

HEALTH SERVICES ACT 1991

No. 24 of 1991

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Queensland



ANNO QUADRAGESIMO

ELIZABETHAE SECUNDAE REGINAE

No. 24 of 1991

**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**

[ASSENTED TO 5TH JUNE, 1991]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART 1—PRELIMINARY

1.1 Short title. This Act may be cited as the *Health Services Act 1991*.

1.2 Commencement. (1) Section 1.1 and this section commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) The remaining provisions, or such of them as are specified, commence on a day or days appointed by Proclamation.

1.3 Repeals. (1) The Acts set forth in Schedule 1 are repealed to the extent specified in that Schedule.

(2) The Acts repealed pursuant to subsection (1) are referred to in this Act as “the repealed Acts”.

1.4 Dissolution of Boards. (1) On the day this section commences—

(a) every Hospitals Board constituted for a district under the *Hospitals Act 1936*; and

(b) every Hospitals Administrator appointed as a corporation sole for a district under that Act; and

(c) The Queensland Radium Institute constituted under the *Health Act 1937*;

is immediately dissolved and—

(d) all of the members of those Boards; and

(e) all persons appointed as such administrators; and

(f) all of the members of that Institute;

will immediately go out of office.

(2) The Boards, the Administrators and the Institute dissolved under subsection (1) are referred to in this Act as “the dissolved Boards” and any one of those Boards or Administrators or the Institute is referred to as “a dissolved Board”.

(3) The savings and transitional provisions of Part 8 apply to the dissolved Boards according to their tenor.

1.5 Interpretation. (1) In this Act unless a contrary intention appears—

“appointed day” means the day on which section 1.4 commences;

“Area of Local Authority” means an Area within the meaning of that term in the *Local Government Act 1936-1990* and includes the Area of the City of Brisbane under the *City of Brisbane Act 1924-1989*;

- “Authority” means a Regional Health Authority established for a region under Part 3;
- “authorised officer” means an officer authorised in writing by the Minister under section 2.5;
- “chief executive” means the chief executive of the Department of Health pursuant to the *Public Service Management and Employment Act 1988-1989*;
- “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 well-being, or the restoration to health and well-being, of persons or the prevention of disease in or injury to persons: the term 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 2.4;
- “medical practitioner” means a medical practitioner or a specialist within the respective meanings of those terms in section 4 of the *Medical Act 1939-1988*;
- “Minister” includes a Minister of the Crown for the time being performing the duties of the Minister;
- “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, subject to subsection (3), a health service operated or controlled by an organisation, body or person from the public sector;
- “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 by Order in Council to be a public sector hospital for the purposes of this Act;

“region” means a health service region constituted under section 3.1;

“regional director” means a regional director appointed under Part 3;

“teaching hospital” means a hospital approved as a teaching hospital under section 2.7.

(2) In this Act, unless the contrary intention appears, where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

(3) The Minister may by notification published in the Gazette prescribe that any body, organisation or service specified therein is or is not a public sector health service under subsection (1) and that notification has effect according to its tenor.

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

- (a) that the health and well-being 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) statewide policy, planning and resource allocation;
 - (iv) emphasis on community needs, and community participation in the planning and delivery of health services.

1.7 Administration of Act. This Act is to be administered by the Minister, and subject to the Minister, by the chief executive.

PART 2—FUNCTIONS AND POWERS OF CENTRAL GOVERNMENT

Division 1—Functions and Powers of the Chief Executive

2.1 Functions of the chief executive. 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, co-ordinated 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 co-operate with individuals and organisations (including voluntary and private health services, public authorities and local authorities) 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.

2.2 Power of delegation. The chief executive has the power of delegation conferred by section 13 of the *Public Service Management and Employment Act 1988*, or that enactment as amended.

2.3 Annual report of chief executive. (1) The chief executive is to report each financial year, other than the first financial year of operation of this Act, 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 paragraph (b) of section 3.33.

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

2.5 Powers of inspectors etc. (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 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.

2.6 Duties of persons under Act. (1) A person must comply with a request directed to that person pursuant to section 2.5 (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 2.5 (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

2.7 Approval of hospitals for training of medical and other students.

(1) The Minister from time to time by notification published in the Gazette 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.

Prior to making such order—

- (d) 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
- (e) 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.

(2) 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 one academic unit in a major health discipline, a significant body of recognised research and a major role in postgraduate education and training.

(3) The Minister may from time to time by notification published in the Gazette 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 (4).

(4) 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 connexion 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

2.8 Definitions. In this Division—

“committee” means a committee declared to be an approved quality assurance committee under section 2.9.

2.9 Approved quality assurance committees. (1) The Minister may, by notification published in the Gazette, declare that a specified committee is an approved quality assurance committee for the purposes of this Division and by like order, may revoke the declaration.

(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 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.

2.10 Restrictions on committees. (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.

2.11 Disclosure etc. of information. 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 subsection 2.9 (2); or
 - (ii) the making available of information to the public.

Penalty: 50 penalty units.

2.12 Information not to be given in evidence. (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) 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.

2.13 Findings of committee not evidence of certain matters. 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.

2.14 Personal liability of members etc. (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 2.9 (2) in respect of any costs incurred in defending proceedings in respect of a liability against which they are protected by this section.

2.15 Further responsibilities of committees. (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.
- (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.

2.16 Effect of provisions of Division. 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

3.1 Health service regions. The Governor in Council may from time to time by Order in Council, on the recommendation of the Minister—

- (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.

3.2 Identification of regions. (1) Regions may be identified by such means as the Governor in Council, on the recommendation of the Minister, considers appropriate including a reference to any Area of Local Authority.

(2) Where, under the *Local Government Act 1936-1990*, a boundary of a Local Authority Area is varied, any region identified by reference to that Area is, by virtue of that variation, taken to be varied accordingly.

3.3 Establishment of Regional Health Authorities. (1) The Governor in Council may from time to time by Order in Council, on the recommendation of the Minister, 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 Order in Council by which it is established.

(3) An Authority is subject to the provisions of the *Financial Administration and Audit Act 1977-1990*.

3.4 Dissolution, amalgamation and change of name of Authorities. The Governor in Council may by Order in Council, on the recommendation of the Minister—

- (a) dissolve an Authority;
- (b) amalgamate two or more Authorities; or
- (c) change the name of an Authority.

3.5 Consequential and transitional provisions on the making of orders. (1) Schedule 2 has effect with respect to an Order in Council under section 3.4.

(2) An Order in Council under this Part may contain other provisions, not inconsistent with the provisions of Schedule 2, of a savings or transitional nature consequent on the making of the Order.

3.6 Provisions relating to constitution of Authorities. (1) An Authority—

- (a) has perpetual succession;
- (b) shall have an official 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, by Order in Council, 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.

3.7 Authorities subject to control and direction of Minister. 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.

3.8 Committees. (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 two 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.

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.

3.9 Remuneration etc. of Authority members. Members of an Authority are to receive such remuneration and allowances as are from time to time approved by the Governor in Council.

3.10 Membership of Authorities. (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:—

- (a) the regional director for the region concerned, who is ex officio a member of the Authority;
- (b) persons (not being less than five nor more than seven) 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 2.7 (3), 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 three 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.

