

CONCURRENCE COPY

HEALTH ADMINISTRATION BILL, 1982

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:—

Public Service (Department of Health) Amendment Bill, 1982.

Statutory and Other Offices Remuneration (Department of Health) Amendment Bill, 1982.

Miscellaneous Acts (Health Administration) Amendment Bill, 1982.

The objects of this Bill are—

- (a) to establish a Department of Health;
- (b) to constitute as corporations a Health Administration Corporation and a New South Wales Health Foundation;
- (c) to vest certain functions relevant to promoting, protecting, developing, maintaining and improving the health and well-being of the people of New South Wales in the Minister for Health, Secretary of the Department of Health, Health Administration Corporation, New South Wales Health Foundation and other persons and bodies;
- (d) to abolish the Health Commission of New South Wales;
- (e) to provide for the transfer of certain positions from the Health Commission, Department of Health, etc., to other employers; and
- (f) to make other provisions of a minor, consequential or ancillary nature.

The Bill contains the following provisions:—

PART I.—PRELIMINARY.

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Arrangement.

Clause 4. Interpretation.

PART II.—ADMINISTRATION.

DIVISION 1.—*The Minister.*

Clause 5 specifies the functions of the Minister for Health for the purpose of promoting, protecting, developing, maintaining and improving the health and well-being of the people of New South Wales.

DIVISION 2.—*The Department.*

Clause 6 provides for the establishment of a Department of the Government to be known as the "Department of Health" ("the Department").

Clause 7 relates to the appointment, employment and secondment of such staff as may be necessary to enable the Minister, Department, Secretary of the Department ("the Secretary"), Health Administration Corporation and New South Wales Health Foundation to exercise their functions.

DIVISION 3.—*The Secretary.*

Clause 8 relates to the functions of the Secretary and states that, in the exercise of those functions, the Secretary is generally subject to the control and direction of the Minister.

DIVISION 4.—*The Corporation.*

Clause 9 provides for the incorporation of the Secretary as a corporation sole to be known as the "Health Administration Corporation" ("the Corporation") for the purpose of exercising certain statutory functions. One of the functions of the Corporation is to be the recipient of the rights and liabilities of the Health Commission upon its abolition by the proposed Act.

Clauses 10–13 set out the powers of the Corporation relating to the acquisition and disposal of land, the acceptance of property by gift, devise or bequest, and the making of contracts.

Clause 14 permits the Corporation to appoint and employ such employees as may be necessary for the purpose of the supply of goods or substances or of services for any health service.

Clause 15 states that the Local Government and Other Authorities (Superannuation) Act, 1927, shall apply to employees of the Corporation.

DIVISION 5.—*The Foundation.*

Clause 16 provides for the constitution of a corporation to be known as the "New South Wales Health Foundation" ("the Foundation") and stipulates that the affairs of the Foundation shall be managed by the Minister.

Clause 17 relates to the functions of the Foundation and empowers the Foundation to provide financial and other support for any purpose connected with the provision of any health service.

Clause 18 permits the Foundation to acquire, for the purposes for which it is to be constituted, property by gift, devise or bequest, and allows the Foundation to acquire property of the Corporation.

Clause 19 requires the establishment of the "New South Wales Health Foundation Fund" in the Treasury and provides for its use in relation to the deposit of any money received by the Foundation and the provision of funds and payment of expenses by the Foundation.

DIVISION 6.—*Councils, committees and advisory bodies.*

Clause 20 authorises the Minister to appoint—

- (a) a Health Advisory Council and a Professional Services Advisory Council to carry out investigations or inquiries into, and advise upon, such matters as the Minister, Secretary or each Council may determine or request; and
- (b) any other councils, committees and advisory bodies as he may consider appropriate to carry out such functions as he may direct.

The Minister may appoint such persons as he thinks fit to a council, committee or advisory body and may specify the terms of appointment of those persons.

DIVISION 7.—*Delegation.*

Clause 21 permits the Minister, Secretary or Corporation, by instrument in writing, to delegate any of his or its functions as are specified in the instrument to any person, and the person to whom a function has been so delegated may, if no contrary provision is contained in the instrument of delegation, authorise in writing another person to exercise the delegated function. The exercise of a function by a person to whom that function has been delegated or authorised is as effectual as if it had been done by the Minister, Secretary or Corporation, as the case may require, but the making of a delegation or the giving of an authority does not prevent the exercise of a function by the person making the delegation or giving the authority, as the case may be.

PART III.—MISCELLANEOUS.

Clause 22 provides that a person is guilty of an offence against the proposed Act if, without authorisation or excuse, he discloses certain information obtained in connection with the carrying out of the statutory functions of the Minister, Department, Secretary, Corporation or Foundation.

Clause 23 makes it an offence for a person to disclose information obtained in connection with the conduct of research or investigations into morbidity or mortality in New South Wales by a council, committee or advisory body authorised by the Minister for the purpose of that research or investigation.

Clause 24 relates to proceedings for offences against the proposed Act.

Clause 25 specifies that a person is not to be made personally liable for any matter or thing done in good faith for the purpose of executing a statutory function imposed on the Minister, Department, Secretary, Corporation or Foundation.

Clause 26 relates to the service of documents on the Secretary, Corporation or Foundation.

Clause 27 relates to the manner of authentication of documents by the Corporation or Foundation.

Clause 28 provides for the Secretary's preparation, and the Minister's presentation to Parliament, of an annual report of the work and activities of the Department, Corporation and Foundation.

Clause 29 facilitates statute law revision in the event of any future administrative action under section 49 of the Constitution Act, 1902.

Clause 30 and Schedule 1. Repeal of the Health Commission Act, 1972, and amendments to that Act.

Clause 31 provides for the abolition of the Health Commission.

Clause 32 and Schedule 2. Savings, transitional and other provisions.

Clause 33 and Schedule 3. This Schedule authorises the transfer of positions from the Health Commission, Department or Corporation to other employers, with the preservation of certain rights as set out in the Schedule. The power may be exercised from the date of assent to the proposed Act until the end of the period of 5 years after the Department is established.

Clause 34 empowers the making of regulations.

HEALTH ADMINISTRATION BILL, 1982

No. , 1982.

A BILL FOR

An Act to establish a Department of Health and certain other bodies; to vest certain functions in the Minister for Health and certain other bodies and persons; to provide for the transfer of certain employees; to repeal the Health Commission Act, 1972; and for other purposes.

[MR BRERETON—10 *November*, 1982.]

See also Public Service (Department of Health) Amendment Bill, 1982; Statutory and Other Offices Remuneration (Department of Health) Amendment Bill, 1982; Miscellaneous Acts (Health Administration) Amendment Bill, 1982.

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

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PART I.**PRELIMINARY.****Short title.**

1. This Act may be cited as the "Health Administration Act, 1982".

Commencement.

- 10 2. (1) Sections 1, 2, 33 and 34 and Schedule 3 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 in respect thereof and as may be notified by proclamation published in the Gazette.

15 Arrangement.

3. This Act is divided as follows:—

PART I.—PRELIMINARY—ss. 1–4.

PART II.—ADMINISTRATION—ss. 5–21.

DIVISION 1.—*The Minister*—s. 5.

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DIVISION 2.—*The Department*—ss. 6, 7.

DIVISION 3.—*The Secretary*—s. 8.

DIVISION 4.—*The Corporation*—ss. 9–15.

DIVISION 5.—*The Foundation*—ss. 16–19.

DIVISION 6.—*Councils, committees and advisory bodies*—s. 20.

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DIVISION 7.—*Delegation*—s. 21.

PART III.—MISCELLANEOUS—ss. 22–34.

SCHEDULE 1.—REPEALS.

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SCHEDULE 2.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

SCHEDULE 3.—TRANSFER OF HEALTH EMPLOYEES.

Interpretation.

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

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

“Corporation” means the Health Administration Corporation constituted by section 9;

10 “Department” means the Department of Health;

“Foundation” means the New South Wales Health Foundation constituted by section 16;

15 “health service” means any medical, hospital, ambulance, paramedical, community health or environmental health service or any other service (including any service of a prescribed class or description) 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;

20 “officer of the Department” means an officer or employee of the Department;

“regulations” means regulations under this Act;

“Secretary” means the Secretary of the Department.

(2) A reference in this Act to an ambulance service is a reference to a service relating to the work of rendering first aid to, and the transport of, 25 sick and injured persons.

(3) A reference in this Act to—

(a) a function includes a reference to a power, authority and duty; and

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

PART II.

ADMINISTRATION.

DIVISION 1.—*The Minister.*

Functions of Minister.

5 **5. (1)** The Minister may formulate general policies, in accordance with which the functions of the Minister, Department, Secretary, Corporation and Foundation are to be exercised, for the purpose of promoting, protecting,
10 developing, maintaining and improving the health and well-being of the people of New South Wales to the maximum extent possible having regard to the needs of and financial and other resources available to the State.

(2) The Minister may—

- 15 (a) provide, conduct, operate and maintain and, where necessary, improve and extend any health service or any ancillary or incidental service and arrange for the construction of any buildings or works necessary for or in connection with any such service;
- (b) enter into any agreement or arrangement for any other person to provide, conduct, operate and maintain any health service; and
- 20 (c) do such supplemental, incidental or consequential acts as may be necessary or expedient for the exercise of the functions under the foregoing provisions of this subsection.

(3) Nothing in this section takes away or affects any function that the Minister has apart from this section.

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*DIVISION 2.—The Department.***Establishment of Department of Health.**

6. (1) There is hereby established a Department of the Government with the name "Department of Health".

5 (2) The Secretary and the persons who are members of the staff referred to in section 7 (1) and in clause 4 of Schedule 2, but not persons employed under section 14, constitute the Department of Health.

(3) The Department shall be deemed to have been established under section 49 of the Constitution Act, 1902, and nothing in this section affects
10 the power conferred by that section to abolish, or change the name of, the Department.

Public Service staff.

7. (1) Such staff as may be necessary to enable the Minister, Department, Secretary, Corporation and Foundation to exercise their functions shall be
15 appointed and employed under and subject to the Public Service Act, 1979.

(2) For the purpose of the exercise of the functions of the Minister, Department, Secretary, Corporation and Foundation, the Minister may, with the approval of the Department concerned and on such terms as may be arranged, make use of the services of any of the staff of any Government
20 Department.

(3) The Minister may for the like purpose, with the approval of—

(a) any public authority;

(b) any hospital or associated organisation respectively within the meaning of the Public Hospitals Act, 1929; or

25 (c) any council within the meaning of the Local Government Act, 1919,

make use of the services of any of the staff of that public authority, hospital, organisation or council, as the case may be.

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(4) Nothing in subsection (1) affects the employment of persons under section 14.

DIVISION 3.—*The Secretary.*

Functions of Secretary.

5 **8. (1)** The Secretary shall have and may exercise such functions as are conferred or imposed on him by or under this or any other Act.

(2) The Secretary shall have and may exercise the following functions:—

- 10 (a) to initiate, promote, commission and undertake surveys and investigations into—
- (i) the health needs of the people of New South Wales;
 - (ii) the resources of the State available to meet those needs; and
 - (iii) the methods by which those needs should be met;
- 15 (b) to inquire into the nature, extent and standards of the health services, facilities and personnel required to meet the health needs of the people of New South Wales and to determine the cost of meeting those needs;
- 20 (c) to plan the provision of comprehensive, balanced and co-ordinated health services throughout New South Wales;
- (d) to formulate the programmes and methods by which the health needs of the people of New South Wales may be met;
- (e) to undertake, promote and encourage research in relation to any health service;
- 25 (f) to facilitate the provision of health services by any council (within the meaning of the Local Government Act, 1919) or by any other body or person;
- 30 (g) to facilitate the provision by any Government Department, statutory authority, other body or person of social welfare services necessary or desirable to complement any health service;

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- 5 (h) to promote and facilitate the provision of the professional, technical or other education or training of any persons employed or to be employed in the provision of any health service;
- (i) to promote and facilitate a system of health care for the people of New South Wales provided by private bodies, institutions, associations and persons, as well as by the State and public bodies;
- (j) to do such supplemental, incidental or consequential acts as may be necessary or expedient for the exercise of his functions under the foregoing provisions of this subsection.
- 10 (3) The Secretary is, in the exercise of functions conferred or imposed on the Secretary by or under any Act administered by the Minister for Health, subject to the control and direction of the Minister, except in relation to the contents of a recommendation or report made by the Secretary to the Minister.

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DIVISION 4.—*The Corporation.***Corporation.**

9. (1) The Secretary is, for the purpose of exercising the functions expressed to be conferred or imposed on the Corporation by or under this or any other Act, hereby incorporated as a corporation sole with the corporate
20 name "Health Administration Corporation".

