

Queensland



HEALTH LEGISLATION AMENDMENT ACT 1993

Act No. 79 of 1993

Queensland



**HEALTH LEGISLATION AMENDMENT
ACT 1993**

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	10
2	Commencement	10
PART 2—AMENDMENT OF CHIROPRACTORS AND OSTEOPATHS ACT 1979		
3	Amended Act	10
4	Amendment of s.4A (Meaning of “chiropractic and osteopathy company”)	10
5	Amendment of s.7 (Members of Board)	11
6	Amendment of s.9 (Tenure of office)	11
7	Amendment of s.28B (Regulation of company names)	11
8	Amendment of s.28C (Offence by company)	11
PART 3—AMENDMENT OF CREMATION ACT 1913		
9	Amended Act	11
10	Amendment of s.2 (Interpretation)	11
11	Replacement of ss.3–4P	12
3	Cremation to happen only at certain places	12
4	Permission to cremate at other places	12
4A	Appeals	13
12	Omission of s.9 (Consent of cemetery authorities to application for a crematorium)	14
13	Replacement of s.10 (Regulations)	14
10	Regulations	14
14	Omission of ss.11–13	14

PART 4—AMENDMENT OF DENTAL ACT 1971

15	Amended Act	15
16	Amendment of s.18 (Qualification for registration)	15
17	Amendment of s.24 (Annual licence fee)	15
18	Amendment of s.35 (By-laws)	16
19	Omission of s.36 (Procedural provisions re by-laws)	16
20	Omission of s.37 (Amendment of Medical Act and Other Acts (Administration) Act 1966–1969)	16

**PART 5—AMENDMENT OF DENTAL TECHNICIANS AND
DENTAL PROSTHETISTS ACT 1991**

21	Amended Act	17
22	Amendment of s.3 (Interpretation)	17
23	Amendment of s.25 (Qualifications for registration as dental technicians and prosthetists)	17

PART 6—AMENDMENT OF HEALTH ACT 1937

24	Amended Act	17
25	Amendment of s.5 (Interpretation)	17
26	Amendment of s.48 (Controlled notifiable diseases)	18
27	Amendment of s.62 (Removal of infirm person to institution)	18
28	Amendment of s.63 (Interpretation)	19
29	Insertion of new s.63A	19
	63A Meaning of “day hospital”	19
30	Replacement of s.100E (Secrecy)	19
	100E Confidentiality	19
31	Replacement of s.100I (Confidentiality)	20
	100I Confidentiality	20
32	Amendment of s.131Q (Conditions of licence)	21

**PART 7—AMENDMENT OF HEALTH RIGHTS COMMISSION
ACT 1991**

33	Amended Act	22
34	Amendment of s.27 (Co-operation with interested organisations)	22
35	Amendment of s.32 (Minister’s directions)	22
36	Insertion of new s.33A	22
	33A Commission’s budget	22

37	Amendment of s.52 (Council Meetings)	23
38	Insertion of new s.68A	23
	68A Commissioner to invite submissions	23
39	Amendment of s.73 (Information and local resolution)	23
40	Amendment of s.74 (Decisions not to take action)	23
41	Amendment of s.78 (Conciliation function)	23
42	Insertion of new s.87A	23
	87A Administrative support staff	24
43	Replacement of s.130 (Commissioner may intervene in disciplinary proceedings)	24
	130 Commissioner may intervene in disciplinary proceedings	24
44	Amendment of s.138 (Preservation of confidentiality)	25
45	Amendment of s.142 (Regulations)	25
	PART 8—AMENDMENT OF HOSPITALS FOUNDATIONS ACT 1982	
46	Amended Act	25
47	Amendment of s.4 (Definitions)	25
48	Amendment of s.5 (Class of applicant)	26
49	Replacement of s.7 (Authority to establish bodies corporate)	26
	7 Establishment of bodies corporate	26
50	Amendment of s.8 (Body to be incorporated)	26
51	Amendment of s.9 (Registration of bodies corporate)	26
52	Amendment of s.10 (Name of bodies corporate)	27
53	Amendment of s.18 (Members of body corporate)	27
54	Amendment of s.20 (Appointment of members)	27
55	Amendment of s.21 (Term of appointment)	27
56	Amendment of s.23 (Casual vacancies)	27
57	Amendment of s.24 (Vacation of office)	28
58	Amendment of s.28 (Chairman and deputy chairman)	28
59	Amendment of s.37 (Employees)	28
60	Amendment of s.41 (Insurance)	28
61	Amendment of s.44 (Audit of accounts)	28
62	Amendment of s.56 (Removal from Register)	28

63	Replacement of s.57 (Winding-up of bodies corporate)	29
	57 Winding-up of bodies corporate	29
64	Amendment of s.59 (Dissolution of bodies corporate)	29
65	Amendment of s.61 (Effect of winding up etc. on offices)	30
66	Replacement of s.63 (Delegation by Minister)	30
	63 Delegation by Minister	30
67	Replacement of s.64 (Delegation by body corporate)	30
	64 Delegation by body corporate	30
68	Amendment of s.71 (Evidentiary provisions)	30
69	Replacement of s.72 (Regulations)	31
	72 Regulations	31
70	Amendment of s.73 (Rules)	31
	PART 9—AMENDMENT OF MEDICAL ACT 1939	
71	Amended Act	31
72	Amendment of s.8 (Constitution of Board; president)	31
73	Amendment of s.9 (Disqualifications from membership of Board)	32
74	Amendment of s.18 (Specialists)	32
	PART 10—AMENDMENT OF MENTAL HEALTH ACT 1974	
75	Amended Act	32
76	Amendment of s.28B (Mental Health Tribunal)	32
77	Insertion of new Part 7	32
	PART 7—FINANCIAL PROVISIONS	
	72A Definition	32
78	Replacement of s.73 (Financial provisions)	33
	73 Patients' Trust Fund	33
	73A Amenities account	33
	73B Patients' advisory committee	34
79	Amendment of s.74 (Power to accept gifts etc.)	34
80	Replacement of s.75 (Investment of moneys)	35
81	Insertion of new Part 8	35
	PART 8—VALIDATIONS	
	77 Wacol Rehabilitation Clinic	35

78	Establishment of Barrett Psychiatry Centre and Barrett Adolescent Centre	36
79	Administration of certain hospitals by Regional Health Authorities	36
80	Administration of certain amounts by Regional Health Authorities	36
81	Maintenance charges at security patients' hospitals and other places	37
82	Maintenance charges at psychiatric hospitals	37
83	Application of s.20A of Acts Interpretation Act 1954 and expiry of Part and Schedule 1	38
82	Insertion of new Schedule 1	38
	SCHEDULE 1	
	ADMINISTRATION OF CERTAIN HOSPITALS BY REGIONAL HEALTH AUTHORITIES	
83	Amendment of Schedule 6 (Subject Matters for Regulations)	39
	PART 11—AMENDMENT OF OCCUPATIONAL THERAPISTS ACT 1979	
84	Amended Act	39
85	Amendment of s.7 (Members of Board)	39
86	Amendment of s.9 (Tenure of office)	39
	PART 12—AMENDMENT OF PHARMACY ACT 1976	
87	Amended Act	39
88	Amendment of s.8 (Members of Board)	40
89	Amendment of s.10 (Tenure of office)	40
	PART 13—AMENDMENT OF PHYSIOTHERAPISTS ACT 1964	
90	Amended Act	40
91	Amendment of s.7 (Members of the Board)	40
	PART 14—AMENDMENT OF PODIATRISTS ACT 1969	
92	Amended Act	41
93	Amendment of s.3 (Definitions)	41
94	Omission of s.4 (Administration of Act)	41
95	Amendment of s.6 (Members of Board)	41
96	Amendment of s.7 (Chairman and deputy chairman of Board)	41
97	Amendment of s.8 (Tenure of office)	42

