CHAPTER 194.

PUBLIC HEALTH.

(1st January, 1977.)

1. This Ordinance may be cited as the Public Health Ordinance.

Short title.

2. For the purposes of this Ordinance—

Interpretation.

"animal" includes birds;

"area" means an area in the Territory which is divided by the Minister by Notice under section 3;

"Board" means a Board established under the provisions of section 8 (1);

"Committee" means a Committee established under the provisions of section 8 (1);

"communicable disease" means any disease declared to be such by regulations made by the Minister under section 10 or by subsidiary legislation still in force by virtue of section 23;

"Medical Officer of Health" means any medical practitioner appointed by the Governor to be Chief Medical Officer or a Medical Officer of Health for the purposes of this Ordinance;

"Minister" means the Minister responsible for Health;

"notifiable disease" means any disease declared to be such by regulations made under section 10 or by any subsidiary legislation in force by virtue of section 23;

"offensive matter" includes sewages;

"owner" includes the person for time being entitled to receive the rent of the premises in relation to which the expression is used, whether on his own account or as agent of or trustee for any other person, or who would be so entitled if the premises were let at a rent;
"premises" means any messuages, buildings, easements and hereditaments of any tenure and includes any land whether open or closed whether built on or not, whether public or private and whether or not maintained under any enactment and in any aircraft, ship, vessel, boat, bulk, barge, tent, caravan, shed or similar structure.

3. The Minister shall generally be responsible for the promotion and preservation of the health of the inhabitants of the Territory and for this purpose may, by Notice published in the Gazette, divide the Territory into such areas as he may determine, establish such health or sanitation districts within any such area, and assign duties to such persons in relation thereto as he thinks necessary.

4. (1) The Minister shall be responsible for the administration of this Ordinance, and without limiting the generality of the foregoing, his functions shall include—

(a) the prevention, treatment, limitation and suppression of disease, including the conduct of investigations and enquiries in respect thereof; and

(b) the publishing of reports, information and advice concerning public health including the education of the public in the preservation of health.

(2) The Minister may—

(a) delegate to any Board or Committee established under section 8 (1) such of his functions under subsection (1) as he thinks fit; and

(b) give directions to any Board or Committee established under section 8 (1) as to the exercise and performance of any function delegated to it under paragraph (a) and the Board or Committee so directed shall give effect to such directions.

(3) A Board or Committee to which the Minister delegates any of his functions under subsection (2) (a) shall permit the Chief Medical Officer and such other Medical Officer of Health as may be nominated by the Chief Medical Officer to attend every meeting thereof which is concerned with any matter relating to those functions.

5. (1) The Minister may establish at suitable places in any area—
(a) general hospitals;
(b) hospitals and other health service units for special purposes;
(c) health centres;
(d) outpatients' clinics;
(e) maternity hospitals;
(f) district hospitals including infirmaries;
(g) dispensaries; and
(h) combinations of all or any of the foregoing.

(2) The expenses of establishing and maintaining such services shall be defrayed out of moneys voted for those purposes by the Legislative Council.

6. (1) The Minister may—
(a) cause sewers to be constructed, repaired and maintained; and
(b) make provision by means of sewerage disposal works or otherwise for effectively dealing with the contents of such sewers.

(2) Any such sewer may be constructed in, under or over any street or under any cellar or vault below any street.

7. (1) For the purposes of constructing, repairing, maintaining or in any way altering a sewer it shall be lawful for any person duly authorised in writing by the Minister to—
(a) open and break up the surface soil, and pavement of any street or bridge;
(b) open and break up any sewer, drain or tunnel in or over such street or bridge;
(c) remove and use all earth and material in and under any such street or bridge;
(d) do all other acts which the Minister considers necessary, causing as little damage as possible in the exercise of the powers granted by this section.

8. (1) The Minister may establish such Boards and Committees as he thinks fit for the purposes of this Ordinance, consisting of such members not exceeding five as may be appointed by him by Notice published in the Gazette and in
like manner, he may revoke the appointment of any such member, at any time without assigning any reason therefor.

(2) The procedure and by-laws of every such Board or Committee shall be such as may be determined by the Minister.

(3) The functions of every such Board or Committee established under subsection (1) shall be—

(a) to advise the Minister on such matters relating to his functions under this Ordinance as he may refer to it for advice; and

(b) to discharge any functions delegated to it by the Minister under section 4 (2).

(4) No remuneration shall be payable to members of any such Boards or Committees except with the approval of the Governor in Council.

