

# COMMUNITY WELFARE ACT 1987 No. 52

## NEW SOUTH WALES



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**COMMUNITY WELFARE ACT 1987 No. 52**

NEW SOUTH WALES



**Act No. 52, 1987**

An Act with respect to community welfare. [Assented to 29 May 1987]

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See also Children's Court Act 1987; Children (Care and Protection) Act 1987; Children (Criminal Proceedings) Act 1987; Children (Community Service Orders) Act 1987; Children (Detention Centres) Act 1987; Miscellaneous Acts (Community Welfare) Repeal and Amendment Act 1987.

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

PART I  
PRELIMINARY

**Short title**

1. This Act may be cited as the "Community Welfare Act 1987".

**Commencement**

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Sections 14, 15 and 16 shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

**Interpretation**

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"approved non-Government organisation" means a corporation, society, association or other body of persons, not being the Crown, approved by the Minister for the purposes of this Act;

"committee" means an advisory committee referred to in section 17;

"Community Disaster Relief Fund" means the fund referred to in section 39;

"Community Services Training Council" means the council referred to in section 14;

"Community Welfare Advisory Council" means the council referred to in section 15;

"Community Welfare Fund" means the fund referred to in section 12;

"community welfare legislation" means—

- (a) this Act and any other Act administered by the Minister within the Department; and
- (b) any instrument under this Act or any other such Act;

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“council” means the Community Services Training Council, the Community Welfare Advisory Council or the Disability Council;

“Department” means the Department of Youth and Community Services;

“Director-General” means the person for the time being holding office or acting as the Director-General of the Department;

“Disability Council” means the council referred to in section 16;

“disabled person” means an intellectually disabled person or a physically disabled person;

“Home Care Service” means the corporation referred to in section 21;

“intellectual impairment”, in relation to a person, means any defect or disturbance in the normal structure and functioning of the person’s brain, whether arising from a condition subsisting at birth or from illness or injury;

“intellectually disabled person” includes a person who, as a result of disabilities arising from intellectual impairment, is substantially limited in one or more major life activities;

“officer” means an officer or temporary employee, within the meaning of the Public Service Act 1979, employed in the Department;

“physical impairment”, in relation to a person, means any defect or disturbance in the normal structure and functioning of the person’s body, whether arising from a condition subsisting at birth or from illness or injury, but does not include intellectual impairment;

“physically disabled person” includes a person who, as a result of having a physical impairment to his or her body, and having regard to any community attitudes relating to persons having the same physical impairment as that person and to the physical environment, is limited in his or her opportunities to enjoy a full and active life;

“regulation” means a regulation made under this Act.

(2) In this Act—

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

**Objects of community welfare legislation**

4. (1) The objects of the community welfare legislation are—
- (a) to promote, protect, develop, maintain and improve the well-being of the people of New South Wales to the maximum extent possible;
  - (b) to promote the welfare of the family as the basis of community well-being;
  - (c) to ensure the provision, to the maximum extent possible, of services for, and assistance to, persons disadvantaged because of—
    - (i) lack of adequate family or social support;
    - (ii) personal or family problems that inhibit adequate social functioning;
    - (iii) the breakdown of the family as a social unit;
    - (iv) lack of adequate food, shelter or other basic necessities;
    - (v) physical or intellectual impairment;
    - (vi) their being members of an ethnic group which has inadequate access to services or resources available in the community;
    - (vii) age, whether young, advanced or other;
    - (viii) lack of information about or access to services or resources available in the community; or
    - (ix) their residing in places which lack basic services essential to the proper functioning of those persons;
  - (d) to promote the welfare of Aborigines on the basis of a recognition of—
    - (i) Aboriginal culture and identity;
    - (ii) Aboriginal community structures;
    - (iii) Aboriginal community standards;
    - (iv) the rights of Aborigines to raise and protect their own children;  
and
    - (v) the rights of Aborigines to be involved in the decision-making processes that affect them and their children;
  - (e) to encourage the establishment of community welfare and other services necessary to promote, protect, develop, maintain and improve the well-being of persons;

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- (f) to assist and encourage collaboration among persons and organisations engaged in the promotion of community welfare or the provision of community welfare services;
- (g) to promote and encourage research, education, instruction and training in matters relating to community welfare;
- (h) to promote and facilitate the provision by persons and organisations of services to complement any community welfare service;
- (i) to promote the involvement of the community in the provision of community welfare services and in the social development of the community; and
- (j) to co-ordinate the allocation of funds for community welfare services.

