

# Area Health Services Act 1986 No 50

[1986-50]



New South Wales

## Status Information

### Currency of version

Repealed version for 21 June 1996 to 30 June 1998 (accessed 22 December 2024 at 22:24)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Act was repealed by the [Health Services Act 1997 No 154](#), sec 138 with effect from 1.7.1998.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 1 July 1998

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New South Wales

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# Area Health Services Act 1986 No 50



New South Wales

An Act to constitute area health services; to define their functions; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Area Health Services Act 1986*.

### 2 Commencement

- (1) Sections 1 and 2 shall commence on the date of assent to this Act.
- (2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

### 3 Definitions

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

**area**, in relation to an area health service, means the area described in Schedule 3 in respect of which the area health service is constituted.

**area health board** means an area health board constituted by section 12 for an area health service.

**area health service** means an area health service constituted by section 5 and specified in Schedule 2.

**by-laws** means by-laws under this Act.

**chief executive officer** means chief executive officer of an area health board who is appointed by the Governor under section 15 (1) (a).

**Health Administration Corporation** means the Health Administration Corporation constituted by the *Health Administration Act 1982*.

**health service** means any hospital, medical, paramedical, community health or environmental health service or any other service (including any service of a class or

description prescribed by the regulations) relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or injury to persons.

**local government area** has the same meaning as **area** has in the [Local Government Act 1993](#).

**Medical Services Committee** means the Medical Services Committee established under section 20B of the [Health Administration Act 1982](#).

**regulations** means regulations under this Act.

**Secretary** means the Secretary of the Department of Health.

**visiting practitioner**, in relation to a hospital under the control of an area health service, means a medical practitioner or dentist appointed to perform work as a medical practitioner or dentist at that hospital otherwise than as an employee.

(2) A reference in this Act to:

- (a) a function includes a reference to a power, authority and duty, and
- (b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

#### **4 Parts of State for which area health services may be constituted**

An area health service may only be constituted under this Act for an area which is within that part of the State described in Schedule 1.

## **Part 2 Constitution of area health services**

### **5 Constitution of area health services**

- (1) There shall be such area health services as are specified in Schedule 2.
- (2) An area health service is a body corporate with the corporate name specified in Schedule 2.

### **6 Amendment of Schedule 2 (Names of area health services)**

The Governor may, by order published in the Gazette:

- (a) amend Schedule 2 by inserting or omitting the name of an area health service, or
- (b) omit Schedule 2 and insert instead a Schedule containing the names of area health services.

## **7 Areas in respect of which area health services constituted**

The area in respect of which an area health service is constituted is the area described in Schedule 3 in relation to the area health service.

## **8 Amendment of Schedule 3 (Description of areas of area health services)**

- (1) The Governor may, by order published in the Gazette:
  - (a) amend Schedule 3 by inserting or amending a description of the area in respect of which an area health service is constituted,
  - (b) amend Schedule 3 by omitting the description of an area of an area health service whose name has been omitted from Schedule 2, or
  - (c) omit Schedule 3 and insert instead a Schedule containing the descriptions of the areas in respect of which area health services are constituted.
- (2) An area may be described in Schedule 3 by reference to a local government area or in any other manner (including by reference to a description contained in another document).
- (3) A reference in Schedule 3 to a local government area shall, unless that Schedule otherwise provides, be construed as a reference to that area with boundaries as at the date the reference was inserted in Schedule 3.

## **9 Amalgamation, closure and change of name of area health services**

- (1) The Governor may, by order published in the Gazette:
  - (a) dissolve an area health service,
  - (b) amalgamate 2 or more area health services, or
  - (c) change the name of an area health service,and may, in the order, amend Schedules 2 and 3 accordingly.
- (2) An order shall not be made under this section unless the Minister is of the opinion that the order is in the public interest and has recommended to the Governor that the order be made.
- (3) A dissolution, amalgamation or change of name under this section may be effected without the holding of an inquiry.

## **10 Consequential and transitional provisions on the making of orders**

- (1) Schedule 5 has effect with respect to an order under this Part.
- (2) An order under this Part may contain other provisions, not inconsistent with the

provisions of or made under Schedule 5, of a savings or transitional nature consequent on the making of the order.

### **11 Provisions relating to constitution of area health services**

- (1) An area health service:
  - (a) has perpetual succession,
  - (b) shall have an official seal,
  - (c) may take proceedings, and be proceeded against, in its corporate name,
  - (d) may do and suffer all other things that a body corporate may, by law, do and suffer and that are necessary for or incidental to the purposes for which the area health service is constituted, and
  - (e) does not represent the Crown.
- (2) All courts and persons acting judicially:
  - (a) shall take judicial notice of the seal of an area health service that has been affixed to any instrument or document, and
  - (b) shall, until the contrary is proved, presume that the seal was properly affixed.

## **Part 3 Area health boards**

### **12 Constitution of boards**

- (1) There shall be an area health board for each area health service.
- (2) An area health board shall be called the “[*name of area health service*] Board”.

### **13 Board to control affairs of area health service**

- (1) The affairs of an area health service shall be controlled by the area health board for that service.
- (2) Any act, matter or thing done in the name of, or on behalf of, an area health service by the area health board for that service, or with the authority of that board, shall be deemed to have been done by that service.

### **14 Board subject to control and direction of Minister**

An area health board is subject to the control and direction of the Minister, except in relation to the contents of a recommendation or report made by the board to the Minister.

### **15 Membership of boards**

- (1) An area health board shall consist of:



- (a) a person appointed by the Governor as chief executive officer of the board, and
  - (b) persons (not being less than 8 nor more than 11) appointed by the Minister.
- (2) Of the persons appointed by the Minister, 1 shall be a person elected in the manner prescribed by regulations under clause 2 of Schedule 4.

## **16 Provisions relating to members and procedure of boards**

Schedule 4 has effect with respect to the members and procedure of area health boards.

