

**Version No. 016**  
**Health (Fluoridation) Act 1973**  
**No. 8506 of 1973**

Version incorporating amendments as at 1 July 2010

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**Version No. 016**  
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An Act to regulate the Fluoridation of Public Water Supplies  
and for other purposes.

**BE IT ENACTED** by the Queen's Most Excellent Majesty by  
and with the advice and consent of the Legislative Council  
and the Legislative Assembly of Victoria in this present  
Parliament assembled and by the authority of the same as  
follows (that is to say):

**1 Short title and commencement**

- (1) This Act may be cited as the **Health (Fluoridation) Act 1973**.
- (2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette.

**2 Definitions**

- (1) In this Act unless inconsistent with the context or subject-matter—

\* \* \* \* \*

S. 2  
amended by  
No. 46/1998  
s. 7(Sch. 1)  
(ILA s. 39B(1)).

S. 2(1) def. of  
*Chief General  
Manager*  
inserted by  
No. 10262  
s. 4(Sch.),  
repealed by  
No. 46/1998  
s. 7(Sch. 1).

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s. 2

S. 2(1) def. of  
*Commission*  
substituted by  
No. 9023  
s. 40(Sch. 1  
Pt A item 8),  
repealed by  
No. 10262  
s. 4(Sch.).

\* \* \* \* \*

*district* in respect of any water supply authority  
means any district within which such  
authority is empowered by any Act to  
operate a public water supply;

*fluoride* includes any compound of fluorine;

*prescribed* means prescribed by or under this Act;

*public water supply* means any water supply  
under the control of a water supply authority;

*regulations* means regulations made under this  
Act;

S. 2(1) def. of  
*Secretary*  
inserted by  
No. 46/1998  
s. 7(Sch. 1),  
substituted by  
No. 29/2010  
s. 57(1).

*Secretary* means the Department Head (within the  
meaning of the **Public Administration Act  
2004**) of the Department of Health;

S. 2(1) def. of  
*water supply  
authority*  
amended by  
Nos 9895  
s. 2(1)(Sch. 1  
item 17),  
10081  
s. 5(1)(Sch.),  
12/1989  
s. 4(1)(Sch. 2  
item 58.1),  
substituted by  
Nos 81/1989  
s. 3(Sch.  
item 22),  
110/1997  
s. 43.

*water supply authority* means—

- (a) the holder of a water licence, water and  
sewerage licence or water headworks  
licence issued under Division 1 of  
Part 2 of the **Water Industry Act  
1994**; or
- (b) an Authority within the meaning of the  
**Water Act 1989** that has a water  
district; or

- (c) a council performing water supply functions under the **Local Government Act 1989**; or
  - (d) Melbourne Water Corporation.
- (2) If under the **Public Administration Act 2004** the name of the Department of Health is changed, a reference in the definition of *Secretary* in subsection (1) to that Department must, from the date when the name is changed, be treated as a reference to the Department by its new name.

S. 2(2)  
inserted by  
No. 46/1998  
s. 7(Sch. 1),  
amended by  
Nos 108/2004  
s. 117(1)  
(Sch. 3  
item 94),  
29/2010  
s. 57(2).

### 3 Act to bind Crown

This Act shall bind the Crown.

### 4 Protection from rights of action

No person has any right of action against—

- (a) a water supply authority; or
- (b) a member of a water supply authority; or
- (c) a person acting under the direction of a water supply authority; or
- (d) a person acting on behalf of a water supply authority under a contract made between that authority and the person—

in respect of anything done in regard to the fluoridation of a public water supply in accordance with the provisions of this Act.

### 5 Power to add fluoride to public water supplies

- (1) A water supply authority may and when required by the Secretary shall add fluoride to any public water supply under its control in the manner determined by the Secretary pursuant to this Act for dental health purposes.

S. 5(1)  
amended by  
Nos 10262  
s. 4(Sch.),  
46/1998  
s. 7(Sch. 1).

s. 6

S. 5(2)  
amended by  
No. 124/1993  
s. 10(a).

- (2) No person shall add fluoride to any public water supply except by and in accordance with the direction of the water supply authority or on behalf of a water supply authority under a contract made between that authority and the person.
- (3) Nothing in this Act shall authorize a water supply authority to add fluoride to an extent that results in an average optimum concentration in excess of one part fluoride per million parts of water.

#### **6 Procedure before adding fluoride to any water supply**

S. 6(1)(a)  
amended by  
Nos 10262  
s. 4(Sch.),  
46/1998  
s. 7(Sch. 1).

- (1) Before adding fluoride to any public water supply under its control, a water supply authority shall—

- (a) submit to the Secretary plans and specifications for the proposed scheme for fluoridation;
- (b) specify the public water supply and the district or districts in respect of which such scheme is intended to operate; and
- (c) furnish to the Secretary such further information as the Secretary may in any case require.