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

3.11 Term of appointment of members of Authority. (1) The first members of an Authority other than the ex officio member are to be divided into two groups as near to equal as practicable and the members to be included in each of the two groups are to be determined by the Minister.

(2) The members comprised in such one of the two 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 two years from the date of their appointment and will, if otherwise qualified, be eligible for reappointment.

Subsequent appointments of the members appointed to that group after the expiry of the initial term of two years will, subject to this Act,

hold office as members for a term of four years from the date of their appointment and will, if otherwise qualified, be eligible for reappointment.

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

3.12 Casual appointment to Authorities. (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.

3.13 Disqualification from membership of Authorities. 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.

3.14 Vacation of office of members of Authorities. 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 3.13;
- (d) is absent from three 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 six 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.

3.15 Removal of members, appointment of administrator, etc. (1)

The Governor in Council may, on the recommendation of the Minister, by notification published in the Gazette—

- (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 order for such period as may be specified in the order; 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 order.

(2) An administrator of an Authority shall have and may exercise, subject to any conditions that may be specified in the notification 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.

3.16 Proceedings of Authority. (1) No proceedings of an Authority are to be invalidated by reason of any defect in the appointment of any person to membership of the Authority or by reason of there being a vacancy in the membership of the Authority, subject to there being a quorum prescribed for meetings of the Authority.

(2) The Authority is to meet as often as is necessary for the due administration of this Act.

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

(4) 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.

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

(6) Meetings of an Authority are to be open to the public, except for meetings of a committee of the Authority.

(7) 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.

3.17 Procedure may be prescribed. The power to make by-laws contained in section 5.10, is to be taken to include power to prescribe any other necessary procedures for meetings of the Authority concerned.

Division 2—Functions

3.18 Functions of Authorities. (1) It is the function of an Authority to promote the health and well-being 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 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 co-operate with individuals and organisations (including voluntary or private health services, public authorities and local authorities) 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

3.19 Powers of Authorities. Subject to this Act, an Authority has power to do all things reasonable and necessary in connexion with, or as incidental to, the performance of its functions under this Act.

3.20 Opening and closing of health services. (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 3.7 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.

3.21 Minister may determine role etc. of health service. 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 3.7.

3.22 Transfer of health service etc. to Authorities. (1) The Governor in Council may from time to time by Order in Council, on the recommendation of the Minister, transfer to an Authority all or any of the following:—

- (a) any health service under the control of the Department of Health;
- (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 1988-1990* 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, from time to time, by Order in Council, on the recommendation of the Minister, transfer to the control of the Department of Health 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 1988-1990* and the *Public Sector Management Commission Act 1990*, any of the officers and employees of any such health service.

(3) An Order 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 order.

(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.

3.23 Disclosure of interests at meetings. (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.

3.24 Power in relation to property. (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.

3.25 Power to accept gifts etc. (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 lastmentioned person shall not be obliged or concerned to see to the application thereof.

3.26 Power to provide grants etc. An Authority may—

- (a) provide grants to; or
- (b) subsidize 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.

3.27 Contractual power of Authority. (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.

3.28 Health service agreements. (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.

3.29 Authority a constructing authority. For the purposes of this Act, an Authority is a constructing authority within the meaning of the *Acquisition of Land Act 1967-1988*.

3.30 Taking of land. Subject to this Act, the taking of land by an Authority, in the exercise of its power referred to in paragraph (a) of section 3.24 (1) is to be in accordance with the provisions of the *Acquisition of Land Act 1967-1988* 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.

3.31 Minister to act for Authority as constructing authority. 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 1967-1988* for the purpose of taking land on behalf of an Authority as a constructing authority.

3.32 Investment and borrowing arrangements. It is hereby declared that every Authority is a statutory body for the purposes of the *Statutory Bodies Financial Arrangements Act 1982-1990*.

3.33 Responsibilities of Authorities. 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 of Health on a regular basis, all moneys collected by the Authority, save those moneys referred to in section 3.25 (2), except where otherwise directed in the Accounting Manual issued by the chief executive.

3.34 Delegation by Authority. (1) An Authority may by instrument in writing under its common seal delegate its functions and powers specified in the instrument of delegation, except this power of delegation and the power to make by-laws, to the regional director or any person or persons employed by the Authority and may make such number of delegations of the same function or power concurrently as it thinks fit.

(2) A function or power so delegated may be discharged or exercised by the delegate in accordance with the instrument of delegation and when so discharged or exercised is taken to have been discharged or exercised by the Authority.

(3) A delegation under this section is revocable at the Authority's will by instrument in writing under its common seal and does not derogate from the Authority's power to act itself in any matter.

(4) A person purporting to discharge a function or exercise a power pursuant to a delegation under this section is presumed to be acting in accordance with the instrument of delegation in the absence of proof to the contrary.

3.35 Indemnity. Each Authority is to indemnify every member, employee and agent of that Authority against all actions, proceedings and claims in relation to—

- (a) acts done, or omitted to be done, by the person without negligence under this Act;
- (b) acts done, or omitted to be done, by the person in good faith and without negligence for the purposes of this Act.

Division 4—Regional Directors

3.36 Regional directors. There is to be appointed for each Authority a regional director who will hold office under the *Public Service Management and Employment Act 1988-1990*.

3.37 Functions of a regional director. 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 1977-1990 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.

3.38 Acting regional director. (1) The chief executive may appoint a person to be an acting regional director when the chief executive thinks such appointment is necessary.

(2) An acting regional director, while so appointed, has all of the powers and functions of the regional director.

3.39 Affixing common seal. 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.

3.40 Custody of common seal etc. (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

4.1 Officers of Authorities. (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 sections 8.4 and 8.10, 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 1958-1990*, the *State Service Superannuation Act 1972-1990*, 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 by Order in Council.

4.2 Chief executive to be taken to be employer. (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 of Queensland; 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.

4.3 Portability of entitlements for staff in the public health system. 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 1988-1990* and the regulations made under that Act and as determined by the chief executive.

4.4 Authority may obtain the services of certain personnel. (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 of Health.

(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

5.1 Confidentiality. (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.

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 connexion 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.

Penalty: 50 penalty units.

5.2 Obstructing execution of Act. (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.

5.3 Offences. (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.

5.4 Proceedings for offences. (1) Proceedings for an offence against this Act are to be taken in a summary manner under the *Justices Act 1886-1990* 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 one year after the offence is committed or within six months after the offence comes to the knowledge of the complainant, whichever period is the later to expire.

5.5 Appropriation of penalties etc. 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 consolidated revenue.

5.6 Evidentiary provisions. 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, be 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.

5.7 Service. 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.

5.8 Mater Misericordiae Public Hospitals. (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.

5.9 Regulations. (1) The Governor in Council may make regulations not inconsistent with this Act for or in respect of all matters and things that are required or permitted by or under this Act to be prescribed or that are, in the opinion of the Governor in Council, necessary or convenient for the administration of this Act, for achieving the objects of this Act or for carrying this Act into effect.

- (2) The power to regulate includes the power to prohibit.

