

No. 16 of 1975

HEALTH COMMISSION ORDINANCE 1975

TABLE OF PROVISIONS

PART I—PRELIMINARY

Section

1. Short title
2. Commencement
3. Administration
4. Repeal
5. Interpretation

PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF THE COMMISSION

6. Establishment of Capital Territory Health Commission
7. Functions of the Commission
8. Powers of the Commission

PART III—CONSTITUTION AND MEETINGS OF THE COMMISSION

9. Constitution of the Commission
10. Membership of the Commission
11. Tenure of office
12. Certificate of election of representatives of Legislative Assembly
13. Remuneration and allowances
14. Leave of absence
15. Resignation
16. Termination of office
17. Disclosure of interest
18. Meetings of the Commission
19. Acting Commissioner and Acting Deputy Commissioner
20. Commissioner to manage affairs of Commission
21. Deputies of part-time members

PART IV—HOSPITALS

22. Interpretation
23. Appointment and functions of Hospital Administrator
24. Appointment of Chief Medical Administrator
25. Functions of Chief Medical Administrator
26. Delegation by Chief Medical Administrator
27. Application for appointment as visiting medical officer or visiting dental officer
28. Appointment of visiting medical officers and visiting dental officers
29. Resignation of appointment under section 28
30. Suspension of appointment and variation of clinical privileges
31. Appeal
32. Certain persons deemed to be visiting medical officers, &c.

PART V—STAFF

Division 1—General

33. Interpretation

*Health Commission*TABLE OF PROVISIONS—*continued**Division 2—Staff of the Commission***Section**

- 34. Commission to have staff
- 35. Officers
- 36. Recruitment
- 37. Appointment to be on probation in first instance
- 38. Temporary employees
- 39. Leave of absence for service with State or outside Australia

Division 3—Classification and Promotions

- 40. Creation and abolition of positions
- 41. Reclassification
- 42. Filling of vacant positions
- 43. Selection of officers for promotion
- 44. Appeals against promotions
- 45. Promotions Appeal Boards

Division 4—Tenure of Office

- 46. Tenure of office
- 47. Excess officers

Division 5—Dismissals, Punishments and Complaints

- 48. Retirement, &c., on grounds of inefficiency, incapacity, &c.
- 49. Disciplinary action for misconduct
- 50. Appeals
- 51. Staff Appeals Board
- 52. Complaints by officers

Division 6—The Staff Council

- 53. Staff Council
- 54. Function of Staff Council
- 55. Membership of Staff Council
- 56. Delegates of members
- 57. Tenure of office
- 58. Resignation
- 59. Termination of appointment
- 60. Meetings
- 61. Chairman and Deputy Chairman
- 62. Absence of member
- 63. Vacancies
- 64. First meeting of Staff Council
- 65. Minority reports

PART VI—FINANCE

- 66. Moneys of Commission
- 67. Expenditure by the Commission
- 68. Estimates
- 69. Borrowing prohibited
- 70. Bank accounts
- 71. Proper accounts to be kept
- 72. Annual Report
- 73. Audit
- 74. Charges for services to be as prescribed
- 75. Certain transactions require Minister's approval

TABLE OF PROVISIONS—*continued*

PART VII—ELECTIONS

Section

- 76. Definition
- 77. Elections to be conducted in accordance with Schedules 2 and 3
- 78. Returning Officer
- 79. Returning Officer may declare election void for irregularity
- 80. Request for inquiry
- 81. Appointment of person to conduct inquiry
- 82. Qualifications for appointment under section 81
- 83. Person appointed shall conduct inquiry
- 84. Conduct of inquiry
- 85. Report of inquiry
- 86. Power of Minister to set aside election
- 87. Formal defects not to render election void
- 88. Protection of person conducting inquiry
- 89. Payment of expenses of person requesting inquiry

PART VIII—MISCELLANEOUS

- 90. Minister's power of entry
- 91. Control of traffic on Commission premises
- 92. Secrecy
- 93. Committees
- 94. Application of Officers' Rights Declaration Act
- 95. Notices may be given by post
- 96. Regulations

PART IX—TRANSITIONAL PROVISIONS

- 97. Definition
- 98. Preservation of legal proceedings
- 99. Bank accounts of the Board
- 100. Assets, &c., to vest in Commission
- 101. Staff of Board to be employed by Commission

SCHEDULE 1

Ordinances Repealed

SCHEDULE 2

Election of Employee Representative

SCHEDULE 3

Election of Medical Representative

No. 16 of 1975

AN ORDINANCE

To establish a Capital Territory Health Commission.

I, THE GOVERNOR-GENERAL of Australia, acting with the advice of the Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1973*.

Dated this twenty-sixth day of June, 1975.

JOHN R. KERR
Governor-General.

By His Excellency's Command,

D. EVERINGHAM
Minister of State for Health.

HEALTH COMMISSION ORDINANCE 1975

PART I—PRELIMINARY

1. This Ordinance may be cited as the *Health Commission Ordinance 1975*.* Short title.
2. This Ordinance shall come into operation on such date as is fixed by the Minister of State for the Capital Territory by notice published in the *Gazette*. Commencement.
3. This Ordinance shall be administered by the Minister of State for Health. Administration.
4. The Ordinances specified in Schedule 1 are repealed. Repeal.
5. (1) In this Ordinance, unless the contrary intention appears— Interpretation.
 - “Commission” means the Commission established by this Ordinance;
 - “Hospitals and Health Services Commission” means the Commission constituted by the *Hospitals and Health Services Commission Act 1973*;
 - “Legislative Assembly” means the Australian Capital Territory Legislative Assembly constituted by the *Legislative Assembly Ordinance 1936-1974*;
 - “Medical Board” means the Medical Board constituted under the *Medical Practitioners Registration Ordinance 1930-1973*;
 - “member” means a member of the Commission;

* Notified in the *Australian Government Gazette* on 27 June 1975.

“nurse” means a person who is employed by the Commission and who is—

- (a) a registered nurse;
- (b) a person enrolled as a nursing aid;
- (c) a pupil nurse; or
- (d) a person pursuing a course of training for nursing aids,

within the meaning of the *Nurses Registration Ordinance 1933-1974* or the *Nursing Regulations in force under that Ordinance*;

“prescribed employee” means a person who is included in a class of members of the staff of the Commission prescribed for the purposes of paragraphs 10 (1) (d) and 10 (1) (e);

“Public Service Board” means the Public Service Board constituted under the *Public Service Act 1922-1975*;

“registered dentist” means a person registered as a dentist under the *Dentists Registration Ordinance 1931-1970*;

“registered medical practitioner” means a person registered under the *Medical Practitioners Registration Ordinance 1930-1973*.

(2) In this Ordinance, a reference to clinical privileges is a reference to—

- (a) the forms of treatment and other procedures that a visiting medical officer or visiting dental officer may perform at a hospital; and
- (b) the extent to which a visiting medical officer or visiting dental officer may use the equipment of a hospital.

PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF THE COMMISSION

Establishment of Capital Territory Health Commission.

6. There is established by this Ordinance a Commission by the name of the Capital Territory Health Commission.

Functions of the Commission.

7. (1) The functions of the Commission are—

- (a) to provide and conduct hospitals, nursing homes, health hostels (including annexes), health transportation services (including ambulance services), health information services, health education services and other services related to the provision of health care in the Territory;
- (b) to provide and conduct public health services, community health services, occupational health services and mental health services;
- (c) to provide and conduct hospitals, nursing homes and hostels for the treatment of the mentally afflicted;

- (d) to provide and conduct—
 - (i) services for the prevention of illness (including mental illness);
 - (ii) diagnostic, treatment and rehabilitation services; and
 - (iii) domiciliary health care services;
 - (e) to provide and conduct health services in connexion with hospitals, nursing homes and hostels;
 - (f) to provide and conduct, or join in the provision and conduct of, research services;
 - (g) to conduct, in the Territory, health services for, or on behalf of, public authorities and Departments of the Public Service;
 - (h) to foster community awareness in the Territory of health matters, including environmental, community and personal health care matters;
 - (j) to encourage an understanding in the Territory of the factors contributing to good health;
 - (k) to make recommendations to other authorities and agencies on measures for the reduction or elimination of threats to health;
 - (l) in respect of matters relating to health in the Territory, to consult with, and enter into arrangements with, any person or organization, including—
 - (i) public authorities and Departments of the Public Service;
 - (ii) State, Territory, regional and local government authorities;
 - (iii) educational and social welfare authorities and organizations; and
 - (iv) organizations representing medical, dental, nursing and paramedical practice;
 - (m) to provide health services for the purposes of laws in force in the Territory; and
 - (n) to provide such other health services as the Minister approves.
- (2) The Commission shall perform its functions in accordance with any directions given by the Minister.
- (3) The Commission shall—
- (a) furnish the Minister with such information relating to the operations of the Commission as the Minister may request;
 - (b) at the request of the Minister, submit to him proposals regarding the general nature and extent of the future operations of the Commission; and
 - (c) as soon as is reasonably practicable after each meeting of the Commission, furnish to the Minister a copy of the record of proceedings at that meeting.

**Powers
of the
Commission.**

8. The Commission has power to do all things that are necessary or convenient to be done for or in connexion with the performance of its functions and, in particular, without limiting the generality of the foregoing—

- (a) to acquire, hold and dispose of real and personal property;
- (b) to enter into contracts;
- (c) to erect buildings;
- (d) to occupy and use land or buildings made available to the Commission by Australia;
- (e) to accept gifts, devises and bequests made to the Commission, whether on trust or otherwise, and to act as trustee of moneys or other property vested in the Commission upon trust;
- (f) to let on hire plant and equipment of the Commission; and
- (g) to enter into arrangements with persons or authorities outside the Territory for, or in connexion with, the provision of medical treatment to a person, whether within or outside the Territory.