- (2) The Corporation—
- (a) has perpetual succession;
- (b) shall have an official seal;
- 25 (c) may take proceedings, and be proceeded against, in its corporate name;
- (d) subject to this Act, may, for the purposes for which it is constituted, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property;

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(e) 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 Corporation is constituted; and

5 (f) is, for the purpose of any Act, a statutory body representing the Crown.

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

(a) the custody and use of the seal of the Corporation; and

(b) the keeping of records concerning the acts, decisions and proceedings of the Corporation.

10 (4) All courts and persons acting judicially—

(a) shall take judicial notice of the seal of the Corporation that has been affixed to any instrument or document; and

(b) shall, until the contrary is proved, presume that the seal was properly affixed.

15 (5) The Corporation is subject to the control and direction of the Minister.

Acquisition of land by Corporation.

10. (1) The Corporation, with the approval of the Minister and subject to such terms and conditions as the Minister may attach to his approval, may,
20 for the purpose of the exercise by the Minister, Department, Secretary, Corporation or Foundation of his or its functions, acquire land by purchase, lease or exchange or, in accordance with the provisions of this section, by way of resumption or appropriation.

(2) Without limiting the generality of subsection (1), the Corporation
25 may acquire in any manner authorised by subsection (1)—

(a) any land of which that proposed to be acquired under this section forms part; and

(b) any land adjoining or in the vicinity of any land proposed to be acquired under this section.

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(3) For the purposes of the acquisition, under subsection (1), by the Corporation of land by resumption or appropriation, the Governor may, under the Public Works Act, 1912, resume any land or appropriate any land vested in Her Majesty or in any person in trust for Her Majesty.

5 (4) A resumption or appropriation effected in accordance with subsection (3) shall be deemed to be for an authorised work within the meaning of the Public Works Act, 1912, and the Corporation shall, in relation to that authorised work, be deemed to be the Constructing Authority within the meaning of that Act.

10 (5) Sections 34, 35, 36 and 37 of the Public Works Act, 1912, do not, where the Corporation is the Constructing Authority within the meaning of that Act, apply to expenditure on any works constructed for the purposes of this Act or any other Act conferring or imposing functions on the Minister, Department, Secretary, Corporation or Foundation, but section 38
15 of that Act applies to any such expenditure.

(6) Nothing in this section affects any operation that the Public Works Act, 1912, would have if this section had not been enacted and the Corporation had not been constituted.

Disposal of land by Corporation.

20 11. The Corporation may, with the approval of the Minister and subject to such terms and conditions as the Minister may attach to his approval, sell, lease, exchange or otherwise deal with or dispose of land that has been acquired by the Corporation under this or any other Act, or any part thereof, and may, with the like approval and subject to the like terms and conditions,
25 grant easements or rights-of-way over any such land so acquired or any part thereof.

Power to accept gifts, etc.

12. (1) The Corporation may acquire, for any purpose connected with—
(a) the provision of any health service; or

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(b) any of the functions of the Minister, Department, Secretary or Corporation,

any property by gift, devise or bequest and may agree to and carry out the conditions of any such gift, devise or bequest.

- 5 (2) The rule of law against remoteness of vesting shall not apply to any such condition to which the Corporation has agreed.

Contracts of Corporation.

13. (1) The Corporation may make and enter into contracts or agreements with any person for the performance of services, or for the supply of
10 goods, plant, machinery or material with respect to the exercise by the Minister, Department, Secretary, Corporation or Foundation of his or its functions 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
15 account of the Public Service of New South Wales.

(3) The Corporation may, on such terms and conditions as may be agreed upon, sell or let out on hire any goods, plant, machinery or material acquired by it under this or any other Act.

Employees of Corporation.

20 14. (1) The Corporation may appoint and employ such employees as may be necessary for the purpose of the supply of goods or substances, or of services, for one or more health services if the appointment and employment by the Corporation of employees for that purpose is first approved by the Public Service Board of New South Wales.

25 (2) A person employed under this section shall, subject to the terms of his appointment, continue in the service of the Corporation at the will of the Corporation only.

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(3) A person employed under this section shall be subject to the sole control and governance of the Corporation which may fix wages and conditions of employment where they are not otherwise fixed in accordance with law.

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

 (a) the control and governance of persons employed under this section;
 and

 (b) any other matter or thing necessary or convenient to ensure the
10 maintenance of discipline and efficiency in the service of the
 Corporation of such employees or classes of employees as are
 employed under this section.

(5) The Public Service Act, 1979, does not apply to or in respect of the appointment of an employee under this section, and such an employee is not subject to the provisions of that Act while he is such an employee.

15 Superannuation of employees.

15. The Local Government and Other Authorities (Superannuation) Act, 1927, applies to and in respect of employees employed under section 14 in the same way as if a proclamation made by the Governor in respect of those employees had been published in the Gazette under section 20 2 (4) (a) of that Act.

DIVISION 5.—*The Foundation.*

Foundation.

16. (1) There is hereby constituted a corporation with the corporate name “New South Wales Health Foundation”.

25 **(2)** The affairs of the Foundation shall be managed by the Minister.

(3) Any act, matter or thing done in the name of, or on behalf of, the Foundation by the Minister, or with the authority of the Minister, shall be deemed to have been done by the Foundation.

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(4) The Foundation—

- (a) has perpetual succession;
- (b) shall have an official seal;
- 5 (c) may take proceedings, and be proceeded against, in its corporate name;
- (d) subject to this Act, may, for the purposes for which it is constituted, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property;
- 10 (e) 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 Foundation is constituted; and
- (f) is, for the purposes of any Act, a statutory body representing the Crown.

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

- 15 (a) the custody and use of the seal of the Foundation; and
- (b) the keeping of records concerning the acts, decisions and proceedings of the Foundation.

(6) All courts and persons acting judicially—

- 20 (a) shall take judicial notice of the seal of the Foundation that has been fixed to any instrument or document; and
- (b) shall, until the contrary is proved, presume that the seal was properly affixed.

Functions of the Foundation.

17. **(1)** The Foundation shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.

(2) The Foundation may provide funds and make grants, and provide other support, for any purpose connected with—

- (a) the provision of any health service; or

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(b) any of the functions of the Minister, Department, Secretary or Corporation.

(3) The Foundation may, subject to such terms and conditions as it thinks appropriate, give or make available real or personal property (with
5 or without consideration) to or for any person, body or organisation who or which provides any health service.

(4) The Foundation may promote and facilitate the raising of funds by means of public appeal or otherwise by any body, institution, association or person for the purposes of subsection (2) or (3).

10 Power to accept gifts, etc.

18. (1) The Foundation may acquire, for the purposes for which it is constituted, 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
15 to any such condition to which the Foundation has agreed.

(3) The Foundation may act as trustee of money or other property vested in the Foundation upon trust.

(4) The Corporation may, with the approval of the Minister, declare, by instrument published in the Gazette, any specified property (including
20 money) acquired by the Corporation under section 12 to be property to which this subsection applies, and the property thereupon becomes vested in the Foundation, and any relevant condition to which the Corporation has agreed shall be deemed to be a condition to which the Foundation has agreed.

25 New South Wales Health Foundation Fund.

19. (1) There shall be established and kept in the Treasury an account in the Special Deposits Account to be called the "New South Wales Health Foundation Fund" (referred to in this section as "the Fund").

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(2) The Fund shall consist of any money received from any source by the Foundation.

(3) There may be paid out of the Fund—

- 5 (a) all charges, costs and expenses incurred by or with the authority of the Minister in the administration of the Foundation; and
- (b) all funds and grants provided, and other payments made, by the Foundation in the exercise of its functions.

(4) Any money acquired by the Foundation shall, for the purposes of the Audit Act, 1902, be deemed to be public moneys.

10 DIVISION 6.—*Councils, committees and advisory bodies.*

Appointment of Health Advisory Council and other advisory bodies.

20. (1) The Minister shall appoint a Health Advisory Council and a Professional Services Advisory Council.

(2) A Council appointed under subsection (1)—

- 15 (a) shall carry out investigations or inquiries into, and report or advise in respect of, such matters as the Minister may from time to time direct or the Secretary may from time to time request; or
- (b) may carry out investigations or inquiries into, and report or advise in respect of, such matters as the Council from time to time determines and the Minister may approve.
- 20

(3) For the purpose of any such investigation, inquiry, report or advice, the Secretary shall provide all such information and assistance as may be available to him and as the Council may request of him.

(4) The Minister may appoint such other councils, committees and
25 advisory bodies as he may consider appropriate.

(5) A council, committee or advisory body appointed under subsection (4) shall have such functions as the Minister may from time to time direct.

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(6) A council, committee or advisory body appointed under subsection (1) or (4) shall consist of a person appointed as chairman by the Minister and such other persons appointed by the Minister as he thinks fit.

5 (7) The chairman and other members so appointed shall hold office for such term as the Minister may specify in respect of each of them in the instruments of their appointment and any such appointment may be terminated by the Minister at any time.

10 (8) The chairman and any other member of a council, committee or advisory body appointed under subsection (1) or (4) shall each be entitled to be paid such fees and allowances (if any) as may be from time to time determined in respect of him by the Minister.

(9) The office of a member of a council, committee or advisory body appointed under subsection (1) or (4) shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

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DIVISION 7.—*Delegation.***Delegation.**

21. (1) The Minister, Secretary or Corporation may, by instrument in writing, under seal (in the case of the Corporation), delegate such of his or its functions (other than this power of delegation) conferred or imposed by
20 or under this or any other Act as are specified in the instrument to any person, and may, by such an instrument, revoke wholly or in part any such delegation.

(2) A delegation under subsection (1) may be made to—

25 (a) a specified person (whether a natural person or a corporation);
or

(b) a person for the time being holding a specified office.

(3) Except in so far as the instrument of delegation otherwise provides, a person to whom a function has been delegated under subsection (1) may—

30 (a) in the case of a natural person—by writing under his hand; or

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(b) in the case of a corporation—by writing under its seal, authorise another person to exercise the function so delegated, and may, in like manner, revoke wholly or in part any such authority.

(4) An authority under subsection (3) may be given to—

5

(a) a specified person; or

(b) a person for the time being holding a specified office.

(5) Any act or thing done or suffered in the exercise of a function by a person to whom the function has been delegated under subsection (1) or by a person authorised by the delegate under subsection (3) to exercise
10 the function has the same force and effect as if it had been done or suffered by the Minister, Secretary or Corporation, as the case may require, and shall be deemed to have been done or suffered by the Minister, Secretary or Corporation, as the case may require.

(6) A delegation under subsection (1) does not prevent the exercise
15 of a function by the Minister, Secretary or Corporation, as the case may require.

(7) The giving of an authority under subsection (3) does not prevent the exercise of a function by the person by whom the authority was given.

(8) A document purporting to be signed by a person as a delegate
20 of the Minister, Secretary or Corporation shall be deemed, unless the contrary is established, to have been signed by such a delegate and to have been so signed pursuant to the exercise of a function duly delegated to the person under subsection (1).

(9) A document purporting to be signed by a person authorised by
25 a delegate of the Minister, Secretary or Corporation to sign the document shall be deemed, unless the contrary is established, to have been signed by a person so authorised and to have been so signed pursuant to the exercise of a function that he is duly authorised by such a delegate to exercise.

(10) A delegation or authority under this section may be made or
30 given subject to such conditions or such limitations as to the exercise of any of the functions delegated, or as to time or circumstances, as may be specified in the instrument of delegation or authority.

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(11) The provisions of this section are in addition to and not in derogation of any other provision which authorises or provides for the authorisation of a person to exercise any function of the Minister, Secretary or Corporation.

- 5 (12) This section does not authorise the delegation of the power to give an approval for the purposes of section 23 (3) (b) of this Act or to conduct a hearing referred to in section 11B of the Public Hospitals Act, 1929.

PART III.

10

MISCELLANEOUS.

Disclosure of information.

22. If a person discloses any information obtained in connection with the administration or execution of this Act or any other Act conferring or imposing responsibilities or functions on the Minister, Department, Secretary, 15 Corporation or Foundation and the disclosure is not made—

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act or any such other Act;
- 20 (c) for the purposes of any legal proceedings arising out of this Act or any such other Act or of any report of any such proceedings; or
- (d) with other lawful excuse,

that person is guilty of an offence against this Act and, on conviction by 25 a court of summary jurisdiction, liable to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding 6 months.

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Specially privileged information.

