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ENVIRONMENT PROTECTION AMENDMENT ACT 1984

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 No. 110 of 1984
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AN ACT to amend the Environment Protection Act 1973.

[Royal Assent 21 December 1984]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Environment Protection Amendment Act 1984*. **Short title.**

2—(1) This section and section 1 shall commence on the date of assent to this Act. **Commence-
ment.**

(2) Except as provided in subsection (1), this Act shall commence on such day as may be fixed by proclamation.

3—In this Act, the *Environment Protection Act 1973** is referred to as the Principal Act. **Principal Act.**

* No. 34 of 1973. For this Act, as amended to 1st January 1980, see the continuing Reprint of Statutes. Subsequently amended by Nos. 21, 48, and 94 of 1980 and Nos. 9 and 64 of 1982.

Amendment of section 2 of Principal Act (Interpretation).

4—Section 2 (1) of the Principal Act is amended as follows:—

(a) by omitting the definition of licence and substituting the following definition:—

“ licence ” means a licence issued under sections 25 or 36A and includes a renewed licence;

(b) by inserting the following definition after the definition of “ public authority ”:—

“ Public Service ” has the meaning assigned to that expression in the *Public Service Act 1973*;

“ Public Service Board ” means the board appointed under section 6 of the *Public Service Act 1973*.

Amendment of section 3 of Principal Act (Effect on other Acts).

5—Section 3 of the Principal Act is amended by omitting subsections (4) and (5).

Amendment of section 5 of Principal Act (Officers).

6—Section 5 of the Principal Act is amended by inserting the following subsection after subsection (5):—

(5A) Before the Director exercises any of his powers under this Act which may affect the exercise of any power conferred, or the performance of any duty imposed, on the Hydro-Electric Commission under the *Hydro-Electric Commission Act 1944* or the Forestry Commission under the *Forestry Act 1920*, he shall consult with the Commissioner of the Hydro-Electric Commission or the Chief Commissioner of the Forestry Commission, as the case may be, as to the effect of the exercise of those powers.

Substitution of section 7 of Principal Act.

7—Section 7 of the Principal Act is repealed and the following section is inserted:—

Environment Protection Advisory Council.

7—(1) There is constituted by this Act a council to be known as the Environment Protection Advisory Council.

(2) The council shall consist of 6 persons appointed by the Minister who, in the opinion of the Minister, represent the appropriate interests relevant to the purposes of this Act.

(3) The Minister shall appoint one of the persons appointed under subsection (2) as chairman of the council.

(4) The council may, with the approval of the Minister, co-opt additional persons as members of the council for a specified meeting or meetings or for a period not exceeding 12 months, but such members of the council shall not have any voting rights.

(5) A person who is co-opted as a member of the council pursuant to subsection (4) is entitled to be paid such remuneration as may be prescribed in regulations made under this Act.

(6) The Minister may—

- (a) summon a special meeting of the council;
- (b) attend any meetings of the council; and
- (c) confer with the council at any meeting of the council.

(7) Schedule 2 has effect with respect to the membership of the council.

(8) Schedule 3 has effect with respect to the meetings of the council.

8—After section 7 of the Principal Act, the following section is inserted:—

Insertion in
Principal Act
of new
section 7A.

7A—(1) Subject to and in accordance with the provisions of the *Public Service Act* 1973, there may be appointed and employed a secretary of the council.

Secretary
to council.

(2) An officer of the Public Service may, with the approval of the Public Service Board, be appointed and hold office under subsection (1) in conjunction with his office as an officer of the Public Service.

9—Section 10 (11) of the Principal Act is amended as follows:—

Amendment of
section 10 of
Principal Act
(Powers, &c., of
authorized
officers).

(a) by omitting paragraph (a) and substituting the following paragraph:—

(a) by notice in writing, require—

- (i) the owner of a motor vehicle; or
- (ii) where the owner is not residing in the State or is absent from the State, the driver or agent of the owner of a motor vehicle,

to bring the motor vehicle to an inspection centre selected by the owner, agent, or the driver, as the case may be, within a specified number of days, being not less than 10 days, and within a specified number of hours, being not less than 6, for inspection as provided for in paragraph (e);

(b) by omitting from paragraph (d) “and the driver shall comply”.

