

HEALTH LEGISLATION AMENDMENT BILL 2003

EXPLANATORY NOTES

FOR

AMENDMENTS TO BE MOVED IN COMMITTEE BY THE HONOURABLE WENDY EDMOND MP

Title of the Bill

Health Legislation Amendment Bill 2003

Objectives of the Amendments

The main objective of the amendments is to insert provisions in the *Hospitals Foundations Act 1982* to clarify that two or more bodies corporate established under that Act may amalgamate.

Achievement of the Objectives

Amendments to the *Hospitals Foundations Act* are inserted into the Bill to clarify:

- the steps necessary for bodies corporate established under that Act to amalgamate; and
- that assets, liabilities, bequests, rights and obligations of the bodies corporate which sought to amalgamate become those of the amalgamated body.

Estimated Cost for Government Implementation

The amendments will not have any financial impact on Government.

Consistency with Fundamental Legislative Principles

The amendments are consistent with Fundamental Legislative Principles.

Consultation

Consultation has occurred with the Royal Brisbane and Women's Hospital Foundation and the Royal Women's Hospital Research and Development Foundation who have approached Government to amalgamate.

NOTES ON PROVISIONS

Clause 1 corrects a minor drafting error.

Clause 2 inserts a new Part 8A into the *Health Legislation Amendment Bill 2003*, which contains amendments to the *Hospitals Foundations Act 1982*.

Clause 59A is to be inserted to specify that the new part will amend the *Hospitals Foundations Act 1982*.

Clause 59B inserts a new section 71A into the Act to set out the steps to be undertaken, and other matters, for the amalgamation of bodies corporate established under the Act.

Subsection (1) enables two or more bodies corporate to apply to the Minister to be amalgamated. Subsection (2) specifies that the application is to set out relevant matters, including the proposed process by which the bodies corporate are to be amalgamated. There are two broad options for amalgamating bodies corporate, which are:

- Establishing a new body corporate comprised of two or more existing bodies corporate. Under this option, *Hospital Foundation A* and *Hospital Foundation B* apply to be amalgamated. As a result, a new *Hospital Foundation C* is established to replace *Hospital Foundation A* and *Hospital Foundation B*.
- Subsuming one or more bodies corporate into an existing body corporate. Under this option, *Hospital Foundation X* and

Hospital Foundation Y apply to be amalgamated. As a result, *Foundation X* is dissolved and subsumed into *Hospital Foundation Y*.

Subsection (3) enables the Minister to recommend the Governor in Council to make a regulation to effect the amalgamation. Subsection (4) requires the regulation to specify the process by which the bodies corporate are to be amalgamated.

As bodies corporate established under the Act may provide funding or assistance for health services and research¹, it is vital that the source of funds for these activities is not interrupted by an amalgamation. As a result, subsection (4) provides that the regulation may also clarify the effect of the amalgamation on matters such as the assets, liabilities, rights, obligations, legal proceedings, instruments, bequests and funds of the amalgamating bodies corporate. In addition, the regulation may deal with ancillary matters necessary for, or connected with, the effective amalgamation of the bodies corporate.

Subsection (5) clarifies that the members of a body corporate that is dissolved go out of office. It should be noted that this would not apply to the members of a body corporate that is continued, such as *Hospital Foundation Y*, in the example provided for subsection (2).

Subsection (6) provides that a new body corporate established on the amalgamation of existing bodies is taken to have been established under section 7 of the Act. As a result, the processes set out in the Act for registration, appointment of members, and other relevant provisions, apply to the new body corporate.

To remove doubt it is clarified that sections 56 to 61, which include winding up and dissolution provisions, do not apply to the amalgamation of bodies corporate.

Clauses 3 to 6 correct minor typographical errors and update the definitions in the *Health Rights Commission Act 1991*, to be consistent with the change of name of the Nursing Tribunal.

Clause 7 corrects a minor drafting error.

¹ See *Hospitals Foundations Act 1982*, section 13, 'Objects for which bodies corporate may apply property'.

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