

New South Wales

Health Services Amendment (Local Health Networks) Bill 2010

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

In April 2010, the State entered into the *National Health and Hospitals Network Agreement* (the *NHHN Agreement*) with the Commonwealth, certain other States and the Territories.

The objects of this Bill are:

- (a) to amend the *Health Services Act 1997*:
 - (i) to establish a system of local health networks for the purposes of the NHHN Agreement for the whole of the State, and
 - (ii) to provide for certain statutory health corporations to be constituted and governed on a network basis so as to enable them to be recognised as health networks for the purposes of the NHHN Agreement, and
 - (iii) to enable certain affiliated health organisations to be recognised as networks for the purposes of funding under the NHHN Agreement, and
 - (iv) to make other related amendments and amendments in the nature of statute law revision, and
 - (v) to enact provisions of a savings or transitional nature, and

(b) to make consequential amendments to certain other Acts and statutory rules.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendments to Health Services Act 1997 No 154

1.1 Principal amendments

Establishment of local health networks

The proposed Act makes amendments to the *Health Services Act 1997 (the Act)* to replace the current system of area health services with a system of local health networks for the purposes of the NHHN Agreement.

Schedule 1.1 [34] replaces Schedule 1 to the Act, which currently lists the names and areas of area health services, with a new Schedule that lists the names and areas of the new local health networks.

Schedule 1.1 [5] amends section 10 of the Act to include an additional function for local health networks, namely, to co-operate with other local health networks and the Director-General of the Department of Health (the *Director-General*) in relation to the provision of services involving more than one public health organisation or on a State-wide basis.

Schedule 1.1 [6] amends section 25 of the Act to provide that the chief executive of a local health network is accountable to the local health network governing council constituted for the network.

Schedule 1.1 [7] amends section 26 of the Act to provide for a local health network governing council for each local health network. The governing councils (which will consist of 6 to 13 persons) will be appointed by the Minister having regard to certain criteria set out in the NHHN Agreement.

Schedule 1.1 [9] substitutes section 28 of the Act to specify the functions of local health network governing councils.

Schedule 1.1 [10] substitutes section 29 of the Act to enable the Minister to remove the members of a local health network governing council and appoint an administrator for the local health network.

Schedule 1.1 [11] amends section 32 of the Act to provide for directions under that section to be given to the local health network. Currently, directions under that section are given to the chief executive of an area health service.

Establishment of network governed health corporations

The proposed Act makes amendments to the Act to enable statutory health corporations to be constituted to provide health services on a network basis for the purposes of the NHHN Agreement. These statutory health corporations will be called **network governed health corporations**. Network governed health corporations will have similar corporate governance structures to a local health network, but will not have a specified area of operation like a local health network.

Schedule 1.1 [12] amends section 41 of the Act to provide that a statutory health corporation may be constituted as a network governed health corporation. Alternative forms of corporate governance will be chief executive governance or board governance. **Schedule 1.1 [13] and [14]** make consequential amendments.

Schedule 1.1 [16] inserts proposed Division 3 in Part 2 of Chapter 4 of the Act. The new Division provides for the corporate governance of network governed health corporations. Each network governed health corporation will, like the local health networks, have a chief executive officer who manages the affairs of the corporation and is accountable to the governing council for the corporation.

Schedule 1.1 [17]–[21] make amendments to the Act to recognise that the exercise of certain functions by a network governed health corporation is subject to the direction of the Director-General.

Schedule 1.1 [35] amends Schedule 2 to the Act to change the corporate governance of The Sydney Children’s Hospitals Network from chief executive governance to network governance.

Schedule 1.1 [36] amends Schedule 2 to the Act to constitute a new statutory health corporation with the corporate name “Forensic Mental Health Network” as a network governed health corporation.

Recognition of networked affiliated health organisations

Schedule 1.1 [22] inserts proposed section 62B in the Act to enable the Minister to recognise that one or more affiliated health organisations are to be treated as networks for the purposes of the NHHN Agreement.

Other amendments

Schedule 1.1 [1] and [2] amend section 4 of the Act to update the objects of the Act to reflect the amendments to be made by the proposed Act.

Schedule 1.1 [4], [8], [10], [29], [30], [33], [44] and [47] make amendments to the Act to omit certain provisions that will become redundant with the establishment of the health network system or make amendments in the nature of statute law revision.

Schedule 1.1 [15] substitutes section 52C of the Act to remove a provision that provides for the chief executive of a statutory health corporation that is a chief executive governed health corporation to be subject to the control and direction of the Director-General.

Schedule 1.1 [23] amends section 122 of the Act to confer an additional function on the Director-General in relation to the provision of governance, oversight and control of the public health system and the statutory health organisations within it. A statutory health organisation is either a local health network or statutory health corporation. **Schedule 1.1 [24]** also amends section 122 to confer a direction function on the Director-General in relation to statutory health organisations.

Schedule 1.1 [25] amends section 126 of the Act to enable performance agreements entered into with a public health organisation under that section to include the provisions of a service agreement (within the meaning of the NHHN Agreement) and require the provision of data and other information to the State for the purposes of the State's performance reporting obligations under that Agreement.

Schedule 1.1 [26] amends section 126B of the Act to provide that the Director-General may provide certain services in connection with the public health system and public health organisations.

Schedule 1.1 [3], [27] and [28] make amendments to the Act that are consequential on the amendment made by Schedule 1.1 [26].

Schedule 1.1 [31] inserts proposed section 133B in the Act to limit the personal liability of the members of board or governing councils of statutory health corporations in relation to matters or things done or omitted to be done in good faith in the exercise of their functions. The proposed section replaces a similar provision in Schedule 5 to the Act, which is to be repealed by **Schedule 1.1 [43]**.

Schedule 1.1 [32], [37], [38], [39] and [41] make amendments to the Act that are consequential on the establishment of governing councils for local health networks and network governed health corporations.

Schedule 1.1 [40] and [50] make amendments to the Act to reflect current drafting practice in relation to provisions for the transfer of assets, rights and liabilities.

