

**HEALTH ACT NO. 63 OF 1977**

[ASSENTED TO 17 MAY, 1977]

[DATE OF COMMENCEMENT: 1 SEPTEMBER, 1977]

except ss. 1, 15, 17 to 25, 27 to 29, 31 on 2 December, 1977, s. 30 on 21 April, 1978, ss. 14, 16 (a), ( f ), (g) and (h) on 7 December, 1979, s. 16 (b) on 1 October, 1981, s. 26 on 1 April, 1984, s. 16 (c) on 20 September, 1985, and s. 16 (d) and (e) to be proclaimed.

(Afrikaans text signed by the State President)

as amended by

Health Amendment Act, No. 18 of 1979

Health Amendment Act, No. 33 of 1981

Health Amendment Act, No. 37 of 1982

Health Amendment Act, No. 21 of 1983

Human Tissue Act, No. 65 of 1983

[with effect from 12 July, 1985]

Health Amendment Act, No. 2 of 1984

Health Amendment Act, No. 70 of 1985

Legal Succession to the South African Transport Services Act, No. 9 of 1989

[with effect from 6 October, 1989]

National Policy for Health Act, No. 116 of 1990

Abattoir Hygiene Act, No. 121 of 1992

[with effect from 10 July, 1992]

Health and Welfare Matters Amendment Act, No. 118 of 1993

Constitution of the Republic of South Africa, No. 200 of 1993

[with effect from 31 October, 1994]

Abolition of Restrictions on the Jurisdiction of Courts Act, No. 88 of 1996

[with effect from 22 November 1996]

#### GENERAL NOTE

1. In terms of s. 23 (1) and subject to the provisions of ss. 2 and 23 (2) of the Community Welfare Act (House of Representatives), No. 104 of 1987, the provisions of Act No. 63 of 1977 which entrusted to the Minister of Health and Welfare powers, duties and functions and which were with effect from 17 September, 1984 assigned under s. 26 of Act No. 110 of 1983 to the Minister of Health Services and Welfare: House of Representatives, ceased to apply in so far as Act No. 104 of 1987 is applicable as from 1 September, 1989.

2. The assignment of the administration of Act No. 63 of 1977 has been dealt with by Proclamation No. R.21 of 26 March, 1993.

#### ACT

To provide for measures for the promotion of the health of the inhabitants of the Republic; to that end to provide for the rendering of health services; to define the duties, powers and responsibilities of certain authorities which render health services in the Republic; to provide for the co-ordination of such health services; to repeal the Public Health Act, 1919; and to provide for incidental matters.

#### ARRANGEMENT OF SECTIONS

1. Definitions

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Schedule 1 Laws repealed by section 63 (1) (a)

Schedule 2 Laws repealed by section 63 (1) (b)

[Long title substituted by s. 20 (1) of Act No. 116 of 1990.]

1. Definitions.-In this Act, unless the context otherwise indicates-

“Administrator” . . . . .

[Definition of “Administrator” deleted by Proclamation No. R.152 of 1994.]

Wording of Sections

“committee” . . . . .

[Definition of “committee” deleted by s. 20 (1) of Act No. 116 of 1990.]

Wording of Sections

“communicable disease” means any disease which can be communicated directly or indirectly from any animal or through any agent to any person or from any person suffering therefrom or who is a carrier thereof to any other person;

“council” . . . . .

[Definition of “council” deleted by s. 20 (1) of Act No. 116 of 1990.]

Wording of Sections

“dairy” means any place where milk is sold or supplied or in which milk is kept for sale or delivery;

“dairyman” means any person in possession or occupation of a dairy in which any activity appertaining to a dairy is carried on;

“dairy produce” means milk and any produce intended for human consumption and derived or manufactured from milk;

“dental mechanician” means any person registered as such under the Dental Mechanicians Act, 1945 (Act No. 30 of 1945);

“dentist” means any person registered as such under the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974);

“Director-General”-

(a) in so far as the administration of a provision of this Act has under section 235 (8) of the Constitution been assigned to a competent authority within a provincial government and the provision is applied in or with reference to the province concerned, means the Director-General of the provincial administration of that province; or

(b) in so far as the administration of a provision of this Act has not been so assigned, means the Director-General of Health;

[Definition of "Director-General" inserted by s. 1 (a) of Act No. 33 of 1981 and substituted by s. 1 (a) of Act No. 2 of 1984 and by Proclamation No. R.152 of 1994.]

#### Wording of Sections

"district", in relation to a local authority, means the area which is under the jurisdiction of that local authority;

"dwelling" means any place, including any vehicle, vessel or boat, occupied as a human habitation;

"health inspector" means any person registered as such under section 32 of the Medical, Dental and Supplementary Health Service Professions Act, 1974;

"health officer" means a medical officer of health, a regional medical officer of health, a health inspector appointed under section 24, a student health inspector on the establishment of a local authority, a person registered under the Nursing Act, 1957 (Act No. 69 of 1957), and appointed under section 24 and any other person possessing such qualifications as the Minister may determine by notice in the Gazette and appointed under section 24;

"intensive animal-feeding system" means any farming system having as its object the breeding of animals or the production of meat, milk, eggs, furs or any other product of animal origin and where the animal in question is kept in a confined space so as to accomplish intensive feeding or maximum control of or maximum food conversion in the animal;

"local authority" means-

(a) any institution or body contemplated in section 84 (1) ( f ) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); or

(b) a board of management as defined in section 1 of the Rural Coloured Areas Law, 1979 (Law 1 of 1979), of the Coloured Persons Representative Council of the Republic of South Africa; or

(c) a local authority as defined in section 1 of the Black Local Authorities Act, 1982 (Act No. 102 of 1982); or

(d) any person declared to be a local authority by the Minister in terms of the provisions of section 30 (2);

[Definition of "local authority" substituted by s. 1 (c) of Act No. 2 of 1984.]

## Wording of Sections

“medical condition” means any physical or mental condition to which a person is subject and which is of such a nature as to require medical attention;

“medical officer of health” means a person appointed as such under section 22 or 25, and includes a person appointed under section 22 (4) (b) to act as medical officer of health;

“medical practitioner” means a person registered as such under the Medical, Dental and Supplementary Health Service Professions Act, 1974;

“milk” means milk derived from cows, goats, ewes, mares or asses, and includes skimmed milk, buttermilk and cream, but does not include powdered milk or condensed milk contained in hermetically sealed receptacles;

“milking shed” means any premises, or part thereof or appurtenances thereto, in or upon which animals are kept or milked for the purposes of the production of milk for human consumption;

“milk shop” means any premises, or part thereof or appurtenances thereto, in or upon which milk is sold or supplied, or kept or exposed for sale or delivery;

“milk vessel” means any receptacle, utensil, measure, apparatus or any other thing which is used for the collection, keeping, storage, preparation, conveyance, measurement, delivery or distribution of milk, and includes any lid, cover, stopper or other loose part likely to come into contact with the contents of such receptacle, utensil, measure, apparatus or thing;

“Minister”-

(a) in so far as the administration of a provision of this Act has under section 235 (8) of the Constitution been assigned to a competent authority within a provincial government and the provision is applied in or with reference to the province concerned, means the competent authority to whom the administration of such provision has been assigned in that province; or

(b) in so far as the administration of a provision of this Act has not been so assigned, means the Minister of Health in the national government;

[Definition of “Minister” substituted by s. 1 (b) of Act No. 33 of 1981, by s. 1 (b) of Act No. 2 of 1984 and by Proclamation No. R.152 of 1994.]

## Wording of Sections



“Minister of Finance” or “Minister of State Expenditure”-

(a) in so far as the administration of a provision of this Act has under section 235 (8) of the Constitution been assigned to a competent authority within a provincial government and the provision is applied in or with reference to the province concerned, means the member of the Executive Council of that province responsible for the budget in the province; or

(b) in so far as the administration of a provision of this Act has not been so assigned, means the Minister of Finance in the national government;

[Definition of “Minister of Finance” or “Minister of State Expenditure” inserted by Proclamation No. R.152 of 1994.]

“mollusc” means any member of the phylum Mollusca;

“non-personal health service” means any health service other than a personal health service;

“notifiable medical condition” means a medical condition declared to be a notifiable medical condition by the Minister in terms of the provisions of section 45;

“nuisance” means-

(a) any stream, pool, marsh, ditch, gutter, watercourse, cistern, watercloset, earthcloset, urinal, cesspool, cesspit, drain, sewer, dung pit, slop tank, ash heap or dung heap so foul or in such a state or so situated or constructed as to be offensive or to be injurious or dangerous to health;

(b) any stable, kraal, shed, run or premises used for the keeping of animals or birds and which is so constructed, situated, used or kept as to be offensive or to be injurious or dangerous to health;

(c) any accumulation of refuse, offal, manure or other matter which is offensive or is injurious or dangerous to health;

(d) any public building which is so situated, constructed, used or kept as to be unsafe or to be injurious or dangerous to health;

(e) any occupied dwelling for which no proper and sufficient supply of pure water is available within a reasonable distance;

( f ) any factory or industrial or business premises not kept in a cleanly state and free from offensive smells arising from any drain, watercloset, earthcloset, urinal or any other source, or

not ventilated so as to destroy or render harmless and inoffensive as far as practicable any gases, vapours, dust or other impurities generated, or so overcrowded or so badly lighted or ventilated as to be injurious or dangerous to the health of those employed therein or thereon;

(g) any factory or industrial or business premises causing or giving rise to smells or effluvia which are offensive or which are injurious or dangerous to health;

(h) any area of land kept or permitted to remain in such a state as to be offensive;

(i) any other activity, condition or thing declared to be a nuisance by the Minister in terms of the provisions of section 39 (2);

“nurse” means a person registered as such under the Nursing Act, 1957;

“occupier”, in relation to any premises, means-

(a) any person who actually occupies the premises; or

(b) any person who is entitled to occupy the premises; or

(c) any person in charge of or managing the premises, and includes the agent of any such person if he is absent from the Republic or his whereabouts is unknown;

“owner”, in relation to any premises, means-

(a) the person in whose name the certificate of title to those premises is registered, and includes the holder of a stand licence; or

(b) if such person or holder is dead, insolvent, mentally ill, a minor or under any legal disability, the person in whom the administration of such firstmentioned person’s or such holder’s estate is vested, whether as executor, guardian or in any other capacity; or

(c) if the premises are leased and registration in a deeds registry is a prerequisite for the validity of such lease, the lessee; or

(d) where the title of those premises is registered in the name of a juristic person, the secretary or manager, or any director or member, or the managing body or committee of such a juristic person;

“personal health service” means any health service for the examination and treatment of a medical condition;

“premises” means any piece of land and any building or other structure together with the land on which it is situated, and includes any vehicle, conveyance, ship, boat or other vessel or any aircraft;

“prescribe” or “prescribed” means prescribe or prescribed by regulation;

“province” means a province established in terms of section 124 of the Constitution;

[Definition of “province” inserted by Proclamation No. R.152 of 1994.]

“provincial administration” means the provincial administration established by Schedule 1 of the Public Service Act, 1994 (Proclamation No. 103 of 1994), for a province;

[Definition of “provincial administration” inserted by Proclamation No. R.152 of 1994.]

“purveyor of milk” means any person in possession or occupation of a milk shop, and includes any person who sells or delivers milk, or offers or exposes milk for sale or delivery, whether in any premises or in any street or public place;

“regional medical officer of health” means a person appointed as such under section 22 or 25;

“regulation” means a regulation made under this Act;

“Secretary” . . . . .

[Definition of “Secretary” deleted by s. 1 (c) of Act No. 33 of 1981.]

#### Wording of Sections

“sell” includes-

(a) offer, advertise, keep, expose, transmit, convey or deliver for sale;

(b) authorize, direct or allow a sale;

(c) prepare or possess for purposes of sale; or

(d) exchange or dispose in any manner for a consideration,

and “sale” has a corresponding meaning;

“student health inspector” means a person studying for a diploma or certificate, the possessor of which is entitled to registration as a health inspector under section 32 of the Medical, Dental and Supplementary Health Service Professions Act, 1974;

“supplementary health service profession” means any profession in respect of which a person who complies with the relevant requirements of the Medical, Dental and Supplementary Health Service Professions Act, 1974, is entitled to registration under section 32 of that Act;

“this Act” includes any regulation made thereunder;

“veterinary surgeon” means any person registered as such under the Veterinary Act, 1933 (Act No. 16 of 1933).