## **17 Chief executive officer of board**

- (1) The chief executive officer of an area health board:
- (a) is responsible for the management of the affairs of the area health service for which the board is constituted, subject to and in accordance with any directions of the board, and
  - (b) shall have and may exercise such other functions as are conferred or imposed on the chief executive officer by or under this or any other Act.
- (2) The employment of the chief executive officer of an area health board is subject to Part 2A of the *Public Sector Management Act 1988*, but is not subject to Part 2 of that Act.
- (3) The chief executive officer of an area health board is taken, while holding that office, to be employed by the area health service concerned. However, the area health service may not remove the chief executive officer from office.

## **18 Removal of members, appointment of administrator etc**

- (1) The Governor may, by order published in the Gazette:
- (a) remove any member or all members of an area health board from office,
  - (b) remove all members of an area health board from office and appoint, as administrator of the area health service concerned, a person specified in the order for such period as may be specified in the order, or
  - (c) remove all members of an area health board (other than the chief executive officer) from office and appoint, as administrator of the area health service concerned, the chief executive officer for such period as may be specified in the order.
- (2) The chief executive officer of an area health board ceases to hold office as chief executive officer if removed from office as a member of the Board.
- (3) An administrator of an area health service shall have and may exercise, subject to any

conditions that may be specified in the order by which the administrator was appointed, all the functions of the area health board for that service.

- (4) An administrator of an area health service is entitled to be paid from the funds of that service such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the administrator.
- (5) The regulations may make provision for or with respect to administrators of area health services.

## **Part 4 Functions of area health services**

### **19 Primary objectives of area health services**

The primary objectives of an area health service in its area are as follows:

- (a) to promote, protect and maintain public health, and for that purpose to provide health services for residents of its area,
- (b) to achieve and maintain adequate standards of patient care and services,
- (c) to adopt and implement all necessary measures (including systems of planning, management and quality control) as will best ensure the efficient and economic operation and use of its resources in the provision of health services,
- (d) to provide for the effective co-ordination of the planning, provision and evaluation of its health services,
- (e) to establish and maintain an appropriate balance in the provision and use of resources for health protection, health promotion, health education and treatment services.

### **20 Functions of area health services**

(1) The functions of an area health service are as follows:

- (a) generally to promote, protect and maintain the health of the residents of its area,
- (b) to manage hospitals or other health services under its control,
- (c) to consult and co-operate with individuals and organisations (including voluntary agencies, private agencies and public or local authorities) concerned with the promotion, protection and maintenance of health,
- (d) to investigate and assess health needs in its area,
- (e) to plan future development of health services in its area, and, towards that end:
  - (i) to consult and plan jointly with the Department of Health and the Health Administration Corporation, and

- (ii) to support, encourage and facilitate the organisation of community involvement in the planning of those services,
  - (f) to set objectives and determine priorities within the scope of its functions,
  - (g) to provide for the training and education of persons providing health services,
  - (h) to give residents outside its area access to such of the health services it provides as may be necessary or desirable,
  - (i) to make available to the public reports, information and advice concerning public health and the health services available within its area.
- (2) An area health service shall have such other functions as may be prescribed or as are conferred or imposed on it by or under this or any other Act.

## **21 Transfer of hospitals and other health services to area health service**

- (1) The Governor may, by order published in the Gazette, transfer to an area health service:
- (a) any incorporated hospital mentioned in the Second Schedule to the *Public Hospitals Act 1929*,
  - (b) any separate institution mentioned in the Third Schedule to the *Public Hospitals Act 1929* if the governing authority of the separate institution consents to the transfer,
  - (c) any associated organisation mentioned in the Fourth Schedule to the *Public Hospitals Act 1929*,
  - (d) any hospital or other health service conducted by or on behalf of the Crown (including any hospital or other health service conducted by or on behalf of the Minister or the Health Administration Corporation),
  - (e) any hospital or other health service under the control of another area health service, or
  - (f) a part of the property of any such hospital, institution, organisation or health service (but subject, in the case of a separate institution referred to in paragraph (b), to the consent of the governing authority of that institution).
- (2) Schedule 6 has effect with respect to any such transfer.
- (3) An order under this section:
- (a) may amend the Second, Third, Fourth or Fifth Schedule to the *Public Hospitals Act 1929* by omitting the name of, and any matter relating to, a hospital, institution or organisation which is being transferred to an area health service, and

- (b) may contain provisions, not inconsistent with the provisions of or made under Schedule 6, of a savings or transitional nature consequent on the making of the order.

**Editorial note—**

For orders transferring hospitals and other health services to area health services, see Gazettes No 153 of 26.9.1986, p 4803; No 162 of 16.10.1987, p 5821; No 114 of 8.7.1988, p 3659; No 123 of 29.7.1988, p 3995; No 81 of 30.6.1989, p 3827; No 98 of 29.9.1989, p 7793; No 159 of 15.11.1991, p 9566 and No 68 of 30.6.1993, p 3320.

**22 Combined management or assistance in management of hospitals or other health services**

- (1) In this section:

***separate hospital*** means:

- (a) an incorporated hospital mentioned in the Second Schedule to the *Public Hospitals Act 1929*,
  - (b) a separate institution mentioned in the Third Schedule to that Act, or
  - (c) a hospital mentioned in the Fifth Schedule to that Act.
- (2) Any 2 or more area health services, or any 1 or more area health services and any 1 or more separate hospitals, may, by agreement, jointly control and manage any hospital or other health service.
  - (3) An area health service may, by agreement, manage any hospital or other health service under the control of another area health service or a separate hospital, or assist in that management, for and on behalf of that other area health service or separate hospital.
  - (4) An area health service shall not enter into an agreement under this section without the approval of the Minister.
  - (5) A hospital or other health service shall not, for the purposes of this or any other Act, be regarded as being under the control of an area health service because the area health service manages, or assists in the management of, the hospital or other health service for and on behalf of another area health service or of a separate hospital.

**23 Opening and closing of hospitals or other health services**

- (1) An area health service may at any time establish such hospitals or other health services as it thinks necessary for the exercise of its functions.
- (2) An area health service may at any time:
  - (a) close any hospital, or cease to provide any other health service, under its control,

and

(b) restrict the range of health care or treatment provided by any hospital or other health service under its control.