98	Amendment of s.26 (Certain actions implying registration or qualification prohibited)	42
99	Amendment of s.26A (Practice of Podiatry)	42
100	Amendment of s.30 (Evidentiary provisions)	42
101	Amendment of s.31 (By-laws)	42
PART 15—AMENDMENT OF PSYCHOLOGISTS ACT 1977		
	Amended Act	43
103	Amendment of s.7 (Members of Board)	43
104	Amendment of s.9 (Tenure of office)	43
PART 16—AMENDMENT OF SPEECH PATHOLOGISTS ACT 1979		
105	Amended Act	44
106	Amendment of s.7 (Members of Board)	44
107	Amendment of s.9 (Tenure of office)	44
108	Amendment of s.17 (The register)	44
PART 17—AMENDMENT OF TRANSPLANTATION AND ANATOMY ACT 1979		
109	Amended Act	44
110	Amendment of s.4 (Interpretation)	45
111	Amendment of s.5 (Declaration of Hospitals)	45
112	Omission of s.7 (Administration)	45
113	Omission of Division 6 (Regulations)	46
114	Amendment of s.37 (Establishment of schools of anatomy)	46
115	Omission of s.39 (Regulations in respect of schools of anatomy)	46
116	Amendment of s.40 (Unauthorised buying of tissue prohibited)	46
117	Amendment of s.41 (Advertisements relating to buying of tissue restricted)	46
118	Amendment of s.42 (Unauthorised selling of tissue prohibited)	47
119	Amendment of s.44 (Evidentiary provision)	47
120	Amendment of s.45 (When death occurs)	47
121	Amendment of s.48 (Offences in relation to removal of tissue)	47
122	Amendment of s.48A (Offence to give false or misleading information)	47
123	Amendment of s.49 (Disclosure of information)	47
124	Amendment of s.50 (Proceedings for offences)	48

125.	Replacement of s.52 (Regulations)	48
	52 Regulations	48
126	Omission of s.53 (Savings)	49
127	Omission of s.54 (Repeal and amendments)	49

PART 18—REPEALS

128	Repeal of Inebriates Institutions Act 1896 and Inebriates Institutions Act Amendment Act 1968	49
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	SCHEDULE	50
--	-----------------------	----

MINOR AMENDMENTS OF MENTAL HEALTH ACT 1974

Queensland



Health Legislation Amendment Act 1993

Act No. 79 of 1993

**An Act to amend certain Acts administered by the Minister of Health
and to repeal the *Inebriates Institutions Act 1896* and the
*Inebriates Institutions Act Amendment Act 1968***

[Assented to 17 December 1993]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Health Legislation Amendment Act 1993*.

Commencement

2.(1) This Act (other than sections 7 and 8) commences on a day to be fixed by proclamation.

(2) Sections 7 and 8 are taken to have commenced on 18 December 1992.

PART 2—AMENDMENT OF CHIROPRACTORS AND OSTEOPATHS ACT 1979

Amended Act

3. The *Chiropractors and Osteopaths Act 1979* is amended as set out in this Part.

Amendment of s.4A (Meaning of “chiropractic and osteopathy company”)

4. Section 4A—

omit ‘incorporated in Queensland’.

Amendment of s.7 (Members of Board)

5. Section 7(1) (2nd last sentence)—
omit.

Amendment of s.9 (Tenure of office)

6. Section 9(3)(a)—
omit, insert—
‘(a) dies;’.

Amendment of s.28B (Regulation of company names)

7. Section 28B(2)—
omit ‘for 6 months beginning on that commencement’,
insert ‘until 30 June 1994’.

Amendment of s.28C (Offence by company)

8. Section 28C—
insert—
‘(2) Subsection (1) does not apply until 30 June 1994.’.

PART 3—AMENDMENT OF CREMATION ACT 1913**Amended Act**

9. The *Cremation Act 1913* is amended as set out in this Part.

Amendment of s.2 (Interpretation)

10.(1) Section 2 (heading)—
omit, insert—

‘Definitions’.

(2) Section 2 (definitions “**Area**”, “**Cemetery**”, “**Crematorium licence**”, “**Establish**”, “**Holder**”, “**Inspector**”, “**License**” and “**Local Authority**”)—

omit.

(3) Section 2 (definition “**Crematorium**”)—

omit ‘in accordance with the provisions of this Act’.

Replacement of ss.3–4P

11. Sections 3 to 4P—

omit, insert—

‘Cremation to happen only at certain places

‘3. A person must not cremate a human body at a place unless the use of the place for that purpose is a lawful use of the place under the *Local Government (Planning and Environment) Act 1990*.

Maximum penalty—20 penalty units.

‘Permission to cremate at other places

‘4.(1) A person may apply to the Minister for permission to cremate a human body at another place.

‘(2) The application must be in writing.

‘(3) The Minister may grant the application only if the Minister is satisfied that the health and safety of the public will not be placed at risk.

‘(4) If the Minister grants the application, the Minister must give the applicant a written permit.

‘(5) The permit may contain conditions.

‘(6) If the Minister refuses the application, the Minister must give the applicant written reasons for the decision.

‘(7) Despite section 3, a person may cremate a human body under the permit.

‘Appeals

‘4A.(1) An applicant for a permit under section 4 may appeal against the Minister’s decision—

- (a) to refuse the application; or
- (b) to issue a permit, but on conditions that the applicant objects to.

‘(2) The appeal may be made to the Magistrates Court nearest the place of the proposed cremation.

‘(3) An appeal is started by—

- (a) filing a written notice of appeal with the clerk of the court of the Magistrates Court; and
- (b) serving a copy of the notice on the Minister.

‘(4) The notice of appeal must state the grounds of the appeal.

‘(5) The power under the *Magistrates Courts Act 1921* to make rules of court for Magistrates Courts includes power to make rules of court for appeals to Magistrates Courts under this section.

‘(6) The procedure for an appeal to a Magistrates Court under this section is to be in accordance with—

- (a) the rules made under the *Magistrates Courts Act 1921*; or
- (b) in the absence of relevant rules—the Court’s directions.

‘(7) An appeal is to be by way of rehearing, unaffected by the Minister’s decision.

‘(8) In deciding an appeal, the Court—

- (a) is not bound by the rules of evidence; and
- (b) must observe natural justice; and
- (c) may hear the appeal in court or chambers.