23. (1) The Minister may, by order published in the Gazette, authorise any specified person or body, including a council, committee or advisory body appointed under section 20 (1) or (4), to conduct research or conduct
5 investigations into morbidity or mortality occurring within New South Wales.

(2) An authorisation under this section may be of general application or be limited by reference to specified factors or exceptions.

(3) If a person discloses any information obtained in connection with the conduct of research or investigations in accordance with an authori-
10 sation under this section (whether or not the authorisation is still in force at the time of the disclosure) and the disclosure is not made—

(a) with the consent of the person from whom the information was obtained; or

(b) with the approval of the Minister,

15 that person is guilty of an offence against this Act and, on conviction by a court of summary jurisdiction, liable to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding 6 months.

(4) Notwithstanding anything in subsection (3), a person who has obtained any information in connection with the conduct of research or
20 investigations in accordance with an authorisation under this section is neither competent nor compellable in any proceedings to answer any question, or to produce any documents, relating to any such information (whether or not the authorisation is still in force at the time of the proceedings), except with the approval of the Governor.

25 (5) Notwithstanding anything in subsection (3), an order under section 14 (3) of the Coroners Act, 1980, in relation to a person who died or may have died as referred to in section 13 (3) (f) of that Act, does not require the production of a document or writing containing information obtained in connection with the conduct of research or investigations in
30 accordance with an authorisation under this section (whether or not the authorisation is still in force at the time the order is served), where the information was obtained from a person who administered or was involved in the administration of the anaesthetic concerned.

(6) Without limiting the operation of this section, this section has
35 effect notwithstanding anything in the Coroners Act, 1980.

Health Administration.

(7) An authorisation may be given under this section so as to operate retrospectively, but not so as thereby to affect a disclosure already made.

Proceedings for offences.

- 5 **24.** Proceedings for an offence against this Act may be taken only before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

Protection from liability.

25. No matter or thing done in good faith for the purposes of executing this Act or any other Act conferring or imposing functions on the Minister,
10 Department, Secretary, Corporation or Foundation shall subject any person personally to any action, liability, claim or demand.

Service of documents.

26. Any notice, summons, writ or other proceeding required to be served on the Secretary, Corporation or Foundation may be served by being left at
15 an office of the Department, or, in the case of a notice, by posting it addressed to the Secretary, Corporation or Foundation, as the case may be, at an office of the Department.

Authentication of certain documents.

27. Every summons, process, demand, order, notice, statement, direc-
20 tion or document requiring authentication by the Corporation or Foundation may be sufficiently authenticated without the seal of the Corporation or Foundation if signed by a person authorised to do so by the Corporation or Foundation.

Annual report.

- 25 **28. (1)** As soon as practicable after 30th June, but not later than 31st December, in each year, the Secretary shall prepare and furnish to the Minister a report of the work and activities of the Department, Corporation and Foundation for the year ending on 30th June in that year.

Health Administration.

(2) The Minister shall lay the report, or cause it to be laid, before both Houses of Parliament as soon as practicable after the receipt by him of the report.

5 (3) A report under subsection (1) may include any report required to be made annually in respect of the Department, Corporation or Foundation under any other Act.

(4) In so far as a report under subsection (1) includes any matter that relates to a period in respect of which a report is so required to be made under any other Act, the provision of that other Act which requires the
10 report to be made in respect of that period has no operation.

Statute law revision (sec. 6).

29. (1) On a day to be appointed by the Governor for the purposes of this section and notified by proclamation published in the Gazette, section 6 is repealed.

15 (2) A day shall not be appointed for the purposes of subsection (1) that is earlier than a day on which the Department established by section 6 is abolished, or its name is changed, under section 49 of the Constitution Act, 1902.

(3) The repeal of section 6 by subsection (1) does not itself affect
20 the existence of the Department established by section 6, but nothing in this subsection affects the powers conferred by section 49 of the Constitution Act, 1902.

Repeal of Health Commission Act, 1972, and amendments.

30. Each Act specified in Column 1 of Schedule 1 is, to the extent
25 specified opposite that Act in Column 2 of that Schedule, repealed.

Abolition of Commission.

31. The Commission is abolished.

*Health Administration.***Savings, transitional and other provisions.**

32. Schedule 2 has effect.

Transfer of health employees.

33. Schedule 3 has effect.

5 Regulations.

34. 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.

10

SCHEDULE 1.

(Sec. 30.)

REPEALS.

Column 1.		Column 2.
15	Year and number of Act.	Short title of Act.
		Extent of repeal.
	1972, No. 63 ..	Health Commission Act, 1972
	1975, No. 8 ..	Health Commission and Other Acts (Amendment) Act, 1975.
20	1976, No. 4 ..	Statutory and Other Offices Remuneration Act, 1975.
	1976, No. 63 ..	Statute Law Revision Act, 1976
	1976, No. 78 ..	Health Commission (Amendment) Act, 1976..
25	1976, No. 95 ..	Public Hospitals (Amendment) Act, 1976 ..
	1977, No. 19 ..	Notice of Action and Other Privileges Abolition Act, 1977.
	1977, No. 131 ..	Health Commission (Amendment) Act, 1977..
30	1978, No. 54 ..	Meat Industry Act, 1978
	1978, No. 110 ..	Health Commission (Amendment) Act, 1978..
	1979, No. 208 ..	Dairy Industry Marketing Authority Act, 1979
35	1980, No. 132 ..	Health Commission (Amendment) Act, 1980..
	1980, No. 187 ..	Miscellaneous Acts (Retirement of Statutory Officers) Amendment Act, 1980.
	1981, No. 83 ..	Miscellaneous Acts (Financial Accommodation) Amendment Act, 1981.

Health Administration.

SCHEDULE 2.

(Sec. 32.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation: Sch. 2.

5 1. In this Schedule—

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

“cognate Acts” means this Act, the Public Service (Department of Health) Amendment Act, 1982, the Statutory and Other Offices Remuneration (Department of Health) Amendment Act, 1982, and the Miscellaneous Acts
10 (Health Administration) Amendment Act, 1982.

Members of Commission.

2. (1) A person holding office as a member of the Commission immediately before the appointed day shall cease to hold office as such on the appointed day.

(2) A member of the Commission who ceases to hold office as such by reason
15 of the operation of subclause (1) is not entitled to be paid any remuneration or compensation by reason of his ceasing to hold that office, but nothing in this subclause prevents the payment to that person of such compensation (if any) as the Minister determines out of money provided by Parliament.

(3) A member of the Commission who was, immediately before his appoint-
20 ment as a member, an officer of the Public Service and who ceases to hold office as such a member by reason of the operation of subclause (1) is, if he is under the age of 60 years, entitled to be appointed to some position in the Public Service not lower in classification and salary than that which he held immediately before his appointment as a member.

25 **Servants of Commission.**

3. (1) The persons who, immediately before the appointed day, were servants of the Commission appointed or employed under section 14A of the Health Commission Act, 1972, shall, on that day, become employees of the Corporation, and shall be deemed to have been appointed and employed under section 14 of this Act.

(2) For the purposes of any law, any period of service with the Commission
30 by a person referred to in subclause (1) shall be deemed to be a period of service with the Corporation.

Other staff of Commission.

4. (1) The persons who, immediately before the appointed day, were officers
35 and temporary employees of the Administrative Office attached to the Commission shall, on that day, become officers and temporary employees (respectively) of the Department.

Health Administration.

SCHEDULE 2—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(2) Expressions used in this clause shall, unless the contrary intention appears, have the same meanings respectively as they have in the Public Service Act, 1979.

5 Property, rights and liabilities of Commission.

5. (1) On and from the appointed day—

- 10 (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to the Commission shall vest in and belong to the Corporation;
- (b) all moneys and liquidated and unliquidated claims that, immediately before that day, were payable to or recoverable by the Commission shall be moneys and liquidated and unliquidated claims payable to or recoverable by the Corporation;
- 15 (c) all proceedings commenced before that day by the Commission and pending immediately before that day shall be deemed to be proceedings pending on that day by the Corporation and all proceedings so commenced by any person against the Commission and pending immediately before that day shall be deemed to be proceedings pending on that day by that person against the Corporation;
- 20 (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the Commission and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Corporation;
- 25 (e) the Corporation may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of moneys and claims referred to in this subclause and for the prosecution of actions and proceedings so referred to as the Commission might have done but for the enactment of the cognate Acts;
- 30 (f) the Corporation may enforce and realise any security or charge existing immediately before that day in favour of the Commission and may exercise any powers thereby conferred on the Commission as if the security or charge were a security or charge in favour of the Corporation;
- 35 (g) all debts, moneys and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, the Commission shall be debts due by, moneys payable by and claims recoverable against, the Corporation; and

Health Administration.

SCHEDULE 2—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- 5 (h) ~~all liquidated and unliquidated claims for which the Commission would, but for the enactment of the cognate Acts, have been liable shall be~~ liquidated and unliquidated claims for which the Corporation shall be liable.

(2) On and from the appointed day, 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, or a reference required immediately before the appointed day, to be read and construed as a reference—

- 10 (a) to the Commission shall, subject to the regulations under clause 13, be read and construed as a reference to the Minister, Department, Secretary, Corporation or Foundation, whichever is appropriate; and

(b) to any officer of the Commission shall be read and construed as a reference—

- 15 (i) if there is an office in the staff establishment of the Department that corresponds to the office held by that officer—to the person holding that office in the establishment of the Department; or
- (ii) if there is no such corresponding office—to the person holding such office in the staff establishment of the Department as may be directed by the Secretary from time to time by order in writing.

- 20 (3) Any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the Commission or a member, officer or servant of the Commission shall, to the extent that, but for the enactment of the cognate Acts, that act, matter or thing would on or after that day have had any force or effect or been in operation, be deemed to have been done by, to or in respect of the Minister,
- 25 Department, Secretary, Corporation or Foundation or an officer of the Department or an employee of the Corporation, whichever of them is, on or after that day, appropriate in relation to the doing of or the omission to do that act, matter or thing.

- 30 (4) No attornment to the Corporation by a lessee from the Commission shall be required.

Disposal of certain land by Corporation.

6. For the purposes of section 11, any land that was acquired by the Commission and that becomes land of the Corporation by virtue of this Schedule shall be deemed to have been acquired by the Corporation.

Health Administration.

SCHEDULE 2—continued.**SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—continued.****Property acquired by gift, etc.**

7. For the purposes of section 18, any property that was held by the Commission immediately before the appointed day by way of gift, devise or bequest, whether pursuant to section 19A of the Health Commission Act, 1972, or otherwise, and that becomes property of the Corporation by virtue of this Schedule shall be deemed to have been acquired by the Corporation under section 12 of this Act, and any condition subject to which it was so held by the Commission shall be deemed to be a condition to which the Corporation has agreed.

Amendments.

8. (1) The repeal of the Health Commission Act, 1972, by this Act does not affect any amendments made by that Act, and any such amendment continues to have force and effect as if this Act had not been enacted.
- (2) Subclause (1) does not apply to the amendments made by the Health Commission Act, 1972, to the Public Health (Amendment) Act, 1944.

Unexpended funds appropriated in connection with the Commission.

9. The sums authorised by the Appropriation Act, 1982, to be appropriated out of the Consolidated Fund and to be issued and applied for or towards expenditure under the heading "Minister for Health" in connection with the Commission shall be deemed, to the extent that, at the appointed day, they have not been so issued or applied, to be sums authorised by that Act to be appropriated out of that Fund and to be issued and applied for or towards expenditure in connection with the Department, Secretary, Corporation and Foundation.

25 Other bodies.

10. (1) The continuity of any body constituted by or under any Act is not prejudiced or affected by any amendment made by the Miscellaneous Acts (Health Administration) Amendment Act, 1982.
- (2) A person who, immediately before the appointed day, held office as a member of a body constituted by or under any Act and who so held that office—
- (a) in his capacity as, or by virtue of his being, a member, officer or employee of the Commission;
 - (b) by virtue of his being nominated or appointed thereto by the Commission; or
 - (c) by virtue of his being appointed thereto on the nomination of the Commission,
- shall cease to hold office as such on the appointed day, and the provisions of clause 2 (2) apply to and in relation to such a person in the same way as they apply to and in relation to a person referred to in clause 2 (1).

Health Administration.

SCHEDULE 2—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(3) Notwithstanding subclause (2), if the person holding office as the member of the New South Wales Medical Board referred to in section 5 (3) (a) of the Medical
5 Practitioners Act, 1938, immediately before the appointed day is not an officer of the Department on the appointed day, he shall be deemed—

- (a) to be, until 4th July, 1983 (inclusive), an officer of the Department for the purposes of section 5 (3) (a) of that Act, as amended by the Miscellaneous Acts (Health Administration) Amendment Act, 1982; and
- 10 (b) to have been appointed to that office on the appointed day by order under that paragraph.
- (4) This clause has effect notwithstanding anything in clause 5 (3).

