

Queensland



HEALTH SERVICES ACT 1991

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Information about this reprint

This Act is reprinted as at 10 February 1999. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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

This page is specific to this reprint. See previous reprints 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 earlier reprints.**

Queensland



HEALTH SERVICES ACT 1991

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	5
2	Definitions	5
3	Meaning of “health service”	8
4	Objects of Act	9
5	Act binds Crown	9
PART 2—HEALTH SERVICE DISTRICTS AND DISTRICT HEALTH COUNCILS		
<i>Division 1—Declaration of districts and establishment of councils</i>		
6	Health service districts	10
7	District health councils	10
<i>Division 2—Functions and membership of councils</i>		
8	Functions	10
9	Participation in selection of senior executives	11
10	Appointment of members	12
11	Chairperson of council	12
12	Term of appointment	13
13	Disqualification from membership	13
14	Vacation of office	13
15	Remuneration of members	14
<i>Division 3—Business and meetings of councils</i>		
16	Conduct of business	14
17	Times and places of meetings	14
18	Quorum and voting at meetings	14

19	Attendance by manager	14
20	Minutes	15
21	Disclosure of interests	15
	<i>Division 4—Miscellaneous</i>	
22	Managers for districts	16
23	Consultative committees	16
	PART 3—HEALTH SERVICE EMPLOYEES	
24	Appointment of health service employees	16
25	Health service employees not public service employees	17
26	Basis of employment	17
27	Directives issued by Governor in Council	17
28	Conditions of employment	18
	PART 4—TEACHING HOSPITALS AND QUALITY ASSURANCE	
	<i>Division 1—Teaching hospitals</i>	
29	Approval of hospitals for training of medical and other students	18
	<i>Division 2—Quality assurance</i>	
30	Definitions	20
31	Approved quality assurance committees	20
32	Restrictions on committees	21
33	Disclosure etc. of information	21
34	Information not to be given in evidence	21
35	Findings of committee not evidence of certain matters	22
36	Personal liability of members etc.	22
37	Further responsibilities of committees	22
38	Effect of provisions of division	23
	PART 5—CONTROL OF TRAFFIC AND CONDUCT ON HEALTH SERVICES LAND	
	<i>Division 1—Authorised persons and security officers</i>	
39	Appointment of authorised persons and security officers	23
40	Terms of appointment	23
41	Identity cards	24
42	Proof of authority	24

Division 2—Traffic control

43	Authorised persons to control traffic on health services land	25
44	Regulatory notice	25
45	Information notices	26
46	Removal and detention of illegally parked or abandoned vehicles	26
47	Disposal of unclaimed vehicles	27
48	Application of proceeds of sale	28

Division 3—Conduct on health services land

49	Conduct causing a public nuisance	28
50	Power to deal with persons causing a public nuisance	28
51	Prohibition of smoking	29

PART 6—ADMINISTRATION***Division 1—Officials***

52	Appointment of officials	30
53	Terms of appointment	30
54	Functions of auditors	30
55	Functions of investigators	30
56	Power of officials to ask for documents	31
57	Duty of confidentiality of officials	31

Division 2—General

58	Ministerial advisory committees	32
59	Responsibility of chief executive	32

PART 8—MISCELLANEOUS

63	Confidentiality	32
64	Obstructing execution of Act	34
65	Mater Misericordiae Public Hospitals	34
66	Effect of Act on private practice arrangements	35
67	Effect of Act on certain other Acts	35
68	Regulations	35

PART 9—REPEALS, SAVINGS AND TRANSITIONAL PROVISIONS***Division 1—Repeals***

69	Repeal of certain by-laws	37
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Division 2—Savings and transitional provisions for regional health authorities

70	Definition for pt 9, div 2	37
71	Authorities dissolved	37
72	Assets and liabilities	37
73	Proceedings	38
74	Non-contract employees	38
75	Contract employees	39
76	Employees' rights and entitlements	39
77	Directions by the chief executive	40
78	Disciplinary action	40
79	Entries in registers	41

ENDNOTES

1	Index to endnotes	42
2	Date to which amendments incorporated	42
3	Key	43
4	Table of earlier reprints	43
5	Tables in earlier reprints	44
6	List of legislation	44
7	List of annotations	45
8	Tables of renumbered provisions	54

HEALTH SERVICES ACT 1991

[as amended by all amendments that commenced on or before 10 February 1999]

An Act to provide for and in respect of the organisation, management and delivery of certain health services and the establishment of district health councils, 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—

“**applied law**”, for a health service employee, means the provisions of the *Public Service Act 1996* as applied, under a regulation under section 22¹ of that Act, to the employee.

“**appoint**”, a person as a health service employee, means—

- (a) for a person who is a public service officer or is already a tenured health service employee—promote or redeploy the officer or employee; or
- (b) for another person—employ the person as a health service employee.

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

¹ *Public Service Act 1996*, section 22 (Application of Act to certain public sector units etc.)

Health Services Act 1991

“auditor” means a person holding office as an auditor under an appointment under section 52.

“authorised person” means a person holding office as an authorised person under an appointment under section 39.

“award” means an award under the *Industrial Relations Act 1990* or *Industrial Relations Act 1988* (Cwlth).

“case mix funding arrangement” means the arrangement for funding public sector health services that includes the system of funding based on the classification of patient care episodes.

“casual health service employee” see section 24.

“chairperson”, of a council, means the chairperson of the council.

“contracted health service employee” see section 24.

“council” means a district health council established under section 7.

“designated smoking area” means an area designated as a smoking area by signs erected by the chief executive.

“directive” means—

- (a) a directive issued under section 27; or
- (b) a directive issued under the *Public Service Act 1996* that is binding on health service employees.

“dissolved authority” means a regional health authority formerly in existence under this Act.

“district” means a health service district declared under section 6.

“funding arrangement”, for a public sector health service, means the arrangement for funding the health service, and includes—

- (a) the arrangement for funding public sector health services under the Medicare Agreement; and
- (b) the case mix funding arrangement.

“health service” see section 3.

“health service employee” means a person appointed under section 24.

“health services agreement”, for a district, means an administrative arrangement between the chief executive and the manager for the

Health Services Act 1991

district, about the delivery in the district of the public sector health services under the arrangement and funds for their delivery.

“health services land” means land and buildings from which public sector health services are delivered.

“higher classification level” means a classification level that is a higher classification level under a directive.

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

“industrial agreement” means an industrial agreement, certified agreement or enterprise flexibility agreement under the *Industrial Relations Act 1990*.

“investigator” means a person holding office as an investigator under an appointment under section 52.

“lower classification level” means a classification level that is a lower classification level under a directive.

“manager”, for a district, means the person appointed as the manager for the district under section 22.

“Medicare Agreement” means the agreement between the Commonwealth and the State entered into under the *Health Insurance Act 1973* (Cwlth), section 24.

“member” means a member of a council.

“official” means an auditor or investigator.

“official traffic sign” has the meaning given by the *Traffic Act 1949*.

“owner”, of a vehicle, includes the person registered as the owner of the vehicle under—

- (a) the *Transport Infrastructure (Roads) Act 1991*; or
- (b) the corresponding law of another State or a Territory.

“promote”, a public service officer or tenured health service employee, means employ the officer or employee at a higher classification level (whether or not on different duties), other than temporarily.

“public sector health service” means a health service provided by the State, 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 operated by the State.

“public service officer” means a public service officer within the department.

