**Version No. 071**

**Cancer Act 1958**

**Act No. 6213/1958**

Version incorporating amendments as at 26 August 2004

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Cancer Act 1958

An Act to consolidate the Law relating to the Anti-Cancer Council of Victoria and the Cancer Institute and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. Short title and commencement

This Act may be cited as the Cancer Act 1958, and shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette.

2. Repeal

(1) The Acts mentioned in the First Schedule to the extent thereby expressed to be repealed are hereby repealed accordingly.

(2) Except as in this Act expressly or by necessary implication provided—

(a) all persons things and circumstances appointed or created by or under any of the repealed Acts or existing or continuing under any of such Acts immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they
respectively would have had if such Acts had not been so repealed;

(b) in particular and without affecting the generality of the foregoing paragraph such repeal shall not disturb the continuity of status operation or effect of any regulation rule by-law appointment direction election nomination report estimate account agreement notice investment delegation statement charge liability or right made issued granted given accrued incurred or acquired or existing or continuing by or under any of such repealed Acts before the commencement of this Act.
PART I—ANTI-CANCER COUNCIL OF VICTORIA

3. Definitions

(1) In this Part unless inconsistent with the context or subject-matter—

"council" means the Anti-Cancer Council of Victoria under this Part;

"committee" means committee under this Part;

"Secretary" means the Secretary to the Department of Human Services.

(2) If under the Public Sector Management and Employment Act 1998 the name of the Department of Human Services is changed, a reference in the definition of "Secretary" in subsection (1) to that Department must, from the date when the name is changed, be treated as a reference to the Department by its new name.

4. Council to be constituted

There shall be an Anti-Cancer Council of Victoria constituted as hereinafter provided.
5. Objects of the council

(1) The objects of the council are—

(a) to co-ordinate in Victoria all activities relating to research with respect to cancer and allied conditions and in particular research into the causation, prevention and treatment of cancer and allied conditions; and

(b) to undertake, promote and subsidise such research; and

(c) to—

(i) provide information and advice; and

(ii) develop, co-ordinate and participate in educational programs—

relating to the prevention, detection, treatment and management of cancer and allied conditions; and

(d) to promote, provide and co-ordinate services for the support and welfare of persons suffering from cancer and allied conditions; and

(e) to investigate whether it is advisable to establish special cancer clinics within existing hospitals or similar institutions and, where it is advisable to do so, to establish such clinics; and

(f) to act in association with any organisation having objects similar to the objects of the council.
(2) For the carrying into effect of the foregoing objects the council subject to and for the purposes of this Part may—

(a) obtain moneys by means of grants subscriptions gifts bequests or otherwise and invest any moneys so obtained and hold investments of the same;

(b) receive obtain and hold lands moneys securities and other property real or personal;

(ba) with the consent of the Treasurer borrow such sums of money (whether secured upon the funds or property of the council or otherwise) as it thinks requisite upon such terms and conditions as may be agreed upon between the council and the lender and approved by the Treasurer;

(bb) apply for, obtain and hold, whether on its own behalf or jointly with another person or other persons, industrial property rights including, without limiting the generality of the foregoing, patents, copyright, trademarks and registered designs, arising from or relating to inventions or discoveries made by or on behalf of the council or by an employee of the council and inventions or discoveries made as a result of activities funded wholly or partly by the council;

(bc) assign, or grant licences in respect of, industrial property rights referred to in paragraph (bb), whether or not for fee or reward;

(bd) enter into agreements and arrangements for the commercial exploitation of industrial property rights referred to in paragraph (bb);
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(c) execute any special trusts in connection with moneys or property received obtained and held by the council;

(d) apply the capital and income of the funds and property of the council or any part thereof, subject to such trusts (if any), for or towards the foregoing objects; and

(da) affiliate or associate with any other body of persons whatsoever having the like or similar objects whether such body of persons is corporate or unincorporate or carrying on activities within Victoria or elsewhere; and

(db) do any of the following—

(i) be a member of a company, association, trust or partnership;

(ii) form, or participate in the formation of, a company, association, trust or partnership;

(iii) enter into a joint venture with another person or other persons—

if the objects or purposes of the company, association, trust, partnership or joint venture include one or more objects or purposes which are incidental or conducive to the attainment of the foregoing objects or the exercise of the powers of the council.

(e) do all such things as are incidental or conducive to the attainment of the foregoing objects and the exercise of the powers of the council.

(3) In carrying out its objects the Council shall from time to time consult the Secretary in regard to the existing and proposed activities of the Council and shall have regard to its advice.
6. Constitution of council

(1) The council shall consist of—

(a) the Minister, the Vice-Chancellor of the University of Melbourne, the Vice-Chancellor of Monash University, the Vice-Chancellor of La Trobe University, the Vice-Chancellor of Deakin University, the Lord Mayor of Melbourne, and the Secretary, all of whom shall be ex officio members of the council;

(b) persons appointed by the Governor in Council upon nomination as provided in the Second Schedule to this Act by the committees or other governing bodies of the respective associations or bodies of persons corporate or unincorporate set out in the said Schedule;

(c) not more than four persons appointed by the Governor in Council upon nomination by the Minister to represent contributors to the funds of the council;

(d) three other persons appointed by the Governor in Council upon the recommendation of the Minister; and

(e) (i) the chairman for the time being of each of the committees hereinafter provided for; and
(ii) not more than four members for the time being of the medical and scientific committee elected from time to time by that committee.

(1A) The Governor in Council on the recommendation of the council may by proclamation published in the Government Gazette alter the Second Schedule by removing or inserting any item therein or by altering the number of nominees of any institution and the said Second Schedule as so altered shall thereupon be deemed to be the Second Schedule.