Amendment of section 15 of Principal Act (Fixed sources of pollution).

10—Section 15 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) “ an occupier of ” and substituting “ a person on any ”;
- (b) by omitting from subsection (2) “ no person on land shall ” and substituting “ a person on any land shall not ”;
- (c) by omitting subsection (3) and substituting the following subsection:—

(3) For the purposes of this section, a person on any land who causes or permits a pollutant to enter underground water shall be deemed to have emitted it from the land on to other land.

Amendment of section 19 of Principal Act (Notices to reduce or eliminate pollution or noise).

11—Section 19 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) “ occupier ” and substituting “ owner or occupier or both the owner and occupier ”;
- (b) by omitting subsection (1c) and substituting the following subsection:—

(1c) A notice which has been served under subsection (1) by an enforcement authority may be withdrawn by a further notice served by the enforcement authority in accordance with that subsection.

Amendment of section 22A of Principal Act (Nature of scheduled premises).

12—Section 22A (2) of the Principal Act is amended by omitting “ council ” and substituting “ Director ”.

Amendment of section 23 of Principal Act (Prohibition on operating unlicensed scheduled premises).

13—Section 23 of the Principal Act is amended as follows:—

- (a) by inserting in subsection (1) “ or is exempted under section 35 from the obligation to hold a licence in respect of scheduled premises ” after “ do ”;
- (b) by omitting subsection (2).

Amendment of section 24 of Principal Act (Application for a licence).

14—Section 24 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (2) “ Part ” and substituting “ section ”;
- (b) by omitting from subsection (4) “ Objections ” and substituting “ Subject to subsection (6), objections ”;
- (c) by omitting subsection (5) and substituting the following subsections:—

(5) Where any objections are lodged pursuant to subsection (4), the Director shall, after the expiration of the period of 30 days referred to in that subsection, notify the applicant of the number and the nature of the objections.

(6) A person shall not lodge an objection under subsection (4) unless he is—

- (a) resident in the State;
- (b) carrying on business in the State; or
- (c) the owner of land in the State.

(7) The provisions of subsections (2), (2A), (3), and (4) shall apply to sections 30, and 31 as if a reference to a licence and a reference to an application in those provisions were a reference to a licence and a reference to an application in those sections.

15—Section 25 (2) (a) of the Principal Act is amended as follows:— Amendment of section 25 of Principal Act (Licences).

- (a) by omitting from subparagraph (iv) “ premises; and ” and substituting “ premises; ”;
- (b) by inserting the following subparagraph after subparagraph (v):—
 - (vi) carry out, at his own expense, a specified routine of monitoring the consequences of pollutant disposal or dispersal from the scheduled premises into the environment; and

16—Section 26 of the Principal Act is amended as follows:— Amendment of section 26 of Principal Act (Effect of licence).

- (a) by omitting subsection (2) and substituting the following subsection:—
 - (2) Where the first licence is granted for any scheduled premises, the conditions, limitations, and restrictions specified in that licence shall, subject to section 39, take effect on such date as is specified in the licence, being a date not earlier than 14 days after the issue of the licence.
- (b) by inserting the following subsection after subsection (3):—
 - (4) Where, under subsection (3), the Director varies or adds to the conditions, limitations, or restrictions of a licence, or adds conditions, limitations, or restrictions to an unconditional licence, he shall—
 - (a) by notice in writing; or

(b) by notice published in a newspaper circulating in the locality of the scheduled premises to which the licence relates, notify any person who, under section 24, objected to the granting of an application for a licence that variations or additions have been made.

17—Section 27 of the Principal Act is repealed.

Repeal of section 27 of Principal Act (Effect of refusal of licence).

18—Section 30 of the Principal Act is amended by omitting subsection (3) and substituting the following subsections:—

Amendment of section 30 of Principal Act (Renewal of licences).

