

HEALTH.

9° Elizabeth II., No. XXIII.

No. 23 of 1960.

AN ACT to amend the Health Act, 1911-1959.

[Assented to 11th October, 1960.]

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:—

Short title
and citation.

1. (1) This Act may be cited as the *Health Act Amendment Act, 1960*.

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Acts as
approved for
reprint,
5th June,
1957, and
amended by
Acts Nos.
21 of 1957
and 22 of
1959.

(2) In this Act the Health Act, 1911-1959, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Health Act, 1911-1960.

2. Section two of the principal Act is amended by adding immediately after the passage, "Part XIII.—Protection of Life, ss. 331-340." the following passage:—

S. 2
amended.

PART XIII A.—MATERNAL MORTALITY COMMITTEE, ss. 340A-340N.

3. Section three hundred and thirty-six of the principal Act is amended—

S. 336
amended.

- (a) by substituting for the words, "nearest stipendiary or resident magistrate" in lines five and six of subsection (1) the word, "Commissioner";
- (b) by substituting for subsections (2), (3), (4) and (5) the following subsections:—

(2) Upon receipt of the report the Commissioner shall by notice in writing signed by him direct the investigator appointed under the provisions of Part XIII A of this Act to inquire into the circumstances of the death and by such notice require him to present to the Chairman of the Maternal Mortality Committee appointed under that Part, within a time to be specified in the notice, a full report of the investigation made by him.

(3) The report of the investigator presented to the Chairman shall be in the form of a connected medical case history relating to the deceased woman but shall not contain any particulars from which it may be possible to ascertain the identity of that woman.

(4) For the purposes of this section all information, records of interviews, reports, statements, memoranda or other particulars obtained by the investigator during an investigation made by him

pursuant to the provisions of this section shall be confidential and shall not be communicated or divulged, either in whole or in part, by the investigator to any person other than the Chairman of the Maternal Mortality Committee, or by the Chairman or any other member of the Committee, except for the purposes and in accordance with the provisions of Part XIII A of this Act.

(5) No information, record, report, statement, memorandum or particulars referred to in subsection (4) of this section shall—

(a) be admissible in any court or before any tribunal, board or person in any action, cause or inquiry of any kind whatsoever; or

(b) be exhibited or divulged in whole or in part by any person employed by or acting with the instructions or under the authority of the Maternal Mortality Committee, except for the purposes and in accordance with the provisions of Part XIII A of this Act.

(6) No person, corporate body, association, or institution shall be liable in any action for damages or other relief by reason of the furnishing to the investigator, or to the Maternal Mortality Committee, of any information, record, report, statement, memorandum or particulars referred to in subsection (4) of this section.

(7) Nothing in this section shall prejudice or otherwise affect any of the provisions of the Coroners Act, 1920, or of any other Act so far as the same

relates to prosecutions for indictable and other offences and the obtaining and adducing of evidence relative thereto, but this section shall be read and construed as separate and distinct from the provisions of those Acts.

4. The principal Act is amended by adding after Part XIII of this Act the following Part:— Part XIII A
added.

PART XIII A.—MATERNAL MORTALITY
COMMITTEE.

340A. In this Part unless the context Interpre-
tation. requires otherwise—

“Committee” means the Maternal Mortality Committee constituted under this Part;

“investigator” means the obstetrician from time to time appointed under this Part;

“member” means a person appointed to be a member of the Committee, and includes the Chairman of the Committee;

“metropolitan area” means that portion of the State within a radius of fifty miles from the General Post Office at Perth.

340B. (1) For the purposes of this Part a body to be called the “Maternal Mortality Committee” and having the functions prescribed by this Part shall be constituted as provided in this section. Constitution
and offices of
Committee.

(2) The Minister shall appoint three persons to be permanent members, and six persons to be provisional members, of the Committee, and five of those persons appointed, namely, the three permanent members and two of the provisional members selected in accordance with the provisions of subsection (1) of section three hundred and forty K of this Act, shall constitute the Committee.

