

[AS REPORTED FROM THE SOCIAL SERVICES COMMITTEE]

*House of Representatives, 19 July 1990.*

**Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.**

*Right Hon. Helen Clark*

## HEALTH RESEARCH COUNCIL

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## A BILL INTITULED

**An Act—**

- (a) To establish the Health Research Council of New Zealand and to define its functions and powers; and** 5
- (b) To dissolve the Medical Research Council of New Zealand; and**
- (c) To provide for matters incidental thereto**

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement—**(1) This Act may be cited as the Health Research Council Act 1990. 10

(2) This Act shall come into force on the **1st day of (July) October 1990.**

**2. Interpretation—**In this Act, unless the context otherwise requires,— 15

“Appointed member” means a member of the Council who is appointed under any of the provisions of paragraphs (b) to (d) of section 9 (1) of this Act:

“Biomedical research” means—

(a) Research in the biomedical sciences relevant to human health; and 20

(b) Research into the causes, consequences, diagnosis, and treatment of human illness:

“Council” means the Health Research Council of New Zealand constituted by this Act: 25

“Financial year” means a year ending on the 30th day of June:

“Health research” means research that has or may have relevance to human health; and includes biomedical research and public health research: 30

“Minister” means the Minister of Health:

“Public health research” means research into factors that influence the health of a population; and includes—

*Struck Out*

(a) Health systems and health services research;  
and

*New*

5 (a) Research into health systems and health services; and

(b) Research into the environmental, socio-economic, cultural, and behavioural factors that determine health status.

10 *New*

“Research committee” means a committee established by section 14 or section 16 or section 18 of this Act.

Cf. 1950, No. 20, s. 2; 1956, No. 85, s. 2 (1); 1965, No. 29, s. 2 (2)

15 **3. Act to bind the Crown**—This Act shall bind the Crown.

**4. Purpose**—The purpose of this Act is to improve human health by promoting and funding health research.

PART I

HEALTH RESEARCH COUNCIL OF NEW ZEALAND

20 **5. Health Research Council of New Zealand**—(1) There is hereby constituted a corporation called the Health Research Council of New Zealand.

25 (2) The Council shall be a body corporate with perpetual succession and a common seal, and, subject to this Act and to any other Act or rule of law, shall have and may exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.

Cf. 1950, No. 20, s. 3 (1); 1965, No. 29, s. 2 (3)

30 **6. Functions of Council**—(1) The functions of the Council shall be—

(a) To advise the Minister on national health research policy:

- (b) To administer funds granted to the Council for the purpose of implementing national health research policy:
- (c) To negotiate, once every 3 years, the bulk-funding allocations that may be made to the Council by the Government for the funding of health research: 5
- (d) To foster the recruitment, education, training, and retention of those engaged in health research in New Zealand:

*New*

10

(da) To initiate and support health research:

- (e) To encourage initiatives into health research by soliciting research proposals and applications, particularly in areas considered by the Council to have a high priority: 15
- (f) To consult, for the purpose of establishing priorities in relation to health research, with—
  - (i) The Minister of Health; and
  - (ii) The Department of Health; and
  - (iii) Area health boards; and 20
  - (iv) Other persons who fund or produce research, whether in the public sector or the private sector; and

*New*

(v) Persons who have a knowledge of health issues from the consumer perspective: 25

- (g) To promote and disseminate the results of health research in ways that will be most effective in encouraging their contribution to health science, health policy, and health care delivery: 30
- (h) To advertise actively for applications for grants to support proposals or personal awards in relation to health research:

*Struck Out*

(i) To appoint the members of the Council's standing committees: 35

*New*

- 5 (i) To appoint the members of the Biomedical Research Committee, the Public Health Research Committee, the Maori Health Research Committee, and the Ethics Committee:
- (ia) To ensure the development and application of appropriate assessment standards by committees or subcommittees that assess health research proposals:
- 10 (j) To administer any additional funds that may be made available to the Council from either public or private sources for the support of health research.

*New*

- 15 (2) In the performance of its functions under this Act, the Council shall have regard to the general policy of the Government in relation to health research.

Cf. 1950, No. 20, s. 9; 1965, No. 29, s. 8

- 7. Powers of Council**—(1) The Council shall have all such powers as are reasonably necessary or expedient to enable it to carry out its functions.
- 20 (2) Without limiting the generality of **subsection (1)** of this section, the Council shall have power—
- (a) To expend any of its funds in the exercise of its functions in such manner as, subject to the terms of any trust or endowment, the Council thinks fit:
- 25 (b) To make, subject to **section 23** of this Act, grants to any person, institution, or body of persons (whether incorporated or not) for the purposes of health research:

*Struck Out*

- 30 (c) To appoint committees of persons, whether members of the Council or not, and to delegate to them such functions as it may determine:
- (d) To expend money in payment of the administration expenses of the Council.

## New

(3) In the exercise of its powers under this Act, the Council shall have regard to the general policy of the Government in relation to health research.

Cf. 1950, No. 20, s. 10 (a), (b), (c), (f), (h); 1965, No. 29, s. 9 (1) 5

## Struck Out

**8. Council to have regard to Government policy**—(1) In the exercise of its functions and powers under this Act, the Council shall have regard to the general policy of the Government in relation to health research, and shall comply with any directions given by the Minister to the Council by notice in writing pursuant to that policy. 10

(2) Nothing in **subsection (1)** of this section authorises the Minister to give any such notice to the Council in respect of a particular proposal for health research. 15

(3) The Council may, in its discretion, publicly announce or refrain from publicly announcing that such a notice has been given by the Minister under **subsection (1)** of this section.

(4) Where a notice is given to the Council under **subsection (1)** of this section the Minister shall, as soon as practicable after the giving of the notice,— 20

(a) Publish a copy of it in the *Gazette*; and

(b) Lay a copy of it before the House of Representatives.

