

South Australia

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.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

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

3—Objects of this Act

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 various responsibilities and functions, 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.

5—Repeal and amendment of certain Acts

- (1) *The Acts referred to in Part 1 of Schedule 1 are repealed.*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.*

Note—

Section 5(1) and (3) had not come into operation at the date of the publication of this version.

6—Interpretation

- (1) 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 under the *Local Government Act 1999* and includes a body corporate that is, by virtue of any Act, deemed to be, or vested with the powers of, a council;

Department means the department of the Minister to whom the administration of this Act is committed;

employing authority means—

- (a) subject to paragraph (b), the Chief Executive of the Department; or
- (b) if the Governor thinks fit, a person, or a person holding or acting in an office or position, designated by proclamation made for the purposes of this definition;

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;

recognised hospital means—

- (a) an incorporated hospital; or
 - (b) a prescribed hospital.
- (2) The Governor may, for the purposes of the definition of ***employing authority***—
- (a) designate different persons as employing authorities with respect to different classes of employees (or potential employees);
 - (b) in making a designation under paragraph (a), include the Chief Executive of the Department;
 - (c) from time to time as the Governor thinks fit, vary or revoke a proclamation, or make a new proclamation for the purposes of the definition.

Note—

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

Part 2—Administration

Division 1—Establishment of the South Australian Health Commission

7—Establishment of Commission

- (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.

8—Constitution of Commission

- (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 is appointed on conditions determined by the Governor and for a term, not exceeding five years, specified in the instrument of appointment.
- (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.

9—Deputies

- (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.

10—Remuneration

A member of the Commission is entitled to remuneration, allowances and expenses determined by the Governor.

11—Removal from, and vacation of, office

- (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 Minister; 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.

12—Meetings of the Commission etc

- (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.

13—Validity of acts of Commission and immunity of members

- (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.

14—Disclosure of interests

- (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.
- (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 Minister and Commission

15—Powers and functions of Minister under Act

- (1) The Minister should, in connection with the operation of this Act, promote the health and well-being of the people of the State and may, in so doing, adopt the following functions:
- (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 Minister thinks desirable; and
 - (f) to assist bodies or persons in the establishment, maintenance or operation of health services (to such extent as the Minister thinks desirable); and
 - (g) to act to ensure that hospitals, health centres and health services incorporated under this Act or established, maintained or operated by or with the assistance of the Government of the State are operated in an efficient and economical manner; and
 - (h) to ensure the proper allocation of resources between hospitals, health centres or health services incorporated under this Act or established, maintained or operated by or with the assistance of the Government of the State; and
 - (i) 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 Minister thinks desirable; and
 - (j) to promote and encourage voluntary participation in the provision of health services; and
 - (k) to disseminate knowledge in the field of public health to the advancement of the public interest; and
 - (l) to keep the policies and standards of health and health services developed by the Department under constant evaluation and review; and
 - (m) to ensure as far as possible that the people of this State live and work in a healthy environment; and
 - (n) to carry out other functions as may be necessary, expedient or incidental to the foregoing.
- (2) The Minister has the powers necessary or expedient for, or incidental to, the performance of the Minister's functions under this Act.

- (3) The Minister must in the performance of the Minister's functions under this Act, as appropriate, seek to encourage and facilitate the involvement of voluntary organisations, local governing bodies and regional authorities in the promotion or provision of health care and health services.
- (4) The Minister must in the performance of the Minister's functions under this Act 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.

16—Functions of Commission

- (1) The Commission has the following functions:
 - (a) to the extent determined by the Minister, to provide advice to the Minister on the performance of functions conferred on the Minister under this Act or any other Act;
 - (b) at the request of the Minister, to provide information to the Minister on the requirements of the public, or any section of the public, in the field of health or health services, or to assist in the planning of health services;
 - (c) to develop, foster or promote proper standards of public and environmental health in the State;
 - (d) to the extent determined by the Minister, to plan, initiate, carry out, support or promote programs or activities designed to improve or promote public and environmental health;
 - (e) to increase public awareness of such matters relating to health as appear to be appropriate to the Commission or as are designated by the Minister;
 - (f) to assist the Minister in the dissemination of knowledge in the field of public health to the advancement of the public interest;
 - (g) at the request of the Minister, to investigate and report on any matter relevant to public or environmental health or to health services within the State;
 - (h) at the request of the Minister, to conduct inquiries into any aspect of public or environmental health, the provision of health services or the care of the public (or of any section of the public);
 - (i) to provide advice to the Minister on action to be taken to prevent or avert the spread of diseases that are a danger to the public or on other matters relevant to the protection or promotion of public health;
 - (j) at the request of the Minister, to provide advice to the Minister on the administration of any provision of this Act, or of any designated Act, or on the exercise or performance of powers under this Act or any designated Act;
 - (k) at the request of the Minister, to provide advice on any other matter in relation to which the Minister considers that the advice of the Commission should be available;
 - (l) to carry out other functions assigned to the Commission by or under this or any other Act, or by the Minister;
 - (m) to carry out other functions as may be necessary, expedient or incidental to the foregoing.

- (2) The Commission has the powers necessary or expedient for, or incidental to, the performance of its functions.
- (3) In the exercise of its functions, the Commission is subject to the control and direction of the Minister.
- (4) The Commission must, in the exercise of its functions, seek to co-ordinate its activities with the Department.
- (5) In this section—
designated Act means an Act designated by the Minister for the purposes of the performance of a particular function by the Commission.

17—Delegations

- (1) The Minister may delegate a power or function vested in or conferred on the Minister by or under this Act—
 - (a) to the Commission; or
 - (b) to another body, or to a particular person; or
 - (c) to the person for the time being holding or acting in a particular office or position.
- (2) The Commission may delegate a power or function vested in or conferred on the Commission by or under this or any other Act—
 - (a) to a committee established by the Commission; or
 - (b) to another body, or to a particular person; or
 - (c) to the person for the time being holding or acting in a particular office or position.
- (3) A power or function delegated under this section may, if the instrument of delegation so provides, be further delegated.
- (4) A delegation—
 - (a) may be absolute or conditional; and
 - (b) does not derogate from the power of the delegator to act in a matter; and
 - (c) is revocable at will by the delegator.

Division 3—Advisory committees

18—Appointment of advisory committees

- (1) The Minister may appoint advisory committees to advise the Minister or the Commission in relation to matters in respect of which the Minister considers that advice should be available to the Minister or 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 and facilities

19—Staff and facilities

- (1) The Commission does not have the power to employ any person.
- (3) The Commission may, with the approval of the Minister administering an administrative unit of the Public Service, on terms and conditions mutually arranged, make use of the services of any officer, or use any facilities or equipment, of that unit.

Division 5—Miscellaneous provisions

22—Property

- (1) The Governor may, by instrument in writing, for any purpose connected with the operation of this Act—
 - (a) direct that any unalienated Crown land, or any land held on behalf of the Crown, be vested in the Minister for an estate in fee simple; or
 - (b) place any unalienated Crown land under the care, control and management of the Minister; or
 - (c) resume any land placed under the care, control and management of the Minister pursuant to paragraph (b).
- (2) A direction under subsection (1)(a) is effective to vest the land to which it relates in the Minister 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 this Act.

25—Accounts and audit

- (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.

26—Annual report

- (1) The Commission must, on or before 30 September in every year, forward to the Minister a report on the work of the Commission for the financial year ending on the preceding 30 June.
- (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

27—Incorporation

- (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 unless—
 - (a) the other body consents to the establishment of the incorporated hospital and agreement has been reached between the Minister 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 Minister 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 Minister, 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.

28—Powers of incorporated hospital

- (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.

29—Management of hospital

- (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 to a person employed at 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.

29A—Disclosure of interest

- (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.