## CHAPTER I

### HEALTH MATTERS ADVISORY COMMITTEE AND NATIONAL HEALTH POLICY COUNCIL

2. . . . .

[S. 2 repealed by s. 20 (1) of Act No. 116 of 1990.]

Wording of Sections

3. . . . .

[S. 3 repealed by s. 20 (1) of Act No. 116 of 1990.]

Wording of Sections

4. . . . .

[S. 4 amended by s. 2 of Act No. 33 of 1981, by s. 2 of Act No. 2 of 1984 and by s. 1 (c) of Act No. 70 of 1985 and repealed by s. 20 (1) of Act No. 116 of 1990.]

Wording of Sections

5. . . . .

[S. 5 repealed by s. 20 (1) of Act No. 116 of 1990.]

Wording of Sections

6. . . . .

[S. 6 repealed by s. 20 (1) of Act No. 116 of 1990.]

Wording of Sections

7. . . . .

[S. 7 repealed by s. 20 (1) of Act No. 116 of 1990.]

Wording of Sections

8. . . . .

[S. 8 repealed by s. 20 (1) of Act No. 116 of 1990.]

Wording of Sections

9. . . . .

[S. 9 repealed by s. 20 (1) of Act No. 116 of 1990.]

Wording of Sections

10. . . . .

[S. 10 repealed by s. 20 (1) of Act No. 116 of 1990.]

Wording of Sections

11. . . . .

[S. 11 amended by s. 2 of Act No. 70 of 1985 and repealed by s. 20 (1) of Act No. 116 of 1990.]

Wording of Sections

12. . . . .

[S. 12 repealed by s. 20 (1) of Act No. 116 of 1990.]

Wording of Sections

13. . . . .

[S. 13 repealed by s. 20 (1) of Act No. 116 of 1990.]

Wording of Sections

CHAPTER II

DEPARTMENT OF HEALTH AND WELFARE

14. Functions of the Department of Health.-(1) In addition to the functions entrusted to the Department of Health by any other law, the functions of the said Department shall, subject to the provisions of this Act, be-

(a) with due regard to health services rendered by provincial administrations and local authorities, to co-ordinate health services rendered by the said Department and to provide such additional services as may be necessary to establish a comprehensive health service for the population of the Republic of South Africa;

(b) to take steps to establish a national health laboratory service;

(c) to take steps for the promotion of a safe and healthy environment;

(d) to promote family planning;

(e) with due regard to the provisions of the South African Medical Research Council Act, 1969 (Act No. 19 of 1969), to provide facilities for, and to undertake, research in connection with any matter falling within the scope of the said Department's functions in terms of this Act;

( f ) to provide services in connection with the procurement or evaluation of evidence of a medical nature with a view to legal proceedings; and

(g) to perform such other functions as may be assigned to it by the Minister.

[Sub-s. (1) amended by Proclamation No. R.152 of 1994.]

Wording of Sections

(2) . . . . .

[Sub-s. (2) deleted by Proclamation No. R.152 of 1994.]

Wording of Sections

15. Powers of the Director-General in case of default by local authority.-(1) Whenever the Minister is of the opinion that the health of any person within or outside the district of a local authority is being endangered by any state of affairs created by the failure or refusal of that

local authority to exercise any power or to perform any duty conferred or imposed upon it by or under any law, the Minister may by written notice call upon the local authority concerned forthwith to exercise such power or to perform such duty, and if the local authority fails to comply with such notice, the Director-General may exercise such power or, as the case may be, perform such duty and may authorize any person to take all necessary steps for that purpose as if he were the local authority.

[Sub-s. (1) amended by Proclamation No. R.152 of 1994.]

Wording of Sections

(2) The Director-General shall, for any of the purposes referred to in this section, have all the rights and powers of the local authority which so failed to comply with the notice referred to in subsection (1).

(3) Any expenditure incurred by the Director-General in the exercise of any power or the performance of any duty by virtue of the provisions of subsection (1), may be recovered by the State-

(a) by legal proceedings in any competent court against the local authority concerned;

(b) by deduction from any subsidy, refund, grant or other moneys payable out of the Provincial Revenue Fund to the local authority concerned,

[Para. (b) amended by Proclamation No. R.152 of 1994.]

Wording of Sections

and a certificate by the Director-General as to the amount due by a local authority under this section, shall be evidence of such amount.

(4) Where any amount due by a local authority under this section is recovered under subsection (3) (b), the local authority may appeal against such recovery to the Minister.

[Sub-s. (4) substituted by s. 70 of Act No. 88 of 1996.]

Wording of Sections

CHAPTER III

PROVINCIAL ADMINISTRATIONS

16. Functions of provincial administrations.-(1) In addition to the functions entrusted to a provincial administration by any other law, the functions of a provincial administration with regard to health services in its province, shall, subject to the provisions of this Act, be-

(a) to provide hospital facilities and services;

(b) to provide ambulance services within its province and, with due regard to similar services provided by provincial administrations in adjacent provinces, to co-ordinate such services;

(c) to provide facilities for the treatment of patients suffering from acute mental illness;

(d) to provide facilities for the treatment of out-patients in hospitals or in other places where patients are treated for a period of less than twenty-four hours;

(e) to provide and maintain maternity homes and services;

( f ) to provide personal health services, either on its own or in co-operation with any local authority;

[Para. ( f ) amended by Proclamation No. R.152 of 1994.]

Wording of Sections

(g) with a view to the establishment of a comprehensive health service within its province, to co-ordinate the services referred to in paragraphs (a) to ( f ), inclusive, with due regard to similar services rendered by the Department of Health and Welfare, other provincial administrations and by local authorities; and

(h) to promote family planning in the province concerned;

[Para. (h) amended by Proclamation No. R.152 of 1994.]

Wording of Sections

(i) to perform any other function as may be assigned to it by the Minister.

[Sub-s. (1) amended by Proclamation No. R.152 of 1994. Para. (i) added by Proclamation No. R.152 of 1994.]

Wording of Sections



(2) The Minister may with the concurrence of the Minister of State Expenditure and in so far as he has not already been authorized thereto by any law prescribe by regulation in the Official Gazette of the province concerned-

(a) in respect of any function which a provincial administration is in terms of this Act authorized or compelled to perform-

(i) the moneys payable for a service resulting from such function;

(ii) the circumstances in which and the conditions under which such moneys shall be payable;

(iii) the basis on which such moneys shall be calculated; and

(b) the basis on which and the conditions subject to which any person may, wholly or in part, be exempted from the payment of the moneys referred to in paragraph (a) (i).

[Sub-s. (2) added by s. 1 of Act No. 118 of 1993 and amended by Proclamation No. R.152 of 1994.]

#### Wording of Sections

17. Co-operation between provincial administrations.-(1) A provincial administration may, in co-operation with the provincial administration of a province adjacent to its own province, provide and maintain facilities on or near the borders of its province for the medical treatment of patients resident within its province as well as of patients resident within such adjacent province, and the cost of providing, maintaining and conducting such facilities shall be borne by the two provincial administrations concerned on a basis mutually agreed upon by them.

(2) (a) A provincial administration may provide ambulance services within a province adjacent to its own province.

(b) Where a provincial administration, in conveying a patient under the provisions of paragraph (a), incurs costs which would have been borne by the provincial administration of the adjacent province concerned if such conveyance had been undertaken by it, the last-mentioned provincial administration shall refund such costs to the first-mentioned provincial administration on a basis determined by the Minister after consideration of the recommendation of the committee in regard thereto.

(3) Where personal health services are rendered by a local authority on behalf of a provincial administration by virtue of the provisions of section 16 ( f ), that local authority shall be compensated by the provincial administration concerned for expenditure incurred by such

local authority in connection with the rendering of such services, on a basis mutually agreed upon by them.

18. Powers of provincial administrations in case of default by local authorities.-(1) Whenever the Minister is of the opinion that the health of the inhabitants of the district of a local authority is being endangered by the failure or refusal of that local authority to provide any non-personal health service, the Minister may by written notice call upon the local authority concerned forthwith to provide such service, and if the local authority fails to comply with such notice, the Minister may provide such service and may authorize any person to take all necessary steps for that purpose as if he were the local authority.

[Sub-s. (1) amended by Proclamation No. R.152 of 1994.]

Wording of Sections

(2) The Minister shall, for the purpose referred to in subsection (1), have all the rights and powers of the local authority which so failed to comply with a notice referred to in that subsection.

[Sub-s. (2) amended by Proclamation No. R.152 of 1994.]

Wording of Sections

(3) Any expenditure incurred by the Minister in the provision of a service by virtue of the provisions of subsection (1), may be recovered by that Minister-

(a) by legal proceedings in any competent court against the local authority concerned;

(b) by deduction from any subsidy, refund, grant or other moneys out of the provincial revenue fund of the province concerned to the local authority concerned;

[Para. (b) amended by Proclamation No. R.152 of 1994.]

Wording of Sections

(c) by the levying of a special rate upon all rateable property within the district of the local authority concerned.

[Sub-s. (3) amended by Proclamation No. R.152 of 1994.]

Wording of Sections

(4) A certificate by the Director-General concerned as to the amount due by a local authority under this section, shall be evidence of such amount.

[Sub-s. (4) amended by Proclamation No. R.152 of 1994.]

Wording of Sections

(5) Where any amount due by a local authority under this section is recovered under subsection (3) (b), the local authority may appeal against such recovery to the Minister.

[Sub-s. (5) substituted by s. 71 of Act No. 88 of 1996.]

Wording of Sections

19. Provision of out-patient services by provincial administrations.-(1) A provincial administration shall, if so requested by the Minister, establish, at or in connection with a detached out-patient department maintained in conjunction with or independently of a hospital under the control of such Minister, out-patient services involving the provision of not more than twelve beds for the accommodation and treatment of maternity cases, emergency cases and cases awaiting removal to a hospital, subject to any regulations which the Minister is hereby authorized to make with regard to the services to be rendered or the expenditure which may be incurred, and shall maintain such services as long as the Minister is satisfied as to the necessity therefor and that it is the most economical arrangement practicable.

[Sub-s. (1) amended by Proclamation No. R.152 of 1994.]

Wording of Sections

(2) The expenditure incurred in connection with such out-patient services shall be a charge against the provincial revenue fund of the province concerned.

(3) For the purposes of this section the expression "detached out-patient department" means a separate institution where out-patient services only are rendered.

(4) Nothing in this section contained shall be construed as prohibiting a provincial administration from establishing and maintaining out-patient services in the exercise of any powers conferred upon it by or under any law in force in its province.

[Sub-s. (4) amended by Proclamation No. R.152 of 1994.]

Wording of Sections

## CHAPTER IV

### LOCAL AUTHORITIES

20. Duties and powers of local authorities.-(1) Every local authority shall take all lawful, necessary and reasonably practicable measures-

(a) to maintain its district at all times in a hygienic and clean condition;

(b) to prevent the occurrence within its district of-

(i) any nuisance;

(ii) any unhygienic condition;

(iii) any offensive condition; or

(iv) any other condition which will or could be harmful or dangerous to the health of any person within its district or the district of any other local authority,

or, where a nuisance or condition referred to in subparagraphs (i) to (iv), inclusive, has so occurred, to abate, or cause to be abated, such nuisance, or remedy, or cause to be remedied, such condition, as the case may be;

(c) to prevent the pollution of any water intended for the use of the inhabitants of its district, irrespective of whether such water is obtained from sources within or outside its district, or to purify such water which has become so polluted;

(d) to render in its district, subject to the provisions of this Act or any other law, primary health care services approved by the Minister, including services for-

(i) the prevention of communicable diseases;

(ii) the promotion of the health of persons;

(iii) the rehabilitation in the community of persons cured of any medical condition;

(iv) the treatment of diseases and injuries which are normally treated by a general practitioner; and

[Sub-para. (iv) added by s. 2 (b) of Act No. 118 of 1993.]

(v) the provision of essential medicines,

[Sub-para. (v) added by s. 2 (b) of Act No. 118 of 1993.]

and to co-ordinate such services with due regard to similar services rendered by the Department of Health or the provincial administration of the province in which its district is situated.

