

South Australia

Preventive Health SA Act 2024

An Act to provide for the Office for Preventive Health SA, to confer functions on its Chief Executive, to establish the Preventive Health SA Council, and for other purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Preventive Health SA Act 2024*.

2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

3—Objects and key principle

- (1) The objects of this Act are—
 - (a) to improve the health and wellbeing of South Australians by preventing and reducing the burden of non-communicable health conditions, through addressing preventable risk factors and associated determinants of health; and
 - (b) to improve health equity, healing and wellbeing for Aboriginal and Torres Strait Islander persons through preventive health action; and
 - (c) to improve health equity for populations requiring priority consideration in relation to preventive health action; and
 - (d) to lead preventive health action and strengthen collaboration between, and innovation by, government agencies and non-government agencies, including through the provision of expert advice to the Minister and the public sector on policies to be implemented by government; and
 - (e) to embed preventive health policy, action and resourcing in the legislative framework governing the State's health system and administration.
- (2) The key principle in furthering the objects of this Act is that addressing preventable and protective risk factors should focus on individual, social and commercial systems that impact the behaviours contributing to the burden of non-communicable health conditions and injuries, including in connection with tobacco and vaping, alcohol and other drugs, obesity, unhealthy diets, physical inactivity and poor mental health.

4—Interpretation

In this Act—

Aboriginal or Torres Strait Islander person means a person who—

- (a) is of Aboriginal or Torres Strait Islander descent; and
- (b) regards themselves as Aboriginal or Torres Strait Islander; and
- (c) is accepted as an Aboriginal or Torres Strait Islander person by the relevant Aboriginal or Torres Strait Islander community;

Chief Executive means the person engaged (or assigned to act) under the *Public Sector Act 2009* as the Chief Executive of the administrative unit of the Public Service designated as the Office for Preventive Health SA under section 6(1);

designated interest, of a person, means a direct interest held by the person in a relevant industry;

direct interest, in a relevant industry, includes the following (without limitation):

- (a) employment by an entity involved in a relevant industry;
- (b) providing services to an entity involved in a relevant industry;
- (c) receiving a grant or other funding from an entity involved in a relevant industry;

Preventive Health SA Council or *Council* means the Preventive Health SA Council established under section 12;

relevant industry means the pharmaceutical, food, alcohol or tobacco industry.

5—Interaction with other Acts

This Act is in addition to, and does not derogate from, any other Act or law.

Part 2—Office for Preventive Health SA

6—Office for Preventive Health SA

- (1) For the purposes of this Act, the Minister must, by notice in the Gazette, designate an administrative unit of the Public Service as the Office for Preventive Health SA.
- (2) The Premier must consult the Council before acting under the *Public Sector Act 2009* to—
 - (a) engage a person as the Chief Executive; or
 - (b) transfer the Chief Executive to other duties in the public sector; or
 - (c) terminate the employment of the Chief Executive.

7—Functions

- (1) The functions of the Chief Executive are—
 - (a) to undertake, commission, support, monitor and evaluate policies, programs or services designed to—
 - (i) improve physical and mental health and wellbeing; or
 - (ii) improve health equity; and
 - (b) to make grants or commission strategies designed to prevent or reduce non-communicable health conditions and improve health equity in partnership with government and non-government bodies; and
 - (c) to develop and enhance new and existing partnerships to implement evidence informed preventive health policies and action; and
 - (d) to consult, collaborate and engage with stakeholders in developing and implementing preventive health policy and action; and
 - (e) to commission and lead community education initiatives that are effective in increasing knowledge and awareness of health risks and modifying behaviour to promote health and wellbeing, prevent ill health or improve health equity; and
 - (f) to monitor and report on investment and expenditure on preventive health measures, their benefits and economic impacts, including on productivity; and

