

First print



New South Wales

New South Wales Cancer Council Amendment Bill 1997

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to reconstitute the Board of the New South Wales Cancer Council. At present the Board is constituted by 10 part-time members appointed on the recommendation of the Minister. Under the Bill, the Board will be constituted by the chief executive officer of the Council and 14 part-time members appointed by the Governor on the nomination of various relevant bodies or with appropriate experience and expertise (including a staff-elected member).

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *New South Wales Cancer Council Act 1995* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] reconstitutes the Board of the Council so that it consists of:

- 14 part-time members appointed by the Governor, and
- the chief executive officer of the Council.

The appointed part-time members of the Board are to comprise the following:

- (a) a person who has expertise and experience in conducting medical research with relevance to cancer and who is nominated by the Australian Society for Medical Research,
- (b) two persons who have expertise and experience in the care of cancer patients, one of whom is nominated by the Clinical Oncological Society of Australia and the other nominated by the Australian Medical Association,
- (c) a person who has expertise and experience in disease prevention, health promotion or public education and who is nominated by the Public Health Association of Australia,
- (d) three persons who have expertise and experience in the training of undergraduate and postgraduate students in cancer control, one of whom is nominated by the Vice-Chancellor of the University of Newcastle, another nominated by the Vice-Chancellor of the University of New South Wales and the other nominated by the Vice-Chancellor of the University of Sydney,
- (e) two persons who have knowledge of the needs of cancer patients or other users of health services (at least one of whom has a knowledge of those needs in the rural community) and who are nominated by the Australian Consumers Association or the Consumer's Health Forum,
- (f) a person who is a legal practitioner and who is nominated by the Law Society of New South Wales or the New South Wales Bar Association,

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- (g) a person who is a prominent member of the business community or has expertise and experience in business management,
- (h) a person who has expertise and experience in the practice of accountancy,
- (i) an elected staff member,
- (j) a person nominated by the Minister.

At least 2 of the members of the Board must be medical practitioners.

Schedule 1 [2] makes specific reference to the chief executive officer of the Council in the section of the Principal Act relating to the employment of the staff of the Council as a consequence of the proposed inclusion of the chief executive officer as an ex-officio member of the Board.

Schedule 1 [3] and **[8]–[12]** make amendments consequent on the reconstitution of the Board.

Schedule 1 [4] makes provision for the election of the elected staff member of the Board. The elected staff member is to be a member of staff of the Council who is elected by the members of that staff.

Schedule 1 [5] and **[6]** provide that the chief executive officer and the elected staff member are not eligible to be elected by the Board as Chairperson or Deputy Chairperson of the Board. The amendment ensures that the Board has an opportunity to elect a new Chairperson or Deputy Chairperson on the expiry of the term of office of all or any of the existing members.

Schedule 1 [7] alters the existing maximum 3-year term of office of members of the Board. Appointed members (other than the elected staff member) will have a maximum term of office of 4 years and the elected staff member will have a maximum term of office of 2 years. Under the transitional arrangements made by Schedule 1 [15], 7 of the 14 appointed members (being 7 members chosen by lot) will, on the commencement of the proposed Act, have a maximum term of 2 years instead of 4 years. Accordingly, in future this will enable the appointed members to have a 4-year term, but will enable half of those members to be re-appointed every 2 years.

Schedule 1 [13] increases the quorum for a meeting of the Board to 8 members (with at least 3 members from the specially nominated group of members referred to in proposed section 6 (2) (a)–(d) and at least 3 members from the other group of members).

Schedule 1 [14] and **[15]** make savings and transitional provisions.