‘(9) In deciding an appeal, the Court may—

- (a) confirm the Minister’s decision; or
- (b) set the Minister’s decision aside and substitute another decision.

‘(10) In substituting another decision, the Court has the same powers as the Minister.

‘(11) If the Court substitutes another decision, the substituted decision is taken, for the purposes of section 4, to be the Minister’s decision (other than for the purpose of an appeal under subsection (1)).’.

Omission of s.9 (Consent of cemetery authorities to application for a crematorium)

12. Section 9—

omit.

Replacement of s.10 (Regulations)

13. Section 10—

omit, insert—

‘Regulations

‘10.(1) The Governor in Council may make regulations for the purposes of this Act.

‘(2) A regulation may—

- (a) prescribe the purposes for which fees are payable under this Act, the amounts of fees, the persons who are liable to pay fees, when fees are payable, the waiver of fees and the recovery of unpaid amounts of fees; or
- (b) prescribe offences for contravention of a regulation, and fix a maximum penalty of not more than 2 penalty units for a contravention.’.

Omission of ss.11–13

14. Sections 11 to 13—

omit.

PART 4—AMENDMENT OF DENTAL ACT 1971**Amended Act**

15. The *Dental Act 1971* is amended as set out in this Part.

Amendment of s.18 (Qualification for registration)

16.(1) Section 18—

insert—

‘**(3A)** Subject to section 20(3), a dentist is also entitled to be registered as a dental specialist if the dentist—

- (a) applies to the Board in the prescribed form; and
- (b) pays the fee prescribed by regulation; and
- (c) satisfies the Board that the dentist has qualifications, experience and standing in the dental specialty to which the application relates at least equal to—
 - (i) a 2 year full-time course work Masters degree in the specialty; and
 - (ii) 2 additional years experience in the specialty.’

(2) Section 18(4)—

omit ‘from time to time, upon the recommendation of the Board by Order in Council’,

insert ‘by regulation.’.

Amendment of s.24 (Annual licence fee)

17.(1) Section 24(2)—

omit.

(2) Section 24(3) and (4)—

omit ‘specified in subsection (2)’, *insert* ‘prescribed by regulation’.

Amendment of s.35 (By-laws)

18.(1) Section 35 (1st sentence)—

omit, insert—

‘35.(1) The Board may make by-laws for the purposes of this Act.’.

(2) Section 35 (2nd sentence)—

omit ‘Without limiting the power conferred by the foregoing provisions, by-laws’,

insert ‘**(2)** By-laws’.

(3) Section 35(2)(j)—

omit ‘\$250’, *insert* ‘5 penalty units.’.

(4) Section 35(2)(l)—

omit.

(5) Section 35 (at the end)—

insert—

‘(3) By-laws do not have effect until they are approved by the Governor in Council.’.

Omission of s.36 (Procedural provisions re by-laws)

19. Section 36—

omit.

Omission of s.37 (Amendment of Medical Act and Other Acts (Administration) Act 1966–1969)

20. Section 37—

omit.

PART 5—AMENDMENT OF DENTAL TECHNICIANS AND DENTAL PROSTHETISTS ACT 1991

Amended Act

21. The *Dental Technicians and Dental Prosthetists Act 1991* is amended as set out in this Part.

Amendment of s.3 (Interpretation)

22. Section 3(1) (definition “**medical practitioner**”)—
omit.

Amendment of s.25 (Qualifications for registration as dental technicians and prosthetists)

23. Section 25(1)(b)(ii)—
omit ‘elsewhere than in Queensland’,
insert ‘either in or outside the State’.

PART 6—AMENDMENT OF HEALTH ACT 1937

Amended Act

24. The *Health Act 1937* is amended as set out in this Part.

Amendment of s.5 (Interpretation)

25. Section 5 (definition “**day hospital**”)—
omit.

Amendment of s.48 (Controlled notifiable diseases)

26.(1) Section 48(1)—

omit ‘notification published in the Gazette’, *insert* ‘regulation’.

(2) Section 48(2)—

omit, insert—

‘**(2)** A person must not deliberately or recklessly put someone else at risk of infection from a controlled notifiable disease.

Maximum penalty—150 penalty units or imprisonment for 18 months.

‘**(2A)** A person must not deliberately or recklessly infect someone else with a controlled notifiable disease.

Maximum penalty—200 penalty units or imprisonment for 2 years.

‘**(2B)** A person does not commit an offence against subsection (2) if, when the other person was put at risk of infection from the disease, the other person—

- (a) knew the person was infected with the disease; and
- (b) voluntarily accepted the risk of being infected.

‘**(2C)** A person does not commit an offence against subsection (2A) if, when the disease was transmitted to the other person, the other person—

- (a) knew the person was infected with the disease; and
- (b) voluntarily accepted the risk of being infected.

‘**(2D)** A complaint against a person for an offence against subsection (2) or (2A) is sufficient if it states that the person charged carried out the act deliberately or recklessly.’.

Amendment of s.62 (Removal of infirm person to institution)

27.(1) Section 62 (heading)—

omit, insert—

‘**Removal of infirm person to public sector health service**’.

(2) Section 62(1)—

omit ‘health service’, *insert* ‘public sector health service’.

(3) Section 62(2)—

omit ‘such hospital or charitable institution’,

insert ‘the public sector health service’.

Amendment of s.63 (Interpretation)

28. Section 63—

insert—

‘“day hospital” has the meaning given by section 63A;’.

Insertion of new s.63A

29. After section 63—

insert—

‘Meaning of “day hospital”

‘63A.(1) Premises where a medical practitioner gives surgical or medical treatment that does not require overnight hospitalisation are a day hospital.

‘(2) A day hospital is taken to be a private hospital even though the premises do not provide for the reception of patients.

‘(3) Premises that are part of a public sector hospital within the meaning of the *Health Services Act 1991* are not a day hospital.

‘(4) Premises ordinarily used by a medical practitioner for patient consultation, diagnosis and treatment are not a day hospital.

Examples of premises that are not a day hospital—

Medical centre, medical practitioner’s general practice room.’.

Replacement of s.100E (Secrecy)

30. Section 100E—

omit, insert—

‘Confidentiality

‘100E.(1) This section applies to—

- (a) the Director-General; and
- (b) a person administering this Act; and
- (c) a person who in any way helps in the administration of this Division.

‘(2) A person to whom this section applies must not, whether directly or indirectly, disclose or make use of information gained by the person under this Division unless the person discloses or makes use of the information—

- (a) under this Act; or
- (b) when specifically authorised under another Act.

Maximum penalty—16 penalty units.

‘(3) However, the Director-General may—

- (a) disclose information in statistical or similar form if the information does not disclose the identity of a cancer sufferer; or
- (b) disclose information in any form to—
 - (i) a person authorised to conduct scientific research and studies under section 154M; or
 - (ii) a person holding an appointment in another State or the Commonwealth corresponding to that of the Director-General.’.

Replacement of s.100I (Confidentiality)

31. Section 100I—

omit, insert—

‘Confidentiality

‘**100I.(1)** This section applies to—

- (a) the Director-General; and
- (b) a person administering this Act; and
- (c) a person who in any way helps in the administration of this Division.

