

YOUTH, COMMUNITY RECREATION AND NATIONAL FITNESS.

No. 71 of 1972.

AN ACT to establish the Youth, Community Recreation and National Fitness Council of Western Australia, to promote co-operation between and to assist organisations concerned with youth service, community recreation and physical and cultural fitness, to repeal the National Fitness Act, 1945-1959, and the Youth Service Act, 1964; and for incidental and other purposes.

[Assented to 16th November, 1972.]

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 *Youth, Community Recreation and National Fitness Act, 1972.* Short title.

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Commence-
ment.

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

Repeals.

3. The National Fitness Act, 1945, the National Fitness Act Amendment Act, 1959, and the Youth Service Act, 1964, are hereby repealed.

Interpreta-
tion.

4. In this Act, unless the context otherwise requires—

“Council” means the Youth, Community Recreation and National Fitness Council of Western Australia established under section 6;

“Director” means the Director of the Council appointed under section 22;

“Director-General of Education” means the person holding or acting in the office of Director-General of Education under section 7 of the Education Act, 1928;

“Fund” means the Youth, Community Recreation and National Fitness Fund established under section 28;

“member” means a member of the Council;

“section” means section of this Act;

“the State National Fitness Council” means the body established by that name under section 4 of the National Fitness Act, 1945;

“the Youth Council of Western Australia” means the body established by that name under section 4 of the Youth Service Act, 1964.

Statutory
vesting.

5. On the coming into operation of this Act—

(a) all the right, title and interest of the State National Fitness Council and the Youth Council of Western Australia, respectively, in and to any property shall by force of this Act be transferred to and vested in the Council for the purposes of this Act;

- (b) to initiate, promote, co-ordinate and assist such activities as the Council thinks desirable to give effect to the purposes of this Act, and in particular (but without prejudice to the generality of this provision)—
 - (i) to promote an appreciation of the need for physical and cultural fitness;
 - (ii) to encourage through recreational and other community activities a strong spirit of community service;
 - (iii) to formulate and implement proposals for the promotion, assistance and establishment of clubs and organisations concerned with youth service;
 - (iv) to promote co-operation with and between voluntary organisations, clubs, departments of the Public Service, local government authorities, and persons, who or which are concerned with physical and cultural fitness, community recreation or youth service;
 - (v) to foster the formation of special voluntary organisations or movements which can directly associate with the Council in any or all aspects of youth activity, physical recreation, sport, or community service;
 - (vi) to instigate and promote the training of teachers of classes and of leaders of movements or groups for the purposes of meeting the needs expressed in this Act; and
 - (vii) to exercise such other powers and functions and to perform such other duties as may be prescribed; and
- (c) to nominate a person for appointment by the Governor to act as the representative of the State in the Commonwealth Council for National Fitness and to encourage the

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- (c) the Town Planning Commissioner;
- (d) the Director of Community Welfare;
- (e) not less than fifteen nor more than twenty other persons appointed by the Minister as representatives of interests likely to be affected by the operation of this Act.

(3) (a) A member appointed *ex officio* may, by agreement with the Minister, nominate a responsible officer of the department of the Public Service which he represents to act as his deputy at any meeting of the Council, and may terminate such nomination at any time.

(b) For the purposes of ascertaining whether or not a quorum is present and of voting at any meeting a person nominated under this subsection shall be deemed to be the *ex officio* member by whom he is nominated.

(4) The Minister may appoint a person to be a deputy of a Council member, other than a member appointed *ex officio*, and may terminate such appointment at any time.

(5) In this Act, other than in relation to the provisions of section 14, a reference to a member shall be read as including a reference to a deputy taking the place of that member.

(6) A member, other than a member appointed *ex officio*,—

- (a) shall not be appointed to hold office for a term exceeding five years; and
- (b) shall hold and vacate office in accordance with the provisions of the instrument under which he is appointed.

(7) A member, other than a member appointed *ex officio*, may resign from the Council by notice in writing signed by him and given to the Minister.

(8) A member who ceases to hold office shall, unless otherwise disqualified, be eligible for re-appointment.

(9) The Governor may remove a member from office for inability, inefficiency or misbehaviour.

9. If a member—

Disqualifi-
cation.

- (a) is an incapable person within the meaning of section 5 of the Mental Health Act, 1962;
- (b) is an undischarged bankrupt or has his affairs under liquidation by arrangement with his creditors;
- (c) is convicted of an indictable offence; or
- (d) had his appointment terminated by the Governor for inability, inefficiency or misbehaviour,

his office becomes vacant and he is not eligible for re-appointment.

10. (1) A vacancy among the membership shall not invalidate the proceedings of any meeting.

Validity of
proceedings.

(2) All acts done at any meeting shall, notwithstanding it is afterwards discovered that there was some defect in the appointment or qualification of a person purporting to be a member, be as valid as if that defect had not existed.