(3) Regulations may be made to apply generally throughout the State or within any locality of the State or with respect to any persons, class of persons, matters or things to apply generally or to be of such limited application as is indicated therein.

(4) Without limiting the generality of subsection (1), regulations may be made as follows:—

- (a) may 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) may adopt wholly or partly and specifically or by reference and with any alteration, amendment, modification or variation any of the standards, rules, codes, specifications or notices of any association, body or institution whether as in force at the time of adoption or as amended from time to time;
- (c) may 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;
- (d) may 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 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;
- (e) may 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;
- (f) may 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;
- (g) may 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;
- (h) may 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;

- (i) 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 connexion with any public sector health service.

(5) The regulations—

- (a) may be of general or limited application; and
- (b) may differ according to differences in place or circumstance; and
- (c) authorise any matter or thing to be determined, applied or regulated by an Authority or the regional director; and
- (d) may apply, adopt or incorporate (with or without modification) any matter contained in any Act, or subordinate instrument under any Act, of the Commonwealth or of another State or of a Territory, whether in force at a particular time or from time to time.

(6) The regulations may—

- (a) prescribe different rates of fees in respect of different health services or part thereof maintained, operated or provided by an Authority or in relation to different classes of persons or different services; and
- (b) prescribe the circumstances in which, or the persons by whom, a fee is not payable for any health service provided or controlled by an Authority.

(7) 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.

(8) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

5.10 By-laws. (1) An Authority may from time to time, make by-laws for the region for which it is established not inconsistent with this Act or the regulations or with any direction of the Minister in force immediately before the making of the by-law or by-laws concerned, for or with respect to all matters and things that are required or permitted by or under this Act to be prescribed by by-laws or that are necessary or convenient for the exercise and performance of the powers, functions and duties of the Authority under this Act or for carrying this Act into effect.

(2) The power to make by-laws includes the power to prohibit.

(3) Without limiting the generality of subsection (1), an Authority may make by-laws for its region not inconsistent with this Act or the Minister's directions referred to in that subsection with respect to—

- (a) the general management and control of the region;
- (b) regulating the conduct of the proceedings of the Authority, including the times, places and conduct of its meetings;
- (c) the management of the affairs of the Authority;
- (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 members of the Police Service 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.

(4) The power to make by-laws conferred by this Act may be exercised—

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and
- (b) so as to make, as respects the cases in relation to which it is exercised, the same provision for all those cases or different cases or classes of case.

(5) 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.

(6) The power to make by-laws includes power to make by-laws in respect of part or parts of a region and to make different by-laws for different parts of a region.

5.11 Tabling of by-laws and Orders in Council. Section 28A of the *Acts Interpretation Act 1954-1984* applies with respect to by-laws and Orders in Council made for the purposes of this Act and, for the purposes of such application that section is to be read and construed as if references to regulations were references to by-laws and Orders in Council made for the purposes of this Act.

PART 6—PROVISION OF FACILITIES FOR FOOD AND OTHER SERVICES

6.1 Interpretation. (1) In this Part save where the contrary intention appears—

“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 connexion 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.

6.2 Authority of Minister to enter into contracts. The Minister for and on behalf of the State of Queensland may enter into, do all acts in connexion 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, on the recommendation of the Minister, by Order in Council 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.

6.3 Effect of contracts by Minister. (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.

This subsection 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.

6.4 Savings. All contracts entered into by the Minister under the *Health (Provision of Facilities for Food and Other Services) Act 1979* and in force immediately before the appointed day are to be taken to be contracts entered into by the Minister under this Act and may be enforced by or against the parties thereto according to their tenor.

PART 7—MISCELLANEOUS

7.1 Effect of Act on private practice arrangements. 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.

7.2 Effect of Act on certain other Acts. 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 connexion with any public sector health service.

7.3 Amendment of Acts. A provision of an Act specified in the first column of Schedule 3 is amended as specified in the second column of that schedule opposite the reference to that provision and the Act, as so amended, may be cited as specified in the third column of that schedule in relation to that Act.

7.4 References to Director-General in other Acts, etc. Any reference in any Act, Proclamation, Order in Council, regulation, rule, by-law, ordinance, licence, approval, authority, permit, direction, determination, order, prohibition or other act of executive or administrative authority or in any other document, instrument or writing whatsoever before the commencement of this section to the Director-General of Health and Medical Services will on and from that date be taken to be a reference to the Chief Health Officer, Department of Health and will operate and have effect accordingly.

PART 8—SAVINGS AND TRANSITIONAL PROVISIONS

Division 1—Effect of dissolution of Hospitals Boards

8.1 Interpretation. (1) For the purposes of this Part, unless a contrary intention appears—

“assigned assets”, in relation to a health service, means the assets of the health service that are assigned to a relevant Authority under section 8.6;

“dissolved Board” includes a dissolved Board of a kind referred to in subsection (3);

“relevant Authority”, in relation to a dissolved Board, means, subject to subsections (2) and (3), the Regional Health Authority established for the region that includes the Local Authority Area or Areas or division or divisions, or part or parts of any such Area or Areas, constituting the district for which that dissolved Board was constituted or appointed.

(2) Where the Area or Areas or divisions or parts thereof constituting a dissolved Board are situated in more than one region, the relevant Authority is to be taken to be the Authority established for the region

that contains the highest proportion of the Area or Areas or divisions or parts thereof that constituted the district for which that dissolved Board was constituted or appointed.

(3) A public sector health service specified in the first column of the Table to this subsection is for the purposes of this Part taken to have been transferred, immediately before the commencement of the appointed day, to the control of a dissolved Board within the region specified against that health service in the second column of that Table.

The relevant Authority in relation to that dissolved Board, is the Regional Health Authority specified against the relevant region in the third column of that Table.

TABLE

Public sector health service	Region	Relevant Authority
(a) Normanton Hospital Karumba Outpatients Clinic Burketown Hospital	Northern	Northern Regional Health Authority
(b) Georgetown Hospital Forsyth Hospital Croydon Hospital	Peninsula	Peninsula Regional Health Authority
(c) Beaudesert Hospital	South Coast	South Coast Regional Health Authority
(d) Glenmorgan Outpatients Clinic	Darling Downs	Darling Downs Regional Health Authority

8.2 Savings and transitional. (1) A reference in any Act passed before the appointed day or in any instrument or other document made before the appointed day to a Hospitals Board constituted under the *Hospitals Act 1936-1988*, is to be construed as a reference to a Regional Health Authority established under the *Health Services Act 1991*.

(2) All property and other assets that immediately before the appointed day were held by or vested in or under the control of a dissolved Board shall, on that commencement, be divested from that Board and vested in the relevant Authority for that Board.

(3) All rights and entitlements accruing or accrued to a dissolved Board in respect of any property or assets vested in the relevant Authority for that Board pursuant to subsection (2) are hereby vested in and may be enforced by that relevant Authority.

(4) All liabilities of a dissolved Board in respect of any property vested in the relevant Authority for that Board pursuant to subsection (2) may be enforced against that relevant Authority.