29B—Immunity of members of board

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 1A—Power of direction

29C—Incorporated hospital to be subject to direction

- (1) An incorporated hospital is subject to direction by the Minister.
- (2) A direction cannot be given—
 - (a) so as to affect clinical decisions relating to the treatment of any particular patient; or
 - (b) for the sale or disposal of land, buildings or equipment that is not held by the Crown; or
 - (c) relating to the employment of a particular person or the assignment, transfer, remuneration, discipline or termination of a particular employee.
- (3) A direction under this section must be given in writing and must be published in the Gazette.
- (4) Particulars of directions given under this section must be included in the hospital's annual report.

Division 2—Staff of incorporated hospitals

30—Staff

Note—

Section 30(11) had not come into operation at the date of the publication of this version.

- (1) An employing authority may employ persons to perform functions in connection with the operations or activities of an incorporated hospital.
- (2) The terms and conditions of employment of a person under subsection (1) will be fixed by the employing authority and approved by the Commissioner for Public Employment.
- (3) A person employed under this section will be taken to be employed by or on behalf of the Crown (but will not be employed in the Public Service of the State unless brought into an administrative unit under the *Public Sector Management Act 1995*).
- (4) An employing authority may direct a person employed under this section to perform functions in connection with the operations or activities of another incorporated hospital, an incorporated health centre, or any other public sector agency, specified by the employing authority (and the person must comply with that direction).
- (5) An employing authority is, in acting under this section, subject to direction by the Minister.
- (6) However, no Ministerial direction may be given by the Minister relating to the appointment, transfer, remuneration, discipline or termination of a particular person.
- (7) An employing authority may delegate a power or function under this section.
- (8) A delegation under subsection (7)—
 - (a) must be by instrument in writing; and
 - (b) may be made to a body or person (including a person for the time being holding or acting in a specified office or position); and
 - (c) may be unconditional or subject to conditions; and
 - (d) may, if the instrument of delegation so provides, allow for the further delegation of a power or function that has been delegated; and
 - (e) does not derogate from the power of the employing authority to act personally in any matter; and
 - (f) may be revoked at any time by the employing authority.
- (9) A change in a person who constitutes an employing authority under this Act will not affect the continuity of employment of a person under this section.
- (10) An incorporated hospital must, at the direction of the Minister, the Treasurer or an employing authority, make payments with respect to any matter arising in connection with the employment of a person under this section (including, but not limited to, payments with respect to salary or other aspects of remuneration, leave entitlements, superannuation contributions, taxation liabilities, workers compensation payments, termination payments, public liability insurance and vicarious liabilities).
- (11) *An incorporated hospital does not have the power to employ any person.*

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- (12) An incorporated hospital may, under an arrangement established by the Minister administering an administrative unit, make use of the services or staff of that administrative unit.
- (13) On the incorporation of a hospital under this Part, any Public Service employees who had, before the date of incorporation, been assigned by the Chief Executive of the Department to work in the hospital and have been designated by the Chief Executive as employees to whom this subsection applies will become persons employed by an employing authority designated by the Chief Executive under this section on terms and conditions fixed by the Chief Executive (without reduction of salary or status).
- (14) In this section—
public sector agency has the same meaning as in the *Public Sector Management Act 1995*.

31—Superannuation, accrued leave rights etc

- (1) An employing authority may enter into arrangements contemplated by section 5 of the *Superannuation Act 1988* with respect to a person employed at an incorporated hospital.
- (2) Where a person commences employment by an employing authority at an incorporated hospital after ceasing to be employed—
- (a) in the Public Service of the State; or
 - (b) by the employing authority or another employing authority at another incorporated hospital; or
 - (c) by the employing authority or another employing authority at an incorporated health centre,

and that employment at 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 employing authority at 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 commences employment by an employing authority at an incorporated hospital within three months after ceasing to be employed—
- (a) in the Public Service of the State; or
 - (b) by the employing authority or another employing authority at another incorporated hospital; or
 - (c) by the employing authority or another employing authority at 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 employing authority and subject to such conditions as may be determined by the employing authority, as if that previous employment had been employment by the employing authority at the hospital.

Division 3—Property of incorporated hospitals

33—Property

- (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

34—Accounts and audit

- (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.

35—Annual report

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

36—Budget and staffing plans

- (1) The board of an incorporated hospital must, not later than a date stipulated by the Minister, in each year, submit to the Minister—
 - (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 Minister may, at any time, by notice in writing, require the board of an incorporated hospital to furnish to the Minister 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

38—By-laws

- (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; and
 - (o) to fix expiation fees, not exceeding a division 10 fee, for alleged offences against the by-laws.
- (2) Every by-law made under this section must be sealed with the seal of the hospital and submitted to the Minister 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.

Division 6—Hospital fees

39—Fixing of fees

- (1) The Governor may, by regulation made on the recommendation of the Minister, 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

40—Power of Minister to require contribution

- (1) Where, in the opinion of the Minister, 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 Minister may, 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.

41—Duty of council to contribute

- (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 Minister.
- (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 Minister on account of the council from whose subsidy or grant the amount was deducted.

42—Recovery of contributions

A contribution payable under this Division may be recovered by the Minister by action in a court of competent jurisdiction as a debt due to the Minister.

43—Application of contributions

The Minister must apply all contributions received or recovered by the Minister 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

44—Interpretation

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.

45—Report of accidents to which this Division applies

- (1) The Commissioner of Police must, upon receipt of a report that an accident to which this Division applies has occurred, furnish the Minister 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 Minister 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.

46—Notice by hospital to insurer

- (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.

47—First claim of hospital

- (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****48—Incorporation**

- (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 Minister 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 Minister 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).

(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 Minister, 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.

49—Powers of incorporated health centre

- (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.

50—Management of health centre

- (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.

50A—Disclosure of interests

- (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.

50B—Immunity of members of board

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 1A—Power of direction

50C—Incorporated health centre to be subject to direction

- (1) An incorporated health centre is subject to direction by the Minister.
- (2) A direction cannot be given—
 - (a) so as to affect clinical decisions relating to the treatment of any particular patient; or
 - (b) for the sale or disposal of land, buildings or equipment that is not held by the Crown; or
 - (c) relating to the employment of a particular person or the assignment, transfer, remuneration, discipline or termination of a particular employee.
- (3) A direction under this section must be given in writing and must be published in the Gazette.
- (4) Particulars of directions given under this section must be included in the health centre's annual report.

Division 2—Staff of incorporated health centres

51—Staff

- (1) An employing authority may employ persons to perform functions in connection with the operations or activities of an incorporated health centre.
- (2) The terms and conditions of employment of a person under subsection (1) will be fixed by the employing authority and approved by the Commissioner for Public Employment.
- (3) A person employed under this section will be taken to be employed by or on behalf of the Crown (but will not be employed in the Public Service of the State unless brought into an administrative unit under the *Public Sector Management Act 1995*).
- (4) An employing authority may direct a person employed under this section to perform functions in connection with the operations or activities of another incorporated health centre, an incorporated hospital, or any other public sector agency, specified by the employing authority (and the person must comply with that direction).
- (5) An employing authority is, in acting under this section, subject to direction by the Minister.
- (6) However, no Ministerial direction may be given by the Minister relating to the appointment, transfer, remuneration, discipline or termination of a particular person.
- (7) An employing authority may delegate a power or function under this section.
- (8) A delegation under subsection (7)—
 - (a) must be by instrument in writing; and
 - (b) may be made to a body or person (including a person for the time being holding or acting in a specified office or position); and
 - (c) may be unconditional or subject to conditions; and

- (d) may, if the instrument of delegation so provides, allow for the further delegation of a power or function that has been delegated; and
 - (e) does not derogate from the power of the employing authority to act personally in any matter; and
 - (f) may be revoked at any time by the employing authority.
- (9) A change in a person who constitutes an employing authority under this Act will not affect the continuity of employment of a person under this section.
- (10) An incorporated health centre must, at the direction of the Minister, the Treasurer or an employing authority, make payments with respect to any matter arising in connection with the employment of a person under this section (including, but not limited to, payments with respect to salary or other aspects of remuneration, leave entitlements, superannuation contributions, taxation liabilities, workers compensation payments, termination payments, public liability insurance and vicarious liabilities).
- (11) An incorporated health centre does not have the power to employ any person.
- (12) An incorporated health centre may, under an arrangement established by the Minister administering an administrative unit, make use of the services or staff of that administrative unit.
- (13) In this section—
public sector agency has the same meaning as in the *Public Sector Management Act 1995*.

