

SOUTH AUSTRALIA

**SOUTH AUSTRALIAN HEALTH COMMISSION ACT,
1976**

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 August 1985.

The Commissioner of Statute Revision is authorised by the Acts Republication Act, 1967, to make textual alterations of various kinds to an Act in preparing it for reprint. These alterations do not affect the substantive law; they are designed to bring the form and language of the Act into conformity with contemporary standards of good drafting (so far as that object can be achieved without risk of semantic change).

A report has been prepared containing a comprehensive list of the textual alterations made under the Acts Republication Act, 1967, in the preparation of this reprint. Copies of the report are available, on request, from the office of the Commissioner of Statute Revision, 11th Floor, S.G.I.C. Building, Victoria Square, Adelaide.

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SOUTH AUSTRALIAN HEALTH COMMISSION ACT, 1976

being

South Australian Health Commission Act, 1975-1976, No. 76 of 1976 [Assented to 2 December 1976]¹

as amended by

South Australian Health Commission Act Amendment Act, 1977, No. 52 of 1977 [Assented to 15 December 1977];
South Australian Health Commission Act Amendment Act, 1978, No. 48 of 1978 [Assented to 13 April 1978];
South Australian Health Commission Act Amendment Act, 1979, No. 23 of 1979 [Assented to 15 March 1979]²;
South Australian Health Commission Act Amendment Act, 1980, No. 12 of 1980 [Assented to 17 April 1980]³;
South Australian Health Commission Act Amendment Act, 1981, No. 69 of 1981 [Assented to 22 October 1981]⁴;
South Australian Health Commission Act Amendment Act, 1983, No. 6 of 1983 [Assented to 14 April 1983];
South Australian Health Commission Act Amendment Act (No. 2), 1983, No. 85 of 1983 [Assented to 1 December 1983]⁵;
South Australian Health Commission Act Amendment Act, 1984, No. 55 of 1984 [Assented to 24 May 1984]⁶;
Statutes Amendment (Remuneration) Act, 1985, No. 59 of 1985 [Assented to 30 May 1985]⁷;
South Australian Health Commission Act Amendment Act, 1985, No. 65 of 1985 [Assented to 6 June 1985].

An Act to establish the South Australian Health Commission; to provide for the administration of hospitals and health services; to repeal the Hospitals Act, 1934, and the Health and Medical Services Act, 1949; to amend the Institute of Medical and Veterinary Science Act, 1937, the Occupational Therapists Act, 1974, the Criminal Law Consolidation Act, 1935, the Age of Majority (Reduction) Act, 1971, and the Health Act, 1935; and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

1. This Act may be cited as the "South Australian Health Commission Act, 1976". Short title.

2. (1) This Act shall come into operation on a day to be fixed by proclamation¹. Commencement.

¹ Came into operation (except ss. 5, 27-58 and 63 and Schedules 1-3) 1 July 1977: *Gaz.* 30 June 1977, p. 1844; s. 5 (2) and (4) and Sched. 1 Parts II and IV came into operation 20 January 1978: *Gaz.* 22 December 1977, p. 2268; ss. 22-47, 58 and 63 and Sched. 2 came into operation 1 July 1978: *Gaz.* 29 June 1978, p. 2234; ss. 48-57 and Sched. 3 came into operation 6 March 1980: *Gaz.* 6 March 1980, p. 472; s. 5 (1) and (3) and Sched. 1 Parts I and III had not been brought into operation at the date of this reprint.

² Came into operation 19 April 1979: *Gaz.* 19 April 1979, p. 1030.

³ Came into operation 1 July 1980: *Gaz.* 19 June 1980, p. 1636.

⁴ Came into operation 12 November 1981: *Gaz.* 12 November 1981, p. 1491.

⁵ Came into operation 1 January 1984: *Gaz.* 22 December 1983, p. 1719.

⁶ Came into operation (except ss. 3 and 10-13) 1 February 1985: *Gaz.* 31 January 1985, p. 280; remainder of Act came into operation 1 May 1985: *Gaz.* 14 March 1985, p. 622.

⁷ Came into operation 13 June 1985: *Gaz.* 13 June 1985, p. 2132.

(2) The Governor may, in a proclamation made for the purposes of subsection (1), suspend the operation of any specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Objects of this Act.

3. The objects of this Act are to achieve the rationalization and co-ordination of health services in this State and to ensure the provision of health services for the benefit of the people of the State upon principles that allow for—

- (a) the establishment or continuation of hospitals and health centres under the administration of autonomous governing bodies;
 - (b) the integration of mental health services within a unified system of health care;
 - (c) the provision of medical diagnostic services by existing instrumentalities;
 - (d) the establishment of regional authorities and the delegation of responsibilities and functions of the Commission, insofar as they affect the various regions of the State, upon those authorities;
 - (e) the continued participation of voluntary organizations and local government authorities in the provision of health care;
- and
- (f) generally the provision of health care upon scientific and humane principles.

S. 4 amended by 48, 1978, s. 2; 69, 1981, s. 3; 55, 1984, s. 3¹.

Repeal and amendment of certain Acts.

Subsec. (2)¹.

5. (1) The Acts referred to in Part I of the first schedule are repealed².

(3) The Acts referred to in the first column of Part III of the first schedule are amended as shown in the second column of that Part⁴.

Subsec. (4)⁵.

Interpretation.

6. In this Act, unless the contrary intention appears—

“approved constitution” means a constitution or proposed constitution of an incorporated hospital or incorporated health centre in respect of which approval has been given, or mutual agreement reached, in accordance with the provisions of this Act:

“board”, in relation to an incorporated hospital, means its board of management:

Def. of “the Chairman” repealed by 12, 1980, s. 3.

¹ S. 4 omitted pursuant to the Acts Republication Act, 1967, s. 7 (2); see Summary of Provisions.

² S. 5 (1) had not been brought into operation at the date of this reprint.

³ S. 5 (2) omitted pursuant to the Acts Republication Act, 1967, s. 7 (2).

⁴ S. 5 (3) had not been brought into operation at the date of this reprint. The words “and, as amended, may be cited as shown in the third column of that Part” omitted pursuant to the Acts Republication Act, 1967, s. 7 (2).

⁵ S. 5 (4) omitted pursuant to the Acts Republication Act, 1967, s. 4 (5), as the amendments effected by this subsection will be incorporated in a reprint of the Health Act, 1935.

"the Commission" means the South Australian Health Commission established under this Act:

"council" means a council as defined in the Local Government Act, 1934, and includes a body corporate that is, by virtue of any Act, deemed to be, or vested with the powers of, a council:

"Government health centre" means a health centre designated as a Government health centre by the regulations: Def. substituted by 69, 1981, s. 4 (a).

"Government hospital" means—

(a) a hospital specified in the second schedule;

or

(b) any other prescribed hospital:

"health centre" means a body of persons (whether corporate or unincorporate) by which health services are provided, being health services that may include services provided to persons on a live-in basis: Def. substituted by 69, 1981, s. 4 (b).

"health service" means—

(a) any service designed to promote health;

(b) any therapeutic or other service designed to cure, alleviate or afford protection against any mental or physical illness, abnormality or disability;

(c) any paramedical or ambulance service;

or

(d) any prescribed service:

"hospital" means a body of persons (whether corporate or unincorporate) by which health services are provided, being health services that include services provided to persons on a live-in basis: Def. inserted by 69, 1981, s. 4 (c).

"incorporated health centre" means an incorporated health centre established under Part IV: Def. substituted by 69, 1981, s. 4 (c).

"incorporated hospital" means an incorporated hospital established under Part III: Def. substituted by 69, 1981, s. 4 (c).

"the Minister" means the Minister of the Crown to whom the administration of this Act is for the time being committed, and includes any Minister of the Crown for the time being discharging the duties of office of that Minister:

"private hospital" means a hospital other than a recognized hospital: Def. inserted by 55, 1984, s. 4.

"recognized hospital" means—

(a) an incorporated hospital;

or

(b) a prescribed hospital. Def. inserted by 55, 1984, s. 4.

PART II

THE SOUTH AUSTRALIAN HEALTH COMMISSION

DIVISION I—ESTABLISHMENT OF THE COMMISSION

Establishment of
Commission.

7. (1) There shall be a Commission entitled the "South Australian Health Commission".

(2) The Commission shall—

- (a) be a body corporate with perpetual succession and a common seal;
- (b) be capable of suing and being sued in its corporate name;
- (c) be capable of holding, acquiring, dealing with, and disposing of, real and personal property;
- (d) be capable of acquiring or incurring any other rights and liabilities;
- (e) have the powers, rights, duties and functions conferred, imposed or prescribed by or under this Act or any other Act;
- and
- (f) hold its property on behalf of the Crown.

(3) Where an apparently genuine document purports to bear the common seal of the Commission, it shall be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Commission has been duly affixed to that document.

Constitution of
Commission.

8. (1) The Commission shall consist of the following members appointed by the Governor upon the nomination of the Minister:

Para. (a)
substituted by 12,
1980, s. 4 (a); 85,
1983, s. 3 (a).

(a) two full-time members, one of whom shall be the Chairman of the Commission and the other of whom shall be the Deputy Chairman of the Commission;

and

Para. (b) amended
by 12, 1980,
s. 4 (b); 85, 1983,
s. 3 (b).

(b) three part-time members.

Subsec. (2)
amended by 12,
1980, s. 4 (c).

(2) In nominating persons for membership of the Commission, the Minister shall have due regard to the need to ensure that the members of the Commission have a high level of expertise in the provision of health care or the administration of health services or in business management.

Subsec. (3)
substituted by 12,
1980, s. 4 (d); 85,
1983, s. 3 (c).

(3) Upon the commencement of the South Australian Health Commission Act Amendment Act (No. 2), 1983, the offices of all part-time members of the Commission shall be vacated.

Subsec. (4)
amended by 12,
1980, s. 4 (e); 85,
1983, s. 3 (d).

(4) A full-time member of the Commission shall be appointed—

(a) for such term of office, not exceeding 7 years, as may be specified in the instrument of his appointment;

and

(b) upon such conditions as may be determined by the Governor.

(5) A part-time member of the Commission shall be appointed—

(a) for such term of office, not exceeding 3 years, as may be specified in the instrument of his appointment;

and

(b) upon such conditions as may be determined by the Governor.

(6) Subject to any condition of appointment to the contrary, upon the expiration of the term of office of a member of the Commission, he shall be eligible for reappointment.

* * * * *

Subsec. (7)
repealed by 12,
1980, s. 4 (f).

9. (1) The Deputy Chairman of the Commission shall be deputy to the Chairman of the Commission.

Deputies.
S. 9 amended by
12, 1980, s. 5;
substituted by 85,
1983, s. 4.

(2) The Governor may appoint a suitable person to be deputy to any member of the Commission other than the Chairman.

(3) If a member of the Commission is absent from the duties of his office, his deputy may act as a member of the Commission.

10. (1) A full-time member of the Commission shall be entitled to receive such salary and allowances as the Remuneration Tribunal may from time to time determine.

Salary, allowances
and expenses.

Subsec. (1)
amended by 12,
1980, s. 6; 85,
1983, s. 5; 89,
1985, s. 20.

(2) A part-time member of the Commission shall be entitled to receive such allowances and expenses as the Governor may from time to time determine.

11. (1) The Governor may remove a member of the Commission from office on the grounds of—

Removal from,
and vacancies of,
office.

(a) any breach of, or non-compliance with, a condition of his appointment;

(b) mental or physical incapacity;

(c) dishonourable conduct;

or

(d) neglect of duty.

(2) A member of the Commission shall be deemed to be guilty of neglect of duty when he has, without leave of the Commission, been absent from 4 consecutive meetings of the Commission.

(3) The office of a member of the Commission becomes vacant if—

(a) he dies;

(b) his term of office expires;

(c) he resigns by notice in writing given to the Commission;

(d) he is removed from office by the Governor pursuant to subsection (1);

or

(e) he attains—

(i) in the case of a full-time member—the age of 65 years;

or

(ii) in the case of a part-time member—the age of 68 years.

Subpara. (i)
amended by 12,
1980, s. 7; 85,
1983, s. 6 (a).

(4) Upon the office of a member of the Commission becoming vacant, a person shall be appointed to that office in accordance with this Act.

Subsec. (5)
amended by 6,
1983, s. 2.

(5) Where the office of a member of the Commission becomes vacant before the expiration of the term of office for which he was appointed, the person appointed in his place shall be appointed—

Para. (a) inserted
by 6, 1983, s. 2;
amended by 85,
1983, s. 6 (b).

(a) in the case of a person appointed to replace a full-time member of the Commission, for a term not exceeding 7 years;

and

Para. (b) inserted
by 6, 1983, s. 2.

(b) in the case of a person appointed to replace a part-time member of the Commission, only for the balance of the term of his predecessor.

Meetings of the
Commission, etc.

Subsec. (1)
amended by 12,
1980, s. 8 (a); 85,
1983, s. 7 (a).

12. (1) The Chairman shall preside at all meetings of the Commission at which he is present and, in his absence, the Deputy Chairman shall preside at a meeting.

Subsec. (2)
amended by 12,
1980, s. 8 (b); 85,
1983, s. 7 (b).

(2) In the absence of the Chairman and the Deputy Chairman, the members present at a meeting of the Commission shall elect one of their number to preside at that meeting.

(3) A decision carried by a majority of the votes cast by the members present at a meeting shall be a decision of the Commission.

(4) The person presiding at a meeting of the Commission shall, in the event of an equality of votes, have a second or casting vote in addition to his deliberative vote.

Subsec. (5)
amended by 12,
1980, s. 8 (c); 85,
1983, s. 7 (c).

(5) Three members of the Commission shall constitute a quorum at a meeting of the Commission, and no business shall be transacted at a meeting unless a quorum is present.

(6) The Commission shall keep accurate minutes of proceedings at its meetings and, within 14 days of the holding of a meeting, shall furnish the Minister with a copy of the minutes of that meeting.

(7) Subject to this Act, the Commission may conduct its business in such manner as it thinks fit.

Validity of acts of
Commission and
immunity of
members.

13. (1) An act or decision of the Commission shall not be invalid by reason only of any vacancy in the office of a member of the Commission or on the ground of any defect in the appointment of any member of the Commission.

(2) No liability shall attach to a member of the Commission for any act or omission by him, or by the Commission, in good faith and in the exercise, or purported exercise, of his or its powers or functions, or in the discharge, or purported discharge, of his or its duties, under this Act.

Disclosure of
interests.

14. (1) A member of the Commission who is in any way directly or indirectly interested in a contract made by, or a proposed contract in the contemplation of, the Commission shall disclose the nature of his interest at a meeting of the Commission, and the disclosure shall be recorded in the minutes of the Commission.

(2) A member of the Commission who is in any way directly or indirectly interested in a contract made by, or a proposed contract in the contemplation of, the Commission shall not take part in any decision of the Commission with respect to that contract.

Penalty: \$1 000.

DIVISION II—POWERS AND FUNCTIONS OF THE COMMISSION

15. In the exercise of its functions, the Commission shall be subject to the general control and direction of the Minister.

Commission
subject to control
of Minister.

16. (1) The function of the Commission is to promote the health and well-being of the people of this State and, in particular—

Functions of the
Commission.

- (a) to institute, promote or assist in research in the field of health and health services;
- (b) to collect, or assist in the collection of, data and statistics in relation to health and health services;
- (c) to ascertain the requirements of the public, or any section of the public, in the field of health and health services and to determine how those requirements should be met to the best advantage of the public or the section of the public concerned;
- (d) to plan and implement the provision of a system of health services that is comprehensive, co-ordinated and readily accessible to the public;
- (e) to establish, maintain and operate such health services as the Commission may think desirable and possible within the limits of its resources;
- (f) to assist any other body or person in the establishment, maintenance or operation of a health service to the extent that the Commission thinks desirable;
- (fa) to ensure that incorporated hospitals, incorporated health centres and any health service established, maintained or operated by, or with the assistance of, the Commission are operated in an efficient and economical manner;
- (g) to provide, or assist in the provision of, education, instruction or training in such professional or other fields of knowledge or expertise related to the provision of health services as the Commission thinks desirable;
- (h) to promote and encourage voluntary participation in the provision of health services;
- (i) to disseminate knowledge in the field of public health to the advancement of the public interest;
- (j) to keep the policies and standards of health and health services developed by the Commission under constant evaluation and review;
- (k) to ensure as far as possible that the people of this State live and work in a healthy environment;
- (l) to perform any other functions prescribed by this Act or any other Act;

Para. (fa) inserted
by 69, 1981, s. 5.

and

- (m) to perform such other functions as may be necessary or incidental to the foregoing.

(2) The Commission shall have full power to perform any act necessary or expedient for the performance of the functions for which the Commission is established.

(3) The Commission shall, in carrying out its functions, act wherever possible in a manner calculated to encourage participation by voluntary organizations and local governing bodies in the provision of health care.

(4) The Commission shall establish, wherever practicable, appropriate regional or local authorities for the provision of health services in the various regions and local government areas of the State.

Delegation.
Subsec. (1)
amended by 69,
1981, s. 6.

17. (1) The Commission may delegate any of its powers or functions to any committee appointed by the Commission or to any member, officer or employee of the Commission or any officer of the Public Service of the State.

(2) A delegation under this section shall be revocable at will and shall not derogate from the power of the Commission to act in any matter itself.

DIVISION III—ADVISORY COMMITTEES

Appointment of
advisory
committees.

18. (1) The Minister may appoint advisory committees to advise the Commission in relation to the following matters:

- (a) voluntary participation by members of the community in the provision of health care;
- (b) the provision of education and training by universities and colleges of advanced education, and by the Commission and other bodies, in matters relating to health care;
- (c) research into the adequacy of existing health services and the planning of new health services;

and

- (d) any other matters in relation to which the Minister considers that advice should be available to the Commission.

(2) A committee appointed under this section—

- (a) may, of its own motion, investigate and report to the Commission and the Minister upon any matter in relation to which the committee was established;

and

- (b) shall investigate and report to the Commission and the Minister upon any matter referred by the Commission or the Minister to the committee for investigation and report.

S. 19 repealed by
85, 1983, s. 8.

* * * * *

DIVISION IV—STAFF OF THE COMMISSION

Chief Executive
Officer and
Deputy Chief
Executive Officer.
S. 19a inserted by
12, 1980, s. 9.

