

PUBLIC HEALTH ORDINANCE 1932-1938. ⁽¹⁾

An Ordinance Relating to Public Health.

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *New Guinea Act 1920-1926*, as follows:—

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| 1. This Ordinance may be cited as the <i>Public Health Ordinance 1932-1938</i> . ⁽¹⁾ | Short title.
Amended by
No. 3 of 1934,
s. 50. |
| 2. This Ordinance shall commence on a date to be fixed by the Administrator by notice in the <i>New Guinea Gazette</i> . ⁽¹⁾ | Commencement. |
| 3. The <i>Sanitation Ordinance 1917-1925</i> is repealed. | Repeal. |
| 4. In this Ordinance, unless the contrary intention appears—
“drug” includes any article used for or in the composition or preparation of medicine for internal or external consumption or use by man, and includes disinfectants, germicides, antiseptics, preservatives, deodorants, anaes- | Definitions. |

(1) The *Public Health Ordinance 1932-1938* comprises the *Public Health Ordinance 1932*, as amended by the other Ordinances referred to in the following Table:—

TABLE.

PART I.—ORDINANCES MADE BY THE GOVERNOR-GENERAL IN COUNCIL.

Short title, number and year.	Date on which made by Gov.-Gen. in Council.	Date on which notified in <i>Cwltth. Gaz.</i>	Date on which took effect.
<i>Public Health Ordinance 1932</i> (No. 3 of 1932)	24.2.1932	25.2.1932	18.10.1932 (<i>N.G. Gaz.</i> of 10.10.1932)
<i>Public Health Ordinance</i> (No. 2) 1932 (No. 9 of 1932)	22.6.1932	23.6.1932	23.6.1932 ^(a) (<i>Cwltth. Gaz.</i> of 23.6.1932)

(a) *Sed quære* whether the amendments made by the *Public Health Ordinance* (No. 2) 1932 could take effect before the date of commencement of the *Public Health Ordinance 1932* which it amended.

PART II.—ORDINANCES OF THE LEGISLATIVE COUNCIL.

Short title, number and year.	Date of assent by Administrator.	Date notified in <i>N.G. Gaz.</i> as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
<i>Public Health Ordinance 1936</i> (No. 42 of 1936)	5.8.1936	14.11.1936	5.8.1936 (<i>Laws of T.N.G.</i> , Vol. XIII, p. 526)
<i>Public Health Ordinance 1938</i> (No. 31 of 1938)	24.8.1938	30.11.1938	24.8.1938 (<i>Laws of T.N.G.</i> , Vol. XIV, p. 153)

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thetics, tobacco, narcotics, soaps, cosmetics, dusting powders, essences, unguents and all other toilet articles;

“dwelling” means any house, room, vessel, or any other structure whatsoever used by any human being for sleeping in or in which any human being dwells;

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

“inspector” means an officer of the Public Service of the Territory appointed by the Director to be an Inspector of Health;

“Local Medical Authority” includes an Assistant Local Medical Authority;

“medical practitioner” means a person who is registered as a legally qualified medical practitioner under the *Medical Ordinance* 1924-1931⁽²⁾;

“occupier” includes any person in actual occupation of premises, without regard to title under which he occupies, and, in case of premises subdivided and let to lodgers or various tenants, the person receiving the rent payable by the lodgers or tenants, whether on his own account or as agent for any person entitled thereto;

“owner” includes the person for the time being entitled to receive the rent of the premises in connexion with which the expression is used, whether on his own account or as manager for, or the agent of or as trustee for, any other person, or the person who would be entitled to receive the rent if the premises were let at a rent, and includes a lessee or licensee under a lease or licence granted under the *Land Ordinance* 1922-1929⁽³⁾ or the *Mining Ordinance* 1928-1931⁽⁴⁾ or the *Miners' Homestead Leases Ordinance* 1928,⁽⁵⁾ or under a lease granted by the British Military Administration during or since the war, or under a lease granted before the war by the Fiscus of the Colony of German New Guinea, or by the former German Government of the Territory, or by the Imperial German Government, or by any authority or officer of either of those Governments;

“premises” includes messuages, buildings, lands and hereditaments of every tenure, and includes any vehicle, conveyance or vessel;

(2) Now the *Medical Ordinance* 1924-1940.