‘(2) A person to whom this section applies must not, whether directly or

indirectly, disclose or make use of information gained by the person under this Division unless the person discloses or makes use of the information—

- (a) under this Act; or
- (b) when specifically authorised under another Act.

Maximum penalty—10 penalty units.

‘(3) However, the Director-General may—

- (a) disclose information in statistical or similar form to another person if the information does not disclose an individual’s identity; or
- (b) disclose information in any form to—
 - (i) a person authorised to conduct scientific research and studies under section 154M; or
 - (ii) a person holding an appointment in another State or the Commonwealth corresponding to that of the Director-General.’.

Amendment of s.131Q (Conditions of licence)

32. Section 131Q (at the end)—

insert—

‘(2) A licensee must not contravene a condition of the licence.

Maximum penalty—

- (a) for a first offence—10 penalty units; or
- (b) for a second offence—20 penalty units; or
- (c) for a third or subsequent offence—40 penalty units.’.

PART 7—AMENDMENT OF HEALTH RIGHTS COMMISSION ACT 1991

Amended Act

33. The *Health Rights Commission Act 1991* is amended as set out in this Part.

Amendment of s.27 (Co-operation with interested organisations)

34. Section 27(b)—

insert—

‘(iii) the Anti-Discrimination Commission.’.

Amendment of s.32 (Minister’s directions)

35. Section 32(1)(e)—

omit, insert—

‘(e) to intervene in disciplinary proceedings against a registered provider under section 130.’.

Insertion of new s.33A

36. After section 33—

insert—

‘Commission’s budget

‘33A.(1) The Commissioner must prepare and give to the Minister a draft budget for the Commission for each financial year in the form and when the Minister directs.

‘(2) The Minister must decide the Commission’s budget for the financial year.

‘(3) The Commissioner must authorise spending only under the budget decided by the Minister unless the Minister otherwise directs.’.

Amendment of s.52 (Council Meetings)

37. Section 52(3)—

omit ‘Four’, insert ‘Three’.

Insertion of new s.68A

38. After section 68—

insert—

‘Commissioner to invite submissions

‘68A.(1) Before assessing a health service complaint, the Commissioner must invite submissions from the complainant and the provider in the notice given under section 68.

‘(2) The Commissioner may also invite submissions from the complainant and the provider in other ways the Commissioner considers appropriate.’.

Amendment of s.73 (Information and local resolution)

39. Section 73(1)(a)—

omit ‘section’, insert ‘sections’.

Amendment of s.74 (Decisions not to take action)

40. Section 74(4) (after ‘the complaint’)—

insert ‘and a court has begun to hear the matter’.

Amendment of s.78 (Conciliation function)

41. Section 78(2)(a) and (b)—

omit ‘discussions’, insert ‘negotiations’.

Insertion of new s.87A

42. After section 87—

insert—

‘Administrative support staff

‘87A.(1) The Commissioner may make arrangements for a person (the **“support person”**) appointed, employed or engaged under this Act to give administrative support to a conciliator in the performance of the conciliator’s functions.

‘(2) A conciliator may disclose information gained during conciliation to the support person.

‘(3) If a conciliator discloses information gained during conciliation to a support person, the support person must not disclose the information.

Maximum penalty for subsection (3)—40 penalty units.’.

Replacement of s.130 (Commissioner may intervene in disciplinary proceedings)

43. Section 130—

omit, insert—

‘Commissioner may intervene in disciplinary proceedings

‘130.(1) This section applies if a disciplinary proceeding is taken against a registered provider for a matter because of a health service complaint or an inquiry matter and the proceeding is before—

- (a) a registration board; or
- (b) another body that—
 - (i) is established under an Act that establishes a registration board; and
 - (ii) deals with disciplinary matters against registered providers.

‘(2) The Commissioner may intervene in the disciplinary proceeding at any time.

‘(3) On intervention, the Commissioner becomes a party to the proceeding.’.

Amendment of s.138 (Preservation of confidentiality)

44.(1) Section 138(4)(d) (2nd mention)—

omit ‘(d)’, insert ‘(e)’.

(2) Section 138(4)(e)—

omit ‘(e)’, insert ‘(f)’.

Amendment of s.142 (Regulations)

45. Section 142(1)—

omit, insert—

‘142.(1) The Governor in Council may make regulations for the purposes of this Act.’.

**PART 8—AMENDMENT OF HOSPITALS
FOUNDATIONS ACT 1982****Amended Act**

46. The *Hospitals Foundations Act 1982* is amended as set out in this Part.

Amendment of s.4 (Definitions)

47.(1) Section 4 (definition “**financial year**”)—

omit.

(2) Section 4 (definition “**body corporate**”)—

omit ‘by Order in Council’.

(3) Section 4 (definition “**hospital**”)—

omit all words from ‘—and includes’ to ‘this Act’.

Amendment of s.5 (Class of applicant)

48. Section 5—

omit ‘by Order in Council’.

Replacement of s.7 (Authority to establish bodies corporate)

49. Section 7—

omit, insert—

‘Establishment of bodies corporate

‘7.(1) The Governor in Council may establish a body corporate by regulation.

‘(2) The regulation must—

- (a) specify the body’s name; and
- (b) appoint the first appointed members of the body.

‘(3) The body’s name must not be the same as the name of another body corporate.’.

Amendment of s.8 (Body to be incorporated)

50. Section 8(1)—

omit ‘and style’.

Amendment of s.9 (Registration of bodies corporate)

51.(1) Section 9—

omit ‘within the Department administered by the Minister’,

insert ‘in the department’.

(2) Section 9(a)—

omit ‘and style’.

Amendment of s.10 (Name of bodies corporate)

52. Section 10—

omit ‘and style’.

Amendment of s.18 (Members of body corporate)

53. Section 18—

omit ‘Order in Council’, *insert* ‘Gazette notice’.

Amendment of s.20 (Appointment of members)

54.(1) Section 20(1)—

omit, insert—

‘**20.(1)** The members of a body corporate (other than the chairperson) are to be appointed by the Governor in Council by Gazette notice’.

(2) Section 20(2)—

omit.

(3) Section 20(3)—

renumber as section 20(2).

Amendment of s.21 (Term of appointment)

55. Section 21(4)—

omit ‘and is not ineligible under section 20(2)’.

Amendment of s.23 (Casual vacancies)

56.(1) Section 23(1)—

omit ‘, on the recommendation of the Minister,’.

(2) Section 23(3)—

omit ‘on the recommendation of the Minister’.

Amendment of s.24 (Vacation of office)

57. Section 24(g)—

omit.

Amendment of s.28 (Chairman and deputy chairman)

58. Section 28(1)—

omit ‘on the recommendation of the Minister, by notification published in the Gazette’,

insert ‘, by Gazette notice’.

Amendment of s.37 (Employees)

59. Section 37(4)—

omit ‘thereto he shall, for the purposes of the *Workers’ Compensation Act 1916–1978*, be deemed’,

insert ‘to the work, the worker is taken, for the purposes of the *Workers’ Compensation Act 1990*,’.

Amendment of s.41 (Insurance)

60. Section 41(1)—

omit ‘Order in Council’, *insert* ‘regulation’.