PART III—CONSTITUTION AND MEETINGS OF THE COMMISSION

**Constitution
of the
Commission.**

9. (1) The Commission—

- (a) is a body corporate with perpetual succession;
- (b) shall have a common seal; and
- (c) may sue or be sued in its corporate name.

(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to a document and shall presume that it was duly affixed.

**Membership
of the
Commission.**

10. (1) The Commission shall consist of—

- (a) 1 full-time Commissioner;
- (b) 1 full-time Deputy Commissioner;
- (c) 3 part-time members elected by the Legislative Assembly;
- (d) 1 part-time member elected by prescribed employees who are nurses;
- (e) 1 part-time member elected by prescribed employees other than nurses and registered medical practitioners;
- (f) 1 part-time member nominated by the Hospitals and Health Services Commission; and
- (g) 1 part-time member, being a registered medical practitioner, elected by registered medical practitioners.

(2) The Commissioner, the Deputy Commissioner and the part-time member referred to in paragraph (1) (f) shall be appointed by the Governor-General and are eligible for re-appointment.

(3) The members referred to in paragraph (1) (c)—

- (a) shall be elected by the Legislative Assembly as occasion requires from persons who are members of the Assembly; and
- (b) are eligible for re-election.

- (4) The member referred to in paragraph (1) (d)—
- (a) shall be a nurse;
 - (b) shall be elected, as occasion requires, by prescribed employees who are nurses; and
 - (c) is eligible for re-election.
- (5) The member referred to in paragraph (1) (e)—
- (a) shall be elected, as occasion requires, by prescribed employees other than nurses and registered medical practitioners; and
 - (b) is eligible for re-election.
- (6) The member referred to in paragraph 10 (1) (g)—
- (a) shall be a registered medical practitioner who has, within the period of 12 months immediately preceding the date fixed for the purpose of paragraph 1 (a) of Schedule 3, performed in the Territory a medical service within the meaning of the *Medical Practitioners Registration Ordinance 1930-1973*;
 - (b) shall be elected, as occasion requires, by registered medical practitioners who have, within the period of 12 months immediately preceding the date fixed for the purpose of paragraph 1 (a) of Schedule 3, performed in the Territory a medical service within the meaning of the *Medical Practitioners Registration Ordinance 1930-1973*; and
 - (c) is eligible for re-election.
- (7) The performance of the functions, or the exercise of the powers, of the Commission is not affected by reason of there being a vacancy or vacancies in the membership of the Commission.

11. (1) The Commissioner and Deputy Commissioner each holds office for such period, not exceeding 6 years, as is specified in the instrument of his appointment. Tenure of office.

(2) A part-time member, other than an elected member, holds office for such period, not exceeding 3 years, as is specified in the instrument of appointment.

(3) A person who has attained the age of 65 years shall not be appointed or re-appointed as Commissioner or Deputy Commissioner, and a person shall not be appointed or re-appointed as Commissioner or Deputy Commissioner for a period that extends beyond the date on which he will attain the age of 65 years.

(4) Subject to this Ordinance, a member referred to in paragraph 10 (1) (c) holds office from the date of his election until the first meeting of the Legislative Assembly held after the election of members of the Assembly next following his election to membership of the Commission.

(5) A person ceases to hold office as a member referred to in paragraph 10 (1) (c) if he ceases to be a member of the Legislative Assembly.

(6) Subject to this Ordinance, a member referred to in paragraph 10 (1)(d), 10 (1)(e) or 10 (1)(g) holds office for the period of 3 years from the date of his election.

Certificate of election of representatives of Legislative Assembly.

12. Upon the election of 3 persons in accordance with subsection 10 (3), the person presiding at the meeting of the Legislative Assembly shall certify in writing to the Minister the names of the persons elected and the date of the election, and the persons specified in the certificate shall, for the purposes of this Ordinance, be conclusively presumed to have been duly elected on that date.

Remuneration and allowances.

13. (1) The Commissioner shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration is in force, he shall be paid such remuneration as is prescribed.

(2) The Deputy Commissioner shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration is in force, he shall be paid such remuneration as is prescribed.

(3) The Commissioner and the Deputy Commissioner shall be paid such allowances as are prescribed.

(4) Part-time members, other than officers of, or persons employed in, the Public Service or the service of an authority of Australia, shall be paid, in respect of attendance at meetings of the Commission, or while engaged (whether in the Territory or elsewhere), with the approval of the Commission, on business of the Commission, such fees and allowances as are prescribed.

(5) This section has effect subject to the *Remuneration Tribunals Act 1973-1974*.

Leave of absence.

14. The Minister may grant leave of absence to the Commissioner or the Deputy Commissioner on such terms and conditions as to remuneration and otherwise as the Minister determines.

Resignation.

15. A member, or a deputy of a member, may resign his office by writing under his hand addressed to the Governor-General.

Termination of office.

16. (1) The Governor-General may terminate the appointment of a member, or remove a deputy of a member from office, by reason of misbehaviour or physical or mental incapacity.

(2) If a member—

(a) being the Commissioner or the Deputy Commissioner, engages in paid employment outside the duties of his office without the approval of the Minister;

(b) being the Commissioner or the Deputy Commissioner, is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or for 28 days in any 12 months; or

(c) being a member other than the Commissioner or the Deputy Commissioner, is absent, except on leave granted by the Commission, from 3 consecutive meetings of the Commission,

the Governor-General shall terminate the appointment of the member.

(3) If a member or a deputy of a member becomes bankrupt or applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit, the Governor-General shall terminate the appointment of the member or remove the deputy from office, as the case may be.

(4) The Commission shall not grant leave of absence to a member referred to in paragraph 10 (1) (c) except with the consent of the President of the Legislative Assembly.

17. (1) A member who is directly or indirectly interested in a contract made or proposed to be made by the Commission, otherwise than as a member, and in common with other members, of an incorporated company consisting of not less than 25 persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission. Disclosure of interest.

(2) A disclosure under sub-section (1) shall be recorded in the minutes of the Commission and the member—

- (a) shall not take part after the disclosure in any deliberation or decision of the Commission with respect to the contract; and
- (b) shall be disregarded for the purposes of constituting a quorum of the Commission for any such deliberation or decision.

18. (1) The Commissioner shall convene such meetings of the Commission as he considers necessary for the performance of its functions, but so that an interval longer than one month does not occur between any two consecutive meetings. Meetings of the Commission.

(2) The Commissioner shall, when requested by the Minister, convene a meeting of the Commission.

(3) The Commissioner shall, on receipt of a request in writing signed by not less than 3 members, convene a meeting of the Commission.

(4) A quorum at a meeting of the Commission is constituted by not less than 5 members of whom one is the Commissioner or the Deputy Commissioner.

(5) The Commissioner shall preside at all meetings of the Commission at which he is present.

(6) If, at a meeting of the Commission, the Commissioner is not present, the Deputy Commissioner shall preside at the meeting.

(7) Questions arising at a meeting of the Commission shall be determined by a majority of the votes of the members present and voting.

(8) The member presiding at a meeting of the Commission has a deliberative vote only.

Acting
Commissioner and
Acting
Deputy
Commissioner.

19. (1) Where—

- (a) the Commissioner is absent from duty or from Australia;
or
- (b) there is a vacancy in the office of Commissioner,

the Deputy Commissioner shall act as Commissioner during the absence or vacancy.

(2) Where—

- (a) the Deputy Commissioner is absent from duty or from Australia;
- (b) there is a vacancy in the office of Deputy Commissioner; or
- (c) the Deputy Commissioner is acting as Commissioner in accordance with sub-section (1),

the Minister may appoint a person to act as Deputy Commissioner during the absence or vacancy or while the Deputy Commissioner is so acting, as the case may be.

Commissioner
to manage
affairs of
Commission.

20. Subject to the direction of the Commission, the Commissioner shall manage the affairs of the Commission.

Deputies of
part-time
members.

21. (1) There shall be one deputy of each of the members referred to in paragraphs 10 (1)(c) to 10 (1)(g) (inclusive).

(2) Subject to this Ordinance, the deputy of a member referred to in paragraph 10 (1)(c)—

- (a) shall be elected, as occasion requires, by the Legislative Assembly;
- (b) holds office as the deputy of that member from the date of his election until—
 - (i) the term of office of the member that was current when the deputy was elected expires; or
 - (ii) the member otherwise ceases to be a member of the Commission,

whichever first occurs; and

- (c) is eligible for re-election.

(3) Subject to this Ordinance, the deputy of a member referred to in paragraph 10 (1)(d) or 10 (1)(e)—

- (a) shall be elected, as occasion requires—
 - (i) in the case of a member referred to in paragraph 10 (1)(d)—by prescribed employees who are nurses; and
 - (ii) in the case of a member referred to in paragraph 10 (1)(e)—by prescribed employees other than nurses and registered medical practitioners; and

(b) holds office as deputy of that member from the date of his election until—

(i) the term of office of the member that was current when the deputy was elected expires; or

(ii) the member otherwise ceases to be a member of the Commission,

whichever first occurs; and

(c) is eligible for re-election.

(4) The deputy of the member referred to in paragraph 10 (1)(f)—

(a) shall be nominated, as occasion requires, by the Hospitals and Health Services Commission; and

(b) holds office as the deputy of that member from the date of his nomination until—

(i) the term of office of the member that was current when the deputy was nominated expires; or

(ii) the member otherwise ceases to be a member of the Commission,

whichever first occurs; and

(c) is eligible for re-nomination.

