

FIRST PRINT

AREA HEALTH SERVICES BILL 1986

NEW SOUTH WALES



EXPLANATORY NOTE

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

The following Bills are cognate with this Bill:

Public Hospitals (Amendment) Bill 1986;

Health Administration (Area Health Services) Amendment Bill 1986;

Miscellaneous Acts (Area Health Services) Amendment Bill 1986.

The objects of this Bill are—

- (a) to provide for the constitution of area health services (the part of the State for which an area health service may be constituted is limited to the Sydney, Hunter and Illawarra regions);
- (b) to provide for the appointment of area health boards for each area health service and to include among the membership of any such board an elected staff member and a chief executive officer appointed by the Governor;
- (c) to define the objectives and functions of area health services—an area health service will be responsible in its area for all health services (including the management of public hospitals transferred to it by the Governor); and
- (d) to enact other provisions for the effective operation of area health services.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor.

Clause 3 contains definitions of words and expressions used in the proposed Act. The expression "health service" is defined to include, in addition to hospital services, medical, community and other health services.

Clause 4 and Schedule 1 limit the constitution of area health services to areas within a part of the State described in the Schedule. That part of the State is limited to the Sydney, Hunter and Illawarra regions.

PART 2—CONSTITUTION OF AREA HEALTH SERVICES

Clause 5 constitutes, as corporations, the area health services set out in Schedule 2. The area health services to be constituted will be included in that Schedule pursuant to an order under clause 6.

Clause 6 enables the Governor, by order published in the Gazette, to amend Schedule 2 by inserting or omitting the names of area health services.

Clause 7 provides that the area in respect of which a particular area health service is constituted is the relevant area described in Schedule 3.

Clause 8 enables the Governor, by order published in the Gazette, to amend Schedule 3 by inserting, omitting or amending the description of the relevant area of an area health service.

Clause 9 empowers the Governor, by order published in the Gazette, to dissolve or change the name of an area health service or to amalgamate 2 or more area health services.

Clause 10 is a formal provision that gives effect to Schedule 5, which is a Schedule of savings and transitional provisions consequent on an order by the Governor under clause 6, 8 or 9. The clause also enables other savings and transitional provisions to be included in the order.

Clause 11 sets out the corporate powers of an area health service, including provision relating to its official seal. The clause also makes it clear that an area health service does not represent the Crown.

PART 3—AREA HEALTH BOARDS

Clause 12 establishes an area health board for each area health service, to be known by the same name as the relevant service.

Clause 13 provides that the affairs of an area health service shall be controlled by its area health board.

Clause 14 subjects area health boards to the control and direction of the Minister.

Clause 15 provides that an area health board shall consist of—

- (a) a chief executive officer appointed by the Governor; and

- (b) not less than 8 nor more than 11 other persons appointed by the Minister (including a person elected by the employees of the area health service).

Clause 16 is a formal provision giving effect to Schedule 4, which is a Schedule of provisions with respect to the members and procedure of area health boards.

Clause 17 provides that the chief executive officer of an area health board is, subject to the directions of that board, responsible for the management of the affairs of the area health service.

Clause 18 empowers the Governor, by order published in the Gazette, to remove from office any or all members of an area health board. The clause also enables the Governor to appoint the chief executive officer or some other person as administrator in place of an area health board.

PART 4—FUNCTIONS OF AREA HEALTH SERVICES

Clause 19 sets out the primary objectives of an area health service in its area in connection with the provision of health services.

Clause 20 sets out the functions of an area health service. In addition to the day to day management of hospitals and all other health services under its control, an area health service is required, in particular—

- (a) to plan future development of health services in its area and to consult and plan jointly with the Department of Health and the Health Administration Corporation;
- (b) to consult and co-operate with all persons providing health services in its area; and
- (c) to provide residents outside its area with access to its health services.

Clause 21 empowers the Governor, by order published in the Gazette, to transfer to an area health service—

- (a) incorporated hospitals mentioned in the Second Schedule to the Public Hospitals Act 1929;
- (b) with the approval of the relevant governing body—separate institutions mentioned in the Third Schedule to that Act;
- (c) associated organisations mentioned in the Fourth Schedule to that Act;
- (d) hospitals, health services, etc., conducted by the Crown;
- (e) hospitals, health services, etc., conducted by another area health service; or
- (f) a part of the property of any of the above.

The clause gives effect to Schedule 6, which is a Schedule of savings and transitional provisions consequent on an order under this clause. The clause also enables other savings and transitional provisions to be included in the order.

Clause 22 enables area health services, or area health services and separate hospitals not transferred under clause 21, to jointly control and manage hospitals or other health services. The clause also enables an area health service to manage, or assist in the management of, a hospital or other health service under the control of another area health service or separate hospital not transferred under clause 21.

Clause 23 provides for the establishment of hospitals or other health services by area health services and, subject to certain restrictions, provides for the closure or limitation of hospitals and other health services by area health services.

Clause 24 empowers the Minister, from time to time, to determine the role, functions and activities of any hospital or other health service under the control of an area health service.

Clause 25 provides for the appointment of the staff of area health services.

Clause 26 provides that the conditions of employment, including salaries, wages or remuneration, of employees of area health services are to be determined by the Health Administration Corporation, subject to any other law.

Clause 27 sets out the powers of area health services in relation to dealings with property and imposes on area health services, in dealing with land, a requirement to obtain the Minister's approval. The clause also allows land to be used or disposed of for any purpose notwithstanding the terms of any Crown grant.

Clause 28 empowers an area health service, with the approval of the Minister, to acquire land by resumption or appropriation for the purpose of the exercise of its functions.

Clause 29 enables an area health service to acquire property by gift, devise or bequest and abrogates the operation of the rule of law against remoteness of vesting in relation to the conditions of any such gift, devise or bequest.

Clause 30 enables an area health service to make and enter into contracts or agreements for the performance of services or the supply of goods.

Clause 31 sets out the investment powers of area health services.

Clause 32 enables an area health service, with the approval of the Minister, to make by-laws with respect to certain matters relating to its functions. Provision is made (similar to that contained in the Public Hospitals Act 1929 in relation to hospital by-laws) for the advice of the Medical Services Committee to be obtained before a by-law relating to visiting practitioners is made.

PART 5—MISCELLANEOUS

Clause 33 ensures that amendments to area health service by-laws or to regulations do not affect the rights and obligations of visiting practitioners under existing agreements between area health services and the visiting practitioners.

Clause 34 provides for the delegation by an area health service of the exercise of its functions.

Clause 35 provides for the authentication of documents by an area health service without the use of the seal of the area health service.

Clause 36 sets out certain matters proof of which is not required in legal proceedings.

Clause 37 provides that proceedings for an offence against the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Clause 38 empowers the making of regulations for the purposes of the Act (including regulations on any matters in respect of which by-laws may be made). Provision is made (similar to that contained in the regulation making power under the Public Hospitals Act 1929) for the advice of the Medical Services Committee to be obtained before a regulation relating to visiting practitioners is made.

Clause 39 enables regulations containing provisions of a savings or transitional nature to be made consequent on the enactment of the proposed Act and the proposed Acts cognate with it.

Schedule 1 sets out the parts of the State for which area health services may be constituted.

Schedule 2 will contain the names of area health services.

Schedule 3 will contain descriptions of the areas of area health services.

Schedule 4 contains the following provisions relating to the members and procedure of area health boards:

Clause 1 is an interpretation provision.

Clause 2 makes provision for the election of a member by the employees of the area health service.

Clause 3 prevents the appointment of a chief executive officer who is more than 65 years of age and of any other member who is more than 70 years of age.

Clause 4 provides for the appointment of a member (other than the chief executive officer) as chairperson of an area health board.

Clause 5 provides for the appointment of acting members and acting chairpersons of area health boards.

Clause 6 specifies that the term of office of a chief executive officer is a period not exceeding 7 years and the term of office of any other member is a period not exceeding 4 years.

Clause 7 provides that the position of the chief executive officer is a full-time position. The chief executive officer is deemed to be employed (but not liable to be removed from office) by the area health board.

Clause 8 enables a vacancy in the office of any member to be filled.

Clause 9 specifies the circumstances in which there is a casual vacancy in the office of a member.

Clause 10 requires, and establishes a procedure for, the disclosure by a member of any direct or indirect pecuniary interest in matters being considered or done by the area health board.

Clause 11 provides that the Public Service Act 1979 does not apply to the appointment of a member. The clause also declares that the office of member is not an office of profit under the Crown.

Clause 12 provides for the payment of a member's travelling and other out-of-pocket expenses.

Clause 13 protects members or persons acting under the direction of an area health service from personal liability for matters or things done in good faith for the purposes of executing the proposed Act or any other Act.

Clauses 14–18 make provision with respect to meetings of area health boards.

Schedule 5 contains the following savings and transitional provisions relating to orders made under clause 6, 8 or 9:

Clause 1 is an interpretation provision.

Clause 2 provides for the effect of an order dissolving an area health service.

Clause 3 sets out the effect of an order amalgamating 2 or more area health services.

Clause 4 sets out the effect of a change of name of an area health service.

Clause 5 enables regulations containing provisions of a savings or transitional nature to be made consequent on the making of an order to which this Schedule applies.

Schedule 6 contains the following savings and transitional provisions relating to the transfer of hospitals or other health services or any part of the property thereof to an area health service:

Clause 1 is an interpretation provision.

Clause 2 sets out the effect of the transfer of an incorporated hospital.

Clause 3 sets out the effect of the transfer of an institution mentioned in the Third Schedule to the Public Hospitals Act 1929.

Clause 4 sets out the effect of the transfer of an organisation or institution mentioned in the Fourth Schedule to the Public Hospitals Act 1929.

Clause 5 deems the staff of a transferred hospital, etc., to have been appointed, on the day of the transfer, as employees of the relevant area health service.

Clause 6 makes provision with respect to the vesting of property, claims payable or recoverable by, proceedings commenced by, any contracts, etc., entered into by, and certain other matters relating to, a transferred hospital, etc. Generally any rights, liabilities, etc., are transferred to or vested in the relevant area health service.

Clause 7 enables references in any Act or other document to a transferred hospital, etc., to be read as references to the relevant area health service.

Clause 8 continues certain existing functions of a transferred hospital, etc.

Clause 9 preserves the by-laws of transferred hospitals.

Clause 10 deals with the vesting of property transferred by an order.

Clause 11 preserves the purposes of a trust established in relation to any property vested in an area health service as a consequence of the transfer of a hospital or other health service.

Clause 12 enables deeds, wills or other instruments which give property, whether or not on trust, to a transferred hospital after the date of the transfer to be construed and have effect as if a reference to the transferred hospital were a reference to the relevant area health service.

