

Queensland



# HEALTH SERVICES ACT 1991

**Reprinted as in force on 13 December 1995  
(includes amendments up to Act No. 58 of 1995)**

**Reprint No. 2**

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# Information about this reprint

This Act is reprinted as at 13 December 1995. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use expressions consistent with current drafting practice (s 29)
- use appropriate names for instruments and provision units (s 33A)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (s 37).

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
  - **Table of renumbered provisions**
- **editorial changes made in earlier reprints.**

# Queensland



## HEALTH SERVICES ACT 1991

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# HEALTH SERVICES ACT 1991

[as amended by all amendments that commenced on or before 13 December 1995]

**An Act to provide for and in respect of the organisation, management and delivery of certain health services and the establishment of regional health authorities and for other purposes**

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Health Services Act 1991*.

### Definitions

2. In this Act—

“**appointed day**” means 1 July 1991.

“**authorised officer**” means an officer authorised in writing by the Minister under section 8.

“**authority**” means a regional health authority established for a region under part 3.

“**health service**” means any hospital, nursing home, mental health, medical, paramedical, community health, environmental health or allied health service or any other service (including any service of a class or description prescribed by the regulations) relating to the maintenance or improvement of the health and wellbeing, or the restoration to health and wellbeing, of persons or the prevention of disease in or injury to persons, and includes any administrative or other service related to a health service.

“**hospital**” includes any premises for the reception and treatment of the

sick.

**“inspector”** means an inspector appointed by the chief executive under section 7.

**“private sector health service”** means a health service other than a public sector health service or a health service conducted on a voluntary basis.

**“professional association”** means an association, college, society or other body approved by the Minister for the purposes of this Act.

**“public sector”** means—

- (a) the public sector within the meaning of the *Public Sector Management Commission Act 1990*; and
- (b) authorities and all health services operated or controlled by authorities and their officers, employees, operations and activities.

**“public sector health service”** means a health service operated or controlled by an entity from the public sector, and includes a health service declared under a regulation to be a public sector health service, but does not include a health service declared under a regulation not to be a public sector health service.

**“public sector hospital”** means a hospital controlled by an authority or by a body taken pursuant to this Act or any other Act to be such an authority and includes any premises for the reception and treatment of the sick declared under a regulation to be a public sector hospital for the purposes of this Act.

**“region”** means a health service region constituted under section 20.

**“regional director”** means a regional director appointed under part 3.

**“teaching hospital”** means a hospital approved as a teaching hospital under section 10.

## **Objects of Act**

3. The objects of the Act are to make provisions to ensure—

- (a) that the health and wellbeing of all Queenslanders is promoted, maintained and improved according to principles of social justice and equity;



- (b) that the general directions for the organisation, management and delivery of public sector health services allow for—
  - (i) a common strategic framework for planning, managing and evaluating those health services by development of a Queensland Health Corporate Plan and regional strategic plans;
  - (ii) the establishment of regional health authorities and the development of accountable and integrated management structures and programs for hospital and community health services;
  - (iii) State-wide policy, planning and resource allocation;
  - (iv) emphasis on community needs, and community participation in the planning and delivery of health services.

## **PART 2—FUNCTIONS AND POWERS OF CENTRAL GOVERNMENT**

### *Division 1—Functions and powers of the chief executive*

#### **Functions of the chief executive**

**4.** It is the function of the chief executive to manage and administer, subject to the Minister, public sector health services in Queensland and in particular to—

- (a) provide policy advice to the Minister and ensure approved plans, programs, policies and strategies are effectively implemented;
- (b) develop and publish the Queensland Health Corporate Plan to facilitate the provision of comprehensive, coordinated and readily accessible services to the public;
- (c) allocate approved funds to regional health authorities and health services in Queensland;
- (d) provide and administer a selection of specialist State-wide public

- sector health services;
- (e) monitor, review and evaluate standards of public sector health services in Queensland;
  - (f) manage and develop human resources as appropriate and promote good relations with unions, health worker organisations and professional associations;
  - (g) establish, promote and support health research and health services research;
  - (h) authorise the collection of information, data and statistics in relation to health and health services;
  - (i) consult and cooperate with individuals and organisations (including voluntary and private health services, public authorities and local governments) concerned with the promotion, protection, and restoration of health;
  - (j) develop and implement public health programs;
  - (k) establish, promote and support health education;
  - (l) perform any other functions prescribed by this Act or any other Act;
  - (m) perform such other functions as may be necessary or incidental to those functions.

### **Power of delegation**

**5.** The chief executive has the power of delegation conferred by the *Public Service Management and Employment Act 1988*, section 13.

### **Annual report of chief executive**

**6.(1)** The chief executive is to report each financial year through the Minister to Parliament on the management, administration and delivery of Queensland public sector health services for the previous year.

**(2)** The annual report will contain a summary of the report of each authority submitted to the Minister pursuant to section 51(b).

**Appointment of inspectors**

7. The chief executive may appoint such number of inspectors as are necessary for the effectual administration of this Act.

**Powers of inspectors etc.**

8.(1) An inspector or any officer authorised in writing by the Minister to assist the chief executive for the purposes of this Act may—

- (a) investigate and report on any aspect of the administration and purposes of this Act including—
  - (i) the organisation, management and conduct of authorities and of public sector health services; and
  - (ii) matters relating to clinical practices and standards of health care in public sector health services;
- (b) subject to subsection (2), enter any premises of any authority and of any public sector health service and make inquiry into the affairs of the authority and of the public sector health service and the operation of the authority or public sector health service and into matters connected therewith;
- (c) subject to subsection (2), enter any premises of any authority and of any public sector health service where the inspector or authorised officer suspects on reasonable grounds any medical, financial or other record, contract or other document relating to the affairs of or the operation of the authority or public sector health service are to be found;
- (d) in the case of—
  - (i) an authorised officer who is a medical practitioner, require any person who has under that person's control any medical record relating to any person who is or has been a patient of any public sector health service, to produce it to that authorised officer or as the authorised officer directs;
  - (ii) an inspector or an authorised officer, require any person who has under that person's control any financial or other record, other than a medical record, or any contract or other document relating to the affairs of an authority or a public

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sector health service, to produce it to the inspector or authorised officer or as the inspector or authorised officer directs;

- (e) inspect and make copies of and extracts from any such medical, financial or other record, contract or other document.

(2) An inspector or authorised officer is not, in the exercise of the powers conferred by subsection (1)(b) or (c), to enter a dwelling house owned or under the control of an authority for the purpose of providing accommodation for its officers, unless prior suitable arrangements are made for that purpose with the occupant.

(3) An inspector or authorised officer must not—

- (a) make a record of or divulge or communicate to any person any information gained by or conveyed to that inspector or authorised officer; or
- (b) make use of any such information;

except in the exercise of the powers and functions conferred under this Act.

### **Duties of persons under Act**

**9.(1)** A person must comply with a request directed to that person pursuant to section 8(1)(d), unless that person has a lawful excuse for the failure to do so.