(5) The deputy of the member referred to in paragraph 10 (1)(g) shall—

(a) be a registered medical practitioner;

(b) be elected, as occasion requires, by registered medical practitioners who have, within the period of 12 months immediately preceding the date fixed for the purpose of paragraph (1) (a) of Schedule 3, performed in the Territory a medical service within the meaning of the *Medical Practitioners Registration Ordinance 1930-1973*;

(c) hold office as the deputy of that member from the date of his election until—

(i) the term of office of the member that was current when the deputy was elected expires; or

(ii) the member otherwise ceases to be a member of Commission,

whichever first occurs; and

(d) is eligible for re-election.

(6) Where a part-time member is for any reason unable to attend meetings of the Commission, the deputy of that member may attend meetings of the Commission during that inability.

(7) Where a deputy of a member attends a meeting of the Commission in pursuance of sub-section (6)—

(a) this Ordinance, other than sub-section 13 (4), applies to, and in relation to, the deputy in respect of that meeting as if he were a member;

(b) sub-section 13 (4) applies in relation to the deputy, in respect of that meeting, as if he were a part-time member; and

(c) for the purposes of section 17 and sub-section 18 (4), the deputy shall be taken to be a member.

(8) Upon the election of a person in accordance with sub-section (2), the person presiding at the meeting of the Legislative Assembly shall certify in writing to the Minister the name of the person elected and the date of the election, and the person specified in the certificate shall, for the purposes of this Ordinance, be conclusively presumed to have been duly elected on that date.

(9) Where a deputy of a member referred to in paragraph 10 (1) (d), 10 (1) (e) or 10 (1) (g) ceases to hold office less than 6 months before the term of office of the member will expire, an election for the purpose of electing a deputy shall not be held before an election is held for the purpose of electing a person to hold the office of that member.

PART IV—HOSPITALS

Inter-pretation.

22. In this part, “hospital” means a hospital conducted by the Commission.

Appointment and functions of Hospital Administrator.

23. (1) There shall be, in respect of each hospital, a Hospital Administrator who shall be appointed by the Commission.

(2) The Hospital Administrator is responsible, subject to the general direction of the Commission and subject to section 25, for the conduct of the hospital.

Appointment of Chief Medical Administrator.

24. (1) There shall be, in respect of each hospital, a Chief Medical Administrator who shall be appointed by the Commission.

(2) A person shall not be appointed under sub-section (1) unless he is a registered medical practitioner or is eligible to be registered as a medical practitioner in the Territory.

(3) The same person may be appointed as Hospital Administrator and Chief Medical Administrator of the hospital.

Functions of Chief Medical Administrator.

25. The Chief Medical Administrator of a hospital is responsible, subject to the general direction of the Commission, for the clinical administration of the hospital.

Delegation by Chief Medical Administrator.

26. (1) The Chief Medical Administrator of a hospital may, by writing under his hand, delegate to a registered medical practitioner employed by the Commission, either generally or as provided by the instrument of delegation, all or any of his power and functions under the Ordinance (except this power of delegation).

(2) A power or function so delegated may be exercised or performed in accordance with the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Chief Medical Administrator.

27. (1) A registered medical practitioner may make application in writing to the Chief Medical Administrator of a hospital to be appointed a visiting medical officer at the hospital.

Application for appointment as visiting medical officer or visiting dental officer.

(2) A registered dentist may make application in writing to the Chief Medical Administrator of a hospital to be appointed a visiting dental officer at the hospital.

(3) An application under sub-section (1) or (2) shall state—

- (a) the professional qualifications and experience of the applicant; and
- (b) the clinical privileges the applicant seeks at the hospital.

28. (1) Where an application has been made in accordance with section 27, the Chief Medical Administrator of a hospital may, by instrument in writing, appoint the applicant a visiting medical officer or visiting dental officer, as the case may be, at the hospital.

Appointment of visiting medical officers and visiting dental officers.

(2) The Chief Medical Administrator of a hospital shall not unreasonably refuse to make an appointment under sub-section (1).

(3) Subject to section 30, a person appointed under sub-section (1) as a visiting medical officer or visiting dental officer at a hospital has such clinical privileges at that hospital as are conferred by the instrument of his appointment.

29. A visiting medical officer or visiting dental officer may resign his appointment by writing under his hand addressed to the Chief Medical Administrator of the hospital at which he holds his appointment.

Resignation of appointment under s. 28.

30. The Chief Medical Administrator of a hospital may, by notice in writing given to a person who is a visiting medical officer or visiting dental officer at the hospital—

Suspension of appointment and variation of clinical privileges.

- (a) suspend the appointment of the person; or
- (b) vary the clinical privileges of the person at the hospital.

31. (1) Where—

Appeal.

- (a) the appointment of a visiting medical officer or visiting dental officer is suspended; or
- (b) the clinical privileges of a visiting medical officer or visiting dental officer are varied,

the visiting medical officer or visiting dental officer may appeal to the Supreme Court.

(2) An appeal under this section shall be instituted within the period of 21 days after the date on which notice was given to the appellant for the purpose of sub-section (1).

(3) The parties to an appeal under this section are—

- (a) the appellant; and
- (b) the Chief Medical Administrator of the hospital at which the appellant held or holds his appointment.

(4) An appeal under this section shall be a re-hearing.

(5) On an appeal under this section against the suspension of the appointment of a visiting medical officer or visiting dental officer, the Supreme Court may—

- (a) confirm the suspension;
- (b) set aside the suspension; or
- (c) set aside the suspension and vary the clinical privileges of the appellant.

(6) On an appeal under this section against a variation of the clinical privileges of a visiting medical officer or visiting dental officer, the Supreme Court may—

- (a) confirm the variation;
- (b) set aside the variation; or
- (c) set aside the variation and vary the clinical privileges of the appellant in such manner as the Court thinks reasonable.

Certain persons deemed to be visiting medical officers, &c.

32. A person who, immediately before the date of commencement of this Ordinance, held an appointment as a visiting medical officer or visiting dental officer at a hospital shall, until the expiration of the period of 12 months after that date, be deemed to be a visiting medical officer or visiting dental officer, as the case may be, at that hospital as if the appointment had been made under this ordinance.

PART V—STAFF

Division 1—General

Inter-pretation.

33. (1) In this Part—

- “organization” means an organization that is registered under the *Conciliation and Arbitration Act 1904-1974*;
- “Staff Council” means the Staff Council of the Capital Territory Health Commission;
- “Union Liaison Committee” means the association incorporated under the *Associations Incorporation Ordinance 1953-1966* by the name “Union Liaison Committee (Capital Territory Health Commission)”.

(2) For the purposes of this Part, an organization is the appropriate organization in relation to a position if the rules of the organization provide that an officer who occupies that position is eligible for membership of that organization.

(3) Where, but for this sub-section, 2 or more organizations would each be the appropriate organization in relation to a position, the organization the membership of which includes the larger or largest number of officers occupying positions of the same class as that position shall be taken to be the appropriate organization in relation to that position.

Division 2—Staff of the Commission

34. The Commission shall have a staff consisting of the persons appointed as officers or engaged as temporary employees in accordance with this Part. Commission to have staff.

35. (1) The Commission shall appoint such officers as it thinks necessary for the purposes of this Ordinance. Officers.

(2) A person shall not be appointed as an officer unless—

- (a) he possesses such educational qualifications, and such other qualifications (if any), as are determined by the Commission;
- (b) the Commission is satisfied as to his health and physical fitness; and
- (c) the Commission is satisfied that he is a fit and proper person to be an officer.

(3) Subject to this Part, officers hold office on such terms and conditions as the Commission, with the approval of the Public Service Board, determines.

(4) Officers shall perform duties as directed by the Commission.

36. (1) The Commission may, from time to time, by advertisement in the *Gazette*, in newspapers or elsewhere, invite persons to apply for appointment as officers. Recruitment.

(2) The Commission shall specify in such an advertisement—

- (a) the classes of positions in respect of which applications for appointment are invited;
- (b) the salaries, or limits of salaries, that will be applicable upon appointment;
- (c) where applicable—
 - (i) the age limits for appointment;
 - (ii) the qualifications required for appointment and the period (if any) within which the qualifications or any of them must have been obtained; and
 - (iii) the date on which persons who obtained or obtain the required qualifications during a period specified for the purpose of sub-paragraph (ii) will cease to be qualified for appointment by virtue of those qualifications;
- (d) the manner of ascertaining the order in which offers of appointment will be made;
- (e) the date by which applications for appointment are required to be received; and
- (f) such other matters (if any) as the Commission considers desirable.

(3) Offers of appointment to qualified persons who have applied for appointment in response to an advertisement under this section shall be made in the order ascertained in accordance with the terms of the advertisement.

(4) Nothing in this section prevents the appointment of a qualified person who has applied for appointment otherwise than in pursuance of an advertisement under this section.

Appointment to be on probation in first instance.

37. (1) Unless the Commission, in a particular case, otherwise directs, the appointment of an officer shall be on probation for a period of 6 months commencing on the date on which the person commences duties in pursuance of his appointment.

(2) A person appointed as an officer on probation remains a probationer until his appointment is confirmed or terminated in accordance with this section.

(3) The Commission may, at any time, terminate the appointment of a person who is a probationer.

(4) As soon as possible after the expiration of the period referred to in sub-section (1), the Commission shall—

- (a) confirm the appointment;
- (b) terminate the appointment; or
- (c) direct that the probationer continue on probation for such further period, not exceeding 6 months, as the Commission thinks fit.

(5) Where the Commission directs that a probationer continue on probation for a further period, it may confirm or terminate the appointment of the probationer at any time during that further period and, if it has not confirmed or terminated the appointment before the expiration of that period, shall do so as soon as practicable after the expiration of that period.

