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ELIZABETHAE II REGINAE

A.D. 1982

No. 31 of 1982

An Act to re-define the powers, functions, duties and responsibilities of the Institute of Medical and Veterinary Science; to repeal the Institute of Medical and Veterinary Science Act, 1937-1978; and for other related purposes.

[Assented to 8 April 1982]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title.

1. This Act may be cited as the "Institute of Medical and Veterinary Science Act, 1982".

Commence-
ment.

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

Interpretation.

3. In this Act, unless the contrary intention appears—

"the council" means the council of the Institute:

"the Director" means the person holding or acting in the office of Director under this Act:

"the Health Commission" means the South Australian Health Commission established under the South Australian Health Commission Act, 1975-1981:

"incorporated health centre" and "incorporated hospital" have the meanings attributed to those expressions by the South Australian Health Commission Act, 1975-1981:

"the Institute" means the Institute of Medical and Veterinary Science:

"the repealed Act" means the Institute of Medical and Veterinary Science Act, 1937-1978, repealed by this Act.

Repeal of
Institute of
Medical and
Veterinary
Science Act,
1937-1978.

4. The Institute of Medical and Veterinary Science Act, 1937-1978, is repealed.

5. (1) Subject to this Act, all property, rights and liabilities vested in the council under the repealed Act immediately prior to the commencement of this Act shall, upon that commencement, vest in the Institute.

Transitional provisions.

(2) All persons who were, immediately prior to the commencement of this Act, officers or employees of the Institute (whether appointed or employed by the Governor or the council under the repealed Act) shall, subject to this Act, remain officers or employees of the Institute under this Act.

(3) Upon the commencement of this Act—

(a) a salaried officer of the Institute under the repealed Act who is specified in a notice published by the Public Service Board in the *Gazette* for the purposes of this section, shall become an officer of the Public Service in the Department of Agriculture or the Department of Services and Supply, as the notice may specify, at the salary and classification specified in relation to him in the notice;

and

(b) an employee of the Institute under the repealed Act (not being a salaried officer of the Institute) who is specified in the notice referred to in paragraph (a), shall become an employee of the Minister of Agriculture or the Deputy Premier, as the notice may specify, upon terms and conditions fixed by the relevant Minister.

(4) Notwithstanding any other provision of this section, the transfer of the employment of an officer or employee of the Institute pursuant to subsection (3) shall be effected without reduction of his salary or wage, and without prejudice to, or interruption of, his existing and accruing rights in respect of recreation leave, sick leave and long service leave arising out of his previous service with the Institute.

6. (1) The Institute of Medical and Veterinary Science established under the repealed Act shall continue in existence under this Act.

Constitution of the Institute as a body corporate.

(2) The Institute shall—

(a) be a body corporate with perpetual succession and a common seal;

(b) be capable of suing and being sued;

(c) be capable of holding, acquiring, dealing with and disposing of real and personal property;

(d) be capable of incurring or acquiring any other rights and liabilities;

(e) have the powers, functions, duties and responsibilities conferred or imposed by or under this Act or any other Act;

and

(f) hold its property on behalf of the Crown.

(2) Where an apparently genuine document purports to bear the common seal of the Institute, it shall be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Institute has been duly affixed to that document.

The council.

7. (1) The Institute shall be administered by a council.

(2) The council shall consist of ten members as follows:

(a) nine members shall be appointed by the Governor, of whom—

(i) one shall be an officer of the Health Commission nominated by the Minister;

(ii) two shall be persons nominated by the Royal Adelaide Hospital;

(iii) two shall be persons nominated by The University of Adelaide;

(iv) two shall be persons nominated by the Minister, being persons who, in his opinion, have experience in financial management;

(v) one shall be an officer of the Department of Agriculture nominated by the Minister of Agriculture;

and

(vi) one shall be a registered veterinary surgeon in private practice selected by the Minister of Agriculture from a panel of three persons nominated by the South Australian Division of the Australian Veterinary Association;

and

(b) the Director shall be a member *ex officio*.

(3) An appointed member of the council shall be appointed—

(a) for such term of office, not exceeding four years, as the Governor specifies in the instrument of appointment;

and

(b) upon such conditions as the Governor may determine.

(4) A person who has attained the age of seventy years is not eligible for appointment or re-appointment as a member of the council.

(5) If a body fails to nominate a person for the purposes of subsection (2) within one month after receiving a written request from the Minister to do so, the Governor may appoint a person nominated by the Minister to the vacant position on the council, and the person so appointed shall, for all purposes, be deemed to have been duly nominated and appointed to the council.

(6) Upon the expiration of the term of office of an appointed member of the council, he shall, subject to this section, be eligible for re-appointment.