“redeploy”, a public service officer or tenured health service employee, means employ the officer or employee, with the officer or employee’s consent, at a lower classification level (whether or not on different duties), other than temporarily.

“regulatory notice” see section 44.

“security officer” means a person holding office as a security officer under an appointment under section 39.

“teaching hospital” means a hospital approved as a teaching hospital under section 29.

“temporarily” means for a period limited by time, whether or not the time has been fixed.

“temporary health service employee” see section 24.

“tenured health service employee” see section 24.

“vehicle” has the meaning given by the *Traffic Act 1949*.

Meaning of “health service”

3.(1) A **“health service”** is a service for maintaining, improving or restoring people’s health and wellbeing.

(2) Without limiting subsection (1), a health service includes—

- (a) a service provided to a person at a hospital, nursing home, community health facility or other place; and
- (b) a service dealing with public health, including a program or activity for—
 - (i) the prevention and control of disease or sickness; or
 - (ii) the prevention of injury.

Health Services Act 1991

Example of health service mentioned in paragraph (b)—

A childhood immunisation program.

(3) In addition, a health service includes any administrative or other support service directly related to a health service.

Examples of support services—

Catering and laundry services provided at a hospital.

Objects of Act

4.(1) The objects of this Act are to—

- (a) help prevent illness; and
- (b) provide for the treatment of the sick.

(2) The objects are to be achieved primarily by—

- (a) establishing organisational arrangements for the delivery of public sector health services in the State; and
- (b) establishing district health councils to enable community participation in the planning and delivery of public sector health services in the State.

Act binds Crown

5. This Act binds the Crown in right of the State, and, as far as the legislative power of the Parliament permits, the Crown in all its other capacities.

PART 2—HEALTH SERVICE DISTRICTS AND DISTRICT HEALTH COUNCILS

Division 1—Declaration of districts and establishment of councils

Health service districts

6. The Governor in Council may, by gazette notice—
- (a) declare an area of the State, a public sector hospital or other public sector health service facility to be a health service district; and
 - (b) assign a name to the district.

District health councils

7. There is to be a district health council for each district.

Division 2—Functions and membership of councils

Functions

- 8.(1) The functions of a council are to—
- (a) identify and assess the health service needs of people living in the council's district or who may use public sector health services delivered in its district; and
 - (b) participate in the development of the department's strategic plans for the delivery of public sector health services in the district; and
 - (c) monitor compliance with the strategic plans and health services agreements by the manager for the district; and
 - (d) monitor compliance by the manager for the district with the budgets for the district; and
 - (e) monitor the quality of public sector health services delivered in the district; and
 - (f) decide priorities for minor capital works, and monitor the

programs for the works and asset management, for the district;
and

- (g) advise and make recommendations to the manager for the district about the matters mentioned in paragraphs (a) to (f); and
- (h) advise the manager for the district about the development of health services agreements for the district; and
- (i) within 1 month after the end of a financial year, give the Minister a written report on the performance of its other functions during the year; and
- (j) when directed by the Minister or on the council's own initiative, give the Minister a written report on any matter about its other functions; and
- (k) do anything necessary for, or incidental to, the performance of its other functions.

(2) In this section—

“asset management” means the acquisition, disposal or maintenance of assets.

“delivery”, of public sector health services in a district, means the delivery of the services under the health services agreement for the district.

“minor capital works” means capital works costing not more than the amount stated in the chief executive's delegation under the *Financial Administration and Audit Act 1977*, section 36A,² to the manager for the district.

Participation in selection of senior executives

9.(1) A council may, under this section, participate in the selection of a senior executive for the council's district.

(2) If a council decides to participate in the selection of a senior executive, the chairperson is to be a member of the selection panel for the selection of the senior executive.

² *Financial Administration and Audit Act 1977*, section 36A (Delegation by accountable officer)

(3) However, the chairperson may nominate another council member to be a member of the selection panel instead of the chairperson.

(4) In this section—

“senior executive”, for a district, means—

- (a) the manager for the district; or
- (b) a member of a class of health service employee who—
 - (i) is employed in the delivery of public sector health services in the district; and
 - (ii) is declared to be a senior executive by the Minister.

Appointment of members

10.(1) A council is to consist of at least 8, but not more than 10, members appointed by the Governor in Council.

(2) Before making a recommendation to the Governor in Council for the appointment of members of a council, the Minister must have regard to—

- (a) the need for community representation on the council; and
- (b) the expertise and experience necessary for the exercise by the council of its functions.

(3) A council may include not more than 2 members from tertiary institutions involved in educating and training health practitioners at public sector health service facilities in the council’s district.

(4) In this section—

“health practitioner” means a person engaged, or to be engaged, in the delivery of a health service.

Chairperson of council

11.(1) The Governor in Council is to appoint a member as the chairperson of the council.

(2) The chairperson is to preside at all meetings of the council at which the chairperson is present.

(3) If the chairperson is not present at a meeting, a member chosen by the members present at the meeting is to preside.

Term of appointment

12. A member is to be appointed for a term of not more than 4 years.

Disqualification from membership

13.(1) A person cannot become, or continue as, a member if the person—

- (a) is under 18 years; or
- (b) is an undischarged bankrupt or is taking advantage of the laws about bankruptcy; or
- (c) is convicted of an indictable offence; or
- (d) is employed in the delivery of a public sector health service in the council's district.

(2) The Minister may declare that subsection (1)(d) does not apply to a stated person if the Minister determines it is not otherwise possible to appoint the required number of members with the expertise and experience necessary for the exercise of the council's functions, including, for example, because of the remoteness of a council's district.

Vacation of office

14. A member is taken to have vacated office if the member—

- (a) dies; or
- (b) resigns from office; or
- (c) is disqualified from holding office; or
- (d) is removed from office; or
- (e) is absent without the council's leave and without reasonable excuse from 3 consecutive meetings of the council.

Remuneration of members

15.(1) A member is entitled to be paid the fees and allowances decided by the Governor in Council.

(2) However, a member may waive payment in whole or part.

Division 3—Business and meetings of councils**Conduct of business**

16. Subject to this division, a council may conduct its business (including meetings) in the way it considers appropriate.

Times and places of meetings

17.(1) Meetings of a council are to be held at least once every 2 months at the times and places the chairperson decides.

(2) However, the chairperson must call a meeting of the council to consider a matter, if directed to do so by the Minister, within the period stated by the Minister.

Quorum and voting at meetings

18. At a meeting of a council—

- (a) a majority of the members of the council forms a quorum; and
- (b) a question is to be decided by a majority of the votes of the members present and voting; and
- (c) each member present has a vote on each question to be decided; and
- (d) the chairperson of the council has a deliberative vote and, if the votes are equal, also a casting vote.

Attendance by manager

19. The manager for a district must attend meetings of the district's council.

Minutes

20.(1) A council must keep minutes of its meetings.

(2) The chairperson must provide copies of the minutes to the Minister, if requested by the Minister.

Disclosure of interests

21.(1) This section applies if—

- (a) a member of a council has a direct or indirect personal interest in an issue being considered, or about to be considered, by the council; and
- (b) the interest could conflict with the proper performance of the member's duties in considering the issue.

(2) The member must disclose the nature of the interest to a meeting of the council as soon as practicable after the member becomes aware of the possible conflict of interest.

(3) The disclosure must be recorded in the minutes of the meeting.

(4) Unless the council otherwise directs, the member must not—

- (a) be present when the council considers the issue; or
- (b) take part in a decision of the council on the issue.