Schedule 1.1 [42] amends Schedule 4 to the Act to enable the regulations to make provision for or with respect to the legal consequences of the differential transfer under the Act of rights, obligations or other liabilities under the same contract or other agreement to more than one transferee.

Schedule 1.1 [49] omits certain definitions from the Dictionary of the Act that will become redundant and inserts certain new definitions of terms used by the amendments made by the proposed Act.

Savings and transitional provisions

Schedule 1.1 [45] amends Schedule 7 to the Act to enable the Governor to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act. **Schedule 1.1 [46]** amends Schedule 7 to the Act to confirm that any such regulations may have effect despite any provision of the Act (including a provision of Schedule 7).

Schedule 1.1 [48] inserts proposed Part 7 in Schedule 7 to the Act, which contains provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

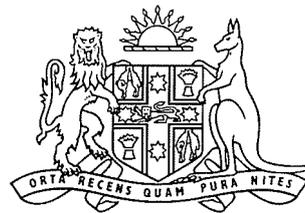
1.2 General amendments updating references to local health networks and local health network governing councils and minor amendments

Schedule 1.2 makes general amendments to the Act so as to update provisions by replacing references to area health services and area health advisory councils with references to local health networks and local health network governing councils, respectively. Schedule 1.2 also makes some other minor amendments to the Act.

Schedule 2 Consequential amendment of other Acts and statutory rules

Schedule 2 makes consequential amendments to various other Acts and statutory rules.

First print



New South Wales

Health Services Amendment (Local Health Networks) Bill 2010

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New South Wales

Health Services Amendment (Local Health Networks) Bill 2010

No. , 2010

A Bill for

An Act to amend the *Health Services Act 1997* to implement a health network system for the purposes of the *National Health and Hospitals Network Agreement*; to make consequential amendments to certain other Acts and statutory rules; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Health Services Amendment (Local Health Networks) Act 2010</i> .	3 4
2 Commencement	5
(1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).	6 7
(2) Schedule 1.1 [40], [42], [44]–[48] and [50] commence on the date of assent to this Act.	8 9

Schedule 1	Amendments to Health Services Act	1
	1997 No 154	2
1.1	Principal amendments	3
[1]	Section 4 Objects of Act	4
	Omit section 4 (a). Insert instead:	5
	(a) to establish a system of local health networks for the whole of the State to deliver health services and to enable their recognition as health networks for the purposes of the NHHN Agreement, and	6 7 8 9
[2]	Section 4 (c1)	10
	Insert after section 4 (c):	11
	(c1) to enable the recognition of some statutory health corporations and affiliated health organisations as health networks for the purposes of the NHHN Agreement, and	12 13 14
[3]	Section 6 What is the public health system?	15
	Omit “health support” from section 6 (d).	16
[4]	Section 8 What is a local health network?	17
	Omit the note at the end of the section.	18
[5]	Section 10 Functions of local health networks	19
	Insert after section 10 (f):	20
	(f1) to co-operate with other local health networks and the Director-General in relation to the provision of services involving more than one public health organisation or on a State-wide basis,	21 22 23 24
[6]	Section 25 Functions of chief executive generally	25
	Omit “subject to the control and direction of the Director-General” from section 25 (b).	26 27
	Insert instead “accountable to the local health network governing council constituted for the network”.	28 29

[7] Section 26 Constitution of local health network governing council	1
Omit section 26 (2) and (3). Insert instead:	2
(2) A local health network governing council is to consist of 6 to 13 persons appointed by the Minister, selected in accordance with subsections (3) and (3A).	3 4 5
(3) The Minister is to select the membership of a local health network governing council so that the membership of the council has an appropriate mix of skills and expertise required to oversee and provide guidance to the network, including members who:	6 7 8 9
(a) have expertise and experience in health management, business management and financial management, and	10 11
(b) have expertise and experience in the provision of clinical and other health services, and	12 13
(c) where appropriate, are representatives of universities, clinical schools or research centres, and	14 15
(d) have knowledge and understanding of the community served by the network, and	16 17
(e) have other backgrounds, skills, expertise, knowledge or experience appropriate for the network.	18 19
(3A) A local health network governing council is to have at least one member (who may also be one of the kinds of members referred to in subsection (3) (a)–(e)) who has expertise, knowledge or experience in relation to Aboriginal health.	20 21 22 23
[8] Section 27 Role of area health advisory councils	24
Omit the section.	25
[9] Section 28	26
Omit the section. Insert instead:	27
28 Functions of local health network governing councils	28
The local health network governing council for a local health network has the following functions:	29 30
(a) to ensure effective clinical and corporate governance frameworks are established to support the maintenance and improvement of standards of patient care and services by the local health network and to approve those frameworks,	31 32 33 34 35

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- | | | |
|-------|---|----|
| (b) | to approve systems: | 1 |
| (i) | to support the efficient and economic operation of the local health network, and | 2 |
| (ii) | to ensure the network manages its budget to ensure performance targets are met, and | 3 |
| (iii) | to ensure that network resources are applied equitably to meet the needs of the community served by the network, | 4 |
| (c) | to ensure strategic plans to guide the delivery of services are developed for the local health network and to approve those plans, | 5 |
| (d) | to provide strategic oversight of and monitor the local health network's financial and operational performance in accordance with the State-wide performance framework against the performance measures in the performance agreement for the network, | 6 |
| (e) | to make recommendations for the appointment of the chief executive of the local health network and, where it considers it appropriate to do so, to make recommendations concerning the removal of the chief executive, | 7 |
| (f) | to confer with the chief executive of the local health network in connection with the operational performance targets and performance measures to be negotiated in the service agreement for the network under the NHHN Agreement, | 8 |
| (g) | to approve the service agreement for the local health network under the NHHN Agreement, | 9 |
| (h) | to seek the views of providers and consumers of health services, and of other members of the community served by the local health network, as to the network's policies, plans and initiatives for the provision of health services, and to confer with the chief executive of the network on how to support, encourage and facilitate community and clinician involvement in the planning of network services, | 10 |
| (i) | to advise providers and consumers of health services, and other members of the community served by the local health network, as to the network's policies, plans and initiatives for the provision of health services, | 11 |
| (j) | to endorse the local health network's annual report, | 12 |

