

PUBLIC HEALTH (AMENDMENT) ACT 1989 No. 86

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Public Health Act 1902 No. 30

SCHEDULE 1—AMENDMENTS

PUBLIC HEALTH SERVICE (PHS) FORM NO. 101 (REV. 10-1-60)



PUBLIC HEALTH (AMENDMENT) ACT 1989 No. 86

NEW SOUTH WALES



Act No. 86, 1989

An Act to amend the Public Health Act 1902 for the purpose of regulating the installation of air-handling systems, hot-water systems and water-cooling systems, and the operation and maintenance of such systems, in order to prevent or mitigate the growth of micro-organisms liable to cause Legionnaires' disease and certain other bacterial diseases; and for other purposes. [Assented to 2 June 1989]

Public Health (Amendment) 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Public Health (Amendment) Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Public Health Act 1902 No. 30

3. The Public Health Act 1902 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Part 6, Division 3—

After Division 2, insert:

Division 3—Microbial control of air-handling systems, hot-water systems and water-cooling towers

Purpose of Division

63AB. The purpose of this Division is to regulate the installation on premises of air-handling systems, hot-water systems and water-cooling systems, and their operation and maintenance, in order to prevent or mitigate the growth of micro-organisms that are liable to cause Legionnaires' disease and certain other bacterial diseases.

Definitions

63AC. In this Division—

“air-handling system” means a system designed for the purpose of directing air in a positive and controlled manner to and from specific enclosures by means of air-handling plant, ducts, plenums, air-distribution devices and automatic controls;

“cooling tower” means a structure containing a device for lowering the temperature of water by evaporative cooling in which atmospheric air passes through sprayed water, thereby exchanging heat, and also means a structure containing a device for lowering the temperature of water which incorporates within it a refrigerant or water heat exchanger;

“hot-water system” means a system designed for heating water and distributing heated water to outlet points located either within or outside premises;

SCHEDULE 1—AMENDMENTS—*continued*

- “install” includes construct;
- “maintain” includes repair, inspect, carry out preventive servicing and clean;
- “occupier”, in relation to premises on which a system to which this Division applies is or is being installed, means—
- (a) if the premises are occupied as a single entity—the occupier of the premises; or
 - (b) if the premises are separately occupied by different persons—the occupier of the part in which the air-handling plant, water-heating plant or cooling tower is located; or
 - (c) if the premises are designed for occupation as a single entity and are unoccupied—the owner of the premises or, where the premises are leased, the lessee of the premises; or
 - (d) if the premises are designed to be separately occupied but the part of the premises in which the air-handling plant, water-heating plant or cooling tower is located is unoccupied—the owner of that part or, where that part is leased, the lessee of that part;
- “premises” includes land, but does not include premises occupied as a separate dwelling or, in the case of unoccupied premises, constructed for occupation as a separate dwelling;
- “prescribed installation requirements” means requirements specified in the regulations with respect to the installation of a system to which this Division applies;
- “prescribed maintenance requirements” means requirements specified in the regulations with respect to the maintenance of a system to which this Division applies;
- “prescribed operating requirements” means requirements specified in the regulations with respect to the operation of a system to which this Division applies;
- “water-cooling system” means a cooling tower and its associated equipment.

Application of Division

63AD. This Division applies to—

- (a) air-handling systems;
- (b) hot-water systems; and
- (c) water-cooling systems.

SCHEDULE 1—AMENDMENTS—*continued***Installation of systems**

63AE. (1) The installation on premises of a system to which this Division applies must comply with the prescribed installation requirements.

(2) If such a system is installed on premises in contravention of subsection (1), the installer of the system and the occupier of the premises are each guilty of an offence.

(3) In proceedings for an offence under subsection (2) brought against an occupier of premises, the occupier has a defence if it is established that a reputable installer was engaged to install the system.

(4) This section does not apply to the installation of a system begun before the commencement of this Division.

Operation and maintenance of systems

63AF. (1) The prescribed operating and maintenance requirements must be complied with in relation to a system to which this Division applies.