First print

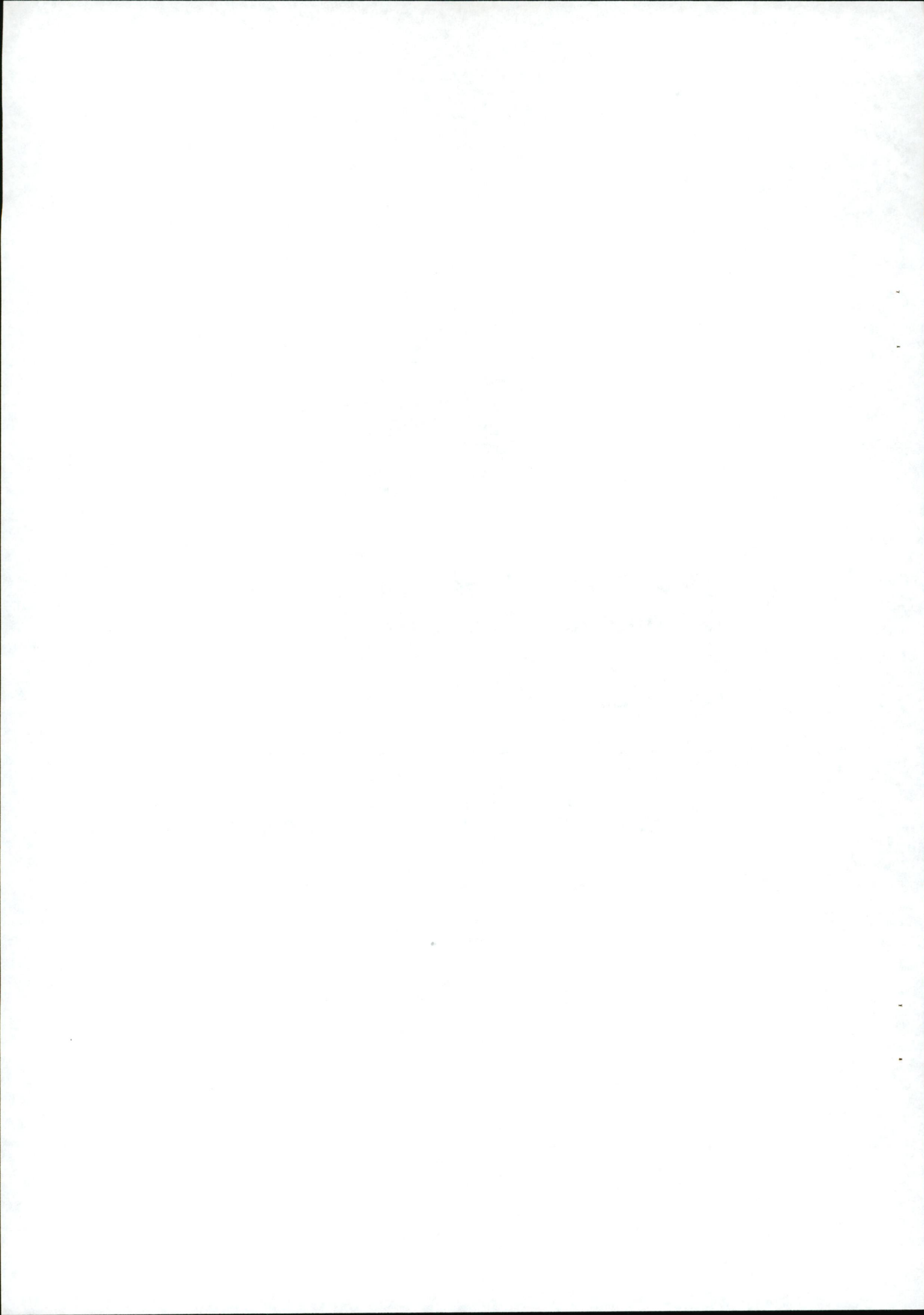


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New South Wales Cancer Council Amendment Bill 1997

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New South Wales Cancer Council Amendment Bill 1997

No. , 1997

A Bill for

An Act to amend the *New South Wales Cancer Council Act 1995* to reconstitute the Board of the New South Wales Cancer Council; and for related purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *New South Wales Cancer Council Amendment Act 1997*.

2 Commencement

5

This Act commences on a day to be appointed by proclamation.

**3 Amendment of New South Wales Cancer Council Act 1995
No 43**

The *New South Wales Cancer Council Act 1995* is amended as set out in Schedule 1.

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Schedule 1 Amendments

(Section 3)

[1] Section 6 The Board of the Council

Omit section 6 (1)–(3). Insert instead:

- | | | |
|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| (1) | The Council is to have a Board consisting of: | 5 |
| (a) | 14 part-time members appointed by the Governor, and | |
| (b) | the chief executive officer of the Council. | |
| (2) | The appointed part-time members of the Board are to comprise the following: | 10 |
| (a) | a person who has expertise and experience in conducting medical research with relevance to cancer and who is nominated by the Australian Society for Medical Research, | |
| (b) | two persons who have expertise and experience in the care of cancer patients, one of whom is nominated by the Clinical Oncological Society of Australia and the other nominated by the Australian Medical Association, | 15 |
| (c) | a person who has expertise and experience in disease prevention, health promotion or public education and who is nominated by the Public Health Association of Australia, | 20 |
| (d) | three persons who have expertise and experience in the training of undergraduate and postgraduate students in cancer control, one of whom is nominated by the Vice-Chancellor of the University of Newcastle, another nominated by the Vice-Chancellor of the University of New South Wales, and the other nominated by the Vice-Chancellor of the University of Sydney, | 25 |
| (e) | two persons who have knowledge of the needs of cancer patients or other users of health services (at least one of whom has a knowledge of those needs | 30 |