- (g) to collect, monitor and support the sharing of population level health and wellbeing data and analyses to inform evidence-based practice in preventive health and wellbeing; and
 - (h) to undertake, commission or support collaborative research and the understanding and interpretation of evidence in areas of preventive health and wellbeing; and
 - (i) to support innovation in preventive health action and the understanding and interpretation of data and evidence relating to preventive health to promote effective evidence informed preventive health action; and
 - (j) to advise the Minister, government and non-government agencies on any matter that the Chief Executive considers relevant to preventive health and wellbeing and be a primary source of advice to the Minister and government on preventive health policy and action; and
 - (k) to develop and publish reports and make independent public statements designed to raise awareness and promote action on preventive health priorities; and
 - (l) to carry out such other functions as may be assigned to the Chief Executive by the Minister or under this or any other Act, including (without limitation) under the *Controlled Substances Act 1984*, *Public Intoxication Act 1984* and *Tobacco and E-Cigarette Products Act 1997* in connection with the objects of this Act.
- (2) The Chief Executive must, in performing the Chief Executive's functions as they relate to Aboriginal and Torres Strait Islander persons, consult and collaborate with Aboriginal and Torres Strait Islander persons and their representative bodies.
- (3) The Chief Executive—
- (a) has all the powers necessary for carrying out the Chief Executive's functions; and
 - (b) must seek to further the objects of this Act in carrying out those functions.
- (4) The Chief Executive may develop or adopt procedures for the provision of advice relating to preventive health to government agencies—
- (a) to ensure that the Chief Executive is consulted or involved, and the impacts on preventive health are taken into account by government agencies, in the development of significant policies or measures; and
 - (b) to implement policies or measures that support action in relation to preventive health.
- (5) The Chief Executive must have regard to any relevant advice provided by the Council in relation to the performance of the Chief Executive's functions.

8—Exercise of functions

- (1) Subject to this section, the Chief Executive must, in performing the Chief Executive's functions, act independently, impartially and in the public interest.
- (2) The Minister may give the Chief Executive a direction in relation to the performance of the Chief Executive's functions.

- (3) A direction under subsection (2)—
 - (a) must be in writing; and
 - (b) cannot relate to—
 - (i) the making of a grant referred to in section 7(1)(b); or
 - (ii) the commissioning or leading of community education initiatives under section 7(1)(e); or
 - (iii) the monitoring or reporting on investment and expenditure on preventive health measures under section 7(1)(f); or
 - (iv) the sharing of data or analyses under section 7(1)(g); or
 - (v) the development or publication of reports or public statements under section 7(1)(k).

9—Strategic plan

- (1) The Chief Executive must prepare a strategic plan for preventive health action in South Australia.
- (2) The strategic plan—
 - (a) must be prepared in consultation with the Minister and the Council; and
 - (b) must identify the preventive health and wellbeing policies, priorities and measures in order to further the objects of this Act; and
 - (c) must identify preventive health action to improve health equity for populations requiring priority consideration in relation to such action, especially Aboriginal and Torres Strait Islander persons; and
 - (d) must be published on a website determined by the Chief Executive.
- (3) The Chief Executive must comprehensively review the strategic plan at least once in every 4 years in consultation with the Minister and the Council.
- (4) The Chief Executive may, after consultation with the Minister and the Council, amend a strategic plan that is in effect under this section and publish the plan as amended on the website referred to in subsection (2)(d).

10—Annual report

- (1) The Chief Executive must, on or before 30 September in each year, provide to the Minister a report on the performance of the Chief Executive's functions under this Act during the financial year ending on the preceding 30 June.
- (2) The Minister must, within 6 sitting days after receipt of a report under this section, cause a copy of the report to be laid before both Houses of Parliament.

11—Delegation

- (1) The Chief Executive may delegate a function under this Act to any entity that is, in the Chief Executive's opinion, competent to perform the relevant function.
- (2) A delegation under this section—
 - (a) must be in writing; and
 - (b) may be conditional or unconditional; and

- (c) is revocable at will; and
 - (d) does not prevent the delegator from acting in any matter.
- (3) A function delegated under this section may, if the instrument of delegation so provides, be further delegated.

