

**HEALTH COMMISSION AND OTHER ACTS
(AMENDMENT) ACT.**

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 8, 1975.

An Act to make further provision with respect to the powers, authorities, duties and functions of the Health Commission of New South Wales; for this and other purposes to amend the Health Commission Act, 1972, the New South Wales State Cancer Council Act, 1955, and certain other Acts; and for purposes connected therewith. [Assented to, 4th April, 1975.]

BE

Health Commission and Other Acts (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 8, 1975 and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Health Commission and Other Acts (Amendment) Act, 1975". Short title.

2. (1) This section and section 1 shall commence on the date of assent to this Act. Commence-
ment.

(2) Sections 3 (c), 10 and 11 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Sections 3 (f), 4, 5 and 6 shall be deemed to have commenced on the day on which Part 1 of the Schedule to the Health Commission Act, 1972, commenced.

(4) Section 7 shall commence on the day on which section 7 (1) of the Public Health (Amendment) Act, 1944, commences.

(5) Except as provided in subsections (1), (2), (3) and (4), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. The Health Commission Act, 1972, is amended— Amendment
of Act No.
63, 1972.

(a) by inserting after section 5 (2) the following subsection:— Sec. 5.
(Appoint-
ment of
members.)

(3) For the purposes of section 11A of the Public Service Act, 1902, a member shall be deemed to be an officer within the meaning of that Act.

(b)

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Sec. 6.
(Members to
be appointed
to specified
offices.)

- (b) (i) by inserting in section 6 (1) after the word "appointed" the words ", by the same instrument as, or by a separate instrument from, the instrument by which they are appointed as members";
- (ii) by inserting in section 6 (2) after the word "appointed" the words ", by the same instrument as, or by a separate instrument from, the instrument by which he was appointed as a member,";

Secs. 14A,
14B.

Servants of
the Com-
mission.

- (c) by inserting after section 14 the following sections :—

14A. (1) The Commission may appoint and employ such servants as may be necessary for the purpose of the supply of goods or substances, or of services, for one or more health services if the appointment and employment by the Commission of servants for that purpose is first approved by the Public Service Board appointed under the Public Service Act, 1902.

(2) A servant of the Commission shall, subject to the terms of his appointment, continue in the service of the Commission at the will of the Commission only.

(3) A servant of the Commission shall be subject to the sole control and governance of the Commission which may fix wages and conditions of employment where they are not fixed in accordance with the provisions of any other Act.

(4) The regulations may make provision for or with respect to—

- (a) the control and governance of servants by the Commission; and

(b)

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(b) any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the Commission of such servants or classes of servants as are appointed and employed under this section. **No. 8, 1975**

14B. The Local Government (Superannuation) Act, 1927, shall apply to and in respect of servants of the Commission appointed and employed under section 14A in the same way as if a proclamation made by the Governor in respect of those servants had been published in the Gazette under section 2 (4) (a) of the Local Government (Superannuation) Act, 1927. **Super-annuation of servants.**

(d) by inserting after section 21 the following section :— **Sec. 21A.**

21A. (1) The Commission may from time to time with the concurrence of the Treasurer and approval of the Governor borrow money for— **Borrowing and repayment of money.**

- (a) the purpose of carrying out and performing any of its powers, authorities, duties and functions;
- (b) the renewal of loans;
- (c) the discharge or partial discharge of any loan or any indebtedness to the Treasurer or to any bank; or
- (d) any other purpose of this Act.

(2) The due repayment of any money borrowed by the Commission, and the interest thereon, shall be a charge upon the income and revenue of the Commission from whatever source arising and is hereby guaranteed by the Government.

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(3) Any liability arising under the guarantee given by subsection (2) shall be discharged out of money provided by Parliament.

(4) The charge created by subsection (2) shall not prejudice or affect any power of the Commission to sell, lease, exchange or otherwise deal with or dispose of, free of the charge, any property vested in it.

Sec. 36.

(e) by inserting after section 35 the following section :—

Appointment of persons other than members or officers of the Commission to certain bodies.

36. (1) Where an Act, whether passed before or after the commencement of this section, provides for the appointment of a member from time to time nominated by the Commission, or an officer of the Commission from time to time so nominated, as a member of a body constituted under that Act, the Commission may, with the approval of the Minister, nominate a person who is not a member or officer of the Commission to be a member of that body and that person may be appointed as a member of that body.

(2) Where, under subsection (1), a person is appointed as a member of a body, that body shall, notwithstanding any provision of the Act under which the body is constituted, be deemed to be as fully and validly constituted as it would have been if that person had been a member or officer, as the case may be, of the Commission.

Sched. Amendments of Acts.

(f) (i) by omitting from Part 1 of the Schedule the matter relating to the Newcastle District Abattoir and Sale-yards Act, 1912;

(ii)

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- (ii) by inserting in paragraph (a) of the matter No. 8, 1975 relating to the Pharmacy Act, 1964, in Column 2 of Part 1 of the Schedule after the words "in subsection (2)" the words "where firstly occurring".
4. The Public Health Act, 1902, is amended by omitting from section 13 the words "by the President or". Amendment of Act No. 30, 1902.
Sec. 13.
(Inquiries.)
5. The Pure Food Act, 1908, is amended by omitting from section 39 (2) the word "board" and by inserting instead the word "Commission". Amendment of Act No. 31, 1908.
Sec. 39.
(Forfeiture of food or article.)
6. The Conveyancing Act, 1919, is amended by omitting from the matter distinguished by the figure "7." in Column two of Part II of Schedule IV the words "Board of Health" and by inserting instead the words "Health Commission of New South Wales". Amendment of Act No. 6, 1919.
Sched. IV.
7. The Public Health (Amendment) Act, 1944, is amended by omitting from section 7 (1), in section 63A (2) to be inserted in the Public Health Act, 1902, the word "board" and by inserting instead the word "Commission". Amendment of Act No. 16, 1944.
Sec. 7.
(Further amendment of Act No. 30, 1902.
New Part VIA.)
8. The New South Wales State Cancer Council Act, 1955, is amended by omitting section 5 (1) (a) and by inserting instead the following paragraph :— Amendment of Act No. 25, 1955.
Sec. 5.
(Members of Council.)
- (a) one shall be a medical practitioner who is—
- (i) a member; or
- (ii)

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(ii) an officer,
of the Health Commission of New South Wales
appointed on the nomination of that Commission;

Applica-
tion of
ss. 11 and
12 of the
Health
Commission
Act, 1972,
to certain
members.