(5) All suits, actions and proceedings and all causes of action pending or existing immediately before the appointed day by or against a dissolved Board may be carried on or prosecuted by or against the relevant Authority for that Board and no such suit, action or proceeding shall abate or be prejudicially affected by this Part.

(6) All contracts, agreements and undertakings entered into and all securities lawfully given to or by a dissolved Board existing at the commencement of the appointed day are taken to be contracts, agreements and undertakings entered into with and securities given to or by the relevant Authority for that Board and may be enforced by or against that Authority accordingly.

(7) All other matters commenced by a dissolved Board pursuant to the performance of its functions and which remain incomplete at the commencement of the appointed day are to be continued by the relevant Authority for that Board, provided such matters are not inconsistent with the functions of that Authority under this Act.

(8) Where title to any property vested in or otherwise transferred by this Act to a dissolved Board is registered in any register, the person having charge of the register, upon a request made to that person in writing by or on behalf of the relevant Authority, is to make all entries in the register to record the vesting of that property in accordance with this Act.

No stamp duty, fees or other charges are payable in respect of that request.

8.3 Employment of officers of Boards etc. (1) In this section, “officer of a dissolved Board” means a person who immediately prior to the appointed day held any salaried office or employment with a dissolved Board or had been appointed to the staff of a dissolved Board but had not taken up duty.

(2) Every officer of a dissolved Board shall, on the appointed day, become an officer of the relevant Authority for that Board and such officers will no longer be employed under the *Hospitals Act 1936-1988*.

Each of those persons is to be employed initially subject to such salary or wages and conditions of employment as were applicable to the person as an officer of the dissolved Board immediately before the appointed day.

Salary, wages, allowances and emoluments payable in respect of those persons are to be paid out of the funds of the relevant Authority concerned.

(3) A person who becomes an officer of an Authority pursuant to subsection (2) shall in employment with the relevant Authority—

- (a) be subject to such conditions of employment as were applicable to that person as an officer of the dissolved Board;
- and

- (b) be entitled to receive recreation, sick and long service leave and any similar entitlement accrued or accruing to that person as an officer of the dissolved Board;

and that person's service as an officer of the dissolved Board is taken to be service as an officer of the relevant Authority for the purposes of any law under which those rights accrued or were accruing or by which that entitlement is conferred.

(4) A person who becomes an officer of an Authority pursuant to this section is not entitled to claim, both under this Act and any other Act, benefits in respect of the same period of service.

(5) An award covering all employees of Authorities is to be negotiated within a period of 12 months from and including the appointed day, for ratification or determination by the Industrial Relations Commission.

(6) Until that award is ratified or determined, an officer of a dissolved Board who becomes an officer of an Authority under this section is to be employed as follows:—

- (a) for the period of 12 months from and including the appointed day, the terms and conditions of employment of that officer are to be no less favourable than they were initially on the appointed day;
- (b) on the expiration of that period of 12 months, the terms and conditions of employment of that officer are to be determined under section 4.1.

(7) When that award is ratified or determined, an officer of a dissolved Board who becomes an officer of an Authority under this section is to be employed at such terms and conditions as are in accordance with the relevant award.

8.4 Superannuation entitlements of officers of dissolved Boards. A person who, pursuant to section 8.3, 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 1958-1990*, the *State Service Superannuation Act 1972-1990*, 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.

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

8.5 Certain health services transferred to Authorities. (1) On the appointed day every health service operated or controlled by each of

the dissolved Boards is transferred to and comes under the control of the relevant Authority in relation to the dissolved Board concerned, except where the Minister, by notification in the Gazette, determines otherwise in respect of health services specified in the notification, and the Minister's determination will have effect according to its tenor.

(2) The Minister is hereby authorised to designate, by notification published in the Gazette, the names of the health services operated or controlled by the Department of Health that are transferred to and come under the control of the Authority specified against that health service in the notification on and from the appointed day or such later date as is specified for that purpose in the notification, and that notification will have effect according to its tenor.

(3) Regulations made under this Act may include savings and transitional provisions in respect of the transfer of the health services referred to in subsections (1) and (2).

8.6 Occupation of premises and assignment of assets of certain health services. (1) On and from the appointed day, all premises occupied by or on behalf of a health service transferred pursuant to section 8.5, immediately before that day shall be occupied by the relevant Authority for the region in which they are situated, for the discharge of its functions and the exercise of its powers.

(2) On and from the appointed day all assets (including furniture, fittings and other Crown property but excluding land) used by a health service transferred pursuant to section 8.5 or used by the Department of Health in connexion with the administration of a health service transferred pursuant to section 8.5, with the exception of such assets as the Minister and the Minister of the Crown having responsibility for the Department of Administrative Services jointly determine (if any), shall be assigned to and taken over by the relevant Authority for the region in which they are situated or taken to be situated.

(3) Such books, documents, records and papers used by a health service transferred pursuant to section 8.5, or by the Department of Health in connexion with the administration of a health service transferred pursuant to section 8.5, shall on the appointed day be handed over to the relevant Authority for the region in which they are situated, except where the Minister determines otherwise.

(4) On or before the appointed day, or such later day as the Minister of the Crown having responsibility for the Department of Administrative Services determines, the chief executive and that Minister are to agree upon the terms and conditions on which the relevant Authority is to occupy the premises referred to in subsection (1).

If the chief executive and that Minister are unable to agree as to the terms and conditions of occupancy, such terms and conditions shall be as that Minister determines.

(5) All rights and entitlements accruing or accrued to a dissolved Board or the Department of Health in respect of any of the assigned

assets vested in a relevant Authority pursuant to subsection (2) are hereby vested in and may be enforced by that relevant Authority.

(6) All liabilities of a dissolved Board or the Department of Health in respect of any of the assigned assets vested in a relevant Authority pursuant to subsection (2) may be enforced against that relevant Authority.

(7) All suits, actions and proceedings and all causes of action pending or existing immediately before the appointed day by or against a dissolved Board or the Department of Health in respect of any of the assigned assets may be carried on or prosecuted by or against the relevant Authority to which they are assigned and no such suit, action or proceeding shall abate or be prejudicially affected by this Part.

(8) All contracts, agreements and undertakings entered into and all securities lawfully given to or by a dissolved Board or the Department of Health in respect of the assigned assets existing at the commencement of the appointed day are taken to be contracts, agreements and undertakings entered into with and securities given to or by the relevant Authority to which they are assigned and may be enforced by or against that Authority accordingly.

(9) All other matters commenced by a dissolved Board or the Department of Health in respect of the assigned assets pursuant to the performance of its functions and which remain incomplete at the commencement of the appointed day are to be continued by the relevant Authority to which they are assigned, provided such matters are not inconsistent with the functions of that Authority under this Act.

8.7 Transfer and employment of certain officers of the public service.

(1) On the appointed day—

- (a) all persons who, immediately before that day, were officers of the public service employed in a health service transferred pursuant to section 8.5; and
- (b) such other persons as are determined by the Governor in Council, on the recommendation of the Minister, who, immediately before that day, were officers of the public service employed in the Department of Health;

shall cease to be officers of the public service and become and be officers employed by the Authority for the region in which the health service is situated or, as the case may be, by the Authority determined by the Governor in Council and all such officers will no longer be employed under the *Public Service Management and Employment Act 1988-1990*.