19a. (1) There shall be—

- (a) a Chief Executive Officer of the Commission;

and

- (b) a Deputy Chief Executive Officer of the Commission.

(2) The Chairman of the Commission shall hold the office of Chief Executive Officer.

Subsec. (3)
substituted by 85,
1983, s. 9.

(3) The Deputy Chairman of the Commission shall hold the office of Deputy Chief Executive Officer.

(4) The Public Service Act, 1967, shall not apply in relation to the offices of Chief Executive Officer and Deputy Chief Executive Officer.

20. (1) The Commission may appoint, upon terms and conditions fixed by the Commission with the approval of the Public Service Board, such officers and employees of the Commission as it thinks necessary or desirable. Officers and employees.

(2) The Commission may, with the approval of the Minister administering any department of the Public Service of the State, upon terms and conditions mutually arranged, make use of the services of any officer, or use any facilities or equipment, of that department.

(3) Upon a day¹ fixed by proclamation for the purposes of this subsection, any person who was, immediately before that day, an officer of the Department of Public Health in the Public Service of the State shall become an officer of the Commission without reduction of salary or status.

(4) Upon a day¹ fixed by proclamation for the purposes of this subsection, any person—

(a) who was, immediately before that day, an officer of the Hospitals Department in the Public Service of the State;

and

(b) who is designated, in a schedule of officers prepared by the Public Service Board and published in the *Gazette*, as an officer who is to become an employee of the Commission,

shall become an officer of the Commission without reduction of salary or status.

21. (1) The Commission is a public authority within the meaning of the Superannuation Act, 1974, and—

(a) any officer or employee of the Commission who was, immediately before becoming an officer or employee of the Commission, a contributor to the South Australian Superannuation Fund shall, subject to the Superannuation Act, 1974, remain a contributor to that Fund; Superannuation, accrued leave rights, etc.
Subsec. (1) amended by 48, 1978, s. 3 (a).

and

(b) any other officer or employee of the Commission may, subject to that Act, become a contributor to the South Australian Superannuation Fund. Para. (b) amended by 48, 1978, s. 3 (b); 55, 1984, s. 5.

(2) Where a person becomes an officer or employee of the Commission after ceasing to be employed— Subsec. (2) substituted by 69, 1981, s. 7.

(a) in the Public Service of the State;

(b) by an incorporated hospital;

or

(c) by an incorporated health centre,

and that employment with the Commission follows immediately upon the cessation of that previous employment, the following provisions shall apply:

(d) his existing and accruing rights immediately before the cessation of that previous employment in respect of recreation leave,

¹ No day had been proclaimed at the date of this reprint.

sick leave and long service leave shall continue in full force and effect as if that previous employment had been employment by the Commission;

and

(e) he shall not be entitled to payment in lieu of those rights.

Subsec. (3)
inserted by 69,
1981, s. 7.

(3) Except where subsection (2) applies, where a person becomes an officer or employee of the Commission within 3 months after ceasing to be employed—

(a) in the Public Service of the State;

(b) by an incorporated hospital;

(c) by an incorporated health centre;

or

(d) in prescribed employment,

his existing and accruing rights immediately before the cessation of that employment in respect of recreation leave, sick leave and long service leave shall continue, to the extent directed by the Commission and subject to such conditions as may be imposed by the Commission, as if that previous employment had been employment by the Commission.

DIVISION V—MISCELLANEOUS PROVISIONS

Property.

22. (1) The Governor may, by instrument in writing—

(a) direct that any unalienated Crown land, or any land held on behalf of the Crown, be vested in the Commission for an estate in fee simple;

(b) place any unalienated Crown land under the care, control and management of the Commission;

or

(c) resume any land placed under the care, control and management of the Commission pursuant to paragraph (b).

(2) A direction under subsection (1) (a) shall be effective to vest the land to which it relates in the Commission for an estate in fee simple.

(3) The Minister may, subject to and in accordance with the Land Acquisition Act, 1969, acquire land for the purposes of the Commission.

Financial
provision.

23. (1) The Commission shall, not later than a date stipulated by the Minister, in each year, submit to the Minister a written statement of the estimated financial requirements of the Commission for the financial year next ensuing and such other information in relation to those requirements as the Minister may require.

(2) The Treasurer shall, out of money appropriated by Parliament for the purpose, pay to the Commission in each financial year such amounts as may, in his opinion, be necessary for the purpose of enabling the Commission adequately to perform and discharge its functions and duties under this or any other Act.

24. (1) The Commission may, with the approval of the Treasurer, borrow money for the purpose of enabling it to perform and discharge its functions and duties under this or any other Act.

Power to borrow,
invest, etc.

(2) The Treasurer may, at his discretion, guarantee the discharge by the Commission of any liability incurred by it in respect of any loan under subsection (1).

(3) The Treasurer may, without any authority other than this section, pay out of the General Revenue of the State any money required for the purpose of discharging obligations arising by virtue of a guarantee given under this section.

(4) The Commission may, with the approval of the Treasurer, invest any money of the Commission that is not for the time being required for the purposes of the Commission in such investments as may be approved by the Treasurer.

25. (1) The Commission shall cause proper accounts to be kept of its financial affairs.

Accounts and
audit.

(2) The Auditor-General may at any time, and shall at least once in every year, audit the accounts of the Commission.

(3) For the purposes of the audit, the Auditor-General shall have and may exercise, in relation to the accounts of the Commission and the officers and employees of the Commission, the same powers as are vested in him by virtue of the Audit Act, 1921, in relation to public accounts and accounting officers.

26. (1) The Commission shall, not later than a date stipulated by the Minister, in each year, present to the Minister a report on the administration and activities of the Commission, and the efficiency of incorporated hospitals, incorporated health centres and any health service established, maintained or operated by, or with the assistance of, the Commission, during the previous financial year.

Annual report.
Subsec. (1)
amended by 69,
1981, s. 8.

(2) The Minister shall cause a copy of the report to be laid before each House of Parliament as soon as practicable after his receipt of the report.

PART III

HOSPITALS

DIVISION I—INCORPORATION AND MANAGEMENT OF HOSPITALS

27. (1) The Governor may, by proclamation—

Incorporation,
etc.

(a) establish an incorporated hospital to provide health services in accordance with its constitution;

Subsec. (1)
substituted by 69,
1981, s. 9.

and

(b) assign a name to the incorporated hospital.

(2) A proclamation under subsection (1) that establishes an incorporated hospital to take over from any other body the function of providing health services provided by that other body before the date of the proclamation may provide that any incorporation of that other body is dissolved, and the proclamation shall have effect according to its terms.

Subsec. (2)
substituted by 69,
1981, s. 9.

Subsec. (3)
substituted by 69,
1981, s. 9.

(3) Where the incorporation of a body is dissolved by a proclamation under subsection (1), all the real and personal property and rights and liabilities of that body are, by force of this section, transferred to and vested in the incorporated hospital established by the proclamation.

Subsec. (3a)
inserted by 69,
1981, s. 9.

(3a) A proclamation shall not be made under subsection (1)—

(a) that establishes an incorporated hospital to take over from any other body (not being the Commission or a Government hospital or Government health centre) the function of providing health services provided by that other body before the date of the proclamation unless—

(i) the governing body of that other body consents to the establishment of the incorporated hospital;

and

(ii) the Commission and the governing body have reached mutual agreement upon the terms of the constitution under which the incorporated hospital is to operate;

or

(b) in any other case, unless the Commission has approved the terms of the constitution under which the incorporated hospital is to operate.

(4) The Governor may, at the request of an incorporated hospital, by proclamation, alter the name of the incorporated hospital.

(5) An incorporated hospital shall not, without the prior written approval of the Commission, alter its constitution.

(6) Where the board of an incorporated hospital seeks the exercise of the powers conferred by this subsection, the Governor may, by proclamation—

(a) transfer the whole undertaking of the incorporated hospital (including all its assets and liabilities) to another body corporate nominated by the board and dissolve the incorporated hospital;

or

(b) dissolve the incorporated hospital and otherwise dispose of, or give directions as to the disposal of, its assets.

Powers of
incorporated
hospital.

28. (1) An incorporated hospital shall be a body corporate with perpetual succession and a common seal and shall, subject to its approved constitution—

(a) be capable of holding, acquiring, dealing with, and disposing of, real and personal property;

(b) be capable of acquiring or incurring any other rights or liabilities;

(c) be capable of suing and being sued;

and

(d) have the rights, powers, authorities, functions, duties and obligations conferred, imposed or prescribed under this Act or its approved constitution.

(2) Where an apparently genuine document purports to bear the common seal of an incorporated hospital, it shall be presumed, in the absence of proof to the contrary, that the common seal of that hospital was duly affixed to that document.

29. (1) An incorporated hospital shall be administered by a board of management constituted in accordance with the approved constitution of that hospital.

Management of hospital.

(2) The board may delegate any of its powers arising under its constitution to any committee appointed by the board or to any member of the board or officer or employee of the hospital.

(3) A delegation of powers by the board shall not derogate from the power of the board to act in any matter itself.

29a. (1) A member of the board of management of an incorporated hospital who is in any way directly or indirectly interested in a contract made by, or a proposed contract in the contemplation of, the hospital shall disclose the nature of his interest at a meeting of the board, and the disclosure shall be recorded in the minutes of the board.

Disclosure of interests.
S. 29a inserted by 48, 1978, s. 4.

(2) A member of the board of management of an incorporated hospital who is in any way directly or indirectly interested in a contract made by, or a proposed contract in the contemplation of, the hospital shall not take part in any decision of the board with respect to that contract.

Penalty: \$1 000.

DIVISION II—STAFF OF INCORPORATED HOSPITALS

30. (1) The board of an incorporated hospital may appoint, upon terms and conditions fixed by the Commission and approved by the Public Service Board, such officers and employees as it thinks necessary or desirable for the proper administration of the hospital.

Officers and employees.

(2) An officer or employee shall not be appointed under subsection (1) unless provision for the appointment of such an officer or employee has been made in a staffing plan submitted to, and approved by, the Commission.

(3) The board of an incorporated Government hospital shall not appoint a person as chief executive officer of the hospital, nor shall it dismiss such a person from his office, except with the approval of the Commission.

(4) Upon incorporation of a hospital under this Part, the following shall become employees of the hospital on terms and conditions fixed by the Commission and approved by the Public Service Board (but without reduction of salary or status):

(a) any officers of the Public Service of the State who had, before the date of incorporation, been assigned by the Public Service Board to work in the hospital and have been designated by the Public Service Board as officers to whom this section applies;

and

(b) any employees of the Minister who had, before the date of incorporation, been assigned to work in the hospital and have been designated by the Minister as employees to whom this section applies.

Subsec. (4a)
inserted by 48,
1978, s. 5¹.

* * * * *

(5) The board of an incorporated hospital may, with the approval of the Minister administering any department of the Public Service of the State, make use of the services of any officer, or use any facilities or equipment, of that department.

Superannuation,
accrued leave
rights, etc.

31. (1) An incorporated hospital is a public authority within the meaning of the Superannuation Act, 1974, and—

(a) any officer or employee of the incorporated hospital who was, immediately before becoming an officer or employee of the hospital, a contributor to the South Australian Superannuation Fund shall, subject to the Superannuation Act, 1974, remain a contributor to that Fund;

and

Para. (b) amended
by 48, 1978, s. 6;
55, 1984, s. 6.

(b) any other officer or employee of the hospital may, subject to that Act, become a contributor to the South Australian Superannuation Fund.

Subsec. (2)
substituted by 69,
1981, s. 10.

(2) Where a person becomes an officer or employee of an incorporated hospital after ceasing to be employed—

(a) in the Public Service of the State;

(b) by the Commission;

(c) by another incorporated hospital;

or

(d) by an incorporated health centre,

and that employment with the incorporated hospital follows immediately upon the cessation of that previous employment, the following provisions shall apply:

(e) his existing and accruing rights immediately before the cessation of that previous employment in respect of recreation leave, sick leave and long service leave shall continue in full force and effect as if that previous employment had been employment by the incorporated hospital;

and

(f) he shall not be entitled to payment in lieu of those rights.

Subsec. (3)
inserted by 69,
1981, s. 10.

(3) Except where subsection (2) applies, where a person becomes an officer or employee of an incorporated hospital within 3 months after ceasing to be employed—

(a) in the Public Service of the State;

(b) by the Commission;

(c) by another incorporated hospital;

(d) by an incorporated health centre;

or

(e) in prescribed employment,

¹ S. 30 (4a) omitted pursuant to the Acts Republishing Act, 1967, s. 7 (2).

his existing and accruing rights immediately before the cessation of that employment in respect of recreation leave, sick leave and long service leave shall continue, to the extent directed by the board of the hospital and subject to such conditions as may be imposed by that board, as if that previous employment had been employment by the hospital.

DIVISION III—PROPERTY OF INCORPORATED HOSPITALS

* * * * * S. 32 repealed by 69, 1981, s. 11.

33. (1) The Governor may, by instrument in writing, direct that any unalienated Crown lands, or any land held on behalf of the Crown, be vested in an incorporated hospital for an estate in fee simple. Property.

(2) A direction under subsection (1) shall be effective to vest the land to which it relates in the incorporated hospital for an estate in fee simple.

(3) The Governor may, by instrument in writing—

(a) place any unalienated Crown lands under the care, control and management of an incorporated hospital;

or

(b) resume any such land.

(4) The Minister may, subject to and in accordance with the Land Acquisition Act, 1969, acquire land for the purposes of an incorporated hospital.

DIVISION IV—ACCOUNTS, REPORTS, ETC.

34. (1) An incorporated hospital shall cause proper accounts to be kept of its financial affairs. Accounts and audit.

(2) The accounts of an incorporated hospital, other than a prescribed incorporated hospital, shall be audited at least once in every year by an auditor approved by the Auditor-General. Subsec. (2) amended by 69, 1981, s. 12 (a).

(3) The accounts of a prescribed incorporated hospital shall be audited at least once in every year by the Auditor-General. Subsec. (3) inserted by 69, 1981, s. 12 (b).

(4) For the purposes of the audit, the Auditor-General shall have and may exercise, in relation to the accounts of prescribed incorporated hospitals and the officers and employees of those hospitals, the same powers as are vested in him by virtue of the Audit Act, 1921, in relation to public accounts, and accounting officers. Subsec. (4) inserted by 69, 1981, s. 12 (b).

35. (1) The board of an incorporated hospital shall, not later than a date stipulated by the Commission, in each year, present to the Commission a report upon the administration of the hospital during the previous financial year. Annual report.

(2) The Commission shall transmit a copy of any report received by it under this section to the Minister.

Budget and
staffing plans.

36. (1) The board of an incorporated hospital shall, not later than a date stipulated by the Commission, in each year, submit to the Commission—

- (a) estimates of its expected receipts and payments for the financial year next ensuing after that date;
 - (b) details of any proposed capital works that the board proposes to carry out during that financial year;
 - (c) details of any proposed variation in the services provided by the hospital;
- and
- (d) estimates of the requirements of the hospital in relation to staffing for the next financial year.

(2) The Commission may, at any time, by notice in writing, require the board of an incorporated hospital to furnish it with information relating to the administration, or future administration, of the hospital.

DIVISION V—REGULATIONS AND BY-LAWS

Regulations.

37. (1) The board of an incorporated hospital may make regulations with respect to all or any of the following matters:

- (a) the conduct of the business and proceedings of the board;
 - (b) the management of the hospital;
 - (c) the establishment, management and administration of any services provided, or to be provided, by the hospital;
 - (d) the establishment, management and conduct of any school or course of instruction or training provided, or to be provided, at the hospital;
 - (e) co-operation between the hospital and the Commission or any university, college of advanced education or other educational institution in respect of the provision of education or training at the hospital;
 - (f) the maintenance of good order and discipline at the hospital;
- and
- (g) any other matter incidental to the discharge and performance by the hospital of its functions and duties or affecting the administration of the hospital.

(2) Every regulation made pursuant to this section must be sealed with the seal of the hospital and submitted to the Commission for its approval.

(3) Where the Commission has approved a proposed regulation, it shall be transmitted to the Governor for confirmation and, upon confirmation, shall come into force.

By-laws.

38. (1) The board of an incorporated hospital may make, alter and repeal by-laws for all or any of the following purposes:

- (a) to prohibit persons from trespassing on the grounds of the hospital;

- (b) to define parts of the grounds of the hospital as prohibited areas and to prohibit persons from entering any part of any such prohibited area or to provide for the removal of persons from any such area;
 - (c) to prevent damage to the property, buildings or grounds of the hospital;
 - (d) to regulate the speed at which vehicles may be driven within the grounds of the hospital;
 - (e) to prohibit dangerous or careless driving of vehicles within the grounds of the hospital;
 - (f) to prescribe the routes to be followed by traffic within the grounds of the hospital;
 - (g) to prohibit or regulate the standing, parking or ranking of vehicles within the grounds of the hospital and to provide for the removal of vehicles from the grounds;
 - (h) to require drivers of vehicles within the grounds of the hospital to comply with traffic directions;
 - (i) generally to regulate traffic of all kinds within the grounds of the hospital;
 - (j) to prohibit disorderly or offensive behaviour within the hospital or the grounds of the hospital and to provide for the removal of persons guilty of disorderly or offensive behaviour;
 - (k) to regulate, restrict or prohibit the consumption of alcoholic liquor within the hospital or the grounds of the hospital;
 - (l) to prevent undue noise within the hospital or the grounds of the hospital;
 - (m) to prescribe any other matters necessary or expedient for the maintenance of good order, the protection of property of the hospital or the prevention of hindrance to, or interference with, any activities conducted within the hospital or its grounds;
- and
- (n) to prescribe fines not exceeding \$50 for contravention of any by-law.

Para. (g)
amended by
55, 1984, s. 7.

(2) Every by-law made under this section must be sealed with the seal of the hospital and submitted to the Commission for approval.

(3) Upon approval of a by-law made under this section, the by-law shall be transmitted to the Governor for confirmation and, upon confirmation by the Governor, shall come into force.

(4) In any proceedings relating to an offence against a by-law—

- (a) an allegation in a complaint that any specified place is or was within the grounds of an incorporated hospital shall be deemed to be proved in the absence of proof to the contrary;
- (b) an allegation in a complaint that a person named in the complaint was the owner of a vehicle referred to in the complaint shall be deemed to be proved in the absence of proof to the contrary;
- (c) where it is proved that a vehicle was parked within the grounds of a hospital in contravention of a by-law, it shall be presumed,

in the absence of proof to the contrary, that the vehicle was so parked by the owner of the vehicle.

(5) Where it is alleged that a person has committed an offence against a by-law relating to vehicular traffic, or the parking of motor vehicles, within the grounds of an incorporated hospital, the board may cause to be served personally or by post upon that person a notice to the effect that he may expiate the offence by payment to the hospital of an amount specified in the notice (being an amount fixed by the by-law) within a time specified in the notice and, if the offence is so expiated, no proceedings shall be commenced in any court in respect of the alleged offence.

DIVISION VI—HOSPITAL FEES

Fixing of fees.
Subsec. (1)
amended by
55, 1984, s. 8.

39. (1) The Governor may, by regulation made upon the recommendation of the Commission, regulate the fees to be charged by any recognized hospital in respect of any service provided by it.

(2) Fees payable to a hospital (whether regulated under this section or not) for a service provided by it may be recovered from—

(a) the person to whom the service was provided;

(b) the spouse of that person;

or

(c) if the service was provided to a person under the age of 18 years, the parent or parents of that person.

(3) Where fees are recovered from a person under this section, he may recover as a debt from any other person who is jointly liable for the payment of the fees a contribution fixed by the court in which proceedings for recovery of the contribution are taken.

DIVISION VII—RATING FOR HOSPITAL PURPOSES

Power of
Commission
to require
contribution.

40. (1) Where, in the opinion of the Commission, the area, or any portion of the area, of a council is served by an incorporated hospital, or will be served by a proposed incorporated hospital, the Commission may, with the consent of the Minister, by notice addressed to the council, require the council to contribute any sum or sums for the purposes of that hospital or proposed hospital in accordance with the notice.

(2) The notice shall specify—

(a) the incorporated hospital in respect of which the contribution is required;

(b) that the whole area, or a specified portion of the area, of the council is, or will be, served by the hospital;

(c) the amount of the contribution required from the council and (if payable by instalments) the amount of each instalment;

(d) the time or times before which, and the manner in which, the contribution or instalments are payable.

(3) The contribution, or the aggregate of contributions, that a council is required under this section to make in any one financial year shall not exceed 3 per cent of the total revenue raised by the council by the imposition of general rates during the previous financial year.

41. (1) Upon the receipt of a notice under this Division, the council shall, in accordance with the notice, pay the specified sum or sums to the Commission.

Duty of council to contribute.

(2) The contribution shall be paid by the council out of its general revenue or out of the proceeds of a special rate declared and levied by the council for that purpose.

(3) Where only portion of the area of a council is, or will be, served by an incorporated hospital or proposed incorporated hospital, any special rate levied for the purpose of meeting a contribution required of the council under this section shall not be levied on property unless that property falls within that portion of the area.

(4) The amount of any contribution required from any council may be deducted by the Minister of Local Government from any subsidy or grant payable to the council, and any amount so deducted may be paid to the Commission on account of the council from whose subsidy or grant the amount was deducted.

42. Any contribution payable under this Division may be recovered by the Commission by action in a court of competent jurisdiction as a debt due to it.

Recovery of contributions.

43. The Commission shall apply all contributions received or recovered by it under this Division for the use and benefit of the incorporated hospital in respect of which the contribution was required.

Application of money.

DIVISION VIII—RIGHTS OF HOSPITALS AGAINST INSURERS

44. In this Division—

Interpretation.

“accident to which this Division applies” means an accident—

(a) caused by, or arising out of, the use of a motor vehicle;

and

(b) in which some person has suffered bodily injury:

“bodily injury” includes mental or nervous shock:

“hospital” means any hospital, whether incorporated under this Act or not:

“insurer” means any person, or association of persons, carrying on the business of insurance:

“owner”, in relation to a motor vehicle, means the person registered as the owner of the vehicle.

45. (1) The Commissioner of Police shall, upon receipt of a report that an accident to which this Division applies has occurred, furnish the Commission with such of the prescribed particulars of the accident as are known to him.

Report of accidents to which this Division applies.

(2) An insurer shall, within 7 days after receipt of a report that an accident to which this Division applies has occurred, furnish the Commission with such of the prescribed particulars of the accident as are known to him.

Penalty: \$100.

(3) The prescribed particulars of an accident to which this Division applies are—

- (a) the nature of the accident and the time and place at which it occurred;
 - (b) the name and address of each person injured in the accident;
 - (c) the name and address of the driver of each vehicle involved in the accident;
 - (d) the name and address of the owner of each vehicle involved in the accident;
- and
- (e) the name and address of any insurer who has insured the owner or driver (or both) of a vehicle involved in the accident in respect of bodily injury caused by, or arising out of, the use of the vehicle.

Notice by hospital
to insurer.

46. (1) If a person suffers bodily injury in an accident to which this Division applies and that person receives treatment at a hospital in respect of that bodily injury, the hospital may give, personally or by post, to an insurer notice stating that the person has received treatment at the hospital and that the hospital has a claim for payment for the treatment given or to be given.

(2) A notice may be given under this section notwithstanding that the person who received the treatment has died.

First claim of
hospital.

47. (1) Where a notice has been given by a hospital to an insurer under this Division, the hospital shall have first claim upon any money to be paid by the insurer in respect of the bodily injury of the person to whom the notice relates.

(2) Where an insurer upon whom a notice has been served under this Division proposes to pay money in respect of the bodily injury of the person to whom the notice relates (whether or not the money is to be paid in pursuance of an order of the court or voluntarily by the insurer, with or without an admission of liability), the money shall be applied by the insurer—

- (a) first, in or towards satisfaction of the claim of the hospital;
- and
- (b) as to any residue, in the same manner as if this Division had not been enacted.

(3) Where notices have been served under this Division upon an insurer by 2 or more hospitals in respect of the same patient and the money to be paid by the insurer is not sufficient to meet the claims of both or all of those hospitals, the money shall be divided between the hospitals in proportion to their respective claims.

(4) If an insurer fails to make a payment to a hospital as required by this section, the hospital may, by action in a court of competent jurisdiction, recover the amount of the payment that should have been made to the hospital as a debt due to it from the insurer.

PART IV

HEALTH CENTRES

DIVISION I—INCORPORATION AND MANAGEMENT OF HEALTH CENTRES

48. (1) The Governor may, by proclamation—

(a) establish an incorporated health centre to provide health services in accordance with its constitution;

Incorporation,
etc.

Subsec. (1)
substituted by 69,
1981, s. 13.

and

(b) assign a name to the incorporated health centre.

(2) A proclamation under subsection (1) that establishes an incorporated health centre to take over from any other body the function of providing health services provided by that other body before the date of the proclamation may provide that any incorporation of that other body is dissolved, and the proclamation shall have effect according to its terms.

Subsec. (2)
substituted by 69,
1981, s. 13.

(3) Where the incorporation of a body is dissolved by a proclamation under subsection (1), all the real and personal property and rights and liabilities of that body are, by force of this section, transferred to and vested in the incorporated health centre established by the proclamation.

Subsec. (3)
substituted by 69,
1981, s. 13.

(3a) A proclamation shall not be made under subsection (1)—

Subsec. (3a)
inserted by 69,
1981, s. 13.

(a) that establishes an incorporated health centre to take over from any other body (not being the Commission or a Government hospital or Government health centre) the function of providing health services provided by that other body before the date of the proclamation, unless—

(i) the governing body of that other body consents to the establishment of the incorporated health centre;

and

(ii) the Commission and the governing body have reached mutual agreement upon the terms of the constitution under which the incorporated health centre is to operate;

or

(b) in any other case, unless the Commission has approved the terms of the constitution under which the incorporated health centre is to operate.

(4) An incorporated health centre shall not, without the prior written approval of the Commission, alter its constitution.

(5) The Governor may, by proclamation, alter the name of an incorporated health centre.

(6) Where the management committee of an incorporated health centre seeks the exercise of the powers conferred by this subsection, the Governor may, by proclamation—

(a) transfer the whole of the undertaking of the incorporated health centre (including all its assets and liabilities) to another body corporate nominated by the management committee and dissolve the incorporated health centre;

or

- (b) dissolve the incorporated health centre and otherwise dispose of, or give directions as to the disposal of, its assets.

Powers of
incorporated
health centre.

49. (1) An incorporated health centre shall be a body corporate with perpetual succession and a common seal and shall, subject to its approved constitution—

- (a) be capable of holding, acquiring, dealing with, and disposing of, real and personal property;
(b) be capable of acquiring or incurring any other rights or liabilities;
(c) be capable of suing and being sued;

and

- (d) have the rights, powers, authorities, functions, duties and obligations conferred, imposed or prescribed under this Act or its approved constitution.

(2) Where an apparently genuine document purports to bear the common seal of an incorporated health centre, it shall be presumed, in the absence of proof to the contrary, that the common seal of that health centre was duly affixed to that document.

Management of
health centre.

50. (1) An incorporated health centre shall be administered by a management committee constituted in accordance with the approved constitution of that health centre.