[Para. (d) amended by s. 2 (a) of Act No. 118 of 1993 and by Proclamation No. R.152 of 1994.]

#### Wording of Sections

(1A) In so far as a local authority is not already authorized thereto by any law, that local authority may-

(a) determine-

(i) the moneys payable for a service resulting from any function in terms of this Act;

(ii) the circumstances in which and the conditions under which such moneys shall be payable; and

(iii) the basis on which such moneys shall be calculated;

(b) on application by any person, in writing exempt such person from the payment of such moneys.

[Sub-s. (1A) inserted by s. 2 (c) of Act No. 118 of 1993.]

(2) If the Minister, after consultation with a local authority, is satisfied that such local authority is able to perform any function of the Department of Health referred to in section 14, the Minister may, by notice in the Gazette, direct such local authority to perform such function.

[Sub-s. (2) amended by Proclamation No. R.152 of 1994.]

#### Wording of Sections

(3) The Minister may, if requested thereto by any local authority, delegate any of the functions of the Department of Health referred to in section 14, excluding any function referred to in section 14 (1) (a), to such local authority, subject to any regulations which he is hereby authorized to make with regard to the procedure to be adopted, the conditions to be complied with or any other matter, to ensure the proper discharge of any function so delegated.

[Sub-s. (3) amended by Proclamation No. R.152 of 1994.]

#### Wording of Sections

(4) The Minister shall, in respect of expenditure incurred by a local authority in performing any function of the Department of Health by virtue of the provisions of subsection (2) or (3), refund to such local authority such amount as the Minister, in consultation with the Minister of Finance, may determine.

[Sub-s. (4) amended by Proclamation No. R.152 of 1994.]

#### Wording of Sections

(5) (a) Whenever any local authority is, in the opinion of the Minister, unable owing to lack of resources, to exercise any of its powers or to perform any of its duties in terms of this section, the Minister may, by notice in writing addressed to such local authority relieve it, during a period specified in such notice, of the exercise of such power or the performance of such duty as he may specify in such notice, whereupon the Director-General may, during the said period, exercise the power or perform the duty of which such local authority has so been relieved, and may authorize any person to take all necessary steps for that purpose as if he were the local authority.

[Para. (a) amended by Proclamation No. R.152 of 1994.]

#### Wording of Sections

(b) The Minister may authorize the Director-General to recover from a local authority, in respect of expenditure incurred by the Director-General in the exercise of a power or the performance of a duty of which such local authority had been relieved in terms of paragraph (a), such part of the costs (but not exceeding thirty-three and one third per cent thereof) which would have been borne by such local authority if that power had been exercised or duty had been performed by it, as the Minister may consider should reasonably be contributed by such local authority towards such expenditure.

(c) Any amount recoverable from a local authority under paragraph (b) may be recovered in the manner contemplated in paragraphs (a) and (b) of section 15 (3), and the Minister's authorization to recover such amount shall be conclusive proof that it is due.

(6) (a) Two or more local authorities may, with the approval of the Minister, co-operate in exercising any of their powers or performing any of their duties referred to in subsection (1).

(b) If the Minister is of the opinion that it will be in the best interests of the inhabitants of their respective districts for two or more local authorities to co-operate in exercising any of their powers or performing any of their duties referred to in subsection (1), the Minister may, after

consultation with such local authorities, by written notice call upon such local authorities to co-operate in exercising such powers or performing such duties as he may specify in such notice, and, when so called upon, the local authorities concerned shall, subject to such conditions as may be mutually agreed upon by them and approved by the Minister, co-operate in accordance with the requirements of such notice.

[Para. (b) amended by Proclamation No. R.152 of 1994.]

#### Wording of Sections

(c) Where any dispute arises between local authorities with regard to the exercise of their powers or the performance of their duties in terms of the provisions of paragraph (a) or (b), the matter shall be referred to the Minister.

[Para. (c) substituted by s. 72 of Act No. 88 of 1996.]

#### Wording of Sections

(7) A local authority may, through any of its officers appointed under this Act or through any person generally or specially authorized in writing by its chief administrative officer, prosecute for any contravention of or failure to comply with any provision of this Act if the offence is alleged to have been committed within the district of that local authority or is alleged to affect that district.

(8) Any fine recovered or bail estreated in connection with any offence referred to in subsection (7), shall be paid to the local authority concerned.

(9) The Minister may by notice in the Provincial Gazette amend any by-law, relating to any matter referred to in subsection (1), made by a local authority.

[Sub-s. (9) amended by Proclamation No. R.152 of 1994.]

#### Wording of Sections

21. Powers of local authority outside its district.-Nothing in any law governing any local authority contained shall be construed as prohibiting such local authority from exercising any power or performing any duty under this Act by reason only that in exercising such power or performing such duty it is required to do some act or thing or incur expenditure outside its district.

22. Appointment by local authorities of medical officers of health and regional medical officers of health.-(1) A local authority may, and when required by the Minister to do so, shall, appoint

a medical practitioner as medical officer of health for its district and, if circumstances so require, may appoint a medical practitioner to assist such medical officer of health in the performance of his duties.

(2) Two or more local authorities may, and when required by the Minister to do so, shall appoint a medical practitioner to be full-time regional officer of health for the area comprising their districts.

(3) An appointment under subsection (1) or (2) shall be subject to the approval of the Director-General, and in making such an appointment preference shall be given, apart from special circumstances in any particular case, to a medical practitioner who possesses a degree or diploma in the sphere of community health which is registrable under section 35 (2) of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974).

(4) (a) If a local authority does not appoint or is not required to appoint a medical officer of health under this section, the district surgeon or such other medical practitioner as the Minister may appoint, shall for the purposes of this Act be the medical officer of health for the district of that local authority, and such district surgeon or such other medical practitioner shall be responsible to, and shall be paid by, the local authority in accordance with regulations made in that connection by the Minister.

(b) If the office of the medical officer of health or regional medical officer of health becomes vacant and the local authority concerned is unable to make a suitable appointment to fill the vacancy, such local authority may appoint-

(i) the medical officer of health in the service of the local authority of a district adjacent to its own;

(ii) the district surgeon; or

(iii) any other medical practitioner,

to act as medical officer of health for its district until such time as the vacancy is filled.

(5) (a) Subject to the provisions of the Industrial Conciliation Act, 1956 (Act No. 28 of 1956), and of any law dealing with retirement on grounds of ill-health or on reaching a prescribed age, no medical officer of health, regional medical officer of health or medical practitioner appointed in terms of subsection (1) to assist a medical officer of health in the performance of his duties, whether appointed before or after the commencement of this Act, shall, without his own consent, be removed from his office or have his salary or allowances reduced, unless the



Minister has approved thereof: Provided that a local authority may, on the ground of serious incapacity, neglect or misconduct, suspend any such medical officer of health, regional medical officer of health or medical practitioner from the duties of his office and suspend the payment of his salary and allowances pending the approval of the Minister of his dismissal, and in the event of such approval being given, the medical officer of health, regional medical officer of health or medical practitioner concerned shall be deemed to have been removed from office with effect from the date of his suspension.

(b) Before making a decision with regard to the removal from his office or the reduction of the salary or allowances of a medical officer of health, regional medical officer of health or medical practitioner referred to in paragraph (a), the Minister shall afford the medical officer of health, regional medical officer of health or medical practitioner concerned an opportunity to make such representations to him, if any, with regard to such removal or reduction, as the medical officer of health, regional medical officer of health or medical practitioner may wish to make.

(6) If any dispute arises between local authorities in connection with the appointment, duties or remuneration of a regional medical officer of health or in connection with any other matter concerning him or her, the matter shall be referred to the Minister.

[Sub-s. (6) substituted by s. 73 of Act No. 88 of 1996.]

#### Wording of Sections

23. Duties of medical officers of health and regional medical officers of health.-A medical officer of health or a regional medical officer of health appointed under section 22 or 25 shall-

(a) at all times keep himself properly informed on the health of the inhabitants of the district for which he has been appointed and on health conditions in such district, and make such inspections and inquiries as may be necessary for this purpose and report to any local authority concerned on any matter relating thereto which in his opinion should receive the consideration of such local authority;

(b) furnish the Director-General with quarterly reports and an annual report on the health of the inhabitants of the district for which he has been appointed and on health conditions therein, and furnish the local authority concerned with copies of the said reports;

(c) furnish such special reports on any matter relating to the health of the inhabitants of the district in question and to health conditions therein, and carry out such duties relating thereto, in accordance with the terms of his appointment, as the local authority may from time to time require; and

(d) institute inquiries into, and report to the Minister of the province in which the district of the local authority concerned is situated, on, the proposed utilization of any area within such district for residential or industrial purposes or the proposed extension of such area so utilized, in so far as such utilization or extension can affect the health of the inhabitants of such area or any area adjacent thereto.

[Para. (d) amended by Proclamation No. R.152 of 1994.]

#### Wording of Sections

24. Appointment by local authority of health inspectors and other qualified persons.-(1) A local authority may, and when required by the Minister to do so, shall, appoint one or more health inspectors, one or more persons registered under the Nursing Act, 1957 (Act No. 69 of 1957), and one or more other persons possessing such qualifications as the Minister may determine by notice in the Provincial Gazette to assist in safeguarding the health of the inhabitants of its district and in carrying out the provisions of this Act therein.

[Sub-s. (1) amended by Proclamation No. R.152 of 1994.]

#### Wording of Sections

(2) The provisions of subsection (5) of section 22 shall mutatis mutandis apply in respect of any health inspector or other person appointed under subsection (1) by a local authority.

(3) The medical officer of health or, as the case may be, the regional medical officer of health in the service of a local authority, shall supervise the activities of any health inspector or other person appointed under subsection (1) by such local authority.

25. Minister may appoint medical officer of health, regional medical officer of health, health inspector or other person.-(1) If any local authority fails to appoint a medical officer of health or a regional medical officer of health or a health inspector or a person registered under the Nursing Act, 1957, or a person possessing such qualifications as the Minister may determine by notice in the Provincial Gazette, as the case may be, within three months after having been required by the Minister to do so, the Minister may-

(a) appoint any such officer, inspector or person to act within the district of such local authority; and

(b) determine the duties of such officer, inspector or person and the remuneration to be paid to him by the local authority concerned:

Provided that any such appointment shall cease when a medical officer of health or a regional medical officer of health or a health inspector or a person registered under the Nursing Act, 1957, or a person possessing such qualifications as the Minister may determine by notice in the Provincial Gazette, as the case may be, is appointed by the local authority concerned.

[Sub-s. (1) amended by Proclamation No. R.152 of 1994.]

Wording of Sections

(2) If the local authority fails to pay the remuneration of any officer, inspector or person appointed under subsection (1), such remuneration shall be paid out of the Provincial Revenue Fund, whereupon the provisions of section 15 (3) shall mutatis mutandis apply with reference to the recovery of such remuneration.

[Sub-s. (2) amended by Proclamation No. R.152 of 1994.]

Wording of Sections

26. Financial aid to local authorities.-(1) The Minister may with the concurrence of the Minister of Finance pay subsidies to local authorities out of moneys appropriated by provincial legislature for that purpose.

[Sub-s. (1) amended by Proclamation No. R.152 of 1994.]

Wording of Sections

(2) A subsidy paid under subsection (1) shall be subject to the prescribed conditions and to such further conditions as may be determined by the Minister in the case of the subsidy in question.

[S. 26 substituted by s. 3 of Act No. 33 of 1981.]

Wording of Sections

27. Procedure in respect of conditions requiring immediate remedying.-(1) Where in the opinion of a local authority a condition has arisen in its district which is of such a nature as to be offensive or a danger to health unless immediately remedied and to which the provisions of the Atmospheric Pollution Prevention Act, 1965 (Act No. 45 of 1965), are not applicable, it may serve a written notice on the person responsible for such condition having arisen or on the occupier or owner of the dwelling in which or premises on which such condition exists, calling upon him to remedy the condition within such period as may be specified in such notice.

(2) Any person failing to comply with any such notice shall be guilty of an offence.

(3) If the person on whom notice is served under subsection (1) fails to comply therewith, the local authority may enter the dwelling or premises in question and take all such steps as may be necessary to remedy the condition, and may recover the cost of so doing from the person on whom the notice was served or from the owner or occupier of the dwelling or premises in question.