	(k) to liaise with the governing councils of other local health networks and network governed health corporations in relation to both local and State-wide initiatives for the provision of health services,	1 2 3 4
	(l) such other functions as are conferred or imposed on it by the regulations.	5 6
[10]	Section 29	7
	Omit sections 29 and 29A. Insert instead:	8
	29 Removal of members of local health network governing council and appointment of administrator	9 10
	(1) The Minister may at any time, for any reason or no reason and without notice, by order published in the Gazette:	11 12
	(a) remove any member or all members of a local health network governing council from office, or	13 14
	(b) remove all members of a local health network governing council from office and appoint, as administrator of the local health network concerned, the chief executive of the network or any other person specified in the order for such period as may be specified in the order.	15 16 17 18 19
	(2) If the Minister appoints an administrator of a local health network under this section, the Minister is (as soon as is reasonably practicable after the appointment is made) to make a statement in Parliament concerning the basis for the appointment of the administrator.	20 21 22 23 24
	(3) An administrator of a local health network has and may exercise, subject to any conditions that may be specified in the order by which the administrator is appointed, all the functions of the chief executive and governing council for that network.	25 26 27 28
	(4) An administrator of a local health network is entitled to be paid from the funds of that network such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the administrator.	29 30 31 32
	(5) The regulations may make provision with respect to administrators of local health networks.	33 34
[11]	Section 32 Determination of role, functions and activities of local health networks	35 36
	Omit “the chief executive of the area health service” from section 32 (1).	37
	Insert instead “the local health network”.	38

[12] Section 41 Constitution of statutory health corporations	1
Omit section 41 (3). Insert instead:	2
(3) A statutory health corporation is to be a chief executive governed health corporation, a board governed health corporation or a network governed health corporation, as specified from time to time in Schedule 2.	3 4 5 6
[13] Section 42 Amendment of Schedule 2 (Statutory health corporations)	7
Omit section 42 (a). Insert instead:	8
(a) amend Schedule 2 by inserting, altering or omitting the name of a statutory health corporation, or	9 10
(a1) amend Schedule 2 by changing its governance from:	11
(i) chief executive governance to board governance or network governance, or	12 13
(ii) board governance to chief executive governance or network governance, or	14 15
(iii) network governance to chief executive governance or board governance, or	16 17
[14] Chapter 4, Part 2, heading	18
Omit the Part heading. Insert instead:	19
Part 2 Control and management of statutory health corporations	20 21
[15] Section 52C	22
Omit the section. Insert instead:	23
52C Functions of chief executive generally	24
The chief executive of a chief executive governed health corporation has, and may exercise, such functions as are conferred or imposed on the chief executive by or under this or any other Act.	25 26 27 28

[16] Chapter 4, Part 2, Division 3	1
Insert after Division 2:	2
Division 3 Network governed health corporations	3
52F Governing councils of network governed health corporations	4
(1) There is constituted a governing council for each network governed health corporation.	5 6
(2) The provisions of Division 2 of Part 2 of Chapter 3 (except section 26 (1)) apply in relation to a governing council of a network governed health corporation in the same way as they apply to a local health network governing council, subject to the following modifications:	7 8 9 10 11
(a) a reference in those provisions (however expressed) to a local health network governing council is to be read as if it were a reference to the governing council for a network governed health corporation,	12 13 14 15
(b) a reference in those provisions (however expressed) to a local health network is to be read as if it were a reference to a network governed health corporation,	16 17 18
(c) a reference in those provisions (however expressed) to the chief executive of a local health network is to be read as if it were a reference to the chief executive of a network governed health corporation,	19 20 21 22
(d) such other modifications as may be prescribed by the regulations.	23 24
52G Chief executives of network governed health corporations	25
(1) A chief executive is to be appointed for each network governed health corporation.	26 27
(2) The provisions of Division 1 of Part 2 of Chapter 3 (except section 23 (1)) apply in relation to a chief executive of a network governed health corporation in the same way as they apply to a chief executive of a local health network, subject to the following modifications:	28 29 30 31 32
(a) a reference in those provisions (however expressed) to the chief executive of a local health network is to be read as if it were a reference to the chief executive of a network governed health corporation,	33 34 35 36

(b)	a reference in those provisions (however expressed) to a local health network is to be read as if it were a reference to a network governed health corporation,	1 2 3
(c)	a reference in those provisions (however expressed) to a local health network governing council is to be read as if it were a reference to the governing council of a network governed health corporation,	4 5 6 7
(d)	such other modifications as may be prescribed by the regulations.	8 9
[17]	Section 53 Determination of functions of statutory health corporations	10
	Insert at the end of section 53 (1) (b):	11
	, or	12
	(c) in the case of a network governed health corporation, to the corporation.	13 14
[18]	Section 53 (3) (b)	15
	Insert “or network governed health corporation” after “corporation”.	16
[19]	Section 58 Contracts of statutory health corporations	17
	Insert “or network governed health corporation” after “corporation” in section 58 (4) (b).	18 19
[20]	Section 60 Statutory health corporation may make by-laws	20
	Insert “or network governed health corporation” after “corporation” in section 60 (7) (b).	21 22
[21]	Section 61 Delegations by statutory health corporations	23
	Insert “or network governed health corporation” after “corporation” in section 61 (5) (b).	24 25
[22]	Section 62B	26
	Insert after section 62A:	27
	62B Recognition of networked affiliated health organisations	28
	(1) The Minister may, by order published in the Gazette, declare that one or more affiliated health organisations are to be treated as a network for the purposes of the NHHN Agreement in respect of some or all of their recognised establishments or recognised services.	29 30 31 32 33
	(2) An order under this section may specify a name for the network.	34