(5) A member who makes a disclosure must not—

- (a) be present when the council is considering whether to give a direction under subsection (4); or
- (b) take part in the decision about giving the direction.

(6) If, because of this section, a member is not present at a council meeting for considering or deciding an issue, but there would be a quorum if the member were present, the remaining members present are a quorum for considering or deciding the issue at the meeting.

Division 4—Miscellaneous**Managers for districts**

22.(1) There is to be a manager appointed for each district.

(2) The manager is to be a public service officer or health service employee.

(3) The manager's functions are—

- (a)** subject to the chief executive, to manage the delivery of public sector health services in the manager's district in accordance with the health services agreement for the district; and
- (b)** to consult and liaise with the council for the district on matters about the council's functions.

(4) The manager for a district must ensure the council has the administrative support services reasonably required to carry out the council's functions effectively and efficiently.

Consultative committees

23.(1) A council may establish consultative committees to provide a way for members of the public to express their views about the planning and delivery of public sector health services in the district.

(2) The Minister may give directions to a council about the establishment of, and its relationship with, a consultative committee.

(3) A member of a consultative committee is not to be paid any fees or allowances.

PART 3—HEALTH SERVICE EMPLOYEES**Appointment of health service employees**

24.(1) The chief executive may appoint a person, as a health service employee, in the department for the delivery of public sector health services.

(2) However, subsection (1) does not apply to a part of the department prescribed under a regulation for this subsection.

(3) Appointment as a health service employee is—

- (a) on tenure (a “**tenured health service employee**”); or
- (b) on contract for a fixed term (a “**contracted health service employee**”); or
- (c) on a temporary basis (a “**temporary health service employee**”); or
- (d) on a casual basis (a “**casual health service employee**”).

Health service employees not public service employees

25. A health service employee is not a public service employee.

Basis of employment

26.(1) Appointment as a tenured, contracted or temporary health service employee is on the basis of full-time or part-time employment.

(2) A person appointed as a contracted health service employee must enter into a written contract of employment with the chief executive.

Directives issued by Governor in Council

27.(1) The Governor in Council may issue directives about the employment of health service employees.

Example of directive—

A directive issued about the selection process for health service employees.

(2) A directive—

- (a) is to be issued by gazette notice; and
- (b) is binding on the employees to whom it applies.

(3) If a directive issued under this section is inconsistent with this or another Act or subordinate legislation under this or another Act, the Act or subordinate legislation prevails over the directive to the extent of the inconsistency.

Conditions of employment

28.(1) A health service employee's conditions of employment are governed by—

- (a) the applied law; and
- (b) an award, industrial agreement or directive that is binding on the employee; and
- (c) if the employee is a contracted health service employee—the employee's contract.

(2) In addition, the chief executive may make determinations about the conditions of employment of health service employees.

(3) A determination has effect subject to subsection (1).

(4) However, the chief executive may determine conditions of employment for health service employees that are more favourable than those contained in an award or industrial agreement binding on the employee.

PART 4—TEACHING HOSPITALS AND QUALITY ASSURANCE

Division 1—Teaching hospitals

Approval of hospitals for training of medical and other students

29.(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 2—Quality assurance**Definitions**

30. In this division—

“committee” means a committee declared to be an approved quality assurance committee under section 31.

Approved quality assurance committees

31.(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 a 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 a 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

32.(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

33. 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 a body referred to in section 31(2); or
 - (ii) the making available of information to the public.

Maximum penalty—50 penalty units.

Information not to be given in evidence

34.(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

35. 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.

36.(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 the body that established the committee under section 31(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

37.(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

38. 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 5—CONTROL OF TRAFFIC AND CONDUCT ON HEALTH SERVICES LAND

Division 1—Authorised persons and security officers

Appointment of authorised persons and security officers

39.(1) The chief executive may, in writing, appoint a person who the chief executive is satisfied has the necessary training, or knowledge and experience, to be an authorised person under this Act.

(2) The chief executive may, in writing, appoint a person who the chief executive is satisfied has the necessary training, or knowledge and experience, to be a security officer under this Act.

(3) A person may be appointed both an authorised person and a security officer.

Terms of appointment

40.(1) An authorised person or security officer holds office on the

conditions stated in the instrument of appointment.

(2) If the instrument provides for a term of appointment, the authorised person or security officer ceases to hold office at the end of the term.

(3) An authorised person or security officer may resign by signed notice given to the chief executive.

Identity cards

41.(1) The chief executive must issue an identity card to each authorised person and security officer.

(2) The identity card must—

- (a) contain a recent photograph of the authorised person or security officer; and
- (b) be in a form approved by the chief executive; and
- (c) be signed by the authorised person or security officer.

(3) A person who ceases to be an authorised person or security officer must, as soon as practicable, return the person's identity card to the chief executive, unless the person has a reasonable excuse for not returning it.

Maximum penalty for subsection (3)—10 penalty units.

Proof of authority

42.(1) An authorised person or security officer may exercise a power under this Act in relation to someone else only if the person or officer—

- (a) first produces his or her identity card for inspection by the other person; or
- (b) has his or her identity card displayed so that it is clearly visible.

(2) If, for any reason, it is not practicable to comply with subsection (1), the authorised person or security officer must produce the identity card for inspection by the person at the first reasonable opportunity.

(3) If subsection (2) is relevant and is complied with by an authorised person or security officer, the exercise of a power in relation to someone

else by the authorised person or security officer is not invalid merely because of subsection (1).

Division 2—Traffic control

Authorised persons to control traffic on health services land

43.(1) An authorised person may control traffic on health services land and, for this purpose, may give directions to a person on the land.

(2) The person must comply with the direction unless the person has a reasonable excuse for not complying with it.

Maximum penalty for subsection (2)—10 penalty units.

Regulatory notice

44.(1) The chief executive may erect or display on, or at or near any vehicular entrance to, health services land, a notice (a “**regulatory notice**”) regulating the driving, parking or standing of vehicles on the land, including, for example—

- (a) fixing a maximum speed limit; or
- (b) indicating a pedestrian crossing; or
- (c) indicating a place where the driving, parking or standing of a vehicle is restricted or prohibited.

(2) A person on health services land must comply with a regulatory notice, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—10 penalty units.

(3) A regulatory notice—

- (a) must state the limits of the area to which the notice applies; and
- (b) may state that a contravention of the notice is an offence against this Act and the penalty for the offence.

(4) Without limiting subsection (1), the chief executive may erect and display regulatory notices in the form of official traffic signs.

(5) Evidence that a regulatory notice was erected or displayed at a place

mentioned in subsection (1) is evidence that the notice was erected or displayed by the chief executive.

(6) A regulatory notice erected or displayed under this section must be easily visible to passers by.

Information notices

45.(1) This section applies if a regulatory notice does not state that a contravention of the notice is an offence against this Act and the penalty for the offence.

(2) The chief executive must erect or display at or near each vehicular entrance to health services land to which the regulatory notice relates, and other places the chief executive considers appropriate, information notices stating that a contravention of a regulatory notice is an offence and the penalty for the offence.

(3) An information notice may contain any other information the chief executive considers appropriate.

(4) An information notice erected or displayed under this section must be easily visible to passers by.

(5) In this section—

“**regulatory notice**” does not include an official traffic sign.

Removal and detention of illegally parked or abandoned vehicles

46.(1) An authorised person may seize, remove and hold, a vehicle that the authorised person believes on reasonable grounds—

- (a) is parked in contravention of a regulatory notice; or
- (b) is abandoned.