S. 6(1)(c)  
amended by  
Nos 10262  
s. 4(Sch.),  
46/1998  
s. 7(Sch. 1).

- (2) After considering the proposed scheme in relation to the aspects of public health and the ability of the water supply authority to operate the scheme satisfactorily, the Secretary shall—

S. 6(2)  
amended by  
Nos 10262  
s. 4(Sch.),  
46/1998  
s. 7(Sch. 1).

- (a) determine the maximum concentration of fluoride expressed as parts of fluoride ion per million parts of water by weight that may be established in the public water supply by the water supply authority;

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- (b) specify the compound or compounds of fluoride that may be added to the public water supply concerned; and
  - (c) advise the water supply authority of its decision in these matters.
- (3) The water supply authority adding fluoride to a public water supply—
- (a) shall so regulate the concentration of fluoride that such concentration shall not exceed the maximum concentration determined by the Secretary; and
  - (b) shall not add to the public water supply fluoride in any form other than that specified by the Secretary.

S. 6(3)(a)  
amended by  
Nos 10262  
s. 4(Sch.),  
46/1998  
s. 7(Sch. 1).

S. 6(3)(b)  
amended by  
Nos 10262  
s. 4(Sch.),  
46/1998  
s. 7(Sch. 1).

**7 Requirements in respect of water supply authorities adding fluoride to public water supply immediately before the commencement of this Act**

- (1) Where a water supply authority was, immediately before the commencement of this Act, using any equipment for the purpose of adding fluoride to any public water supply under its control such water supply authority shall forthwith submit plans and specifications of its scheme to the Secretary for consideration as required by section 6.
- (2) Notwithstanding anything in sections 5 or 6 such authority may subject to the other provisions of this Act and the regulations continue the use of such equipment.

S. 7(1)  
amended by  
Nos 10262  
s. 4(Sch.),  
46/1998  
s. 7(Sch. 1).

S. 8  
amended by  
Nos 10262  
s. 4(Sch.),  
46/1998  
s. 7(Sch. 1).

## 8 Net capital costs and expenses

The net capital costs and expenses incurred by any water supply authority in the installation of the necessary equipment and control measures for an approved system for adding fluoride to any public water supply under its control shall be paid to the water supply authority on the recommendation of the Secretary out of moneys to be provided by the Parliament for that purpose.

S. 9  
amended by  
Nos 10262  
s. 4(Sch.),  
124/1993  
s. 10(b)(i)(ii),  
46/1998  
s. 7(Sch. 1).

## 9 Right of entry to take samples of water

Any person authorized in writing by the Secretary may at any time enter upon the lands of any water supply authority or the lands of any person acting under the direction of, or on behalf of, a water supply authority under a contract made between that authority and the person to examine and test equipment used in adding fluoride to the water and take samples of any chemical substance being used or to take samples of water for analysis from any point in the water supply system of the authority or person acting under the direction of, or on behalf of, a water supply authority under a contract made between that authority and the person.

## 10 Offences

Any person, not being a water supply authority, who contravenes or fails to comply with any of the provisions of this Act or any water supply authority contravening or failing to comply with any of the provisions of this Act or of the regulations thereunder shall be guilty of an offence against this Act; and shall be liable to a penalty of not less than \$200 nor more than \$1000 and in the case of a continuing offence, to a daily penalty not exceeding \$40.

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## 11 Regulations

The Governor in Council may make regulations not inconsistent with this Act for or with respect to—

- (a) the duties of a water supply authority or a person acting under the direction of or on behalf of a water supply authority under a contract made between that authority and the person relating to the addition of fluoride to a public water supply including—
  - (i) the imposition of requirements as to the taking of samples of water from the public water supply of the authority or the person acting under the direction of or on behalf of a water supply authority under a contract made between that authority and the person; and
  - (ii) the testing and analysing of the samples by the authority, the person acting under the direction of or on behalf of a water supply authority under a contract made between that authority and the person and by other prescribed persons or bodies.
- (b) prescribing the method of making such analyses and tests and the times or intervals at which such analyses and tests shall be made;
- (c) the records to be kept for the purposes of this Act by a water supply authority to whom an approval under this Act has been granted;
- (ca) the records to be kept by a person acting under the direction of or on behalf of a water supply authority under a contract made between that authority and the person;

S. 11(a)  
substituted by  
No. 124/1993  
s. 11(a).

S. 11(ca)  
inserted by  
No. 124/1993  
s. 11(b).



- (d) the licensing of persons employed in operating plant or equipment used for adding fluoride to any public water supply;
- (e) the handling and use of fluoride for the purposes of this Act;
- (f) the protection of persons employed in the handling or use of fluoride for the purposes of this Act;
- (g) all matters which are required or permitted to be prescribed or which are necessary to be prescribed for carrying out or giving effect to this Act.