Clause 13 enables regulations containing provisions of a savings or transitional nature to be made consequent on the making of an order to which this Schedule applies.

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No. , 1986

A BILL FOR

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

See also Public Hospitals (Amendment) Bill 1986; Health Administration (Area Health Services) Amendment Bill 1986; Miscellaneous Acts (Area Health Services) Amendment Bill 1986.

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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 1**PRELIMINARY****Short title**

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

Commencement

- 10 2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

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

15 **Interpretation**

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

20 "area", in relation to an area health service, means the area described in Schedule 3 in respect of which the area health service is constituted;

"area health board" means an area health board constituted by section 12 for an area health service;

"area health service" means an area health service constituted by section 5 and specified in Schedule 2;

25 "by-laws" means by-laws under this Act;

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

30 "Health Administration Corporation" means the Health Administration Corporation constituted by the Health Administration Act 1982;

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5 “health service” means any hospital, medical, paramedical, community health or environmental health service or any other service (including any service of a class or description prescribed by the regulations) relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or injury to persons;

“local government area” means a city, municipality or shire within the meaning of the Local Government Act 1919;

10 “Medical Services Committee” means the Medical Services Committee established under section 20B of the Health Administration Act 1982;

“regulations” means regulations under this Act;

“Secretary” means the Secretary of the Department of Health;

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

(2) A reference in this Act to—

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

Parts of State for which area health services may be constituted

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

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PART 2

CONSTITUTION OF AREA HEALTH SERVICES

Constitution of area health services

5. (1) There shall be such area health services as are specified in Schedule 2.

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(2) An area health service is a body corporate with the corporate name specified in Schedule 2.

Amendment of Schedule 2 (Names of area health services)

6. The Governor may, by order published in the Gazette—

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

Areas in respect of which area health services constituted

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

Amendment of Schedule 3 (Description of areas of area health services)

8. (1) The Governor may, by order published in the Gazette—

- 15 (a) amend Schedule 3 by inserting or amending a description of the area in respect of which an area health service is constituted;
- (b) amend Schedule 3 by omitting the description of an area of an area health service whose name has been omitted from Schedule 2; or
- 20 (c) omit Schedule 3 and insert instead a Schedule containing the descriptions of the areas in respect of which area health services are constituted.

(2) An area may be described in Schedule 3 by reference to a local government area or in any other manner (including by reference to a description contained in another document).

- 25 (3) A reference in Schedule 3 to a local government area shall, unless that Schedule otherwise provides, be construed as a reference to that area with boundaries as at the date the reference was inserted in Schedule 3.

Amalgamation, closure and change of name of area health services

9. (1) The Governor may, by order published in the Gazette—

- 30 (a) dissolve an area health service;
- (b) amalgamate 2 or more area health services; or

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(c) change the name of an area health service,
and may, in the order, amend Schedules 2 and 3 accordingly.

(2) An order shall not be made under this section unless the Minister is of the opinion that the order is in the public interest and has recommended to the Governor that the order be made.

(3) A dissolution, amalgamation or change of name under this section may be effected without the holding of an inquiry.

Consequential and transitional provisions on the making of orders

10. (1) Schedule 5 has effect with respect to an order under this Part.

10 (2) An order under this Part may contain other provisions, not inconsistent with the provisions of or made under Schedule 5, of a savings or transitional nature consequent on the making of the order.

Provisions relating to constitution of area health services

11. (1) An area health service—

- 15 (a) has perpetual succession;
(b) shall have an official seal;
(c) may take proceedings, and be proceeded against, in its corporate name;
20 (d) may do and suffer all other things that a body corporate may, by law, do and suffer and that are necessary for or incidental to the purposes for which the area health service is constituted; and
(e) does not represent the Crown.

(2) All courts and persons acting judicially—

- 25 (a) shall take judicial notice of the seal of an area health service that has been affixed to any instrument or document; and
(b) shall, until the contrary is proved, presume that the seal was properly affixed.
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PART 3**AREA HEALTH BOARDS****Constitution of boards**

12. (1) There shall be an area health board for each area health service.

5 (2) An area health board shall be called the “[*name of area health service*] Board”.

Board to control affairs of area health service

13. (1) The affairs of an area health service shall be controlled by the area health board for that service.

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

Board subject to control and direction of Minister

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

Membership of boards

15. (1) An area health board shall consist of—

20 (a) a person appointed by the Governor as chief executive officer of the board; and

(b) persons (not being less than 8 nor more than 11) appointed by the Minister.

(2) Of the persons appointed by the Minister, 1 shall be a person elected in the manner prescribed by regulations under clause 2 of Schedule 4.

25 Provisions relating to members and procedure of boards

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

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Chief executive officer of board

17. The chief executive officer of an area health board—

- 5 (a) is responsible for the management of the affairs of the area health service for which the board is constituted, subject to and in accordance with any directions of the board; and
- (b) shall have and may exercise such other functions as are conferred or imposed on the chief executive officer by or under this or any other Act.

Removal of members, appointment of administrator, etc.

10 18. (1) The Governor may, by order published in the Gazette—

- (a) remove any member or all members of an area health board from office;
- 15 (b) remove all members of an area health board from office and appoint, as administrator of the area health service concerned, a person specified in the order for such period as may be specified in the order; or
- 20 (c) remove all members of an area health board (other than the chief executive officer) from office and appoint, as administrator of the area health service concerned, the chief executive officer for such period as may be specified in the order.

(2) The chief executive officer of an area health board ceases to hold office as chief executive officer if removed from office as a member of the Board.

25 (3) An administrator of an area health service shall have and may exercise, subject to any conditions that may be specified in the order by which the administrator was appointed, all the functions of the area health board for that service.

30 (4) An administrator of an area health service is entitled to be paid from the funds of that service such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the administrator.

(5) The regulations may make provision for or with respect to administrators of area health services.

PART 4**FUNCTIONS OF AREA HEALTH SERVICES****Primary objectives of area health services**

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

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

20 Functions of area health services

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

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

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- (ii) to support, encourage and facilitate the organisation of community involvement in the planning of those services;
- (f) to set objectives and determine priorities within the scope of its functions;
- 5 (g) to provide for the training and education of persons providing health services;
- (h) to give residents outside its area access to such of the health services it provides as may be necessary or desirable;
- 10 (i) to make available to the public reports, information and advice concerning public health and the health services available within its area.

(2) An area health service shall have such other functions as may be prescribed or as are conferred or imposed on it by or under this or any other Act.

15 **Transfer of hospitals and other health services to area health service**

21. (1) The Governor may, by order published in the Gazette, transfer to an area health service—

- (a) any incorporated hospital mentioned in the Second Schedule to the Public Hospitals Act 1929;
- 20 (b) any separate institution mentioned in the Third Schedule to the Public Hospitals Act 1929 if the governing authority of the separate institution consents to the transfer;
- (c) any associated organisation mentioned in the Fourth Schedule to the Public Hospitals Act 1929;
- 25 (d) any hospital or other health service conducted by or on behalf of the Crown (including any hospital or other health service conducted by or on behalf of the Minister or the Health Administration Corporation);
- 30 (e) any hospital or other health service under the control of another area health service; or
- (f) a part of the property of any such hospital, institution, organisation or health service (but subject, in the case of a separate institution referred to in paragraph (b), to the consent of the governing authority of that institution).

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(2) Schedule 6 has effect with respect to any such transfer.

(3) An order under this section—

(a) may amend the Second, Third, Fourth or Fifth Schedule to the Public Hospitals Act 1929 by omitting the name of, and any matter relating to, a hospital, institution or organisation which is being transferred to an area health service; and

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

10 Combined management or assistance in management of hospitals or other health services

22. (1) In this section—

“separate hospital” means—

(a) an incorporated hospital mentioned in the Second Schedule to the Public Hospitals Act 1929;

(b) a separate institution mentioned in the Third Schedule to that Act; or

(c) a hospital mentioned in the Fifth Schedule to that Act.

(2) Any 2 or more area health services, or any 1 or more area health services and any 1 or more separate hospitals, may, by agreement, jointly control and manage any hospital or other health service.

(3) An area health service may, by agreement, manage any hospital or other health service under the control of another area health service or a separate hospital, or assist in that management, for and on behalf of that other area health service or separate hospital.

(4) An area health service shall not enter into an agreement under this section without the approval of the Minister.

(5) A hospital or other health service shall not, for the purposes of this or any other Act, be regarded as being under the control of an area health service because the area health service manages, or assists in the management of, the hospital or other health service for and on behalf of another area health service or of a separate hospital.

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Opening and closing of hospitals or other health services

23. (1) An area health service may at any time establish such hospitals or other health services as it thinks necessary for the exercise of its functions.

(2) An area health service may at any time—

- 5 (a) close any hospital, or cease to provide any other health service, under its control; and
- (b) restrict the range of health care or treatment provided by any hospital or other health service under its control.

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

- (a) notify the Secretary of the decision, unless exempted by the Minister; and
- (b) ensure that the decision is in accordance with any directions of the Minister under section 14 and is appropriate having regard to
15 the primary objectives of the area health service.

Minister may determine role, etc., of hospitals or other health services

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

Staff of area health services

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

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

(3) An area health service may—

- (a) with the approval of the Secretary; and
- 30 (b) on such terms and conditions as may be approved by the Public Service Board,

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arrange for the use of the services of any staff or facilities of a government department, administrative office or public authority.

Determination by Corporation of conditions of employment of staff of area health services

5 **26. (1)** In this section—

“industrial matters” has the meaning ascribed to that expression by section 5 (1) of the Industrial Arbitration Act 1940, subject to the following modifications:

- 10 (a) the references to “employers” and “their employer” shall be read and construed as references to the Health Administration Corporation;
- (b) the references to “employees” shall be read and construed as references to employees of an area health service;
- 15 (c) the references to “any industry” and “an industry” shall be read and construed as references to an area health service;
- 20 (d) the references to “industrial unions” and “trade union” shall be read and construed as references to any association or organisation representing any group or class of employees of an area health service.

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

25 **(3)** The Health Administration Corporation shall, for the purpose of making any determination under subsection (2) or of any proceedings relating to employees of area health services, held before a competent tribunal having power to deal with industrial matters, be deemed to be the employer of the employees of area health services.

30 **(4)** The Health Administration Corporation may enter into an agreement with any association or organisation representing any group or class of employees of area health services with respect to the salaries, wages or remuneration of that group or class.

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(5) An agreement referred to in subsection (4) shall bind all employees in the group or class affected by the agreement and no such employee, whether a member of the association or organisation with which the agreement was entered into or not, shall have any right of appeal against
5 the terms of the agreement.

