

## HEALTH ACT 1911

### *The Town of Mosman Park Health Local Laws 1995*

Pursuant to the provisions of the Health Act 1911, the Town of Mosman Park makes the following Local Laws.

*[Title and preamble amended by No. 135 of 1999 s.4(1).]*

#### ***Part 1 - Preliminary***

##### **Citation**

1. These local laws may be cited as the Town of Mosman Park Health Local laws 1995.

*[Clause 1 amended by No. 135 of 1999 s.4(2).]*

##### **Repeal**

2. The Model By-laws - Series "A" as adopted by the Town of Mosman Park and published in the Government Gazette of 16 June 1966, and as amended from time to time are repealed.

##### **Interpretation**

3. (1) In these local laws, unless the context otherwise requires -

**"Act"** means the Health Act 1911 and includes subsidiary legislation made under the Health Act 1911;

**"adequate supply of water"** means a flow of water of not less than 0.076 litres per second;

**"approved"** means approved by the Council of the Town of Mosman Park;

**"AS"** means Australian Standard published by the Standards Association of Australia;

**"Building Code"** means the Building Code of Australia as adopted by the Building Regulations 1989 made under the Local Government (Miscellaneous Provisions) Act 1960;

**"Chief Executive Officer"** means the Chief Executive Officer of the Town of Mosman Park and includes an Acting Chief Executive Officer;

**"Council"** means the Council of the Town of Mosman Park;

**“district”** means the district of the Town of Mosman Park and includes any area placed under the jurisdiction of the Council pursuant to section 22 of the Act;

**“dwelling house”** means a place of residence containing at least one sleeping room and includes a room or outbuilding separate from, but ancillary to, the building in which the sleeping room is located;

**“Environmental Health Officer”** means an Environmental Health Officer appointed by the Council under the Act and includes an Acting or Assistant Environmental Health Officer;

**“habitable room”** means a room used for normal domestic activities, and

- (a) includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, play-room, family room and sun room; and
- (b) excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, lobby, photographic dark room, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods;

**“hot water”** means water at a temperature of at least 75 degrees Celsius;

**“house”** means any building or structure, whether temporary or otherwise, including tents and vans, and includes a place of worship, school, factory, workroom, shop, hotel, public house, or other premises of a licensed victualler; the term also includes any vessel lying in any river, harbour, or other water within the territorial waters of Western Australia other than a vessel which is under the command or charge of any officer bearing Her Majesty’s commission, or which belongs to the government of any foreign state. It is immaterial whether the house is on alienated land or Crown land: Provided that where any building is let or occupied in flats, each flat shall be deemed to be a separate house;

**“Medical Officer”** means the Medical Officer appointed by the Council under the Act and includes an Acting Medical Officer so appointed;

**“Principal Environmental Health Officer”** means an Environmental Health Officer appointed by the Council to the office of Principal Environmental Health Officer and includes an Acting Principal Environmental Health Officer;

**“public place”** includes every place to which the public ordinarily have access, whether by payment of a fee or not;

**“sanitary convenience”** includes urinals, water-closets, earth-closets, privies, sink, baths, wash troughs, apparatus for the treatment of sewage, ash-pits, ash-

tubs, or other receptacle for the deposit of ashes, faecal matter, or refuse, and all similar conveniences;

**“sewage”** means any kind of sewage, nightsoil, faecal matter or urine, and any waste composed wholly or in part of liquid;

**“sewer”** includes sewers and drains of every description, except drains to which the word “drain” as defined in the Act applies, also water channels constructed of stone, brick, concrete, or any other material, including the property of Council;

**“street”** includes any highway, and any public bridge, and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

**“toilet”** means a water closet, earth closet, privy or urinal and includes a room or cubicle in which one or more of these is located;

**“water”** means drinking water within the meaning of the Guidelines for Drinking Water Quality In Australia - 1987 as published by the National Health and Medical Research Council ; and

**“window”** means a glass panel, roof light, glass brick, glass louvre, glazed sash, glazed door, or other device which transmits natural light directly from outside a building to the room concerned when in the closed position.

- (2) Where in these local laws, a duty or liability is imposed on an “owner or occupier”, the duty or liability shall be deemed to be imposed jointly and severally on each of the owner or occupier.
- (3) Where under these local laws an act is required to be done or forbidden to be done in relation to any premises, the owner or occupier of those premises has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

*[Clause 3 amended by No. 135 of 1999 ss.4(4) and 6(a) to (g).]*

## ***Part 2 - Sanitation***

### **Division 1 - Sanitary Conveniences**

#### **Interpretation**

4. In this Part, unless the context otherwise requires -

**“festival”** includes a fair, function or event;

**“organiser”** means a person -

- (a) to whom approval has been granted by the Council to conduct the festival; or
- (b) responsible for the conduct of the festival;

**“public sanitary convenience”** means a sanitary convenience to which the public ordinarily have access, whether by payment of a fee or not; and

**“temporary sanitary convenience”** means a sanitary convenience, temporarily placed for use by -

- (a) patrons in conjunction with a festival; or
- (b) employees at construction sites or the like.

#### **Dwelling House**

- 5. (1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house unless it has at least one toilet.
- (2) A room in which a toilet is located shall have adequate lighting.

#### **Premises other than a Dwelling House**

- 6. (1) The owner of premises other than a dwelling house shall not use or occupy, or permit to be used or occupied, premises other than a dwelling house unless -
  - (a) the premises have sanitary conveniences in accordance with the Building Code and this Part;
  - (b) the toilets required by these local laws are situated within a reasonable distance and are easily accessible to the persons for whom they are provided; and

- (c) the premises have hand wash basins -
  - (i) in accordance with the Building Code;
  - (ii) for the use of persons employed or engaged on the premises;
  - (iii) provided with an adequate supply of water supplied by taps located over each basin;
  - (iv) separate from any trough, sink or basin used in connection with any process carried out on the premises; and
  - (v) situated within a reasonable distance of the sanitary conveniences and easily accessible to the persons for whom they are provided.
  
- (2) The occupier of premises other than a dwelling house shall ensure, that -
  - (a) clean toilet paper is available at all times in each cubicle;
  - (b) a sanitary napkin disposal facility is provided in each toilet set aside for the use of females; and
  - (c) each hand wash basin is provided with -
    - (i) an adequate supply of soap or other hand cleaning substances; and
    - (ii) hand drying facilities, situated adjacent to and visible from the hand basin.

*[Clause 6 amended by No. 135 of 1999 s.4(3).]*

### **Outdoor Festivals**

- 7. (1) The organiser of an outdoor festival at which not more than 20,000 people are expected to attend shall provide sanitary conveniences in accordance with the following scale -
  - (a) for the first 1,000 males -
    - (i) one water closet for each 333;
    - (ii) one urinal stall for each 100; and
    - (iii) one hand wash basin for each 500;

- (b) for additional males -
    - (i) one water closet for each 500;
    - (ii) one urinal stall for each 100; and
    - (iii) one hand wash basin for each 500;
  - (c) for the first 1,000 females -
    - (i) one water closet for each 77; and
    - (ii) one hand wash basin for each 500;
  - (d) for additional females -
    - (i) one water closet for each 100; and
    - (ii) one hand wash basin for each 500.
- (2) Where, under subclause (1), the number of particular sanitary convenience to be provided is not a whole number, that number shall be rounded up to the next higher whole number.
- (3) The organiser of an outdoor festival at which more than 20,000 people are expected to attend shall provide sanitary conveniences of a number as directed by the Principal Environmental Health Officer.

### **Toilets**

8. (1) Toilets on premises shall be maintained in accordance with the following requirements -
- (a) the door to a toilet, other than an internal toilet, shall be properly screened to a continuous height of 1.8 metres from the floor;
  - (b) a toilet or its entrance which is visible from overlooking windows shall be properly screened;
  - (c) the floor of any internal toilet shall be -
    - (i) of concrete or of other approved impervious material of an approved thickness; and
    - (ii) graded to a floor waste outlet and proper discharge pipe with flap valve fitted and, where necessary, protected by an approved sump; and

- (d) the floor of any external toilet shall be -
  - (i) of concrete or of other approved impervious material of an approved thickness, and
  - (ii) graded to the door or alternatively an approved outlet.
- (2) Toilets on premises other than a dwelling house shall be maintained in accordance with the following additional requirements -
  - (a) a toilet for the exclusive use of males shall not adjoin any toilet for the exclusive use of females unless the toilets are separate by a wall extending from floor to ceiling and of sufficient density to blanket sound;
  - (b) where more than one toilet is provided on the premises, the entrance to each toilet shall bear a suitable sign indicating for which sex its use is intended.

### **Temporary Works**

- 9. A person who undertakes temporary work at any place shall -
  - (a) provide and maintain for the use of persons engaged, whether as employees or as independent contractors or otherwise, one approved temporary toilet for every 20 such persons;
  - (b) locate such approved temporary toilet as directed by the Principal Environmental Health Officer; and
  - (c) remove the temporary toilet at the conclusion of the work or at an earlier time in accordance with a direction from the Principal Environmental Health Officer, and ensure the site is left clean.

### **Maintenance of Sanitary Conveniences and Fittings**

- 10. (1) The occupier of premises shall -
  - (a) keep clean, in good condition and repair; and
  - (b) whenever required by an Environmental Health Officer, effectively disinfect and clean;

all sanitary conveniences including sanitary fittings in or on the premises.
- (2) The owner of premises shall -

- (a) keep or cause to be kept in good repair; and
- (b) maintain an adequate supply of water to;

all sanitary conveniences including sanitary fittings in or on the premises.

### **Ventilation of Toilets**

11. (1) A toilet in any premises shall be ventilated in accordance with the Sewage (Lighting, Ventilation and Construction) Regulations 1971 and the Building Code and shall be -

- (a) mechanically ventilated to the external air, through a fully enclosed duct at a minimum rate of 25 litres per second per fixture, but in no case less than 10 air changes per hour; or
- (b) naturally ventilated to the external air by the provision of -
  - (i) fixed and permanently ventilated windows or skylights;
  - (ii) fixed glazed louvred windows; or
  - (iii) wall or ceiling vents, ducted vertically to the external air as directly as practical and boxed throughout;

situated in both the room in which the toilet is located and adjacent airlock.

(2) A mechanical ventilation system provided under subclause (1)(a) shall -

- (a) be separate and distinct from any other system of mechanical ventilation in the building;
- (b) be of an exhaust type;
- (c) where it is provided for a building of more than 2 storeys, shall have a ventilating fan and power unit in duplicate; and
- (d) be maintained in good working order and condition.



- (3) A natural ventilation system provided under subclause (1)(b) shall have -
- (a) a clear ventilation area of not less than 0.015 square metres per fixture; and
  - (b) a window of light transmitting area equivalent to not less than ten percent of the floor area.
- (4) A toilet with an entrance opening from -
- (a) a room used for the manufacture, storage or consumption of food;
  - (b) a room used for sleeping or other domestic activities; or
  - (c) a room used as a work place;
- shall be mechanically ventilated as required by subclause (1)(a) and the entrance shall be fitted with a door having an efficient self closing device.

### **Public Sanitary Conveniences**

12. (1) A person shall not -
- (a) foul;
  - (b) damage or vandalise; or
  - (c) write on or otherwise deface;
- a public sanitary convenience or sanitary fixtures or fittings or the premises in or on which the sanitary convenience is located.
- (2) A person shall not live or sleep in or on the premises in which a public sanitary convenience is located or use it for a purpose other than that for which it was intended.

### **Lighting**

13. The owner and occupier of premises in which a sanitary convenience or a public sanitary convenience is located shall provide and maintain adequate electric lighting for persons using the convenience.

## **Installation**

14. (1) Every sanitary convenience shall be installed in accordance with the requirements of the Metropolitan Water Supply Sewerage and Drainage Act 1909 and shall have an adequate supply of water.
- (2) Every temporary sanitary convenience shall be installed in accordance with the requirements of the Health (Temporary Sanitary Conveniences) Regulations 1997.

*[Clause 14 amended by No. 135 of 1999 s.7.]*

### **Division 2 - Bathrooms, Laundries and Kitchens**

## **Bathrooms**

15. (1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a bathroom that -
  - (a) is adequately lined with an impervious material and has an adequate ceiling;
  - (b) complies with the Health Act (Laundries and Bathrooms) Regulations; and
  - (c) is equipped with -
    - (i) a hand wash basin; and
    - (ii) either a shower in a shower recess or a bath.
- (2) The floor of the bathroom referred to in subclause (1) shall be -
  - (a) of concrete or of other approved impervious material of an approved thickness;
  - (b) properly surfaced with an even fall to a floor waste, suitably trapped and discharging to -
    - (i) the sewer of a licensed water service operator; or
    - (ii) a proper discharge pipe with flap valve fitted and, where necessary, protected by an approved sump.
- (3) All baths, showers, hand basins and similar fittings shall be provided with an adequate supply of hot and cold water.

*[Clause 15 amended by No. 135 of 1999 s.8.]*

## Laundries

16. (1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a laundry that -
  - (a) is properly enclosed and roofed;
  - (b) is adequately lined with an impervious material;
  - (c) has a minimum floor area of 3 square metres and the minimum width of the room shall be not less than 1.5 metres;
  - (d) has a floor of concrete or other approved impervious material of an approved thickness;
  - (e) is properly surfaced, with an even fall to a floor waste, suitably trapped and discharging to -
    - (i) the sewer of a licensed water service operator; or
    - (ii) a proper discharge pipe with flap valve fitted and, where necessary, protected by an approved sump; and
  - (f) is not a room in which food is stored, prepared, served or consumed.
- (2) In the case of a single occupancy dwelling, the laundry referred to in subclause (1) shall have -
  - (a) either -
    - (i) two wash troughs and one copper; or
    - (ii) a washing machine and either a wash trough or a sink; and
  - (b) a clothes drying facility comprising either an electric clothes drying cabinet or not less than 30 metres of clothes line erected externally.
- (3) All wash troughs, sinks, coppers and washing machines shall be -
  - (a) in a laundry and connected to an adequate supply of hot and cold water; and
  - (b) properly supported.
- (4) All wash troughs and sinks shall have a capacity of at least 36 litres.

- (5) Sole or multiple occupancy units, each being a separate dwelling, shall have -
  - (a) laundry facilities, in accordance with the Building Code, for the exclusive use of the occupants of each unit; or
  - (b) a separate laundry, with communal laundry facilities in accordance with the Building Code, for up to 4 sole occupancy units that do not have their own laundry facilities.
- (6) Where, in any building, a laundry is situated adjacent to a kitchen or a room where food is stored or consumed, the laundry shall be separated from the kitchen by a wall extending from the floor to the roof or ceiling.
- (7) Where there is an opening between a laundry and a kitchen or other room where food is stored or consumed, the opening shall -
  - (a) not be more than 1220 millimetres wide; and
  - (b) have a door which when closed shall completely fill the opening.

*[Clause 16 amended by No. 135 of 1999 s.9(1) and (2).]*

### **Washing or Keeping of Clothes in Kitchens**

- 17. A person shall not in any kitchen or other place where food is kept -
  - (a) wash or permit to be washed any clothing or bedding; or
  - (b) keep or permit to be kept any soiled clothing or bedding.

