

Approved for Reprint 2nd May, 1980.

WESTERN AUSTRALIA.

HEALTH EDUCATION COUNCIL.

7° Elizabeth II., No. XXX.

No. 30 of 1958.¹

[As amended by Acts:

No. 4 of 1961,² assented to 10th October, 1961;

No. 62 of 1975, assented to 24th October, 1975;

No. 24 of 1979³, assented to 11th September, 1979,

and reprinted pursuant to the Amendments Incorporation Act, 1938].

AN ACT to Constitute the Health Education Council of Western Australia to Advise and Make Recommendations as to the Promotion, Maintenance and Improvement, by means of Health Education, of the Health of the People of the State, and for Related Purposes.

Long title.
Substituted
by No. 24
of 1979, s. 3.

[Assented to 27th November, 1958.]

BE it enacted—

1. This Act may be cited as the *Health Education Council Act, 1958-1979*.

Short title.
Amended by
No. 24 of
1979, s. 1.

2. This Act shall come into operation on a day to be fixed by proclamation.¹

Commence-
ment.

¹ To operate from 1st May, 1959; See G.G. 24/4/59, p. 1099.

² To operate from 8th December, 1961; See G.G. 8/12/61, p. 3560.

³ To operate from 28th March, 1980; See G.G. 28/3/80, p. 1003.

Interpre-
tation.
Amended by
No. 24 of
1979, s. 4.

3. (1) 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 Trust 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.

(2) The provisions of section eight of the Health Act, 1911 apply to and in relation to the Minister for the purposes of the administration by him of this Act as if the provisions of this Act were incorporated in that Act.

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.
Amended by
No. 4 of
1961, s. 3;
No. 62 of
1975, s. 2;
No. 24 of
1979, s. 5.

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

(2) Of the persons appointed to the office of *ex officio* councillor—

- (a) one shall be an officer of the department of the Public Service of the State known as the Education Department;
- (b) one shall be an officer of the department of the Public Service of the State known as the Mental Health Services; and
- (c) two shall be officers of the department of the Public Service of the State known as the Public Health Department.

(3) Of the persons appointed to the office of nominee councillor—

- (a) one shall be a nominee of the Western Australian Alcohol and Drug Authority established under the Alcohol and Drug Authority Act, 1974;
- (b) [*Deleted by No. 24 of 1979, s. 5.*]
- (c) one shall be a nominee of the Western Australian division of the Australian Institute of Health Surveyors;
- (d) one shall be a nominee of the Western Australian branch of the Royal Australian Nursing Federation;
- (e) one shall be a nominee of the Pharmaceutical Society of Western Australia;
- (f) one shall be a nominee of the Western Australian branch of the Australian Public Health Association;
- (g) one shall be a nominee of the Local Government Association of Western Australia;
- (h) one shall be a nominee of the Country Shire Councils' Association of W.A.;
- (i) one shall be a nominee of the Perth Newspaper Proprietors' Association;
- (j) one shall be a nominee of the Country Women's Association of Western Australia;

Health Education Council.

- (k) one shall be a nominee of the Western Australian branch of the Australian Medical Association;
- (l) one shall be a nominee of the Western Australian Council of State School Organizations;
- (m) one shall be a nominee of the Western Australian branch of the Australian Dental Association;
- (n) one shall be a representative of tertiary education institutions, within the meaning of the Western Australian Tertiary Education Commission Act, 1970,¹ nominated by the Minister;
- (o) one shall be a representative of employees nominated by the Minister;
- (p) one shall be a representative of employers nominated by the Minister; and
- (q) one, not being an officer of the Public Service of the State, shall be a nominee of 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.

¹ Now titled Western Australian Post-Secondary Education Commission Act, 1970. See Act No. 26 of 1976.

(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.

(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 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.

(13) The Council—

- (a) shall cause to be recorded and kept true and proper minutes of its proceedings; and
- (b) shall conduct its proceedings in such manner as it from time to time determines and is hereby authorised to determine.

6A. [*Repealed by No. 24 of 1979, s. 6.*]

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

(b) [*Repealed by No. 24 of 1979, s. 7.*]

(2) [*Repealed by No. 24 of 1979, s. 7.*]

Gazetted of
appoint-
ments of
councillors.
Amended by
No. 24 of
1979, s. 7.