(2) Each of those persons is to be employed initially subject to such salary and conditions of employment as were applicable to the person as an officer of the public service immediately before the appointed day.

Salaries, wages, allowances and emoluments payable in respect of those persons are to be paid out of the funds of the relevant Authority concerned.

(3) An award covering all employees of Authorities is to be negotiated within a period of 12 months from and including the appointed day, for ratification or determination by the Industrial Relations Commission.

(4) Until that award is ratified or determined, an officer of the public service who becomes an officer of an Authority under this section is to be employed as follows:—

- (a) for the period of 12 months from and including the appointed day, the terms and conditions of employment of that officer are to be no less favourable than they were initially on the appointed day;
- (b) on the expiration of that period of 12 months, the terms and conditions of employment of that officer are to be determined under section 4.1.

(5) When that award is ratified or determined, an officer of the public service who becomes an officer of an Authority under this section is to be employed on terms and conditions that are in accordance with the relevant award.

8.8 Transfer and employment of crown employees of Department.

(1) For the purpose of this Division—

“Crown employee of the Department” means a person employed by the Department of Health other than as an officer of the public service within the meaning of the *Public Service Management and Employment Act 1988-1990*.

(2) On the appointed day, all persons who, immediately before that day were Crown employees of the Department employed in a health service transferred pursuant to section 8.5, shall cease to be Crown employees of the Department and become and be officers or employees employed by the Authority for the region in which the health service is situated.

(3) Each of those persons is to be employed initially subject to such salary or wages and conditions of employment as were applicable to the person as a Crown employee of the Department immediately before the appointed day.

Salaries, wages, allowances and emoluments payable in respect of those persons are to be paid out of the funds of the Authority concerned.

(4) An award covering all employees of Authorities is to be negotiated within a period of 12 months from and including the appointed day, for ratification or determination by the Industrial Relations Commission.

(5) Until that award is ratified or determined, a Crown employee of the Department who becomes an officer of an Authority under this section is to be employed as follows:—

- (a) for the period of 12 months from and including the appointed day, the terms and conditions of employment of that officer are to be no less favourable than they were initially on the appointed day;

- (b) on the expiration of that period of 12 months, the terms and conditions of employment of that officer are to be determined under section 4.1.

(6) When that award is ratified or determined, a Crown employee of the Department who becomes an officer of an Authority under this section is to be employed on terms and conditions that are in accordance with the relevant award.

8.9 Leave entitlements of officers of public service and Crown employees. A person who pursuant to section 8.7 or 8.8 is an officer or employee of an Authority shall nevertheless, for as long as that person continues in the employment of the Authority in a permanent capacity, retain and may claim against the Authority in respect of all leave entitlements that have accrued to that person as an officer of the public service or Crown employee of the Department and for the purpose of the accrual of long service leave that person's service with the Authority and as an officer of the public service or Crown employee of the Department shall be taken to be continuous service as an officer or employee of the Authority.

8.10 Superannuation entitlements of officers of public service and Crown employees. A person who, pursuant to section 8.7 or 8.8, becomes an officer or employee 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 1958-1990*, the *State Service Superannuation Act 1972-1990*, 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.

8.11 Continuation of appeal rights. Notwithstanding any other provision of this Act, for a period of three years commencing on the appointed day, a person who is an officer or employee of an Authority pursuant to section 8.7 shall, for the purposes only of that person being appointed to a position in the public service and any provision of the *Public Service Management and Employment Act 1988-1990* that confers or regulates a right of appeal against promotion, be taken to continue to be an officer of the public service employed in the Department of Health upon the classification which that person held immediately prior to the appointed day.

Division 3—General

8.12 Continuance of existing regulations. Without limiting the generality of the *Acts Interpretation Act 1954-1990*, section 21 of that

Act applies to regulations made under the repealed Acts and in force immediately before the commencement of section 1.3.

8.13 Regulations may supply deficiency. The power to make regulations conferred by section 5.9 includes power to make regulations prescribing with respect to any matter, for which—

- (a) it becomes necessary or convenient to prescribe to facilitate the transition from the operation of the repealed Acts to the operation of this Act; and
- (b) this Part does not make any or any sufficient provision.

PART 9—AMENDMENT OF MENTAL HEALTH SERVICES ACT 1974-1990

9.1 Amendment of short title. (1) *The Mental Health Services Act 1974-1990* is amended by in section 1 omitting the word “Services”.

(2) A reference in any Act passed before the commencement of this section or in any instrument or other document made before the commencement of this section to the *Mental Health Services Act 1974* or to that Act as amended to any year specified in the reference is to be construed as a reference to the *Mental Health Act 1974* or, as the case may be, that Act as amended to the year so specified.

This subsection applies without prejudice to the operation of the *Acts Interpretation Act 1954-1990*.

9.2 Principal Act and citation. (1) In this Part the *Mental Health Services Act 1974-1990* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Mental Health Act 1974-1991*.

9.3 Amendment of s. 5. Interpretation. (1) Section 5 of the Principal Act is amended by—

- (a) omitting the definition “Deputy Director”;
- (b) in the definition “designated medical practitioner” omitting the words “*Hospitals Act 1936*” and substituting the words “*Health Services Act 1991*”;
- (c) in the definition “Director” omitting the words “Director of Psychiatric Services” and substituting the words “Director of Mental Health”;
- (d) in the definition “hospital administrator” omitting from paragraph (b) the words “Hospitals Board” where twice occurring and substituting the words “Regional Health Authority” in each case;
- (e) omitting the definition “public hospital” and substituting the following definition:—

““public hospital” means a public sector hospital within the meaning of the *Health Services Act 1991* as amended.”.

(2) A reference in any Act passed before the commencement of this section or in any instrument or other document made before the commencement of this section to the term Director of Psychiatric Services referred to in subsection (1) (c) is to be construed as a reference to the Director of Mental Health.

9.4 Amendment of s. 10. Director, Deputy Director, and other officers. Section 10 of the Principal Act is amended by—

(a) omitting from the note to the section the words “Deputy Director,”;

(b) in subsection (1), omitting the words “Psychiatric Services” and substituting the words “Mental Health”;

(c) in subsection (3) omitting the words “a Deputy Director of Psychiatric Services and” and “the Deputy Director and” respectively;

(d) omitting subsection (4);

(e) omit subsection (5) and substitute the following:—

“(5) The Governor in Council may, on the recommendation of the Minister, appoint a duly qualified person who will while that order remains in force, at and in accordance with the direction of the Minister, exercise and discharge the functions, powers and duties of the Director, if the Director is unable through absence, illness, or any other cause to exercise and perform the Director’s functions, powers and duties or in the event of a vacancy existing in the office of Director and the person so appointed will have the necessary authority accordingly.”.

9.5 Amendment of s.16. Psychiatric hospitals, training centres and other places. Section 16 of the Principal Act is amended by omitting subsections (3) and (3A) and substituting the following subsections:—

“(3) Responsibility for the administration of all or any psychiatric hospitals, security patients’ hospitals and other places established under subsection (1), may be assigned by Order in Council to such person or Authority as the Governor in Council considers appropriate after which, while the Order continues in force responsibility for the administration of those hospitals, centres or places to which the Order relates will be with the person or Authority to whom they are assigned.”.