(6) Where the appointment of a probationer is terminated, the Commission shall notify the probationer in writing of the reasons for the termination.

Temporary employees.

38. (1) The Commission may engage persons as temporary employees.

(2) A temporary employee shall be engaged on such terms and conditions as the Commission, with the approval of the Public Service Board, determines.

Leave of absence for service with State or outside.

39. (1) Where the Commission makes an officer available to a State, an external Territory, the government of a country other than Australia or an authority of a State or of such a Territory or government, the Commission may grant to him leave of absence without pay for the period for which he is so made available.

(2) A period during which an officer is absent on leave granted under sub-section (1) forms part of his period of service as an officer.

Division 3—Classifications and Promotions

40. (1) The Commission may create positions on the staff of the Commission and may abolish positions on that staff. Creation and abolition of positions.

(2) The Commission may, with the approval of the Public Service Board, determine the salary, or the range of salary, applicable to a position on the staff of the Commission.

41. (1) The Commission may, with the approval of the Public Service Board, from time to time, alter the classification of a position on the staff of the Commission by raising or lowering the salary, or the range of salary, applicable to the position. Reclassification.

(2) Whenever the classification of a position is altered, the position shall be deemed to be vacant.

(3) Where the Commission makes the same alteration of the classification of all positions having the same classification, the Commission may direct that sub-section (2) shall not apply and, in that case, that sub-section does not apply.

(4) Where—

(a) the Commission makes an alteration of the classification of a position in a case where there is no other position having the same classification as that position; and

(b) that alteration is related to an alteration in respect of which a direction has been given under sub-section (3),

the Commission may direct in writing that sub-section (2) shall not apply in relation to the alteration referred to in paragraph (a) and, in that case, sub-section (2) does not apply.

(5) A direction given by the Commission under sub-section (3) or (4) shall be made known to the officers affected by the direction as prescribed.

42. (1) The Commission may appoint a person as an officer to fill a vacant position on the staff of the Commission. Filling of vacant positions.

(2) Where the Commission has determined that a position, or every position included in a class of positions, on the staff of the Commission is to be filled only by an officer who possesses qualifications specified in the determination, a person shall not be appointed as an officer, and an officer shall not be transferred or promoted, to fill that position, or a position included in that class of positions, as the case may be, unless he possesses those qualifications.

43. (1) In the selection of an officer for promotion to a vacant position, consideration shall be given first to the relative efficiency of the officers available for promotion and, in the event of equality of efficiency of two or more officers, then to the relative seniority of those officers. Selection of officers for promotion.

(2) For the purposes of this section—

(a) “efficiency” means special qualifications and aptitude for the discharge of duties of the kinds required to be performed by the officer filling the position concerned, together

with merit, diligence and good conduct, and, in the case of an officer who has at any time been engaged on war service, includes such efficiency as, in the opinion of the Commissioner, the officer would have attained but for his absence on war service;

- (b) "war service" includes "Defence service" as defined by sub-section 6 (1) of the *Defence (Re-establishment) Act* 1965-1973; and
- (c) the seniority of officers shall be determined as prescribed.

Appeals
against
promotions.

44. (1) The promotion of an officer to a vacant position—
- (a) is provisional and without increased salary pending confirmation of the promotion;
 - (b) shall be made known to the officers as prescribed; and
 - (c) is subject to appeal as provided by this section.

(2) An officer who considers that he should have been promoted to a vacant position in preference to the officer provisionally promoted may appeal, as prescribed, against the provisional promotion on the ground—

- (a) that he is more efficient than the officer provisionally promoted; or
- (b) that he is senior to the officer provisionally promoted and as efficient as that officer.

(3) Upon an appeal or appeals being made against a provisional promotion, the Commission shall arrange for a Promotions Appeal Board to make an inquiry into the claims of the appellant or appellants and the claims of the officer provisionally promoted and determine the appeal or appeals.

(4) Where an appeal is allowed, the Commission shall cancel the provisional promotion and promote the appellant to the vacant position.

(5) Where, in respect of a provisional promotion, no appeal is duly made or an appeal has, or appeals have, been duly made but the appeal, or each of the appeals, has been disallowed or has become inoperative, the Commission shall confirm the provisional promotion.

(6) If, after notification has been made of a provisional promotion to a vacant position but before the promotion has been confirmed, the Commission is satisfied that the position is unnecessary or can be filled by the transfer of an excess officer, or that the notification or further notification of the vacancy in the position is desirable, the Commission may cancel the provisional promotion.

(7) The Commission may cancel a provisional promotion in accordance with sub-section (6), whether or not there has been an appeal against the provisional promotion, and, where the Commission so cancels a provisional promotion, any appeal proceedings in respect of the promotion shall, by force of this section, be discontinued.

(8) For the purposes of this section, an appeal shall be taken to become inoperative if—

- (a) the appeal is withdrawn;
- (b) the appellant ceases to be an officer; or
- (c) the appellant ceases, by reason of the confirmation of his promotion to another position or for any other reason, to be eligible for promotion to the position concerned.

45. (1) For the purposes of this Division, the Commission shall, from time to time, arrange for the constitution of such Promotions Appeal Boards as are required. Promotions
Appeal
Boards.

(2) A Promotions Appeal Board shall consist of—

- (a) a chairman appointed by the Minister;
- (b) an officer appointed by the Commission; and
- (c) an officer nominated by the Union Liaison Committee, being an officer who is a member of the organization that is, in relation to the position to which the appeal relates, the appropriate organization.

(3) The Chairman of a Promotions Appeal Board shall be paid such remuneration and such allowances (other than annual allowances) as are prescribed and holds office on such other terms and conditions as the Minister determines.

(4) Where, at a meeting of a Promotions Appeal Board, the members are divided in opinion on a question, that question shall be decided according to the decision of the majority.

(5) A person shall not be appointed as chairman of a Promotions Appeal Board if he is a member of the Commission or of the staff of the Commission.

Division 4—Tenure of Office

46. (1) An officer who has attained the age of 60 years is entitled to retire if he desires to do so, but may, subject to this Part, continue as an officer until he attains the age of 65 years. Tenure of
office.

(2) If a person continues as an officer after he has attained the age of 60 years, the officer may at any time before attaining the age of 65 years be retired by the Commission.

(3) An officer who attains the age of 65 years ceases to be an officer.

47. (1) If, at any time, the Commission considers that a greater number of officers occupying positions of a particular classification is employed than is necessary for the efficient performance of the Commission's functions, an officer whom the Commission finds to be in excess may be transferred to such other position of equal classification as the officer is competent to fill, and, if no such position is available, the officer may be transferred to a position of lower classification. Excess
officers.

(2) If no position is available for the officer, the officer may be retired by the Commission.

Division 5—Dismissals, Punishments and Complaints

Retirement,
&c., on
grounds of
inefficiency,
incapacity,
&c.

48. If it appears to the Commission that an officer is inefficient or incompetent, or unfit to discharge or incapable of discharging his duties, the Commission may—

- (a) if he occupies a position to which a range of salary is applicable and he is in receipt of a salary other than the minimum salary of that range—reduce his salary to a lower salary within that range;
- (b) if he occupies a position to which a range of salary is applicable and he is in receipt of a salary other than the maximum salary of that range—determine that he be not granted, or be not granted until the expiration of a specified period, the whole, or such part as the Commission specifies, of a specified increase in salary within that range that would otherwise be granted to him;
- (c) reduce him to a lower position and salary; or
- (d) retire him.

Disciplinary
action for
misconduct.

49. (1) Where, after inquiry as directed by the Commission, it is found that an officer has been guilty of misconduct, the Commission may—

- (a) caution or reprimand him;
- (b) fine him a sum not exceeding \$40;
- (c) if he occupies a position to which a range of salary is applicable and he is in receipt of a salary other than the minimum salary of that range—reduce his salary to a lower salary within that range;
- (d) if he occupies a position to which a range of salary is applicable and he is in receipt of a salary other than the maximum salary of that range—determine that he be not granted, or be not granted until the expiration of a specified period, the whole, or such part as the Commission specifies, of a specified increase in salary within that range that would otherwise be granted to him;
- (e) reduce him to a lower position and salary; or
- (f) dismiss him.

(2) In an inquiry for the purposes of sub-section (1), a formal hearing is not required but the officer shall be informed of the nature of the alleged misconduct and given an opportunity of furnishing a statement in relation to the matters alleged to constitute the misconduct.

(3) Where—

- (a) an inquiry is being held into alleged misconduct by an officer; or
- (b) an officer has been charged with having committed an offence against a law of Australia, of a State or of a Territory, punishable either on indictment or on summary conviction, and it appears to the Commission that the act

or omission alleged to constitute the offence is such as to constitute misconduct by the officer,
the Commission may suspend the officer from duty.

(4) Subject to sub-sections (5) and (8), where the Commission suspends an officer from duty under sub-section (3), the officer shall not be paid his salary in respect of the period of the suspension.

(5) The Commission may, in its discretion, determine that the officer—

- (a) be paid his salary in respect of the period of the suspension;
- (b) be paid his salary in respect of such part of the period of the suspension as the Commission specifies; or
- (c) be paid such part of his salary as the Commission specifies in respect of the period of the suspension or in respect of such part of that period as the Commission specifies.

(6) Where the Commission has suspended an officer from duty under sub-section (3), the Commission may at any time revoke the suspension.

(7) Where—

- (a) after an inquiry has been held into alleged misconduct by an officer who has been suspended from duty under sub-section (3), the Commission is not satisfied that the officer has been guilty of misconduct; or
- (b) upon the hearing by a court of the charge against an officer referred to in paragraph (3) (b) who has been suspended from duty under sub-section (3) the officer does not plead guilty, and is not found guilty, of the offence with which he was charged or of another offence that appears to the Commission to be such as to constitute misconduct by the officer, or the charge against such an officer is not proceeded with,

the Commission shall, if it has not already done so, revoke the suspension.