(3) On receipt of an application under this section, the Director may—

(a) grant the applicant the renewal of a licence to operate the scheduled premises the subject of the application—

(i) unconditionally; or

(ii) subject to such conditions, limitations, and restrictions as he thinks fit; or

(b) refuse to grant him the renewal of a licence,

and shall as soon as practicable, by notice in writing served on the applicant, inform him of the grant or refusal, as the case may be, of the application.

(3A) The conditions that may be attached to the renewal of a licence include conditions that—

(a) the licensee—

(i) do specified things to prevent, minimize, or control pollution or noise;

(ii) comply with specified standards for the emission of pollutants or noise;

(iii) carry out, at his own expense, a specified routine of monitoring emissions and supplying specified information about the results thereof;

- (iv) do specified things to remove, cover up, or avoid anything unsightly on the premises;
 - (v) do specified things for the restoration of the surface of the land and the vegetation of the premises; and
 - (vi) carry out, at his own expense, a specified routine of monitoring the consequences of pollutant disposal or dispersal from the premises into the environment; and
- (b) specified outlets, places, or points, and no others be used for—
- (i) the emission of pollutants, generally, or for the purpose of ascertaining the volume, nature, or constituents of the emission, or for a specified routine of monitoring; or
 - (ii) the measurement of noise.

19—Section 32 of the Principal Act is repealed and the following section is substituted:—

Substitution of section 32 of Principal Act.

32—(1) Where the Minister is satisfied that pollution from any scheduled premises is sufficiently hazardous or detrimental as to warrant revocation of the licence to operate those scheduled premises, he may, by notice served on the licensee of those premises revoke that licence.

Revocation of licences.

(2) Where the Minister revokes a licence under subsection (1), he shall notify the council of that revocation within 48 hours after the service of the notice of revocation.

(3) A notice of revocation under subsection (1) takes effect—

- (a) on the day after the time for an appeal against the revocation expires; or
- (b) where, within that time, an appeal is instituted, on the day on which the appeal is rejected pursuant to section 40 (2).

Amendment of
section 35 of
Principal Act
(Exemptions).

20—Section 35 of the Principal Act is amended by inserting the following subsection after subsection (2):—

(3) The council shall not make a recommendation to the Minister to exempt any person from the obligation to hold a licence in respect of any scheduled premises unless it is satisfied that the pollution emitted from the scheduled premises does not warrant the licensing of the scheduled premises.

Insertion in
Principal Act
of new
section 36A.

21—After section 36 of the Principal Act, the following section is inserted in Part IV:—

Licence to
transport
waste.

36A—(1) A person shall not, otherwise than as an employee of another person, remove and transport waste for fee or reward unless he is the holder of a licence issued under this section.

Penalty: \$5 000.

(2) An application for a licence to remove and transport waste for fee or reward shall be—

- (a) made in a form approved by the Director; and
- (b) lodged with the Director and accompanied by the fee prescribed by regulations made under this Act.

(3) On receipt of an application made and lodged under subsection (2), the Director may—

- (a) grant the application unconditionally or subject to such conditions, limitations, and restrictions as he thinks fit; or
 - (b) refuse to grant the application,
- and shall, by notice in writing, served on the applicant, inform the applicant accordingly.

(4) The Director may, during the currency of a licence granted under this section, by notice in writing served on the holder of the licence—

- (a) on the recommendation of the council, revoke the licence;
- (b) revoke or vary any condition, limitation, or restriction to which the licence is subject; or
- (c) attach new conditions, limitations, or restrictions to the licence.

(5) The holder of a licence granted under this section shall comply with any condition, limitation, or restriction which, for the time being, is attached to the licence.

Penalty: \$5 000.

(6) A notice under subsection (4) takes effect—

(a) on the day after the time for appealing against the decision expires; or

(b) where, within that time, an appeal is instituted, on the day on which the appeal is rejected or the notice is amended or varied pursuant to section 40 (2).