(3) Of the three persons appointed as permanent members of the Committee—

- (a) one shall be the Professor of Obstetrics of the University of Western Australia, who shall be Chairman of the Committee;
- (b) one shall be a medical practitioner specialising in obstetrics, nominated by the State Branch of the Royal College of Obstetricians and Gynaecologists; and
- (c) one shall be a medical practitioner nominated by the Commissioner of Public Health.

(4) Of the six persons appointed as provisional members of the Committee—

- (a) two shall be general medical practitioners practising in the metropolitan area, nominated by the Western Australian Branch of the British Medical Association;
- (b) two shall be general medical practitioners having not less than five years' practice outside the metropolitan area, nominated by the Western Australian Branch of the British Medical Association; and
- (c) two shall be midwifery nurses nominated by the Western Australian Branch of the Royal Australian Nursing Federation.

Appointment
of deputies.

340C. (1) The Minister may appoint persons as deputies to act in the respective places of the Chairman and other members of the Committee 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 members for whom they act as deputies.

(2) A person is not eligible for appointment as a deputy of a member of the Committee (other than as the deputy of the Chairman) unless he is nominated as deputy by the body by which the member is required under section three hundred and forty B of this Act to be nominated or unless he is appointed by the Minister under the provisions of subsection (3) of section three hundred and forty D of this Act.

340D. (1) The bodies mentioned in subsections (3) and (4) of section three hundred and forty B of this Act shall nominate to the Minister when he so requests, or when a vacancy occurs in accordance with section three hundred and forty F of this Act, a member or members of the respective body to become a permanent member, or as the case may be, one or more provisional members of the Committee.

Nominations
to be made
to Minister.

(2) Without affecting the generality of the power conferred by subsection (1) of this section, the Minister may from time to time as occasion requires request a body referred to in subsection (3) or (4) of section three hundred and forty B of this Act to nominate, within a specified period, for appointment as a permanent or provisional member of the Committee, or as a deputy member, any number of persons not exceeding three, and may appoint such one, or as the case may be, more of them as he thinks fit.

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

Tenure of
office.

340E. (1) The term of tenure of office of a person appointed as a permanent or provisional member of the Committee (other than the Chairman) expires on 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 *Government Gazette* as the commencing day of that term.

(2) Notwithstanding the provisions of subsection (1) of this section, in the case of the initial appointments of provisional members of the Committee the Minister shall appoint one of the provisional members referred to in each of paragraphs (a), (b) and (c) of subsection (4) of section three hundred and forty B of this Act for a period of three years and the other for a period of two years, but in all subsequent appointments the provisions of subsection (1) of this section shall apply.

(3) The term of tenure of office of the permanent member referred to in paragraph (a) of subsection (3) of section three hundred and forty B of this Act continues until terminated by the Minister.

When office
of member
becomes
vacant.

340F. The office of a member of the Committee becomes vacant if—

- (a) he dies;
- (b) he resigns by written resignation delivered to the Minister;
- (c) his term of tenure of office expires by effluxion of time;
- (d) through mental or physical infirmity or sickness he is, and is likely to continue to be, unable satisfactorily to carry out the duties and perform the functions of his office;

- (e) in the case of the permanent member referred to in paragraph (a) of subsection (3) of section three hundred and forty B of this Act, the Minister terminates the term of tenure of his office;
- (f) he absents himself from three consecutive meetings of the Committee of which he is a member without leave of absence.

340G. (1) When a vacancy occurs in the office of a member of the Committee, the Minister shall appoint a person to fill the vacancy, and except where the vacancy is in the office of the permanent member referred to in paragraph (a) of subsection (3) of section three hundred and forty B of this Act, the Minister shall not so appoint a person unless he is nominated by the appropriate body mentioned in that section, or unless subsection (3) of section three hundred and forty D of this Act applies to the office.

Vacancies in offices of members to be filled.

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

(3) A person is not rendered ineligible for appointment to office of member or deputy because he has previously occupied office as such.

340H. (1) Five members of the Committee or their respective deputies, including the Chairman or his deputy, constitute a quorum of the Committee.

Quorum.

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

Reimbursement of expenses of members of Committee.

340I. The Chairman and other members of the Committee 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.

Appointment of investigator.