(8) Where—

- (a) an officer has been suspended from duty under sub-section (3);
- (b) an amount of salary that would otherwise have been paid to the officer in respect of the period of the suspension was not paid to him; and
- (c) the Commissioner revokes the suspension,

the officer shall, subject to sub-section (9), be paid that amount of salary.

(9) Where the Commissioner is satisfied that an officer to whom sub-section (8) applies has engaged in paid employment or work during the period of his suspension, the amount payable to him under that sub-section shall be reduced by an amount equal to the total of the amounts of the earnings that the Commission is satisfied were received or are receivable by him in respect of that employment or work.

(10) For the purposes of this section, an officer shall be taken to have been guilty of misconduct if, and only if—

- (a) he wilfully disobeyed or disregarded a direction applicable to him as an officer and given by a person having authority to give the direction;
- (b) he was negligent or careless in the discharge of his duties;
- (c) he was inefficient or incompetent by reason of causes within his own control;
- (d) he used intoxicating liquor or drugs to excess;
- (e) he was guilty of any disgraceful or improper conduct, whether as an officer or otherwise;
- (f) he committed a breach of the terms and conditions upon which he holds office; or
- (g) whether before or after becoming an officer, he wilfully supplied to the Commission, to an officer or to some other person acting on behalf of the Commission incorrect or misleading information in connexion with his appointment as an officer.

Appeals.

50. (1) Where, under section 48 or 49—

- (a) an officer is fined a sum exceeding \$4, has his salary or position reduced or is retired or dismissed; or
- (b) a determination is made that an officer be not granted, or be not granted until the expiration of a specified period, the whole or a part of an increase in salary,

the officer may appeal to the Staff Appeals Board.

(2) On the hearing of an appeal under this section, the Staff Appeals Board may take evidence on oath or affirmation.

(3) The regulations may prescribe the manner in which, and the time within which, appeals may be made under this section and the manner in which the hearing of appeals so made shall be conducted, and may include provision for or in relation to the summoning of witnesses, the production of documents, the taking of evidence on oath or affirmation and the administering of oaths or affirmations.

(4) The Staff Appeals Board shall hear each appeal submitted to it under this section and may confirm, vary or set aside the decision against which the appeal is made.

(5) The decision of the Staff Appeals Board is final and the Commission shall take such action as is necessary to give effect to the decision.

Staff Appeals Board.

51. (1) For the purposes of this Division, there shall be a Staff Appeals Board.

(2) For the purpose of hearing and determining an appeal, the Staff Appeals Board shall consist of—

- (a) a chairman appointed by the Minister;
- (b) an officer appointed by the Commission; and

- (c) an officer nominated by the Union Liaison Committee, being an officer who is a member of the organization that is, in relation to the position occupied by the appellant, the appropriate organization.

(3) The Chairman of the Staff Appeals Board shall be paid such remuneration and such allowances (other than an annual allowance) as are prescribed, and holds office on such other terms and conditions as the Minister determines.

(4) Where, at a meeting of the Staff Appeals Board, the members are divided in opinion on a question, that question shall be decided according to the opinion of the majority.

(5) A person shall not be appointed chairman of the Staff Appeals Board if he is a member of the Commission or of the staff of the Commission.

52. (1) An officer who considers that he has ground for complaint in relation to any matter relating to his employment, not being a matter relating to a promotion, may make a complaint to the Commissioner. Complaints
by officers.

(2) An officer may make a complaint by giving to his immediately superior officer a notice in writing setting forth particulars of the subject-matter of the complaint.

(3) An officer to whom a notice is given in pursuance of sub-section (2) shall cause the notice to be delivered to the Commissioner.

(4) Where a notice has been delivered to the Commissioner in accordance with sub-section (3), the Commissioner shall investigate the subject-matter of the notice and report the results of his investigation to the Commission.

(5) An officer who is dissatisfied with the decision of the Commission in relation to a notice given by him in pursuance of sub-section (2) may, within 21 days after the date on which notice in writing of the decision is given to him, appeal against the decision to the Staff Appeals Board.

(6) On an appeal under this section, the Staff Appeals Board may—

- (a) recommend to the Commission that it take such action in relation to the subject-matter of the appeal as is specified by the Board; or
- (b) dismiss the appeal.

(7) The Commission shall give effect to a recommendation of the Staff Appeals Board made in pursuance of sub-section (6).

Division 6—The Staff Council

53. There shall be a body to be known as the Staff Council of the Capital Territory Health Commission. Staff
Council.

54. It is the function of the Staff Council to make recommendations to the Commission on any matter that affects, or may affect, a person employed by the Commission or engaged upon business of the Commission. Function of
Staff
Council.

**Membership
of Staff
Council.**

- 55.** The Staff Council shall consist of 10 members, of whom—
- (a) 5 members shall be appointed, as occasion requires, by the Commission; and
 - (b) 5 members shall be appointed, as occasion requires, by the Union Liaison Committee.

**Delegates of
members.**

56. (1) The Commission shall, as occasion requires, appoint one delegate for each member of the Staff Council appointed by the Commission.

(2) The Union Liaison Committee shall, as occasion requires, appoint one delegate for each member of the Staff Council appointed by the Union Liaison Committee.

**Tenure of
office.**

57. (1) Subject to this Division, a member of the Staff Council holds office for such period, not exceeding 3 years as is specified in the instrument of his appointment.

(2) Subject to this Division, the delegate of a member of the Staff Council holds office until—

- (a) the term of office of the member that was current when the delegate was appointed expires; or
- (b) the member otherwise ceases to be a member of the Staff Council,

whichever first occurs.

(3) A member of the Staff Council and a delegate of a member are eligible for re-appointment.

Resignation.

58. A member of the Staff Council, or a delegate of a member, may resign his office—

- (a) in the case of a member or delegate appointed by the Commission—by writing under his hand addressed to the Commission; and
- (b) in the case of a member or delegate appointed by the Union Liaison Committee—by writing under his hand addressed to the Union Liaison Committee.

**Termination
of
appointment.**

59. (1) The Commission may, at any time, terminate the appointment of—

- (a) a member of the Staff Council appointed by the Commission; or
- (b) a delegate of a member of the Staff Council appointed by the Commission.

(2) The Union Liaison Committee may, at any time, terminate the appointment of—

- (a) a member of the Staff Council appointed by the Committee; or
- (b) a delegate of a member of the Staff Council appointed by the Committee.

60. (1) Subject to sub-section (2), the Staff Council shall meet at such times and places as are fixed by the Council or are fixed by the Chairman by notice in writing given to the members of the Staff Council. Meetings.

(2) Except with the approval of the Commissioner, the Staff Council shall not meet more than once in the same month.

(3) A quorum at a meeting of the Staff Council is constituted by 5 members.

(4) Questions arising at a meeting of the Staff Council shall be determined by a majority of the votes of the members present and voting.

(5) The member presiding at a meeting of the Staff Council has a deliberative vote only.

61. (1) There shall be a Chairman and a Deputy Chairman of the Staff Council. Chairman and Deputy Chairman.

(2) The Chairman and Deputy Chairman of the Staff Council—

(a) shall be elected, as occasion requires, by the members of the Staff Council; and

(b) are eligible for re-election.

(3) An election of the Chairman or Deputy Chairman of the Staff Council shall be conducted at a meeting of the Staff Council.

(4) Subject to this Division, a person elected as Chairman or Deputy Chairman of the Staff Council holds office for the period of 6 months commencing on the date of his election.

(5) A person is not eligible for election as Chairman or Deputy Chairman of the Staff Council unless he is a member of the Staff Council.

(6) Where the Chairman of the Staff Council is, for any reason, unable to act or the office of Chairman of the Staff Council is vacant, sub-section 60 (1) applies as if the reference to the Chairman were a reference to the Deputy Chairman.

(7) A person ceases to hold office as the Chairman or Deputy Chairman of the Staff Council if he ceases to be a member of the Staff Council.

(8) The Chairman of the Staff Council shall preside at all meetings of the Staff Council at which he is present.

(9) At a meeting of the Staff Council at which the Chairman is not present the Deputy Chairman shall preside.

(10) If neither the Chairman nor the Deputy Chairman is present at a meeting of the Staff Council, the members present shall elect one of their number who shall preside at the meeting.

62. (1) If a member of the Staff Council is absent from a meeting of the Staff Council, the delegate of that member may attend the meeting. Absence of member.

(2) Subject to sub-section (3), where a delegate attends a meeting of the Staff Council in pursuance of sub-section (1) the delegate has, at that meeting, the same rights and powers as a member of the Staff Council.

(3) A delegate of a member of the Staff Council is not eligible for election under sub-section 61 (10).

Vacancies.

63. (1) Where a vacancy occurs in the office of Chairman of the Staff Council or Deputy Chairman of the Staff Council, the members of the Staff Council shall conduct an election for the purpose of sub-section 61 (2) within one month after the date on which the vacancy arose.

(2) Where the offices of Chairman of the Staff Council and Deputy Chairman of the Staff Council are vacant and, but for this sub-section, the members of the Staff Council would not be able to elect one of their number to the office of Chairman of the Staff Council, the Commissioner may, by notice in writing given to the members of the Staff Council, convene a meeting of the Staff Council.

(3) The performance of the functions of the Staff Council is not affected by reason of there being a vacancy or vacancies in the membership of the Staff Council.

First meeting of Staff Council.