(3) Now the *Land Ordinance* 1922-1941.

(4) Now the *Mining Ordinance* 1928-1940.

(5) Now the *Miners' Homestead Leases Ordinance* 1928-1938.

Public Health Ordinance 1932-1938.

“Regulations” means Regulations made under this Ordinance;

“the Director” means the Director of Public Health for the Territory;

“this Ordinance” includes any Regulations made thereunder.

5.—(1.) The Director shall, under the Administrator, be charged with the administration of this Ordinance, and may appoint any officer of the Public Service of the Territory to be an inspector. Powers of Director.

(2.) The Director shall, in addition to any powers conferred on him by this Ordinance, have throughout the Territory the powers conferred by this Ordinance on a Local Medical Authority or an inspector.

(3.) The Director may by notice⁽⁶⁾ in the *New Guinea Gazette* declare any portion of any town to be a residential area.

6.—(1.) The Government Medical Officer stationed in any District shall by virtue of his office be the Local Medical Authority for such District. Appointment of Local Medical Authority.

(2.) The Administrator may, by writing under his hand, appoint a medical practitioner or an officer of the Public Service of the Territory to be—

(a) an Assistant Local Medical Authority for a District or part of a District; or

(b) the Local Medical Authority for a District in which no Government Medical Officer is stationed.

7. A Local Medical Authority shall, in addition to any powers conferred on him by this Ordinance, have all the powers conferred by this Ordinance on an inspector. Powers of Local Medical Authority.

8. For the purpose of carrying into effect the provisions of this Ordinance, a Local Medical Authority or an inspector may enter and examine any premises at any time during which business is carried on, or is usually carried on, on the premises, and at such other times as are prescribed, and may inspect and seize any article on the premises. Power to enter premises.

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Proviso omitted by No. 9 of 1932, s. 2.

9. In addition to any other powers or duties expressly conferred or imposed upon him by this Ordinance, an inspector or any person authorized in writing by the Director may exercise such other powers and perform such other duties as are prescribed. Powers and duties of inspectors.

(6) A Table containing particulars of notices made pursuant to Section 5, declaring portions of the Towns of Rabaul and Wau to be residential areas, is printed on p. 2293, and the notices are printed immediately after the Table.

Interference,
&c., with
officers.

10. Any person who—

- (a) gives offers or procures to be given any bribe, recompense or reward to any officer of the Public Service of the Territory or person to induce him in any way to neglect or not perform his duty under this Ordinance; or
- (b) makes any collusive agreement with an officer of the Public Service of the Territory or person to neglect or not to perform his duty under this Ordinance; or
- (c) by threats, demands or promises, attempts improperly to influence any person in the performance of his duty under this Ordinance; or
- (d) assaults or by force molests or obstructs or intimidates any person in the performance of his duty under this Ordinance,

shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for six months, or both.

Service of
notices, &c.

11.—(1.) Any notice, order or other document under this Ordinance required or authorized to be given or served to or upon any person may be served—

- (a) by delivering it to such person; or
- (b) by leaving it at his usual or last known place of abode; or
- (c) by forwarding it by post in a prepaid letter addressed to such person at his usual or last known place of abode.

(2.) Any such document, if addressed to the owner or occupier of premises, may be served by delivering the same or a true copy thereof to some adult person on the premises or, if there is no such person on the premises who can be so served, by fixing the same on some conspicuous part of the premises.

(3.) Where a notice is required to be given to a person whose name and address are unknown, the notice may be served by publishing it three times, at intervals of not less than one week between any two publications, in the *New Guinea Gazette* and a newspaper circulating in the Territory.