(4) Where any such notice has been served on the owner, the said costs, together with interest thereon calculated at a rate of interest determined by the Minister of Finance with effect from the date on which such costs were incurred, shall, notwithstanding anything to the contrary in any other law contained, form a first charge against the land on which such dwelling is or premises are situated and rank in priority to all debts whatsoever, other than costs referred to in section 89 of the Insolvency Act, 1936 (Act No. 24 of 1936).

28. Local authorities to transmit returns of notifications.-Every local authority shall, at the end of each week, transmit to the Director-General in the prescribed manner particulars of all cases of notifiable medical conditions notified to it during the week, and all information which it may possess as to any outbreak or prevalence or absence of any communicable disease within its district, and shall furnish the Director-General with such further information relating to any notifiable medical condition in respect whereof particulars were transmitted in terms of this section, as the Director-General may require.

29. Minister may require local authority to furnish reports and returns.-(1) (a) The Minister may-

(i) require any local authority, at any time or at stated intervals, to furnish him with a report or a statistical return relating to the health of the inhabitants of its district or any part thereof, or to hygiene conditions therein or on any premises situate therein;

(ii) prescribe the form of any such report or return;

(iii) at any time require any local authority to furnish him with a report submitted to such local authority by any person regarding any matter relating to the health of the inhabitants of its district or any part thereof or any premises situate therein, or to furnish him with particulars or a copy of any such report.

(b) A local authority shall furnish the Minister with a copy of any report referred to in paragraph (a) (iii) which relates to the health of persons outside its district, or to any matter affecting or likely to affect the health of the inhabitants of the Republic or any part thereof, or to any communicable disease.

(2) The Minister may communicate any information furnished to him under subsection (1) to any department of State, including a provincial administration, or to any public body or to any official of such department, where, in the opinion of the Minister, such information is reasonably required by such department, body or official for the effective performance of any function.

[Sub-s. (2) amended by Proclamation No. R.152 of 1994.]

#### Wording of Sections

30. Director-general to be local authority in areas where there is no local authority.-(1) In respect of any area where there is no local authority the Director-general shall, until a local authority is established for that area, be the local authority for the purpose of this Act: Provided that the Director-general shall not be obliged to provide in or in respect of such area any rubbish removal, night-soil removal or sewerage service or a service for the supply of pure water or to establish in or in respect of such area works for the purification, processing or disposal of rubbish, night-soil, sewage or other solid or liquid waste or works for the purification of water.

(2) Notwithstanding the provisions of subsection (1) the Minister may, on the recommendation of the Director-general, and in consultation with-

(a) any person, by notice in the Gazette declare that such person shall for the purposes of the provisions of this Act (excluding such provision or provisions as may be specified in the notice) be the local authority in respect of an area referred to in subsection (1) and specified in the notice;

(b) the Minister of Mineral and Energy Affairs, by notice in the Gazette declare that a mining commissioner shall for the purposes of the provisions of this Act (excluding such provision or provisions as may be specified in the notice) be the local authority in respect of an area referred to in subsection (1) which has been proclaimed alluvial diggings for precious stones under the Precious Stones Act, 1964 (Act No. 73 of 1964), and which is specified in the notice.

(3) Any costs incurred by a mining commissioner in his capacity as a local authority in terms of this Act shall be defrayed from moneys voted by Parliament for that purpose: Provided that a mining commissioner may in respect of a health service rendered by him in terms of this Act recover for the benefit of the State Revenue Fund such moneys as may be determined by the Minister of Mineral and Energy Affairs from the persons to whom or in whose interest such service is rendered.

(4) A notice under subsection (2) may at any time be withdrawn or amended by the Minister by notice in the Gazette.

[S. 30 substituted by s. 1 of Act No. 37 of 1982.]

#### Wording of Sections

31. Delegation or transfer of powers and duties of local authority.-(1) Where a local authority deems it necessary for the proper performance of any function under this Act, it may in writing authorize a committee of its members or its medical officer of health or any other of its officers to perform such function on its behalf.

(2) (a) Whenever the Minister is satisfied that any power conferred or any duty imposed upon any local authority under this Act should be transferred to any other local authority, he may, after consultation with the local authorities concerned, by notice published in the Provincial Gazette and in a newspaper circulating in the districts concerned, transfer such power or such duty to such other local authority and the Minister may in like manner revoke or modify any such notice.

[Para. (a) amended by Proclamation No. R.152 of 1994.]

#### Wording of Sections

(b) If, after the date of any such transfer, any other local authority is established in the place of the local authority which has by such transfer been relieved of any power or duty (whether or not such first-mentioned local authority is established in respect of the same area), or the district of such last-mentioned local authority is altered, the said transfer shall be deemed to be a transfer from such first-mentioned local authority or, as the case may be, in respect of such altered district.

(3) Any local authority which has under subsection (2) been relieved of any power or duty, shall pay to the local authority to which that power or duty has been transferred, such percentage of the annual expenditure incurred in the exercise of that power or the performance of that duty as may be agreed upon by such local authorities, or as may, in the absence of agreement within a time reasonable in the circumstances, be determined by the Minister.

[Sub-s. (3) amended by Proclamation No. R.152 of 1994.]

#### Wording of Sections

### CHAPTER V

## REGULATIONS

32. Regulations relating to notifiable medical conditions.-The Minister may make regulations relating to the notification by medical practitioners or other categories of persons, of cases of notifiable medical conditions, including the circumstances under which and the manner in which and the person or authority to whom such notifications shall be made, the records to be kept by local authorities of such notifications and the transmission by local authorities of such notifications to the Director-General.

33. Regulations relating to communicable diseases.-(1) The Minister may make regulations relating to-

(a) the closing of any teaching institution or any place of public entertainment, for the purpose of preventing the spread of any communicable disease, and the regulation or restriction of the attendance by any person at any teaching institution;

(b) the duties of parents or guardians of scholars and students who are suffering or have suffered from, or have been exposed to infection with, any communicable disease, and of persons in charge of teaching institutions, in respect of such scholars or students;

(c) the imposition and enforcement of quarantine in respect of, or the subjection to medical observation, examination or surveillance of, persons suffering or suspected to be suffering from any communicable disease, where such persons are not removed to a hospital or place of isolation, the premises on which such persons are accommodated, the persons in charge of or attending upon such first-mentioned persons, and other persons living on or visiting such premises or who may otherwise have been exposed to infection with such disease;

(d) the conveyance by rail or otherwise of persons suffering from, or the bodies of persons who have died of, any communicable disease;

(e) the measures which shall be taken at inland borders, ports or airports with a view to preventing the introduction of communicable diseases into the Republic or the export from the Republic of any substance or thing likely to introduce any communicable disease into any area outside the Republic;

( f ) the prevention of the transmission from any vertebrate or invertebrate animal, animal carcase, animal product, animal parasite, plant or plant parasite to human beings, of any communicable disease;

- (g) the prevention of the spread of and the eradication of malaria, the extermination of mosquitoes and the removal or remedying of conditions permitting or favouring the prevalence or increase of mosquitoes;
- (h) the prevention of the transmission of any communicable disease by flies or other insects, the extermination of flies or other insects and the removal or remedying of conditions permitting or favouring the prevalence or increase of flies or other insects;
- (i) the extermination of rodents and other vermin and the removal or remedying of conditions permitting or favouring the prevalence or increases thereof, and the disposal of the carcasses of rodents and other animals suspected to have died of a communicable disease;
- (j) the compulsory immunization of persons against communicable diseases and any matter incidental to such immunization;
- (k) the prevention of the development of any communicable disease in any vertebrate or invertebrate animal, animal product, animal parasite, plant or plant parasite;
- (l) the prevention of the development and spread of any communicable disease as a result of the carrying on of any business, trade or occupation;
- (m) the prevention of the transmission of any communicable disease by persons who, although not suffering from such disease, are carriers of, and likely to cause the spread of infection with, such disease, the keeping under medical surveillance and the restriction of the movements of such persons;
- (n) the disposal of any refuse, waste matter or any other matter or thing which is in such a condition that it is likely to cause the development of a communicable disease;
- (o) the provision of equipment for disinfecting, and the disinfection of, any premises or thing which is or is believed to be in such a condition that it will cause the development of a communicable disease and, where disinfection of such thing is impossible, the destruction thereof;
- (p) the inspection of premises or articles with a view to ascertaining the existence or otherwise of insanitary or other conditions likely to favour the spread, or to impede the eradication, of any communicable disease and, where such conditions exist, the remedying thereof;
- (q) the evacuation, closing, alteration, demolition or destruction of any premises the occupation or use of which is considered likely to favour the spread, or to impede the eradication, of any communicable disease, the circumstances in which compensation may be



paid in respect of any premises so demolished or destroyed and the manner of fixing such compensation;

(r) the compulsory medical examination of persons suffering or believed to be suffering from any communicable disease specified in such regulations and the compulsory hospitalizing and treatment of such persons;

(s) the compulsory removal, cleansing and disinfecting of persons infested with fleas, lice or other similar external parasites;

(t) the control, restriction or prohibition of the use of any premises for a funeral undertaker's business and the measures to be taken in carrying on such business to prevent the spread of communicable diseases;

(u) the control or the closing of any place used for public receptions, recreation or amusement and the regulation, restriction or prohibition of the holding of or attendance at any meeting, reception or other public gathering, with a view to preventing the spread of or to controlling or restricting any communicable disease,

and, generally, relating to the measures which shall be taken with a view to preventing the occurrence or the spread of communicable diseases, or to controlling or restricting such diseases.

(2) The Minister may, at the request of a local authority, make regulations relating to the compulsory notification of births to that local authority.

[Sub-s. (2) added by s. 1 of Act No. 21 of 1983.]

34. Regulations relating to conditions dangerous to health.-The Minister may make regulations relating to-

(a) the regulation, restriction or prohibition of any trade or occupation entailing a special danger to health and to the measures to be taken with a view to preventing or restricting such danger;

(b) the manufacture of rag flock, the trade in rags, bones and in second-hand clothing, bedding or any similar second-hand article, and the disinfection of any such article before its importation, removal, sale, exposure for sale or use in any manufacturing process;

(c) the keeping, use, conveyance, or import into or export from the Republic of cultures or preparations of micro-organisms or other material capable of causing disease in human beings;

(d) the prevention and remedying of over-crowded, dirty, insanitary or verminous conditions in any dwelling or other building;

(e) the regulation, restriction or prohibition of the conveyance of merchandise or any other thing into, out of, or within any area specified or defined in such regulations;

( f ) the standards and requirements to which cemeteries or graves in cemeteries shall conform and the regulation, control or prohibition of the establishment of cemeteries in the vicinity of other planned or existing premises or of natural resources;

[Para. ( f ) substituted by s. 4 (a) of Act No. 33 of 1981.]

Wording of Sections

(g) the storage, removal, transport or burial of dead bodies;

[Para. (g) substituted by s. 4 (b) of Act No. 33 of 1981.]

Wording of Sections

(h) the control, restriction or prohibition of the erection of new buildings, and to the provision of sewerage and drainage systems for buildings, the siting, construction and repair of buildings and the provision of water, washing and sanitary conveniences, lighting and ventilation in buildings;

(i) the control, restriction or prohibition of the establishment and running of caravan parks, camping sites and holiday resorts, and to the provision of sewerage and drainage systems for, water, washing and sanitary conveniences at, and the prevention of overcrowding of, such caravan parks, camping sites and holiday resorts;

( j ) the approval, regulation, restriction or prohibition of the use of any place for public gatherings, and to the standards which shall be conformed to in respect of the provision of water and washing and sanitary conveniences, and the serving of food and disposal of waste at, and the provision of sewerage and drainage systems for, such place and such other measures as may be necessary in order to prevent the development at such place of conditions dangerous or detrimental to health;

(k) the control, restriction or prohibition of the building of swimming baths for public use, and to the registration of such swimming baths, the standards which shall be conformed to in respect of the provision at such swimming baths of washing and sanitary conveniences, the purification of swimming bath water, the purifying agents which may be added to swimming

bath water, and such other measures as may be necessary in order to prevent the development at such swimming baths of conditions dangerous or detrimental to health;

(l) the periodical cleansing of premises, the removal from premises of rubbish, waste or spillage, the evacuation of any premises on which a condition exists which constitutes a danger to health, the prohibition of entrance upon such premises and the remedying of such condition;

(m) the inspection of buildings, caravan parks, camping sites, holiday resorts, places used for public gatherings, swimming baths and premises, with a view to ascertaining the existence or otherwise of conditions likely to be dangerous or detrimental to health and the steps which may be taken by inspectors to ensure that such buildings, caravan parks, camping sites, holiday resorts, places, swimming baths or premises are kept clean and free of such conditions,

and, generally, relating to the measures which shall be taken with a view to preventing the occurrence of any condition which is likely to constitute a danger to health, or to remedying or removing any such condition.