(7) A licence granted under this section remains in force for a period of 12 months from the date of its issue and may be renewed for a further period of 12 months—

(a) upon application made in a form approved by the Director at least 1 month before the licence expires; and

(b) upon payment of the fee prescribed by regulations made under this Act.

(8) Regulations made for the purposes of subsection (2) (b) and (7) (b) may prescribe different fees according to such factors as may be specified in the regulations.

(9) The provisions of subsections (3), (4), (5), and (6) apply to the renewal of a licence in the same way as they apply to a licence applied for under subsection (2).

(10) For the purposes of this section—

“effluent” means any matter or thing, whether solid or liquid or a combination of any solids and liquids, which has been removed from a septic tank, septic closet, chemical closet, sullage pit, or grease trap, or from any holding tank or other container forming part of or used in connection with a septic tank, septic closet, chemical closet, sullage pit, or grease trap;

“trade waste” means any matter or thing, whether solid, gaseous, or liquid or a combination of any solids, gases, and liquids, which is refuse from any industrial, chemical, trade or business process or operation, including any building or demolition work;

“waste” means effluent, or trade waste.

Amendment of
section 37 of
Principal Act
(The
Environment
Protection
Appeal Board).

22—Section 37 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) (a) “ Board ” and substituting “ appeal board ”;
- (b) by omitting from subsection (3) “ 65 ” and substituting “ 70 ”;
- (c) by omitting from subsection (5) “ a member ” and substituting “ the chairman of the appeal board ”;
- (d) by inserting the following subsection after subsection (5):—

(5A) If a member of the appeal board, other than the chairman of the appeal board, is unable to attend a meeting of the appeal board one of his substitutes may, with the approval of the chairman of the appeal board, take his place.

Amendment of
section 38 of
Principal Act
(Rights of
Appeal).

23—Section 38 of the Principal Act is amended as follows:—

- (a) by inserting in subsection (1C) “ or 36A, or the renewal of a licence under section 30 or 36A,” after “ section 24 ” where firstly occurring;
- (b) by inserting in subsection (1E) “ or subsection (1G)” after “(1D)”;
- (c) by omitting subsection (1F) and substituting the following subsection:—

(1F) Where a person who applied—

(a) for the grant of a licence under section 24 or 36A;

(b) for the renewal of a licence under section 30 or 36A; or

(c) for the Director’s approval under section 29, appeals against the decision of the Director, that person shall, within the prescribed time, publish an advertisement containing a copy of the notice of appeal once a week in 2 consecutive weeks in a newspaper circulating in the locality to which the licence relates.

- (d) by inserting the following subsection after subsection (1F):—

(1G) Where a person who lodged an objection—

(a) under section 24 in respect of an application for the grant or renewal of a licence; or

(b) under section 29 (7) in respect of an application for the Director's approval,

appeals against the grant or renewal of the licence or the Director's approval, as the case may be, the licensee may intervene in the appeal, by filing with the clerk of the appeal board a notice in the form prescribed for the purposes of subsection (1D) within the time prescribed for the filing of such a notice.

(e) by omitting from subsection (3) "Appeal Board" and substituting "appeal board";

(f) by inserting the following subsection after subsection (5):—

(6) A person shall not institute an appeal or intervene in an appeal unless he has lodged with the clerk of the appeal board a deposit as security for costs as provided for in section 38A.

24—After section 38 of the Principal Act, the following section is inserted:—

Insertion in
Principal Act
of new
section 38A.

38A—(1) A person who institutes an appeal under section 38 (1A) or intervenes in an appeal under section 38 (1C) shall deposit with the clerk of the appeal board the sum of \$250 as security for costs in respect of that appeal.

Security
for costs.

(2) The clerk of the appeal board shall keep an account into which he shall pay all money deposited with him pursuant to this section.

(3) The account referred to in subsection (2) shall be kept in accordance with such directions, if any, as the Treasurer may give to the clerk of the appeal board.