Chairman and
Deputy
Chairman.

8. The Governor shall, upon the nomination of the Minister, appoint one of the members of the council to be the Chairman of the council, and one other member to be the Deputy Chairman of the council.

Deputies.

9. (1) The Governor may appoint a suitable person to be the deputy of a member of the council.

(2) Where a member is for any reason absent or unable to act in his capacity as a member of the council, his deputy may act as a member of the council.

10. (1) The Governor may remove an appointed member of the council from office on the ground of—

Removal from
and vacancies
of office.

- (a) any breach of, or non-compliance with, a condition of his appointment;
 - (b) mental or physical incapacity to carry out the duties of his office;
 - (c) dishonourable conduct;
- or
- (d) neglect of duty.

(2) The office of an appointed member of the council shall become vacant if—

- (a) he dies;
 - (b) his term of office expires;
 - (c) he attains the age of seventy years;
 - (d) he resigns by giving notice in writing to the Minister;
- or
- (e) he is removed from office by the Governor pursuant to subsection (1).

(3) Upon the office of a member of the council becoming vacant, a person shall be appointed to that office in accordance with this Act.

11. (1) An act or decision of the council shall not be invalid by reason of a vacancy in its membership or any defect in the appointment of a person to the council.

Validity of
acts of the
council and
immunity
from liability
of members.

(2) No liability shall attach to a member of the council for any act or omission by him, or the council, in good faith and in the exercise of his or its powers or functions, or in the discharge of his or its duties, under this Act.

(3) Any liability that would, but for subsection (2), lie against a member of the council shall lie against the Crown.

12. (1) A member of the council who is in any way directly or indirectly interested in a contract made by the Institute, or a proposed contract in the contemplation of the council—

Disclosure
of interest.

- (a) shall as soon as he becomes aware of the contract, or the proposal to make the contract, disclose the nature of his interest to the council;

and

- (b) shall not take part in any deliberations or decision of the council with respect to that contract.

Penalty: One thousand dollars.

(2) Subsection (1) does not apply in respect of an interest that exists only by virtue of the fact that a member is an officer or employee of the Institute.

(3) A disclosure under this section shall be recorded in the minutes of the council.

Meetings of
the council.

13. (1) The Chairman, or in the absence of the Chairman, the Deputy Chairman, shall preside at meetings of the council.

(2) Six members of the council (one of whom must be the Chairman or the Deputy Chairman) shall constitute a quorum at any meeting of the council, and no business shall be transacted at a meeting unless a quorum is present.

(3) A decision carried by a majority of the votes cast by the members present at a meeting shall be a decision of the council.

(4) The person presiding at a meeting of the council shall, in the event of an equality of votes, have a second or casting vote, in addition to his deliberative vote.

(5) The council shall keep accurate minutes of proceedings at its meetings.

(6) Subject to this Act, the council may conduct its business in such manner as it thinks fit.

Functions and
powers of the
Institute.

14. (1) The functions of the Institute are—

(a) to provide and maintain a medical pathology service for such hospitals or other health care organizations as the Health Commission may direct;

(b) to provide, to such extent as the Institute thinks fit, a medical pathology service for medical practitioners in private practice;

(c) to provide and maintain a public health laboratory service in accordance with the requirements of the Health Commission;

(d) to provide and maintain such services and facilities as the Minister of Agriculture may require in relation to the veterinary laboratory services, the services to veterinary surgeons in private practice, and any other veterinary services, provided by the Department of Agriculture.

(e) to provide and maintain such services and facilities as the Minister of Agriculture may require for the conduct of research in the field of veterinary science;

(f) to conduct research into fields of science related to the services provided by the Institute;

(g) to provide the University of Adelaide, the Flinders University, or any other authority or person approved by the Institute, with facilities for conducting research of the kind referred to in paragraph (f);

(h) to provide assistance to tertiary educational authorities in teaching in fields of science related to the services provided by the Institute;

(i) to perform such other functions as the Minister may assign to the Institute;

and

(j) to perform any other functions that are ancillary or incidental to the functions referred to in the preceding paragraphs.

(2) For the purpose, or in the course, of performing its functions, exercising its powers, or discharging its duties and responsibilities the Institute may—

(a) establish committees (which may consist of, or include, members of the council or other persons) to advise the Institute on any matter;

- (b) delegate any of its powers, functions, duties or responsibilities under this Act to a committee, a member of the council, an officer or employee of the Institute or the Health Commission, or an officer of the Public Service of the State;
- (c) purchase, receive, take on hire or loan, lease, sell, or otherwise acquire, hold, deal with or dispose of real or personal property;
- (d) make charges for any service, assistance or facilities provided by the Institute;
- (e) enter into any contract or arrangement relevant to the functions of the Institute.