35. Regulations relating to food and milk.-(1) The Minister may make regulations relating to-

(a) the control, restriction or prohibition of the use of any premises for purposes connected with the handling, processing, production, manufacturing, packing, storing, preparing, displaying, sale or serving of food, and to the provision of a sewerage and drainage system for, and water, washing and sanitary conveniences, lighting and ventilation at, such premises;

(b) the structural requirements to which any building on such premises shall conform and the material which shall be used in the construction thereof;

(c) the standards and requirements to which apparatus, equipment, storing spaces and working surfaces and places employed in connection with the handling of food, and the cleansing of the afore-mentioned facilities, the manner of transport of various foodstuffs, the holders in which food is stored, processed, displayed or transported and the clothing worn by persons handling food, shall conform;

(d) the regulation, control, restriction or prohibition of the use of food selling automatons, and the requirements to which the place shall conform where food intended for sale in such automatons is prepared, the manner of identification by dating of such food, the manner of transport of food to such automatons, the replenishing of food in such automatons, the material which shall be used for the packaging of food intended for sale in such automatons,

the manner of storing food so packaged, the protection against pollution and decay of food in such automatons and the siting of such automatons;

(e) the examination of, and the control and supervision of the manufacture, preparation, storage, keeping and dispatch of, any article of food intended for sale in or export from the Republic, and the prohibition of the manufacture, preparation, storage, keeping, dispatch, or sale in or export from the Republic of any article of food which is, or contains an ingredient which is, diseased or unsound or unfit for human consumption, or which has been exposed to any infection or contamination;

( f ) the conditions subject to which any article of food referred to in subsection (4) may be sold;

(g) the prohibition of the importation into the Republic of any article of food which is not clean, sound and free from decay or any infection or contamination, and the seizure, and disposal by destruction or otherwise, of any such article of food so imported;

(h) the preparation, manufacture, importation, storage or sale of or trade in articles of food which are packed in airtight containers or otherwise preserved, and the marking of any such article of food with the date of manufacture or preparation thereof;

(i) the taking and examination or analysis of samples of milk, dairy produce, meat or other articles of food and the removal or detention, pending examination or analysis, of animals or articles of food which are suspected of being diseased or unsound or unwholesome or unfit for human consumption, and the seizure and destruction or treatment or disposal, so as to prevent danger to health, of any such article of food which is found to be unwholesome, unsound, infected or contaminated, and of diseased animals sold or intended or offered or exposed for sale for human consumption;

( j ) the fixing of standards of purity for milk, the warning to be given to any dairyman or purveyor of milk that any milk sold, kept, dispatched or exposed for sale by him has been found to be below any such standard, and the issue of orders prohibiting the sale or the keeping or exposure for sale of milk from a particular cow, or requiring the closing of any dairy, milking shed or milk shop, the milk from which is found, after analysis and official warning, to be below any such standard;

(k) the conveyance and distribution of milk and the labelling or marking of receptacles used for the conveyance of milk;

(l) the veterinary inspection of dairy-cattle, the sampling and bacteriological examination of milk and dairy produce and the prevention of the sale, keeping, dispatch or exposure for sale,

of tuberculous milk or tuberculous dairy produce, or of the milk, or dairy produce made from the milk, of any cow which has given tuberculous milk, or which is or appears to be suffering from tuberculosis, or from indurated udder or any chronic disease of the udder;

(m) the duties of dairymen and purveyors of milk in connection with the occurrence of any communicable disease amongst persons residing or employed in or about their premises and the furnishing by them of the names and addresses of their customers, and of cowherds in connection with the reporting of the occurrence, in animals on the premises or any dairy cattle, of communicable diseases or of any disease of the udder;

(n) the inspection of dairy-cattle, animals intended for human consumption, dairies, milking sheds, milk shops and milk vessels, and of factories, stores, shops and other places where any article of food is handled, processed, manufactured, prepared, kept, packed, displayed, sold or served;

(o) the medical examination of persons who handle food, milk or dairy produce, in order to identify such persons who are carriers of diseases or are suffering from any communicable disease specified in such regulations, and the restriction or prohibition of the handling of food, milk or dairy produce by persons so identified as carriers of disease or as suffering from such a communicable disease; and

(p) the fees which may be levied in respect of any inspection or medical examination performed in terms of the provisions of any regulation made under this subsection.

(2) Different regulations may be made under subsection (1) in respect of different classes of premises, equipment and vehicles used in conveying food, milk or dairy produce and in respect of different categories of persons handling food, milk or dairy produce.

(3) Regulations made under paragraph (i) of subsection (1) may empower any medical officer of health, health inspector, medical practitioner or veterinary surgeon to seize, detain, or destroy any diseased, unsound or unwholesome article of food or diseased animal, but shall not confer on any other person any power beyond that of detention of such article of food or animal for the purposes of examination by a medical officer of health, health inspector, medical practitioner or veterinary surgeon.

(4) Regulations made under subsection (1) shall also apply, in so far as they can be applied, in respect of the quality, ingredients, preparation, manufacture, packing, conveying and storing of any article of food prepared or manufactured in a private dwelling for the purposes of sale to the public.

36. Regulations relating to mollusc farming, fish farming and intensive animal-feeding systems.-The Minister may, after consultation with the Minister of Agriculture and Fisheries and the Minister of Water Affairs, Forestry and Environmental Conservation, make regulations relating to-

(a) the regulation, control, restriction or prohibition of the supply for human consumption of molluscs or fish originating from mollusc nurseries, fish breeding stations or fish farms;

(b) the purity, chemical composition and source of, and the addition of substances to, water used in the cultivation or breeding of molluscs or fish intended for human consumption, and the location of mollusc nurseries or fish breeding stations or fish farms;

(c) the regulation, control, restriction or prohibition of the cultivation, breeding, storage or transport of molluscs or fish cultivated or bred for the purposes of human consumption; and

(d) the regulation, control, restriction or prohibition of intensive animal-feeding systems, and to the registration of such systems, the requirements in regard to the manner of application for such registration, the submission of terrain, building and site plans for such systems, the materials which shall be used in the construction of such systems, the construction and ventilation of such systems, the provision of sewerage and drainage systems for and water and washing and sanitary conveniences for workers at such systems, the prevention of overcrowding of such systems, or any other matter deemed necessary, with which any such feeding system shall comply for the purposes of registration, and the circumstances under which any such registration may be cancelled or suspended.

[S. 36 amended by s. 5 of Act No. 33 of 1981.]

Wording of Sections

36A. Regulations relating to edible products originating from polluted water.-The Minister may make regulations relating to the regulation, control, restriction or prohibition of the catching or gathering, for human consumption, of any fish, molluscs, crustaceans, plants or other products in or on any part of the sea or the sea-shore or any natural water source or any storage dam which on account of pollution or the danger of pollution entails or may entail a danger to health and which is mentioned in such regulations, and the supply for human consumption of fish, molluscs, crustaceans, plants or other products originating from any such part of the sea or the sea-shore or any such water source or storage dam.

[S. 36A inserted by s. 6 of Act No. 33 of 1981 and substituted by s. 2 of Act No. 21 of 1983.]

Wording of Sections

37. Regulations relating to water intended for human use and food processing.-The Minister may, after consultation with the Minister of Water Affairs, Forestry and Environmental Conservation and, in the case of paragraph (m), also in consultation with the Minister of Finance, make, in respect of water intended for human use or food processing, regulations relating to-

(a) the regulation, control, restriction or prohibition of the provision of such water originating from any source specified in such regulations or of the blending of such water originating from different sources specified in such regulations;

(b) the protection of the catchment areas of rivers, watercourses, dams, lakes and other above-ground sources of such water, and of the feeding areas of underground sources of such water, against pollution constituting a danger to health, and the regulation, control, restriction or prohibition of the feeding of water from any other source to such above-ground sources or of the pumping or feeding of any water into such underground sources;

(c) the approval, control, regulation, restriction or prohibition of the construction of water purification works, the application of water purification or treatment processes and the addition of any substances to such water for the purpose of its purification or with a view to the promotion of health, and to the furnishing of information relating to such substances;

[Para. (c) substituted by s. 7 (b) of Act No. 33 of 1981.]

Wording of Sections

(d) the number, duties, training and educational qualifications of persons who shall be employed at water purification works;

[Para. (d) substituted by s. 7 (c) of Act No. 33 of 1981.]

Wording of Sections

(e) the registration of water purification works and of persons employed at such works;

( f ) the regulation, control, approval, restriction or prohibition of methods of disposal of sludge or other waste products of water purification or water treatment;

(g) the requirements to which the materials used in the construction and equipment of reservoirs and water reticulation systems shall conform, the measures which shall be taken for the protection of the health of the users of such water when water reticulation is interrupted or when the water reticulation system is being repaired and the measures which

shall be taken to prevent infiltration of impure water into water reticulation systems or cross couplings;

(h) the requirements in regard to purity, chemical composition and quality with which such water shall comply and the regulation and control of the provision of such water;

(i) the taking of water or sludge samples, the analysing of samples so taken and the fees payable in respect of such analysis;

(j) the reporting of the pollution or suspected pollution of such water;

(k) the keeping of records in connection with water provision, water purification, the treatment and disposal of sludge and in connection with water pollution, the release of such records for inspection and the furnishing of information contained in such records;

(l) the inspection and investigation of premises, systems or processes utilized in connection with the provision of such water, and the powers of, and reports to be submitted by, inspectors;

(m) the refund to a local authority out of the State Revenue Fund of an amount in respect of any salary or allowances paid by such local authority to any person employed by it at works for the provision or purification of water or the treatment of sludge,

and, generally, relating to the measures which shall be taken with a view to preventing the pollution of water intended for human consumption for drinking or domestic purposes, or for food processing, or to purifying such water which has been so polluted.

[S. 37 amended by s. 7 (a) of Act No. 33 of 1981.]

#### Wording of Sections

38. Regulations relating to rubbish, night-soil, sewage or other waste and reclaimed products.-(1) The Minister may, in consultation with the Minister of Water Affairs, Forestry and Environmental Conservation and, in the case of paragraph (l), also in consultation with the Minister of Finance, make regulations relating to the regulation, control, restriction or prohibition of, or providing for, any or all of the following matters, or any other matter deemed necessary, in respect of rubbish, night-soil, sewage or other waste originating from residential, industrial or commercial premises or any other premises, namely-

(a) night-soil removal, rubbish removal, sewerage, sewage purification works, the treatment, purification or disposal of night-soil, rubbish, sewage or other solid or liquid waste, the systems, methods or processes applied in such treatment, purification or disposal, the



reclaiming of any product from nightsoil, rubbish, sewage or other solid or liquid waste and the utilization of such product;

(b) the person who shall or may undertake any of the activities referred to in paragraph (a);

(c) the siting of any works at which an activity referred to in paragraph (a) is performed and the use of any premises for purposes of or in connection with such works;

(d) the number, duties, training, qualifications and compulsory periodical medical examination of persons which shall be employed at any works referred to in paragraph (c);

(e) the registration of works referred to in paragraph (c) and of persons employed at such works;

( f ) the taking of samples of any waste or product referred to in paragraph (a) and the analysis of any sample so taken;

(g) the requirements in respect of quality to which treated or purified waste, any product reclaimed from waste or the effluents, sludge or other by-products resulting from any process of treatment or purification of waste shall conform before its disposal or utilization;

(h) the measures which shall be taken with a view to preventing the pollution of any water or of any soil surfaces with any waste referred to in paragraph (a) or the causing by means of such waste of any nuisance or any condition which may be dangerous or detrimental to health, and to removing such pollution or nuisance or remedying such condition where it already exists, and the reporting of such pollution, nuisance or condition;

(i) the keeping of records in connection with any of the activities referred to in paragraph (a), the release of such records for inspection and the furnishing of information contained in such records;

( j ) the inspection of the activities referred to in paragraph (a) and of any waste or product referred to in that paragraph before or after its treatment, purification, utilization or disposal, the keeping of records in connection with such inspections and the powers of, and reports to be submitted by, inspectors;

(k) the measures which shall be taken with a view to removing a nuisance caused by any of the activities referred to in paragraph (a); and

(l) the refund to a local authority out of the State Revenue Fund of an amount in respect of any salary or allowances paid by such local authority to any person employed by it for the purposes of the performance of any of the activities referred to in paragraph (a).