(2) The provisions of any paragraph of subsection (1) shall not be construed as limiting or being limited by the operation of any other provision of the community welfare legislation.

(3) In making any appointment under the community welfare legislation, the Minister shall have regard to the objects specified in subsection (1).

**Delegation**

5. (1) The Minister may delegate to the Director-General, or to any other person, the exercise of any of the Minister's functions under the community welfare legislation, other than this power of delegation.

(2) The Director-General may delegate to any person the exercise of—

- (a) any of the functions delegated to the Director-General by the Minister; or
- (b) any of the other functions of the Director-General under the community welfare legislation, other than this power of delegation

(3) A delegation—

- (a) shall be in writing;
- (b) may be general or limited; and
- (c) may be revoked, wholly or partly, by the delegator.

(4) A delegate is, in the exercise of a function delegated under this section, subject to such conditions as are specified in the instrument of delegation.

(5) A function delegated under this section, when exercised by the delegate, shall be deemed to have been exercised by the delegator.

(6) A delegation under this section does not prevent the exercise of a function by the delegator.

(7) A function purporting to have been exercised by a delegate under this section shall, until the contrary is proved, be deemed to have been duly exercised by a delegate under this section.

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## PART 2

### COMMUNITY WELFARE AND SOCIAL DEVELOPMENT

#### DIVISION 1—*Functions of Minister and Director-General*

#### **Power of Minister in relation to community welfare and social development**

**6. (1) The Minister may—**

- (a) conduct research into community welfare and social development and the adequacy and efficacy of the community welfare legislation, and of the administration of the community welfare legislation, and evaluate the information gained from any such research;
- (b) without limiting paragraph (a), conduct research to identify groups of persons who are or who are likely to become disadvantaged, as referred to in section 4 (1) (c);
- (c) review, monitor and evaluate programmes for the provision of community welfare services and social development programmes that are carried out under the community welfare legislation or that are financed, wholly or partly, out of funds provided by Parliament for the administration of the community welfare legislation;
- (d) grant to such persons or organisations concerned in community welfare or social development as the Minister thinks fit such access to publications and information in the possession of the Department (including the results of any research or evaluation) as the Minister thinks fit and in such manner as the Minister considers would preserve any necessary confidentiality and the privacy of persons;



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- (e) develop and carry out, or provide assistance and support for the development and carrying out by persons or organisations of, programmes for the provision of community welfare services and social development programmes the objectives of which are consistent with any of the objects of the community welfare legislation; and
- (f) with respect to any kind of assistance that may be granted under the community welfare legislation, cause to be published guidelines specifying the circumstances in which that assistance may be granted.

(2) Any assistance or support referred to in subsection (1) (e) may be provided on such conditions as are agreed upon by the Minister and the person or organisation to whom or to which the assistance or support is to be provided.

(3) In the exercise of any function under subsection (1) (e), the Minister shall have regard to the desirability of exercising that function with respect to programmes that—

- (a) develop and strengthen local neighbourhood and community interests;
- (b) are based on the principle of self-help or the transfer of skills and knowledge; or
- (c) take into consideration the multi-cultural nature of the community.

(4) The provisions of any paragraph of subsection (1) shall not be construed as limiting or being limited by the operation of any other provision of this Act.

**Assistance funds for community welfare and social development programmes**

7. (1) The Minister may establish and maintain funds (in this section referred to as “assistance funds”) for the purpose of providing assistance and support for any programmes, as referred to in section 6 (1) (e), being carried out or to be carried out by any persons, other than the Minister, or by any organisations.

(2) An assistance fund shall consist of—

- (a) such money as may be provided from time to time by Parliament for the purpose of the carrying out of the programmes for which the assistance fund is established and maintained; and
- (b) such other money as may be allocated to the assistance fund from time to time from the Community Welfare Fund.

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(3) Payments out of an assistance fund may be made for the purpose of carrying out the programmes for which the assistance fund is established and maintained and may be so made only with the approval of the Minister.

(4) The Minister shall, before giving any such approval, take into consideration any recommendation made by any committee having functions to advise the Minister with respect to those programmes.

**Honorary welfare officers**

8. (1) The Minister may appoint honorary welfare officers to carry out such duties under the community welfare legislation as may be prescribed by the regulations.