(3) An area health service shall, before implementing any decision to exercise its functions under this section:

(a) notify the Secretary of the decision, unless exempted by the Minister, and

(b) ensure that the decision is in accordance with any directions of the Minister under section 14 and is appropriate having regard to the primary objectives of the area health service.

#### **24 Minister may determine role etc of hospitals or other health services**

The Minister may, from time to time, determine the role, functions and activities of any hospital or other health service under the control of an area health service and, for that purpose, give the area health board for that service any necessary directions under section 14.

#### **25 Staff of area health services**

(1) An area health service may appoint and employ such employees as may be necessary for the purpose of exercising its functions.

(2) Part 2 of the [Public Sector Management Act 1988](#) does not apply to or in respect of persons employed under this section.

(3) An area health service may:

(a) with the approval of the Secretary, and

(b) on such terms and conditions as may be approved by the Public Service Board, arrange for the use of the services of any staff or facilities of a government department, administrative office or public authority.

#### **26 Determination of conditions of employment of staff**

(1) In this section, **enterprise agreement** and **industrial matters** have the same meanings as in the [Industrial Relations Act 1991](#).

(2) Except in so far as provision is otherwise made by law, the conditions of employment, including salaries, wages or remuneration, of the employees of area health services shall be as may be determined from time to time by the Health Administration Corporation.

(3) The Health Administration Corporation:

- (a) is, for the purpose of making any determination under subsection (2), taken to be the employer of the employees of area health services, and
  - (b) is, for the purpose of entering into an enterprise agreement relating to the enterprise carried on by an area health service or area health services, taken to be the employer of the employees of the area health service concerned, and
  - (c) is, for the purpose of any proceedings before a competent tribunal having power to deal with industrial matters, taken to be the employer of the employees of area health services.
- (3A) To remove any doubt, the Health Administration Corporation may, in accordance with section 21 of the *Health Administration Act 1982*, delegate its functions as such an employer.
- (4) The Health Administration Corporation may enter into an agreement (not being an enterprise agreement) with any association or organisation representing any group or class of employees of area health services with respect to the conditions of employment (including salaries, wages and remuneration) of that group or class.
- (5) An agreement referred to in subsection (4) shall bind all employees in the group or class affected by the agreement and no such employee, whether a member of the association or organisation with which the agreement was entered into or not, shall have any right of appeal against the terms of the agreement.
- (6) An area health service must give effect to:
- (a) any determination made by the Health Administration Corporation under subsection (2), and
  - (b) any enterprise agreement referred to in subsection (3), and
  - (c) any order or determination made by a competent tribunal in proceedings referred to in subsection (3), and
  - (d) any agreement referred to in subsection (4).
- (7) Nothing in this section authorises:
- (a) the Health Administration Corporation to act as an employer, or
  - (b) any function to be exercised by or in relation to the Health Administration Corporation,
- otherwise than for the purposes of and in accordance with this section.
- (8) This section does not apply to any conditions of employment (determined under Part 2A of the *Public Sector Management Act 1988*) of the chief executive officer of an area

health board or any other employee of an area health service whose employment is subject to that Part of that Act.

## **27 Power in relation to property**

- (1) An area health service may do all or any of the following things:
  - (a) acquire land (including an interest in land), for the purpose of the exercise of its functions, by agreement or by compulsory process in accordance with the [Land Acquisition \(Just Terms Compensation\) Act 1991](#) and acquire any other property (whether or not the land or other property is required for the purposes of any hospital or other health service under the control of the area health service),
  - (b) sell, lease, mortgage or otherwise dispose of land or any other property,
  - (c) dedicate land as a public road.
- (2) An area health service shall not:
  - (a) acquire land by any means,
  - (b) dispose of land by sale, lease, mortgage or otherwise, or
  - (c) dedicate land as a public road,without the approval of the Minister.
- (3) An area health service may request the Minister to give approval to a disposition or dedication of land or a use of land, being a disposition, dedication or use:
  - (a) which is contrary to a provision of, or a trust arising under, the Crown grant of that land, or
  - (b) which, if this section had not been enacted, may make the land liable to be forfeited to the Crown,and the Minister may give that approval.
- (4) If the Minister has given an approval under this section to a disposition or dedication of land, or to a use of land, neither the disposition or dedication of the land (or its subsequent use) nor the use of the land shall:
  - (a) be regarded as a breach of any provision of, or any trust arising under, the Crown grant of that land, or
  - (b) make the land liable to be forfeited to the Crown.

## **28 Application of [Public Works Act 1912](#)**

- (1) For the purposes of the [Public Works Act 1912](#), any acquisition of land under section

27 (1) (a) is taken to be for an authorised work and the area health service concerned is, in relation to that authorised work, taken to be the Constructing Authority.

- (2) Sections 34, 35, 36 and 37 of the *Public Works Act 1912* do not apply in respect of works constructed under this Act.

### **29 Power to accept gifts etc**

- (1) An area health service may acquire, for any purpose connected with:
- (a) the provision of any health service, or
  - (b) any of the functions of the area health service, any property by gift, devise or bequest and may agree to and carry out the conditions of any such gift, devise or bequest.
- (2) The rule of law against remoteness of vesting shall not apply to any such condition to which an area health service has agreed.
- (3) An area health service may act as trustee of money or other property vested in the area health service on trust.

### **30 Contracts of area health service**

- (1) An area health service may make and enter into contracts or agreements with any person for the performance of services, or for the supply of goods, plant, machinery or material, with respect to the exercise by the area health service of its functions by or under this or any other Act.
- (2) Any such contract or agreement shall be deemed, for the purposes of the *Constitution Act 1902*, to be a contract or agreement for or on account of the Public Service of New South Wales.

### **31 Investments**

- (1) An area health service may invest money held by it:
- (a) in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
  - (b) if that Act does not confer power to invest money so held, in any manner authorised for the time being for the investment of trust funds and in any other manner approved by the Minister with the concurrence of the Treasurer.
- (2) An area health service may at any time dispose of any of its investments and apply the proceeds for the purpose of exercising its functions.
- (3) This section is, in relation to the investment of any funds, subject to the terms of any trust applying to those funds.