(2) If the occupier of premises on which such a system is installed fails to ensure that the prescribed operating and maintenance requirements are complied with in connection with the system, that occupier is guilty of an offence.

(3) In proceedings for an offence under subsection (2) relating to the operation or maintenance of a system, an occupier of the premises concerned has a defence if it is established that a reputable contractor was engaged to operate or maintain the system.

(4) If a contractor who is engaged by the occupier of premises to operate or maintain a system to which this Division applies fails to ensure that the prescribed operating or maintenance requirements are complied with in connection with the system, the contractor is guilty of an offence.

(5) This section applies to systems installed both before and after the commencement of this Division.

Powers of Departmental officers and health surveyors

63AG. (1) In this section—

“authorised officer” means—

- (a) in relation to premises within a local government area—
a health surveyor employed by the local authority for that area; and

SCHEDULE 1—AMENDMENTS—*continued*

- (b) in relation to any premises (including premises within a local government area)—an officer authorised by the Secretary to exercise the powers conferred by this section or a health surveyor of the Department.
- (2) If an authorised officer believes on reasonable grounds that a system to which this Division applies has been installed or is being installed on premises, the officer may—
- (a) enter the premises at all reasonable times for the purpose of ascertaining whether or not the prescribed installation, operating or maintenance requirements are being or have been complied with in respect of any such system; and
 - (b) inspect and test any such system; and
 - (c) require the production of, and inspect, all records required by the regulations to be kept in relation to the operation and maintenance of any such system.

Secretary or local authority may carry out maintenance requirements

63AH. (1) If, in relation to a system to which this Division applies, the Secretary or the local authority for the local government area concerned believes on reasonable grounds that a prescribed maintenance requirement is not being or has not been complied with, the Secretary or local authority may serve on the occupier of the premises on which the system is located a notice—

- (a) directing that the requirement be complied with within a period specified in the notice; and
 - (b) if appropriate, directing that the system not be operated until the Secretary or that local authority is satisfied that the requirement has been complied with.
- (2) If, after being served with such a notice directing compliance with a requirement within a specified period, the occupier of the premises concerned fails to comply with the requirement within that period, the Secretary or local authority may make arrangements for such work to be done as may be necessary to ensure that the requirement is complied with.
- (3) Any employee or contractor assigned or engaged by the Secretary or by a local authority to undertake work in accordance with arrangements made under subsection (2) may, at any reasonable time, enter the premises concerned and carry out that work.

SCHEDULE 1—AMENDMENTS—*continued*

(4) The Secretary or the local authority concerned may, by proceedings before a court of competent jurisdiction, recover as a debt due to the Crown or the local authority an amount equal to the cost of carrying out work in accordance with subsection (3).

(5) If—

(a) a notice served on the occupier of premises in accordance with subsection (1) contains a direction under paragraph (b) of that subsection; and

(b) that occupier fails to comply with the direction,
that occupier is guilty of an offence.

(6) The service of a notice under subsection (1) does not preclude the bringing of proceedings for an offence under section 63AF.

Regulations

63AI. (1) The Governor may make regulations, not inconsistent with this Division, for or with respect to any matter that is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Division.

(2) In particular, regulations under subsection (1) may require occupiers of premises on which systems to which this Division applies are installed to keep specified records with respect to the operation and maintenance of those systems.

(3) A regulation made for the purpose of this Division may create an offence punishable by a penalty not exceeding \$2,000.

Crown to be bound by this Division

63AJ. (1) This Division binds the Crown in right of New South Wales and, so far as the legislative power of Parliament permits, binds the Crown in all its other capacities.

(2) In cases where the Crown is the occupier of premises in which systems to which this Division applies are installed or are being installed, the occupiers of those premises for the purposes of this Division shall, if regulations made under section 63AI so provide, be taken to be the holders of such public offices or classes of public offices as are specified in those regulations.

Proceedings and penalties for certain offences against this Division

63AK. (1) Proceedings for an offence against section 63AE, 63AF or 63AH shall be disposed of summarily either—

(a) before a Local Court constituted by a Magistrate sitting alone; or

Public Health (Amendment) 1989

SCHEDULE 1—AMENDMENTS—*continued*

(b) before the Supreme Court in its summary jurisdiction.