(2) The vehicle must be held at a safe place.

(3) An authorised person may exercise the powers on the grounds mentioned in subsection (1)(a) only if—

- (a) the authorised person believes on reasonable grounds that it is necessary or desirable to seize and remove the vehicle having regard to the safety and convenience of traffic on health services

land; and

(b) the authorised person—

(i) cannot immediately locate the driver of the vehicle; or

(ii) believes on reasonable grounds that the driver of the vehicle is not willing or able to remove the vehicle immediately.

(4) As soon as is practicable and no later than 14 days after the vehicle is seized, the chief executive must give to the owner of the vehicle a written notice stating how the owner may recover the vehicle.

(5) If the owner cannot be ascertained or located within 14 days after the vehicle is seized, the notice may be given by publishing it in a newspaper circulating generally in the State.

(6) If the vehicle was parked in contravention of a regulatory notice, the owner of the vehicle must pay to the chief executive the cost of seizing, removing, holding and returning the vehicle.

(7) In this section—

“**vehicle**” includes a part of the vehicle and anything attached to, or contained in, the vehicle.

Disposal of unclaimed vehicles

47.(1) This section applies if the owner of a seized vehicle does not recover the vehicle within 2 months after notice is given to the owner under section 46(4) or (5).

(2) After publishing a notice in a newspaper circulating generally in the State, the chief executive may sell the vehicle by public auction.

(3) The notice must—

(a) identify the vehicle; and

(b) state that the vehicle is to be sold by auction; and

(c) state how the owner may recover the vehicle before the auction; and

(d) state the time and place of the auction.

(4) Compensation is not recoverable against the chief executive for the

sale of a vehicle under this section.

(5) In this section—

“**vehicle**” includes a part of the vehicle and anything attached to, or contained in, the vehicle.

Application of proceeds of sale

48.(1) The proceeds of the sale must be applied in the following order—

- (a) in payment of the reasonable expenses incurred in the sale;
- (b) in payment of the reasonable cost of seizing, removing and holding the vehicle;
- (c) in payment of any balance to the owner.

(2) Compensation is not recoverable against the chief executive for a payment under this section.

Division 3—Conduct on health services land

Conduct causing a public nuisance

49. A person must not be disorderly or create a disturbance on health services land.

Maximum penalty—20 penalty units.

Power to deal with persons causing a public nuisance

50.(1) This section applies if a security officer—

- (a) finds a person contravening section 49; or
- (b) finds a person in circumstances that leads the security officer to suspect on reasonable grounds that the person has just contravened section 49; or
- (c) has information that leads the security officer to suspect on reasonable grounds that a person has just contravened section 49; or

Health Services Act 1991

- (d) reasonably believes, having regard to the way a person is behaving, that the person's presence may pose a threat to the safety of anyone else on or leaving the land; or
- (e) has information that leads the security officer to believe, on reasonable grounds, a person's presence may pose a threat to the safety of anyone else on or leaving the land; or
- (f) reasonably believes a person is on the land without lawful justification or excuse.

(2) The security officer may direct the person to leave health services land or a part of health services land.

(3) The person must comply with the direction unless the person has a reasonable excuse for not complying with it.

Maximum penalty—10 penalty units.

Prohibition of smoking

51.(1) A person must not smoke on health services land other than in a designated smoking area.

(2) If an authorised person or security officer finds a person smoking on health services land in contravention of subsection (1), the authorised person or security officer may direct the person—

- (a) to stop or refrain from smoking; or
- (b) to leave the land or, if the person wishes to smoke, to smoke only in a designated smoking area.

(3) The person must comply with the direction unless the person has a reasonable excuse for not complying with it.

Maximum penalty for subsection (3)—10 penalty units.

PART 6—ADMINISTRATION

Division 1—Officials

Appointment of officials

52.(1) The chief executive may appoint a person as an auditor or investigator.

(2) A person may be appointed as an auditor only if, in the opinion of the chief executive, the person has the necessary expertise or experience to be an auditor.

(3) A person may be appointed as an investigator only if, in the opinion of the chief executive, the person has the necessary expertise or experience to be an investigator.

Terms of appointment

53.(1) An official holds office on the conditions stated in the instrument of appointment.

(2) If the instrument provides for a term of appointment, the official ceases to hold office at the end of the term.

(3) An official may resign by signed notice given to the chief executive.

Functions of auditors

54. The functions of an auditor are to verify patient and statistical data reported under a funding arrangement.

Functions of investigators

55. The functions of an investigator are to investigate and report to the chief executive on any matters relating to the management, administration or delivery of public sector health services, including, for example, matters relating to clinical practices and standards of health care in the delivery of public sector health services.

Power of officials to ask for documents

56.(1) An official may, in the exercise of the official's functions, ask an officer or employee of the department to give to the official a document, including a document containing confidential information, that—

(a) is relevant to the official's functions stated in the official's instrument of appointment; and

(b) is in the possession or control of the officer or employee.

(2) The officer or employee must comply with the request.

(3) If requested by the officer or employee, the official must produce the official's instrument of appointment to the officer or employee.

(4) The official may make copies of, and take extracts from, the document.

(5) In this section—

“confidential information” means any information that—

(a) is about a person who is receiving or has received a public sector health service; and

(b) identifies, or is likely to identify, the person.

Duty of confidentiality of officials

57.(1) This section applies to a person who—

(a) is or has been an official; and

(b) in that capacity was given information.

(2) A person to whom this section applies must not disclose the information to anyone else.

Maximum penalty—50 penalty units.

(3) However, a person may disclose the information to someone else—

(a) to the extent necessary to perform the person's functions under or in relation to this Act; or

(b) if the disclosure is otherwise required or permitted by law.

Division 2—General**Ministerial advisory committees**

58.(1) The Minister may establish as many advisory committees as the Minister considers appropriate for the administration of the Act.

(2) An advisory committee has the functions the Minister decides.

(3) A member of an advisory committee is entitled to be paid the fees and allowances decided by the Governor in Council.

(4) However, a member may waive payment in whole or part.

Responsibility of chief executive

59. The chief executive, subject to the Minister, has the overall responsibility for the management, administration and delivery of public sector health services in the State.

PART 8—MISCELLANEOUS**Confidentiality**

63.(1) An officer, employee or agent of the department 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 receiving or has received 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

Health Services Act 1991

- 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; or
 - (f) to the giving of information to an official that is relevant to the performance of the official's functions stated in the official's instrument of appointment; or
 - (g) to the giving of information to the Commonwealth or a State, or an entity of the Commonwealth or a State, by the chief executive if the giving of the information—
 - (i) is determined by the chief executive to be in the public interest; and
 - (ii) is required to or may be given under an agreement that—
 - (A) is between Queensland and the Commonwealth, State or entity; and
 - (B) is prescribed under a regulation for this paragraph; or
 - (h) to the giving of information to another officer, employee or agent of the department if—
 - (i) the other officer, employee or agent is authorised in writing

- by the chief executive to receive the information; and
- (ii) the giving and receipt of the information is—
- (A) to give effect to or manage a funding arrangement; or
- (B) to give the information under paragraph (g).

(3) The Commonwealth, a State or entity that receives information under an agreement under subsection (2)(g)—

- (a) must not give it to anyone else; and
- (b) must ensure the information is used only for the purpose for which it was given under the agreement.