(2) The Director-General shall issue each honorary welfare officer with an identity card evidencing the officer's appointment.

(3) The Director-General may provide such training and support for honorary welfare officers as the Director-General thinks fit.

**Preparation of policies and programmes by the Director-General**

9. (1) The Director-General shall, when given directions by the Minister to do so, cause to be prepared statements of proposed policies with respect to community welfare and social development and proposed programmes for the implementation of those policies.

(2) If the Minister so approves, the Director-General may—

- (a) invite participation by such persons and organisations concerned in community welfare or social development as the Director-General thinks fit in the preparation of any such statements or programmes;
- (b) cause drafts of any such statements or programmes to be made available for public comment before their submission, with or without amendment, to the Minister; and
- (c) cause any such statements or programmes, and any documents or matter used in their preparation, to be published and made available to the public.

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**Assessment of community welfare and social development programmes by the Director-General**

**10.** The Director-General shall, when given directions by the Minister to do so—

- (a) examine any proposed community welfare or social development programmes specified in those directions;
- (b) review, monitor and evaluate any community welfare or social development programmes that are—
  - (i) carried out under the community welfare legislation; or
  - (ii) financed, wholly or partly, out of funds provided by Parliament for the administration of the community welfare legislation,for the purpose of determining whether they fulfil their objectives and whether their objectives are of value to the community; and
- (c) furnish to the Minister a report of any thing done pursuant to paragraph (a) or (b), being a report that contains submissions with respect to—
  - (i) the priorities that should be accorded to the implementation or improvement of any of the programmes the subject of any such report; and
  - (ii) the resources necessary for the implementation or improvement of any such programmes.

**Arrangements to use services**

**11. (1)** For the purpose of the exercise of any of the Minister's functions under the community welfare legislation, the Minister may enter into an arrangement (either in consideration of the payment of a fee or without charge to the Minister) to use the services of any person or organisation.

**(2)** For the purpose of the exercise of any of the Director-General's functions, or any of an officer's functions, under the community welfare legislation, the Director-General may, with the approval of the Minister, enter into an arrangement (either in consideration of a fee or without charge to the Director-General) to use the services of any person or organisation.

**(3)** For the purpose of the promoting of any of the objects of the community welfare legislation, the Minister, or the Director-General with the approval of the Minister, may enter into an arrangement (either in consideration of the payment of a fee or without charge to the Minister or the Director-General) to use the services of any person or organisation.

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(4) This section does not extend to authorising the Minister or the Director-General to enter into a contract of employment, other than a contract of employment on a temporary or casual basis.

(5) A contract of employment on a temporary or casual basis may be entered into only on such conditions as the Public Service Board may approve.

**Community Welfare Fund**

12. (1) There shall be established in the Special Deposits Account in the Treasury a fund to be called the "Community Welfare Fund".

(2) The Community Welfare Fund shall consist of such money as may be provided by Parliament for payment into that fund together with any money paid by any person to the Minister or the Director-General for the purpose of providing community welfare services generally or of a specified kind.

**Application of Community Welfare Fund**

13. (1) The Community Welfare Fund may be applied by the Director-General, with the written approval of the Minister, for the purpose of—

- (a) except as provided by paragraph (b)—providing community welfare services generally; or
- (b) to the extent to which the fund represents money paid for the purpose of providing community welfare services of a kind specified by the person who made the payment—providing community welfare services of that kind.

(2) Any payments from the Community Welfare Fund may be made directly to persons in need of community welfare services or to approved non-Government organisations for the relief of those persons.

*DIVISION 2—Councils and committees***Community Services Training Council**

14. (1) There shall be a Community Services Training Council.

(2) The function of the Community Services Training Council is to make reports and recommendations to the Minister with respect to—

- (a) the provision of courses of instruction and training for persons employed in, or considering employment in, the provision of community welfare services, either in a voluntary or a paid capacity;

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- (b) the status of courses of instruction and training of the kind referred to in paragraph (a) that are conducted within or outside New South Wales;
  - (c) such other matters connected with instruction and training of the kind referred to in paragraph (a) as may be referred to it by the Minister; and
  - (d) any other matter connected with instruction and training of the kind referred to in paragraph (a).
- (3) Further functions of the Community Services Training Council are—
- (a) to recommend courses of instruction and training of the kind referred to in subsection (2) (a) for approval by the Minister; and
  - (b) to encourage the conduct and undertaking of courses of the kind referred to in subsection (2) (a) that have been approved by the Minister.
- (4) The Minister may approve courses of instruction and training of the kind referred to in subsection (2) (a), but only where those courses are not required to be approved or prescribed under any other Act.
- (5) Schedules 1 and 2 apply to the Community Services Training Council.