9. (1) Except as the Minister may otherwise direct the Chief Medical Officer shall discharge the functions conferred on the Minister under this Ordinance and every Medical Officer of Health, Public Health Nurse, Public Health Inspector or other public health officer shall discharge functions under this Ordinance as directed by the Minister or the Chief Medical Officer and in so doing shall be deemed to be acting under the authority of this Ordinance.

(2) Subject to subsection (1) such officers may take such steps as are necessary for the execution and administration of this Ordinance, the regulations made thereunder and of any orders or directives given by the Minister or the Chief Medical Officer and may call upon any member of the Police Force to lend such assistance as may be required in the execution and administration thereof.

10. (1) The Minister may make regulations for the better carrying out of the provisions of this Ordinance and without limiting the generality of the foregoing may make regulations in relation to—

(a) the forms to be used for the purposes of this Ordinance;

(b) the declaration of notifiable and communicable disease, the treatment and prevention thereof and the isolation of patients suffering therefrom;
(c) the prevention, treatment, limitation and suppression of disease, the closing or destruction of buildings in which infected persons have lodged or resided, and the restriction of the movement of persons into and out of infected areas;

(d) the collection and publication of epidemiological and other data pertaining to the public health;

(e) the prevention of the overcrowding of premises;

(f) the institution of measures for ensuring the purity of water supplies;

(g) the prevention, abatement or removal of nuisances and insanitary conditions on premises;

(h) sewers and sewage disposal works;

(i) the collection, removal and sanitary disposal of rubbish, night-soil and other offensive matter;

(j) the licensing of persons, places and institutions for the carrying on of prescribed businesses in the interest of public health;

(k) prescribing the method of carrying on any offensive trade or business;

(l) the slaughtering of animals for use as food for human consumption;

(m) the keeping of domestic animals;

(n) the disposal of dead animals;

(o) the control and destruction of mosquitoes, termites and other insects, rodents and other vermin;

(p) the importation, preparation and distribution of food and drink intended for human consumption in so far as it concerns public health;

(q) the inspection and prevention from contamination of food and drink intended for human consumption, the analysing and testing of samples of such food and drink, the issuing of certificates in relation thereto, the condemnation, seizure and disposal of such articles as are unfit for human consumption;

(r) the inspection of hotels, boarding-houses and other places of accommodation;

(s) the provision and maintenance of sanitary conditions in schools;
(t) the inspection of the places of business of barbers, hairdressers and beauticians;

(u) the inspection and sanitary conditions of beaches and swimming pools in the interest of public health;

(v) the medical and dental examination and treatment of school children, the removing of children from school and the closing of schools in the interest of public health;

(w) the interment of the dead, the entry into the Territory and the exit therefrom of dead bodies and matters incidental thereto;

(x) the inspection of undertaking establishments, morgues, crematoria and other places used in connection with the preparation, transportation and disposal of dead bodies;

(y) the method of carrying on an offensive trade or business;

(z) the control and use of public baths, washrooms and sanitary conveniences;

(aa) the registration, proper management, control and inspection of private hospitals and nursing homes, nurseries and kindergartens or other similar institutions;

(bb) the notification of the birth of children and the form and manner of such notification;

(cc) environmental pollution;

(dd) occupational diseases and employment health hazards;

(ee) protection against radiation;

(ff) creating offences for the contravention of or failure to comply with any regulation made under this section which offence may be punishable in such regulations by way of a fine of five hundred dollars and to imprisonment for six months.

11. (1) Where it appears to the Minister that for the protection or in the interest of public health any works in or on any premises are necessary, the Minister may serve or cause to be served on the owner or occupier of such premises a notice in writing signed by the Minister or any person authorised by
him in that behalf requiring him to execute such works as the
Minister considers necessary.

(2) A notice under subsection (1) shall indicate the
nature of the works to be executed and specify a period of time
after the expiration of which the Minister may cause the work
to be carried out if they have not previously been executed.