11. The Minister may grant leave of absence to a member upon such terms and conditions as the Minister determines.

Leave of
absence.

12. The quorum to constitute a meeting of the Council shall be such as the Council may from time to time determine but shall not be less than seven persons of whom two shall be members appointed *ex officio*.

Quorum.

Meetings.

13. (1) The Council shall hold such meetings as are necessary for the performance of its functions.

(2) The Minister or the Chairman may at any time convene a meeting of the Council, and a meeting shall be convened by the Chairman within seven days of the receipt by him of a written request signed by two or more members of the Council specifying the business in respect of which the meeting is to be convened.

**Person
presiding at
meetings.**

14. (1) The Chairman shall preside at all meetings of the Council at which he is present.

(2) The Minister may appoint one of the members to be the Deputy Chairman of the Council and when and as often as the Chairman is absent or temporarily unable to perform the duties of his office the Deputy Chairman shall preside at all meetings of the Council at which he is present and while so presiding has all the powers of the Chairman.

(3) The Minister may nominate a member to preside at any meeting of the Council from which both the Chairman and the Deputy Chairman of the Council are absent, and a member so nominated has all the powers of the Chairman while so presiding.

(4) Where the Chairman, the Deputy Chairman and any person nominated in accordance with subsection (3) of this section are all absent from a meeting of the Council the members present at the meeting shall elect one of their number to preside at that meeting and while so presiding that member has all the powers of the Chairman.

Voting.

15. (1) Each member, including the member presiding, shall have a deliberative vote only and subject to the requirement that a quorum is present all questions shall be decided by a majority.

(2) In the case of an equality of votes the question shall be declared to be negatived.

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Delegation
by Council.

21. (1) The Council may, with the consent in writing of the Minister, in relation to any matter or class of matters, or in relation to any activity or function of the Council, by resolution, delegate any of the powers or duties conferred or imposed upon it by this Act, except this power of delegation, to any person or organisation.

(2) The Council may, by resolution, revoke a delegation given under this section and a delegation so given does not prevent the exercise or discharge by the Council of any of its powers or duties.

Director of
the Council.

22. (1) The Minister may appoint a person to the office of Director of the Council and a person so appointed—

- (a) shall be the chief executive officer of the Council;
- (b) shall be entitled to attend all meetings of the Council and may speak in relation to any matter; but
- (c) shall not be entitled to vote at any meeting.

(2) The Director of the Council has such powers and duties as are conferred upon him by resolution of the Council and, unless otherwise expressly provided, may delegate any of those powers or duties, except this power of delegation, to any person or organisation.

Co-operation
and
assistance.

23. (1) The Council shall, on matters relevant to the purposes of this Act, confer and collaborate with departments of the Commonwealth and the States of the Commonwealth and other bodies or instrumentalities of the Commonwealth or States of the Commonwealth having to do with youth activity, community recreation, and national fitness.

(2) The Council has power, subject to the approval of the Minister and on such terms and conditions as the Minister may determine, to invite any person to act in an advisory capacity to the Council in relation to any or all aspects of the functions of the Council.

(3) The Minister may, on the request of the Council, enter into arrangements with—

- (a) a Minister of the Crown of any State of the Commonwealth, a Minister of State of the Commonwealth, a department or an instrumentality of the Commonwealth or any State of the Commonwealth; or
- (b) a university or other tertiary educational institution; or
- (c) any other organisation or person, with respect to any investigation, research, or activity that may be necessary or desirable for the purposes of this Act.

24. (1) The Council may, with the approval of the Minister, engage under contract for services such professional and technical or other assistance, and such officers and temporary employees, as may be necessary to enable the Council to carry out effectively its functions under this Act. ^{Staff.}

(2) The Council may, with the consent of the Minister administering—

- (a) any department of the Public Service of the State;
- (b) the Education Department; or
- (c) the Police Department,

for the purposes of this Act co-opt the services, whether of an administrative, technical, teaching staff, or other nature, of any person employed in any of those departments, or request the secondment of any such person, upon such terms as may be agreed between that Minister and the Council.

(3) Where the services of any person are co-opted or a person is seconded under the provisions of this section, it does not prejudice that person's existing or accruing rights under the Public Service Act,

1904, or under any other Act applying to him as a public servant, and his service with the Council under this Act shall be regarded as service in the Public Service of the State for the purposes of determining those rights.

Terms of
service.

25. (1) A person engaged under the provisions of subsection (1) of section 24 is not a person appointed under the Public Service Act, 1904, and subject to this Act and to any award or agreement in force under the Industrial Arbitration Act, 1912, the Council may effect, suspend, and terminate the engagement subject to such terms and conditions as the Council thinks fit.

(2) Where a person so engaged was, immediately prior to his engagement, in the service of a department of the Public Service of the State, the Education Department or of the Youth Council of Western Australia, he retains any rights that may have accrued to him under the Act pursuant to which he was then serving and, in particular, his rights, if any, under the Superannuation and Family Benefits Act, 1938.