(2) In proceedings for such an offence brought in the Local Court, a person convicted of the offence is liable to a penalty not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months, or both.

(3) In proceedings for such an offence brought in the Supreme Court, a person convicted of the offence is liable to a penalty not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years, or both.

(4) Proceedings in the Supreme Court in its summary jurisdiction in respect of any such offence may be commenced only within 6 months after the offence was alleged to have been committed.

(5) This section has effect irrespective of any other provision of this Act.

(2) Section 96—

Omit the section, insert instead:

Restriction on examining or entering premises

96. (1) Whenever an officer, health surveyor or other person who is empowered by a provision of this Act, or by any regulation or by-law made under this Act, to examine or enter premises seeks to exercise that power, the officer, health surveyor or person must, if requested to do so by a person apparently in occupation of the premises concerned, produce for inspection a certificate of authority.

(2) If such a request is made and the request is not complied with, the exercise of the power is unlawful.

(3) In subsection (1), the reference to a certificate of authority is a reference to a certificate of authority issued—

- (a) in the case of an officer—by the Minister or the Secretary;
or
- (b) in the case of a health surveyor employed in the Department—by the Secretary; or
- (c) in the case of a health surveyor employed by a local authority—by the local authority; or
- (d) in the case of any other person—by the Minister, Secretary or local authority concerned.

Public Health (Amendment) 1989

SCHEDULE 1—AMENDMENTS—*continued*

(3) Section 97—

Omit the section, insert instead:

Obstruction of officers etc.

97. Any person who intentionally hinders, obstructs or delays an officer, health surveyor or other person acting in the discharge of a duty imposed, or a power conferred, by or under this Act is guilty of an offence.

Maximum penalty: \$2,000.

[*Minister's second reading speech made in—
Legislative Assembly on 10 May 1989
Legislative Council on 23 May 1989*]





PUBLIC HEALTH (AMENDMENT) BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Public Health Act 1902 so as—

- (a) to regulate the installation on premises of air-handling systems, hot-water systems and water-cooling systems, and the operation and maintenance of such systems, in order to prevent or mitigate the growth of micro-organisms that are liable to cause Legionnaires' disease and certain other bacterial diseases; and
- (b) to provide for related matters.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a day or days to be appointed by proclamation.

Clause 3 gives effect to the Schedule of amendments.

SCHEDULE 1—AMENDMENTS

Schedule 1 (1) inserts a new Division 3 into Part 6 of the Principal Act. The proposed Division contains sections 63AB–63AK.

Proposed section 63AB provides that the purpose of the proposed Division is to regulate the installation of air-handling systems, hot-water systems and water-cooling systems, and their operation and maintenance, in order to prevent or mitigate the growth of micro-organisms liable to cause Legionnaires' disease and certain other bacterial diseases.

Proposed section 63AC defines certain expressions for the purposes of the proposed Division. Among the terms defined are "air-handling system" (which includes air conditioners), "cooling tower", "hot-water system", "install", "occupier", "premises" and "water-cooling system". "Premises" includes land but not premises that are occupied or constructed for occupation as separate dwellings.

Proposed section 63AD provides that the new Division will apply to air-handling systems, hot-water systems and water-cooling systems.

Public Health (Amendment) 1989

Proposed section 63AE provides that the installation on premises of a system to which the proposed Division will apply must comply with the installation requirements to be specified in regulations. If the provision is contravened, the installer and the occupier of the premises will each commit an offence. However, the occupier of the premises will have a good defence in proceedings for such an offence if it is established that a reputable installer was engaged to install the system.

Proposed section 63AF provides that an occupier of premises on which such a system is installed must ensure that the operating and maintenance requirements to be specified in regulations are complied with. It will be an offence for such an occupier to contravene the provision. It will be a defence to a prosecution for such an offence to establish that a reputable contractor was engaged to operate or maintain the system. However, where such a contractor is engaged, the contractor will be required to ensure that the prescribed operating or maintenance requirements are complied with. A contractor who fails to comply with any of those requirements will commit an offence.