(6) Any determination made by the Health Administration Corporation in respect of a matter referred to in subsection (2), any order or determination made by a competent tribunal in any proceedings referred to in subsection (3), and any agreement referred to in subsection (4), shall be
10 given effect to by the area health service concerned.

(7) Nothing in this section authorises—

- (a) the Health Administration Corporation to act as an employer; or
- (b) any function to be exercised by or in relation to the Health Administration Corporation,

15 otherwise than for the purposes of and in accordance with this section.

Power in relation to property

27. (1) An area health service may do all or any of the following things:

- 20 (a) purchase or otherwise acquire, and use, land or any other property (whether or not the land or other property is required for the purposes of any hospital or other health service under the control of the area health service);
- (b) sell, lease, mortgage or otherwise dispose of land or any other property;
- (c) dedicate land as a public road.

25 (2) An area health service shall not—

- (a) acquire land by purchase, lease or exchange;
- (b) dispose of land by sale, lease, mortgage or otherwise; or
- (c) dedicate land as a public road,

without the approval of the Minister.

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(3) An area health service may request the Minister to give approval to a disposition or dedication of land or a use of land, being a disposition, dedication or use—

- 5 (a) which is contrary to a provision of, or a trust arising under, the Crown grant of that land; or
- (b) which, if this section had not been enacted, may make the land liable to be forfeited to the Crown,

and the Minister may give that approval.

10 (4) If the Minister has given an approval under this section to a disposition or dedication of land, or to a use of land, neither the disposition or dedication of the land (or its subsequent use) nor the use of the land shall—

- (a) be regarded as a breach of any provision of, or any trust arising under, the Crown grant of that land; or
- 15 (b) make the land liable to be forfeited to the Crown.

Resumption of land

28. (1) An area health service may, with the approval of the Minister, acquire land for the purpose of the exercise of its functions by resumption or appropriation in accordance with this section.

20 (2) For the purposes of the acquisition of land under subsection (1), the Governor may, under the Public Works Act 1912—

- (a) resume any land; or
- (b) appropriate any land vested in Her Majesty or in any person in trust for Her Majesty.

25 (3) A resumption or appropriation effected in accordance with subsection (2) shall be deemed to be for an authorised work within the meaning of the Public Works Act 1912 and the area health service concerned shall, in relation to that authorised work, be deemed to be the Constructing Authority within the meaning of that Act.

30 (4) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not, where an area health service is the Constructing Authority within the meaning of that Act, apply to expenditure on any works constructed for the purposes of this Act, but section 38 of that Act applies to any such expenditure.

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(5) Nothing in this section affects any operation that the Public Works Act 1912 would have if this section had not been enacted.

Power to accept gifts, etc.

29. (1) An area health service may acquire, for any purpose connected
5 with—

(a) the provision of any health service; or

(b) any of the functions of the area health service, any property by gift, devise or bequest and may agree to and carry out the conditions of any such gift, devise or bequest.

10 (2) The rule of law against remoteness of vesting shall not apply to any such condition to which an area health service has agreed.

(3) An area health service may act as trustee of money or other property vested in the area health service on trust.

Contracts of area health service

15 30. (1) An area health service may make and enter into contracts or agreements with any person for the performance of services, or for the supply of goods, plant, machinery or material, with respect to the exercise by the area health service of its functions by or under this or any other Act.

20 (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.

Investment of funds of area health service

25 31. (1) An area health service may invest any of its funds or any funds held on trust in any manner authorised by the Trustee Act 1925 or the regulations under this Act.

(2) An area health service may at any time dispose of any of its investments and apply the proceeds for the purpose of exercising its functions.

30 (3) This section is, in relation to the investment of any funds, subject to the terms of any trust applying to those funds.

Area health service by-laws

32. (1) An area health service may, with the approval of the Minister, make by-laws, not inconsistent with this Act or the regulations, for or with respect to—

- 5 (a) the management of any hospital or other health service under its control;
- (b) the provision of health services to patients of any hospital under its control and to other persons;
- 10 (c) the appointment, control and governance of visiting practitioners in connection with hospitals under its control, including the conditions subject to which visiting practitioners may perform work at any such hospital;
- 15 (d) the appointment, control and governance of persons employed by it under section 25 and any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the area health service of any such employees or group or class of employees;
- (e) the custody and use of the seal of the area health service;
- 20 (f) the keeping of records concerning the acts, decisions and proceedings of the area health board;
- (g) the procedure for the calling of meetings of the area health board and for the conduct of business at those meetings; and
- (h) the appointment and functions of committees of the area health board.
- 25 (2) The Minister may cause to be published in the Gazette an order setting out the terms of model by-laws.
- (3) A by-law may not be made by an area health service for or with respect to any matter referred to in subsection (1) (c) unless—
- 30 (a) it is in substance the same as a model by-law under an order for the time being in force under subsection (2) and the Minister has received advice from the Medical Services Committee in relation to the substance of the model by-law; or
- 35 (b) the Minister has received advice from the Medical Services Committee in relation to the substance of the by-law made by the area health service.

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(4) Subsection (3) does not apply to a by-law if the Medical Services Committee does not furnish advice to the Minister in relation to the relevant model by-law or the by-law, as the case may require, within 30 days after a notice from the Minister requesting such advice has been served on the Committee or within such further period as the Minister may specify in the notice or in another notice served on the Committee.

(5) A provision of a by-law may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- 10 (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

15 (6) Judicial notice shall be taken of a by-law authenticated by the seal of the area health service concerned or in accordance with section 35, and it shall be presumed, in the absence of evidence to the contrary, that all conditions and preliminary steps precedent to the making of the by-law have been complied with and performed.

20

PART 5

MISCELLANEOUS

Existing agreement with visiting practitioner to prevail over regulation or by-law

25 33. Where a provision of a regulation or by-law is inconsistent with the rights and obligations under an agreement between an area health service and a visiting practitioner relating to the performance of work by the visiting practitioner at a hospital under the control of the area health service (being an agreement in force at the time the regulation or by-law was made), the provision of the regulation or by-law shall, to the extent of the inconsistency, 30 have no force or effect in relation to the visiting practitioner.

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Delegation by area health service

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

(a) this power of delegation;

5 (b) the exercise of its functions under section 23; and

(c) the power to make by-laws.

(2) A delegation under this section—

(a) shall be in writing;

(b) may be general or limited; and

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

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

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

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

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

Authentication of certain documents

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

Proof of certain matters not required

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

30 (a) the constitution of an area health board;

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- (b) any resolution of an area health board;
- (c) the appointment of, or the holding of office by, any member of an area health board; or
- (d) the presence of a quorum at any meeting of an area health board.

5 Proceedings for offences

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

Regulations

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

- 15 (a) accounts to be kept by area health services and the auditing of those accounts;
- (b) records to be kept by area health services;
- (c) the furnishing of information and reports to the Minister, Secretary or other person by area health services;
- 20 (d) the furnishing of information to a patient in the care of an area health service and the inspection of records by such a patient in connection with the treatment of the patient by the area health service; or
- (e) the disposal of unclaimed property of patients in the care of an area health service.

25 (2) The regulations may make provision for or with respect to any matter for or with respect to which a by-law may be made by an area health service.

(3) A provision of a regulation shall, to the extent to which it is inconsistent with a by-law made by an area health service, prevail.

30 (4) A regulation may create an offence punishable by a penalty not exceeding \$500.

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(5) A provision of a regulation may—

(a) apply generally or be limited in its application by reference to specified exceptions or factors;

5 (b) apply differently according to different factors of a specified kind; or

(c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

10 (6) A regulation may not be made for or with respect to any matter referred to in section 32 (1) (c) unless the Minister has received advice from the Medical Services Committee in relation to the substance of the regulation.

15 (7) Subsection (6) does not apply to a regulation if the Medical Services Committee does not furnish advice in relation to the regulation to the Minister within 30 days after a notice from the Minister requesting such advice has been served on the Committee or within such further period as the Minister may specify in the notice or in another notice served on the Committee.

Savings and transitional provisions

20 39. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act, the Public Hospitals (Amendment) Act 1986, the Health Administration (Area Health Services) Amendment Act 1986 or the Miscellaneous Acts (Area Health Services) Amendment Act 1986.

25 (2) A provision referred to in subsection (1) may, if the regulations so provide, take effect on the date of assent to this Act or a later day.

(3) To the extent to which a provision referred to in subsection (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

30 (a) to affect, in a manner prejudicial to any person (other than the State, an authority of the State or an area health service), the rights of that person existing before the date of its publication in the Gazette; or

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

5

SCHEDULE 1

(Sec. 4)

PARTS OF STATE FOR WHICH AREA HEALTH SERVICES MAY BE
CONSTITUTED

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

SYDNEY

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

15

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

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

20

HUNTER

Cities of Cessnock, Lake Macquarie, Maitland and Newcastle.

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

ILLAWARRA

25

Cities of Wollongong and Shoalhaven.

Municipalities of Kiama and Shellharbour.

Shire of Wingecarribee.

2. An area that, after the date of assent to this Act, becomes a part of a local government area mentioned in paragraph 1.

30

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

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SCHEDULE 2

(Sec. 5)

NAMES OF AREA HEALTH SERVICES

SCHEDULE 3

(Sec. 7)

DESCRIPTION OF AREAS OF AREA HEALTH SERVICES

SCHEDULE 4

(Sec. 16)

PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF AREA
HEALTH BOARDS**Interpretation**

1. In this Schedule—

“appointed member” means a member other than the chief executive officer;

“elected staff member” means a member referred to in section 15 (2);

“member” means a member of an area health board.

Elected staff member

2. (1) In this clause—

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

(2) Regulations may be made for or with respect to the election of a person to hold office as an elected staff member.

(3) The Electoral Commissioner for New South Wales, or a person employed in the office of and nominated by the Electoral Commissioner, shall be the returning officer for an election, and shall have and may exercise the functions conferred or imposed on the returning officer by the regulations made under this clause in relation to the election.

*Area Health Services 1986*SCHEDULE 4—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF AREA
HEALTH BOARDS—*continued*

(4) Employees of an area health service are entitled to vote at an election in accordance with the regulations made under this clause for the elected staff member of the area health board for that service.

(5) A person's nomination as a candidate for election as the elected staff member is
5 invalid if—

(a) the nomination is not made by at least 2 persons who are employees of the relevant area health service;

(b) the person is not, at the time of nomination, an employee of the relevant area health service;

10 (c) the person is not, at the time of nomination, a member of an industrial union registered as such under the Industrial Arbitration Act 1940 or an association of employees registered as an organization under the Conciliation and Arbitration Act 1904 of the Commonwealth, being such an industrial union
15 or association that is prescribed by the regulations for the purposes of this paragraph as being an industrial union or association representing employees of the relevant area health service; or

(d) the instrument of nomination is not accompanied by a statutory declaration to the effect that the person is, at the time of nomination, such a member,

20 and the returning officer is entitled to rely on the information contained in the statutory declaration.