Amendment of s.44 (Audit of accounts)

61. Section 44(6)—

omit ‘member of the Police Force of Queensland’, *insert* ‘police officer’.

Amendment of s.56 (Removal from Register)

62.(1) Section 56(2)—

omit ‘Upon the recommendation of the Minister, the Governor in Council may, by Order in Council’,

insert ‘The Governor in Council may, by Gazette notice’.

(2) Section 56(3)—

omit.

Replacement of s.57 (Winding-up of bodies corporate)

63.(1) Section 57—

omit, insert—

‘Winding-up of bodies corporate

‘57.(1) If an entry in the Register about a body corporate is removed on application by the body corporate, the provisions of the Corporations Law about the voluntary winding-up of companies apply, with all necessary changes and any changes prescribed by regulation, to the winding-up of the body corporate.

‘(2) If an entry in the Register about a body corporate is removed other than on application by the body corporate, the body corporate may be wound-up by the Supreme Court.

‘(3) A body corporate, a member of the body corporate, a creditor or the chief executive of the department may apply to the Court for the body corporate to be wound-up.

‘(4) In the application of Part 5.7 of the Corporations Law to the winding-up of a body corporate, a reference—

- (a) to a Part 5.7 body—is a reference to the body corporate; and
- (b) to a director of a Part 5.7 body—is a reference to a member of the body corporate; and
- (c) to the secretary of a Part 5.7 body—is a reference to the secretary of the body corporate; and
- (d) to the principal place of business of a Part 5.7 body—is a reference to the associated hospital of the body corporate.’.

Amendment of s.59 (Dissolution of bodies corporate)

64. Section 59—

omit all words from ‘he may’,

insert ‘, the Governor in Council may dissolve the body corporate by regulation.’.

Amendment of s.61 (Effect of winding up etc. on offices)

65. Section 61—

omit ‘by order of the Governor in Council’, *insert* ‘under section 59’.

Replacement of s.63 (Delegation by Minister)

66. Section 63—

omit, insert—

‘Delegation by Minister

‘**63.** The Minister may delegate the Minister’s powers under this Act (other than the power under section 46(1)) to an officer of the department.’.

Replacement of s.64 (Delegation by body corporate)

67. Section 64—

omit, insert—

‘Delegation by body corporate

‘**64.** A body corporate may delegate its powers under this Act (other than the power to make rules) to a member or employee of the body.’.

Amendment of s.71 (Evidentiary provisions)

68.(1) Section 71(1)—

omit ‘and, in the absence of evidence to the contrary, conclusive evidence’.

(2) Section 71(3)—

omit all words from ‘and,’, *insert* ‘of the matter.’.

Replacement of s.72 (Regulations)

69. Section 72—

omit, insert—

‘Regulations

‘72.(1) The Governor in Council may make regulations for the purposes of this Act.

‘(2) A regulation may create offences and prescribe penalties for the offences of not more than 4 penalty units.’.

Amendment of s.73 (Rules)

70.(1) Section 73(2)—

omit, insert—

‘(2) A rule may create offences and prescribe penalties for the offences of not more than 4 penalty units.’.

(2) Section 73(5)—

omit.

PART 9—AMENDMENT OF MEDICAL ACT 1939**Amended Act**

71. The *Medical Act 1939* is amended as set out in this Part.

Amendment of s.8 (Constitution of Board; president)

72. Section 8(1) (last sentence)—

omit.

Amendment of s.9 (Disqualifications from membership of Board)

73. Section 9(a)—

omit ‘Attains the age of 70 years,’.

Amendment of s.18 (Specialists)

74. Section 18(1)—

omit ‘who has general registration’.

**PART 10—AMENDMENT OF MENTAL HEALTH
ACT 1974****Amended Act**

75. The *Mental Health Act 1974* is amended as set out in this Part and in the Schedule.

Amendment of s.28B (Mental Health Tribunal)

76. Section 28B(5)(b)(i)—

omit, insert—

‘(i) dies;’.

Insertion of new Part 7

77. After section 72—

insert—

‘PART 7—FINANCIAL PROVISIONS**‘Definition**

‘72A. In this Part—

“**authority**” means the person or authority assigned responsibility for the administration of a psychiatric hospital, security patients’ hospital or other place under section 16(3);

“**principal officer**” of an authority means—

- (a) for a Regional Health Authority—the regional director of the Authority; or
- (b) for another body—the person who manages the body’s affairs; or
- (c) for an individual—the person.’.

Replacement of s.73 (Financial provisions)

78. Section 73—

omit, insert—

‘Patients’ Trust Fund

‘**73.(1)** All amounts received by an authority in trust for patients must be paid into a fund called the Patients’ Trust Fund.

‘**(2)** The authority must keep a separate account in the Fund for each patient who has money in the Fund.

‘**(3)** The authority may withdraw amounts from a patient’s account in the Fund to meet charges for the patient’s maintenance as prescribed by regulation.

‘**(4)** The authority must tell the patient if it withdraws an amount under subsection (3).

‘Amenities account

‘**73A.(1)** Interest received on amounts in the Patients’ Trust Fund must be paid into a separate amenities account in the Fund.

‘**(2)** Amounts to the credit of the account must be used to provide things for the benefit of patients in general in the hospital, or a part of the hospital, administered by the authority.

‘**(3)** The amenities account may contain other amounts.

‘**(4)** An amount more than the amount prescribed by regulation must not

be withdrawn from the amenities account to purchase plant or equipment or to construct capital works unless the authority's principal officer approves the withdrawal.

'(5) The amenities account must not be used to pay costs associated with the administration of the Patients' Trust Fund.

Examples of things that may be provided under subsection (2)—

- books, newspapers, journals and other publications for patients
- items for personal care, including haircuts and non-standard toiletries
- sightseeing and other social activities
- improvements and additions to patients' living and recreation facilities, including buildings and fixtures
- equipment and furniture to improve patients' quality of life.

'Patients' advisory committee

'73B.(1) The authority must establish a committee to advise on how amounts in the amenities account are to be used.

'(2) The majority of the members of the committee must be patients of the hospital who have accounts in the Patients' Trust Fund.

'(3) The authority must consider, but need not take, the committee's advice.'

Amendment of s.74 (Power to accept gifts etc.)

79.(1) Section 74(1)—

omit 'A person or authority who or which is the subject of an assignment under section 16(3)',

insert 'An authority'.

(2) Section 74(2)—

omit, insert—

'(2) An authority may act as trustee of property vested in the authority in trust.'

(3) Section 74(3)—

omit ‘such a person or’, insert ‘an’.

(4) Section 74(3)—

omit ‘that last mentioned’, insert ‘the’.

Replacement of s.75 (Investment of moneys)

80. Section 75—

omit, insert—

‘Investment of amounts held in trust

‘75. An authority may invest amounts held in trust under section 73, 73A or 74 in the way in which a trustee may invest trust funds under section 21 of the *Trusts Act 1973*.’.

