

HEALTH EDUCATION COUNCIL.

7° Elizabeth II., No. XXX.

No. 30 of 1958.

AN ACT to Constitute the Health Education Council of Western Australia with the Functions of Promoting, Maintaining, and Improving, by means of Health Education, the Health of the People of the State.

[Assented to 27th November, 1958.]

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 Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Health Education Council Act, 1958.* Short title.

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

Interpre-
tation.

3. In this Act unless the context requires otherwise—

“Committee” means a Committee constituted under this Act;

“Council” means the Health Education Council of Western Australia constituted under this Act;

“councillor” means a member of the Council;

“Fund” means the Health Education Council of Western Australia Fund established under this Act;

“health” includes the physical, mental, and social well being of persons;

“health education” means the use of teaching methods and other aids to extend to the people of the State knowledge relating to health, and to the prevention of accidental injuries affecting health;

“land” includes estates in land;

“member” means a member of a Committee constituted under this Act;

“Minister” means the Minister of Public Health or any Minister of the Crown for the time being discharging the duties of the office of the Minister of Public Health.

Cf. No. 30
of 1918, s. 4,
as to land,
and estates
in land.

The Council.

4. A body constituted in accordance with the provisions of this Act has the functions and immunity prescribed by this Act.

Name.

5. The name of the body is the Health Education Council of Western Australia.

Offices of
Council.

6. (1) The Minister shall constitute the Council by appointing as members of the Council seventeen persons, four of whom shall be known as *ex officio* councillors, and the remaining thirteen of whom shall be known as nominee councillors.

(2) Of the persons appointed to the office of *ex officio* councillor, Ex officio
councillors.

one shall be an officer of the Education Department of the State;

one shall be the Commissioner of Public Health;

one shall be the Under Secretary for Health;
and

one shall be an officer of the Department of Public Health of the State.

(3) Of the persons appointed to office as nominee councillor, Nominee
councillors.

one, not being a public servant, shall be a nominee of the Minister;

one shall be a nominee of the British Medical Association (W.A. Branch);

one shall be a nominee of the Senate of the University of Western Australia;

one shall be a nominee of the Divisional Executive of the Australian Red Cross Society (W.A. Division);

one shall be a nominee of the Local Government Association of Western Australia;

one shall be a nominee of the Road Board Association of Western Australia;

one shall be a nominee of the Committee of Management of the Western Australian Federation of Parents and Citizens' Associations;

one shall be a nominee of the Perth Newspaper Proprietors' Association;

one shall be a nominee of the Manager in Western Australia of the Australian Broadcasting Commission;

one shall be a representative of employees nominated by the Minister;

one shall be a nominee of the Australian Federation of Commercial Broadcasting Stations (Western Australian Division);

one shall be a nominee of the Country Women's Association of Western Australia (Incorporated); and

one shall be a representative of employers nominated by the Minister.

(4) The Council shall elect a councillor to be Chairman of the Council to hold office for two years and be eligible for re-election. If the Council fails to appoint a chairman from amongst its members the Minister shall appoint a chairman who, if not a councillor shall become a councillor for the term of his office which shall be similar in term to that of a chairman appointed by the Council. A chairman so appointed by the Minister shall be eligible for re-election by the Council.

(5) (a) The Minister may appoint persons as deputies to act in the respective places of the chairman and other councillors when not able or available to act, and persons so appointed may, while acting, exercise the same powers and are entitled to the same rights and subject to the same liabilities as the councillors for whom they act as deputies.

(b) A person is not eligible for appointment as a deputy of a nominee councillor unless he is nominated as deputy by the body by which the councillor is required under subsection (3) of this section to be nominated or unless he is appointed by the Minister under the provisions of paragraph (c) of subsection (6) of this section.

(6) (a) The bodies mentioned in subsection (3) of this section shall nominate to the Minister when he so requests or when a vacancy occurs in accordance with subsection (8) of this section a member of the respective body to become a councillor.

(b) Without affecting the generality of the power conferred by paragraph (a) of this subsection the Minister may, from time to time as occasion requires, request a body mentioned in subsection (3) of this section to nominate, within a specified period, for appointment as nominee councillor or deputy, any number of persons not exceeding three, and may appoint such one of them as he thinks fit.

(c) If no nomination is made within the period specified by the Minister, he may appoint such person as he thinks fit to fill the office of nominee councillor or deputy, as the case may be.

(7) (a) The term of tenure of office of a person appointed to the office of nominee councillor expires by effluxion of time on the expiration of a period of three years commencing on the day specified in the notice of the appointment published in the *Gazette* as the commencing day of that term, but the Minister may, during the term, remove him from office if it appears to the Minister that the person has become unsuitable to continue in office because of mental or physical infirmity or illness, neglect of duty as a councillor, or misbehaviour whether in his capacity of councillor or otherwise.