(3) A person served with a notice under subsection (1)
or any person having an estate or interest in the premises to
which the notice relates may, at any time before the expiration
of the period of time specified in the notice or twenty-one days
whichever is the longer and in accordance with any rules of
court for the time being in force, appeal to a Judge in
Chambers against the notice on any of the following grounds—

(a) that the notice or requirement is not justified for
the protection or in the interest of public health;

(b) that there is some informality, defect or error in
or in connection with the notice;

(c) that the Minister has refused unreasonably to
approve the execution of alternative works;

(d) that works required by the notice to be executed
are unreasonable in character or extent or are
unnecessary;

(e) that in the time within the works are required by
the notice to be executed is not reasonably sufficient for
the purpose;

(f) that the notice might lawfully have been served
on the occupier of the premises to which it relates instead
of the owner or on the owner instead of the occupier and
it would have been equitable for it to have been so served;

(g) where the work is work for the common benefit
of the premises to which the notice relates and other
premises, or that some other person being the owner or
occupier of the other premises to be benefited, ought to
contribute towards the expenses of executing any works
required.

(4) Where an appeal under subsection (3) is based on the
grounds specified in paragraph (b) thereof, the Judge shall
dismiss the appeal if he is satisfied that the informality, defect
or error was not a material one.
(5) Where the grounds upon which an appeal is brought under subsection (3) include a ground specified in paragraph (f) or (g) of that subsection, the appellant shall serve a copy of his notice of appeal on each other person referred to therein and may serve a copy thereof on any other person having an estate or interest in the premises to which the notice under subsection (1) relates.

(6) On the hearing of an appeal under subsection (5) the Judge may make such order as he thinks fit in respect of the person by whom any work is required to be executed and the contribution to be made by any other person towards the cost of the work or as to the proportion in which any expenses which may become recoverable by the Minister under subsection (11) are to be borne by the appellant and such other person.

(7) In exercising his powers under subsection (6), the Judge shall have regard—

(a) as between an owner and an occupier to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the works required; and

(b) in any case, to the degree of benefit to be derived by the different persons concerned.

(8) Where an appeal is brought under subsection (3), the Judge shall give directions for giving effect to his decisions including, where appropriate, directions for quashing the notice to which the appeal relates or for varying the terms of such notice in favour of the appellant.

(9) Where the notice to which the appeal relates is varied, or the appeal is dismissed, the Judge may, if he thinks fit, direct that the notice shall not come into force until such date, being not more than twenty-eight days from the determination of the appeal, as he thinks fit.

(10) The determination of an appeal under subsection (3) by a Judge in Chambers shall be final.

(11) If at the expiration of the period specified in the notice under subsection (1) or directed by a Judge in the determination of an appeal under subsection (3), the work specified in the notice as varied by a Judge has not been executed, the Minister may cause such work to be carried out and on completion thereof may recover the reasonable costs
as a debt due to the Crown in civil proceedings before a Court of competent jurisdiction.

(12) In any proceedings under subsection (11) the validity of the notice to which the proceedings relate shall not be questioned on any ground specified in subsection (3).

12. (1) If at the expiration of the period specified in the notice under section 11 (1) or directed by the Judge in the determination of the appeal under subsection 11 (3), an owner or operator of a business has failed to execute the work specified in the notice, or in the notice as varied by the Judge, as the case may be, the Minister may, without prejudice to the provisions of section 11 (11), apply to the High Court for an order for closure of such business.

(2) If the High Court having heard an application under subsection (1) is made, is satisfied as to the matters referred to in subsection (1), it may make an order for closure.

(3) The High Court may, at any time on being satisfied that the works required to be executed by the notice have been executed, revoke an order for closure made under subsection (2).

13. (1) Where any Board or Committee established under this Ordinance reports to the Minister—

(a) the existence of any local condition in any part of the country tending to endanger public health, and there are no powers under any law other than this section whereby such condition may be guarded against; or

(b) that any part of the country appears to be threatened with or affected by any communicable disease in epidemic proportions, and that measures apart from or in addition to those specifically provided for in this Ordinance, should be taken promptly,

the Minister may by Order published in the Gazette direct the enforcement of any measures recommended by the Board or Committee, or any other measures that he thinks expedient for removing or otherwise guarding against any such condition and the probable consequences thereof, or for preventing or mitigating as far as possible any such disease.

(2) An Order made under subsection (1) may extend to the whole Territory or to such part thereof or to such particular places in the Territory as may be specified therein.
(3) A copy of every Order made under subsection (1) shall be posted in a conspicuous place at every police station and post office in the Territory.

(4) Any person who contravenes the provisions of any Order made under subsection (1) shall be guilty of an offence.

14. (1) Where he has reasonable cause to believe that there is prevalent in the Territory or in any part thereof any communicable disease in epidemic proportions, the Minister may, by Order published in the Gazette, prohibit the assembly of persons exceeding such number as may be prescribed in that Order at any place specified therein, and such prohibition may be applicable to the whole Territory or to any part thereof.