52—Superannuation, accrued leave rights etc

- (1) An employing authority may enter into arrangements contemplated by section 5 of the *Superannuation Act 1988* with respect to a person employed at an incorporated health centre.
- (2) Where a person commences employment by an employing authority at an incorporated health centre after ceasing to be employed—
- (a) in the Public Service of the State; or
 - (b) by the employing authority or another employing authority at an incorporated hospital; or
 - (c) by the employing authority or another employing authority at another incorporated health centre,

and that employment at 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 employing authority at 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 commences employment at an incorporated health centre within three months after ceasing to be employed—
- (a) in the Public Service of the State; or
 - (b) by the employing authority or another employing authority at an incorporated hospital; or
 - (c) by the employing authority or another employing authority at 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 employing authority and subject to such conditions as may be determined by the employing authority, as if that previous employment had been employment by the employing authority at the health centre.

Division 3—Property of incorporated health centres

54—Property

- (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

55—Accounts and audit

- (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.

56—Annual report

- (1) The board of an incorporated health centre must, not later than a date stipulated by the Minister, in each year, present to the Minister a report upon the administration of the health centre during the previous financial year.

57—Budget and staffing plans

- (1) The board of an incorporated health centre must, not later than a date stipulated by the Minister, in each year, submit to the Minister—
 - (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 Minister may, at any time, by notice in writing, require the board of an incorporated health centre to furnish to the Minister 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**57AA—By-laws**

- (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; and
 - (o) to fix expiation fees, not exceeding a division 10 fee, for alleged offences against the by-laws.
- (2) Every by-law made under this section must be sealed with the seal of the health centre and submitted to the Minister 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.

Division 5—Health centre fees

57A—Fixing of fees

- (1) The Governor may, by regulation made on the recommendation of the Minister, 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

57B—Prohibition of operating private hospitals unless licensed

- (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 under the *Supported Residential Facilities Act 1992*.

57C—Application for licence

- (1) A person may apply to the Minister 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.

57D—Grant of licences

- (1) Subject to this section, where application is made under this Part for a licence in respect of premises or proposed premises, the Minister 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 Minister 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 Minister 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 Minister, the Minister will, upon payment of the prescribed fee, grant the licence to the applicant.

57E—Conditions of licence

- (1) A licence under this Part will be subject to such conditions as the Minister 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 Minister 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 Minister;
 - (d) preventing the installation or use of facilities or equipment of a specified kind, either absolutely or without the approval of the Minister;
 - (e) requiring the installation or use of facilities or equipment of a specified kind not otherwise required by or under this Act;
 - (f) requiring that the premises be in the charge of a person with specified qualifications, and otherwise regulating the staffing of the premises.
- (3) The Minister 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 Minister 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 Minister 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.

57F—Offence for licence holder to contravene Act or licence condition

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.

57G—Duration of licences

- (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 Minister the prescribed annual licence fee; and
 - (b) lodge with the Minister 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 Minister 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.

57H—Transfer of licence

- (1) An application may be made to the Minister 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 Minister with such further information as the Minister may require to determine the application.
- (4) The Minister will, upon application under this section and payment of the prescribed fee, transfer the licence to the proposed transferee if the Minister is satisfied as to the suitability of the person to hold a licence under this Part.

57I—Surrender, suspension and cancellation of licences

- (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 Minister 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 the Minister 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 Minister suspends a licence, the Minister may order that the suspension be for a specified period or until the fulfilment of stipulated conditions or until further order.
- (4) Where the Minister cancels a licence, the Minister 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.

57J—Appeal against decision or order of Minister

- (1) A right of appeal to the Supreme Court lies against any decision or order of the Minister under this Part.
- (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 Minister for further consideration;

- (c) make any further or other order as to costs or any other matter that the case requires.
- (4) The Minister must, if so required by a person affected by a decision or order made by the Minister under this Part, state in writing the reasons for the decision or order.
- (5) If the reasons of the Minister are not given in writing at the time of making a decision or order and the appellant then requests the Minister to state the Minister's 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 Minister or the Supreme Court is satisfied that an appeal against an order of the Minister has been instituted or is intended, the Minister or the Supreme Court may suspend the operation of the order until the determination of the appeal.
- (7) Where the Minister has suspended the operation of an order under subsection (6), the Minister may terminate the suspension and, where the Supreme Court has done so, the Supreme Court may terminate the suspension.

57K—Inspectors

- (1) The Minister 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

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

- (1) Subject to subsection (3), where, in the opinion of the Minister, an incorporated hospital or incorporated health centre has failed in a particular instance properly to perform the functions for which it was established, the Minister 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 Minister's directions.
- (3) The Minister 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.

58A—Provision where incorporated hospital or health centre fails persistently to properly discharge its functions

- (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.

59—Application of Public Sector Management Act to employees

- (1) The Governor may, by proclamation, declare that specified provisions of the *Public Sector Management Act 1995* will apply, with such modifications as may be specified in the proclamation, in relation to persons employed by an employing authority at designated incorporated hospitals or designated incorporated health centres, or any class of such persons.
- (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.

61—Recognised organisations

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

- (2) Where an employing authority 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 persons employed under this Act, the employing authority 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 employing authority, 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.

62—Duty of Registrar-General

- (1) The Registrar-General must, upon the application of the Minister, an incorporated hospital or incorporated health centre and upon being satisfied that an interest in land has vested in the Minister, 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 Minister, 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.

62A—Notification of dissolution of incorporated body

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

63—Constitutions to be available for public inspection

- (1) The Minister must ensure that copies of the approved constitution of each incorporated hospital and incorporated health centre, and the amendments (if any), are kept at a public office of the Department.
- (2) A member of the public may, upon payment of the prescribed fee, inspect the constitution of an incorporated hospital or incorporated health centre.

63A—Conflict of interest

- (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 a person employed at an incorporated hospital or incorporated health centre.

64—Duty to maintain confidentiality

(1) Subject to subsection (2), an officer or employee of the Department, a person employed by an employing authority under this Act, or a person working at an incorporated hospital or an incorporated health centre under any other arrangement, must not divulge personal information relating to a patient obtained in the course of employment or while so working except to the extent that he or she may be authorised or required to divulge that information—

- (a) by law; or
- (b) by the Department or the employing authority; or
- (c) in the case of a person employed or working at an incorporated hospital or an incorporated health centre—by the relevant hospital or health centre.

Maximum penalty: \$10 000.

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

64A—Service of notices

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

64B—Offences by bodies corporate

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.

64C—Evidentiary provision

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.

64D—Disclosure of confidential information for certain purposes

- (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.

65—Summary offences

Offences against this Act are summary offences.

66—Regulations

- (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 under this Act; and
 - (b) require any hospital or health centre to collect, and furnish the Minister or 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 Minister or the Commission with the results of those inquiries; and

- (d) prescribe conditions under which financial or technical assistance may be given by the Minister for the establishment, maintenance or operation of a health service; and
- (e) regulate the publication and dissemination of knowledge by the Minister or the Commission in relation to health and health services; and
- (ea) provide for the reporting of cases of specified diseases and disabilities to the Minister or 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 Minister or any incorporated hospital or incorporated health centre; and
- (g) prescribe standards to be observed by the Minister, 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 Minister (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.

Schedule 1

Part 1

Note—

Part 1 had not come into operation at the date of the publication of this version.

Hospitals Act 1934;

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 3

Note—

Part 3 had not come into operation at the date of the publication of this version.