(3) A delegation under subsection (2) (b) is revocable at will and does not derogate from the power of the Institute to act itself in any matter.

(4) The council, as the governing body of the Institute, is responsible for carrying out the functions, exercising the powers and discharging the duties and responsibilities of the Institute.

15. (1) The Institute shall be subject to the control and direction of the Minister.

Institute
subject to
the control
and direction
of the
Minister.

(2) The Minister shall, before exercising his powers under subsection (1), consult with the Health Commission.

(3) The Institute shall make available to the Minister, the Health Commission, or an officer of the Commission authorized by the Commission for the purpose, such information as the Minister or the Health Commission may reasonably require for the purposes of exercising his or its powers under this Act.

16. (1) There shall be a Director who shall be the chief executive officer of the Institute.

Director of the
Institute.

(2) Subject to subsection (3), the Director shall be appointed by the council upon terms and conditions fixed by the Health Commission and approved by the Public Service Board.

(3) The person holding office as director under the repealed Act shall, upon the commencement of this Act, become the Director of the Institute under this Act.

(4) The council shall not appoint a person to the office of Director, nor shall it dismiss a person from that office, except with the approval of the Minister given after consultation with the Health Commission.

17. (1) Subject to subsection (2), the council may appoint, upon terms and conditions fixed by the Health Commission and approved by the Public Service Board, such officers and employees as it thinks necessary or desirable for the proper performance and discharge of the functions, powers, duties and responsibilities of the Institute.

Staff of
the Institute.

(2) The council shall not create any office or position except in accordance with a staffing plan that has been approved by the Health Commission.

(3) The Governor may, by regulation, declare that specified provisions of, and regulations under, the Public Service Act, 1967-1981, shall apply, with such modifications as may be prescribed, in relation to the officers and employees of the Institute, or any class of those officers and employees.

(4) The council may, with the approval of the Minister administering any Department in the Public Service of the State, upon terms and conditions mutually arranged, make use of the services of any officer, or use any facilities or equipment, of that Department.

Superannuation,
accrued leave
rights, etc.

18. (1) The Institute is a public authority within the meaning of the Superannuation Act, 1974-1981, and—

(a) any officer or employee of the Institute who was, immediately before becoming an officer or employee of the Institute, a contributor to the South Australian Superannuation Fund shall, subject to the Superannuation Act, 1974-1981, remain a contributor to that Fund;

and

(b) any other full-time officer or employee of the Institute may, subject to that Act, become a contributor to the South Australian Superannuation Fund.

(2) Where a person becomes an officer or employee of the Institute after ceasing to be employed—

(a) in the Public Service of the State;

(b) by the Health Commission;

(c) by an incorporated hospital;

or

(d) by an incorporated health centre,

and that employment with the Institute follows immediately upon the cessation of that previous employment, the following provisions shall apply—

(e) his existing and accruing rights immediately before the cessation of that previous employment in respect of recreation leave, sick leave, accouchement leave and long service leave shall continue in full force and effect as if that previous employment had been employment by the Institute;

and

(f) he shall not be entitled to payment in lieu of those rights.

(3) Except where subsection (2) applies, where a person becomes an officer or employee of the Institute within three months after ceasing to be employed—

(a) in the Public Service of the State;

(b) by the Health Commission;

(c) by an incorporated hospital;

(d) by an incorporated health centre;

or

(e) in prescribed employment,

his existing and accruing rights immediately before the cessation of that previous employment in respect of recreation leave, sick leave, accouchement leave and long service leave shall continue to the extent directed by the Institute and subject to such conditions as may be imposed by the Institute, as if that previous employment had been employment by the Institute.

19. (1) The Governor may, by instrument in writing—

Property of
the Institute.

(a) direct that any unalienated Crown land, or any land held on behalf of the Crown, be vested in the Institute for an estate in fee simple;

(b) place any unalienated Crown land under the care, control and management of the Institute;

or

(c) resume any land placed under the care, control and management of the Institute pursuant to paragraph (b).

(2) A direction under subsection (2) (a) shall be effective to vest the land to which it relates in the Institute for an estate in fee simple.

(3) The Minister may, subject to and in accordance with the Land Acquisition Act, 1969-1972, acquire land for the purposes of the Institute.

20. (1) The Registrar-General shall, upon the application of the Institute, and upon proof to his satisfaction that an interest in land has vested in the Institute in pursuance of this Act, and upon production of duplicate certificates of title (if any) relating to the land, issue such new certificates of title, or make such entries and notations upon existing certificates of title, as may be necessary to evidence vesting of the interest in the Institute.