### **32 Area health service by-laws**

- (1) An area health service may, with the approval of the Minister, make by-laws, not inconsistent with this Act or the regulations, for or with respect to:
  - (a) the management of any hospital or other health service under its control,
  - (b) the provision of health services to patients of any hospital under its control and to other persons,
  - (c) the appointment, control and governance of visiting practitioners in connection with hospitals under its control, including the conditions subject to which visiting practitioners may perform work at any such hospital,
  - (d) the appointment, control and governance of persons employed by it under section 25 and any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the area health service of any such employees or group or class of employees,
  - (e) the custody and use of the seal of the area health service,
  - (f) the keeping of records concerning the acts, decisions and proceedings of the area health board,
  - (g) the procedure for the calling of meetings of the area health board and for the conduct of business at those meetings, and
  - (h) the appointment and functions of committees of the area health board.
- (2) The Minister may cause to be published in the Gazette an order setting out the terms of model by-laws.
- (3) A by-law may not be made by an area health service for or with respect to any matter referred to in subsection (1) (c) unless:
  - (a) it is in substance the same as a model by-law under an order for the time being in force under subsection (2) and the Minister has received advice from the Medical Services Committee in relation to the substance of the model by-law, or
  - (b) the Minister has received advice from the Medical Services Committee in relation to the substance of the by-law made by the area health service.
- (4) Subsection (3) does not apply to a by-law if the Medical Services Committee does not furnish advice to the Minister in relation to the relevant model by-law or the by-law, as the case may require, within 30 days after a notice from the Minister requesting such advice has been served on the Committee or within such further period as the Minister may specify in the notice or in another notice served on the Committee.
- (5) A provision of a by-law may:

- (a) apply generally or be limited in its application by reference to specified exceptions or factors,
  - (b) apply differently according to different factors of a specified kind, or
  - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.
- (6) Judicial notice shall be taken of a by-law authenticated by the seal of the area health service concerned or in accordance with section 35, and it shall be presumed, in the absence of evidence to the contrary, that all conditions and preliminary steps precedent to the making of the by-law have been complied with and performed.

## **Part 5 Miscellaneous**

### **33 Standard contracts of service**

- (1) Where a provision of this Act, or of a regulation or by-law made under this Act before or after the commencement of the *Area Health Services (Visiting Practitioners) Amendment Act 1988*, is inconsistent with any of the rights and obligations under an agreement between:

- (a) an area health service, and
- (b) a visiting practitioner,

being an agreement relating to the performance of work by the visiting practitioner at a hospital under the control of the area health service (whether or not the agreement also relates to other matters), the provision shall, to the extent of the inconsistency, have no force or effect in relation to the visiting practitioner.

- (2) In this section, a reference to an agreement includes a reference to a service contract within the meaning of Part 5C of the *Public Hospitals Act 1929*.

### **34 Delegation by area health service**

- (1) An area health service may delegate to a person the exercise of any of its functions, other than:

- (a) this power of delegation,
- (b) the exercise of its functions under section 23, and
- (c) the power to make by-laws.

- (2) A delegation under this section:

- (a) shall be in writing,

(b) may be general or limited, and

(c) may be revoked, wholly or partly, by the area health service.

(3) A delegate is, in the exercise of a function delegated under this section, subject to such conditions as are specified in the instrument of delegation.

(4) A function delegated under this section, when exercised by the delegate, shall be deemed to have been exercised by the area health service.

(5) A delegation under this section does not prevent the exercise of a function by the area health service.

(6) A function purporting to have been exercised by a delegate under this section shall, until the contrary is proved, be deemed to have been duly exercised by a delegate under this section.

### **35 Authentication of certain documents**

Every summons, process, demand, order, notice, statement, direction or other document requiring authentication by an area health service may be sufficiently authenticated without the seal of that service if signed by the chief executive officer or by any employee of that service authorised to do so by the chief executive officer.

### **36 Proof of certain matters not required**

In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

(a) the constitution of an area health board,

(b) any resolution of an area health board,

(c) the appointment of, or the holding of office by, any member of an area health board,  
or

(d) the presence of a quorum at any meeting of an area health board.

### **37 Proceedings for offences**

Proceedings for an offence against the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

### **38 Regulations**

(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:

(a) accounts to be kept by area health services and the auditing of those accounts,

- (b) records to be kept by area health services,
  - (c) the furnishing of information and reports to the Minister, Secretary or other person by area health services,
  - (d) the furnishing of information to a patient in the care of an area health service and the inspection of records by such a patient in connection with the treatment of the patient by the area health service, or
  - (e) the disposal of unclaimed property of patients in the care of an area health service.
- (2) The regulations may make provision for or with respect to any matter for or with respect to which a by-law may be made by an area health service.
- (3) A provision of a regulation shall, to the extent to which it is inconsistent with a by-law made by an area health service, prevail.
- (4) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.
- (5) A provision of a regulation may:
- (a) apply generally or be limited in its application by reference to specified exceptions or factors,
  - (b) apply differently according to different factors of a specified kind, or
  - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.
- (6) A regulation may not be made for or with respect to any matter referred to in section 32 (1) (c) unless the Minister has received advice from the Medical Services Committee in relation to the substance of the regulation.
- (7) Subsection (6) does not apply to a regulation if the Medical Services Committee does not furnish advice in relation to the regulation to the Minister within 30 days after a notice from the Minister requesting such advice has been served on the Committee or within such further period as the Minister may specify in the notice or in another notice served on the Committee.

### **39 Savings and transitional provisions**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act, the *Public Hospitals (Amendment) Act 1986*, the *Health Administration (Area Health Services) Amendment Act 1986* or the *Miscellaneous Acts*

*(Area Health Services) Amendment Act 1986.*

- (2) A provision referred to in subsection (1) may, if the regulations so provide, take effect on the date of assent to this Act or a later day.
- (3) To the extent to which a provision referred to in subsection (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State, an authority of the State or an area health service), the rights of that person existing before the date of its publication in the Gazette, or
  - (b) to impose liabilities on any person (other than the State, an authority of the State or an area health service) in respect of anything done or omitted to be done before the date of its publication in the Gazette.