**9. Membership of Council**—(1) The Council shall consist of— 25

(a) The Director-General of Health appointed under the Health Act 1956 or any other officer of the Department of Health nominated from time to time by the Director-General of Health: 30

(b) One person who shall be appointed as a representative of area health boards:

(c) Four persons who are or have been actively engaged in health research{ *or who are health professionals*):

(d) Three persons who have skills and experience in areas such as community affairs, law, or management or knowledge of health issues from the consumer perspective. 35

(2) The persons appointed under **paragraphs (b) to (d) of subsection (1)** of this section shall be appointed by the Minister.

Cf. 1950, No. 20, s. 4 (1)

5 **10. Term of office**—(1) Subject to **subsection (5)** of this section, every appointed member shall be appointed for a term of 3 years.

(2) Subject to **subsection (3)** of this section, every appointed member shall be eligible for reappointment from time to time.

*Struck Out*

10 (3) No appointed member shall hold office for more than 2 terms, irrespective of whether those terms are consecutive.

*New*

15 (3) Upon the completion by any person of 2 consecutive terms as an appointed member, that person shall cease to be eligible for reappointment until after the lapse of 3 years during which that person did not hold office as an appointed member.

20 (4) Where the term for which an appointed member has been appointed expires, that member, unless sooner vacating or removed from office under **section 11** of this Act, shall continue to hold office, by virtue of the appointment for the term that has expired, until—

- 25 (a) That member is reappointed; or  
(b) A successor to that member is appointed; or  
(c) That member is informed in writing by the Minister that that member is not to be reappointed and that a successor to that member is not to be appointed.

(5) With respect to the first appointed members, the following provisions shall apply:

30 (a) Two of those members shall retire on the 1st day of (July) October 1991, and 3 of those members shall retire on the 1st day of (July) October 1992:

35 (b) The members to retire in any year pursuant to **paragraph (a)** of this subsection shall (unless they otherwise agree among themselves) be determined by lot, but in no event shall both the members who retire on the 1st day of (July) October 1991 or more than 2 of the members who retire on the 1st day of (July) October

1992 have been appointed under **paragraph (c) or paragraph (d) of section 9(1)** of this Act.

Cf. 1950, No. 20, s. 4 (3), (4), (5), (7); 1965, No. 29, s. 3 (2), (3)

**11. Extraordinary vacancies**—(1) Any appointed member 5  
may at any time be removed from office by the Minister for disability affecting performance of duty, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister.

(2) Any appointed member may at any time resign his or her 10  
office by giving written notice to that effect to the Minister.

(3) If any appointed member dies or resigns or is removed 10  
from office, the vacancy so created shall be deemed to be an extraordinary vacancy.

(4) An extraordinary vacancy shall be filled in the manner in 15  
which the appointment to the vacant office was originally made.

(5) The powers of the Council shall not be affected by any 15  
vacancy in its membership.

Cf. 1956, No. 20, s. 4 (3), (6), (8); 1965, No. 29, s. 3 (2)

**12. Chairperson**—(1) The Minister shall from time to time 20  
appoint one of the appointed members of the Council to be its Chairperson.

(2) If the Chairperson ceases to be (a) an appointed member 25  
of the Council, he or she shall thereupon vacate the office of Chairperson.

Cf. 1950, No. 20, s. 5 (1); 1965, No. 29, s. 4

**13. Deputy Chairperson**—(1) The Council, at any meeting, 30  
may appoint one of its members to be the Deputy Chairperson of the Council.

(2) Unless the Deputy Chairperson sooner resigns from that 30  
office, or is appointed to be the Chairperson of the Council, or vacates his or her office as a member of the Council, he or she shall hold the office of Deputy Chairperson of the Council for a term expiring with the ~~(30th day of June)~~ 30th day of September 35  
in the year following that in which he or she was last appointed as Deputy Chairperson of the Council, and shall be eligible for reappointment.

(3) If the Deputy Chairperson is appointed to be the 40  
Chairman of the Council, or ceases to be a member of the Council, he or she shall thereupon vacate the office of Deputy Chairperson.

(4) During any vacancy in the office of Chairperson of the Council or in the absence of the Chairperson from New Zealand or while the Chairperson is incapacitated by sickness or otherwise, the Deputy Chairperson shall have and may exercise all the powers and functions of the Chairperson.

Cf. 1950, No. 20, s. 5A; 1965, No. 29, s. 5

*Struck Out*

*Standing Committees*

**14. Standing committees**—(1) There are hereby established 3 standing committees of the Council.

(2) Those 3 standing committees are—

- (a) The Biomedical Research Committee, which shall advise the Council on the assignment of funds for biomedical health research:
- (b) The Public Health Research and Development Committee, which shall advise the Council on the assignment of funds for public health research:
- (c) The Maori Health Research Committee, which shall advise the Council on the assignment of funds for Maori health research needs.

**15. Functions of standing committees**—The functions of each standing committee established by **section 14** of this Act shall be—

- (a) To advise the Council on the sum of money required for the standing committee's proposed research programme, including—
  - (i) Administrative overheads; and
  - (ii) Fellowships and awards:
- (b) To advise the Council on priorities in relation to the type of research in respect of which the standing committee is established by **section 14** of this Act:
- (c) To determine the appropriate methods and the appropriate mechanism for assessing and ranking research proposals:
- (d) To recommend to the Council the programme of research to be supported:
- (e) To determine, within the general policy of the Council, whether proposals for grants submitted to it should be supported, and to accord to those proposals a priority ranking:

*Struck Out*

- (f) To monitor, in accordance with guidelines set by the Council, the performance of grantees, and to report to the Council on the performance of grantees.

**16. Membership of standing committees**—(1) The members of each standing committee established by **section 14** of this Act shall be appointed from time to time by the Council. 5

(2) In appointing members of a standing committee, the Council shall have regard to—

- (a) Their personal attributes; and 10  
 (b) Their ability to contribute to the discharge of the functions of the standing committee.

(3) The chairperson of a standing committee established by **section 14** of this Act shall be a member of the Council from time to time appointed for the purpose by the Council. 15

(4) Every member of a standing committee shall be appointed for a term of 3 years, but may not serve more than 2 such terms, irrespective of whether those terms are consecutive.