(4) A person who has been an officer, employee or agent of the department or a dissolved authority must not give to any other person, directly or indirectly, any information acquired by reason of being such an officer, employee or agent which, immediately before 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.

(5) This section does not apply to officials.

Obstructing execution of Act

64. 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.

Mater Misericordiae Public Hospitals

65.(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.

Effect of Act on private practice arrangements

66. 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

67. 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.

Regulations

68.(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 for patient accommodation, medical and nursing services, dental, diagnostic and therapeutic services, special medical examinations or reports;
 - (ii) fees for the charging of maintenance in relation to public

Health Services Act 1991

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 the State;
- (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 the chief executive 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 9—REPEALS, SAVINGS AND TRANSITIONAL PROVISIONS

Division 1—Repeals

Repeal of certain by-laws

69.(1) A by-law that was made under the repealed Act and is in force immediately before the commencement of this section is repealed on the commencement.

(2) In this section—

“**repealed Act**” means the *Hospitals Act 1936*.

Division 2—Savings and transitional provisions for regional health authorities

Definition for pt 9, div 2

70. In this division—

“**authority**” means a regional health authority in existence immediately before the commencement of this section.

Authorities dissolved

71. The authorities are dissolved on the commencement of this section.

Assets and liabilities

72.(1) On the dissolution of the authorities—

- (a) the assets and liabilities of the authorities become assets and liabilities of the State; and
- (b) any contracts and agreements entered into by or on behalf of an authority and all guarantees, undertakings and securities given by or on behalf of or to the authority, in force immediately before the

dissolution are taken to have been entered into or, as the case may be, given by or to the State and may be enforced against or by the State, accordingly.

(2) Any property that, immediately before the dissolution was held in trust by an authority, vests in the State on the same trusts to which the property was subject immediately before the vesting.

Proceedings

73.(1) A proceeding by or against an authority that is not finished before the commencement of this section may be continued or discontinued by or against the State.

(2) In addition a proceeding that could have been started by or against an authority before the commencement may be started, continued and finished by or against the State after the commencement.

Non-contract employees

74.(1) This section applies to a person who, immediately before the commencement of this section, was an employee of an authority (other than an employee under an individual contract of employment).

(2) If, immediately before the commencement, the person was employed on conditions that most closely relate to—

- (a) a tenured health service employee—the person becomes a tenured health service employee on the commencement; or
- (b) a temporary health service employee—the person becomes a temporary health service employee on the commencement; or
- (c) a casual health service employee—the person becomes a casual health service employee on the commencement.

(3) If there is doubt about whether the person becomes a tenured, temporary or casual health service employee and the person asks the chief executive to make a declaration under this subsection, the chief executive may declare that the person is a tenured, temporary or casual health service employee.

Contract employees

75.(1) This section applies to a person who, immediately before the commencement of this section, was employed by an authority under an individual contract of employment.

(2) On the commencement—

- (a) the person becomes a contracted health service employee; and
- (b) the contract of employment is taken to have been made under this Act between the person and the chief executive.

(3) The contract is to be read with the changes necessary to make it consistent with, and adapt its operation to, this Act.

(4) Without limiting subsection (3), the contract is to be read as if a reference to the authority is a reference to the chief executive.

Employees' rights and entitlements

76.(1) This section applies to a person who—

- (a) immediately before the commencement of this section, was an employee of an authority; and
- (b) on the commencement becomes a health service employee.

(2) On the commencement, the person's employment is on the same conditions on which the person was employed by the authority.

(3) In addition, the person—

- (a) retains all rights accrued or accruing to the person as an employee of the authority; and
- (b) is entitled to receive long service, recreation and sick leave and any similar entitlements accrued or accruing to the person as an employee of the authority.

(4) The person's period of employment with the authority is taken to be an equivalent period of employment with the department for any law about the rights or entitlements.

(5) In addition, the person—

- (a) retains all entitlements accrued or accruing to the person as a

contributor to a fund or as a member of a superannuation scheme under a superannuation Act; and

- (b) is taken to continue to be a contributor or member under the superannuation Act.

(6) In this section—

“superannuation Act” means the *Public Service Superannuation Act 1958*, *State Service Superannuation Act 1972*, *Superannuation (Government and Other Employees) Act 1988* or *Superannuation (State Public Sector) Act 1990*.

Directions by the chief executive

77.(1) A direction given by the chief executive under repealed section 58³ and in force immediately before the commencement of this section is taken to be a determination made by the chief executive under section 28(2).

(2) The direction is to be read with the changes necessary to make it consistent with, and adapt its operation to, this Act.

(3) Without limiting subsection (2), the direction is to be read as if a reference to an authority or a prescribed authority is a reference to the chief executive.

(4) In this section—

“repealed section 58” means section 58 as in force immediately before the commencement of this section.

Disciplinary action

78.(1) If disciplinary action against an employee of an authority had been started by the authority, but not finished, before the commencement of this section, the action may be continued or discontinued by the chief executive as if this section had not commenced.

(2) If, immediately before the commencement, an authority could have started disciplinary action against an employee of the authority, the chief executive can start the action.

³ Section 58 (Officers of authorities) om 1996 No. 61 s 8

Entries in registers

79.(1) The registrar of titles and all persons who keep registers of dealings in property must, if asked by the chief executive, make in the registers all entries necessary to record the vesting of property in the State under this part.

(2) A request under this section is not liable to fees or stamp duty.

ENDNOTES**1 Index to endnotes**

	Page
2 Date to which amendments incorporated	42
3 Key	43
4 Table of earlier reprints	43
5 Tables in earlier reprints	44
6 List of legislation	44
7 List of annotations	45
8 Tables of renumbered provisions	54

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 10 February 1999. 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	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	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
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
orig	=	original	SIA	=	Statutory Instruments Act 1992
p	=	page	SL	=	subordinate legislation
para	=	paragraph	sub	=	substituted
prec	=	preceding	unnum	=	unnumbered
pres	=	present			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 70 of 1993	29 April 1994
2	to Act No. 58 of 1995	13 December 1995
2A	to Act No. 61 of 1996	12 February 1997
3	to Act No. 61 of 1996	31 July 1997

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Corrected minor errors	1
Obsolete and redundant provisions	1
Renumbered provisions	1, 2, 3

6 List of legislation

Health Services Act 1991 No. 24

date of assent 5 June 1991

ss 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

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch

date of assent 20 November 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 June 1997 (1997 SL No. 128)

Health Legislation Amendment Act (No. 2) 1996 No. 61 ss 1–2 pt 2 s 15 sch

date of assent 9 December 1996

ss 1–2 commenced on date of assent

s 8 (to the extent that it inserts new pt 3), s 10 (to the extent that it inserts new pt 6 div 1) commenced 1 July 1997 (1997 SL No. 175)

remaining provisions commenced 20 December 1996 (1996 SL No. 402)

Health and Other Legislation Amendment Act 1998 No. 41 ss 1, 2(2), 14(2) sch 2

date of assent 27 November 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 21 December 1998 (1998 SL No. 346)

7 List of annotations**Title**

amd 1996 No. 61 s 15 sch

Commencement

s 1.2 om R2 (see RA s 37)

Repeals

s 1.3 om R1 (see RA s 40)

