

Hospitals and Health Services Act 1927

Incorporating the amendments proposed by the *Health Services Bill 2016* Pt. 20 (Bill No. 175-1)

Western Australia

Hospitals and Health Services Act 1927

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Hospitals and Health Services Act 1927

An Act to provide for the control and regulation of private hospitals and private psychiatric hostels and for related purposes.

[Long title inserted by the Health Services Bill 2016 cl. 260.]

An Act to provide for the establishment, maintenance, and management of public hospitals and for the control and regulation of private hospitals and private psychiatric hostels, for the provision of other health services and for incidental and other purposes.

[Long title inserted by No. 33 of 1972 s. 3; amended by No. 53 of 1985 s. 14; No. 103 of 1994 s. 4; No. 69 of 1996 s. 40.]

Part I — Preliminary

1. Short title

This is the *Private Hospitals and Health Services Act 1927*.

[Section 1 inserted by the Health Services Bill 2016 cl. 261.]

1. Short title

This Act may be cited as the *Hospitals and Health Services*

[Section 1 amended by No. 33 of 1972 s. 4; No. 103 of 1994 s. 5.]

2. Terms used

(1) In this Act, subject to the context —

agency means an agency established under section 7B(1);

agency board means an agency board referred to in section 7C(1)(b);

board means a hospital board constituted under section 15, and includes the Minister in relation to any public hospital controlled by him under section 7;

CEO has the meaning given by section 3 of the *Health Legislation Administration Act 1984*;

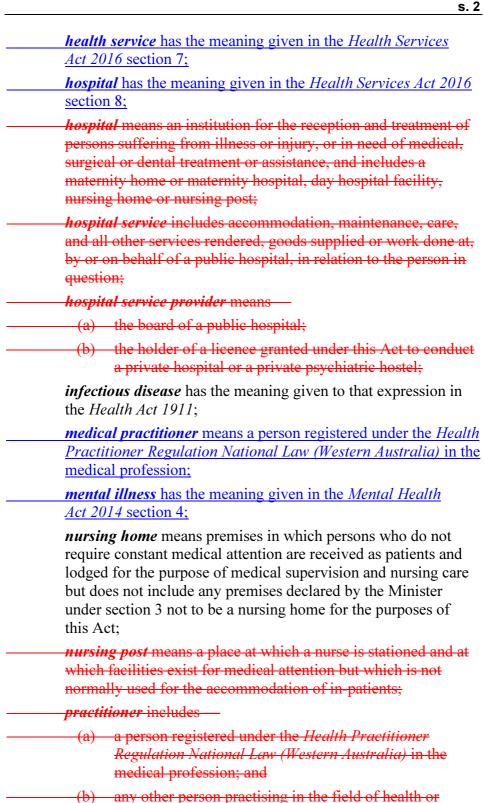
Chief Psychiatrist has the meaning given in the *Mental Health Act 2014* section 4:

Commonwealth Act means the Health Insurance Act 1973, as amended from time to time, of the Parliament of the Commonwealth:

day hospital facility means premises that are not attached to, or, that are set apart from, a hospital being premises at which persons are received for professional attention or professional medical attention in a class of professional attention determined by the Minister under subsection (3) to be professional attention but not being premises at which overnight accommodation is provided;

Department means the department of the Public Service of the State principally assisting the Minister in the administration of this Act;

Executive Director means the Executive Director, Personal Health Services of the Department;



this Act;

medicine who is declared by the Minister under section 3(5) to be a practitioner for the purposes of

private hospital means a hospital that is not a public hospital;

private hospital service provider means the holder of a licence granted under this Act to conduct a private hospital or a private psychiatric hostel;

private non-profit hospital means a private hospital hospital which is maintained by a religious or charitable organization and is not carried on for the purpose of private gain;

private psychiatric hostel means private premises in which 3 or more persons who —

- (a) are socially dependent because of mental illness; and
- (b) are not members of the family of the proprietor of the premises,

reside and are treated or cared for;

public hospital has the meaning given in the *Health Services Act 2016* section 8(6) and —

- (a) includes a hospital declared to be a public hospital under the *Health Services Act 2016* section 8(7); and
- (b) does not include a hospital declared not to be a public hospital under the *Health Services Act 2016* section 8(8).

public hospital means any hospital that is

- (a) conducted or managed by
 - (i) a board constituted under this Act; or
 - (ii) the Minister under this Act:

--or

(b) declared to be a public hospital under section 3;

teaching hospital means an institution declared by the Minister under section 3 to be a teaching hospital for the purposes of this Act.

[(1A) deleted]

- (1A) In the definition of *hospital* in subsection (1), illness includes mental illness (as defined in the *Mental Health Act 2014* section 4) but this subsection does not affect any requirement under that Act that a person be detained at an authorised hospital (as defined in section 4 of that Act) or at another place.
 - (2) Notwithstanding the provisions of any other Act, the making or giving of a grant or subsidy to a private hospital under this Act does not affect the status of the hospital as a private hospital.

[(3), (4) deleted]

- (3) The Minister may determine any professional medical service to be professional attention for the purposes of the definition of day hospital facility in subsection (1).
- (4) A determination under subsection (3) may be made by the Minister either generally or in relation to such professional attention as is specified or by reference to a declaration or determination made under any law of the State or the Commonwealth.

[Section 2 inserted by No. 33 of 1972 s. 5; amended by No. 71 of 1976 s. 2; No. 85 of 1983 s. 3; No. 28 of 1984 s. 49; No. 53 of 1985 s. 15; No. 103 of 1994 s. 6 and 15; No. 14 of 1996 s. 4; No. 69 of 1996 s. 41; No. 61 of 2004 s. 12; No. 28 of 2006 s. 263; No. 22 of 2008 Sch. 3 cl. 27; No. 35 of 2010 s. 93; No. 25 of 2014 s. 26; Health Services Bill 2016 cl. 262.]

3. Application of Act

(1) This Act applies to any private hospital and any public hospital howsoever founded or maintained (whether wholly or partly by or under governmental authority or otherwise), but does not apply to a hospital used exclusively in connection with a prison.

[(2) deleted]

- (2) The Minister, acting on the written recommendation of the Executive Director and with the consent of the governing body of the institution, may by notice published in the *Gazette* declare any institution to be a public hospital subject to and for the purposes of this Act.
 - (3) The Minister may by notice published in the *Gazette* declare that any institution is not a nursing home for a public hospital, or is not a nursing home, as the case may be, for the purposes of this Act.

[(4), (5) deleted]

- (4) The Minister may by notice published in the Gazette declare that any institution is a teaching hospital for the purposes of this Act.
- (5) The Minister may by notice published in the *Gazette* declare any person practising in the field of health or medicine to be a practitioner for the purposes of this Act.

[Section 3 inserted by No. 33 of 1972 s. 6; amended by No. 28 of 1984 s. 50; No. 53 of 1985 s. 16; No. 49 of 1994 s. 4; No. 69 of 1996 s. 42; Health Services Bill 2016 cl. 263.]

4. Application of Act to hospitals where mentally ill treated

Where a private hospital or part of a private hospital a hospital or part of a hospital is an authorised hospital under the *Mental Health Act 2014*, this Act has effect in relation to the hospital or part of the hospital, and persons received or admitted into it, subject to the provisions of that Act.

[Section 4 inserted by No. 69 of 1996 s. 43; amended by No. 25 of 2014 s. 27; <u>Health Services Bill 2016 cl. 264.</u>]

Part II — Administration

5. Minister to control general administration

The general administration of this Act shall be under the control of the Minister.

[5A. Deleted by the Health Services Bill 2016 cl. 265.]

5A. Minister's duties

- (1) It shall be the duty of the Minister to provide, to such extent as he considers necessary to meet all reasonable requirements,—
 - (a) hospital accommodation; and
- (b) hospital service, whether at a public hospital or, if necessary on medical grounds, elsewhere; and
- (c) health services.
- (2) Subject to the provisions of the *University Medical School*,

 Teaching Hospitals, Act 1955, it shall be the duty of the

 Minister to ensure that such facilities as the Minister determines
 to be required for clinical teaching and research are provided at
 teaching hospitals, and that those facilities and the medical and
 teaching resources, and the services available, are co-ordinated
 and utilised effectively.
- (3) The duty of the Minister under this section may be discharged by making arrangements, on such terms, which may include the payment of charges, as the Minister thinks fit for securing the performance of any service on behalf of the Minister.
- (4) The duty of the Minister does not extend to any matter within the exclusive administrative competence of any institution other than a public hospital, unless by and with the consent of the governing body of that institution.
 - [Section 5A inserted by No. 33 of 1972 s. 8; amended by No. 103 of 1994 s. 7; No. 17 of 1996 s. 4.]
- [6. Deleted by No. 28 of 1984 s. 51.]
- [6A. Deleted by No. 71 of 1976 s. 3.]
- [7. Deleted by the Health Services Bill 2016 cl. 265.]
- 7. Minister's functions if no board for public hospital
- (1) Where in relation to any public hospital the Governor does not appoint any person to constitute a hospital board in accordance

s. 7A

with the provisions of section 15, or where a board is abolished in accordance with the provisions of section 8 the management and control of the hospital is vested in the Minister.

(2) Whilst the Minister is so controlling any hospital he shall be deemed to be the board thereof and to be incorporated under the name of such board, and shall have all the duties, powers and functions of a board, and all property which would vest in a board of such hospital shall vest in the Minister.

[Section 7 amended by No. 33 of 1972 s. 11 and 12; No. 98 of 1985 s. 3; No. 17 of 2002 s. 4.]

7A. Minister's powers

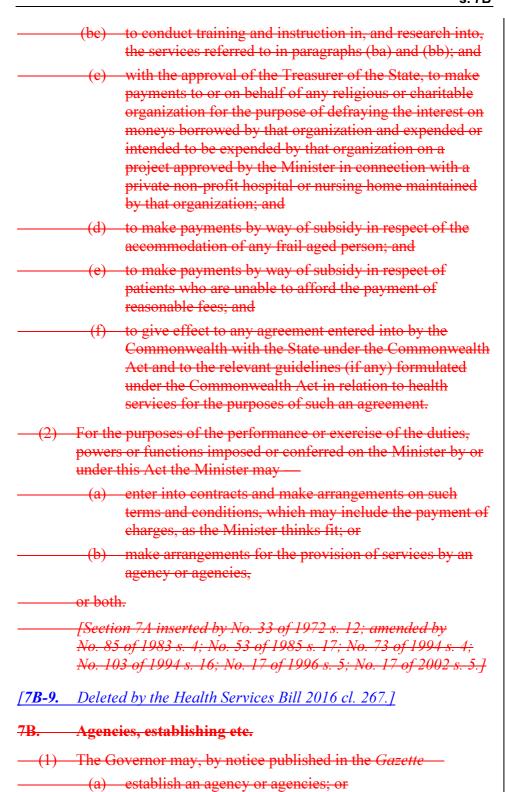
The Minister has power —

- (a) with the approval of the Treasurer, to make payments to or on behalf of any religious or charitable organisation for the purpose of defraying the interest on moneys borrowed by that organisation and expended or intended to be expended by that organisation on a project approved by the Minister in connection with a private non-profit hospital or nursing home maintained by that organisation; and
- (b) to make payments by way of subsidy in respect of patients who are unable to afford the payment of reasonable fees.

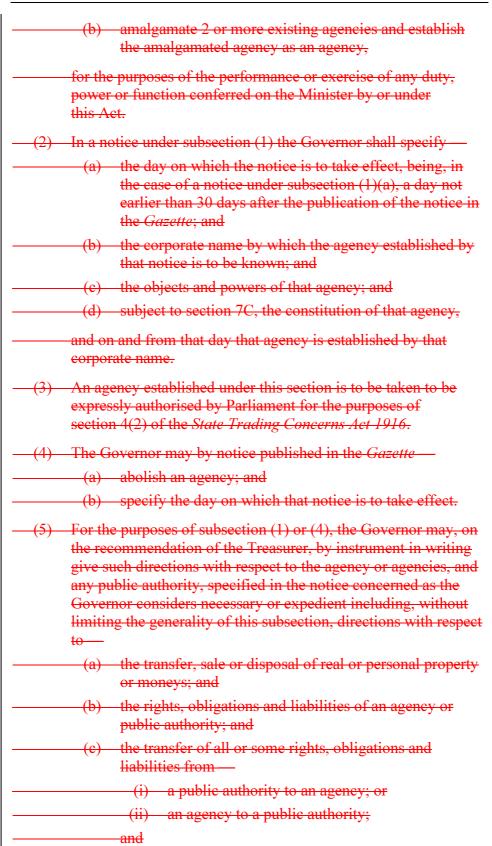
[Section 7A inserted the Health Services Bill 2016 cl. 266.]