64. The first meeting of the Staff Council shall be held on the date fixed by the Commissioner, being a date not later than 28 days after the date of commencement of this Ordinance.

Minority reports.

65. Where the voting on a resolution of the Staff Council relating to a recommendation to be made to the Commission is not unanimous, the recommendation shall not be transmitted to the Commission unless it is accompanied by a report setting forth in summary form the views of those members who were present at the meeting but did not vote in favour of the resolution.

PART VI—FINANCE**Moneys of Commission.**

66. The moneys of the Commission shall consist of—

- (a) such amounts as are appropriated by the Parliament for the purposes of the Commission;
- (b) payments received for or in connexion with treatment and services provided by the Commission or the hiring of plant or equipment of the Commission;
- (c) moneys given or bequeathed to the Commission;
- (d) amounts received from the disposal of assets of the Commission; and
- (e) any other money received by the Commission for the purposes of the Commission.

Expenditure by Commission.

67. (1) Subject to this section, the Commission may apply the moneys referred to in section 66 for any of the following purposes:—

- (a) in payment or discharge of the expenses, charges and obligations incurred by the Commission in, or in connexion with, the performance of its functions;

- (b) in payment of remuneration and allowances payable to any person under this Ordinance; and
- (c) in making any other payments that the Commission is authorized or required by this Ordinance to make.

(2) Notwithstanding anything contained in this Ordinance, where a gift or bequest made to the Commission is subject to conditions in relation to the purposes for which it is to be applied, the moneys paid to the Commission as a result of the gift or bequest, and any income derived from the investment of those moneys, may be applied for those purposes and subject to those conditions, but not otherwise.

68. (1) The Commission shall prepare estimates, in such form as the Minister directs, of its expenditure and receipts for each financial year and, if so directed by the Minister, for any other period and shall submit those estimates to the Minister not later than such date as the Minister directs. Estimates.

(2) Moneys shall not be expended by the Commission otherwise than in accordance with estimates of expenditure approved by the Minister.

69. The Commission has no power to borrow money. Borrowing prohibited.

70. (1) The Commission may open and maintain an account or accounts with an approved bank or approved banks and shall maintain at all times at least one such account. Bank accounts.

(2) The Commission shall pay all moneys of the Commission into an account referred to in this section.

(3) In this section, "approved bank" means the Reserve Bank of Australia or another bank for the time being approved by the Treasurer.

71. The Commission shall cause to be kept proper accounts and records of the transactions and affairs of the Commission and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Commission and over the incurring of liabilities by the Commission. Proper accounts to be kept.

72. (1) The Commission shall, as soon as practicable after the end of each financial year, prepare and furnish to the Minister a report of the operations of the Commission during that year, together with financial statements in respect of that year in such form as the Treasurer approves. Annual report.

(2) Before furnishing the financial statements to the Minister, the Commission shall submit them to an auditor appointed by the Treasurer, and the auditor shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and show fairly the financial transactions and the state of affairs of the Commission;

- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Commission during the year have been in accordance with this Ordinance; and
- (d) as to such other matters arising out of the statements as the auditor considers should be reported to the Minister.

(3) In a report prepared by the Commission for the purpose of sub-section (1), the Commission shall set forth the terms of any directions given by the Minister to the Commission in pursuance of sub-section 7 (2) during the financial year to which the report relates.

(4) The Minister shall cause a copy of a report referred to in sub-section (1) to be presented to each House of the Parliament and to the Legislative Assembly as soon as practicable after the report is furnished to him.

Audit.

73. (1) The auditor referred to in sub-section 72 (2) shall inspect and audit the accounts and records of financial transactions of the Commission and records relating to assets of, or in the custody of, the Commission and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection that is, in the opinion of the auditor, of sufficient importance to justify his so doing.

(2) The auditor may, at his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in sub-section (1).

(3) The auditor shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under sub-section (1).

(4) The auditor, or a person authorized by him for the purposes of this section, is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Commission relating directly or indirectly to the receipt or payment of moneys by the Commission or to the acquisition, receipt, custody or disposal of assets by the Commission.

(5) The auditor, or an authorized person referred to in sub-section (4), may make copies of, or take extracts from, any such accounts, records, documents or papers.

(6) The auditor, or an authorized person referred to in sub-section (4), may require any person to furnish him with such information in the possession of the person or to which the person has access as the auditor considers necessary for the purposes of this section, and the person shall comply with the requirement.

(7) A person who contravenes sub-section (6) is guilty of an offence punishable, upon conviction, by a fine not exceeding \$200.

Charges for services to be as prescribed.

74. (1) Subject to this section, the charges for services provided by the Commission shall be as prescribed.

(2) The Commission may remit or postpone, either in whole or in part, the payment of an amount payable by a person to the Commission in respect of a service provided by the Commission.

(3) The Minister may, by instrument in writing, direct that the treatment or services specified in the instrument provided by the Commission for such persons or classes of persons as are specified in the instrument shall be provided free of charge.

75. The Commission shall not, except with the approval of the Minister, enter into any contract for the acquisition or sale of capital assets and involving the payment or receipt of an amount exceeding \$250,000.

Certain transactions require Minister's approval.

PART VII—ELECTIONS

76. In this Part, "inquiry" means an inquiry under section 83.

Definition.

77. (1) An election of a member of the Commission referred to in paragraph 10 (1) (d) or 10 (1) (e), and an election of the deputy of such a member, shall be in accordance with Schedule 2.

Elections to be conducted in accordance with Schedules 2 and 3.

(2) An election of the member of the Commission referred to in paragraph 10 (1) (g), and an election of the deputy of that member, shall be in accordance with Schedule 3.

78. (1) For the purposes of an election under this Part, the person holding office as the Chief Australian Electoral Officer under the *Australian Electoral Office Act 1973* shall be the Returning Officer.

Returning Officer.

(2) A reference in this Part (other than a reference in sub-section (1)) or in Schedule 2 or Schedule 3 to the Returning Officer shall be read as including a reference to a person appointed by the Returning Officer for the purposes of this Part.

79. (1) Where, before the poll is declared at an election, the Returning Officer is satisfied that there has been an irregularity in the course or conduct of the election, he may declare the election to be void.

Returning Officer may declare election void for irregularity.

(2) Where the Returning Officer makes a declaration under sub-section (1), this Ordinance applies as if the election had not been held.

80. (1) A person who was a candidate at an election under this Ordinance may, within 14 days after the date on which the poll was declared, request the Minister to appoint a person to inquire into the conduct of the election.

Request for inquiry.

(2) A request for the purpose of sub-section (1)—

- (a) shall be in writing;
- (b) shall include a statement of the facts by reason of which the request is made; and
- (c) shall be signed by the person making the request.

81. Where—

- (a) a request is made in accordance with section 80; and

Appointment of person to conduct inquiry.

(b) the Minister is of the opinion that, having regard to the facts alleged in the request, it is desirable that the conduct of the election the subject of the request be investigated, the Minister may appoint a person to inquire into the conduct of the election.

Qualifications for appointment under s. 81.

- 82.** A person shall not be appointed under section 81 unless—
- (a) he is, or has been, a Judge of a Federal Court or of the Supreme Court of a State or Territory; or
 - (b) he is a person whose name is on a roll referred to in sub-section 55D (1) of the *Judiciary Act* 1903-1973 and has been on that roll for a period not less than five years.

Person appointed shall conduct inquiry.

- 83.** Where a person has been appointed to inquire into the conduct of an election—
- (a) the Minister shall deliver to that person the request in connexion with which the person was appointed; and
 - (b) the person shall inquire into the conduct of the election the subject of the request.

Conduct of inquiry.

- 84.** (1) An inquiry shall be conducted without regard to legal forms and technicalities.
- (2) The person conducting an inquiry is not bound by the rules of evidence and may inform himself in any manner he thinks fit.
- (3) The person by whom an inquiry is to be conducted shall, before commencing the inquiry, give notice in writing—
- (a) to each of the persons who was a candidate in the election to which the inquiry relates;
 - (b) to the Returning Officer; and
 - (c) to any other person he thinks appropriate,
- of the date on which, and the time and place at which, he will receive evidence and submissions relating to the subject-matter of the inquiry.
- (4) A person to whom notice is given under sub-section (3) is entitled to attend and be heard at the inquiry and to be represented at the inquiry by a barrister and solicitor or, with the leave of the person conducting the inquiry, by some other person.

Report of inquiry.

- 85.** (1) A person who conducts an inquiry shall report his findings to the Minister in writing and, in his report, may recommend—
- (a) that an elected candidate be declared not to have been elected and an unelected candidate to have been elected;
 - (b) that the election be declared void; or
 - (c) that the Minister take no action.
- (2) A person who reports his findings to the Minister in accordance with sub-section (1) may decline to make a recommendation under that sub-section if, by reason of the lack of evidence, he is of the opinion that it is not desirable that he make a recommendation.

86. (1) Where—

- (a) a report is made to the Minister in accordance with sub-section 85 (1); and
- (b) the report includes a recommendation referred to in paragraph (a) or (b) of that sub-section,

the Minister may, if he is satisfied that the circumstances warrant his so doing, make an order in accordance with the recommendation.

Power of Minister to set aside election.

(2) Where the Minister makes an order declaring an elected candidate not to have been elected and declaring an unelected candidate to have been elected—

- (a) the elected candidate shall be deemed not to have been elected; and
- (b) the unelected candidate shall be deemed to have been elected.

(3) Where the Minister makes an order declaring an election void, the election shall, for the purposes only of this Ordinance, be deemed never to have been held.