(6) A person may be, at the same time, both the elected staff member and an employee of the relevant area health service.

(7) Nothing in any law, rule, direction or other requirement that—

25 (a) is applicable to the elected staff member in his or her capacity as an employee of the relevant area health service; and

(b) would not be so applicable if the elected staff member were not such an employee,

operates so as to prevent or restrict the exercise by the elected staff member of any of the functions of an elected staff member.

30 (8) If no person is nominated at an election, or if for any other reason an election fails, the Minister may appoint a person eligible for election to be an appointed member, and the person shall, on being appointed, be deemed to be a person elected in the manner prescribed by the regulations made under this clause.

*Area Health Services 1986*SCHEDULE 4—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF AREA
HEALTH BOARDS—*continued*

(9) If a vacancy occurs in the office of elected staff member otherwise than by reason of the expiration of the period for which the elected staff member was appointed—

- 5 (a) the Minister may appoint a person eligible for election to hold, subject to this Schedule, the office of elected staff member for a term commencing on the date of appointment or a later date specified in the relevant instrument of appointment and ending on the commencement of the term of office of the next elected staff member; and
- (b) the person shall, on being so appointed, be deemed to be a person elected in the manner prescribed by the regulations made under this clause.
- 10 (10) The Minister may, pending the election of the first elected staff member of an area health board after the constitution of the area health service concerned—
 - (a) appoint any person as the elected staff member to hold, subject to this Schedule, the office of elected staff member until the election of that member and the person shall, on being so appointed, be deemed to be a person elected
 - 15 in the manner prescribed by the regulations made under this clause; or
 - (b) appoint the other members of that area health board and leave the office of elected staff member vacant pending the election of that member.

Age of members

- 20 3. (1) A person of or above the age of 65 years is not eligible to be appointed as a chief executive officer.
- (2) A person of or above the age of 70 years is not eligible to be appointed as an appointed member.

Chairperson of area health board

- 25 4. (1) Of the appointed members of an area health board, one shall, in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Minister, be appointed as chairperson of that board.
- (2) The Minister may remove an appointed member from the office of chairperson of an area health board.
- 30 (3) A person who is an appointed member and chairperson of an area health board shall be deemed to have vacated office as chairperson if the person—
 - (a) is removed from that office by the Minister under subclause (2);
 - (b) resigns that office by instrument in writing addressed to the Minister; or
 - (c) ceases to be an appointed member.
- (4) The chairperson of an area health board may be referred to as the chairman or
- 35 chairwoman, as the case requires.

*Area Health Services 1986*SCHEDULE 4—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF AREA
HEALTH BOARDS—*continued***Acting members and acting chairperson**

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

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

10 (3) The Minister may remove any person from any office to which the person was appointed under this clause.

(4) For the purposes of this clause—

15 (a) a vacancy in the office of a member or the chairperson of an area health board shall be deemed to be an absence from office of the member or chairperson, as the case may be; and

(b) an appointed member shall be deemed to be absent from office as an appointed member during any period when the member acts in the office of the chief executive officer pursuant to an appointment under subclause (1).

Terms of office

20 6. Subject to this Schedule, a member shall hold office—

(a) in the case of a chief executive officer—for such period not exceeding 7 years;

(b) in the case of an appointed member (other than the elected staff member)—for such period not exceeding 4 years; or

25 (c) in the case of an elected staff member—for such period not exceeding 4 years but not less than 2 years,

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

Chief executive officer

30 7. (1) A chief executive officer shall devote the whole of his or her time to the duties of the office of chief executive officer, except as permitted by this Act or except with the consent of the Secretary.

(2) A chief executive officer shall be deemed, while holding that office, to be employed by the area health service concerned.

*Area Health Services 1986*SCHEDULE 4—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF AREA
HEALTH BOARDS—*continued*

(3) The conditions of employment (including remuneration) of a chief executive officer shall, subject to the provisions of the instrument of appointment as chief executive officer, or any subsequent instrument executed by the Governor, be as determined in accordance with section 26.

- 5 (4) Nothing in this Act shall be construed as authorising an area health service to remove a chief executive officer from office.

Filling of vacancy in office of member

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

10 Casual vacancies

9. (1) A member of an area health board shall be deemed to have vacated office if the member—

- (a) dies;
- 15 (b) being chief executive officer, absents himself or herself from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave granted by that board or unless the absence is occasioned by illness or other unavoidable cause;
- 20 (c) being an appointed member, absents himself or herself from 4 consecutive meetings of that board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by that board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by that board for being absent from those meetings;
- 25 (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- 30 (e) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act 1958 or a person under detention under Part VII of that Act;
- 35 (f) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- (g) being chief executive officer, engages in any paid employment outside the duties of the office of chief executive officer, except with the consent of the Secretary;
- (h) being the elected staff member, ceases to be an employee of the relevant area health service within the meaning of clause 2;

*Area Health Services 1986*SCHEDULE 4—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF AREA
HEALTH BOARDS—*continued*

(i) resigns the office by instrument in writing addressed to the Secretary;

(j) being—

(i) chief executive officer, attains the age of 65 years; or

(ii) an appointed member, attains the age of 70 years;

5 (k) being chief executive officer, is retired from office by the Governor under subclause (2); or

(l) is removed from office by the Governor under section 18.

(2) A chief executive officer may, after attaining the age of 60 years and before attaining the age of 65 years, be retired from office by the Governor and, if so retired,
10 is entitled to such compensation (if any) as the Governor determines.

Disclosure of pecuniary interests

10. (1) A member who has a direct or indirect pecuniary interest—

(a) in a matter that is being considered, or is about to be considered, at a meeting of an area health board; or

15 (b) in a thing being done or about to be done by an area health board,

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

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

(a) is a member, or is in the employment, of a specified company or other body;

20 (b) is a partner, or is in the employment, of a specified person; or

(c) has some other specified interest relating to a specified company or other body or a specified person,

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

(3) An area health board shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of the Secretary or a person authorised by the Secretary.

*Area Health Services 1986*SCHEDULE 4—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF AREA
HEALTH BOARDS—*continued*

(4) After a member of an area health board has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Secretary otherwise determines—

5 (a) be present during any deliberation of that board, or take part in any decision of that board, with respect to that matter; or

(b) exercise any functions under this Act with respect to that thing,

as the case requires.

(5) Notwithstanding that a member of an area health board contravenes the provisions of this clause, that contravention does not invalidate any decision of that board or the
10 exercise of any function under this Act.

(6) Nothing in this clause applies to or in respect of an interest of a member in a matter or thing which arises by reason only that the member is an employee of the area health board.

(7) A reference in this clause to a meeting of an area health board includes a reference
15 to a meeting of a committee of that board.

(8) Without affecting the generality of section 18, a member who contravenes this clause may be removed from office under that section.

Effect of certain other Acts

11. (1) The Public Service Act 1979 does not apply to or in respect of the
20 appointment of a member and a member is not, as a member, subject to that Act.

(2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that
25 office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as an appointed member.

(3) The office of an appointed member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

Travelling and other out-of-pocket expenses

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

Area Health Services 1986

SCHEDULE 4—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF AREA
HEALTH BOARDS—*continued***Liability of members, etc.**

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

General procedure

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

Quorum

15. The quorum for a meeting of an area health board is—
- (a) where there is an odd number of members—a majority of the number of members; or
- 15 (b) where there is an even number of members—one-half of the number of members plus one.

Presiding member

16. (1) The chairperson of an area health board or, in the absence of the chairperson, another appointed member elected as chairperson for the meeting by the members
- 20 present shall preside at a meeting of that board.

(2) The person presiding at any meeting of an area health board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

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

First meeting of an area health board

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

Area Health Services 1986

SCHEDULE 5

(Sec. 10)

CREATION, DISSOLUTION, AMALGAMATION AND CHANGE OF NAMES OR
AREAS OF AREA HEALTH SERVICES**5 Interpretation**

1. In this Schedule—

“order” means an order under Part 2.

Dissolution of area health service

2. (1) When an order dissolving an area health service takes effect—

- 10 (a) the area health service is dissolved; and
- (b) a person who, immediately before the dissolution takes effect, held office as a member of the area health board for the area health service—
- (i) shall cease to hold office; and
- 15 (ii) is not entitled to be paid any compensation by reason of ceasing to hold that office.

(2) On and from the date on which an order dissolving an area health service takes effect—

- 20 (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that date, was vested in or belonged to the area health service shall vest in and belong to the Crown;
- (b) all money and liquidated and unliquidated claims that, immediately before that date, was or were payable to or recoverable by the area health service shall be money and liquidated and unliquidated claims payable to or recoverable by the Crown;
- 25 (c) all proceedings commenced before that date by the area health service and pending immediately before that date shall be deemed to be proceedings pending on that date by the Crown and all proceedings so commenced by any person against the area health service and pending immediately before that date shall be deemed to be proceedings pending on that date by that person against the Crown;
- 30 (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the area health service and in force immediately before that date shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Crown;
- 35 (e) the Crown may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subclause and for the prosecution of proceedings so referred to as the area health service might have done, but for its dissolution;
- 40

*Area Health Services 1986*SCHEDULE 5—*continued*CREATION, DISSOLUTION, AMALGAMATION AND CHANGE OF NAMES OR
AREAS OF AREA HEALTH SERVICES—*continued*

- (f) the Crown may enforce and realise any security or charge existing immediately before that date in favour of the area health service and may exercise any powers thereby conferred on the area health service as if the security or charge were a security or charge in favour of the Crown;
- 5 (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that date, were due or payable by, or recoverable against, the area health service shall be debts due by, money payable by and claims recoverable against, the Crown;
- 10 (h) all liquidated and unliquidated claims for which the area health service would, but for its dissolution, have been liable shall be liquidated and unliquidated claims for which the Crown shall be liable;
- 15 (i) any act, matter or thing done or omitted to be done before that date by, to or in respect of the area health service shall, to the extent that, but for the dissolution of the area health service, that act, matter or thing would on or after that date have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the Crown; and
- (j) no attornment to the Crown by a lessee from the area health service shall be required.
- 20 (3) Any real or personal property vested in the Crown pursuant to this clause may be used or disposed of for such purposes as the Minister may determine.

Consequences of amalgamation of area health services

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

*Area Health Services 1986*SCHEDULE 5—*continued*CREATION, DISSOLUTION, AMALGAMATION AND CHANGE OF NAMES OR
AREAS OF AREA HEALTH SERVICES—*continued***Change of name of area health service**

4. A change of name of an area health service by an order does not operate—
- (a) to create a new legal entity;
 - 5 (b) to prejudice or affect the identity of the body corporate constituted as an area health service or its continuity as a body corporate;
 - (c) to affect the property, or the rights or obligations, of the area health service;
or
 - (d) to render defective any legal proceedings by or against the area health service,
- 10 and any legal proceedings that could have been continued or commenced by or against the area health service by its former name may be continued or commenced by or against it by its new name.