Proposed section 63AG confers on officers authorised by the Secretary of the Department of Health and on health surveyors power to enter premises for the purpose of inspecting and testing systems to which the proposed Division will apply. Those officers and surveyors will be able to require the production of records required to be kept in relation to the operation and maintenance of those systems.

Proposed section 63AH will enable the Secretary of the Department of Health or the relevant local authority to carry out a prescribed maintenance requirement relating to a system to which the proposed Division will apply if the Secretary or that local authority believes on reasonable grounds that the requirement is not being or has not been complied with. The proposed section will also enable the Secretary or that local authority to recover the cost of carrying out the necessary work from the occupier of the premises concerned. A notice directing the occupier of premises to carry out such a maintenance requirement may include a direction that the system must not be operated until the Secretary or that local authority is satisfied that the requirement has been complied with. It will be an offence for the occupier to fail to comply with such a direction.

Proposed section 63AI empowers the Governor-in-Council to make regulations for the purposes of the proposed Division.

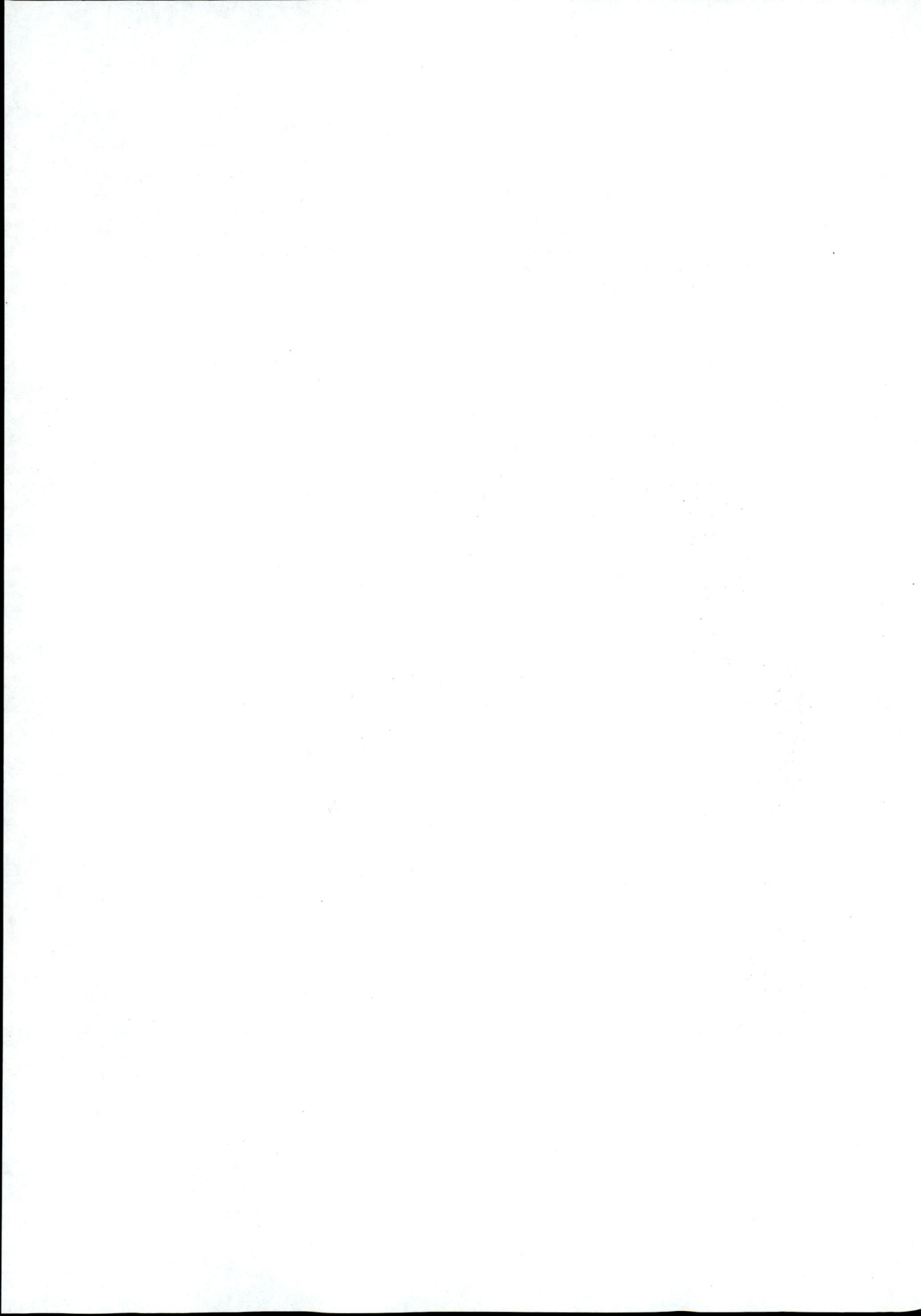
Proposed section 63AJ provides for the proposed Division to bind the Crown.