Functions of Council.
Repealed and substituted by No. 24 of 1979, s. 8.

8. The functions of the Council are—
- (a) to advise and make recommendations to the Minister as to—
 - (i) ways of promoting, maintaining, and improving, by means of health education, the health of the people of the State;
 - (ii) plans, programmes and measures that might be adopted, and facilities that might be provided, to encourage the interest, and the active co-operation, of the people of the State in health education;
 - (iii) the application of the Fund; and
 - (b) to examine and report to the Minister on any matters referred to the Council by the Minister.

9. [*Repealed by No. 24 of 1979, s. 9.*]

Appoint-
ment of
Committees.
Amended by
No. 24 of
1979, s. 10.

10. The Council may from time to time—
- (a) constitute a Committee or Committees to investigate and advise on any aspect of its functions and assign a name to such a Committee;
 - (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) [*Deleted by No. 24 of 1979, s. 10.*]
 - (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 Trust Fund, which shall be administered by the Minister.

The Fund.
Repealed and
substituted
by No. 24 of
1979, s. 11.

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

(3) There shall be paid into and held in the Fund—

- (a) any gift or grant of money, or the proceeds of any other gift or grant, accepted by the Minister on behalf of the State being a gift or grant made available subject to any trust, condition or stipulation that it be applied towards a specified health education plan, programme, measure or facility, or a health education plan, programme, measure or facility of a specified class, or a specified field of health education; and
- (b) the income derived from the investment of money forming part of the Fund.

12. Until money forming part of the Fund is applied by the Minister pursuant to section thirteen of this Act the Minister may invest it in any investments authorised by law as those in which trust funds may be invested.

Investment
of Fund.
Repealed and
substituted
by No. 24 of
1979, s. 12.

13. The Minister may apply money in the Fund derived from a gift or grant in such manner as he thinks fit in order to give effect to the trust, condition or stipulation, subject to which that gift or grant was made available.

Application
of Fund.
Repealed and
substituted
by No. 24 of
1979, s. 13.

14. [*Repealed by No. 24 of 1979, s. 14.*]

15. [*Repealed by No. 24 of 1979, s. 14.*]

16. [*Repealed by No. 24 of 1979, s. 14.*]

Regulations.
Repealed and
substituted
by No. 24 of
1979, s. 15.

17. The Governor may make such regulations as he 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.

Transitional
provisions.
Added by
No. 24 of
1979, s. 16.

18. (1) In this section—

“Council Fund” means the Health Education Council of Western Australia Fund established under this Act as enacted before the coming into operation of the amending Act;

“the amending Act” means the Health Education Council Act Amendment Act, 1979.

(2) Subject to subsection (3) of this section, upon the coming into operation of the amending Act—

- (a) all moneys (including moneys forming part of the Council Fund) and all interest thereon, all securities of whatsoever kind and all books and documents, and other property, both real and personal, held by or on behalf of the Council;
- (b) all the assets and liabilities of the Council; and
- (c) all remedies, powers, authorities, rights, title, interest and obligation in or with respect to those assets and liabilities,

shall by virtue of this subsection, and without any transfer or assignment whatever, pass to and become vested in or imposed upon the Minister and be divested and discharged from the Council.

(3) Upon the coming into operation of the amending Act, any money that immediately before then formed part of the Council Fund and was held in that Fund subject to any trust, stipulation or condition requiring it to be applied for a particular purpose or particular purposes shall, by virtue of this subsection, become part of the Fund and shall continue to be held subject to that trust, stipulation or condition.

(4) Any right of action or other remedy or power accrued to or against and any power or authority vested in or exercisable by and any agreement, undertaking, mortgage, debenture, bond, lease, deed, guarantee, covenant or obligation made, given or entered into, by or with the Council before the coming into operation of the amending Act, may be prosecuted and enforced by or against the Minister as if the right of action, remedy or power had originally been vested in or exercisable by, or the agreement, undertaking, mortgage, debenture, bond, lease, deed, guarantee, covenant or obligation had been made, given or entered into by, to or with the Minister in lieu of the Council.