(3)	An order cannot be made under this section in relation to an affiliated health organisation except with the concurrence of the organisation (or its governing body).	1 2 3
[23]	Section 122 Functions of the Director-General	4
	Insert after section 122 (c):	5
	(c1) to provide governance, oversight and control of the public health system and the statutory health organisations within it,	6 7 8
[24]	Section 122 (f1)	9
	Insert after section 122 (f):	10
	(f1) to give directions to statutory health organisations,	11
[25]	Section 126 Director-General may enter into performance agreement with a public health organisation	12 13
	Omit section 126 (2). Insert instead:	14
	(2) A performance agreement may:	15
	(a) include the provisions of a service agreement (within the meaning of the NHHN Agreement) for the organisation, and	16 17 18
	(b) set operational performance targets for the organisation in the exercise of specified functions during a specified period, and	19 20 21
	(c) provide for the evaluation and review of results in relation to those targets, and	22 23
	(d) provide for the provision of such data or other information by a public health organisation concerning the exercise of its functions that the State determines is required to comply with the State's performance reporting obligations under the NHHN Agreement.	24 25 26 27 28
[26]	Section 126B Director-General to provide certain services	29
	Omit section 126B (1). Insert instead:	30
	(1) The Director-General may provide services for any or both of the following purposes:	31 32
	(a) to support the public health system and public health organisations and the public hospitals they control,	33 34
	(b) to enable the co-ordinated provision of health services involving more than one public health organisation or on a State-wide basis.	35 36 37

[27]	Section 126G Directions by Minister in relation to acquisition of services	1
	Omit “health support services” from section 126G (1) (a).	2
	Insert instead “services”.	3
[28]	Section 126G (2) (e) (i)	4
	Omit “health support services”. Insert instead “services”.	5
[29]	Section 131 Transfer of hospitals, health institutions, services and property between statutory health organisations	6
	Omit section 131 (5).	7
[30]	Chapter 11 Miscellaneous	9
	Omit the last sentence from the Introduction at the beginning of the Chapter.	10
[31]	Section 133B	11
	Insert after section 133A:	12
133B	Personal liability of members of boards or governing councils of statutory health organisations	13
	A matter or thing done or omitted to be done by:	14
	(a) a statutory health organisation, or	15
	(b) the board or governing council of a statutory health organisation, or	16
	(c) a member of the board or governing council of a statutory health organisation, or	17
	(d) a person acting under the direction of such an organisation, board or governing council,	18
	does not, if the matter or thing was done or omitted to be done in good faith for the purposes of executing this or any other Act, subject such a member or person personally to any action, liability, claim or demand.	19
		20
		21
		22
		23
		24
		25
		26
[32]	Section 136 Proof of certain matters not required	27
	Insert “, governing council or governing body” after “board” wherever occurring.	28
		29
[33]	Section 138 Repeal of the Area Health Services Act 1986 No 50 and the Public Hospitals Act 1929 No 8	30
	Omit the section.	31
		32

[34] **Schedule 1** 1

Omit the Schedule. Insert instead: 2

Schedule 1 Names and areas of local health networks 3
4

(Sections 17 and 18) 5

Column 1	Column 2	Column 3
Name of local health network	Description of local government area or city	Description of area other than local government area
Sydney Local Health Network	Ashfield, Burwood, Canada Bay, Canterbury, Leichhardt, Marrickville, Strathfield, Sydney (part)	
South Western Sydney Local Health Network	Bankstown, Camden, Campbelltown, Fairfield, Liverpool, Wingecarribee, Wollondilly	
South Eastern Sydney Local Health Network	Botany Bay, Hurstville, Kogarah, Randwick, Rockdale, Sutherland, Sydney (part), Waverley, Woollahra	
Illawarra Shoalhaven Local Health Network	Kiama, Shellharbour, Shoalhaven, Wollongong	
Western Sydney Local Health Network	Auburn, Baulkham Hills, Blacktown, Holroyd, Parramatta	
Nepean Blue Mountains Local Health Network	Blue Mountains, Hawkesbury, Lithgow, Penrith	
Northern Sydney Local Health Network	Hornsby, Hunters Hill, Ku-ring-gai, Lane Cove, Manly, Mosman, North Sydney, Pittwater, Ryde, Warringah, Willoughby	
Central Coast Local Health Network	Gosford, Wyong	

Column 1	Column 2	Column 3
Name of local health network	Description of local government area or city	Description of area other than local government area
Hunter New England Local Health Network	Armidale Dumaresq, Cessnock, Dungog, Glen Innes Severn, Gloucester, Great Lakes, Greater Taree, Gunnedah, Guyra, Gwydir, Inverell, Lake Macquarie, Liverpool Plains, Maitland, Moree Plains, Muswellbrook, Narrabri, Newcastle, Port Stephens, Singleton, Tamworth Regional, Tenterfield, Upper Hunter, Uralla, Walcha	
Murrumbidgee Local Health Network	Balranald, Berrigan, Bland, Boorowa, Carrathool, Conargo, Coolamon, Cootamundra, Corowa, Deniliquin, Greater Hume, Griffith, Gundagai, Harden, Hay, Jerilderie, Junee, Leeton, Lockhart, Murray, Murrumbidgee, Narrandera, Temora, Tumbarumba, Tumut, Urana, Wagga Wagga, Wakool, Wentworth, Young	
Southern NSW Local Health Network	Bega Valley, Bombala, Cooma-Monaro, Eurobodalla, Goulburn Mulwaree, Palerang, Queanbeyan, Snowy River, Upper Lachlan, Yass Valley	

Column 1	Column 2	Column 3
Name of local health network	Description of local government area or city	Description of area other than local government area
Western NSW Local Health Network	Bathurst Regional, Blaney, Bogan, Bourke, Brewarrina, Cabonne, Cobar, Coonamble, Cowra, Dubbo, Forbes, Gilgandra, Lachlan, Mid-Western Regional, Narromine, Oberon, Parkes, Walgett, Warren, Warrumbungle, Weddin, Wellington	
Far West Local Health Network	Broken Hill, Central Darling	Unincorporated Far West
Mid North Coast Local Health Network	Bellingen, Coffs Harbour, Hastings, Kempsey, Nambucca	Lord Howe Island
Northern NSW Local Health Network	Ballina, Byron, Clarence Valley, Kyogle, Lismore, Richmond Valley, Tweed	