(2) For the purposes of this section—

- (a) protection of the confidentiality of any financial or associated record or contract or other document does not constitute lawful excuse;
- (b) protection of the confidentiality of a person's medical record does constitute lawful excuse, except in the case where an authorised officer who is a medical practitioner, has made a request pursuant to section 8(1)(d).

(3) A person must not—

- (a) obstruct, hinder, threaten or intimidate an inspector or authorised officer in the exercise of powers or the discharge of functions by the inspector or authorised officer under this Act or any person

- acting in aid of such inspector or authorised officer; or
- (b) in response to a request directed to that person pursuant to this Act for information, furnish information that is, to that person's knowledge, false or misleading.

### ***Division 2—Teaching hospitals***

#### **Approval of hospitals for training of medical and other students**

**10.(1)** The Minister, by gazette notice, may approve that a hospital be a teaching hospital in respect of—

- (a) all branches of medicine or dentistry or such branches of medicine or dentistry as are specified in the notification;
- (b) training that is ancillary to those branches;
- (c) training in such courses and for such purposes at such universities or other educational institutions as may be specified in the notification.

**(2)** Prior to making the approval—

- (a) the Minister may have regard to any recommendation of the Senate of any university established in Queensland, or the governing body of any university or other educational institution approved pursuant to this section, in respect of which the hospital in question is to be approved as a training school; and
- (b) if the hospital in question is not subject to this Act—the consent of the governing body of the hospital to the proposed approval must be obtained.

**(3)** A teaching hospital is a centre of excellence in patient care, teaching and research and the designation of a hospital as a teaching hospital will be based on its having at least 1 academic unit in a major health discipline, a significant body of recognised research and a major role in postgraduate education and training.

**(4)** The Minister may, by gazette notice, declare—

- (a) a university or other educational institution established in Queensland; or

(b) a course of study within that university or institution;

to be an approved university, educational institution or course for the purposes of subsection (5).

(5) A student who is admitted to or enrolled with an approved university or approved educational institution to study an approved course—

- (a) is entitled to attend at the hospital approved as a teaching hospital in respect of the university or institution into which that student is admitted or enrolled, for instruction in connection with that approved course; and
- (b) may be admitted to such portions of the clinical practice or departments of that approved hospital as may be necessary for the carrying out of the student's special duties; and
- (c) is subject to any statutes and regulations made by the governing body of that university or institution and to any regulations or by-laws made by the governing body of that hospital.

### *Division 3—Quality assurance*

#### **Definitions**

11. In this division—

“**committee**” means a committee declared to be an approved quality assurance committee under section 12.

#### **Approved quality assurance committees**

12.(1) The Minister may, by gazette notice, declare that a specified committee is an approved quality assurance committee for the purposes of this division.

(2) A quality assurance committee may be established by an authority, public sector health service or an establishment, college, association or other body prescribed by the regulations.

(3) The Minister is not to make a declaration under subsection (1) unless satisfied—

- (a) that the committee is established under a resolution or in accordance with the rules or official procedures of an authority or another body referred to in subsection (2); and
- (b) that the committee's functions include the assessment and evaluation of the quality of health services, including the review of clinical practices and privileges, the reporting and making of recommendations concerning those services and monitoring the implementation of its recommendations; and
- (c) that the committee comprises individuals with training and experience appropriate to the services to be assessed and evaluated by the committee; and
- (d) that the exercise of those functions would be facilitated by the provision of immunities and protections afforded by this division; and
- (e) that it is in the public interest to restrict the disclosure of information compiled by the committee in the course of the exercise of those functions.

### **Restrictions on committees**

**13.(1)** A committee is to have regard to the rules of natural justice in so far as they are relevant to the functions of a committee.

**(2)** A report furnished, or information made available by a committee, must not disclose the identity of an individual who is a provider or recipient of services unless the individual has consented in writing to that disclosure.

### **Disclosure etc. of information**

**14.** A person who is or was a member of a committee must not make a record of, or divulge or communicate to any person, any information acquired by the person as such a member, except—

- (a) for the purpose of exercising the functions of a member; or
- (b) in accordance with any standards that may be established by the Minister for—
  - (i) the furnishing of reports to an authority or another body

referred to in section 12(2); or

- (ii) the making available of information to the public.

Maximum penalty—50 penalty units.

### **Information not to be given in evidence**

**15.(1)** A person who is or has been a member of a committee is neither competent nor compellable—

- (a) to produce before any court, tribunal, board or person any document in that person's possession or under that person's control that was created by, at the request of or solely for the purpose of the committee; or
- (b) to divulge or communicate to any court, tribunal, board or person any matter or thing that came to that person's notice as such a member.

**(2)** Subsection (1) does not apply to a requirement made in proceedings in respect of any act or omission by a committee or by a member of a committee as a member.

### **Findings of committee not evidence of certain matters**

**16.** A finding or recommendation by a committee as to the need for changes or improvements in relation to a procedure or practice is not admissible as evidence in any proceedings that the procedure or practice is, or was, careless or inadequate.

### **Personal liability of members etc.**

**17.(1)** Anything done by a committee, a member of a committee or any person acting under the direction of a committee, in good faith for the purposes of the exercise of the committee's functions, does not subject such a member or person personally to any action, liability, claim or demand.

**(2)** For the purposes of the law relating to defamation, and without limiting subsection (1), it shall be accepted that—

- (a) the committee, a member of the committee and any person acting



under the direction of a committee, in relation to making any investigation or inquiry, have an interest in knowing the truth concerning the reputation and character of the person who is the subject of the investigation or inquiry; and

- (b) there are reasonable grounds for belief by any person of whom inquiry is made for information, that the committee, a member of the committee and any person acting under the direction of the committee have the interests referred to in paragraph (a).

(3) The members of a committee are, and are entitled to be, indemnified by an authority or another body that established the committee under section 12(2) in respect of any costs incurred in defending proceedings in respect of a liability against which they are protected by this section.

### **Further responsibilities of committees**

**18.(1)** The regulations made pursuant to this Act may prescribe for or with respect to—

- (a) the procedure of committees and the manner in which they are to exercise their functions; and
- (b) permitting or requiring committees to make specified information available to the public; and
- (c) permitting or requiring committees to furnish reports concerning their activities to the Minister and such other authority as the Minister determines; and
- (d) appeals from recommendations or findings of a committee, which are authorised under this provision.

(2) To the extent that the matters referred to in subsection (1) are not prescribed, the Minister may give directions in relation to those matters.

### **Effect of provisions of division**

**19.** If there is an inconsistency between the provisions of this division and a provision of any other Act or law, the provisions of this division prevail to the extent of the inconsistency.

**PART 3—CONSTITUTION OF AND FUNCTIONS  
AND POWERS OF REGIONAL HEALTH  
AUTHORITIES**

*Division 1—Constitution*

**Health service regions**

- 20.** The Governor in Council may, under a regulation—
- (a) constitute any area of the State a health service region and assign to that region a name;
  - (b) abolish a region;
  - (c) vary the boundaries of a region;
  - (d) change the name of a region.

**Establishment of regional health authorities**

**21.(1)** The Governor in Council may, under a regulation, establish for any region a regional health authority and assign to that authority a name.

**(2)** An authority is a body corporate with the corporate name assigned to it by the regulation by which it is established.