Insertion of new Part 8

81. After section 76—

insert—

‘PART 8—VALIDATIONS

‘Wacol Rehabilitation Clinic

‘77.(1) On and from 1 July 1991 to and including 6 August 1992, the West Moreton Regional Health Authority is taken to have had responsibility under the *Inebriates Institutions Act 1896* for the administration of the Wacol Rehabilitation Clinic.

‘(2) The validity of anything done by the West Moreton Regional Health Authority in administering the Clinic during the period cannot be challenged, appealed against, reviewed, quashed or questioned in any way on the ground that the Authority did not have responsibility for administering the Clinic under that Act.

‘Establishment of Barrett Psychiatry Centre and Barrett Adolescent Centre

‘78.(1) The Barrett Psychiatry Centre, Wacol and the Barrett Adolescent Centre, Wacol are taken to have been established as places under section 16(1) on and from the day they started to and including 6 August 1992.

‘(2) The validity of anything done by a person or authority in administering the Centres on or from the day they started cannot be challenged, appealed against, reviewed, quashed or questioned in any way on the ground that they had not been established under section 16(1).

‘Administration of certain hospitals by Regional Health Authorities

‘79.(1) On and from 1 July 1991 to and including 6 August 1992, each Regional Health Authority mentioned in Schedule 1 is taken to have had responsibility under section 16(3) for the administration of the hospital mentioned in the Schedule opposite its name.

‘(2) The validity of anything done by the Regional Health Authority in administering the hospital during the period cannot be challenged, appealed against, reviewed, quashed or questioned in any way on the ground that the Authority did not have responsibility for administering the hospital under section 16(3).

‘(3) To remove any doubt, it is declared that, for the purposes of the Act as in force during the period, responsibility for the administration of the hospital by the Regional Health Authority is taken to have been the subject of an assignment properly made under section 16(3).

‘Administration of certain amounts by Regional Health Authorities

‘80.(1) On and from 1 July 1991 to the commencement of this section, each Regional Health Authority mentioned in Schedule 1 is taken to have had power—

- (a) to withdraw amounts standing to the credit of a patient’s account in the fund known as the Patients’ Trust Fund for the hospital mentioned in the Schedule opposite the Authority’s name for the patient’s maintenance; and

- (b) to use interest received on amounts in the Patients' Trust Fund to provide things for the benefit of patients in general in the hospital, or any part of the hospital.

‘(2) The validity of a thing mentioned in subsection (1)(a) or (b) done by the Regional Health Authority during the period cannot be challenged, appealed against, reviewed, quashed or questioned in any way on the ground that the Authority did not have the power to do the thing.

‘Maintenance charges at security patients’ hospitals and other places

‘81.(1) On and from 9 September 1989 to the commencement of this section, an authority having responsibility under section 16(3) for the administration of a security patients’ hospital or other place established under section 16(1) is taken to have had power to impose maintenance charges under section 63 of the *Mental Health Services Regulation 1985* on patients of the hospital or other place.

‘(2) For the purposes of subsection (1), section 63 of the *Mental Health Services Regulation 1985* is taken, during the period—

- (a) to have applied to a patient in a security patients’ hospital or other place in the same way as it is specified to apply to a patient in a psychiatric hospital; and
- (b) to have been valid.

‘Maintenance charges at psychiatric hospitals

‘82.(1) On and from 1 July 1991 to the commencement of this section, an authority having responsibility for the administration of a psychiatric hospital is taken to have had power to impose maintenance charges as specified in section 63 of the *Mental Health Services Regulation 1985* on patients of the hospital.

‘(2) For the purpose of subsection (1), section 63 of the *Mental Health Services Regulation 1985* is taken to have been valid during the period.

‘Application of s.20A of Acts Interpretation Act 1954 and expiry of Part and Schedule 1

‘83.(1) This Part and Schedule 1 are laws to which section 20A of the *Acts Interpretation Act 1954* applies.

(2) This Part and Schedule 1 expire 1 month after they commence.’.

Insertion of new Schedule 1

82. After section 82—

insert—

‘SCHEDULE 1

‘ADMINISTRATION OF CERTAIN HOSPITALS BY REGIONAL HEALTH AUTHORITIES

sections 79 and 80

Regional Health Authority	Hospital
Darling Downs Regional Health Authority	Baillie Henderson Hospital, Toowoomba
Northern Regional Health Authority	Mosman Hall, Charters Towers
West Moreton Regional Health Authority	Wolston Park Hospital, Wacol
West Moreton Regional Health Authority	Osler House (a ward of Wolston Park Hospital), Wacol
West Moreton Regional Health Authority	Barrett Psychiatry Centre, Wacol
West Moreton Regional Health Authority	Barrett Adolescent Centre, Wacol
West Moreton Regional Health Authority	John Oxley Memorial Hospital, Wacol’.

Amendment of Schedule 6 (Subject Matters for Regulations)

83. Schedule 6 (clause 14)—

omit ‘hospitals other than public hospitals and private hospitals’,

insert ‘psychiatric hospitals, training centres, security patients’ hospitals and other places established under section 16(1)’.

**PART 11—AMENDMENT OF OCCUPATIONAL
THERAPISTS ACT 1979****Amended Act**

84. The *Occupational Therapists Act 1979* is amended as set out in this Part.

Amendment of s.7 (Members of Board)

85. Section 7(1) (2nd last sentence)—

omit.

Amendment of s.9 (Tenure of office)

86. Section 9(3)(a)—

omit, insert—

‘(a) dies;’.

PART 12—AMENDMENT OF PHARMACY ACT 1976**Amended Act**

87. The *Pharmacy Act 1976* is amended as set out in this Part.

Amendment of s.8 (Members of Board)

88. Section 8(1) (2nd sentence)—

omit.

Amendment of s.10 (Tenure of office)

89. Section 10(3)(a)—

omit, insert—

‘(a) dies;’.

**PART 13—AMENDMENT OF PHYSIOTHERAPISTS
ACT 1964****Amended Act**

90. The *Physiotherapists Act 1964* is amended as set out in this Part.

Amendment of s.7 (Members of the Board)

91.(1) Section 7(1) (last sentence)—

omit.

(2) Section 7(3)(b)(i)—

omit, insert—

‘(i) dies;’.

PART 14—AMENDMENT OF PODIATRISTS ACT 1969

Amended Act

92. The *Podiatrists Act 1969* is amended as set out in this Part.

Amendment of s.3 (Definitions)

93. Section 3 (definition “**podiatry**”)—

omit, insert—

- ‘ **“podiatry”** means the diagnosis and treatment by medical, surgical, electrical, mechanical or manual methods of ailments or abnormal conditions of the human foot, and includes a way of treatment declared, by regulation, to be podiatry;’.

Omission of s.4 (Administration of Act)

94. Section 4—

omit.

Amendment of s.6 (Members of Board)

95.(1) Section 6(1) (1st sentence)—

omit, insert—

‘**6.(1)** The Board consists of 9 members appointed by the Governor in Council by Gazette notice.’.

(2) Section 6(1) (2nd sentence)—

omit.

Amendment of s.7 (Chairman and deputy chairman of Board)

96. Section 7(1)—

omit ‘notification published in the Gazette’, *insert* ‘Gazette notice’.