(2) There shall be a president and a vice-president of the council who shall respectively—

(a) be elected as hereinafter provided by the council from among the members thereof; and

(b) be entitled to hold office as such until the annual meeting of the council next following their election.

(3) The president the vice-president and any other member of the council may resign his office by writing under his hand addressed and delivered or sent by post to the president or the chief executive officer of the council.

7. Incorporation

The council shall be a body corporate by the name of the Anti-Cancer Council of Victoria with perpetual succession and a common seal; and shall by that name be capable in law of suing and being sued and subject to and for the purposes of this Part of acquiring receiving holding selling leasing taking on lease mortgaging exchanging or disposing of real or personal property and of doing or suffering all such other acts or things as bodies corporate may by law do and suffer.
8. Term of office of appointed members

Subject to the provisions of sub-section (3) of the next succeeding section the members of the council appointed by the Governor in Council shall be appointed for a period of five years but upon the expiration of such period shall be eligible for re-appointment if then qualified.

9. Casual vacancies

(1) Any casual vacancy in the office of the president or the vice-president shall be filled by the election of a member of the council thereto by the council for the remainder of the term of office of the president or vice-president (as the case may be).

(2) Any vacancy in the office of a member of the council appointed by the Governor in Council shall subject to this Part be filled by the appointment of a qualified person thereto by the Governor in Council.

(3) Any member appointed to fill a casual vacancy in the office of a member of the council appointed by the Governor in Council shall be appointed only for the remainder of the term of office of the member in whose place he is appointed but upon the expiration of such term shall be eligible for re-appointment if then qualified.

10. Annual meeting

(1) An ordinary meeting of the council shall be held in the month of April in every year which shall be called the annual meeting of the council.

(2) At every annual meeting of the council—

(a) the council—

(i) shall elect the president and vice-president of the council; and
(ii) shall appoint such of the members of the several committees hereinafter provided for as are then to be appointed by the council; and

(b) there shall be presented to the council—

(i) by the executive committee—a general report of the proceedings of that committee and of the affairs of the council generally;

(ii) by the finance committee—a general report of the proceedings of that committee and a full account of the receipts and expenditure and of the funds investments and properties of the council and a balance-sheet for the last financial year duly audited;

(iii) by the medical and scientific committee—a general report of the proceedings of that committee and such recommendations as that committee deems desirable relating to the matters committed to that committee by or under this Part; and

(iv) by the appeals committee—a general report of the proceedings of that committee and such recommendations as that committee deems desirable relating to the matters committed to that committee by or under this Part.

(3) A quorum of the council shall consist of ten members thereof.

(4) For the purposes of this Act and the Financial Management Act 1994, the financial year of the council is the period 1 January to 31 December.
11. Preparation of annual report of proceedings of council and committees

(1) The president of the council shall in every year within fourteen days after the annual meeting of the council cause to be prepared a general report of the proceedings and activities of the council and of each of the committees thereof during the year terminating at such annual meeting.

(2) Such general report shall be laid before both Houses of Parliament within one month after such annual meeting if Parliament is then sitting and if Parliament is not then sitting then within one month after the next meeting of Parliament.

11A. Section 11 report additional to Financial Management Act

The general report required to be prepared under this Act and tabled in accordance with section 11 is in addition to any report or financial statement required under the Financial Management Act 1994.

The Executive Committee

12. Constitution of executive committee

(1) There shall be a committee called the executive committee.

(2) The executive committee shall consist of not more than fourteen members of whom—

(a) four (not being members of the medical and scientific committee) shall be appointed by the council;

(b) four shall be appointed by the medical and scientific committee hereinafter provided for;
Part I—Anti-Cancer Council of Victoria

12. Appointment of members of executive committee

(3) A quorum of the executive committee shall consist of seven members thereof.

13. Powers and duties of executive committee

(1) Subject to the general control of the council the executive committee—

(a) may determine the measures to be taken to carry out the purposes of this Part;

(b) shall receive and consider all recommendations by the medical and scientific committee and the appeals committee;

(c) must appoint a chief executive officer, determine the terms and conditions of appointment and fix the salary or remuneration of the chief executive officer;

(ca) may appoint or employ any other officers and employees of the council and of the several committees as the executive council thinks fit, determine the terms and conditions of appointment and fix the salaries or remuneration of such officers and employees;

(d) may conduct promote and subsidize research and investigations with respect to cancer and allied conditions and with respect to the causation prevention and treatment thereof;
(e) may publish such medical and scientific reports as may be recommended by the medical and scientific committee; and

(f) may exercise any other function delegated to the executive committee by the council.

(2) The executive committee—

(a) subject to this Part shall have and may exercise all such other powers and duties as are conferred or imposed on it by or under this Part; and

(b) shall furnish an annual report of its proceedings to the council.

The Finance Committee

14. Constitution of finance committee

(1) There shall be a committee called the finance committee.

(2) The finance committee shall consist of six members of whom—

(a) one shall be appointed by the Treasurer of Victoria;

(b) four shall be appointed by the council; and

(c) one shall be the chairman for the time being of the executive committee.

(3) A quorum of the finance committee shall consist of three members thereof.

15. Powers and duties of finance committee

(1) Subject to the general control of the council the finance committee—

(a) shall have the management of the property investments and funds of the council; and
(b) shall have and may exercise all such other powers and duties as are conferred or imposed on it by or under this Part.

(2) The finance committee shall furnish an annual report of its proceedings to the council.