**(3)** An authority is subject to the provisions of the *Financial Administration and Audit Act 1977*.

**Dissolution, amalgamation and change of name of authorities**

- 22.** The Governor in Council may, under a regulation—
- (a) dissolve an authority; or
  - (b) amalgamate 2 or more authorities; or
  - (c) change the name of an authority.

**Consequential and transitional provisions on the making of a regulation**

**23.(1)** The schedule has effect with respect to a regulation under section 22.

(2) A regulation under this part may contain other provisions, not inconsistent with the provisions of the schedule, of a savings or transitional nature consequent on the making of the regulation.

**Provisions relating to constitution of authorities**

**24.(1)** An authority—

- (a) has perpetual succession;
- (b) is to have a common seal;
- (c) may take proceedings, and be proceeded against, in its corporate name;
- (d) may do and suffer all other things that a body corporate may, by law, do and suffer and that are necessary for or incidental to the purposes for which the authority is constituted.

(2) In the exercise of its powers and authorities under this Act an authority—

- (a) represents the Crown in right of Queensland; and
- (b) has all the immunities, rights and privileges of the Crown in right of Queensland except where the Governor in Council, under a regulation, declares to the contrary.

(3) All courts and persons acting judicially—

- (a) are to take judicial notice of the seal of an authority that has been affixed to any instrument or document; and
- (b) are, until the contrary is proved, to presume that the seal was properly affixed.

**Authorities subject to control and direction of Minister**

**25.** Every authority is subject to the control and direction of the Minister,

except in relation to the contents of a recommendation or report made by the authority to the Minister.

### **Committees**

**26.(1)** An authority may from time to time—

- (a) appoint out of its number committees either general or special purpose;
- (b) delegate to a committee power to do any act or hold any inquiry;
- (c) fix the quorum of a committee.

**(2)** The authority is to appoint one of the members of any committee appointed by it to be chairperson of that committee.

**(3)** Every committee shall report to the authority.

**(4)** A committee may meet from time to time and may adjourn from place to place as it thinks proper, but no business is to be transacted at any meeting of the committee unless the quorum of members (if any) fixed by the authority is present, and if no quorum is fixed 2 members at the least are present.

**(5)** At all meetings of a committee, if the chairperson is not present, one of the members present is to be appointed chairperson of the committee during the absence of the chairperson.

**(6)** All questions are to be determined by a majority of the votes of the members present, including the chairperson, and, if the numbers are equally divided, the chairperson is to have a second or casting vote.

### **Remuneration etc. of authority members**

**27.** Members of an authority are to receive such remuneration and allowances as are from time to time approved by the Governor in Council.

### **Membership of authorities**

**28.(1)** An authority is to consist of the following members, which members, other than the ex officio member, are to be appointed by the Governor in Council on the recommendation of the Minister—

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- (a) the regional director for the region concerned, who is ex officio a member of the authority;
- (b) persons (not being less than 5 nor more than 7) appointed having regard to expertise and experience and the need for community representations;
- (c) if the region in question contains any teaching hospital or hospitals—an additional member or members from any of the universities and educational institutions approved for that region under section 10(4), at the discretion of the Governor in Council.

(2) The Minister is to appoint one of the members of the authority other than the regional director to be the chairperson.

(3) If the chairperson is absent from the authority for a continuous period exceeding 3 months, the Minister may appoint one of the members to be acting chairperson and while that member so acts that member has and may exercise and perform all of the powers, functions and duties of the chairperson.

(4) The regulations made under this Act may prescribe procedures for selection or nomination of persons for submission to the Governor in Council for appointment as members of an authority.

(5) To the extent that procedures are not prescribed, the Minister is to determine the manner of the selection or nomination.

**Term of appointment of members of authority**

**29.(1)** The first members of an authority other than the ex officio member are to be divided into 2 groups as near to equal as practicable and the members to be included in each of the 2 groups are to be determined by the Minister.

(2) The members comprised in such 1 of the 2 groups referred to in subsection (1) as the Minister may determine will, subject to this Act, hold office as members for an initial term of 2 years from the date of their appointment and will, if otherwise qualified, be eligible for reappointment.

(3) Subsequent appointments of the members appointed to that group after the expiry of the initial term of 2 years will, subject to this Act, hold office as members for a term of 4 years from the date of their appointment

and will, if otherwise qualified, be eligible for reappointment.

(4) The members comprised in the other of the 2 groups referred to in subsection (1) will, subject to this Act, hold office for a term of 4 years from the date of their appointment and will, if otherwise qualified, be eligible for reappointment.

### **Casual appointment to authorities**

**30.(1)** Where a vacancy occurs in the office of a member of an authority before the expiration of the term of office of that member, the casual vacancy so arising is to be filled by a person appointed by the Minister.

(2) The member filling that casual vacancy will, subject to this Act, hold office as member until the time when the term of office of the predecessor of that member would have expired, and will, if otherwise qualified, be eligible for reappointment.

### **Disqualification from membership of authorities**

**31.** A person is disqualified from becoming or continuing as a member of an authority other than an ex officio member if that person—

- (a) has not attained the age of 18 years; or
- (b) is an undischarged bankrupt or is taking advantage of the laws relating to bankruptcy; or
- (c) has been convicted in Queensland of an indictable offence or has been convicted elsewhere than in Queensland in respect of an act or omission that, if done or made in Queensland, would have constituted an indictable offence or has been convicted of an offence punishable on summary conviction for which that person is sentenced to imprisonment otherwise than in default of payment of a fine.

### **Vacation of office of members of authorities**

**32.** A member of an authority is to be taken to have vacated office if that member—

- (a) dies;

- (b) resigns office by writing under the hand of that member addressed to the Minister through the Minister (such resignation to be complete and take effect from the time when it is received by the Minister);
- (c) is disqualified from membership of the authority pursuant to section 31;
- (d) is absent from 3 consecutive ordinary meetings of the authority, after having duly been given notice personally or by post before each of those meetings, and is not, within a period of 6 weeks after the last of those meetings, excused by the authority for the absence from those meetings;
- (e) is removed from office by the Governor in Council.

### **Removal of members, appointment of administrator etc.**

**33.(1)** The Governor in Council may, by gazette notice—

- (a) remove any member or all members of an authority from office; or
- (b) remove all members of an authority from office and appoint as administrator of the authority concerned, a person specified in the notice for such period as may be specified in the notice; or
- (c) remove all members of an authority (other than the regional director) from office and appoint, as administrator of the authority concerned, the regional director for such period as may be specified in the notice.

**(2)** An administrator of an authority shall have and may exercise, subject to any conditions that may be specified in the notice by which the administrator is appointed, all the functions of the authority for that region.

**(3)** An administrator of an authority is entitled to be paid from the funds of that authority such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the administrator.

**(4)** The regulations may make provision for, or with respect to, the functions, powers and duties of administrators of authorities.

**Proceedings of authority**

**34.(1)** The authority is to meet as often as is necessary for the due administration of this Act.

**(2)** A quorum will be a majority of the whole number of members, and the quorum must exist for the duration of the meeting.