Regulations

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

Area Health Services 1986

SCHEDULE 6

(Sec. 21 (2))

TRANSFER OF HOSPITALS AND OTHER HEALTH SERVICES TO AREA
HEALTH SERVICES**5 Interpretation**

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

- “associated organisation” means an associated organisation mentioned in the Fourth Schedule to the Public Hospitals Act 1929;
- 10 “incorporated hospital” means a hospital mentioned in the Second Schedule to the Public Hospitals Act 1929;
- “order” means an order under section 21;
- “relevant area health service”, in relation to a transferred hospital, means the area health service to which the transferred hospital is transferred;
- 15 “separate institution” means an institution mentioned in the Third Schedule to the Public Hospitals Act 1929;
- “transfer date”, in relation to a transferred hospital, means the date on which the transferred hospital is, by an order, transferred to an area health service;
- 20 “transferred hospital” means an incorporated hospital, separate institution or associated organisation transferred by an order to an area health service.

Transfer of incorporated hospital

- 2. Where a transferred hospital is an incorporated hospital—
 - (a) the body corporate constituting the incorporated hospital is dissolved on the transfer date; and
 - 25 (b) the members of the board of directors of the incorporated hospital cease to hold office on the transfer date but are eligible (if otherwise qualified) to be appointed as members of the area health board for the relevant area health service.

Transfer of separate institution

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

*Area Health Services 1986*SCHEDULE 6—*continued*TRANSFER OF HOSPITALS AND OTHER HEALTH SERVICES TO AREA
HEALTH SERVICES—*continued***Transfer of associated organisation**

4. Where a transferred hospital is an associated organisation—
- (a) the body corporate constituting the board of the organisation is dissolved on the transfer date; and
 - 5 (b) the members of that board cease to hold office on the transfer date but are eligible (if otherwise qualified) to be appointed as members of the area health board for the relevant area health service.

Staff of transferred hospitals

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

Transfer of property, etc.

6. On and from the transfer date in relation to a transferred hospital—
- 15 (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that date, was vested in or belonged to the transferred hospital shall vest in and belong to the relevant area health service;
 - 20 (b) all money and liquidated and unliquidated claims that, immediately before that date, was or were payable to or recoverable by the transferred hospital shall be money and liquidated and unliquidated claims payable to or recoverable by the relevant area health service;
 - 25 (c) all proceedings commenced before that date by the transferred hospital and pending immediately before that date shall be deemed to be proceedings pending on that date by the relevant area health service and all proceedings so commenced by any person against the transferred hospital and pending immediately before that date shall be deemed to be proceedings pending on that date by that person against the relevant area health service;
 - 30 (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the transferred hospital and in force immediately before that date shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the relevant area health service;
 - 35 (e) the relevant area health service may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subclause and for the prosecution of proceedings so referred to as the transferred hospital might have done, but for its dissolution;

*Area Health Services 1986*SCHEDULE 6—*continued*TRANSFER OF HOSPITALS AND OTHER HEALTH SERVICES TO AREA
HEALTH SERVICES—*continued*

- 5 (f) the relevant area health service may enforce and realise any security or charge existing immediately before that date in favour of the transferred hospital and may exercise any powers thereby conferred on the transferred hospital as if the security or charge were a security or charge in favour of the relevant area health service;
- (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that date, were due or payable by, or recoverable against, the transferred hospital shall be debts due by, money payable by and claims recoverable against, the relevant area health service;
- 10 (h) all liquidated and unliquidated claims for which the transferred hospital would, but for its dissolution, have been liable shall be liquidated and unliquidated claims for which the relevant area health service shall be liable;
- 15 (i) any act, matter or thing done or omitted to be done before that date by, to or in respect of the transferred hospital shall, to the extent that, but for the dissolution of the transferred hospital, that act, matter or thing would on or after that date have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the relevant area health service; and
- 20 (j) no attornment to the relevant area health service by a lessee from the transferred hospital shall be required.

Construction of references

7. On and from the transfer date, in any other Act or in any regulation, by-law or other statutory instrument or in any document, whether of the same or of a different kind, a reference to the transferred hospital shall, unless the context or subject-matter
25 otherwise indicates or requires, be read and construed as a reference to the transferred hospital (however named) under the control of the relevant area health service.

Existing functions, etc., of certain hospitals continued

8. (1) Any function conferred or imposed immediately before the transfer date on a transferred hospital, or on the board of directors or governing authority of a transferred
30 hospital, in relation to the administration and operation of the transferred hospital may, with the approval of the Minister, continue to be exercised on and from the transfer date by the relevant area health service in relation to the transferred hospital.

(2) Subclause (1) has effect notwithstanding any other provision of this Act.

- (3) Without limiting the generality of subclause (1), a reference in that subclause to
35 a function includes a reference to a power of investment.

*Area Health Services 1986*SCHEDULE 6—*continued*TRANSFER OF HOSPITALS AND OTHER HEALTH SERVICES TO AREA
HEALTH SERVICES—*continued***By-laws of transferred hospital**

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

Transfer of health services other than transferred hospital and transfer of property

10. (1) An order which transfers a health service (other than a transferred hospital) to an area health service may specify the property belonging to that health service which is to be transferred to the area health service and, on the date the order takes effect, the property vests in that area health service.

(2) On the date that an order under section 21 (1) (f) which transfers any property to an area health service takes effect, the property vests in that area health service.

Existing trust property

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

Future trust property

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

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

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

Regulations

13. (1) The regulations may contain other provisions of a savings or transitional nature consequent on the making of an order.
- (2) A provision referred to in subclause (1) which relates to a particular order may, if the regulations so provide, take effect as from the date of the order or a later day.

*Area Health Services 1986*SCHEDULE 6—*continued*TRANSFER OF HOSPITALS AND OTHER HEALTH SERVICES TO AREA
HEALTH SERVICES—*continued*

(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—

5 (a) to affect, in a manner prejudicial to any person (other than the State, an authority of the State, a transferred hospital or an area health service), the rights of that person existing before the date of its publication in the Gazette; or

10 (b) to impose liabilities on any person (other than the State, an authority of the State, a transferred hospital or an area health service) in respect of anything done or omitted to be done before the date of its publication in the Gazette.

(4) The regulations may repeal any provisions in Part VIA of the Public Hospitals Act 1929 relating to a hospital transferred to an area health service and may make provision of a savings or transitional nature consequent on the repeal of those provisions.

15 (5) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986

AREA HEALTH SERVICES ACT 1986 No. 50

NEW SOUTH WALES



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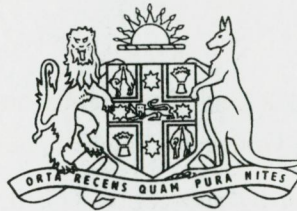
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AREA HEALTH SERVICES ACT 1986 No. 50

NEW SOUTH WALES



Act No. 50, 1986

An Act to constitute area health services; to define their functions; and for other purposes. [Assented to, 14 May 1986]

See also Public Hospitals (Amendment) Act 1986; Health Administration (Area Health Services) Amendment Act 1986; Miscellaneous Acts (Area Health Services) Amendment Act 1986.

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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:

PART 1
PRELIMINARY

Short title

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

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

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

Interpretation

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

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

"area health board" means an area health board constituted by section 12 for an area health service;

"area health service" means an area health service constituted by section 5 and specified in Schedule 2;

"by-laws" means by-laws under this Act;

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

"Health Administration Corporation" means the Health Administration Corporation constituted by the Health Administration Act 1982;

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“health service” means any hospital, medical, paramedical, community health or environmental health service or any other service (including any service of a class or description prescribed by the regulations) relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or injury to persons;

“local government area” means a city, municipality or shire within the meaning of the Local Government Act 1919;

“Medical Services Committee” means the Medical Services Committee established under section 20B of the Health Administration Act 1982;

“regulations” means regulations under this Act;

“Secretary” means the Secretary of the Department of Health;

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

(2) A reference in this Act to—

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

Parts of State for which area health services may be constituted

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

PART 2

CONSTITUTION OF AREA HEALTH SERVICES

Constitution of area health services

5. (1) There shall be such area health services as are specified in Schedule 2.

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(2) An area health service is a body corporate with the corporate name specified in Schedule 2.

Amendment of Schedule 2 (Names of area health services)

6. The Governor may, by order published in the Gazette—
- (a) amend Schedule 2 by inserting or omitting the name of an area health service; or
 - (b) omit Schedule 2 and insert instead a Schedule containing the names of area health services.

Areas in respect of which area health services constituted

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

Amendment of Schedule 3 (Description of areas of area health services)

8. (1) The Governor may, by order published in the Gazette—
- (a) amend Schedule 3 by inserting or amending a description of the area in respect of which an area health service is constituted;
 - (b) amend Schedule 3 by omitting the description of an area of an area health service whose name has been omitted from Schedule 2; or
 - (c) omit Schedule 3 and insert instead a Schedule containing the descriptions of the areas in respect of which area health services are constituted.

(2) An area may be described in Schedule 3 by reference to a local government area or in any other manner (including by reference to a description contained in another document).

(3) A reference in Schedule 3 to a local government area shall, unless that Schedule otherwise provides, be construed as a reference to that area with boundaries as at the date the reference was inserted in Schedule 3.

Amalgamation, closure and change of name of area health services

9. (1) The Governor may, by order published in the Gazette—
- (a) dissolve an area health service;
 - (b) amalgamate 2 or more area health services; or

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(c) change the name of an area health service,
and may, in the order, amend Schedules 2 and 3 accordingly.

(2) An order shall not be made under this section unless the Minister is of the opinion that the order is in the public interest and has recommended to the Governor that the order be made.

(3) A dissolution, amalgamation or change of name under this section may be effected without the holding of an inquiry.

Consequential and transitional provisions on the making of orders

10. (1) Schedule 5 has effect with respect to an order under this Part.

(2) An order under this Part may contain other provisions, not inconsistent with the provisions of or made under Schedule 5, of a savings or transitional nature consequent on the making of the order.

Provisions relating to constitution of area health services

11. (1) An area health service—

- (a) has perpetual succession;
- (b) shall have an official seal;
- (c) may take proceedings, and be proceeded against, in its corporate name;
- (d) may do and suffer all other things that a body corporate may, by law, do and suffer and that are necessary for or incidental to the purposes for which the area health service is constituted; and
- (e) does not represent the Crown.