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Schedule 1 Amendments

- in the rural community) and who are nominated by the Australian Consumers Association or the Consumer's Health Forum (or by both of them),
- (f) a person who is a legal practitioner and who is nominated by the Law Society of New South Wales or the New South Wales Bar Association (or by both of them), 5
- (g) a person who is a prominent member of the business community or who has expertise and experience in business management, 10
- (h) a person who has expertise and experience in the practice of accountancy,
- (i) an elected staff member (elected in accordance with clause 1A of Schedule 1),
- (j) a person nominated by the Minister. 15
- (3) At least 2 of the members of the Board must be medical practitioners.
- (3A) The Minister may seek nominations of persons for appointment as a member referred to in subsection (2) (g) or (h) from any relevant person or body, including: 20
- (a) in the case of a member referred to in subsection (2) (g)—the State Chamber of Commerce (New South Wales), the Australian Institute of Company Directors (NSW Division) or the Business Council of Australia, or 25
- (b) in the case of a member referred to in subsection (2) (h)—the Institute of Chartered Accountants in Australia or the Australian Society of Certified Practising Accountants.
- (3B) If a body that is authorised by this section to nominate a person for appointment to the Board fails to nominate a person within such time or in such manner as may be specified by the Minister by notice in writing to the body, the Minister may instead nominate a person for that appointment. 30
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- (3C) If a body that is authorised by this section to nominate a person for appointment to the Board ceases to exist, this section has effect as if the reference to that body were a reference instead to a body or person prescribed by the regulations. 5
- [2] Section 8 Staff of the Council**
- Omit "such staff" from section 8 (1).
Insert instead "a chief executive officer of the Council and such other staff".
- [3] Schedule 1 Provisions relating to members of the Board** 10
- Omit the definition of *member* from clause 1.
Insert in alphabetical order in that clause:
- appointed member* means a member of the Board other than the chief executive officer of the Council.
- elected staff member* means the member of the Board referred to in section 6 (2) (i). 15
- member* means a member of the Board, including the chief executive officer of the Council and the Chairperson of the Board.
- [4] Schedule 1, clause 1A** 20
- Insert after clause 1:
- 1A Elected staff member**
- (1) The elected staff member is to be a member of the staff of the Council who is elected by the staff of the Council in accordance with this clause. 25
- (2) Regulations may be made for or with respect to the election of a person to hold office as the elected staff member. The Board may, subject to this clause and any such regulations, determine the manner in which an election is to be conducted. 30

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Schedule 1 Amendments

- (3) A person appointed by the Board:
- (a) is to be the returning officer for an election, and
 - (b) has the functions conferred or imposed on the returning officer under this clause in relation to the election. 5
- The Board may (but need not) appoint as the returning officer the Electoral Commissioner for New South Wales, or a person employed in the office of and nominated by the Electoral Commissioner.
- (4) The members of the staff of the Council are entitled to vote at an election for the elected staff member in accordance with this clause. 10
- (5) A person's nomination as a candidate for election as the elected staff member is invalid if:
- (a) the nomination is not made by at least 2 persons who are entitled to vote in the election, or 15
 - (b) the person is not, at the time of nomination, a member of the staff of the Council.
- (6) A person may be, at the same time, both the elected staff member and a member of the staff of the Council. 20
- (7) Nothing in any law, rule, direction or other requirement that:
- (a) is applicable to the elected staff member in his or her capacity as a member of the staff of the Council, and 25
 - (b) would not be so applicable if the elected staff member were not such a member of that staff,
- operates so as to prevent or restrict the exercise by the elected staff member of any of the functions of an elected staff member. 30

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- (8) If no person is nominated at an election, or if for any other reason an election fails:
- (a) the Minister may nominate a person eligible for election to be appointed under this Act as the elected staff member, and 5
 - (b) that person is, on being appointed by the Governor, taken to be a person elected in accordance with this clause.
- (9) If a vacancy occurs in the office of elected staff member otherwise than by reason of the expiration of the period for which the elected staff member was appointed: 10
- (a) the Governor may, pending a further election, appoint a person eligible for election to hold, subject to this Schedule, the office of elected staff member for the balance of the term of the elected staff member or until a successor is elected (whichever first occurs), and 15
 - (b) the person is, on being so appointed, taken to be a person elected in accordance with this clause.
- (10) In this clause: 20

staff of the Council means the persons employed by the Council under section 8, other than the chief executive officer of the Council.

