

WESTERN AUSTRALIA.

CANCER COUNCIL OF WESTERN AUSTRALIA.

No. 74 of 1982.

AN ACT to repeal the Cancer Council of Western Australia Act 1958-1980, to make consequential provisions with respect to the assets and liabilities of the Cancer Council of Western Australia and for related purposes.

[Assented to 29 October 1982.]

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 *Cancer Council of Western Australia Act Repeal Act 1982*. ^{Short title.}

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation being a day after the grant of a certificate of incorporation under the Associations Incorporation Act 1895 to the Cancer Foundation of Western Australia.

Interpreta-
tion.

3. In this Act, unless the contrary intention appears—

“Council” means the Cancer Council of Western Australia constituted by the repealed Act;

“commencement day” means the day on which this Act comes into operation;

“Foundation” means the Cancer Foundation of Western Australia (Inc.), a body incorporated under the Associations Incorporation Act 1895;

“property” includes the Cancer Council of Western Australia Fund established under the repealed Act; and

“repealed Act” means the Cancer Council of Western Australia Act 1958-1980.

Repeal of
Cancer
Council of
Western
Australia Act
1958-1980.

4. The Cancer Council of Western Australia Act 1958-1980 is repealed.

Transitional.

5. The provisions of Schedule 1 shall have effect in relation to the repeal effected by section 4 of this Act.

SCHEDULE 1.

Section 5.

TRANSITIONAL PROVISIONS.Vesting of
property and
obligations.

1. (1) Subject to this clause, all property that immediately before the commencement day was vested in the Council is vested, without transfer or conveyance, in the Foundation.

(2) The vesting effected by subclause (1) of this clause is without prejudice to—

- (a) any trust, including a resulting trust or other trust in favour of a donor; or
- (b) any reservation, mortgage, charge, encumbrance, lien, or lease,

that immediately before the commencement day affected the property vested.

(3) In relation to any property vested in the Foundation by subclause (1) of this clause, the Foundation has and is subject to all the rights, powers, remedies, liabilities, and obligations and may exercise and discharge in relation to that property all or any of the rights, powers and remedies which the Council would have had and been subject to and might have exercised or discharged in relation to that property if the property had not been divested from the Council and vested in the Foundation.

(4) On the commencement day, the Foundation becomes, by virtue of this subclause, liable to pay and discharge all the debts, liabilities, and obligations of the Council that existed immediately before that day to the same extent as the Council would have been liable if this Act had not been enacted.

(5) Any agreement or instrument subsisting immediately before the commencement day to which the Council was a party has effect on and after that day as if—

- (a) the Foundation were substituted for the Council as a party to the agreement or instrument; and
- (b) any reference in the agreement or instrument to the Council were (except in relation to matters that occurred before that day) a reference to the Foundation.

(6) Any proceedings pending immediately before the commencement day to which the Council was a party may be continued on or after that day as if the Foundation was a party to those proceedings instead of the Council and all claims and defences that would have been available to the Council if this Act had not been enacted shall be available to the Foundation.

Transfer of
staff.

2. (1) Any person who, immediately before the commencement day, occupied a position as an employee of the Council shall on the commencement day become the occupant of a position as an employee of the Foundation.

(2) A person who becomes an employee of the Foundation by reason of subclause (1) of this clause shall retain his existing and accruing rights and in particular his rights in relation to leave and other benefits and, for the purpose of determining such rights, his service with the Foundation shall be regarded as continuous with his service with the Council.

Construction
of deeds,
wills etc.

3. To the extent to which, by a deed, will or other instrument that takes effect on or after the commencement day, any property—

- (a) is devised, bequeathed, given, granted, released, conveyed, or appointed to the Council or to a person (not being the Council) for, or for the benefit of, or in trust for, the Council or the objects or functions of the Council as expressed in the repealed Act or is declared or directed to be held by a person (not being the Council) for, or for the benefit of, or in trust for, the Council or the objects or functions of the Council as expressed in the repealed Act;
- (b) is recoverable by the Council or by any person (not being the Council) for the Council; or
- (c) is payable to, or receivable by, the Council or any person (not being the Council) on behalf of the Council,

the deed, will or other instrument shall be construed and take effect as if the reference therein to the Council or, as the case may be, to that person, were a reference to the Foundation, unless the context requires otherwise.

Final
accounts
and report of
the Council.

4. (1) Notwithstanding the repeal of the repealed Act, the Council, as constituted immediately before the commencement day, shall for the purpose of preparing and submitting to the Minister the accounts and report referred to in subclause (2) of this clause continue in existence until it has complied with that subclause.

(2) Subject to subclause (3) of this clause, the Council shall, as soon as practicable after the commencement day, prepare and submit to the Minister for Health a report of its activities and a statement of accounts in respect of the

period from the end of the immediately preceding financial year in respect of which a report has been furnished under the repealed Act to the commencement day.

(3) Subsection (3) of section 22 of the repealed Act shall apply to and in respect of the statement of accounts prepared by the Council under subclause (2) of this clause as if that subsection had not been repealed and the Council shall as soon as practicable furnish to the Minister the Auditor General's report on that statement of account.

(4) The Minister for Health shall cause a copy of the reports and statement referred to in subclauses (2) and (3) of this clause to be laid before each House of Parliament as soon as practicable.