(2) All courts and persons acting judicially—

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

PART 3**AREA HEALTH BOARDS****Constitution of boards**

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

Board to control affairs of area health service

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

Board subject to control and direction of Minister

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

Membership of boards

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

Provisions relating to members and procedure of boards

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

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Chief executive officer of board

17. The chief executive officer of an area health board—

- (a) is responsible for the management of the affairs of the area health service for which the board is constituted, subject to and in accordance with any directions of the board; and
- (b) shall have and may exercise such other functions as are conferred or imposed on the chief executive officer by or under this or any other Act.

Removal of members, appointment of administrator, etc.

18. (1) The Governor may, by order published in the Gazette—

- (a) remove any member or all members of an area health board from office;
- (b) remove all members of an area health board from office and appoint, as administrator of the area health service concerned, a person specified in the order for such period as may be specified in the order; or
- (c) remove all members of an area health board (other than the chief executive officer) from office and appoint, as administrator of the area health service concerned, the chief executive officer for such period as may be specified in the order.

(2) The chief executive officer of an area health board ceases to hold office as chief executive officer if removed from office as a member of the Board.

(3) An administrator of an area health service shall have and may exercise, subject to any conditions that may be specified in the order by which the administrator was appointed, all the functions of the area health board for that service.

(4) An administrator of an area health service is entitled to be paid from the funds of that service such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the administrator.

(5) The regulations may make provision for or with respect to administrators of area health services.

PART 4

FUNCTIONS OF AREA HEALTH SERVICES

Primary objectives of area health services

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

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

Functions of area health services

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

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

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- (ii) to support, encourage and facilitate the organisation of community involvement in the planning of those services;
- (f) to set objectives and determine priorities within the scope of its functions;
- (g) to provide for the training and education of persons providing health services;
- (h) to give residents outside its area access to such of the health services it provides as may be necessary or desirable;
- (i) to make available to the public reports, information and advice concerning public health and the health services available within its area.

(2) An area health service shall have such other functions as may be prescribed or as are conferred or imposed on it by or under this or any other Act.

Transfer of hospitals and other health services to area health service

21. (1) The Governor may, by order published in the Gazette, transfer to an area health service—

- (a) any incorporated hospital mentioned in the Second Schedule to the Public Hospitals Act 1929;
- (b) any separate institution mentioned in the Third Schedule to the Public Hospitals Act 1929 if the governing authority of the separate institution consents to the transfer;
- (c) any associated organisation mentioned in the Fourth Schedule to the Public Hospitals Act 1929;
- (d) any hospital or other health service conducted by or on behalf of the Crown (including any hospital or other health service conducted by or on behalf of the Minister or the Health Administration Corporation);
- (e) any hospital or other health service under the control of another area health service; or
- (f) a part of the property of any such hospital, institution, organisation or health service (but subject, in the case of a separate institution referred to in paragraph (b), to the consent of the governing authority of that institution).

- (2) Schedule 6 has effect with respect to any such transfer.
- (3) An order under this section—
- (a) may amend the Second, Third, Fourth or Fifth Schedule to the Public Hospitals Act 1929 by omitting the name of, and any matter relating to, a hospital, institution or organisation which is being transferred to an area health service; and
 - (b) may contain provisions, not inconsistent with the provisions of or made under Schedule 6, of a savings or transitional nature consequent on the making of the order.

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

22. (1) In this section—

“separate hospital” means—

- (a) an incorporated hospital mentioned in the Second Schedule to the Public Hospitals Act 1929;
- (b) a separate institution mentioned in the Third Schedule to that Act; or
- (c) a hospital mentioned in the Fifth Schedule to that Act.

(2) Any 2 or more area health services, or any 1 or more area health services and any 1 or more separate hospitals, may, by agreement, jointly control and manage any hospital or other health service.

(3) An area health service may, by agreement, manage any hospital or other health service under the control of another area health service or a separate hospital, or assist in that management, for and on behalf of that other area health service or separate hospital.

(4) An area health service shall not enter into an agreement under this section without the approval of the Minister.

(5) A hospital or other health service shall not, for the purposes of this or any other Act, be regarded as being under the control of an area health service because the area health service manages, or assists in the management of, the hospital or other health service for and on behalf of another area health service or of a separate hospital.

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Opening and closing of hospitals or other health services

23. (1) An area health service may at any time establish such hospitals or other health services as it thinks necessary for the exercise of its functions.

(2) An area health service may at any time—

- (a) close any hospital, or cease to provide any other health service, under its control; and
- (b) restrict the range of health care or treatment provided by any hospital or other health service under its control.

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

- (a) notify the Secretary of the decision, unless exempted by the Minister; and
- (b) ensure that the decision is in accordance with any directions of the Minister under section 14 and is appropriate having regard to the primary objectives of the area health service.

Minister may determine role, etc., of hospitals or other health services

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

Staff of area health services

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

(2) 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 the person is such an employee.

(3) An area health service may—

- (a) with the approval of the Secretary; and
- (b) on such terms and conditions as may be approved by the Public Service Board,

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arrange for the use of the services of any staff or facilities of a government department, administrative office or public authority.

Determination by Corporation of conditions of employment of staff of area health services

26. (1) In this section—

“industrial matters” has the meaning ascribed to that expression by section 5 (1) of the Industrial Arbitration Act 1940, subject to the following modifications:

- (a) the references to “employers” and “their employer” shall be read and construed as references to the Health Administration Corporation;
- (b) the references to “employees” shall be read and construed as references to employees of an area health service;
- (c) the references to “any industry” and “an industry” shall be read and construed as references to an area health service;
- (d) the references to “industrial unions” and “trade union” shall be read and construed as references to any association or organisation representing any group or class of employees of an area health service.

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

(3) The Health Administration Corporation shall, for the purpose of making any determination under subsection (2) or of any proceedings relating to employees of area health services, held before a competent tribunal having power to deal with industrial matters, be deemed to be the employer of the employees of area health services.

(4) The Health Administration Corporation may enter into an agreement with any association or organisation representing any group or class of employees of area health services with respect to the salaries, wages or remuneration of that group or class.

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(5) An agreement referred to in subsection (4) shall bind all employees in the group or class affected by the agreement and no such employee, whether a member of the association or organisation with which the agreement was entered into or not, shall have any right of appeal against the terms of the agreement.

(6) Any determination made by the Health Administration Corporation in respect of a matter referred to in subsection (2), any order or determination made by a competent tribunal in any proceedings referred to in subsection (3), and any agreement referred to in subsection (4), shall be given effect to by the area health service concerned.

(7) Nothing in this section authorises—

- (a) the Health Administration Corporation to act as an employer; or
- (b) any function to be exercised by or in relation to the Health Administration Corporation,

otherwise than for the purposes of and in accordance with this section.

Power in relation to property

27. (1) An area health service may do all or any of the following things:

- (a) purchase or otherwise acquire, and use, land or any other property (whether or not the land or other property is required for the purposes of any hospital or other health service under the control of the area health service);
- (b) sell, lease, mortgage or otherwise dispose of land or any other property;
- (c) dedicate land as a public road.

(2) An area health service shall not—

- (a) acquire land by purchase, lease or exchange;
- (b) dispose of land by sale, lease, mortgage or otherwise; or
- (c) dedicate land as a public road,

without the approval of the Minister.

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(3) An area health service may request the Minister to give approval to a disposition or dedication of land or a use of land, being a disposition, dedication or use—

- (a) which is contrary to a provision of, or a trust arising under, the Crown grant of that land; or
- (b) which, if this section had not been enacted, may make the land liable to be forfeited to the Crown,

and the Minister may give that approval.

(4) If the Minister has given an approval under this section to a disposition or dedication of land, or to a use of land, neither the disposition or dedication of the land (or its subsequent use) nor the use of the land shall—

- (a) be regarded as a breach of any provision of, or any trust arising under, the Crown grant of that land; or
- (b) make the land liable to be forfeited to the Crown.

Resumption of land

28. (1) An area health service may, with the approval of the Minister, acquire land for the purpose of the exercise of its functions by resumption or appropriation in accordance with this section.

(2) For the purposes of the acquisition of land under subsection (1), the Governor may, under the Public Works Act 1912—

- (a) resume any land; or
- (b) appropriate any land vested in Her Majesty or in any person in trust for Her Majesty.

(3) A resumption or appropriation effected in accordance with subsection (2) shall be deemed to be for an authorised work within the meaning of the Public Works Act 1912 and the area health service concerned shall, in relation to that authorised work, be deemed to be the Constructing Authority within the meaning of that Act.

(4) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not, where an area health service is the Constructing Authority within the meaning of that Act, apply to expenditure on any works constructed for the purposes of this Act, but section 38 of that Act applies to any such expenditure.

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(5) Nothing in this section affects any operation that the Public Works Act 1912 would have if this section had not been enacted.

Power to accept gifts, etc.

29. (1) An area health service may acquire, for any purpose connected with—

- (a) the provision of any health service; or
- (b) any of the functions of the area health service, any property by gift, devise or bequest and may agree to and carry out the conditions of any such gift, devise or bequest.

(2) The rule of law against remoteness of vesting shall not apply to any such condition to which an area health service has agreed.

(3) An area health service may act as trustee of money or other property vested in the area health service on trust.

Contracts of area health service

30. (1) An area health service may make and enter into contracts or agreements with any person for the performance of services, or for the supply of goods, plant, machinery or material, with respect to the exercise by the area health service of its functions by or under this or any other Act.

(2) Any such contract or agreement shall be deemed, for the purposes of the Constitution Act 1902, to be a contract or agreement for or on account of the Public Service of New South Wales.

Investment of funds of area health service

31. (1) An area health service may invest any of its funds or any funds held on trust in any manner authorised by the Trustee Act 1925 or the regulations under this Act.

(2) An area health service may at any time dispose of any of its investments and apply the proceeds for the purpose of exercising its functions.

(3) This section is, in relation to the investment of any funds, subject to the terms of any trust applying to those funds.

*Area Health Services 1986***Area health service by-laws**

32. (1) An area health service may, with the approval of the Minister, make by-laws, not inconsistent with this Act or the regulations, for or with respect to—

- (a) the management of any hospital or other health service under its control;
- (b) the provision of health services to patients of any hospital under its control and to other persons;
- (c) the appointment, control and governance of visiting practitioners in connection with hospitals under its control, including the conditions subject to which visiting practitioners may perform work at any such hospital;
- (d) the appointment, control and governance of persons employed by it under section 25 and any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the area health service of any such employees or group or class of employees;
- (e) the custody and use of the seal of the area health service;
- (f) the keeping of records concerning the acts, decisions and proceedings of the area health board;
- (g) the procedure for the calling of meetings of the area health board and for the conduct of business at those meetings; and
- (h) the appointment and functions of committees of the area health board.