[35]	Schedule 2 Statutory health corporations	1
	Omit “Chief executive” from Column 2 in relation to the matter relating to The Sydney Children’s Hospitals Network (Randwick and Westmead) (incorporating The Royal Alexandra Hospital for Children).	2 3 4
	Insert instead “Network”.	5
[36]	Schedule 2	6
	Insert after the matter relating to the Clinical Excellence Commission, in columns 1 and 2 respectively:	7 8
	Forensic Mental Health Network Network	
[37]	Schedule 4 Transfers, dissolutions, amalgamations and changes of name or nature of governance	9 10
	Omit clause 4 (1) (b) and (2) (b). Insert instead, respectively:	11
	(b) in the case of a board governed health corporation or network governed health corporation, the members of the board or governing council of the corporation (as the case	12 13 14

	requires) cease to hold office, but are not entitled to be paid any compensation by reason of ceasing to hold office, and	1 2
[38]	Schedule 4, clause 4 (3) (b)	3
	Omit the paragraph. Insert instead:	4
	(b) the members of the board of a board governed health corporation or the governing council of a network governed health corporation involved in the amalgamation cease to hold office and:	5 6 7 8
	(i) if the amalgamated corporation is a board governed health corporation or network governed health corporation, are eligible (if otherwise qualified) to be appointed as members of the board or governing council of the amalgamated corporation, and	9 10 11 12 13
	(ii) are not entitled to be paid any compensation by reason of ceasing to hold office, and	14 15
[39]	Schedule 4, clause 4 (4A) and (4B)	16
	Omit clause 4 (4A). Insert instead:	17
	(4A) Change of governance orders	18
	On and from the date specified in an order made under section 43 (1) (d) changing the nature of governance of a statutory health corporation from board governance or network governance to chief executive governance, the members of the board or governing council for the corporation cease to hold office, but are not entitled to be paid any compensation by reason of ceasing to hold office.	19 20 21 22 23 24 25
	(4B) On and from the date specified in an order made under section 43 (1) (d) changing the nature of governance of a statutory health corporation from board governance to network governance or from network governance to board governance, the members of the existing board or governing council cease to hold office and:	26 27 28 29 30 31
	(a) are eligible (if otherwise qualified) to be appointed as members of the new board or governing council of the corporation, and	32 33 34
	(b) are not entitled to be paid any compensation by reason of ceasing to hold office.	35 36

Health Services Amendment (Local Health Networks) Bill 2010

Schedule 1 Amendments to Health Services Act 1997 No 154

[40] Schedule 4, clause 10 (1) (d1)	1
Insert after clause 10 (1) (d):	2
(d1) the transferee has all the entitlements and obligations of	3
the transferor in relation to those assets, rights and	4
liabilities that the transferor would have had but for the	5
order, whether or not those entitlements and obligations	6
were actual or potential at the time the transfer took effect,	7
[41] Schedule 4, clause 16 (1)	8
Insert “or governing council” before “or managing body”.	9
[42] Schedule 4, clause 18 (1A)	10
Insert after clause 18 (1):	11
(1A) Without limiting subclause (1), a provision referred to in that	12
subclause may make provision for or with respect to the legal	13
consequences of the differential transfer of rights, obligations or	14
other liabilities under the same contract or other agreement to	15
more than one transferee.	16
[43] Schedule 5 Provisions relating to members and procedure of health	17
 corporation boards	18
Omit clause 11.	19
[44] Schedule 7, heading	20
Omit “ and transitional ” from the heading.	21
Insert instead “ , transitional and other ”.	22
[45] Schedule 7, clause 1	23
Insert at the end of clause 1 (1):	24
<i>Health Services Amendment (Local Health Networks) Act 2010</i>	25
[46] Schedule 7, clause 1 (2)	26
Omit the subclause. Insert instead:	27
(2) If the regulations so provide, any such provision may:	28
(a) have effect despite any specified provision of this Act	29
(including a provision of this Schedule), and	30
(b) take effect from the date of assent to the Act concerned or	31
a later date.	32

[47] Schedule 7, clause 1 (3)	1
Omit “in the Gazette”. Insert instead “on the NSW legislation website”.	2
[48] Schedule 7, Part 7	3
Insert after Part 6:	4
Part 7 Provisions consequent on enactment of Health Services Amendment (Local Health Networks) Act 2010	5 6 7
75 Definitions	8
In this Part:	9
<i>amending Act</i> means the <i>Health Services Amendment (Local Health Networks) Act 2010</i> .	10 11
<i>existing area health advisory council</i> means an area health advisory council for an existing area health service.	12 13
<i>existing area health service</i> means an area health service in existence immediately before the network establishment day.	14 15
<i>existing by-laws</i> means any by-laws made by an area health service that were in force immediately before the network establishment day.	16 17 18
<i>local health network</i> means a local health network constituted by this Act (as in force on the network establishment day).	19 20
<i>network establishment day</i> means the day on which Schedule 1 is substituted by the amending Act.	21 22
76 Dissolution of existing area health services	23
On and from the network establishment day:	24
(a) each existing area health service is dissolved, and	25
(b) each existing area health advisory council is dissolved, and	26
(c) the members (including chairpersons) of each existing area health advisory council cease to hold office as such, and	27 28
(d) any person who ceases to be a member of an existing area health advisory council because of the operation of this clause is not entitled to any compensation for the loss of that office.	29 30 31 32

77	Transfers of assets, rights, liabilities and staff of area health services	1
		2
(1)	Without limiting the generality of section 131, the Governor may make an order under that section during the transitional period as if any reference in the section to a statutory health organisation also included references to both a proposed local health network and proposed statutory health corporation.	3 4 5 6 7
(2)	Section 131 (3) does not apply during the transitional period in relation to an order made under that section that transfers to a proposed local health network, proposed statutory health corporation, local health network or statutory health corporation:	8 9 10 11
	(a) a public hospital, health institution, health service or health support service under the control of an area health service, or	12 13 14
	(b) any assets, rights or liabilities of an area health service.	15
(3)	A transfer under an order made under section 131 to a proposed local health network or proposed statutory health corporation is taken to have effect on the network establishment day.	16 17 18
(4)	The provisions of Schedule 4 apply in relation to any of the residual assets, rights and liabilities of each area health service dissolved by operation of clause 76 as if:	19 20 21
	(a) an order under section 20 (1) (a) had been made dissolving the service on the network establishment day, and	22 23
	(b) Schedule 4 continued to apply in relation to the dissolution of an area health service by an order made under that section in the same way as it applied to such a dissolution immediately before the network establishment day.	24 25 26 27
(5)	The Governor may make an order under section 131 transferring to any one or more statutory health organisations any residual assets, rights or liabilities of an area health service that are vested in the Minister by operation of subclause (4) as if the Minister were a statutory health organisation for the purposes of that section. Section 131 (3) does not apply in relation to such an order.	28 29 30 31 32 33 34
(6)	Without limiting clause 18 of Schedule 4, regulations of a savings and transitional nature may be made consequent on the dissolution of an existing area health service by clause 76.	35 36 37