Dissolution of Boards

s 1.4 om 1995 No. 57 s 4 sch 1

Definitions

prov hdg sub 1995 No. 57 s 4 sch 1

s 2 amd R1 (see RA s 39); 1995 No. 57 s 4 sch 1

def “**applied law**” ins 1996 No. 61 s 4(3)def “**appoint**” ins 1996 No. 61 s 4(3)def “**appointed day**” sub 1995 No. 58 s 4 sch 2def “**Area of Local Authority**” om 1993 No. 70 s 804 schdef “**auditor**” ins 1996 No. 61 s 4(3)def “**authorised officer**” om 1996 No. 61 s 4(1)def “**authorised person**” ins 1996 No. 61 s 4(3)def “**authority**” om 1996 No. 61 s 4(1)def “**award**” ins 1996 No. 61 s 4(3)def “**case mix funding arrangement**” ins 1996 No. 61 s 4(3)def “**casual health service employee**” ins 1996 No. 61 s 4(3)

- def “**chairperson**” ins 1996 No. 61 s 4(3)
- def “**chief executive**” sub 1991 No. 97 s 3 sch 2
om 1995 No. 29 s 4(1)
- def “**contracted health service employee**” ins 1996 No. 61 s 4(3)
- def “**council**” ins 1996 No. 61 s 4(3)
- def “**designated smoking area**” ins 1996 No. 61 s 4(3)
- def “**directive**” ins 1996 No. 61 s 4(3)
- def “**dissolved authority**” ins 1996 No. 61 s 4(3)
- def “**district**” ins 1996 No. 61 s 4(3)
- def “**funding arrangement**” ins 1996 No. 61 s 4(3)
- def “**health service**” sub 1996 No. 61 s 4(1), (3)
- def “**health service employee**” ins 1996 No. 61 s 4(3)
- def “**health services agreement**” ins 1996 No. 61 s 4(3)
- def “**health services land**” ins 1996 No. 61 s 4(3)
- def “**higher classification level**” ins 1996 No. 61 s 4(3)
- def “**industrial agreement**” ins 1996 No. 61 s 4(3)
- def “**inspector**” om 1996 No. 61 s 4(1)
- def “**investigator**” ins 1996 No. 61 s 4(3)
- def “**lower classification level**” ins 1996 No. 61 s 4(3)
- def “**manager**” ins 1996 No. 61 s 4(3)
- def “**medical practitioner**” om 1995 No. 29 s 4(1)
- def “**Medicare Agreement**” ins 1996 No. 61 s 4(3)
- def “**member**” ins 1996 No. 61 s 4(3)
- def “**Minister**” om 1991 No. 97 s 3 sch 2
- def “**official**” ins 1996 No. 61 s 4(3)
- def “**official traffic sign**” ins 1996 No. 61 s 4(3)
- def “**owner**” ins 1996 No. 61 s 4(3)
- def “**private sector health service**” om 1996 No. 61 s 4(1)
- def “**professional association**” om 1996 No. 61 s 4(1)
- def “**promote**” ins 1996 No. 61 s 4(3)
- def “**public sector**” om 1996 No. 61 s 4(1)
- def “**public sector health service**” sub 1995 No. 57 s 4 sch 1
amd 1996 No. 61 s 4(2)
- def “**public sector hospital**” amd 1995 No. 29 s 4(2)
sub 1996 No. 61 s 4(1), (3)
- def “**public service officer**” ins 1996 No. 61 s 4(3)
- def “**redeploy**” ins 1996 No. 61 s 4(3)
- def “**region**” om 1996 No. 61 s 4(1)
- def “**regional director**” om 1996 No. 61 s 4(1)
- def “**regulatory notice**” ins 1996 No. 61 s 4(3)
- def “**security officer**” ins 1996 No. 61 s 4(3)
- def “**temporarily**” ins 1996 No. 61 s 4(3)
- def “**temporary health service employee**” ins 1996 No. 61 s 4(3)
- def “**tenured health service employee**” ins 1996 No. 61 s 4(3)
- def “**vehicle**” ins 1996 No. 61 s 4(3)

Administration of Act

s 1.7 om 1995 No. 57 s 4 sch 1

Meaning of “health service”

s 3 ins 1996 No. 61 s 5

Objects of Act

s 4 sub 1996 No. 61 s 6

Act binds Crown

s 5 ins 1996 No. 61 s 6

PART 2—HEALTH SERVICE DISTRICTS AND DISTRICT HEALTH COUNCILS

pt hdg ins 1996 No. 61 s 6

Division 1—Declaration of districts and establishment of councils

div hdg prev div 1 hdg om 1996 No. 61 s 7

pres div 1 hdg ins 1996 No. 61 s 6

Health service districts

s 6 prev s 6 om 1996 No. 61 s 7

pres s 6 ins 1996 No. 61 s 6

District health councils

s 7 ins 1996 No. 61 s 6

Division 2—Functions and membership of councils

div 2 (ss 8–15) ins 1996 No. 61 s 6

Division 3—Business and meetings of councils

div hdg ins 1996 No. 61 s 6

Conduct of business

s 16 ins 1996 No. 61 s 6

Times and places of meetings

s 17 ins 1996 No. 61 s 6

Quorum and voting at meetings

s 18 ins 1996 No. 61 s 6

Attendance by manager

s 19 ins 1996 No. 61 s 6

Minutes

s 20 ins 1996 No. 61 s 6

Disclosure of interests

s 21 ins 1996 No. 61 s 6

Division 4—Miscellaneous

div 4 (ss 22–23) ins 1996 No. 61 s 6

PART 3—HEALTH SERVICE EMPLOYEES

pt hdg ins 1996 No. 61 s 6

Appointment of health service employees

s 24 prev s 24 om 1996 No. 37 s 147 sch 2

pres s 24 ins 1996 No. 61 s 6

Health service employees not public service employees

s 25 prev s 25 amd 1995 No. 57 s 4 sch 1
om 1996 No. 61 s 7
pres s 25 ins 1996 No. 61 s 6

Basis of employment

s 26 prev s 26 om 1996 No. 61 s 7
pres s 26 ins 1996 No. 61 s 6

Directives issued by Governor in Council

s 27 prev s 27 om 1996 No. 61 s 7
pres s 27 ins 1996 No. 61 s 6

Conditions of employment

s 28 prev s 28 om 1996 No. 61 s 7
pres s 28 ins 1996 No. 61 s 6

Division 4—Regional directors

div hdg prev pt 3 div 4 hdg om 1996 No. 61 s 8

Identification of regions

s 3.2 om 1995 No. 57 s 4 sch 1

Indemnity

s 3.35 om 1995 No. 29 s 14

PART 4—TEACHING HOSPITALS AND QUALITY ASSURANCE

pt hdg sub 1996 No. 61 s 15 sch

Approval of hospitals for training of medical and other students

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

Approved quality assurance committees

s 31 amd 1995 No. 29 s 6; 1995 No. 57 s 4 sch 1; 1996 No. 61 s 15 sch

Disclosure etc. of information

s 33 amd 1996 No. 61 s 15 sch

Personal liability of members etc.