**(3)** Business is to be decided on the vote of the persons present and the chairperson or other person duly presiding at the meeting will have a deliberative vote and, in addition, in the event of an equality of votes, a casting vote.

**(4)** If a member refused to vote in relation to any motion in question, the vote is to be received in the negative.

**(5)** Meetings of an authority are to be open to the public, except for meetings of a committee of the authority.

**(6)** In the absence from a meeting of the chairperson or acting chairperson, the members present at the meeting of the authority are to elect one of their number to preside at the meeting.

**Procedure may be prescribed**

**35.** The power to make by-laws contained in section 70, is to be taken to include power to prescribe any other necessary procedures for meetings of the authority concerned.

*Division 2—Functions***Functions of authorities**

**36.(1)** It is the function of an authority to promote the health and wellbeing of the people within the region concerned and in particular to oversee—

- (a) implementation of the Queensland Health Corporate Plan in the region;
- (b) development and implementation of a regional strategic plan for health services in the region in consultation with the chief



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executive;

- (c) funding of public sector health services in the region;
- (d) provision, management and delivery of public sector health services in the region and ensure services are administered in an effective and efficient manner within the resources allocated;
- (e) assessment of health needs in the region.

**(2)** It is also the function of an authority to—

- (a) ensure that health services in the region are of a high quality, delivered equitably and under regular evaluation and review;
- (b) consult and cooperate with individuals and organisations (including voluntary or private health services, public authorities and local governments) concerned with the promotion, protection, and restoration of health;
- (c) ensure residents outside the region have access to such of the health services it provides as may be necessary and desirable;
- (d) make available to the public, reports, information and advice concerning health and health services available within the region;
- (e) provide for the training and education of persons providing health services;
- (f) perform any other functions prescribed for the authority by this Act or any other Act;
- (g) perform such other functions as may be necessary or incidental to the foregoing functions.

**(3)** For the purposes of subsection (2)(b), an authority may establish consultative committees—

- (a) to provide a forum for members of the community or for relevant community organisations in relation to health services; and
- (b) to act as an advisory body in relation to the authority concerned or a specified health service or health services.

***Division 3—Powers*****Powers of authorities**

**37.** Subject to this Act, an authority has power to do all things reasonable and necessary in connection with, or as incidental to, the performance of its functions under this Act.

**Opening and closing of health services**

**38.(1)** An authority may at any time establish such health services as it thinks necessary for the exercise of its functions.

**(2)** An authority may at any time—

- (a) close or cease to provide any health service established by or under the control of the authority; and
- (b) restrict the range of health care or treatment provided by any health service under its control.

**(3)** An authority must, before implementing any decision to exercise its powers under this section—

- (a) ensure that the decision is in accordance with any relevant directions of the Minister under section 25 and is appropriate having regard to the functions of the authority; and
- (b) where the Minister has not made any relevant directions—notify the Minister through the chief executive of the decision.

**(4)** Before exercising its powers under this section, the authority is to have regard to any relevant agreement between the Government and the Government of the Commonwealth.

**Minister may determine role etc. of health service**

**39.** The Minister may, from time to time, determine the role, functions and activities of any health service under the control of an authority and for that purpose give the authority for that service any necessary directions under section 25.

**Transfer of health service etc. to authorities**

**40.(1)** The Governor in Council may, under a regulation, transfer to an authority all or any of the following—

- (a) any health service under the control of the department;
- (b) any health service under the control of another authority;
- (c) a part of the property of any such health service;
- (d) a part of the other assets of any such health service;
- (e) subject to any award or industrial agreement and the *Public Service Management and Employment Act 1988* and the *Public Sector Management Commission Act 1990*, any of the officers and employees of any such health service.

**(2)** The Governor in Council may, under a regulation, transfer to the control of the department all or any of the following—

- (a) any health service under the control of an authority;
- (b) a part of the property of any such health service;
- (c) a part of the other assets of any such health service;
- (d) subject to any award or industrial agreement and the *Public Service Management and Employment Act 1988* and the *Public Sector Management Commission Act 1990*, any of the officers and employees of any such health service.

**(3)** A regulation made under this section may contain provisions of a savings or transitional nature, including provisions in respect of the portability of employment rights and entitlements of officers and employees, consequent on the making of the regulation.

**(4)** Regulations made under this Act may include savings and transitional provisions in respect of the transfer of any officers or employees pursuant to this section.

**Disclosure of interests at meetings**

**41.(1)** A member of an authority who has a pecuniary interest, direct or indirect, in a matter being considered or about to be considered by an authority must, as soon as possible after the relevant facts have come to the

member's knowledge, disclose the nature of the interest at a meeting of the authority.

(2) A disclosure under subsection (1) is to be recorded in the minutes of the meeting of the authority and the member of the authority should not—

- (a) be present during any deliberation of the authority with respect to the matter; or
- (b) take part in any decision of the authority with respect to that matter.

### **Power in relation to property**

**42.(1)** An authority may, for the purposes of its functions under this Act, do all or any of the following things—

- (a) purchase or otherwise acquire, and use, land or any other property (whether or not the land or other property is required for the purposes of any hospital or other health service under the control of the authority);
- (b) sell, lease, mortgage or otherwise dispose of land, chattels or any other property;
- (c) dedicate land as a public road.

(2) Subject to subsection (3) an authority must not—

- (a) acquire land by purchase, lease or exchange; or
- (b) dispose of land by sale, lease, mortgage or otherwise; or
- (c) dedicate land as a public road;

without the approval of the Minister.

(3) Despite the provisions of subsection (2), an authority may lease land or other property without the approval of the Minister where the value of that land or property does not, in the opinion of the chief executive, exceed the amount prescribed for that purpose in the regulations.

### **Power to accept gifts etc.**

**43.(1)** An authority may acquire, for any purpose connected with—

- (a) the provision of any health service; or
- (b) any of the functions of that authority;

any property by gift, devise or bequest and may agree to and carry out the conditions of any such gift, devise or bequest.

(2) An authority may act as trustee of money or other property vested in that authority on trust, which money is to be paid into an approved account.

(3) The acceptance by an authority of any such gift, devise or bequest will be a complete discharge to the person paying, conveying or transferring the same and that last mentioned person shall not be obliged or concerned to see to the application thereof.

### **Power to provide grants etc.**

**44.** An authority may—

- (a) provide grants to; or
- (b) subsidise and supply assistance to; or
- (c) provide such other assistance as is prescribed in the by-laws to;

health services, including voluntary and private sector health services as the authority considers appropriate, in respect of any matter concerning any aspect of health services controlled by the authority and, with the prior approval of the chief executive, any other service related to health.

### **Contractual power of authority**

**45.(1)** For the purpose of discharging any of its functions an authority may, subject to any direction of the chief executive, enter into and make, perform and enforce such contracts, other instruments and arrangements as, in its opinion, are calculated to achieve or assist in that purpose.

(2) Contracts entered into by an authority may be made as follows—

- (a) a contract that, if made between private persons, would by law be required to be in writing and under seal, is to be made by the authority in writing and under its common seal;
- (b) a contract that, if made between private persons, would by law be required to be in writing signed by the parties thereto, may be

made in writing and signed on behalf of the authority by the chairperson of the authority;

- (c) a contract that, if made between private persons, would by law be valid and enforceable although not reduced to writing, may be made without writing by the authority.