Duty of
Registrar-
General in
relation to
real property
vested in the
Institute.

(2) Where an application has been made under this section, the Registrar-General may require the Institute to furnish him with—

(a) any instrument evidencing former title to the land, or any existing or former interest in the land;

and

(b) a plan of the land to which the application relates, certified by a licensed surveyor.

21. (1) The Institute shall cause proper accounts to be kept of its financial affairs.

Accounts,
audit, etc.

(2) The accounts of the Institute shall be audited at least once in every year by the Auditor-General.

(3) For the purposes of the audit, the Auditor-General shall have and may exercise, in relation to the accounts of the Institute and the officers and employees of the Institute, the same powers as are vested in him by virtue of the Audit Act, 1921-1981, in relation to public accounts and accounting officers.

22. The council shall, not later than a date stipulated by the Health Commission, in each year submit to the Health Commission—

Budget
estimates and
staffing plan.

(a) estimates of the expected receipts and payments of the Institute for the financial year next ensuing after that date;

(b) details of any proposed capital works that the Institute proposes to carry out during that financial year;

(c) details of any proposed variation in the services, assistance or facilities provided by the Institute;

and

- (d) estimates of the requirements of the Institute in relation to staffing for the next financial year.

Financial provision.

23. The moneys required for the purposes of this Act shall be paid out of moneys appropriated by Parliament for the purpose.

Power to borrow, invest, etc.

24. (1) The Institute may, with the consent of the Treasurer, borrow money for the purpose of enabling it to perform its functions and discharge its duties and responsibilities under this Act.

(2) A liability incurred with the consent of the Treasurer pursuant to subsection (1) is, by virtue of this section, guaranteed by the Treasurer.

(3) A liability of the Treasurer under a guarantee arising by virtue of subsection (2) shall be satisfied out of the General Revenue of the State, which is, by virtue of this section, appropriated to the necessary extent.

(4) The Institute may, with the approval of the Treasurer, invest any moneys of the Institute that are not for the time being required for the purposes of the Institute, in such investments as may be approved by the Treasurer.

The council may make rules.

25. (1) The council may make rules with respect to all or any of the following matters:

- (a) the conduct of the business and proceedings of the council;
 - (b) the management of the Institute;
 - (c) the establishment, management and administration of any services provided, or to be provided by the Institute;
 - (d) the management of any facilities provided by the Institute;
 - (e) the establishment, management and conduct of any course of instruction or training provided, or to be provided, at the Institute;
 - (f) the fixing and recovery of fees for any service, assistance or facilities provided by the Institute;
 - (g) co-operation between the Institute and the Health Commission, any Department of the Public Service of the State, any hospital, or any university or other tertiary education authority, in respect of the provision of education or training at the Institute;
 - (h) the maintenance of good order and discipline at the Institute;
- and
- (i) any other matter incidental to the performance and discharge by the Institute of its functions, duties and responsibilities, or affecting the administration of the Institute.

(2) Every rule made pursuant to this section must be sealed with the seal of the Institute and submitted to the Health Commission for approval.

(3) Where the Health Commission has approved a rule, it shall be transmitted to the Governor for confirmation, and upon confirmation shall come into force.

26. (1) The council may make, alter or repeal by-laws for all or any of the following purposes: The council
may make
by-laws.

- (a) to prohibit persons trespassing on the grounds of the Institute;
 - (b) to define parts of the grounds of the Institute as prohibited areas and to prohibit persons from entering any part of any such prohibited area or to provide for the removal of persons from any such area;
 - (c) to prevent damage to the property, buildings or grounds of the Institute;
 - (d) to regulate the speed at which vehicles may be driven on the grounds of the Institute;
 - (e) to prohibit dangerous or careless driving of vehicles on the grounds of the Institute;
 - (f) to prescribe the routes to be followed by traffic within the grounds of the Institute;
 - (g) to provide for, regulate or prohibit the standing, parking or ranking of vehicles within the grounds of the Institute and to provide for the removal of vehicles from the grounds;
 - (h) to require drivers of vehicles within the grounds of the Institute to comply with traffic directions;
 - (i) generally to regulate traffic of all kinds in the grounds of the Institute;
 - (j) to prohibit disorderly or offensive behaviour within the Institute or the grounds of the Institute, and to provide for the removal of persons guilty of disorderly or offensive behaviour;
 - (k) to regulate, restrict or prohibit the consumption of food or alcoholic liquor within the Institute or the grounds of the Institute;
 - (l) to prevent undue noise within the Institute or the grounds of the Institute;
 - (m) to prescribe any other matters necessary or expedient for the maintenance of good order, the protection of property of the Institute or the prevention of hindrance to, or interference with, any activities conducted in the Institute or its grounds;
- and
- (n) to prescribe fines not exceeding fifty dollars for contravention of any by-law.