**The Medical and Scientific Committee**

16. Constitution of medical and scientific committee

(1) There shall be a committee called the medical and scientific committee.

(2) The medical and scientific committee shall consist of—

(a) one member appointed by the Minister;

(b) four members appointed by the Council of the University of Melbourne, two of them being nominated by the Faculty of Medicine of the said University and two by the Faculty of Science of the said University and four members appointed by the Council of Monash University two being nominated by the Faculty of Medicine and two by the Faculty of Science of that University one member appointed by the Council of Deakin University on the nomination of the Faculty of Science of that University and one member appointed by the Council of La Trobe University on the nomination of the Faculty of Science of that University;
(c) eight members appointed by the senior medical staffs of hospitals, namely: one each by the senior medical staffs of the Austin and Repatriation Medical Centre, Bayside Health, Dental Health Services Victoria, Eastern Health, Melbourne Health, Southern Health, St. Vincent's Hospital (Melbourne) Limited and Women's and Children's Health respectively;

(d) the director for the time being of the Thomas Baker Alice Baker and Eleanor Shaw Medical Research Institute or a nominee of the director;

(e) the director for the time being of the Walter and Eliza Hall Institute of Medical Research or a nominee of the director;

(ea) the director for the time being of the Howard Florey Institute of Experimental Physiology and Medicine or a nominee of the director;

(f) nine members appointed by the governing bodies of the following associations, namely; one by the Royal Australasian College of Surgeons, one by the Royal Australasian College of Physicians, one by the Victorian Branch of the Australian Medical Association, one by the College of Radiologists of Australasia, one by the College of Pathologists of Australia and one by the Australian Regional Council of the Royal College of Obstetricians and Gynaecologists, one by the Peter MacCallum Cancer Institute, one by the Australian College of Paediatrics and one by the Royal Australian College of General Practitioners (Victorian Faculty);
(g) the chairman for the time being of the executive committee; and

(h) three other persons who may be co-opted by the medical and scientific committee.

(2A) The Governor in Council on the recommendation of the council may by proclamation published in the Government Gazette alter the provisions of paragraphs (b), (c), and (f) of the last preceding sub-section or any of them by altering the number of members to be appointed to the medical and scientific committee or by removing from such paragraphs or inserting therein the name of any University or Faculty thereof or any institution or association (as the case may be) and the said paragraphs as so altered shall thereupon be deemed to be paragraphs (b), (c), and (f) respectively of the last preceding sub-section.

(3) A quorum of the medical and scientific committee shall consist of nine members thereof.

17. **Powers and duties of medical and scientific committee**

(1) Subject to this Part the medical and scientific committee—

(a) shall advise the executive committee as to—

(i) the nature scope and method of promoting investigations and research with respect to cancer and allied conditions and with respect to the causation prevention and treatment thereof;

(ii) the selection of suitable officers to be appointed by the executive committee for these purposes and the terms and conditions of their appointment; and
(iii) the publication of medical and scientific reports; and

(b) shall have and may exercise all such other powers and duties as are conferred or imposed on it by or under this Part.

(2) The medical and scientific committee shall furnish an annual report of its proceedings to the council.

The Appeals Committee

18. Constitution and function of appeals committee

(1) There shall be a committee called the appeals committee.

(2) The appeals committee shall consist of—

(a) such persons as the council deems fit appointed by the council; and

(b) the chairman for the time being of the executive committee.

(3) Subject to this Part the function of the appeals committee shall be to take such action as may be necessary or expedient to raise funds for and to secure such aid as may be conducive to the carrying out of the objects of the council.

(4) The appeals committee shall furnish an annual report of its proceedings to the council and such other reports as may from time to time be requested by the president.

General Provisions

19. General provisions

(1) Subject to this Part every member of any committee appointed otherwise than to fill a casual vacancy shall hold office until the day of the annual meeting of the council in the third year after his appointment.
(2) Subject to this Part every co-opted member of any committee shall hold office for the remainder of the term of office of the appointed co-opting members of the committee.

(3) Every committee shall be subject to the general direction and control of the council.

(4) Every committee shall elect for the term of office of the appointed members thereof one of its number to be the chairman thereof.

(5) The chairman of any committee on ceasing to be a member of the committee shall cease to be chairman thereof.

(6) The chairman or any other member of any committee may resign his office by writing under his hand addressed and delivered or sent by post to the chairman of such committee or to the chief executive officer.

(7) Any casual vacancy in the office of chairman of any committee shall be filled by the election by the committee of one of its number as chairman for the remainder of the term of office of the chairman.

(8) Any appointed or co-opted member of any committee shall go out of office if he is absent for more than five consecutive ordinary meetings of the committee without leave granted by the committee.

(9) Any casual vacancy in any committee shall be filled by the appointment or co-option of a qualified person in the like manner to and for the remainder of the term of office of the member whose seat has become vacant.

(10) Any member of any committee shall, if qualified, be eligible to be again appointed or co-opted thereto.
(11) Every member of a committee to be appointed by the council shall be appointed at an annual meeting of the council.

(12) Notwithstanding anything in this Part—

(a) the chairman of each committee holding office immediately before the annual meeting of the council at which the term of office of the appointed members of the committee expires shall continue to hold office as such until his successor is elected; and

(b) the members of the executive committee appointed by the medical and scientific committee who are holding office immediately before the annual meeting of the council at which the term of office of the members of the executive committee expires shall continue to hold office until their successors are appointed by the medical and scientific committee.

20. Powers of the council and committees as to meetings and proceedings

Subject to this Part the council and each of the committees respectively may—

(a) hold ordinary meetings at such times and places as it thinks fit;

(b) adjourn any meeting; and

(c) regulate its own proceedings.