**17. Procedures for ranking acceptable applications**— Each standing committee established by **section 14** of this Act shall establish procedures for ranking, within the general policy of the Council, acceptable applications for grants for the purposes of health research, in order to determine which should be approved. 20 25

**18. Other procedures of standing committees**—Each standing committee established by **section 14** of this Act shall—

- (a) Adopt assessment, monitoring, and evaluation methods that are appropriate to the type of research proposals that the standing committee will be required to consider; and 30  
 (b) Publicise as widely as possible the criteria the standing committee will follow:  
 (c) Actively seek research proposals in priority areas and assist researchers to develop promising proposals to standards that enable proper consideration to be given to them: 35

*Struck Out*

- (d) Assess applications received and advise the Council of those that the standing committee has determined are to be supported:
- 5 (e) Where the standing committee declines to support an application made to the Council for a grant for the purposes of health research, inform the applicant in writing of the standing committee's reasons for declining to support the application.

10 **19. Power of standing committees to appoint subcommittees**—Each standing committee of the Council may, with the approval of the Council, establish subcommittees or other working groups which may include or comprise persons who are not members of the Council.

15 **20. Ethics Committee**—(1) The Council shall appoint a standing committee to be called the Ethics Committee.

(2) The members of the Ethics Committee shall comprise—

20 (a) The Chairperson of the Council or a member of the Council nominated from time to time by the Chairperson of the Council:

(b) Two persons to be appointed from time to time by the Council, both of whom shall have qualifications in science and one of whom shall be a member of the Council:

25 (c) One person, being a person appointed to the Council under **section 9 (1) (d)** of this Act, to be appointed from time to time by the Council:

(d) Six other persons, not being members of the Council, to be appointed from time to time by the Council.

30 (3) In appointing persons under **subsection (2) (d)** of this section, the Council shall have regard to the need among the members of the Ethics Committee for a diversity of knowledge and experience in relation to ethics, philosophy, law, theology, nursing, women's health, patient advocacy, and taha Maori.

35 (4) The Ethics Committee shall from time to time appoint one of its members to be the chairperson of the Ethics Committee.

**21. Functions of Ethics Committee**—(1) The functions of the Ethics Committee shall be—

*Struck Out*

- (a) To consider and make recommendations to the Council on ethical issues in relation to health research, especially those emerging through the development of new areas of health research: 5
- (b) To provide and review ethical guidelines for the Council:
- (c) To provide an ethical evaluation of health research proposals submitted to the Council:
- (d) To provide independent comment on ethical problems that may arise in any aspect of health research. 10
- (2) The Ethics Committee may, in carrying out an evaluation under paragraph (c) or paragraph (d) of subsection (1) of this section, consult, as it thinks fit, with other persons or bodies.

**22. Procedure of standing committees**—Subject to this Act, to any regulations made under it, and to any general or special directions of the Council, any standing committee of the Council may regulate its procedure in such manner as it thinks fit. 15

*New**Research Committees*

**14. Biomedical Research Committee**—There is hereby established, as a committee of the Council, a Biomedical Research Committee. 20

**15. Principal function of Biomedical Research Committee**—The principal function of the Biomedical Research Committee shall be to advise the Council on the assignment of funds for health research that is predominantly biomedical health research. 25

**16. Public Health Research Committee**—There is hereby established, as a committee of the Council, a Public Health Research Committee. 30

**17. Principal function of Public Health Research Committee**—The principal function of the Public Health Research Committee shall be to advise the Council on the

*New*

assignment of funds for health research that is predominantly public health research.

5 **18. Maori Health Research Committee**—There is hereby established, as a committee of the Council, a Maori Health Research Committee.

**19. Principal functions of Maori Health Research Committee**—The principal functions of the Maori Health Research Committee shall be to advise the Council—

- 10 (a) On health research into issues that affect Maori people; and
- (b) On the assignment of funds for health research that is designed to be conducted with particular reference to cultural factors affecting the Maori people, including those that affect the gathering of information, and the verification and validation of information.
- 15

**20. General functions of research committees**—The general functions of each research committee shall be—

- 20 (a) To advise the Council on the sum of money required for the research committee's proposed research programme, including—
- (i) Administrative overheads; and
- (ii) Fellowships and awards:
- 25 (b) To advise the Council on priorities in relation to the type of health research in respect of which the research committee is established:
- (c) To determine, within the policy determined from time to time by the Council, the appropriate methods and the appropriate mechanism for assessing and ranking applications for grants for the purposes of health research:
- 30 (d) To recommend to the Council the programme of health research to be supported:
- (e) To determine, within the general policy of the Council, whether applications for grants submitted to it should be supported, and to accord a priority ranking to those applications that are to be supported:
- 35

*New*

- (f) To monitor, in accordance with guidelines set by the Council, the performance of grantees, and to report to the Council on the performance of grantees.

**21. Procedures for ranking applications**—(1) Each research committee shall establish procedures for ranking, within the general policy of the Council, the applications for grants for the purposes of health research that are to be supported. 5

(2) The ranking shall establish the order of priority for the making of grants in respect of applications. 10

**22. Other procedures of research committees**—Each research committee shall—

(a) Adopt assessment, monitoring, and evaluation methods that are appropriate to the type of health research proposals that the research committee will be required to consider: 15

(b) Publicise as widely as possible the criteria the research committee will follow:

(c) Actively seek health research proposals in priority areas: 20

(d) Assess applications received and advise the Council of those that the research committee has determined are to be supported:

(e) Where the research committee declines to support an application made to the Council for a grant for the purposes of health research, inform the applicant in writing of the research committee's reasons for declining to support the application. 25

**22A. Membership of research committees**—(1) Each research committee shall consist of 7 members. 30

(2) In the case of the Biomedical Research Committee and the Public Health Research Committee, at least 5 of the 7 members shall have research experience that is relevant to the kind of health research in respect of which the committee is established. 35

(3) The members of each research committee—

(a) Shall be appointed from time to time by the Council; and

(b) May include both members of the Council and persons who are not members of the Council.

*New*

(4) In appointing members of a research committee, the Council shall have regard to—

- (a) Their personal attributes; and
- 5 (b) Their ability to contribute to the discharge of the functions of the research committee.