Cf. s. 7 (1)
post as to
publication
of notice of
appoint-
ments.

Provided that in the case of the initial appointments of nominee councillors the Minister shall appoint the nominee councillors of the first eight named bodies mentioned in subsection (3) of this section for a period of three years and the remainder for a period of two years. In all future appointments the provisions of section six, subsection (7) (a), shall apply.

(b) The term of tenure of office of an *ex officio* councillor continues until terminated by the Minister.

(8) The office of a councillor becomes vacant if

- (a) he dies;
- (b) he resigns by written resignation delivered to the Minister;
- (c) he is removed from office under paragraph (a) of subsection (7) of this section;
- (d) he, being a councillor nominated by a body mentioned in subsection (3) of this section, the body gives written notice to the Minister that the body no longer desires to be represented on the Council by the councillor;
- (e) the term of his tenure of office expires by effluxion of time; or

- (f) in the case of an *ex officio* councillor the Minister terminates the term of tenure of his office.
- (g) he absents himself from three consecutive meetings without leave of absence.

(9) (a) Where there is a vacancy in office of councillor, the Minister shall appoint a person to fill the vacancy.

(b) Where the vacancy is in the office of a nominee councillor the Minister shall not appoint a person to fill the vacancy unless he is nominated by the appropriate body mentioned in subsection (3), or unless paragraph (c) of subsection (6), of this section applies to the office.

(c) Where a vacancy in office of a councillor occurs during the term of office of the councillor, the person appointed to fill the vacancy is entitled to occupy the office only for the remainder of that term.

(d) A person is not rendered ineligible for appointment to office of councillor or deputy because he has previously occupied office as such, unless he has been removed under paragraph (a) of subsection (7) of this section for misbehaviour.

(10) (a) Seven nominee councillors or their respective deputies, including the chairman or his deputy if present, constitute a quorum of the Council, and may carry out the functions of the Council as effectively as if all councillors were present.

(b) If the chairman or his deputy is absent, the councillors present may appoint one of their number to act as chairman, and the councillor so appointed shall have the powers of the chairman during the absence of the chairman and his deputy.

(c) The decision of the Council on a question is that of the majority of councillors present each of whom is entitled to, and shall exercise, one vote, but in case of an equal division of votes, the question shall be deemed to have been decided in the negative.

(d) Anything done by the Council is not invalid or defective on the ground that when done, there was a vacancy in, or defect in appointment to, office on the Council.

(11) The first meeting of the Council shall be held at a time and place appointed by the Minister and thereafter meetings shall be held at times and places appointed by the Council.

(12) The chairman and other councillors and their respective deputies are entitled to such reimbursements of expenditure, as the Minister from time to time determines and is hereby authorised to determine.

7. (1) (a) The Minister shall cause notice of appointments to the respective offices of councillors to be published in the *Gazette*. Gazette of appointments of councillors.

(b) By the publication of the first appointments, the Council is constituted a body corporate with perpetual succession, and a common seal in the form prescribed by the regulations, and has and may exercise the functions prescribed by this Act. Council constituted a body corporate with perpetual succession and a common seal.

(2) Courts, Judges, and other persons acting judicially shall take judicial notice of the common seal of the Council affixed to any document, and shall presume that it was regularly affixed, if the seal purports to have been so affixed, in the presence of the chairman or his deputy and another councillor or his deputy. Common seal to be judicially noticed.

8. (1) The functions of the Council are to promote, maintain, and improve, by means of health education, the health of the people of the State; and to carry out the administration of this Act. Functions of the Council.

(2) The duty of the Council in the giving of effect to its functions is imposed without prejudice to any duty, power, or function, of the Minister to whom the administration of this Act is committed by the Governor.

Powers and
duties of the
Council.

9. (1) The Council, for the purposes of carrying out its functions and duties, and of exercising its powers under this Act,

- (a) may with the approval of the Minister appoint, supervise, control, suspend, and dismiss officers;
- (b) may, in its corporate name, with the approval of the Minister,
 - (i) acquire, hold, manage and protect, dispose of, and borrow money on the security of, any estate in land, and any other property;
 - (ii) enter into contracts; and
 - (iii) sue, compromise and settle claims and actions, and enter into submissions to arbitration;
- (c) may, in its corporate name, be sued;
- (d) may formulate plans and measures, and provide facilities, to encourage the interest, and the active co-operation, of the people of the State in health education;
- (e) shall cause to be recorded and kept true and proper minutes of its proceedings; and
- (f) shall conduct its proceedings in such manner as the Council from time to time determines and is hereby authorised to determine, but if regulations relating to the conduct of its proceedings are made, shall conduct its proceedings in accordance with the regulations.