S. 12  
repealed by  
No. 9863  
s. 2(Sch.),  
new s. 12  
inserted by  
No. 124/1993  
s. 12.

#### **12 Supreme Court—limitation of jurisdiction**

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the Supreme Court from entertaining an action of the kind referred to in section 4.

S. 13  
repealed by  
No. 9863  
s. 2(Sch.),  
new s. 13  
inserted by  
No. 110/1997  
s. 44.

#### **13 Supreme Court—limitation of jurisdiction**

It is the intention of section 4, as it applies with respect to water supply authorities within the meaning given to that term by this Act as amended by section 43 of the **Water Acts (Further Amendment) Act 1997**, to alter or vary section 85 of the **Constitution Act 1975**.

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## ENDNOTES

### 1. General Information

The **Health (Fluoridation) Act 1973** was assented to on 11 December 1973 and came into operation on 20 March 1974: Government Gazette 20 March 1974 page 664.

## 2. Table of Amendments

This Version incorporates amendments made to the **Health (Fluoridation) Act 1973** by Acts and subordinate instruments.

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### **Health Commission Act 1977, No. 9023/1977**

*Assent Date:* 24.5.77  
*Commencement Date:* S. 40(Sch. 1 Pt A item 8) on 6.12.78: Government Gazette 6.12.78 p. 3759  
*Current State:* All of Act in operation

### **Statute Law Revision (Repeals) Act 1982, No. 9863/1982**

*Assent Date:* 5.1.83  
*Commencement Date:* 5.1.83: s. 1(2)  
*Current State:* All of Act in operation

### **Water and Sewerage Authorities (Restructuring) Act 1983, No. 9895/1983**

*Assent Date:* 7.6.83  
*Commencement Date:* 7.6.83: s. 1(2)  
*Current State:* All of Act in operation

### **Water (Central Management Restructuring) Act 1984, No. 10081/1984**

*Assent Date:* 15.5.84  
*Commencement Date:* 1.7.84: Government Gazette 20.6.84 p. 1937  
*Current State:* All of Act in operation

### **Health (Amendment) Act 1985, No. 10262/1985**

*Assent Date:* 10.12.85  
*Commencement Date:* S. 4 on 1.3.86: Government Gazette 26.2.86 p. 451  
*Current State:* This information relates only to the provision/s amending the **Health (Fluoridation) Act 1973**

### **Local Government (Consequential Provisions) Act 1989, No. 12/1989**

*Assent Date:* 9.5.89  
*Commencement Date:* S. 4(1)(Sch. 2 item 58.1) on 1.11.89: Government Gazette 1.11.89 p. 2798  
*Current State:* This information relates only to the provision/s amending the **Health (Fluoridation) Act 1973**

### **Water (Consequential Amendments) Act 1989, No. 81/1989**

*Assent Date:* 5.12.89  
*Commencement Date:* 1.11.90: Government Gazette 15.8.90 p. 2473  
*Current State:* All of Act in operation

### **Health and Community Services (Further Amendment) Act 1993, No. 124/1993**

*Assent Date:* 7.12.93  
*Commencement Date:* All of Act (*except* Pt 3 (ss 4–8)) on 7.12.93: s. 2(1); Pt 3 on 18.12.94: Government Gazette 15.12.94 p. 3308  
*Current State:* All of Act in operation

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**Water Acts (Further Amendment) Act 1997, No. 110/1997**

*Assent Date:* 23.12.97  
*Commencement Date:* Ss 43, 44 on 1.1.98: Government Gazette 24.12.97  
p. 3783  
*Current State:* This information relates only to the provision/s  
amending the **Health (Fluoridation) Act 1973**

**Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998**

*Assent Date:* 26.5.98  
*Commencement Date:* S. 7(Sch. 1) on 1.7.98: s. 2(2)  
*Current State:* This information relates only to the provision/s  
amending the **Health (Fluoridation) Act 1973**

**Public Administration Act 2004, No. 108/2004**

*Assent Date:* 21.12.04  
*Commencement Date:* S. 117(1)(Sch. 3 item 94) on 5.4.05: Government  
Gazette 31.3.05 p. 602  
*Current State:* This information relates only to the provision/s  
amending the **Health (Fluoridation) Act 1973**

**Health and Human Services Legislation Amendment Act 2010, No. 29/2010**

*Assent Date:* 8.6.10  
*Commencement Date:* S. 57 on 1.7.10: Special Gazette (No. 235) 23.6.10 p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Health (Fluoridation) Act 1973**

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**Endnotes**

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**3. Explanatory Details**

No entries at date of publication.