiction of  
local authorities  
to be a function  
of Department.

As to obligation of local authorities to provide sanitary works.

**3.** The obligation of a local authority to comply with any requisition issued by the Board of Health in accordance with section twenty-two of the principal Act, with respect to sanitary works, shall not be limited by the fact that the local authority may not be empowered by any Act other than the principal Act to undertake works of the kind referred to in such requisition, and every local authority shall have power and be deemed at all times heretofore to have had power to carry out such works in accordance with the requisition.

Certain Boards deemed to be local authorities for purposes of drainage-works and water-supply works.

**4.** (1) This section applies to—

- (a) The Auckland and Suburban Drainage Board, constituted under the Auckland and Suburban Drainage Act, 1908:
- (b) The Christchurch Drainage Board, constituted under the Christchurch District Drainage Act, 1907:
- (c) The Dunedin Drainage and Sewerage Board, constituted under the Dunedin District Drainage and Sewerage Act, 1900:
- (d) The North Shore Boroughs (Auckland) Water Board, constituted under the North Shore Boroughs (Auckland) Water-supply Act, 1924.

(2) The Boards referred to in paragraphs (a), (b), and (c) of the last preceding subsection are hereby declared to be local authorities for all the purposes of the principal Act in relation to the provision and maintenance for their respective districts of drainage-works, sewerage-works, and works for the disposal of sewage; and the Board referred to in paragraph (d) of that subsection is hereby declared to be a local authority for all the purposes of the principal Act in relation to the provision and maintenance for its district of water-supply works, and to any water-supply or source of water-supply used or available for use within its district (whether situated within or beyond the boundaries of that district).

Consequential repeal.

(3) Section sixty-five of the principal Act is hereby repealed.

Amending provisions as to appointment of Sanitary Inspectors by local authorities.

**5.** (1) While any regulations are in force under the principal Act prescribing the qualifications to be possessed by persons appointed as Sanitary Inspectors, no person shall be appointed by any local authority as a Sanitary Inspector who is not qualified for

appointment as such in accordance with those regulations. Any such regulations may prescribe the qualifications of fully qualified Sanitary Inspectors and may prescribe different qualifications for persons appointed on probation and undergoing training as Sanitary Inspectors. Any such regulations may also prescribe conditions subject to which persons who are not fully qualified as Sanitary Inspectors may be employed on probation.

(2) Section twenty-five of the principal Act is hereby amended by omitting from subsection four all words after the words "the salary and expenses of an Inspector of Health", and substituting the words "and in any such case the powers, functions, and duties of a Sanitary Inspector within the district of that local authority shall be exercised and performed by such Inspector of Health as for the time being is authorized in that behalf by the Director-General".

(3) No agreement entered into by a local authority for the purposes of subsection four of section twenty-five of the principal Act shall, except with the concurrence of the Director-General, be terminated unless at least twelve months' notice in writing of intention to terminate the agreement has been given to the Director-General by the local authority.

(4) The said section twenty-five is hereby further amended by repealing paragraph (b) of subsection two thereof. Repeal.

6. (1) Section forty of the principal Act is hereby amended by omitting from subsection one the words "and cause the same to be served on the owner or occupier of such premises", and by adding, at the end of the same subsection, the words "Every such order shall be served on the occupier of the premises and, if the occupier is not the owner, a copy thereof shall also be served on the owner or his agent. If the owner cannot be found or is out of New Zealand and has no known agent in New Zealand, the occupier shall for the purposes of this and the next succeeding subsection be deemed to be the agent of the owner". Amendment of procedure as to issue of closing-orders in respect of insanitary premises.

(2) Section forty of the principal Act is hereby further amended by omitting from subsection two the word "occupier", and substituting the words "his agent".

Section 54  
of principal  
Act amended.

7. Section fifty-four of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection:—

“(1) It shall not be lawful for any person to establish any offensive trade within the district of any local authority, or to extend the premises in which any such trade is carried on, except with the written consent of the local authority and of the Medical Officer of Health and subject to such conditions as the local authority or the Medical Officer of Health may prescribe:

“Provided that from the refusal of the local authority to consent to the proposed extension of any such premises there shall be a right of appeal to a Board of Appeal constituted in the manner provided in section fifty-five hereof, and the provisions of that section as to appeals thereunder shall apply to appeals under this subsection.”