(3) A contract made as required or authorised by subsection (2) has effect in law and binds the authority and all parties to the contract and may be varied or discharged in the manner in which it is required or authorised to be made.

### **Health service agreements**

46.(1) An authority may enter into a health service agreement in respect of each financial year with a voluntary or private health service, where specified funding is allocated for services provided by that health service.

(2) The Minister may from time to time specify in writing the eligibility criteria for, and form of, health service agreements.

### **Authority a constructing authority**

47. For the purposes of this Act, an authority is a constructing authority within the meaning of the *Acquisition of Land Act 1967*.

### **Taking of land**

48. Subject to this Act, the taking of land by an authority, in the exercise of its power referred to in section 42(1)(a) is to be in accordance with the provisions of the *Acquisition of Land Act 1967* and the purchase or acquiring of that land by an authority is taken to be a purpose for which land may be taken under and subject to that Act.

### **Minister to act for authority as constructing authority**

49. The Minister is authorised and required to exercise such powers, perform such functions and take such steps as are permitted or required by the *Acquisition of Land Act 1967* for the purpose of taking land on behalf of an authority as a constructing authority.

**Investment and borrowing arrangements**

**50.** It is hereby declared that every authority is a statutory body for the purposes of the *Statutory Bodies Financial Arrangements Act 1982*.

**Responsibilities of authorities**

**51.** Every authority must—

- (a) provide actual and estimate information regarding recurrent expenditure, capital expenditure, staffing and performance indicators to, and in accordance with the directions of, the chief executive; and
- (b) produce and publish an annual report to the Minister on the activities and performance of the authority, at a time and in a format determined by the Minister and such report is to contain annual financial statements of the authority certified by the Auditor-General; and
- (c) comply with the accounting manual issued by the chief executive; and
- (d) observe the budget binding upon it and must not exceed that budget without the approval of the chief executive; and
- (e) remit to the department on a regular basis, all moneys collected by the authority, save those moneys referred to in section 43(2), except where otherwise directed in the accounting manual issued by the chief executive.

**Delegation by authority**

**52.(1)** An authority may delegate its powers under this Act to its regional director or any of its employees.

**(2)** However, the authority may not delegate its powers to make by-laws.

***Division 4—Regional directors*****Regional directors**

**53.** There is to be appointed for each authority a regional director who will hold office under the *Public Service Management and Employment Act 1988*.

**Functions of a regional director**

**54.** The functions of a regional director are as follows—

- (a) to facilitate the effective and efficient management and operation of public sector health services in that region;
- (b) subject to the delegation of the authority, to appoint, employ and suspend staff under the control of the authority concerned;
- (c) to inform the authority concerned on all relevant matters pertaining to the organisation, management and delivery of health services in that region;
- (d) subject to delegation of the chief executive, perform the functions as the chief accounting officer under the *Financial Administration and Audit Act 1977* in the region for which the regional director is appointed;
- (e) subject to the delegation of the authority concerned, enter into an annual agreement with the chief executive, at the chief executive's discretion, which specifies those services, functions and standards of health care to be provided or performed by the authority in discharge of the allocation of a specified level of funds.

**Acting regional director**

**55.** The chief executive may appoint a person to be an acting regional director when the chief executive thinks such appointment is necessary.



**Affixing common seal**

**56.** The common seal of an authority is to be affixed by the chairperson of the authority in the presence of the regional director for the region.

**Custody of common seal etc.**

**57.(1)** It is the responsibility of each regional director for a region to ensure the minutes of meetings of the authority concerned are recorded.

**(2)** It is the duty of a regional director to ensure the safe custody of those minutes, and of the common seal and the books and other records of the authority concerned.

## **PART 4—PROVISIONS AFFECTING PERSONNEL OF AUTHORITIES**

**Officers of authorities**

**58.(1)** An authority may appoint and employ on salary or wages or engage and employ on a contract basis or continue to employ such officers and employees as are necessary for the effectual administration of this Act.

**(2)** Subject to this Act and the provisions of the *Industrial Relations Act 1990* and to any applicable award or industrial agreement within the meaning of the *Industrial Relations Act 1990* or to the terms and conditions of a contract, persons are to be employed by an authority—

- (a)** under such conditions of employment (including conditions as to leave entitlements) as are directed by the chief executive, subject to the standards issued from time to time under the *Public Sector Management Commission Act 1990*; or
- (b)** where no such directions apply in any particular circumstances, on the conditions determined by the authority concerned, subject to the standards issued from time to time under the *Public Sector Management Commission Act 1990*.

**(3)** Subject to section 79, a person who is employed in a permanent

capacity by the authority is taken to be an officer of a fund or, as the case may be, a member of a scheme under the *Public Service Superannuation Act 1958*, the *State Service Superannuation Act 1972*, the *Superannuation (Government and Other Employees) Act 1988* or the *Superannuation (State Public Sector) Act 1990* and the relevant provisions of those Acts apply to and in respect of that person, unless the Governor in Council determines otherwise under a regulation.

### **Chief executive to be taken to be employer**

**59.(1)** The chief executive is, for the purposes of any proceedings or any industrial award or industrial agreement under the *Industrial Relations Act 1990*, to be taken to be the employer of all officers and employees of every authority.

**(2)** An award or order made against the chief executive pursuant to the *Industrial Relations Act 1990*, or any industrial award or industrial agreement made in respect of or entered into by the chief executive pursuant to that Act, is binding on the authority that would be regarded at common law as the employer of the officers or employees to which the award, order or agreement relates.

**(3)** An authority is not entitled to—

- (a) institute proceedings before the Industrial Court or the Industrial Commission; or
- (b) enter into any industrial agreement; or
- (c) be represented in any proceedings before the Industrial Court or the Industrial Commission;

without the consent in writing of the chief executive.

### **Portability of entitlements for staff in the public health system**

**60.** Where—

- (a) an officer or employee of the public service has been appointed to a position in an authority; or
- (b) an officer or employee of an authority has been appointed to a position in another authority or to a position in the public service;

that officer or employee will retain portability of entitlements based on, and commensurate with, the entitlements established under the *Public Service Management and Employment Act 1988* and the regulations made under that Act and as determined by the chief executive.

### **Authority may obtain the services of certain personnel**

**61.(1)** An authority may, with the approval of the chief executive, arrange for the use by the authority of the services of any staff or the facilities of the department.

**(2)** The department may in consultation with an authority arrange for the use by the department of the services of any staff or the facilities of that authority.

**(3)** Regulations made under this Act may include provisions in respect of the arrangements, terms and conditions for the use of the services of staff under this section.

## **PART 5—GENERAL**

### **Confidentiality**

**62.(1)** An officer, employee or agent of an authority or a public sector health service must not give to any other person, whether directly or indirectly, any information acquired by reason of being such an officer, employee or agent if a person who is or has been a patient in, or has received health services from, a public sector health service could be identified from that information.

Maximum penalty—50 penalty units.