21. Special meetings

(1) Special meetings may be convened at any time—

(a) of the council—by the president or, on the requisition in writing of any three members of the council, by the chief executive officer;
(b) of any committee—by the chairman thereof or, on the requisition in writing of any two members thereof, by the chief executive officer.

(2) Three days' notice of any special meeting of the council or of any committee shall be given to the members of the council or of such committee (as the case may be) stating the object of the meeting.

(3) No business shall be transacted at any such special meeting except that for which it was convened.

22. Chairman at meetings

(1) At every ordinary or special meeting of the council the president or in his absence the vice-president or in the absence of the president and vice-president a member chosen by the members of the council present shall preside.

(2) At every general or special meeting of any committee the chairman or in his absence a member chosen by the members of the committee present shall preside.

(3) The person presiding at any meeting of the council or of any committee shall in the case of an equality of votes have a second or casting vote.

23. Validation of proceedings

The proceedings at any meeting of the council or of any committee shall not be invalidated by reason of any vacancy therein or any informality or irregularity in the convening thereof or any want of qualification in any of the persons present or voting thereat.
24. Service of notices

(1) A notice required to be served under this Part on any member of the council or of any committee may be served either personally or by sending it through the post in a prepaid letter addressed to him at his registered address for service (if any).

(2) The non-delivery of any notice of a meeting shall not invalidate the proceedings at the meeting.

25. Minutes

A minute book of proceedings of the council and of every committee respectively shall be kept and proper entries made therein of all business transacted by the council or any committee (as the case may be).

26. Officers to give security, not to receive commission

(1) Every salaried officer of the council or of any committee entrusted with the control or custody of any money for or on behalf of the council or any committee shall give such security (if any) as the finance committee requires.

(2) No salaried officer of the council or of any committee shall receive whether directly or indirectly any commission or payment in the nature thereof for or in respect of any moneys collected or received by him for or on behalf of the council or any committee.

Funds and Properties of the Council

27. Investment of funds etc.

(1) Subject to this Part all moneys and funds of the council which are not immediately required to be expended for the purposes of this Part and which the finance committee thinks proper to be invested shall be placed in such investments as may be authorized with respect thereto by or by the
powers contained in the instrument (if any) of gift of such moneys or funds or of the moneys or property from which the same have arisen or by the powers contained in any writing or writings under the hand of the donor according to the provisions of this section or (so far as such instrument writing or writings do not extend) in investments authorized by the law for the time being in force for the investment of trust funds or upon fixed deposit with any authorised deposit-taking institution within the meaning of the Banking Act 1959 of the Commonwealth:

Provided that—

(a) money shall not be invested in any securities and no securities shall be retained if in respect of any securities aforesaid any liability exists unless the liability is of limited amount and is to be discharged or is capable if the finance committee thinks fit of being discharged within a fixed period from the date of investment; but save as in this proviso mentioned nothing in this Part shall prevent the council or the finance committee from the full exercise of any discretion or authority given by the donor in the choice of investments;

(b) all investments may be varied or transposed from time to time into or for other investments authorized according to the provisions of this section with respect to the original investments or the proceeds thereof; and

(c) for the purposes of this section land shall be deemed to be an investment.
(2) Where any money or other property is given by a donor to the council either generally or on a special trust any such donor may within six months after the gift by writing or writings under his hand confer on the council any such powers or additional powers of investment re-investment sale retention or otherwise with respect to his gift and the income thereof as he thinks fit and any such writing or writings shall have effect as if the powers had been contained in an instrument of gift of such money or other property to the council; and subject to this Part any such powers may be exercised by the finance committee.

(3) Moneys of the council awaiting distribution may be either deposited with the bankers of the council or advanced on the security of stocks funds or securities the purchase of which would be authorized by the law for the time being in force for the investment of trust funds.

28. Gifts and moneys subject to conditions

(1) The council may accept gifts and endowments of real and personal estate either for special purposes of the council or in aid of the general purposes thereof and upon such terms and conditions (not inconsistent with the objects of the council) as may be agreed upon between the council and the person bestowing such gifts and endowments.

(2) Any municipal council may contribute moneys to the funds of the Anti-Cancer Council either for special purposes of the Anti-Cancer Council or in aid of the general purposes thereof and upon such terms and conditions (not inconsistent with the objects of the Anti-Cancer Council) as may be agreed upon between the Anti-Cancer Council and such municipal council.
Cancer Act 1958  
Act No. 6213/1958  

Part I—Anti-Cancer Council of Victoria

Audit of Accounts

29. Continuous audit

(1) There shall be a continuous audit of the accounts of the council.

(2) The executive committee shall for the purposes of such audit appoint as auditors persons who are registered as auditors under Part 9.2 of the Corporations Act and may remove any auditor so appointed.

(3) The accounts of the council shall whenever so directed by the Governor in Council be audited by the Auditor-General who shall have with respect thereto all the powers conferred on the Auditor-General by any law relating to the audit of the public accounts.

(4) The council must pay to the Consolidated Fund an amount to be determined by the Auditor-General to defray the reasonable costs and expenses of an audit under this section.

Costs and Expenses

30. Costs, charges and expenses

All the proper costs charges and expenses of and incidental to the administration of this Part shall be defrayed out of the funds of the council.

Rules

31. Powers of the council to make rules

(1) The council may make revoke amend or vary rules for or with respect to—

(a) the safe keeping and the use of the corporate seal;
Part I—Anti-Cancer Council of Victoria

(b) the keeping of regular books and accounts;
(c) the reports to be made to the council by the several committees;
(d) the relations of the several committees to one another and to the council; and
(e) generally, the carrying into effect of the purposes of this Part.

