



New South Wales

# Health Services Amendment (Administrators) Regulation 2004

under the

Health Services Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Health Services Act 1997*.

MORRIS IEMMA, M.P.,

Minister for Health

## Explanatory note

Sections 29 and 52 of the *Health Services Act 1997* (*the Act*) enable the Governor, by order published in the Gazette, to remove any or all members of an area health board or a health corporation board from office and to appoint an administrator. The Act does not expressly provide for the reappointment or replacement of administrators. However, section 47 of the *Interpretation Act 1987* provides, among other things, that a power of appointment includes a power to remove or suspend an appointee and to appoint a person to act in a vacant office or in the office of a person who is absent from that office, whether because of illness or otherwise. Sections 29 and 52 of the Act allow regulations to be made with respect to administrators.

The object of this Regulation is to make express provision with respect to the reappointment of administrators appointed under section 29 or 52 of the Act whose term of office expires, the appointment of administrators to replace those whose term of office expires or whose office becomes vacant, the appointment of persons to act in the office of administrators during their illness or absence, and the removal from office of administrators and acting administrators.

The Regulation also makes provision for the continuation of employment (as unattached officers) of persons removed as chief executive officers on the appointment of an administrator of an area health service or a statutory health corporation.

This Regulation is made under the *Health Services Act 1997*, including sections 29, 52 and 140 (the general regulation-making power).

## 2004 No 502

Clause 1 Health Services Amendment (Administrators) Regulation 2004

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### Health Services Amendment (Administrators) Regulation 2004

under the

Health Services Act 1997

#### 1 Name of Regulation

This Regulation is the *Health Services Amendment (Administrators) Regulation 2004*.

#### 2 Amendment of Health Services Regulation 2003

The *Health Services Regulation 2003* is amended by inserting the following after clause 38:

##### 38A Provisions with respect to administrators

- (1) On the expiration of a person's appointment or reappointment as administrator, the Governor may, by order published in the Gazette, reappoint the person as administrator for a further period or appoint another person as administrator.
- (2) The Governor may, by order published in the Gazette:
  - (a) remove from the office of administrator any person appointed to that office, or
  - (b) appoint a person to fill a vacancy in the office of administrator.
- (3) The Minister may appoint a person to act in the office of an administrator during the illness or absence of the administrator, and the person, while so acting, has and may exercise all the functions of the administrator and is taken to be administrator.
- (4) The Minister may remove from the office of administrator any person appointed to act in that office under subclause (3).
- (5) An administrator of an area health service may declare a person who has been removed as chief executive officer of the area health service to be an unattached officer of the area health service, and may at any time revoke the declaration.

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- (6) A person may be declared an unattached officer even if the person is appointed as the administrator of another area health service.
- (7) An unattached officer of an area health service continues to be employed by the area health service, in accordance with section 28 (4) of the Act, until:
- (a) the declaration is revoked, or
  - (b) the person resigns from that employment.
- (8) If the administrator of a statutory health corporation was, immediately before his or her appointment under section 52 (1) (c) of the Act, the chief executive officer of the corporation, the person is declared to be an unattached officer of the corporation.
- (9) An unattached officer of a statutory health corporation continues to be employed by the corporation, in accordance with section 51 (6) of the Act, until the person ceases to be the administrator of the corporation.
- (10) In this clause:
- administrator*** means an administrator of an area health service appointed under section 29 of the Act or an administrator of a statutory health corporation appointed under section 52 of the Act.