**(2)** Subsection (1) does not apply—

- (a)** to the giving of any information that an officer, employee or agent is expressly authorised or permitted to give under this or any other Act or that is required by operation of law; or
- (b)** to the giving of information with the prior consent of the person

- to whom it relates or, if that person has died, with the consent of the senior available next of kin of that person; or
- (c) to the giving of information concerning the condition of a person who is a patient in, or is receiving health services from, a public sector health service if the information—
- (i) is communicated in general terms by a health professional in accordance with the recognised standards of the relevant medical or other health profession; or
  - (ii) is communicated by a member of the medical staff of a public sector health service to the next of kin or a near relative of the patient in accordance with the recognised standards of medical practice; or
- (d) to the giving of information to the Australian Red Cross Society for the purpose of tracing blood, or blood products derived from blood, infected with any disease or the donor or recipient of any such blood; or
- (e) to the giving of information required in connection with the further treatment of a patient in accordance with the recognised standards of the relevant medical or other health profession.

(3) A person who has been an officer, employee or agent of an authority or a public sector health service, must not give to any other person, directly or indirectly, any information acquired by reason of being such an officer, employee or agent which, at the time when that person ceased to be such an officer, employee or agent, it was his or her duty not to disclose.

Maximum penalty—50 penalty units.

### **Obstructing execution of Act**

**63.(1)** A person who obstructs any person who is exercising any powers or performing any functions or duties under this Act commits an offence against this Act and is liable to a penalty not exceeding 10 penalty units.

(2) A person who wilfully destroys, pulls down, injures, or defaces any board on which any by-law, regulation, order, notice, or other matter is inscribed is, if the same was put up by authority of an authority, liable to a penalty not exceeding 2 penalty units.

**Offences**

**64.(1)** A person who—

- (a) contravenes or fails to comply with any provision of this Act or any order, direction or requirement made or given on or to that person under this Act; or
- (b) wilfully fails to fulfil any undertaking given by that person for the purposes of this Act;

commits an offence against this Act.

**(2)** A person who commits an offence against this Act is liable, unless some other penalty is provided for that offence, to a penalty not exceeding 50 penalty units.

**Proceedings for offences**

**65.(1)** Proceedings for an offence against this Act are to be taken in a summary manner under the *Justices Act 1886* upon the complaint of an inspector or other person, in either case authorised in that behalf by the chief executive.

**(2)** Proceedings for an offence against this Act may be commenced within 1 year after the offence is committed or within 6 months after the offence comes to the knowledge of the complainant, whichever period is the later to expire.

**Appropriation of penalties etc.**

**66.** Unless otherwise expressly provided by this Act, the penalties, costs, fees and other moneys recovered under this Act are—

- (a) where those moneys are recovered by or on behalf of a particular authority—to be paid into and form part of the funds of the authority to be applied to its use for the purposes of this Act; or
- (b) in any other case—to be paid into the consolidated fund.

**Evidentiary provisions**

**67.** In any proceedings under or for the purposes of this Act or in any

other proceedings—

- (a) it is not necessary to prove the appointment of a regional director, inspector or authorised officer but this shall not prejudice the right of any person to prove that such person was not so appointed;
- (b) a signature purporting to be that of a person referred to in paragraph (a) is to be taken to be the signature it purports to be until the contrary is proved;
- (c) a person who purports to do or to have done anything for the purposes of this Act pursuant to the authority of an instrument of delegation made pursuant to this Act is, if the person purported to have made the delegation could pursuant to this Act have done that thing, presumed to act or to have acted in accordance with a valid instrument of delegation unless the contrary is proved;
- (d) an instrument purporting to be made under this Act is in the absence of evidence to the contrary, to be presumed to be validly made;
- (e) a certificate under the seal of an authority or purporting to be signed by a person authorised in that behalf by an authority stating that a place or premises described in the certificate is or was during a specified period a health service or part of a health service is evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters stated.

## **Service**

**68.** In any proceedings for an offence against this Act, or in any action instituted for the recovery of any charges or fees imposed by any regulation or by-law made pursuant to this Act in respect of any service or matter or thing whatever, the information, complaint, plaint, writ, summons, declaration or claim may be served upon any person—

- (a) by delivering such document to that person; or
- (b) by leaving such document at the usual or last known place of abode or business of that person; or
- (c) by forwarding such document by a prepaid registered post letter

addressed to that person at that person's usual or last known place of abode or business.

### **Mater Misericordiae Public Hospitals**

**69.(1)** This Act is not to be construed so as to adversely affect the operation of any arrangements in force between the Department of Health and the Mater Misericordiae Public Hospitals immediately before the appointed day.

**(2)** From and after the appointed day the Corporation of the Trustees of the Order of the Sisters of Mercy of Queensland will retain the right to administer their public hospitals in accordance with arrangements approved by the Minister from time to time and subject to any agreements between the Commonwealth and Queensland Government.

### **By-laws**

**70.(1)** An authority may make by-laws under this Act for its region.

**(2)** A by-law may be made about—

- (a) the general management and control of the region; and
- (b) regulating the conduct of the proceedings of the authority, including the times, places and conduct of its meetings; and
- (c) the management of the affairs of the authority; and
- (d) the admission (including charges therefor) or exclusion or removal of the public or any person to or from a health service or any part thereof or any other land, building or place of which the authority has the management or control or any part thereof; and
- (e) the parking of vehicles on land vested in or held by or under the control of the authority and for that purpose—
  - (i) may provide that the owner of a vehicle is liable for the offence consisting of bringing onto or parking or standing on that land in breach of the authority's by-laws whether or not that owner was in charge of the vehicle at the material time;
  - (ii) may define the person who is to be taken to be the owner of a vehicle for the purposes of the by-law;

- (iii) may prescribe the proof necessary or sufficient to establish the owner's identity;
  - (iv) may provide for the recovery of a penalty for an offence against the by-laws from the owner of the vehicle concerned as well as from the person in charge of the vehicle at the material time;
  - (v) may provide that the land vested in or held by or under the control of the authority or any part thereof, to be specified with reasonable certainty, is to be a public place within the meaning and for the purposes of any Act conferring or imposing upon police officers powers or duties with respect to public places or providing for the punishment of offences committed in public places, whereupon such land or part thereof shall be a public place accordingly.
- (3) The by-laws may provide, in respect of an offence against the by-laws, for the imposition of either or both of the following penalties—
- (a) a penalty not exceeding 10 penalty units;
  - (b) a penalty not exceeding 2 penalty units for each day during which the offence continues.
- (4) A by-law is subordinate legislation.

## **PART 6—PROVISION OF FACILITIES FOR FOOD AND OTHER SERVICES**

### **Interpretation**

**71.(1)** In this part—

“**facility**” means the buildings, structure, machinery, plant, equipment, utensils, fixtures and fittings provided by the Government of the State and used or to be used for or in connection with the preparation, cooking, storage, supply or delivery of food in an edible form or the provision of a service.



(2) For the purposes of this Act, food is not to be taken to be in a non-edible form by reason only of the fact that it is in a frozen state.