87. An election shall not be declared void, and a person shall not be declared not to have been elected—

- (a) by reason only of a defect or irregularity in the conduct of the election, being a defect or irregularity that did not affect the result of the election;
- (b) by reason only of a defect in the title, or a lack of title, of the person who acted as the Returning Officer;
- (c) by reason only of an error or defect in form in an instrument, notice, voting-paper or other document issued or given under, or for the purposes of, this Part; or
- (d) by reason only of an illegal practice, other than bribery or corruption or attempted bribery or corruption, having been engaged in by any person, unless—
 - (i) it is likely that the result of the election was affected by the practice; and
 - (ii) it is just that the election be declared void or that a candidate be declared not to have been elected, as the case may be.

Formal defects not to render election void.

88. (1) A person conducting an inquiry has, in relation to his conduct of the inquiry and the making of his report, the same protection and immunity as a Judge of the Supreme Court.

Protection of person conducting inquiry.

(2) A person who appears as a witness before a person conducting an inquiry under this Part has the same protection as a witness in proceedings in the Supreme Court.

(3) A barrister and solicitor appearing before a person conducting an inquiry under this Part has the same protection and immunity as if he were appearing for a party to proceedings in the Supreme Court.

Payment of expenses of person requesting inquiry.

89. (1) Where, after an inquiry, the Minister makes an order under section 86, the Minister may, by instrument in writing, direct that the person at whose request the inquiry was conducted be paid, for his expenses in connexion with the inquiry, the sum specified in the instrument.

(2) Where a direction is given under sub-section (1), there is payable by Australia to the person named in the direction the amount specified in the direction.

PART VIII—MISCELLANEOUS

Minister's power of entry.

90. (1) The Minister, or a person authorized by him in writing, may, at any time, enter and inspect any premises occupied or used by the Commission.

(2) The Minister may appoint 2 or more persons to be official visitors for a hospital conducted by the Commission.

(3) A person who is an official visitor for a hospital shall report to the Minister at such times, and on such matters relating to the hospital, as the Minister directs.

Control of traffic on Commission premises.

91. Notwithstanding sub-section 109 (6) of the *Motor Traffic Ordinance* 1936-1974, the provisions of that Ordinance, other than sub-section 109 (6), apply to, and in relation to—

- (a) every carriageway on land occupied by the Commission that is available for use by the Commission;
- (b) every area of land occupied by the Commission that is available for use by the public for the parking of motor vehicles; and
- (c) every entrance to, or exit from, such a carriageway or area of land,

as if the carriageway, area of land, entrance or exit were an off-street parking area and a public place within the meaning of the *Motor Traffic Ordinance* 1936-1974.

Secrecy.

92. (1) This section applies to every person who is or has been a member of the Commission or of the staff of the Commission.

(2) Subject to this section, a person to whom this section applies shall not, either directly or indirectly, except in the performance of a duty under or in connexion with this Ordinance—

- (a) make a record of, or divulge or communicate to any person, any information concerning the affairs of any other person acquired by him by reason of his office or employment under or for the purposes of this Ordinance; or
- (b) produce to any person a document furnished to the first-mentioned person by reason of his office.

Penalty: \$1,000 or imprisonment for 3 months, or both.

(3) Nothing in this section applies in relation to the communication of information, or the production of a document, to a court in accordance with a summons or a writ of subpoena.

93. (1) The Commission may appoint a Committee to assist the Commission in relation to a matter. Committees.

(2) A Committee appointed under this section shall consist of such person or persons, whether a member or members of the Commission or not, as the Commission thinks fit.

(3) Subject to sub-section (4), a member of a Committee shall be paid, in respect of attendance at meetings of the Committee or while engaged (whether in Australia or overseas) with the approval of the Commission, on business of the Committee, such fees and allowances as are prescribed.

(4) Sub-section (3) does not apply to, or in relation to—

- (a) the Commissioner;
- (b) the Deputy Commissioner; or
- (c) a person who is an officer of, or is employed in, the Public Service or the service of an authority of Australia.

(5) A Committee shall make such investigations, and furnish to the Commission such reports, in connexion with the matter in relation to which it has been appointed as the Commission directs.

94. Where the Commissioner, the Deputy Commissioner or a person appointed as an officer under this Ordinance was, immediately before his appointment, an officer of the Australian Public Service or a person to whom the *Officers' Rights Declaration Act 1928-1975* applied— Application of Officers' Rights Declaration Act.

- (a) he retains his existing and accruing rights; and
- (b) for the purpose of determining those rights, his service under this Ordinance shall be taken into account as if it were service in the Australian Public Service.

95. Subject to this Ordinance, a notice or document that is required to be given or sent to a person may be given or sent by post. Notices may be given by post.

96. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters required or permitted by this Ordinance to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance and, without limiting the generality of the foregoing, prescribing penalties not exceeding \$100 for offences against the regulations. Regulations.

PART IX—TRANSITIONAL PROVISIONS

97. In this Part, "the Board" means the Canberra Hospitals Management Board preserved and continued in existence under the *Canberra Hospitals Ordinance 1938-1973*. Definition.

98. (1) Proceedings that have, before the date of commencement of this section, been instituted in a court by or against the Board may be continued by or against the Commission. Preservation of legal proceedings.

(2) Where a cause of action arose, before the date of commencement of this section, by or against the Board but proceedings in respect of that cause of action had not been instituted before that date, proceedings in respect of that cause of action may be instituted by or against the Commission.

(3) In proceedings instituted or continued in pursuance of this section, each of the parties has the same rights, and is subject to the same obligations, as if the proceedings had been continued by or against the Board and the Commission were the Board.

Bank
accounts of
the Board.

99. A Bank account maintained, immediately before the date of commencement of this section, by and in the name of the Board under section 29 of the *Canberra Hospitals Ordinance* 1938-1973 shall, on and after the date of commencement of this section, be deemed to be an account maintained by and in the name of the Commission under section 70 of this Ordinance.

Assets, &c.,
to vest in
Commission.

100. (1) The rights, privileges, obligations and liabilities of the Board immediately before the date of commencement of this Ordinance are, on and from the date of commencement of this Ordinance, the rights, privileges, obligations and liabilities of the Commission.

(2) All property, whether real or personal, vested in the Board immediately before the date of commencement of this Ordinance is, on and from the date of commencement of this Ordinance, vested in the Commission on the same terms and conditions, and subject to the same rights and liabilities, as if the property had continued to be vested in the Board.

(3) On and after the date of commencement of this Ordinance, a contract to which the Board was a party immediately before that date has effect as if the Commission were a party to the contract in lieu of the Board.

Staff of
Board to be
deemed
employed by
Commission.

101. A person who was, immediately before the date of commencement of this Ordinance, employed under the *Canberra Hospitals Ordinance* 1938-1973 shall, on and from the date of commencement of this Ordinance, be deemed to be employed by the Commission on terms and conditions that are the same as those on which he was employed by the Board immediately before that date.

SCHEDULE 1

ORDINANCES REPEALED

Section 4

Canberra Community Hospital Ordinance 1938
Canberra Community Hospital Ordinance (No. 2) 1938
Canberra Community Hospital Ordinance 1939
Canberra Community Hospital Ordinance 1940
Canberra Community Hospital Ordinance (No. 2) 1940
Canberra Community Hospital Ordinance 1941
Canberra Community Hospital Ordinance (No. 2) 1941
Canberra Community Hospital Ordinance 1943
Canberra Community Hospital Ordinance 1944
Canberra Community Hospital Ordinance 1945
Canberra Community Hospital Ordinance 1946
Canberra Community Hospital Ordinance 1947
Canberra Community Hospital Ordinance (No. 2) 1947
Canberra Community Hospital Ordinance 1950
Canberra Community Hospital Ordinance 1952
Canberra Community Hospital Ordinance 1955
Canberra Community Hospital Ordinance 1958
Canberra Community Hospital Ordinance 1959
Canberra Community Hospital Ordinance 1961
Canberra Community Hospital Ordinance 1962
Canberra Community Hospital Ordinance 1963
Canberra Community Hospital Ordinance 1964
Canberra Community Hospital Ordinance (No. 2) 1967
Canberra Hospital Ordinance 1971
Canberra Hospital Ordinance (No. 2) 1971
Canberra Hospitals Ordinance 1973

SCHEDULE 2

ELECTION OF EMPLOYEE

Section 77

REPRESENTATIVE

1. The Commissioner shall, by instrument in writing, fix—
 - (a) the date on which prescribed employees are to be invited to nominate candidates for election;
 - (b) the date that is to be the last date on which candidates for election may be nominated, being a date not earlier than 30 days after the date referred to in paragraph (a);
 - (c) the date on which voting papers are to be issued; and
 - (d) the period during which voting papers may be delivered to the Returning Officer.
2. A nomination of a candidate for election is not effective unless the nomination—
 - (a) is in writing;
 - (b) is signed by not less than 10 prescribed employees qualified to vote in the election;
 - (c) has endorsed upon it the consent in writing of the candidate to his nomination; and
 - (d) is delivered to the Returning Officer on or before the date fixed for the purpose of paragraph 1(b).
- 3.(1) Where the Commissioner has fixed a date for the purpose of paragraph 1(a), he shall, not later than the date fixed for the purpose of paragraph 1(b), deliver to the Returning Officer a list showing the names and addresses of persons who, on the date fixed for the purpose of paragraph 1(a), were prescribed employees qualified to vote in the election.
 - (2) The address of a prescribed employee for the purpose of sub-clause (1) is the address of the place of residence of that employee last known to the Commissioner.
4. On the date fixed for the purpose of paragraph 1(c), the Returning Officer shall send to each prescribed employee qualified to vote in the election at the address shown in the list given to the Returning Officer in accordance with sub-clause 3(1)—
 - (a) a voting-paper;
 - (b) an envelope bearing the words "Voting-paper"; and
 - (c) an envelope addressed to the Returning Officer.
- 5.(1) Every voting-paper shall contain the names of the candidates in the order ascertained by the Returning Officer by drawing lots.
 - (2) Every voting-paper shall be initialled by the Returning Officer.
 - (3) A vote is not effective if it is cast by means of a voting-paper that does not bear the initials of the Returning Officer.
 - (4) Where the Returning Officer is satisfied that a voting-paper has been lost or destroyed, he shall, on request in writing by the person to whom the voting-paper was sent, deliver to that person a new voting-paper.
- 6.(1) A voter shall indicate his preference, or the order of his preference, on the voting-paper by writing the number one against the name of the candidate for whom he wishes to vote or by writing a series of consecutive numbers, beginning with the number one, against the names of the candidates for whom he wishes to vote, one number being written against the name of each such candidate.
 - (2) A voter need not write a number against the name of every candidate.
7. Each voter shall—
 - (a) place his voting-paper in the envelope marked "Voting-paper";
 - (b) seal that envelope and place it in the envelope addressed to the Returning Officer; and
 - (c) send or deliver the envelope to the Returning Officer.
8. An envelope sent or delivered to the Returning Officer for the purpose of clause 7 shall not be opened except in accordance with clause 10.
9. Each candidate is entitled to nominate one scrutineer to represent him at the counting of votes.