(2) The Minister may cause to be published in the Gazette an order setting out the terms of model by-laws.

(3) A by-law may not be made by an area health service for or with respect to any matter referred to in subsection (1) (c) unless—

- (a) it is in substance the same as a model by-law under an order for the time being in force under subsection (2) and the Minister has received advice from the Medical Services Committee in relation to the substance of the model by-law; or
- (b) the Minister has received advice from the Medical Services Committee in relation to the substance of the by-law made by the area health service.

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(4) Subsection (3) does not apply to a by-law if the Medical Services Committee does not furnish advice to the Minister in relation to the relevant model by-law or the by-law, as the case may require, within 30 days after a notice from the Minister requesting such advice has been served on the Committee or within such further period as the Minister may specify in the notice or in another notice served on the Committee.

(5) A provision of a by-law may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

(6) Judicial notice shall be taken of a by-law authenticated by the seal of the area health service concerned or in accordance with section 35, and it shall be presumed, in the absence of evidence to the contrary, that all conditions and preliminary steps precedent to the making of the by-law have been complied with and performed.

PART 5

MISCELLANEOUS

Existing agreement with visiting practitioner to prevail over regulation or by-law

33. Where a provision of a regulation or by-law is inconsistent with the rights and obligations under an agreement between an area health service and a visiting practitioner relating to the performance of work by the visiting practitioner at a hospital under the control of the area health service (being an agreement in force at the time the regulation or by-law was made), the provision of the regulation or by-law shall, to the extent of the inconsistency, have no force or effect in relation to the visiting practitioner.

Delegation by area health service

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

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

(2) A delegation under this section—

- (a) shall be in writing;
- (b) may be general or limited; and
- (c) may be revoked, wholly or partly, by the area health service.

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

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

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

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

Authentication of certain documents

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

Proof of certain matters not required

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

- (a) the constitution of an area health board;

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- (b) any resolution of an area health board;
- (c) the appointment of, or the holding of office by, any member of an area health board; or
- (d) the presence of a quorum at any meeting of an area health board.

Proceedings for offences

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

Regulations

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

- (a) accounts to be kept by area health services and the auditing of those accounts;
 - (b) records to be kept by area health services;
 - (c) the furnishing of information and reports to the Minister, Secretary or other person by area health services;
 - (d) the furnishing of information to a patient in the care of an area health service and the inspection of records by such a patient in connection with the treatment of the patient by the area health service; or
 - (e) the disposal of unclaimed property of patients in the care of an area health service.
- (2) The regulations may make provision for or with respect to any matter for or with respect to which a by-law may be made by an area health service.
- (3) A provision of a regulation shall, to the extent to which it is inconsistent with a by-law made by an area health service, prevail.
- (4) A regulation may create an offence punishable by a penalty not exceeding \$500.

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(5) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind;
or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

(6) A regulation may not be made for or with respect to any matter referred to in section 32 (1) (c) unless the Minister has received advice from the Medical Services Committee in relation to the substance of the regulation.

(7) Subsection (6) does not apply to a regulation if the Medical Services Committee does not furnish advice in relation to the regulation to the Minister within 30 days after a notice from the Minister requesting such advice has been served on the Committee or within such further period as the Minister may specify in the notice or in another notice served on the Committee.

Savings and transitional provisions

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

(2) A provision referred to in subsection (1) may, if the regulations so provide, take effect on the date of assent to this Act or a later day.

(3) To the extent to which a provision referred to in subsection (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

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

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- (b) to impose liabilities on any person (other than the State, an authority of the State or an area health service) in respect of anything done or omitted to be done before the date of its publication in the Gazette.
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SCHEDULE 1

(Sec. 4)

PARTS OF STATE FOR WHICH AREA HEALTH SERVICES MAY BE
CONSTITUTED

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

SYDNEY

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

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

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

HUNTER

Cities of Cessnock, Lake Macquarie, Maitland and Newcastle.

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

ILLAWARRA

Cities of Wollongong and Shoalhaven.

Municipalities of Kiama and Shellharbour.

Shire of Wingecarribee.

2. An area that, after the date of assent to this Act, becomes a part of a local government area mentioned in paragraph 1.

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

(Sec. 5)

NAMES OF AREA HEALTH SERVICES

SCHEDULE 3

(Sec. 7)

DESCRIPTION OF AREAS OF AREA HEALTH SERVICES

SCHEDULE 4

(Sec. 16)

PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF AREA
HEALTH BOARDS

Interpretation

1. In this Schedule—

“appointed member” means a member other than the chief executive officer;

“elected staff member” means a member referred to in section 15 (2);

“member” means a member of an area health board.

Elected staff member

2. (1) In this clause—

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

(2) Regulations may be made for or with respect to the election of a person to hold office as an elected staff member.

(3) The Electoral Commissioner for New South Wales, or a person employed in the office of and nominated by the Electoral Commissioner, shall be the returning officer for an election, and shall have and may exercise the functions conferred or imposed on the returning officer by the regulations made under this clause in relation to the election.

*Area Health Services 1986*SCHEDULE 4—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF AREA
HEALTH BOARDS—*continued*

(4) Employees of an area health service are entitled to vote at an election in accordance with the regulations made under this clause for the elected staff member of the area health board for that service.

(5) A person's nomination as a candidate for election as the elected staff member is invalid if—

- (a) the nomination is not made by at least 2 persons who are employees of the relevant area health service;
- (b) the person is not, at the time of nomination, an employee of the relevant area health service;
- (c) the person is not, at the time of nomination, a member of an industrial union registered as such under the Industrial Arbitration Act 1940 or an association of employees registered as an organization under the Conciliation and Arbitration Act 1904 of the Commonwealth, being such an industrial union or association that is prescribed by the regulations for the purposes of this paragraph as being an industrial union or association representing employees of the relevant area health service; or
- (d) the instrument of nomination is not accompanied by a statutory declaration to the effect that the person is, at the time of nomination, such a member,

and the returning officer is entitled to rely on the information contained in the statutory declaration.

(6) A person may be, at the same time, both the elected staff member and an employee of the relevant area health service.

(7) Nothing in any law, rule, direction or other requirement that—

- (a) is applicable to the elected staff member in his or her capacity as an employee of the relevant area health service; and
- (b) would not be so applicable if the elected staff member were not such an employee,

operates so as to prevent or restrict the exercise by the elected staff member of any of the functions of an elected staff member.

(8) If no person is nominated at an election, or if for any other reason an election fails, the Minister may appoint a person eligible for election to be an appointed member, and the person shall, on being appointed, be deemed to be a person elected in the manner prescribed by the regulations made under this clause.

*Area Health Services 1986*SCHEDULE 4—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF AREA HEALTH BOARDS—*continued*

(9) If a vacancy occurs in the office of elected staff member otherwise than by reason of the expiration of the period for which the elected staff member was appointed—

- (a) the Minister may appoint a person eligible for election to hold, subject to this Schedule, the office of elected staff member for a term commencing on the date of appointment or a later date specified in the relevant instrument of appointment and ending on the commencement of the term of office of the next elected staff member; and
- (b) the person shall, on being so appointed, be deemed to be a person elected in the manner prescribed by the regulations made under this clause.

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

- (a) appoint any person as the elected staff member to hold, subject to this Schedule, the office of elected staff member until the election of that member and the person shall, on being so appointed, be deemed to be a person elected in the manner prescribed by the regulations made under this clause; or
- (b) appoint the other members of that area health board and leave the office of elected staff member vacant pending the election of that member.

Age of members

3. (1) A person of or above the age of 65 years is not eligible to be appointed as a chief executive officer.

(2) A person of or above the age of 70 years is not eligible to be appointed as an appointed member.

Chairperson of area health board

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

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

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

- (a) is removed from that office by the Minister under subclause (2);
- (b) resigns that office by instrument in writing addressed to the Minister; or
- (c) ceases to be an appointed member.

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

*Area Health Services 1986*SCHEDULE 4—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF AREA
HEALTH BOARDS—*continued***Acting members and acting chairperson**

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

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

(3) The Minister may remove any person from any office to which the person was appointed under this clause.

(4) For the purposes of this clause—

- (a) a vacancy in the office of a member or the chairperson of an area health board shall be deemed to be an absence from office of the member or chairperson, as the case may be; and
- (b) an appointed member shall be deemed to be absent from office as an appointed member during any period when the member acts in the office of the chief executive officer pursuant to an appointment under subclause (1).

Terms of office

6. Subject to this Schedule, a member shall hold office—

- (a) in the case of a chief executive officer—for such period not exceeding 7 years;
- (b) in the case of an appointed member (other than the elected staff member)—for such period not exceeding 4 years; or
- (c) in the case of an elected staff member—for such period not exceeding 4 years but not less than 2 years,

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

Chief executive officer

7. (1) A chief executive officer shall devote the whole of his or her time to the duties of the office of chief executive officer, except as permitted by this Act or except with the consent of the Secretary.

(2) A chief executive officer shall be deemed, while holding that office, to be employed by the area health service concerned.

*Area Health Services 1986*SCHEDULE 4—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF AREA
HEALTH BOARDS—*continued*

(3) The conditions of employment (including remuneration) of a chief executive officer shall, subject to the provisions of the instrument of appointment as chief executive officer, or any subsequent instrument executed by the Governor, be as determined in accordance with section 26.

(4) Nothing in this Act shall be construed as authorising an area health service to remove a chief executive officer from office.

Filling of vacancy in office of member

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

Casual vacancies

9. (1) A member of an area health board shall be deemed to have vacated office if the member—

- (a) dies;
- (b) being chief executive officer, absents himself or herself from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave granted by that board or unless the absence is occasioned by illness or other unavoidable cause;
- (c) being an appointed member, absents himself or herself from 4 consecutive meetings of that board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by that board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by that board for being absent from those meetings;
- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (e) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act 1958 or a person under detention under Part VII of that Act;
- (f) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- (g) being chief executive officer, engages in any paid employment outside the duties of the office of chief executive officer, except with the consent of the Secretary;
- (h) being the elected staff member, ceases to be an employee of the relevant area health service within the meaning of clause 2;

*Area Health Services 1986*SCHEDULE 4—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF AREA
HEALTH BOARDS—*continued*

- (i) resigns the office by instrument in writing addressed to the Secretary;
- (j) being—
 - (i) chief executive officer, attains the age of 65 years; or
 - (ii) an appointed member, attains the age of 70 years;
- (k) being chief executive officer, is retired from office by the Governor under subclause (2); or
- (l) is removed from office by the Governor under section 18.

(2) A chief executive officer may, after attaining the age of 60 years and before attaining the age of 65 years, be retired from office by the Governor and, if so retired, is entitled to such compensation (if any) as the Governor determines.