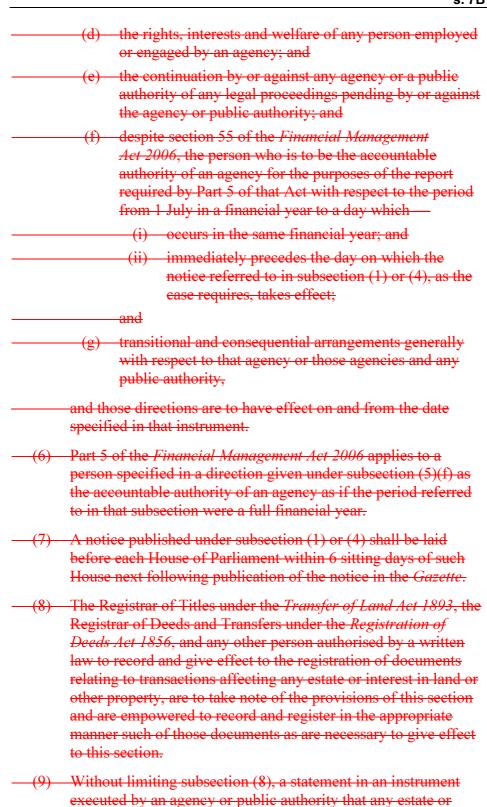
7A. Minister's general powers

- (1) The Minister shall have general power
- (a) to establish depots and supply equipment, stores, drugs and other hospital requisites to public hospitals and for the purposes of any public health service provided under any Act administered by the Minister; and
 - (b) to maintain an exchange through which public hospitals may secure the services of staff; and
 - (ba) to provide pathology services and related medical scientific services for the purpose of diagnosing and managing disease or protecting public health; and
- (bb) to provide forensic biology services and forensic pathology services, including obtaining DNA profiles for forensic or other purposes; and



s. 7B

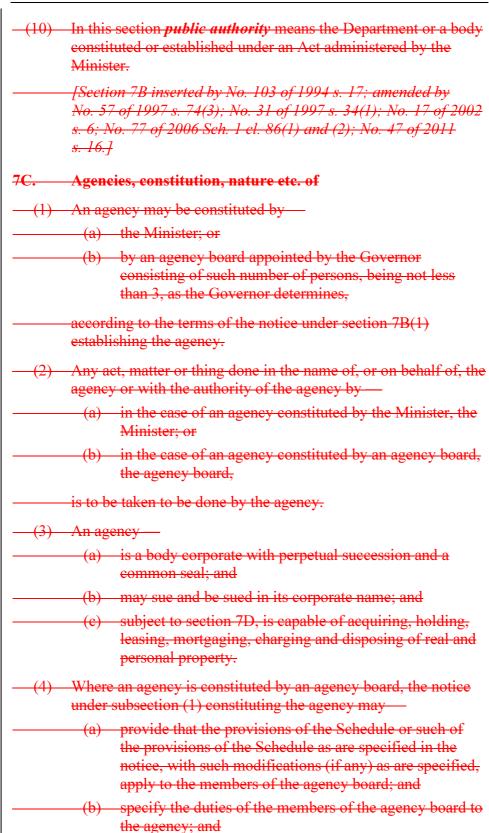


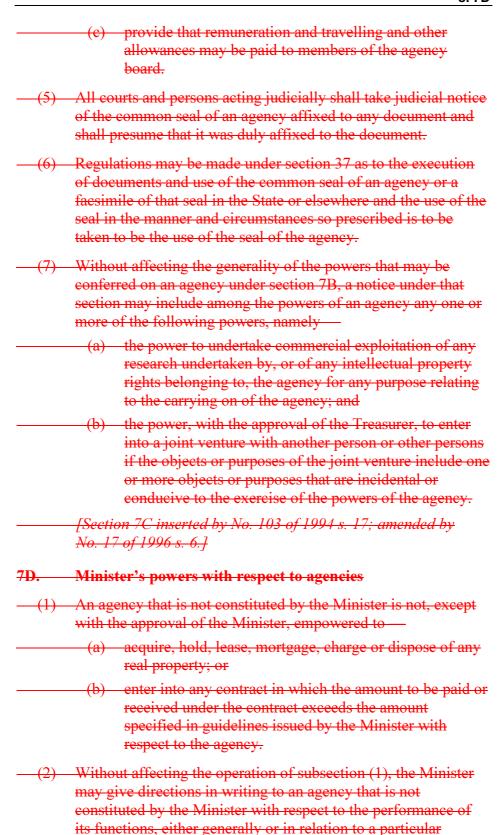


direction given under this section is evidence of that fact.

interest in land or other property has become vested in it under a

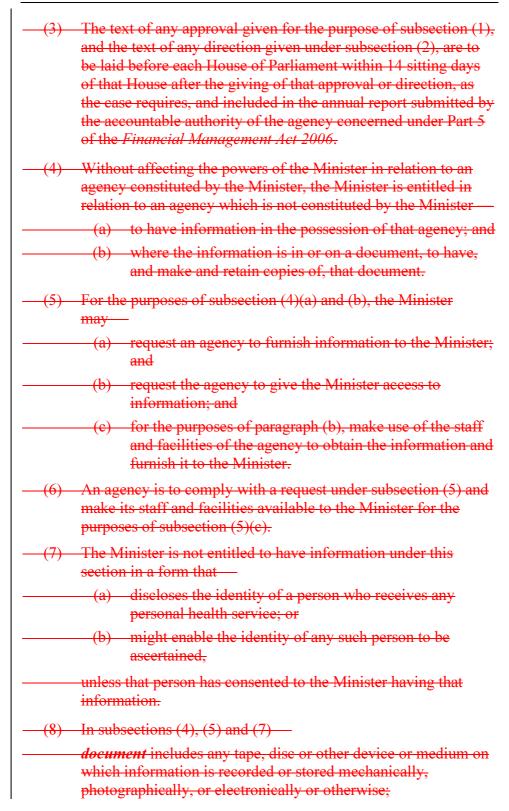
s. 7C

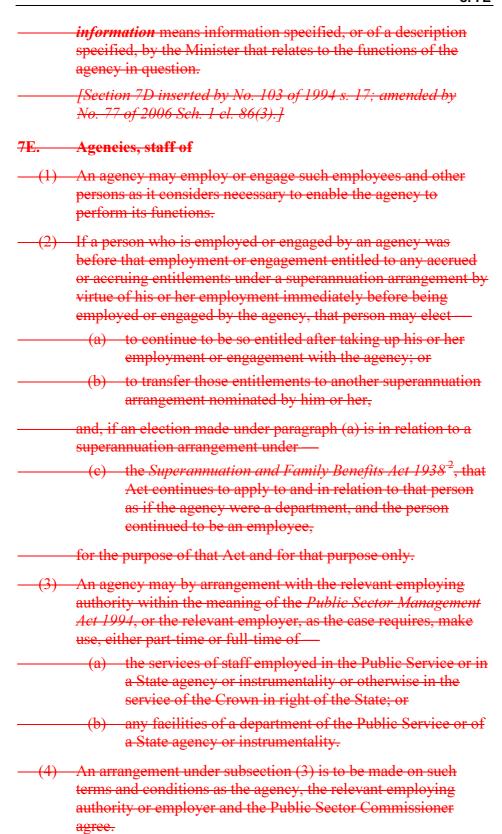




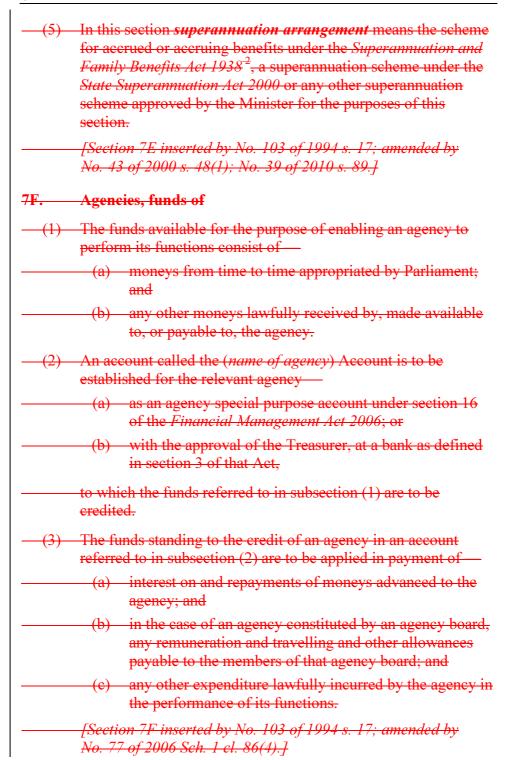
matter, and the agency is to give effect to any such direction.

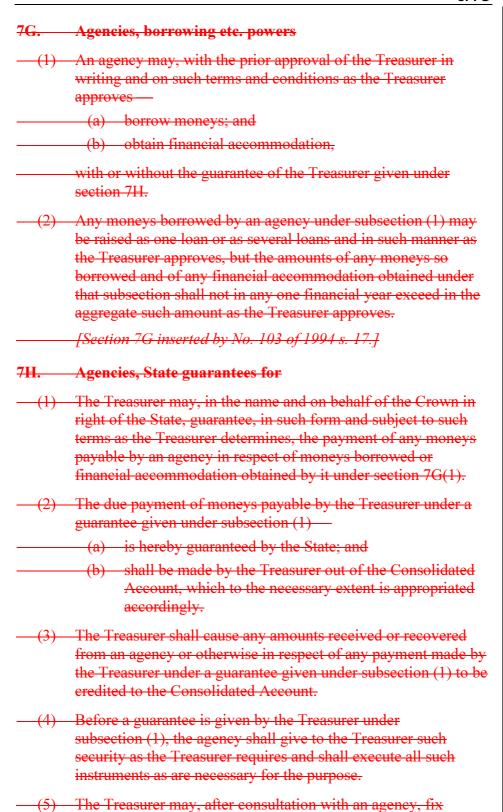
s. 7D





s. 7F





charges to be paid by the agency to the Treasurer for the benefit

s. 7l

of the Consolidated Account in respect of a guarantee given under this section.

(6) Payments by the agency to the Treasurer in respect of any such charges are required to be made at such times, and in such instalments, as the Treasurer determines.

Section 7H inserted by No. 103 of 1994 s. 17; amended by No. 77 of 2006 s. 4.]

71. Financial Management Act 2006 and Auditor General Act 2006, application of

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of each agency and its operations.

Section 71 inserted by No. 103 of 1994 s. 17; amended by No. 77 of 2006 Sch. 1 cl. 86(5).]

8. Closing public hospital, abolishing board, varying trusts

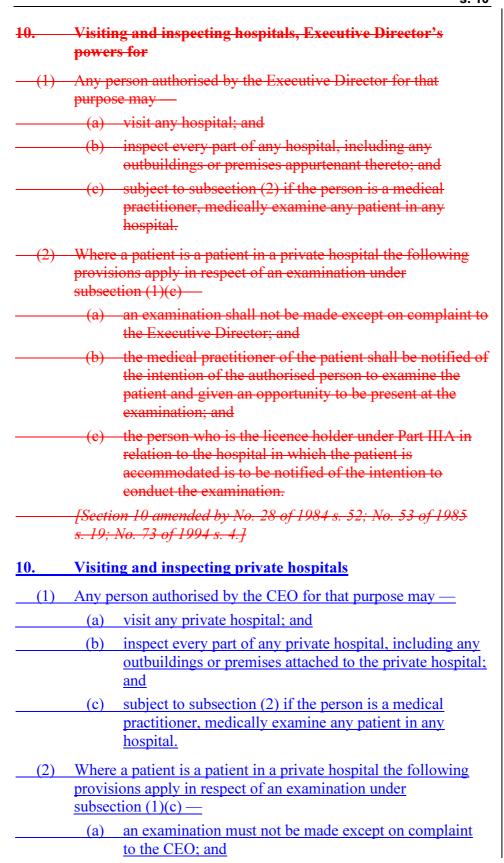
The Governor may close any public hospital or abolish any board, and may, by leave of the Supreme Court or any judge thereof, make any necessary variation of any trusts affecting any property used or applicable for any of the purposes of any such public hospital.

9. Inquiries into public hospitals

(1) The Minister may, from time to time, hold such inquiries or investigations as he may deem necessary in relation to any matter concerning the public hospitals or any public hospital, or the administration of this Act in relation to public hospitals, and may appoint one or more persons to conduct such inquiries or investigations as he may deem fit.

(2) When an inquiry is being held the Minister or any such person shall have free access to all books, plans, maps, documents, and other things belonging to any board, and shall have in relation to witnesses and their examination, and the production of documents, the powers conferred upon a Royal Commission or the chairman thereof by the *Royal Commissions Act 1968*, and may enter and inspect any building, premises, or place, the entry or inspection whereof appears to be requisite for the purpose of such inquiry.

[Section 9 amended by No. 33 of 1972 s. 13; No. 53 of 1985 s. 18.]



- (b) the patient's medical practitioner must be notified of the intention of the authorised person to examine the patient and given an opportunity to be present at the examination; and
- (c) the person who is the licence holder under Part IIIA in relation to the hospital in which the patient is accommodated must be notified of the intention to conduct the examination.

[Section 10 inserted by the Health Services Bill 2016 cl. 268.]

11. Obstructing visits etc. under s. 10, offence

No person shall —

- (a) obstruct any person authorised under section 10 in the performance of his <u>duties</u>; <u>or duties</u>, <u>or the visitation or inspection of any public hospital</u>; <u>or</u>
- (b) wilfully mislead any person authorised under section 10 in such a way as to be likely to interfere with the due discharge of the functions of such officer under this Act.

Penalty: \$200.

[Section 11 amended by No. 33 of 1972 s. 14; No. 28 of 1984 s. 53; Health Services Bill 2016 cl. 269.]

[12, 12A. Deleted by the Health Services Bill 2016 cl. 270.]

12. Endowment lands for public hospitals; hospital sites

- (1) It shall be lawful for the Governor to set apart and proclaim any lands vested in the Crown as a reserve for the endowment of any public hospital.
- (2) Any lands heretofore or hereafter set apart or proclaimed by the Governor as a reserve for a hospital site or for the endowment of any public hospital shall vest in the board of the hospital.

12A. Superannuation schemes etc. for public hospital staff

- (1) The Minister, with the approval of the Treasurer of the State, may establish and maintain a scheme to make financial provision in respect of the retirement, invalidity or death of practitioners engaged for the purposes of this Act or on the staff of any public hospital, not being persons who are contributors for the purposes of the Superannuation and Family Benefits Act 1938².
- (2) A scheme established under this section shall be administered by trustees appointed in writing by the Minister and in

accordance with rules to be approved by the Treasurer of the State.