Amendment of s.8 (Tenure of office)

97.(1) Section 8(2)(a)—

omit, insert—

‘(a) dies or is mentally ill; or’.

(2) Section 8(2)(f)—

omit ‘notification published in the Gazette’, *insert* ‘Gazette notice’.

Amendment of s.26 (Certain actions implying registration or qualification prohibited)

98. Section 26(2)—

omit ‘within the meaning of the *Medical Act 1939–1984*’.

Amendment of s.26A (Practice of Podiatry)

99. Section 26A(2)(a)—

omit ‘within the meaning of the *Medical Act 1939–1984*’.

Amendment of s.30 (Evidentiary provisions)

100. Section 30—

omit ‘and, in the absence of evidence to the contrary, conclusive evidence’.

Amendment of s.31 (By-laws)

101.(1) Section 31 (1st sentence)—

omit, insert—

‘**31.(1)** The Board may make by-laws for the purposes of this Act.’.

(2) Section 31 (2nd sentence)—

omit ‘Without limiting the power conferred by the foregoing provisions, by-laws’,

insert ‘**(2)** By-laws’.

(3) Section 31(2)(j)—

omit.

(4) Section 31 (last sentence)—

omit, insert—

‘(3) By-laws do not have effect until they are approved by the Governor in Council.’.

PART 15—AMENDMENT OF PSYCHOLOGISTS ACT 1977

Amended Act

102. The *Psychologists Act 1977* is amended as set out in this Part.

Amendment of s.7 (Members of Board)

103. Section 7(1) (2nd sentence)—

omit.

Amendment of s.9 (Tenure of office)

104. Section 9(3)(a)—

omit, insert—

‘(a) dies;’.

PART 16—AMENDMENT OF SPEECH PATHOLOGISTS ACT 1979

Amended Act

105. The *Speech Pathologists Act 1979* is amended as set out in this Part.

Amendment of s.7 (Members of Board)

106. Section 7(1) (2nd last sentence)—
omit.

Amendment of s.9 (Tenure of office)

107. Section 9(3)(a)—
omit, insert—
‘(a) dies;’.

Amendment of s.17 (The register)

108. Section 17(3)(a)—
omit ‘Speech Therapists’, *insert* ‘Speech Pathologists’.

PART 17—AMENDMENT OF TRANSPLANTATION AND ANATOMY ACT 1979

Amended Act

109. The *Transplantation and Anatomy Act 1979* is amended as set out in this Part.

Amendment of s.4 (Interpretation)

110.(1) Section 4(1) (definitions “**medical practitioner**”, “**Minister**” and “**tissue**”)—

omit.

(2) Section 4(1)—

insert—

“**tissue**” means—

- (a) an organ, blood or part of—
 - (i) a human body; or
 - (ii) a human foetus; or
- (b) a substance extracted from an organ, blood or part of—
 - (i) a human body; or
 - (ii) a human foetus;

but does not include—

- (c) immunoglobulins; or
- (d) laboratory reagents, or reference and control materials, derived wholly or in part from pooled human plasma.’.

Amendment of s.5 (Declaration of Hospitals)

111.(1) Section 5—

omit, ‘Order in Council, may from time to time’,

insert ‘regulation, may’.

(2) Section 5—

omit ‘and may at any time revoke any such declaration’.

Omission of s.7 (Administration)

112. Section 7—

omit.

Omission of Division 6 (Regulations)

113. Division 6—

omit.

Amendment of s.37 (Establishment of schools of anatomy)

114.(1) Section 37(1)—

omit ‘, by Order in Council,’.

(2) Section 37(1)—

omit ‘, and may at any time revoke such authority’.

Omission of s.39 (Regulations in respect of schools of anatomy)

115. Section 39—

omit.

Amendment of s.40 (Unauthorised buying of tissue prohibited)

116.(1) Section 40(1) (penalty)—

omit, insert—

‘Maximum penalty—20 penalty units or imprisonment for 6 months.’.

(2) Section 40(5) (penalty)—

omit, insert—

‘Maximum penalty—10 penalty units or imprisonment for 3 months.’.

Amendment of s.41 (Advertisements relating to buying of tissue restricted)

117. Section 41 (penalty)—

omit, insert—

‘Maximum penalty—10 penalty units or imprisonment for 3 months.’.

Amendment of s.42 (Unauthorised selling of tissue prohibited)

118. Section 42(1) (penalty)—

omit, insert—

‘Maximum penalty—10 penalty units or imprisonment for 3 months.’.

Amendment of s.44 (Evidentiary provision)

119. Section 44—

omit ‘and, in the absence of evidence to the contrary, conclusive evidence’.

Amendment of s.45 (When death occurs)

120.(1) Section 45(3) and (4) (penalties)—

omit, insert—

‘Maximum penalty—10 penalty units.’.

Amendment of s.48 (Offences in relation to removal of tissue)

121. Section 48(1) and (2) (penalties)—

omit, insert—

‘Maximum penalty—10 penalty units.’.

Amendment of s.48A (Offence to give false or misleading information)

122. Section 48A(1) (penalty)—

omit, insert—

‘Maximum penalty—200 penalty units or imprisonment for 2 years.’.

Amendment of s.49 (Disclosure of information)

123. Section 49(1) (penalty)—

omit, insert—

‘Maximum penalty—10 penalty units.’.

Amendment of s.50 (Proceedings for offences)

124. Section 50(1), (2) and (4)—

omit.

Replacement of s.52 (Regulations)

125. Section 52—

omit, insert—

‘Regulations

‘52.(1) The Governor in Council may make regulations for the purposes of this Act.

‘(2) A regulation may be made with respect to any of the following matters—

- (a) the conditions under which transplantations of tissue from living persons may be carried out;
- (b) the precautions to be taken for the removal or storage of tissue removed from living persons;
- (c) the regulation of premises where transplantations of tissue from living persons may be carried out;
- (d) how bodies are to be transported to a school of anatomy;
- (e) the conditions under which—
 - (i) the teaching, study and practice of anatomy; and
 - (ii) anatomical examinations;are to be carried out;
- (f) the giving of returns and other information by the person in charge of a school of anatomy;
- (g) the precautions to be taken for receiving and keeping bodies at a school of anatomy;

- (h) the inspection of schools of anatomy;
- (i) the regulation of schools of anatomy;
- (j) the disposal of bodies or parts of bodies by schools of anatomy;
- (k) prescribing offences for contraventions of the regulations and fixing a maximum penalty of not more than 10 penalty units for a contravention.?

Omission of s.53 (Savings)

126. Section 53—

omit.

Omission of s.54 (Repeal and amendments)

127. Section 54—

omit.