(3) A person so engaged may be appointed at such salary and other remuneration, travelling allowance and leave entitlement as may be determined by the Public Service Board established under the Public Service Act, 1904.

Superannu-
ation.

26. (1) The Council shall request the Minister to whom the administration of the Superannuation and Family Benefits Act, 1938, is committed to recommend that the Council be included as a corporate body in the term "department" for the purposes of that Act, and the Treasurer may, on such recommendation and upon the Council complying with the requirements of that Act, approve of the Council as, and the Council shall thereupon be deemed to be, a department for the purposes of that Act.

(2) A member of the staff or other employee of the Council is not obliged to become a contributor under the Superannuation and Family Benefits Act, 1938.

27. Subject to such conditions as he may think fit to impose and notwithstanding anything in any Act, the Director-General of Education may authorize any club or organisation or persons concerned with the encouragement, advancement or establishment of youth, community recreation or national fitness activities in this State to use any land, building or facilities vested in the Minister under the provisions of section 6 of the Education Act, 1928—

Use of land and buildings vested in Director-General of Education.

- (a) for the purpose of recreation, social, moral, physical or cultural training; or
- (b) for the training of leaders and instruction in all or any of those activities,

during any hours when the land or building is not required for use under that Act.

28. (1) The funds which were immediately prior to the coming into operation of this Act kept in the Treasury—

The Fund.

- (a) by the name of "The State National Fitness Fund" under the provisions of section 12 of the National Fitness Act, 1945; and
- (b) by the name of "The Youth Service Assistance Fund" under the provisions of section 18 of the Youth Service Act, 1964,

shall continue to be so kept under the name of "The Youth, Community Recreation and National Fitness Fund".

(2) All moneys from time to time belonging to the Fund shall be deposited in an account to be called "The Youth, Community Recreation and National Fitness Fund Account".

(3) The Fund consists of—

- (a) moneys from time to time appropriated by Parliament for the purpose, or advanced by the Treasurer in any case where the moneys otherwise standing to the credit of the Fund would be insufficient for the purposes of this Act;
- (b) such moneys as are at the date of the coming into operation of this Act, or may thereafter be, under the control of the Council and are credited to the Fund;
- (c) the proceeds of the disposal of or dealing with any land, or other property that the Council is authorized to effect under this Act;
- (d) moneys from time to time derived by the Council from the management of any land or property;
- (e) the proceeds of investment of any moneys standing to the credit of the Council;
- (f) gifts, devises, bequests or other moneys falling to be controlled by the Council; and
- (g) such amounts as are received from the Commonwealth under the National Fitness Act 1941, of the Commonwealth.

(4) All expenditure incurred by the Council shall be paid from the Fund.

(5) If in any year the whole of the sum appropriated by Parliament for the purpose of this Act is not expended, the unexpended balance shall be retained by the Council and expended in the performance of the duties of the Council in any subsequent year.

(6) The amount of any advance made to the Fund by the Treasurer, to the extent to which such advance is for the time being not repaid, is a charge on the Fund.

(7) The Fund shall be controlled by the Council and, subject to the approval of the Minister, may be administered and dealt with in such manner as the Treasurer may authorize and when not immediately required for the purposes of this Act may be invested in any investment authorized by law for the purpose of the investment of trust funds.

(8) Any moneys received from the Commonwealth under the National Fitness Act 1941, of the Commonwealth shall be used and applied for the purposes which may be specified by the Commonwealth in relation thereto.

(9) Gifts, devises and bequests made for the purposes of this Act or so much of the Fund as represents their proceeds on realisation shall be used and applied in accordance with the conditions upon which they were made.

(10) The Council shall cause to be kept proper records relating to operations on the Fund in such manner and form as the Treasurer approves.

(11) The Auditor General has, in respect of the accounts of the Fund, all powers conferred on him by any law for the time being in force relating to the audit of public accounts.

29. (1) The Council shall, in each year, as soon as practicable after the completion of the audit, submit to the Minister a report of their activities during the year ending on the preceding thirtieth day of June, containing a full account of the income and expenditure of the Council for that period and a statement of the financial position of the Council at the close of that year, audited by the Auditor General, and the report, if any, of the Auditor General thereon.

Reports and
audit.

(2) The Minister shall cause a copy of every report received by him pursuant to subsection (1) of this section to be laid before each House of Parliament.

Regulations.

30. (1) The Governor may make such regulations, not inconsistent with this Act, as he considers necessary and desirable for the proper administration of this Act or for achieving the objects and purposes of this Act.

(2) The regulations may prescribe penalties, not exceeding a fine of two hundred dollars in respect of a breach of any of the regulations.

(3) The regulations may require that any information, account, document or form required to be given or furnished thereunder shall be verified by statutory declaration.