Cf. No. 30 of
1918, s. 4, as
to "estate"
and "land."

(2) The functions, powers, and duties of the Council also include such other functions, powers, and duties as are prescribed in this Act, or by regulations which the Governor may make, and is hereby authorised to make for the purposes of this Act.

10. The Council may from time to time—

Appoint-
ment of
Committees.

- (a) constitute Committees and assign names to those Committees for the purposes of this Act;
- (b) appoint persons, whether councillors or not to the office of member of a Committee;
- (c) determine
 - (i) the method of appointment of persons to the office of member of a Committee; and
 - (ii) procedural matters relating to the holding and conduct of meetings of a Committee, including the election of chairman, the appointment of deputies, and the constitution and powers of a quorum;
- (d) subject to the approval of the Minister delegate to a Committee such of its functions, duties, discretions, and powers, except this power of delegation, for such time and subject to such conditions as the Council determines and the Committee shall exercise and perform the functions, duties, and discretions, and may exercise the powers so delegated to it;
- (e) dismiss any member of a Committee; and
- (f) where all of the members of a Committee are dismissed, appoint new members to the Committee.

11. (1) For the purposes of this Act there shall be a fund to be called the Health Education Council of Western Australia Fund, which shall be administered by the Council. The Fund.

(2) Money from time to time belonging to the Fund shall be deposited in an account to be called the Health Education Council of Western Australia Fund Account which shall be kept at the Treasury.

(3) The Fund shall consist of

- (a) amounts appropriated from time to time by Parliament for the purposes of this Act;
- (b) gifts of money made for the purposes of this Act, and the proceeds of other gifts made for those purposes;
- (c) the income derived from the investment of money forming part of the Fund; and
- (d) the proceeds of disposal, or borrowing on the security, of property.

Council may invest money forming part of the Fund.

12. Where any money forming part of the Fund is not immediately required for the purposes of this Act, the Council may, with the approval of the Minister, invest it in any investments authorised by law as those in which trust funds may be invested.

Application of money in the Fund.

13. (1) Subject to the Minister and to subsection (2) of this section, the Council may use and apply money in the Fund for all or any of the following purposes—

- (a) the payment of the expenses of administering this Act;
- (b) the payment of the general administrative expenses of the Council; and
- (c) the payment of officers appointed under paragraph (a) of subsection (1) of section nine of this Act.

(2) Where gifts of money or other gifts have been made upon conditions for the purposes of this Act, the Council shall use or apply money representing those gifts in accordance with the conditions upon which the gifts were made.

Accounts.

14. (1) The Council shall cause to be kept in manner required or approved by the Auditor General true and regular accounts—

- (a) of money received into and belonging to the Fund;

(b) of money expended from the Fund and the purposes for which it has been expended; and

(c) of the assets and liabilities of the Council.

(2) The Council shall cause the accounts to be balanced at the thirtieth day of June in each year. Annual balance.

(3) The Auditor General Audit.

(a) has in respect of the accounts the powers conferred upon him by the Audit Act, 1904;

(b) shall arrange for the audit of the accounts; and

(c) shall, as soon as practicable after the completion of the audit in each year, prepare and deliver to the Council a report on the audit of the accounts.

15. As soon after having received the Auditor General's report as is practicable the Council Annual report.

(a) shall deliver a true copy of it to the Minister for tabling before both Houses of Parliament; and

(b) shall submit to the Minister for presentation to both Houses of Parliament a report of its activities during the year to which the Auditor General's report relates.

16. (1) If the Council requests the Minister to permit a person, who is a public servant under the provisions of the Public Service Act, 1904, to be engaged or employed by the Council for the purposes of the Council, the Minister may with the concurrence of the Public Service Commissioner approve the engagement or employment of that person by the Council for such period of time and upon such conditions as the Minister determines. Employment of officers of Public Service.

(2) When a person is engaged or employed by the Council in accordance with the provisions of subsection (1) of this section, his engagement or employment is without prejudice to his rights under the Public Service Act, 1904, or any other Act applying to him as a public servant.

Regulations.

17. (1) The Council may, with the approval of the Governor, make such regulations as the Council considers necessary, convenient, or desirable, to assist the Council to carry out its functions or for better carrying out the objects and purposes of this Act.

(2) Without prejudice to the generality of subsection (1) of this section, regulations may be so made prescribing or relating to—

- (a) the conduct of meetings and proceedings of the Council, and of the Committees appointed under this Act by the Council;
 - (b) the appointment, supervision, control, suspension, and dismissal of officers; and
 - (c) the form, custody and use of the common seal of the Council.
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