(5) The chairperson of each research committee shall be a member of the Council from time to time appointed for the purpose by the Council.

10 (6) Subject to **subsection (7)** of this section, every member of a research committee shall be appointed for a term of 3 years, but may from time to time be reappointed.

15 (7) Upon the completion by any person of 2 consecutive terms as a member of a research committee, that person shall cease to be eligible for reappointment as a member of that research committee until after the lapse of 3 years during which that person did not hold office as a member of that research committee.

*Ethics Committee*

20 **22b. Ethics Committee**—There is hereby established, as a committee of the Council, an Ethics Committee.

**22c. Functions of Ethics Committee**—(1) The functions of the Ethics Committee shall be—

25 (a) To consider and make recommendations to the Council on ethical issues in relation to health research, especially those emerging through the development of new areas of health research:

(b) To provide and review ethical guidelines for the Council:

30 (c) Subject to **paragraph (d)** of this subsection, to ensure that, in respect of each application submitted to the Council for a grant for the purposes of health research, an independent ethical assessment of the proposed health research is made either by the Ethics Committee itself or by a committee approved by the  
35 Ethics Committee:

40 (d) Where an application for a grant for the purposes of health research is submitted to the Council in respect of health research that is of national importance or great complexity, to itself make an independent ethical assessment of the proposed health research:

*New*

- (e) To review, at the request of any person who has made an application for a grant for the purposes of health research, the independent ethical assessment made, in respect of the proposed health research, by a committee approved under **paragraph (c)** of this subsection: 5
- (f) To give, in relation to ethics committees established by other bodies, advice on—
- (i) The membership of those committees; and 10
  - (ii) The procedures to be adopted, and the standards to be observed, by those committees:
- (g) To provide independent comment on ethical problems that may arise in any aspect of health research.
- (2) The Ethics Committee or any ethics committee approved under **subsection (1) (c)** of this section may, in carrying out an independent ethical assessment under **paragraph (c)** or **paragraph (d)** of **subsection (1)** of this section, consult, as it thinks fit, with other persons or bodies. 15
- 22d. Membership of Ethics Committee**—(1) The members of the Ethics Committee shall comprise— 20
- (a) The Chairperson of the Council or a member of the Council nominated from time to time by the Chairperson of the Council:
  - (b) Two persons to be appointed from time to time by the Council, both of whom shall have qualifications in science and one of whom shall be a member of the Council: 25
  - (c) Four other persons, not being members of the Council, to be appointed from time to time by the Council. 30
- (2) In appointing persons under **subsection (1) (b)** or **subsection (1) (c)** of this section, the Council shall have regard to the need among the members of the Ethics Committee for a diversity of knowledge and experience in relation to ethics, philosophy, law, theology, nursing, women’s health, patient advocacy, and tikanga Maori. 35
- (3) The Ethics Committee shall from time to time appoint one of its members to be the chairperson of the Ethics Committee.

*New*

*General Provisions Relating to Committees*

5 **22E. Appointment of committees**—The Council may establish other committees and appoint the members thereof (whether members of the Council or not).

10 **22F. Power of committees to appoint subcommittees**—Each committee of the Council may, with the approval of the Council, establish subcommittees or other working groups which may include or comprise persons who are not members of the Council.

**22G. Power of delegation**—The Council may delegate to any committee of the Council such functions as the Council may determine.

15 **22H. Procedure of committees**—Subject to this Act, to any regulations made under it, and to any general or special directions of the Council, any committee of the Council may regulate its procedure in such manner as it thinks fit.

*Grants for Health Research*

20 **23. Consideration of applications**—(1) Where an application for a grant for the purposes of health research is made to the Council, the Council—

*Struck Out*

- 25 (a) Shall refer that application to the relevant standing committee established by **section 14** of this Act so that a scientific assessment of the health research may be made by that standing committee; and
- (b) Shall refer that application to the Ethics Committee so that an independent ethical assessment of the health research may be made by the Ethics Committee.

*New*

- (a) Shall refer that application to a research committee so that a scientific assessment of the health research may be made by that research committee; and
- (b) Shall refer that application to the Ethics Committee so that that Committee may make, or arrange for the making of, an independent ethical assessment of the health research.

*Struck Out*

- (2) No application shall be granted unless the Council considers, after having regard to the scientific assessment made by the relevant standing committee established by **section 14** of this Act and to the ethical assessment made by the Ethics Committee, that—
- (a) The scientific design of the proposed research is sound; and
- (b) The study is both relevant and feasible given the available resources; and
- (c) The research is ethically and socially acceptable.

*New*

- (2) No application shall be granted unless the Council considers, after having regard to the scientific assessment made by the research committee to which the application was referred under **subsection (1)(a)** of this section and to the independent ethical assessment made pursuant to **subsection (1)(b)** of this section, that—
- (a) The scientific design of the proposed research is sound; and
- (b) The study is both relevant and feasible given the available resources; and
- (c) The research is ethically acceptable.

- (3) The Council shall have regard to the effect that its decisions on applications for grants for the purpose of health research may have on the future availability of research providers.

5 (4) Within the ~~(policy communicated to it by the Minister under section 8 of this Act)~~ general policy of the Government in relation to health research, the Council shall be responsible for identifying and setting priorities for undertaking health research, and in undertaking this task it shall take into account the views of the Minister, the Department of Health, the community, and researchers.

10 **24. Reports on research**—(1) Every person who or organisation which receives a grant under this Act shall make available to the Council such information as the Council from time to time requires for the purpose of monitoring and evaluating the progress and outcome of the research.

*Struck Out*

15 (2) Information made available pursuant to a requirement under **subsection (1)** of this section shall be referred by the Council to the Ethics Committee for ethical evaluation and to the relevant standing committee established by **section 14** of this Act for scientific evaluation.

*New*

20 (2) Information made available pursuant to a requirement under **subsection (1)** of this section shall be referred by the Council to—

- 25 (a) The research committee that made, in respect of the health research, the scientific assessment required by **section 23 (1) (a)** of this Act; and  
 (b) The Ethics Committee; and  
 (c) Any committee that made, in respect of the health research, the independent ethical assessment required by **section 23 (1) (b)** of this Act.