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

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

Legislative history

Notes

- In this version provisions that are uncommenced appear in italics.
- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation repealed by principal Act

The *South Australian Health Commission Act 1976* repealed the following:

Health and Medical Services Act 1949

Health and Medical Services Act Amendment Act 1974

Legislation amended by principal Act

The *South Australian Health Commission Act 1976* amended the following:

Health Act 1935

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1976	76	<i>South Australian Health Commission Act 1976</i>	2.12.1976	1.7.1977 (<i>Gazette</i> 30.6.1977 p1844) except ss 5(2), (4) & Sch 1 (Pts 2 & 4)—20.1.1978 (<i>Gazette</i> 22.12.1977 p2268) and except ss 27—47, 58, 63 & Sch 2—1.7.1978 (<i>Gazette</i> 29.6.1978 p2234) and except ss 48—57 & Sch 3—6.3.1980 (<i>Gazette</i> 6.3.1980 p472) and except s 5(1), (3) & Sch 1 (Pts 1 & 3)—uncommenced
1977	52	<i>South Australian Health Commission Act Amendment Act 1977</i>	15.12.1977	15.12.1977
1978	48	<i>South Australian Health Commission Act Amendment Act 1978</i>	13.4.1978	13.4.1978
1979	23	<i>South Australian Health Commission Act Amendment Act 1979</i>	15.3.1979	19.4.1979 (<i>Gazette</i> 19.4.1979 p1030)
1980	12	<i>South Australian Health Commission Act Amendment Act 1980</i>	17.4.1980	1.7.1980 (<i>Gazette</i> 19.6.1980 p1636)

1981	69	<i>South Australian Health Commission Act Amendment Act 1981</i>	22.10.1981	12.11.1981 (<i>Gazette</i> 12.11.1981 p1491)
1983	6	<i>South Australian Health Commission Act Amendment Act 1983</i>	14.4.1983	14.4.1983
1983	85	<i>South Australian Health Commission Act Amendment Act (No. 2) 1983</i>	1.12.1983	1.1.1984 (<i>Gazette</i> 22.12.1983 p1719)
1984	55	<i>South Australian Health Commission Act Amendment Act 1984</i>	24.5.1984	1.2.1985 (<i>Gazette</i> 31.1.1985 p280) except ss 3 & 10—13—1.5.1985 (<i>Gazette</i> 14.3.1985 p622)
1985	59	<i>Statutes Amendment (Remuneration) Act 1985</i>	30.5.1985	13.6.1985 (<i>Gazette</i> 13.6.1985 p2132)
1985	65	<i>South Australian Health Commission Act Amendment Act 1985</i>	6.6.1985	6.6.1985
1987	41	<i>South Australian Health Commission Act Amendment Act 1987</i>	30.4.1987	1.7.1987 except ss 13 & 20—1.7.1988 (<i>Gazette</i> 25.6.1987 p1634)
1989	60	<i>South Australian Health Commission Act Amendment Act 1989</i>	26.10.1989	9.5.1991 (<i>Gazette</i> 9.5.1991 p1484)
1990	18	<i>Statutes Repeal and Amendment (Remuneration) Act 1990</i>	19.4.1990	19.4.1990 (<i>Gazette</i> 19.4.1990 p1136)
1990	23	<i>Statute Law Revision Act 1990</i>	26.4.1990	Sch 6—17.7.1991 (<i>Gazette</i> 20.6.1991 p1918)
1991	63	<i>South Australian Health Commission (Private Hospital Beds) Amendment Act 1991</i>	5.12.1991	5.12.1991
1992	90	<i>Supported Residential Facilities Act 1992</i>	10.12.1992	s 59—10.3.1995: s 2(2)
1993	14	<i>South Australian Health Commission (Incorporated Hospitals and Health Centres) Amendment Act 1993</i>	1.4.1993	1.4.1993
1993	75	<i>Statutes Amendment (Abolition of Compulsory Retirement) Act 1993</i>	21.10.1993	1.1.1994: s 2
1996	34	<i>Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996</i>	2.5.1996	Sch (cl 32)—3.2.1997 (<i>Gazette</i> 19.12.1996 p1923)
2000	14	<i>South Australian Health Commission (Direction of Hospitals and Health Centres) Amendment Act 2000</i>	11.5.2000	8.6.2000 (<i>Gazette</i> 8.6.2000 p3041)
2000	34	<i>South Australian Health Commission (Administrative Arrangements) Amendment Act 2000</i>	6.7.2000	6.7.2000 (<i>Gazette</i> 6.7.2000 p5)
2006	41	<i>Statutes Amendment (Public Sector Employment) Act 2006</i>	14.12.2006	Pt 20 (ss 85—87, new s 30(1)—(10), (12)—(14) (as inserted by s 88), 89—96)—1.4.2007 (<i>Gazette</i> 29.3.2007 p930); new s 30(11) (as inserted by s 88)—uncommenced
2006	43	<i>Statutes Amendment (Domestic Partners) Act 2006</i>	14.12.2006	Pt 78 (ss 191—193)—1.6.2007 (<i>Gazette</i> 26.4.2007 p1352)

Provisions amended

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.

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
Pt 1		
s 2	<i>deleted by 23/1990 s 3(1) (Sch 6)</i>	17.7.1991
s 3	amended by 41/1987 s 3	1.7.1987
	amended by 34/2000 s 3	6.7.2000
s 4	<i>amended by 48/1978 s 2</i>	13.4.1978
	<i>amended by 69/1981 s 3</i>	12.11.1981
	<i>amended by 55/1984 s 3</i>	1.5.1985
	<i>deleted in pursuance of the Acts Republication Act 1967</i>	1.8.1985
s 5		
s 5(2)	<i>deleted in pursuance of the Acts Republication Act 1967 as its function is now exhausted</i>	1.8.1985
s 5(4)	<i>deleted in pursuance of the Acts Republication Act 1967 as it is now obsolete</i>	1.8.1985
s 6		
s 6(1)	s 6 redesignated as s 6(1) by 41/2006 s 85(2)	1.4.2007
board	substituted by 41/1987 s 4(a)	1.7.1987
<i>the Chairman</i>	<i>deleted by 12/1980 s 3</i>	1.7.1980
council	amended by 34/2000 s 4(a)	6.7.2000
Department	inserted by 34/2000 s 4(b)	6.7.2000
domestic partner	inserted by 43/2006 s 191(1)	uncommenced—not incorporated
employing authority	inserted by 41/2006 s 85(1)	1.4.2007
<i>Government health centre</i>	<i>substituted by 69/1981 s 4(a)</i>	12.11.1981
	<i>deleted by 41/1987 s 4(b)</i>	1.7.1987
<i>Government hospital</i>	<i>deleted by 41/1987 s 4(b)</i>	1.7.1987
health centre	substituted by 69/1981 s 4(b)	12.11.1981
hospital	inserted by 69/1981 s 4(c)	12.11.1981
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
hospital bed	inserted by 63/1991 s 2	5.12.1991
incorporated health centre	substituted by 69/1981 s 4(c)	12.11.1981
	substituted by 41/1987 s 4(c)	1.7.1987