**Community Welfare Advisory Council**

15. (1) There shall be a Community Welfare Advisory Council.
- (2) The functions of the Community Welfare Advisory Council are—
- (a) to advise the Minister on such matters relating to community welfare or social development as are referred to it by the Minister;
  - (b) to furnish to the Minister reports on such matters relating to community welfare or social development as it considers should be brought to the notice of the Minister;
  - (c) with the approval of the Minister, to conduct public inquiries into matters relating to community welfare or social development; and
  - (d) with the approval of the Minister, to conduct seminars on or investigations into matters relating to community welfare or social development.
- (3) Schedules 1 and 2 apply to the Community Welfare Advisory Council.

**Disability Council of New South Wales**

- 16. (1)** There shall be a Disability Council of New South Wales.
- (2)** The functions of the Disability Council are—
- (a) to monitor the implementation of Government policy in relation to disabled persons and their families;
  - (b) to advise the Government on the effect and relevance of services provided to disabled persons and their families;
  - (c) to advise the Government on priorities to be accorded to services provided to disabled persons and their families;
  - (d) to advise the Government on the role of voluntary organisations in relation to services provided to disabled persons and their families;
  - (e) to promote the integration of disabled persons into the community;
  - (f) to promote community awareness of matters concerning the welfare of disabled persons and their families;
  - (g) to consult and co-operate with the Disability Advisory Council of Australia and other similar bodies; and
  - (h) to exercise such other functions as may be prescribed by the regulations.
- (3)** In the exercise of its functions, the Disability Council shall report to the Minister and, where appropriate, through the Minister to other Ministers and to Department Heads, within the meaning of the Public Service Act 1979.
- (4)** A report may contain such information or advice as the Disability Council considers appropriate to include in the report.
- (5)** For the purpose of exercising any of its functions, the Disability Council may request information or advice from any public or local authority.
- (6)** A public or local authority to which such a request is made is empowered to comply with the request.
- (7)** It is the responsibility of the Minister to co-ordinate and convey to the Disability Council any responses made by the Minister, by any other Ministers and by any Department Heads, within the meaning of the Public Service Act 1979, to any report referred to in subsection (3).
- (8)** Schedules 1 and 2 apply to the Disability Council.

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**Committees**

17. (1) The Minister may, by order in writing, establish such regional, local, special or other advisory committees as the Minister thinks fit.

(2) The functions of a committee are to exercise the functions specified in respect of it in the instrument establishing it, or in a subsequent instrument executed by the Minister, and to advise the Minister on such matters as may be referred to it by the Minister.

(3) The Minister shall appoint one of the members of a committee to be the chairperson of the committee.

(4) The chairperson of a committee may be referred to as the chairman or chairwoman, as the case may require.

(5) A member of a committee (other than a public servant) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

(6) Schedule 2 applies to a committee.

**Assistance to councils and committees**

18. (1) The Minister may provide assistance (including financial assistance) for the proper functioning of any council or committee.

(2) Without limiting the Minister's powers under any other provision of this Act, the Minister may make payments out of money provided by Parliament for the purpose of providing the assistance referred to in subsection (1).

**Reports**

19. (1) Each council and committee shall submit to the Minister, at such times and in respect of such periods as the Minister directs, reports on the activities of the council or committee.

(2) A report shall deal with such matters as the Minister directs and with such other matters as the council or committee considers appropriate to include in the report.

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## PART 3

## HOME CARE SERVICE OF NEW SOUTH WALES

**Interpretation**

20. In this Part—

“constituent instrument” means the instrument lodged with respect to the Home Care Service pursuant to section 29 (1) of the repealed Act or, where that instrument has been amended pursuant to that Act or this Act, that instrument as so amended;

“registered address” means the address of the office of the Home Care Service as specified in the instrument lodged with respect to the Service pursuant to section 33 (1) of the repealed Act or, where notice of change of address has been lodged in the office of the Corporate Affairs Commission pursuant to that Act or this Act, the address specified in the notice;

“the repealed Act” means the Community Welfare Act 1982.