(4.) Any notice by this Ordinance required to be given to the owner or occupier of any premises may, if the name of the owner or occupier is not known, be addressed to him by the description of the "owner" or "occupier" of the premises (naming them) in respect of which the notice is given, without further name or description.

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(5.) If there are more owners or occupiers than one, it shall be sufficient if the notice or order is served on any one of them and the name of any one of them is specified with the addition of the words "and others".

(6.) Non-service on the owner shall not affect the validity of service on the occupier; and non-service on the occupier shall not affect the validity of service on the owner.

12.—(1.) In all proceedings in which any notice, order or other document has to be proved—

Proof of notices, orders or documents.

- (a) the defendant shall be deemed to have received notice to produce it; and
- (b) until the contrary is shown, the same and its due service may be sufficiently proved by or on behalf of the complainant by the production of what purports to be a copy bearing what purports to be a certificate under the hand of the person authorized to issue the original that the copy is a true copy of the original and that the original was served on the date specified in the certificate.

(2.) The validity of any notice, order or other document, or of the service thereof, shall not be affected by any error, misdescription or irregularity which, in the opinion of the Court, is not likely to mislead or which in fact does not mislead.

13. In any prosecution or other proceeding under this Ordinance, proof shall not be required of the particular or general appointment of any person under this Ordinance.

Simplification of proof of appointment.

14. Any notice or order required under this Ordinance to be served on any owner or occupier shall, if due service thereof has been once made on any owner or occupier, be binding on any person claiming by, from, or under such owner or occupier, and on any subsequent owner or occupier to the same extent as if served on the lastmentioned owner or occupier, as the case may be.

Continued operation of notices and orders.

15. Whenever in any proceeding under this Ordinance it becomes necessary to mention or refer to the owner or occupier of any premises, it shall be sufficient to designate him as the "owner" or "occupier" of such premises, without name or further description.

References to "owner" or "occupier".

16. Proceedings against several persons included in one information, complaint or summons shall not abate by reason of the death of any of the persons so included, but may be carried on as if the deceased person had not been originally so included.

No abatement.

17.—(1.) When any nuisance appears to be wholly or partially caused by the act or default of two or more persons, proceedings may be instituted against any one of such persons, or all or any two or more of such persons may be included in one proceeding.

Proceedings where nuisance is caused by two or more persons.

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(2.) Any one or more of such persons—

- (a) may be ordered to abate the nuisance so far as it appears to the Court having cognizance of the case to be caused by his or their act or default;
- (b) may be prohibited from continuing any act or default which, in the opinion of the Court, contributes to such nuisance; or
- (c) may be fined or otherwise punished notwithstanding that the act or default of any one of such persons would not separately have caused a nuisance.

(3.) The costs and expenses may be distributed as to the Court appears fair and reasonable.

Proof of
ownership.

18.—(1.) In any proceeding under this Ordinance, evidence by the certificate signed by the Registrar of Titles that any person's name appears in the Register Book or Register of Administration Leases kept under the *Lands Registration Ordinance* 1924-1931⁽⁷⁾ as the registered owner or lessee, as the case may be, of any premises, or by the certificate signed by the warden of any gold-field or mineral field that any person's name appears in the records of his office as the lessee or licensee, as the case may be, of any premises, shall (until the contrary is proved) be evidence that such person is, for the purposes of any proceeding under this Ordinance, the owner of the premises.

(2.) If the person appearing to be the owner of any premises is absent from the Territory or cannot, after reasonable inquiries, be found, any occupier or any agent or person advertising or notifying himself in any manner as authorized to deal with the premises in any way shall, for the purposes of any proceeding under this Ordinance, be deemed to be the owner:

Provided that—

- (a) the occupier, agent or person may recover from the owner any penalty in respect of any conviction under this Ordinance or any expenses to which he has been put or any sums of money or costs which he has expended in and upon the premises pursuant to this Ordinance, whether under compulsion of legal process or not; and
- (b) nothing herein shall prejudice, exclude or take away any other methods of proof.