Power to  
isolate  
“carriers” of  
infectious  
diseases.

8. The powers conferred on Medical Officers of Health and on Inspectors of Health by section eighty-four of the principal Act with respect to persons suffering from any infectious disease are hereby extended to apply and may be exercised in respect of persons who are or are suspected to be carriers of any infectious disease.

Definition of  
term  
“contact”  
extended for  
purposes of  
principal Act.

9. If, in any proceedings for an offence against the principal Act or any regulations thereunder, a question arises as to whether or not any person is a “contact”, as defined in section two of the principal Act, the question shall be determined in accordance with the opinion of the Medical Officer of Health.

Modification of  
provisions of  
principal Act as  
to quarantine  
of ships.

10. (1) Section one hundred and four of the principal Act is hereby amended by omitting the word “written” before the words “authority of the Port Health Officer”.

(2) Any authority given by the Port Health Officer for the purposes of section one hundred and four of the principal Act may be given in respect of a specified ship on a specified voyage, or may be given generally in respect of all ships and voyages, or in respect of specified classes of ships in respect of all or of specified voyages. Every such authority (whether general or special) shall be subject to such exceptions and conditions (if any) as the Port Health Officer may impose:

(3) Any authority given by the Port Health Officer as aforesaid may be at any time revoked by him either absolutely or in respect of any particular ship or voyage.

(4) A general authority given by the Port Health Officer as aforesaid shall not operate to exempt the master of any ship from the duty of complying with the provisions of section one hundred and eight or section one hundred and nine of the principal Act.

11. (1) In this section the term " aircraft " has the same meaning as in the Air Navigation Act, 1931.

(2) The provisions of Part IV of the principal Act, so far as applicable and with the necessary modifications, shall apply with respect to aircraft and to persons and goods carried by aircraft in the same manner as they apply with respect to ships and to persons and goods carried by ship.

(3) The powers of the Port Health Officer under Part IV of the principal Act shall, in respect of aircraft and of persons and goods carried by aircraft, be exercisable by the Port Health Officer or by any other medical practitioner authorized in that behalf by the Director-General.

(4) The Governor-General may from time to time declare any aerodrome or part of an aerodrome or any other place to be a place of inspection to which any aircraft liable to quarantine shall be taken while awaiting inspection for the purposes of this section.

(5) Regulations for the purposes of this section may be made in accordance with the provisions of section one hundred and thirty-two of the principal Act. In the absence of regulations made specially for the purposes of this section any regulations relating to the quarantine of ships or of persons or goods carried on ships shall also apply, with the necessary modifications, in respect of aircraft and of persons and goods carried by aircraft.

12. (1) The provisions of section one hundred and thirty-nine of the principal Act (relating to the medical examination of children attending public schools) shall apply with respect to any school other than a public school and to the children attending the school if

Quarantine provisions in respect of aircraft.

See Reprint of Statutes, Vol. I, p. 424

Medical examination of pupils in attendance at private schools.

application in that behalf is made in writing to the Medical Officer of Health by the controlling authority of that school.

(2) Any application made by the controlling authority of any school for the purposes of this section may be at any time in like manner revoked.

**13.** Section one hundred and forty-two of the principal Act is hereby amended by adding to subsection one the following words: "An order under this section may be made in respect of any such person who habitually lives in any conditions as aforesaid, notwithstanding that at the time of the application or of the order he may have been temporarily removed from such conditions or such conditions may have been temporarily remedied".

**14.** (1) A person who does any act in pursuance or intended pursuance of any of the provisions of the principal Act, or of the Social Hygiene Act, 1917, shall not be under any civil or criminal liability in respect thereof, whether on the ground of want of jurisdiction, or mistake of law or fact, or any other ground, unless he has acted in bad faith or without reasonable care.

(2) No proceedings, civil or criminal, shall be brought against any person in any Court in respect of any such act except by leave of a Judge of the Supreme Court, and such leave shall not be given unless the Judge is satisfied that there is substantial ground for the contention that the person against whom it is sought to bring the proceedings has acted in bad faith or without reasonable care.