#### **40 Validation**

- (1) This section applies to a person who, immediately before 1 August 1993, was the chief executive officer of the Wentworth Area Health Service, the Northern Sydney Area Health Service, the Southern Sydney Area Health Service or the Eastern Sydney Area Health Service, who was not re-appointed as a chief executive officer on that date but who continued to carry out the duties of a chief executive officer until being re-appointed on 24 November 1994, with effect from 1 October 1994.
- (2) Any act, matter or thing done or omitted to be done between 1 August 1993 and 30 September 1994 by a person to whom this section applies, that would have validly been done or omitted if the person had been formally appointed as chief executive officer when it was done or omitted, is validated.

### **Schedule 1 Parts of State for which area health services may be constituted**

(Section 4)

- 1** The following local government areas (with boundaries as at the date of assent to this Act):

#### **SYDNEY**

Cities of Bankstown, Blacktown, Blue Mountains, Campbelltown, Fairfield, Gosford, Liverpool, Parramatta, Penrith and Sydney.

Municipalities of Ashfield, Auburn, Botany, Burwood, Camden, Canterbury, Concord, Drummoyne, Holroyd, Hunters Hill, Hurstville, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Manly, Marrickville, Mosman, North Sydney, Randwick, Rockdale, Ryde, Strathfield, Waverley, Willoughby and Woollahra.

Shires of Baulkham Hills, Hawkesbury, Hornsby, Sutherland, Warringah, Wollondilly and

Wyong.

#### HUNTER

Cities of Cessnock, Lake Macquarie, Maitland and Newcastle.

Shires of Dungog, Gloucester, Great Lakes, Merriwa, Murrurundi, Muswellbrook, Port Stephens, Scone and Singleton.

#### ILLAWARRA

Cities of Wollongong and Shoalhaven.

Municipalities of Kiama and Shellharbour.

Shire of Wingecarribee.

- 2** An area that, after the date of assent to this Act, becomes a part of a local government area mentioned in paragraph 1.
- 3** A local government area constituted after the date of assent to this Act which comprises any one or more, or any part, of the local government areas mentioned in paragraph 1.

## Schedule 2 Names of area health services

(Section 5)

Central Coast Area Health Service

Central Sydney Area Health Service

Hunter Area Health Service

Illawarra Area Health Service

Northern Sydney Area Health Service

South Eastern Sydney Area Health Service

South Western Sydney Area Health Service

Wentworth Area Health Service

Western Sydney Area Health Service

## Schedule 3 Description of areas of area health services

(Section 7)

<b>Name</b>	<b>Description of Area—Local Government Area</b>
Central Coast Area Health Service	Gosford City Wyong

Central Sydney Area Health Service	Area of the Council of the Municipality of Ashfield Area of Burwood Council Area of Canterbury City Council Area of Concord Council Area of Drummoyne Council Area of Leichhardt Council Area of Marrickville Council Area of Strathfield Municipal Council Cities of Sydney and South Sydney (comprising the western sector of those cities with boundaries as shown on the map deposited in the principal office of the Department of Health and marked "Area Health Service Boundaries—Cities of Sydney and South Sydney")
Hunter Area Health Service	Maitland City Singleton Dungog Cessnock City Newcastle City Lake Macquarie City Port Stephens Merriwa Murrurundi Muswellbrook Scone
Illawarra Area Health Service	Wollongong City Shellharbour Kiama Shoalhaven City
Northern Sydney Area Health Service	Manly Warringah North Sydney Mosman Lane Cove Willoughby Ku-ring-gai Hornsby Ryde Hunters Hill

South Eastern Sydney Area Health Service	Area of Botany Council Area of Hurstville City Council Area of Kogarah Municipal Council Area of Randwick City Council Area of Rockdale City Council Area of Sutherland Shire Council Cities of Sydney and South Sydney (comprising the eastern sector of those cities with boundaries as shown on the map deposited in the principal office of the Department of Health and marked "Area Health Service Boundaries—Cities of Sydney and South Sydney") Area of Waverley Council Area of Woollahra Municipal Council
South Western Sydney Area Health Service	Fairfield City Liverpool City Bankstown City Campbelltown City Camden Wollondilly Wingecaribee
Wentworth Area Health Service	Blue Mountains City Penrith City Hawkesbury
Western Sydney Area Health Service	Auburn Parramatta City Holroyd Baulkham Hills Blacktown City

## Schedule 4 Provisions relating to the members and procedure of area health boards

(Section 16)

### 1 Definitions

In this Schedule:

**appointed member** means a member other than the chief executive officer.

**elected staff member** means a member referred to in section 15 (2).

**member** means a member of an area health board.

### 2 Elected staff member

(1) In this clause:

**employee**, in relation to an area health service, means an employee of that service employed under section 25.



- (2) Regulations may be made for or with respect to the election of a person to hold office as an elected staff member.
- (3) The Electoral Commissioner for New South Wales, or a person employed in the office of and nominated by the Electoral Commissioner, shall be the returning officer for an election, and shall have and may exercise the functions conferred or imposed on the returning officer by the regulations made under this clause in relation to the election.
- (4) Employees of an area health service are entitled to vote at an election in accordance with the regulations made under this clause for the elected staff member of the area health board for that service.
- (5) A person's nomination as a candidate for election as the elected staff member is invalid if:
  - (a) the nomination is not made by at least 2 persons who are employees of the relevant area health service, or
  - (b) the person is not, at the time of nomination, an employee of the relevant area health service.
- (6) A person may be, at the same time, both the elected staff member and an employee of the relevant area health service.
- (7) Nothing in any law, rule, direction or other requirement that:
  - (a) is applicable to the elected staff member in his or her capacity as an employee of the relevant area health service, and
  - (b) would not be so applicable if the elected staff member were not such an employee,operates so as to prevent or restrict the exercise by the elected staff member of any of the functions of an elected staff member.
- (8) If no person is nominated at an election, or if for any other reason an election fails, the Minister may appoint a person eligible for election to be an appointed member, and the person shall, on being appointed, be deemed to be a person elected in the manner prescribed by the regulations made under this clause.
- (9) If a vacancy occurs in the office of elected staff member otherwise than by reason of the expiration of the period for which the elected staff member was appointed:
  - (a) the Minister may appoint a person eligible for election to hold, subject to this Schedule, the office of elected staff member for a term commencing on the date of appointment or a later date specified in the relevant instrument of appointment and ending on the commencement of the term of office of the next elected staff member, and

(b) the person shall, on being so appointed, be deemed to be a person elected in the manner prescribed by the regulations made under this clause.