(2) Any rule may (without prejudice to any other method of revocation) be revoked by Order of the Governor in Council published in the Government Gazette.
32. Objects of Peter MacCallum Cancer Institute

Despite anything to the contrary in the Health Services Act 1988, the objects of the Peter MacCallum Cancer Institute incorporated under that Act include the following:

(a) In relation to cancer management—

(i) to provide specialised out-patient, domiciliary and in-patient cancer management at or from the Institute and any satellite centres established by the Institute; and
(ii) to arrange for the provision at any hospital of out-patients clinics at which patients may seek relief from conditions in respect of which appropriate management is provided by the Institute; and

(iii) to provide hostels or make other arrangements where necessary for the accommodation of out-patients who are undergoing management provided by the Institute; and

(b) In relation to cancer research—

(i) to provide and to maintain facilities for cancer research with respect to the biology, cause, prevention, diagnosis and management of cancer and allied conditions, for example, for radiation biology, radiation physics, pharmacology and effectiveness of drugs; and

(ii) to undertake such research; and

(c) In relation to education—

(i) to provide or to arrange for the provision of under-graduate and post-graduate teaching for medical students and registered medical practitioners; and

(ii) to provide in Victoria or elsewhere for the special training of persons in cancer research and investigation; and

(iii) to provide or to arrange teaching programs for any persons including nurses, technicians and physicists with regard to cancer and allied conditions, including the diagnosis and management thereof.
Cancer Act 1958
Act No. 6213/1958
Part II—Peter Maccallum Cancer Institute

s. 33

Ss 33–58 repealed by No. 49/1988 s. 190.
PART III—CANCER REPORTING AND REGISTERS

59. Definitions

(1) In this Part unless inconsistent with the context or subject-matter—

"cancer" means a malignant growth of human tissue which if unchecked is likely to spread to adjacent tissue or beyond its place of origin and which has the propensity to recur, and, without limiting the generality of the foregoing, includes carcinoma, sarcoma, any mixed tumour, leukaemia, any type of lymphoma, melanoma and non-invasive, in situ carcinoma;

"cancer test" means an examination or a test that is undertaken to determine whether a person is suffering from cancer and that is—

(a) a pathological examination of a specimen from the person; or

(b) any other examination or test whatever prescribed as a cancer test;

"Council" means the Anti-Cancer Council of Victoria established under Part I;

"health service establishment" has the same meaning as in the Health Services Act 1988;
"hospital" means a public hospital or denominational hospital within the meaning of the Health Services Act 1988;

"patient" in relation to a hospital or private hospital includes any person who receives relief or assistance from the hospital or private hospital, whether or not he resides in the hospital or private hospital;

"prescribed" means prescribed by the regulations made under this Part;

"prescribed register" means—

(a) in relation to cancer of the cervix, the Cervical Register maintained by the Victorian Cytology (Gynaecological) Service; or

(b) in relation to cancer of another part of the human body, the register prescribed by the regulations of results from cancer tests for that type of cancer; or

(c) in relation to cancer of any part of the human body (including the cervix), a register prescribed by the regulations of results from cancer tests generally;

"private hospital" means a private hospital within the meaning of the Health Services Act 1988;
"proprietor"—
(a) in relation to a private hospital or prescribed health service establishment, has the same meaning as in the Health Services Act 1988; and
(b) in relation to a hospital or prescribed registered funded agency means the committee of management or governing body (by whatever name called) of the hospital or agency;

"registered funded agency" has the same meaning as in the Health Services Act 1988;

"registered medical practitioner" means a registered medical practitioner within the meaning of the Medical Practice Act 1994.

60. Reporting of cancer

(1) The proprietor of a hospital, private hospital, prescribed registered funded agency or prescribed health service establishment must, within the prescribed time and in the prescribed form, report to the Council on any patient who, to the knowledge of the proprietor, is suffering or commences to suffer from cancer.
(1A) The person in charge of an organisation that maintains a prescribed register must, within the prescribed time and in the prescribed form, report to the Council on any person whose information is included in that prescribed register and who, to the knowledge of the person in charge, is suffering or commences to suffer from cancer.

(2) The person in charge of any place where a cancer test is undertaken shall, when the test indicates that a person is suffering from cancer, cause a report on that test to be forwarded to the Council.

(2A) A report under sub-section (2) must be—

(a) in the prescribed form; or

(b) if the person in charge of the place where the cancer test is undertaken has prepared for the person requesting the test a report of the test (whether or not the report also relates to any other tests undertaken)—

(i) a copy of that report; or

(ii) an extract from that report that contains the material relevant to the cancer test.

(2B) An action does not lie against a person who forwards a report in accordance with this section, by reason only that—

(a) the report is a copy of, or extract from, a report mentioned in sub-section (2A)(b) and was forwarded to the Council without the consent of the person to whom it relates or the person for whom it was prepared; or

(b) the report contains information identifying the person to whom it relates; or
(c) the report is forwarded under sub-section (2A)(b) and contains information that does not relate to a cancer test.

(3) Any person who—

(a) when required under sub-section (1) or sub-section (1A) to report to the Council upon any person who suffers or commences to suffer from cancer, fails to so report within the prescribed time;

(b) when required under sub-section (2) to report to the Council upon a cancer test, fails to so report in accordance with that sub-section sub-section (2A) and the regulations made under this section; or

(c) knowingly includes in a report under sub-section (1), sub-section (1A) or sub-section (2) any details which are false or misleading—

shall be guilty of an offence against this Act and shall be liable to a penalty of not more than $100.