Proposed section 63AK provides for offences against the proposed Division to be disposed of summarily before a Local Court or the Supreme Court. In proceedings for such an offence brought in a Local Court, a person convicted of the offence will be liable to a penalty of up to \$10,000 or to imprisonment for up to 12 months or both. In proceedings for such an offence brought in the Supreme Court, such a person will be liable to a penalty of up to \$50,000 or to imprisonment for up to 2 years or both.

Schedule 1 (2) substitutes section 96 of the Principal Act. The existing section 96 provides that a person who claims to exercise a right to enter premises must, if required, produce a properly authenticated document showing the right of the person to enter. The substituted section 96 imposes a similar restriction on entry by requiring production on request of a certificate of authority, but the operation of the section is being extended so as to ensure that it covers entry under the proposed Division 3 of Part 6. The substituted section 96 does not reproduce a provision similar to the existing section 96 (1) (b) since a refusal or failure to admit a person who is seeking to exercise such a power of entry would be an offence under the substituted section 97.

Public Health (Amendment) 1989

Schedule 1 (3) substitutes section 97 of the Principal Act. The substituted section 97 provides that a person who hinders, obstructs or delays an officer, health surveyor or other person in the discharge of a duty or the exercise of a power under the Principal Act will be liable to a penalty of up to \$2,000. Under the existing section 97, the maximum penalty is \$200 and, in the case of a continuing offence, a penalty of \$20 for each day during which the offence continues. The substituted section 97 makes no provision for the imposition of a daily penalty.