[Sub-s. (1) amended by s. 8 of Act No. 33 of 1981.]

#### Wording of Sections

(2) Regulations made under subsection (1) shall not apply in respect of-

(a) the disposal of sludge, waste or tailings;

(b) the utilization of land for the purposes of such disposal; or

(c) the conferring of surface rights to land for the purposes of such disposal or the withdrawal of such rights,

in terms of the provisions of the Mines and Works Act, 1956 (Act No. 27 of 1956), the Precious Stones Act, 1964 (Act No. 73 of 1964), or the Mining Rights Act, 1967 (Act No. 20 of 1967).

39. Regulations relating to nuisances.- (1) The Minister may make regulations regulating, controlling, restricting or prohibiting any activity, condition or thing which constitutes a nuisance in terms of this Act.

(2) The Minister may by notice in the Gazette declare any activity, condition or thing specified in such notice to be a nuisance for the purposes of this Act.

40. Formalities in connection with, and content and application of, regulations.- (1) Without derogation from the generality of the provisions of sections 32, 33, 34, 35, 36, 36A, 37, 38 or 39, regulations made under any of those sections may-

(a) be expressed as applying-

(i) throughout the Republic or within any specified or defined part thereof;

(ii) to any specified person, body or organization, or to any specified class or category of person, body or organization;

(iii) to any specified disease or medical condition or to any specified class or category of disease or medical condition;

(iv) to any animal, insect, invertebrate or thing or to any specified class or category of animal, insect, invertebrate or thing;

(b) confer powers, duties, responsibilities or obligations on any person, body, or organization or on any specified class or category of person, body or organization;

(c) prohibit or restrict or require the performance of any specified act or the carrying on of any specified activity by any specified person, body or organization or by any specified class or category of person, body or organization;

(d) relate to the form in which any information required to be furnished or kept under the regulations shall be recorded;

(e) provide for exemptions therefrom.

[Sub-s. (1) amended by s. 2 of Act No. 37 of 1982.]

#### Wording of Sections

(2) The Minister shall, not less than three months before any regulation is made under any of the sections referred to in subsection (1), cause the text of such regulation to be published in the Gazette together with a notice declaring his intention to make that regulation and inviting interested persons to furnish him with any comments thereon or any representations they may wish to make in regard thereto.

(3) The provisions of subsection (2) shall not apply in respect of-

(a) any regulation made by the Minister which, after the provisions of that subsection have been complied with, has been amended by the Minister in consequence of comments or representations received by him in pursuance of a notice issued thereunder; or

(b) any regulation in respect of which the Minister is of the opinion that the public interest requires it to be made without delay.

(4) No regulation made under paragraph (e) of section 33 which is in conflict with any provision of the International Health Regulations Act, 1974 (Act No. 28 of 1974), shall be of force in so far as it is so in conflict.

41. Regulations relating to co-operation between and refunds to local authorities.-The Minister may make regulations-

(a) prescribing the procedure to be followed by two or more local authorities when they are co-operating in the exercise of any of their powers or the performance of any of their duties in terms of this Act, or by any local authority in exercising the powers or performing the duties of any other local authority where such powers or duties have been transferred to such first-mentioned local authority in terms of the provisions of this Act;

(b) . . . . .

[Para. (b) deleted by s. 9 (b) of Act No. 33 of 1981.]

#### Wording of Sections

42. Regulations relating to certain therapeutic or diagnostic substances, and to instruments and apparatus.-The Minister may make regulations-

(a) which are not in conflict with the provisions of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), or any regulations made thereunder, relating to vaccines, sera, toxins, antitoxins, other antigens, and any other therapeutic or diagnostic substances specified or defined in such regulations, the purity or potency of which cannot be adequately tested by chemical means, imported into or manufactured, sold or supplied within the Republic and used or intended to be used for the treatment, prevention or diagnosis of disease in man, whether manufactured, imported or sold under their accepted scientific names or as proprietary medicines or as a component of such medicines-

(i) providing for the licensing of persons or establishments for the manufacture of any such substance intended for importation into or for sale, supply or use within the Republic, the conditions under which such licences may be granted and prohibiting the importation into or the keeping, sale, supply or use within the Republic of any such substance manufactured by any person or in any establishment not so licensed;

(ii) prescribing standards of composition, purity, safety, sterility, efficacy or activity of such substances;

(iii) prescribing the methods of marking or labelling the containers and the particulars to be stated thereon;

(iv) prescribing units of standardization and providing for inspection, sampling, examination or testing, and prescribing the fees payable and the certificates issuable in respect of such inspection, sampling, examination or testing;

(v) prescribing the certificate of examination or testing which may be accepted in lieu of examination or testing under the regulations;

(vi) as to storage and sale, and prohibiting importation or sale except by medical practitioners, dentists, pharmacists, veterinary surgeons, or specially authorized persons;

(vii) prescribing the period after manufacture and testing within which any such substance may be imported into or sold or used for medicinal purposes within the Republic and prohibiting the importation, sale or use for medicinal purposes and providing for the seizure and destruction of any such substance after the expiry of that period;

(viii) prohibiting the importation into, or the manufacture, sale or use within, the Republic, and providing for the seizure and destruction or requiring the re-export from the Republic of, any such substance which is not in accordance with the standard prescribed or in respect of which any requirement of the regulations has not been complied with;

(b) relating to instruments, equipment or apparatus used or intended to be used in connection with the diagnosis, treatment, prevention or relief of physical defects or disease in man-

(i) prescribing standards of accuracy or efficacy or other properties in respect of such instruments, equipment or apparatus;

(ii) providing for inspection, sampling, examination or testing;

(iii) prescribing the fees payable, the certificates issuable and the methods of marking or labelling in respect of such examination or testing;

(iv) prescribing the certificates of testing and accuracy which may be accepted in lieu of examination or testing under the regulations;

(v) prohibiting the importation into, or the manufacture, sale or use within, the Republic, and providing for the seizure and destruction or requiring re-export from the Republic of, any such instrument, equipment or apparatus-

(aa) which is not in accordance with the standard prescribed;

(bb) in respect of which any requirement of the regulations has not been complied with; or

(cc) of which the importation into, or the manufacture, sale or use within the Republic is, in the opinion of the Minister, not in the public interest, having regard only to the safety, accuracy, efficacy, quality or any other property thereof in relation to the diagnosis, treatment, prevention or relief of physical defects or disease in man;

(c) prescribing the manner of marking or labelling of any substance or of the container of any substance the name of which is mentioned in the latest British Pharmacopoeia, which is not of a standard laid down by that Pharmacopoeia for that substance.

43. . . . .

[S. 43 repealed by s. 40 (1) of Act No. 65 of 1983.]

Wording of Sections

44. Regulations relating to private hospitals, nursing homes, maternity homes and places where surgical or other medical activities are performed.-(1) The Minister may make regulations-

(a) in respect of private hospitals, nursing homes, maternity homes or other similar institutions where nursing is carried on for the benefit of patients accommodated therein and where fees are charged by the owner or lessee of any such hospital, home or institution in respect of nursing services rendered to such patients or where contributions are made by such patients towards the cost of such services-

(i) regulating, restricting or prohibiting the establishment or running of such hospitals, homes or institutions;

(ii) prescribing minimum standards with which such hospitals, homes or institutions shall comply;

(iii) relating to the registration and inspection of such hospitals, homes or institutions;

(iv) relating to patients who may be accommodated therein;

(v) relating to the registration of persons in charge of such hospitals, homes or institutions, and the furnishing of returns or particulars of patients admitted thereto and persons employed therein;

(vi) providing for the refusal to register, or the removal from the appropriate register of, any such hospital, home or institution which the Minister or any specified person or class of person may consider unsatisfactory on specified grounds;

(b) in respect of any place, excluding a hospital, or a private hospital, nursing home, maternity home or other institution referred to in paragraph (a), where surgical or other medical activities are performed in respect of which special equipment or facilities are necessary-

(i) prescribing the surgical or other medical activities which may be performed at such place;

(ii) prescribing the standards in respect of space which shall be complied with, the equipment and other facilities which shall be provided at such a place, the records of such activities to be kept and the qualifications and number of nurses to be employed in connection therewith;

(iii) providing for the registration of such places and the inspection of such places, equipment and facilities;

(iv) prescribing the fees to be paid, the registers to be kept, the certificates to be issued and any other requirements to be complied with in connection with the registration of such places; and

(v) providing for the refusal to register, or the removal from the appropriate register of, any such place which the Minister or any specified person or class of person may consider unsatisfactory on specified grounds.

[Sub-s. (1) amended by Proclamation No. R.152 of 1994.]

Wording of Sections

(2) Regulations made under paragraph (b) (ii) of subsection (1) may prescribe different standards in respect of different categories of places specified therein.

## CHAPTER VI

### GENERAL

45. Notifiable medical conditions.-The Minister, may, after consultation with the Minister of Manpower Utilization and the Minister of Mineral and Energy Affairs, by notice in the Gazette-

(a) declare that any medical condition specified in the notice shall be a notifiable medical condition under this Act;

(b) declare that only such provisions of this Act as are specified in the notice shall apply with reference to any notifiable medical condition;

(c) restrict the application of the provisions of this Act relating to the notification of any medical condition, to the district of any local authority or to any other area defined in the notice;

(d) declare, on the application of a local authority, that any medical condition, other than a medical condition declared a notifiable medical condition under paragraph (a), shall be a notifiable medical condition within the district of that local authority for a period specified in the notice or until the notice is withdrawn.

[S. 45 amended by s. 10 of Act No. 33 of 1981.]

Wording of Sections

46. Post-mortem examination of body of person suspected of having died of communicable disease or other medical condition.-Whenever any person is suspected of having died of a

communicable disease or other medical condition and further information pertaining to the facts of such disease or condition is required in order to determine what steps, if any, may be necessary with a view to preventing the spread of such disease or the recurrence of such condition, and such information cannot be obtained except by means of a post-mortem examination of the body of the deceased person, the Director-General or a magistrate for the district in which such body is, may order that a post-mortem examination of such body be made by a medical practitioner and that such body, if buried, shall be disinterred for the purposes of such examination.

47. Notification to local authority of death from notifiable medical condition.- (1) (a) When a notifiable medical condition is prevalent within the district of a local authority, any person who has reason to believe that any other person has died within such district, shall as soon as possible report accordingly to the local authority concerned, unless he has reason to believe that such a report has been or will be made by any other person or that the deceased was attended to by a medical practitioner during the illness immediately preceding his death.

(b) In every case of death from a notifiable medical condition, the medical practitioner who attended to the deceased immediately prior to his death, shall immediately notify the local authority concerned of the death and the cause thereof, and shall make the best arrangements practicable, pending the removal of the body, to prevent the spread of that condition.

(2) Any person who keeps any dead body in any room in which any person lives, sleeps or works, or in which food is kept, prepared or eaten, or who keeps, except with the written authorization of the local authority concerned, the body of any person who is known to such first-mentioned person to have died of a communicable disease, for more than twenty-four hours in any place other than a mortuary or other place set apart for the keeping of dead bodies, shall be guilty of an offence.

(3) Where any person dies of a notifiable medical condition in any hospital or place of isolation, any person who removes the body of the deceased from such hospital or place except for the purpose of immediate burial or cremation, shall be guilty of an offence and any person who so removes such body for the purpose of burial or cremation, shall take it direct to the place where it is to be buried or cremated unless the Director-General or the medical officer of health concerned has approved of any other action.

(4) Nothing in this section contained shall prohibit the removal by any competent authority of any dead body from a hospital or a place of isolation to a mortuary.