(7)	In this clause:	1
	<i>proposed local health network</i> means a local health network to be constituted on the network establishment day.	2
	<i>proposed statutory health corporation</i> means a statutory health corporation to be constituted on the network establishment day.	3
	<i>residual assets, rights and liabilities</i> of an existing area health service dissolved by operation of clause 76 means any assets, rights and liabilities of the area health service that:	4
	(a) have not already been transferred under this Act to another person before the network establishment day, and	5
	(b) will not otherwise be transferred to a local health network or statutory health corporation on the network establishment day by means of an order made under section 131 or any other provision of this Act.	6
	<i>transitional period</i> means the period commencing on the day on which this clause commences and ending on the day immediately after the network establishment day.	7
78	Constitution of local health networks	8
(1)	Each of the local health networks specified in Schedule 1 (as substituted by the amending Act) is constituted as such on the network establishment day, subject to subclause (2).	9
(2)	Nothing in this clause prevents the amendment of Schedule 1 (whether on or after the network establishment day) by an order made under section 19 or 20.	10
79	Change in corporate governance of The Sydney Children's Hospitals Network	11
(1)	The SCHN becomes a network governed health corporation on the reconstitution day.	12
(2)	A person who was a member of the existing advisory council of the SCHN immediately before the reconstitution day:	13
	(a) ceases to be a member of the existing advisory council on that day, and	14
	(b) if the person consents, becomes instead a member of the governing council of the SCHN.	15
(3)	A person who becomes a member of the governing council of the SCHN by operation of subclause (2) holds office as such for a term of 2 years commencing on the reconstitution day unless the person vacates office before the expiry of that term.	16

(4)	The provisions of this clause have effect despite anything to the contrary in Division 2 of Part 2 of Chapter 3 (as applied to network governed health corporations by section 52F), including in relation to the maximum number of members for the governing council of a network governed health corporation.	1 2 3 4 5
(5)	In this clause: <i>existing advisory council</i> of the SCHN means the advisory council constituted for the SCHN under section 52D that was in existence immediately before the reconstitution day. <i>reconstitution day</i> means the day on which Schedule 1 [35] to the amending Act commences. <i>SCHN</i> means the statutory health corporation with the corporate name “The Sydney Children’s Hospitals Network (Randwick and Westmead) (incorporating The Royal Alexandra Hospital for Children)”.	6 7 8 9 10 11 12 13 14 15
80	Preservation of existing by-laws	16
(1)	The regulations may make provision for or with respect to the continued application of existing by-laws made in relation to public hospitals, health institutions, health services or health support services controlled by area health services until new by-laws are made under this Act in relation to such hospitals, institutions or services.	17 18 19 20 21 22
(2)	Any regulations made for the purposes of this clause may provide for the continued application of existing by-laws subject to such modifications as may be prescribed by the regulations.	23 24 25
81	Updating of references to area health services	26
(1)	A reference in any other Act or instrument made under any other Act or in any instrument of any kind to an area health service constituted under this Act (other than a particular area health service) is to be read on and from the network establishment day as being a reference to a local health network constituted under this Act.	27 28 29 30 31 32
(2)	The regulations may make provision for or with respect to how a reference in any other Act or instrument made under any other Act or in any instrument of any kind to a particular area health service (or a hospital, health institution, health service or health support service controlled by a particular area health service) is to be read on and from the network establishment day.	33 34 35 36 37 38

82 Relationship of this Part with Interpretation Act 1987

The provisions of this Part are in addition to, and do not derogate from, the provisions of section 26 of the *Interpretation Act 1987*.

Note. Section 26 of the *Interpretation Act 1987* enables a power to make instruments of a legislative or administrative character that is to be conferred by an enacted but uncommenced amendment to an Act to be exercised before the amendment commences. Any such instrument will have effect on the commencement of the amendment.

[49] Dictionary

Omit the definitions of *area*, *area health service*, *board* and *chief executive* from Part 1.

Insert in alphabetical order:

area of a local health network means the area described in Column 2 or 3 (or both) of Schedule 1 in respect of which the local health network is constituted.

chief executive:

- (a) of a local health network—means the chief executive of that network, or
- (b) of a statutory health corporation—means the chief executive of that corporation, or
- (c) of an affiliated health organisation—means the person who is responsible to the governing body of the organisation for the management of its recognised establishments and recognised services.

local health network—see section 8.

local health network governing council means a local health network governing council for a local health network constituted under section 26.

modification includes addition, exception, omission or substitution.

network governed health corporation means a statutory health corporation that, as specified in Schedule 2, is network governed.

NHHN Agreement means the *National Health and Hospitals Network Agreement* entered into by the Commonwealth, certain States and the Territories in April 2010, as in force from time to time.

statutory health organisation means a local health network or a statutory health corporation.