### **Authority of Minister to enter into contracts**

72. The Minister for and on behalf of the State of Queensland may enter into, do all acts in connection with and enforce a contract with respect to the conduct and management of a facility for—

- (a) the preparation, cooking, storage, supply or delivery of food in an edible form;
- (b) the provision of such other services as the Governor in Council, under a regulation, determines;

to, for or on behalf of hospitals and institutions conducted by any department of Government of the State or pursuant to an Act and to such other establishments, persons or associations of persons as the Minister determines.

### **Effect of contracts by Minister**

73.(1) Where pursuant to this Act the Minister enters into a contract for the supply of food or the provision of a service then, until the contract is duly terminated in the manner approved by the Minister, the authority, board or person or, as the case may be, each of the persons charged with the administration of the hospital, institution or establishment to, for or on behalf of which the food is to be supplied or the service provided or, as the case may be, the person or each of the persons to, for or on behalf of whom the food is to be supplied or the service provided—

- (a) will accept such food as is prepared, cooked, stored, supplied and delivered in accordance with the contract;
- (b) will accept such service as is provided in accordance with the contract;
- (c) will do all such acts and provide and maintain all such rights and means of ingress and egress to and from premises as are necessary to allow for the proper delivery of such food or the proper provision of such service;
- (d) will pay for such food or, as the case may be, such service an

amount in such sum and calculated in such manner as the Minister determines from time to time.

(2) Subsection (1) applies not only in relation to—

- (a) an authority or a board or person who is charged with the administration of any hospital, institution or establishment at the time of making pursuant to this Act the contract under which food is to be supplied or a service is to be provided to, for or on behalf of that hospital, institution or establishment; or
- (b) a person who is a member of the governing body of an association of persons at the time of making pursuant to this Act the contract under which food is to be supplied or a service is to be provided to, for or on behalf of those persons;

but also to every successor in office to that authority, board or persons.

(3) If a question arises as to whether any authority, board or person is entitled to refuse to accept food or a service by reason that it has not been prepared, cooked, stored, supplied or delivered or, as the case may be, provided in accordance with a contract referred to in subsection (1), that question is to be determined, so far as it concerns such authority, board or person, by the Minister or other person to whom the Minister may have delegated the authority hereby conferred, either generally or in a particular case.

(4) Subsection (3) should not be read or construed so as to derogate from the right of any person who is a party to such a contract to take proceedings in a court for breach of any such contract.

## **PART 7—MISCELLANEOUS**

### **Effect of Act on private practice arrangements**

**74.** This Act is not to be construed so as to adversely affect the operation of any arrangements in force in any public sector hospital immediately before the day the *Health Services Act 1991* receives the Royal Assent under which any medical officers or employees of that hospital are authorised to engage in private practice in conjunction with their employment with that

hospital.

### **Effect of Act on certain other Acts**

**75.** This Act is not to be construed so as to derogate from the provisions of any other Act in force from time to time that provides for investigations and inquiries to be made in connection with any public sector health service.

### **References to Director-General of Health and Medical Services**

**76.** In an Act or document, a reference to the Director-General of Health and Medical Services may, if the context permits, be taken to be a reference to the chief health officer of the department.

### **Regulations**

**77.(1)** The Governor in Council may make regulations under this Act.

**(2)** A regulation may—

- (a) provide that, on conditions or unconditionally, persons, matters or things, or a class of persons, matters or things may be exempted from the provisions of the regulations and for the revocation of any exemption or conditional exemption so granted;
- (b) provide for the fees, charges, allowances, costs and expenses payable or to be paid under and for the purposes of this Act and the fixing thereof; matters and things in respect of which they are payable or to be paid; the circumstances in which the chief executive may waive those fees, charges, allowances, costs and expenses (the chief executive being hereby authorised to do so); methods of collection thereof; manner, time and place of payment thereof; persons by whom or to whom they are payable;
- (c) provide for—
  - (i) fees and charges that may be charged by authorities for patient accommodation, medical and nursing services, dental, diagnostic and therapeutic services, special medical examinations or reports;
  - (ii) administrative arrangements of authorities and long service

*Health Services Act 1991*

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- leave in respect of authorities;
- (iii) fees for the charging of maintenance in relation to public sector nursing home and hostel residents and public sector psychiatric health services;
  - (d) provide for the forms to be used for the purpose of this Act and the particular purposes for which those forms are respectively to be used;
  - (e) regulate the admission and discharge of persons to and from a public sector health service and the amount (if any) to be paid by those persons for that health service;
  - (f) regulate the bringing of specified articles and things into any public sector health service and the possession by any person of specified articles or things in any public sector health service;
  - (g) regulate the entry of persons into any public sector health service and regulate their conduct in that health service and prevent trespassing on any land vested in or held by an authority;
  - (h) make provision about any other matter affecting the operation, management, care, control and superintendence of any public sector health service or any other facility or service maintained, operated or provided by an authority or any land or buildings used in connection with any public sector health service.

**(3)** The regulations may provide that it is an offence, punishable on summary conviction, for a person to contravene or fail to comply with any of the regulations and may provide, in respect of any such offence, for the imposition of a penalty not exceeding 10 penalty units and in the case of a continuing offence, a further penalty not exceeding 2 penalty units for each day during which the offence continues.

## **PART 8—SAVINGS AND TRANSITIONAL PROVISIONS**

### **References to hospitals board**

**78.** In an Act or document, a reference to a hospital board established under the *Hospitals Act 1936* may, if the context permits, be taken to be a reference to a regional health authority.

### **Superannuation entitlements of officers of dissolved boards etc.**

**79.** A person who, on the appointed day becomes an officer of an authority will—

- (a) retain all entitlements accrued or accruing to that person as a contributor to a fund or as a member of a scheme under the *Public Service Superannuation Act 1958*, the *State Service Superannuation Act 1972*, the *Superannuation (Government and Other Employees) Act 1988* or the *Superannuation (State Public Sector) Act 1990*; and
- (b) be taken to be an officer or member, as the case may be, within the meaning of each of those Acts and will—
  - (i) continue to contribute to that fund or contribute as a member of the scheme; and
  - (ii) be entitled to payments and other benefits from that fund in respect of that person or that person's spouse or children.

**SCHEDULE****DISSOLUTION, AMALGAMATION AND CHANGE  
OF NAMES OF AUTHORITIES**

section 23

**Dissolution of authority****1.(1)** When a regulation dissolving an authority takes effect—

- (a) the authority is dissolved; and
- (b) a person who, immediately before the dissolution takes effect, held office as a member of the authority for the region concerned—
  - (i) ceases to hold office; and
  - (ii) is not entitled to be paid any compensation by reason of ceasing to hold that office.