PUBLIC HEALTH (AMENDMENT) BILL 1989

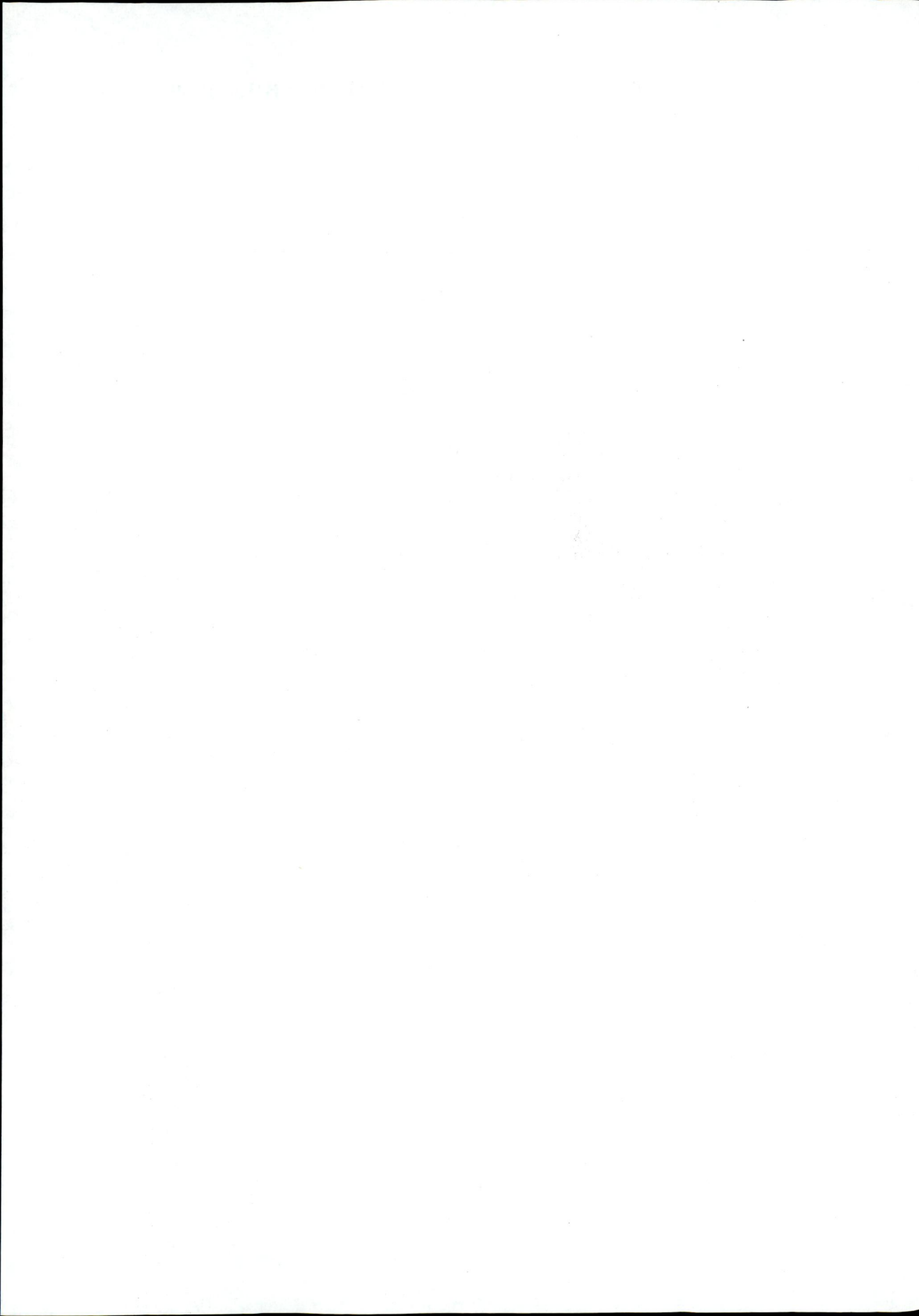
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Public Health Act 1902 No. 30

SCHEDULE 1—AMENDMENTS



PUBLIC HEALTH (AMENDMENT) BILL 1989

NEW SOUTH WALES



No. , 1989

A BILL FOR

An Act to amend the Public Health Act 1902 for the purpose of regulating the installation of air-handling systems, hot-water systems and water-cooling systems, and the operation and maintenance of such systems, in order to prevent or mitigate the growth of micro-organisms liable to cause Legionnaires' disease and certain other bacterial diseases; and for other purposes.

*Public Health (Amendment) 1989***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Public Health (Amendment) Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Public Health Act 1902 No. 30

3. The Public Health Act 1902 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

10

(Sec. 3)

(1) Part 6, Division 3—

After Division 2, insert:

Division 3—Microbial control of air-handling systems, hot-water systems and water-cooling towers

15

Purpose of Division

20

63AB. The purpose of this Division is to regulate the installation on premises of air-handling systems, hot-water systems and water-cooling systems, and their operation and maintenance, in order to prevent or mitigate the growth of micro-organisms that are liable to cause Legionnaires' disease and certain other bacterial diseases.