**Incorporation of the Home Care Service**

21. (1) There is constituted by this Act a corporation under the corporate name of the “Home Care Service of New South Wales”.

(2) The corporation constituted by this Act shall, for all purposes, be deemed to be a continuation of, and to be the same legal entity as, the corporation constituted pursuant to section 29 of the repealed Act.

**Home Care Service subject to Minister’s control and direction**

22. The Home Care Service shall be subject to the control and direction of the Minister.

**Board of management**

23. (1) The affairs of the Home Care Service shall be managed by a board of management.

(2) Any act, matter or thing done by the board of management shall be deemed to have been done by the Home Care Service.

(3) The constitution and procedure of the board of management shall be as prescribed by the constituent instrument.



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**Functions of the Home Care Service**

24. The Home Care Service has the functions conferred or imposed on it by the constituent instrument.

**Amendment of constitution of the Home Care Service**

25. An amendment of the constituent instrument takes effect when an instrument certified under the seal of the Home Care Service to be a true copy of the resolution effecting the amendment has been lodged in the office of the Corporate Affairs Commission.

**Provisions relating to the Home Care Service**

26. (1) The Home Care Service—

- (a) has perpetual succession;
- (b) shall have an official seal;
- (c) may take proceedings, and be proceeded against, in its corporate name;
- (d) may, for the purpose of enabling it to exercise its functions, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property; and
- (e) may do and suffer all other things that a body corporate may, by law, do and suffer and that are necessary for or incidental to the exercise of its functions.

(2) Except to the extent to which the regulations otherwise provide—

- (a) the custody and use of the seal of the Home Care Service; and
- (b) the keeping of records concerning the acts, decisions and proceedings of the Home Care Service,

shall be regulated by the constituent instrument.

(3) All courts and persons acting judicially—

- (a) shall take judicial notice of the seal of the Home Care Service that has been affixed to any instrument or document; and
- (b) shall, until the contrary is proved, presume that the seal was properly affixed.

**Change of registered address**

27. A change in the registered address of the Home Care Service takes effect when an instrument certified under the seal of the Service to be a true copy of the resolution effecting the change has been lodged in the office of the Corporate Affairs Commission.

**Use of Public Service staff and facilities**

28. The Home Care Service may—

(a) with the approval of the Minister; and

(b) on such conditions as may be approved by the Public Service Board,

arrange for the use of the services of any staff or facilities of a Government department, administrative office or public or local authority.

**Conditions of employment of employees, etc.**

29. (1) Except in so far as provision is otherwise made by law, the conditions of employment (including salary, wages or remuneration) of persons employed by the Home Care Service shall be such as are from time to time determined by the board of management of the Service after consultation with, and with the concurrence of, the Public Service Board.

(2) In any proceedings before a tribunal having power to deal with industrial matters within the meaning of the Industrial Arbitration Act 1940, the Public Service Board shall act for the Home Care Service in so far as the proceedings involve a matter in respect of which subsection (1) confers power on the board of management of the Service.

**Limitation of personal liability**

30. No matter or thing done by the Home Care Service, the board of management, any member of the board of management or any employee of the Service, or any person acting under the direction of the Service, shall, if the matter or thing was done in good faith and with reasonable care for the purpose of exercising the functions of the Service, subject a member of the board of management or employee, or any person so acting, personally to any action, liability, claim or demand.

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**Shortened references to the Home Care Service**

31. In any other Act, in any instrument made under any Act or in any other instrument of any kind, except in so far as the context or subject-matter otherwise indicates or requires, a reference to the Home Care Service shall be read as a reference to the Home Care Service of New South Wales constituted by this Act.

**Service of documents**

32. (1) A document may be served on the Home Care Service by leaving it at, or by sending it by post to, the registered office of the Service.

(2) Nothing in subsection (1) affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Home Care Service in a manner not provided for by subsection (1).

**Authentication of certain documents**

33. Any summons, process, demand, order, notice, statement, direction or other document requiring authentication by the Home Care Service may be sufficiently authenticated without the seal of the Service if it is signed by the chairperson, or the person acting as the secretary, of the board of management of the Service.

**Annual reports**

34. A report under the Annual Reports (Departments) Act 1985 in respect of the Department may include any report required to be made annually in respect of the Home Care Service under the Annual Reports (Statutory Bodies) Act 1984.