(4) The Governor in Council may make regulations for or with respect to—

(a) prescribing the form of any report required to be made to the Council under this section;

(b) prescribing the time within which any report required to be made to the Council under this section shall be made; and

(c) generally prescribing any matter or thing which is by this section authorized or required to be prescribed or is necessary or expedient to be prescribed for giving effect to the provisions of this section.
61. Confidentiality of reports

(1) A person who is or has been a person authorized or employed by the Council to perform a function or discharge a duty with respect to reports submitted to the Council pursuant to section 60 shall not, except to the extent necessary to perform the function or discharge the duty, either directly or indirectly make a record of or divulge or communicate to any person any information that is gained by or conveyed to him by reason of the authorization or employment, or make use of the information for any purpose other than the performance of the function or the discharge of the duty.

Penalty: 10 penalty units.

(2) Nothing in sub-section (1) precludes a person from—

(a) producing a document to a court in the course of criminal proceedings or in the course of any proceedings under this or any other Act; or

(b) divulging or communicating to a court in the course of any proceedings referred to in paragraph (a) any matter or thing coming to his knowledge in the performance of a function or the discharge of a duty referred to in sub-section (1).

61A. Information may be released in certain circumstances

(1) Despite section 61, a person to whom that section applies may, for the purposes of medical research or the administration of cancer related public health programs, give information acquired by the Council pursuant to section 60 if—
Part III—Cancer Reporting and Registers

(a) the use to which that information will be put and any research methodology to be used in the medical research or administration of the programs has been approved, having regard to the NHMRC guidelines, by an ethics committee established by the Council; and

(b) the giving of that information does not conflict with any prescribed requirements.

(2) A person who receives information by reason of the giving of information under sub-section (1) must not give to any other person, whether directly or indirectly, any information so received unless the giving of the information—

(a) has been approved by the ethics committee referred to in sub-section (1); and

(b) does not conflict with any prescribed requirements.

Penalty: 50 penalty units.

(3) In this section "NHMRC guidelines" means the document titled "Aspects of Privacy in Medical Research: An information paper and guidelines for the protection of privacy in the conduct of medical research" endorsed by the National Health and Medical Research Council Executive Committee, June 1995 and includes any subsequent amendment to that document or any superseding document prepared or endorsed by the National Health and Medical Research Council which covers the same subject matter.

61B. Release of information between Council and prescribed registers

(1) Despite section 61, for the purposes of clarifying the accuracy of information provided from the Council to an organisation that maintains a prescribed register under section 61A, a person to whom section 61 applies may provide information
to that organisation in respect of a person who, according to reports submitted to the Council pursuant to section 60, is suffering or commences to suffer from cancer.

(2) Despite section 62(6), for the purposes of clarifying the accuracy of information provided to the Council from an organisation that maintains a prescribed register under section 60(1A), a person to whom section 62(6) applies may provide information on that register to the Council in respect of a person who, to the knowledge of the person in charge of that organisation, is suffering or commences to suffer from cancer.

62. Registers of results from cancer tests

(1) A registered medical practitioner engaged by a person who has undergone a cancer test may cause a report on the test to be forwarded to an organization that maintains a prescribed register for inclusion in that register.

(2) A person in charge of a place where a cancer test is undertaken may cause a report on the test to be forwarded to an organization that maintains a prescribed register for inclusion in that register.

(3) A person who has undergone a cancer test has the right to object to a report on the test being forwarded for inclusion in a prescribed register, and if he or she so objects, a person must not, knowing of the objection, forward such a report, or cause such a report to be forwarded, for inclusion in a prescribed register.

Penalty: 10 penalty units.
Cancer Act 1958
Act No. 6213/1958
Part III—Cancer Reporting and Registers

(4) A person who makes an examination of, or takes a specimen from, another person to determine whether that other person is suffering from cancer, before a report is forwarded to an organization under sub-section (1) or (2)—

(a) must ensure that that other person has been informed of the right to object to the report being forwarded; and

(b) if aware of an objection by that other person, must ensure—

(i) that the report includes notice of the making of the objection; and

(ii) that a written acknowledgement of the objection is given to the other person.

(5) For the purposes of this section, the functions of an organization that maintains a prescribed register are—

(a) to follow up positive results from cancer tests; and

(b) to send reminder notices when persons whose names appear in the register are due for cancer tests; and

(c) subject to and in accordance with the regulations, to give access to the register to persons studying cancer; and

(c) to report to the Council in accordance with section 60(1A); and

(d) to compile statistics and, if the organization considers it appropriate, to publish those statistics that do not identify the persons to whom they relate.
Cancer Act 1958
Act No. 6213/1958
Part III—Cancer Reporting and Registers

(6) A person must not disclose information on a prescribed register that identifies any person except—

(a) with that person's consent; or

(b) to a registered medical practitioner engaged by that person and seeking information to assist in diagnosis or treatment or to determine when the person should next have a cancer test; or

(c) as is necessary for the performance of the functions set out in sub-section (5)(a), (b) or (ca).

Penalty: 10 penalty units.

(7) On the application of a person whose name appears on a prescribed register, the organization that maintains the register must remove from the register all information that identifies that person.

(8) An organization that maintains a prescribed register is a provider of a health service for the purposes of the Health Services (Conciliation and Review) Act 1987.

