

# SOUTH AUSTRALIAN PUBLIC HEALTH COUNCIL

## TERMS OF REFERENCE

*South Australian Public Health Act 2011 (Extracts)*  
**Extract #1 – South Australian Public Health Council**

### **Division 3—South Australian Public Health Council**

#### **26—Establishment of SAPHC**

The *South Australian Public Health Council* (SAPHC) is established.

#### **27—Composition of SAPHC**

- (1) SAPHC consists of—
  - (a) the Chief Public Health Officer *ex officio* (who will be the presiding member); and
  - (b) 9 other members appointed by the Governor on the nomination of the Minister, of whom—
    - (i) 2 must have experience in local government selected by the Minister from a panel of 5 nominated by the LGA; and
    - (ii) 1 must have qualifications in public health and experience in the administration of public health at the local government level selected by the Minister from a panel of 5 nominated by Environmental Health Australia (South Australia) Incorporated; and
    - (iii) 2 must be persons nominated by the Minister who have qualifications in public health; and
    - (iv) 1 must have experience in the administration of environment protection laws or strategies or in environmental management, selected by the Minister from a panel of 5 nominated by the Presiding Member of the Board of the Environment Protection Authority; and
    - (v) 1 must be a person nominated by the Minister who has experience in the field of health promotion; and
    - (vi) 1 must be a person nominated by the Minister who has experience in the prevention and control of communicable diseases; and
    - (vii) 1 must be a person nominated by the Minister who has experience in non-government community sector activities relevant to public health.
- (2) If the Minister, by notice in writing, requests a body to make nominations for the purposes of this section, and the body fails to make the nominations within the time allowed in the notice, a person may be appointed to SAPHC on the Minister's nomination and that member will be taken to have been appointed on the nomination of the body in default.
- (3) The Governor may appoint a suitable person to be the deputy of a member of SAPHC and the deputy may, in the absence of that member, act as a member of SAPHC.
- (4) The provisions of this section relating to the qualification and nomination of a member extend to a deputy of that member.

#### **28—Conditions of appointment**

- (1) An appointed member of SAPHC will hold office on conditions determined by the Governor for a term, not exceeding 3 years, specified in the instrument of appointment and will, at the expiration of a term of office, be eligible for reappointment.



- (2) The Governor may remove an appointed member of SAPHC from office—
  - (a) for breach of, or non-compliance with, a condition of appointment; or
  - (b) for mental or physical incapacity to carry out duties of office satisfactorily; or
  - (c) for neglect of duty; or
  - (d) for dishonourable conduct.
- (3) The office of an appointed member of SAPHC becomes vacant if the member—
  - (a) dies; or
  - (b) completes a term of office and is not reappointed; or
  - (c) resigns by written notice addressed to the Minister; or
  - (d) is found guilty of an indictable offence; or
  - (e) becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
  - (f) is removed from office by the Governor under subsection (2).
- (4) On the office of a member of SAPHC becoming vacant, a person must be appointed to that office in accordance with this Act.

### **29—Allowances and expenses**

An appointed member of SAPHC is entitled to fees, allowances and expenses approved by the Governor.

### **30—Validity of acts**

An act or proceeding of SAPHC is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

### **31—Functions of SAPHC**

SAPHC's functions are as follows:

- (a) to assist and advise the Chief Public Health Officer in relation to—
  - (i) the protection and promotion of public health; and
  - (ii) the development and maintenance of a system of strategic planning for public health at the local, regional and State-wide levels; and
  - (iii) the development of health plans under this Act; and
  - (iv) strategies to ensure that a sufficiently trained and skilled workforce is in place for the purposes of this Act; and
  - (v) programs to promote public health research in the State; and
  - (vi) the preparation of the biennial report under Division 2; and
  - (vii) the setting of standards and qualifications for authorised officers;
- (b) any other functions assigned to SAPHC by this or any other Act or by the Minister or the Chief Public Health Officer.

### **32—Conduct of business**

- (1) The presiding member of SAPHC will, if present at a meeting of SAPHC, preside at the meeting and, in the absence of that member, the members present may elect 1 of their number to preside.
- (2) 6 members constitute a quorum of SAPHC.
- (3) A decision carried by a majority of the votes cast by the members of SAPHC present at a meeting of SAPHC is a decision of SAPHC.
- (4) Each member present at a meeting of SAPHC is entitled to 1 vote on a question arising for decision at the meeting and, in the event of an equality of votes, the person presiding is entitled to a second, or casting, vote.



- (5) A conference by telephone or other electronic means between the members of SAPHC will, for the purposes of this Act, be taken to be a meeting of SAPHC at which the participating members are present if—
  - (a) notice of the conference is given to all members in the manner determined by the members of SAPHC for that purpose; and
  - (b) each participating member is capable of communicating with every other participating member during the conference.
- (6) Subject to this Act, the business of SAPHC may be conducted in such way as it determines.