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**PART 4****GENERAL WELFARE ASSISTANCE****Object of Part**

35. The object of this Part is to ensure, to the maximum extent possible—

- (a) the provision of assistance and supportive services to persons in need or distress; and

- (b) the provision of assistance and supportive services aimed at preventing the breakdown of the family as a social unit.

**General assistance**

36. (1) The Minister may—

- (a) provide assistance (including financial assistance) for the relief of persons in need or distress;
- (b) provide home support services (that is, assistance in the carrying out of work of a domestic or home-maintenance nature) to persons unable to carry out that work;
- (c) provide homemaker services (that is, services to assist families in the management of their homes) with the object of preventing the breakdown of the family as a social unit;
- (d) provide services designed to meet the needs of children;
- (e) provide services designed to meet the needs of persons who are disadvantaged as referred to in section 4 (1) (c); and
- (f) provide assistance (including financial assistance) to approved non-Government organisations whose objects are or include the provision of assistance or services referred to in this subsection.

(2) Without limiting the Minister's powers under any other provision of this Act, the Minister may make payments out of money provided by Parliament for the purpose of providing assistance referred to in subsection (1) (a) or (f).

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**PART 5****DISASTER WELFARE SERVICES****Interpretation**

37. (1) In this Part—

“disaster” means an occurrence, whether or not due to natural causes—

- (a) that causes loss of life, injury, distress or danger to persons or the destruction of, or damage to, property; and

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(b) that the Minister, by order in writing, has declared to be a disaster for the purposes of this Part;

“disaster victim” means a person who is in need or distress as a result of a disaster;

“private disaster relief fund” means a fund raised by or resulting from an appeal for support for the purpose of assisting persons who are or may become disaster victims and includes any investments made out of money in such a fund, but does not include the Community Disaster Relief Fund.

(2) A reference in this Part to a particular disaster includes a reference to a particular kind of disaster.

(3) The Minister—

(a) shall not make an order referred to in paragraph (b) of the definition of “disaster” in subsection (1) with respect to an occurrence unless the Minister is of the opinion that the effect of the occurrence is or is likely to be of such magnitude as to warrant its being treated as a disaster for the purposes of this Part; and

(b) shall, as soon as practicable after making such an order, cause a copy of the order to be published in the Gazette.

**Co-ordination of welfare services for disaster victims**

38. (1) The Director-General may, in accordance with any directions given by the Minister, take such steps as the Director-General thinks fit for the purpose of co-ordinating the provision of community welfare services for disaster victims.

(2) The Director-General shall not exercise any functions under subsection (1) in a manner inconsistent with any of the provisions of the State Emergency Services and Civil Defence Act 1972.

**Community Disaster Relief Fund**

39. (1) There shall be established by the Director-General a fund to be called the “Community Disaster Relief Fund”.

(2) The Community Disaster Relief Fund shall consist of—

(a) any money paid to the Director-General by any person for the relief of disaster victims generally or disaster victims of a particular disaster specified by the person making the payment; and

- (b) any fund transferred to or vested in the Director-General under section 41.

#### **Application of Community Disaster Relief Fund**

#### **40. (1) The Community Disaster Relief Fund—**

- (a) to the extent to which it represents—
- (i) money paid to the Director-General under section 39 (2) (a) for the relief of disaster victims of a particular disaster; or
  - (ii) a private disaster relief fund raised by or resulting from an appeal for support for the purpose of assisting persons who are or may become disaster victims as a result of a particular disaster,

shall, so far as it is practicable in the opinion of the Director-General to do so, be applied for the purpose of assisting disaster victims of that disaster; or

- (b) except as provided by paragraph (a), shall be applied—
- (i) for the purpose of assisting disaster victims of any disaster;
  - (ii) for the purpose of acquiring stores and equipment to be used for the purpose of assisting victims of future disasters; or
  - (iii) for the purpose of planning, and training persons, to cope with the effects of disasters.

(2) Any payments from the Community Disaster Relief Fund may be made directly for any purpose referred to in subsection (1) or to approved non-Government organisations for any such purpose.

#### **Transfer of private disaster relief funds to Community Disaster Relief Fund**

**41. (1)** Any person in whom a private disaster relief fund is vested may transfer that fund to the Director-General to form part of the Community Disaster Relief Fund.