[50] Dictionary, Part 1	1
Omit the definitions of <i>assets</i> , <i>liabilities</i> and <i>rights</i> .	2
Insert in alphabetical order:	3
<i>assets</i> means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money), and includes securities, choses in action and documents.	4
<i>liabilities</i> means any liabilities, debts or obligations (whether present or future, whether vested or contingent and whether personal or assignable).	9
<i>rights</i> means any rights, powers, privileges or immunities (whether present or future, whether vested or contingent and whether personal or assignable).	12
	14
1.2 General amendments updating references to local health networks and local health network governing councils and minor amendments	15
	16
	17
[1] The whole Act (except the long title, section 5 and Schedule 7 and except as otherwise amended by this Act)	18
	19
Omit each expression specified in Column 1 of the following Table wherever occurring (including headings and notes).	20
	21
Insert instead the expression specified in Column 2 opposite the expression specified in Column 1:	22
	23
Table	24
Column 1	Column 2
“An area health service”	“A local health network”
“an area health service”	“a local health network”
“Area health service”	“Local health network”
“Area health services”	“Local health networks”
“area health services”	“local health networks”
“area health service’s”	“local health network’s”
any other reference to “area health service”	“local health network”
“An area health advisory council”	“A local health network governing council”
“an area health advisory council”	“a local health network governing council”

Column 1	Column 2	
“Area health advisory councils”	“Local health network governing councils”	
“area health advisory councils”	“local health network governing councils”	
“area health advisory council’s”	“local health network governing council’s”	
any other reference to “area health advisory council”	“local health network governing council”	
<hr/>		
[2] Section 8 What is a local health network?		1
Omit “the services” from section 8 (2). Insert instead “the networks”.		2
[3] Section 24 Chief executive to manage and control affairs of local health network		3
		4
Omit “the service” wherever occurring. Insert instead “the network”.		5
[4] Section 36 Power to accept property by gifts, devises and bequests		6
Omit “the service” from section 36 (1). Insert instead “the network”.		7
[5] Chapter 10, Part 1A, heading		8
Omit “health support”.		9
[6] Schedule 4 Transfers, dissolutions, amalgamations and changes of name or nature of governance		10
		11
Omit “area health organisations and statutory health corporations” from the heading to clause 6.		12
		13
Insert instead “statutory health organisations”.		14

Schedule 2	Consequential amendment of other Acts and statutory rules	1
		2
2.1	Adoption Act 2000 No 75	3
	Dictionary	4
	Omit “an area health service” from the definitions of <i>designated person</i> and <i>hospital</i> wherever occurring.	5
		6
	Insert instead “a local health network”.	7
2.2	Carers (Recognition) Act 2010 No 20	8
	Section 4 Definitions	9
	Omit “an area health service” from paragraph (b) of the definition of <i>public sector agency</i> .	10
		11
	Insert instead “a local health network”.	12
2.3	Child Protection (Offenders Registration) Act 2000 No 42	13
	Schedule 1 Scheduled agencies	14
	Omit the matter relating to each of the area health services referred to in the Schedule.	15
		16
	Insert at the end of the Schedule:	17
	A local health network constituted under the <i>Health Services Act 1997</i>	18
		19
2.4	Children (Criminal Proceedings) Regulation 2005	20
[1]	Clause 21 Constitution of Coordination Groups	21
	Omit “an area health service” and “appropriate area health service” from clause 21 (1) (d) wherever occurring.	22
		23
	Insert instead “a local health network” and “appropriate local health network”, respectively.	24
		25
[2]	Clause 28A Evaluation and monitoring of scheme	26
	Omit “an area health service” from paragraph (c) of the definition of <i>participating State agency</i> in clause 28A (2).	27
		28
	Insert instead “a local health network”.	29

[3] Clause 38 Savings and transitional provisions	1
Insert after clause 38 (2):	2
(2A) The amendment made to clause 21 (1) by the <i>Health Services Amendment (Local Health Networks) Act 2010</i> does not affect the continued validity of any nomination made by an area health service under clause 21 (1) (d) before the commencement of that amendment.	3 4 5 6 7
2.5 Children and Young Persons (Care and Protection) Act 1998 No 157	8 9
Section 30 Director-General’s investigations and assessment	10
Omit “an area health service” from the note to the section.	11
Insert instead “a local health network”.	12
2.6 Crimes (Administration of Sentences) Regulation 2008	13
Clause 206 Provision of information relating to offenders	14
Omit “area health service” from clause 206 (1) (a).	15
Insert instead “local health network”.	16
2.7 Drug Misuse and Trafficking Act 1985 No 226	17
[1] Section 39PA Order for disposal of dangerous exhibit	18
Omit paragraph (a) of the definition of <i>analyst</i> in section 39PA (5).	19
Insert instead:	20
(a) any person employed by the Government of New South Wales as an analyst (including a person employed as an analyst in the NSW Health Service), or	21 22 23
[2] Section 43 Certificate evidence	24
Omit paragraph (a) of the definition of <i>analyst</i> in section 43 (6). Insert instead:	25
(a) any person employed by the Government of New South Wales as an analyst (including a person employed as an analyst in the NSW Health Service), and	26 27 28

2.8 Gaming Machines Regulation 2010	1
[1] Clause 37 Threshold increase applications—consultation requirements	2
Omit “area health service” from clause 37 (2) (d).	3
Insert instead “local health network”.	4
[2] Clause 41 Consultation and advertising requirements	5
Omit “area health service” from clause 41 (2) (b) (ii).	6
Insert instead “local health network”.	7
2.9 Guardianship Act 1987 No 257	8
[1] Section 3 Definitions	9
Omit “an area health service” from paragraph (a) (v) of the definition of <i>exempt premises</i> in section 3 (1).	10
Insert instead “a local health network”.	11
[2] Section 45AA Tribunal may approve clinical trials	12
Omit “an area health service” from paragraph (b) (i) of the definition of <i>ethics committee</i> in section 45AA (5).	13
Insert instead “a local health network”.	14
2.10 Health Administration Act 1982 No 135	15
[1] Section 4 Definitions	16
Omit the definition of <i>area health service</i> from section 4 (1).	17
Insert in alphabetical order:	18
<i>local health network</i> means a local health network constituted under the <i>Health Services Act 1997</i> .	19
[2] Section 20L Definitions	20
Omit “an area health service” from paragraph (a) of the definition of <i>relevant health services organisation</i> .	21
Insert instead “a local health network”.	22

