

House of Assembly—No 196

As laid on the table and read a first time, 16 October 2013

South Australia

**Health Care (Administration) Amendment
Bill 2013**

A BILL FOR

An Act to amend the *Health Care Act 2008*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Health Care (Administration) Amendment Act 2013*.

2—Commencement

- 5 This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Health Care Act 2008*

10 4—Amendment of section 29—Incorporation

Section 29(1)(b)—delete paragraph (b) and substitute:

- (b) transfer the whole or part of the undertaking of a specified person or body to an incorporated hospital.

5—Insertion of Part 5 Division 1A

After section 32 insert:

Division 1A—Transfer of functions etc between incorporated hospitals

32A—Transfer of functions etc between incorporated hospitals

The Governor may, by proclamation—

- (a) transfer all or some of the functions of an incorporated hospital to another incorporated hospital;
- (b) transfer the assets, rights and liabilities of an incorporated hospital to another incorporated hospital;
- (c) make other provisions that in the opinion of the Governor are necessary or expedient in connection with a transfer under this section.

6—Amendment of section 49—Continuation of SAAS

Section 49(5)—delete subsection (5)

7—Amendment of section 59—Fees

(1) Section 59(1)—delete subsection (1) and substitute:

- (1) The Minister may, by notice in the Gazette, fix fees in relation to—
 - (a) the provision of ambulance services; and
 - (b) the provision of incidental services by SAAS; and
 - (c) any other matter prescribed by the regulations.

(2) Section 59—after subsection (5) insert:

(6) In this section—

incidental services—incidental services are provided by SAAS if—

- (a) a member of the staff of SAAS—
 - (i) attends at a place in response to a request for medical assistance (whether made by 000 emergency telephone call or other means) for a person who may have an injury or illness requiring immediate medical attention in order to maintain life or to alleviate suffering; and
 - (ii) assesses or treats the person; but
- (b) the person is not transported by ambulance.

8—Insertion of section 89

Before section 90 insert:

89—Other staffing arrangements

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- (1) The employing authority may appoint such other officers or employees (in addition to the employees and officers of the Department and persons employed under Part 5) who have skills or experience in connection with the provision of health services and who, in the opinion of the employing authority, can—
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- (a) assist the Chief Executive in the performance of the Chief Executive's functions; or
- (b) assist the Department in the performance of its functions, (including functions that arise independently of this Act).
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- (2) The terms and conditions of employment of a person under subsection (1) will be fixed by the employing authority and approved by the Commissioner for Public Employment.
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- (3) A person employed under this section will be taken to be employed by or on behalf of the Crown (but will not be employed in the Public Service of the State unless brought into an administrative unit under the *Public Sector Act 2009*).
- (4) The employing authority is, in acting under this section, subject to direction by the Minister.
- (5) However, no Ministerial direction may be given by the Minister relating to the appointment, transfer, remuneration, discipline or termination of employment of a particular person.
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- (6) In addition, if the Chief Executive is not the employing authority, the employing authority must, in acting under this section, consult with the Chief Executive.

9—Amendment of section 92—Conflict of interest

Section 92(3), definition of *health employee*—delete the definition and substitute:

30 *health employee* means—

- (a) a person employed at an incorporated hospital or as a member of the staff of SAAS; or
- (b) a person employed under section 89.

10—Amendment of section 93—Confidentiality

- 35 (1) Section 93(3)(a)—delete "required by law, or as required for the administration of this Act or a law of another State or a Territory of the Commonwealth" and substitute:
- required or authorised by or under law

- (2) Section 93(3)(b)—delete "of the person to whom the information relates or a guardian or medical agent of the person; or" and substitute:

of—

- (i) the person to whom the information relates; or
(ii) a guardian of the person to whom the information relates; or
(iii) a medical agent of the person to whom the information relates; or
(iv) a substitute decision-maker for the person to whom the information relates (within the meaning of the *Advance Care Directives Act 2013*); or

Schedule 1—Transitional provisions

1—Employment

- (1) In this clause—

Chief Executive has the same meaning as in the principal Act;

Department has the same meaning as in the principal Act;

principal Act means the *Health Care Act 2008*.

- (2) The Chief Executive may, by instrument in writing, determine that a person employed in the Department immediately before the commencement of this clause will be taken to be employed under section 89 of the principal Act, as enacted by this Act, on terms and conditions specified by the Chief Executive and approved by the Commissioner for Public Employment.
- (3) A determination under subclause (2) does not constitute a breach of a contract of employment or termination of the person's employment, or affect the continuity of the person's employment for any purpose (but will have effect so that the person is no longer employed in the Department).

2—Cancellation of incorporation etc of certain associations

- (1) This clause applies in relation to the following associations:

- (a) Lumeah Homes Inc;
(b) Miroma Place Hostel Inc;
(c) Peterborough Aged and Disabled Accommodation Inc.

Note—

The functions of these associations were taken over under the *South Australian Health Commission Act 1976*.

- (2) Despite the provisions of the *Associations Incorporation Act 1985*, the Governor may, by proclamation:

- (a) cancel the incorporation of an association to which this clause applies; and
(b) transfer the assets of an association to which this clause applies (either as a whole or in separate parcels specified in the proclamation) to a HAC; and

(c) make such other provisions in relation to an association to which this clause applies as the Governor thinks fit.

(3) A proclamation under this section may take effect on a day that is earlier than the day on which the proclamation is made.

5 (4) In this clause—

HAC has the same meaning as in the *Health Care Act 2008*.