(4) Where a person deposits the sum of \$250 pursuant to subsection (1), the clerk of the appeal board shall deal with the deposit so as to give effect to any order of the appeal board under section 40 (1) (j) for the payment of costs incurred in respect of that appeal.

Insertion in
Principal Act
of new
section 39A.

25—After section 39 of the Principal Act, the following section is inserted:—

Preliminary
hearing.

39A—(1) Where 2 or more persons institute an appeal under section 38 in respect of the same subject matter, the chairman of the appeal board may, by notice in writing served on the parties to that appeal, summon them to attend a preliminary hearing before him on such a date and at such time and place as is specified in the notice to determine—

(a) the grounds of appeal agreed on by the parties to be heard; and

(b) the number and names of the witnesses to be called, at a hearing of the appeal to be dealt with by the appeal board under section 40.

(2) At the conclusion of a preliminary hearing held under subsection (1), the chairman of the appeal board shall cause to be prepared and signed by the parties summoned to that hearing a document specifying—

(a) the matters determined by him under that subsection;

(b) the estimated hearing time of the appeal to be dealt with by the full appeal board under section 40; and

(c) that proofs of expert evidence have been exchanged.

Amendment of
section 40 of
Principal Act
(Jurisdiction).

26—Section 40 (7) of the Principal Act is amended by inserting “, under section 30,” after “ section 24 ”.

Amendment of
section 41 of
Principal Act
(Procedure of
appeal board).

27—Section 41 (4) of the Principal Act is amended as follows:—

(a) by omitting “Appeal Board ” and substituting “ appeal board ”;

(b) by omitting from paragraphs (c) and (f) “ board ” and substituting “ appeal board ” respectively.

28—Section 51 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:—

Amendment of section 51 of Principal Act (Emission of noise prohibited).

(1) A person on any land or vessel shall not emit or cause or permit to be emitted any noise which is harmful to, or offensive to the senses of, any person—

(a) who is not on that land or vessel; or

(b) who is in a public place.

Penalty: \$500 and a daily penalty of \$50.

29—Section 56 of the Principal Act is amended as follows:—

Amendment of section 56 of Principal Act (Fees).

(a) by omitting from subsection (1) “(1) Different ” and substituting “ Different ”;

(b) by omitting subsection (2).

Substitution of
Schedule 1 to
Principal Act.

30—Schedule 1 to the Principal Act is repealed and the following Schedule is substituted:—

SCHEDULE 1

Section 22A

SCHEDULED PREMISES

1. Primary metallurgical works, being works in which ores or ore concentrates are processed.
2. Ferrous and non-ferrous metal works, being works in which metal melting processes for casting or metal coating are carried out and which consume more than 200 tonnes of metal per year.
3. Electroplating works, being works in which metal coatings are deposited electrolytically and which consume more than 1 tonne of metal per year.
4. Cement works, being works in which argillaceous and calcarious materials are used in the production of cement clinker and works in which cement clinker is ground.
5. Crushing and grinding works, being works in which—
 - (a) more than 1 000 tonnes per year of rocks, ores, or minerals; or
 - (b) more than 200 tonnes per year of chemicals, grain, or seed,
 are processed by crushing or grinding or separating into different sizes.
6. Pre-mix bitumen plants, being works in which crushed or ground rock aggregates are mixed with bituminous or asphaltic materials for the purpose of producing road-building mixtures and which produce more than 1 000 tonnes of material per year.
7. Ceramic works, being works in which any products such as bricks, tiles, pipes, pottery goods, refractories, or glass are manufactured in furnaces or kilns fired by any fuel, and which are capable in a year of normal work of producing more than 200 tonnes of such products.
8. Mines used for the extraction of any valuable substance and producing or processing more than 1 000 tonnes of raw material per year.
9. Quarries used for the extraction of any valuable substance and producing or processing more than 1 000 tonnes of raw material per year.
10. Lime, gravel, sand, loam, soil, or clay pits used for the extraction of any valuable substance, and producing or processing more than 1 000 tonnes of raw material per year.
11. Chemical works, being works in which more than 200 tonnes per year of sulphuric acid, chemical fertilizers, soap, starch, calcium compounds, or other chemical products are manufactured.
12. Gas works, being works in which coal, coke, oil, or their mixture or derivatives are carbonized or gasified.