(10) The Minister may, pending the election of the first elected staff member of an area health board after the constitution of the area health service concerned:

(a) appoint any person as the elected staff member to hold, subject to this Schedule, the office of elected staff member until the election of that member and the person shall, on being so appointed, be deemed to be a person elected in the manner prescribed by the regulations made under this clause, or

(b) appoint the other members of that area health board and leave the office of elected staff member vacant pending the election of that member.

### **3 (Repealed)**

### **4 Chairperson of area health board**

(1) Of the appointed members of an area health board, one shall, in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Minister, be appointed as chairperson of that board.

(2) The Minister may remove an appointed member from the office of chairperson of an area health board.

(3) A person who is an appointed member and chairperson of an area health board shall be deemed to have vacated office as chairperson if the person:

(a) is removed from that office by the Minister under subclause (2),

(b) resigns that office by instrument in writing addressed to the Minister, or

(c) ceases to be an appointed member.

(4) The chairperson of an area health board may be referred to as the chairman or chairwoman, as the case requires.

### **5 Acting members and acting chairperson**

(1) The Minister may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member and shall be deemed to be a member.

(2) The Minister may, from time to time, appoint an appointed member of an area health board to act in the office of chairperson of that board during the illness or absence of the chairperson, and the appointed member, while so acting, shall have and may exercise all the functions of the chairperson and shall be deemed to be the chairperson.

- (3) The Minister may remove any person from any office to which the person was appointed under this clause.
- (4) For the purposes of this clause:
  - (a) a vacancy in the office of a member or the chairperson of an area health board shall be deemed to be an absence from office of the member or chairperson, as the case may be, and
  - (b) an appointed member shall be deemed to be absent from office as an appointed member during any period when the member acts in the office of the chief executive officer pursuant to an appointment under subclause (1).

## **6 Terms of office**

Subject to this Schedule, a member shall hold office:

- (a) (Repealed)
- (b) in the case of an appointed member (other than the elected staff member)—for such period not exceeding 4 years, or
- (c) in the case of an elected staff member—for such period not exceeding 4 years but not less than 2 years,

as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

## **7 (Repealed)**

## **8 Filling of vacancy in office of member**

If the office of any member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

## **9 Casual vacancies**

- (1) An appointed member shall be deemed to have vacated office if the member:
  - (a) dies,
  - (b) (Repealed)
  - (c) being an appointed member, absents himself or herself from 4 consecutive meetings of that board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by that board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by that board for being absent from those meetings,
  - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt

or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit,

- (e) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the *Mental Health Act 1958* or a person under detention under Part 7 of that Act,
- (f) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable,
- (g) (Repealed)
- (h) being the elected staff member, ceases to be an employee of the relevant area health service within the meaning of clause 2,
- (i) resigns the office by instrument in writing addressed to the Secretary, or
- (j), (k) (Repealed)
- (l) is removed by the Governor under section 18.

(2) (Repealed)

## **10 Disclosure of pecuniary interests**

(1) A member who has a direct or indirect pecuniary interest:

- (a) in a matter that is being considered, or is about to be considered, at a meeting of an area health board, or
- (b) in a thing being done or about to be done by an area health board,

shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of that board.

(2) A disclosure by a member at a meeting of an area health board that the member:

- (a) is a member, or is in the employment, of a specified company or other body,
- (b) is a partner, or is in the employment, of a specified person, or
- (c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

- (3) An area health board shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of the Secretary or a person authorised by the Secretary.
- (4) After a member of an area health board has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Secretary otherwise determines:
  - (a) be present during any deliberation of that board, or take part in any decision of that board, with respect to that matter, or
  - (b) exercise any functions under this Act with respect to that thing,as the case requires.
- (5) Notwithstanding that a member of an area health board contravenes the provisions of this clause, that contravention does not invalidate any decision of that board or the exercise of any function under this Act.
- (6) Nothing in this clause applies to or in respect of an interest of a member in a matter or thing which arises by reason only that the member is an employee of the area health board.
- (7) A reference in this clause to a meeting of an area health board includes a reference to a meeting of a committee of that board.
- (8) Without affecting the generality of section 18, a member who contravenes this clause may be removed from office under that section.

#### **11 Effect of certain other Acts**

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a member.
- (2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as an appointed member.
- (3) The office of an appointed member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

## 12 Travelling and other out-of-pocket expenses

An appointed member is entitled to be paid from the funds of the area health service concerned the actual travelling and other out-of-pocket expenses properly and reasonably incurred by the appointed member in the performance of the official duties of the appointed member.

## 13 Liability of members etc

No matter or thing done by an area health service, an area health board, any member or any person acting under the direction of that service or board shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.

## 13A Transitional arrangements affecting chief executive officers

- (1) A person who, immediately before the relevant commencement was holding office as chief executive officer of an area health board is, on the relevant commencement, taken to have been appointed to that office for the balance of the person's term of office.
- (2) Until otherwise determined under Part 2A of the *Public Sector Management Act 1988*, the conditions of employment (including remuneration) of a person continued in office under this clause are the same as those which applied immediately before the relevant commencement.
- (3) In this clause:

**relevant commencement** means the commencement of the amendments to the *Area Health Services Act 1986* made by the *Statute Law (Miscellaneous Provisions) Act (No 2) 1990*.