[5] Schedule 1, clause 2 (1A) and (1B)

Insert after clause 2 (1): 25

(1A) The chief executive officer and the elected staff member are not eligible to be the Chairperson or Deputy Chairperson.

(1B) The Chairperson or Deputy Chairperson holds that office, subject to this clause, for a term specified by the Board (being a term that expires on the next expiry of the term of office of any members of the Board), but is eligible for re-appointment if otherwise qualified. 30

[6] Schedule 1, clause 2 (3) (b1)

Insert after clause 2 (3) (b):

- (b1) completes a term of office as Chairperson or Deputy Chairperson and is not re-appointed, or

[7] Schedule 1, clause 3

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Omit the clause. Insert instead:

3 Term of office of members

(1) Subject to this Schedule and Schedule 3:

- (a) an appointed member (other than an elected staff member) holds office for such period (not exceeding 4 years), and 10
- (b) an elected staff member holds office for such period (not exceeding 2 years),

as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment. 15

(2) A person may not hold office as:

- (a) an appointed member (other than an elected staff member) for consecutive terms of office totalling more than 8 years, or 20
- (b) as an elected staff member for consecutive terms of office totalling more than 4 years.

[8] Schedule 1, clause 4

Omit "A member". Insert instead "An appointed member".

[9] Schedule 1, clause 5

Omit "a member" wherever occurring.
Insert instead "an appointed member".

[10] Schedule 1, clause 5 (1) (d1)

Insert after clause 5 (1) (d):

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(d1) being the elected staff member—ceases to be a
member of the staff of the Council, or

[11] Schedule 1, clause 7

Omit "any member". Insert instead "any appointed member".

[12] Schedule 1, clause 8

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Omit "a member" wherever occurring.
Insert instead "an appointed member".

[13] Schedule 2 Provisions relating to procedure of the Board

Omit "6 members" from clause 3.

Insert instead "8 members (at least 3 being members referred to in
section 6 (2) (a)–(d) and at least 3 being other members of the
Board)".

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[14] Schedule 3 Savings and transitional provisions

Insert at the end of clause 1 (1):

New South Wales Cancer Council Amendment Act 1997

20

[15] Schedule 3

Insert at the end of the Schedule:

**Part 3 Provisions consequent on enactment of
New South Wales Cancer Council
Amendment Act 1997** 5

9 Definition of "amending Act"

In this Schedule:

amending Act means the *New South Wales Cancer Council Amendment Act 1997*.

10 Members of existing Board 10

- (1) A person who, immediately before the commencement of the amending Act, held office as a member of the Board of the Council:
- (a) ceases to hold that office, and
 - (b) is eligible (if otherwise qualified) to be appointed as a member of the Board under this Act. 15
- (2) A person who so ceases to hold office is not entitled to any remuneration or compensation because of the loss of that office.

11 Terms of office of first members appointed after commencement of amending Act 20

- (1) The term of office of 7 of the first part-time members of the Board appointed immediately after the commencement of the amending Act (other than the elected staff member) is to be such period (not exceeding 2 years) as is specified in their instruments of appointment. 25
- (2) Those 7 members are to be chosen by lot in accordance with arrangements made by the Minister.

12 Temporary appointment of person as elected staff member pending election

The Governor may, pending the election of the first elected staff member of the Board after the commencement of the amending Act:

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(a) appoint a person as the elected staff member to hold, subject to this Act, the office of elected staff member until the election of that member and the person is, on being so appointed, taken to be a person elected in accordance with clause 1A of Schedule 1, or

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(b) appoint the other part-time members of the Board and leave the office of elected staff member vacant pending the election of that member.



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New South Wales Cancer Council Amendment Act 1997 No 69

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New South Wales Cancer Council Amendment Act 1997 No 69

Act No 69, 1997

An Act to amend the *New South Wales Cancer Council Act 1995* to reconstitute the Board of the New South Wales Cancer Council; and for related purposes. [Assented to 10 July 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *New South Wales Cancer Council Amendment Act 1997*.

2 Commencement

This Act commences on a day to be appointed by proclamation.