- (2) Where the Governor is satisfied that—
- (a) a fund is a private disaster relief fund established in respect of a particular disaster;
  - (b) no payment has been made from the fund for a period of one year or more to a disaster victim of that disaster; and

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- (c) the fund is not likely to be applied for making payments to disaster victims of that disaster,

the Governor may, by order published in the Gazette, vest the fund in the Director-General to form part of the Community Disaster Relief Fund.

(3) A fund may be transferred to the Director-General under subsection (1) notwithstanding any trust on which it is held.

(4) A fund transferred to the Director-General under subsection (1), or vested in the Director-General under subsection (2), shall be held by the Director-General freed and discharged from any trust to which it was subject immediately before the transfer or vesting.

**Investment of Community Disaster Relief Fund**

42. (1) Money in the Community Disaster Relief Fund may be invested in any securities authorised under section 14 of the Trustee Act 1925 for the investment of trust funds.

(2) The Director-General may make arrangements with the Public Trustee for the management of the Community Disaster Relief Fund.

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**PART 6**  
**MISCELLANEOUS**

**Limitation of personal liability**

43. No matter or thing done by the Minister, the Director-General, an officer or any other person shall, if the matter or thing was done in good faith and with reasonable care for the purposes of executing the community welfare legislation, subject the Minister, the Director-General, the officer or that other person personally to any action, liability, claim or demand.

**Disclosure of information**

44. A person shall not disclose any information obtained in connection with the administration or execution of this Act unless the disclosure is made—

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act;

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- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings;
- (d) in accordance with a requirement imposed under the Ombudsman Act 1974; or
- (e) with other lawful excuse.

Penalty: \$1,000 or imprisonment for 12 months, or both.

**Proceedings for offences**

**45.** Proceedings for an offence against this Act shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

**Regulations**

**46. (1)** The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) any council or committee and its members and functions;
- (b) the Community Welfare Fund;
- (c) the control and regulation of the Home Care Service; and
- (d) the Community Disaster Relief Fund.

**(2)** A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

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## SCHEDULE 1

(Secs. 14, 15, 16)

## CONSTITUTION OF CERTAIN COUNCILS

**Interpretation**

1. In this Schedule, a reference to a member of a council includes, subject to the regulations, a reference to the member's alternative appointed and acting in accordance with the regulations made for the purposes of clause 9 of Schedule 2.

**Community Services Training Council**

2. (1) The Community Services Training Council shall consist of 12 members appointed by the Governor.

(2) The Community Services Training Council shall include at least 1 person from each of the following bodies or classes of persons:

- (a) Government departments concerned in community welfare;
- (b) approved non-Government organisations engaged in the provision of community welfare services;
- (c) tertiary training institutions;
- (d) students engaged in courses relating to community welfare or social development;
- (e) trade unions;
- (f) such other bodies or classes of persons as may be prescribed by the regulations.

(3) Of the members of the Community Services Training Council—

- (a) 3 shall be officers nominated by the Minister; and
- (b) the remainder shall be persons nominated in accordance with subclause (4).

(4) For the purposes of the appointment of the members of the Community Services Training Council referred to in subclause (3) (b), nominations may be submitted to the Minister in accordance with regulations prescribing—

- (a) persons who, or bodies or other classes of persons that, may submit nominations;
- (b) the number of nominations that may be submitted by each person, body or class so prescribed; and
- (c) the times within which nominations may be submitted.

(5) The regulations may provide for the nomination of a number of persons in excess of the number of members of the Community Services Training Council that may be appointed.

**Community Welfare Advisory Council**

3. (1) The Community Welfare Advisory Council shall consist of such number of persons, appointed by the Governor, as the Governor thinks fit.

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SCHEDULE 1—*continued*  
 CONSTITUTION OF CERTAIN COUNCILS—*continued*

- (2) The members of the Community Welfare Advisory Council shall include—
- (a) members of, or persons employed by, organisations concerned in community welfare or social development;
  - (b) officers of Government departments concerned in community welfare or social development; and
  - (c) persons otherwise experienced in community welfare or social development.

**Disability Council**

4. (1) The Disability Council shall consist of such number of persons, appointed by the Governor, as the Governor thinks fit.