incorporated hospital	substituted by 69/1981 s 4(c)	12.11.1981
	substituted by 41/1987 s 4(c)	1.7.1987
private hospital	inserted by 55/1984 s 4	1.2.1985
recognised hospital	inserted by 55/1984 s 4	1.2.1985
spouse	inserted by 43/2006 s 191(2)	uncommenced—not incorporated
s 6(2)	inserted by 41/2006 s 85(2)	1.4.2007
Pt 2	heading substituted by 34/2000 s 5	6.7.2000
Pt 2 Div 1	heading substituted by 34/2000 s 6	6.7.2000
s 7		
s 7(1)	substituted by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 7(2) and (3)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 8		
s 8(1)	amended by 12/1980 s 4(a), (b)	1.7.1980
	amended by 85/1983 s 3(a), (b)	1.1.1984
	substituted by 41/1987 s 5(a)	1.7.1987
s 8(1a)	inserted by 41/1987 s 5(a)	1.7.1987
s 8(2)	amended by 12/1980 s 4(c)	1.7.1980
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 8(3)	substituted by 12/1980 s 4(d)	1.7.1980
	substituted by 85/1983 s 3(c)	1.1.1984
	substituted by 41/1987 s 5(b)	1.7.1987
	substituted by 34/2000 s 7	6.7.2000
s 8(4)	<i>amended by 12/1980 s 4(e)</i>	<i>1.7.1980</i>
	<i>amended by 85/1983 s 3(d)</i>	<i>1.1.1984</i>
	<i>amended by 41/1987 s 5(c)</i>	<i>1.7.1987</i>
	<i>amended by 23/1990 s 3(1) (Sch 6)</i>	<i>17.7.1991</i>
	<i>deleted by 34/2000 s 7</i>	<i>6.7.2000</i>
s 8(5)	<i>amended by 23/1990 s 3(1) (Sch 6)</i>	<i>17.7.1991</i>
	<i>deleted by 34/2000 s 7</i>	<i>6.7.2000</i>
s 8(6)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 8(7)	<i>deleted by 12/1980 s 4(f)</i>	<i>1.7.1980</i>
s 9	amended by 12/1980 s 5	1.7.1980
	substituted by 85/1983 s 4	1.1.1984
	substituted by 41/1987 s 6	1.7.1987
s 10	amended by 12/1980 s 6	1.7.1980
	amended by 85/1983 s 5	1.1.1984
	amended by 59/1985 s 20	13.6.1985
	amended by 18/1990 s 27	19.4.1990
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	substituted by 34/2000 s 8	6.7.2000
s 11		

s 11(1) and (2)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 11(3)	amended by 12/1980 s 7	1.7.1980
	amended by 85/1983 s 6(a)	1.1.1984
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 75/1993 s 25(a)	1.1.1994
	(e) deleted by 75/1993 s 25(b)	1.1.1994
	amended by 34/2000 s 9	6.7.2000
s 11(4)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 11(5)	<i>amended by 6/1983 s 2</i>	<i>14.4.1983</i>
	<i>amended by 85/1983 s 6(b)</i>	<i>1.1.1984</i>
	<i>deleted by 41/1987 s 7</i>	<i>1.7.1987</i>
s 12		
s 12(1)	amended by 12/1980 s 8(a)	1.7.1980
	amended by 85/1983 s 7(a)	1.1.1984
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 12(2)	amended by 12/1980 s 8(b)	1.7.1980
	amended by 85/1983 s 7(b)	1.1.1984
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 12(3) and (4)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 12(5)	amended by 12/1980 s 8(c)	1.7.1980
	amended by 85/1983 s 7(c)	1.1.1984
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 12(6)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 13	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 14		
s 14(1)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 14(2)	amended by 41/1987 s 8(a)	1.7.1987
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 14(3)	inserted by 41/1987 s 8(b)	1.7.1987
	amended by 60/1989 Sch	9.5.1991
Pt 2 Div 2	heading substituted by 34/2000 s 10	6.7.2000
s 15	amended by 41/1987 s 9	1.7.1987
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	substituted by 34/2000 s 11	6.7.2000
s 16	amended by 69/1981 s 5	12.11.1981
	amended by 41/1987 s 10	1.7.1987
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	substituted by 34/2000 s 12	6.7.2000
s 17	amended by 69/1981 s 6	12.11.1981
	substituted by 41/1987 s 11	1.7.1987
	substituted by 34/2000 s 13	6.7.2000
Pt 2 Div 3		
s 18		

s 18(1)	substituted by 34/2000 s 14	6.7.2000
s 18(2)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 19	<i>deleted by 85/1983 s 8</i>	1.1.1984
Pt 2 Div 4	amended by 48/1978 s 3	13.4.1978
	amended by 12/1980 s 9	1.7.1980
	amended by 69/1981 s 7	12.11.1981
	amended by 85/1983 s 9	1.1.1984
	amended by 55/1984 s 5	1.2.1985
	amended by 41/1987 s 12	1.7.1987
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	substituted by 34/2000 s 15	6.7.2000
s 19		
s 19(1)	substituted by 41/2006 s 86	1.4.2007
s 19(2)	<i>deleted by 41/2006 s 86</i>	1.4.2007
Pt 2 Div 5		
s 22		
s 22(1)	amended by 34/2000 s 16(a)—(d)	6.7.2000
s 22(2)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 16(e)	6.7.2000
s 22(3)	amended by 34/2000 s 16(f)	6.7.2000
s 23	<i>amended by 23/1990 s 3(1) (Sch 6)</i>	17.7.1991
	<i>deleted by 34/2000 s 17</i>	6.7.2000
s 24	<i>amended by 23/1990 s 3(1) (Sch 6)</i>	17.7.1991
	<i>deleted by 34/2000 s 17</i>	6.7.2000
s 25		
s 25(1) and (2)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 25(3)	<i>deleted by 23/1990 s 3(1) (Sch 6)</i>	17.7.1991
s 26		
s 26(1)	amended by 69/1981 s 8	12.11.1981
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	substituted by 34/2000 s 18	6.7.2000
s 26(2)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
Pt 3		
Pt 3 Div 1		
s 27		
s 27(1)	substituted by 69/1981 s 9	12.11.1981
s 27(2)	substituted by 69/1981 s 9	12.11.1981
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 27(3)	substituted by 69/1981 s 9	12.11.1981
s 27(3a)	inserted by 69/1981 s 9	12.11.1981
	substituted by 41/1987 s 13	1.7.1988
	amended by 34/2000 s 19(a)—(c)	6.7.2000
s 27(3b)—(3e)	inserted by 41/1987 s 13	1.7.1988

s 27(5)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 19(d)	6.7.2000
s 28	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 29		
s 29(1)	amended by 41/1987 s 14	1.7.1987
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 29(2)	amended by 41/2006 s 87	1.4.2007
s 29(3)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 29A	inserted by 48/1978 s 4	13.4.1978
s 29A(1)	amended by 41/1987 s 15(a)	1.7.1987
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 29A(2)	amended by 41/1987 s 15(a), (b)	1.7.1987
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 29A(3)	inserted by 41/1987 s 15(c)	1.7.1987
	amended by 60/1989 Sch	9.5.1991
s 29B	inserted by 41/1987 s 16	1.7.1987
Pt 3 Div 1A	inserted by 14/2000 s 3	8.6.2000
Pt 3 Div 2		
<i>s 30 before substitution by 41/2006</i>		
s 30(1) and (2)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 20	6.7.2000
s 30(3)	substituted by 41/1987 s 17	1.7.1987
	amended by 34/2000 s 20	6.7.2000
s 30(4)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 20	6.7.2000
s 30(4a)	inserted by 48/1978 s 5	13.4.1978
	omitted in pursuance of the Acts Republication Act 1967 as it is now obsolete	1.8.1985
s 30	substituted by 41/2006 s 88	1.4.2007 except s 30(11)— uncommenced
s 31		
s 31(1)	amended by 48/1978 s 6	13.4.1978
	amended by 55/1984 s 6	1.2.1985
	deleted by 23/1990 s 3(1) (Sch 6)	17.7.1991
	inserted by 41/2006 s 89(1)	1.4.2007
s 31(2)	substituted by 69/1981 s 10	12.11.1981
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 41/2006 s 89(2)—(5)	1.4.2007
	(d) deleted by 41/2006 s 89(3)	1.4.2007
s 31(3)	inserted by 69/1981 s 10	12.11.1981
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 41/2006 s 89(6)—(8)	1.4.2007