- (3) The Minister, with the approval of the Treasurer of the State, may make agreements with other persons or institutions for the establishment of joint machinery to facilitate the transfer of members of a superannuation scheme, or of persons who hold other entitlements to benefit in the event of retirement, invalidity or death, from the provisions of that scheme or entitlement to the scheme established under this section or otherwise, and generally in relation to such matters.
- (4) The Minister, with the approval of the Treasurer of the State, may amend the scheme established under this section, or any agreement made under subsection (3).
- (5) Any act, matter or thing done or executed before the coming into operation of the *Hospitals Act Amendment Act 1972*⁻¹, which would have been lawful had this section been in force at the time such act, matter or thing was made, done or executed is hereby validated.

[Section 12A inserted by No. 33 of 1972 s. 15; amended by No. 28 of 1984 s. 54; No. 53 of 1985 s. 20; No. 73 of 1994 s. 4.1

[13. Deleted by No. 28 of 1984 s. 55.]

[Part III deleted by the Health Services Bill 2016 cl. 271.]

Part III — Local administration

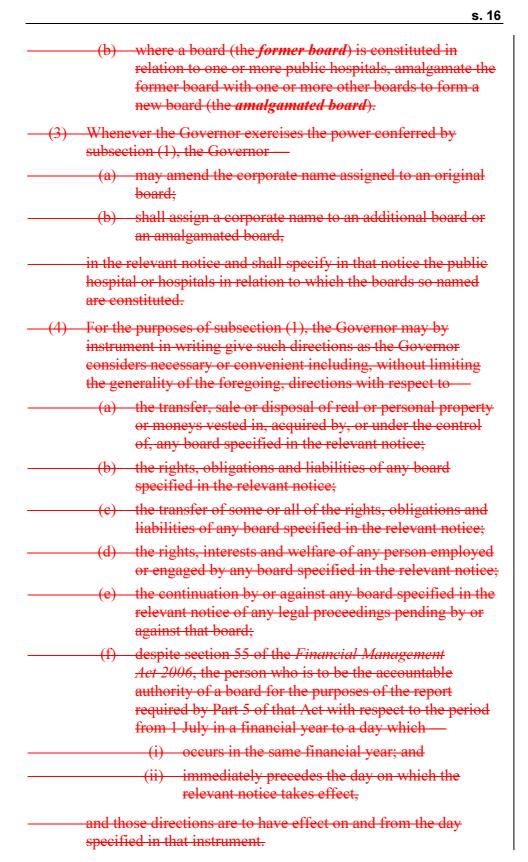
[14. Deleted by No. 33 of 1972 s. 17.]

15. Hospital boards, appointment and nature of etc.

- (1) The Governor may appoint such persons as he thinks fit to constitute a hospital board in relation to any public hospital and, without limiting his absolute discretion as to whom he appoints, may, if he thinks fit, direct the hospital board, or, if there be no hospital board appointed in relation to that hospital, the Minister acting under section 7 as the board, to seek nominations, in accordance with the regulations, of persons for appointment to a hospital board.
- [(1a) Omitted under the Reprints Act 1984 s. 7(4)(e).]
- (2) The management and control of a public hospital is vested in the hospital board constituted in relation to it.
- (3) Every board shall be a body corporate with perpetual succession and a common seal and the corporate name of the board shall be the name assigned to it by the Governor.
- (4) Every board shall be capable of suing and being sued in its corporate name.
- (5) The Governor may appoint a deputy for any member of a hospital board.
- (6) The members of a hospital board shall appoint one of their number to be the Chairman except in the case of the hospital board of a teaching hospital when the Minister shall appoint one of the members of the hospital board to be the Chairman.
- (7) The constitutional provisions contained in the Schedule shall have effect in relation to a hospital board.
- [Section 15 inserted by No. 33 of 1972 s. 18; amended by No. 64 of 1980 s. 3.]

16. Hospital boards, re-organizing

- (1) The Governor may by notice published in the *Government Gazette* (the *relevant notice*) re-organize hospital boards.
- (2) For the purposes of subsection (1) the Governor may do either one or both of the following
 - (a) where a board (the *original board*) is constituted in relation to 2 or more public hospitals, constitute a separate board (the *additional board*) in relation to any one or more of those hospitals;



- (5) For the purposes of subsection (1), the Governor may, in an instrument under subsection (4), direct that a reference to a board in any instrument, contract or legal proceedings made or commenced before the coming into operation of the direction concerned is to be read and construed as a reference to the board specified in that direction, and that direction is to have effect accordingly.
- (6) The Registrar of Titles under the *Transfer of Land Act 1893*, the Registrar of Deeds and Transfers under the *Registration of Deeds Act 1856*, and any other person authorised by a written law to record and give effect to the registration of documents relating to transactions affecting any estate or interest in land or other property are to take note of the provisions of this section and are empowered to record and register in the appropriate manner such of those documents as are necessary to give effect to this section.
- (7) Without limiting subsection (6), a statement in an instrument executed by a board that any estate or interest in land or other property has become vested in the board under a direction given under this section is evidence of that fact.
- (8) Part 5 of the *Financial Management Act 2006* applies to a person specified in a direction given under subsection (4)(f) as the accountable authority of a board as if the period referred to in that subsection were a full financial year.
- (9) If the accountable authority of a former board is under a direction given under subsection (4)(f) required to report in respect of the former board for the purposes of Part 5 of the Financial Management Act 2006, the former board and its accountable authority as constituted and appointed, respectively, immediately before the relevant notice takes effect continue in existence for the purposes of giving effect to that direction and for that purpose only.
- (10) The boards affected by the relevant notice are to arrange between themselves for the provision of such clerical, accounting and other assistance as is reasonably required for giving effect to any direction given under this section and, if they fail to reach such an arrangement, the Minister may give such directions to those boards as are necessary for the provision of that assistance and effect shall be given to any such direction.

Section 16 inserted by No. 103 of 1994 s. 8; amended by No. 31 of 1997 s. 34(2); No. 77 of 2006 Sch. 1 cl. 86(6)-(8); No. 47 of 2011 s. 16.]

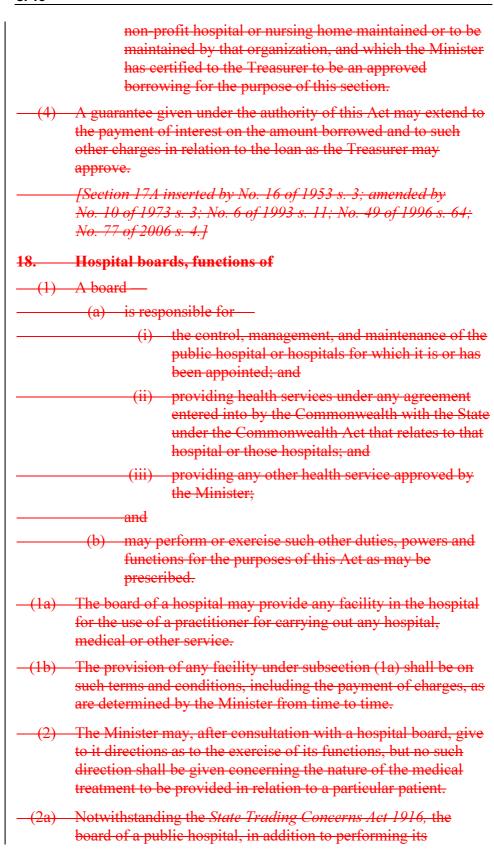


17. Hospital boards, powers of over lands vested in them

- - [(1) deleted]
- (2) A board shall also, with the consent of the Governor, have power to sell, lease, or exchange any lands vested in it, and to pay or receive money by way of equality of exchange, and to acquire land and other property, and to borrow money on such security as the Governor thinks fit.
- (2a) In addition to the power to borrow conferred by subsection (2) a board may borrow money on such security as the Governor thinks fit for the purposes of the payment of the costs of the establishment and construction of the hospital managed and controlled by the board and for any buildings and equipment incidental thereto, or the improvement of any land held by the board, notwithstanding when such costs arose.
- (3) The powers of selling, exchanging, mortgaging, or leasing lands which are conferred upon a board by this Act shall extend to land held in trust for any special purpose, notwithstanding the terms of the trust; but the proceeds of any such sale, and the land or money obtained by any such exchange, shall be subject to the like trusts, so far as may be, as the land so disposed of.
- (4) No power conferred by this section shall be exercised without the consent of the Governor.
- Section 17 amended by No. 16 of 1953 s. 2; No. 51 of 1955 s. 2; No. 10 of 1973 s. 2; No. 84 of 1982 s. 2; No. 74 of 2003 s. 146(2); No. 8 of 2009 s. 13.]

17A. Hospital boards etc., State guarantees for

- (1) The payment of all moneys payable by the Treasurer of the State under a guarantee given by him under the authority of this Act, is hereby guaranteed by the State.
- (2) All sums required by the Treasurer for fulfilling a guarantee so given, shall be charged to the Consolidated Account, which is hereby to the necessary extent appropriated accordingly.
- (3) Under the authority of this Act the Treasurer of the State may guarantee the repayment of any amount borrowed from time to time—
- (a) by the board of a public hospital under the powers conferred by section 17; or
- (b) by any religious or charitable organization for expenditure on a project in connection with a private,



functions, may either alone or in conjunction with any other person or body, with the prior approval of the Minister, provide services to the Minister, the Department or any other person or body upon such terms and conditions, including payment for those services, as that board thinks fit.

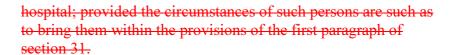
- (2b) In subsection (2a) *services* means services of the kind that the board in question provides for the purpose of performing its functions, and includes advice, the performance of work and the use of facilities.
- (3) A hospital board shall give effect to any directions given to it under this section.

[Section 18 amended by No. 33 of 1972 s. 20; No. 104 of 1975 s. 2; No. 43 of 1981 s. 3; No. 85 of 1983 s. 5; No. 73 of 1994 s. 4; No. 103 of 1994 s. 9; No. 17 of 1996 s. 7; No. 17 of 2002 s. 7; No. 74 of 2003 s. 67(2).]

[18A. Deleted by No. 61 of 2004 s. 13.]

19. Hospital boards, staff of

- (1) A board may, for the purpose of the performance of its functions—
- (a) employ or engage employees and other persons; and
- (b) engage persons, whether or not natural persons, to perform functions on its behalf.
- (1a) Where under subsection (1)(b) a board engages a person to perform on its behalf in respect of a hospital the functions described in section 18(1) and the board is an SES organization or a non-SES organization under the *Public Sector Management Act 1994* the board
- (a) is not required to appoint a chief executive officer under section 44 of that Act or to have a chief employee as mentioned in that Act; and
- (b) without limiting subsection (1)(b), may engage the person, notwithstanding that the person is a body corporate, to perform functions under any written law of such a chief executive officer or chief employee, as the case may require, as if the person were the holder of that office.
- (2) A board may also from time to time employ or engage such medical officers and district nurses as it thinks fit for the purpose of attending sick persons elsewhere than in a public



- (3) Persons so employed or engaged may be remunerated out of the revenues of the board.
- (4) A person who is entrusted or is intended to be entrusted with moneys shall not enter on his duties under this section until and unless he shall have given adequate security for the faithful discharge of his duties, and it shall be the duty of such person to keep and maintain such security in full force and effect.
- (5) Notwithstanding anything in this section, to the extent that there is in the case of a person who is employed or engaged under subsection (1)(a) and who is a member of the Senior Executive Service (within the meaning of the *Public Sector Management Act 1994*) an inconsistency between this Act and that Act, that Act shall prevail.

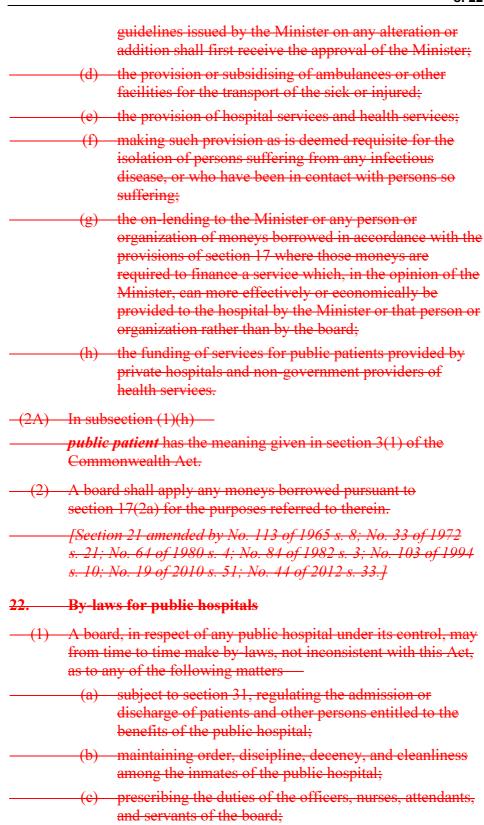
20. Hospital boards may appoint collectors of public donations

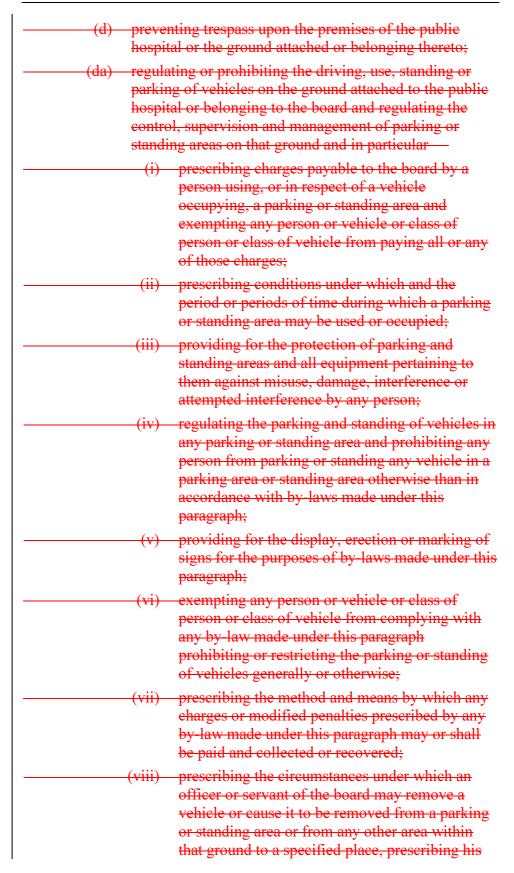
A board may authorise any person to collect voluntary contributions and donations from the public for the purpose of the maintenance of the public hospital under its control, or for any other special purpose within the powers of the board, or for the general purposes of the administration of this Act by the board.