“(3A) Subject to the Minister for the time being administering the *Family Services Act 1987-1988* and the chief executive of the department within which that Act is administered, the Director of Intellectual Handicap Services is charged with the administration of training centres conducted as a service of that department.”.

9.6 Amendment of s. 18. Application for admission. Section 18 of the Principal Act is amended by omitting from subsection (4) the words

“Hospitals Act 1936-1971” and substituting the words “Health Services Act 1991”.

9.7 Repeal of and new s. 73. Patients’ Trust Fund. The Principal Act is amended by repealing section 73 and substituting the following section:—

“**73. Financial provisions.** (1) A person or authority who or which is the subject of an assignment under section 16 (3), must establish such funds as are necessary for the effective administration of this Act and as detailed in the Accounting Manual issued by the Under Secretary, Department of Health.

(2) All moneys collected by such a person or authority, save those acquired under section 74, are to be remitted to the Department of Health on a regular basis except where otherwise directed in the Accounting Manual issued by the Under Secretary, Department of Health.”.

9.8 Repeal of and new s. 74. Power to accept gifts etc., and to establish a Trust Fund. The Principal Act is amended by repealing section 74 and substituting the following section:—

“**74. Power to accept gifts etc.** (1) A person or authority who or which is the subject of an assignment under section 16 (3) may acquire, for any purpose connected with the organisation, management or provision of patient services of any psychiatric hospital, security patients hospital or other place established under section 16, any property by gift, devise or bequest and may agree to and carry out the conditions of such gift, devise or bequest.

(2) Such a person or authority may act as trustee of money or other property vested in that person or authority in trust.

(3) The acceptance by such a person or 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 will not be obliged or concerned to see to the application thereof.”.

9.9 Repeal of and new s. 75. Investment of moneys. The Principal Act is amended by repealing section 75 and substituting the following section:—

“**75. Investment of moneys.** (1) Where a person or authority, who or which is the subject of an assignment under section 16 (3), is a statutory body within the meaning of the *Statutory Bodies Financial Arrangements Act 1982-1990*, the relevant provisions of that Act will apply.

(2) In the case where subsection (1) does not apply, moneys held in trust in a fund may be invested by such a person or authority in accordance with the Accounting Manual issued by the Under Secretary, Department of Health.”.

9.10 FIFTH SCHEDULE. The FIFTH SCHEDULE of the Principal Act is amended by in clause 1, omitting from paragraph (a) of the definition “designated medical practitioner” the words “*Hospitals Act 1936*” and substituting the words “*Health Services Act 1991*”.

PART 10—AMENDMENT OF THE INEBRIATES INSTITUTIONS ACT 1896-1974

10.1 Principal Act and citation. (1) In this Part, the *Inebriates Institutions Act 1896-1974* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Inebriates Institutions Act 1896-1991*.

10.2 Amendment of s. 3. Governor in Council may proclaim institution for inebriates. Section 3 of the Principal Act is amended by—

(a) designating the existing paragraph subsection (1);

(b) adding after subsection (1) as so designated the following subsection:—

“(2) Responsibility for the administration of all or any institution for inebriates may be assigned by Order in Council to such person or authority as the Governor in Council considers appropriate after which, while the order continues in force, responsibility for the administration of the institutions to which the order relates will be with the person or authority to whom they are assigned.”.

PART 11—AMENDMENT OF QUEENSLAND INSTITUTE OF MEDICAL RESEARCH ACT 1945-1988

11.1 Principal Act and citation. (1) In this Part, the *Queensland Institute of Medical Research Act 1945-1988* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Queensland Institute of Medical Research Act 1945-1991*.

11.2 Amendment of s. 5. Constitution of Council of The Queensland Institute of Medical Research. Section 5 of the Principal Act is amended by—

(a) omitting subsection (1) and substituting the following subsections:—

“(1) Where for the first time after the commencement of section 11.2 of the *Health Services Act 1991* the Council is constituted afresh, the Council will consist of 12 members as follows:—

(a) the Director-General of Health and Medical Services (or person for the time being acting as the Director-General) who will be ex officio a member of the Council and will be chairman thereof;

- (b) one member nominated by the Minister to represent the Government, who will be appointed by the Governor in Council;
- (c) one member nominated by the Minister to represent the Department of Health, who will be appointed by the Governor in Council;
- (d) one member nominated by the Minister from a panel of names submitted to the Minister to represent each of them the Senate of the University of Queensland (having regard to the advice of the Faculty of Medicine), the Brisbane North Regional Health Authority, the controlling body of the Mater Misericordiae Hospitals, the Queensland Branch of the Australian Medical Association, the Brisbane South Regional Health Authority, The Royal Australasian College of Physicians, The Royal Australasian College of Surgeons respectively, making a total of seven members nominated under this paragraph;
- (e) two members nominated by the Minister from a panel of names submitted to the Minister to represent the National Health and Medical Research Council.

(1A) For the purposes of this section the term “constituted afresh” means the appointment of members to the Council on the expiry of the term of office of a majority of its members.”;

(b) omitting subsection (5) and substituting the following subsection:—

“(5) If at any time default is made in furnishing a panel or panels of names within the time specified in a request in writing in that behalf given by the Minister or the panel of names submitted is or are, in the opinion of the Minister, inadequate as to the number or the description or the fitness of persons named therein the Minister may at the Minister’s discretion nominate a person or persons sufficient as to number or description or fitness to comprise the panel in respect of which default is made or as the case may be, to make adequate the panel or panels furnished.

The panel as so comprised or made adequate by the Minister will be taken to have been furnished by or on behalf of the body to which the Minister’s request was directed.”.

11.3 Amendment of s. 9. Council may carry out agreements. Section 9 of the Principal Act is amended by omitting from subsection (1) the words “Hospitals Boards constituted under the *Hospitals Act 1936-1988*” and substituting the words “Regional Health Authorities established under the *Health Services Act 1991*”.

11.4 Amendment of s. 17. Co-operation of Council, Hospitals Boards and Faculty of Medicine. Section 17 of the Principal Act is amended by—

(a) omitting from the note to the section the words “Hospitals Boards” and substituting the words “Regional Health Authorities”;

(b) omitting the words “Hospitals Boards constituted under “*The Hospitals Acts, 1936 to 1952,*” ” and substituting the words “Regional Health Authorities established under the *Health Services Act 1991*”;

(c) omitting the words “Hospitals Board” and substituting the words “Regional Health Authority”;

(d) omitting the words “such Board” and substituting the words “such Authority”.