## 14 General procedure

The procedure for the calling of meetings of an area health board and for the conduct of business at those meetings shall, subject to this Act, the regulations and any by-laws relating to that board, be as determined by that board.

## 15 Quorum

The quorum for a meeting of an area health board is:

- (a) where there is an odd number of members—a majority of the number of members, or
- (b) where there is an even number of members—one-half of the number of members plus one.

## **16 Presiding member**

- (1) The chairperson of an area health board or, in the absence of the chairperson, another appointed member elected as chairperson for the meeting by the members present shall preside at a meeting of that board.
- (2) The person presiding at any meeting of an area health board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

## **17 Voting**

A decision supported by a majority of the votes cast at a meeting of an area health board at which a quorum is present shall be the decision of that board.

## **18 First meeting of an area health board**

The Secretary shall call the first meeting of an area health board in such manner as the Secretary thinks fit.

# **Schedule 5 Creation, dissolution, amalgamation and change of names or areas of area health services**

(Section 10)

## **1 Definitions**

In this Schedule:

**order** means an order under Part 2.

## **2 Dissolution of area health service**

- (1) When an order dissolving an area health service takes effect:
  - (a) the area health service is dissolved, and
  - (b) a person who, immediately before the dissolution takes effect, held office as a member of the area health board for the area health service:
    - (i) shall cease to hold office, and
    - (ii) is not entitled to be paid any compensation by reason of ceasing to hold that office.
- (2) On and from the date on which an order dissolving an area health service takes effect:
  - (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that date, was vested in or belonged to the area health service shall vest in and belong to the Crown,
  - (b) all money and liquidated and unliquidated claims that, immediately before that

date, was or were payable to or recoverable by the area health service shall be money and liquidated and unliquidated claims payable to or recoverable by the Crown,

- (c) all proceedings commenced before that date by the area health service and pending immediately before that date shall be deemed to be proceedings pending on that date by the Crown and all proceedings so commenced by any person against the area health service and pending immediately before that date shall be deemed to be proceedings pending on that date by that person against the Crown,
- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the area health service and in force immediately before that date shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Crown,
- (e) the Crown 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 money and claims referred to in this subclause and for the prosecution of proceedings so referred to as the area health service might have done, but for its dissolution,
- (f) the Crown may enforce and realise any security or charge existing immediately before that date in favour of the area health service and may exercise any powers thereby conferred on the area health service as if the security or charge were a security or charge in favour of the Crown,
- (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that date, were due or payable by, or recoverable against, the area health service shall be debts due by, money payable by and claims recoverable against, the Crown,
- (h) all liquidated and unliquidated claims for which the area health service would, but for its dissolution, have been liable shall be liquidated and unliquidated claims for which the Crown shall be liable,
- (i) any act, matter or thing done or omitted to be done before that date by, to or in respect of the area health service shall, to the extent that, but for the dissolution of the area health service, that act, matter or thing would on or after that date have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the Crown, and
- (j) no attornment to the Crown by a lessee from the area health service shall be required.

(3) Any real or personal property vested in the Crown pursuant to this clause may be



used or disposed of for such purposes as the Minister may determine.

### **3 Consequences of amalgamation of area health services**

- (1) When an order amalgamating 2 or more area health services takes effect:
  - (a) the individual area health services to be amalgamated are dissolved, and
  - (b) a person who, immediately before the dissolution takes effect, held office as a member of the area health board for a dissolved area health service:
    - (i) shall cease to hold office as such,
    - (ii) is eligible (if otherwise qualified) to be appointed as a member of the new area health service, and
    - (iii) is not entitled to be paid any compensation by reason of ceasing to hold that office.
- (2) An area health service constituted by any such amalgamation is a continuation of, and the same legal identity as, the area health services amalgamated.

### **4 Change of name of area health service**

A change of name of an area health service by an order does not operate:

- (a) to create a new legal entity,
  - (b) to prejudice or affect the identity of the body corporate constituted as an area health service or its continuity as a body corporate,
  - (c) to affect the property, or the rights or obligations, of the area health service, or
  - (d) to render defective any legal proceedings by or against the area health service,
- and any legal proceedings that could have been continued or commenced by or against the area health service by its former name may be continued or commenced by or against it by its new name.

### **5 Regulations**

- (1) The regulations may contain other provisions of a savings or transitional nature consequent on the making of an order.
- (2) A provision referred to in subclause (1) which relates to a particular order may, if the regulations so provide, take effect as from the date of the order or a later day.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State, an authority of the State or an area health service), the rights of that person existing before the date of its publication in the Gazette, or
  - (b) to impose liabilities on any person (other than the State, an authority of the State or an area health service) in respect of anything done or omitted to be done before the date of its publication in the Gazette.
- (4) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule.

## **Schedule 6 Transfer of hospitals and other health services to area health services**

(Section 21 (2))

### **1 Definitions**

In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires:

**associated organisation** means an associated organisation mentioned in the Fourth Schedule to the [Public Hospitals Act 1929](#).

**incorporated hospital** means a hospital mentioned in the Second Schedule to the [Public Hospitals Act 1929](#).

**order** means an order under section 21.

**relevant area health service**, in relation to a transferred hospital, means the area health service to which the transferred hospital is transferred.

**separate institution** means an institution mentioned in the Third Schedule to the [Public Hospitals Act 1929](#).

**transfer date**, in relation to a transferred hospital, means the date on which the transferred hospital is, by an order, transferred to an area health service.

**transferred hospital** means an incorporated hospital, separate institution or associated organisation transferred by an order to an area health service.

### **2 Transfer of incorporated hospital**

Where a transferred hospital is an incorporated hospital:

- (a) the body corporate constituting the incorporated hospital is dissolved on the transfer date, and
- (b) the members of the board of directors of the incorporated hospital cease to hold office

on the transfer date but are eligible (if otherwise qualified) to be appointed as members of the area health board for the relevant area health service.