Ambulance contribution scheme.

11. Without affecting the generality of clause 5—

- 15 (a) a contribution scheme conducted and operated under the Ambulance Services Act, 1976, immediately before the appointed day shall be deemed to have been established under that Act as amended by the Miscellaneous Acts (Health Administration) Amendment Act, 1982; and
- 20 (b) any resolution in force under the Ambulance Services Act, 1976, in relation to such a scheme immediately before the appointed day shall be deemed to be a determination in force under section 7 of that Act as so amended.

Committees of Review.

12. A Committee of Review appointed under section 33J (3) of the Public Hospitals Act, 1929, and in existence immediately before the appointed day shall be deemed to
25 have been appointed under section 33J (3) of that Act as amended by the Miscellaneous Acts (Health Administration) Amendment Act, 1982.

Regulations.

13. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of the cognate Acts (other
30 than Schedule 3 to this Act).

(2) A provision made under subclause (1) may take effect as from the appointed day 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,
35 the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or

Health Administration.

SCHEDULE 2—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- 5 (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.
- (4) A provision made under subclause (1) shall, if the regulations expressly so provide, have effect notwithstanding the foregoing clauses of this Schedule (clauses 2, 3 and 4 excepted).
- 10 (5) A reference in any provision of this Act (this clause and clause 5 (2) (a) excepted) to regulations does not include a reference to regulations made under this clause.

SCHEDULE 3.

(Sec. 33.)

TRANSFER OF HEALTH EMPLOYEES.

15 **Interpretation: Sch. 3.**

1. (1) In this Schedule—

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

“designated person” means—

- 20 (a) any hospital whose name is included in the Second or Third Schedule to the Public Hospitals Act, 1929;
- (b) any associated organisation whose name is included in the Fourth Schedule to the Public Hospitals Act, 1929; or
- (c) any person who is specified in a proclamation under subclause (6);

“designated position” means a position transferred pursuant to clause 2;

25 “Instrumentality” means—

- (a) the Commission;
- (b) the Department;
- (c) the Administrative Office attached to the Commission; or
- (d) the Corporation;

30 “superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act;

“transfer date”, in relation to a designated position, means the date upon which the transfer of the position pursuant to clause 2 takes effect;

Health Administration.

SCHEDULE 3—*continued.*TRANSFER OF HEALTH EMPLOYEES—*continued.*

5 “transferred employee” means a person who, on the transfer date, was employed in a designated position and who, in accordance with clause 3, becomes employed in that position as an employee of the person to whom the position is transferred;

“transition period” means—

- 10 (a) in relation to a person who is a transferred employee during the whole of the period of 3 years immediately following the transfer of the designated position in which he was employed on the transfer date—that period of 3 years; or
- (b) in relation to a person who ceases to be a transferred employee during the period referred to in paragraph (a)—that part of the period during which he was a transferred employee.

15 (2) A reference (however expressed) in this Schedule to—

(a) employment or service is a reference to employment or service under—

- (i) the Public Service Act, 1979;
- (ii) section 14A of the Health Commission Act, 1972; or
- (iii) section 14 of this Act; and

20 (b) employment in an Instrumentality includes a reference to employment by an Instrumentality.

(3) Where a person—

- (a) became a transferred employee pursuant to the transfer of a designated position in which he was employed on the transfer date; and
- 25 (b) ceases to be an employee of the person by whom, by virtue of clause 3, he was employed,

he shall, on ceasing to be an employee of the person by whom, by virtue of clause 3, he was employed, cease to be a transferred employee.

(4) Where, by this Schedule, any rights of a person are to be determined as if the
30 person had continued to be employed in the relevant Instrumentality or are to be determined by reference to a person's service with the relevant Instrumentality, such a reference to the relevant Instrumentality is—

- (a) where the transfer date is on or after the appointed day—a reference to the Department, or the Corporation, as the case may require; or

Health Administration.

SCHEDULE 3—continued.**TRANSFER OF HEALTH EMPLOYEES—continued.**

- (b) where the transfer date is before the appointed day—a reference to—
- 5 (i) the Administrative Office attached to the Commission, or the Commission, as the case may require, before the appointed day; and
- (ii) if the person continues to be employed by a designated employer on or after the appointed day—the Department, or the Corporation, respectively, on or after the appointed day.

(5) This Schedule shall be construed before the appointed day as if section 4
10 had commenced on the date of assent to this Act.

(6) The Governor may, by proclamation published in the Gazette, declare a person specified in the proclamation to be a designated person for the purposes of this Schedule.

Governor may transfer certain positions.

15 2. (1) The Governor may, on the recommendation of the Minister, by order published in the Gazette, transfer from an Instrumentality to a specified designated person positions in or in the service of the Instrumentality.

(2) An order under subclause (1) in relation to the transfer of positions in or in the service of an Instrumentality shall specify—

- 20 (a) the person to whom the positions are transferred;
- (b) the positions which are transferred; and
- (c) the date on which the transfer takes effect.

(3) A position specified in an order under subclause (1) may be specified—

- 25 (a) by reference to—
- (i) the functions or activities which a person employed in that position performs; or
- (ii) the location at which those functions or activities are performed, or both; or
- (b) in any other manner.

30 (4) An order for the transfer of a position under subclause (1) has no effect if published after the expiration of 5 years after the appointed day.

Health Administration.

SCHEDULE 3—*continued.*TRANSFER OF HEALTH EMPLOYEES—*continued.***Transferred staff.**

3. (1) A person who, immediately before the transfer date in relation to a designated position, was employed in an Instrumentality in the designated position and who—

(a) presents himself for work, on the transfer date, in that position; or

(b) has, in the opinion of the Minister, a reasonable excuse for not presenting himself for work, on the transfer date, in that position but presents himself for work in that position as soon as practicable after that date,

shall, upon presenting himself for work—

(c) under paragraph (a), become, on the transfer date, an employee of the person to whom the position is transferred; or

(d) under paragraph (b), be deemed to have become, on the transfer date, an employee of the person to whom the position is transferred.

(2) A person who, immediately before the transfer date in relation to a designated position, is employed in an Instrumentality in the designated position ceases, on that date, to be employed under the Public Service Act, 1979, or otherwise in an Instrumentality.

(3) This clause has effect notwithstanding anything in Schedule 2.

Salary and wages.

4. (1) A transferred employee (other than a transferred employee who, immediately before the transfer of the designated position in which he was employed on the transfer date, was employed under section 80 of the Public Service Act, 1979) shall, in respect of his service with the person by whom, by virtue of clause 3, he is employed, be paid salary or wages, and allowances, at a rate not less than that at which he would be paid salary or wages, and allowances, if the designated position in which he was employed on the transfer date had not been transferred and he had continued to be employed in the relevant Instrumentality until—

(a) the expiration of the transition period; or

(b) his salary is, or his wages or allowances are, varied or altered by an award of a competent tribunal, an industrial agreement, the person by whom he is employed or otherwise in accordance with law,

whichever is the later.

Health Administration.

SCHEDULE 3—*continued.*TRANSFER OF HEALTH EMPLOYEES—*continued.*

(2) A transferred employee who, immediately before the transfer of the designated position in which he was employed on the transfer date, was employed under section 5 80 of the Public Service Act, 1979, shall, in respect of his service during the transition period with the person by whom, by virtue of clause 3, he is employed, be paid salary or wages, and allowances, at a rate not less than that which was payable to him immediately before the transfer date.

(3) During any period, during the transition period, in which the salary or 10 wages in relation to the position in which a transferred employee referred to in subclause (2) is employed has or have been fixed by an award of a competent tribunal, an industrial agreement, the person by whom the transferred employee is employed or otherwise in accordance with law at a rate which is less than that payable to the transferred employee under subclause (2), no adjustment to give effect to a fluctuation 15 in the basic wage for adult males, or adult females, as the case may be, for the time being in force within the meaning of Part V of the Industrial Arbitration Act, 1940, is required to be made to the minimum salary or wages payable to the transferred employee by virtue of subclause (2).

(4) Subclauses (1), (2) and (3) do not apply to or in respect of a transferred 20 employee who has applied for, and been appointed to, another position in the service of the person by whom, by virtue of clause 3, he is employed.

Superannuation.

5. (1) Subject to subclause (2), where a transferred employee was, immediately before the transfer of the designated position in which he was employed on the transfer 25 date, a contributor to a superannuation scheme, he—

- (a) shall retain any rights accrued or accruing to him as such a contributor; and
- (b) may continue to contribute to any superannuation scheme to which he was a contributor immediately before the transfer date,

as if he had continued to be employed in the relevant Instrumentality during his 30 service with the person by whom, by virtue of clause 3, he is employed, and—

- (c) his service in the employment of that person shall be deemed to be service with the Instrumentality for the purposes of any law under which those rights accrued or were accruing or under which he continues to contribute; and
- 35 (d) he shall be deemed to be employed in the Instrumentality for the purposes of any superannuation scheme to which, by the operation of this subclause, he is entitled to contribute.

Health Administration.

SCHEDULE 3—continued.**TRANSFER OF HEALTH EMPLOYEES—continued.**

(2) A person who, but for this subclause, would be entitled under subclause (1) to contribute to a superannuation scheme shall not be so entitled upon his becoming a contributor to any other superannuation scheme, and the provisions of subclause (1) (d) cease to apply to or in respect of him in any case where he becomes a contributor to another superannuation scheme.

(3) Subclause (2) does not prevent the payment to a transferred employee, upon his ceasing to be a contributor to a superannuation scheme, of such amount as would have been payable to him if he had ceased, by reason of resignation, to be a contributor.

(4) Where, pursuant to subclause (1) (b), a transferred employee continues to contribute to a superannuation scheme, the person by whom, by virtue of clause 3, he is employed shall contribute to that superannuation scheme the same amount as would have been payable by his employer if he had continued to be employed in the relevant Instrumentality and been paid salary or wages at the rate paid to him by the person by whom he is, by virtue of clause 3, employed.

(5) Notwithstanding anything in this Schedule, if a person ceases to be a transferred employee by virtue of his ceasing to be an employee of a designated person, but becomes an employee of another designated person, this clause (with any necessary adaptations) applies, as from the date he becomes an employee of that other person, to and in relation to him and that other person in the same way as if he were employed by that other designated person by virtue of clause 3.

(6) Except in circumstances and to the extent prescribed by the regulations, and subject to such conditions as may be prescribed by the regulations, subclause (5) does not apply if there is any period between service with designated persons that exceeds 3 days.

Leave entitlements.

6. (1) A transferred employee shall, during the transition period, be entitled—

- (a) to such sick leave, annual leave, long service leave and leave in the nature of long service leave as he would be entitled to if the designated position in which he was employed on the transfer date had not been transferred pursuant to clause 2 and he had continued to be employed in the relevant Instrumentality; or
- (b) on termination of his services, to payment by the person by whom he is employed of such gratuity or other benefit as he would be entitled to if the designated position in which he was employed had not been so transferred and he had continued to be employed in the relevant Instrumentality.

Health Administration.

SCHEDULE 3—*continued.*

TRANSFER OF HEALTH EMPLOYEES—*continued.*

(2) After the expiration of the transition period in relation to a transferred employee—

- 5 (a) the maximum period of sick leave in relation to the transferred employee at any time during his service with the person by whom, by virtue of clause 3, he is employed shall be—
- 10 (i) the whole or, as the case may be, that part not yet taken of the maximum period which would, immediately before the expiration of the transition period, have been calculable in relation to the transferred employee by reference to length of service by the transferred employee (being the length of service determined as if the transferred employee had continued to be employed in the relevant Instrumentality during the transition period) plus the maximum
- 15 period calculable at the time in relation to the transferred employee by reason of service after the expiration of the transition period; or
- 20 (ii) the maximum period which would be calculable at the time in relation to the transferred employee if service by the transferred employee with the relevant Instrumentality before the transfer of the designated position in which he was employed on the transfer date were deemed to be service in the employment of the person by whom the transferred employee is, by virtue of clause 3, employed,
- whichever is the greater; and
- 25 (b) where, immediately before the expiration of the transition period, the transferred employee would, pursuant to subclause (1), have been entitled to leave in the nature of long service leave or, on termination of his services, to a gratuity or other benefit, the transferred employee shall retain that entitlement.

(3) For the purposes of annual leave, long service leave or leave in the nature of long service leave, service by a transferred employee with the relevant Instrumentality before the transfer of the designated position in which he was employed on the transfer date shall be deemed to be service with the person by whom the transferred employee is, by virtue of clause 3, employed.