	(d) deleted by 41/2006 s 89(7)	1.4.2007
Pt 3 Div 3		
s 32	<i>deleted by 69/1981 s 11</i>	12.11.1981
s 33		
s 33(2)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
Pt 3 Div 4		
s 34		
s 34(1)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 34(2)	amended by 69/1981 s 12(a)	12.11.1981
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 34(3)	inserted by 69/1981 s 12(b)	12.11.1981
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 34(4)	<i>inserted by 69/1981 s 12(b)</i>	12.11.1981
	<i>deleted by 23/1990 s 3(1) (Sch 6)</i>	17.7.1991
s 35		
s 35(1)	<i>amended by 23/1990 s 3(1) (Sch 6)</i>	17.7.1991
	<i>amended by 34/2000 s 21(a)</i>	6.7.2000
s 35(2)	<i>amended by 23/1990 s 3(1) (Sch 6)</i>	17.7.1991
	<i>deleted by 34/2000 s 21(b)</i>	6.7.2000
s 36		
s 36(1)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 22(a)	6.7.2000
s 36(2)	substituted by 34/2000 s 22(b)	6.7.2000
s 36(3)	inserted by 41/1987 s 18	1.7.1987
Pt 3 Div 5	heading amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 37	<i>deleted by 41/1987 s 19</i>	1.7.1987
s 38		
s 38(1)	amended by 55/1984 s 7	1.2.1985
	amended by 60/1989 s 3, Sch	9.5.1991
	amended by 34/1996 s 4 (Sch cl 32)	3.2.1997
s 38(2)	amended by 34/2000 s 23	6.7.2000
s 38(3) and (4)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 38(5)	<i>amended by 23/1990 s 3(1) (Sch 6)</i>	17.7.1991
	<i>deleted by 34/1996 s 4 (Sch cl 32)</i>	3.2.1997
Pt 3 Div 6		
s 39		
s 39(1)	amended by 55/1984 s 8	1.2.1985
	amended by 34/2000 s 24	6.7.2000
s 39(1a)	inserted by 60/1989 s 4	9.5.1991
s 39(2)	amended by 43/2006 s 192	uncommenced—not incorporated
s 39(3)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
Pt 3 Div 7		

s 40		
s 40(1)	amended by 34/2000 s 25	6.7.2000
s 40(2) and (3)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 41		
s 41(1)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 26	6.7.2000
s 41(2) and (3)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 41(4)	amended by 34/2000 s 26	6.7.2000
s 42	substituted by 34/2000 s 27	6.7.2000
s 43	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 28	6.7.2000
Pt 3 Div 8		
s 45		
s 45(1)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 29	6.7.2000
s 45(2)	amended by 60/1989 Sch	9.5.1991
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 29	6.7.2000
s 47		
s 47(1)—(3)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
Pt 4		
s 48		
s 48(1)	substituted by 69/1981 s 13	12.11.1981
s 48(2)	substituted by 69/1981 s 13	12.11.1981
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 48(3)	substituted by 69/1981 s 13	12.11.1981
s 48(3a)	inserted by 69/1981 s 13	12.11.1981
	substituted by 41/1987 s 20	1.7.1988
	amended by 34/2000 s 30	6.7.2000
s 48(3b)—(3e)	inserted by 41/1987 s 20	1.7.1988
s 48(4)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 30	6.7.2000
s 49	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 50		
s 50(1)	amended by 41/1987 s 21(a)	1.7.1987
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 50(2)	amended by 41/1987 s 21(b)	1.7.1987
s 50(3)	amended by 41/1987 s 21(b)	1.7.1987
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 50A	inserted by 48/1978 s 7	13.4.1978
s 50A(1)	amended by 41/1987 s 22(a)	1.7.1987
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 50A(2)	amended by 41/1987 s 22(a), (b)	1.7.1987

	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 50A(3)	inserted by 41/1987 s 22(c)	1.7.1987
	amended by 60/1989 Sch	9.5.1991
s 50B	inserted by 41/1987 s 23	1.7.1987
Pt 4 Div 1A	inserted by 14/2000 s 4	8.6.2000
Pt 4 Div 2		
<i>s 51 before substitution by 41/2006</i>		
s 51(1)	<i>amended by 41/1987 s 24(a)</i>	1.7.1987
	<i>amended by 23/1990 s 3(1) (Sch 6)</i>	17.7.1991
	<i>amended by 34/2000 s 31</i>	6.7.2000
s 51(2)	<i>amended by 23/1990 s 3(1) (Sch 6)</i>	17.7.1991
	<i>amended by 34/2000 s 31</i>	6.7.2000
s 51(2a)	<i>inserted by 41/1987 s 24(b)</i>	1.7.1987
	<i>amended by 34/2000 s 31</i>	6.7.2000
s 51(3)	<i>inserted by 69/1981 s 14</i>	12.11.1981
	<i>amended by 41/1987 s 24(a)</i>	1.7.1987
s 51	substituted by 41/2006 s 90	1.4.2007
s 52		
s 52(1)	amended by 48/1978 s 8	13.4.1978
	amended by 55/1984 s 9	1.2.1985
	deleted by 23/1990 s 3(1) (Sch 6)	17.7.1991
	inserted by 41/2006 s 91(1)	1.4.2007
s 52(2)	substituted by 69/1981 s 15	12.11.1981
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 41/2006 s 91(2)—(5)	1.4.2007
	(d) deleted by 41/2006 s 91(3)	1.4.2007
s 52(3)	inserted by 69/1981 s 15	12.11.1981
	amended by 41/1987 s 25	1.7.1987
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 41/2006 s 91(6)—(8)	1.4.2007
	(d) deleted by 41/2006 s 91(7)	1.4.2007
Pt 4 Div 3		
s 53	<i>deleted by 69/1981 s 16</i>	12.11.1981
s 54		
s 54(2)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
Pt 4 Div 4		
s 55		
s 55(1)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 55(2)	amended by 69/1981 s 17(a)	12.11.1981
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 55(3)	inserted by 69/1981 s 17(b)	12.11.1981

	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 55(4)	<i>inserted by 69/1981 s 17(b)</i>	12.11.1981
	<i>deleted by 23/1990 s 3(1) (Sch 6)</i>	17.7.1991
s 56		
s 56(1)	amended by 41/1987 s 26	1.7.1987
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 32(a)	6.7.2000
s 56(2)	<i>amended by 23/1990 s 3(1) (Sch 6)</i>	17.7.1991
	<i>deleted by 34/2000 s 32(b)</i>	6.7.2000
s 57		
s 57(1)	amended by 41/1987 s 27(a)	1.7.1987
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 33(a)	6.7.2000
s 57(2)	amended by 41/1987 s 27(b)	1.7.1987
	substituted by 34/2000 s 33(b)	6.7.2000
s 57(3)	inserted by 41/1987 s 27(c)	1.7.1987
Pt 4 Div 4A	inserted by 69/1981 s 18	12.11.1981
s 57AA	substituted by 41/1987 s 28	1.7.1987
s 57AA(1)	amended by 60/1989 s 5, Sch	9.5.1991
	amended by 34/1996 s 4 (Sch cl 32)	3.2.1997
s 57AA(2)	amended by 34/2000 s 34	6.7.2000
s 57AA(5)	<i>deleted by 34/1996 s 4 (Sch cl 32)</i>	3.2.1997
Pt 4 Div 5	inserted by 48/1978 s 9	13.4.1978
s 57A		
s 57A(1)	amended by 34/2000 s 35	6.7.2000
s 57A(1a)	inserted by 60/1989 s 6	9.5.1991
s 57A(2)	amended by 43/2006 s 193	uncommenced—not incorporated
s 57A(3)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
Pt 4A	inserted by 55/1984 s 10	1.5.1985
s 57B		
s 57B(1)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 57B(2)	amended by 60/1989 Sch	9.5.1991
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 57B(3)	substituted by 90/1992 s 59	10.3.1995
s 57C		
s 57C(1)	amended by 34/2000 s 36	6.7.2000
s 57C(2)	amended by 63/1991 s 3	5.12.1991
s 57D		
s 57D(1)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 63/1991 s 4(a), (b)	5.12.1991
	amended by 34/2000 s 37	6.7.2000
s 57D(1a)	inserted by 63/1991 s 4(c)	5.12.1991