Definitions

63AC. In this Division—

25

“air-handling system” means a system designed for the purpose of directing air in a positive and controlled manner to and from specific enclosures by means of air-handling plant, ducts, plenums, air-distribution devices and automatic controls;

30

“cooling tower” means a structure containing a device for lowering the temperature of water by evaporative cooling in which atmospheric air passes through sprayed water, thereby exchanging heat, and also means a structure containing a device for lowering the temperature of water which incorporates within it a refrigerant or water heat exchanger;

35

“hot-water system” means a system designed for heating water and distributing heated water to outlet points located either within or outside premises;

SCHEDULE 1—AMENDMENTS—*continued*

“install” includes construct;

“maintain” includes repair, inspect, carry out preventive servicing and clean;

5 “occupier”, in relation to premises on which a system to which this Division applies is or is being installed, means—

(a) if the premises are occupied as a single entity—the occupier of the premises; or

10 (b) if the premises are separately occupied by different persons—the occupier of the part in which the air-handling plant, water-heating plant or cooling tower is located; or

15 (c) if the premises are designed for occupation as a single entity and are unoccupied—the owner of the premises or, where the premises are leased, the lessee of the premises; or

20 (d) if the premises are designed to be separately occupied but the part of the premises in which the air-handling plant, water-heating plant or cooling tower is located is unoccupied—the owner of that part or, where that part is leased, the lessee of that part;

“premises” includes land, but does not include premises occupied as a separate dwelling or, in the case of unoccupied premises, constructed for occupation as a separate dwelling;

25 “prescribed installation requirements” means requirements specified in the regulations with respect to the installation of a system to which this Division applies;

“prescribed maintenance requirements” means requirements specified in the regulations with respect to the maintenance of a system to which this Division applies;

30 “prescribed operating requirements” means requirements specified in the regulations with respect to the operation of a system to which this Division applies;

“water-cooling system” means a cooling tower and its associated equipment.

35 **Application of Division**

63AD. This Division applies to—

(a) air-handling systems;

(b) hot-water systems; and

(c) water-cooling systems.

SCHEDULE 1—AMENDMENTS—*continued***Installation of systems**

63AE. (1) The installation on premises of a system to which this Division applies must comply with the prescribed installation requirements.

5 (2) If such a system is installed on premises in contravention of subsection (1), the installer of the system and the occupier of the premises are each guilty of an offence.

10 (3) In proceedings for an offence under subsection (2) brought against an occupier of premises, the occupier has a defence if it is established that a reputable installer was engaged to install the system.

(4) This section does not apply to the installation of a system begun before the commencement of this Division.

Operation and maintenance of systems

15 63AF. (1) The prescribed operating and maintenance requirements must be complied with in relation to a system to which this Division applies.

20 (2) If the occupier of premises on which such a system is installed fails to ensure that the prescribed operating and maintenance requirements are complied with in connection with the system, that occupier is guilty of an offence.

25 (3) In proceedings for an offence under subsection (2) relating to the operation or maintenance of a system, an occupier of the premises concerned has a defence if it is established that a reputable contractor was engaged to operate or maintain the system.

30 (4) If a contractor who is engaged by the occupier of premises to operate or maintain a system to which this Division applies fails to ensure that the prescribed operating or maintenance requirements are complied with in connection with the system, the contractor is guilty of an offence.

(5) This section applies to systems installed both before and after the commencement of this Division.

Powers of Departmental officers and health surveyors

35 63AG. (1) In this section—

“authorised officer” means—

- (a) in relation to premises within a local government area—
a health surveyor employed by the local authority for that area; and

SCHEDULE 1—AMENDMENTS—*continued*

(b) in relation to any premises (including premises within a local government area)—an officer authorised by the Secretary to exercise the powers conferred by this section or a health surveyor of the Department.

5 (2) If an authorised officer believes on reasonable grounds that a system to which this Division applies has been installed or is being installed on premises, the officer may—

10 (a) enter the premises at all reasonable times for the purpose of ascertaining whether or not the prescribed installation, operating or maintenance requirements are being or have been complied with in respect of any such system; and

(b) inspect and test any such system; and

15 (c) require the production of, and inspect, all records required by the regulations to be kept in relation to the operation and maintenance of any such system.

Secretary or local authority may carry out maintenance requirements

20 63AH. (1) If, in relation to a system to which this Division applies, the Secretary or the local authority for the local government area concerned believes on reasonable grounds that a prescribed maintenance requirement is not being or has not been complied with, the Secretary or local authority may serve on the occupier of the premises on which the system is located a notice—

25 (a) directing that the requirement be complied with within a period specified in the notice; and

(b) if appropriate, directing that the system not be operated until the Secretary or that local authority is satisfied that the requirement has been complied with.