(2) The management committee may delegate any of its powers arising under its constitution to any committee appointed by the management committee or to any member of the management committee or officer or employee of the health centre.

(3) A delegation of powers by the management committee shall not derogate from the power of the management committee to act in any matter itself.

Disclosure of
interests.
S. 50a inserted by
48, 1978, s. 7.

50a. (1) A member of the management committee of an incorporated health centre who is in any way directly or indirectly interested in a contract made by, or a proposed contract in the contemplation of, the health centre shall disclose the nature of his interest at a meeting of the management committee, and the disclosure shall be recorded in the minutes of the management committee.

(2) A member of the management committee of an incorporated health centre who is in any way directly or indirectly interested in a contract made by, or a proposed contract in the contemplation of, the health centre shall not take part in any decision of the management committee with respect to that contract.

Penalty: \$1 000.

DIVISION II—STAFF OF INCORPORATED HEALTH CENTRES

Officers and
employees.

51. (1) The management committee of an incorporated health centre may appoint, upon terms and conditions fixed by the Commission and approved by the Public Service Board, such officers and employees as it thinks necessary or desirable for the proper administration of the affairs of the health centre.

(2) An officer or employee shall not be appointed under subsection (1) unless provision for the appointment of such an officer or employee has been made in a staffing plan submitted to, and approved by, the Commission.

(3) The management committee of an incorporated health centre may, with the approval of the Minister administering any department of the Public Service of the State, make use of the services of any officer, or use any facilities or equipment, of that department.

Subsec. (3)
inserted by 69,
1981, s. 14.

52. (1) An incorporated health centre is a public authority within the meaning of the Superannuation Act, 1974, and—

Superannuation,
accrued leave
rights, etc.

(a) any officer or employee of the incorporated health centre who was, immediately before becoming an officer or employee of the health centre, a contributor to the South Australian Superannuation Fund shall, subject to the Superannuation Act, 1974, remain a contributor to that Fund;

and

(b) any other officer or employee of the health centre may, subject to that Act, become a contributor to the South Australian Superannuation Fund.

Para. (b) amended
by 48, 1978, s. 8;
55, 1984, s. 9.

(2) Where a person becomes an officer or employee of an incorporated health centre after ceasing to be employed—

Subsec. (2)
substituted
by 69, 1981,
s. 15.

(a) in the Public Service of the State;

(b) by the Commission;

(c) by an incorporated hospital;

or

(d) by another incorporated health centre,

and that employment with the incorporated health centre follows immediately upon the cessation of that previous employment, the following provisions shall apply:

(e) his existing and accruing rights immediately before the cessation of that previous employment in respect of recreation leave, sick leave and long service leave shall continue in full force and effect as if that previous employment had been employment by the incorporated health centre;

and

(f) he shall not be entitled to payment in lieu of those rights.

(3) Except where subsection (2) applies, where a person becomes an officer or employee of an incorporated health centre within 3 months after ceasing to be employed—

Subsec. (3)
inserted by
69, 1981, s. 15.

(a) in the Public Service of the State;

(b) by the Commission;

(c) by an incorporated hospital;

(d) by another incorporated health centre;

or

(e) in prescribed employment,

his existing and accruing rights immediately before the cessation of that employment shall continue, to the extent directed by the management committee of the health centre and subject to such conditions as may be imposed by that committee, as if that previous employment had been employment by the health centre.

DIVISION III—PROPERTY OF INCORPORATED HEALTH CENTRES

S. 53 repealed
by 69, 1981, s. 16.

* * * * *

Property.

54. (1) The Governor may, by instrument in writing, direct that any unalienated Crown lands, or any land held on behalf of the Crown, be vested in an incorporated health centre for an estate in fee simple.

(2) A direction under subsection (1) shall be effective to vest the land to which it relates in the incorporated health centre for an estate in fee simple.

(3) The Governor may, by instrument in writing—

(a) place any unalienated Crown lands under the care, control and management of an incorporated health centre;

or

(b) resume any such land.

(4) The Minister may, subject to and in accordance with the Land Acquisition Act, 1969, acquire land for the purposes of an incorporated health centre.

DIVISION IV—ACCOUNTS, REPORTS, ETC.

Accounts and
audit.

55. (1) An incorporated health centre shall cause proper accounts to be kept of its financial affairs.

Subsec. (2)
amended by
69, 1981, s. 17 (a).

(2) The accounts of an incorporated health centre, other than a prescribed incorporated health centre, shall be audited at least once in every year by an auditor approved by the Auditor-General.

Subsec. (3)
inserted by
69, 1981,
s. 17 (b).

(3) The accounts of a prescribed incorporated health centre shall be audited at least once in every year by the Auditor-General.

Subsec. (4)
inserted by
69, 1981,
s. 17 (b).

(4) For the purposes of the audit, the Auditor-General shall have and may exercise, in relation to the accounts of prescribed incorporated health centres and the officers and employees of those health centres, the same powers as are vested in him by virtue of the Audit Act, 1921, in relation to public accounts and accounting officers.

Annual report.

56. (1) The management committee of an incorporated health centre shall, not later than a date stipulated by the Commission, in each year, present to the Commission a report upon the administration of the health centre during the previous financial year.

(2) The Commission shall transmit a copy of any report received by it under this section to the Minister.

Budget and
staffing plans.

57. (1) The management committee of an incorporated health centre shall, not later than a date stipulated by the Commission, in each year, submit to the Commission—

- (a) estimates of its expected receipts and payments for the financial year next ensuing after that date;
- (b) details of any proposed capital works that the management committee proposes to carry out during that financial year;
- (c) details of any proposed variation of the services provided by the health centre;

and

- (d) estimates of the requirements of the health centre in relation to staffing for the next financial year.

(2) The Commission may, at any time, by notice in writing, require a management committee to furnish it with information relating to the administration, or future administration, of the health centre.

DIVISION IVA—BY-LAWS

57aa. (1) The management committee of an incorporated health centre may make, alter and repeal by-laws—

- (a) relating to the discharge and performance by the health centre of its functions and duties or the administration of the health centre;
- (b) necessary or expedient for the maintenance of good order, the protection of property of the health centre or the prevention of hindrance to, or interference with, any activities carried on at the health centre or within any part of its grounds;
- (c) prescribing fines not exceeding \$50 for contravention of any by-law.

(2) Every by-law made under this section must be sealed with the seal of the incorporated health centre and submitted to the Commission for approval.

(3) Upon approval of a by-law made under this section, the by-law shall be transmitted to the Governor for confirmation and, upon confirmation by the Governor, shall come into force.

Heading inserted
by 69, 1981, s. 18.

By-laws.
S. 57aa inserted
by 69, 1981, s. 18.

DIVISION V—HEALTH CENTRE FEES

57a. (1) The Governor may, by regulation made upon the recommendation of the Commission, regulate the fees to be charged by any incorporated health centre in respect of any service provided by it.

(2) Fees payable to an incorporated health centre (whether regulated under this section or not) for a service provided by it may be recovered from—

- (a) the person to whom the service was provided;
 - (b) the spouse of that person;
- or
- (c) if the service was provided to a person under the age of 18 years, the parent or parents of that person.

Heading inserted
by 48, 1978, s. 9.

Fixing of fees.
S. 57a inserted by
48, 1978, s. 9.

(3) Where fees are recovered from a person under this section, he may recover as a debt from any other person who is jointly liable for the payment of the fees a contribution fixed by the court in which proceedings for recovery of the contribution are taken.

Part IVA inserted
by 55, 1984, s. 10.

PART IVA

PRIVATE HOSPITALS

Prohibition of
operating private
hospitals unless
licensed.

S. 57b inserted by
55, 1984, s. 10.

57b. (1) No health services shall be provided by a private hospital except at premises in respect of which a licence is in force under this Part.

(2) If health services are provided by a private hospital in contravention of subsection (1), the person or each person constituting the private hospital shall be guilty of an offence and liable to a penalty not exceeding \$5 000.

(3) This section does not apply in relation to premises licensed as a nursing home or rest home under the Health Act, 1935.

Application for
licence.
S. 57c inserted by
55, 1984, s. 10.

57c. (1) A person may apply to the Commission for a licence under this Part.

(2) An application for a licence must—

(a) be made in the prescribed manner and form;

(b) contain the prescribed information;

and

(c) be accompanied by the prescribed application fee.

Grant of licences.
S. 57d inserted by
55, 1984, s. 10.

57d. (1) Subject to this section, where application is made under this Part for a licence in respect of premises or proposed premises, the Commission shall determine whether a licence should be granted, having regard to—

(a) the suitability of the applicant to be granted the licence;

(b) the standards of construction, facilities and equipment of the premises or proposed premises;

(c) the scope and quality of the health services to be provided in pursuance of the licence;

(d) the location of the premises or proposed premises and their proximity to other facilities for the provision of health services;

(e) the adequacy of existing facilities for the provision of health services to persons in the locality;

(f) any proposals for the provision of health services to persons in the locality through the establishment of new facilities or the expansion of existing facilities;

(g) the requirements of economy and efficiency in the provision of health services within the State;

and

(h) any other relevant matter.

(2) Where the Commission determines under this section that the licence should be granted and, in the case of an application in respect of proposed premises, subsequently is satisfied that the premises have been established substantially in accordance with proposals approved by the Commission, the Commission shall, upon payment of the prescribed fee, grant the licence to the applicant.

(3) Notwithstanding the other provisions of this section, where premises are licensed under the Health Act, 1935, as a private hospital, the Commission shall, upon application under this Part by the holder of the licence, grant the applicant a licence under this Part in respect of those premises.

57e. (1) A licence under this Part shall be subject to such conditions as the Commission may specify by notice in writing given to the holder of the licence.

Conditions of licences.
S. 57e inserted by
55, 1984, s. 10.

(2) Without limiting the matters with respect to which conditions may be imposed, the Commission may impose conditions in respect of a licence under this Part—

- (a) limiting the kinds of health services that may be provided pursuant to the licence;
- (b) limiting the number of patients to whom health services may be provided on a live-in basis at any one time pursuant to the licence;
- (c) preventing the alteration or extension of the premises without the approval of the Commission;
- (d) preventing the installation or use of facilities or equipment of a specified kind, either absolutely or without the approval of the Commission;
- (e) requiring the installation or use of facilities or equipment of a specified kind not otherwise required by or under this Act;
- (f) requiring that the premises be in the charge of a person with specified qualifications, and otherwise regulating the staffing of the premises.

(3) The Commission may, by notice in writing given to the holder of a licence, vary or revoke a condition of the licence or impose a further condition.

(4) Where the Commission imposes a further condition under subsection (3), the condition shall not take effect until the expiration of the period of 30 days after service of the notice imposing the condition.

57f. The holder of a licence under this Part shall not contravene, or fail to comply with, a provision of this Act or a condition of the licence.
Penalty: \$5 000.

Offence for licence holder to contravene Act or licence condition.
S. 57f inserted by
55, 1984, s. 10.

57g. (1) A licence shall, subject to this Part, remain in force until—

- (a) the licence is surrendered;

or

- (b) the holder of the licence dies or, in the case of a body corporate, is dissolved.

Duration of licences.
S. 57g inserted by
55, 1984, s. 10.

(2) The holder of a licence under this Part shall, not later than the prescribed day in each year—

(a) pay to the Commission the prescribed annual licence fee;

and

(b) lodge with the Commission an annual return containing the prescribed information.

(3) Where the holder of a licence fails to pay the annual licence fee or lodge the annual return in accordance with subsection (2), the Commission may, by notice in writing, require him to make good his default.

(4) Where the holder of a licence fails to comply with a notice under subsection (3) within 14 days after service of the notice, his licence shall, by force of this subsection, be suspended until he complies with the notice.

(5) Where a licence has been suspended by virtue of subsection (4) for a continuous period of 6 months, the licence shall, by force of this subsection, be cancelled.

Transfer of
licences.
S. 57h inserted by
55, 1984, s. 10.

57h. (1) An application may be made to the Commission for the transfer of a licence under this Part.

(2) An application for the transfer of a licence must—

(a) be made in the prescribed manner and form;

(b) contain the prescribed information;

and

(c) be accompanied by the prescribed application fee.

(3) An applicant must furnish the Commission with such further information as the Commission may require to determine the application.

(4) The Commission shall, upon application under this section and payment of the prescribed fee, transfer the licence to the proposed transferee if the Commission is satisfied as to the suitability of the person to hold a licence under this Part.

Surrender,
suspension and
cancellation of
licences.
S. 57i inserted by
55, 1984, s. 10.

57i. (1) The holder of a licence under this Part may, at any time, surrender the licence, and the licence shall thereupon cease to be of force or effect.

(2) The Commission may, after giving 30 days notice in writing to the holder of a licence to show cause why the licence should not be suspended or cancelled, suspend or cancel the licence, if it is satisfied—

(a) that the grant or transfer of the licence was obtained improperly;

or

(b) that the holder of the licence has contravened, or failed to comply with, a provision of this Act or a condition of the licence.

(3) Where the Commission suspends a licence under subsection (2), it may order that the suspension be for a specified period or until the fulfilment of stipulated conditions or until further order.

(4) Where the Commission cancels a licence under subsection (2), it may order that the cancellation have effect at a specified future time and impose conditions as to the provision of health services in pursuance of the licence until that time.

(5) Where a condition is imposed in relation to a licence under subsection (4), the holder of the licence shall not contravene, or fail to comply with, the condition.

Penalty: \$5 000.

(6) A licence—

(a) that is suspended under subsection (2) shall cease to be of force or effect for the period of the suspension;

or

(b) that is cancelled under that subsection shall cease to be of force or effect.

57j. (1) A right of appeal to the Supreme Court shall lie against any decision or order of the Commission under this Part.

Appeal against
decision or order
of Commission.
S. 57j inserted by
55, 1984, s. 10.

(2) The appeal must be instituted within 1 month of the making of the decision or order appealed against, but the Supreme Court may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that the appeal should be so instituted.

(3) The Supreme Court may, on the hearing of the appeal, do one or more of the following, according to the nature of the case:

(a) affirm, vary or quash the decision or order appealed against or substitute, or make in addition, any decision or order that should have been made in the first instance;

(b) remit the subject matter of the appeal to the Commission for further consideration;

(c) make any further or other order as to costs or any other matter that the case requires.

(4) The Commission shall, if so required by any person affected by a decision or order made by it, state in writing the reasons for its decision or order.

(5) If the reasons of the Commission are not given in writing at the time of making a decision or order and the appellant then requests the Commission to state its reasons in writing, the time for instituting the appeal shall run from the time when the appellant receives the written statement of those reasons.

(6) Where the Commission or the Supreme Court is satisfied that an appeal against an order of the Commission has been instituted or is intended, the Commission or the Supreme Court may suspend the operation of the order until the determination of the appeal.

(7) Where the Commission has suspended the operation of an order under subsection (6), the Commission may terminate the suspension and, where the Supreme Court has done so, the Supreme Court may terminate the suspension.

57k. (1) The Commission may appoint suitable persons to be inspectors for the purposes of this section.

Inspectors.
S. 57k inserted by
55, 1984, s. 10.

(2) An inspector appointed under subsection (1) may, at any reasonable time, enter the premises of a private hospital and, while on the premises, he may—

- (a) inspect the premises or any equipment or other thing on the premises;
- (b) require any person to produce any documents or records;
- and
- (c) examine any documents or records and take extracts from, or make copies of, any of them.

(3) A person shall not refuse or fail to comply with a requirement made of him pursuant to this section.

Penalty: \$500.

(4) A person shall not hinder or obstruct an inspector in the exercise by the inspector of the powers conferred by this section.

Penalty: \$500.

PART V

MISCELLANEOUS

Provision for case where incorporated hospital or health centre fails properly to discharge its functions.

58. (1) Where the board of an incorporated hospital or the management committee of an incorporated health centre—

(a) contravenes, or fails to comply with, a provision of this Act or of its approved constitution;

or

(b) has, in the opinion of the Governor, persistently failed properly to exercise and perform the responsibilities and functions for which it was established,

the Governor may, by proclamation, remove all members of the board or management committee from office.

(2) At least 21 days before a proclamation is made under subsection (1), the Minister shall cause to be served on each member of the board or management committee a notice setting out the grounds on which he considers that the making of the proclamation is justified.

(3) Any such member may, within 14 days after service of the notice, appeal to the Full Court of the Industrial Court of South Australia against the proposed removal of the members of the board or management committee from office.

(4) No proclamation shall be made under this section—

(a) where an appeal has been instituted, but not finally determined, under this section;

or

(b) where the Court, upon the hearing of an appeal, has declared that, in its opinion, proper grounds for the making of the proclamation do not exist.

(5) Where the Governor exercises his powers under subsection (1), he may, by the same or a subsequent proclamation—

(a) appoint new members to the board or management committee (in which case those members shall be deemed to have been duly appointed in accordance with the approved constitution);

or

- (b) appoint a person, for such term as may be specified in the proclamation and upon such conditions as may be determined by the Governor, to exercise the powers, and discharge the responsibilities and functions, of the incorporated hospital or incorporated health centre.

(6) A person appointed under subsection (5) (b) shall have all the powers conferred on the board or management committee by this Act or by its approved constitution.

59. (1) The Governor may, by proclamation, declare that specified provisions of, and regulations under, the Public Service Act, 1967, shall apply, with such modifications as may be specified in the proclamation, in relation to—

Application of Public Service Act to officers and employees of Commission, etc.

- (a) officers and employees of the Commission;
 - (b) officers and employees of designated incorporated hospitals;
 - and
 - (c) officers and employees of designated incorporated health centres,
- or in relation to any class of those officers and employees.

(2) Any such proclamation shall have effect according to its terms.

(3) The Governor may, by subsequent proclamation, vary or revoke a proclamation under this section.

60. (1) Notwithstanding any other provision of this Act—

Jurisdiction of Industrial Court, Industrial Commission and conciliation committees.
S. 60 redesignated s. 60 (1) by 23, 1979, s. 3.

- (a) the Industrial Commission of South Australia and any relevant conciliation committee shall have jurisdiction to make awards relating to the salaries, wages and conditions of employment of any officers or employees of the Commission or of any incorporated hospital or incorporated health centre;

Para. (a) amended by 65, 1985, s. 2 (a).

and

- (b) the Industrial Court, the Industrial Commission or any relevant conciliation committee may exercise any other jurisdiction conferred by the Industrial Conciliation and Arbitration Act, 1972, in relation to any of those officers or employees.