**(2)** On and from the date on which a regulation dissolving an authority takes effect—

- (a) all real and personal property and all rights and interest therein and all management and control thereof that, immediately before that date, was vested in or belonged to the authority shall vest in and belong to the Crown; and
- (b) all money and liquidated and unliquidated claims that, immediately before that date, was or were payable to or recoverable by the authority shall be money and liquidated and unliquidated claims payable to or recoverable by the Crown; and
- (c) all proceedings commenced before that date by the authority and pending immediately before that date are taken to be proceedings pending on that date by the Crown and all proceedings so commenced by any person against the authority and pending immediately before that date shall be taken to be proceedings pending on that date by that person against the Crown; and

## SCHEDULE (continued)

- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the authority and in force immediately before that date are taken to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Crown; and
  - (e) the Crown may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subsection and for the prosecution of proceedings so referred to as the authority might have done, but for its dissolution; and
  - (f) the Crown may enforce and realise any security or charge existing immediately before that date in favour of the authority and may exercise any powers thereby conferred on the authority as if the security or charge were a security or charge in favour of the Crown; and
  - (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that date, were due or payable by, or recoverable against, the authority shall be debts due by, money payable by and claims recoverable against, the Crown; and
  - (h) all liquidated and unliquidated claims for which the authority would, but for its dissolution, have been liable shall be liquidated and unliquidated claims for which the Crown is to be liable; and
  - (i) any act, matter or thing done or omitted to be done before that date by, to or in respect of the authority shall, to the extent that, but for the dissolution of the authority, that act, matter or thing would on or after that date have had any force or effect or been in operation, be taken to have been done or omitted to be done by, to or in respect of the Crown; and
  - (j) no attornment to the Crown by a lessee from the authority shall be required.
- (3) Any real or personal property vested in the Crown pursuant to this section may be used or disposed of for such purposes as the Minister may determine.

## SCHEDULE (continued)

**Consequences of amalgamation of authorities**

**2.(1)** When a regulation amalgamating 2 or more authorities takes effect—

- (a) the individual authorities to be amalgamated are dissolved; and
- (b) a person who, immediately before the dissolution takes effect, held office as a member of the dissolved authority—
  - (i) shall cease to hold office as such; and
  - (ii) is eligible (if otherwise qualified) to be appointed as a member of the new authority; and
  - (iii) is not entitled to be paid any compensation by reason of ceasing to hold that office.

**(2)** Any authority constituted by any such amalgamation preserves and continues the combined legal entities of the respective authorities amalgamated.

**Change of name of authority**

**3.** A change of name of an authority by a regulation does not operate—

- (a) to create a new legal entity; or
- (b) to prejudice or affect the identity of the body corporate constituted as an authority or its continuity as a body corporate; or
- (c) to affect the property, or the rights or obligations, of the authority; or
- (d) to render defective any legal proceedings by or against the authority;

and any legal proceedings that could have been continued or commenced by or against the authority by its former name may be continued or commenced by or against it by its new name.



## SCHEDULE (continued)

**Regulations**

**4.(1)** The regulations under this Act may contain other provisions of a savings or transitional nature consequent on the making of a regulation under section 22.

**(2)** A provision referred to in subsection (1) shall, if the regulations so provide, have effect despite any other section of this schedule.

**ENDNOTES****1 Index to endnotes**

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**2 Date to which amendments incorporated**

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 13 December 1995. Future amendments of the Health Services Act 1991 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

|        |   |                              |        |   |                                |
|--------|---|------------------------------|--------|---|--------------------------------|
| AIA    | = | Acts Interpretation Act 1954 | (prev) | = | previously                     |
| amd    | = | amended                      | proc   | = | proclamation                   |
| ch     | = | chapter                      | prov   | = | provision                      |
| def    | = | definition                   | pt     | = | part                           |
| div    | = | division                     | pubd   | = | published                      |
| exp    | = | expires/expired              | R[X]   | = | Reprint No.[X]                 |
| gaz    | = | gazette                      | RA     | = | Reprints Act 1992              |
| hdg    | = | heading                      | reloc  | = | relocated                      |
| ins    | = | inserted                     | renum  | = | renumbered                     |
| lap    | = | lapsed                       | rep    | = | repealed                       |
| notfd  | = | notified                     | s      | = | section                        |
| om     | = | omitted                      | sch    | = | schedule                       |
| o in c | = | order in council             | sdiv   | = | subdivision                    |
| p      | = | page                         | SIA    | = | Statutory Instruments Act 1992 |
| para   | = | paragraph                    | SL     | = | subordinate legislation        |
| prec   | = | preceding                    | sub    | = | substituted                    |
| pres   | = | present                      | unnum  | = | unnumbered                     |
| prev   | = | previous                     |        |   |                                |

### 4 Table of earlier reprints

#### TABLE OF EARLIER REPRINTS

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| 1           | to Act No. 70 of 1993 | 29 April 1994 |

### 5 Tables in earlier reprints

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| Changed citations and remade laws | 1           |
| Obsolete and redundant provisions | 1           |
| Corrected minor errors            | 1           |
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## 6 List of legislation

### **Health Services Act 1991 No. 24**

date of assent 5 June 1991

ss 1.1–1.2 commenced on date of assent

remaining provisions commenced 1 July 1991 (proc pubd gaz 22 June 1991 p 974)

as amended by—

### **Statute Law (Miscellaneous Provisions) Act 1991 No. 97 ss 1–3 sch 2**

date of assent 17 December 1991

commenced on date of assent

### **Local Government Act 1993 No. 70 ss 1–2, 804 sch**

date of assent 7 December 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 26 March 1994 (see s 2(5))

### **Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2**

date of assent 1 December 1994

commenced on date of assent

### **Health Services Amendment Act 1995 No. 29**

date of assent 14 June 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 18 August (1995 SL No. 234)

### **Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

### **Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 2**

date of assent 28 November 1995

commenced on date of assent

## 7 List of annotations

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### **Dissolution of Boards**

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### **Definitions**

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def “**appointed day**” sub 1995 No. 58 s 4 sch 2

def “**Area of Local Authority**” om 1993 No. 70 s 804 sch

def “**chief executive**” sub 1991 No. 97 s 3 sch 2

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- def “**medical practitioner**” om 1995 No. 29 s 4(1)  
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- s 1.7 om 1995 No. 57 s 4 sch 1

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- s 6 amd 1995 No. 57 s 4 sch 1

**Approval of hospitals for training of medical and other students**

- s 10 amd 1995 No. 29 s 5; 1995 No. 57 s 4 sch 1

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**Health service regions**

- s 20 amd 1995 No. 29 s 7

**Identification of regions**

- s 3.2 om 1995 No. 57 s 4 sch 1

**Establishment of regional health authorities**

- s 21 amd 1995 No. 29 s 8

**Dissolution, amalgamation and change of name of authorities**

- s 22 amd 1995 No. 29 s 9

**Consequential and transitional provisions on the making of a regulation**

- prov hdg amd 1995 No. 29 s 10

- s 23 amd 1995 No. 29 s 10

**Provisions relating to constitution of authorities**

- s 24 amd 1991 No. 97 s 3 sch 2; 1995 No. 29 s 11

**Removal of members, appointment of administrator etc.**

- s 33 amd 1995 No. 29 s 12; 1995 No. 57 s 4 sch 1

**Proceedings of authority**

- s 34 amd 1995 No. 57 s 4 sch 1

**Transfer of health service etc. to authorities**

- s 40 amd 1995 No. 29 s 13; 1995 No. 57 s 4 sch 1

**Responsibilities of authorities**

- s 51 amd 1995 No. 57 s 4 sch 1

**Delegation by authority**

- s 52 sub 1995 No. 57 s 4 sch 1

**Indemnity**

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