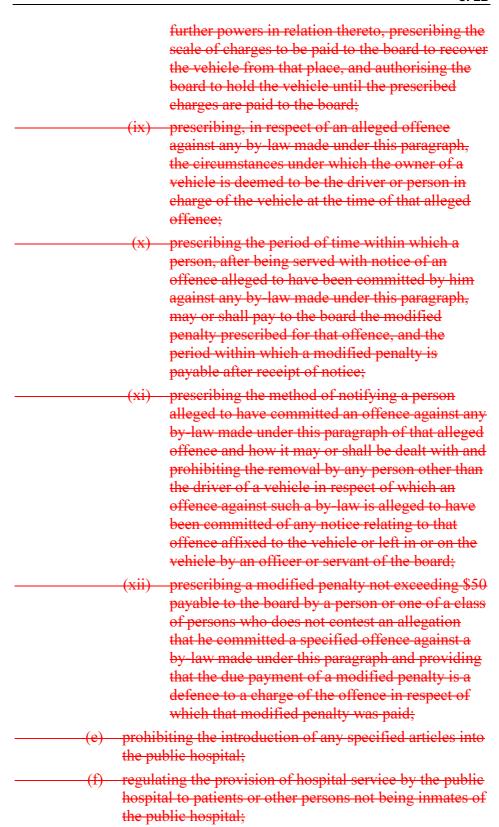
21. Hospital boards, expenditure powers of

- (1) A board may apply any moneys in its hands in such proportions and in such manner as it thinks fit for any of the purposes following—
- (a) the maintenance of the public hospital under its control;
 - (aa) the payment in accordance with the regulations of expenses incurred by the board in connection with the nomination of any person for appointment to the board;
- (b) the equipment of buildings to be used as such a public hospital;
 - (c) repairing, altering, or adding to any buildings used for the purposes of such a public hospital; provided that expenditure exceeding the amount specified in

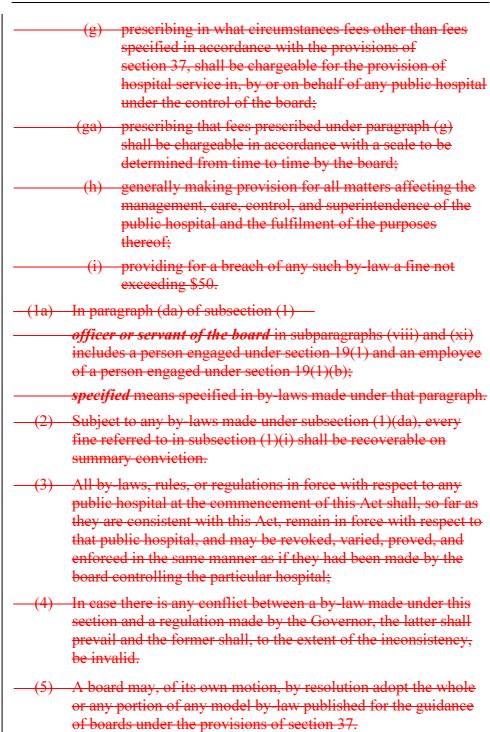


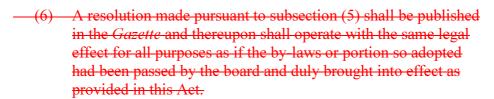












[Section 22 amended by No. 33 of 1972 s. 22; No. 85 of 1983 s. 6; No. 103 of 1994 s. 11; No. 17 of 1996 s. 9; No. 19 of 2010 s. 51.]

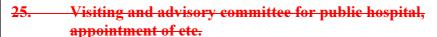
23. Medical funds, establishment of etc.

- (1) A board may itself establish and manage a medical fund the object of which shall be to secure for its subscribers medical attendance, hospital treatment, or other similar benefits; and may by by-laws provide for the regulation and control of such fund.
- (2) Such by-laws shall provide, inter alia, for
 - (a) the rates of subscription of such fund, and the benefits to be received by subscribers;
 - (b) the administration of such fund, and the keeping of proper accounts thereof, and the provision by any person handling any moneys of such guarantee of fidelity as the board may decide or the Department may require.

24. Financial Management Act 2006 and Auditor General Act 2006, application of

- (1) The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of every board and its operations.
- (2) The accounts caused to be kept by a board in accordance with the *Financial Management Act 2006* shall, at all reasonable times, be open to the inspection of any member of the board.
- (3) Notwithstanding the *Financial Management Act 2006*, the Minister may, to the extent and in the manner provided by the Treasurer's Instructions, consolidate all or some of the annual reports that he is required to make under that Act in respect of public hospitals of which the Minister is deemed to be the hoard.
 - Section 24 inserted by No. 98 of 1985 s. 3; amended by No. 77 of 2006 Sch. 1 cl. 86(9) (11).1

s. 25



- (1) In respect of any public hospital controlled by the Minister, the Governor may appoint a visiting and advisory committee.
- (2) Any such committee may
 - (a) visit and inspect the hospital premises;
 - (b) solicit and receive donations and subscriptions, and expend the same on the welfare and comfort of the patients and staff, and any other object of benefit to the hospital;
 - (c) submit reports and recommendations to the Department.
- (3) Every such committee shall submit a report to the Department as soon as possible after the close of the financial year, together with a statement in the prescribed form of any moneys received and expended during the year.

26. Trust funds etc. controlled by hospital board, accounts of

- - [(1) deleted]
- (2) A separate account shall be kept of every trust fund or trust property under the control of the board.
- Section 26 amended by No. 33 of 1972 s. 23; No. 98 of 1985 s. 3.1

Part IIIA — Private hospitals

[Heading inserted by No. 53 of 1985 s. 22.]

26A. Terms used

In this Part —

body corporate includes any association of persons whether incorporated or not but does not include a partnership;

licence means a licence issued under this Part.

[Section 26A inserted by No. 53 of 1985 s. 22.]

26B. Licence to conduct private hospital

- (1) Any natural person or body corporate who or which desires to conduct a private hospital may apply and obtain a licence to conduct a private hospital.
- (2) Subject to this Act, a person not being a member of a firm or a body corporate who desires to obtain a licence to conduct a private hospital shall satisfy the CEO
 - (a) that he or she has attained the age of 18 years; and
 - (b) that he or she is a person of good character and repute and a fit and proper person to conduct a private hospital; and
 - (c) that he or she has sufficient material and financial resources available to him or her to comply with the requirements of this Act; and
 - (d) that he or she understands fully the duties and obligations imposed on him or her in relation to the conduct of a private hospital under this Act and otherwise.
- (3) Subject to this Act, 2 or more persons constituting a firm who desire to obtain a licence to conduct a private hospital shall satisfy the CEO
 - (a) that all the natural persons by whom the firm is constituted and all of the persons concerned in the management or conduct of any body corporate by which the firm is constituted are persons of good character and repute and are persons fit to be concerned in the management or control of the private hospital;
 - (b) that the persons by whom or by which the firm is constituted have sufficient material and financial resources available to them to enable them to comply with the requirements of this Act;

s. 26C

- (c) that at least one of the natural persons referred to in paragraph (a) understands fully the duties and obligations imposed in relation to the conduct of a private hospital under this Act and otherwise.
- (4) Subject to this Act, a body corporate that desires to obtain a licence to conduct a private hospital shall satisfy the CEO
 - (a) that all the natural persons concerned in the management or conduct of the applicant are persons of good character and repute and are persons fit to be concerned in the management or control of a private hospital; and
 - (b) that the applicant has sufficient material and financial resources available to it to enable it to comply with the provisions of this Act; and
 - (c) that at least one of the persons referred to in paragraph (a) understands fully the duties and obligations imposed in relation to the conduct and management of a private hospital under this Act and otherwise.

[Section 26B inserted by No. 53 of 1985 s. 22; amended by No. 28 of 2006 s. 264.]

26C. Premises to be approved etc. before licence granted

The CEO shall not grant a licence to conduct a private hospital unless he is satisfied —

- (a) that the proposed premises are suitable to be approved as a private hospital; and
- (b) that arrangements for the management, equipment and staffing of the private hospital are satisfactory.

[Section 26C inserted by No. 53 of 1985 s. 22; amended by No. 28 of 2006 s. 264.]

26D. Licence, grant and conditions of etc.

- (1) Where the CEO is satisfied that an applicant complies with the requirements of section 26B and the premises at which the applicant proposes to conduct the private hospital are satisfactory for that purpose and that the arrangements for the management, equipment and staffing of the private hospital are satisfactory he may grant a licence to the applicant.
- (2) The CEO may impose such terms and conditions as he thinks fit in relation to any licence granted under this section.

- (3) Without limiting the generality of subsection (2) conditions imposed in relation to a private hospital may specify
 - (a) the maximum number of patients that may be treated at any one time at the private hospital and kinds or classes of patients that may be treated at the private hospital; and
 - (b) the number and the categories of nursing and other staff, the kinds of nursing and other care that shall be provided or available at the private hospital and the periods and times at which they shall be provided or available.
- (4) Subject to subsection (5), the granting of a licence and the terms and conditions imposed in relation thereto under this section shall, subject to subsection (6), be in the discretion of the CEO.
- (5) When an application for a licence
 - (a) is in respect of premises that are not approved as premises for a hospital under this Part the CEO shall notify the applicant of his decision within 3 months of the day that the application for the licence is lodged at the office of the CEO;
 - (b) is in respect of premises that are approved premises for a hospital under this Part the CEO shall notify the applicant of his decision within 30 days of the day that the application for the licence is lodged at the office of the CEO.
- (6) A person who is aggrieved by a decision of the CEO refusing to grant a licence may within 30 days of that decision appeal to the Minister.
- (7) The CEO may revoke or vary any terms or conditions or both that apply in relation to any licence issued under this Part.

[Section 26D inserted by No. 53 of 1985 s. 22; amended by No. 28 of 2006 s. 264.]

26DA. Private hospital not to treat etc. mentally ill unless licence endorsed

(1) A person shall not conduct or manage a private hospital in which any person is detained for the treatment of mental illness unless the licence for that hospital is endorsed under this section.

Penalty: \$5 000.

s. 26E

- (2) A licence may be endorsed by the CEO to allow persons to be received and admitted to the hospital under the *Mental Health Act 2014* and to be detained as involuntary patients under that Act.
- (3A) The CEO cannot endorse a licence unless the Chief Psychiatrist recommends the endorsement.
 - (3) An application may be made to the CEO for an endorsement under this section
 - (a) on the application for a licence; or
 - (b) on an application under regulations referred to in subsection (5).
 - (4) The CEO may make an endorsement under this section subject to any condition or restriction.
 - (5) Regulations may be made under section 26O making provision for and in respect of applications for endorsements under this section, including the payment of fees in connection with the application.

[Section 26DA inserted by No. 69 of 1996 s. 44; amended by No. 28 of 2006 s. 264; No. 25 of 2014 s. 28.]

26E. Licence, duration and renewal of etc.

- (1) Subject to this Act, every licence is valid from the date of its being granted but may be surrendered or cancelled pursuant to this Part.
- (2) A licence may be renewed annually in accordance with the regulations.
- (3) A licence is not transferable.

[Section 26E inserted by No. 53 of 1985 s. 22.]

26F. Licence, cancelling etc.

- (1) Where the CEO is satisfied that
 - (a) the holder of a licence to conduct a private hospital is not fit to be concerned in or able to conduct a private hospital or, if the holder of a licence is a body corporate, any person concerned in the management or conduct of the body corporate is not fit to be concerned in or able to conduct a private hospital; or
 - (b) the premises of a private hospital or any portion thereof are no longer suitable to be used as a private hospital; or

- (c) a licence holder does not comply with this Act or the terms or conditions imposed by the CEO in relation to the licence issued to him or it; or
- (d) a licence holder fails to carry out an order given under section 26G,

the CEO may cancel or refuse to renew the licence granted in respect of that licence holder.

(2) A licence shall not be cancelled under subsection (1) unless and until a notice of intention to cancel the licence and summary of the reasons for the proposed cancellation have been served on the licence holder and the licence holder has been given a reasonable opportunity to be heard on the matter.

[Section 26F inserted by No. 53 of 1985 s. 22; amended by No. 28 of 2006 s. 264.]

26FA. Endorsement under s. 26DA, cancelling

- (1) The CEO may cancel an endorsement under section 26DA if he or she is satisfied that
 - (a) a private hospital is no longer suitable to have its licence endorsed under that section; or
 - (b) the licence holder
 - (i) has contravened any provision of the *Mental Health Act 2014*; or
 - (ii) failed to comply with any condition or restriction to which the endorsement is subject.
- (2A) The CEO must consult the Chief Psychiatrist before deciding whether or not to cancel an endorsement.
 - (2) Section 26F(2) applies to a proposed cancellation under this section as it applies to the proposed cancellation of a licence.