30 (3) Those evaluations shall be taken into consideration when any future application by the grantee to the Council for a grant for the purposes of health research is being considered.

35 **25. Availability of results of research**—*(Subject to section 34 of this Act,)* The Council shall make the results of the research it funds available to any interested person or organisation.

**26. Liaison with other health research organisations—**

- (1) The Council shall develop close and supportive relationships with any charitable, private, or *(special-purpose)* other organisations that fund health research. 5
- (2) For the purpose of **subsection (1)** of this section, the Council shall set up formal mechanisms of liaison to develop a national health research strategy for New Zealand.
- (3) The Council may make available to other organisations, on a cost-recovery basis, its procedures for—
- (a) The assessment of applications: 10
  - (b) The preparation of contracts:
  - (c) The administration of research funds.
- (4) Liaison under this section may include joint ventures in support of specific research proposals.
- (5) The Council shall develop and maintain close links with the Department of Health and area health boards to assist those bodies in meeting their research needs. 15
- (6) The Council may, by agreement with the Director-General of Health or with an area health board,—
- (a) Act as the agent of the Director-General of Health or of the area health board in letting contracts for health research; or 20
  - (b) Perform the scientific assessment of in-house research carried out by or on behalf of the Department of Health or the area health board. 25

*Miscellaneous Provisions*

- 27. Contracts of Council—**(1) Any contract which, if made by private persons, must be by deed shall, if made by the Council, be in writing under the common seal of the Council. 30
- (2) Any contract which, if made by private persons, must be signed by the parties to be charged therewith shall, if made by the Council, be either under the common seal of the Council or signed by a member or officer of the Council on behalf of and by authority of the Council.
- (3) Any contract which, if made by private persons, may be made orally may be made in the manner specified in **subsection (1)** of this section as in the case of a deed, or in the manner specified in **subsection (2)** of this section as in the case of a contract required to be in writing, or may be made orally by or on behalf of the Council by any member or officer of the Council acting by authority of the Council, but no oral contract shall be made for any sum exceeding \$2,000. 35 40
- (4) The Council may by writing under its common seal empower any person, either generally or in respect of any

specified matters, to execute instruments on its behalf in any place in or beyond New Zealand. Any instrument executed by the Council, and if executed as a deed shall have the same effect as if it were under the common seal of the Council.

- 5 (5) Notwithstanding anything to the contrary in the foregoing provisions of this section, no contract made by or on behalf of the Council shall be invalid by reason only that it was not made in manner provided by this section, if it was made pursuant to a resolution of the Council or to give effect to a resolution of the  
10 Council in relation to contracts generally or in relation to that particular contract.

Cf. 1950, No. 20, s. 17

**28. Seal**—(1) The common seal of the Council shall be judicially noticed in all Courts and for all purposes.

- 15 (2) The common seal of the Council shall not be affixed to any document except pursuant to a resolution of the Council, and the execution of any document so sealed shall be attested by 2 members of the Council.

Cf. 1950, No. 20, s. 17 (4)

- 20 **29. Rules**—(1) The Council may from time to time, by resolution, make rules not inconsistent with this Act, or with any regulations made under this Act for all or any of the following purposes, namely:

- 25 (a) Regulating its proceedings and the conduct of its meetings:  
(b) Providing for the custody of its property and the use of its common seal:  
(c) Prescribing the duties of its officers and other servants:  
30 (d) Such other purposes as may be deemed necessary or expedient for duly carrying out the work of the Council or of any committee thereof.

- (2) Notice of every resolution proposed to be submitted to any meeting of the Council for the making, amendment, or  
35 revocation of any such rules as aforesaid shall be given to every member of the Council for the time being in New Zealand not less than 14 clear days before the day fixed for the meeting, by sending the same to the member by post addressed to the member at the member's last known place of abode or business in New Zealand, and shall be deemed to have been received by  
40 the member on the fourth day after the day on which it was posted.

Cf. 1950, No. 20, s. 18

**30. Annual report**—(1) The Council shall, as soon as practicable after the end of each year ending with the 30th day of June, furnish to the Minister a report of its proceedings and operations during that year.

(2) The Council shall include in every annual report of the Council— 5

*New*

(aa) A report on how the health research supported by the Council has contributed to the implementation of national health research policy; and	10
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- (a) A list of grants awarded during the year; and
- (b) A description of research projects completed during the year or in progress at the end of the year; and
- (c) An outline of the policies of the Council (including its priorities); and
- (d) A discussion of issues of social or cultural importance in relation to health research. 15

(3) The Council shall include in every annual report of the Council the financial statements prepared by the Council, in accordance with Part V of the Public Finance Act 1989, in respect of the financial year to which the report relates, together with the audit report and the management statement relating to those financial statements. 20

(4) A copy of every annual report of the Council shall be tabled in the House of Representatives in accordance with section 44 of the Public Finance Act 1989. 25

Cf. 1950, No. 20, s. 23

**31. Exemption from income tax**—The income of the Council shall be exempt from income tax.

Cf. 1950, No. 20, s. 20; 1989, No. 50, s. 10 30

**32. Further provisions applying to Council**—The provisions set out in the First Schedule to this Act shall apply in respect of the Council.

**33. Authority to make contributions for purposes of health research**—(1) Any local authority or other public body, any corporation sole, any company or other incorporated body, any unincorporated body of persons, any trustee or trustees (including any statutory trustee or trustees or board of trustees), or any other person may, unless expressly prohibited by any 35

Act, or by any instrument of trust, make to the Council, and the Council may accept, donations or gifts or real or personal property for the purposes of health research.

5 (2) For the purposes of this section the term "local authority" means a local authority within the meaning of Part I of the Local Authorities Loans Act 1956, whether by virtue of section 2 of that Act or of any Order in Council thereunder, or by virtue of any other Act; and includes such other public bodies as are from time to time declared by the Governor-General in  
10 Council to be local authorities for the purposes of this section.