Disclosure of pecuniary interests

10. (1) A member who has a direct or indirect pecuniary interest—

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

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

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

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

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

(3) An area health board shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of the Secretary or a person authorised by the Secretary.

*Area Health Services 1986*SCHEDULE 4—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF AREA
HEALTH BOARDS—*continued*

(4) After a member of an area health board has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Secretary otherwise determines—

- (a) be present during any deliberation of that board, or take part in any decision of that board, with respect to that matter; or
- (b) exercise any functions under this Act with respect to that thing,

as the case requires.

(5) Notwithstanding that a member of an area health board contravenes the provisions of this clause, that contravention does not invalidate any decision of that board or the exercise of any function under this Act.

(6) Nothing in this clause applies to or in respect of an interest of a member in a matter or thing which arises by reason only that the member is an employee of the area health board.

(7) A reference in this clause to a meeting of an area health board includes a reference to a meeting of a committee of that board.

(8) Without affecting the generality of section 18, a member who contravenes this clause may be removed from office under that section.

Effect of certain other Acts

11. (1) The Public Service Act 1979 does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act.

(2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as an appointed member.

(3) The office of an appointed member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

Travelling and other out-of-pocket expenses

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

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SCHEDULE 4—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF AREA
HEALTH BOARDS—*continued***Liability of members, etc.**

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

General procedure

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

Quorum

15. The quorum for a meeting of an area health board is—

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

Presiding member

16. (1) The chairperson of an area health board or, in the absence of the chairperson, another appointed member elected as chairperson for the meeting by the members present shall preside at a meeting of that board.

(2) The person presiding at any meeting of an area health board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

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

First meeting of an area health board

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

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SCHEDULE 5

(Sec. 10)

CREATION, DISSOLUTION, AMALGAMATION AND CHANGE OF NAMES OR
AREAS OF AREA HEALTH SERVICES**Interpretation**

1. In this Schedule—

“order” means an order under Part 2.

Dissolution of area health service

2. (1) When an order dissolving an area health service takes effect—

- (a) the area health service is dissolved; and

- (b) a person who, immediately before the dissolution takes effect, held office as a member of the area health board for the area health service—

- (i) shall cease to hold office; and

- (ii) is not entitled to be paid any compensation by reason of ceasing to hold that office.

- (2) On and from the date on which an order dissolving an area health service takes effect—

- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that date, was vested in or belonged to the area health service shall vest in and belong to the Crown;

- (b) all money and liquidated and unliquidated claims that, immediately before that date, was or were payable to or recoverable by the area health service shall be money and liquidated and unliquidated claims payable to or recoverable by the Crown;

- (c) all proceedings commenced before that date by the area health service and pending immediately before that date shall be deemed to be proceedings pending on that date by the Crown and all proceedings so commenced by any person against the area health service and pending immediately before that date shall be deemed to be proceedings pending on that date by that person against the Crown;

- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the area health service and in force immediately before that date shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Crown;

- (e) the Crown may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subclause and for the prosecution of proceedings so referred to as the area health service might have done, but for its dissolution;

*Area Health Services 1986*SCHEDULE 5—*continued*CREATION, DISSOLUTION, AMALGAMATION AND CHANGE OF NAMES OR
AREAS OF AREA HEALTH SERVICES—*continued*

- (f) the Crown may enforce and realise any security or charge existing immediately before that date in favour of the area health service and may exercise any powers thereby conferred on the area health service as if the security or charge were a security or charge in favour of the Crown;
 - (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that date, were due or payable by, or recoverable against, the area health service shall be debts due by, money payable by and claims recoverable against, the Crown;
 - (h) all liquidated and unliquidated claims for which the area health service would, but for its dissolution, have been liable shall be liquidated and unliquidated claims for which the Crown shall be liable;
 - (i) any act, matter or thing done or omitted to be done before that date by, to or in respect of the area health service shall, to the extent that, but for the dissolution of the area health service, that act, matter or thing would on or after that date have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the Crown; and
 - (j) no attornment to the Crown by a lessee from the area health service shall be required.
- (3) Any real or personal property vested in the Crown pursuant to this clause may be used or disposed of for such purposes as the Minister may determine.

Consequences of amalgamation of area health services

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

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SCHEDULE 5—*continued*CREATION, DISSOLUTION, AMALGAMATION AND CHANGE OF NAMES OR
AREAS OF AREA HEALTH SERVICES—*continued***Change of name of area health service**

4. A change of name of an area health service by an order does not operate—
- (a) to create a new legal entity;
 - (b) to prejudice or affect the identity of the body corporate constituted as an area health service or its continuity as a body corporate;
 - (c) to affect the property, or the rights or obligations, of the area health service;
or
 - (d) to render defective any legal proceedings by or against the area health service,

and any legal proceedings that could have been continued or commenced by or against the area health service by its former name may be continued or commenced by or against it by its new name.

Regulations

5. (1) The regulations may contain other provisions of a savings or transitional nature consequent on the making of an order.

(2) A provision referred to in subclause (1) which relates to a particular order may, if the regulations so provide, take effect as from the date of the order or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State, an authority of the State or an area health service), the rights of that person existing before the date of its publication in the Gazette; or
- (b) to impose liabilities on any person (other than the State, an authority of the State or an area health service) in respect of anything done or omitted to be done before the date of its publication in the Gazette.

(4) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule.

Area Health Services 1986

SCHEDULE 6

(Sec. 21 (2))

TRANSFER OF HOSPITALS AND OTHER HEALTH SERVICES TO AREA
HEALTH SERVICES**Interpretation**

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

“associated organisation” means an associated organisation mentioned in the Fourth Schedule to the Public Hospitals Act 1929;

“incorporated hospital” means a hospital mentioned in the Second Schedule to the Public Hospitals Act 1929;

“order” means an order under section 21;

“relevant area health service”, in relation to a transferred hospital, means the area health service to which the transferred hospital is transferred;

“separate institution” means an institution mentioned in the Third Schedule to the Public Hospitals Act 1929;

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

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

Transfer of incorporated hospital

2. Where a transferred hospital is an incorporated hospital—

(a) the body corporate constituting the incorporated hospital is dissolved on the transfer date; and

(b) the members of the board of directors of the incorporated hospital cease to hold office on the transfer date but are eligible (if otherwise qualified) to be appointed as members of the area health board for the relevant area health service.

Transfer of separate institution

3. Where a transferred hospital is a separate institution—

(a) if there is a body corporate constituting the separate institution, the body corporate is dissolved on the transfer date;

(b) if there are trustees of the property of the separate institution, the trustees cease to hold office as such on the transfer date; and

(c) the members of the governing authority of the separate institution cease to hold office on the transfer date but are eligible (if otherwise qualified) to be appointed as members of the area health board for the relevant area health service.

*Area Health Services 1986*SCHEDULE 6—*continued*TRANSFER OF HOSPITALS AND OTHER HEALTH SERVICES TO AREA
HEALTH SERVICES—*continued***Transfer of associated organisation**

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

Staff of transferred hospitals

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

Transfer of property, etc.

6. On and from the transfer date in relation to a transferred hospital—
 - (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that date, was vested in or belonged to the transferred hospital shall vest in and belong to the relevant area health service;
 - (b) all money and liquidated and unliquidated claims that, immediately before that date, was or were payable to or recoverable by the transferred hospital shall be money and liquidated and unliquidated claims payable to or recoverable by the relevant area health service;
 - (c) all proceedings commenced before that date by the transferred hospital and pending immediately before that date shall be deemed to be proceedings pending on that date by the relevant area health service and all proceedings so commenced by any person against the transferred hospital and pending immediately before that date shall be deemed to be proceedings pending on that date by that person against the relevant area health service;
 - (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the transferred hospital and in force immediately before that date shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the relevant area health service;
 - (e) the relevant area health service may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subclause and for the prosecution of proceedings so referred to as the transferred hospital might have done, but for its dissolution;

*Area Health Services 1986*SCHEDULE 6—*continued*TRANSFER OF HOSPITALS AND OTHER HEALTH SERVICES TO AREA
HEALTH SERVICES—*continued*

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

Construction of references

7. On and from the transfer date, in any other Act or in any regulation, by-law or other statutory instrument or in any document, whether of the same or of a different kind, a reference to the transferred hospital shall, unless the context or subject-matter otherwise indicates or requires, be read and construed as a reference to the transferred hospital (however named) under the control of the relevant area health service.

Existing functions, etc., of certain hospitals continued

8. (1) Any function conferred or imposed immediately before the transfer date on a transferred hospital, or on the board of directors or governing authority of a transferred hospital, in relation to the administration and operation of the transferred hospital may, with the approval of the Minister, continue to be exercised on and from the transfer date by the relevant area health service in relation to the transferred hospital.

(2) Subclause (1) has effect notwithstanding any other provision of this Act.

(3) Without limiting the generality of subclause (1), a reference in that subclause to a function includes a reference to a power of investment.

*Area Health Services 1986*SCHEDULE 6—*continued*TRANSFER OF HOSPITALS AND OTHER HEALTH SERVICES TO AREA
HEALTH SERVICES—*continued***By-laws of transferred hospital**

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

Transfer of health services other than transferred hospital and transfer of property

10. (1) An order which transfers a health service (other than a transferred hospital) to an area health service may specify the property belonging to that health service which is to be transferred to the area health service and, on the date the order takes effect, the property vests in that area health service.

(2) On the date that an order under section 21 (1) (f) which transfers any property to an area health service takes effect, the property vests in that area health service.

Existing trust property

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

Future trust property

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

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

(b) any property would, but for this clause, be declared or directed after the transfer date to be held by any person for the benefit of, or in trust for, a transferred hospital,

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

Regulations

13. (1) The regulations may contain other provisions of a savings or transitional nature consequent on the making of an order.

(2) A provision referred to in subclause (1) which relates to a particular order may, if the regulations so provide, take effect as from the date of the order or a later day.

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SCHEDULE 6—*continued*TRANSFER OF HOSPITALS AND OTHER HEALTH SERVICES TO AREA
HEALTH SERVICES—*continued*

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

(a) to affect, in a manner prejudicial to any person (other than the State, an authority of the State, a transferred hospital or an area health service), the rights of that person existing before the date of its publication in the Gazette; or

(b) to impose liabilities on any person (other than the State, an authority of the State, a transferred hospital or an area health service) in respect of anything done or omitted to be done before the date of its publication in the Gazette.

(4) The regulations may repeal any provisions in Part VIA of the Public Hospitals Act 1929 relating to a hospital transferred to an area health service and may make provision of a savings or transitional nature consequent on the repeal of those provisions.

(5) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule.

BY AUTHORITY

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