

HEALTH

No. 47 of 1978.

AN ACT to amend the Health Act, 1911-1976.

[Assented to 29th August, 1978.]

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. (1) This Act may be cited as the *Health Act Amendment Act, 1978*. Short title and citation.

(2) In this Act the Health Act, 1911-1976 is referred to as the principal Act. Reprinted as approved for reprint 14th April, 1975 and amended by Acts Nos. 2 of 1975, 94 of 1972 as amended by Act Nos. 42 of 1975, and 101 of 1976.

(3) The principal Act as amended by this Act may be cited as the Health Act, 1911-1978. Reprinted as approved for reprint 14th April, 1975 and amended by Acts Nos. 2 of 1975, 94 of 1972 as amended by Act Nos. 42 of 1975, and 101 of 1976.

Commence-
ment.

2. The provisions of this Act shall come into operation on such day or days as is, or are respectively, fixed by proclamation.

Section 2
amended.

3. Section 2 of the principal Act is amended—

(a) by adding immediately after the passage

“PART VIIIA.—ANALYTICAL SERVICES,
ss. 247A-247F.” the following passage—

PART VIIIB.—HEALTH LABORATORY
SERVICES, s. 247G. ;

(b) by deleting the passage “s. 330A.” in the reference to Part XIIA, and substituting the passage “ss. 330A-330B.”; and

(c) by adding immediately after the passage “PART XIIB.—MATERNAL MORTALITY COMMITTEE, ss. 340A-340N.” the following passage—

PART XIIB.—PERINATAL AND
INFANT MORTALITY COMMIT-
TEE, ss. 340AA-340AN.

PART XIIC.—ANAESTHETIC MORT-
ALITY COMMITTEE, ss. 340BA-
340BN. .

Section 205A
amended.

4. Section 205A of the principal Act is amended by deleting all the words following the word “offence” in line five of subsection (4).

Section 207
repealed.

5. Section 207 of the principal Act is repealed.

Section 208
amended.

6. Section 208 of the principal Act is amended by deleting subsection (3).

7. Section 215 of the principal Act is repealed. Section 215 repealed.
8. Section 218 of the principal Act is amended— Section 218 amended.
- (a) as to subsection (1), by deleting all the words following the passage “powdered,” where it appears in paragraph (e), and substituting the words “commits an offence”; and
- (b) by deleting subsection (3).
9. Section 219 of the principal Act is amended by deleting all the words following the passage “quality,” where it appears in line five, and substituting the words “commits an offence”. Section 219 amended.
10. Section 220 of the principal Act is amended by deleting all the words following the passage “this Act” where it appears in line five of paragraph (c) of subsection (1), and substituting the words “commits an offence”. Section 220 amended.
11. Section 221 of the principal Act is amended by deleting subsection (2) and substituting a new subsection as follows— Section 221 amended.
- (2) Any person who fails to comply with the provisions of subsection (1) of this section commits an offence.
12. Section 222 of the principal Act is amended by deleting all the words following the word “provisions”, in line two of subsection (3), and substituting the passage “of subsection (1) of this section commits an offence”. Section 222 amended.

Section 223
amended.

13. Section 223 of the principal Act is amended by deleting the words "shall be guilty of an offence against this Division", in lines five and six of subsection (2), and substituting the words "commits an offence".

Section 224
amended.

14. Section 224 of the principal Act is amended by deleting the words "shall be liable to a penalty not exceeding forty dollars", in lines six and seven, and substituting the words "commits an offence".

Section 226
amended.

15. Section 226 of the principal Act is amended by deleting the words "shall be guilty of an offence against this Division", in lines nine and ten, and substituting the words "commits an offence".

Section 227
amended.

16. Section 227 of the principal Act is amended—

- (a) as to subsection (1), by deleting the words "shall be guilty of an offence against this Division", in lines ten and eleven, and substituting the words "commits an offence";
- (b) as to subsection (3), by deleting the words "against this Division", being the last three words in that subsection; and
- (c) as to subsection (4), by deleting the words "shall be guilty of an offence against this Division", in lines twelve and thirteen, and substituting the words "commits an offence".

Section 228
amended.

17. Section 228 of the principal Act is amended—

- (a) as to subsection (2), by deleting the words "shall be guilty of an offence against this Division" in lines seven and eight, and substituting the words "commits an offence"; and

- (b) as to subsection (12), by deleting the words “shall be guilty of an offence against this Division”, in lines four and five, and substituting the words “commits an offence”.

18. Section 230 of the principal Act is amended by deleting the words “shall be guilty of an offence against this Division”, in lines thirty-six and thirty-seven, and substituting the words “commits an offence”.

Section 230
amended.

19. Section 236 of the principal Act is amended by deleting all the words following the word “compound”, in line ten, and substituting the words “commits an offence”.

Section 236
amended.

20. Section 237 of the principal Act is amended—

Section 237
amended.

(a) by inserting after the section designation “237.” the subsection designation “(1)”; and

(b) by adding a further subsection as follows—

(2) A person who contravenes the provisions of subsection (1) of this section commits an offence.

21. Section 239 of the principal Act is amended by deleting the words “shall be guilty of an offence against this Act”, in lines seven and eight, and substituting the words “commits an offence”.

Section 239
amended.

22. Section 241 of the principal Act is repealed.

Section 241
repealed.

23. Section 241F of the principal Act is amended by deleting the passage commencing with the words “is guilty” in line thirteen and ending with the word “continues”, being the last word in the section, and substituting the words “commits an offence”.

Section 241F
amended.

Section 241I
amended.

24. Section 241I of the principal Act is amended by deleting the words "not exceeding one hundred dollars", in lines one and two of subsection (2).

Section 243
amended.

25. Section 243 of the principal Act is amended by deleting the words "shall be guilty of an offence", where they occur as the last words of subsection (1) and of subsection (2), and substituting in each case the words "commits an offence".

Section 244
amended.

26. Section 244 of the principal Act is amended by deleting the words "shall be guilty of an offence", in line seven, and substituting the words "commits an offence".

Section 245
amended.

27. Section 245 of the principal Act is amended by deleting the words "shall be guilty of an offence", where they occur as the last words of subsections (1), (2), (3), (4) and (5) and substituting in each case the words "commits an offence".

Section 246
amended.

28. Section 246 of the principal Act is amended by deleting the words "shall be guilty of an offence", in line four, and substituting the words "commits an offence".

Section 247
repealed and
re-enacted.

29. Section 247 of the principal Act is repealed and re-enacted with amendments as follows—

Penalties.

247. Any person who commits an offence against any provision of this Part of this Act, or against any by-law or regulation made under any Division of this Part of this Act, shall be liable on conviction, if there is no penalty specially provided for such offence—

- (a) for a first offence, to a penalty of not less than fifty dollars and not exceeding one hundred dollars;
- (b) for a second offence, to a penalty of not less than two hundred dollars and not exceeding five hundred dollars; and

- (c) for each subsequent offence, to a penalty of not less than three hundred dollars and not exceeding one thousand five hundred dollars, or imprisonment with or without hard labour for a period not exceeding six months. .

30. The principal Act is amended by inserting after section 247F a heading and new sections to stand as Part VIIIIB as follows—

Part VIIIIB
added.

PART VIIIIB.—HEALTH LABORATORY SERVICES.

247G. (1) For the purpose of providing diagnostic and related services to meet the requirements of the Department of Public Health, the public hospital service and other bodies and persons there shall be a Health Laboratory Service which shall form part of the Department of Public Health.

Health
laboratory
services.

(2) The branch of the Public Service known as the State Health Laboratories heretofore established shall hereafter be, and be maintained as, part of the Health Laboratory Service.

(3) The Minister may enter into arrangements with any hospital, university or other body or person with respect to the supply of laboratory and other related services either to the Health Laboratory Service or, at the request of any person, by the Health Laboratory Service.

(4) Subject to the Public Service Act, 1904, there shall be appointed such officers and other staff as may be requisite to provide and maintain the services to be rendered.

(5) There shall be appointed by the Minister a committee to advise on any proposal to expand any existing laboratory service or to set up any new service, and such other committees as may be required for the purposes of the Health Laboratory Service, and the constitution and terms of reference of any such committee shall be such as the Minister may determine.

(6) The Governor may make regulations for and in respect to the Health Laboratory Service, and may prescribe fees and charges to be paid for the services rendered by the Health Laboratory Service. .

Sections 316A
to 323B
repealed.

31. Section 316A to section 323B, inclusive, of the principal Act are repealed.

Section 330B
added.

32. The principal Act is amended by inserting after section 330A a new section to stand as section 330B, as follows—

Local
authorities
may sub-
sidise
certain
medical
centres.

330B. (1) For the purpose of providing for the needs of the inhabitants of the municipality a local authority may provide and maintain or grant financial or other assistance towards the provision and maintenance of—

- (a) land, buildings or facilities associated therewith acquired or to be acquired by the Minister pursuant to section 330A of this Act;
- (b) land or buildings to provide practice or living accommodation required for the use of any medical practitioner or dental practitioner in practice on his own account.

(2) For the purposes of this section a local authority may enter into an agreement with another local authority, the Commissioner, a medical or dental practitioner in practice on his own account, or any other person necessary to make provision for the erection, purchase, taking on lease, letting out, use or maintenance of the facilities provided or to be provided.

(3) The facilities to be provided or assistance to be given under this section may be so provided or assisted jointly with another local authority, and may relate to a centre or services established or provided elsewhere than in the municipality. .

33. The principal Act is amended by inserting after section 336 a new section, to stand as section 336A, as follows—

New section added.

336A. (1) Whenever any child of more than twenty weeks gestation is still-born or any child under the age of one year shall die from any cause whatsoever, the fact shall be reported forthwith to the Commissioner by the medical practitioner who was at the time of such still-birth or death attending that child or who certified that the death of the child had occurred.

Certain deaths of children to be reported to the Commissioner.

(2) Except where the circumstances are such that the Commissioner is satisfied that the cause of death arose from a specific injury, or from an illness that the Committee has directed does not require further investigation, upon receipt of the report the Commissioner shall by notice in writing signed by him direct an investigator appointed under the provisions of Part XIIIIB of this Act to enquire into the circumstances of that still-birth or death and by such notice require him to present to the Chairman of the Perinatal and Infant 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 connected medical case history relating to the deceased child but shall not contain any particulars from which it may be possible to ascertain the identity of that child.

(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, to any person other than the Chairman of the Perinatal and Infant 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 XIIIIB 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 Perinatal and Infant Mortality Committee except for the purposes and in accordance with the provisions of Part XIIIIB 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 Perinatal and Infant 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.

34. The principal Act is amended by inserting after Part XIII A a new Part, to stand as Part XIII B of the principal Act, as follows—

Part XIII B
added.

PART XIII B.—PERINATAL AND INFANT MORTALITY
COMMITTEE.

340AA. In this Part unless the context requires otherwise—

Interpreta-
tion.

“Committee” means the Perinatal and Infant Mortality Committee constituted under this Part;

“investigator” means the medical practitioner 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 eighty kilometres from the General Post Office at Perth.

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

Constitution
and offices
of Commit-
tee.

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

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

- (a) one shall be the Professor of Obstetrics of the University of Western Australia;
- (b) one shall be a medical practitioner of the Public Health Department nominated by the Commissioner;
- (c) one shall be a medical practitioner specialising in neonatal paediatrics at King Edward Memorial Hospital nominated by the Hospital Board of that hospital;
- (d) one shall be a medical practitioner specialising in neonatal paediatrics at Princess Margaret Hospital for Children nominated by the Hospital Board of that hospital;
- (e) one shall be a general medical practitioner having not less than five years practice outside the metropolitan area, nominated by the State Branch of the Australian Medical Association; and
- (f) one shall be a medical practitioner specialising in Clinical Epidemiology nominated by the Commissioner.

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

- (a) one shall be a medical practitioner specialising in obstetrics and perinatal care, nominated by the State Branch of the Australian Council of the Royal College of Obstetricians and Gynaecologists;
- (b) one shall be a general medical practitioner with special interest in perinatal care, nominated by the State Branch of the Royal Australian College of General Practitioners;

- (c) one shall be a general medical practitioner, nominated by the Commissioner; and
- (d) one shall be a midwifery nurse in clinical practice nominated by the State Branch of the Royal Australian Nursing Federation.

(5) The Chairman of the Committee shall be appointed by the Minister from amongst the persons who are permanent members of the Committee.

340AC. (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.

Appointment
of deputies.

(2) Where a member is required under section three hundred and forty AB of this Act to be nominated by a specified body, a person is not eligible for appointment as a deputy of that member of the Committee unless he is nominated as deputy by that body or unless he is appointed by the Minister under the provisions of subsection (3) of section three hundred and forty AD of this Act.

340AD. (1) The bodies mentioned in subsections (3) and (4) of section three hundred and forty AB 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 AF of this Act, a member or members of the respective body to become a permanent member, or as the case may be, a provisional member 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 AB 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 as he thinks fit.

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

Tenure of office.

340AE. (1) The term of tenure of office of a person appointed as a permanent or provisional member of the Committee 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 *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 the provisional members referred to in paragraphs (a) and (d) of subsection (4) of section three hundred and forty AB of this Act for a period of two years, but in all subsequent appointments the provisions of subsection (1) of this section shall apply.

When office of member becomes vacant.

340AF. (1) 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; or
- (e) he absents himself from three consecutive meetings of the Committee of which he is a member without leave of absence.

(2) The Chairman shall hold office as such at the pleasure of the Minister.

340AG. (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 where pursuant to section three hundred and forty AB of this Act a specified body has the right to nominate that member 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 AD of this Act applies to the office.

Vacancies in offices of members to be filled.

(2) Where a vacancy in the 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 the office of member or as a deputy because he has previously occupied office as such.

340AH. (1) Four members of the Committee or their respective deputies, of whom one shall be the Chairman or his deputy, constitute a quorum of the Committee so long as at least one permanent member other than the Chairman and one provisional member, or their respective deputies, are amongst those present.

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.

Reimburse-
ment of
expenses of
members.

340AI. 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 investi-
gator.

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

(2) Of the persons appointed to be investigators pursuant to the provisions of subsection (1) of this section—

- (a) one shall be a medical practitioner who is a specialist in obstetrics; and
- (b) one shall be a medical practitioner who is a specialist in neonatal paediatrics.

(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 either of the investigators appointed under subsection (1) of this section, or where through any cause such an investigator is unable to perform the functions of his office, or during any vacancy in those offices.

Functions of
Committee.

340AK. (1) Whenever an investigator shall present to the Chairman of the Committee a report pursuant to the provisions of section three hundred and thirty-six A 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 that still-born or deceased child, may 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 permanent members of the Committee 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 purpose of assisting it in such consideration may co-opt such medical practitioners, nurses, or other persons with specialised knowledge as the Committee thinks necessary.

(4) Upon its consideration of the report the Committee shall determine whether in the opinion of the Committee the still-birth or 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 child at the time of the occurrence of the still-birth or 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 investigators and considered by the Committee during each year shall be forwarded by the Chairman to the Commissioner.

When report
may be
published.

340AL. (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, child or children 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 perinatal or infant morbidity or mortality.

Information
for research
not to be
disclosed.

340AM. (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 A 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 AJ of this Act acting 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 who was attending the child at the time of the occurrence of the still-birth or death being investigated is first obtained.

340AN. (1) The Committee may, with the Regulations. 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 A of this Act.

(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.

New section
added.

35. The principal Act is amended by inserting after section 336 a new section, to stand as section 336B, as follows—

Death of
persons
under
anaesthetic
to be
reported to
the Commis-
sioner.

336B. (1) Whenever any person shall die within the period of forty-eight hours following the administration of an anaesthetic agent or as the result of any complications arising from the administration of an anaesthetic, the fact of such death shall be reported forthwith to the Commissioner by the person who administered the anaesthetic to the deceased.

(2) Where a medical practitioner who attended a person prior to the death of that person is of the opinion that anaesthesia or the administration of an anaesthetic may reasonably be suspected as the cause of death or as contributing to the cause of death of that person, that medical practitioner shall forthwith report to the Commissioner that he has formed such an opinion.

(3) Upon receipt of a report made pursuant to subsection (1) or subsection (2) of this section the Commissioner shall, subject to subsection (4) of this section, by notice in writing signed by him direct an investigator appointed under the provisions of Part XIIIIC of this Act to enquire into the circumstances of the death and if in the opinion of that investigator the death is likely to have been due to anaesthesia then he shall pursue the investigation and shall be required to present to the Chairman of the Anaesthetic Mortality Committee appointed under that Part, within a time to be specified in the notice, a full report of the investigation made by him, but if in the opinion of the investigator the death was not likely to have been due to anaesthesia he shall report his finding to the Commissioner.

(4) Where the circumstances are such that an investigation is being or will be undertaken by the Maternal Mortality Committee in

accordance with Part XIII A of this Act then notwithstanding the provisions of subsection (3) of this section the Commissioner shall not be required to direct an investigation pursuant to this section.

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

(6) 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, to any person other than the Chairman of the Anaesthetic 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 C of this Act.

(7) No information, record, report, statement, memorandum or particulars referred to in subsection (6) 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 Anaesthetic Mortality Committee except for the purposes and in accordance with the provisions of Part XIII C of this Act.

(8) 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 Anaesthetic Mortality Committee, of any information, record, report, statement, memorandum or particulars referred to in subsection (6) of this section.

(9) 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.

Part XIIIIC
added.

36. The principal Act is amended by inserting after Part XIIIIA a new Part, to stand as Part XIIIIC of the principal Act, as follows—

PART XIIIIC.—ANAESTHETIC MORTALITY COMMITTEE.

Interpreta-
tion.

340BA. In this Part unless the context requires otherwise—

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

“investigator” means the specialist anaesthetist 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 eighty kilometres from the General Post Office at Perth.

340BB. (1) For the purposes of this Part a body to be called the "Anaesthetic Mortality Committee" and having the functions prescribed by this Part shall be constituted as provided in this section.

Constitution
and offices
of Commit-
tee.

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

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

- (a) one shall be nominated by the Faculty of Anaesthetists of the State Branch of the Royal Australian College of Surgeons, and he shall be Chairman of the Committee;
- (b) one shall be a medical practitioner nominated by the Commissioner;
- (c) one shall be a medical practitioner specialising in anaesthetics nominated by the Senate of the University of Western Australia on the advice of the Faculty of Medicine until such time as a Chair of Anaesthesia is created at that University, but thereafter shall be the person for the time being appointed as Professor of Anaesthesia at the University or a person nominated by him;
- (d) one shall be a medical practitioner specialising in anaesthetics nominated by the State Branch of the Australian Society of Anaesthetists; and
- (e) one shall be a medical practitioner specialising in anaesthetics, nominated by the State Branch of the Australian Medical Association.

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

- (a) one shall be a medical practitioner specialising in obstetrics and gynaecology, nominated by the State Branch of the Australian Council of the Royal College of Obstetricians and Gynaecologists;
- (b) two shall be general medical practitioners with at least five years experience and special interest in anaesthesia, nominated by the State Branch of the Royal Australian College of General Practitioners, of whom one shall practice within the metropolitan area and one outside that area;
- (c) one shall be a medical practitioner specialising in surgery nominated by the State Branch of the Royal Australian College of Surgeons;
- (d) one shall be a registered midwife having not less than five years experience in, and currently practising, midwifery, nominated by the State Branch of the Royal Australian Nursing Federation;
- (e) one shall be a dental practitioner, nominated by the State Branch of the Australian Dental Association; and
- (f) one shall be the person who is for the time being the Professor of Clinical Pharmacology of the University of Western Australia.

Appointment
of deputies.

340BC. (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) Where a member is required under section three hundred and forty BB of this Act to be nominated by a specified body, a person is not eligible for appointment as a deputy of that member of the Committee unless he is nominated as deputy by that body or unless he is appointed by the Minister under the provisions of subsection (3) of section three hundred and forty BD of this Act.

340BD. (1) The bodies mentioned in subsections (3) and (4) of section three hundred and forty BB 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 BF of this Act, a member or members of the respective body to become a permanent member, or as the case may be, a provisional member 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 BB 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 as he thinks fit.

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

340BE. (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 by effluxion of time on the expiration of a period of three years commencing on the day specified in the notice of the

Tenure of
office.

appointment published in the *Government Gazette* as the commencing day of that term, and in the case of the Chairman the period shall be four years.

(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 four of the provisional members referred to in subsection (4) of section three hundred and forty BB of this Act for a period of two years, but in all subsequent appointments the provisions of subsection (1) of this section shall apply.

When office
of member
becomes
vacant.

340BF. 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 BB of this Act, the Minister terminates the term of tenure of his office; or
- (f) he absents himself from three consecutive meetings of the Committee of which he is a member without leave of absence.

Vacancies in
offices of
members to
be filled.

340BG. (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 where pursuant to section three

hundred and forty BB of this Act a specified body or person has the right to nominate that member the Minister shall not so appoint a person unless he is nominated by the appropriate body or person mentioned in that section or unless subsection (3) of section three hundred and forty BD of this Act applies to the office.

(2) Where a vacancy in the 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 the office of member or as a deputy because he has previously occupied office as such.

340BH. (1) Five members of the Committee or their respective deputies, of whom one shall be the Chairman or his deputy, constitute a quorum of the Committee so long as at least one permanent member other than the Chairman and one provisional member, or their respective deputies, are amongst those present.

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.

340BI. 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.

Reimbursement of expenses of members.

340BJ. (1) The Minister may, in order to give effect to the purposes of section three hundred and thirty-six B 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.

Appointment of investigator.

(2) A person appointed to be an investigator pursuant to the provisions of subsection (1) of this section shall be selected from medical practitioners who specialise in anaesthetics.

(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 where through any cause such investigator is unable to perform the functions of his office, or during any vacancy in that office.

Functions of
Committee.

340BK. (1) Whenever an investigator shall present to the Chairman of the Committee a report pursuant to the provisions of section three hundred and thirty-six B 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 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 constituted from amongst the permanent members of the Committee 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 purpose of assisting it in such consideration may co-opt such medical practitioners or nurses, or other persons with specialised knowledge, 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, dental 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 or dental practitioner, or to each such practitioner, attending the deceased 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.

340BL. (1) The Committee may publish, or cause to be published, in any reputable health journal, or may make available to the Medical School or the School of Dental Science of the University of Western Australia for use in the teaching of medical or dental students or for

When
report may
be published.

purposes of medical or dental 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, dental practitioners, dental students, nurses, trainee nurses and others such education and instruction in anaesthetic 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 anaesthetic morbidity or mortality.

Information
for research
not to be
disclosed.

340BM. (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 B 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 BJ 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 or dental practitioner, or both, attending that person at the time of the occurrence of the death being investigated is first obtained.

340BN. (1) The Committee may, with the Regulations. 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 B of this Act.

(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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