### **Kitchens**

- 18. (1) In this Clause a “cooking facility” includes a stove, oven, facility or appliance used for or in connection with the cooking of food.
- (2) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a kitchen equipped with -
  - (a) an electric, gas, wood or other fuel burning stove;
  - (b) an oven with a capacity of not less than 0.005 cubic metres per person usually accommodated in the house with a minimum capacity of 0.03 cubic metres; and

- (c) a sink, which shall -
  - (i) have a capacity of not less than 17 litres with a depth of not less than 150 millimetres; and
  - (ii) have an adequate supply of hot and cold water.
- (3) The occupier of a dwelling house shall ensure that the stove, oven and sink are kept clean, in good order and repair and fit for use.
- (4) A cooking facility shall -
  - (a) be installed in accordance with the requirements of the Office of Energy; and
  - (b) not be installed or used in any room other than a kitchen.
- (5) A kitchen shall be provided with mechanical ventilation complying with AS1668.2-1991 and shall be -
  - (a) of an exhaust type;
  - (b) ducted to the external air as directly as practicable;
  - (c) boxed throughout; and
  - (d) maintained in good working order and condition.

*[Clause 18 amended by No. 135 of 1999 s.10.]*

### ***Part 3 - Housing and General***

#### **Division 1 - Maintenance of Houses**

##### **Dwelling House Maintenance**

19. The owner or occupier of a dwelling house shall maintain the dwelling house and any appurtenant buildings in sound condition and fit for use and, in particular, shall -
- (a) maintain all roofs, guttering and downpipes in sound weatherproof condition;
  - (b) maintain any footings, foundations and walls, either external or internal, in a sound condition;
  - (c) replace any missing, broken, decayed or termite-eaten timber or other deteriorated material in any verandah, roof, walls, steps, handrails, floors or their supports with material of sound quality;
  - (d) comply with the directions of an Environmental Health Officer to treat the premises for the purpose of destroying any termites;
  - (e) maintain any brick, stone, mortar or cement work in a sound condition;
  - (f) maintain, repair or replace any flashings or ant caps which are missing or defective;
  - (g) maintain all ventilators in good order and repair;
  - (h) maintain all floors even and level in surface and free from cracks and gaps;
  - (i) maintain all ceilings, internal wall finishes, skirtings, architraves and other fixtures and fittings complete and with smooth unbroken surfaces;
  - (j) maintain all doors and windows in good working order and weatherproof condition;
  - (k) retain all natural lighting free from any obstruction which would reduce the natural lighting, below the ratio of 10% of the floor area;
  - (l) maintain all pipes, fittings and fixtures connected with water supply, drainage or sewerage so that they comply in all respects with the provisions of the Metropolitan Water Supply, Sewerage and Drainage Act 1909 and any other legal requirements to which they are subject; and

- (m) maintain all electric wiring, gas services and fittings to comply in all respects with the requirements of the Office of Energy.

*[Clause 19 amended by No. 135 of 1999 s.11.]*

### **Guttering and Downpipes to be Provided to Houses**

- 20. (1) The owner of a house shall not, unless otherwise authorised in writing by the Council, use or occupy, or permit to be used or occupied, a house unless -
  - (a) the house is provided with adequate guttering, downpipes and drains sufficient to receive without overflow all rainwater flowing into them;
  - (b) the guttering and downpipes are fixed to the eaves of every roof of the house so that all rainwater flowing from the roof shall be received by such guttering and downpipes;
  - (c) all downpipes from guttering are connected so as to discharge into drains, which shall empty into soak wells, or other suitable storm water schemes for the effective disposal of rainwater to the satisfaction of the Principal Environmental Health Officer; and
  - (d) each soak well is located at least 1.8 metres from any building and at least 1.8 metres from the boundary of the block.
- (2) When the owner of a house is authorised in writing by the Council not to comply with the provisions of subclause (1), such written authorisation may be complete or partial and may also contain directions as to such other suitable means of receiving and disposing of rainwater falling on the house, as the Council thinks fit, and the owner shall comply with such directions.

*[Clause 20 amended by No. 135 of 1999 s.12.]*

### **Maintenance of Guttering and Downpipes and Disposal of Rainwater**

- 21. The owner or occupier of a house shall -
  - (a) maintain all guttering, downpipes, drains, soak wells and other storm water schemes on the premises in a good state of repair, clean and free from obstruction; and
  - (b) not permit any rainwater from the premises to discharge onto or over a footpath, street or other property.

## Division 2 - Ventilation of Houses

### **Exemption for Short Term Hostels**

22. This Division shall not apply to short term hostels referred to in Division 2 of Part 9.

### **Overcrowding**

23. The owner or occupier of a house shall not permit -
- (a) a room in the house that is not a habitable room to be used for sleeping purposes; or
  - (b) a habitable room in the house to be used for sleeping purposes unless -
    - (i) for every person over the age of 10 years using the room there is at least 14 cubic metres of air space per person; and
    - (ii) for every person between the ages of 1 and 10 years there is at least 8 cubic metres of air space per person; or
  - (c) any garage or shed to be used for sleeping purposes.

### **Calculate Sufficient Space**

24. For the purposes of Clause 23, in calculating the space required for each person -
- (a) each room shall be considered separately and sufficient space shall be allowed in each room for the number of persons present in the room at any one time; and
  - (b) a deduction shall be made for the space occupied by furniture, fittings and projections of the walls into a room.



## **Ventilation**

25. (1) A person shall not use or occupy, or permit to be used or occupied, a house unless the house is properly ventilated.
- (2) For the purpose of subclause (1) a house shall be deemed to be properly ventilated if it complies with the Building Code, including the provision of -
- (a) natural ventilation; or
  - (b) a mechanical ventilation or air-conditioning system complying with AS1668.2-1991.
- (3) The owner of a house provided with mechanical ventilation or an air-conditioning system shall ensure that the system is -
- (a) maintained in good working condition and in accordance with AS3666-1989; and
  - (b) in use at all times the building is occupied.
- (4) If, in the opinion of the Principal Environmental Health Officer, a house is not properly ventilated, the Council may by notice require the owner of the house to -
- (a) provide a different, or additional method of ventilation; or
  - (b) cease using the house until it is properly ventilated.
- (5) The owner shall comply with a notice under subclause (4).

## **Sub-Floor Ventilation**

26. The owner or occupier of a house shall make provision for sub-floor ventilation by ensuring that air bricks and other openings are kept clear of refuse, vegetation, building materials, dirt and the like.

## Division 3 - Water Supply

### Water Supply

27. (1) The owner of a house shall ensure that it is connected with a separate and independent water supply from the mains of a licensed water service operator or a water supply to the satisfaction of the Council.
- (2) The water supply shall at all times deliver an adequate supply of drinking water to each tap in the house or on the site on which the house is located.

*[Clause 27 amended by No. 135 of 1999 s.13(1), (2) and (3).]*

### Rain Water Tanks

- (d) The owner or occupier of a house for which part of the water supply is drawn from a rain water tank shall –
- (d) maintain in a clean condition –
    - (d) the roof forming the catchment for the tank; and
    - (d) the guttering and downpipes appurtenant to the roof;
  - (d) ensure that each rain water tank is fitted with a tight-fitting mosquito proof cover which shall not be removed at any time except for the purpose of cleaning, repairing or maintaining the tank;
  - (d) ©at least once in each year, thoroughly clean any tank from which water is used for human consumption; and
  - (d) when directed by an Environmental Health Officer, empty, clean and disinfect any tank upon the premises, from which water is used for human consumption.

*[Clause 28 amended by No. 135 of 1999 s.14.]*

### Wells

29. The owner or occupier of any premises shall not use or permit for human consumption the use of the water of any bore or well unless the bore or well is -
- (a) at least 30 metres from any soak well or other possible source of pollution unless otherwise approved by the Executive Director Public Health; and

- (b) covered with a tight-fitting cover without openings of any sort other than those essential for the insertion of a pump.

*[Clause 29 amended by No. 135 of 1999 s.15.]*

### **Pollution**

30. A person shall not deposit on or under any land, any sewage, offensive matter or any other thing which may pollute or render unfit for human consumption, water from a well or other underground source.

## Division 4 - Secondhand Furniture, Bedding and Clothing

### **Prohibition of Sale**

31. A person shall not offer for sale or sell any secondhand furniture, bedding or clothing which is filthy or infested with vectors of disease.

*[Clause 31 amended by No. 135 of 1999 s.16.]*

### **Prohibition of Possession**

32. A dealer in secondhand furniture, bedding or clothing shall not have on any premises used for the operation of the business any secondhand furniture, bedding or clothing which is filthy or infested with vectors of disease.

*[Clause 31 amended by No. 135 of 1999 s.16.]*

## ***Part 4 - Waste Food and Refuse***

### **Division 1 - Liquid Refuse**

#### **Interpretation**

33. In this division, unless the context otherwise requires -

**“liquid refuse”** includes swimming pool discharges, all washings from windows, vehicles and carpet cleaning, overflow, bleed off, condensate and drainage from air conditioning equipment including cooling towers and evaporative coolers and other liquid used for cooling purposes;

**“liquid waste”** means bathroom, kitchen, scullery and laundry wastes, all washings from animal and poultry pens and any other domestic or trade wastes that are discharged by means of a drain to a receptacle for drainage; and

**“licensed carrier”** means a carrier licensed under the Environmental Protection(Liquid Waste) Regulations 1996.

*[Clause 33 amended by No. 135 of 1999 s.17.]*

#### **Deposit of Liquid Refuse**

34. A person shall not deposit or cause or permit to be deposited liquid refuse or liquid waste -

- (a) on a street;
- (b) in a stormwater disposal system; or
- (c) on any land or place other than a place or depot duly authorised for that purpose.

#### **Disposal of Liquid Waste**

35. (1) The owner or occupier of premises shall -

- (a) provide, one of the methods prescribed in this Clause, for the disposal of all liquid waste produced on the premises; and
- (b) at all times maintain in good working order and condition any apparatus used for the disposal of liquid waste.

- (2) Liquid waste shall be disposed of by one of the following methods -
- (a) discharging it into the sewerage system of a licensed water service operator in a manner approved by a licensed water service operator;
  - (b) discharging it into an apparatus for the treatment of sewage and disposal of effluent and liquid waste approved by the Executive Director, Public Health and the Council;
  - (c) collection and disposal at an approved liquid waste disposal site in a manner approved by the Executive Director, Public Health.

*[Clause 35 amended by No. 135 of 1999 s.18.]*

### **Approval for Septic Tank Pumpouts**

36. A person shall not -

- (a) unless he or she is a licensed carrier;
- (b) without the written approval of the Council; and
- (c) except in accordance with any terms and conditions imposed by the Executive Director, Public Health or the Council in connection with the approval under this Clause;

collect, remove or dispose of the contents of a septic tank, the pumpouts from holding tanks or an apparatus for the treatment of sewage.

*[Clause 36 amended by No. 135 of 1999 s.19.]*

### **Application for Approval**

37. (1) A licensed carrier may apply in writing to the Council for approval to collect, remove or dispose of the contents of a septic tank, the pumpouts from holding tanks or an apparatus for the treatment of sewage.
- (2) The Council may grant or refuse an application under this Clause subject to conditions relating to -
- (a) the time and method of collection, removal or disposal of the contents; or
  - (b) the route to be followed by a vehicle used in collection, removal or disposal of the contents.

- (3) Any conditions imposed by the Council under this Clause shall be -
- (a) specified in the written approval of the Council; and
  - (b) in addition to any conditions imposed by the Executive Director, Public Health or conditions applying under any other law.
- (4) The Council may from time to time vary conditions imposed by it under this Clause by giving written notice of the variation to the person to whom approval was given.

*[Clause 37 amended by No. 135 of 1999 s.19.]*

### **Notice of Intention**

38. A person to whom approval has been given under Clause 37 shall, at least 24 hours before collecting, removing or disposing of the contents of a septic tank or an apparatus for the treatment of sewage, notify the Principal Environmental Health Officer of his or her intention to do so.

### Division 2 - Disposal of Refuse

### **Interpretation**

39. In this division, unless the context otherwise requires -

**“building line”** has the meaning given to it in and for the purposes of the Local Government Act, 1960;

**“collection day”** means the day of the week from time to time notified to the occupier of the premises on which rubbish and refuse is collected and removed by the Council or its contractor;

**“kerb line”** means the point where the road carriageway adjoins the road verge;

**“receptacle”** means a polythene cart fitted with wheels and a handle and with a lid and has a capacity of either 120 litres or 240 litres, or a polythene or steel container on wheels with lockable lids and a capacity of 1100 litres or other type of receptacle as approved by the Council;

**“refuse disposal site”** means land set apart under the Act as a site for the disposal of rubbish or refuse; and

**“rubbish or refuse”** includes any filth, dirt, ashes, vegetation, garden refuse, waste material, waste food, sludge, offensive matter, cinders, wood or metal shavings and sawdust but does not include liquid waste or liquid refuse.

### **Refuse to be Deposited in Receptacles**

40. (1) The occupier of every premises shall -
- (a) subject to subclause (c) hereof, cause all refuse to be deposited in a receptacle;
  - (b) at all times keep the lid of the receptacle closed except when depositing refuse in or cleaning the receptacle;
  - (c) not deposit or permit to be deposited in a receptacle -
    - (i) more than 80 kg of refuse in the case of a receptacle with a capacity of 240 litres; or
    - (ii) more than 50 kg of refuse in the case of a receptacle with a capacity of 120 litres; and
    - (iii) any material being or consisting of -
      - (a) hot or burning ashes;
      - (b) oil, motor spirit or other flammable liquid;
      - (c) liquid, including liquid paint, or other solvent;
      - (d) bricks, concrete, earth or other like substances;
      - (e) drugs, dressings, bandages, swabs or blood samples unless placed in a sealed impervious and leak-proof container;
      - (f) hospital, medical, veterinary, laboratory or pathological substances containing blood unless placed in a sealed impervious and leak-proof container;
      - (g) syringes, needles, surgical hardware, broken glass, sharps or other sharp objects unless placed in a sealed impervious leak-proof and impenetrable container;
      - (h) cytotoxics, radioactive substances and dangerous chemicals;

- (iv) any object which is greater in length, width or breadth than the corresponding dimensions of the receptacle or which will not allow the lid to be tightly closed; or
- (v) refuse which is or likely to become offensive or a nuisance or to give off any offensive or noxious odour or to attract flies or cause fly breeding unless it is first wrapped in absorbent or impervious material or placed in a sealed impervious container;
- (d) except for collection day, keep the receptacle on the premises located behind the building line, or other location approved by the Principal Environmental Health Officer;
- (e) at all times keep the receptacle clean and whenever directed by the Principal Environmental Health Officer to do so thoroughly cleanse and disinfect the receptacle, and place and keep in the receptacle a deodorant material;
- (f) notify the Council within seven days after the event if the receptacle is lost, stolen, damaged or becomes defective;
- (g) not mark or disfigure the receptacle in any manner other than by the placement of a street or unit number upon it in numerals no higher than 100mm; and
- (h) not use the receptacle for any purpose other than the storage of refuse.
- (2) (a) Prior to 7.00am on collection day -
  - (i) place the receptacle on the verge between 1 to 3 metres from the kerb line, and so as not to cause an appreciable interference to public use of the road, footpath or other carriageway. The receptacle may otherwise be placed at a position specifically approved by the Principal Environmental Health Officer; or
  - (ii) where the receptacle is collected via a right-of-way or lane abutting the premises, place the receptacle adjacent to the boundary of the premises so abutting and in such a manner as to be serviceable from the right-of-way or lane; and
- (b) as soon as practicable after the contents of the receptacle have been removed, return the receptacle to its place of storage.