13. Oil refineries, being works in which crude shale oil, crude petroleum, or waste mineral oil is refined.
14. Pulp and paper mills, being works in which wood, wood products, or other cellulose materials are processed to form wood pulp, paper, cardboard, or fibreboard.
15. Premises on which there is erected a boiler, incinerator, or furnace consuming or capable of consuming, either alone or in the aggregate with other such things erected thereon, more than one tonne of combustible material per hour.
16. Woodchip mills, being works in which trees or parts thereof are processed to form woodchips.
17. Dairies, being works manufacturing, processing, or packaging butter, cream, cheese, ice-cream, dried milk, condensed or evaporated milk, or other dairy products and producing more than 100 tonnes of products per year.
18. Abattoirs and rendering plants, being works in which animals, including poultry, are slaughtered for human or animal consumption or in which animal waste is processed for the manufacture of fertilizer, meal, or tallow and which produce more than 100 tonnes of products per year.
19. Woolscourers and tanneries, being works involving fellmongering, scouring, or carbonizing wool, or tanning hides or skins, and which produce more than 100 tonnes of products per year.
20. Factories for the processing of fish, meat, vegetables, seed, grain, or fruit, including fish-meal and fish-oil factories and in which more than 100 tonnes of products per year are produced.
21. Breweries, distilleries, maltings, and soft drink factories, being works in which grain, fruit, vegetables, or derivatives thereof are processed to produce malt or beverages, and capable of consuming more than 100 kilolitres of water in a working day of 8 hours.
22. Textile bleaching and dyeing factories, being works involving bleaching, dyeing, or printing of yarns, threads, fabrics, or other textiles, and capable of consuming more than 100 kilolitres of water in a working day of 8 hours.
23. Laundries, being premises used primarily in providing laundering or dry-cleaning services and capable of consuming more than 100 kilolitres of water in a working day of 8 hours.
24. Sewerage-treatment plants, including sewer outfalls, having a normal dry weather flow greater than 100 kilolitres per day.
25. Refuse disposal sites used for the disposal of more than 100 tonnes per year of solid or liquid refuse or trade wastes.
26. Sawmills and timber processing plants in respect of which the Minister has caused an order under his hand or seal of office to be served on the occupier declaring the sawmill or plant to be within this paragraph and which produce or process more than 1 000 cubic metres of timber per year.

Substitution of
Schedule 2, and
insertion of
Schedule 3, to
Principal Act.

31—Schedule 2 to the Principal Act is repealed and the following Schedules are substituted:—

SCHEDULE 2

Section 7

PROVISIONS WITH RESPECT TO MEMBERSHIP OF COUNCIL

Interpretation.

1—In this Schedule, “ member ” means a member of the council appointed by the Minister under section 7 (2).

Term of
office.

2—A member shall be appointed for such term, not exceeding 3 years, as is specified in the instrument of his appointment and shall, if qualified, be eligible for reappointment from time to time for a term, not exceeding 3 years, as is specified in the instrument of his re-appointment.

Provisions
relating to
members.

3—(1) Where, by or under any Act, provision is made requiring the holder of an office to devote the whole of his time to the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a member of the council or from accepting and retaining any remuneration payable to a member of the council under clause 5.

(2) The office of a member shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

Remuneration
of members.

4—Each member of the council is entitled to be paid such remuneration (including travelling and subsistence allowances) as are prescribed in regulations made under this Act, but no such remuneration shall be paid to a member of the council who holds office in the Public Service, without the approval of the Public Service Board.

Public Service
Act 1973 not
to apply.

5—The provisions of the *Public Service Act* 1973 shall not apply to or in respect of the appointment of a member of the council and a member of the council shall not, in his capacity as such a member, be subject to the provisions of that Act during his term of office.