[Section 26FA inserted by No. 69 of 1996 s. 45; amended by No. 28 of 2006 s. 264; No. 25 of 2014 s. 29.]

26G. CEO may close private hospital

(1) Notwithstanding the fact that any premises are approved under this Part as premises for a private hospital where the CEO is satisfied that any building work in the private hospital has not been carried out in a workmanlike manner or that any part of the building is unsafe or unsatisfactory or that any equipment or thing is faulty or unsatisfactory the CEO may by order in writing direct the licence holder to have the building work

s. 26H

remedied or to remedy or renew the faulty or unsatisfactory equipment or thing within such time as the CEO specifies in the order.

(2) A licence holder who fails to comply with an order given under subsection (1) within the time specified in the order commits an offence.

Penalty: \$2 000.

- (3) Where a licence holder fails to comply with an order under subsection (1) within the time specified therein the CEO may order the closure of the private hospital notwithstanding the fact that proceedings for an offence against subsection (2) have not been commenced or if commenced have not been completed.
- (4) Notwithstanding anything in this section, the CEO may, if in the opinion of the CEO, the necessity of the case so requires, order any private hospital which the CEO deems unsafe to be closed forthwith and thereupon the hospital shall be closed accordingly until the CEO by order in writing permits the private hospital to be opened.

[Section 26G inserted by No. 53 of 1985 s. 22; amended by No. 28 of 2006 s. 264.]

26H. SAT may review decisions under s. 26F and 26FA

- (1) A person whose licence to conduct a private hospital is cancelled or whose licence is not renewed under section 26F or whose endorsement under section 26DA is cancelled may apply to the State Administrative Tribunal for a review of the cancellation or non-renewal.
- [(2) deleted]
- (3) Notwithstanding section 26K where the CEO has cancelled a licence or endorsement or refused to renew a licence under section 26F and the licence holder applies for a review of the cancellation of the licence or endorsement or refusal to renew the licence the CEO may pending the determination of the application permit a person to conduct the private hospital conducted by the licence holder prior to the cancellation or refusal subject to such terms and conditions as the CEO specifies in writing.

[Section 26H inserted by No. 53 of 1985 s. 22; amended by No. 69 of 1996 s. 46; No. 55 of 2004 s. 517; No. 28 of 2006 s. 264.]

26I. Grants and subsidies by State to private hospitals

- (1) The Governor may, out of moneys appropriated by Parliament, make grants or subsidies towards the costs of establishing or maintaining, or both, a private hospital in respect of which a licence is granted under this Part.
- (2) A grant or subsidy shall not be made or given under this section unless the licence holder agrees to conduct the private hospital in accordance with the regulations and such conditions as are imposed by the CEO and to comply with any directions given by the CEO.

[Section 26I inserted by No. 53 of 1985 s. 22; amended by No. 28 of 2006 s. 264.]

26J. Guidelines for construction etc. of private hospitals

- (1) The CEO may issue guidelines with respect to the construction, establishment and maintenance of private hospitals.
- (2) Guidelines issued under subsection (1) may
 - (a) specify standards to be observed and procedures to be followed in relation to the construction, establishment and maintenance of private hospitals;
 - (b) adopt, either wholly or in part or with modifications and either specifically or by reference to any rules, regulations, codes, instructions or subsidiary legislation under any Act of the State or the Commonwealth or any standards, rules, codes or specifications of the bodies known as Standards Australia, the British Standards Institution or other body specified in the guidelines.

[Section 26J inserted by No. 53 of 1985 s. 22; amended by No. 74 of 2003 s. 67(3); No. 28 of 2006 s. 264.]

26K. Offences

A person must not —

- (a) conduct or manage, or by any means hold out that the person conducts or manages, a private hospital unless
 - (i) the person is the holder of a licence; or
 - (ii) the private hospital is a nursing home and the conduct or management of the nursing home is a residential care service, or part of a residential

s. 26L

care service, that is certified under Part 2.6 of the *Aged Care Act 1997* of the Commonwealth;

or

- (b) conduct or manage, or by any means hold out that that person conducts or manages, a private hospital unless
 - (i) the premises are premises that are approved as a private hospital under this Part; or
 - (ii) the premises are a nursing home and the conduct or management of the nursing home is a residential care service, or part of a residential care service, that is certified under Part 2.6 of the *Aged Care Act 1997* of the Commonwealth;

or

- (c) build, alter or extend a private hospital unless
 - (i) the CEO has approved of the building, alteration or extension, as the case requires; or
 - (ii) the private hospital is a nursing home and the conduct or management of the nursing home is a residential care service, or part of a residential care service, that is certified under Part 2.6 of the *Aged Care Act 1997* of the Commonwealth.

Penalty: \$5 000.

[Section 26K inserted by No. 45 of 2006 s. 4; amended by No. 47 of 2011 s. 27.]

26L. Failure to comply with licence conditions

A licence holder who or which fails to comply with any term or condition specified in the licence issued to the licence holder commits an offence.

Penalty: \$1 000.

[Section 26L inserted by No. 53 of 1985 s. 22.]

26M. Vicarious liability of directors etc. for offence by body corporate

Where a body corporate is guilty of an offence against any provision of this Part, every director and every person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of the body corporate, or was acting, or purporting to act in any such

capacity, shall also be liable to be convicted of the offence unless that person proves that the offence was committed without his or her consent or knowledge and that he or she exercised all such diligence to prevent the commission of the offence as he or she ought to have exercised having regard to his or her functions in that capacity and in all the circumstances.

[Section 26M inserted by No. 53 of 1985 s. 22.]

26N. Application for licence and licence, forms of

- (1) An application for a licence under this Part and any licence issued under this Part shall be in the form of a form approved by the CEO.
- (2) The CEO may require an applicant for a licence to submit such additional information in support of the application as the CEO specifies and the CEO may require any information in support of an application to be verified by statutory declaration.

[Section 26N inserted by No. 53 of 1985 s. 22; amended by No. 28 of 2006 s. 264.]

26O. Regulations

- (1) The Governor may make such regulations as are contemplated by this Part or as he considers necessary or expedient for the purposes of this Part.
- (2) Without limiting the generality of subsection (1), the regulations may
 - (a) prescribe the fees payable in relation to an application for a licence to be paid to the CEO, for the renewal of any licence and for the approval of any premises as a private hospital;
 - (b) provide for the conduct, good management and staffing of private hospitals;
 - (c) provide for the establishment and keeping of registers containing such information as may be prescribed in relation to private hospitals;
 - (d) provide for the separation or removal of any patient suffering from any fever or infectious or contagious disease;
 - (e) prescribe penalties not exceeding \$500 for a breach of any regulation.

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- (3) The Governor may by order published in the *Government Gazette* exempt any private hospital from any of the regulations made under this section generally or for such period as is specified in the order.
- (4) An order made under subsection (3) may be cancelled or extended from time to time by the Governor by further order published in the *Government Gazette*.

[Section 260 inserted by No. 53 of 1985 s. 22; amended by No. 28 of 2006 s. 264.]

Part IIIB — Private psychiatric hostels

[Heading inserted by No. 69 of 1996 s. 47.]

26P. Terms used

In this Part —

mental illness has the meaning given in the Mental Health Act 2014 section 4:

private psychiatric hostel means private premises in which 3 or more persons who

- (a) are socially dependent because of mental illness; and
- (b) are not members of the family of the proprietor of the premises,

reside and are treated or cared for;

resident, in relation to a private psychiatric hostel, means a person —

- (a) who is socially dependent because of mental illness; and
- (b) who is residing and being cared for or treated in the hostel.

[Section 26P inserted by No. 69 of 1996 s. 47; amended by No. 25 of 2014 s. 30; Health Services Bill 2016 cl. 272.]

26Q. Part IIIA, with modifications, applies to private psychiatric hostels

- (1) Subject to this section, Part IIIA applies to and in relation to private psychiatric hostels as if references in that Part to a private hospital were references to a private psychiatric hostel.
- (2) In its application under subsection (1) Part IIIA is modified as follows
 - (a) section 26D(3)(a) is to be read as if it referred to "the maximum number of residents who may reside in a private psychiatric hostel at any one time and the kinds or classes of residents that may be cared for or treated at the private psychiatric hostel"; and
 - (b) section 26DA does not apply; and
 - (c) in section 26O(2)(d) the reference to "patient" is to be read as "resident"; and

s. 26Q

- (d) section 26O is to be read as authorising the making of regulations
 - (i) prescribing, in relation to residents of private psychiatric hostels who are in receipt of pension payable under laws of the Commonwealth, the minimum proportion of pension that is to be paid or remitted to the resident for his or her own use; and
 - (ii) prescribing returns and other particulars to be furnished to the Chief Psychiatrist.

[Section 26Q inserted by No. 69 of 1996 s. 47; amended by No. 25 of 2014 s. 31.]

Part IIIC — **Information**

[Heading inserted by Health Services Bill 2016 cl. 273.]

Part IIIC — Collection of information about health services

[Heading inserted by No. 61 of 2004 s. 14.]

26R. Purpose for collecting, using or disclosing information Purpose for collecting information

The purpose for which the CEO may <u>collect</u>, <u>use or disclose</u> collect information under this Part is to assist in —

- [(a) deleted]
 - (a) the management of public hospitals; and
- (b) the regulation of private hospitals and private psychiatric hostels; and
- [(c) deleted]
 - (c) the planning for and evaluation of hospital and health services: and
 - (d) health related research, whether that research is conducted by persons employed or engaged in the Department or other persons.
 - (d) the conduct of epidemiological analysis and health research.

[Section 26R inserted by No. 61 of 2004 s. 14; amended by No. 28 of 2006 s. 264; Health Services Bill 2016 cl. 274.]

- 26S. CEO may direct private hospital service provider to give information CEO may require hospital service provider to give information
 - (1) The CEO may direct a <u>private</u> hospital service provider to give to the CEO the information specified in the direction.
 - (2) The information specified may include personal information.
 - (3) The CEO may not specify information in a direction unless—
 - (a) the information relates to hospital, health or psychiatric services provided to individuals by the <u>private</u> hospital service provider; and
 - (b) the CEO is satisfied that collecting the information is consistent with the purpose for which information may be collected under this Part.

s. 26T

- (4) The direction may specify the information by reference to a class of information and may specify the form in which it is to be given.
- (5) The <u>private</u> hospital service provider must comply with the direction.
- (6) A direction may be given in relation to information obtained by the <u>private</u> hospital service provider before the commencement of this Part.
- (7) A particular direction may be given to one or more named <u>private</u> hospital service providers, one or more classes of <u>private</u> hospital service providers, or all <u>private</u> hospital service providers.
- (8) In this section —

personal information means information or an opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

[Section 26S inserted by No. 61 of 2004 s. 14; amended by No. 28 of 2006 s. 264; Health Services Bill 2016 cl. 275.]

26T. No liability for disclosure

If a private hospital service provider discloses information in compliance with a direction under section 26S —

- (a) no civil or criminal liability is incurred in respect of the disclosure; and
- (b) the disclosure is not to be regarded as
 - (i) a breach of any duty of confidentiality or secrecy imposed by law; or
 - (ii) a breach of professional ethics or standards or any principles of conduct applicable to a person's employment; or
 - (iii) unprofessional conduct.

[Section 26T inserted by the Health Services Bill 2016 cl. 276.]

26T. No liability for notification etc. or disclosure

A hospital services provider that complies with a direction given under section 26S incurs no civil or criminal liability as a result, and is not to be regarded for any purpose as being in breach of any duty of confidentiality.

[Section 26T inserted by No. 61 of 2004 s. 14.]

Part IV — General

[27. Deleted by the Health Services Bill 2016 cl. 277.]

27. Local governments may fund etc. public hospitals

- (1) A local government shall have power to expend and apply or to give a binding undertaking to expend and apply for any number of years any portion of its general rates in subsidising any hospital scheme, and in or towards the construction or acquisition, establishment, and maintenance of any hospital, and in subsidising any district nursing scheme, and in contributing towards a subsidy or providing a subsidy to secure the services of a medical practitioner.
- (1A) Despite subsection (1), no portion of the general rates shall be expended or applied as aforesaid, and no such undertaking as aforesaid shall be valid in so far as it purports to bind the local government to expend or apply in any year a sum exceeding 10% of the average annual amount received by it from general rates during the last 2 financial years preceding the year in which the undertaking was given.
- (1B) Despite subsection (1), no such agreement shall have effect for more than 5 years, but any such agreement may be renewed during the last year thereof (with or without modification) from time to time for any period not exceeding 5 years.
- (2) It shall be lawful for any local government to borrow money for all or any of the following objects, that is to say the construction, enlargement, improvement, and equipment of any hospital within the area of such local government, and the powers and provisions contained in the *Local Government Act 1995* relating to the borrowing of money shall apply to the objects above-mentioned.

-[(3) deleted]

- (4) The provisions of this section are without prejudice to any power vested in a local government by or under any other Act and the powers of a local government vested in it by or under the *Local Government Act 1995*, are deemed to be extended in so far as is necessary to give effect to those provisions.
- (5) The local governments of 2 or more districts the boundaries of which are adjacent, may enter into an agreement between themselves and the Minister for the purposes of this section.

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(6) The provisions of this section do not apply to or in relation to a public hospital or proposed public hospital unless the Minister has given prior approval in relation thereto and has given a valid undertaking to provide at least one-half of the capital costs thereof.

