

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

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(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.

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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.

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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.

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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.