s 36 amd 1996 No. 61 s 15 sch

**PART 5—CONTROL OF TRAFFIC AND CONDUCT ON HEALTH SERVICES
LAND**

pt hdg sub 1996 No. 61 s 8

Division 1—Authorised persons and security officers

div hdg sub 1996 No. 61 s 8

Appointment of authorised persons and security officers

s 39 amd 1995 No. 29 s 7
sub 1996 No. 61 s 8

Terms of appointment

s 40 amd 1995 No. 29 s 8
sub 1996 No. 61 s 8

Identity cards

- s 41** amd 1995 No. 29 s 9
 sub 1996 No. 61 s 8

Proof of authority

- prov hdg** amd 1995 No. 29 s 10
s 42 amd 1995 No. 29 s 10
 sub 1996 No. 61 s 8

Division 2—Traffic control

- div hdg** sub 1996 No. 61 s 8

Authorised persons to control traffic on health services land

- s 43** amd 1991 No. 97 s 3 sch 2; 1995 No. 29 s 11
 sub 1996 No. 61 s 8

Regulatory notice

- s 44** prev s 44 om 1996 No. 61 s 8
 pres s 44 sub 1996 No. 61 s 8

Information notices

- s 45** prev s 45 om 1996 No. 61 s 8
 pres s 45 sub 1996 No. 61 s 8

Removal and detention of illegally parked or abandoned vehicles

- s 46** prev s 46 om 1996 No. 61 s 8
 pres s 46 sub 1996 No. 61 s 8

Disposal of unclaimed vehicles

- s 47** prev s 47 om 1996 No. 61 s 8
 pres s 47 sub 1996 No. 61 s 8

Application of proceeds of sale

- s 48** prev s 48 om 1996 No. 61 s 8
 pres s 48 sub 1996 No. 61 s 8

Division 3—Conduct on health services land

- div hdg** sub 1996 No. 61 s 8

Conduct causing a public nuisance

- s 49** prev s 49 om 1996 No. 61 s 8
 pres s 49 sub 1996 No. 61 s 8

Power to deal with persons causing a public nuisance

- s 50** prev s 50 sub 1996 No. 54 s 9 sch
 om 1996 No. 61 s 8
 pres s 50 sub 1996 No. 61 s 8

Prohibition of smoking

- s 51** prev s 51 amd 1995 No. 57 s 4 sch 1
 om 1996 No. 61 s 8
 pres s 51 sub 1996 No. 61 s 8

Tabling of by-laws and orders in council

- s 5.11** om 1995 No. 29 s 17

PART 6—ADMINISTRATION

pt hdg prev pt 6 hdg om 1996 No. 61 s 15 sch
pres pt 6 hdg sub 1996 No. 61 s 8

Division 1—Officials

div hdg ins 1996 No. 61 s 8

Appointment of officials

s 52 orig s 52 sub 1995 No. 57 s 4 sch 1
om 1996 No. 61 s 8
prev s 52 amd 1995 No. 29 s 12; 1995 No. 57 s 4 sch 1
pres s 52 sub 1996 No. 61 s 8

Terms of appointment

s 53 orig s 53 sub 1996 No. 37 s 147 sch 2
om 1996 No. 61 s 8
prev s 53 amd 1995 No. 57 s 4 sch 1
pres s 53 sub 1996 No. 61 s 8

Functions of auditors

s 54 prev s 54 om 1996 No. 61 s 8
prev s 54 sub 1996 No. 61 s 8

Functions of investigators

s 55 prev s 55 amd 1995 No. 57 s 4 sch 1
om 1996 No. 61 s 8
pres s 55 sub 1996 No. 61 s 8

Power of officials to ask for documents

s 56 prev s 56 om 1996 No. 61 s 8
pres s 56 sub 1996 No. 61 s 8

Duty of confidentiality of officials

s 57 prev s 57 om 1996 No. 61 s 8
pres s 57 sub 1996 No. 61 s 8

Division 2—General

div hdg ins 1996 No. 61 s 8

Ministerial advisory committees

s 58 prev s 58 amd 1995 No. 29 s 15; 1995 No. 58 s 4 sch 2; 1996 No. 37 s 147
sch 2
om 1996 No. 61 s 8
pres s 58 sub 1996 No. 61 s 8

Responsibility of chief executive

s 59 orig s 59 om 1996 No. 61 s 8
prev s 59 amd 1995 No. 29 s 13; 1995 No. 57 s 4 sch 1; 1996 No. 37 s 147
sch 2
pres s 59 sub 1996 No. 61 s 8

Savings

s 6.4 om 1995 No. 58 s 4 sch 2

PART 7—PROVISION OF FACILITIES FOR FOOD AND OTHER SERVICES

pt hdg prev pt 7 hdg om 1996 No. 61 s 15 sch
 pres pt 7 hdg ins 1996 No. 61 s 8
 om 1998 No. 41 s 14(2) sch 2

Interpretation

s 60 orig s 60 om 1996 No. 37 s 147 sch 2
 prev s 60 om 1996 No. 61 s 8
 pres s 60 (orig s 71 renum as s 41) renum 1996 No. 61 s 15 sch
 om 1998 No. 41 s 14(2) sch 2

Authority of Minister to enter into contracts

s 61 orig s 61 amd 1995 No. 57 s 4 sch 1
 om 1996 No. 61 s 8
 prev s 61 om 1996 No. 61 s 8
 pres s 61 (orig s 72 renum as s 42) amd 1995 No. 29 s 18
 renum 1996 No. 61 s 15 sch
 om 1998 No. 41 s 14(2) sch 2

Effect of contracts by Minister

s 62 prev s 62 amd 1996 No. 54 s 9 sch
 om 1996 No. 61 s 8
 pres s 62 (orig s 73 renum as s 43) renum 1996 No. 61 s 15 sch
 om 1998 No. 41 s 14(2) sch 2

Amendment of Acts

s 7.3 om R1 (see RA s 40)

PART 8—MISCELLANEOUS

pt hdg prev pt 8 hdg om 1996 No. 61 s 10
 pres pt 8 hdg sub 1996 No. 61 s 15 sch

Confidentiality

s 63 amd 1996 No. 61 s 9

Obstructing execution of Act

s 64 prev s 64 om 1996 No. 61 s 15 sch
 pres s 64 amd 1996 No. 61 s 15 sch

Proceedings for offences

s 65 prev s 65 om 1996 No. 61 s 15 sch

Appropriation of penalties etc.

s 66 prev s 66 om 1996 No. 61 s 15 sch

Evidentiary provisions

s 67 prev s 67 om 1996 No. 61 s 15 sch

Regulations

s 68 orig s 68 om 1996 No. 61 s 15 sch
 prev s 68 ((prev) s 77) (orig s 5.9 reloc as s 7.5 1995 No. 57 s 4 sch 1)
 amd R1 (see RA s 39); 1995 No. 57 s 4 sch 1; 1996 No. 61 s 15 sch

Division 1—Effect of dissolution of Hospitals Board

div hdg prev pt 8 div 1 hdg om 1995 No. 57 s 4 sch 1

Interpretation

s 8.1 om 1995 No. 57 s 4 sch 1

Employment of officers of Boards etc.

s 8.3 om 1995 No. 57 s 4 sch 1

Division 2—Transfer of certain health services etc. to Authorities

div hdg prev pt 8 div 2 hdg om 1995 No. 57 s 4 sch 1

Certain health services transferred to Authorities

s 8.5 om 1995 No. 57 s 4 sch 1

Occupation of premises and assignment of assets of certain health services

s 8.6 om 1995 No. 57 s 4 sch 1

Transfer and employment of certain officers of the public service

s 8.7 om 1995 No. 57 s 4 sch 1

Transfer and employment of Crown employees of Department

s 8.8 om 1995 No. 57 s 4 sch 1

Leave entitlements of officers of public service and Crown employees

s 8.9 om 1995 No. 57 s 4 sch 1

Superannuation entitlements of officers of public service and Crown employees

s 8.10 om 1995 No. 57 s 4 sch 1

Continuation of appeal rights

s 8.11 om 1995 No. 57 s 4 sch 1

Division 3—General

div hdg prev pt 8 div 3 hdg om 1995 No. 57 s 4 sch 1

Continuance of existing regulations

s 8.12 om 1995 No. 57 s 4 sch 1

Regulations may supply deficiency

s 8.13 om 1995 No. 57 s 4 sch 1

Numbering and renumbering of Act

s 8.14 ins 1994 No. 87 s 3 sch 2
om R2 (see RA s 37)