[Section 27 amended by No. 33 of 1972 s. 24; No. 53 of 1985 s. 23; No. 14 of 1996 s. 4; No. 19 of 2010 s. 51.]

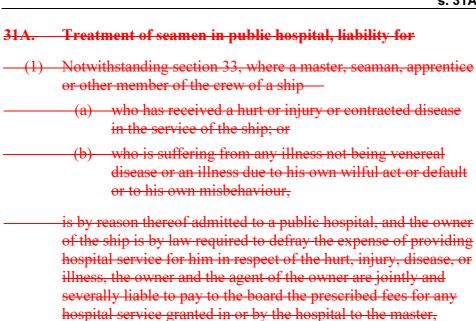
- [28. Deleted by No. 33 of 1972 s. 25.]
- [29. Deleted by the Health Services Bill 2016 cl. 277.]
- 29. Closure of public hospital, consequences of

In the case of a public hospital which is closed under section 8, the following provisions shall apply

- (a) the buildings and equipment may be utilised by the Minister as he deems best in the interests of other public hospitals, and for carrying out the purposes of this Act; and
- (b) any money in the hands of the board, and all debts owing to the board, shall vest in the Minister who, after paying the liabilities of the board, shall dispose of any balance remaining for the benefit of existing hospitals as he may think fit.

[Section 29 amended by No. 19 of 2010 s. 51.]

- [30. Deleted by No. 33 of 1972 s. 26.]
- [31, 31A. Deleted by the Health Services Bill 2016 cl. 277.]
- 31. Who may be admitted to public hospital
- (1) A person is to be admitted as a patient to a public hospital if in the opinion of a medical or other officer in charge the person requires treatment of the kind provided by the hospital.
- (2) Nothing in subsection (1) prevents the admission to any public hospital maintained under the provisions of this Act of any person in urgent need of medical or nursing attention.
- <u>[Section 31 amended by No. 85 of 1983 s. 7; No. 53 of 1985 s. 24; No. 103 of 1994 s. 12.]</u>



(2) Notwithstanding subsection (1), where the master, seaman, apprentice, or other member of the crew of a ship is admitted to a public hospital by reason of an injury for which the member is entitled to compensation under the provisions of the *Workers' Compensation and Injury Management Act 1981*, the provisions of that Act apply to the fees for the hospital service granted in or by the hospital in respect of the injury.

seaman, apprentice, or member in respect of the hurt, injury,

- Section 31A inserted by No. 16 of 1953 s. 4; amended by No. 42 of 2004 s. 161.]
- [32. Deleted by No. 53 of 1985 s. 25.]

disease or illness.

[33. Deleted by the Health Services Bill 2016 cl. 277.]

33. Hospital services, recovery of costs of by hospital board

- (1) The cost of hospital service granted by or at the expense of a board to any person shall constitute a debt due by that person to the board, and may be recovered by action in any court of competent jurisdiction.
- (2) The cost of hospital service granted to a minor shall, without excluding the liability of the person so relieved, constitute a debt due by each of the parents or the sole surviving parent of the minor, as the case may be, and may be recovered by action in any court of competent jurisdiction.

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- (3) Without prejudice to the liability of any other person, the board which has granted any such service as aforesaid to any person whomsoever is hereby empowered to enforce payment of the cost thereof against any adult child of such person.
- (4) The cost so recoverable shall be the sum payable in accordance with the relative by-laws, or such lesser sum as the court in which any action for the recovery thereof is brought thinks reasonable, having regard to the means of the defendant and the circumstances of the case, and in the absence of such by-law it shall be such sum as such court so thinks reasonable as aforesaid.
- (5) A board may contract for the payment to it, by any body corporate, any corporation that is a friendly society within the meaning of section 16C of the *Life Insurance Act 1995* of the Commonwealth, or other society or person, of the cost of hospital service to be afforded by the board to any person, and the amount so agreed to be paid, or a reasonable sum if no specific amount is so agreed upon, shall be a debt recoverable in any court of competent jurisdiction.
- (6) Notwithstanding any other provision of this Act, where a board thinks it reasonable to do so, having regard to the means of the person indebted and the circumstances of the case, the board may reduce or waive payment of any fees for hospital service that would otherwise be payable to the board.
- (7) The provisions of this section are subject to any agreement entered into by the Commonwealth with the State under the Commonwealth Act.

[Section 33 amended by No. 33 of 1972 s. 27; No. 17 of 1996 s. 10; No. 26 of 1999 s. 86; No. 28 of 2003 s. 119(2).7

[33A-33C. Deleted by No. 17 of 1996 s. 11.]

[34-35. Deleted by the Health Services Bill 2016 cl. 277.]

34. Medicare Principles and Commitments, effect of

- (1) The Medicare Principles and Commitments set out in subsection (2) are established as guidelines for the delivery of public hospital services to eligible persons in the State.
- (2) The Medicare Principles and Commitments are as set out in the Table.

Table of Medicare Principles and Commitments

Explanatory Note: The principles focus on the provision of

public hospital services to eligible persons, but operate in an environment where eligible persons have the right to choose private health care in public and private hospitals supported by private health

insurance.

Choices of services

Principle 1: Eligible persons must be given the choice

to receive public hospital services free of

charge as public patients.

Explanatory Note 1: Hospital services include in-patient,

out-patient, emergency services (including primary care where appropriate) and day patient services consistent with currently acceptable medical and health service

standards.

Explanatory Note 2: At the time of admission to a hospital, or as

soon as practicable after that, an eligible person will be required to elect or confirm whether he or she wishes to be treated as a

public or private patient.

Explanatory Note 3: Public hospital services do not include

those services for which charges may be

made as set out in subsection (3).

Universality of services

Principle 2: Access to public hospital services is to be

on the basis of clinical need.

Explanatory Note 1: None of the following factors are to be a

determinant of an eligible person's priority

for receiving hospital services:

• whether or not an eligible person has

health insurance;

• an eligible person's financial status

or place of residence;

 whether or not an eligible person intends to elect, or elects, to be

treated as a public or private patient.

Explanatory Note 2: This principle applies equally to waiting

times for elective surgery.

Explanatory Note 3: The phrase waiting times means waiting

times for access to elective surgery from a

hospital waiting or booking list.

Equity in service provision

Principle 3: To the maximum practicable extent, a

State will ensure the provision of public hospital services equitably to all eligible persons, regardless of their geographical

location.

Explanatory Note 1: This principle does not require a local

hospital to be equipped to provide eligible persons with every hospital service they

may need.

Explanatory Note 2: In rural and remote areas, a State should

ensure provision of reasonable public access to a basic range of hospital services which are in accord with clinical practices.

Explanatory Note 3: To the extent practicable, hospital services

should be available at all recognized hospitals, however, where this is not possible, the State accepts responsibility for referring or transferring the eligible person to where the necessary hospital services are

available.

Information about service provision

Commitment 1: The Commonwealth and a State must

make available information on the public hospital services eligible persons can expect to receive as public patients.

Explanatory Note 1: The joint Commonwealth/State

development of a Public Patients' Hospital Charter will be a vehicle for the public dissemination of this information.

Explanatory Note 2: The Public Patients' Hospital Charter will

set out the public hospital services

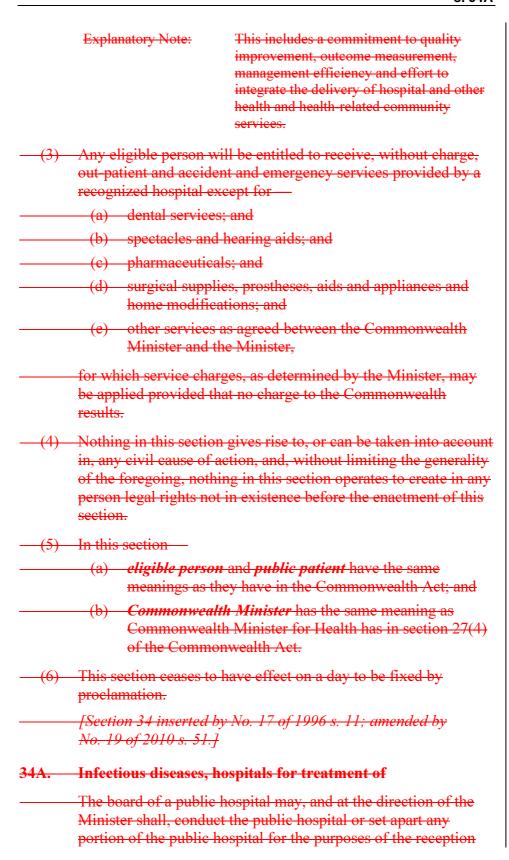
available to public patients.

Efficiency and quality in service provision

Commitment 2: The Commonwealth and the States are

committed to making improvements in the efficiency, effectiveness and quality

of hospital service delivery.



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and treatment of any person suffering from or suspected to be suffering from an infectious disease.

[Section 34A inserted by No. 53 of 1985 s. 26.]

35. Receipts by Department and boards exempt from duty under *Duties Act 2008*

All receipts given by and on behalf of the Department or a board, and all declarations required or authorised by this Act, and any agreement entered into under and for the purposes of this Act, in relation to a public hospital shall be exempt from duty under the *Duties Act 2008*.

[Section 35 amended by No. 53 of 1985 s. 27; No. 12 of 2008 Seh. 1 cl. 16.]

35A. Protection from personal liability

- (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.
- (2) The protection given by this section applies even though the thing done as described in subsection (1) may have been capable of being done whether or not this Act had been enacted.
- (3) Despite subsection (1), the State is not relieved of any liability that it might have for another person having done any thing as described in that subsection.
- (4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

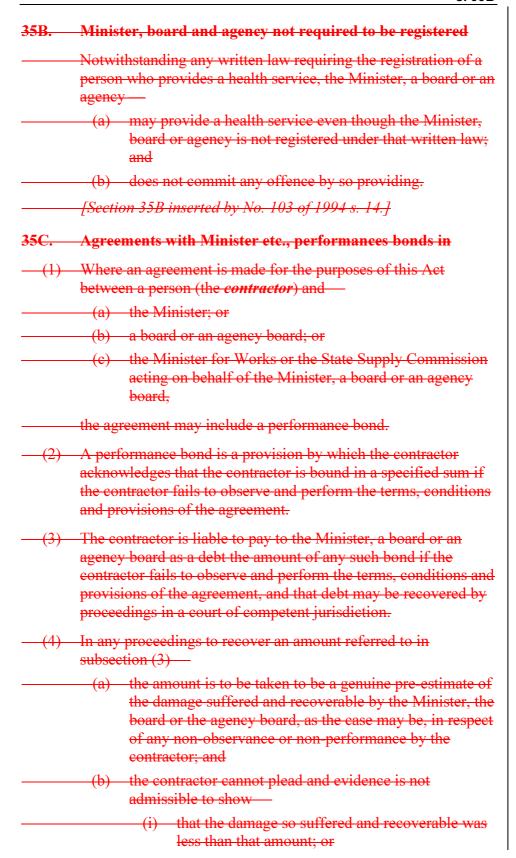
[Section 35A inserted by the Health Services Bill 2016 cl. 278.]

35A. Protection from personal liability

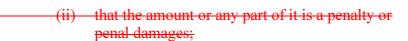
No liability shall attach to the Minister, the CEO, any officer of the Department, a member of a board of a public hospital or an agency or any person authorised by the Executive Director for any act or omission by him or her in good faith and in the exercise or purported exercise of his or her powers or functions or in the discharge or purported discharge, of his or her duties under this Act.

[Section 35A inserted by No. 53 of 1985 s. 28; amended by No. 103 of 1994 s. 13; No. 28 of 2006 s. 264.]

[35B-36. Deleted by the Health Services Bill 2016 cl. 279.]







- and

- (c) the amount cannot be reduced or called in question by the court.
- (5) This section applies notwithstanding any rule of law to the contrary.
- (6) In subsection (1)—

Minister for Works means the body corporate created by section 5 of the *Public Works Act* 1902:

State Supply Commission means the body established by section 4 of the State Supply Commission Act 1991.

[Section 35C inserted by No. 17 of 1996 s. 12.]

36. General penalty

Every person failing to observe any provision of this Act which he ought to have observed, or to do any act directed by this Act to be done, or doing any act forbidden to be done by this Act, shall be guilty of an offence and liable on summary conviction, if there is no other penalty provided under this Act for such offence, to a penalty not exceeding \$1 000.

<u>[Section 36 amended by No. 33 of 1972 s. 29; No. 61 of 2004 s. 15.]</u>

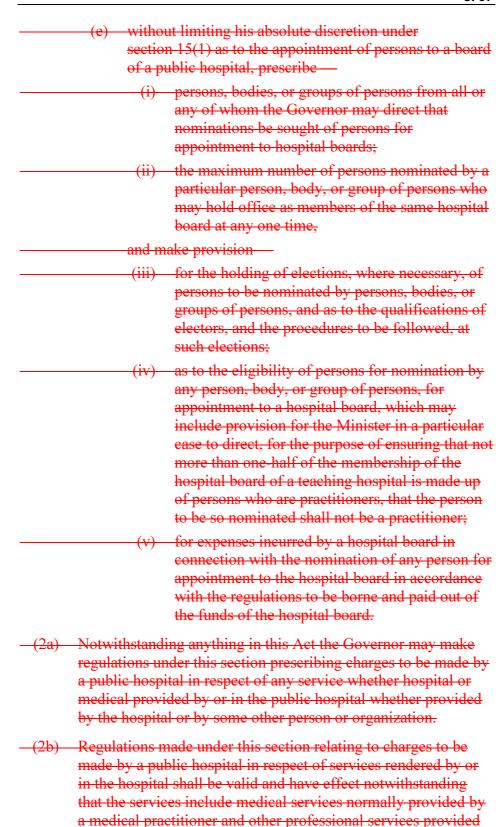
37. Regulations Regulations and by-laws

(1) The Governor may make regulations for or with respect to any matter, whether general or to meet a particular case, that is requisite or expedient to give effect to the purposes of this Act.