9. (1) In this section—

“Health Commission” means the Health Commission of
New South Wales constituted under the Health
Commission Act, 1972;

“Hospitals Commission” means the Hospitals Commis-
sion of New South Wales constituted under the
Public Hospitals Act, 1929.

(2) For the purposes of sections 11 and 12 of the
Health Commission Act, 1972, a member of the Health
Commission who was, immediately before his appointment as
a member of the Health Commission, a member of the
Hospitals Commission and who had been, prior to his
appointment as a member of the Hospitals Commission, an
officer of the Public Service, shall be deemed to have been an
officer of the Public Service immediately before his
appointment as a member of the Health Commission.

Dissolution
of The
Central
West Linen
Service,
Orange.

10. (1) In this section—

“appointed day” means the day appointed and notified
under section 2 (2);

“Commission” means the Health Commission of New
South Wales constituted under the Health
Commission Act, 1972;

“Linen Service” means The Central West Linen Service,
Orange;

“permanent servant” has the meaning ascribed thereto in
the Local Government (Superannuation) Act,
1927;

“servant of the Linen Service” means a person who,
immediately before the appointed day, was a
servant or employee of the Linen Service.

(2)

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(2) On the appointed day, the Linen Service is No. 8, 1975 hereby dissolved.

(3) A servant of the Linen Service shall be deemed, on the appointed day, to have been appointed and, on and from that day, to be employed under section 14A of the Health Commission Act, 1972.

(4) A servant of the Linen Service shall retain any rights which have accrued or are accruing to him as a permanent servant and shall continue to contribute to any fund or account and shall be entitled to receive any payment, pension or gratuity as if he had continued, as a servant or employee of the Linen Service, to be a permanent servant.

(5) The Commission, in respect of a servant of the Linen Service, shall pay to the Local Government Superannuation Board such amounts as would have been payable by the Linen Service to the Local Government Superannuation Board in respect of that person if he had remained, as a servant or employee of the Linen Service, a permanent servant and as if he were receiving from the Linen Service the same salary or wages as is or are being paid to him during his service with the Commission.

(6) A servant of the Linen Service shall be paid salary or wages at a rate not less than the rate which was payable to him immediately before the appointed day, subject to any adjustment necessary to give effect to any fluctuation in a basic or minimum wage by reference to which his salary or wages is or are fixed, until the salary or wages payable to him is or are varied or altered pursuant to the award of a competent tribunal or an industrial agreement or by the Commission.

(7) Where any condition of employment of a servant of the Linen Service was, immediately before the appointed day, regulated by an award or industrial agreement, that condition shall continue to be so regulated until an award of a competent tribunal by which the Commission is bound or an industrial agreement is made regulating that condition.

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(8) The period of service of a servant of the Linen Service with the Linen Service shall be deemed to be service with the Commission for the purposes of annual leave, sick leave or long service leave.

(9) A servant of the Linen Service shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

(10) On and from the appointed day—

- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to the Linen Service shall vest in and belong to the Commission ;
- (b) all moneys and liquidated and unliquidated claims that, immediately before that day, were payable to or recoverable by the Linen Service shall be moneys and liquidated and unliquidated claims payable to or recoverable by the Commission ;
- (c) all suits, actions and proceedings pending immediately before that day at the suit of the Linen Service shall be respectively suits, actions and proceedings pending at the suit of the Commission and all suits, actions and proceedings so pending at the suit of any person against the Linen Service shall be respectively suits, actions and proceedings pending at the suit of that person against the Commission ;
- (d) all contracts, agreements, arrangements and undertakings entered into with and all securities lawfully given to or by the Linen Service and in force immediately before that day shall be deemed to be

contracts,

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contracts, agreements, arrangements and under-No. 8, 1975
takings entered into with and securities given to or
by the Commission ;

- (e) the Commission may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of moneys and claims referred to in this subsection and for the prosecution of suits, actions and proceedings so referred to as the Linen Service might have done but for the amendments effected by this Act ;
- (f) the Commission may enforce and realise any security or charge existing immediately before that day in favour of the Linen Service and may exercise any powers thereby conferred on the Linen Service as if the security or charge were a security or charge in favour of the Commission ;
- (g) all debts, moneys and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, the Linen Service shall be debts due, moneys payable by and claims recoverable against the Commission ;
and
- (h) all liquidated and unliquidated claims for which the Linen Service would, but for the amendments effected by this Act, have been liable shall be liquidated and unliquidated claims for which the Commission shall be liable.

(11) A reference to the Linen Service in any other Act or in any by-law, regulation, statutory instrument or other document, whether of the same or of a different kind, shall be read and construed as a reference to the Commission.

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- No. 8, 1975 **11.** The Public Hospitals Act, 1929, is amended—
- Amendment
of Act No.
8, 1929.
Fourth
Schedule.
- (a) by omitting from the First Column of the Fourth Schedule the words “Central West Linen Service, Orange.”; and
 - (b) by omitting from the Second Column of the Fourth Schedule the words “The Central West Linen Service, Orange.”.
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