Appointment of
substitute to
act during
absence of
appointed
member.

6—(1) A member of the council may appoint, by notice in writing to the secretary of the council, any person to act in the office of that member while the member is absent from his office through illness or any other cause.

(2) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorizing a person to act in the office of a member, and all things done or omitted to be done by that person while so acting shall be as valid, and shall have the same consequences, as if they had been done or omitted to be done by that member.

7—(1) The office of a member becomes vacant—

Vacation of
office.

- (a) when he dies;
- (b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes an assignment of his remuneration or estate for their benefit;
- (c) if he is absent from 3 consecutive ordinary meetings of the council of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Minister or unless, before the expiration of 3 weeks after the last of those meetings, he is excused by the Minister for his absence from those meetings;
- (d) if he becomes liable to be detained under the *Mental Health Act 1963* in a hospital, being a hospital within the meaning of section 3 (1) of that Act;
- (e) if he is convicted in the State of a crime or an offence which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in the State of an offence which, if committed in the State, would be a crime or an offence so punishable or has been convicted, whether in the State or elsewhere, of a crime or offence for which he has been sentenced to imprisonment;
- (f) if he is convicted of an offence against this Act;
- (g) if he resigns his office by writing under his hand addressed to the Minister and the Minister accepts his resignation; or
- (h) if he is removed from office by the Minister under subclause (2).

(2) The Minister may remove an appointed member from office for misbehaviour or incompetence.

8—On the occurrence of a vacancy in the office of a member, the Minister may appoint a person to the vacant office for the balance of his predecessor's term of office.

Filling of
casual
vacancies.

9—(1) No act or proceeding of the council or of any person acting pursuant to any direction of the council is invalidated or prejudiced by reason only of the fact that, at the time when the act or proceeding was done, taken, or commenced, there was a vacancy in the membership of the council.

Validity of
proceedings &c.

(2) All acts and proceedings of the council or of any person acting pursuant to any direction of the council are, notwithstanding the subsequent discovery of any defect in the appointment of any member of the council or that any person was disqualified from acting as, or incapable of being, a member of the council, as valid as if the member had been duly appointed and was qualified to act as, or capable of being, a member, and as if the council had been fully constituted.

Presumptions.

10—In any proceedings by or against the council, unless evidence is given to the contrary, no proof shall be required of—

- (a) the constitution of the council;
- (b) any resolution of the council;
- (c) the appointment of any member of the council; or
- (d) the presence of a quorum at any meeting of the council.

SCHEDULE 3

Section 7

PROVISIONS WITH RESPECT TO MEETINGS OF COUNCIL

1—In this Schedule—

Interpretation

“chairman” means the chairman of the council;

“member” means a member of the council.

2—The chairman shall convene a meeting of the council not less than 4 times in each year, and whenever required to do so by 3 members of the council.

Convening of meetings of council.

3—(1) Four members constitute a quorum at any duly convened meeting of the council.

Procedure at meetings.

(2) Any duly convened meeting of the council at which a quorum is present shall be competent to transact any business of the council.

(3) A question arising at a meeting of the council shall be determined by a majority of the votes of the members present and voting.

4—(1) The chairman shall preside at all meetings of the council at which he is present.

Chairman.

(2) If the chairman is not present at a meeting of the council, the members present at a meeting shall elect one of their number to preside at the meeting.

(3) The member presiding at a meeting of the council has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

5—The council shall cause full and accurate minutes to be kept of its proceedings at meetings, and shall submit to the Minister a copy of the minutes of each meeting within 14 days after the date on which the meeting is held.

Minutes.

6—The procedure for the calling of, and for the conduct of business at, meetings of the council shall, subject to any procedure that is specified in this Schedule, be as determined by the council.

General procedure.

32—The person who holds office as secretary of the council immediately before the day fixed by proclamation under section 2 (2) shall, on that day, be deemed to be appointed as secretary of the council pursuant to section 7A of the Principal Act as inserted by this Act.

Savings provision