- (3) Where refuse emanating from premises is of a nature that the Principal Environmental Health Officer considers that it requires to be treated before being placed in a receptacle, the Officer may give directions as to the manner in which it is to be so treated and the occupier of those premises shall comply with those directions.
- (4) Collection of refuse shall be once weekly unless otherwise determined by the Principal Environmental Health Officer.
- (5) In the case of premises used for multi-residential, commercial or industrial purposes the Council may require the use of a receptacle or receptacles other than the defined “receptacle” and the occupier of those premises shall comply with and observe the direction given by the Council.
- (6) In the case of multi-residential, commercial or industrial premises, where it is considered that individual receptacles for each premises would not be practical, the Principal Environmental Health Officer may exercise discretion as to the number of receptacles to be provided and to the number of collections carried out each week.

*[Clause 40 amended by No. 135 of 1999 s.20.]*

#### **Ownership of Receptacles**

- (3) A receptacle supplied by the Council or its contractor remains the property of the Council or its contractor as the case may be.

#### **Removal of Rubbish or Refuse**

- (3) A person shall not, unless he is authorised in writing by the Council to do so, remove any house or trade refuse or other rubbish from any premises in the District as prescribed in Schedule “1”.

#### **Prescribed Area – Section 112A Health Act**

- (3) The area described in Schedule “1” is prescribed as the area within which the provisions of section 112A of the Act shall operate and have effect.

## **Deposit of Refuse**

- (3) A person shall not deposit or cause or permit to be deposited any rubbish or refuse in or on any street or on any land other than a refuse disposal site.

## **Burning Rubbish or Refuse**

- 45. (1) A person shall not –
  - (3) without the written approval of the Principal Environmental Health Officer; and
  - (3) except in accordance with the terms and conditions to which the approval is subject, set fire to, or cause to be set on fire, any rubbish or refuse either –
    - (3) in any incinerator; or
    - (3) on the ground.
  - (3) Subject to subclause (3), an approval of the Principal Environmental Health Officer is issued subject to the following conditions –
    - (3) the material to be burnt –
      - (3) does not include any plastic, rubber, food scraps, green garden cuttings or other material which may become offensive when burnt; and
      - (3) is of such quantity, or of such a nature, as not to be suitable for removal by the Council's refuse collection service;
      - (3) there is no other appropriate means of disposal;
      - (3) burning shall not take place –
        - (3) during any period for which an air dispersion alert has been issued by the Bureau of Meteorology; or
        - (3) where there is no current dispersion alert, outside the hours of 10.00am to 3.00pm;
    - (3) an incinerator must meet the minimum standards specified in AS1875-1976; and
    - (3) an incinerator unit used for fire must be located –

- (3) at least 3 metres from a fence or building; and
  - (3) in such a position so as not to create a nuisance or be offensive to other persons.
- (3) Subject to the provisions of the Bush Fires Act, it is prohibited to clear by burning any fire breaks, vacant lots or other land of grass, straw, hay, undergrowth, herbage and other vegetation whether alive or dead and standing or not standing, without the written approval of the Council.

*[Clause 45 amended by No. 135 of 1999 s.21.]*

### **Rubbish Removal Vehicles**

46. A vehicle used by the Council or its contractor for the collection and transport of rubbish shall -
- (a) be provided with a compartment in which all rubbish shall be deposited for removal, and of which the interior is constructed from or surfaced with impermeable material; and
  - (b) have a cover over the compartment at all times when the vehicle is engaged in the transport of rubbish.

### **Method of Removal of Rubbish**

47. A person engaged in the removal of rubbish from premises shall -
- (a) convey all rubbish from the receptacles of the occupier of the premises and deposit the rubbish in the portion of the collection vehicle intended to hold the rubbish; and
  - (b) replace the receptacle where the person found it, with the lid in place.

## **Division 3 - Transport of Butchers' Waste**

### **Interpretation**

48. In this Division, unless the context otherwise requires -

“**butchers' waste**” includes animal skeletons and rib cages from a boning room and the inedible products of an abattoir.

*[Clause 48 amended by No. 135 of 1999 s.22.]*

### **Restriction of Vehicles**

49. A person shall not use, for the transport of butchers' waste -
- (a) a vehicle used for the transport of food or drugs; or
  - (b) anything intended to be used for the packing or handling of food or drugs.

### **Transport of Butchers' Waste**

50. (1) A person shall not transport butchers' waste otherwise than in -
- (a) a compartment complying with the following specifications -
    - (i) the floor and 4 walls to be made of sheet metal and the walls to be not less than 910 millimetres high;
    - (ii) all joints to be welded, soldered or brazed and made water-tight;
    - (iii) the loading doors, if any, to be water-tight and kept closed at all times except when loading; and
    - (iv) the top to be completely covered by a tarpaulin or other impervious sheet material approved by the Principal Environmental Health Officer, carried over, and secured to the outside of the walls at least 300 millimetres from the top so as to keep the load out of sight of the public; or
  - (b) a water-tight metal container fitted with a lid which can be tightly closed.
- (2) A person shall not transport any butchers' waste in a vehicle unless the vehicle and its fittings, including the compartment or container referred to in this Clause, are -
- (a) maintained in good order and condition; and
  - (b) thoroughly cleaned at the conclusion of each day's work.

- (3) A person shall not load, transport, or unload butchers' waste in a manner that is or may be offensive due to -
- (a) the sight of animal skeletons, bones, offal or waste matter;
  - (b) the odour of putrefaction, offal or waste matter; or
  - (c) the presence of blood and particles of flesh or fat dropping onto the surface of the street pavement or ground.

## PART 5 - NUISANCES AND GENERAL

### Division 1 - Nuisances

#### **Interpretation**

51. In this Division, unless the context otherwise requires -
- “**fertiliser**” includes manure.

#### **Footpaths etc. to be Kept Clean**

52. An owner or occupier of premises shall maintain in a clean condition any footpath, pavement, area or right-of-way immediately adjacent to the premises.

*[Clause 52 amended by No. 135 of 1999 s.23.]*

#### **Escape of Smoke etc.**

53. (1) Subject to subclause (2), an owner or occupier of premises shall not cause or permit the escape of smoke, dust, fumes, offensive or foul odours, liquid waste or liquid refuse from the premises in such quantity or of such a nature as to cause or to be a nuisance.
- (2) Subclause (1) does not apply to smoke from the chimney of a private dwelling house.

#### **Public Vehicles to be Kept Clean**

54. The owner or person in control of a public vehicle shall -
- (a) maintain the vehicle at all times -
- (i) in a clean condition; and
- (ii) free from vectors of disease; and
- (b) whenever directed to do so by an Environmental Health Officer, thoroughly clean and disinfect the vehicle as directed.

*[Clause 54 amended by No. 135 of 1999 s.24.]*

### **Prohibition against Spitting**

55. A person shall not spit -
- (a) on a footpath, street or public place; or
  - (b) in a train, bus or other public transport.

### **Transportation, Use and Storage of Offal, Blood, or Partly Liquid Refuse**

56. (1) A person shall not transport or store offal or blood, for the purpose of being used as manure, unless it has been sterilised by steam and properly dried.
- (2) No person shall remove any partly liquid refuse or offensive matter unless such partly liquid refuse or offensive matter is carried in watertight barrels or tanks securely covered to prevent the escape of any of the contents thereof, or the emission of any offensive odour therefrom.
- (3) Every person using any barrel, tank or vehicle in the removal of any partly liquid refuse or offensive matter shall keep such barrel, tank or vehicle so used in a thoroughly clean condition and good state of repair.

### **Use or Storage of Fertiliser**

57. An owner or occupier of premises shall not use or keep for the purpose of use, as fertiliser any -
- (a) pig manure;
  - (b) human faeces; or
  - (c) urine.

### **Storage and Dispatch of Artificial Fertiliser**

58. An owner or occupier of premises where artificial fertiliser is stored in bulk for sale shall -
- (a) keep all artificial fertiliser in a building -

- (i) of which the walls, floors and ceilings or undersides of the roof are constructed of durable and non-absorbent materials finished internally with a smooth surface; and
- (ii) free from damp and properly ventilated;
- (b) take proper precautions to prevent the emission of dust or offensive effluvia from the building, and
- (c) ensure that all artificial fertiliser despatched from the premises is packed in such a manner as to prevent any nuisance arising during transit.

### **Storage of Fertiliser in a House**

59. The owner or occupier of a house where fertiliser or compost is stored or used shall -
- (a) prevent the escape of odours, dust or particles of fertiliser or compost;
  - (b) treat the fertiliser or compost in such a manner as to effectively prevent it attracting or being a breeding place for flies or other vectors of disease; and
  - (c) store only such amounts of fertiliser or compost -
    - (i) as can be readily used within a reasonable period; or
    - (ii) as may be directed by the Principal Environmental Health Officer.

*[Clause 59 amended by No. 135 s.25.]*

### **Vehicles Used for Transporting of Animals and Birds**

60. (1) No person having the control or management of any vehicle in which animals or birds are being or have been transported or confined shall allow such vehicle to stand within the Town of Mosman Park until the floor of such vehicle has been cleaned.
- (2) A person having the control or management of any vehicle in which any animals or birds have been transported or confined shall immediately upon the removal of any animals or birds cause such vehicle to be cleaned to the satisfaction of an Environmental Health Officer.



## Division 2 - Keeping of Animals

### **Cleanliness**

61. An owner or occupier of premises in or on which a dog, cat or other animal or bird is kept shall -
- (a) keep the premises free from excrement, filth, food waste and all other matter which is or is likely to become offensive or injurious to health or to attract rats or other vectors of disease;
  - (b) when so directed by an Environmental Health Officer, clean and disinfect the premises; and
  - (c) keep the premises, so far as possible, free from flies or other vectors of disease by spraying with a residual insecticide or other effective means.

*[Clause 61 amended by No. 135 of 1999 s.26(1) and (2).]*

### **Animal Enclosures**

62. (1) A person shall not keep or cause or permit to be kept any animals or birds on premises which are not effectively drained.
- (2) The owner or occupier of premises where animals or birds are kept shall, when directed by the Principal Environmental Health Officer, pave, grade and drain the floors of all structures and the surface of the ground of all enclosures used for the keeping of animals or birds.

### **Slaughter of Animals**

63. (1) Subject to subclause (2), a person shall not slaughter any animal within the district.
- (2) Subclause (1) does not apply to euthanasia of animals by veterinarians or other duly authorised persons.

### **Disposal of Dead Animals**

64. (1) An owner or occupier of premises on which there is a dead animal shall immediately remove the carcass and arrange for its disposal at an approved disposal site.

- (2) An owner, or a person having the care, of any animal that dies or is killed in a public or private place shall immediately remove the carcass and arrange for its disposal at an approved disposal site.

## **Cats**

- 64A
- (1) Subject to subclause (7), a person shall not, without an exemption in writing from the Council, keep cats for the purpose of breeding or keep more than 2 cats over the ages of 3 months on premises on any land within the district.
  - (2) An owner or occupier of premises may apply in writing to the Council for exemption from the requirements of subclause (1).
  - (3) The council shall not grant an exemption under this clause unless it is satisfied that the number of cats to be kept will not be a nuisance or injurious to health.
  - (4) An application for exemption under subclause (3) shall be accompanied by an application fee as fixed from time to time by the Council under section 344C of the Act.
  - (5) An exemption granted under this section shall specify-
    - (a) the owner or occupier to whom the exemption applies;
    - (b) the premises to which the exemption applies; and
    - (c) the maximum number of cats which may be kept on the premises.
  - (6) The Council may impose conditions describing the manner in which each cat is kept by a person who is granted exemption under subclause (3).
  - (7) A person may keep more than 2 cats on premises used for veterinary purposes or as a pet shop.

*[Clause 64A inserted by No. 135 of 1999 s.27.]*

## Division 3 - Keeping of Large Animals

### **Interpretation**

65. In this Division, unless the context otherwise requires -

**“large animal”** includes a horse, mare, pony, camel, bull, cow, ox, ass, mule, donkey, sheep, goat, pig and the young of those animals.

### **Keeping of Large Animals prohibited**

66. An owner or occupier of premises in the district shall not keep or permit to be kept on the premises a large animal.

### **Division 4 - Keeping of Poultry and Pigeons**

#### **Interpretation**

67. In this Division, unless the context otherwise requires -

**“Affiliated Person”** means a person who is a member of -

- (a) the Pigeon Racing Federation of Western Australia;
- (b) the Fancy Utility Pigeon Club of Western Australia;
- (c) the Southern Districts Pigeon and Bantam Club; or
- (d) any other properly constituted Pigeon Club.

**“poultry”** includes fowls, bantams, ducks and other domestic fowls.

#### **Limitation on Numbers of Poultry and Pigeons**

68. An owner or occupier of premises -

- (a) who is not an Affiliated Person, shall not keep a combined total of more than 12 poultry and pigeons; or
- (b) who is an Affiliated Person, shall not keep a total of more than 50 pigeons and 12 poultry;

on any one lot of land.

#### **Conditions for Keeping Poultry**

69. (1) A Person who keeps or permits poultry or pigeons to be kept shall ensure that -
- (a) no poultry is able to approach, or pigeons kept within 15 metres of a dwelling house, public building or premises where people are employed or where food is stored, prepared, manufactured or sold;

- (b) all poultry and pigeons are kept within properly constructed and securely fastened structures, enclosures or cages.
  - (c) the structure, enclosure or cage is in a yard having an otherwise unobstructed area of at least 30 square metres;
  - (d) no poultry is able to approach or pigeons kept within 15 metres of a street other than a right-of-way unless, in the case of land at the junction of two or more streets, Council has approved a lesser distance; and
  - (e) all structures, enclosures or cages within which poultry or pigeons are kept are provided with concrete floors trowelled to a smooth finish and laid with a fall of 1 in 50 to the front, maintained at all times in a clean condition and shall be disinfected or otherwise dealt with as directed by an Environmental Health Officer.
- (2) If a structure, enclosure or cage is used for the keeping of poultry or pigeons contrary to the provisions of this Clause, the Principal Environmental Health Officer may direct the owner or occupier to remove it.
  - (3) An owner or occupier shall comply with a direction from the Principal Environmental Health Office under this Clause.

**Roosters, Geese, Turkeys and Peafowls**

70. (1) An owner or occupier of premises shall not without the written approval of the Council keep or permit to be kept on those premises any one or more of the following -
- (a) a rooster;
  - (b) a goose or gander;
  - (c) a turkey;
  - (d) a peacock or peahen.
- (2) The Council may, upon written application and subject to Clause 68, grant approval with or without conditions to the owner or occupier of premises to keep any one or more birds as specified in subclause (1) of this Clause.

- (3) An approval granted under this Clause is not transferable.
- (4) The Council may revoke an approval granted under this Clause if, in its opinion, the keeping of such bird or birds specified in the approval is causing a nuisance or is injurious, offensive or dangerous to health whether by reason of noise or otherwise.

### **Restrictions on Pigeon Nesting or Perching**

- 71. (1) The Council may order an owner or occupier of a house in or on which pigeons are, or are in the habit of, nesting or perching to take adequate steps to prevent them continuing to do so.
- (2) An owner or occupier shall comply with the Council order under this Clause.

## Division 5 - Car Parks

### **Interpretation**

- 72. In this Division, unless the context otherwise requires -

“**car park**” means premises, or any part of premises, set aside for parking of 3 or more motor vehicles; and

“**occupier**” means a person having the charge, management or control of a car park.

### **Ventilation**

- 73. (1) A person shall not use or occupy, or permit to be used or occupied, a car park unless it is ventilated by either -
  - (a) natural ventilation; or
  - (b) mechanical means;in accordance with AS1668.2-1991.
- (2) If, in the opinion of the Principal Environmental Health Officer, a car park is not properly ventilated, the Council may by notice require the occupier within a specified time to -
  - (a) provide a different or additional method of ventilation; and

- (b) cease using the car park until it is properly ventilated.
- (3) An occupier shall comply with a notice under subclause (2).

### **Exhaust Air Discharge Points and Exhaust Registers**

74. An owner or occupier shall ensure that -
- (a) all exhaust air that is discharged from a car park shall be discharged -
    - (i) at discharge points -
      - (A) in accordance with AS1668.2-1991; and
      - (B) located so that the hourly average exhaust flow rate is not reduced below the minimum requirement of AS1668.2-1991;
    - (ii) at a velocity and in a direction so as not to be a danger to health or a nuisance;
  - (b) exhaust registers are located as far as possible from the source of supply air;
  - (c) in the case of a car park having a floor level below that of the external ground level, at least 50% of the required exhaust air is drawn into exhaust registers having their bottom edge located within 100 millimetres of the floor level; and
  - (d) any mechanical ventilation system is -
    - (i) maintained in good working condition; and
    - (ii) in operation at all times when the car park is in use.

## PART 6 - PEST CONTROL

### Division 1 - Flies

#### **Interpretation**

75. In this Division, unless the context otherwise requires -

“flies” means any of the two-winged insects constituting the order *Diptera* commonly known as flies.

#### **Fly Breeding Matter Not be Left on Premises unless Covered or Treated.**

76. An owner or occupier of premises shall not place, throw, or leave, or permit or cause to be placed, thrown or left, in on or about the premises any matter or thing which is liable to attract or be a breeding place for flies, unless that matter or thing is covered, protected, treated or dealt with in such a manner as to effectively prevent it from attracting or being a breeding place for flies.

#### **Measures to be Taken by an Occupier**

77. An owner or occupier of premises shall ensure that -

- (a) rubbish receptacles are kept clean and tightly sealed at all times except when refuse is being deposited or emptied;
- (b) food scraps and uneaten pet food are wrapped tightly and deposited in a rubbish receptacle without delay;
- (c) lawn clippings used on gardens as mulch are raked out thinly;
- (d) fertilisers are dug well into the soil;
- (e) compost heaps are kept well covered;
- (f) barbecues are kept clean and free from food scraps;
- (g) anything that is buried and may attract or be a breeding place for flies is covered with at least 100 millimetres of soil; and
- (h) excrement from pets is collected and properly disposed of without delay.

### **Officer may give Notice Directing Measures to be Taken**

78. Where in the opinion of an Environmental Health Officer flies are prevalent or are breeding on any premises, the Officer may give to the owner or occupier of the premises notice in writing directing him or her to take, within the time specified in the notice, such measures as in the opinion of the Officer are necessary to -

- (a) control the prevalence;
- (b) effect the eradication; or
- (c) effectively prevent the breeding;

of flies.

### **Council may Execute Work and Recover Costs**

79. (1) Where -

- (a) a person is required under this Division or directed by a notice given under Clause 78, to execute any work; and
- (b) that person fails or neglects to comply with the requirement;

the Council may execute the work and may recover from that person the cost of executing the work, in addition to any penalty for which that person may be liable under this Clause.

- (2) The costs and expenses incurred by the Council in the execution of a power under subclause (1) may be recovered in a court of competent jurisdiction from the person referred to in subclause (1).
- (3) The Council shall not be liable to pay compensation or damages of any kind to the person referred to in subclause (1) in relation to any action taken by the Council under this Clause.

## Division 2 - Mosquitoes

### **Interpretation**

80. In this Division, unless the context otherwise requires -

**“mosquitoes”** means any of the two-winged insects constituting the family *Diptera Culicidae* commonly known as mosquitoes.



### **Premises to be Kept Free of Mosquito Breeding Matter**

81. An owner or occupier of premises shall keep the premises free of -
- (a) refuse; and
  - (b) water that is;
- liable to become the breeding place of mosquitoes.

### **Measures to be Taken by an Owner or Occupier**

82. An owner or occupier of premises -
- (a) where there is a fountain, pool, pond or excavation of any kind which contains water suitable for the breeding of mosquitoes, shall keep the water -
    - (i) stocked with mosquito destroying fish; or
    - (ii) covered with a film of petroleum oil or treated with other larvicide; and
  - (b) where there is a water tank, well, cistern, vat or barrel, shall -
    - (i) keep it protected with a mosquito-proof cover; and
    - (ii) screen all openings, other than the delivery exit, with wire mesh having openings no larger than 1.2 millimetres.

*[Clause 82 amended by No. 135 of 1999 s.28.]*

### **Measures to be Taken by Occupier**

83. An occupier of premises where water is kept in a bird bath, pet drinking vessel or other receptacle shall -
- (a) frequently change the water; and
  - (b) keep the water clean and free from vegetable matter and slime.

### **Removal of Undergrowth or Vegetation**

84. (1) Where it appears to the Principal Environmental Health Officer that there is, on any premises, undergrowth or vegetation likely to harbour mosquitoes, the Officer may direct, orally or in writing, the owner or occupier of the premises to cut down and remove within a specified time the undergrowth or vegetation.
- (2) An owner or occupier of premises shall comply with a direction from, and within the time allowed by, the Principal Environmental Health Officer under this Clause.

### **Filling in Excavations etc.**

85. Unless written permission to the contrary is obtained from the Council, a person who cuts turf or removes soil or other material from any land shall forthwith ensure that each excavation is filled in with clean sound material and made level with the surrounding surface.

### **Drains, Channels and Septic Tanks**

86. An owner or occupier of land shall -
- (a) cause all drains and channels in or on the land to be kept in good order and free from obstruction; and
- (b) where a septic tank is installed on the land -
- (i) apply an approved larvicide according to the directions on the container, into the septic tank system, whenever directed to do so by an Environmental Health Officer;
- (ii) provide, and keep in sound condition at all times, wire mesh having openings no larger than 1.2 millimetres covering any inlet vent to the tank.

*[Clause 86 amended by No. 135 of 1999 s.29.]*

### **Drainage of Land**

87. An owner or occupier of land upon which there is water liable to become a breeding place for mosquitoes shall, when required by the Council, effectively drain the land and, for that purpose, shall -
- (a) make or provide drains on the land;
- (b) remove all irregularities in the surface of the land;

- (c) if necessary, adjust the surface of the land or raise the level of the surface in such a manner that -
  - (i) the water on the land may flow into the drains without obstruction; and
  - (ii) no water shall remain on any portion of the land other than the drains; and
- (d) keep all drains in good order and free from obstruction.

### **Officer may give Notice Directing Measures to be Taken**

88. Where in the opinion of an Environmental Health Officer mosquitoes are breeding on any premises, the Officer may direct, orally or by notice, the owner or occupier of the premises, to take such measures within a specified time as in the opinion of the Officer are necessary to -
- (a) control the prevalence;
  - (b) effect the eradication; or
  - (c) effectively prevent the breeding,
- of mosquitoes.

### **Council may Execute Work and Recover Costs**

89. (1) Where -
- (a) a person is required under this division or directed by a notice given under Clause 88, to execute any work; and
  - (b) that person fails or neglects to comply with the requirement;
- the Council may execute the work and recover from that person the cost of executing the work, in addition to any penalty for which that person may be liable under this Clause.
- (2) The costs and expenses incurred by the Council in the execution of a power under subclause (1) may be recovered in a court of competent jurisdiction from the person referred to in subclause (1).
  - (3) The Council shall not be liable to pay compensation or damages of any kind to the person referred to in subclause (1) in relation to any action taken by the Council under this Clause.

## Division 3 - Rodents

### Interpretation

90. In this Division, unless the context otherwise requires -

**“rodents”** means those animals belonging to the order *Rodentia* and includes rats and mice but does not include animals (other than rats) kept as pets in an enclosure designed for the purpose of keeping as pets animals of that kind.

### Measures to be Taken to Eradicate Rodents

91. (1) An owner or occupier of premises shall at all times take effective measures to eradicate any rodents in or on the premises.
- (2) Without limiting the generality of subclause (1), an owner or occupier of premises, whenever there are indications of the presence of rodents in, on or about the premises, and while such indications continue, shall -
- (a) take effective measures to keep the premises free from rodents including -
    - (i) protecting food stuffs;
    - (ii) using a rodenticide bait or properly baited traps; and
    - (iii) preventing rodents having access to water on the premises;
  - (b) inspect daily each rodenticide bait or trap used and, whenever a rodent is found, shall -
    - (i) if it is not already dead, kill it immediately; and
    - (ii) dispose of the carcass in such a manner as will not create a nuisance; and
  - (c) take whatever measures for the eradication of rodents as an Environmental Health Officer may from time to time direct.

### **Waste Food etc. to be Kept in Rodent Proof Receptacles**

92. A person shall not place or cause to be placed in or on any premises, and an owner or occupier of premises shall not permit to remain in or on the premises -

- (a) any waste food, refuse, or other waste matter which might attract rodents to the premises or which might afford harbourage for rodents;  
or
- (b) any food intended for birds or other animals;

unless it is contained in a rodent proof receptacle or a compartment which is kept effectively protected against access by rodents.

### **Restrictions on Materials Affording Harbourage for Rodents**

93. (1) An owner or occupier of premises shall cause -

- (a) any part of the premises; or
- (b) any material, sewer, pipe or other thing in or on the premises;

that might afford access or harbourage to rodents to be altered, repaired, protected, removed or otherwise dealt with so as to prevent it being used as access for, or harbourage of, rodents.

- (2) An Environmental Health Officer may direct, orally or in writing, an owner or occupier of premises to take whatever action that, in the opinion of the Officer, is necessary or desirable to prevent or deter the presence of rodents in or on the premises.
- (3) An owner or occupier shall within the time specified comply with any direction given by an Environmental Health Officer under this Clause.

### **Food Premises etc. to be Cleaned after Use**

94. An owner or occupier of a food premises, theatre or place of entertainment, whether indoor or outdoor, shall cause the premises to be cleaned immediately after the last occasion on which the premises have been used on that day or, if the use extends after midnight, then immediately after that use.

*[Clause 94 amended by No. 135 of 1999 s.30.]*

## **Restrictions on the Sale or Keeping of Rats**

95. (1) Subject to subclause (2) an owner or occupier of premises shall not, on or from those premises -
- (a) keep or permit to be kept a rat; or
  - (b) sell or offer for sale or permit to be sold or offered for sale a rat.
- (2) Subclause (1) shall not prevent the keeping of rats for the purpose of scientific or medical research on premises owned or occupied by -
- (a) a university or school;
  - (b) a person approved by the Council; or
  - (c) a public hospital or a private hospital within the meaning of those expressions in the Hospitals and Health Services Act 1927.
- (3) A person or body specified in subclause (2) which keeps rats for the purpose of scientific or medical research shall -
- (a) at all times ensure that all live rats are kept in the effective control of a person or in locked cages; and
  - (b) if a rat escapes, forthwith comply with the requirements of Clause 90 and ensure that all reasonable steps are taken to destroy the rat.

*[Clause 95 amended by No. 135 of 1999 s.31.]*

## Division 4 - Cockroaches

### **Interpretation**

96. In this Division, unless the context otherwise requires -

**“cockroach”** means any of the various orthopterous insects commonly known as cockroaches.

### **Measures to be Taken to Eradicate Cockroaches**

97. (1) An owner or occupier of premises shall take effective measures to eradicate any cockroaches in or on the premises.
- (2) Without limiting the generality of subclause (1), an owner or occupier of premises, whenever there are any indications of the presence of cockroaches in, on or about the premises, and while such indications continue, shall take effective measures to keep the premises free from cockroaches including -
- (a) washing and storing, immediately after use, cooking and eating utensils;
  - (b) wrapping and depositing in a rubbish receptacle without delay all food scraps, uneaten pet food and garbage;
  - (c) properly treating the premises with an insecticide, taking care not to harm the safety of humans and pets or to contaminate food or cooking or eating utensils; and
  - (d) whenever required by an Environmental Health Officer, treating any area with baits or other methods to eradicate cockroaches.

### **Division 5 - Argentine Ants**

#### **Interpretation**

98. In this Division, unless the context otherwise requires -

**“Argentine Ant”** means an ant belonging to the species *Irdomyrmex humilis*.

#### **Measures to be Taken to Keep Premises Free from Argentine Ants**

99. An owner or occupier of premises shall ensure that the premises are kept free from Argentine Ant colonies and shall -
- (a) immediately notify the Council of any ant nest located on the premises suspected to be an Argentine Ant nest;
  - (b) take all steps to locate any nests if Argentine Ants are noticed in, on or about the premises;

- (c) properly treat all nests of Argentine Ants with an approved residual based insecticide; and
- (d) whenever required by an Environmental Health Officer -
  - (i) treat any area or infestation with an insecticide referred to in paragraph (c); and
  - (ii) remove any objects, including timber, firewood, compost or pot plants in accordance with a direction from an Environmental Health Officer.

#### Division 6 - European Wasps

##### **Interpretation**

100. In this Division, unless the context otherwise requires -

**“European Wasp”** means a wasp *Vespula germanica*.

##### **Measures to be Taken to Keep Premises Free from European Wasp Nests**

101. An owner or occupier of premises shall ensure that the premises are kept free from European Wasp nests and shall -

- (a) immediately notify the Council of any wasp nest in, on or about the premises that is suspected to be a European Wasp nest;
- (b) follow any direction of an Environmental Health Officer for the purpose of destroying the wasps and nest; and
- (c) assist an Environmental Health Officer, or his or her representative, to trace any nest that may be present in, on or about the premises.

#### Division 7 – Arthropod Vectors of Disease

##### **Interpretation**

102. In this Division, unless the context otherwise requires- **“arthropod vectors of disease”** includes -

- (a) fleas (*Siphonaptera*);
- (b) bedbugs (*Cimex lectularius*);



- (c) crab lice (*Phthirus pubis*);
- (d) body lice (*Pediculus humanus var. corporis*);
- (e) head lice (*Pediculus humanus var. capitis*); and
- (f) any other insect prescribed by the Council.

*[Clause 102 amended by No. 135 of 1999 s.32 and 33.]*

### **Responsibility of the Owner or Occupier**

103 The owner or occupier of premises shall -

- (a) keep the premises and any person residing in or on the premises free from any arthropod vectors of disease; and
- (b) comply with the direction of an Environmental Health Officer to treat the premises, or anything on the premises, for the purpose of destroying any arthropod vectors of disease.

*[Clause 103 amended by No. 135 of 1999 s.32.]*

## Part 7 - INFECTIOUS DISEASES

### Division 1 - General Provisions

#### **Requirements on Owner or Occupier to Clean, Disinfect and Disinfest**

104. (1) The Council or the Principal Environmental Health Officer may, by notice in writing, direct an owner or occupier of premises, within the time and in the manner specified in the notice, to clean, disinfect and disinfest -
- (a) the premises; or
  - (b) such things in or on the premises as are specified in the notice;
- or both, to the satisfaction of an Environmental Health Officer.
- (2) An owner or occupier shall comply with a notice given under subclause (1).

#### **Environmental Health Officer may Disinfect or Disinfest Premises**

105. (1) Where the Council or the Medical Officer is satisfied that any case of infectious disease has occurred on any premises, the Council or the Medical Officer may direct an Environmental Health Officer, other Council Officer or other person to disinfect and disinfest the premises or any part of the premises and anything in or on the premises.
- (2) An owner or occupier of premises shall permit, and provide access to enable, an Environmental Health Officer, other Council Officer or other person to carry out the direction given under subclause (1).
- (3) The Council may recover, in a court of competent jurisdiction, the cost of carrying out the work under this Clause from the owner or occupier of the premises in or on which the work was carried out.
- (4) The Council shall not be liable to pay compensation or damages of any kind to the owner or occupier of premises in relation to any action taken by the Council or any of its staff or employees under this Clause.

#### **Insanitary Houses, Premises and Things**

106. (1) An owner or occupier of any house or premises shall maintain the house or premises free from any insanitary condition or thing.

- (2) Where the Council considers that a house is insanitary, it may, by notice in writing, direct an owner of the house, within the time and in the manner specified in the notice, to amend or take down and remove the house.
- (3) Where an Environmental Health Officer considers that -
  - (a) a house or premises is not being maintained in a sanitary condition; or
  - (b) any thing is insanitary;the officer may, by notice in writing, direct, as the case may be -
  - (i) the owner or occupier of the house or premises to amend any insanitary condition; or
  - (ii) the owner or occupier of the thing to destroy or amend it;within the time and in the manner specified in this notice.
- (4) A person to whom a notice has been given under subclauses (2) or (3) shall comply with the terms of the notice.

### **Medical Officer may Examine Persons**

107. The medical officer may enter any house and examine bacteriological or otherwise any inmate of the house, or any person found thereon at the time, for the purpose of ascertaining whether the inmate or person is suffering from an infectious disease or is a medium for the transmission of an infectious disease, and the person shall submit to an examination and shall permit the medical officer to remove whatever specimens are considered necessary for proper examination.

### **Medical Officer may Authorise Disinfecting**

108. (1) Where the Medical Officer believes that a person is or may be infected by an infectious disease, the Officer may direct the person to have his or her body, clothing and effects disinfected at a place and in a manner directed by the Medical Officer.
- (2) A person shall comply with any direction of the Medical Officer under this Clause.

### **Persons in Contact with an Infectious Disease Sufferer**

109. If a person in any house is, or is suspected of, suffering from an infectious disease, any occupant of the house or any person who enters or leaves the house -
- (a) shall obey such instructions or directions as the Council or the Medical Officer may issue;
  - (b) may be removed, at the direction of the Council or the Medical Officer to isolation in an appropriate place to prevent or minimise the risk of the infection spreading and if so removed, shall remain in that place until the Medical Officer otherwise directs.

### **Declaration of Infected House or Premises**

110. (1) To prevent or check the spread of infectious disease, the Council or the Medical Officer may from time to time declare any house or premises to be infected.
- (2) A person shall not enter or leave any house or premises declared to be infected without the written consent of the Medical Officer or the Principal Environmental Health Officer.

### **Destruction of Infected Animals**

111. (1) The Principal Environmental Health Officer, upon being satisfied that an animal is or may be infected or is liable to be infected or to convey infection may, by notice in writing, direct that the animal be examined by a registered veterinary officer and all steps taken to enable the condition to be controlled or eradicated or the animal destroyed and disposed of -
- (a) in the manner and within the time specified in the notice; and
  - (b) by the person in whose possession, or upon whose premises, the animal is located.
- (2) A person who has in his or her possession or upon premises occupied by him or her, an animal which is the subject of a notice under subclause (1) shall comply with the terms of the notice.

### **Disposal of a Body**

112. (1) An occupier of premises in or on which is located the body of a person who has died of an infectious disease shall, subject to subclause(2), cause the body to be buried or disposed of in such manner, within such time and with such precautions as may be directed by the Medical Officer.
- (2) A body shall not be removed from premises where death occurred except to a cemetery or morgue.

### **Council may Carry out Work and Recover Costs**

113. (1) Where -
  - (a) a person is required under this Division or by a notice given under this Division, to carry out any work; and
  - (b) that person fails or neglects to comply with the requirement;that person commits an offence and the Council may carry out the work or arrange for the work to be carried out by another.
- (2) The costs and expenses incurred by the Council in the execution of a power under this Clause may be recovered in a court of competent jurisdiction from the person referred to in subclause (1)(a).
- (3) The Council shall not be liable to pay compensation or damages of any kind to the person referred to in subclause (1)(a) in relation to any action taken by the Council under this Clause.

### **Division 2 - Disposal of used condoms and needles**

#### **Disposal of used Condoms**

114. (1) An occupier of premises on or from which used condoms are produced shall ensure that the condoms are -
  - (a) placed in a sealed impervious container and disposed of in a sanitary manner; and
  - (b) disposed of in such a manner as may be directed by the Principal Environmental Health Officer.

- (2) A person shall not dispose of a used condom in a public place except in accordance with subclause (1).

**Disposal of used needles**

115. A person shall not dispose of a used hypodermic syringe or needle in a public place unless it is placed in an impenetrable, leak-proof container and deposited in a refuse receptacle.

*[Division 3 - Tattooing Establishments deleted.]*

*[116. deleted]*

*[117. deleted]*

*[118. deleted]*

*[Clauses 116, 117 and 188 deleted by No. 135 of 1999 s.34.]*

## PART 8 - FOOD PREMISES

### Division 1 - General

#### **Interpretation**

119. In this part, unless the context otherwise requires -

**“food premises”** means any premises where food is stored, kept, prepared, manufactured, processed, cooked, or served, or otherwise dealt with for subsequent sale to the public either directly or indirectly and includes any eating house or food vehicle;

**“itinerant food vendor”** means a person who travels along the road looking for customers and who sells food from his vehicle parked temporarily on the road to customers who stop him or come to him while he is so parked;

**“licence”** means a licence, issued by the Council under this Part, to carry on the business of an itinerant food vendor.

#### **Consent Required to Carry out Alterations**

120. A proprietor of a food premises shall not make or permit to be made any structural alterations in or addition to the premises without the prior written approval of the Council nor make or permit to be made any other alteration in or addition to the premises or any furniture, fixtures, counters, bins, sinks, drain boards, grease traps, food storage containers and food preparation equipment without the prior written consent of the Principal Environmental Health Officer.

#### **Prohibition on Sleeping in Food Handling Areas**

121. A proprietor of a food premises shall not allow any room where food is prepared, stored or handled, to be used for sleeping purposes.

## Division 2 - Itinerant Food Vendors

### **Itinerant Food Vendor's Licence**

122. (1) An itinerant food vendor shall not offer for sale or sell food unless the vendor -
- (a) is the holder of an itinerant food vendor's licence issued by the Council under this Clause; and
  - (b) complies with any conditions to which the licence is subject.
- (2) An application for an itinerant food vendor's licence shall be -
- (a) made by the proprietor or, where there is more than one proprietor, by each proprietor;
  - (b) made in the form prescribed in Schedule 2; and
  - (c) forwarded to the Chief Executive Officer together with the fee as fixed from time to time by the Council under section 344C of the Act.
- (3) An application for a licence under this Clause shall be determined by the Council which may approve the application, with or without conditions, or reject the application.
- (4) Where Council approves, with or without conditions, an application under this Clause, an itinerant food vendor's licence -
- (a) signed by the Principal Environmental Health Officer; and
  - (b) in the form of Schedule 3;
- shall be issued by the Council.
- (5) A licence issued under this Clause shall be valid until 30 June next following the date of issue of the licence by the Council.
- (6) Notwithstanding the provisions of subclause (5), extant licences which expire on the 31 December 1995 are renewable at one half of the prescribed fee during the first week of January 1996 and shall be valid to 30 June next.

*[Clause 122 amended by No. 135 of 1999 s.35.]*



## PART 9 - LODGING HOUSES

### Division 1 - Registration

#### Interpretation

123. (1) In this Part, unless the context otherwise requires -

**“bed”** means a single sleeping berth only. A double bed provided for the use of couples, shall have the same floor space requirements as two single beds;

**“bunk”** means a sleeping berth comprising one of two arranged vertically;

**“dormitory”** means a building or room utilised for sleeping purposes at a short term hostel;

**“keeper”** means a person whose name appears on the register of keepers, in respect of a lodging house, as the keeper of that lodging house;

**“lodger”** means a person who obtains, for hire or reward, board or lodging in a lodging house;

**“lodging house”** includes a serviced apartment and a short term hostel;

**“manager”** means a person duly appointed by the keeper in accordance with this Division to reside in, and have the care and management of, a lodging house;

**“register of lodgers”** means the register kept in accordance with Section 157 of the Act and this Part;

**“resident”** means a person, other than a lodger, who resides in a lodging house;

**“serviced apartment”** means a lodging house in which each sleeping apartment, or group of sleeping apartments in common occupancy, is provided with its own sanitary conveniences and may have its own cooking facilities; and

**“short term hostel”** means a lodging house where the period of occupancy of any lodger is not more than 14 consecutive days and shall include youth hostels and backpacker hostels.

**“vector of disease”** means arthropod or rodent that transmits, by biological or mechanical means, an infectious agent from a source or reservoir to a person, and includes fleas, bedbugs, crab lice, body lice and head lice.

- (2) Where in this Part an act is required to be done or forbidden to be done in relation to any lodging house, the keeper of the lodging house has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

*[Clause 123 amended No. 135 of 1999 s.36 (i) and (ii).]*

### **Lodging House Not to be Kept Unless Registered**

124. A person shall not keep or cause, suffer or permit to be kept a lodging house unless -

- (a) the lodging house is constructed in accordance with the requirements of this Part;
- (b) the lodging house is registered by the Council under Clause 126;
- (c) the name of the person keeping or proposing to keep the lodging house is entered in the register of keepers; and
- (d) either -
- (i) the keeper; or
- (ii) a manager who, with the written approval of the Chief Executive Officer, has been appointed by the keeper to have the care and management of the lodging house;

resides, or intends to reside, continuously in the lodging house whenever there is one or more lodgers in the lodging house.

*[Clause 124 amended by No. 135 of 1999 s.37 (i) and (ii).]*

### **Application for Registration**

125. An application for registration of a lodging house shall be -
- (a) in the form prescribed in Schedule 4;
  - (b) duly completed and signed by the proposed keeper; and
  - (c) accompanied by -
    - (i) the fee as fixed from time to time by the Council under section 344C of the Act; and
    - (ii) detailed plans and specifications of the lodging house.

*[Clause 125 amended by No. 135 of 1999 s.38.]*

### **Approval of Application**

126. The Council may approve, with or without conditions, an application under Clause 125 by issuing to the applicant a certificate in the form of Schedule 5.

### **Renewal of Registration**

127. A person who keeps a lodging house which is registered under this Part shall -
- (a) during the month of June in each year apply to the Council for the renewal of the registration of the lodging house; and
  - (b) pay the fee as fixed from time to time by the Council under section 344C of the Act at the time of making each application for renewal.

*[Clause 127 amended by No. 135 of 1999 s.39.]*

### **Notification upon Sale or Transfer**

128. If the owner of a lodging house sells or transfers or agrees to sell or transfer the lodging house to another person, he or she shall, within 14 days of the date of sale, transfer or agreement, give to the Chief Executive Officer, in the form of Schedule 6, written notice of the full name, address and occupation of the person to whom the lodging house has been, or is to be, sold or transferred.

## **Revocation of Registration**

129. (1) Subject to subclause (3), the Council may, at any time, revoke the registration of a lodging house for any reason which, in the opinion of the Council, justifies the revocation.
- (2) Without limiting the generality of subclause (1), the Council may revoke a registration upon any one or more of the following grounds -
- (a) that the lodging house has not, to the satisfaction of Council, been kept free from vectors of disease or in a clean, wholesome and sanitary condition;
  - (b) that the keeper has -
    - (i) been convicted of an offence under this Part in respect of the lodging house;
    - (ii) not complied with a requirement of this Part; or
    - (iii) not complied with a condition of registration;
  - (c) that the Council, having regard to a report from the Police Service, is satisfied that the keeper or manager is not a fit and proper person; and
  - (d) that, by reason of alterations or additions or neglect to repair and renovate, the condition of the lodging house is such as to render it, in the opinion of the Principal Environmental Health Officer, unfit to remain registered.
- (3) Before revoking the registration of a lodging house under this Clause, the Council shall give notice to the keeper requiring him or her, within a time specified in the notice, to show cause why the registration should not be revoked.
- (4) Whenever the Council revokes the registration of a lodging house, it shall give the keeper notice of the revocation and the registration shall be revoked as from the date on which the notice is served on the keeper.

*[Clause 129 amended by No. 135 of 1999 s.40.]*

## Division 2 - Construction and Use Requirements

### General Construction Requirements

130. The general construction requirements of a lodging house shall comply with the Building Code.

### Sanitary Conveniences

131. (1) A keeper shall maintain in good working order and condition and in convenient positions on the premises -
- (a) toilets; and
  - (b) bathrooms, each fitted with a shower, bath and hand wash basin;
- in accordance with the requirements of the Building Code.
- (2) A bathroom or toilet which is used as a private bathroom or toilet to the exclusion of other lodgers or residents shall not be counted for the purposes of subclause (1).
  - (3) Each bath, shower and hand wash basin shall be provided with an adequate supply of hot and cold water.
  - (4) The walls of each shower and bath shall be of an impervious material to a minimum height of 1.8 metres above the floor level.
  - (5) Each toilet and bathroom shall –
    - (a) be so situated, separated and screened as to ensure privacy;
    - (b) be apportioned to each sex;
    - (c) have a distinct sign displayed in a prominent position denoting the sex for which the toilet or bathroom is provided; and
    - (d) be provided with adequate electric lighting.
  - (6) Paragraphs (b) and (c) of subclause (5) do not apply to a serviced apartment.