**3 Amendment of New South Wales Cancer Council Act 1995
No 43**

The *New South Wales Cancer Council Act 1995* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 6 The Board of the Council

Omit section 6 (1)–(3). Insert instead:

- (1) The Council is to have a Board consisting of:
 - (a) 14 part-time members appointed by the Governor, and
 - (b) the chief executive officer of the Council.
- (2) The appointed part-time members of the Board are to comprise the following:
 - (a) a person who has expertise and experience in conducting medical research with relevance to cancer and who is nominated by the Australian Society for Medical Research,
 - (b) two persons who have expertise and experience in the care of cancer patients, one of whom is nominated by the Clinical Oncological Society of Australia and the other nominated by the Australian Medical Association,
 - (c) a person who has expertise and experience in disease prevention, health promotion or public education and who is nominated by the Public Health Association of Australia,
 - (d) three persons who have expertise and experience in the training of undergraduate and postgraduate students in cancer control, one of whom is nominated by the Vice-Chancellor of the University of Newcastle, another nominated by the Vice-Chancellor of the University of New South Wales, and the other nominated by the Vice-Chancellor of the University of Sydney,
 - (e) two persons who have knowledge of the needs of cancer patients or other users of health services (at least one of whom has a knowledge of those needs

- in the rural community) and who are nominated by the Australian Consumers Association or the Consumer's Health Forum (or by both of them),
- (f) a person who is a legal practitioner and who is nominated by the Law Society of New South Wales or the New South Wales Bar Association (or by both of them),
 - (g) a person who is a prominent member of the business community or who has expertise and experience in business management,
 - (h) a person who has expertise and experience in the practice of accountancy,
 - (i) an elected staff member (elected in accordance with clause 1A of Schedule 1),
 - (j) a person nominated by the Minister.
- (3) At least 2 of the members of the Board must be medical practitioners.
- (3A) The Minister may seek nominations of persons for appointment as a member referred to in subsection (2) (g) or (h) from any relevant person or body, including:
- (a) in the case of a member referred to in subsection (2) (g)—the State Chamber of Commerce (New South Wales), the Australian Institute of Company Directors (NSW Division) or the Business Council of Australia, or
 - (b) in the case of a member referred to in subsection (2) (h)—the Institute of Chartered Accountants in Australia or the Australian Society of Certified Practising Accountants.
- (3B) If a body that is authorised by this section to nominate a person for appointment to the Board fails to nominate a person within such time or in such manner as may be specified by the Minister by notice in writing to the body, the Minister may instead nominate a person for that appointment.

- (3C) If a body that is authorised by this section to nominate a person for appointment to the Board ceases to exist, this section has effect as if the reference to that body were a reference instead to a body or person prescribed by the regulations.

[2] Section 8 Staff of the Council

Omit "such staff" from section 8 (1).

Insert instead "a chief executive officer of the Council and such other staff".

[3] Schedule 1 Provisions relating to members of the Board

Omit the definition of *member* from clause 1.

Insert in alphabetical order in that clause:

appointed member means a member of the Board other than the chief executive officer of the Council.

elected staff member means the member of the Board referred to in section 6 (2) (i).

member means a member of the Board, including the chief executive officer of the Council and the Chairperson of the Board.

[4] Schedule 1, clause 1A

Insert after clause 1:

1A Elected staff member

- (1) The elected staff member is to be a member of the staff of the Council who is elected by the staff of the Council in accordance with this clause.
- (2) Regulations may be made for or with respect to the election of a person to hold office as the elected staff member. The Board may, subject to this clause and any such regulations, determine the manner in which an election is to be conducted.

- (3) A person appointed by the Board:
- (a) is to be the returning officer for an election, and
 - (b) has the functions conferred or imposed on the returning officer under this clause in relation to the election.

The Board may (but need not) appoint as the returning officer the Electoral Commissioner for New South Wales, or a person employed in the office of and nominated by the Electoral Commissioner.

- (4) The members of the staff of the Council are entitled to vote at an election for the elected staff member in accordance with this clause.
- (5) A person's nomination as a candidate for election as the elected staff member is invalid if:
- (a) the nomination is not made by at least 2 persons who are entitled to vote in the election, or
 - (b) the person is not, at the time of nomination, a member of the staff of the Council.
- (6) A person may be, at the same time, both the elected staff member and a member of the staff of the Council.
- (7) Nothing in any law, rule, direction or other requirement that:
- (a) is applicable to the elected staff member in his or her capacity as a member of the staff of the Council, and
 - (b) would not be so applicable if the elected staff member were not such a member of that staff,

operates so as to prevent or restrict the exercise by the elected staff member of any of the functions of an elected staff member.