(4) For the purpose of calculating the entitlement of a transferred employee to long service leave or leave in the nature of long service leave at any time, there shall be deducted from the amount of long service leave or leave in the nature of long service leave to which, but for this subclause, the transferred employee would be entitled—

- (a) any long service leave or leave in the nature of long service leave; and

Health Administration.

SCHEDULE 3—*continued.*

TRANSFER OF HEALTH EMPLOYEES—*continued.*

- (b) the equivalent, in long service leave or leave in the nature of long service leave, of any benefit instead of long service leave or leave in the nature of long service leave,

5 taken or received by the transferred employee before that time.

- (5) For the purpose of calculating the entitlement of a transferred employee to any kind of leave as referred to in subclause (2) or (3), service by the transferred employee with the relevant Instrumentality before the transfer of the designated position in which the transferred employee was employed on the transfer date is the service to which, immediately before that transfer, regard would have been had for the purpose of calculating that entitlement.

Appointment to Public Service.

7. (1) In this clause, "special transition period" means, in relation to a person who became a transferred employee by virtue of this Schedule, the period of 3 years immediately following the transfer of the designated position in which he was employed on the transfer date.

(2) A person who—

- (a) became a transferred employee by virtue of this Schedule;

- 20 (b) immediately before the transfer of the designated position in which he was employed on the transfer date, was employed in that position as an officer within the meaning of section 4 of the Public Service Act, 1979; and

- (c) during the special transition period, applies for appointment, or is appointed, to a position in the Public Service,

- 25 shall, in relation to the application or appointment and any matter concerning the application or appointment, be deemed to be an officer within the meaning of that section employed in an Instrumentality.

- (3) Subclause (2) does not apply to a person who applies for appointment, or is appointed, to a position in the Public Service if he has, on a previous occasion in the special transition period, been appointed to a position in the Public Service.

Redundancy of transferred employees.

8. The employment of a transferred employee may not be terminated by the person by whom, by virtue of clause 3, he is employed on the ground of redundancy arising from the operation of this Schedule.

Health Administration.

SCHEDULE 3—*continued.*

TRANSFER OF HEALTH EMPLOYEES—*continued.***Savings.**

9. Where an appeal by a transferred employee to the Government and Related
5 Employees Appeal Tribunal or to the Public Service Board of New South Wales is
pending or may be made—

- 10 (a) immediately before the transfer of the designated position in which the
transferred employee was employed on the transfer date, the appeal may be
continued, or made, and heard and determined as if the designated position
had not been transferred; or
- (b) immediately before the expiration of the transition period, the appeal may be
continued, or made, and heard and determined as if clause 7 continued to
apply to and in respect of the transferred employee.

Miscellaneous.

15 10. (1) A transferred employee is not entitled to claim, both under this Act and any
other Act, benefits in respect of the same period of service.

(2) Except as provided in this Schedule, nothing in this Schedule affects the
operation of the Industrial Arbitration Act, 1940.

Regulations.

20 11. (1) The Governor may make regulations containing other provisions of a
savings or transitional nature consequent on the enactment of this Schedule.

(2) A provision made under subclause (1) may take effect as from the date of
assent to this Act or a later date.

25 (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 or an
authority of the State), the rights of that person existing before the date of its
publication therein; or

Health Administration.

SCHEDULE 3—*continued.*

TRANSFER OF HEALTH EMPLOYEES—*continued.*

- 5 (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

- (4) A reference in any provision of this Act (this clause excepted) to regulations does not include a reference to regulations made under this clause.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1982

(\$1.20)

HEALTH ADMINISTRATION ACT, 1982, No. 135

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 135, 1982.

An Act to establish a Department of Health and certain other bodies; to vest certain functions in the Minister for Health and certain other bodies and persons; to provide for the transfer of certain employees; to repeal the Health Commission Act, 1972; and for other purposes. [Assented to, 15th December, 1982.]

See also Public Service (Department of Health) Amendment Act, 1982; Statutory and Other Offices Remuneration (Department of Health) Amendment Act, 1982; Miscellaneous Acts (Health Administration) Amendment Act, 1982.

Health Administration.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the "Health Administration Act, 1982".

Commencement.

2. (1) Sections 1, 2, 33 and 34 and Schedule 3 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 in respect thereof and as may be notified by proclamation published in the Gazette.

Arrangement.

3. This Act is divided as follows:—

PART I.—PRELIMINARY—ss. 1–4.

PART II.—ADMINISTRATION—ss. 5–21.

DIVISION 1.—*The Minister*—s. 5.

DIVISION 2.—*The Department*—ss. 6, 7.

DIVISION 3.—*The Secretary*—s. 8.

DIVISION 4.—*The Corporation*—ss. 9–15.

DIVISION 5.—*The Foundation*—ss. 16–19.

DIVISION 6.—*Councils, committees and advisory bodies*—s. 20.

DIVISION 7.—*Delegation*—s. 21.

PART III.—MISCELLANEOUS—ss. 22–34.

SCHEDULE 1.—REPEALS.

Health Administration.

SCHEDULE 2.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

SCHEDULE 3.—TRANSFER OF HEALTH EMPLOYEES.

Interpretation.

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

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

“Corporation” means the Health Administration Corporation constituted by section 9;

“Department” means the Department of Health;

“Foundation” means the New South Wales Health Foundation constituted by section 16;

“health service” means any medical, hospital, ambulance, paramedical, community health or environmental health service or any other service (including any service of a prescribed class or description) 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;

“officer of the Department” means an officer or employee of the Department;

“regulations” means regulations under this Act;

“Secretary” means the Secretary of the Department.

(2) A reference in this Act to an ambulance service is a reference to a service relating to the work of rendering first aid to, and the transport of, sick and injured persons.

(3) A reference in this Act to—

(a) a function includes a reference to a power, authority and duty; and

Health Administration.

- (b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.
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PART II.

ADMINISTRATION.

DIVISION 1.—*The Minister.*

Functions of Minister.

5. (1) The Minister may formulate general policies, in accordance with which the functions of the Minister, Department, Secretary, Corporation and Foundation are to be exercised, for the purpose of promoting, protecting, developing, maintaining and improving the health and well-being of the people of New South Wales to the maximum extent possible having regard to the needs of and financial and other resources available to the State.

(2) The Minister may—

- (a) provide, conduct, operate and maintain and, where necessary, improve and extend any health service or any ancillary or incidental service and arrange for the construction of any buildings or works necessary for or in connection with any such service;
- (b) enter into any agreement or arrangement for any other person to provide, conduct, operate and maintain any health service; and
- (c) do such supplemental, incidental or consequential acts as may be necessary or expedient for the exercise of the functions under the foregoing provisions of this subsection.

(3) Nothing in this section takes away or affects any function that the Minister has apart from this section.

Health Administration.

DIVISION 2.—The Department.

Establishment of Department of Health.

6. (1) There is hereby established a Department of the Government with the name "Department of Health".

(2) The Secretary and the persons who are members of the staff referred to in section 7 (1) and in clause 4 of Schedule 2, but not persons employed under section 14, constitute the Department of Health.

(3) The Department shall be deemed to have been established under section 49 of the Constitution Act, 1902, and nothing in this section affects the power conferred by that section to abolish, or change the name of, the Department.

Public Service staff.

7. (1) Such staff as may be necessary to enable the Minister, Department, Secretary, Corporation and Foundation to exercise their functions shall be appointed and employed under and subject to the Public Service Act, 1979.

(2) For the purpose of the exercise of the functions of the Minister, Department, Secretary, Corporation and Foundation, the Minister may, with the approval of the Department concerned and on such terms as may be arranged, make use of the services of any of the staff of any Government Department.

(3) The Minister may for the like purpose, with the approval of—

- (a) any public authority;
- (b) any hospital or associated organisation respectively within the meaning of the Public Hospitals Act, 1929; or
- (c) any council within the meaning of the Local Government Act, 1919,

make use of the services of any of the staff of that public authority, hospital, organisation or council, as the case may be.

Health Administration.

(4) Nothing in subsection (1) affects the employment of persons under section 14.

DIVISION 3.—*The Secretary.*

Functions of Secretary.

8. (1) The Secretary shall have and may exercise such functions as are conferred or imposed on him by or under this or any other Act.

(2) The Secretary shall have and may exercise the following functions:—

- (a) to initiate, promote, commission and undertake surveys and investigations into—
 - (i) the health needs of the people of New South Wales;
 - (ii) the resources of the State available to meet those needs;
and
 - (iii) the methods by which those needs should be met;
- (b) to inquire into the nature, extent and standards of the health services, facilities and personnel required to meet the health needs of the people of New South Wales and to determine the cost of meeting those needs;
- (c) to plan the provision of comprehensive, balanced and co-ordinated health services throughout New South Wales;
- (d) to formulate the programmes and methods by which the health needs of the people of New South Wales may be met;
- (e) to undertake, promote and encourage research in relation to any health service;
- (f) to facilitate the provision of health services by any council (within the meaning of the Local Government Act, 1919) or by any other body or person;
- (g) to facilitate the provision by any Government Department, statutory authority, other body or person of social welfare services necessary or desirable to complement any health service;

Health Administration.

- (h) to promote and facilitate the provision of the professional, technical or other education or training of any persons employed or to be employed in the provision of any health service;
- (i) to promote and facilitate a system of health care for the people of New South Wales provided by private bodies, institutions, associations and persons, as well as by the State and public bodies;
- (j) to do such supplemental, incidental or consequential acts as may be necessary or expedient for the exercise of his functions under the foregoing provisions of this subsection.

(3) The Secretary is, in the exercise of functions conferred or imposed on the Secretary by or under any Act administered by the Minister for Health, subject to the control and direction of the Minister, except in relation to the contents of a recommendation or report made by the Secretary to the Minister.

DIVISION 4.—*The Corporation.*

Corporation.

9. (1) The Secretary is, for the purpose of exercising the functions expressed to be conferred or imposed on the Corporation by or under this or any other Act, hereby incorporated as a corporation sole with the corporate name "Health Administration Corporation".

(2) The Corporation—

- (a) has perpetual succession;
- (b) shall have an official seal;
- (c) may take proceedings, and be proceeded against, in its corporate name;
- (d) subject to this Act, may, for the purposes for which it is constituted, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property;

Health Administration.

- (e) 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 Corporation is constituted; and
- (f) is, for the purpose of any Act, a statutory body representing the Crown.

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

- (a) the custody and use of the seal of the Corporation; and
- (b) the keeping of records concerning the acts, decisions and proceedings of the Corporation.

(4) All courts and persons acting judicially—

- (a) shall take judicial notice of the seal of the Corporation that has been affixed to any instrument or document; and
- (b) shall, until the contrary is proved, presume that the seal was properly affixed.

(5) The Corporation is subject to the control and direction of the Minister.

Acquisition of land by Corporation.

10. (1) The Corporation, with the approval of the Minister and subject to such terms and conditions as the Minister may attach to his approval, may, for the purpose of the exercise by the Minister, Department, Secretary, Corporation or Foundation of his or its functions, acquire land by purchase, lease or exchange or, in accordance with the provisions of this section, by way of resumption or appropriation.

(2) Without limiting the generality of subsection (1), the Corporation may acquire in any manner authorised by subsection (1)—

- (a) any land of which that proposed to be acquired under this section forms part; and
- (b) any land adjoining or in the vicinity of any land proposed to be acquired under this section.

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(3) For the purposes of the acquisition, under subsection (1), by the Corporation of land by resumption or appropriation, the Governor may, under the Public Works Act, 1912, resume any land or appropriate any land vested in Her Majesty or in any person in trust for Her Majesty.

(4) A resumption or appropriation effected in accordance with subsection (3) shall be deemed to be for an authorised work within the meaning of the Public Works Act, 1912, and the Corporation shall, in relation to that authorised work, be deemed to be the Constructing Authority within the meaning of that Act.

(5) Sections 34, 35, 36 and 37 of the Public Works Act, 1912, do not, where the Corporation is the Constructing Authority within the meaning of that Act, apply to expenditure on any works constructed for the purposes of this Act or any other Act conferring or imposing functions on the Minister, Department, Secretary, Corporation or Foundation, but section 38 of that Act applies to any such expenditure.

(6) Nothing in this section affects any operation that the Public Works Act, 1912, would have if this section had not been enacted and the Corporation had not been constituted.

Disposal of land by Corporation.