30 (2) If, after being served with such a notice directing compliance with a requirement within a specified period, the occupier of the premises concerned fails to comply with the requirement within that period, the Secretary or local authority may make arrangements for such work to be done as may be necessary to ensure that the requirement is complied with.

35 (3) Any employee or contractor assigned or engaged by the Secretary or by a local authority to undertake work in accordance with arrangements made under subsection (2) may, at any reasonable time, enter the premises concerned and carry out that work.

SCHEDULE 1—AMENDMENTS—*continued*

(4) The Secretary or the local authority concerned may, by proceedings before a court of competent jurisdiction, recover as a debt due to the Crown or the local authority an amount equal to the cost of carrying out work in accordance with subsection (3).

5

(5) If—

(a) a notice served on the occupier of premises in accordance with subsection (1) contains a direction under paragraph (b) of that subsection; and

10

(b) that occupier fails to comply with the direction, that occupier is guilty of an offence.

(6) The service of a notice under subsection (1) does not preclude the bringing of proceedings for an offence under section 63AF.

Regulations

15

63AI. (1) The Governor may make regulations, not inconsistent with this Division, for or with respect to any matter that is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Division.

20

(2) In particular, regulations under subsection (1) may require occupiers of premises on which systems to which this Division applies are installed to keep specified records with respect to the operation and maintenance of those systems.

25

(3) A regulation made for the purpose of this Division may create an offence punishable by a penalty not exceeding \$2,000.

Crown to be bound by this Division

30

63AJ. (1) This Division binds the Crown in right of New South Wales and, so far as the legislative power of Parliament permits, binds the Crown in all its other capacities.

35

(2) In cases where the Crown is the occupier of premises in which systems to which this Division applies are installed or are being installed, the occupiers of those premises for the purposes of this Division shall, if regulations made under section 63AI so provide, be taken to be the holders of such public offices or classes of public offices as are specified in those regulations.

Proceedings and penalties for certain offences against this Division

40

63AK. (1) Proceedings for an offence against section 63AE, 63AF or 63AH shall be disposed of summarily either—

(a) before a Local Court constituted by a Magistrate sitting alone; or

*Public Health (Amendment) 1989*SCHEDULE 1—AMENDMENTS—*continued*

(b) before the Supreme Court in its summary jurisdiction.

5 (2) In proceedings for such an offence brought in the Local Court, a person convicted of the offence is liable to a penalty not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months, or both.

(3) In proceedings for such an offence brought in the Supreme Court, a person convicted of the offence is liable to a penalty not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years, or both.

10 (4) Proceedings in the Supreme Court in its summary jurisdiction in respect of any such offence may be commenced only within 6 months after the offence was alleged to have been committed.

15 (5) This section has effect irrespective of any other provision of this Act.

(2) Section 96—

Omit the section, insert instead:

Restriction on examining or entering premises

20 96. (1) Whenever an officer, health surveyor or other person who is empowered by a provision of this Act, or by any regulation or by-law made under this Act, to examine or enter premises seeks to exercise that power, the officer, health surveyor or person must, if requested to do so by a person apparently in occupation of the premises concerned, produce for inspection a certificate of authority.

25

(2) If such a request is made and the request is not complied with, the exercise of the power is unlawful.

(3) In subsection (1), the reference to a certificate of authority is a reference to a certificate of authority issued—

- 30 (a) in the case of an officer—by the Minister or the Secretary; or
- (b) in the case of a health surveyor employed in the Department—by the Secretary; or
- 35 (c) in the case of a health surveyor employed by a local authority—by the local authority; or
- (d) in the case of any other person—by the Minister, Secretary or local authority concerned.

SCHEDULE 1—AMENDMENTS—*continued*

(3) Section 97—

Omit the section, insert instead:

Obstruction of officers etc.

5 97. Any person who intentionally hinders, obstructs or delays an officer, health surveyor or other person acting in the discharge of a duty imposed, or a power conferred, by or under this Act is guilty of an offence.

Maximum penalty: \$2,000.