2.11 Health Practitioner Regulation (Adoption of National Law) Act 2009 No 86	1
	2
Schedule 1 Modification of Health Practitioner Regulation National Law	3
Omit “an area health service” from clauses 6 (2) (i), 7 (2) (a), 8 (2) (a) and 9 (2) (a) of Schedule 5C of the modifications to the <i>Health Practitioner Regulation National Law</i> set out in Schedule 1 [25] wherever occurring.	4
	5
	6
Insert instead “a local health network”.	7
2.12 Health Records and Information Privacy Regulation 2006	8
Clause 5 Certain public sector agencies to be treated as a single agency	9
Omit “area health services” from clause 5 (c).	10
Insert instead “local health networks”.	11
2.13 Health Services Regulation 2008	12
Clause 12	13
Omit the clause. Insert instead:	14
12 Local health network descriptions	15
(1) A reference in Column 2 of Schedule 1 to the Act to Sydney (part), in relation to the Sydney Local Health Network, is a reference to the following Statistical Local Areas:	16
	17
	18
(a) Sydney (C)–West,	19
	20
(b) Sydney (C)–South.	20
(2) A reference in Column 2 of Schedule 1 to the Act to Sydney (part), in relation to the South Eastern Sydney Local Health Network, is a reference to the following Statistical Local Areas:	21
	22
	23
(a) Sydney (C)–Inner,	24
	24
(b) Sydney (C)–East.	25
	25
(3) In this clause:	26
Statistical Local Area means a Statistical Local Area specified in the document entitled <i>Australian Standard Geographical Classification (ASGC)</i> , published by the Australian Bureau of Statistics in July 2010.	27
	28
	29
	30

2.14 Independent Commission Against Corruption Regulation 2010	1 2
Clause 19 Principal officers of public authorities	3
Omit clause 19 (1) (b). Insert instead:	4
(b) a local health network within the meaning of the <i>Health Services Act 1997</i> —the chief executive of the local health network,	5 6 7
2.15 Land Acquisition (Charitable Institutions) Act 1946 No 55	8
Section 2 Definitions	9
Omit “an area health service” from paragraph (b) of the definition of <i>Institution</i> in section 2 (1).	10 11
Insert instead “a local health network”.	12
2.16 Local Government Act 1993 No 30	13
Section 556 What land is exempt from all rates, other than water supply special rates and sewerage special rates?	14 15
Omit “an area health service” from section 556 (1) (k).	16
Insert instead “a local health network”.	17
2.17 Marine Safety Act 1998 No 121	18
Schedule 1 Alcohol and drug use—random breath testing and related matters	19 20
Omit “an area health service” from paragraph (a) of the definition of <i>hospital</i> in clause 1 (1).	21 22
Insert instead “a local health network”.	23
2.18 Mental Health Act 2007 No 8	24
Section 162A Tribunal may request information or services from other agencies	25 26
Omit “an area health service” from section 162A (1).	27
Insert instead “a local health network”.	28

2.19 Mental Health (Forensic Provisions) Act 1990 No 10	1
Section 76J Exchange of information	2
Omit “an area health service” from paragraph (a) of the definition of <i>associated agency</i> in section 76J (6).	3 4
Insert instead “a local health network”.	5
2.20 Motor Accidents Act 1988 No 102	6
Section 39A Definitions	7
Omit “an area health service” from paragraph (a) of the definition of <i>public hospital</i> in section 39A (1).	8 9
Insert instead “a local health network”.	10
2.21 Motor Vehicles (Third Party Insurance) Act 1942 No 15	11
Section 24 Interpretation	12
Omit “an area health service” from paragraph (a) of the definition of <i>Public hospital</i> in section 24 (1).	13 14
Insert instead “a local health network”.	15
2.22 Occupational Health and Safety Act 2000 No 40	16
Section 123 Proceedings against successors of government corporations	17 18
Omit “an area health service” from section 123 (1) (c).	19
Insert instead “a local health network”.	20
2.23 Ombudsman Act 1974 No 68	21
Section 25A Definitions	22
Omit “an area health service” from paragraph (b) of the definition of <i>designated government agency</i> in section 25A (1).	23 24
Insert instead “a local health network”.	25

2.24 Payroll Tax Act 2007 No 21	1
Schedule 2 NSW specific provisions	2
Omit “area health services”, “an area health service” and “the area health service” from clause 8 (including the clause heading).	3 4
Insert instead “local health networks”, “a local health network” and “the local health network”, respectively.	5 6
2.25 Public Authorities (Financial Arrangements) Regulation 2005	7 8
Schedule 1 Definitions of “authority” and “controlled entity”	9
Omit the matter relating to Area health service from Part 1.	10
Insert in alphabetical order of entities:	11
Local health network constituted under the <i>Health Services Act 1997</i>	12 13
2.26 Public Finance and Audit Regulation 2010	14
Schedule 1 Prescribed audits	15
Omit item 3 from Part 1.	16
Insert after item 19:	17
19A Local health networks within the meaning of the <i>Health Services Act 1997</i>	18 19
2.27 Public Sector Employment and Management (Goods and Services) Regulation 2010	20 21
Clause 9 Board may arrange supply or disposal for other public bodies	22
Omit “an area health service” from paragraph (b) of the definition of <i>public body</i> in clause 9 (5).	23 24
Insert instead “a local health network”.	25

2.28 Road Transport (Safety and Traffic Management) Act 1999 No 20	1 2
Dictionary	3
Omit “an area health service” from paragraph (a) of the definition of <i>hospital</i> in clause 1.	4 5
Insert instead “a local health network”.	6
2.29 Summary Offences Act 1988 No 25	7
Section 3 Definitions	8
Omit “an area health service” from paragraph (a) of the definition of <i>hospital</i> in section 3 (1).	9 10
Insert instead “a local health network”.	11
2.30 Water Management Act 2000 No 92	12
Schedule 4 Land exempt from water supply authority service charges	13
Omit “an area health service” and “the area health service” from item (6).	14
Insert instead “a local health network” and “the local health network”, respectively.	15 16
2.31 Workers Compensation Act 1987 No 70	17
Section 59 Definitions	18
Omit “an area health service” from paragraph (a) of the definition of <i>public hospital</i> .	19 20
Insert instead “a local health network”.	21