(3) Notice of any application under the last preceding subsection shall be given to the person against whom it is sought to bring the proceedings, and that person shall be entitled to be heard against the application.

(4) Leave to bring such proceedings shall not be granted unless application for such leave is made within six months after the act complained of, or, in the case of a continuance of injury or damage, within six months after the ceasing of such injury or damage.

(5) In granting leave to bring any proceedings as aforesaid, the Judge may limit the time within which such leave may be exercised.

Extension of provisions for protection of infirm or neglected persons.

Protection from civil or criminal liability of persons acting under authority of principal Act.

*Cf.* 20 & 21 Geo. V, c. 23, s. 16 (Imp.); 1935, No. 7 (N.Z.), s. 6

See Reprint of Statutes, Vol. VI, p. 1125

15. (1) The Governor-General may make regulations under section one hundred and thirty-two of the principal Act—

Additional powers to make regulations under section 132 of principal Act.

(a) For the registration of drainlayers and the qualifications of persons entitled to registration, and prohibiting, either absolutely or subject to conditions, the laying of drains by persons who are not registered as drainlayers:

(b) For the registration of persons qualified to embalm dead bodies, or to prepare the dead for burial or cremation, or to conduct funerals; and prohibiting, either absolutely or subject to conditions, the undertaking of any such duties by unregistered persons:

(c) Prescribing reasonable fees to be paid in respect of registration or of any other rights or privileges conferred by the principal Act or by any regulations thereunder, and the persons or authorities entitled to claim and receive any such fees.

(2) Nothing in this section shall be construed to limit the general authority to make regulations for the conservation and promotion of the public health, conferred on the Governor-General by paragraph (ae) of section one hundred and thirty-two of the principal Act.

16. Part II of the First Schedule to the principal Act is hereby amended by adding thereto the following words: “Gonorrhœa, syphilis, and soft chancre”.

Extending statutory list of infectious diseases.

17. (1) Subject to the provisions of the next succeeding subsection, the disease known as pulmonary tuberculosis shall not be deemed to be an infectious disease within the meaning of the principal Act.

Special provisions as to pulmonary tuberculosis.

(2) The Governor-General may, by Warrant notified in the *Gazette*, declare pulmonary tuberculosis to be an infectious disease within the meaning of the principal Act, and may by such Warrant include the said disease in Part I or in Part II of the First Schedule to the principal Act, as he thinks fit. Any Warrant under this subsection may be at any time revoked, and a further Warrant may be at any time issued in lieu thereof.

Miscellaneous  
amendments of  
principal Act.

18. The principal Act is hereby further amended in the manner indicated in the Schedule hereto.

Schedule.

SCHEDULE.

MISCELLANEOUS AMENDMENTS OF PRINCIPAL ACT.

Number of Section affected.	Nature of Amendment.
Section 2 ..	By adding the following definition :— “ ‘Smoke’ includes any fumes, gases, dust, soot, grit, or other matters produced in the process of combustion ”.
Section 22 ..	By omitting from subsection (2) the words “ within its district ”, and substituting the words “ for the benefit of its district (whether within or beyond the boundaries thereof) ”. By inserting, after the words “ with the approval of the Board of Health ” in subsection (4), the words “ and, if so required by the Board of Health, shall ”.
Section 26 ..	By inserting the word “ roof ” before the word “ gutter ” in paragraph (e); and by omitting the words “ offensive trade ” in paragraph (j), and substituting the words “ trade, business, manufacture, or other undertaking ”.
Section 37 ..	By inserting, after paragraph (b), the following paragraph :— “ (bb) A sufficient supply of wholesome water for drinking and other purposes shall be provided for the free use of the persons employed in any such premises ”.
Section 53 ..	By repealing paragraph (a) of subsection (1); and by inserting, after the words “ On the certificate of ” in paragraph (b) of that subsection, the words “ some competent person authorized in that behalf by ”.
Section 134 ..	By inserting, after the words “ any Inspector ”, the words “ of Health ”; by inserting the word “ any ” before the words “ other person ”; and by inserting the words “ in writing ” before the words “ in that behalf ”.