[(2)-(2g) deleted]

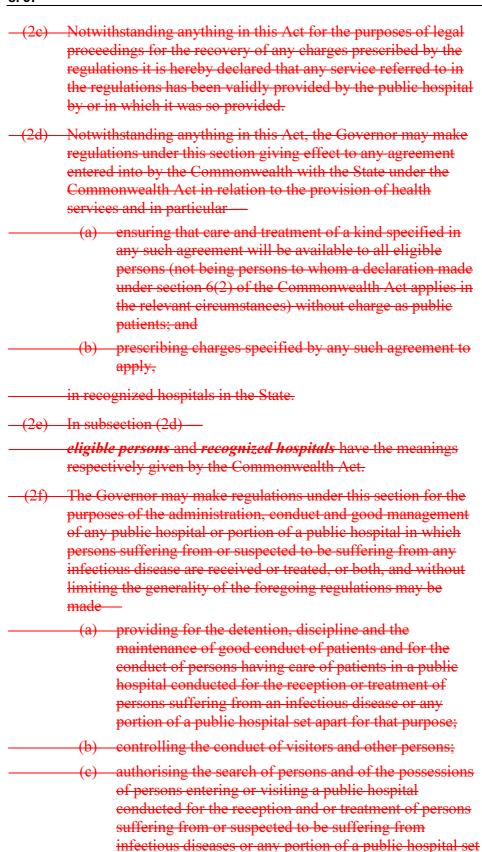
- (2) Without prejudice to the generality of subsection (1) the Governor may by regulation
 - (a) publish model by-laws for the guidance of boards in respect of all or any of the matters regarding which boards may make by-laws; and
 - (b) enable the Executive Director to transfer patients from any public hospital to any other public hospital or institution having or providing special facilities, skill or equipment or for any other purpose; and

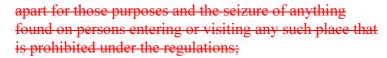
[(c), (d) deleted]



by or on behalf of the hospital.

s. 37





- (d) enabling a medical practitioner or any person authorised in writing by the CEO to control any patient whose conduct is detrimental to his own condition or that of any other patient therein by such means, including personal restraint, detention or by administration of a medication, as is most conducive to the welfare of the patient concerned and any of the other patients, but so that no greater force or medication is used or administered than is reasonably necessary in the circumstances;
- (e) enabling the treatment in a suitable hospital within any prison of any patient who cannot be restrained conveniently in a public hospital or a patient who is serving a sentence of imprisonment.
- (2g) In any proceeding for an offence against a regulation made under this section a certificate signed by the Executive Director stating that
 - (a) a person was a person subject to detention under the regulations;
 - (b) any public hospital is or was conducted for the reception or treatment or both, of persons suffering from or suspected to be suffering from an infectious disease or that any portion of a public hospital has been set apart for that purpose,

is evidence of that fact.

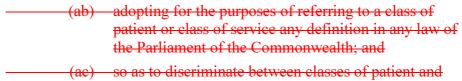
- (3) Regulations may be made under this section
 - (a) so as to apply
 - (i) at all times or at a specified time or at specified times; and
 - (ii) throughout the State or in a specified part or specified parts of the State; and
 - (iii) generally or in a particular class of case or in particular classes of cases;

and

[(aa)-(af) deleted]

(aa) defining classes of patient and classes of service; and





- classes of service and according to the circumstances in which a service is provided and in respect of the class of patient to whom it is provided; and
- (ad) prescribing that no charges are payable in respect of any class of service, any class of patient and any public hospital or class of public hospital; and
 - (ae) prescribing different charges according to the public hospital or class of public hospital in which or on behalf of which a service or class of service is provided; and
 - (af) prescribing that the charges for any goods or services or class of goods or service rendered in respect of any class of patient at or by a public hospital shall be of an amount determined by the Minister or other person according to the cost thereof; and
 - (b) so as to require a matter affected by them to be
 - (i) in accordance with a specified standard or specified requirement; or
 - (ii) as approved by, or to the satisfaction of, a specified person or body or a specified class of person or body;

and

- (c) so as to confer on a specified person or body or a specified class of person or body a discretionary authority; and
- (d) so as to provide that, whether on specified conditions or unconditionally, persons or things or a class or classes of persons or things may be exempted from the provisions of the regulations, either wholly or to such extent as is specified; and
- (e) so as to impose a penalty not exceeding \$50 for any breach of the regulations.
- (4) In subsection (3) *specified* means specified in the regulations.

[Section 37 inserted by No. 33 of 1972 s. 30; amended by No. 64 of 1980 s. 5; No. 43 of 1981 s. 4; No. 85 of 1983 s. 9; No. 28 of 1984 s. 56; No. 53 of 1985 s. 29; No. 73 of 1994 s. 4; No. 17 of 1996 s. 13; No. 28 of 2006 s. 264; No. 19 of 2010 s. 51; Health Services Bill 2016 cl. 280.]

38. Review of Act

- (1) The Minister shall carry out a review of the operation of this Act as soon as is practicable after 1 January 1991 and every fifth anniversary of that date and in the course of such review the Minister shall consider and have regard to
 - (a) the attainment of the objects of this Act;
 - (b) the administration of this Act;
 - (c) the effectiveness of the operations of the Minister, the

 Department, the CEO and authorised persons under this

 Act;

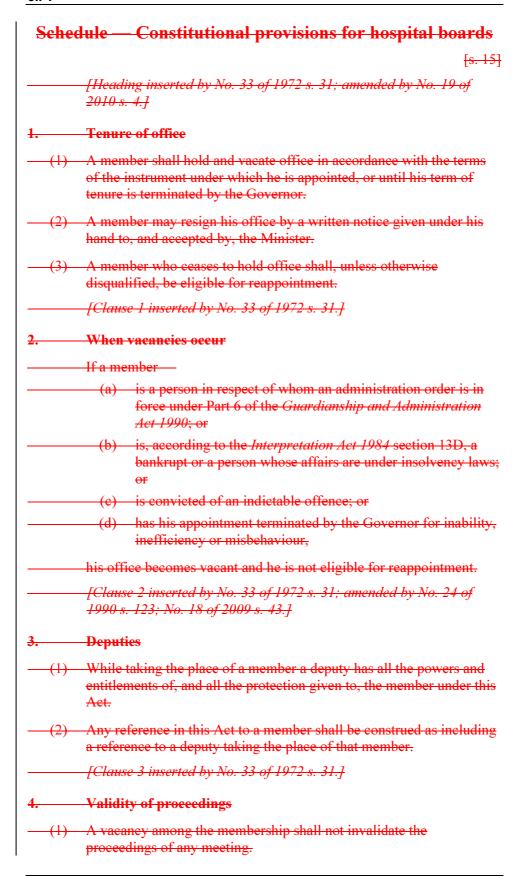
[(d) deleted]

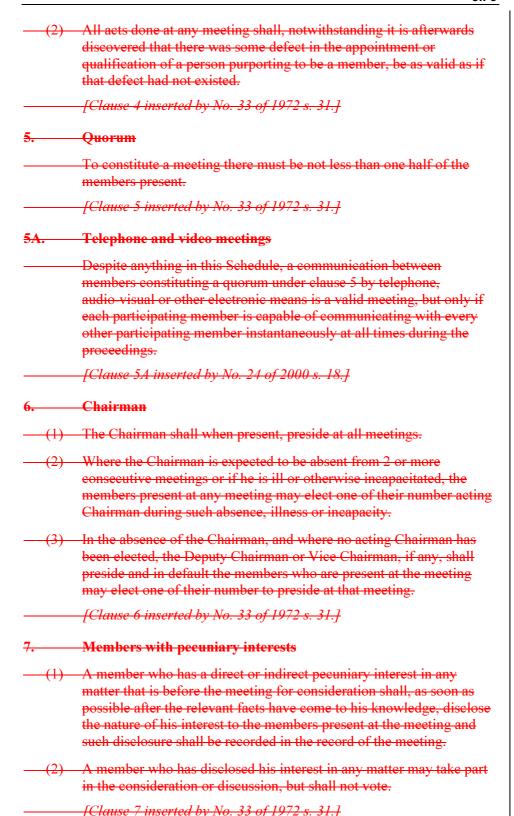
- (c) the effectiveness of the operations of the Minister, the boards of the public hospitals under this Act, the Department, the CEO, the Executive Director and authorised persons under this Act;
- (d) the need for the continuation of the boards of public hospitals and any other committee or body established or constituted under or for the purposes of this Act;
 - (e) such other matters as appear to the Minister to be relevant.
- (2) The Minister shall prepare a report based on the review referred to in subsection (1) and shall, as soon as is practicable after its preparation, cause the report to be laid before each House of Parliament.

[Section 38 inserted by No. 53 of 1985 s. 30; amended by No. 28 of 2006 s. 264; Health Services Bill 2016 cl. 281.]

[Schedule deleted by the Health Services Bill 2016 cl. 282.]

cl. 1

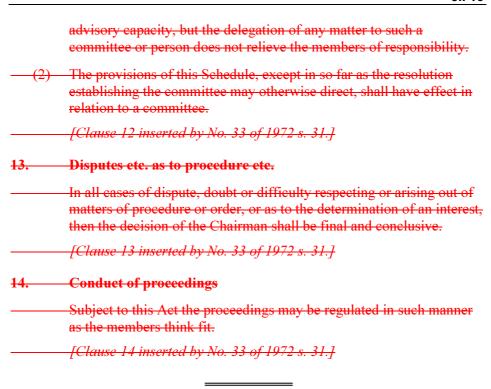




cl. 8 Undisclosed pecuniary interests Where a member in the opinion of the Chairman has a material pecuniary interest in any matter, the Chairman may call upon the member to disclose the nature of his interest and, in default of any such disclosure, may thereupon determine that such an interest exists. Every determination that a member is interested in any matter shall be recorded in the record of proceedings of the meeting at which it is made. Where the Chairman determines that a member has an undisclosed interest in any matter before the meeting for consideration that member may take part in the consideration or discussion but shall not vote. [Clause 8 inserted by No. 33 of 1972 s. 31.] **Voting** (1) At any meeting all members present who have not declared an interest shall vote on any question submitted. All questions shall be decided by a majority. Each member, including the member presiding, shall have a deliberative vote only. (4) In the case of an equality of votes the question shall be declared to be negatived. [Clause 9 inserted by No. 33 of 1972 s. 31.] 10. Records of meetings A record of the proceedings of every meeting shall be kept in such manner as the Minister may direct or approve, and shall be certified as correct by the member presiding at that or the next succeeding meeting. [Clause 10 inserted by No. 33 of 1972 s. 31.] Convening meetings The Minister or the Chairman may at any time convene a meeting, and a meeting shall be convened by the Chairman within 7 days of the receipt by him of a written request signed by 2 or more members specifying the business in respect of which the meeting is to be convened. IClause 11 inserted by No. 33 of 1972 s. 31.1 Committees

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(1) Committees, which may consist of persons who are not members, and any person having relevant experience, may be invited to act in an



Short title

Notes

This is a compilation of the *Hospitals and Health Services Act 1927* and includes the amendments made by the other written laws referred to in the following table ^{1a, 3}. The table also contains information about any reprint.

Compilation table

Assent

Commencement

Number

Short title	and year	Assent	Commencement	
Hospitals Act 1927 ⁴	23 of 1927 (18 Geo. V No. 23)	23 Dec 1927	1 Jan 1928 (see s. 1)	
Hospitals Act Amendment Act 1948	9 of 1948 (12 Geo. VI No. 9)	11 Nov 1948	11 Nov 1948	
Hospitals Act Amendment Act 1953	16 of 1953 (2 Eliz. II No. 16)	20 Nov 1953	20 Nov 1953	
Hospitals Act Amendment Act 1955	51 of 1955 (4 Eliz. II No. 51)	9 Dec 1955	9 Dec 1955	
Reprint of the <i>Hospitals Act 1927</i> approved 14 Aug 1961 in Volume 15 of Reprinted Acts (includes amendments listed above)				
Decimal Currency Act 1965	113 of 1965	21 Dec 1965	Act other than s. 4-9: 21 Dec 1965 (see s. 2(1)); s. 4-9: 14 Feb 1966 (see s. 2(2))	
Hospitals Act Amendment Act 1969	89 of 1969	17 Nov 1969	17 Nov 1969	
Hospitals Act Amendment Act 1972	33 of 1972	16 Jun 1972	30 Jun 1972 (see s. 2 and <i>Gazette</i> 30 Jun 1972 p. 2098-9)	
Reprint of the <i>Hospitals Act 1927</i> approved 11 Dec 1972 (includes amendments listed above)				
Hospitals Act Amendment Act 1973	10 of 1973	25 May 1973	25 May 1973	
Hospitals Act Amendment Act 1975	104 of 1975	1 Dec 1975	1 Dec 1975	
Hospitals Act Amendment Act 1976	71 of 1976	6 Oct 1976	6 Oct 1976	
Hospitals Amendment Act 1980	64 of 1980	26 Nov 1980	8 Jul 1983 (see s. 2 and <i>Gazette</i> 8 Jul 1983 p. 2475)	
Hospitals Amendment Act 1981	43 of 1981	26 Aug 1981	1 Sep 1981 (see s. 2)	
Acts Amendment (Statutory Designations) and Validation Act 1981 s. 4	63 of 1981	13 Oct 1981	13 Oct 1981	
Hospitals Amendment Act 1982	84 of 1982	15 Nov 1982	15 Nov 1982	