(2) Every person who is present at, or promotes, aids or assists in the promotion of any assembly prohibited under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine of one thousand dollars and to imprisonment for twelve months.

15. (1) Where he has reasonable cause to believe there is prevalent in the Territory or in any part thereof, any communicable disease in epidemic proportions, and is satisfied that it is in the interest of public health to do so, the Minister may by Order published in the Gazette, direct that any public place or any school in the Territory, or in the area in which such disease is prevalent shall be closed for such period as he thinks necessary.

(2) Any person who fails to comply with any Order made under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine of one thousand dollars and to imprisonment for twelve months in respect of every day in which there has been failure so to comply.

16. (1) The Chief Medical Officer, a Medical Officer of Health or any person authorised in writing by the Minister may at all reasonable times enter, if necessary using such force as may be required, any premises for the purpose of—

(a) ascertaining whether there is or has been on or in connection with the premises any contravention of this Ordinance or any regulations made thereunder;

(b) ascertaining whether or not circumstances exist which would authorise or require the Minister to take any
action or execute any work under this Ordinance or any regulations made thereunder;

(e) taking any action or executing any work authorised or required to be taken or executed under this Ordinance or any regulations made thereunder;

(d) performing any function conferred on the Minister or on any such Medical Officer or other authorised person under this Ordinance or any regulations made thereunder; or

(e) generally examining and inspecting the premises.

(2) Any officer or person authorised to enter any premises under subsection (1), on leaving any unoccupied premises which he has entered pursuant to that subsection, shall leave the premises as effectually secured against trespassers as he found them.

(3) Where any power of entry conferred under this section is to be exercised by a person authorised by the Minister, the Chief Medical Officer or a Medical Officer of Health, the person claiming the right to enter shall produce the document authorising him in that behalf.

(4) A document purporting to have been signed by the Minister, the Chief Medical Officer or a Medical Officer of Health shall be deemed, until the contrary is proved, to have been signed by that person.

17. (1) Any person who—

(a) assaults, resists, obstructs or intimidates;

(b) uses indecent, abusive or insulting language to;

(c) interferes with or hinders; or

(d) by any gratuity, bribe, promise or other inducement prevents or attempts to prevent the due execution of his duty by,

any officer or other person acting under the authority of this Ordinance or any regulations made thereunder shall be guilty of an offence and liable on summary conviction to a fine of five hundred dollars and to imprisonment for six months.

(2) Any person who fails to carry out or contravenes any of the provisions of this Ordinance for which no specific penalty is provided shall be guilty of an offence and liable on
summary conviction to a fine of five hundred dollars and to imprisonment for six months, and in the case of a second or subsequent offence to a fine of one thousand dollars and to imprisonment for twelve months.

18. (1) Nothing done by the Minister, the Chief Medical Officer, a Medical Officer of Health or any duly authorised person shall, if done bona fide for the purpose of executing any of the provisions of this Ordinance or by any regulations made thereunder, subject such person to any action, suit, prosecution, legal proceeding, liability, claim or demand whatsoever.

(2) Where a person is so personally exempt by reason of subsection (1) the Crown shall be liable to the extent that it would be as if the person were a servant or agent of the Crown.

19. Proceedings against any person for an offence against this Ordinance and for the recovery of any fines imposed under this Ordinance or any regulations made thereunder may be instituted by any person authorised in that behalf by the Minister, and such authorised person may prosecute or conduct such proceedings.

20. All prosecutions for offences against this Ordinance or any regulations made thereunder shall be commenced within six months next after the commission of such offence.

21. Where in any proceedings under this Ordinance relating to nuisances it becomes necessary to mention or refer to the owner or occupier of any premises and his name is unknown or cannot on reasonable enquiry be ascertained, it shall be sufficient to designate him as the “owner” or “occupier” of such premises, without name or description.

22. Any expenses incurred in the administration of this Ordinance shall be defrayed out of moneys voted for the purpose by the Legislative Council.

23. Notwithstanding the other provisions of this Ordinance, any statutory rules, orders or regulations which are in force at the commencement of this Ordinance shall be deemed to have been made under this Ordinance and shall,
dollars and to a second or any regulations made hereunder, continue in force until revoked under this Ordinance, and anything begun under the Public Health Ordinance, 1969 may be continued under this Ordinance as if begun thereunder.