- (8) If no person is nominated at an election, or if for any other reason an election fails:
- (a) the Minister may nominate a person eligible for election to be appointed under this Act as the elected staff member, and
 - (b) that person is, on being appointed by the Governor, taken to be a person elected in accordance with this clause.
- (9) If a vacancy occurs in the office of elected staff member otherwise than by reason of the expiration of the period for which the elected staff member was appointed:
- (a) the Governor may, pending a further election, appoint a person eligible for election to hold, subject to this Schedule, the office of elected staff member for the balance of the term of the elected staff member or until a successor is elected (whichever first occurs), and
 - (b) the person is, on being so appointed, taken to be a person elected in accordance with this clause.
- (10) In this clause:

staff of the Council means the persons employed by the Council under section 8, other than the chief executive officer of the Council.

[5] Schedule 1, clause 2 (1A) and (1B)

Insert after clause 2 (1):

- (1A) The chief executive officer and the elected staff member are not eligible to be the Chairperson or Deputy Chairperson.
- (1B) The Chairperson or Deputy Chairperson holds that office, subject to this clause, for a term specified by the Board (being a term that expires on the next expiry of the term of office of any members of the Board), but is eligible for re-appointment if otherwise qualified.

[6] Schedule 1, clause 2 (3) (b1)

Insert after clause 2 (3) (b):

- (b1) completes a term of office as Chairperson or Deputy Chairperson and is not re-appointed, or

[7] Schedule 1, clause 3

Omit the clause. Insert instead:

3 Term of office of members

- (1) Subject to this Schedule and Schedule 3:
 - (a) an appointed member (other than an elected staff member) holds office for such period (not exceeding 4 years), and
 - (b) an elected staff member holds office for such period (not exceeding 2 years),as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.
- (2) A person may not hold office as:
 - (a) an appointed member (other than an elected staff member) for consecutive terms of office totalling more than 8 years, or
 - (b) as an elected staff member for consecutive terms of office totalling more than 4 years.

[8] Schedule 1, clause 4

Omit "A member". Insert instead "An appointed member".

[9] Schedule 1, clause 5

Omit "a member" wherever occurring.
Insert instead "an appointed member".

[10] Schedule 1, clause 5 (1) (d1)

Insert after clause 5 (1) (d):

(d1) being the elected staff member—ceases to be a member of the staff of the Council, or

[11] Schedule 1, clause 7

Omit "any member". Insert instead "any appointed member".

[12] Schedule 1, clause 8

Omit "a member" wherever occurring.
Insert instead "an appointed member".

[13] Schedule 2 Provisions relating to procedure of the Board

Omit "6 members" from clause 3.
Insert instead "8 members (at least 3 being members referred to in section 6 (2) (a)–(d) and at least 3 being other members of the Board)".

[14] Schedule 3 Savings and transitional provisions

Insert at the end of clause 1 (1):

New South Wales Cancer Council Amendment Act 1997

[15] Schedule 3

Insert at the end of the Schedule:

**Part 3 Provisions consequent on enactment of
New South Wales Cancer Council
Amendment Act 1997**

9 Definition of "amending Act"

In this Schedule:

amending Act means the *New South Wales Cancer Council Amendment Act 1997*.

10 Members of existing Board

- (1) A person who, immediately before the commencement of the amending Act, held office as a member of the Board of the Council:
 - (a) ceases to hold that office, and
 - (b) is eligible (if otherwise qualified) to be appointed as a member of the Board under this Act.
- (2) A person who so ceases to hold office is not entitled to any remuneration or compensation because of the loss of that office.

11 Terms of office of first members appointed after commencement of amending Act

- (1) The term of office of 7 of the first part-time members of the Board appointed immediately after the commencement of the amending Act (other than the elected staff member) is to be such period (not exceeding 2 years) as is specified in their instruments of appointment.
- (2) Those 7 members are to be chosen by lot in accordance with arrangements made by the Minister.

12 Temporary appointment of person as elected staff member pending election

The Governor may, pending the election of the first elected staff member of the Board after the commencement of the amending Act:

- (a) appoint a person as the elected staff member to hold, subject to this Act, the office of elected staff member until the election of that member and the person is, on being so appointed, taken to be a person elected in accordance with clause 1A of Schedule 1, or
- (b) appoint the other part-time members of the Board and leave the office of elected staff member vacant pending the election of that member.

[Minister's second reading speech made in—
Legislative Assembly on 17 June 1997
Legislative Council on 27 June 1997]