Short title	Number	Assent	Commencement
Hospitals Amendment Act 1983	and year 85 of 1983	22 Dec 1983	Act other than s. 3-9: 22 Dec 1983 (see s. 2(1)); s. 3-9: 1 Feb 1984 (see s. 2(2) and <i>Gazette</i> 20 Jan 1984
			p. 120)
Health Legislation Amendment Act 1984 Pt. X	28 of 1984	31 May 1984	1 Jul 1984 (see s. 2 and <i>Gazette</i> 15 Jun 1984 p. 1629)
Acts Amendment (Hospitals) Act 1985 Pt. III	53 of 1985 (as amended by No. 55 of 2004 s. 518)	5 Nov 1985	23 Jan 1987 (see s. 2 and <i>Gazette</i> 23 Jan 1987 p. 179)
Acts Amendment (Financial Administration and Audit) Act 1985 s. 3	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
Acts Amendment (Public Service) Act 1987 s. 32	113 of 1987	31 Dec 1987	16 Mar 1988 (see s. 2 and <i>Gazette</i> 16 Mar 1988 p. 813)
Guardianship and Administration Act 1990 s. 123	24 of 1990	7 Sep 1990	20 Oct 1992 (see s. 2 and <i>Gazette</i> 2 Oct 1992 p. 4811)
Reprint of the Hospitals A	<i>ct 1927</i> as at 22	2 Apr 1993 (inc	cludes amendments listed above)
Financial Administration Legislation Amendment Act 1993 s. 11	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
Acts Amendment (Health Services Integration) Act 1994 Pt. 2	49 of 1994	10 Oct 1994	10 Oct 1994 (see s. 2)
Statutes (Repeals and Minor Amendments) Act 1994 s. 4	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
Hospitals Amendment Act 1994	103 of 1994	11 Jan 1995	s. 1 and 2: 11 Jan 1995; s. 3 and Pt. 2 and 3: 3 Feb 1995 (see s. 2 and <i>Gazette</i> 3 Feb 1995 p. 333)
Local Government (Consequential Amendments) Act 1996 s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
Hospitals and Health Services Amendment Act 1996	17 of 1996	2 Jul 1996	s. 1 and 2: 2 Jul 1996; Act other than s. 1 and 2: 18 Sep 1996 (see s. 2 and <i>Gazette</i> 17 Sep 1996 p. 4691)
Financial Legislation Amendment Act 1996 s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
Mental Health (Consequential Provisions) Act 1996 Pt. 10	69 of 1996	13 Nov 1996	13 Nov 1997 (see s. 2)

Short title	Number and year	Assent	Commencement		
Acts Amendment (Land Administration) Act 1997 Pt. 32	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)		
Statutes (Repeals and Minor Amendments) Act 1997 s. 74(3) ⁵	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))		
Acts Amendment and Repeal (Financial Sector Reform) Act 1999 s. 86	26 of 1999	29 Jun 1999	1 Jul 1999 (see s. 2(1) and <i>Gazette</i> 30 Jun 1999 p. 2905)		
Reprint of the <i>Hospitals an</i> amendments listed above)	Reprint of the <i>Hospitals and Health Services Act 1927</i> as at 15 Oct 1999 (includes amendments listed above)				
Statutes (Repeals and Minor Amendments) Act 2000 s. 18	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)		
State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 48(1)	43 of 2000	2 Nov 2000	17 Feb 2001 (see s. 2(2) and <i>Gazette</i> 16 Feb 2001 p. 903)		
Hospitals and Health Services Amendment Act 2002 ⁶	17 of 2002	8 Jul 2002	8 Jul 2002 (see s. 2)		
Acts Amendment (Equality of Status) Act 2003 s. 119	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)		
Statutes (Repeals and Minor Amendments) Act 2003 s. 67 and 146(2)	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)		
Workers' Compensation Reform Act 2004 s. 161	42 of 2004	9 Nov 2004	14 Nov 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7131 and 17 Jun 2005 p. 2657); Para (b) of proclamation published 31 Dec 2004 p. 7131 revoked (see <i>Gazette</i> 17 Jun 2005 p. 2657)		
State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 63 Subdiv. 1 ⁷	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)		
Health Legislation Amendment Act 2004 Pt. 4	61 of 2004		24 Nov 2004 (see s. 2)		

Reprint 5: The *Hospitals and Health Services Act 1927* as at 26 Aug 2005 (includes amendments listed above except those in the *Workers' Compensation Reform Act 2004*)

Machinery of Government 28 of 2006 26 Jun 2006 1 Jul 2006 (see s. 2 and Gazette (Miscellaneous 27 Jun 2006 p. 2347)

Amendments) Act 2006

Pt. 9 Div. 6 8

Short title	Number and year	Assent	Commencement
Hospitals and Health Services Amendment Act 2006	45 of 2006	4 Oct 2006	4 Oct 2006 (see s. 2)
Financial Legislation Amendment and Repeal Act 2006 s. 4 and Sch. 1 cl. 86	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
Duties Legislation Amendment Act 2008 Sch. 1 cl. 16	12 of 2008	14 Apr 2008	1 Jul 2008 (see s. 2(d))
Medical Practitioners Act 2008 Sch. 3 cl. 27	22 of 2008	27 May 2008	1 Dec 2008 (see s. 2 and <i>Gazette</i> 25 Nov 2008 p. 4989)
Reprint 6: The <i>Hospitals an</i> amendments listed above)	nd Health Serv	vices Act 1927 a	as at 13 Feb 2009 (includes
Statutes (Repeals and Miscellaneous Amendments) Act 2009 s. 13	8 of 2009	21 May 2009	22 May 2009 (see s. 2(b))
Acts Amendment (Bankruptcy) Act 2009 s. 43	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))
Standardisation of Formatting Act 2010 s. 4 and 51	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
Health Practitioner Regulation National Law (WA) Act 2010 Pt. 5 Div. 26	35 of 2010	30 Aug 2010	18 Oct 2010 (see s. 2(b) and <i>Gazette</i> 1 Oct 2010 p. 5075-6)
Public Sector Reform Act 2010 s. 89	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and <i>Gazette</i> 5 Nov 2010 p. 5563)
Statutes (Repeals and Minor Amendments) Act 2011 s. 16 and 27	47 of 2011	25 Oct 2011	26 Oct 2011 (see s. 2(b))
Reprint 7: The <i>Hospitals an</i> amendments listed above)	nd Health Serv	vices Act 1927 a	as at 27 Jan 2012 (includes
National Health Funding Pool Act 2012 Pt. 7	44 of 2012	20 Nov 2012	15 Dec 2012 (see s. 2(b) and <i>Gazette</i> 14 Dec 2012 p. 6195)
Mental Health Legislation Amendment Act 2014 Pt. 4 Div. 3	25 of 2014	3 Nov 2014	30 Nov 2015 (see s. 2(b) and <i>Gazette</i> 13 Nov 2015 p. 4632)
Health Services Bill 2016 Pt. 20	Current Bill No. 175-1		

On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 48(2) 9	43 of 2000	2 Nov 2000	To be proclaimed (see s. 2(2))
Hospitals and Health Services Amendment Act 2013 s. 3 7 ¹⁰	8 of 2013	19 Aug 2013	To be proclaimed (see s. 2(b)) To be repealed by the <i>Health</i> Services Bill 2016 cl. 283

- The Superannuation and Family Benefits Act 1938 was repealed by the State Superannuation Act 2000 s. 39, but its provisions continue to apply to and in relation to certain schemes because of the State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 26.
- The Courts Legislation Amendment and Repeal Act 2004 Sch. 2 cl. 25 was deleted by the Criminal Law and Evidence Amendment Act 2008 s. 77(13).
- Now known as the *Hospitals and Health Services Act 1927*; short title changed (see note under s. 1).
- The amendments in the *Statutes (Repeals and Minor Amendments) Act 1997* s. 74(1) and (2) are not included because the subsections they sought to amend were amended by the *Mental Health (Consequential Provisions) Act 1996* s. 42 before the amendments purported to come into operation.
- ⁶ The *Hospitals and Health Services Amendment Act 2002* s. 8 reads as follows:

8. Validation

- (1) In this section agency has the same meaning as it has in the Hospitals and Health Services Act 1927.
- (2) Anything done or purporting to have been done by an agency for the purposes referred to in section 7B(1) of the *Hospitals and Health Services Act 1927* is, and is taken always to have been, as valid and effective as it would have been if the amendments to that Act in sections 5 and 6 had at all relevant times been made.
- The State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 5, the State Administrative Tribunal Act 2004 s. 167 and 169, and the State Administrative Tribunal Regulations 2004 r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.
- The Machinery of Government (Miscellaneous Amendments) Act 2006 Pt. 9 Div. 13 reads as follows:

Division 13 — Transitional provisions

289. Commissioner of Health

(1) A thing done or omitted to be done by, to or in relation to, the Commissioner of Health before commencement under, or for the purposes of, an enactment has the same effect after commencement, to the extent that it has any force or significance

after commencement, as if it had been done or omitted by, to or in relation to, the CEO.

(2) In this section —

CEO has the meaning given by section 3 of the *Health Legislation Administration Act 1984* as in force after commencement; **commencement** means the time at which this Division comes into operation;

Commissioner of Health means the Commissioner of Health referred to in section 6(1)(a) of the Health Legislation Administration Act 1984 as in force before commencement.

On the date as at which this compilation was prepared, the *State Superannuation* (*Transitional and Consequential Provisions*) *Act 2000* s. 48(2) had not come into operation. It reads as follows:

48. Hospitals and Health Services Act 1927 amended

- (2) The *Hospitals and Health Services Act 1927* is amended as follows:
 - (a) in section 7E(2)
 - (i) at the end of paragraph (b) by deleting the comma and inserting a full stop instead;
 - (ii) by deleting the rest of the subsection;
 - (b) in section 7E(5) by deleting "the scheme for accrued or accruing benefits under the *Superannuation and Family Benefits Act 1938*,";
 - (c) in section 12A(1) by deleting "contributors for the purposes of the *Superannuation and Family Benefits Act 1938.*" and inserting instead —

"

Members of a superannuation scheme continued by section 29(c) or (d) of the *State Superannuation Act 2000*.

"

- On the date as at which this compilation was prepared, the *Hospitals and Health Services Amendment Act 2013* s. 3-7 had not come into operation. They read as follows:
 - 3. Act amended

This Act amends the Hospitals and Health Services Act 1927.

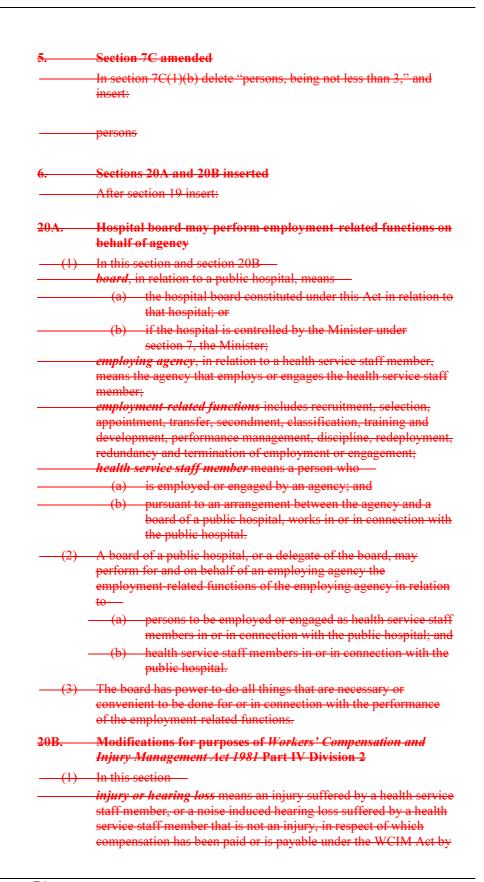
4. Section 7A amended

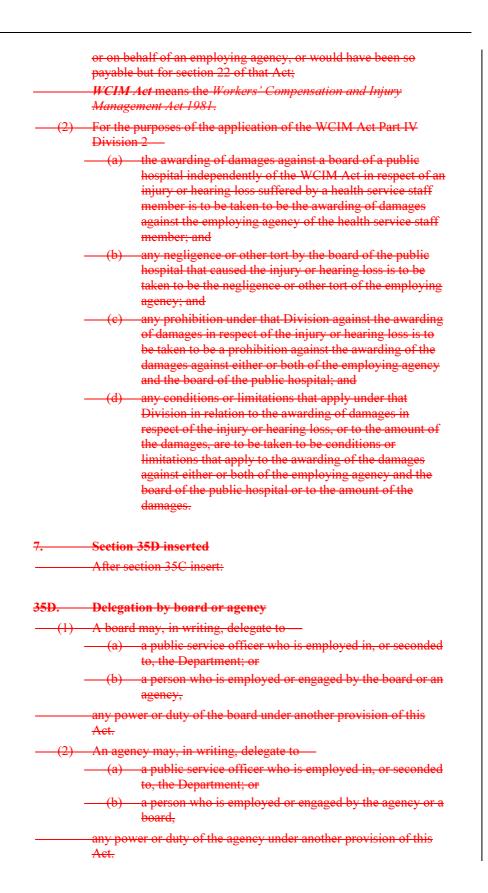
After section 7A(2) insert:

(3) In subsection (2)(b)

provision of services includes

- (a) the provision of staff to provide services in, or in connection with, public hospitals; and
- (b) the employment or engagement of staff for that purpose





- (3) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (4) A person exercising or performing a power or duty that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) This section does not limit the ability of a board or agency to perform a function through an officer or agent.