11. The Corporation may, with the approval of the Minister and subject to such terms and conditions as the Minister may attach to his approval, sell, lease, exchange or otherwise deal with or dispose of land that has been acquired by the Corporation under this or any other Act, or any part thereof, and may, with the like approval and subject to the like terms and conditions, grant easements or rights-of-way over any such land so acquired or any part thereof.

Power to accept gifts, etc.

12. (1) The Corporation may acquire, for any purpose connected with—
(a) the provision of any health service; or

Health Administration.

- (b) any of the functions of the Minister, Department, Secretary or Corporation,

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 the Corporation has agreed.

Contracts of Corporation.

13. (1) The Corporation 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 Minister, Department, Secretary, Corporation or Foundation of his or its functions 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.

(3) The Corporation may, on such terms and conditions as may be agreed upon, sell or let out on hire any goods, plant, machinery or material acquired by it under this or any other Act.

Employees of Corporation.

14. (1) The Corporation may appoint and employ such employees as may be necessary for the purpose of the supply of goods or substances, or of services, for one or more health services if the appointment and employment by the Corporation of employees for that purpose is first approved by the Public Service Board of New South Wales.

(2) A person employed under this section shall, subject to the terms of his appointment, continue in the service of the Corporation at the will of the Corporation only.

Health Administration.

(3) A person employed under this section shall be subject to the sole control and governance of the Corporation which may fix wages and conditions of employment where they are not otherwise fixed in accordance with law.

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

- (a) the control and governance of persons employed under this section; and
- (b) any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the Corporation of such employees or classes of employees as are employed under this section.

(5) The Public Service Act, 1979, does not apply to or in respect of the appointment of an employee under this section, and such an employee is not subject to the provisions of that Act while he is such an employee.

Superannuation of employees.

15. The Local Government and Other Authorities (Superannuation) Act, 1927, applies to and in respect of employees employed under section 14 in the same way as if a proclamation made by the Governor in respect of those employees had been published in the Gazette under section 2 (4) (a) of that Act.

DIVISION 5.—The Foundation.

Foundation.

16. (1) There is hereby constituted a corporation with the corporate name "New South Wales Health Foundation".

(2) The affairs of the Foundation shall be managed by the Minister.

(3) Any act, matter or thing done in the name of, or on behalf of, the Foundation by the Minister, or with the authority of the Minister, shall be deemed to have been done by the Foundation.

Health Administration.

(4) The Foundation—

- (a) has perpetual succession;
- (b) shall have an official seal;
- (c) may take proceedings, and be proceeded against, in its corporate name;
- (d) subject to this Act, may, for the purposes for which it is constituted, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property;
- (e) 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 Foundation is constituted; and
- (f) is, for the purposes of any Act, a statutory body representing the Crown.

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

- (a) the custody and use of the seal of the Foundation; and
- (b) the keeping of records concerning the acts, decisions and proceedings of the Foundation.

(6) All courts and persons acting judicially—

- (a) shall take judicial notice of the seal of the Foundation that has been fixed to any instrument or document; and
- (b) shall, until the contrary is proved, presume that the seal was properly affixed.

Functions of the Foundation.

17. (1) The Foundation shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.

(2) The Foundation may provide funds and make grants, and provide other support, for any purpose connected with—

- (a) the provision of any health service; or

Health Administration.

(b) any of the functions of the Minister, Department, Secretary or Corporation.

(3) The Foundation may, subject to such terms and conditions as it thinks appropriate, give or make available real or personal property (with or without consideration) to or for any person, body or organisation who or which provides any health service.

(4) The Foundation may promote and facilitate the raising of funds by means of public appeal or otherwise by any body, institution, association or person for the purposes of subsection (2) or (3).

Power to accept gifts, etc.

18. (1) The Foundation may acquire, for the purposes for which it is constituted, 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 the Foundation has agreed.

(3) The Foundation may act as trustee of money or other property vested in the Foundation upon trust.

(4) The Corporation may, with the approval of the Minister, declare, by instrument published in the Gazette, any specified property (including money) acquired by the Corporation under section 12 to be property to which this subsection applies, and the property thereupon becomes vested in the Foundation, and any relevant condition to which the Corporation has agreed shall be deemed to be a condition to which the Foundation has agreed.

New South Wales Health Foundation Fund.

19. (1) There shall be established and kept in the Treasury an account in the Special Deposits Account to be called the "New South Wales Health Foundation Fund" (referred to in this section as "the Fund").

Health Administration.

(2) The Fund shall consist of any money received from any source by the Foundation.

(3) There may be paid out of the Fund—

- (a) all charges, costs and expenses incurred by or with the authority of the Minister in the administration of the Foundation; and
- (b) all funds and grants provided, and other payments made, by the Foundation in the exercise of its functions.

(4) Any money acquired by the Foundation shall, for the purposes of the Audit Act, 1902, be deemed to be public moneys.

DIVISION 6.—Councils, committees and advisory bodies.

Appointment of Health Advisory Council and other advisory bodies.

20. (1) The Minister shall appoint a Health Advisory Council and a Professional Services Advisory Council.

(2) A Council appointed under subsection (1)—

- (a) shall carry out investigations or inquiries into, and report or advise in respect of, such matters as the Minister may from time to time direct or the Secretary may from time to time request; or
- (b) may carry out investigations or inquiries into, and report or advise in respect of, such matters as the Council from time to time determines and the Minister may approve.

(3) For the purpose of any such investigation, inquiry, report or advice, the Secretary shall provide all such information and assistance as may be available to him and as the Council may request of him.

(4) The Minister may appoint such other councils, committees and advisory bodies as he may consider appropriate.

(5) A council, committee or advisory body appointed under subsection (4) shall have such functions as the Minister may from time to time direct.

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(6) A council, committee or advisory body appointed under subsection (1) or (4) shall consist of a person appointed as chairman by the Minister and such other persons appointed by the Minister as he thinks fit.

(7) The chairman and other members so appointed shall hold office for such term as the Minister may specify in respect of each of them in the instruments of their appointment and any such appointment may be terminated by the Minister at any time.

(8) The chairman and any other member of a council, committee or advisory body appointed under subsection (1) or (4) shall each be entitled to be paid such fees and allowances (if any) as may be from time to time determined in respect of him by the Minister.

(9) The office of a member of a council, committee or advisory body appointed under subsection (1) or (4) shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

DIVISION 7.—Delegation.

Delegation.

21. (1) The Minister, Secretary or Corporation may, by instrument in writing, under seal (in the case of the Corporation), delegate such of his or its functions (other than this power of delegation) conferred or imposed by or under this or any other Act as are specified in the instrument to any person, and may, by such an instrument, revoke wholly or in part any such delegation.

(2) A delegation under subsection (1) may be made to—

(a) a specified person (whether a natural person or a corporation);
or

(b) a person for the time being holding a specified office.

(3) Except in so far as the instrument of delegation otherwise provides, a person to whom a function has been delegated under subsection (1) may—

(a) in the case of a natural person—by writing under his hand; or

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(b) in the case of a corporation—by writing under its seal, authorise another person to exercise the function so delegated, and may, in like manner, revoke wholly or in part any such authority.

(4) An authority under subsection (3) may be given to—

(a) a specified person; or

(b) a person for the time being holding a specified office.

(5) Any act or thing done or suffered in the exercise of a function by a person to whom the function has been delegated under subsection (1) or by a person authorised by the delegate under subsection (3) to exercise the function has the same force and effect as if it had been done or suffered by the Minister, Secretary or Corporation, as the case may require, and shall be deemed to have been done or suffered by the Minister, Secretary or Corporation, as the case may require.

(6) A delegation under subsection (1) does not prevent the exercise of a function by the Minister, Secretary or Corporation, as the case may require.

(7) The giving of an authority under subsection (3) does not prevent the exercise of a function by the person by whom the authority was given.

(8) A document purporting to be signed by a person as a delegate of the Minister, Secretary or Corporation shall be deemed, unless the contrary is established, to have been signed by such a delegate and to have been so signed pursuant to the exercise of a function duly delegated to the person under subsection (1).

(9) A document purporting to be signed by a person authorised by a delegate of the Minister, Secretary or Corporation to sign the document shall be deemed, unless the contrary is established, to have been signed by a person so authorised and to have been so signed pursuant to the exercise of a function that he is duly authorised by such a delegate to exercise.

(10) A delegation or authority under this section may be made or given subject to such conditions or such limitations as to the exercise of any of the functions delegated, or as to time or circumstances, as may be specified in the instrument of delegation or authority.

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(11) The provisions of this section are in addition to and not in derogation of any other provision which authorises or provides for the authorisation of a person to exercise any function of the Minister, Secretary or Corporation.

(12) This section does not authorise the delegation of the power to give an approval for the purposes of section 23 (3) (b) of this Act or to conduct a hearing referred to in section 11B of the Public Hospitals Act, 1929.

PART III.

MISCELLANEOUS.

Disclosure of information.

22. If a person discloses any information obtained in connection with the administration or execution of this Act or any other Act conferring or imposing responsibilities or functions on the Minister, Department, Secretary, Corporation or Foundation and the disclosure is not made—

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act or any such other Act;
- (c) for the purposes of any legal proceedings arising out of this Act or any such other Act or of any report of any such proceedings;
or
- (d) with other lawful excuse,

that person is guilty of an offence against this Act and, on conviction by a court of summary jurisdiction, liable to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding 6 months.

Health Administration.

Specially privileged information.

23. (1) The Minister may, by order published in the Gazette, authorise any specified person or body, including a council, committee or advisory body appointed under section 20 (1) or (4), to conduct research or conduct investigations into morbidity or mortality occurring within New South Wales.

(2) An authorisation under this section may be of general application or be limited by reference to specified factors or exceptions.

(3) If a person discloses any information obtained in connection with the conduct of research or investigations in accordance with an authorisation under this section (whether or not the authorisation is still in force at the time of the disclosure) and the disclosure is not made—

(a) with the consent of the person from whom the information was obtained; or

(b) with the approval of the Minister,

that person is guilty of an offence against this Act and, on conviction by a court of summary jurisdiction, liable to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding 6 months.

(4) Notwithstanding anything in subsection (3), a person who has obtained any information in connection with the conduct of research or investigations in accordance with an authorisation under this section is neither competent nor compellable in any proceedings to answer any question, or to produce any documents, relating to any such information (whether or not the authorisation is still in force at the time of the proceedings), except with the approval of the Governor.

(5) Notwithstanding anything in subsection (3), an order under section 14 (3) of the Coroners Act, 1980, in relation to a person who died or may have died as referred to in section 13 (3) (f) of that Act, does not require the production of a document or writing containing information obtained in connection with the conduct of research or investigations in accordance with an authorisation under this section (whether or not the authorisation is still in force at the time the order is served), where the information was obtained from a person who administered or was involved in the administration of the anaesthetic concerned.

(6) Without limiting the operation of this section, this section has effect notwithstanding anything in the Coroners Act, 1980.

Health Administration.

(7) An authorisation may be given under this section so as to operate retrospectively, but not so as thereby to affect a disclosure already made.

Proceedings for offences.

24. Proceedings for an offence against this Act may be taken only before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

Protection from liability.

25. No matter or thing done in good faith for the purposes of executing this Act or any other Act conferring or imposing functions on the Minister, Department, Secretary, Corporation or Foundation shall subject any person personally to any action, liability, claim or demand.

Service of documents.

26. Any notice, summons, writ or other proceeding required to be served on the Secretary, Corporation or Foundation may be served by being left at an office of the Department, or, in the case of a notice, by posting it addressed to the Secretary, Corporation or Foundation, as the case may be, at an office of the Department.

Authentication of certain documents.

27. Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Corporation or Foundation may be sufficiently authenticated without the seal of the Corporation or Foundation if signed by a person authorised to do so by the Corporation or Foundation.

Annual report.

28. (1) As soon as practicable after 30th June, but not later than 31st December, in each year, the Secretary shall prepare and furnish to the Minister a report of the work and activities of the Department, Corporation and Foundation for the year ending on 30th June in that year.

Health Administration.

(2) The Minister shall lay the report, or cause it to be laid, before both Houses of Parliament as soon as practicable after the receipt by him of the report.

(3) A report under subsection (1) may include any report required to be made annually in respect of the Department, Corporation or Foundation under any other Act.

(4) In so far as a report under subsection (1) includes any matter that relates to a period in respect of which a report is so required to be made under any other Act, the provision of that other Act which requires the report to be made in respect of that period has no operation.

Statute law revision (sec. 6).

29. (1) On a day to be appointed by the Governor for the purposes of this section and notified by proclamation published in the Gazette, section 6 is repealed.