- (2) The members of the Disability Council shall include—
- (a) members of, or persons employed by, organisations concerned especially in the welfare of disabled persons;
  - (b) officers of Government departments concerned especially in the welfare of disabled persons; and
  - (c) persons otherwise experienced in the welfare of disabled persons.

(3) Of the members of the Disability Council, the majority shall consist of disabled persons.

**Age of appointees**

5. A person of or above the age of 70 years shall not be appointed as a member of a council.

**Chairperson**

6. (1) One of the members of a council shall, by the relevant instrument of appointment or by a subsequent instrument executed by the Governor, be appointed as chairperson of the council.

(2) The chairperson of a council may be referred to as the chairman or chairwoman, as the case may require.

**Term of office**

7. A member of a council shall, subject to this Schedule and the regulations, hold office for such term, not exceeding 4 years, as is specified in the relevant instrument of appointment and is, if otherwise qualified, eligible for reappointment.

**Remuneration**

8. A member of a council (other than a public servant) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

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SCHEDULE 1—*continued*CONSTITUTION OF CERTAIN COUNCILS—*continued***Filling of vacancy in office of member**

9. If the office of any member of a council becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

**Removal from office**

10. The Governor may, for any cause that seems sufficient, remove a member of a council from office.

**Casual vacancy**

11. A member of a council shall be deemed to have vacated office if the member—

- (a) dies;
- (b) resigns office by instrument in writing addressed to the Minister;
- (c) absents himself or herself from 4 consecutive meetings of the council without leave of the council;
- (d) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983;
- (e) attains the age of 70 years;
- (f) is removed from office by the Governor; or
- (g) being a member of the Community Services Training Council nominated for membership by the Minister, ceases to be an officer.

**Public Service Act 1979 not to apply**

12. The Public Service Act 1979 does not apply to or in respect of the appointment of a person as a member of a council, and a member of a council is not, as a member, subject to that Act.

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SCHEDULE 2

(Secs. 14, 15, 16, 17)

PROCEDURE OF CERTAIN COUNCILS AND COMMITTEES

**Interpretation**

1. In this Schedule, a reference to a member of a council or committee includes, subject to the regulations, a reference to the member's alternative appointed and acting in accordance with the regulations made for the purposes of clause 9.

**Quorum**

2. The quorum for a meeting of a council or committee shall consist of a majority of the members of the council or committee.

**Temporary chairperson**

3. In the absence of the chairperson from any meeting of a council or committee, the members present shall appoint one of their number to preside at that meeting.

**Casting vote of chairperson**

4. The chairperson or member presiding at a meeting of a council or committee shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

**Voting**

5. A decision supported by a majority of votes cast at a meeting of a council or committee at which a quorum is present shall be the decision of the council or committee.

**Attendance of Director-General at proceedings of Community Welfare Advisory Council**

6. The Director-General may attend and participate, but not vote, in the proceedings and deliberations of the Community Welfare Advisory Council.

**Meetings**

7. (1) The frequency of meetings of a council or committee and the procedures for the conduct of business at those meetings shall, subject to subclause (2) and any directions by the Minister, be as determined by the council or committee.

(2) Meetings of the Community Services Training Council shall be convened so that at least 6 meetings are held every year.

**Minutes**

8. The chairperson of a council or committee shall cause minutes of the proceedings and decisions at each meeting of the council or committee to be kept, and shall furnish the Director-General with a copy of those minutes as soon as practicable after each meeting.

**Alternative members**

9. The regulations may make provision for or with respect to the appointment of alternative members for members of a council or committee and the exercise by them of the functions of those members.

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SCHEDULE 2—*continued*PROCEDURE OF CERTAIN COUNCILS AND COMMITTEES—*continued***Subcommittees**

10. (1) A council or committee may establish subcommittees (whether or not consisting of members of the council or committee) for the purpose of advising the council or committee upon such matters within the scope of the council's or committee's functions as may be referred to the subcommittees by the council or committee.

(2) The convenor of a subcommittee shall be a member of the council or committee by which it is established.

**Representatives of departments and authorities**

11. A council or committee may invite representatives of other organisations (including State or Commonwealth Government departments and public or local authorities) to participate, but not vote, in the proceedings and deliberations of the council or committee.

**Secretary**

12. The secretary of a council or committee shall be an officer designated by the Director-General.

**Application of Schedule to subcommittee**

13. The provisions of this Schedule apply to a subcommittee of a council or committee in the same way as they apply to the council or committee.