	amended by 34/2000 s 37	6.7.2000
s 57D(2)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 37	6.7.2000
s 57D(3)	<i>deleted by 23/1990 s 3(1) (Sch 6)</i>	17.7.1991
s 57E		
s 57E(1)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 38	6.7.2000
s 57E(2)	amended by 63/1991 s 5(a)	5.12.1991
	amended by 34/2000 s 38	6.7.2000
s 57E(3)	amended by 34/2000 s 38	6.7.2000
s 57E(4)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 63/1991 s 5(b)	5.12.1991
	amended by 34/2000 s 38	6.7.2000
s 57E(5)	inserted by 63/1991 s 5(c)	5.12.1991
	amended by 34/2000 s 38	6.7.2000
s 57F	amended by 60/1989 Sch	9.5.1991
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 57G		
s 57G(1)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 57G(2) and (3)	amended by 34/2000 s 39	6.7.2000
s 57G(4) and (5)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 57H		
s 57H(1) and (3)	amended by 34/2000 s 40	6.7.2000
s 57H(4)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 40	6.7.2000
s 57I		
s 57I(1)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 57I(2)	amended by 34/2000 s 41(a), (b)	6.7.2000
s 57I(3)	amended by 34/2000 s 41(c)	6.7.2000
s 57I(4)	amended by 34/2000 s 41(d)	6.7.2000
s 57I(5)	amended by 60/1989 Sch	9.5.1991
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 57I(6)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 57J		
s 57J(1)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 42(a)	6.7.2000
s 57J(3)	amended by 34/2000 s 42(b)	6.7.2000
s 57J(4)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	substituted by 34/2000 s 42(c)	6.7.2000
s 57J(5)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 42(d), (e)	6.7.2000
s 57J(6) and (7)	amended by 34/2000 s 42(f)	6.7.2000
s 57K		

s 57K(1)	amended by 34/2000 s 43	6.7.2000
s 57K(2)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 57K(3) and (4)	amended by 60/1989 Sch	9.5.1991
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
Pt 5		
s 58	substituted by 41/1987 s 29	1.7.1987
s 58(1)	amended by 34/2000 s 44(a)	6.7.2000
s 58(2)	amended by 34/2000 s 44(b)	6.7.2000
s 58(3)	amended by 34/2000 s 44(c)	6.7.2000
s 58A	inserted by 41/1987 s 29	1.7.1987
s 58A(1)	amended by 14/1993 s 2(a)	1.4.1993
s 58A(4)	amended by 14/1993 s 2(b)	1.4.1993
s 59		
s 59(1)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	substituted by 41/2006 s 92	1.4.2007
s 59(2)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
<i>s 60 before deletion by 41/2006</i>		
s 60(1)	<i>s 60 redesignated as s 60(1) by 23/1979 s 3</i>	<i>19.4.1979</i>
	<i>amended by 65/1985 s 2(a), (b)</i>	<i>6.6.1985</i>
	<i>amended by 23/1990 s 3(1) (Sch 6)</i>	<i>17.7.1991</i>
	<i>amended by 34/2000 s 45(a)</i>	<i>6.7.2000</i>
s 60(2)	<i>inserted by 23/1979 s 3</i>	<i>19.4.1979</i>
	<i>amended by 23/1990 s 3(1) (Sch 6)</i>	<i>17.7.1991</i>
	<i>amended by 34/2000 s 45(b)</i>	<i>6.7.2000</i>
s 60(3)	<i>inserted by 23/1979 s 3</i>	<i>19.4.1979</i>
	<i>amended by 34/2000 s 45(c)</i>	<i>6.7.2000</i>
s 60(4)	<i>inserted by 23/1979 s 3</i>	<i>19.4.1979</i>
	<i>amended by 65/1985 s 2(c), (d)</i>	<i>6.6.1985</i>
	<i>amended by 34/2000 s 45(d)</i>	<i>6.7.2000</i>
s 60	deleted by 41/2006 s 93	1.4.2007
s 61		
s 61(1)	amended by 69/1981 s 19	12.11.1981
s 61(2)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 46(a)—(c)	6.7.2000
	amended by 41/2006 s 94(1), (2)	1.4.2007
s 61(3)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 46(d)	6.7.2000
	amended by 41/2006 s 94(3)	1.4.2007
s 62		
s 62(1)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 47	6.7.2000
s 62(2)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991

s 62A	inserted by 69/1981 s 20	12.11.1981
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 48	6.7.2000
s 63		
s 63(1)	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	substituted by 34/2000 s 49	6.7.2000
s 63A	inserted by 41/1987 s 30	1.7.1987
s 63A(2)	amended by 60/1989 Sch	9.5.1991
s 63A(3)		
health employee	amended by 34/2000 s 50	6.7.2000
	amended by 41/2006 s 95	1.4.2007
s 64		
s 64(1)	amended by 41/1987 s 31	1.7.1987
	amended by 60/1989 Sch	9.5.1991
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 34/2000 s 51	6.7.2000
	substituted by 41/2006 s 96	1.4.2007
s 64A	inserted by 55/1984 s 11	1.5.1985
s 64B	inserted by 55/1984 s 11	1.5.1985
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 64C	inserted by 55/1984 s 11	1.5.1985
	amended by 60/1989 s 7	9.5.1991
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 64D	inserted by 41/1987 s 32	1.7.1987
	substituted by 60/1989 s 8	9.5.1991
s 65	substituted by 23/1990 s 3(1) (Sch 6)	17.7.1991
s 66		
s 66(2)	amended by 55/1984 s 12	1.5.1985
	amended by 41/1987 s 33	1.7.1987
	amended by 60/1989 Sch	9.5.1991
	amended by 23/1990 s 3(1) (Sch 6)	17.7.1991
	amended by 63/1991 s 6	5.12.1991
	amended by 34/2000 s 52	6.7.2000
Sch 1	amended by 52/1977 s 2	15.12.1977
Pt 2	<i>deleted in pursuance of the Acts Republication Act 1967 as its function is now exhausted</i>	1.8.1985
Pt 3	Third column deleted as this method of citation is now obsolete	1.8.1985
	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	1.8.1985
Pt 4	<i>omitted in pursuance of the Acts Republication Act 1967 as its function is now exhausted</i>	1.8.1985

Transitional etc provisions associated with Act or amendments

South Australian Health Commission (Private Hospital Beds) Amendment Act 1991

7—Transitional provision

- (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.

Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996

5—Transitional provision

An Act repealed or amended by this Act will continue to apply (as in force immediately prior to the repeal or amendment coming into operation) to an expiation notice issued under the repealed or amended Act.

Statutes Amendment (Public Sector Employment) Act 2006, Sch 1—Transitional provisions

Note—

Also see *Statutes Amendment (Public Sector Employment) (Transitional Provisions) Regulations 2007*.