SCHEDULE 1

[s. 1.3]

REPEALED PROVISIONS

PART A

Year and Number of Act	Short Title	Extent of Repeal
1 Geo. VI. No. 4	<i>The Hospitals Act of 1936</i>	The whole
7 Geo. VI. No. 25	<i>The Hospitals Act Amendment Act of 1943</i>	The whole
9 Geo. VI. No. 7	<i>The Hospitals Acts Amendment Act of 1944</i>	The whole
10 Geo. VI. No. 39	<i>The Hospitals Acts Amendment Act of 1946</i>	The whole
4 Eliz. 2 No. 39	<i>The Hospitals Acts Amendment Act of 1955</i>	The whole
11 Eliz. 2 No. 4	<i>The Hospitals Acts Amendment Act of 1962</i>	The whole
No. 18 of 1964	<i>The Hospitals Acts Amendment Act of 1964</i>	The whole
No. 72 of 1964	<i>The Hospitals Acts Amendment Acts of 1964 (No. 2)</i>	The whole
No. 21 of 1967	<i>The Hospitals Acts Amendment Act of 1967</i>	The whole
No. 71 of 1971	<i>Hospitals Act Amendment Act 1971</i>	The whole
No. 6 of 1976	<i>Hospitals Act Amendment Act 1976</i>	The whole
No. 40 of 1978	<i>Hospitals Act Amendment Act 1978</i>	The whole
No. 26 of 1979	<i>State Development and Public Works Organization Act and Other Acts Amendment Act 1979, No. 26</i>	Part IV
No. 12 of 1980	<i>Hospitals Act Amendment Act 1980</i>	The whole
No. 78 of 1981	<i>Hospitals Act Amendment Act 1981</i>	The whole
No. 44 of 1982	<i>Hospitals Act Amendment Act 1982</i>	The whole
No. 58 of 1982	<i>Hospitals Act Amendment Act 1982 (No. 2)</i>	The whole
No. 34 of 1983	<i>Hospitals Act Amendment Act 1983</i>	The whole
No. 74 of 1984	<i>Nursing Studies Act and Other Acts Amendment Act 1984</i>	Part VI
No. 76 of 1984	<i>Hospitals Act Amendment Act 1984</i>	The whole
No. 17 of 1988	<i>Queensland Institute of Medical Research Act and Another Act Amendment Act 1988</i>	Part III

PART B

Year and Number of Act	Short Title	Extent of Repeal
13 Geo. 5 No. 22	<i>The Maternity Act of 1922</i>	The whole
No. 76 of 1979	<i>Health (Provision of Facilities for Food and Other Services) Act 1979</i>	The whole
No. 22 of 1980	<i>The Prince Charles Hospital Development Centre Trust Act 1980</i>	The whole
No. 23 of 1984	<i>Homes for the Aged Act 1984</i>	The whole

SCHEDULE 2

[s. 3.5]

Dissolution, Amalgamation and Change
of Names of Authorities

1. Interpretation. In this Schedule—

“order” means an order under section 3.4.

2. Dissolution of Authority. (1) When an order 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 an order 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;
- (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;
- (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;
- (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;
- (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 subclause and for the prosecution of proceedings so referred to as the Authority might have done, but for its dissolution;

- (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;
- (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;
- (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;
- (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 clause may be used or disposed of for such purposes as the Minister may determine.

3. Consequences of amalgamation of Authorities. (1) When an order amalgamating two 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;
 - (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.

4. Change of name of Authority. A change of name of an Authority by an order does not operate—

- (a) to create a new legal entity;
- (b) to prejudice or affect the identity of the body corporate constituted as an Authority or its continuity as a body corporate;
- (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.

5. Regulations. (1) The regulations under this Act may contain other provisions of a savings or transitional nature consequent on the making of an order.

(2) A provision referred to in subclause (1) shall, if the regulations so provide, have effect despite any other clause of this Schedule.

SCHEDULE 3

[s. 7.3]

Provision Amended	Amendment	Citation as Amended
<i>Ambulance Services Act 1967-1989</i>		<i>Ambulance Services Act 1967-1991</i>
s. 3 (1)	omit subsection (1)	
s. 47 (1)	omit paragraph (b) and substitute the following:— “(b) an Authority within the meaning of the <i>Health Services Act 1991</i> ;”	
s. 47 (1A)	omit subparagraph (ii) from paragraph (b) and substitute the following:— “(ii) a region within the meaning of the <i>Health Services Act 1991</i> in which a Regional Health Authority carries on operations relating to ambulance transport and first aid;”	
s. 48 (1)	omit paragraph (b) and substitute the following:— “(b) an Authority within the meaning of the <i>Health Services Act 1991</i> ;”	
FIRST SCHEDULE	omit the FIRST SCHEDULE	
THIRD SCHEDULE r. 18 (6)	omit the words “any Hospitals Board” and substitute the words “any Regional Health Authority”	
FIFTH SCHEDULE r. 16 (6)	omit the words “any Hospitals Board” and substitute the words “any Regional Health Authority”	
<i>Children's Services Act 1965-1989</i>		<i>Children's Services Act 1965-1991</i>
s. 77 (2) (a)	omit subparagraph (i) and substitute the following:— “(i) a health service within the meaning of the <i>Health Services Act 1991</i> ;”	
<i>Health Act 1937-1990</i>		<i>Health Act 1937-1991</i>
s. 5	(a) omit definition “Deputy Director-General” (b) omit definition “Hospital” and substitute the following:— ““Hospital” means a hospital within the meaning of the <i>Health Services Act 1991</i> ;	

Provision Amended	Amendment	Citation as Amended
s. 7	omit subsection (3)	
s. 7 (4)	omit from the first paragraph the words "the Deputy Director-General or any other" and substitute the words "another duly qualified" omit from the second paragraph the words "Deputy Director-General or"	
s. 7 (5)	omit subsection (5) and substitute the following:— “(5) Absence, illness or vacancy. The Governor in Council may, on the recommendation of the Minister, appoint a duly qualified person who will while that order remains in force, at and in accordance with the direction of the Minister, exercise and discharge the functions, powers and duties of the Director-General, if the Director-General is unable through absence, illness, or any other cause to exercise and perform the Director-General’s functions, powers and duties or in the event of a vacancy existing in the office of Director-General, and the person so appointed will have the necessary authority accordingly.”	
s. 7 (6)	omit the words "Deputy Director-General" and substitute the word "person"	
s. 32 (3)	definition "hospital administrator" paragraph (a)— (a) omit the words "in respect of a hospital to which the provisions of Part III of the <i>Hospitals Act 1936-1984</i> " and substitute the words "in respect of a public sector hospital within the meaning of the <i>Health Services Act 1991</i> " (b) omit the words "Hospitals Board" where twice occurring and substitute the words "Regional Health Authority" in each case definition "public hospital" omit paragraph (a) and substitute the following:— “(a) a public sector hospital within the meaning of the <i>Health Services Act 1991</i> .”	
s. 62 (1)	omit the words "hospital within the meaning of <i>The Hospitals Act of 1936</i> " and substitute the words "health service within the meaning of the <i>Health Services Act 1991</i> "	
s. 63	definition "Private hospital" omit the words "a hospital subject to <i>The Hospitals Act of 1936</i> " and substitute the words "a public sector hospital within the meaning of the <i>Health Services Act 1991</i> "	
s. 76L (4) (b)	omit from paragraph (ii) the word "base"	