(2) A day shall not be appointed for the purposes of subsection (1) that is earlier than a day on which the Department established by section 6 is abolished, or its name is changed, under section 49 of the Constitution Act, 1902.

(3) The repeal of section 6 by subsection (1) does not itself affect the existence of the Department established by section 6, but nothing in this subsection affects the powers conferred by section 49 of the Constitution Act, 1902.

Repeal of Health Commission Act, 1972, and amendments.

30. Each Act specified in Column 1 of Schedule 1 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed.

Abolition of Commission.

31. The Commission is abolished.

*Health Administration.***Savings, transitional and other provisions.**

32. Schedule 2 has effect.

Transfer of health employees.

33. Schedule 3 has effect.

Regulations.

34. 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.

SCHEDULE 1.

(Sec. 30.)

REPEALS.

Column 1.		Column 2
Year and number of Act.	Short title of Act.	Extent of repeal.
1972, No. 63 ..	Health Commission Act, 1972	The whole Act.
1975, No. 8 ..	Health Commission and Other Acts (Amendment) Act, 1975.	Section 3.
1976, No. 4 ..	Statutory and Other Offices Remuneration Act, 1975.	So much of Schedule 5 as amends Act No. 63, 1972.
1976, No. 63 ..	Statute Law Revision Act, 1976	So much of Schedule 1 as amends Act No. 63, 1972.
1976, No. 78 ..	Health Commission (Amendment) Act, 1976..	The whole Act.
1976, No. 95 ..	Public Hospitals (Amendment) Act, 1976 ..	So much of Schedule 5 as amends Act No. 63, 1972.
1977, No. 19 ..	Notice of Action and Other Privileges Abolition Act, 1977.	So much of Schedule 1 as amends Act No. 63, 1972.
1977, No. 131 ..	Health Commission (Amendment) Act, 1977..	The whole Act.
1978, No. 54 ..	Meat Industry Act, 1978	So much of Schedule 1 as amends Act No. 63, 1972.
1978, No. 110 ..	Health Commission (Amendment) Act, 1978..	The whole Act.
1979, No. 208 ..	Dairy Industry Marketing Authority Act, 1979	So much of Schedule 4 as amends Act No. 63, 1972.
1980, No. 132 ..	Health Commission (Amendment) Act, 1980..	The whole Act.
1980, No. 187 ..	Miscellaneous Acts (Retirement of Statutory Officers) Amendment Act, 1980.	So much of Schedule 1 as amends Act No. 63, 1972.
1981, No. 83 ..	Miscellaneous Acts (Financial Accommodation) Amendment Act, 1981.	So much of Schedule 1 as amends Act No. 63, 1972.

Health Administration.

SCHEDULE 2.

(Sec. 32.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation: Sch. 2.

1. In this Schedule—

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

“cognate Acts” means this Act, the Public Service (Department of Health) Amendment Act, 1982, the Statutory and Other Offices Remuneration (Department of Health) Amendment Act, 1982, and the Miscellaneous Acts (Health Administration) Amendment Act, 1982.

Members of Commission.

2. (1) A person holding office as a member of the Commission immediately before the appointed day shall cease to hold office as such on the appointed day.

(2) A member of the Commission who ceases to hold office as such by reason of the operation of subclause (1) is not entitled to be paid any remuneration or compensation by reason of his ceasing to hold that office, but nothing in this subclause prevents the payment to that person of such compensation (if any) as the Minister determines out of money provided by Parliament.

(3) A member of the Commission who was, immediately before his appointment as a member, an officer of the Public Service and who ceases to hold office as such a member by reason of the operation of subclause (1) is, if he is under the age of 60 years, entitled to be appointed to some position in the Public Service not lower in classification and salary than that which he held immediately before his appointment as a member.

Servants of Commission.

3. (1) The persons who, immediately before the appointed day, were servants of the Commission appointed or employed under section 14A of the Health Commission Act, 1972, shall, on that day, become employees of the Corporation, and shall be deemed to have been appointed and employed under section 14 of this Act.

(2) For the purposes of any law, any period of service with the Commission by a person referred to in subclause (1) shall be deemed to be a period of service with the Corporation.

Other staff of Commission.

4. (1) The persons who, immediately before the appointed day, were officers and temporary employees of the Administrative Office attached to the Commission shall, on that day, become officers and temporary employees (respectively) of the Department.

Health Administration.

SCHEDULE 2—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(2) Expressions used in this clause shall, unless the contrary intention appears, have the same meanings respectively as they have in the Public Service Act, 1979.

Property, rights and liabilities of Commission.

5. (1) On and from the appointed day—

- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to the Commission shall vest in and belong to the Corporation;
- (b) all moneys and liquidated and unliquidated claims that, immediately before that day, were payable to or recoverable by the Commission shall be moneys and liquidated and unliquidated claims payable to or recoverable by the Corporation;
- (c) all proceedings commenced before that day by the Commission and pending immediately before that day shall be deemed to be proceedings pending on that day by the Corporation and all proceedings so commenced by any person against the Commission and pending immediately before that day shall be deemed to be proceedings pending on that day by that person against the Corporation;
- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the Commission and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Corporation;
- (e) the Corporation may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of moneys and claims referred to in this subclause and for the prosecution of actions and proceedings so referred to as the Commission might have done but for the enactment of the cognate Acts;
- (f) the Corporation may enforce and realise any security or charge existing immediately before that day in favour of the Commission and may exercise any powers thereby conferred on the Commission as if the security or charge were a security or charge in favour of the Corporation;
- (g) all debts, moneys and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, the Commission shall be debts due by, moneys payable by and claims recoverable against, the Corporation; and

Health Administration.

SCHEDULE 2—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (h) all liquidated and unliquidated claims for which the Commission would, but for the enactment of the cognate Acts, have been liable shall be liquidated and unliquidated claims for which the Corporation shall be liable.

(2) On and from the appointed day, 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, or a reference required immediately before the appointed day, to be read and construed as a reference—

- (a) to the Commission shall, subject to the regulations under clause 13, be read and construed as a reference to the Minister, Department, Secretary, Corporation or Foundation, whichever is appropriate; and
- (b) to any officer of the Commission shall be read and construed as a reference—
- (i) if there is an office in the staff establishment of the Department that corresponds to the office held by that officer—to the person holding that office in the establishment of the Department; or
- (ii) if there is no such corresponding office—to the person holding such office in the staff establishment of the Department as may be directed by the Secretary from time to time by order in writing.

(3) Any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the Commission or a member, officer or servant of the Commission shall, to the extent that, but for the enactment of the cognate Acts, that act, matter or thing would on or after that day have had any force or effect or been in operation, be deemed to have been done by, to or in respect of the Minister, Department, Secretary, Corporation or Foundation or an officer of the Department or an employee of the Corporation, whichever of them is, on or after that day, appropriate in relation to the doing of or the omission to do that act, matter or thing.

(4) No attornment to the Corporation by a lessee from the Commission shall be required.

Disposal of certain land by Corporation.

6. For the purposes of section 11, any land that was acquired by the Commission and that becomes land of the Corporation by virtue of this Schedule shall be deemed to have been acquired by the Corporation.

Health Administration.

SCHEDULE 2—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Property acquired by gift, etc.**

7. For the purposes of section 18, any property that was held by the Commission immediately before the appointed day by way of gift, devise or bequest, whether pursuant to section 19A of the Health Commission Act, 1972, or otherwise, and that becomes property of the Corporation by virtue of this Schedule shall be deemed to have been acquired by the Corporation under section 12 of this Act, and any condition subject to which it was so held by the Commission shall be deemed to be a condition to which the Corporation has agreed.

Amendments.

8. (1) The repeal of the Health Commission Act, 1972, by this Act does not affect any amendments made by that Act, and any such amendment continues to have force and effect as if this Act had not been enacted.

(2) Subclause (1) does not apply to the amendments made by the Health Commission Act, 1972, to the Public Health (Amendment) Act, 1944.

Unexpended funds appropriated in connection with the Commission.

9. The sums authorised by the Appropriation Act, 1982, to be appropriated out of the Consolidated Fund and to be issued and applied for or towards expenditure under the heading "Minister for Health" in connection with the Commission shall be deemed, to the extent that, at the appointed day, they have not been so issued or applied, to be sums authorised by that Act to be appropriated out of that Fund and to be issued and applied for or towards expenditure in connection with the Department, Secretary, Corporation and Foundation.

Other bodies.

10. (1) The continuity of any body constituted by or under any Act is not prejudiced or affected by any amendment made by the Miscellaneous Acts (Health Administration) Amendment Act, 1982.

(2) A person who, immediately before the appointed day, held office as a member of a body constituted by or under any Act and who so held that office—

(a) in his capacity as, or by virtue of his being, a member, officer or employee of the Commission;

(b) by virtue of his being nominated or appointed thereto by the Commission; or

(c) by virtue of his being appointed thereto on the nomination of the Commission, shall cease to hold office as such on the appointed day, and the provisions of clause 2 (2) apply to and in relation to such a person in the same way as they apply to and in relation to a person referred to in clause 2 (1).

Health Administration.

SCHEDULE 2—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(3) Notwithstanding subclause (2), if the person holding office as the member of the New South Wales Medical Board referred to in section 5 (3) (a) of the Medical Practitioners Act, 1938, immediately before the appointed day is not an officer of the Department on the appointed day, he shall be deemed—

- (a) to be, until 4th July, 1983 (inclusive), an officer of the Department for the purposes of section 5 (3) (a) of that Act, as amended by the Miscellaneous Acts (Health Administration) Amendment Act, 1982; and
 - (b) to have been appointed to that office on the appointed day by order under that paragraph.
- (4) This clause has effect notwithstanding anything in clause 5 (3).

Ambulance contribution scheme.

11. Without affecting the generality of clause 5—

- (a) a contribution scheme conducted and operated under the Ambulance Services Act, 1976, immediately before the appointed day shall be deemed to have been established under that Act as amended by the Miscellaneous Acts (Health Administration) Amendment Act, 1982; and
- (b) any resolution in force under the Ambulance Services Act, 1976, in relation to such a scheme immediately before the appointed day shall be deemed to be a determination in force under section 7 of that Act as so amended.

Committees of Review.

12. A Committee of Review appointed under section 33J (3) of the Public Hospitals Act, 1929, and in existence immediately before the appointed day shall be deemed to have been appointed under section 33J (3) of that Act as amended by the Miscellaneous Acts (Health Administration) Amendment Act, 1982.

Regulations.

13. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of the cognate Acts (other than Schedule 3 to this Act).

(2) A provision made under subclause (1) may take effect as from the appointed day 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 or an authority of the State), the rights of that person existing before the date of its publication therein; or

Health Administration.

SCHEDULE 2—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision made under subclause (1) shall, if the regulations expressly so provide, have effect notwithstanding the foregoing clauses of this Schedule (clauses 2, 3 and 4 excepted).

(5) A reference in any provision of this Act (this clause and clause 5 (2) (a) excepted) to regulations does not include a reference to regulations made under this clause.

SCHEDULE 3.

(Sec. 33.)

TRANSFER OF HEALTH EMPLOYEES.

Interpretation: Sch. 3.

1. (1) In this Schedule—

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

“designated person” means—

- (a) any hospital whose name is included in the Second or Third Schedule to the Public Hospitals Act, 1929;
- (b) any associated organisation whose name is included in the Fourth Schedule to the Public Hospitals Act, 1929; or
- (c) any person who is specified in a proclamation under subclause (6);

“designated position” means a position transferred pursuant to clause 2;

“Instrumentality” means—

- (a) the Commission;
- (b) the Department;
- (c) the Administrative Office attached to the Commission; or
- (d) the Corporation;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act;

“transfer date”, in relation to a designated position, means the date upon which the transfer of the position pursuant to clause 2 takes effect;

Health Administration.

SCHEDULE 3—*continued.*TRANSFER OF HEALTH EMPLOYEES—*continued.*

“transferred employee” means a person who, on the transfer date, was employed in a designated position and who, in accordance with clause 3, becomes employed in that position as an employee of the person to whom the position is transferred;

“transition period” means—

- (a) in relation to a person who is a transferred employee during the whole of the period of 3 years immediately following the transfer of the designated position in which he was employed on the transfer date—that period of 3 years; or
- (b) in relation to a person who ceases to be a transferred employee during the period referred to in paragraph (a)—that part of the period during which he was a transferred employee.

(2) A reference (however expressed) in this Schedule to—

- (a) employment or service is a reference to employment or service under—
 - (i) the Public Service Act, 1979;
 - (ii) section 14A of the Health Commission Act, 1972; or
 - (iii) section 14 of this Act; and
- (b) employment in an Instrumentality includes a reference to employment by an Instrumentality.

