

NATIONAL FITNESS.

9° and 10° GEO. VI., No. XVII.

No. 17 of 1945.

AN ACT relating to National Fitness.

[Assented to 9th January, 1946.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the *National Fitness Act, 1945*.

Construction.

2. This Act shall be construed subject to the Commonwealth of Australia Constitution Act and to the National Fitness Act, 1941, of the Commonwealth and so as not to exceed the legislative power of the Parliament of the State to the intent that any portion thereof which may be held to be in excess of that power or to be repugnant to any of the provisions of the National Fitness Act, 1941, of the Commonwealth aforesaid shall to the extent to which it is so in excess or is so repugnant, be deemed to be severable from the other provisions of this Act and not to affect the validity or operation thereof.

Interpretation.
Commonwealth No. 26 of 1941, s. 2.

3. In this Act, unless the context otherwise requires—
“Council” means the State National Fitness Council established under this Act.

“Councillor” means a member of the Council.

“Fund” means the State National Fitness Fund established under this Act.

“Minister” means the Minister of the Crown for the time being and from time to time charged with the administration of the Education Act, 1928-1943.

4. (1) A Council, to be known as “The State National Fitness Council” is hereby established for the purposes of this Act.

State
National Fit-
ness Council
established.

(2) The Council shall consist of the following persons, namely:—

- (a) The Minister *ex officio* who shall be Chairman;
- (b) the Director of Education *ex officio* who shall be Deputy Chairman;
- (c) the Commissioner of Public Health and the Town Planning Commissioner *ex officio*; and
- (d) such other persons (not exceeding twenty-one) as the Governor may from time to time on the nomination of the Minister appoint.

(3) The members of the Council who are appointed by the Governor shall hold office during the pleasure of the Governor.

5. (1) Any ten Councillors shall form a quorum thereof.

Proceedings
of Council.

(2) At all meetings of the Council the Chairman of the Council shall preside, if present, and, in his absence from any meeting the Deputy Chairman shall preside. If both the Chairman and the Deputy Chairman are absent from any meeting, the Councillors present shall elect one of their number to be Chairman of that meeting.

(3) Whenever the Councillors present at a meeting of the Council are not unanimous as to any matter such matter shall be decided by the majority of votes, and the decision so arrived at shall be the decision of the Council.

(4) The Chairman or the Deputy Chairman when presiding at any meeting of the Council shall have a deliberative vote and, in case of an equality of votes, the question shall be resolved in the negative.

Resignation.

6. Any Councillor, other than an ex officio Councillor, may resign from the Council by notice in writing signed by him and given to the Governor.

Appointment of Committees.

7. (1) The Council may at any time and as often as it thinks fit appoint committees to do or transact such acts, matters and things within the scope of the powers, functions and duties of the Council under this Act as the Council may by resolution authorise such Committees to do and transact.

(2) Any such Committee may consist of any number of persons, and may include persons who are not Councillors, but every such Committee shall include at least one Councillor.

(3) Every Committee shall meet at such times and places as may be determined or otherwise approved by the Council.

(4) A majority of the members of a Committee shall form a quorum thereof and the proceedings of every Committee and the conduct of the business at meetings of Committees shall as nearly as may be conform with the proceedings and conduct of the business at meetings of the Council.

(5) Every Committee shall prepare and submit in writing to the Co-ordinating Committee constituted as in this Act hereafter provided prior to each meeting of such last mentioned Committee a report of the matters and business transacted by such first mentioned Committee since the submission of its next preceding report to the said Co-ordinating Committee.

(6) Every Committee shall prepare and submit in writing direct to the Council such reports of matters and business transacted by it as the Council may from time to time require.

Co-ordinating Committee.

8. (1) There shall be established for the purposes of this Act, a Committee to be known as "the Co-ordinating Committee" which shall consist of the Chairman of each

Committee appointed under section seven of this Act and also one other member of each and every such Committee.

Provided that of the two persons who in accordance with this subsection represent a Committee upon the Co-ordinating Committee aforesaid at least one shall be a Councillor.

(2) The Chairman and Deputy Chairman of the Council shall be Chairman and Deputy Chairman *ex officio* of the Co-ordinating Committee respectively, and in the event of the absence of the Chairman and the Deputy Chairman from any meeting of such Committee the members of the Committee present at such meeting shall elect one of such members (being a Councillor) to be the Chairman of such meeting.

(3) The Co-ordinating Committee shall hold a meeting thereof once at least in every month, and more frequently if so directed by the Council, and a majority of the members of the Committee shall form a quorum thereof.

(4) The functions of the Co-ordinating Committee shall be—

- (a) To examine the reports received from the various Committees appointed under section seven of this Act, and as far as possible co-ordinate the matters dealt with in such reports, and the recommendations made in or submitted with such reports;
- (b) to prepare and submit in writing to the Council prior to each meeting of the Council a report of the matters dealt with and transacted by the Co-ordinating Committee since the submission of its next preceding report to the Council;
- (c) to make to the Council any recommendations which it may deem to be necessary, desirable or expedient; and
- (d) to do and transact such other matters as the Council may by resolution authorise it to do and transact in connection with the carrying out of the objects of this Act.

9. The Council may at any time by resolution dissolve any Committee appointed by it under section seven of this Act, or remove or determine the membership of any person as a member of any such Committee. Subject

Dissolution of
Committees
and removal
of members.

thereto, every person shall hold office as a member of any such Committee to which he is appointed during the pleasure of the Council.