Provision Amended	Amendment	Citation as Amended
s. 77	insert after the words "dealt with in" the word "a"	
s. 100B	<p>omit definition "charitable institution"</p> <p>omit definition "prescribed person" and substitute the following:—</p> <p>" "prescribed person" means—</p> <p>(a) a Regional Health Authority;</p> <p>(b) in relation to a nursing home, the licensee thereof;</p> <p>(c) in relation to a private hospital, the licensee thereof;</p> <p>(d) in relation to the Mater Misericordiae Public Hospital at Brisbane, the person having control thereof;</p> <p>and includes any person acting in the stead of such prescribed person in the conduct or maintenance of such a home or hospital;"</p> <p>omit definition "public hospital" and substitute the following:—</p> <p>" "public hospital" means a public sector hospital within the meaning of the <i>Health Services Act 1991</i>;"</p>	
s. 100G	<p>definition "prescribed person" paragraph (a) (ii) omit the words "Board constituted" and substitute the words "Regional Health Authority established";</p> <p>omit definition "public hospital" and substitute the following:—</p> <p>" "public hospital" means a public sector hospital within the meaning of the <i>Health Services Act 1991</i>;"</p>	
s. 152 (1) (xviiA)	omit the words "hospital controlled by a Hospitals Board under the <i>Hospitals Act 1936-1978</i> " and substitute the words "public sector hospital within the meaning of the <i>Health Services Act 1991</i> "	
Part IVB <i>Hospitals Foundations Act 1982-1989</i>	omit Part IVB including the heading to that Part	 <i>Hospitals Foundations Act 1982-1991</i>
s. 4	<p>omit the definition "hospital" and substitute the following definition:—</p> <p>" "hospital" means a hospital controlled by a Regional Health Authority established under the <i>Health Services Act 1991</i> or by a board</p>	

Provision Amended	Amendment	Citation as Amended
	<p>deemed pursuant to any Act to be such a Regional Health Authority—and includes any premises for the reception and treatment of the sick declared by Order in Council to be a hospital for the purposes of this Act;”</p> <p>omit the definition “Hospitals Board”</p> <p>insert after the definition “Minister” the following definitions:—</p> <p>““regional director” means a regional director appointed for the relevant region under the <i>Health Services Act 1991</i>;</p> <p>“Regional Health Authority” means a Regional Health Authority established under the <i>Health Services Act 1991</i>;”</p>	
s. 15 (1) (a)	omit the words “ <i>Hospitals Act 1936-1981</i> ” and substitute the words “ <i>Health Services Act 1991</i> ”	
s. 18 (3) (a)	omit paragraph (a) and substitute the following:—	
	“(a) one shall be the chairperson of the Regional Health Authority that controls the hospital that is or is to be the associated hospital, or that person’s nominee, who is to be a member ex officio;”	
s. 18 (3) (b)	omit paragraph (b) and substitute the following:—	
	“(b) one shall be an employee of a University or other body providing education at tertiary level with which the body corporate has become associated, or a person who, in the Minister’s opinion, is knowledgeable and experienced in the field of knowledge or activity relevant to the purposes or objects of the body corporate, in any case nominated by the Minister in accordance with subsection (4);”	
s. 18 (3) (c)	omit from paragraph (c) all words from and including “(c) two at least” to and including “has become associated,” and substitute the following:—	
	“(c) two at least shall be officers or employees of the Regional Health Authority at the associated hospital;”	
s. 18 (4) (a)	omit the words “Hospitals Board” and substitute words “Regional Health Authority”	
s. 18 (4)	omit all words from and including “the wishes of the Board” to and including the words “on the body corporate.” and substitute the following:—	
	“the wishes of the Regional Health Authority and persons the Minister has consulted within the associated hospital.”	

Provision Amended	Amendment	Citation as Amended
s. 19 (1)	omit the words "Hospital Board" and substitute the words "Regional Health Authority"	
s. 19 (2) (a)	omit the words "Hospitals Board" and substitute the words "Regional Health Authority"	
s. 19 (2) (b)	omit the word "Board" where twice occurring and substitute the word "Authority" in each case	
s. 19 (3)	omit the words "Hospitals Board" and substitute the words "Regional Health Authority"	
s. 37 (1)	omit subsection (1) and substitute the following:— “(1) The secretary of a body corporate shall be a suitably senior officer of the associated hospital who is nominated by the regional director and approved by the Minister.”	
s. 38 (1)	omit the words "Hospitals Board" and substitute the words "Regional Health Authority" omit the words "the Board" and substitute the words "the Authority"	
s. 38 (2)	omit from paragraph (a) the words "Hospitals Board" and substitute the words "Regional Health Authority" omit from paragraph (b) the words "Hospitals Board" and substitute the words "Regional Health Authority" omit the words "the Board" and substitute the words "the Authority"	
<i>Intellectually Disabled Citizens Act 1985-1990</i>	omit the words "Hospitals Board" and substitute the words "Regional Health Authority" omit the words "Hospitals Act 1936-1984" and substitute the words " <i>Health Services Act 1991</i> "	<i>Intellectually Disabled Citizens Act 1985-1991</i>
<i>Medical Act 1939-1990</i>	omit provision (i) and substitute the following:— “(i) in one or more of the teaching hospitals designated as such by the Minister pursuant to the <i>Health Services Act 1991</i> ;	<i>Medical Act 1939-1991</i>

Provision Amended	Amendment	Citation as Amended
<i>Nursing Studies Act 1976-1984</i>		<i>Nursing Studies Act 1976-1991</i>
s. 7	omit subsection (3)	
<i>Public Service Management and Employment Act 1988-1990</i>		<i>Public Service Management and Employment Act 1988-1991</i>
Schedule III	omit all words in the first, second and third columns, referring to amendments to the Hospitals Act, from and including the words " <i>Hospitals Act 1936-1984</i> " to and including the words "such an officer"	
<i>Public Trustee Act 1978-1990</i>		<i>Public Trustee Act 1978-1991</i>
s. 105 (4)	omit the words "Hospitals Board" and substitute the words "Regional Health Authority" omit the words " <i>Hospitals Act 1936-1976</i> " and substitute the words " <i>Health Services Act 1991</i> "	
<i>State Service Superannuation Act 1972-1990</i>		<i>State Service Superannuation Act 1972-1991</i>
s. 4 (1)	definition "officer" paragraph (d) (ii) omit the words "Hospitals Board under and within the meaning of the <i>Hospitals Act 1936-1971</i> " and substitute the words "Regional Health Authority established under the <i>Health Services Act 1991</i> " omit paragraph (d) (iii)	
<i>Transplantation and Anatomy Act 1979-1989</i>		<i>Transplantation and Anatomy Act 1979-1991</i>
s. 4 (1)	definition "hospital" omit paragraph (a) and substitute the following:— "(a) any public sector hospital under the <i>Health Services Act 1991</i> ;"	
<i>Workers' Compensation Act 1916-1990</i>		<i>Workers' Compensation Act 1916-1991</i>
s. 14D (4)	omit definition "Public hospital" and substitute the following:— " "Public hospital" means a public sector hospital under the <i>Health Services Act 1991</i> ;"	

Minister's Second Reading Speech made on 10 April 1991.