(9) The Governor in Council may make regulations for or with respect to—

(a) prescribing registers of results from cancer tests by specifying in each case—

(i) the name of the register; and

(ii) whether the register is of results of tests for cancer of a particular part of the human body or of results of tests generally; and

(iii) the organization that maintains the register; and

(iv) the officer of that organization in charge of the register; and

S. 62(6)(b) amended by No. 23/1994 s. 118(Sch. 1 item 6.3(b)).

S. 62(6)(c) amended by No. 45/1997 s. 13(2).
(b) access to prescribed registers by persons studying cancer, including how, where, when and to whom access is to be given, and in what circumstances access is to be given or denied; and

c (c) prescribing forms; and

(d) generally prescribing any other matter or thing required or permitted by this section to be prescribed or necessary to be prescribed to give effect to this section.

(10) The regulations may confer a discretion or authority, or impose a duty, on a specified person or class of persons.

(11) Regulations made under this section may be disallowed in whole or in part by resolution of either House of the Parliament in accordance with the requirements of section 6(2) of the Subordinate Legislation Act 1962.

(12) Disallowance under sub-section (11) is deemed to be disallowance by Parliament for the purposes of the Subordinate Legislation Act 1962.
### FIRST SCHEDULE

<table>
<thead>
<tr>
<th>Number of Act</th>
<th>Title of Act</th>
<th>Extent of Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>4446</td>
<td>Anti-Cancer Council Act 1936</td>
<td>So much as is not already repealed</td>
</tr>
<tr>
<td>5341</td>
<td>Cancer Institute Act 1948</td>
<td>The whole</td>
</tr>
<tr>
<td>5698</td>
<td>Cancer Institute (Loan Moneys) Act 1953</td>
<td>The whole</td>
</tr>
<tr>
<td>5753</td>
<td>Statute Law Revision Act 1953</td>
<td>Item in Schedule referring to Anti-Cancer Council Act 1936</td>
</tr>
<tr>
<td>5959</td>
<td>Cancer Institute (Loan Moneys) Act 1956</td>
<td>The whole</td>
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Section 6

SECOND SCHEDULE

<table>
<thead>
<tr>
<th>Institutions, associations and bodies of persons the committees or governing bodies of which may nominate persons to be members of the Anti-Cancer Council of Victoria</th>
<th>Number of persons who may be nominated in each case</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>RESEARCH INSTITUTES</strong></td>
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<tr>
<td>The Austin Research Institute</td>
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<tr>
<td>Baker Medical Research Institute</td>
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<tr>
<td>Howard Florey Institute of Experimental Physiology and Medicine</td>
<td>1</td>
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<tr>
<td>The Melbourne Branch of the Ludwig Institute of Cancer Research</td>
<td>1</td>
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<tr>
<td>Prince Henry's Institute of Medical Research</td>
<td>1</td>
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<tr>
<td>St Vincent's Institute of Medical Research</td>
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<tr>
<td>The Walter and Eliza Hall Institute of Medical Research</td>
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<tr>
<td><strong>METROPOLITAN HEALTH SERVICES</strong></td>
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<tr>
<td>Austin and Repatriation Medical Centre</td>
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<tr>
<td>Bayside Health</td>
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<td>Dental Health Services Victoria</td>
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<tr>
<td>Eastern Health</td>
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<td>Melbourne Health</td>
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<tr>
<td>Northern Health</td>
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<tr>
<td>Peninsula Health</td>
<td>1</td>
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<tr>
<td>Peter MacCallum Cancer Institute</td>
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<tr>
<td>The Royal Victorian Eye and Ear Hospital</td>
<td>1</td>
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<tr>
<td>Southern Health</td>
<td>1</td>
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<tr>
<td>Western Health</td>
<td>1</td>
</tr>
<tr>
<td>The Royal Children's Hospital</td>
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<td>The Royal Women's Hospital</td>
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</table>
### Cancer Act 1958  
*Act No. 6213/1958*

#### Sch. 2

<table>
<thead>
<tr>
<th>Institutions, associations and bodies of persons the committees or governing bodies of which may nominate persons to be members of the Anti-Cancer Council of Victoria</th>
<th>Number of persons who may be nominated in each case</th>
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</thead>
<tbody>
<tr>
<td><strong>MEDICAL COLLEGES AND ASSOCIATIONS</strong></td>
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<tr>
<td>The Australian College of General Practitioners (Victorian Faculty)</td>
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<tr>
<td>The Australian Dental Association</td>
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<td>The Australian Medical Association (Victorian Branch)</td>
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<td>The Royal Australasian College of Radiologists</td>
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<tr>
<td>The Royal Australasian College of Physicians</td>
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<tr>
<td>Royal Australasian College of Surgeons</td>
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<tr>
<td>The Royal Australian College of Obstetricians and Gynaecologists</td>
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<tr>
<td>The Royal College of Pathologists of Australasia</td>
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<tr>
<td><strong>DENOMINATIONAL HOSPITALS</strong></td>
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<tr>
<td>St Vincent's Hospital (Melbourne) Limited</td>
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Sch. 3 repealed by No. 9023 s. 51(3).
ENDNOTES

1. General Information

The Cancer Act 1958 was assented to on 30 September 1958 and came into operation on 1 April 1959: Government Gazette 18 March 1959 page 892.
2. Table of Amendments

This Version incorporates amendments made to the **Cancer Act 1958** by Acts and subordinate instruments.