Cf. 1950, No. 20, s. 19 (1), (3)

*Struck Out*

**34. Discoveries by research workers**—All discoveries, inventions, and improvements in processes, apparatus, and  
15 machines made by persons in receipt of any grant made by the Council for the purposes of health research and arising out of that research shall be deemed to be vested in the Council in whole or in part, and shall be made available for use on such  
20 conditions, including the payment of fees, royalties, and other money, as the Council from time to time determines.

Cf. 1950, No. 20, s. 21

**35. Protections of persons acting under authority of Act**—No person who does any act in pursuance or intended  
25 pursuance of any of the functions conferred on him or her by or under this Act shall be under any civil or criminal liability in respect of the Act, whether on the ground of want of jurisdiction, or mistake of law or fact, or on any other ground, unless he or she has acted in bad faith or without reasonable care.

30 **36. Regulations**—The Governor-General may from time to time, by Order in Council, make regulations providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

35 Cf. 1950, No. 20, s. 24

## PART II

DISSOLUTION OF MEDICAL RESEARCH COUNCIL OF NEW  
ZEALAND

**37. Dissolution of Medical Research Council of New Zealand**—(1) The Medical Research Council of New Zealand constituted by section 3 of the Medical Research Council Act 1950 is hereby dissolved. 5

(2) No member of the Medical Research Council of New Zealand shall be entitled to compensation for loss of office resulting from the dissolution of that Council. 10

**38. Assets and liabilities**—On the commencement of this Act all assets and liabilities of the Medical Research Council of New Zealand shall become assets and liabilities of the Health Research Council of New Zealand.

**39. Vesting of assets**—(1) On the commencement of this Act all real and personal property vested in the Medical Research Council of New Zealand shall vest in the Health Research Council of New Zealand, subject to all liabilities, charges, obligations, or trusts affecting that property. 15

(2) All money which has before the commencement of this Act been appropriated by Parliament for the purposes of medical research and which at the commencement of this Act is held for that purpose in the Medical Research Endowment Fund Account pursuant to the Medical Research Council Act 1950 is hereby vested in the Council, and as from the commencement of this Act shall be administered accordingly. 20 25

(3) On the commencement of this Act all money payable to the Medical Research Council of New Zealand shall become payable to the Health Research Council of New Zealand.

Cf. 1950, No. 20, s. 13 (1) 30

**40. Proceedings**—On the commencement of this Act all proceedings pending by or against the Medical Research Council of New Zealand may be carried on, completed, or enforced by or against the Health Research Council of New Zealand. 35

*New*

<p><b>40A. Transitional provision in relation to persons employed on research and as tenured investigators—</b></p>
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*New*

5 (1) Every person who, immediately before the commencement of this Act, was an employee of the Medical Research Council who was engaged on health research for that Council shall (subject to **clause 3 (2)** of the **First Schedule** to this Act) continue to be employed by the Health Research Council until the later of—

10 (a) The completion of the first relevant Health Research Council funding round that takes place after the commencement of this Act; or

(b) The expiration of the 31st day of December 1991.

15 (2) Every person who was, immediately before the commencement of this Act, a person funded, directly or indirectly, by the Medical Research Council as a tenured investigator for a term that has not expired shall (subject to the contract under which that person is funded) continue to be funded by the Health Research Council until the earlier of—

(a) The expiration of that term; or

(b) The expiration of the 31st day of December 1994.

20 **41. Other transitional provision**—Subject to the other provisions of this Act, and unless in any case the context otherwise requires, every reference in any other Act or in any regulations to the Medical Research Council of New Zealand shall hereafter be read as a reference to the Health Research  
25 Council of New Zealand constituted by this Act.

**42. Final accounts of Medical Research Council of New Zealand**—(1) As soon as reasonably practicable after the commencement of this section, the Director-General of Health shall cause to be prepared final accounts of the Medical  
30 Research Council of New Zealand as at the close of the **30th day of ~~(June)~~ September 1990**.

(2) A copy of the final accounts, together with a copy of the report of the Audit Office on those accounts, shall be sent by the Director-General of Health to the Minister of Health.

35 (3) A copy of the final accounts, together with a copy of the report of the Audit Office on those accounts, shall be laid before the House of Representatives by the Minister of Health as soon as practicable after their receipt by that Minister.

## PART III

## CONSEQUENTIAL AMENDMENTS AND REPEALS

**43. Consequential amendment to War Pensions Act 1954**—(1) Section 18c (1) of the War Pensions Act 1954 (as inserted by section 2 of the War Pensions Amendment Act 1968) is hereby amended by repealing paragraph (e), and substituting the following paragraph: 5

“(e) One member to be appointed by the Minister on the nomination of the Health Research Council of New Zealand:” 10

(2) Notwithstanding **subsection (1)** of this section, the person holding office immediately before the commencement of this Act as the member of the War Pensions Medical Research Trust Board appointed under section 18c (1) (e) of the War Pensions Act 1954 shall, unless that person sooner vacates office under section 18D of that Act, continue in office as a member of that Board until the expiration of the term for which that person was appointed. 15

**44. Consequential amendment to Ministry of Transport Act 1968**—(1) Section 13i (2) of the Ministry of Transport Act 1968 (as inserted by section 5 of the Ministry of Transport Amendment Act 1973) is hereby amended by repealing paragraph (g), and substituting the following paragraph: 20

“(g) One member, to be nominated by the Health Research Council of New Zealand:” 25

(2) Notwithstanding **subsection (1)** of this section, the person holding office immediately before the commencement of this Act as the member of the Road Traffic Safety Research Council appointed under section 13i (2) (g) of the Ministry of Transport Act 1968 shall, unless that person sooner vacates office under section 13i (3) (b) of that Act, continue in office as a member of that Council until the expiration of the term for which that person was appointed. 30

**45. Consequential amendments to Local Authorities (Members’ Interests) Act 1968**—(1) The Local Authorities (Members’ Interests) Act 1968 is hereby amended by inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item: 35

“The Health Research Council of New Zealand	1990, No. 00—The Health Research Council Act 1990.”	40
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(2) The Local Authorities (Members' Interests) Act 1968 is hereby further amended by omitting from Part II of the First Schedule the item relating to the Medical Research Council of New Zealand. 45

*New*

**45A. Consequential amendment to Estate and Gift Duties Act 1968**—Section 73 (2) of the Estate and Gift Duties Act 1968 is hereby amended by repealing paragraph (d), and substituting the following paragraph: 50  
“(d) Any gift to the Health Research Council of New Zealand for the purposes of health research:”.