### **3 Transfer of separate institution**

Where a transferred hospital is a separate institution:

- (a) if there is a body corporate constituting the separate institution, the body corporate is dissolved on the transfer date,
- (b) if there are trustees of the property of the separate institution, the trustees cease to hold office as such on the transfer date, and
- (c) the members of the governing authority of the separate institution cease to hold office on the transfer date but are eligible (if otherwise qualified) to be appointed as members of the area health board for the relevant area health service.

### **4 Transfer of associated organisation**

Where a transferred hospital is an associated organisation:

- (a) the body corporate constituting the board of the organisation is dissolved on the transfer date, and
- (b) the members of that board cease to hold office on the transfer date but are eligible (if otherwise qualified) to be appointed as members of the area health board for the relevant area health service.

### **5 Staff of transferred hospitals**

All persons who, immediately before the transfer date, were members of the staff of a transferred hospital shall be deemed to have been appointed, on that day, as employees of the relevant area health service.

### **6 Transfer of property etc**

On and from the transfer date in relation to a transferred hospital:

- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that date, was vested in or belonged to the transferred hospital shall vest in and belong to the relevant area health service,
- (b) all money and liquidated and unliquidated claims that, immediately before that date, was or were payable to or recoverable by the transferred hospital shall be money and liquidated and unliquidated claims payable to or recoverable by the relevant area health service,
- (c) all proceedings commenced before that date by the transferred hospital and pending immediately before that date shall be deemed to be proceedings pending on that date

by the relevant area health service and all proceedings so commenced by any person against the transferred hospital and pending immediately before that date shall be deemed to be proceedings pending on that date by that person against the relevant area health service,

- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the transferred hospital and in force immediately before that date shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the relevant area health service,
- (e) the relevant area health service 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 money and claims referred to in this subclause and for the prosecution of proceedings so referred to as the transferred hospital might have done, but for its dissolution,
- (f) the relevant area health service may enforce and realise any security or charge existing immediately before that date in favour of the transferred hospital and may exercise any powers thereby conferred on the transferred hospital as if the security or charge were a security or charge in favour of the relevant area health service,
- (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that date, were due or payable by, or recoverable against, the transferred hospital shall be debts due by, money payable by and claims recoverable against, the relevant area health service,
- (h) all liquidated and unliquidated claims for which the transferred hospital would, but for its dissolution, have been liable shall be liquidated and unliquidated claims for which the relevant area health service shall be liable,
- (i) any act, matter or thing done or omitted to be done before that date by, to or in respect of the transferred hospital shall, to the extent that, but for the dissolution of the transferred hospital, that act, matter or thing would on or after that date have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the relevant area health service, and
- (j) no attornment to the relevant area health service by a lessee from the transferred hospital shall be required.

## **7 Construction of references**

On and from the transfer date, in any other Act or in any regulation, by-law or other statutory instrument or in any document, whether of the same or of a different kind, a reference to the transferred hospital shall, unless the context or subject-matter otherwise indicates or requires, be read and construed as a reference to the transferred hospital

(however named) under the control of the relevant area health service.

## **8 Existing functions etc of certain hospitals continued**

- (1) Any function conferred or imposed immediately before the transfer date on a transferred hospital, or on the board of directors or governing authority of a transferred hospital, in relation to the administration and operation of the transferred hospital may, with the approval of the Minister, continue to be exercised on and from the transfer date by the relevant area health service in relation to the transferred hospital.
- (2) Subclause (1) has effect notwithstanding any other provision of this Act.
- (3) Without limiting the generality of subclause (1), a reference in that subclause to a function includes a reference to a power of investment.

## **9 By-laws of transferred hospital**

The by-laws of a transferred hospital in force at the transfer date continue to apply to and in respect of the transferred hospital and the area health service to which it is transferred until by-laws are made under this Act by the area health service in relation to the transferred hospital.

## **10 Transfer of health services other than transferred hospital and transfer of property**

- (1) An order which transfers a health service (other than a transferred hospital) to an area health service may specify the property belonging to that health service which is to be transferred to the area health service and, on the date the order takes effect, the property vests in that area health service.
- (1A) An order which transfers a hospital mentioned in the Fifth Schedule to the *Public Hospitals Act 1929* to an area health service is to be taken (unless the order otherwise provides) to transfer to and vest in the area health service, on the date the order takes effect, the personal property of the Crown used principally for the conduct of the hospital.
- (2) On the date that an order under section 21 (1) (f) which transfers any property to an area health service takes effect, the property vests in that area health service.

## **11 Existing trust property**

Any trust property of a transferred hospital, the Crown or other person that is vested in an area health service as a consequence of the making of an order shall vest in that area health service on the same trusts to which the property was subject immediately before the transfer.

## 12 Future trust property

To the extent to which, by a deed, will or other instrument, whether taking effect before or after the commencement of this Act:

- (a) any property would, but for this clause, be devised, bequeathed, given, granted, released, conveyed or appointed after the transfer date to a transferred hospital or to another person for the benefit of, or in trust for, a transferred hospital, or
- (b) any property would, but for this clause, be declared or directed after the transfer date to be held by any person for the benefit of, or in trust for, a transferred hospital,

the deed, will or other instrument shall be construed and have effect as if the reference therein to the transferred hospital or the person, as the case may be, were a reference to the relevant area health service.

## 13 Regulations

- (1) The regulations may contain other provisions of a savings or transitional nature consequent on the making of an order.
- (2) A provision referred to in subclause (1) which relates to a particular order may, if the regulations so provide, take effect as from the date of the order or a later day.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State, an authority of the State, a transferred hospital or an area health service), the rights of that person existing before the date of its publication in the Gazette, or
  - (b) to impose liabilities on any person (other than the State, an authority of the State, a transferred hospital or an area health service) in respect of anything done or omitted to be done before the date of its publication in the Gazette.
- (4) The regulations may repeal any provisions in Part 6A of the *Public Hospitals Act 1929* relating to a hospital transferred to an area health service and may make provisions of a savings or transitional nature consequent on the repeal of those provisions.
- (5) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule.