

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 January 1994**.*

It should be noted that the Act has not been revised (for obsolete references, etc.) by the Commissioner of Statute Revision since the reprint published on 17 July 1991.

SUMMARY OF PROVISIONS

PART 1 PRELIMINARY

1. Short title
3. Objects of this Act
5. Repeal and amendment of certain Acts
6. Interpretation

PART 2 THE SOUTH AUSTRALIAN HEALTH COMMISSION

DIVISION 1—ESTABLISHMENT OF THE COMMISSION

7. Establishment of Commission
8. Constitution of Commission
9. Deputies
10. Salary, allowances and expenses
11. Removal from, and vacation of, office
12. Meetings of the Commission, etc.
13. Validity of acts of Commission and immunity of members
14. Disclosure of interests

DIVISION 2—POWERS AND FUNCTIONS OF THE COMMISSION

15. Commission subject to the control of the Minister
16. Functions of Commission
17. Delegation

DIVISION 3—ADVISORY COMMITTEES

18. Appointment of advisory committees

DIVISION 4—STAFF OF THE COMMISSION

- 19A. The Chief Executive Officer and Deputy Chief Executive Officer
20. Officers and employees
21. Superannuation, accrued leave rights, etc.

DIVISION 5—MISCELLANEOUS PROVISIONS

22. Property
23. Financial provision
24. Power to borrow, invest, etc.
25. Accounts and audit
26. Annual report

PART 3 HOSPITALS

DIVISION 1—INCORPORATION AND MANAGEMENT OF HOSPITALS

27. Incorporation
28. Powers of incorporated hospital
29. Management of hospital
- 29A. Disclosure of interest
- 29B. Immunity of members of board

DIVISION 2—STAFF OF INCORPORATED HOSPITALS

30. Officers and employees
31. Superannuation, accrued leave rights, etc.

South Australian Health Commission Act 1976

iii

DIVISION 3—PROPERTY OF INCORPORATED HOSPITALS

33. Property

DIVISION 4—ACCOUNTS, REPORTS, ETC.

34. Accounts and audit
35. Annual report
36. Budget and staffing plans

DIVISION 5—BY-LAWS

38. By-laws

DIVISION 6—HOSPITAL FEES

39. Fixing of fees

DIVISION 7—RATING FOR HOSPITAL PURPOSES

40. Power of Commission to require contribution
41. Duty of council to contribute
42. Recovery of contributions
43. Application of contributions

DIVISION 8—RIGHTS OF HOSPITALS AGAINST INSURERS

44. Interpretation
45. Report of accidents to which this Division applies
46. Notice by hospital to insurer
47. First claim of hospital

**PART 4
HEALTH CENTRES**

DIVISION 1—INCORPORATION AND MANAGEMENT OF HEALTH CENTRES

48. Incorporation
49. Powers of incorporated health centre
50. Management of health centre
50A. Disclosure of interests
50B. Immunity of members of board

DIVISION 2—STAFF OF INCORPORATED HEALTH CENTRES

51. Officers and employees
52. Superannuation, accrued leave rights, etc.

DIVISION 3—PROPERTY OF INCORPORATED HEALTH CENTRES

54. Property

DIVISION 4—ACCOUNTS, REPORTS, ETC.

55. Accounts and audit
56. Annual report
57. Budget and staffing plans

DIVISION 4A—BY-LAWS

- 57AA. By-laws

DIVISION 5—HEALTH CENTRE FEES

- 57A. Fixing of fees

**PART 4A
PRIVATE HOSPITALS**

- 57B. Prohibition of operating private hospitals unless licensed
57C. Application for licence
57D. Grant of licences
57E. Conditions of licence
57F. Offence for licence holder to contravene Act or licence condition
57G. Duration of licences
57H. Transfer of licences
57I. Surrender, suspension and cancellation of licences
57J. Appeal against decision or order of Commission
57K. Inspectors

**PART 5
MISCELLANEOUS**

58. Provision where incorporated hospital or health centre fails in a particular instance to properly discharge its functions
58A. Provision where incorporated hospital or health centre fails persistently to properly discharge its functions
59. Application of Government Management and Employment Act to officers and employees of Commission, etc.
60. Jurisdiction of Industrial Court, Industrial Commission and conciliation committees
61. Recognised organisations
62. Duty of Registrar-General
62A. Notification of dissolution of incorporated body
63. Constitutions to be available for public inspection
63A. Conflict of interest
64. Duty to maintain confidentiality
64A. Service of notices
64B. Offences by bodies corporate
64C. Evidentiary provision
64D. Disclosure of confidential information for certain purposes
65. Summary offences
66. Regulations

SCHEDULES

SOUTH AUSTRALIAN HEALTH COMMISSION ACT 1976

being

South Australian Health Commission Act 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]
South Australian Health Commission Act Amendment Act 1987 No. 41 of 1987 [Assented to 30 April 1987]⁸
South Australian Health Commission Act Amendment Act 1989 No. 60 of 1989 [Assented to 26 October 1989]⁹
Statutes Repeal and Amendment (Remuneration) Act 1990 No. 18 of 1990 [Assented to 19 April 1990]¹⁰
Statute Law Revision Act 1990 No. 23 of 1990 [Assented to 26 April 1990]¹¹
South Australian Health Commission (Private Hospital Beds) Amendment Act 1991 No. 63 of 1991 [Assented to 5 December 1991]
South Australian Health Commission (Incorporated Hospitals and Health Centres) Amendment Act 1993 No. 14 of 1993
[Assented to 1 April 1993]
Statutes Amendment (Abolition of Compulsory Retirement) Act 1993 No. 75 of 1993 [Assented to 21 October 1993]¹²

NOTE:

- Asterisks indicate repeal or deletion of text.
- For the legislative history of the Act see Appendix 1. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

- ¹ Came into operation (except ss. 5, 27-58, 63 and Scheds. 1-3) 1 July 1977: *Gaz.* 30 June 1977, p. 1844; s. 5(2) and (4) and Sched. 1 Parts 2 and 4 came into operation 20 January 1978: *Gaz.* 22 December 1977, p. 2268; ss. 27-47, 58, 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 1 and 3 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.
- ⁸ Came into operation (except ss. 13 and 20) 1 July 1987; ss. 13 and 20 came into operation 1 July 1988: *Gaz.* 25 June 1987, p. 1634.
- ⁹ Came into operation 9 May 1991: *Gaz.* 9 May 1991, p. 1484.
- ¹⁰ Came into operation 19 April 1990: *Gaz.* 19 April 1990, p. 1136.
- ¹¹ Came into operation (except Scheds. 4-7) 29 June 1990: *Gaz.* 14 June 1990, p. 1606; Scheds. 4 and 5 came into operation 1 August 1990: *Gaz.* 12 July 1990, p. 257; Sched. 7 came into operation 24 September 1990: *Gaz.* 6 September 1990, p. 778; Sched. 6 came into operation 17 July 1991: *Gaz.* 20 June 1991, p. 1918.
- ¹² Came into operation 1 January 1994: s. 2.

N.B. The amendments effected to this Act by the Supported Residential Facilities Act 1992 had not been brought into operation at the date of, and has not been included in, this reprint.

South Australian Health Commission Act 1976

An Act to establish the South Australian Health Commission; to provide for the administration of hospitals and health services; and for other purposes.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *South Australian Health Commission Act 1976*.

* * * * *

Objects of this Act

3. The objects of this Act are to achieve the rationalisation 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 provision of health care through a properly integrated network of hospitals and health centres; and
- (b) the integration of mental health services within a unified system of health care; and
- (c) the provision of medical diagnostic services by existing instrumentalities; and
- (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; and
- (e) the continued participation of voluntary organisations and local government authorities in the provision of health care; and
- (f) generally the provision of health care upon scientific and humane principles.

* * * * *

Repeal and amendment of certain Acts¹

5. (1) *The Acts referred to in Part 1 of schedule 1 are repealed.*

* * * * *

(3) *The Acts referred to in the first column of Part 3 of schedule 1 are amended as shown in the second column of that Part.*

* * * * *

¹ S. 5(1) and (3) had not been brought into operation at the date of this reprint.

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 or incorporated health centre, means its board of directors;

* * * * *

"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;

* * * * *

* * * * *

"health centre" means a body of persons (whether corporate or unincorporated) by which health services are provided, being health services that may include services provided to persons on a live-in basis;

"health service" means—

- (a) any service designed to promote health; or
- (b) any therapeutic or other service designed to cure, alleviate or afford protection against any mental or physical illness, abnormality or disability; or
- (c) any paramedical or ambulance service; or
- (d) any prescribed service;

"hospital" means a body of persons (whether corporate or unincorporated) by which health services are provided, being health services that include services provided to persons on a live-in basis;

"hospital bed" means the bed and associated facilities provided by a hospital for the provision of health services to a patient on a live-in basis;

"incorporated health centre" means a health centre incorporated under this Act;

"incorporated hospital" means a hospital incorporated under this Act;

"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 recognised hospital;

South Australian Health Commission Act 1976

"recognised hospital" means—

- (a) an incorporated hospital; or
- (b) a prescribed hospital.

Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.

PART 2
THE SOUTH AUSTRALIAN HEALTH COMMISSION

DIVISION 1—ESTABLISHMENT OF THE COMMISSION

Establishment of Commission

7. (1) The *South Australian Health Commission* is established.

(2) The Commission—

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

(3) Where an apparently genuine document purports to bear the common seal of the Commission, it will 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 will consist of five members appointed by the Governor on the nomination of the Minister.

(1a) The Governor will appoint a member to be the Chairman and another member to be the Deputy Chairman of the Commission.

(2) In nominating persons for membership of the Commission, the Minister must 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.

(3) A member of the Commission may be appointed either on a full-time or a part-time basis but there must not be more than two full-time members at any one time.

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

- (a) for such term of office, not exceeding five years, as may be specified in the instrument of appointment; and
- (b) upon such conditions as may be determined by the Governor.

South Australian Health Commission Act 1976

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

- (a) for such term of office, not exceeding three years, as may be specified in the instrument of 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, the member will be eligible for reappointment.

* * * * *

Deputies

9. (1) The Governor may appoint a suitable person to be a deputy to any member of the Commission.

(2) If a member of the Commission is absent from official duties the deputy appointed under subsection (1) may act as a member of the Commission.

(3) The Deputy Chairman will act as deputy to the Chairman only in the office of Chairman and a deputy appointed under subsection (1) will be the deputy to the Chairman in the Chairman's capacity as a member of the Commission.

Salary, allowances and expenses

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

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

Removal from, and vacation of, office

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

- (a) any breach of, or non-compliance with, a condition of appointment; or
- (b) mental or physical incapacity; or
- (c) dishonourable conduct; or
- (d) neglect of duty.

(2) A member of the Commission will be taken to be guilty of neglect of duty when he or she has, without leave of the Commission, been absent from four consecutive meetings of the Commission.

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

- (a) dies; or
- (b) completes a term of office; or

- (c) resigns by notice in writing given to the Commission; or
- (d) is removed from office by the Governor pursuant to subsection (1).

* * * * *

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

* * * * *

Meetings of the Commission, etc.

12. (1) The Chairman will preside at all meetings of the Commission at which he or she is present and, in the Chairman's absence, the Deputy Chairman will preside at a meeting.

(2) In the absence of the Chairman and the Deputy Chairman, the members present at a meeting of the Commission will 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 is a decision of the Commission.

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

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

(6) The Commission must keep accurate minutes of proceedings at its meetings and, within 14 days of the holding of a meeting, must 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 is not 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 attaches to a member of the Commission for any act or omission by the member, or by the Commission, in good faith and in the exercise, or purported exercise, of powers or functions, or in the discharge, or purported discharge, of 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 must disclose the nature of that interest at a meeting of the Commission, and the disclosure must 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 must not take part in any decision of the Commission with respect to that contract.

South Australian Health Commission Act 1976

(3) A member of the Commission who contravenes or fails to comply with a requirement of this section is guilty of an offence.

Penalty: Division 7 fine.

DIVISION 2—POWERS AND FUNCTIONS OF THE COMMISSION**Commission subject to the control of the Minister**

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

Functions of Commission

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

- (a) to institute, promote or assist in research in the field of health and health services; and
- (b) to collect, or assist in the collection of, data and statistics in relation to health and health services; and
- (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; and
- (d) to plan and implement the provision of a system of health services that is comprehensive, co-ordinated and readily accessible to the public; and
- (e) to establish, maintain and operate such health services as the Commission may think desirable and possible within the limits of its resources; and
- (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; and
- (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; and
- (fb) to ensure the proper allocation of resources between incorporated hospitals, incorporated health centres and health services established, maintained or operated by, or with the assistance of, the Commission; and
- (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; and
- (h) to promote and encourage voluntary participation in the provision of health services; and
- (i) to disseminate knowledge in the field of public health to the advancement of the public interest; and
- (j) to keep the policies and standards of health and health services developed by the Commission under constant evaluation and review; and

- (k) to ensure as far as possible that the people of this State live and work in a healthy environment; and
- (l) to perform any other functions prescribed by this Act or any other Act; and
- (m) to perform such other functions as may be necessary or incidental to the foregoing.

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

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

(4) The Commission must 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

17. (1) The Commission may delegate any of its powers or functions—

- (a) to a committee appointed by the Commission; or
- (b) to a member, officer or employee of the Commission; or
- (c) to any person holding or acting in an office or position specified in the instrument of delegation.

(2) The Commission should review each delegation at least once in each year.

(3) A delegation under this section—

- (a) is revocable at will; and
- (b) does not derogate from the power of the Commission to act in any matter itself.

DIVISION 3—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; and
- (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; and
- (c) research into the adequacy of existing health services and the planning of new health services; and

South Australian Health Commission Act 1976

- (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) must 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.

* * * * *

DIVISION 4—STAFF OF THE COMMISSION**The Chief Executive Officer and Deputy Chief Executive Officer**

19A. (1) There will be—

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

(2) The Chief Executive Officer and the Deputy Chief Executive Officer will not be Public Service employees.

* * * * *

* * * * *

Officers and employees

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

(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.

* * * * *

Superannuation, accrued leave rights, etc.

21. * * * * *

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

- (a) in the Public Service of the State; or

(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 apply:

(d) the person's existing and accruing rights immediately before the cessation of that previous employment in respect of recreation leave, sick leave and long service leave continue in full force and effect as if that previous employment had been employment by the Commission; and

(e) the person is not entitled to payment in lieu of those rights.

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

(a) in the Public Service of the State; or

(b) by an incorporated hospital; or

(c) by an incorporated health centre; or

(d) in prescribed employment,

the person's existing and accruing rights immediately before the cessation of that employment in respect of recreation leave, sick leave and long service leave 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 5—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; or

(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) is 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 must, 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 will, out of money appropriated by Parliament for the purpose, pay to the Commission in each financial year such amounts as may, in the Treasurer's 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.

Power to borrow, invest, etc.

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.

(2) The Treasurer may, at his or her 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 Consolidated Account 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.

Accounts and audit

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

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

* * * * *

Annual report

26. (1) The Commission must, 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.

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

**PART 3
HOSPITALS**

DIVISION 1—INCORPORATION AND MANAGEMENT OF HOSPITALS

Incorporation

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

- (a) establish an incorporated hospital to provide health services in accordance with its constitution; 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 will have effect according to its terms.

(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.

(3a) An incorporated hospital will not be established to take over functions from any other body (apart from the Commission) unless—

- (a) the other body consents to the establishment of the incorporated hospital and agreement has been reached between the Commission and the other body on the terms of the constitution under which the incorporated hospital is to operate; or
- (b)
 - (i) the other body is declared under subsection (3b) to be a public hospital; and
 - (ii) the Commission has approved the terms of the constitution under which the incorporated hospital is to operate; and
 - (iii) the constitution does not allow for the appointment or nomination of a majority of the members of the board of the hospital by the Crown or a Minister, agency or instrumentality of the Crown.

(3b) Where—

- (a) a body that provides health services derives the major proportion of its revenue from public funding; and
- (b) it is, in the Governor's opinion, appropriate that the services should be provided by an incorporated hospital,

the Governor may, by notice in the *Gazette*, declare that body to be a public hospital.

(3c) An incorporated hospital will not be established to take over functions from any other incorporated hospital or from an incorporated health centre pursuant to subsection (3a)(b).

(3d) A notice under subsection (3b)—

- (a) must be laid before both Houses of Parliament;
- (b) may be disallowed by resolution of either House of Parliament in pursuance of a notice of motion given within 14 sitting days of the date on which the notice was laid before the House;
- (c) takes effect—
 - (i) if no notice of motion for disallowance is given within that period—when the period for giving such notice expires;
 - (ii) if such a notice of motion is given—when the motion is defeated or is withdrawn or lapses.

(3e) The constitution of an incorporated hospital that is established to take over the functions of another body pursuant to subsection (3a)(b) must include, as far as is practicable, provisions similar to those of the constitution of the other body.

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

(5) An incorporated hospital cannot, 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 is a body corporate with perpetual succession and a common seal and, subject to its approved constitution—

- (a) is capable of holding, acquiring, dealing with, and disposing of, real and personal property; and
- (b) is capable of acquiring or incurring any other rights or liabilities; and
- (c) is capable of suing and being sued; and
- (d) has 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 will be presumed, in the absence of proof to the contrary, that the common seal of that hospital was duly affixed to that document.

Management of hospital

29. (1) An incorporated hospital will be administered by a board of directors constituted in accordance with the approved constitution of that 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 does not derogate from the power of the board to act in any matter itself.

Disclosure of interest

29A. (1) A member of the board 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 must disclose the nature of that interest at a meeting of the board, and the disclosure must be recorded in the minutes of the board.

(2) A member of the board 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 must not take part in any decision of the board with respect to that contract.

(3) A member of the board who contravenes or fails to comply with a requirement of this section is guilty of an offence.

Penalty: Division 7 fine.

Immunity of members of board

29B. No liability attaches to a member of the board of an incorporated hospital for any act or omission by the member or the hospital in good faith and in the exercise, or purported exercise, of the member's or the hospital's powers or functions, or in the discharge, or purported discharge, of the member's or the hospital's duties under the hospital's constitution or this Act.

DIVISION 2—STAFF OF INCORPORATED HOSPITALS

Officers and employees

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

(2) An officer or employee cannot 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 following provisions govern the appointment or dismissal of a chief executive officer by the board of an incorporated hospital:

- (a) where a majority of the members of the board are appointed by the Minister—the board must not appoint or dismiss a chief executive officer except with the approval of the Commission; or

- (b) in any other case—the board must consult the Commission before appointing or dismissing a chief executive officer.

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

- (a) any Public Service employees who had, before the date of incorporation, been assigned by the Commissioner for Public Employment to work in the hospital and have been designated by the Commissioner as employees 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.

* * * * *

(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.

* * * * *

(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; or
- (b) by the Commission; or
- (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 apply:

- (e) the person's existing and accruing rights immediately before the cessation of that previous employment in respect of recreation leave, sick leave and long service leave continue in full force and effect as if that previous employment had been employment by the incorporated hospital; and
- (f) the person is not 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 hospital within three months after ceasing to be employed—

- (a) in the Public Service of the State; or
- (b) by the Commission; or

- (c) by another incorporated hospital; or
- (d) by an incorporated health centre; or
- (e) in prescribed employment,

the person's existing and accruing rights immediately before the cessation of that employment in respect of recreation leave, sick leave and long service leave 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 3—PROPERTY OF INCORPORATED HOSPITALS

* * * * *

Property

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.

(2) A direction under subsection (1) is 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 4—ACCOUNTS, REPORTS, ETC.

Accounts and audit

34. (1) An incorporated hospital must cause proper accounts to be kept of its financial affairs.

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

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

* * * * *

Annual report

35. (1) The board of an incorporated hospital must, 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.

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

South Australian Health Commission Act 1976

Budget and staffing plans

36. (1) The board of an incorporated hospital must, 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; and
- (b) details of any proposed capital works that the board proposes to carry out during that financial year; and
- (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.

(3) Information furnished under subsection (2) must include all particulars required in the notice.

DIVISION 5—BY-LAWS

* * * * *

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; and
- (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; and
- (c) to prevent damage to the property, buildings or grounds of the hospital; and
- (d) to regulate the speed at which vehicles may be driven within the grounds of the hospital; and
- (e) to prohibit dangerous or careless driving of vehicles within the grounds of the hospital; and
- (f) to prescribe the routes to be followed by traffic within the grounds of the hospital; and
- (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; and
- (h) to require drivers of vehicles within the grounds of the hospital to comply with traffic directions; and

- (i) generally to regulate traffic of all kinds within the grounds of the hospital; and
- (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; and
- (k) to regulate, restrict or prohibit the consumption of alcoholic liquor within the hospital or the grounds of the hospital; and
- (l) to prevent undue noise within the hospital or the grounds of the hospital; and
- (la) to prohibit or regulate the smoking of tobacco; and
- (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 a division 10 fine for contravention of any by-law.

(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 must be transmitted to the Governor for confirmation and, upon confirmation by the Governor, comes 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 will be taken 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 will be taken 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 will 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 the person 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 can be commenced in any court in respect of the alleged offence.

DIVISION 6—HOSPITAL FEES

Fixing of fees

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

(1a) Without limiting the effect of subsection (1), the regulations may provide that no fee is payable in respect of a service of a specified class or a service provided to a person of a specified class.

(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; or
- (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 or she 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 7—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 must 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 cannot exceed three per cent of the total revenue raised by the council by the imposition of general rates during the previous financial year.

Duty of council to contribute

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

(2) The contribution must 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 cannot 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.

Recovery of contributions

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.

Application of contributions

43. The Commission must 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.

DIVISION 8—RIGHTS OF HOSPITALS AGAINST INSURERS

Interpretation

44. In this Division—

"**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.

Report of accidents to which this Division applies

45. (1) The Commissioner of Police must, 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 the Commissioner.

(2) An insurer must, within seven 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 the insurer.

Penalty: Division 9 fine.

(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; and
- (b) the name and address of each person injured in the accident; and
- (c) the name and address of the driver of each vehicle involved in the accident; and
- (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 has 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 must 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 two 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 must 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 4
HEALTH CENTRES

DIVISION 1—INCORPORATION AND MANAGEMENT OF HEALTH CENTRES

Incorporation

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

- (a) establish an incorporated health centre to provide health services in accordance with its constitution; 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 will have effect according to its terms.

(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.

(3a) An incorporated health centre will not be established to take over functions from any other body unless—

- (a) the other body consents to the establishment of the incorporated health centre and agreement has been reached between the Commission and the other body on the terms of the constitution under which the incorporated health centre is to operate; or
- (b)
 - (i) the other body is declared under subsection (3b) to be a public health centre; and
 - (ii) the Commission has approved the terms of the constitution under which the incorporated health centre is to operate; and
 - (iii) the constitution does not allow for the appointment or nomination of a majority of the members of the board of the health centre by the Crown or a Minister, agency or instrumentality of the Crown.

(3b) Where—

- (a) a body that provides health services derives the major proportion of its revenue from public funding; and
- (b) it is, in the Governor's opinion, appropriate that the services should be provided by an incorporated health centre,

the Governor may, by notice in the *Gazette*, declare that body to be a public health centre.

(3c) An incorporated health centre will not be established to take over functions from any other incorporated health centre or from an incorporated hospital pursuant to subsection (3a)(b).

South Australian Health Commission Act 1976

(3d) A notice under subsection (3b)—

- (a) must be laid before both Houses of Parliament;
- (b) may be disallowed by resolution of either House of Parliament in pursuance of a notice of motion given within 14 sitting days of the date on which the notice was laid before the House;
- (c) takes effect—
 - (i) if no notice of motion for disallowance is given within that period—when the period for giving such notice expires;
 - (ii) if such a notice of motion is given—when the motion is defeated or is withdrawn or lapses.

(3e) The constitution of an incorporated health centre that is established to take over the functions of another body pursuant to subsection (3a)(b) must include, as far as is practicable, provisions similar to those of the constitution of the other body.

(4) An incorporated health centre cannot, 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 is a body corporate with perpetual succession and a common seal and, subject to its approved constitution—

- (a) is capable of holding, acquiring, dealing with, and disposing of, real and personal property; and
- (b) is capable of acquiring or incurring any other rights or liabilities; and
- (c) is capable of suing and being sued; and
- (d) has 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 will 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 will be administered by a board of directors constituted in accordance with the approved constitution of that health centre.

(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 health centre.

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

Disclosure of interests

50A. (1) A member of the board 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 must disclose the nature of that interest at a meeting of the board, and the disclosure must be recorded in the minutes of the board.

(2) A member of the board 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 must not take part in any decision of the board with respect to that contract.

(3) A member of the board who contravenes or fails to comply with a requirement of this section is guilty of an offence.

Penalty: Division 7 fine.

Immunity of members of board

50B. No liability attaches to a member of the board of an incorporated health centre for any act or omission by the member or the health centre in good faith and in the exercise, or purported exercise, of the member's or the health centre's powers or functions, or in the discharge, or purported discharge, of the member's or the health centre's duties under the health centre's constitution or this Act.

DIVISION 2—STAFF OF INCORPORATED HEALTH CENTRES

Officers and employees

51. (1) The board of an incorporated health centre may appoint, upon terms and conditions fixed by the Commission and approved by the Commissioner for Public Employment, 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 cannot 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.

(2a) The following provisions govern the appointment or dismissal of a chief executive officer by the board of an incorporated health centre:

- (a) where a majority of the members of the board are appointed by the Minister—the board must not appoint or dismiss a chief executive officer except with the approval of the Commission; or
- (b) in any other case—the board must consult the Commission before appointing or dismissing a chief executive officer.

South Australian Health Commission Act 1976

(3) The board 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.

Superannuation, accrued leave rights, etc.

52. * * * * *

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

- (a) in the Public Service of the State; or
- (b) by the Commission; or
- (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 apply:

- (e) the person's existing and accruing rights immediately before the cessation of that previous employment in respect of recreation leave, sick leave and long service leave continue in full force and effect as if that previous employment had been employment by the incorporated health centre; and
- (f) the person is not 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 three months after ceasing to be employed—

- (a) in the Public Service of the State; or
- (b) by the Commission; or
- (c) by an incorporated hospital; or
- (d) by another incorporated health centre; or
- (e) in prescribed employment,

the person's existing and accruing rights immediately before the cessation of that employment continue, to the extent directed by the board of the health centre and subject to such conditions as may be imposed by the board, as if that previous employment had been employment by the health centre.

DIVISION 3—PROPERTY OF INCORPORATED HEALTH CENTRES

* * * * *

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) is 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 4—ACCOUNTS, REPORTS, ETC.

Accounts and audit

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

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

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

* * * * *

Annual report

56. (1) The board of an incorporated health centre must, 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 must transmit a copy of any report received by it under this section to the Minister.

Budget and staffing plans

57. (1) The board of an incorporated health centre must, 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; and

(b) details of any proposed capital works that the board proposes to carry out during that financial year; and

(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 the board of an incorporated health centre to furnish it with information relating to the administration, or future administration, of the health centre.

(3) Information furnished under subsection (2) must include all particulars required in the notice.

DIVISION 4A—BY-LAWS

By-laws

57AA. (1) The board of an incorporated health centre 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 health centre; and
- (b) to define parts of the grounds of the health centre 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; and
- (c) to prevent damage to the property, buildings or grounds of the health centre; and
- (d) to regulate the speed at which vehicles may be driven within the grounds of the health centre; and
- (e) to prohibit dangerous or careless driving of vehicles within the grounds of the health centre; and
- (f) to prescribe the routes to be followed by traffic within the grounds of the health centre; and
- (g) to prohibit or regulate the standing, parking or ranking of vehicles within the grounds of the health centre and to provide for the removal of vehicles from the grounds; and
- (h) to require drivers of vehicles within the grounds of the health centre to comply with traffic directions; and
- (i) generally to regulate traffic of all kinds within the grounds of the health centre; and
- (j) to prohibit disorderly or offensive behaviour within the health centre or the grounds of the health centre and to provide for the removal of persons guilty of disorderly or offensive behaviour; and
- (k) to regulate, restrict or prohibit the consumption of alcoholic liquor within the health centre or the grounds of the health centre; and
- (l) to prevent undue noise within the health centre or the grounds of the health centre; and
- (la) to prohibit or regulate the smoking of tobacco; and
- (m) to prescribe any other matters 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 conducted within the health centre or its grounds; and

(n) to prescribe fines not exceeding a division 10 fine for contravention of any by-law.

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

(3) Upon approval of a by-law made under this section, the by-law must be transmitted to the Governor for confirmation and, upon confirmation by the Governor, will 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 health centre will be accepted as 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 will be accepted as proved in the absence of proof to the contrary;
- (c) where it is proved that a vehicle was parked within the grounds of a health centre in contravention of a by-law, it will 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 health centre, the board may cause to be served personally or by post upon that person a notice to the effect that he or she may expiate the offence by payment to the incorporated health centre 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 will be commenced in any court in respect of the alleged offence.

DIVISION 5—HEALTH CENTRE FEES

Fixing of 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.

(1a) Without limiting the effect of subsection (1), the regulations may provide that no fee is payable in respect of a service of a specified class or a service provided to a person of a specified class.

(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; or
- (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, that person 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 4A PRIVATE HOSPITALS

Prohibition of operating private hospitals unless licensed

57B. (1) No health services may 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 is guilty of an offence.

Penalty: Division 5 fine.

(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

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; and
- (b) contain a statement of the maximum number of hospital beds sought to be provided pursuant to the licence and any other information required by the regulations; and
- (c) be accompanied by the prescribed application fee.

Grant of licences

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 must determine whether a licence should be granted or refused and, if granted, what conditions should be imposed, having regard to—

- (a) the suitability of the applicant to be granted the licence; and
- (b) the standards of construction, facilities and equipment of the premises or proposed premises; and
- (c) the scope and quality of the health services to be provided in pursuance of the licence; and
- (d) the location of the premises or proposed premises and their proximity to other facilities for the provision of health services; and
- (e) the adequacy of existing facilities for the provision of health services to persons in the locality; and

- (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; and
- (g) whether the prescribed limit of hospital beds for the State, or for the particular region in which the premises or proposed premises are or will be situated, has already been reached or exceeded; and
- (h) any other relevant matter.

(1a) The Commission has full power, if the prescribed limit of hospital beds for the State or the particular region in which the proposed hospital is to be situated has been reached or exceeded—

- (a) to refuse absolutely to grant a licence; or
- (b) to refuse to grant a licence unless the number of existing hospital beds in the State or the particular region is to be reduced by a number that corresponds to the maximum number of hospital beds sought to be provided pursuant to the licence or a specified lesser number.

(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 will, upon payment of the prescribed fee, grant the licence to the applicant.

* * * * *

Conditions of licence

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

(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) fixing the maximum number of hospital beds that may be provided 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.

South Australian Health Commission Act 1976

(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 will not, except with the agreement of the licensee, take effect until the expiration of the period of 30 days after service of the notice imposing the condition.

(5) Where a licensee seeks to have the number of hospital beds that may be provided pursuant to the licence increased, the Commission has full power, if the prescribed limit of hospital beds for the State or the particular region in which the hospital is situated has been reached or exceeded—

- (a) to refuse absolutely to so vary the conditions of the licence; or
- (b) to refuse to so vary the conditions of the licence unless the number of existing hospital beds in the State or the particular region is to be reduced by a number that corresponds to the increase sought or a specified lesser number.

Offence for licence holder to contravene Act or licence condition

57F. The holder of a licence under this Part must not contravene, or fail to comply with, a provision of this Act or a condition of the licence.

Penalty: Division 5 fine.

Duration of licences

57G. (1) Subject to this Part, a licence remains 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.

(2) The holder of a licence under this Part must, 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 the holder to make good the 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, the licence is, by force of this subsection, suspended until the holder complies with the notice.

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

Transfer of licences

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; and
- (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 will, 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

57I. (1) The holder of a licence under this Part may, at any time, surrender the licence, and the licence thereupon ceases 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 must not contravene, or fail to comply with, the condition.

Penalty: Division 5 fine.

(6) A licence—

- (a) that is suspended under subsection (2) ceases to be of force or effect for the period of the suspension; or
- (b) that is cancelled under that subsection ceases to be of force or effect.

Appeal against decision or order of Commission

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

South Australian Health Commission Act 1976

(2) The appeal must be instituted within one 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 must, 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 runs 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.

Inspectors

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

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

- (a) inspect the premises or any equipment or other thing on the premises; and
- (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 must not refuse or fail to comply with a requirement made pursuant to this section.

Penalty: Division 8 fine.

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

Penalty: Division 8 fine.

PART 5
MISCELLANEOUS

Provision where incorporated hospital or health centre fails in a particular instance to properly discharge its functions

58. (1) Subject to subsection (3), where, in the opinion of the Commission, an incorporated hospital or incorporated health centre has failed in a particular instance properly to perform the functions for which it was established, the Commission may give such directions to the hospital or health centre as are necessary to remedy the failure.

(2) The board of the hospital or health centre must comply with the Commission's directions.

(3) The Commission must not give a direction under subsection (1) in relation to a nursing home for which the Commonwealth provides funding under the *Nursing Homes Assistance Act 1974* of the Commonwealth.

Provision where incorporated hospital or health centre fails persistently to properly discharge its functions

58A. (1) Where the board of an incorporated hospital or 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, been guilty of serious financial mismanagement; or
- (c) has, in the opinion of the Governor, persistently failed properly to perform the functions for which it was established; or
- (d) seeks its own dissolution on the basis that a majority of the board are of the opinion that the board is unable to perform properly the functions for which it was established,

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

(2) The Governor may, by a proclamation under subsection (1) or a subsequent proclamation, appoint a person, on conditions determined by the Governor, to administer the hospital or health centre until the appointment of a new board.

(3) An administrator appointed under subsection (2) will have all the powers conferred on the board by this Act or by its approved constitution.

(4) The administrator must arrange for a new board of the hospital or health centre to be constituted within twelve months after the removal of the previous board and, for that purpose, the administrator may call a meeting to elect new members to the board.

Application of Government Management and Employment Act to officers and employees of Commission, etc.

59. (1) The Governor may, by proclamation, declare that specified provisions of, and regulations under, the *Government Management and Employment Act 1985*, apply, with such modifications as may be specified in the proclamation, in relation to—

- (a) officers and employees of the Commission; and

- (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 has effect according to its terms.

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

Jurisdiction of Industrial Court, Industrial Commission and conciliation committees

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

- (a) the Industrial Commission of South Australia and any relevant conciliation committee 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; and
- (b) the Industrial Court, the Industrial Commission or any relevant conciliation committee may exercise any other jurisdiction conferred by the *Industrial Relations Act (S.A.) 1972* in relation to any of those officers or employees.

(2) For the purposes of any proceedings, or any industrial agreement, under the *Industrial Relations Act (S.A.) 1972*, the Commission will be regarded as the employer of all officers or employees of incorporated hospitals or incorporated health centres.

(3) An award or order made against the Commission pursuant to the *Industrial Relations Act (S.A.) 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.

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

- (a) to institute proceedings before the Industrial Court, the Industrial Commission or a conciliation committee; or
- (b) to enter into any industrial agreement; or
- (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*.

Recognised organisations

61. (1) The following organisations are recognised organisations for the purposes of this section:

- (a) the Federated Miscellaneous Workers Union of Australia, South Australian Branch; and
- (b) the Public Service Association; and

South Australian Health Commission Act 1976

- (c) the Royal Australian Nursing Federation; and
- (d) any organisation declared to be a recognised organisation under subsection (2).

(2) Where the Commission is of the opinion that an organisation (being an association registered under the *Industrial Relations Act (S.A.) 1972*) represents the interests of a significant number of officers or employees of the Commission, incorporated hospitals or incorporated health centres, it must, by notice published in the *Gazette*, declare that organisation to be a recognised organisation for the purposes of this Act.

(3) Any such recognised organisation has 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 must, upon the application of the Commission, an incorporated hospital or incorporated health centre and upon being satisfied 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—

- (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

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

Constitutions to be available for public inspection

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

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

Conflict of interest

63A. (1) If a conflict or possible conflict arises between a health employee's private interests and the duties of his or her employment, the health employee—

- (a) must, as soon as practicable after becoming aware of the conflict or possible conflict, report the matter to the appropriate authority; and
- (b) must not act further in the matter from which the conflict or possible conflict arises except as authorised by the appropriate authority.

(2) A health employee who contravenes or fails to comply with a requirement of subsection (1) is guilty of an offence.

Penalty: Division 7 fine.

(3) In this section—

"appropriate authority", in relation to a health employee, means—

- (a) the employee's employer; or
- (b) some person authorised by the employer to act as the appropriate authority under this section;

"health employee" means an officer or employee of the Commission, an incorporated hospital or incorporated health centre.

Duty to maintain confidentiality

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

Penalty: Division 5 fine.

(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.

Service of notices

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

Offences by bodies corporate

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

Evidentiary provision

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

- (a) that a specified person was, or was not, the holder of a licence under Part 4A at a specified time; or
- (ab) that a specified person was, or was not, an inspector under Part 4A 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 4A held by a specified person,

will, in the absence of proof to the contrary, be taken to have been proved.

Disclosure of confidential information for certain purposes

64D. (1) This section applies to a person, or the members from time to time of a specified group or body, authorised by the Governor, by instrument in writing, to have access to confidential information for the purpose of—

- (a) conducting research into the causes of mortality or morbidity; or
- (b) assessing and improving the quality of specified health services,

and to any person providing technical, administrative or secretarial assistance in the performance of such functions.

(2) Confidential information may be disclosed to a person to whom this section applies without breach of any law or any principle of professional ethics.

(3) Subject to this section, a person must not in any circumstances (including proceedings before any court, tribunal or board) divulge confidential information obtained directly or indirectly as a result of a disclosure made pursuant to this section.

Penalty: Division 5 fine.

(4) Subsection (3) does not prevent a person to whom this section applies disclosing confidential information to another person to whom this section applies.

(5) A person must not, when appearing as a witness in any proceedings before a court, tribunal or board, be asked, and, if asked, is not required to answer, any question directed at obtaining confidential information obtained by that person directly or indirectly as a result of a disclosure made pursuant to this section and any such information volunteered by such a person is not admissible in any proceedings.

(6) In this section—

"confidential information" means information relating to a health service in which the identity of the patient or person providing the service is revealed.

Summary offences

65. Offences against this Act are summary offences.

Regulations

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.

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

- (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; and
- (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; and
- (e) regulate the publication and dissemination of knowledge by the Commission in relation to health and health services; and
- (ea) provide for the reporting of cases of specified diseases and disabilities to the Commission; and
- (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; and
- (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; and
- (ga) prescribe standards of construction, facilities and equipment for the premises of private hospitals; and
- (gb) prescribe standards to be observed by private hospitals in the provision of health services; and
- (gc) prescribe the records to be kept by private hospitals; and
- (gca) prescribe a limit on the number of hospital beds that may be provided by recognised hospitals or private hospitals in the State or in a particular region; and
- (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 fines not exceeding a division 8 fine for contravention of any regulation.

South Australian Health Commission Act 1976**SCHEDULES****SCHEDULE 1****PART 1¹**

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.

* * * * *

PART 3¹

<i>First Column Act Amended</i>	<i>Second Column How Amended</i>
* * * * *	
<i>Occupational Therapists Act 1974</i>	Section 5— <i>Strike out paragraph (b) of subsection (1) and insert paragraph as follows:</i> (b) <i>one shall be a person nominated by the South Australian Health Commission;</i>
<i>Criminal Law Consolidation Act 1935</i>	Section 77A— <i>Strike out from subsection (6) the passage "Director-General of Medical Services" and insert "South Australian Health Commission".</i> Section 82A— <i>Strike out from paragraph (b) of subsection (4) the passage "Director-General of Medical Services" and insert "South Australian Health Commission".</i>
<i>Age of Majority (Reduction) Act 1971</i>	The Schedule— <i>Strike out Part 17 of the Schedule.</i>

PART 4

The amendments effected to the *Health Act 1935* by this Part came into operation 20 January 1978, and have not been included in this reprint.

¹ Parts 1 and 3 had not been brought into operation at the date of this reprint.

SCHEDULE 2

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

* * * * *

South Australian Health Commission Act 1976

APPENDIX 1**LEGISLATIVE HISTORY**

(entries in bold type indicate amendments incorporated since the last reprint)

Transitional Provisions

Transitional provision from South Australian Health Commission (Private Hospital Beds) Amendment Act 1991, s. 7

7. (1) An application for a licence under Part 4A of the principal Act made on or after 14 November 1991 will be determined in accordance with the principal Act as amended by this Act.

(2) If, immediately before the commencement of this Act, a licence under Part 4A of the principal Act was subject to a condition that limited the number of patients to whom health services may be provided on a live-in basis at any one time pursuant to the licence or that limited the number of beds that may be provided pursuant to the licence, that condition will be taken to fix that number as the maximum number of hospital beds that may be provided pursuant to the licence.

Legislative History

- Certain textual alterations were made to this Act by the Commissioner of Statute Revision when preparing the reprint of the Act that incorporated all amendments in force as at 1 August 1985. A schedule of these alterations was laid before Parliament on 1 August 1985.
- Legislative history since 3 February 1976 (**entries in bold type indicate amendments incorporated since the last reprint**) is as follows:

Long title:	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 2:	repealed by 23, 1990, s. 3(1) (Sched. 6)
Section 3:	amended by 41, 1987, s. 3
Section 4:	amended by 48, 1978, s. 2; 69, 1981, s. 3; 55, 1984, s. 3; deleted in pursuance of the <i>Acts Republication Act 1967</i>
Section 5(2):	deleted in pursuance of the <i>Acts Republication Act 1967</i> as its function is now exhausted
Section 5(4):	deleted in pursuance of the <i>Acts Republication Act 1967</i> as it is now obsolete
Section 6:	definition of "board" substituted by 41, 1987, s. 4(a) definition of "the Chairman" repealed by 12, 1980, s. 3 definition of "Government health centre" substituted by 69, 1981, s. 4(a); repealed by 41, 1987, s. 4(b) definition of "Government hospital" repealed by 41, 1987, s. 4(b) definition of "health centre" substituted by 69, 1981, s. 4(b) definition of "hospital" inserted by 69, 1981, s. 4(c); amended by 23, 1990, s. 3(1) (Sched. 6) definition of "hospital bed" inserted by 63, 1991, s. 2 definition of "incorporated health centre" substituted by 69, 1981, s. 4(c); 41, 1987, s. 4(c) definition of "incorporated hospital" substituted by 69, 1981, s. 4(c); 41, 1987, s. 4(c) definition of "private hospital" inserted by 55, 1984, s. 4 definition of "recognised hospital" inserted by 55, 1984, s. 4
Section 7(1):	substituted by 23, 1990, s. 3(1) (Sched. 6)
Section 7(2) and (3):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 8(1):	amended by 12, 1980, s. 4(a), (b); 85, 1983, s. 3(a), (b); substituted by 41, 1987, s. 5(a)
Section 8(1a):	inserted by 41, 1987, s. 5(a)
Section 8(2):	amended by 12, 1980, s. 4(c); 23, 1990, s. 3(1) (Sched. 6)
Section 8(3):	substituted by 12, 1980, s. 4(d); 85, 1983, s. 3(c); 41, 1987, s. 5(b)
Section 8(4):	amended by 12, 1980, s. 4(e); 85, 1983, s. 3(d); 41, 1987, s. 5(c); 23, 1990, s. 3(1) (Sched. 6)
Section 8(5) and (6):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 8(7):	repealed by 12, 1980, s. 4(f)