SCHEDULE 2—*continued*

10. After the expiration of the period referred to in paragraph 1(d), the Returning Officer shall—

- (a) open each envelope sent or delivered to him in accordance with clause 7;
- (b) place the envelopes containing the voting-papers together; and
- (c) after all the envelopes containing voting-papers have been so placed together, open the envelopes and ascertain the result of the election.

11. Neither the Returning Officer nor a scrutineer shall disclose, or aid in the disclosure of, the manner in which any voter has voted.

12. A voting-paper is not effective if it is received by the Returning Officer after the expiration of the period referred to in paragraph 1(d).

13. The Returning Officer shall decide whether a voting-paper is effective.

14. The result of the election shall be determined in the manner following:—

- (a) The Returning Officer shall count the first preference votes given for each candidate.
- (b) The candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected.
- (c) If no candidate has received an absolute majority of first preference votes, the candidate who has received fewest first preference votes shall be excluded, and each voting-paper counted to him shall be counted to the candidate next in the order of the voter's preference.
- (d) If a candidate then has an absolute majority of votes he shall be elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes, and counting each of his voting-papers to the unexcluded candidate next in the order of the voter's preference, shall be repeated until one candidate has received an absolute majority of votes.
- (e) The candidate who has received an absolute majority of votes shall be elected.

15. Where two or more candidates have the same number of votes and it is necessary to exclude one of them, the candidate who was lowest on the poll at the last count or transfer at which they had an unequal number of votes shall be excluded and, if the candidates had an equal number of votes at all preceding counts or transfers or if there was no preceding count or transfer, the Returning Officer shall decide by lot which candidate is to be excluded.

16. For the purpose of determining which candidate is next in the order of a voter's preference, a candidate who has been elected or excluded shall not be considered, and the order of the voter's preference shall be determined as if the name of the last-mentioned candidate were not on the voting-paper.

17. Where, on a count or transfer, it is found that, on a voting-paper, there is no candidate next in the order of the voter's preference, that voting-paper shall be laid aside and shall not be further taken into account.

18. The Returning Officer may, if he thinks fit, either on the request in writing of a candidate setting forth the reasons for the request or of his own motion, recount the voting-papers received in connexion with an election.

SCHEDULE 3

ELECTION OF MEDICAL REPRESENTATIVE

Section 77

1. The Minister shall, by instrument in writing, fix—

- (a) the date on which registered medical practitioners are to be invited to nominate candidates for election;
- (b) the date that is to be the last date on which candidates for election may be nominated, being a date not earlier than 30 days after the date referred to in paragraph (a);
- (c) the date on which voting-papers are to be issued; and
- (d) the period during which voting-papers may be delivered to the Returning Officer.

SCHEDULE 3—*continued*

2. A nomination of a candidate for election is not effective unless the nomination—
- (a) is in writing;
 - (b) is signed by not less than 2 registered medical practitioners qualified to vote in the election;
 - (c) has endorsed upon it the consent in writing of the candidate to his nomination;
 - (d) is accompanied by a statutory declaration by the candidate and by each of the persons by whom the nomination is signed that he is a registered medical practitioner and that he has, within the period of twelve months immediately preceding the date fixed for the purpose of paragraph 1(a), performed in the Territory a medical service within the meaning of the *Medical Practitioners Registration Ordinance 1930-1973*; and
 - (e) is delivered to the Returning Officer on or before the date fixed for the purpose of paragraph 1(b).

3.(1) Where the Minister has fixed a date for the purpose of paragraph 1(a), he shall, not later than the date fixed for the purpose of paragraph 1(b), deliver to the Returning Officer a list, certified by the Chairman of the Medical Board to be correct, showing the names and addresses of persons who, on the date fixed for the purpose of paragraph 1(a), were registered medical practitioners.

(2) The address of a person for the purpose of sub-clause (1) is the address of that person shown in the Register of Medical Practitioners kept by the Medical Board for the purposes of the *Medical Practitioners Registration Ordinance 1930-1973*.

4.(1) On the date fixed for the purpose of paragraph 1(c), the Returning Officer shall send to each registered medical practitioner whose name appears on the list referred to in sub-clause 3(1), at the address shown in that list—

- (a) a voting-paper;
- (b) an envelope bearing the words "Voting-paper";
- (c) a form of declaration in accordance with sub-clause (2); and
- (d) an envelope addressed to the Returning Officer.

(2) The declaration referred to in paragraph 1(c) shall be in accordance with the following form:—

I, (*name of registered medical practitioner*) of _____ (*address*),
 a medical practitioner registered under the *Medical Practitioners Registration Ordinance 1930-1973*, do hereby declare that I have, within the period of 12 months immediately preceding (*date fixed under paragraph 1(a)*), performed in the Australian Capital Territory a medical service within the meaning of the above-mentioned Ordinance.

(Signature)

(Date)

5.(1) Every voting-paper shall contain the names of the candidates in the order ascertained by the Returning Officer by drawing lots.

(2) Every voting-paper shall be initialled by the Returning Officer.

(3) A vote is not effective if it is cast by means of a voting-paper that does not bear the initials of the Returning Officer.

(4) Where the Returning Officer is satisfied that a voting-paper has been lost or destroyed, he shall, on request in writing by the person to whom the voting-paper was sent, deliver to that person a new voting-paper.

6.(1) A voter shall indicate his preference, or the order of his preference, on the voting-paper by writing the number one against the name of the candidate for whom he wishes to vote or by writing a series of consecutive numbers, beginning with the number one, against the names of the candidates for whom he wishes to vote, one number being written against the name of each such candidate.

(2) A voter need not write a number against the name of every candidate.

7. Each voter shall—

- (a) place his voting-paper in the envelope marked "Voting-paper";
- (b) seal that envelope and place it in the envelope addressed to the Returning Officer, together with the form of declaration referred to in paragraph 4(1)(c) duly completed; and
- (c) send or deliver the envelope to the Returning Officer.

SCHEDULE 3—*continued*

8. An envelope sent or delivered to the Returning Officer for the purpose of clause 7 shall not be opened except in accordance with clause 10.

9. Each candidate is entitled to nominate one scrutineer to represent him at the counting of votes.

10. After the expiration of the period referred to in paragraph 1(d), the Returning Officer shall—

- (a) open each envelope sent or delivered to him in accordance with clause 7;
- (b) place the envelopes containing the voting-papers together; and
- (c) after all the envelopes containing voting-papers have been so placed together, open the envelopes and ascertain the result of the election.

11. Neither the Returning Officer nor a scrutineer shall disclose, or aid in the disclosure of, the manner in which any voter has voted.

12. A voting-paper is not effective if—

- (a) it is received by the Returning Officer after the expiration of the period referred to in paragraph 1(d); or
- (b) it is not accompanied by a duly completed declaration in accordance with the form set out in sub-clause 4(2).

13. The Returning Officer shall decide whether a voting-paper is effective.

14. The result of the election shall be determined in the manner following:—

- (a) The Returning Officer shall count the first preference votes given for each candidate.
- (b) The candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected.
- (c) If no candidate has received an absolute majority of first preference votes, the candidate who has received fewest first preference votes shall be excluded, and each voting-paper counted to him shall be counted to the candidate next in the order of the voter's preference.
- (d) If a candidate then has an absolute majority of votes he shall be elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes, and counting each of his voting-papers to the unexcluded candidate next in the order of the voter's preference, shall be repeated until one candidate has received an absolute majority of votes.
- (e) The candidate who has received an absolute majority of votes shall be elected.

15. Where two or more candidates have the same number of votes and it is necessary to exclude one of them, the candidate who was lowest on the poll at the last count or transfer at which they had an unequal number of votes shall be excluded and, if the candidates had an equal number of votes at all preceding counts or transfers or if there was no preceding count or transfer, the Returning Officer shall decide by lot which candidate is to be excluded.

16. For the purpose of determining which candidate is next in the order of a voter's preference, a candidate who has been elected or excluded shall not be considered, and the order of the voter's preference shall be determined as if the name of the last-mentioned candidate were not on the voting-paper.

17. Where, on a count or transfer, it is found that, on a voting-paper, there is no candidate next in the order of the voter's preference, that voting-paper shall be laid aside and shall not be further taken into account.

18. The Returning Officer may, if he thinks fit, either on the request in writing of a candidate setting forth the reasons for the request or of his own motion, recount the voting-papers received in connexion with an election.