(3) Where a person—

- (a) became a transferred employee pursuant to the transfer of a designated position in which he was employed on the transfer date; and
- (b) ceases to be an employee of the person by whom, by virtue of clause 3, he was employed,

he shall, on ceasing to be an employee of the person by whom, by virtue of clause 3, he was employed, cease to be a transferred employee.

(4) Where, by this Schedule, any rights of a person are to be determined as if the person had continued to be employed in the relevant Instrumentality or are to be determined by reference to a person's service with the relevant Instrumentality, such a reference to the relevant Instrumentality is—

- (a) where the transfer date is on or after the appointed day—a reference to the Department, or the Corporation, as the case may require; or

Health Administration.

SCHEDULE 3—*continued.*TRANSFER OF HEALTH EMPLOYEES—*continued.*

- (b) where the transfer date is before the appointed day—a reference to—
 - (i) the Administrative Office attached to the Commission, or the Commission, as the case may require, before the appointed day; and
 - (ii) if the person continues to be employed by a designated employer on or after the appointed day—the Department, or the Corporation, respectively, on or after the appointed day.

(5) This Schedule shall be construed before the appointed day as if section 4 had commenced on the date of assent to this Act.

(6) The Governor may, by proclamation published in the Gazette, declare a person specified in the proclamation to be a designated person for the purposes of this Schedule.

Governor may transfer certain positions.

2. (1) The Governor may, on the recommendation of the Minister, by order published in the Gazette, transfer from an Instrumentality to a specified designated person positions in or in the service of the Instrumentality.

(2) An order under subclause (1) in relation to the transfer of positions in or in the service of an Instrumentality shall specify—

- (a) the person to whom the positions are transferred;
- (b) the positions which are transferred; and
- (c) the date on which the transfer takes effect.

(3) A position specified in an order under subclause (1) may be specified—

- (a) by reference to—
 - (i) the functions or activities which a person employed in that position performs; or
 - (ii) the location at which those functions or activities are performed, or both; or
- (b) in any other manner.

(4) An order for the transfer of a position under subclause (1) has no effect if published after the expiration of 5 years after the appointed day.

Health Administration.

SCHEDULE 3—*continued.*TRANSFER OF HEALTH EMPLOYEES—*continued.***Transferred staff.**

3. (1) A person who, immediately before the transfer date in relation to a designated position, was employed in an Instrumentality in the designated position and who—

- (a) presents himself for work, on the transfer date, in that position; or
- (b) has, in the opinion of the Minister, a reasonable excuse for not presenting himself for work, on the transfer date, in that position but presents himself for work in that position as soon as practicable after that date,

shall, upon presenting himself for work—

- (c) under paragraph (a), become, on the transfer date, an employee of the person to whom the position is transferred; or
- (d) under paragraph (b), be deemed to have become, on the transfer date, an employee of the person to whom the position is transferred.

(2) A person who, immediately before the transfer date in relation to a designated position, is employed in an Instrumentality in the designated position ceases, on that date, to be employed under the Public Service Act, 1979, or otherwise in an Instrumentality.

- (3) This clause has effect notwithstanding anything in Schedule 2.

Salary and wages.

4. (1) A transferred employee (other than a transferred employee who, immediately before the transfer of the designated position in which he was employed on the transfer date, was employed under section 80 of the Public Service Act, 1979) shall, in respect of his service with the person by whom, by virtue of clause 3, he is employed, be paid salary or wages, and allowances, at a rate not less than that at which he would be paid salary or wages, and allowances, if the designated position in which he was employed on the transfer date had not been transferred and he had continued to be employed in the relevant Instrumentality until—

- (a) the expiration of the transition period; or
- (b) his salary is, or his wages or allowances are, varied or altered by an award of a competent tribunal, an industrial agreement, the person by whom he is employed or otherwise in accordance with law,

whichever is the later.

Health Administration.

SCHEDULE 3—*continued.*

TRANSFER OF HEALTH EMPLOYEES—*continued.*

(2) A transferred employee who, immediately before the transfer of the designated position in which he was employed on the transfer date, was employed under section 80 of the Public Service Act, 1979, shall, in respect of his service during the transition period with the person by whom, by virtue of clause 3, he is employed, be paid salary or wages, and allowances, at a rate not less than that which was payable to him immediately before the transfer date.

(3) During any period, during the transition period, in which the salary or wages in relation to the position in which a transferred employee referred to in subclause (2) is employed has or have been fixed by an award of a competent tribunal, an industrial agreement, the person by whom the transferred employee is employed or otherwise in accordance with law at a rate which is less than that payable to the transferred employee under subclause (2), no adjustment to give effect to a fluctuation in the basic wage for adult males, or adult females, as the case may be, for the time being in force within the meaning of Part V of the Industrial Arbitration Act, 1940, is required to be made to the minimum salary or wages payable to the transferred employee by virtue of subclause (2).

(4) Subclauses (1), (2) and (3) do not apply to or in respect of a transferred employee who has applied for, and been appointed to, another position in the service of the person by whom, by virtue of clause 3, he is employed.

Superannuation.

5. (1) Subject to subclause (2), where a transferred employee was, immediately before the transfer of the designated position in which he was employed on the transfer date, a contributor to a superannuation scheme, he—

(a) shall retain any rights accrued or accruing to him as such a contributor; and

(b) may continue to contribute to any superannuation scheme to which he was a contributor immediately before the transfer date,

as if he had continued to be employed in the relevant Instrumentality during his service with the person by whom, by virtue of clause 3, he is employed, and—

(c) his service in the employment of that person shall be deemed to be service with the Instrumentality for the purposes of any law under which those rights accrued or were accruing or under which he continues to contribute; and

(d) he shall be deemed to be employed in the Instrumentality for the purposes of any superannuation scheme to which, by the operation of this subclause, he is entitled to contribute.

Health Administration.

SCHEDULE 3—*continued.*

TRANSFER OF HEALTH EMPLOYEES—*continued.*

(2) A person who, but for this subclause, would be entitled under subclause (1) to contribute to a superannuation scheme shall not be so entitled upon his becoming a contributor to any other superannuation scheme, and the provisions of subclause (1) (d) cease to apply to or in respect of him in any case where he becomes a contributor to another superannuation scheme.

(3) Subclause (2) does not prevent the payment to a transferred employee, upon his ceasing to be a contributor to a superannuation scheme, of such amount as would have been payable to him if he had ceased, by reason of resignation, to be a contributor.

(4) Where, pursuant to subclause (1) (b), a transferred employee continues to contribute to a superannuation scheme, the person by whom, by virtue of clause 3, he is employed shall contribute to that superannuation scheme the same amount as would have been payable by his employer if he had continued to be employed in the relevant Instrumentality and been paid salary or wages at the rate paid to him by the person by whom he is, by virtue of clause 3, employed.

(5) Notwithstanding anything in this Schedule, if a person ceases to be a transferred employee by virtue of his ceasing to be an employee of a designated person, but becomes an employee of another designated person, this clause (with any necessary adaptations) applies, as from the date he becomes an employee of that other person, to and in relation to him and that other person in the same way as if he were employed by that other designated person by virtue of clause 3.

(6) Except in circumstances and to the extent prescribed by the regulations, and subject to such conditions as may be prescribed by the regulations, subclause (5) does not apply if there is any period between service with designated persons that exceeds 3 days.

Leave entitlements.

6. (1) A transferred employee shall, during the transition period, be entitled—
- (a) to such sick leave, annual leave, long service leave and leave in the nature of long service leave as he would be entitled to if the designated position in which he was employed on the transfer date had not been transferred pursuant to clause 2 and he had continued to be employed in the relevant Instrumentality; or
 - (b) on termination of his services, to payment by the person by whom he is employed of such gratuity or other benefit as he would be entitled to if the designated position in which he was employed had not been so transferred and he had continued to be employed in the relevant Instrumentality.

Health Administration.

SCHEDULE 3—*continued.*

TRANSFER OF HEALTH EMPLOYEES—*continued.*

(2) After the expiration of the transition period in relation to a transferred employee—

(a) the maximum period of sick leave in relation to the transferred employee at any time during his service with the person by whom, by virtue of clause 3, he is employed shall be—

(i) the whole or, as the case may be, that part not yet taken of the maximum period which would, immediately before the expiration of the transition period, have been calculable in relation to the transferred employee by reference to length of service by the transferred employee (being the length of service determined as if the transferred employee had continued to be employed in the relevant Instrumentality during the transition period) plus the maximum period calculable at the time in relation to the transferred employee by reason of service after the expiration of the transition period; or

(ii) the maximum period which would be calculable at the time in relation to the transferred employee if service by the transferred employee with the relevant Instrumentality before the transfer of the designated position in which he was employed on the transfer date were deemed to be service in the employment of the person by whom the transferred employee is, by virtue of clause 3, employed,

whichever is the greater; and

(b) where, immediately before the expiration of the transition period, the transferred employee would, pursuant to subclause (1), have been entitled to leave in the nature of long service leave or, on termination of his services, to a gratuity or other benefit, the transferred employee shall retain that entitlement.

(3) For the purposes of annual leave, long service leave or leave in the nature of long service leave, service by a transferred employee with the relevant Instrumentality before the transfer of the designated position in which he was employed on the transfer date shall be deemed to be service with the person by whom the transferred employee is, by virtue of clause 3, employed.

(4) For the purpose of calculating the entitlement of a transferred employee to long service leave or leave in the nature of long service leave at any time, there shall be deducted from the amount of long service leave or leave in the nature of long service leave to which, but for this subclause, the transferred employee would be entitled—

(a) any long service leave or leave in the nature of long service leave; and

Health Administration.

SCHEDULE 3—*continued.*TRANSFER OF HEALTH EMPLOYEES—*continued.*

- (b) the equivalent, in long service leave or leave in the nature of long service leave, of any benefit instead of long service leave or leave in the nature of long service leave,

taken or received by the transferred employee before that time.

(5) For the purpose of calculating the entitlement of a transferred employee to any kind of leave as referred to in subclause (2) or (3), service by the transferred employee with the relevant Instrumentality before the transfer of the designated position in which the transferred employee was employed on the transfer date is the service to which, immediately before that transfer, regard would have been had for the purpose of calculating that entitlement.

Appointment to Public Service.

7. (1) In this clause, "special transition period" means, in relation to a person who became a transferred employee by virtue of this Schedule, the period of 3 years immediately following the transfer of the designated position in which he was employed on the transfer date.

(2) A person who—

- (a) became a transferred employee by virtue of this Schedule;
- (b) immediately before the transfer of the designated position in which he was employed on the transfer date, was employed in that position as an officer within the meaning of section 4 of the Public Service Act, 1979; and
- (c) during the special transition period, applies for appointment, or is appointed, to a position in the Public Service,

shall, in relation to the application or appointment and any matter concerning the application or appointment, be deemed to be an officer within the meaning of that section employed in an Instrumentality.

(3) Subclause (2) does not apply to a person who applies for appointment, or is appointed, to a position in the Public Service if he has, on a previous occasion in the special transition period, been appointed to a position in the Public Service.

Redundancy of transferred employees.

8. The employment of a transferred employee may not be terminated by the person by whom, by virtue of clause 3, he is employed on the ground of redundancy arising from the operation of this Schedule.

Health Administration.

SCHEDULE 3—*continued.*TRANSFER OF HEALTH EMPLOYEES—*continued.***Savings.**

9. Where an appeal by a transferred employee to the Government and Related Employees Appeal Tribunal or to the Public Service Board of New South Wales is pending or may be made—

- (a) immediately before the transfer of the designated position in which the transferred employee was employed on the transfer date, the appeal may be continued, or made, and heard and determined as if the designated position had not been transferred; or
- (b) immediately before the expiration of the transition period, the appeal may be continued, or made, and heard and determined as if clause 7 continued to apply to and in respect of the transferred employee.

Miscellaneous.

10. (1) A transferred employee is not entitled to claim, both under this Act and any other Act, benefits in respect of the same period of service.

(2) Except as provided in this Schedule, nothing in this Schedule affects the operation of the Industrial Arbitration Act, 1940.

Regulations.

11. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Schedule.

(2) A provision made under subclause (1) may take effect as from the date of assent to this Act or a later date.

(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 or an authority of the State), the rights of that person existing before the date of its publication therein; or

Health Administration.

SCHEDULE 3—*continued.*TRANSFER OF HEALTH EMPLOYEES—*continued.*

- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A reference in any provision of this Act (this clause excepted) to regulations does not include a reference to regulations made under this clause.

In the name and on behalf of Her Majesty I assent to this Act.

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 15th December, 1982.*