PART 9—REPEALS, SAVINGS AND TRANSITIONAL PROVISIONS

prev pt 9 (ss 9.1–9.10) om R1 (see RA s 40)
pres pt 9 hdg ins 1996 No. 61 s 10

Division 1—Repeals

div hdg ins 1996 No. 61 s 10

Repeal of certain by-laws

prov hdg amd 1995 No. 57 s 4 sch 1
s 69 prev s 69 amd 1995 No. 57 s 4 sch 1
om 1996 No. 61 s 10
pres s 69 ins 1996 No. 61 s 10

Division 2—Savings and transitional provisions for regional health authorities**div hdg** ins 1996 No. 61 s 10**Definition for pt 9, div 2****s 70** prev s 70 amd R1 (see RA s 39); 1995 No. 29 s 16; 1995 No. 57 s 4 sch 1
om 1996 No. 61 s 15 sch
pres s 70 ins 1996 No. 69 s 10**Authorities dissolved****s 71** ins 1996 No. 61 s 10**Assets and liabilities****s 72** ins 1996 No. 61 s 10**Proceedings****s 73** ins 1996 No. 61 s 10**Non-contract employees****s 74** ins 1996 No. 61 s 10**Contract employees****s 75** ins 1996 No. 61 s 10**Employees' rights and entitlements****s 76** prev s 76 sub 1995 No. 57 s 4 sch 1
om 1996 No. 61 s 15 sch
pres s 76 ins 1996 No. 61 s 10**Directions by the chief executive****s 77** ins 1996 No. 61 s 10**Disciplinary action****s 78** prev s 78 sub 1995 No. 57 s 4 sch 1; 1996 No. 61 s 10
om R3 (see RA s 37)
pres s 78 ins 1996 No. 61 s 10**Entries in registers****s 79** ins 1996 No. 61 s 10**PART 10—AMENDMENT OF THE INEBRIATES INSTITUTIONS ACT
1896–1974****pt 10 (ss 10.1–10.2)** om R1 (see RA s 40)**PART 11—AMENDMENT OF QUEENSLAND INSTITUTE OF MEDICAL
RESEARCH ACT 1945–1988****pt 11 (ss 11.1–11.4)** om R1 (see RA s 40)**SCHEDULE 1—REPEALED PROVISIONS**

om R1 (see RA s 40)

SCHEDULE—DISSOLUTION, AMALGAMATION AND CHANGE OF NAMES OF AUTHORITIES**sch hdg** om 1996 No. 61 s 15 sch**Dissolution of authority****s 1** prev s 1 om 1995 No. 29 s 19(1)
pres s 1 (prev s 2) amd 1995 No. 29 s 19(2)
om 1996 No. 61 s 15 sch**Consequences of amalgamation of authorities****s 2** amd 1995 No. 29 s 19(2)
om 1996 No. 61 s 15 sch**Change of name of authority****s 3** amd 1995 No. 29 s 19(2)
om 1996 No. 61 s 15 sch**Regulations****s 4** amd 1995 No. 29 s 19(3)
om 1996 No. 61 s 15 sch**SCHEDULE 3**

om R1 (see RA s 40)

8 Tables of renumbered provisionsTABLE OF RENUMBERED PROVISIONS (Reprint No. 3)
under the Reprints Act 1992 s 43 as required by the Health Services Act 1991 s 78

Previous	Renumbered as
2A	3
3	4
3A	5
pt 1A hdg	pt 2 hdg
4	6
4A	7
4B	8
4C	9
4D	10
4E	11
4F	12
4G	13
4H	14
4I	15
4J	16
4K	17
4L	18
4M	19

4N	20
4O	21
4P	22
4Q	23
pt 1B hdg	pt 3 hdg
5	24
6	25
7	26
8	27
9	28
pt 2 hdg	pt 4 hdg
div 2 hdg	div 1 hdg
10	29
div 3 hdg	div 2 hdg
11	30
12	31
13	32
14	33
15	34
16	35
17	36
18	37
19	38
pt 3 hdg	pt 5 hdg
20	39
21	40
22	41
23	42
24	43
25	44
26	45
27	46
28	47
29	48
30	49
31	50
32	51
pt 4 hdg	pt 6 hdg
33	52
34	53
35	54
36	55
37	56
38	57
39	58
40	59

Health Services Act 1991

pt 4A hdg	pt 7 hdg
41	60
42	61
43	62
pt 5 hdg	pt 8 hdg
62	63
62(2A)	63(3)
62(3)	63(4)
62(4)	63(5)
63	64
69	65
74	66
75	67
77	68
77(2)(c)(iii)	68(2)(c)(ii)
pt 6 hdg	pt 9 hdg
79	69
80	70
81	71
82	72
83	73
84	74
85	75
86	76
87	77
88	78
89	79

TABLE OF RENUMBERED PROVISIONS (Reprint No. 2)
under the Reprints Act 1992 s 43 as required by the Health Services Act 1991 No. 24
s 8.14

Previous	Renumbered as
1.1	1
1.5	2
1.6	3
2.1	4
2.2	5
2.3	6
2.4	7
2.5	8
2.6	9
2.7	10
2.7(1A)	10(2)

2.7(2)	10(3)
2.7(3)	10(4)
2.7(4)	10(5)
2.8	11
2.9	12
2.10	13
2.11	14
2.12	15
2.13	16
2.14	17
2.15	18
2.16	19
3.1	20
3.3	21
3.4	22
3.5	23
3.6	24
3.7	25
3.8	26
3.9	27
3.10	28
3.11	29
3.11(2A)	29(3)
3.11(3)	29(4)
3.12	30
3.13	31
3.14	32
3.15	33
3.16(2)	34(1)
3.16(3)	34(2)
3.16(4)	34(3)
3.16(5)	34(4)
3.16(6)	34(5)
3.16(7)	34(6)
3.17	35
3.18	36
3.19	37
3.20	38
3.21	39
3.22	40
3.23	41
3.24	42
3.25	43
3.26	44
3.27	45
3.28	46

3.29	47
3.30	48
3.31	49
3.32	50
3.33	51
3.34	52
3.36	53
3.37	54
3.38	55
3.39	56
3.40	57
4.1	58
4.2	59
4.3	60
4.4	61
5.1	62
5.2	63
5.3	64
5.4	65
5.5	66
5.6	67
5.7	68
5.8	69
5.10	70
5.10(3)	70(2)
5.10(5)	70(3)
5.10(6)	70(4)
6.1	71
6.2	72
6.3	73
7.1	74
7.2	75
7.4	76
7.5	77
7.5(2)(c)	77(2)(b)
7.5(2)(d)	77(2)(c)
7.5(2)(e)	77(2)(d)
7.5(2)(f)	77(2)(e)
7.5(2)(g)	77(2)(f)
7.5(2)(h)	77(2)(g)
7.5(2)(i)	77(2)(h)
7.5(7)	77(3)
8.2	78
8.4	79

Schedule 2	Schedule
2	1
3	2
4	3
5	4