340J. (1) The Minister may in order to give effect to and carry out the purposes of section three hundred and thirty-six of this Act appoint an investigator for such term, at such remuneration and subject to such conditions of service as the Minister determines, and is hereby authorised to determine.

(2) The person appointed to be investigator pursuant to the provisions of subsection (1) of this section shall be a medical practitioner who is a specialist in obstetrics.

(3) The Minister may at any time appoint a person having the necessary qualifications to act, and who shall act, as investigator during the absence of the investigator appointed under subsection (1) of this section, or during any vacancy in that office.

Functions of Committee.

340K. (1) Whenever the investigator shall present to the Chairman of the Committee a report pursuant to the provisions of section three hundred and thirty-six of this Act, the Chairman shall consider the report, and having regard to the circumstances disclosed by the report and the nature of the medical case history of the deceased woman, shall select two of the provisional members of the Committee as he deems necessary or advisable and shall notify the Commissioner of such selection and the identity of the members so selected.

(2) Upon receipt of the notification referred to in subsection (1) of this section, the Commissioner shall convene a meeting of the Committee constituted by the permanent members and the two provisional members so selected under that subsection, to be held within ten days of the receipt by him of the notification.

(3) The Committee shall consider the report of the investigator and for the purposes of assisting it in such consideration may co-opt such medical practitioners or nurses as the Committee thinks necessary.

(4) Upon its consideration of the report the Committee shall determine whether in the opinion of the Committee the death the subject of the report might have been avoided, and may add to such determination such constructive comments as the Committee deems advisable for the future assistance and guidance of medical practitioners and nurses.

(5) The determination of the Committee, including the comments referred to in subsection (4) of this section, shall be notified in writing by the Chairman to the medical practitioner who was attending the woman at the time of the occurrence of the death so investigated.

(6) As soon as practicable after the Committee has made a determination, the Chairman shall forward to the Commissioner all records, reports, statements, memoranda and other documents submitted to and considered by the Committee in making that determination, and the Commissioner shall have the care and control of those records, reports, statements, memoranda and other documents, and keep or cause to be kept the same in safe custody, and except as provided

by this Part and with his sanction in writing, shall not permit any of those records, reports, statements, memoranda or other documents to be inspected.

(7) A summary of the cases investigated by the investigator and considered by the Committee during each year shall be forwarded by the Chairman to the Commissioner.

When
report of
investigator
may be
published.

340L. (1) The Committee may publish, or cause to be published, in any medical journal, or may make available to the Medical School of the University of Western Australia for use in the teaching of medical students or for purposes of medical research, any investigator's report considered by the Committee and its determination relating thereto and any comments made by it, but all reasonable steps shall be taken to preclude disclosure or identification of the person or persons concerning whom the investigation and resultant report was made.

(2) The Committee may impart, or cause to be imparted to medical practitioners, medical students, nurses and trainee nurses such education and instruction in medical theory and practice as it may deem necessary or advisable from time to time so to do for their assistance and guidance in avoiding and preventing maternal morbidity or mortality.

Information
given for
research
not to be
disclosed.

340M. (1) No person engaged in research relating to any matter necessitating the use of or reference to any information, record, report, statement, memorandum or particulars referred to in subsection (4) of section three hundred and thirty-six of this Act shall in any way, directly or indirectly, disclose or divulge any information obtained by him therefrom, except as may be strictly essential in or for carrying out the research.

(2) No member of the Committee, or any person employed by or acting with the instructions or under the authority of the Committee, except an investigator appointed under section three hundred and forty J of this Act in the course of his duties, shall interview or in any way communicate with any person referred to in any report of the investigator or any relative of that person, unless the consent in writing of the medical practitioner attending that person is first obtained.

340N. (1) The Committee may, with the approval of the Governor, make such regulations as the Committee considers necessary, convenient or desirable to assist it to carry out its functions or for better carrying out the objects and purposes of section three hundred and thirty-six and this Part of this Act. Regulations.

(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 Committee;
 - (b) the appointment, supervision, control, suspension and dismissal of officers for the purposes of this Part of this Act;
 - (c) the duties to be performed by officers employed or engaged by the Committee and the manner of their performance.
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