Part 3—Preventive Health SA Council

12—Establishment of Preventive Health SA Council

- (1) The *Preventive Health SA Council* is established.
- (2) The Council consists of—
- (a) the Chief Executive (*ex officio*); and
 - (b) at least 8 other members appointed by the Minister on the recommendation of the Chief Executive, of whom at least 2 must be Aboriginal and Torres Strait Islander persons.
- (3) The membership of the Council must include persons who together have, in the Minister's opinion, knowledge, expertise or experience relevant to the objects of this Act in the following areas:
- (a) epidemiology or preventive health research;
 - (b) health, social and emotional wellbeing of Aboriginal and Torres Strait Islander persons;
 - (c) cultural leadership for healing and improving wellbeing for Aboriginal and Torres Strait Islander persons;
 - (d) health equity or health and wellbeing for populations requiring priority consideration in relation to preventive health action;
 - (e) preventive health policy or programs (whether the knowledge, expertise or experience is within or outside the health system);
 - (ea) clinical translation and implementation;
 - (f) finance, economics or business.
- (4) A person who has a designated interest cannot be appointed as a member of the Council.
- (4a) A person who the Chief Executive proposes to recommend for appointment as a member of the Council must give the Chief Executive a declaration in the form determined by the Chief Executive declaring that they do not have any designated interests in accordance with any requirements of the Chief Executive.
- (4b) In making recommendations in accordance with subsection (4), the Chief Executive must seek to further the objects and key principle under section 3.
- (5) The Minister must, after consultation with the Chief Executive, appoint 1 member of the Council as the Chair of the Council.

13—Terms and conditions of membership

- (1) A member of the Council will be appointed by the Minister for a term (not exceeding 3 years) and on conditions determined by the Minister.

- (2) A member of the Council is, at the end of a term of appointment, eligible for reappointment but cannot hold office for consecutive terms that exceed 9 years in total.
- (3) The Minister may, at any time, remove a member of the Council from office for any reason the Minister thinks fit.
- (4) The office of a member of the Council becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) is removed from office under subsection (3).

13A—Declaration relating to designated interests

A member of the Council must, within 30 days of 1 July in each year, give the Chief Executive a declaration in the form determined by the Chief Executive declaring that they do not have any designated interests in accordance with any requirements of the Chief Executive.

13B—Designated interests generally

- (1) A member of the Council will be taken to have a designated interest in a matter for the purposes of this Act if an associate (within the meaning of section 2(1a) of the *Public Sector (Honesty and Accountability) Act 1995*) of the member has a designated interest in the matter.
- (2) The requirements under this Act relating to designated interests do not apply in relation to a matter in which a member of the Council has a designated interest while the member remains unaware that they have a designated interest in the matter, but in any proceedings against the member the burden will lie on the member to prove that they were not, at the material time, aware of the designated interest.

Note—

The duties of advisory body members under Part 2 Division 2 of the *Public Sector (Honesty and Accountability) Act 1995* apply to members of the Council (in addition to the relevant duties under this Act).

14—Vacancies or defects in appointment of members

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

15—Remuneration

A member of the Council is entitled to remuneration, allowances and expenses determined by the Minister.

16—Functions

- (1) The functions of the Council are to provide strategic advice and assist the Chief Executive in relation to the performance of the Chief Executive's functions and, in particular—
 - (a) to advise the Chief Executive on any matter that relates to the objects of this Act or functions of the Chief Executive; and
 - (b) to advise the Chief Executive on existing and emerging data and research on population health and health equity, and opportunities for innovation in preventive health action; and
 - (c) to advise the Chief Executive in relation to—
 - (i) the development of the strategic plan under section 9; and
 - (ii) consultation with stakeholders to promote beneficial preventive health and wellbeing outcomes; and
 - (d) to support the monitoring of, and assessment of progress on, the implementation of the strategic plan under section 9; and
 - (e) to advise the Chief Executive on the development and publication of reports designed to raise awareness and promote action in relation to preventive health priorities; and
 - (f) to give advice to the Minister for the purposes of section 6(2); and
 - (g) to advise the Chief Executive on any matter that the Chief Executive refers to the Council; and
 - (h) to perform such other functions as may be assigned to the Council by the Minister or under this or any other Act.
- (2) The Chief Executive and the Chair of the Council must meet with the Minister at least twice in each year to discuss the operations of the Council, the benefits, effectiveness and impact of preventive health policy and action and the allocation of sufficient funding and other resources—
 - (a) for preventive health in the State; and
 - (b) for the performance of the functions of the Chief Executive under this Act; and
 - (c) to achieve beneficial outcomes relating to preventive health for South Australians.