48. Removal and burial of dead body.- (1) When-



(a) the body of any person who has died of, or is suspected to have died of, a communicable disease is kept in a room in which any person lives, sleeps or works, or in which food is kept, prepared or eaten;

(b) the body of any person who has died of a communicable disease is without the authorization of the local authority concerned kept for more than twenty-four hours elsewhere than in a mortuary or other place set apart for the keeping of dead bodies;

(c) any dead body is kept in any dwelling or any other place in circumstances which in the opinion of the local authority concerned or its medical officer of health are likely to cause a nuisance or endanger health; or

(d) any dead body is unclaimed or no competent person undertakes to bury it,

any magistrate, justice of the peace, medical officer of health or a member of the South African Police of or above the rank of sergeant may, subject to the provisions of the Anatomy Act, 1959 (Act No. 20 of 1959), the Inquests Act, 1959 (Act No. 58 of 1959), the Births, Marriages and Deaths Registration Act, 1963 (Act No. 81 of 1963), the Anatomical Donations and Post-Mortem Examinations Act, 1970 (Act No. 24 of 1970), and the Occupational Diseases in Mines and Works Act, 1973 (Act No. 78 of 1973), direct-

(i) that the body be removed to a mortuary, if one is readily available, and that it be buried within a specified time; or

(ii) if no mortuary is readily available or if the body is that of a person certified by a medical practitioner to have died of a communicable disease, that the body be buried immediately or within a specified time.

(2) Subject to the provisions of the said Inquests Act, 1959, and the said Births, Marriages and Deaths Registration Act, 1963, and whether or not any direction under subsection (1) has been issued, responsibility for the removal and burial of the body of a destitute person or of any dead body which is unclaimed or which no competent person undertakes to bury and does bury, and for the payment of all costs entailed thereby, shall devolve upon the local authority of the district in which the dead body is at the time when the necessity for removal thereof first arises, save in the case of a person who has died in a hospital or other institution, in which case such responsibility shall devolve upon the responsible authorities of such hospital or institution: Provided that-

(i) the local authority shall remain so responsible in the case of a person who has been admitted to or kept in such hospital or institution on the order or on behalf of the local

authority, or in the case of a person who, not being a convicted person or a person under arrest, has died in any prison;

(ii) the local authority or the hospital or the institution, as the case may be, may recover the said costs from any person who was legally liable for the maintenance of the deceased person during his lifetime.

(2A) (a) The local authority or the responsible authorities of any hospital or institution which is in terms of this section responsible for the burial of a body may cremate such body instead of burying it.

(b) In the case of the cremation of a body under paragraph (a) of this subsection, any reference in subsection (2) to the costs entailed by the burial of a body shall be construed as a reference to the costs entailed by the cremation.

[Sub-s. (2A) inserted by s. 11 of Act No. 33 of 1981.]

(3) Any person who obstructs the execution of any order or direction given under this section shall be guilty of an offence.

(4) For the purposes of this section "local authority" includes an Administration Board established under the Black Affairs Administration Act, 1971 (Act No. 45 of 1971), and a community council established under the Community Councils Act, 1977 (Act No. 125 of 1977): Provided that an Administration Board shall exercise or perform its powers and duties in terms of this section only in respect of an area of land in its administration area defined, set apart or laid out in terms of section 2 (1) (a) of the Blacks (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945), and in respect of which a community council or a Black local authority established under the Black Local Authorities Act, 1982 (Act No. 102 of 1982), does not exercise or perform the powers and duties in terms of this section.

[Sub-s. (4) substituted by s. 3 of Act No. 37 of 1982, by s. 3 of Act No. 21 of 1983 and by s. 3 of Act No. 2 of 1984.]

#### Wording of Sections

49. Contributions towards certain laboratories and to certain public authorities or associations.-The Minister may, in consultation with the Minister of Finance, out of moneys specially voted by Parliament, and subject to such conditions as he may in each case determine-

(a) contribute towards the cost of construction, equipment or maintenance of laboratories or other institutions engaged in research or investigation in connection with human diseases or

non-personal health services or conditions, or towards the cost of any such research or investigation;

(b) contribute towards the cost incurred by any provincial administration, local authority, educational institution or any public society or association in connection with maternity care, child health, the training of health inspectors or public health nurses, instruction in first-aid or home nursing, or any other matter relating to health.

50. Delegation or transfer of powers and duties.-(1) Where the Minister deems it necessary for the proper exercise of any power or performance of any duty under this Act he may, in writing, authorize the Director-General or any other officer of the Department of Health or the provincial administration, as the case may be, to exercise such power or perform such duty, except the powers referred to in section 31 (2) and the power to make regulations.

[Sub-s. (1) substituted by Proclamation No. R.152 of 1994.]

Wording of Sections

(2) The Director-General may in writing authorize any officer of the Department of Health or provincial administration, as the case may be, to exercise or perform in general or in a particular case or in cases of a particular nature, any power or duty conferred or imposed on the Director-General by or under this Act.

[Sub-s. (2) amended by Proclamation No. R.152 of 1994.]

Wording of Sections

51. Defect in form of notice or order under this Act.-No defect in the form of any notice or order under this Act shall invalidate any action taken by virtue of such notice or order, or found any exception to any legal proceedings following upon such notice or order, if such notice or order substantially sets out the requirements thereof.

52. Service of notice, order or other document.-(1) Whenever any notice, order or other document is under this Act required to be served-

(a) on any person, it shall be deemed to be duly and sufficiently served if it is sent by registered post to that person at his last-known address, or if it is left thereat with him personally or with some adult inmate thereof;

(b) on an owner or occupier of any land or premises and the address of such owner or occupier is unknown, it shall be deemed to be duly and sufficiently served if it is posted up in some conspicuous place on such land or premises.

(2) It shall not be necessary in any notice, order or other document given under this Act to an owner or occupier of land or premises to name him, if the notice, order or document describes him as the owner or occupier of the land or premises in question.

53. Powers of officers, inspectors and authorized persons.-(1) Any officer of the Department of Health or provincial administration, as the case may be, or any magistrate or police officer or any other person generally or specially authorized by the Minister, or any medical officer of health or health inspector or any other person generally or specially authorized by a local authority may, at any time reasonable for the proper performance of the duty, enter any land or premises, except land or premises occupied or used by the South African Defence Force-

(a) to make such inspection or carry out such investigation as he may consider necessary to establish whether the provisions of this Act are being complied with;

(b) to perform any duty or to do anything which he is under this Act required to perform or authorized to do; or

(c) in the case of an officer of a provincial administration, to carry out such investigation as he may consider necessary to advise the Minister with regard to the absence or presence or nature of any state of affairs contemplated in section 15 (1).

[Sub-s. (1) substituted by s. 12 of Act No. 33 of 1981 and by s. 4 (a) of Act No. 2 of 1984 and amended by Proclamation No. R.152 of 1994. Para. (c) amended by Proclamation No. R.152 of 1994.]

#### Wording of Sections

(2) Any person who fails to give or refuses access to any officer, inspector or person mentioned in or authorized under subsection (1) if he requests entrance on any land or premises, or obstructs or hinders him in the execution of his duties under this Act, or who fails or refuses to give information that he may lawfully be required to give to such officer, inspector or person, or who gives to such officer, inspector or person false or misleading information knowing it to be false or misleading, or who prevents the owner of any land or premises or any of his servants or workmen from entering such land or premises for the purpose of complying with any requirement of this Act, shall be guilty of an offence.

(3) Every officer, inspector or person referred to in subsection (1), excluding a magistrate or police officer, shall be issued with a document signed (in the case of an officer of the Department of Health or provincial administration, as the case may be, or a person authorized by the Minister) by the Director-General or any other officer designated by him for the purpose, or (in the case of a medical officer of health, health inspector or person authorized

by a local authority) by the chief administrative officer of the local authority concerned or any other officer in the service of such local authority and designated by the chief administrative officer for the purpose, and containing the name of the officer, inspector or person concerned as well as a statement to the effect that such officer, inspector or person is empowered to make any inspection or perform any duty or act in terms of this section.

[Sub-s. (3) amended by Proclamation No. R.152 of 1994.]

#### Wording of Sections

(4) Whenever any officer, inspector or person referred to in subsection (3) makes any inspection or carries out any investigation or performs any duty or act as contemplated in this section-

(a) he shall, at the request of any person affected thereby, exhibit to such person the document issued to him in terms of subsection (3); and

(b) he may take an interpreter or other assistant with him and such interpreter or other assistant, in so far as he acts under the directions of such officer, inspector or person, shall for the purposes of this section have the same powers as such officer, inspector or person, as the case may be.

[Sub-s. (4) substituted by s. 4 (b) of Act No. 2 of 1984.]

#### Wording of Sections

54. Application of Act to land or premises owned or occupied by State.-(1) Any provision of this Act conferring any power or imposing any duty upon a local authority or any person in the service of a local authority shall apply in respect of-

(a) any land or premises within the district of a local authority which is owned by the State but occupied or used by a person other than the State in any of its departments (including a provincial administration);

(b) any person or thing on any such land or premises;

(c) any matter relating to such land, premises, person or thing,

as if such land or premises, as the case may be, were owned and occupied by a private person: Provided that such a power or duty shall not extend to any matter relating to the form or construction or structural condition of any such premises or of any building, works or thing, maintained or erected by the State, upon such land and forming part thereof.

(2) Subject to the provisions of subsection (1), no power or duty under this Act shall vest in or devolve upon any local authority or person in the service of a local authority with regard to-

(a) any unoccupied land or premises owned by the State;

(b) any land or premises, whether owned by the State or any other person, of which any department of State (including a provincial administration) has the occupation or exclusive use;

(c) any person or thing on any such land or premises; and

(d) any matter relating to any such land, premises, person or thing.

(3) For the purpose of this section, any dwelling occupied by any officer or member of any department of State (including a provincial administration) as official residence or quarters under the terms of his employment, shall be deemed to be occupied by the State.

(4) The Minister shall, with reference to any matter falling within the provisions of this Act and arising within the district of a local authority and which is, by virtue of the provisions of subsection (1) or (2), not subject to the authority of such local authority or any person in the service of such local authority, exercise the powers and perform the duties which by this Act are conferred or imposed upon a local authority or any person in the service of a local authority: Provided that the Minister shall exercise no such powers and perform no such duties in respect of land or premises occupied or used by the South African Defence Force.

[Sub-s. (4) amended by s. 13 of Act No. 33 of 1981.]

#### Wording of Sections

(5) The head of any department of State (including a provincial administration) which has, to the exclusion of any other person, the occupation or use of any land or premises, shall, for the purposes of this Act, be deemed to be the owner and occupier thereof, and whenever, under this Act, any power is conferred or any duty is imposed upon any employer, the head of the department concerned shall, for the purposes of this Act, be deemed to be the employer of the persons in the service of that department.

(6) The Post Office Fund, the State Revenue Fund and the provincial revenue fund of the province concerned, are hereby charged respectively with the payment of such sums of money as may from time to time be necessary to enable the Minister to exercise any power or to perform any duty under this section in respect of any land or premises owned, occupied or used by the State in its Department of Posts and Telecommunications, any other department of State or, as the case may be, the provincial administration concerned.

[Sub-s. (6) amended by s. 36 (6) of Act No. 9 of 1989.]

#### Wording of Sections

55. Application of other laws.-(1) The provisions of this Act shall not apply in respect of any matter to which the provisions of the Factories, Machinery and Building Work Act, 1941 (Act No. 22 of 1941), the Mines and Works Act, 1965 (Act No. 27 of 1956), and the Shops and Offices Act, 1964 (Act No. 75 of 1964), apply.

(2) (a) The provisions of this Act shall be in addition to and not in substitution for any provision of the Animal Diseases Act, 1984 (Act No. 35 of 1984), the Water Act, 1956 (Act No. 54 of 1956), and the Abattoir Hygiene Act, 1992, which is not in conflict or inconsistent with the provisions of this Act.

[Para. (a) substituted by s. 29 (1) of Act No. 121 of 1992.]

#### Wording of Sections

(b) If any provision of any law mentioned in paragraph (a) is in conflict or inconsistent with any provision of this Act, the relevant provision of that law shall prevail.

(3) The provisions of this Act shall not derogate from any rights or functions assigned to any body established by or under any law for the purposes of the supply of water.