Section 9:	amended by 12, 1980, s. 5; substituted by 85, 1983, s. 4; 41, 1987, s. 6
Section 10(1):	amended by 12, 1980, s. 6; 85, 1983, s. 5; 59, 1985, s. 20; 18, 1990, s. 27; 23, 1990, s. 3(1) (Sched. 6)
Section 10(2):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 11(1) and (2):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 11(3):	amended by 12, 1980, s. 7; 85, 1983, s. 6(a); 23, 1990, s. 3(1) (Sched. 6); 75, 1993, s. 25(a)
Section 11(3)(e):	repealed by 75, 1993, s. 25(b)
Section 11(4):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 11(5):	amended by 6, 1983, s. 2; 85, 1983, s. 6(b); repealed by 41, 1987, s. 7
Section 12(1):	amended by 12, 1980, s. 8(a); 85, 1983, s. 7(a); 23, 1990, s. 3(1) (Sched. 6)
Section 12(2):	amended by 12, 1980, s. 8(b); 85, 1983, s. 7(b); 23, 1990, s. 3(1) (Sched. 6)
Section 12(3) and (4):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 12(5):	amended by 12, 1980, s. 8(c); 85, 1983, s. 7(c); 23, 1990, s. 3(1) (Sched. 6)
Section 12(6):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 13:	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 14(1):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 14(2):	amended by 41, 1987, s. 8(a); 23, 1990, s. 3(1) (Sched. 6)
Section 14(3):	inserted by 41, 1987, s. 8(b); amended by 60, 1989, Sched.
Section 15:	amended by 41, 1987, s. 9; 23, 1990, s. 3(1) (Sched. 6)
Section 16(1):	amended by 69, 1981, s. 5; 41, 1987, s. 10
Section 16(2) - (4):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 17:	amended by 69, 1981, s. 6; substituted by 41, 1987, s. 11
Section 18(2):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 19:	repealed by 85, 1983, s. 8
Section 19A:	inserted by 12, 1980, s. 9
Section 19A(1):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 19A(2):	substituted by 41, 1987, s. 12
Section 19A(3):	substituted by 85, 1983, s. 9; repealed by 41, 1987, s. 12
Section 19A(4):	repealed by 41, 1987, s. 12
Section 20(1):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 20(3) and (4):	repealed by 23, 1990, s. 3(1) (Sched. 6)
Section 21(1):	amended by 48, 1978, s. 3; 55, 1984, s. 5; repealed by 23, 1990, s. 3(1) (Sched. 6)
Section 21(2):	substituted by 69, 1981, s. 7; amended by 23, 1990, s. 3(1) (Sched. 6)
Section 21(3):	inserted by 69, 1981, s. 7; amended by 23, 1990, s. 3(1) (Sched. 6)
Section 22(2):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 23:	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 24(2) and (3):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 25(1) and (2):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 25(3):	repealed by 23, 1990, s. 3(1) (Sched. 6)
Section 26(1):	amended by 69, 1981, s. 8; 23, 1990, s. 3(1) (Sched. 6)
Section 26(2):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 27(1):	substituted by 69, 1981, s. 9
Section 27(2):	substituted by 69, 1981, s. 9; amended by 23, 1990, s. 3(1) (Sched. 6)
Section 27(3):	substituted by 69, 1981, s. 9
Section 27(3a):	inserted by 69, 1981, s. 9; substituted by 41, 1987, s. 13
Section 27(3b) - (3e):	inserted by 41, 1987, s. 13
Section 27(5):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 28:	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 29(1):	amended by 41, 1987, s. 14; 23, 1990, s. 3(1) (Sched. 6)
Section 29(3):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 29A:	inserted by 48, 1978, s. 4
Section 29A(1):	amended by 41, 1987, s. 15(a); 23, 1990, s. 3(1) (Sched. 6)
Section 29A(2):	amended by 41, 1987, s. 15(a), (b); 23, 1990, s. 3(1) (Sched. 6)
Section 29A(3):	inserted by 41, 1987, s. 15(c); amended by 60, 1989, Sched.
Section 29B:	inserted by 41, 1987, s. 16
Section 30(1) and (2):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 30(3):	substituted by 41, 1987, s. 17
Section 30(4):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 30(4a):	inserted by 48, 1978, s. 5; omitted in pursuance of the <i>Acts Republication Act 1967</i> as it is now obsolete
Section 31(1):	amended by 48, 1978, s. 6; 55, 1984, s. 6; repealed by 23, 1990, s. 3(1) (Sched. 6)
Section 31(2):	substituted by 69, 1981, s. 10; amended by 23, 1990, s. 3(1) (Sched. 6)