1—Interpretation

In this Part, unless the contrary intention appears—

Commonwealth Act means the *Workplace Relations Act 1996* of the Commonwealth;

employing authority means—

- (a) subject to paragraph (b)—the person who is the employing authority under a relevant Act;
- (b) in a case that relates to employment under the *Fire and Emergency Services Act 2005*—the Chief Executive of the South Australian Fire and Emergency Services Commission, or the Chief Officer of an emergency services organisation under that Act, as the case requires;

Industrial Commission means the Industrial Relations Commission of South Australia;

prescribed body means—

- (a) the Aboriginal Lands Trust;

- (b) the Adelaide Cemeteries Authority;
- (c) the Adelaide Festival Centre Trust;
- (d) the Adelaide Festival Corporation;
- (e) SA Ambulance Service Inc;
- (f) the Minister to whom the administration of the *Children's Services Act 1985* is committed;
- (g) the Minister to whom the administration of the *Education Act 1972* is committed;
- (h) the Electricity Supply Industry Planning Council;
- (i) a body constituted under the *Fire and Emergency Services Act 2005*;
- (j) the History Trust of South Australia;
- (k) the Institute of Medical and Veterinary Science;
- (l) a regional NRM board constituted under the *Natural Resources Management Act 2004*;
- (m) the Senior Secondary Assessment Board of South Australia;
- (n) the South Australian Country Arts Trust;
- (o) the South Australian Film Corporation;
- (p) the South Australian Health Commission;
- (q) an incorporated hospital under the *South Australian Health Commission Act 1976*;
- (r) an incorporated health centre under the *South Australian Health Commission Act 1976*;
- (s) the South Australian Motor Sport Board;
- (t) the South Australian Tourism Commission;
- (u) The State Opera of South Australia;
- (v) the State Theatre Company of South Australia;
- (w) the Minister to whom the administration of the *Technical and Further Education Act 1975* is committed;

relevant Act means—

- (a) in a case that relates to employment with a prescribed body established under an Act being amended by this Act—that Act;
- (b) in a case that relates to employment with a prescribed body who is a Minister to whom the administration of an Act being amended by this Act is committed—that Act;
- (c) in a case that relates to employment with a body constituted under the *Fire and Emergency Services Act 2005*—that Act.

2—Transfer of employment

- (1) Subject to this clause, a person who, immediately before the commencement of this clause, was employed by a prescribed body under a relevant Act will, on that commencement, be taken to be employed by the employing authority under that Act (as amended by this Act).
- (2) The following persons will, on the commencement of this clause, be taken to be employed as follows:
 - (a) a person who, immediately before the commencement of this clause, was employed under section 6L(1) of the *Electricity Act 1996* will, on that commencement, be taken to be employed by the employing authority under that Act (as amended by this Act);
 - (b) a person who, immediately before the commencement of this clause, was employed by the South Australian Fire and Emergency Services Commission will, on that commencement, be taken to be employed by the Chief Executive of that body;
 - (c) a person who, immediately before the commencement of this clause, was employed by an emergency services organisation under the *Fire and Emergency Services Act 2005* will, on that commencement, be taken to be employed by the Chief Officer of that body;
 - (d) a person who, immediately before the commencement of this clause, was employed by an incorporated hospital or an incorporated health centre under the *South Australian Health Commission Act 1976* will, on that commencement, be taken to be employed by an employing authority under that Act (as amended by this Act) designated by the Governor by proclamation made for the purposes of this paragraph.
- (3) Subject to this clause, the Governor may, by proclamation, provide that a person employed by a subsidiary of a public corporation under the *Public Corporations Act 1993* will be taken to be employed by a person or body designated by the Governor (and the arrangement so envisaged by the proclamation will then have effect in accordance with its terms).
- (4) Subject to subclause (5), an employment arrangement effected by subclause (1), (2) or (3)—
 - (a) will be taken to provide for continuity of employment without termination of the relevant employee's service; and
 - (b) will not affect—
 - (i) existing conditions of employment or existing or accrued rights to leave; or
 - (ii) a process commenced for variation of those conditions or rights.

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- (5) If, immediately before the commencement of this clause, a person's employment within the ambit of subclause (1), (2) or (3) was subject to the operation of an award or certified agreement (but not an Australian Workplace Agreement) under the Commonwealth Act, then, on that commencement, an award or enterprise agreement (as the case requires) will be taken to be created under the *Fair Work Act 1994*—
- (a) with the same terms and provisions as the relevant industrial instrument under the Commonwealth Act; and
 - (b) with any terms or provisions that existed under an award or enterprise agreement under the *Fair Work Act 1994*, that applied in relation to employment of the kind engaged in by the person, immediately before 27 March 2006, and that ceased to apply by virtue of the operation of provisions of the Commonwealth Act that came into force on that day,
- subject to any modification or exclusion prescribed by regulations made for the purposes of this subclause and subject to the operation of subclause (6).
- (6) Where an award or enterprise agreement is created by virtue of the operation of subclause (5)—
- (a) the award or enterprise agreement will be taken to be made or approved (as the case requires) under the *Fair Work Act 1994* on the day on which this clause commences; and
 - (b) the *Fair Work Act 1994* will apply in relation to the award or enterprise agreement subject to such modifications or exclusions as may be prescribed by regulations made for the purposes of this subclause; and
 - (c) the Industrial Commission may, on application by the Minister to whom the administration of the *Fair Work Act 1994* is committed, or an application by a person or body recognised by regulations made for the purposes of this subclause, vary or revoke any term or provision of the award or enterprise agreement if the Industrial Commission is satisfied that it is fair and reasonable to do so in the circumstances.

3—Superannuation

- (1) If a prescribed body under a relevant Act is, immediately before the commencement of this clause, a party to an arrangement relating to the superannuation of one or more persons employed by the prescribed body, then the relevant employing authority under that Act will, on that commencement, become a party to that arrangement in substitution for the prescribed body.
- (2) Nothing that takes effect under subclause (1)—
- (a) constitutes a breach of, or default under, an Act or other law, or constitutes a breach of, or default under, a contract, agreement, understanding or undertaking; or
 - (b) terminates an agreement or obligation or fulfils any condition that allows a person to terminate an agreement or obligation, or gives rise to any other right or remedy,
- and subclause (1) may have effect despite any other Act or law.

- (3) An amendment effected to another Act by this Act does not affect a person's status as a contributor under the *Superannuation Act 1988* (as it may exist immediately before the commencement of this Act).

4—Interpretative provision

- (1) The Governor may, by proclamation, direct that a reference in any instrument (including a statutory instrument) or a contract, agreement or other document to a prescribed body, or other specified agency, instrumentality or body, will have effect as if it were a reference to an employing authority under a relevant Act, the Minister to whom the administration of a relevant Act is committed, or some other person or body designated by the Governor.
- (2) A proclamation under subclause (1) may effect a transfer of functions or powers.

5—Related matters

- (1) A notice in force under section 51 of the *Children's Services Act 1985* immediately before the commencement of this clause will continue to have effect for the purposes of that section, as amended by this Act.
- (2) A notice in force under section 28 of the *Institute of Medical and Veterinary Science Act 1982* immediately before the commencement of this clause will continue to have effect for the purposes of that section, as amended by this Act.
- (3) A notice in force under section 61 of the *South Australian Health Commission Act 1976* immediately before the commencement of this clause will continue to have effect for the purposes of that section, as amended by this Act.
- (4) A notice in force under section 13(6) of the *South Australian Motor Sport Act 1984* immediately before the commencement of this clause will continue to have effect after that commencement but may, pursuant to this subclause, be varied from time to time, or revoked, by the Minister to whom the administration of that Act is committed.
- (5) The fact that a person becomes an employer in his or her capacity as an employing authority under an Act amended by this Act does not affect the status of any body or person as an employer of public employees for the purposes of the *Fair Work Act 1994* (unless or until relevant regulations are made under the provisions of that Act).

6—Other provisions

- (1) The Governor may, by regulation, make additional provisions of a saving or transitional nature consequent on the enactment of this Act.
- (2) A provision of a regulation made under subclause (1) may, if the regulation so provides, take effect from the commencement of this Act or from a later day.
- (3) To the extent to which a provision takes effect under subclause (2) from a day earlier than the day of the regulation's publication in the Gazette, the provision does not operate to the disadvantage of a person by—
 - (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.

- (4) The *Acts Interpretation Act 1915* will, except to the extent of any inconsistency with the provisions of this Schedule (or regulations made under this Schedule), apply to any amendment or repeal effected by this Act.

Historical versions

1.8.1985

17.7.1991

Reprint No 1—15.1.1992

Reprint No 2—1.4.1993

Reprint No 3—1.1.1994

Reprint No 4—10.3.1995

Reprint No 5—3.2.1997

Reprint No 6—8.6.2000

Reprint No 7—6.7.2000

Appendix—Divisional penalties and expiation fees

At the date of publication of this version 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.