*[Clause 131 amended by No. 135 of 1999 s.41.]*

## **Laundry**

132. (1) The Keeper of a lodging house shall -
- (a) subject to subclause (2), provide on the premises for the use of each 15 lodgers, a laundry in accordance with the requirements of Clause 16(1), (2), (3) and (4) of these Clauses;
  - (b) at all times maintain each laundry in a proper sanitary condition and in good repair;
  - (c) provide an adequate supply of hot and cold water to each wash trough, sink, copper and washing machine; and
  - (d) ensure that the floor area of each laundry is properly surfaced with an even fall to a floor waste.
- (2) The Principal Environmental Health Officer may approve the provision of a reduced number of laundry units if suitable equipment of a commercial type is installed.

## **Kitchen**

133. The keeper of a lodging house shall provide in that lodging house a kitchen which -
- (a) has a minimum floor area of -
    - (i) 0.65 square metres per person, where lodgers prepare their own meals;
    - (ii) 0.35 square metres per person, where meals are provided by the keeper or manager; or
    - (iii) 1 square metre per person, where the kitchen and dining area are combined;but in any case not less than 16 square metres;
  - (b) has adequate -
    - (i) food storage facilities and cupboards to prevent contamination of food, or cooking or eating utensils, by dirt, dust, flies or other vectors of disease of any kind; and
    - (ii) refrigerator space for storage of perishable goods;

(c) complies with the requirements of the Health (Food Hygiene) Regulations 1993;

(d) has a hand wash basin and a double bowl sink, each provided with an adequate supply of hot and cold water; and

*[(e) deleted.]*

*[Clause 133 amended by No. 135 of 1999 s.42 (i), (ii) and (iii).]*

### **Cooking Facilities**

134. (1) The keeper of a lodging house where lodgers prepare their own meals shall provide a kitchen with electrical, gas or other stoves and ovens approved by the Principal Environmental Health Officer in accordance with the following table -

| No. OF LODGERS | OVENS | 4 BURNER STOVES   |
|----------------|-------|---|
| 1-15           | 1     | 1   |
| 16-30          | 1     | 2   |
| 31-45          | 2     | 3   |
| 46-60          | 2     | 4   |
| Over 60        | 2     | 4 +1 for each additional<br>15 lodgers (or part<br>thereof) over 60 |

(2) The keeper of a lodging house where meals are provided by the keeper or manager shall provide a kitchen with cooking appliances of a number and type approved by the Principal Environmental Health Officer.

*[(3) deleted.]*

*[Clause 134 amended by No. 135 of 1999 s.43.]*

### **Dining Room**

135. The keeper of a lodging house shall provide in that lodging house a dining room -

(a) located in close proximity to, or combined with, the kitchen;

(b) the floor area of which shall be not less than the greater of -

(i) 0.5 square metres per person; or

(ii) 10 square metres; and

- (c) which shall be -
  - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
  - (ii) provided with a suitable floor covering.

### **Lounge Room**

136. The keeper of a lodging house shall provide in that lodging house a lounge room -

- (a) with a floor area of-
  - (i) where the lounge is not combined with the dining room - not less than 0.6 square metres per person; or
  - (ii) where the lounge room is combined with a dining room - not less than 1.2 square metres per person;

but in either case having a minimum of 13 square metres; and

- (b) which shall be -
  - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
  - (ii) provided with a suitable floor covering.

*[Clause 136 amended by No. 135 of 1999 s.44.]*

### **Fire Prevention and Control**

137. The keeper of a lodging house shall -

- (a) in each passage in the lodging house, provide an emergency light -
  - (i) in such a position, and of such a pattern, as approved by the Principal Environmental Health Officer; and
  - (ii) which shall be kept separate from the general lighting system and kept illuminated during the hours of darkness;
- (b) provide an approved fire blanket positioned within 2 metres of the cooking area in each kitchen;
- (c) ensure that each exit sign and fire fighting appliance is clearly visible, accessible and maintained in good working order at all times;



- (d) provide fire fighting appliances of the number and pattern, and situated in such positions as the Council may direct;
- (e) ensure all buildings are fitted with fire protection equipment as advised by the Western Australian Fire Brigades Board and approved by the Council; and
- (f) ensure all fire fighting equipment, fire detection and alarm systems are adequately maintained at all times in such a condition as will enable their proper performance.

*[Clause 137 amended by No. 135 of 1999 s.45.]*

### **Obstruction of Passages and Stairways**

138. The keeper shall not cause, suffer or permit furniture, fittings or other things to be placed either temporarily or permanently in or on -

- (a) a stairway, stair landing, fire-escape, window or common passageway;  
or
- (b) part of the lodging house in common use or intended or adapted for common use;

in such a manner as to form an obstruction to the free passage of lodgers, residents or persons in or occupying the lodging house.

### **Fitting of Locks**

139. A person shall not fit, or cause or permit to be fitted, to an exit door a lock or other device which prevents the door being opened from within a lodging house.

### **Restriction on use of Rooms for Sleeping**

140. (1) Subject to subclause (3) and Clause 154, the keeper shall not use or permit to be used as a sleeping apartment a room in a lodging house -

- (a) which contains food;
- (b) which contains or is fitted with a cooking appliance or kitchen sink;
- (c) which is used as a kitchen, scullery, store room, dining room, general sitting room or lounge room, or for the preparation or storage of food;

- (d) which is not reasonably accessible without passing through a sleeping or other room in the private occupation of another person;
  - (e) which, except in the case of a short term hostel, contains less than 5.5 square metres of clear space for each lodger occupying the room;
  - (f) which is naturally illuminated by windows having a ratio of less than 0.1 square metre of unobstructed glass to every 1 square metre of floor area;
  - (g) which is ventilated at a ratio of less than 0.5 square metre of unobstructed ventilating area to every 10 square metres of floor area;
  - (h) in which the lighting or ventilation referred to in paragraphs (f) and (g) is obstructed or is not in good and efficient order;
  - (i) which is not free from internal dampness;
  - (j) of which any part of the floor is below the level of the adjoining ground; or
  - (k) the floor of which is not fitted with an approved carpet or vinyl floor covering or other floor treatment approved by the Principal Environmental Health Officer.
- (2) For the purposes of this Clause, two children under the age of 10 years shall be counted as one lodger.
- (3) Paragraphs (a), (b) and (c) of subclause (1) shall not apply to a serviced apartment.

### **Sleeping Accommodation Short Term Hostels**

141. (1) The keeper of a short term hostel shall provide clear floor space of not less than -
- (a) 4 square metres per person in each dormitory utilising beds;
  - (b) 2.5 square metres per person in dormitories utilising bunks.
- (2) The calculation of floor space in subclause (1), shall exclude the area occupied by any large items of furniture, such as wardrobes, but may include the area occupied by beds.

- (3) The minimum height of any ceiling in a short term hostel shall be 2.4 metres in any dormitory utilising beds, and 2.7 metres in any dormitory utilising bunks.
- (4) The minimum floor area requirements in subclause (1) will only apply if there is ventilation, separation distances, fire egress and other safety requirements in accordance with the Building Code.
- (5) The keeper of short term hostel shall provide -
  - (a) fixed outlet ventilation at a ratio of 0.15 square metres to each 10 square metres of floor area of the dormitories. Dormitories shall be provided with direct ventilation to the open air from a point within 230 millimetres of the ceiling level through a fixed open window or vents, carried as direct to the open air as is practicable; or
  - (b) mechanical ventilation in lieu of fixed ventilation, subject to the Council's approval.
- (6) The keeper of a short term hostel shall provide -
  - (a) beds with a minimum size of 800 millimetres x 1.9 metres; and
  - (b) storage space for personal effects, including backpacks, so that cleaning operations are not hindered and access spaces are not obstructed.
- (7) The keeper of a short term hostel shall -
  - (a) ensure that at all times a minimum distance of 750 millimetres between beds, and a minimum distance of 900 millimetres between bunks is maintained;
  - (b) where bed or bunk heads are placed against the wall on either side of a dormitory, ensure there is a passageway of at least 1.35 metres between each row of beds and a passageway of at least 2 metres between each row of bunks. The passageway shall be kept clear of obstruction at all times; and
  - (c) ensure all doors, windows and ventilators are kept free of obstruction.

- (8) The keeper of a short term hostel shall ensure that -
- (a) materials used in dormitory areas comply with AS1530.2-1993 and AS1530.3-1989 as follows -
- drapes, curtains, blinds and bed covers
    - a maximum Flammability Index of 6;
  - upholstery & bedding - a maximum Spread of Flame Index of 6;
    - a maximum Smoke Developed Index of 5; and
  - floor coverings
    - a maximum Spread of Flame Index of 7;
    - a maximum Smoke Developed Index of 5.

Fire retardant coatings used to make a material comply with these indices must be -

- (i) certified by the manufacturer as approved for use with the fabric to achieve the required indices;
- (ii) certified by the manufacturer to retain its fire retardancy effect after a minimum of 5 commercial dry cleaning or laundering operations carried out in accordance with AS2001.5.4-1987, Procedure 7A, using ECE reference detergent; and
- (iii) certified by the applicator as having been carried out in accordance with the manufacturer's specification;

*[(b) deleted.]*

- (c) emergency lighting is provided in accordance with the Building Code;
- (d) no person shall smoke in any dormitory, kitchen, or dining room, within a short term hostel. The keeper may permit smoking in a meeting or assembly hall area, within a short term hostel; and
- (e) all mattresses are fitted with a mattress protector.

*[Clause 141 amended by No. 135 of 1999 ss.44(1), (2), (3) and (4).]*

## **Furnishing etc. of Sleeping Apartments**

142. (1) The keeper shall -
- (a) furnish each sleeping apartment with a sufficient number of beds and sufficient bedding of good quality;
  - (b) ensure that each bed -
    - (i) has a bed head, mattress and pillow; and
    - (ii) is provided with a pillow case, mattress protector, two sheets, a blanket or rug and, from the 1st day of May to the 30th day of September, not less than one additional blanket or rug; and
  - (c) furnish each bedroom so that there are adequate storage facilities for belongings within the room.
- (2) The keeper shall not cause, suffer or permit any tiered beds or bunks to be used in a sleeping apartment other than in a lodging house used exclusively as a short term hostel.

## **Ventilation**

143. (1) If, in the opinion of an Environmental Health Officer, a kitchen, bathroom, toilet, laundry or habitable room is not adequately or properly ventilated, the Officer may direct the keeper to provide a different or additional method of ventilation.
- (2) The keeper shall comply with any direction given under subclause (1) within such time as directed.

## **Numbers to be Placed on Doors**

144. (1) The keeper shall place or cause to be placed on the outside of the doors of all rooms available to lodgers in the lodging house, serial numbers so that -
- (a) the number "1" is placed on the outside of the door of the room nearest to the front or main entry door of the lodging house; and
  - (b) the numbers continue in sequence throughout each floor (if there is more than one) of the lodging house.
- (2) The numbers to be placed on the doors under subclause (1) shall be -

- (a) not less than 40 millimetres in height;
- (b) 1.5 metres from the floor; and
- (c) permanently fixed either by being painted on the doors or shown by other legible means.

### Division 3 - Management and Care

#### **Keeper or Manager to Reside in the Lodging House**

145. Whenever there is one or more lodgers in a lodging house, the keeper or manager shall -

- (a) reside continuously in the lodging house; and
- (b) not be absent from the lodging house unless he or she arranges for a reputable person to have the care and management of the lodging house.

*[Clause 145 amended by No. 135 of 1999 s.47.]*

#### **Register of Lodgers**

146. (1) The keeper shall keep a register of lodgers in the form of Schedule 7.

(2) The register of lodgers shall be -

- (a) kept in the lodging house; and
- (b) open to inspection at any time on demand by any member of the Police Service or by an Environmental Health Officer.

*[Clause 146 amended by No. 135 of 1999 s.48.]*

#### **Keeper Report**

147. The keeper shall, whenever required by the Council, report to the Council, in the form of Schedule 8 the name of each lodger who lodged in the lodging house during the preceding day or night.

### **Certificate in Respect of Sleeping Accommodation**

148. (1) An Environmental Health Officer may issue to the keeper a certificate, in respect of each room, which shall be in the form of Schedule 9.
- (2) The certificate issued under subclause (1) shall specify the maximum number of persons permitted to occupy each room as a sleeping apartment at any one time.
- (3) When required by the Principal Environmental Health Officer, the keeper shall exhibit the certificate issued under this Clause in a conspicuous place.
- (4) A person shall not cause, suffer or permit a greater number of persons than is specified on a certificate issued under this Clause to occupy the room to which it refers.

### **Duplicate Keys and Inspection**

149. Each keeper and manager of a lodging house shall -
- (a) retain possession of a duplicate key to the door of each room; and
- (b) when required by an Environmental Health Officer, open the door of any room for the purposes of inspection by the Officer.

### **Room Occupancy**

150. (1) The keeper shall not -
- (a) cause, suffer or permit more than the maximum number of persons permitted by the Certificate of Registration of the lodging house to be lodged at any one time in the lodging house;
- (b) cause, suffer or permit to be placed or kept in any sleeping apartments -
- (i) a larger number of beds; or
- (ii) a larger quantity of bedding;
- than is required to accommodate and provide for the maximum number of persons permitted to occupy the sleeping apartment at any one time; and

- (c) use or cause, suffer or permit to be used for sleeping purposes, a room that -
  - (i) has not been certified for that purpose; and
  - (ii) the Council or the Medical Officer has forbidden to be used as a sleeping apartment.
- (2) For the purpose of this Clause, two children under 10 years of age shall be counted as one lodger.

### **Maintenance of a Room by a Lodger or Resident**

151. (1) The keeper may permit, or contract with, a lodger or resident to service, clean or maintain the room or rooms occupied by the lodger or resident.
- (2) Where permission is given or a contract entered into under subclause (1), the keeper shall -
- (a) inspect each room the subject of the permission or agreement at least once a week; and
  - (b) ensure that each room is being maintained in a clean and sanitary condition.
- (3) A lodger or resident who contracts with the keeper to service, clean or maintain a room occupied by him or her, shall maintain the room in a clean and sanitary condition.

### **Cleaning and Maintenance Requirements**

152. (1) In this Clause -
- “bed linen”** includes sheets, pillow cases and mattress protectors.
- (2) The keeper of a lodging house shall -
- (a) maintain in a clean, sound and undamaged condition -
    - (i) the floor, walls, ceilings, woodwork and painted surfaces;
    - (ii) the floor coverings and window treatments; and
    - (iii) the toilet seats;



- (b) maintain in a clean condition and in good working order -
  - (i) all fixtures and fittings; and
  - (ii) windows, doors and door furniture;
- (c) ensure that the internal walls of each bathroom and toilet are painted so as to maintain a smooth impervious washable surface;
- (d) whenever there is one or more lodgers in a lodging house, ensure that the laundry floor is cleaned daily;
- (e) ensure that -
  - (i) all bed linen, towels, and house linen in use is washed at least once a week;
  - (ii) within a reasonable time of a bed having been vacated by a lodger or resident, the bed linen is removed and washed;
  - (iii) a person does not occupy a bed which has been used by another person unless the bed has been provided with clean bed linen;
  - (iv) all beds, bedsteads, blankets, rugs, covers, bed linen, towels and house linen are kept clean, in good repair and free from vectors of disease;
  - (v) when any vectors of disease are found in a bed, furniture, room or sleeping apartment, immediate effective action is taken to eradicate the vectors of disease; and
  - (vi) a room which is not free from vectors of disease is not used as a sleeping apartment;
- (f) when so directed by the Principal Environmental Health Officer, ensure that -
  - (i) a room, together with its contents, and any other part of the lodging house, is cleaned and disinfected; and
  - (ii) a bed or other article of furniture is removed from the lodging house, and properly disposed of;
- (g) ensure that the yard is kept clean at all times;

- (h) provide all bedrooms, passages, common areas, toilets, bathrooms and laundries with adequate lighting; and
- (i) comply with any direction, whether orally or in writing, given by the Principal Environmental Health Officer.

*[Clause 152 amended by No. 135 of 1999 s.49 (i), (ii) and (iii).]*

### **Responsibilities of Lodgers and Residents**

153. A lodger or resident shall not -

- (a) use any room available to lodgers -
  - (i) as a shop, store or factory; or
  - (ii) for manufacturing or trading services;
- (b) keep or store in or on the lodging house any goods or materials which are inflammable, obnoxious or offensive;
- (c) use a shower, bath or hand wash basin other than for ablutionary purposes;
- (d) use a bathroom facility or fitting for laundry purposes;
- (e) use a sink installed in a kitchen or scullery for any purpose other than the washing and cleaning of cooking and eating utensils, other kitchenware and culinary purposes;
- (f) deposit rubbish or waste food other than into a proper rubbish receptacle;
- (g) in a kitchen or other place where food is kept -
  - (i) wash or permit the washing of clothing or bedding; or
  - (ii) keep or permit to be kept any soiled clothing or bedding;
- (h) subject to Clause 154 -
  - (i) keep, store, prepare or cook food in any sleeping apartment; or
  - (ii) unless sick or invalid and unable to leave a sleeping apartment for that reason, use a sleeping apartment for dining purposes;
- (i) place or keep, in any part of a lodging house, any luggage, clothing, bedding or furniture, that is infested with vectors of disease;

- (j) store or keep such a quantity of furniture, material or goods within the lodging house -
  - (i) in any kitchen, living or sleeping apartment so as to prevent the cleaning of the floors, walls, fittings or fixtures; or
  - (ii) in a sleeping apartment so as to decrease the air space to less than the minimum required by this Part;
- (k) obstruct or prevent the keeper or manager from inspecting or examining the room or rooms occupied by the lodger or resident; and
- (l) fix any fastener or change any lock to a door or room without the written approval of the keeper.

*[Clause 153 amended by No. 135 of 1999 s.50.]*

### **Approval for Storage of Food**

154. (1) The Principal Environmental Health Officer may -
- (a) upon written application from the keeper, approve the storage of food within a refrigerator or sealed container in a sleeping apartment; and
  - (b) withdraw the approval if a nuisance or vector of disease infestation is found to exist in the lodging house.
- (2) The keeper of a serviced apartment may permit the storage and consumption of food within that apartment if suitable storage and dining facilities are provided.

## PART 10 - OFFENSIVE TRADES

### Division 1 - General

#### **Interpretation**

155. In this Part, unless the context otherwise requires -

**“occupier”** in relation to premises includes the person registered as the occupier of the premises specified in the Certificate of Registration;

**“offensive trade”** means any one or more of the trades, businesses or occupations usually carried on, in or connected with, the following works or establishments -

- (a) fish processing premises, fish curing premises and shellfish and crustacean processing establishments;
- (b) laundries, dry cleaning premises and dye works;
- (c) any trade as defined by section 186 of the Act; and
- (d) any other trade that, unless preventive measures are adopted, may become a nuisance to the health of the inhabitants of the district; and

**“premises”** includes houses.

*[Cause 155 amended by No. 135 of 1999 s.51.]*

#### **Consent to Establish an Offensive Trade**

156. (1) A person seeking the consent of the Council under section 187 of the Act to establish an offensive trade shall -

- (a) advertise notice of his intention to apply for consent in accordance with Clause 157; and
- (b) lodge with the Chief Executive Officer an application in the form of Schedule 10.

(2) A person who makes a false statement in an application under this Clause shall be guilty of an offence.

*[Clause 156 amended by No. 135 of 1999 s.52.]*

### **Notice of Application**

157. A notice required under subclause 156(1)(a) shall -
- (a) contain the name and address of the person who intends to make the application;
  - (b) contain a description of the nature of the offensive trade;
  - (c) contain details of the premises in or upon which it is proposed to carry on the proposed trade; and
  - (d) appear in a Perth daily newspaper at least two weeks but not more than one month before the application under subclause 156(1)(b) is lodged with the Chief Executive Officer.

*[Clause 157 amended by No. 135 of 1999 s.53(1) and (2).]*

### **Registration of Premises**

158. An application for the registration of premises pursuant to section 191 of the Act shall be -
- (a) in the form of Schedule 11;
  - (b) accompanied by the fee prescribed in the Offensive Trade (Fees) Regulations 1976 as amended from time to time; and
  - (c) lodged with the Chief Executive Officer.

### **Certificate of Registration**

159. Upon the registration of premises for the carrying on of an offensive trade, the Council shall issue to the applicant a certificate in the form of Schedule 12.

### **Change of Occupier**

160. Where there is a change of occupier of the premises registered pursuant to this Division, the new occupier shall forthwith notify the Chief Executive Officer in writing of such change.

### **Alterations to Premises**

161. While any premises remain registered under this Division, a person shall not, without the written permission of the Council, make or permit any change or alteration whatever to the premises.

## **Occupier Includes Employee**

162. Where in any Clause contained in this Part, a duty is imposed upon the occupier of premises in or upon which an offensive trade is carried on, the reference to the occupier shall be interpreted to include the employees of the occupier and any employee committing a breach of any provision of this Part shall be liable to the same penalties as if he were the occupier.

## **Division 2 - General Duties of an Occupier**

### **Interpretation**

163. In this Division, unless the context otherwise requires -

**“occupier”** means the occupier, or where there is more than one occupier, each of the occupiers of the premises in or upon which an offensive trade is carried on; and

**“the premises”** means those premises in or upon which an offensive trade is carried on.

### **Cleanliness**

164. The occupier shall -

- (a) keep or cause to be kept in a clean and sanitary condition and in a state of good repair the floors, walls and ceilings and all other portions of the premises;
- (b) keep or cause to be kept in a clean and sanitary condition and in a state of good repair all fittings, fixtures, appliances, machinery, implements, shelves, counters, tables, benches, bins, cabinets, sinks, drain boards, drains, grease traps, tubs, vessels and other things used on or in connection with the premises;
- (c) keep the premises free from any unwholesome or offensive odour arising from the premises;
- (d) maintain in a clean and tidy condition all yards, footpaths, passage ways, paved areas, stores or outbuildings used in connection with the premises; and

- (e) clean daily and at all times keep and maintain all sanitary conveniences and all sanitary fittings and grease traps on the premises in a clean and sanitary condition.

### **Rats and other Vectors of Disease**

165. The occupier shall -

- (a) ensure that the premises are kept free from rodents, cockroaches, flies and other vectors of disease; and
- (b) provide in and on the premises all effective means and methods for the eradication and prevention of rodents, cockroaches, flies and other vectors of disease.

*[Clause 165 amended by No. 135 of 1999 s.54 (i) and (ii).]*

### **Sanitary Conveniences and Wash Basins**

166. The occupier shall provide on the premises in an approved position sufficient sanitary conveniences and hand wash basins, each with an adequate supply of hot and cold water for use by employees and by all other persons lawfully upon the premises.

### **Painting of Walls etc.**

167. The occupier shall cause the internal surface of every wall, the underside of every ceiling or roof and all fittings, as may be directed, in and on the premises to be cleaned and painted when directed by the Principal Environmental Health Officer.

### **Effluvia, Vapours or Gases**

168. The occupier shall provide, use and maintain in a state of good repair and working order, appliances capable of effectively destroying or of rendering harmless all offensive effluvia, vapours or gases arising from any process conducted on the premises or from any material, residue or other substance which may be kept or stored upon the premises.

## **Offensive Material**

169. The occupier shall -

- (a) provide on the premises impervious receptacles of sufficient capacity to receive all offensive material and trade refuse produced upon the premises in any one day;
- (b) keep the covers on air-tight receptacles, except when it is necessary to place something in or remove something from them;
- (c) cause all offensive material and trade refuse to be placed immediately in the receptacles;
- (d) cause the contents of the receptacles to be removed from the premises at least once in every working day and at such more frequent intervals as may be directed by the Principal Environmental Health Officer or whenever so directed by an Environmental Health Officer; and
- (e) cause all receptacles after being emptied to be cleaned immediately with an efficient disinfectant.

*[Clause 169 amended by No. 135 of 1999 s.55(i) and (ii).]*

## **Storage of Materials**

170. The occupier shall cause all material on the premises to be stored so as not to be offensive or injurious to health whether by smell or otherwise and so as to prevent the creation of a nuisance.

## **Specified Offensive Trades**

171. (1) For the purposes of this Clause, “specified offensive trade” means one or more of the offensive trades carried on, in or connected with the following works or premises -

- (a) fish processing premises, fish curing premises and shellfish and crustacean processing establishments; and
- (b) laundries, dry cleaning premises and dye works.

(2) Where premises are used for or in relation to a specified offensive trade, the occupier shall -

- (a) cause the floor of the premises to -
  - (i) be properly paved and drained with impervious materials;



- (ii) have a smooth surface; and
  - (iii) have a fall to a bucket trap or spoon drain in such a way that all liquids falling on the floor shall be conducted by the trap or drain to a drain inlet situated inside the building where the floor is situated;
- (b) cause the angles formed by intersecting walls, and by the walls with the floor, to be coved to a radius of not less than 9.5 millimetres; and
- (c) cause all liquid refuse to be -
  - (i) cooled to a temperature not exceeding 26 degrees Celsius and be in accordance with the Metropolitan Water Supply, Sewerage and Drainage Board By-laws 1981 before being discharged into any drain outlet from any part of the premises; and
  - (ii) directed through such screening or purifying treatment as the Principal Environmental Health Officer may from time to time direct.

### **Directions**

172. (1) The Principal Environmental Health Officer may give to the occupier directions to prevent or diminish the offensiveness of a trade or to safeguard the public health.
- (2) The occupier shall comply with any directions given under this Clause.

### **Other Duties of Occupier**

173. In addition to the requirements of this Division, the occupier shall comply with all other requirements of this Part that apply to the particular offensive trade or trades conducted on the premises.

## Division 3 - Fish Premises

### Interpretation

174. In this Division, unless the context otherwise requires -

**“appliance”** includes a utensil, an instrument, a cover, a container or apparatus;

**“fish”** means fresh fish, frozen fish, chilled fish and cooked fish, whether cleaned, uncleaned or part cleaned and includes crustaceans and molluscs, but does not include -

- (a) fish which has been cured, preserved, hermetically canned or treated to prevent putrefaction; or
- (b) cleaned fish supplied in cartons or packets by a packer and sold in such cartons or packets if they are at all times kept in a deep freeze refrigeration unit at a temperature not exceeding minus 15 degrees Celsius;

**“fish premises”** may include a fish processing establishment, fish curing establishment and a shellfish and crustacean processing establishment;

**“fish transport vehicle”** includes -

- (a) an appliance attached to, carried in or used in connection with a vehicle; and
- (b) a trailer and a portable box;

used or designed to be used for the transport or storage of fish; and

**“portable box”** means a box for the transport or storage of fish and includes a fish transport vehicle.

### Fish Preparation Room

175. (1) The occupier of a fish premises which requires a fish preparation room shall ensure that this room complies with the following requirements;

- (a) the walls shall be constructed of brick or concrete with the internal surface rendered with a cement plaster with a steel float finish or other approved material and shall be devoid of holes, cracks, crevices;

- (b) the floor shall be of concrete with a smooth, durable surface and shall be treated with an approved surfaced hardening process;
  - (c) the minimum floor area shall be 9 square metres;
  - (d) the room shall be furnished with a double bowl stainless steel wash trough of adequate size to accommodate the equipment and utensils used on the premises, connected to a piped supply of hot and cold water;
  - (e) the room shall be flyproofed and provided with ample light and ventilation.
- (2) The occupier shall ensure that all fish are prepared in the fish preparation room and that room is to be used solely for that purpose.

### **Bench**

176. The occupier of a fish premises shall provide and maintain on the premises a separate stainless steel bench for the handling of fish.

### **Disposal of Waste**

177. The occupier of a fish premises shall cause all offal and wastes, all rejected and unsaleable fish and any rubbish or refuse which is likely to be offensive or a nuisance to be -
- (a) placed in the receptacles referred to in Clause 169 and disposed of in accordance with that Clause; or
  - (b) kept in a frozen state in an approved enclosure before its removal from the premises.

### **Fish Containers**

178. The occupier of a fish premises shall not allow any box, basket or other container used for the transport of fish to -
- (a) remain on the premises longer than is necessary for it to be emptied; or
  - (b) be kept so as to cause a nuisance or to attract flies.

## **Cooking of Fish**

179. Where cooking of fish is carried out in a fish premises, the occupier shall provide and maintain -
- (a) a hood as set out in the Health (Food Hygiene) Regulations 1993, which shall be of an approved design and construction and so situated as to capture and remove all effluvia, odours and smoke from the process of cooking; and
  - (b) an exhaust ventilation system -
    - (i) the point of discharge of which shall be at least 1 metre above the ridge of a pitched roof or 3 metres above a flat roof and shall not be located within 6 metres of an adjoining property or any fresh air intakes; and
    - (ii) which shall discharge in such manner and in such a position so that no nuisance is created.

*[180. deleted]*

*[181. deleted]*

*[Clause 180 and 181 deleted by No. 135 of 1999 s.56.]*

## **Use of an Approved Portable Box**

182. The Principal Environmental Health Officer may permit an approved portable box to be used for the transport or storage of fish.

## **Fish Transport Vehicle**

183. A person shall not use a fish transport vehicle for the transport or storage of fish unless it is so constructed, equipped and maintained that -

- (a) the frame is made of metal or other approved material;
- (b) all internal surfaces -
  - (i) are made of metal or approved non-toxic plastic substance, which may include stainless steel, aluminium, galvanised iron, fibreglass, or other material of similar strength and impermeable qualities;
  - (ii) are smooth finished;
  - (iii) are rigidly secured with a solid backing; and
  - (iv) have floor and vertical angles coved with not less than a 9.5 millimetre radius;

but, if all necessary floor joints are effectively sealed, the surface of the floor, or part of it, may be of an approved tread type track material;

- (c) internal horizontal joints made between metal sheeting are lapped from top to bottom and either -
  - (i) continuously welded; or
  - (ii) lapped with a minimum of 40 millimetres cover secured with blind rivets and sealed with a non-toxic sealing material;
- (d) the vehicle is effectively insulated with a stable insulating material;
- (e) the vehicle has, at the rear or side, doors that are made in the manner provided by paragraphs (a), (b), (c) and (d) of this Clause, are close fitting, and have a suitable locking device fitted;
- (f) the vehicle is fitted with shelves and grids, made of impervious material, in such a manner that the shelves and grids may be easily removed;
- (g) any containers used in the vehicle for fish are made of stainless steel, fibre glass, or approved non-toxic plastic; and
- (h) the vehicle is in good repair and condition and is thoroughly clean.