### **33—Committees and subcommittees**

- (1) SAPHC may establish committees or subcommittees as SAPHC thinks fit to advise SAPHC on any aspect of its functions, or to assist SAPHC in the performance of its functions.
- (2) A committee or subcommittee established under subsection (1) may, but need not, consist of, or include, members of SAPHC.
- (3) The procedures to be observed in relation to the conduct of a business of a committee or subcommittee will be—
  - (a) as determined by SAPHC; or
  - (b) insofar as a procedure is not determined by SAPHC—as determined by the relevant committee or subcommittee.

### **34—Delegation by SAPHC**

- (1) SAPHC may delegate a function or power conferred on SAPHC under this or any other Act—
  - (a) to a specified person or body; or
  - (b) to a person occupying or acting in a specified office or position.
- (2) A delegation—
  - (a) may be made subject to conditions or limitations specified in the instrument of delegation; and
  - (b) if the instrument of delegation so provides, may be further delegated by the delegate; and
  - (c) is revocable at will and does not prevent the delegator from acting personally in a matter.

### **35—Annual report**

- (1) SAPHC must, on or before 31 October in each year, provide to the Minister a report on its activities for the financial year ending on the preceding 30 June.
- (2) The Minister must, within 12 sitting days after receipt of a report under this section, cause a copy of the report to be laid before both Houses of Parliament.

### **36—Use of facilities**

SAPHC may, by arrangement with the relevant body, make use of the services of the staff, equipment or facilities of a public authority.


## **Extract #2 Public Health Review Panel**

### **Division 3—Reviews and appeals**


#### **95—Reviews—notices relating to general duty**

- (1) This section applies if a person has been issued with a notice under this Part to secure compliance with the duty under Part 6.
- (2) A person to whom a notice has been issued may apply for a review of the notice under this section.
- (3) The review will be to the *Public Health Review Panel* (the **Review Panel**) constituted under this section.



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- (4) The application must be made within 14 days after the notice is served on the person unless the Review Panel, in its discretion, allows an extension of time.
  - (5) Subject to a determination of the Review Panel to the contrary in relation to a particular matter, the operation of a notice subject to a review is not suspended pending the outcome of the proceedings.
  - (6) A review under this section is to be conducted as a full review of the matter to which the review relates.
  - (7) For the purposes of this section, the Review Panel will from time to time, in relation to a particular review, be constituted by—
    - (a) the Chief Public Health Officer (who will be the presiding member); and
    - (b) 2 members of SAPHC selected by the Chief Public Health Officer for the purposes of the particular review; and
    - (c) any other person or persons selected by the Chief Public Health Officer in order to provide additional expertise on the panel.
  - (8) If the review relates to a notice issued by the Chief Public Health Officer, a delegate of the Chief Public Health Officer must act in place of the Chief Public Health Officer under subsection (7).
  - (9) A reference to a member of SAPHC under subsection (7)(b) extends to a deputy of a member of SAPHC.
  - (10) 3 members of the Review Panel constitute a quorum of the Review Panel.
  - (11) A decision carried by a majority of the votes cast by the members of the Review Panel present at any proceedings of the Review Panel is a decision of the Review Panel.
  - (12) Each member present at a meeting of the Review Panel is entitled to 1 vote on a question arising for decision and, in the event of an equality of votes, the person presiding has a second, or casting, vote.
  - (13) A party is entitled to appear personally or, with leave of the Review Panel, by representative, in proceedings before the Review Panel.
  - (14) The Review Panel may proceed to determine a matter in the absence of a party if the party has had notice of the time and place of the proceedings and fails to appear.
  - (15) The Review Panel may, on its own initiative or on application by a party to the relevant proceedings—
    - (a) dismiss or determine any proceedings that appear—
      - (i) to be frivolous or vexatious; or
      - (ii) to have been instituted for the purpose of delay or obstruction, or for some other improper purpose;
    - (b) bring any proceedings to an end that appear—
      - (i) to be more appropriately suited to proceedings before the District Court rather than the Review Panel; or
      - (ii) to be unable to be satisfactorily resolved (or resolved within a reasonable period) by proceedings before the Review Panel; or
    - (c) bring any proceedings to an end for any other reasonable cause.
  - (16) In any proceedings, the Review Panel is not bound by the rules of evidence but may inform itself about any matter relating to the proceedings in such manner as it thinks fit.
  - (17) The Review Panel may, on hearing any proceedings under this section—
    - (a) confirm, vary or revoke any requirement to which the review relates and, if appropriate, discharge the relevant notice;
    - (b) substitute any requirement or notice that could have been made or given in the first instance;



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- (c) remit the subject matter to the relevant authority for further consideration;
  - (d) dismiss the matter;
  - (e) make an order for costs, but only to the extent that may be necessary in the interests of justice;
  - (f) make any consequential or ancillary order or direction, or impose any conditions, that it considers appropriate.
- (18) The Review Panel is to hear and determine an application under this section as soon as is reasonably practicable and in any event within 2 months unless the Chief Public Health Officer allows an extension of time in a particular case.