<table>
<thead>
<tr>
<th>Act Name</th>
<th>Assent Date</th>
<th>Commencement Date</th>
<th>Current State</th>
</tr>
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<tbody>
<tr>
<td>Cancer (Amendment) Act 1960, No. 6663/1960</td>
<td>25.10.60</td>
<td>25.10.60</td>
<td>All of Act in operation</td>
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<tr>
<td>Cancer (Amendment) Act 1961, No. 6780/1961</td>
<td>25.10.61</td>
<td>25.10.61</td>
<td>All of Act in operation</td>
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<tr>
<td>Statute Law Revision Act 1962, No. 6867/1962</td>
<td>16.4.62</td>
<td>16.4.62: subject to ss 3, 4</td>
<td>All of Act in operation</td>
</tr>
<tr>
<td>Cancer (Facilities) Act 1962, No. 6880/1962</td>
<td>2.5.62</td>
<td>2.5.62</td>
<td>All of Act in operation</td>
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<tr>
<td>Cancer (Amendment) Act 1964, No. 7220/1964</td>
<td>15.12.64</td>
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<tr>
<td>Statute Law Revision Act 1971, No. 8181/1971</td>
<td>23.11.71</td>
<td>23.11.71: subject to s. 2(2)</td>
<td>All of Act in operation</td>
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Cancer Act 1958
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Cancer (Amendment) Act 1980, No. 9375/1980
Assent Date: 6.5.80
Commencement Date: 6.5.80
Current State: All of Act in operation

Assent Date: 23.12.80
Commencement Date: 1.12.81: Government Gazette 28.10.81 p. 3506
Current State: All of Act in operation

Assent Date: 5.1.82
Commencement Date: S. 23 on 1.7.82: s. 2(1)
Current State: This information relates only to the provision/s amending the Cancer Act 1958

Hospitals and Charities (Amendment) Act 1982, No. 9828/1982
Assent Date: 21.12.82
Commencement Date: Ss 6, 9 on 1.8.75: s. 1(3)(b); ss 2–5, 7, 8 on 1.9.81: s. 1(3)(c); s. 1 on 21.12.82: s. 1(3)(a)
Current State: All of Act in operation

Assent Date: 5.7.83
Commencement Date: Ss 13–16, 19, 20 on 22.11.83: Government Gazette 16.11.83 p. 3680; ss 17, 18, 21, 22 were never proclaimed, repealed by No. 49/1988
Current State: This information relates only to the provision/s amending the Cancer Act 1958

Health (Amendment) Act 1985, No. 10262/1985
Assent Date: 10.12.85
Commencement Date: S. 4 on 1.3.86: Government Gazette 26.2.86 p. 415
Current State: This information relates only to the provision/s amending the Cancer Act 1958

Assent Date: 25.11.86
Commencement Date: 25.11.86
Current State: This information relates only to the provision/s amending the Cancer Act 1958

Cancer (Amendment) Act 1988, No. 19/1988
Assent Date: 17.5.88
Commencement Date: 17.5.88
Current State: All of Act in operation

Health Services Act 1988, No. 49/1988
Assent Date: 24.5.88
Commencement Date: S. 193 on 1.7.88: Government Gazette 29.6.88 p. 1896; ss 187–192 on 14.5.89: Government Gazette 3.5.89 p. 998
Current State: This information relates only to the provision/s amending the Cancer Act 1958
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Assent Date: 9.5.89
Commencement Date: S. 4(1) on 1.11.89: Government Gazette 1.11.89 p. 2798; Sch. 2 item 11.1 on 1.10.92: Government Gazette 23.9.92 p. 2789
Current State: This information relates only to the provision/s amending the Cancer Act 1958

Cancer (Central Registers) Act 1989, No. 23/1989
Assent Date: 6.6.89
Commencement Date: 1.7.89: Government Gazette 28.6.89 p. 1558
Current State: All of Act in operation

Assent Date: 17.5.94
Commencement Date: S. 118(Sch. 1 items 6.1–6.3) on 1.7.94: Government Gazette 23.6.94 p. 1672
Current State: This information relates only to the provision/s amending the Cancer Act 1958

Assent Date: 17.12.96
Commencement Date: Pt 2 (ss 3–7) on 31.12.96: s. 2(3)
Current State: This information relates only to the provision/s amending the Cancer Act 1958

Miscellaneous Acts (Omnibus No. 3) Act 1997, No. 45/1997
Assent Date: 11.6.97
Commencement Date: Ss 10–13 on 31.12.97: s. 2(4)
Current State: This information relates only to the provision/s amending the Cancer Act 1958

Audit (Amendment) Act 1997, No. 93/1997
Assent Date: 16.12.97
Commencement Date: S. 28(Sch. item 3) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the Cancer Act 1958

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the Cancer Act 1958

Audit (Amendment) Act 1999, No. 53/1999
Assent Date: 14.12.99
Commencement Date: S. 26(Sch. item 3) on 1.1.2000: Government Gazette 23.12.99 p. 2764
Current State: This information relates only to the provision/s amending the Cancer Act 1958

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- Assent Date: 8.5.01
- Commencement Date: S. 3(Sch. item 9) on 1.6.01: s. 2(2)
- Current State: This information relates only to the provision/s amending the Cancer Act 1958

Corporations (Consequential Amendments) Act 2001, No. 44/2001

- Assent Date: 27.6.01
- Commencement Date: S. 3(Sch. item 13) on 15.7.01: s. 2
- Current State: This information relates only to the provision/s amending the Cancer Act 1958

Government Gazette 12 June 1963 page 1754
Government Gazette 24 January 1968 page 201
Government Gazette 13 March 1968 page 724
Government Gazette 15 December 1982 page 4041
Government Gazette 28 February 1990 page 586
Government Gazette 19 June 1997 pages 1384, 1385
Government Gazette 8 November 2001 page 2796
Government Gazette 3 April 2003 page 635
Government Gazette 26 August 2004 page 2363
3. Explanatory Details

No entries at date of publication.