(7) Now the *Lands Registration Ordinance* 1924-1939.

19.—(1.) The Administrator in Council may make regulations,⁽⁸⁾ not inconsistent with this Ordinance, prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and in particular prescribing matters providing for and in relation to—

Regulations.
Sub-section
(1) amended
by No. 31 of
1938, s. 2.

- (a) the prevention of disease;
- (b) the maintenance of health;
- (c) sanitation in respect of any place, premises or receptacle;
- (d) defining nuisances for the purposes of this Ordinance and providing for their prevention and abatement;
- (e) the care and treatment of sick persons;
- (f) the designation of infectious diseases and measures for the control thereof, including the removal of persons suffering from any infectious disease, or suspected to be suffering from such disease, to a hospital or other prescribed place and their detention therein;
- (g) the promotion of public health by the establishment of special clinics for the treatment and prevention of disease;
- (h) the medical and dental inspection of school children and measures to be instituted for the remedy and prevention of diseases and dental defects in children;
- (i) the control and regulation of the construction and use of buildings, and, without limitation of this power, the regulation of the area upon which a building or class of building may be erected and the provision of open spaces and light areas;
- (ia) the declaration of buildings as dangerous or unfit for human habitation, occupation, or use, the prohibition of the habitation, occupation, or use of such buildings after the making of any such declaration, and the measures to be taken by the persons who own, inhabit, occupy, or use such buildings after the making of any such declaration, and providing, in default, power for the prescribed authority to do the work and recover the cost thereof from the owner or occupier of any such building;
- (j) the prohibition of the erection in any residential area of any building for use for the purposes of any trade, industry, manufactory, shop, or place of public amusement, other than those prescribed;

Paragraph (ia)
inserted by
No. 42 of 1936,
s. 2.

(8) See the *Building Regulations*, printed on p. 2253; the *Mosquito Prevention and Destruction Regulations*, printed on p. 2287, and the *Public Health (General Sanitation) Regulations*, printed on p. 2269. See, also, the *Infectious Diseases Regulations* (made under the *Administrator's Powers Ordinance 1923-1938*), printed on p. 2451, and the *Veneral Diseases Regulations* (made under the *Veneral Diseases Ordinance 1920-1925*), printed on p. 2381.

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- (*k*) the licensing, control and inspection of—
- (i) preparation, sale, distribution and possession of food and drugs;
 - (ii) slaughtering of animals and sale of meat;
 - (iii) keeping of animals used for food or for the production of food products, and the food products of those animals;
 - (iv) dairies and milk supply;
 - (v) eating houses and food shops;
 - (vi) food manufactories;
 - (vii) boarding houses;
 - (viii) hospitals;
 - (ix) barbers' shops and hairdressing establishments;
 - (x) laundries, cleaning establishments and dye works;
 - (xi) secondhand trading establishments; and
 - (xii) the housing of birds and animals and the conditions under which they may be kept;
- (*l*) defining offensive trades and regulating the conditions under which they may be carried on;
- (*m*) the inspection of theatres, public halls, billiard saloons, hotels and other places open to public resort;
- (*n*) the prevention of pollution of natural water courses and the maintenance of the purity of water supply;
- (*o*) the disposal of garbage, refuse and night-soil;
- (*p*) measures for the control or destruction of vermin;
- (*q*) measures for the prevention or destruction of mosquitoes;
- (*r*) the establishment, control and inspection of cemeteries, burial grounds, crematories, mortuaries and morgues;
- (*s*) the charges to be made for services supplied or rendered in pursuance of the Regulations;
- (*t*) the purposes for which and the conditions upon which licences, certificates and other documents may be issued, and the fees payable therefor; and
- (*u*) the imposition of penalties not exceeding Fifty pounds or imprisonment for three months for offences against any of the Regulations; and, where the offence is a continuing offence, a penalty not exceeding Five pounds for every day during which the offence continues.

(2.) Regulations may be of general application or may be limited to a particular area, and may be restricted in their operation to any specified class of persons.