56. Penalties for fraudulent conduct in connection with certificates under this Act.-Any person who-

(a) for the purpose of obtaining any certificate under this Act, makes any false statement or is a party to any false pretence or conduct, knowing it to be false; or

(b) forges or falsifies any certificate under this Act or utters any such forged or falsified certificate, knowing it to be forged or falsified; or

(c) uses or attempts to use any document as a certificate under this Act, knowing it to be a forged or falsified document or certificate,

shall be guilty of an offence and liable on conviction to the penalties prescribed by law for the crime of fraud.

57. Offences and penalties.-Any person who contravenes or fails to comply with any provision of this Act, shall be guilty of an offence and, unless this Act expressly provides for another penalty for such offence, be liable-

(a) on a first conviction, to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment;

(b) on a second conviction of a similar offence, to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment; and

(c) on a third or subsequent conviction of a similar offence, to a fine not exceeding one thousand five hundred rand or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

58. Restriction upon legal proceedings.-The State, the Minister, a person in the service of the State, a provincial administration, a person in the service of a provincial administration, a local authority, a person in the service of a local authority or any person generally or specifically authorized by the State, a provincial administration or a local authority to perform any function in terms of this Act, shall not be liable for anything done in good faith under this Act.

[S. 58 substituted by s. 74 of Act No. 88 of 1996.]

#### Wording of Sections

59. Substitutes section 7 of the Sea-shore Act, No. 21 of 1935.

60. Amends section 84 (1) ( f ) of the Republic of South Africa Constitution Act, No. 32 of 1961, by substituting subparagraph (ii).

61. Amends section 20 of the Animal Slaughter, Meat and Animal Products Hygiene Act, No. 87 of 1967, as follows:-paragraph (a) substitutes subsection (1); and paragraph (b) deletes subsection (3).

62. Inserts section 20A in the Financial Relations Act, No. 65 of 1976.

63. Repeal of laws, and savings.-(1) Subject to the provisions of subsections (2) and (4)-

(a) the laws specified in Schedule 1 are hereby repealed to the extent set out in the third column of that Schedule;

(b) the laws specified in Schedule 2 are, with effect from the date of commencement of section 26, hereby repealed to the extent set out in the third column of that Schedule.

[Sub-s. (1) amended by s. 1 (1) (a) of Act No. 18 of 1979.]



## Wording of Sections

(2) Any proclamation, regulation, rule, order, notice, approval, authority, return, certificate, direction or appointment made, issued, given or granted, and any other act done under the provisions of any law repealed by this Act, shall be deemed to have been made, issued, given or granted or done under the corresponding provision of this Act.

(3) Any body of persons constituted as and declared to be a rural local authority under section 7 (4) of the Public Health Act, 1919 (Act No. 36 of 1919), shall be deemed to have been declared to be a local authority under section 30 (2).

(4) (a) Notwithstanding the repeal of the Public Health Extension Act, 1884 (Act No. 10 of 1884-Cape), by subsection (1), the Kimberley Health Board established by the said Act (in this subsection referred to as the board) shall continue to exist and shall continue to perform its functions until a date determined by the Minister by notice in the Gazette, which may be a date prior to the date of that notice.

(b) As from the date determined by the Minister in terms of paragraph (a), all assets, rights, liabilities and obligations of the board shall vest in the City Council of Kimberley, and the registrar of deeds concerned shall, as soon as practicable after the said date, make such entries or endorsements in or on any relevant register, title deed or other document in his office or submitted to him as he may deem necessary in order to give effect to the provisions of this paragraph, and no transfer duty, stamp duty, office fee or other charge shall be payable in respect of any vesting in terms of this paragraph or in respect of any such entry or endorsement.

(c) The City Council of Kimberley shall, subject to the provisions of paragraph (d), utilize the assets and rights vested in it in terms of paragraph (b), for purposes of the provision, in terms of a decision to co-operate as contemplated in section 20 (6), of health services within the districts of those local authorities the districts of which fall within the area of jurisdiction of the board (in this subsection referred to as the local authorities in question), and which are parties to such a decision to co-operate.

(d) The City Council of Kimberley shall pay, out of the assets referred to in paragraph (c), an amount mutually agreed upon by the local authorities in question, to such of the local authorities in question as are not parties to a decision referred to in paragraph (c) and may, if necessary for purposes of such a payment, convert any part of those assets into money.

(e) Any amount paid in terms of paragraph (d), shall be utilized by the local authority which received it for the provision of health services within its district.

( f ) If an agreement contemplated in paragraph (d) cannot be reached, the matter shall be referred to the Minister.

[Para. ( f ) substituted by s. 75 of Act No. 88 of 1996.]

#### Wording of Sections

(g) As from a date mutually agreed upon by the board and the City Council of Kimberley, which shall be a date prior to the date referred to in paragraph (b), the service, with the board, of every person who is on that date in the service of the board shall terminate and he shall become an employee of the City Council of Kimberley.

(h) Save in pursuance of disciplinary measures applied by the City Council of Kimberley, the salary or scale of salary of any person who so becomes an employee of the City Council of Kimberley shall not be reduced without his consent.

(i) Any leave which may have accrued in favour of any such person before he so became an employee of the City Council of Kimberley, shall be deemed to have accrued in his favour by virtue of service with the City Council of Kimberley.

( j ) Subject to the provisions of paragraphs (h) and (i), the City Council of Kimberley may determine the remuneration, furnishing of benefits and other conditions of service of persons who become employees of the City Council of Kimberley in terms of paragraph (g), as it may deem fit.

[Sub-s. (4) added by s. 1 (1) (b) of Act No. 18 of 1979.]

64. Short title and commencement.-(1) This Act shall be called the Health Act, 1977, and the provisions thereof shall come into operation on a date fixed by the State President by proclamation in the Gazette.

(2) Different dates may in terms of subsection (1) be fixed in respect of different provisions of this Act.

#### Schedule 1

#### LAWS REPEALED BY SECTION 63 (1) (a)

No. and year of law Title Extent of repeal

CAPE

Act No. 8 of 1884 Leprosy Repression Act, 1884 The whole

Act No. 10 of 1884 Public Health Extension Act, 1884 The whole

Act No. 31 of 1894 Leprosy Repression Act, Amendment Act, 1894 The whole

#### NATAL

Law 16 of 1890 Leprosy Law, 1890 The whole

Act No. 15 of 1894 Leprosy Law Amendment Act, 1894 The whole

Act No. 24 of 1895 Leprosy Law Amendment Act, 1895 The whole

Act No. 7 of 1901 Leprosy Law Amendment Act, 1901 The whole

#### TRANSVAAL

Ordinance No. 23 of 1904 Leprosy Ordinance, 1904 The whole

Act No. 5 of 1907 Leprosy Law Amendment Act, 1907 The whole

Act No. 2 of 1908 Leprosy Law Further Amendment Act, 1908 The whole

Act No. 4 of 1908 Asylums Board Act, 1908 The whole

#### ORANGE FREE STATE

Act No. 26 of 1909 Leprosy Act, 1909 The whole

#### REPUBLIC

Act No. 14 of 1914 Lunacy and Leprosy Laws Amendment Act, 1914 The whole

Act No. 36 of 1919 Public Health Act, 1919 The whole except sections 16, 48, 50 (1) (d) and 66 (d)

Act No. 36 of 1927 Public Health Act, 1919, Amendment Act, 1927 The whole

Act No. 13 of 1928 Medical, Dental and Pharmacy Act, 1928 Sections 83 and 83bis

Act No. 15 of 1928 Public Health (Amendment) Act, 1928 The whole

Act No. 57 of 1935 Public Health Amendment Act, 1935 The whole except section 14bis

Act No. 14 of 1938 Public Health Amendment Act, 1938 The whole

Act No. 14 of 1940 Public Health Amendment Act, 1940 The whole

Act No. 14 of 1942 Public Health Acts Amendment Act, 1942 The whole

Act No. 51 of 1946 Public Health Amendment Act, 1946 The whole except section 17 (2), (3) and (4)

Act No. 47 of 1949 Finance Act, 1949 Section 12

Act No. 44 of 1952 Public Health Amendment Act, 1952 The whole except section 32

Act No. 60 of 1956 Public Health Amendment Act, 1956 The whole

Act No. 71 of 1959 Public Health Amendment Act, 1959 The whole

Act No. 33 of 1961 Public Health Amendment Act, 1961 The whole

Act No. 79 of 1963 Public Health Amendment Act, 1963 The whole

Act No. 38 of 1965 Public Health Amendment Act, 1965 The whole

Act No. 13 of 1969 Public Health Amendment Act, 1969 The whole

Act No. 30 of 1970 Public Health Amendment Act, 1970 The whole

Act No. 42 of 1971 Public Health Amendment Act, 1971 The whole

Act No. 80 of 1971 General Law Amendment Act, 1971 Sections 3 to 7, inclusive

Act No. 62 of 1973 General Law Amendment Act, 1973 Sections 1 and 2

Act No. 45 of 1976 Public Health Amendment Act, 1976 The whole

Act No. 11 of 1977 Finance and Financial Adjustments Acts Consolidation Act, 1977 Section 14

Schedule 2

LAWS REPEALED BY SECTION 63 (1) (b)

No. and year of law Title Extent of repeal

Act No. 36 of 1919 Public Health Act, 1919 Sections 16, 48, 50 (1) (d) and 66 (d)

Act No. 25 of 1932 Financial Adjustments Act, 1932 Section 6

Act No. 29 of 1933 Financial Adjustments Act, 1933 Section 3

Act No. 57 of 1935 Public Health Amendment Act, 1935 Section 14bis

Act No. 37 of 1943 Finance Act, 1943 Section 15

Act No. 51 of 1946 Public Health Amendment Act, 1946 Section 17 (2), (3) and (4)

Act No. 36 of 1950 Finance Act, 1950 Section 19

Act No. 44 of 1952 Public Health Amendment Act, 1952 Section 32

## HEALTH AMENDMENT ACT

NO. 18 OF 1979

[ASSENTED TO 13 MARCH, 1979]

[DATE OF COMMENCEMENT: 21 MARCH, 1979]

(Unless otherwise indicated)

(English text signed by the State President)

## ACT

To amend the provisions of the Health Act, 1977, so as to provide for the continued existence of the Kimberley Health Board to a date determined by the Minister of Health; for the vesting in the City Council of Kimberley of all assets, rights, liabilities and obligations of the said Kimberley Health Board; and for the transfer of the officers and employees of the said Kimberley Health Board to the City Council of Kimberley; and to provide for incidental matters.

1. Amends section 63 of the Health Act, No. 63 of 1977, as follows:-paragraph (a) substitutes in subsection (1) the words preceding paragraph (a) (date of commencement 1 September, 1977); and paragraph (b) adds subsection (4) (date of commencement 1 September, 1977).

2. Short title.-This Act shall be called the Health Amendment Act, 1979.

HEALTH AMENDMENT ACT

NO. 2 OF 1984

[ASSENTED TO 22 FEBRUARY, 1984]

[DATE OF COMMENCEMENT: 2 MARCH, 1984]

(Afrikaans text signed by the State President)

ACT

To amend the Health Act, 1977, so as to replace certain obsolete expressions; to extend the definition of "local authority" so as to include certain Black local authorities; to alter the constitution of the Health Matters Advisory Committee; and to further regulate certain powers of investigation and inspection; and to provide for incidental matters.

1. Amends section 1 of the Health Act, No. 63 of 1977, as follows:-paragraph (a) substitutes the definition of "Director-General"; paragraph (b) substitutes the definition of "Minister"; and paragraph (c) substitutes the definition of "local authority".
2. Amends section 4 (1) of the Health Act, No. 63 of 1977, by substituting paragraph (b).
3. Amends section 48 of the Health Act, No. 63 of 1977, by substituting subsection (4).
4. Amends section 53 of the Health Act, No. 63 of 1977, as follows:-paragraph (a) substitutes subsection (1); and paragraph (b) substitutes subsection (4).
5. Substitution for "Department of Health, Welfare and Pensions" of "Department of Health and Welfare" in Act 63 of 1977.-The principal Act is hereby amended by the substitution for the expression "Department of Health, Welfare and Pensions" wherever it occurs of the expression "Department of Health and Welfare".
6. Short title.-This Act shall be called the Health Amendment Act, 1984.