Minister may appoint certain officers.

10. (1) The Minister may appoint any person or persons to fill the following offices—

- (a) Director of Physical Education and National Fitness;
- (b) Secretary to the Council;
- (c) Treasurer to the Council.

(2) Such person or persons shall act *ex officio* in their respective capacities with or to the Co-ordinating Committee constituted under section eight of this Act.

(3) The functions and duties of such officers and the rate of remuneration (if any) which may be paid to them respectively shall be such as may be prescribed by regulations.

Powers, functions and duties of the Council.
Commonwealth No. 26 of 1941, s. 3 (2).

11. The powers, duties and functions of the Council shall be:—

(a) from time to time to nominate for appointment by the Governor a person to act as the representative of the State in the Commonwealth Council for National Fitness;

(b) to advise the Governor with respect to the promotion of national fitness and, in particular, in relation to—

(i) the measures to be adopted to develop appreciation of the need for physical and cultural fitness in the building of the national character;

(ii) the provision of facilities for instruction in the principles of physical education;

(iii) the organisation of movements, and the provision of facilities for maintaining personal physical fitness; and

(iv) the training of teachers of classes and of leaders of movements or groups formed for the purpose of promoting physical fitness;

(c) to encourage the development of national fitness in the State in accordance with the advice or directions or recommendations of the Minister of State for the Commonwealth, charged with the administration of the National Fitness Act, 1941, of the Commonwealth;

(d) to formulate plans and measures necessary to carry into effect the matters mentioned in paragraphs (a) and (b) of this section;

(e) to make such inquiries and investigations and to collect such information as the Council thinks necessary to enable it to advise the Governor as hereinbefore mentioned and otherwise to enable the Council properly and effectually to carry out the purposes of this Act; and

(f) to encourage through recreational and other community activities a strong spirit of community service;

(g) generally to be the instrument through which the Government of the State may co-operate with recognised voluntary youth organisations in the development of youth service; and

(h) to exercise such other powers and functions and to perform such other duties as the Governor may by regulations confer or impose upon the Council for giving effect to the objects of this Act.

12. (1) For the purposes of this Act there shall be established a fund to be called "The State National Fitness Fund" which shall be administered by the Council.

State
National Fit-
ness Fund.
Ibid s. 4.

(2) All moneys from time to time belonging to the Fund shall be deposited in an account to be called "The State National Fitness Fund Account" which shall be kept at the Treasury.

(3) The Fund shall consist of—

- (a) Such amounts as are received from the Commonwealth under the National Fitness Act, 1941, of the Commonwealth;
- (b) such amounts (if any) as are appropriated from time to time by the Parliament of the State for the purposes of the Fund;
- (c) Gifts of money made for the purposes of this Act and the proceeds of the realization of other gifts made for those purposes; and
- (d) the income derived from the investment of moneys in the Fund.

13. Any moneys in the Fund which are not immediately required for the purposes of this Act may, subject to the approval of the Governor, be invested by the Council in any investments authorised by law for the investment of trust funds.

Investment
of moneys in
the Fund.

Application
of moneys in
the Fund.

14. Subject to the approval of the Governor, and subject as hereinafter provided, the moneys from time to time in the Fund may be used and applied for all or any of the following purposes—

- (a) the payment of the costs of administering this Act;
- (b) the payment of the general administration expenses of the Council;
- (c) the payment of the salaries of any officers or teachers appointed under the provisions of the Education Act, 1928-1943, or the remuneration (if any) of any persons appointed by the Minister under section ten of this Act to perform services in connection with or incidental to carrying into effect the objects of this Act; and
- (d) the payment of subsidies and the making of loans to any organisations approved by the Minister the objects or some of the objects of which relate to the encouragement or development of national fitness.

Provided that—

- (i) The moneys received from the Commonwealth under the National Fitness Act, 1941, of the Commonwealth shall be used and applied only for those purposes (if any) which may be specified by the Commonwealth in relation thereto; and
- (ii) gifts of money and the proceeds from the realisation of other gifts made for the purposes of this Act or so much of the Fund as represents such gifts or proceeds shall be used and applied in accordance with the conditions upon which the gifts were made.

Accounts.

15. The Council shall cause books to be provided and kept and true and regular accounts to be entered therein—

- (a) of all moneys received and belonging to the Fund;
- (b) of all moneys expended out of the Fund by the Council and the several purposes for which such moneys shall have been so expended; and
- (c) of all the assets and liabilities of the Council.

16. All such books shall be open to the inspection of the Auditor General and any person authorised by him to inspect the same.

Books may be inspected.

17. The Council shall cause its accounts to be balanced every year on the thirtieth day of June.

Accounts to be balanced.

18. (1) The Council shall cause a full and true balance sheet of the assets and liabilities together with an income and expenditure account for each year and such other statements as may be necessary to be prepared from the books and submitted to the Auditor General for audit.

Accounts to be audited.

(2) The Auditor General shall in respect to such accounts have all the powers conferred upon him by the Audit Act, 1904.

19. The Council shall once at least in every year cause a general report containing a summary of the work done under this Act during the preceding year to be prepared and laid before both Houses of the Parliament together with a true copy of its accounts as then last audited.

Report and accounts to be furnished to Parliament.
Commonwealth No. 26 of 1941, s. 6.

20. The Governor may make regulations, not inconsistent with this Act prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations.