

HEALTH COMMISSION BILL 1977.

EXPLANATORY MEMORANDUM.

Clause 1. Short Title and Division into Parts and Divisions.

Clause 2. Commencement.

The clause is designed to enable the following sequence of events to occur by proclamation—

- (1) the Health Commission is established by bringing into operation the Parts and sections mentioned in clause 2 (1).
- (2) the Health Commission succeeds to the Department of Health and the Commission of Public Health by bringing into operation the Parts and sections mentioned in clause 2 (2).
- (3) the Health Commission succeeds to the Hospitals and Charities Commission by bringing into operation the Division mentioned in clause 2 (3).
- (4) the Health Commission succeeds to the Mental Health Authority by bringing into operation the Division mentioned in clause 2 (4).
- (5) two years after the proclamation mentioned in (3) above (that is the disappearance of the Hospitals and Charities Commission) new Committee provisions in respect of Boards and Committees of Hospitals come into operation.
- (6) the miscellaneous amendments contained in clause 54 can be brought into operation at any time. Clause 2 (6) enables this to be done.

Clause 3. Interpretation.

Clauses 4 and 5 establish the Health Commission of Victoria as a body corporate.

Clause 6 sets out the functions of the Commission which are subject to directions by the Minister.

Clause 7 sets out the powers of the Commission the exercise of which is subject to the general control of the Minister.

Clause 8 enables the Commission to acquire property and enter into contracts in accordance with the restrictions contained in the clause.

The clause specifically prohibits the Commission from acquiring property in areas which are the prerogative of the Victorian Public Offices Corporation.

Clause 9 prohibits the Commission from borrowing money.

Clause 10 sets out the constitution of the Commission in respect of the numbers of full-time and part-time Commissioners.

Clause 11 deals with full-time Commissioners and specifies—

- (a) a term not exceeding seven years subject to eligibility for re-appointment ;
- (b) that a person 65 years of age and over cannot be a full-time Commissioner ;
- (c) that a full-time Commissioner shall not engage in outside employment.

Clause 12 deals with part-time Commissioners and specifies—

- (a) a term of appointment not exceeding six years ;
- (b) that a part-time Commissioner cannot hold office for more than six consecutive years ;
- (c) that a part-time Commissioner cannot be appointed or continue once appointed after 70 years of age.

Clause 13 exempts all Commissioners from the provisions of the *Public Service Act 1974*, but saves the rights of any public servants who may be appointed Commissioners.

Clause 14 provides for the remuneration of all Commissioners.

Clause 15 enables the Minister to grant leave of absence to a Commissioner.

Clause 16 contains the usual provisions relating to resignation or termination of services of a Commissioner.

Clause 17 provides for acting appointments in respect of the Chairman and Commissioner where there is a casual vacancy or where on account of illness or otherwise the Chairman or a Commissioner is unable to act.

Clause 18 specifies the procedures to be followed in the conduct of a meeting of the Commission and provides for the quorum.

Clause 19 enables the Commission to delegate to a Commissioner or officer of the Commission or in respect of its functions under the Health Act, to a municipal council.

Clause 20 enables the Commission to act despite a vacancy or vacancies in the office of Commissioner.

Clause 21 requires a Commissioner to disclose his interest in any contract entered into or proposed to be entered into by the Commission and sets out the procedure to be followed.

Clause 22 provides for the staffing of the Commission and the Minister's office.

Clause 23 sets up the Health Advisory Council to consist of not more than 25 members.

The clause provides for—

- (a) a term of appointment not exceeding six years ;
- (b) a prohibition on a member serving more than six consecutive years ;
- (c) removal of a member.

Clause 24 specifies the functions and powers of the Council.

Clause 25 requires the Commission to assist the Council in carrying out its investigations.

Clause 26 relates to meetings of the Council and gives the Commission power to appoint a full-time Commissioner to attend meetings. Such Commissioner has no vote.

Clause 27 enables a member of the Council to receive travelling and other allowances.

Clause 28 enables the Council to appoint sub-committees and to co-opt persons to those sub-committees. Such co-opted persons are entitled to receive travelling and other allowances.

Clause 29 enables the Minister to establish consultative councils.

Clause 30 evidentiary provision.

Clause 31 enjoins a Commissioner, any employé, a member of the Health Advisory Council, a member of a Consultative Council or any person appointed for the purposes of the Act to secrecy.

A penalty of \$500 is provided for contraventions.

Clause 32—for the purposes of Parts III. and X. of the *Labour and Industry Act 1958*, the clause deems the Health Commission—

- (a) to be an employer in the case of persons employed in certain institutions ; and
- (b) to be the employer in the case of a medical practitioner engaged by the session in a scheduled hospital.

The Parts of the Labour and Industry Act referred to contain the Industrial Tribunals and Inspections, Legal Proceedings and Offences and Penalties provisions.

Clause 33 requires—

- (a) the Commission to make an annual report ;
- (b) the Minister to lay such report before each House of the Parliament.

Clause 34 requires—

- (a) the Health Advisory Council to make an annual report ;
- (b) the Minister to lay such report before each House of the Parliament.

Clause 35 empowers the Governor in Council to make regulations.

Clause 36 contains the transitory provisions necessary upon the succession of the Health Commission of Victoria to—

- (a) the Chief Health Officer ; and
- (b) the Commission of Public Health.

Clause 37 amends the *Health Act* 1958 to facilitate the transfer of functions of the existing Health Department to the Health Commission of Victoria.

Clause 38 amends the *Public Service Act* 1974 to specify that the Chairman of the Commission shall be the Permanent Head of the Department.

Clause 39 transfers all medical officers of the Mental Hygiene Branch of the old Health Department to the Public Service of Victoria.

Existing rights of such officers are preserved.

This is effected by amending section 15 of the *Mental Health Act* 1959.

Clause 40 amends the several Acts set out in Part A of Schedule One.

Those amendments are generally consequential upon the succession of the new Commission to the old Health Department.

Clause 41 contains the transitory provisions necessary upon the succession of the Health Commission of Victoria to the Hospitals and Charities Commission.

Clause 42 dissolves the Hospitals and Charities Commission and provides for the holding in trust by the new Commission of charitable bequests and gifts presently so held by the Hospitals and Charities Commission.

Clause 43 transfers the staff of the Hospitals and Charities Commission to the Public Service of Victoria. The rights of such transferees are preserved.

Clause 44 enables staff transferred from the Hospitals and Charities Commission to the Public Service to—

- (a) join the State Superannuation Fund ; or
- (b) remain in the Hospitals Superannuation Fund.

Clause 45 declares the State to be a participating institution Class A for the purposes of the Hospitals Superannuation Act.

This is necessary having regard to persons who, under clause 44, may wish to remain contributors under that scheme.

Clause 46 defines “ Scheduled Hospital ” for the purposes of the Hospitals and Charities Act and amends that Act consequentially. The list of such hospitals is in the Fifth Schedule to the *Hospitals and Charities Act* 1958.

A new Division 1A is inserted into Part IV. of the Hospitals and Charities Act to provide as follows:—

- (a) *New Section 63A*—enables certain variations to be made to the Fifth Schedule by Order in Council.

(b) *New Section 63B*—requires any agreement entered into by a scheduled hospital or by a committee of such a hospital on a capital project exceeding \$50,000 or greater if determined by the Governor in Council to be subject to prior approval by the Commission.

Capital projects are defined in sub-section (2) of the section.

(c) *New Section 63C*—enables the Commission to give directions to a scheduled hospital and to the Committee of a scheduled hospital and requires such hospital or committee to comply with those directions.

The areas in which such directions may be given are restricted.

Clause 47 amends the several Acts set out in Part B of Schedule One. Those amendments are generally consequential upon the succession of the new Commission to the old Hospitals and Charities Commission.

Clause 48 contains the transitory provisions necessary upon the succession of the Health Commission of Victoria to the Mental Health Authority.

Clause 49 dissolves the Mental Health Authority by amending the *Mental Health Act 1959* appropriately.

Clause 50 amends the several Acts set out in Part C of Schedule One.

Those amendments are generally consequential upon the succession of the new Commission to the Mental Health Authority.

PART VII.—BOARDS AND COMMITTEES OF HOSPITALS.

General Comment.

This Part of the Bill makes provisions in respect of Boards and Committees of Hospitals.

Those provisions, in summary, provide—

- (a) governing committees shall be not less than seven nor more than twelve members.
- (b) members are to be appointed by the Governor in Council such members being chosen from a panel of names submitted to the Minister by the committee of the hospital.
- (c) term of office is not to exceed three years.
- (d) not more than one-quarter of the members may be qualified medical practitioners.
- (e) a committee member is not subject to the *Public Service Act 1974*.
- (f) a member of Parliament is enabled to be or remain a committee member without contravening the provisions of the Constitution Act.

Clause 51 amends the *Cancer Act 1958* to apply the new Committee provisions to the Cancer Institute Board.

Clause 52 amends the *Health Act 1958* to apply the new Committee provisions to the Board of the Fairfield Hospital Board.

Clause 53 amends the *Hospitals and Charities Act 1958* to apply the new Committee provisions to all scheduled hospitals other than those mentioned in clauses 51 and 52 and in Table B of the Fifth Schedule to the *Hospitals and Charities Act 1958*.

Note :—

- (a) *New Section 63M*—requires a committee to seek approval of the new Commission before appointing a Secretary ;
- (b) *New Section 63M*—enables the new Commission to direct a committee to suspend a Secretary in certain circumstances and provides for an appeal to the Minister against such suspension.

(c) *New Section 63N*—makes special provisions in respect of the governance of the Royal Dental Hospital.

Clause 54 validates the amendments to the several Acts set out in Schedule Two.

Clauses 55 and 56 make provision for the appointment of acting members of the Hospitals and Charities Commission and the Mental Health Authority during the period between the establishment of the new Commission and the succession of that Commission to both bodies.

SCHEDULE ONE.

Part A. This Part of the Schedule comes into operation on the day the Commission succeeds to the Department of Health and the functions of the Chief Health Officer.

Part B. This Part of the Schedule comes into operation on the day on which the Commission succeeds to the Hospitals and Charities Commission.

Part C. This Part of the Schedule comes into operation on the day the Commission succeeds to the Mental Health Authority.

SCHEDULE TWO.

This Schedule contains miscellaneous amendments not consequential upon the establishment of the Commission.