PART 18—REPEALS**Repeal of Inebriates Institutions Act 1896 and Inebriates Institutions Act Amendment Act 1968**

128. The *Inebriates Institutions Act 1896* and the *Inebriates Institutions Act Amendment Act 1968* are repealed.

SCHEDULE**MINOR AMENDMENTS OF MENTAL HEALTH ACT
1974**

section 75

1. Section 5(1) (definitions “Director”, “Director of Intellectual Handicap Services” and “medical practitioner”)—*omit.***2. Section 5(1)—***insert—***“Director”** means the Director of Mental Health appointed under this Act;**“Director of Intellectual Handicap Services”** means the officer holding the office of Director of Intellectual Handicap Services in the department within which the *Family Services Act 1987* is administered;**“Regional Health Authority”** means a Regional Health Authority established under the *Health Services Act 1991*;**3. Section 5(1) (definition “hospital”)—***omit* ‘an institution within the meaning of *The Inebriates Institutions Acts 1896 to 1968*’.**4. Section 5(3)—***omit.*

SCHEDULE (continued)

5. Section 10(3)—

omit.

6. Section 10(5)—

omit ‘, on the recommendation of the Minister.’.

7. Section 11—

omit, insert—

‘Delegations

‘**11.(1)** The Minister may delegate the Minister’s powers under this Act to an officer of the public service or of a Regional Health Authority.

‘**(2)** The Director-General may delegate the Director-General’s powers under this Act to an officer of the public service or of a Regional Health Authority.

‘**(3)** The Director may delegate the Director’s powers under this Act to an officer of the public service or of a Regional Health Authority.’.

8. Section 14(1)—

omit ‘from time to time by Order in Council’, insert ‘, by regulation,’.

9. Section 14(3) (after ‘Governor in Council’)—

insert ‘by Gazette Notice’.

10. Section 14(7) (after ‘may’)—

insert ‘, by Gazette notice,’.

11. Section 14(7A) (after ‘than 6,’)—

insert ‘by Gazette notice,’.

SCHEDULE (continued)

12. Section 14(9) (after ‘may’)—

insert ‘, by Gazette notice,’.

13. Section 14(11)(a)—

omit ‘by notification published in the Gazette’,

insert ‘, by Gazette notice,’.

14. Section 14(11)(c)—

omit ‘Public Service Act 1922-1973’,

insert ‘Public Service Management and Employment Act 1988’.

15. Section 16(1)—

omit ‘by Order in Council’, insert ‘, by regulation,’.

16. Section 16(2)—

omit.

17. Section 16(3)—

omit ‘Order in Council’, insert ‘regulation’.

18. Section 16(3)—

omit ‘Order’, insert ‘regulation’.

19. Section 16(4)—

omit ‘by Order in Council’, insert ‘, by regulation,’.

SCHEDULE (continued)

20. Section 26(3)(c)—

omit ‘Order in Council’, *insert* ‘regulation’.

21. Section 28B(3)—

omit, insert—

‘(3) The Judge and the psychiatrists are to be appointed by the Governor in Council by Gazette notice.’.

22. Section 28B(4) (1st sentence)—

omit ‘therefor in the Order in Council’,
insert ‘for the purpose in the Gazette notice’.

23. Section 28B(7)(a)—

omit ‘Order in Council’, *insert* ‘Gazette notice’.

24. Section 28C(3)—

omit ‘Order in Council’, *insert* ‘regulation’.

25. Section 29B(2)—

omit ‘Commissioner of Police’,
insert ‘Commissioner of the Police Service’.

26. Section 31(5)—

omit ‘Commissioner of Police’,
insert ‘Commissioner of the Police Service’.

SCHEDULE (continued)

27. Section 31A(1)(a)(iii)—

omit ‘Commissioner of Police’,

insert ‘Commissioner of the Police Service’.

28. Section 33(4)(a)—

omit ‘Commissioner of Police’,

insert ‘Commissioner of the Police Service’.

29. Section 35 (heading)—

omit, insert—

‘Consequences of Mental Health Tribunal’s findings or Governor in Council’s order’.

30. Section 38(11) and (13)—

omit ‘Commissioner of Police’,

insert ‘Commissioner of the Police Service’.

31. Section 43A—

omit ‘Court of Criminal Appeal’, *insert* ‘Court of Appeal’.

32. Section 43B—

omit ‘Court of Criminal Appeal’, *insert* ‘Court of Appeal’.

33. Section 43C—

omit ‘Court of Criminal Appeal’, *insert* ‘Court of Appeal’.

SCHEDULE (continued)

34. Section 43D—

omit ‘Court of Criminal Appeal’, *insert* ‘Court of Appeal’.

35. Section 53(1)—

omit ‘Order in Council’, *insert* ‘regulation’.

36. Section 53(2)—

omit ‘Penalty: \$2 000.’, *insert* ‘Maximum penalty—40 penalty units.’.

37. Section 53(3)—

omit ‘from time to time appoints by notification published in the Gazette’,

insert ‘appoints by Gazette notice’.

38. Section 57(1) and (2)—

omit ‘, and is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding \$400, or to both’.

39. Section 57 (at the end)—

insert—

‘Maximum penalty—8 penalty units or imprisonment for 6 months.’.

40. Section 58—

omit ‘, and is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding \$800, or to both’.

SCHEDULE (continued)

41. Section 58 (at the end)—

insert—

‘Maximum penalty—16 penalty units or imprisonment for 6 months.’.

42. Section 59(1)—

omit ‘and is liable to imprisonment for a term not exceeding six months or to a fine not exceeding \$800, or to both.’.

43. Section 59(2)—

omit ‘, and is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding \$800, or to both’.

44. Section 59 (at the end)—

insert—

‘Maximum penalty—16 penalty units or imprisonment for 6 months.’.

45. Section 60(1) and (2)—

omit ‘, and is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding \$800, or to both’.

46. Section 60 (at the end)—

insert—

‘Maximum penalty—16 penalty units or imprisonment for 6 months.’.

47. Section 61(2)—

omit, insert—

‘Maximum penalty—8 penalty units or imprisonment for 3 months.’.

SCHEDULE (continued)

48. Section 63(2)—

omit ‘\$200’, *insert* ‘4 penalty units’.

49. Section 65(a)—

omit ‘conclusive’.

50. Section 65(d)—

omit ‘, and in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such matter or matters’.

51. Section 65(f)—

omit ‘and, in the absence of evidence to the contrary, conclusive evidence’.

52. Section 65(g)—

omit ‘and, in the absence of evidence to the contrary, conclusive evidence’.

53. Section 72—

omit, insert—

‘Regulations

‘72.(1) The Governor in Council may make regulations for the purposes of this Act.

‘(2) A regulation may be made with respect to the matters set out in Schedule 6.

‘(3) A regulation may provide—

(a) for the payment of fees and expenses; and

SCHEDULE (continued)

- (b) that the amount of fees or expenses payable is to be the amount approved by the Governor in Council.’.

54. Schedule 5 (clause 8(1))—

omit ‘Proclamation’, *insert* ‘regulation’.

55. Schedule 5 (clause 8(2))—

omit ‘Order in Council’, *insert* ‘regulation’.

56. Schedule 5 (clause 10(3))—

omit ‘and shall be liable to a penalty not exceeding \$1 000 for every such offence’.

57. Schedule 5 (clause 10(3), at the end)—

insert—

‘Maximum penalty—20 penalty units.’.

58. Schedule 6 (clause 18)—

omit ‘\$200’, *insert* ‘4 penalty units’.

59. Schedule 6 (clauses 21 and 22)—

omit.