South Australian Health Commission Act 1976

Section 31(3):	inserted by 69, 1981, s. 10; amended by 23, 1990, s. 3(1) (Sched. 6)
Section 32:	repealed by 69, 1981, s. 11
Section 33(2):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 34(1):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 34(2):	amended by 69, 1981, s. 12(a); 23, 1990, s. 3(1) (Sched. 6)
Section 34(3):	inserted by 69, 1981, s. 12(b); amended by 23, 1990, s. 3(1) (Sched. 6)
Section 34(4):	inserted by 69, 1981, s. 12(b); repealed by 23, 1990, s. 3(1) (Sched. 6)
Section 35:	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 36(1):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 36(3):	inserted by 41, 1987, s. 18
Section 37:	repealed by 41, 1987, s. 19
Heading preceding section 38:	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 38(1):	amended by 55, 1984, s. 7; 60, 1989, s. 3, Sched.
Section 38(3) - (5):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 39(1):	amended by 55, 1984, s. 8
Section 39(1a):	inserted by 60, 1989, s. 4
Section 39(3):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 40(2) and (3):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 41(1) - (3):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 43:	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 45(1):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 45(2):	amended by 60, 1989, Sched.; 23, 1990, s. 3(1) (Sched. 6)
Section 47(1) - (3):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 48(1):	substituted by 69, 1981, s. 13
Section 48(2):	substituted by 69, 1981, s. 13; amended by 23, 1990, s. 3(1) (Sched. 6)
Section 48(3):	substituted by 69, 1981, s. 13
Section 48(3a):	inserted by 69, 1981, s. 13; substituted by 41, 1987, s. 20
Section 48(3b) - (3e):	inserted by 41, 1987, s. 20
Section 48(4):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 49:	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 50(1):	amended by 41, 1987, s. 21(a); 23, 1990, s. 3(1) (Sched. 6)
Section 50(2):	amended by 41, 1987, s. 21(b)
Section 50(3):	amended by 41, 1987, s. 21(b); 23, 1990, s. 3(1) (Sched. 6)
Section 50A:	inserted by 48, 1978, s. 7
Section 50A(1):	amended by 41, 1987, s. 22(a); 23, 1990, s. 3(1) (Sched. 6)
Section 50A(2):	amended by 41, 1987, s. 22(a), (b); 23, 1990, s. 3(1) (Sched. 6)
Section 50A(3):	inserted by 41, 1987, s. 22(c); amended by 60, 1989, Sched.
Section 50B:	inserted by 41, 1987, s. 23
Section 51(1):	amended by 41, 1987, s. 24(a); amended by 23, 1990, s. 3(1) (Sched. 6)
Section 51(2):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 51(2a):	inserted by 41, 1987, s. 24(b)
Section 51(3):	inserted by 69, 1981, s. 14; amended by 41, 1987, s. 24(a)
Section 52(1):	amended by 48, 1978, s. 8; 55, 1984, s. 9; repealed by 23, 1990, s. 3(1) (Sched. 6)
Section 52(2):	substituted by 69, 1981, s. 15; amended by 23, 1990, s. 3(1) (Sched. 6)
Section 52(3):	inserted by 69, 1981, s. 15; amended by 41, 1987, s. 25; 23, 1990, s. 3(1) (Sched. 6)
Section 53:	repealed by 69, 1981, s. 16
Section 54(2):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 55(1):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 55(2):	amended by 69, 1981, s. 17(a); 23, 1990, s. 3(1) (Sched. 6)
Section 55(3):	inserted by 69, 1981, s. 17(b); amended by 23, 1990, s. 3(1) (Sched. 6)
Section 55(4):	inserted by 69, 1981, s. 17(b); repealed by 23, 1990, s. 3(1) (Sched. 6)
Section 56(1):	amended by 41, 1987, s. 26; 23, 1990, s. 3(1) (Sched. 6)
Section 56(2):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 57(1):	amended by 41, 1987, s. 27(a); 23, 1990, s. 3(1) (Sched. 6)
Section 57(2):	amended by 41, 1987, s. 27(b)
Section 57(3):	inserted by 41, 1987, s. 27(c)

Division 4A of Part 4 comprising s. 57aa and heading inserted by 69, 1981, s. 18

Section 57AA:	substituted by 41, 1987, s. 28
Section 57AA(1):	amended by 60, 1989, s. 5, Sched.

Division 5 of Part 4 comprising s. 57a and heading inserted by 48, 1978, s. 9

Section 57A(1a):	inserted by 60, 1989, s. 6
Section 57A(3):	amended by 23, 1990, s. 3(1) (Sched. 6)
Part 4A comprising ss. 57b - 57k and heading inserted by 55, 1984, s. 10	
Section 57B(1):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 57B(2):	amended by 60, 1989, Sched.; 23, 1990, s. 3(1) (Sched. 6)
Section 57C(2):	amended by 63, 1991, s. 3
Section 57D(1):	amended by 23, 1990, s. 3(1) (Sched. 6); 63, 1991, s. 4(a), (b)
Section 57D(1a):	inserted by 63, 1991, s. 4(c)
Section 57D(2):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 57D(3):	repealed by 23, 1990, s. 3(1) (Sched. 6)
Section 57E(1):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 57E(2):	amended by 63, 1991, s. 5(a)
Section 57E(4):	amended by 23, 1990, s. 3(1) (Sched. 6); 63, 1991, s. 5(b)
Section 57E(5):	inserted by 63, 1991, s. 5(c)
Section 57F:	amended by 60, 1989, Sched.; 23, 1990 s. 3(1) (Sched. 6)
Section 57G:	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 57H(4):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 57I(1):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 57I(5):	amended by 60, 1989, Sched.; 23, 1990, s. 3(1) (Sched. 6)
Section 57I(6):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 57J(1), (4) and (5):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 57K(2):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 57K(3) and (4):	amended by 60, 1989, Sched.; 23, 1990, s. 3(1) (Sched. 6)
Section 58:	substituted by 41, 1987, s. 29
Section 58A:	inserted by 41, 1987, s. 29
Section 58A(1):	amended by 14, 1993, s. 2(a)
Section 58A(4):	amended by 14, 1993, s. 2(b)
Section 59(1) and (2):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 60:	redesignated to read as s. 60(1) by 23, 1979, s. 3; amended by 65, 1985, s. 2(a), (b); 23, 1990, s. 3(1) (Sched. 6)
Section 60(2):	inserted by 23, 1979, s. 3; amended by 23, 1990, s. 3(1) (Sched. 6)
Section 60(3):	inserted by 23, 1979, s. 3
Section 60(4):	inserted by 23, 1979, s. 3; amended by 65, 1985, s. 2(c), (d)
Section 61(1):	amended by 69, 1981, s. 19
Section 61(2) and (3):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 62:	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 62A:	inserted by 69, 1981, s. 20; amended by 23, 1990, s. 3(1) (Sched. 6)
Section 63(1):	amended by 23, 1990, s. 3(1) (Sched. 6)
Section 63A:	inserted by 41, 1987, s. 30
Section 63A(2):	amended by 60, 1989, Sched.
Section 64(1):	amended by 41, 1987, s. 31; 60, 1989, Sched.; 23, 1990, s. 3(1) (Sched. 6)
Section 64A:	inserted by 55, 1984, s. 11
Section 64B:	inserted by 55, 1984, s. 11; amended by 23, 1990, s. 3(1) (Sched. 6)
Section 64C:	inserted by 55, 1984, s. 11; amended by 60, 1989, s. 7; 23, 1990, s. 3(1) (Sched. 6)
Section 64D:	inserted by 41, 1987, s. 32; substituted by 60, 1989, s. 8
Section 65:	substituted by 23, 1990, s. 3(1) (Sched. 6)
Section 66(2):	amended by 55, 1984, s. 12; 41, 1987, s. 33; 60, 1989, Sched.; 23, 1990, s. 3(1) (Sched. 6); 63, 1991, s. 6
Schedule 1:	amended by 52, 1977, s. 2
Part 2:	deleted in pursuance of the <i>Acts Republication Act 1967</i> as its function is now exhausted
Part 3:	Third column deleted as this method of citation is now obsolete Amendments to the <i>Institute of Medical and Veterinary Science Act 1937</i> deleted as that Act has been repealed by the <i>Institute of Medical and Veterinary Science Act 1982</i> , s. 4
Part 4:	omitted in pursuance of the <i>Acts Republication Act 1967</i> , as its function is now exhausted
Schedule 3:	repealed by 69, 1981, s. 21

South Australian Health Commission Act 1976**APPENDIX 2****DIVISIONAL PENALTIES AND EXPIATION FEES**

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	-	\$500	\$100
10	-	\$200	\$75
11	-	\$100	\$50
12	-	\$50	\$25

Note: This appendix is provided for convenience of reference only.