(2) Every by-law made pursuant to this section must be sealed with the seal of the Institute and submitted to the Health Commission for approval.

(3) Where the Health Commission has approved a by-law, it shall be transmitted to the Governor for confirmation, and upon confirmation shall come into force.

(4) In any proceedings relating to an offence against a by-law—

- (a) an allegation in a complaint that any specified place is or was in the grounds of the Institute shall be deemed to be proved in the absence of proof to the contrary;
- (b) an allegation in a complaint that a person named in the complaint was the owner of a vehicle referred to therein shall be deemed to be proved in the absence of proof to the contrary.

(5) Where it is alleged that a person has committed an offence against a by-law relating to vehicular traffic or the parking of motor vehicles on the grounds of the Institute, the council may cause to be served personally or by post upon that person, a notice to the effect that he may expiate the offence by payment to the Institute of an amount specified in the notice (being an amount fixed by the by-law) within a time specified in the notice, and if the offence is so expiated, no proceedings shall be commenced in any court in respect of the alleged offence.

Jurisdiction
of Industrial
Court and
Commission.

27. (1) Notwithstanding any other provision of this Act—

(a) the Industrial Commission of South Australia shall have jurisdiction to make awards relating to the salaries, wages and conditions of employment of any officers or employees of the Institute;

and

(b) the Industrial Court, or the Industrial Commission, may exercise any other jurisdiction conferred by the Industrial Conciliation and Arbitration Act, 1972-1981, in relation to any of those officers or employees.

(2) For the purpose of any proceedings or any industrial agreement under the Industrial Conciliation and Arbitration Act, 1972-1981, the Health Commission shall be regarded as the employer of all officers and employees of the Institute.

(3) An award or order made against the Health Commission pursuant to the Industrial Conciliation and Arbitration Act, 1972-1981, or an industrial agreement made by the Health Commission pursuant to that Act, is binding upon the Institute in respect of the officers or employees of the Institute to which the award, order or agreement relates.

(4) The Institute is not entitled—

(a) to institute proceedings before the Industrial Court of South Australia or the Industrial Commission of South Australia;

(b) to enter into any industrial agreement;

or

(c) to be represented in any proceedings before the Industrial Court or the Industrial Commission,

without the consent of the Health Commission.

Recognized
organizations.

28. (1) The following organizations are recognized organizations for the purposes of this section:

(a) the Federated Miscellaneous Workers' Union;

(b) the Public Service Association;

(c) the Royal Australian Nursing Federation;

(d) the S.A. Salaried Medical Officers Association;

and

(e) any organization declared to be a recognized organization under subsection (2).

(2) Where the Health Commission is of the opinion that an organization (being an association registered under the Industrial Conciliation and Arbitration Act) represents the interests of a significant number of officers or employees of the Institute, it shall by notice published in the *Gazette*, declare that organization to be a recognized organization for the purposes of this Act.

(3) Any such recognized organization shall have the right to make submissions to the Health Commission and the Institute on any matter arising out of or in relation to the exercise or performance of any of their powers or functions under this Act.

29. The Director shall, for the purposes of the Public Service Act, 1967-1981, be deemed to be the Permanent Head in relation to any officer of the Institute who was appointed to office by the Governor pursuant to the repealed Act.

The chief executive officer is deemed to be the Permanent Head in relation to certain officers.

30. (1) Subject to subsection (2), an officer or employee of the Institute shall not divulge any personal information, relating to any patient, obtained in the course of his employment otherwise than as he may be authorized or required to divulge that information by law or by his employer.

Duty to maintain confidentiality.

Penalty: Two thousand dollars or imprisonment for six months.

(2) This section does not prevent a person from divulging statistical or other information that could not reasonably be expected to lead to identification of the patients to whom it relates.

31. (1) The council shall, not later than the thirtieth day of November, in each year present to the Minister a report on the administration and activities of the Institute during the previous financial year.

Annual report.

(2) The Minister shall, as soon as practicable after his receipt of a report presented to him under subsection (1), cause a copy of the report to be laid before each House of Parliament.

32. Proceedings in respect of an offence against this Act shall be disposed of summarily.

Proceedings for offences.

33. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

Regulations.

(2) The regulations may prescribe penalties not exceeding two hundred dollars for contravention of any regulation.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

W. R. CROCKER, Governor's Deputy