*Struck Out*

**46. Consequential amendment to Stamp and Cheque Duties Act 1971**—Section 13 (1) of the Stamp and Cheque Duties Act 1971 is hereby amended by repealing paragraph (a), and substituting the following paragraph: 55  
“(b) The Health Research Council of New Zealand for the purposes of health research; or”. 60

*New*

**46. Consequential amendments to Stamp and Cheque Duties Act 1971**—(1) Section 13 (1) of the Stamp and Cheque Duties Act 1971 is hereby amended by repealing paragraph (b), and substituting the following paragraph:  
“(b) The Health Research Council of New Zealand for the purposes of health research; or”.  
(2) Section 14 (1) of the Stamp and Cheque Duties Act 1971 is hereby amended by repealing paragraph (b), and substituting the following paragraph:  
“(b) The Health Research Council of New Zealand for the purposes of health research; or”.

**47. Consequential amendment to Income Tax Act 1976**—Section 146 (1) of the Income Tax Act 1976 is hereby amended by repealing paragraph (c), and substituting the following paragraph:

“(c) The Medical Research Council of New Zealand established under the Medical Research Council Act 1950 or the Health Research Council of New Zealand constituted under the Health Research Council Act 1990; or”.

5

**48. Consequential amendment to Medicines Act 1981**—Section 30 (1) of the Medicines Act 1981 is hereby amended by omitting the words “Medical Research Council of New Zealand”, and substituting the words “Health Research Council of New Zealand”.

10

**49. Consequential amendments to Official Information Act 1982**—(1) The Official Information Act 1982 is hereby amended by inserting in the First Schedule (as substituted by section 23 (1) of the Official Information Amendment Act 1987), in its appropriate alphabetical order, the item “Health Research Council of New Zealand”.

15

(2) The Official Information Act 1982 is hereby further amended by omitting from the First Schedule (as substituted by section 23 (1) of the Official Information Act 1987) the item “Medical Research Council of New Zealand”.

20

**50. Repeals**—The enactments specified in the Second Schedule to this Act are hereby repealed.

## SCHEDULES

### Section 32

### FIRST SCHEDULE

#### PROVISIONS APPLYING IN RESPECT OF COUNCIL

**1. Meetings**—(1) The first meeting of the Council shall be held before the ~~(31st day of August)~~ 30th day of November 1990 on a date to be appointed by the Minister.

(2) Subject to subsections (1) and (3) of this section, meetings of the Council shall be held at such times and places as the Council or its Chairperson from time to time appoints, but the Council shall meet at least once in each financial year.

(3) The Chairperson, or any 3 members, may at any time call a special meeting.

(4) The quorum necessary for the transaction of business at any meeting of the Council shall be 5 members.

(5) At all meetings of the Council its Chairperson shall preside if he or she is present. If the Chairperson and the Deputy Chairperson are absent, the members present shall appoint one of their number to be chairperson of that meeting.

(6) All questions arising at any meeting of the Council shall be decided by a majority of the valid votes recorded thereon.

FIRST SCHEDULE—*continued*

PROVISIONS APPLYING IN RESPECT OF COUNCIL—*continued*

(7) At any meeting of the Council the Chairperson or other person presiding shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

(8) A resolution in writing signed, or assented to by letter, telegram, telex, or facsimile transmission, by all the members of the Council shall be as valid and effectual as if it had been passed at a meeting of the Council duly called and constituted.

(9) Subject to the provisions of this Act and of any regulations or rules made under this Act, the Council may regulate its procedure in such manner as it thinks fit.

Cf. 1950, No. 20, ss. 5 (2), 6 (1), (2), (3), (4), (5), (6), (8); 1965, No. 29, ss. 4, 6 (1)

**2. Fees and allowances of members of Council and committees—**

There may be paid out of money appropriated by Parliament for the purpose to the members of the Council and the members of each committee established by or under this Act remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

Cf. 1950, No. 20, s. 7; 1951, No. 79, s. 10 (1)

*Struck Out*

**3. Employees—**(1) The Council may appoint—

(a) A Director; and

(b) Subject to **subclause (3)** of this clause, such other administrative officers and employees, including officers and employees on secondment from other organisations,—

as it thinks necessary for the efficient performance of its functions.

(2) The Council may, subject to any contract of service, at any time terminate or suspend the employment of any of the Council's officers and employees.

(3) The number of officers and employees who may be appointed under **subclause (1) (b)** of this clause, whether generally or in respect of any specified duties, shall from time to time be determined by the Minister.

(4) The Director and the other officers and employees appointed under **subclause (1)** of this clause shall be employed on such terms and conditions of employment, and shall be paid such salaries and allowances, as the Council from time to time determines after consultation with the State Services Commission.

(5) Any determination under **subclause (4)** of this clause shall take effect on such date (whether the date of the determination or any earlier or later date) as may be specified in the determination.

(6) If no date is so specified, the determination shall take effect on the date of the determination.

FIRST SCHEDULE—*continued*PROVISIONS APPLYING IN RESPECT OF COUNCIL—*continued**New*

**3. Employees**—(1) The Council may appoint—

- (a) A Director; and
- (b) Employees to engage in research; and
- (c) Such other employees, including employees on secondment from other organisations, as it thinks necessary for the efficient performance of its functions.

(2) The Council may, subject to any contract of service, at any time terminate or suspend the employment of any of the Council's officers and employees.

(3) The Director and the employees appointed under **subclause (1) (c)** of this clause shall be employed on such terms and conditions of employment, and shall be paid such salaries and allowances, as the Council from time to time determines after consultation with the State Services Commission.

(4) Any person appointed under **subclause (1) (b)** of this clause shall—

- (a) Except in special circumstances, be employed on specific research projects; and
- (b) Be employed on contract for a term of not more than 5 years; and
- (c) Be eligible for reappointment only in special circumstances; and
- (d) Be subject to such other terms and conditions of employment as the Council from time to time determines after consultation with the State Services Commission.

(5) Any determination under **subclause (3)** or **subclause (4)** of this clause shall take effect on such date (whether the date of the determination or any earlier or later date) as may be specified in the determination.

(6) If no date is so specified, the determination shall take effect on the date of the determination.

**4. Superannuation or retiring allowances**—(1) For the purpose of providing a superannuation fund or retiring allowance for any of the officers or employees of the Council, sums by way of subsidy may from time to time be paid into any scheme under the National Provident Fund Act 1950 containing provision for employer subsidy or into any other employer-subsidised scheme approved by the Minister of Finance for the purposes of this clause.

(2) Notwithstanding anything in this Act, any person who, immediately before becoming an officer or employee of the Council, is a contributor to the Government Superannuation Fund under Part II or Part II<sub>A</sub> of the Government Superannuation Fund Act 1956 shall be deemed to be, for the purposes of the Government Superannuation Fund Act 1956, employed in the Government service so long as that person continues to be an officer or employee of the Council; and that Act shall apply to that person in all respects as if that person's service as such an officer or employee were Government service.

(3) Subject to the Government Superannuation Fund Act 1956, nothing in **subclause (2)** of this clause entitles any such person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.

FIRST SCHEDULE—*continued*

PROVISIONS APPLYING IN RESPECT OF COUNCIL—*continued*

(4) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with **subclause (2)** of this clause, to a person who is in the service of the Council as an officer or an employee and is a contributor to the Government Superannuation Fund, the term “controlling authority”, in relation to any such person who is in the service of the Council, means the Council.

**5. Council deemed to be local authority for purposes of National Provident Fund Act 1950**—The Council is hereby declared to be a local authority for the purposes of the National Provident Fund Act 1950.

Cf. 1950, No. 20, s. 3 (2); 1954, No. 49, s. 7 (3)

**6. Crown may provide services for Council**—The Crown, acting through any Government department, may from time to time, at the request of the Council, execute any work or enter into any arrangements for the execution or provision by the Government department for the Council of any work or service, or for the supply to the Council of any goods, stores, or equipment, on and subject to such terms and conditions as may be agreed.

**7. Application of certain Acts to members and employees**—No person shall be deemed to be employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 by reason only of that person’s appointment as a member of the Council or by reason only of that person’s employment under **clause 3** of this Schedule.

**8. Council to be Crown agency for purposes of Public Finance Act 1989**—The Council shall be a Crown agency for the purposes of the Public Finance Act 1989, and, notwithstanding anything in section 1 (3) of that Act, Part V of that Act shall apply to the Council as if that Part of that Act were in force on the commencement of this Act.

**9. Money to be appropriated by Parliament for purposes of this Act**—All fees, salaries, allowances, and other expenditure payable or incurred under or in the administration of this Act shall be payable out of public money to be appropriated by Parliament for the purpose.

Cf. 1950, No. 20, s. 15

- 10. Funds of Council**—The funds of the Council shall consist of—
- (a) All money appropriated by Parliament for the purposes of the Council and paid to the Council for the purposes of the Council;
  - (b) All other money lawfully received by the Council for the purposes of the Council;
  - (c) All accumulations of income derived from any such money.

**11. Bank accounts**—(1) The Council shall open at any bank or banks such accounts as are necessary for the exercise of its functions and powers.  
(2) All money received by the Council, or by any employee of the Council shall, as soon as practicable after it has been received, be paid into such bank accounts of the Council as the Council from time to time determines.

FIRST SCHEDULE—*continued*PROVISIONS APPLYING IN RESPECT OF COUNCIL—*continued*

(3) The withdrawal or payment of money from any such accounts shall be authorised in such manner as the Council thinks fit.

(4) The withdrawal or payment of money from any such accounts shall be by cheque signed by such person or persons as the Council from time to time authorises.

**12. Unauthorised expenditure**—The Council may, in any financial year, expend for purposes not authorised by this Act or any other enactment any sum or sums not amounting in the aggregate to more than \$2,000.

Cf. 1950, No. 20, s. 11

**13. Investment of money**—Subject to the terms of any trust or endowment, any money held by the Council which is not immediately required for expenditure by the Council may be invested pursuant to section 25 of the Public Finance Act 1989.

Cf. 1950, No. 20, s. 16; 1988, No. 119, s. 14 (1)

## SECOND SCHEDULE

## Section 50

*(Repeals)* ENACTMENTS REPEALED

- 1950, No. 20—The Medical Research Council Act 1950. (R.S. Vol. 10, p. 75.)
- 1951, No. 45—The Medical Research Council Amendment Act 1951. (R.S. Vol. 10, p. 87.)
- 1951, No. 79—The Fees and Travelling Allowances Act 1951: So much of the First Schedule as relates to the Medical Research Council and so much of the Second Schedule as relates to the Medical Research Council Act 1950. (R.S. Vol. 6, p. 403.)
- 1956, No. 85—The Medical Research Council Amendment Act 1956. (R.S. Vol. 10, p. 87.)
- 1965, No. 29—The Medical Research Council Amendment Act 1965. (R.S. Vol. 10, p. 88.)
- 1981, No. 77—The Medical Research Council Amendment Act 1981. (R.S. Vol. 10, p. 89.)
- 1986, No. 101—The Medical Research Council *(of New Zealand)* Amendment Act 1986.
- 1987, No. 39—The Medical Research Council *(of New Zealand)* Amendment Act 1987.
- 1988, No. 20—The State Sector Act 1988: So much of the Fifth Schedule as relates to the Medical Research Council Act 1950.
- 1988, No. 119—The Trustee Amendment Act 1988: So much of the Second Schedule as relates to the Medical Research Council Act 1950.
- 1989, No. 50—The Land Tax Amendment Act 1989: So much of the Second Schedule as relates to the Medical Research Council Act 1950.