Para. (b) amended by 65, 1985, s. 2 (b).

(2) For the purposes of any proceedings, or any industrial agreement, under the Industrial Conciliation and Arbitration Act, 1972, the Commission, shall be regarded as the employer of all officers or employees of incorporated hospitals or incorporated health centres.

Subsec. (2) inserted by 23, 1979, s. 3.

(3) An award or order made against the Commission pursuant to the Industrial Conciliation and Arbitration Act, 1972, or an industrial agreement made by the Commission pursuant to that Act, is binding upon an incorporated hospital or incorporated health centre that would, at common law, be regarded as the employer of the officers or employees to which the award, order or agreement relates.

Subsec. (3) inserted by 23, 1979, s. 3.

Subsec. (4)
inserted by 23,
1979, s. 3.

(4) An incorporated hospital or an incorporated health centre is not entitled—

Para. (a) amended
by 65, 1985, s. 2
(c).

(a) to institute proceedings before the Industrial Court, the Industrial Commission or a conciliation committee;

(b) to enter into any industrial agreement;

or

Para. (c) amended
by 65, 1985, s. 2
(d).

(c) to be represented in any proceedings before the Industrial Court, the Industrial Commission or a conciliation committee,

without the consent of the South Australian Health Commission.

Recognized
organizations.

61. (1) The following organizations are recognized organizations for the purposes of this section:

Para. (a)
substituted by 69,
1981, s. 19.

(a) the Federated Miscellaneous Workers Union of Australia, South Australian Branch;

(b) the Public Service Association;

(c) the Royal Australian Nursing Federation;

and

(d) any organization declared to be a recognized organization under subsection (2).

(2) Where the Commission is of the opinion that an organization (being an association registered under the Industrial Conciliation and Arbitration Act, 1972) represents the interests of a significant number of officers or employees of the Commission, incorporated hospitals or incorporated health centres, it shall, by notice published in the *Gazette*, declare that organization to be a recognized organization for the purposes of this Act.

(3) Any such recognized organization shall have the right to make submissions to the Commission, incorporated hospitals and incorporated health centres on any matter arising out of, or in relation to, the exercise or performance of any of their powers or functions under this Act.

Duty of Registrar-
General.

62. (1) The Registrar-General shall, upon the application of the Commission, an incorporated hospital or incorporated health centre and upon proof to his satisfaction that an interest in land has vested in the Commission, incorporated hospital or incorporated health centre in pursuance of this Act, and upon production of duplicate certificates of title (if any) relating to the land, issue such new certificates of title, or make such entries and notations upon existing certificates of title, as may be necessary to evidence vesting of the interest in the Commission, hospital or health centre.

(2) Where an application has been made under this section, the Registrar-General may require the applicant to furnish him with—

(a) any instrument evidencing former title to the land or any existing or former interest in the land;

and

(b) a plan of the land to which the application relates, certified by a licensed surveyor.

Notification of
dissolution of
incorporated
body.
S. 62a inserted by
69, 1981, s. 20.

62a. Where the incorporation of a body is dissolved pursuant to this Act, the Commission shall, in writing, notify the Corporate Affairs Commission of that fact.

63. (1) The Commission shall maintain a public office in which it shall file the approved constitution of each incorporated hospital and incorporated health centre, and the amendments (if any) to each such constitution.

Constitutions to be available for public inspection.

(2) A member of the public may, upon payment of the prescribed fee, inspect the constitution of an incorporated hospital or incorporated health centre.

64. (1) Subject to subsection (2), an officer or employee of the Commission, an incorporated hospital or an incorporated health centre shall not divulge any personal information, relating to any patient, obtained in the course of his employment otherwise than as he may be authorized or required to divulge that information by law or by his employer.

Duty to maintain confidentiality.

Penalty: \$2 000 or imprisonment for 6 months.

(2) This section does not prevent a person from divulging statistical or other information that could not reasonably be expected to lead to identification of patients to whom it relates.

64a. A notice or document required or authorized to be given or served under this Act may be given or served personally or by post.

Service of notices.
S. 64a inserted by
55, 1984, s. 11.

64b. Where a body corporate is guilty of an offence against this Act, every member of the governing body of the body corporate shall be guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless he proves that he could not, by the exercise of reasonable diligence, have prevented the commission of that offence.

Offences by bodies corporate.
S. 64b inserted by
55, 1984, s. 11.

64c. In any proceedings for an offence against this Act, an allegation in the complaint—

Evidentiary provision.
S. 64c inserted by
55, 1984, s. 11.

(a) that a specified person was, or was not, the holder of a licence under Part IVA at a specified time;

or

(b) that a specified provision was, at a specified time, a condition imposed in relation to a licence under Part IVA held by a specified person,

shall, in the absence of proof to the contrary, be deemed to be proved.

65. Proceedings in respect of an offence against this Act shall be disposed of summarily.

Proceedings.

66. (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

Regulations.

(2) Without limiting the generality of the foregoing, those regulations may—

(a) prescribe conditions under which research in the field of health and health services is to be conducted by the Commission or instrumentalities of the Commission;

(b) require any hospital or health centre to collect, and furnish the Commission with, data and statistics in relation to health and health services;

- (c) require any hospital or health centre to make prescribed inquiries with a view to ascertaining the requirements of the public, or any section of the public, in relation to any aspect of health care, and to furnish the Commission with the results of those inquiries;
 - (d) prescribe conditions under which financial or technical assistance may be given by the Commission for the establishment, maintenance or operation of a health service;
 - (e) regulate the publication and dissemination of knowledge by the Commission in relation to health and health services;
 - (f) prescribe any course of education, training or instruction in professional or other fields of knowledge or expertise related to health services provided, or to be provided, by the Commission or any incorporated hospital or incorporated health centre;
 - (g) prescribe standards to be observed by the Commission, incorporated hospitals and incorporated health centres in providing services for the prevention of disease, the improvement of health, the care and rehabilitation of the sick or the general well-being of the public;
 - (ga) prescribe standards of construction, facilities and equipment for the premises of private hospitals;
 - (gb) prescribe standards to be observed by private hospitals in the provision of health services;
 - (gc) prescribe the records to be kept by private hospitals;
 - (gd) provide for an exemption by the Commission (which may be conditional or unconditional) from any provision of this Act relating to private hospitals;
- and
- (h) prescribe penalties not exceeding \$200 for contravention of any regulation.

Para. (ga)
inserted by 55,
1984, s. 12.

Para. (gb)
inserted by 55,
1984, s. 12.

Para. (gc) inserted
by 55, 1984, s. 12.

Para. (gd)
inserted by 55,
1984, s. 12.

SCHEDULES

FIRST SCHEDULE

PART I¹

Hospitals Act, 1934-1971;
Hospitals Act, 1934;
Hospitals Act Amendment Act, 1941;
Hospitals Act Amendment Act, 1951;
Hospitals Act Amendment Act, 1952;
Hospitals Act Amendment Act, 1958;
Hospitals Act Amendment Act, 1959;
Hospitals Act Amendment Act, 1961;
Hospitals Act Amendment Act, 1962;
Hospitals Act Amendment Act, 1966;
Hospitals Act Amendment Act, 1967.

¹ Sched. 1 Part I had not been brought into operation at the date of this reprint.

* * * * * Part II¹.

PART III²

First Column Act Amended	Second Column ³ How Amended
* * * * *	* * * * *
Occupational Therapists Act, 1974	Section 5— Strike out paragraph (b) of subsection (1) and insert paragraph as follows: (b) one shall be a person nominated by the South Australian Health Commission;
Criminal Law Consolidation Act, 1935	Section 77a— Strike out from subsection (6) the passage "Director-General of Medical Services" and insert "South Australian Health Commission". Section 82a— Strike out from paragraph (b) of subsection (4) the passage "Director-General of Medical Services" and insert "South Australian Health Commission".
Age of Majority (Reduction) Act, 1971	The Schedule— Strike out Part XVII of the Schedule.

* * * * * Part IV amended by 52, 1977, s. 25.

SECOND SCHEDULE

Modbury Hospital
Mount Gambier Hospital
Port Augusta Hospital
Port Lincoln Hospital
Port Pirie Hospital
Royal Adelaide Hospital
Ru Rua Nursing Home
The Flinders Medical Centre
The Queen Elizabeth Hospital
Walleroo Hospital
Whyalla Hospital

* * * * * 3rd Sched. repealed by 69, 1981, s. 21.

¹ Sched. 1 Part II omitted pursuant to the Acts Republication Act, 1967, s. 7 (2).

² Sched. 1 Part III had not been brought into operation at the date of this reprint.

³ Third column omitted pursuant to the Acts Republication Act, 1967, s. 7 (2).

⁴ Amendments to the Institute of Medical and Veterinary Science Act, 1937, omitted, as that Act has been repealed: see Institute of Medical and Veterinary Science Act, 1982, s. 4.

⁵ Sched. 1 Part IV omitted pursuant to the Acts Republication Act, 1967, s. 4 (5), as the amendments effected by this Part will be incorporated in a reprint of the Health Act, 1935.