17—Committees

- (1) The Council may establish committees—
 - (a) to advise the Council on any matter; or
 - (b) to carry out functions on behalf of the Council.
- (2) The membership of a committee will be determined by the Council and may, but need not, consist of, or include, members of the Council.
- (3) The Council will determine who will be the Chair of a committee.

- (4) The procedures to be observed in relation to the conduct of the business of a committee will be—
 - (a) as determined by the Council; or
 - (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

18—Delegations

- (1) The Council may delegate a function of the Council under this Act to any entity that is, in the Council's opinion, competent to perform the relevant function.
- (2) A delegation under this section—
 - (a) must be in writing; and
 - (b) may be conditional or unconditional; and
 - (c) is revocable at will; and
 - (d) does not prevent the delegator from acting in any matter.
- (3) A delegation under this section must be provided to members of the Council and the Minister within 7 days after it is made.

19—Procedures

- (1) The person appointed as the Chair of the Council will preside at any meeting of the Council.
- (2) In the absence of the Chair, the members present must choose 1 of their number to preside at the meeting.
- (3) 5 members constitute a quorum of the Council.
- (4) A decision carried by the votes of a majority of the members present at a meeting is a decision of the Council.
- (5) The person presiding at a meeting of the Council will, in the event of an equality of votes, have a second, or casting, vote.
- (6) The Council must hold at least 2 meetings in each year.
- (7) Subject to this Act, the business of the Council may be conducted in a manner determined by the Council.

Part 4—Miscellaneous

20—Resources for preventive health

Before determining the resources to be provided to the Chief Executive for the purposes of this Act, the Minister must consult with the Chief Executive and then, having regard to any matter raised by the Chief Executive during that consultation, determine the resourcing that, in the Minister's opinion, the Chief Executive reasonably needs to carry out the Chief Executive's functions under this Act

21—Regulations

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

- (2) The regulations may—
 - (a) be of general or limited application; and
 - (b) make different provision according to the matters or circumstances to which they are expressed to apply; and
 - (c) make provisions of a saving or transitional nature; and
 - (d) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of a specified entity.
- (3) The regulations may provide for a code of conduct to be observed by members of the Council.

Schedule 1—Transitional provision

1—Transitional provision

The first strategic plan under section 9 must be published within 18 months after the day on which that section comes into operation.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
2024	68	<i>Preventive Health SA Act 2024</i>	5.12.2024	11.12.2025 (<i>Gazette 11.12.2025 p4824</i>)
2025	50	<i>Preventive Health SA (Council Governance) Amendment Act 2025</i>	5.11.2025	11.12.2025 immediately after 68/2024: s 2

Provisions amended

New entries appear in bold.

Provision	How varied	Commencement
s 4		
designated interest	inserted by 50/2025 s 3(1)	11.12.2025
direct interest	inserted by 50/2025 s 3(1)	11.12.2025
relevant industry	inserted by 50/2025 s 3(2)	11.12.2025
s 12		
s 12(3)	amended by 50/2025 s 4(1)	11.12.2025
s 12(4)	substituted by 50/2025 s 4(2)	11.12.2025
s 12(4a) and (4b)	inserted by 50/2025 s 4(2)	11.12.2025
ss 13A and 13B	inserted by 50/2025 s 5	11.12.2025

Transitional etc provisions associated with Act or amendments

Preventive Health SA (Council Governance) Amendment Act 2025, Sch 1

1—Transitional provision

A member of the Preventive Health SA Council holding office immediately before the commencement of this clause must give the Chief Executive a declaration in the form determined by the Chief Executive declaring that they do not have any designated interests in accordance with any requirements of the Chief Executive as soon as is reasonably practicable after that commencement.