[184. deleted]

*[185. deleted]*

*[Clause 184 and 185 deleted by No. 135 of 1999 s.56.]*

#### Division 4 - Laundries, Dry Cleaning Establishments and Dye Works

#### **Interpretation**

186. In this Division, unless the context otherwise requires -

**“dry cleaning establishment” -**

- (i) means premises where clothes or other articles are cleaned by use of solvents without using water; but
- (ii) does not include premises in which perchlorethylene or arklone is used as dry cleaning fluid in a fully enclosed machine operating on a full cycle;

**“dye works”** means a place where articles are commercially dyed but does not include the dye works in which provision is made for the discharge of all liquid waste therefrom, into a public sewer;

**“exempt laundromat”** means a premises in which-

- (a) laundering is carried out by members of the public using, on payment of a fee, machines or equipment provided by the owners or occupiers of those establishments;
- (b) laundering is not carried out by those owners or occupiers for or on behalf of other persons; and
- (c) provision is made for the discharge of all liquid waste therefrom into a public sewer;

**“laundromat”** means a public place with coin operated washing machines, spin dryers or dry cleaning machines; and

**“laundry”** means any place where articles are laundered by commercial grade machinery but does not include an exempt laundromat.

*[Clause 186 amended by No. 135 of 1999 s.57 (1),(2),(3),(4) and (5).]*

#### **Receiving Depot**

187. An owner or occupier of premises shall not use or permit the premises to be used as a receiving depot for a laundry, dry cleaning establishment or dye works except with the written permission of the Principal Environmental

Health Officer who may at any time by written notice withdraw such permission.

### **Reception Room**

188. (1) The occupier of a laundry, dry cleaning establishment or dye works shall -

- (a) provide a reception room in which all articles brought to the premises for treatment shall be received and shall not receive or permit to be received any such articles except in that room; and
- (b) cause such articles as may be directed by an Environmental Health Officer to be thoroughly disinfected to the satisfaction of the officer.

(2) A person shall not bring or permit food to be brought into the reception room referred to in this Clause.

*[Clause 188 amended by No. 135 of 1999 s.58.]*

### **Walls and Floors**

189. The occupier of a laundry, dry cleaning establishment or dye works shall cause -

- (a) the internal surfaces of all walls to be rendered with a cement plaster with a steel float finish or other approved material to a height of 2 metres and to be devoid of holes, cracks and crevices;
- (b) the floor to be constructed of concrete and finished with a smooth impervious surface; and
- (c) every floor and wall of any building on the premises to be kept at all times in good order and repair, so as to prevent the absorption of any liquid which may be splashed or spilled or may fall or be deposited on it.

### **Laundry Floor**

190. The occupier of a laundry shall provide in front of each washing machine, a non-corrosive grating, at least 910 millimetres in width and so constructed as to prevent any person from standing in water on the floor.

*[Clause 190 amended by No. 135 of 1999 s.59.]*

### **Escape of Dust**

191. The occupier of a dry cleaning establishment shall provide effective means to prevent the escape into the open air of all dust or other material from the premises.

### **Precautions Against Combustion**

192. The occupier of a dry cleaning establishment where volatile liquids are used shall take all proper precautions against combustion and shall comply with all directions given by an Environmental Health Officer for that purpose.

### **Trolleys**

193. The occupier of a dry cleaning establishment shall -
- (a) provide trolleys for the use of transporting dirty and clean linen; and
  - (b) ensure that each trolley is -
    - (i) clearly designated to indicate the use for which it is intended;
    - (ii) lined internally with a smooth impervious non-absorbent material that is easily cleaned; and
    - (iii) thoroughly cleaned and disinfected on a regular basis.

### **Sleeping on Premises**

194. A person shall not use or permit any room in a laundry, dry cleaning establishment or dye works to be used for sleeping purposes.



## PART 11 - OFFENCES AND PENALTIES

### Offences and Penalties

195. (1) A person who contravenes a provision of these local laws commits an offence.
- (2) A person who commits an offence under subclause (1) of these local laws is liable to -
- (a) a penalty which is not more than \$1,000 and not less than -
    - (i) in the case of first such offence, \$100;
    - (ii) in the case of a second such offence; \$200; or
    - (iii) in the case of a third or subsequent offence, \$500; and
  - (b) if that offence is a continuing offence, a daily penalty which is not more than \$100 and not less than \$50.
- (3) Any expense incurred by the Council in consequence of a breach or non observance of these local laws, or in the execution of work directed to be executed by a person and not executed by that person, shall be paid by the person committing the breach or non observance or failing to execute the work.

*[Clause 195 amended by No. 135 of 1999 ss.4 (3),(4) and 60.]*



**Schedule 1  
(Clauses 42 & 43)**

**HEALTH ACT 1911**

*Town of Mosman Park*

**PRESCRIBED AREA - SECTION 112A, HEALTH ACT 1911**

**THE WHOLE OF THE MUNICIPAL DISTRICT OF THE TOWN OF MOSMAN PARK IS PRESCRIBED AS THE AREA WITHIN WHICH THE PROVISIONS OF SECTION 112A OF THE HEALTH ACT SHALL OPERATE AND HAVE EFFECT.**

---

**Schedule 2  
(Clause 122)**

**HEALTH ACT 1911**

*Town of Mosman Park*

**APPLICATION FOR LICENCE AS ITINERANT FOOD VENDOR**

**TO: CHIEF EXECUTIVE OFFICER  
TOWN OF MOSMAN PARK**

Name (In Full) of Applicant: .....

.....

.

Place of Residence: .....

.....

.

Telephone: .....

Place where Vehicle, Food and Trade utensils are Stored:

.....

.

.....

.

.....

.

Details of Vehicle or Means of Carriage: .....

.....

.

Dated this ..... day of ....., .....

.....

Signature of Applicant

\_\_\_\_\_

**Schedule 3  
(Clause 122)**

**HEALTH ACT 1911**

*Town of Mosman Park*

**LICENCE AS ITINERANT FOOD VENDOR**

This is to certify that .....  
(Name)

of .....  
(Address)

is hereby licensed as an itinerant food vendor within the Health District of the Town of Mosman Park. This licence expires on the 30th day of June following the date of issue, unless this licence is previously cancelled.

Details of vehicle or means of carriage  
.....

Dated this ..... day of ....., .....

.....  
Principal Environmental Health Officer  
Town of Mosman Park

\_\_\_\_\_

**Schedule 4  
(Clause 125)**

**HEALTH ACT 1911**

*Town of Mosman Park*

**APPLICATION FOR REGISTRATION OF A LODGING HOUSE**

**TO: CHIEF EXECUTIVE OFFICER  
TOWN OF MOSMAN PARK**

I/We, .....  
(Full name of Applicant/s)

of .....  
(Residential Address of Applicant/s)

.....  
apply for the registration of premises situated (or to be situated) at  
.....

.....  
as a lodging house to be classified as -

- a lodging house
- a short term hostel; or
- serviced apartments

Specify which is to apply

and for my name to be entered in the Register as the keeper of the lodging house.

**DESCRIPTION OF LODGING HOUSE**

Number of storeys .....

**Rooms for private use**

|                             | Number | Area  |
|-----------------------------|--------|-------|
| Laundries/toilets/bathrooms | .....  | ..... |
| Bedrooms                    | .....  | ..... |
| Dining Rooms                | .....  | ..... |
| Kitchens                    | .....  | ..... |
| Sitting Rooms               | .....  | ..... |
| Other (Specify)             | .....  | ..... |

| Rooms for lodgers                        | Number | Area  |
|--|--------|-------|
| Bedrooms                                 | .....  | ..... |
| Dining Rooms                             | .....  | ..... |
| Kitchens                                 | .....  | ..... |
| Sitting Rooms                            | .....  | ..... |
| Other (Specify)                          | .....  | ..... |
| Sanitary Conveniences for male lodgers   |        |       |
| Toilets                                  | .....  |       |
| Urinals                                  | .....  |       |
| Baths                                    | .....  |       |
| Showers                                  | .....  |       |
| Wash hand basins                         | .....  |       |
| Sanitary Conveniences for female lodgers |        |       |
| Toilets                                  | .....  |       |
| Baths                                    | .....  |       |
| Showers                                  | .....  |       |
| Wash hand basins                         | .....  |       |
| Laundry Facilities                       |        |       |
| Coppers                                  | .....  |       |
| Washtroughs                              | .....  |       |
| Washing Machines                         | .....  |       |
| Drying cabinets or clothes lines         | .....  |       |

**Additional Details**

- (a) Lodgers' meals will be provided by the manager/keeper/lodgers.
- (b) The keeper will/will not reside continuously on the premises.
- (c) Name and occupation of proposed manager if keeper resides elsewhere -  
.....  
.
- (d) There will be ..... family members residing on the premises with the keeper/manager.

Application fee of \$..... is attached.

Dated this ..... day of ....., .....

.....

Signature of Applicant

---



**Schedule 5  
(Clause 126)**

**HEALTH ACT 1911**

*Town of Mosman Park*

**CERTIFICATE OF REGISTRATION OF A LODGING HOUSE**

This is to certify that the premises situated at .....

.....  
are registered as a Lodging House and classified as:

- a lodging house
- a short term hostel; or
- serviced apartments

until 30 June, ....., on the following conditions:

1. That .....,  
whose name is entered on the register of keepers of the Town of Mosman Park,  
continues to be the keeper of the lodging house;
2. that .....,  
appointed by the keeper to be the manager of the lodging house, continues to be the  
manager of the lodging house;
3. that the Certificate of Registration is not sooner cancelled or revoked;
4. that the maximum number of rooms to be used as sleeping apartments for lodgers is  
.....; and
5. that the maximum number of lodgers accommodated on the premises shall not exceed  
.....

This Certificate of Registration is issued subject to the Health Act and the Town of Mosman Park Health Local Laws and is NOT transferable.

Dated this ..... day of ....., .....

.....  
Principal Environmental Health Officer  
Town of Mosman Park

Fee received: \$.....

*[Clause 5 amended by No. 135 of 1999 ss.4(1) and 61.]*

**Schedule 6  
(Clause 128)**

**HEALTH ACT 1911**

*Town of Mosman Park*

**NOTICE OF CHANGE OF OWNER OF A LODGING HOUSE**

**TO: CHIEF EXECUTIVE OFFICER  
TOWN OF MOSMAN PARK**

I/We, .....  
(Full name of Applicant/s)

of .....  
(Residential Address of Applicant/s)

.....  
am/are the new owner/s of premises situated at  
.....

.....  
which are registered in the name of .....

for the carrying on of the lodging house business.

Dated this ..... day of ....., .....

\_\_\_\_\_  
(Signature of Applicant/s)

\_\_\_\_\_

**Schedule 7  
(Clause 146)**

**HEALTH ACT 1911**

*Town of Mosman Park*

**REGISTER OF LODGERS**

**Location of Lodging House:** .....

.....

| Date of Arrival | Name | Previous Address | Signature | Room No. | Date of Departure |
|-----------------|------|------------------|-----------|----------|-------------------|
|-----------------|------|------------------|-----------|----------|-------------------|

.....

.....

**Schedule 8  
(Clause 147)**

**HEALTH ACT 1911**

*Town of Mosman Park*

**LIST OF LODGERS**

**TO: CHIEF EXECUTIVE OFFICER  
TOWN OF MOSMAN PARK**

The following is the name of every person who resided in the lodging house at:

.....

On the ..... day of ....., .....

.....

(Signature of Keeper)

Dated this ..... day of ....., .....

\_\_\_\_\_

**Schedule 9  
(Clause 148)**

**HEALTH ACT 1911**

*Town of Mosman Park*

**CERTIFICATE OF SLEEPING ACCOMMODATION FOR A LODGING HOUSE**

To .....  
(Name of Keeper)

of .....  
(Address of Keeper)

.....  
For the registered lodging house situated at:  
.....  
.....

The rooms listed below are not to be occupied by more than the number of lodgers or residents indicated below.

| ROOM NUMBER | MAXIMUM OCCUPANCY |
|-------------|-------------------|
|-------------|-------------------|

Dated this ..... day of ....., .....

.....  
Principal Environmental Health Officer  
Town of Mosman Park

\_\_\_\_\_

**Schedule 10  
(Clause 156)**

**HEALTH ACT 1911**

*Town of Mosman Park*

**APPLICATION FOR CONSENT TO ESTABLISH AN OFFENSIVE TRADE**

**TO: CHIEF EXECUTIVE OFFICER  
TOWN OF MOSMAN PARK**

I/We, .....  
(Full name of Applicant/s)

of .....  
(Residential Address of Applicant/s)

apply for consent to establish an offensive trade being .....  
.....  
(Description of Offensive Trade)

in or upon .....  
(Location of the House or Premises)

Notice of my/our intention to make this application was advertised in  
.....  
.....  
(Name of Newspaper)

on .....  
.....  
(Date of Advertisement)

Plans and specifications of the buildings proposed to be used or erected in connection with the proposed offensive trade are attached.

\_\_\_\_\_  
(Signature of Applicant/s)

Dated this ..... day of ....., .....

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**Schedule 11  
(Clause 158)**

**HEALTH ACT 1911**

*Town of Mosman Park*

**APPLICATION FOR REGISTRATION OF PREMISES FOR OFFENSIVE TRADE**

**TO: CHIEF EXECUTIVE OFFICER  
TOWN OF MOSMAN PARK**

I/We, .....  
(Full name of Applicant/s)

of .....  
(Residential Address of Applicant/s)

apply for registration, for the year ended .....

of .....  
(Location of Premises)

being premises in or upon where there is (or is to be) carried on an offensive trade,  
namely .....

.....  
(Description of Offensive Trade)

under the business name of .....

The prescribed registration fee of \$..... is attached.

\_\_\_\_\_  
(Signature of Applicant/s)

Dated this ..... day of ....., .....

\_\_\_\_\_



**Schedule 12  
(Clause 159)**

**HEALTH ACT 1911**

*Town of Mosman Park*

**CERTIFICATE OF REGISTRATION OF PREMISES FOR OFFENSIVE TRADE**

This is to certify that the premises situated at .....

.....

of which ..... is the occupier;

are registered for the carrying on of the trade of

.....

.....

Trade Name .....

This registration expires on the .....day of ....., .....

Dated this ..... day of ....., .....

.....  
Principal Environmental Health Officer  
Town of Mosman Park

\_\_\_\_\_

*[Clause 13 deleted by No. 135 of 1999 s.62.]*

Passed by resolution at a meeting of the Town of Mosman Park Council held on the 26th day of September, 1995.

Dated this 12th day of June, 1996.

The common seal of the Town of Mosman Park was affixed hereto in the presence of-

B. H. Moore, Mayor

T. J. Harken, Chief Executive Officer

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Confirmed-

P. Psaila-Savona, Executive Director, Public Health

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Approved by His Excellency the Governor in Executive Council on this 27th day of August, 1996.

J. Pritchard, Clerk of the Council.

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