

AMBULANCE SERVICES ACT 1990 No. 16

NEW SOUTH WALES



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AMBULANCE SERVICES ACT 1990 No. 16

NEW SOUTH WALES



Act No. 16, 1990

An Act to constitute the Ambulance Service of New South Wales; to define its functions; to amend certain Acts; and for other purposes.
[Assented to 14 June 1990]

The Legislature of New South Wales enacts:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the Ambulance Services Act 1990.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

3. (1) In this Act:

"**Ambulance Service**" means the Ambulance Service of New South Wales constituted by section 4;

"**ambulance services**" means services relating to the work of rendering first aid to, and the transport of, sick and injured persons;

"**Board**" means the Ambulance Service Board constituted by section 5;

"**Chief Executive Officer**" means the Chief Executive Officer of the Board appointed under section 9;

"**Director-General**" means the Director-General of the Department of Health;

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

"**honorary ambulance officer**" means a person appointed to be an honorary ambulance officer under section 14.

- (2) In this Act:

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

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

PART 2 - CONSTITUTION OF AMBULANCE SERVICE OF NEW SOUTH WALES

Constitution of Ambulance Service

4. (1) There is constituted by this Act a corporation under the corporate name of the Ambulance Service of New South Wales.

(2) The Ambulance Service represents the Crown.

PART 3 - AMBULANCE SERVICE BOARD

Constitution of Board

5. There is to be an Ambulance Service Board.

Function of Board

6. (1) The function of the Board is to control the affairs of the Ambulance Service.

(2) Any act, matter or thing done in the name of, or on behalf of, the Ambulance Service by the Board, or with the authority of the Board, is to be taken to have been done by the Ambulance Service.

Ministerial control of Board

7. The Board is subject to the control and direction of the Minister.

Directors of Board

8. (1) There are to be directors of the Board consisting of the Chief Executive Officer of the Board and not fewer than 6 and not more than 11 directors appointed by the Minister.

(2) Of the directors appointed by the Minister, one is to be a person elected in the manner prescribed by regulations made for the purposes of clause 2 of Schedule 1.

(3) The other directors appointed by the Minister must each have such managerial or other qualifications as the Minister considers necessary to enable the directors to carry out their functions.

(4) Schedule 1 has effect with respect to the directors and procedure of the Board.

Chief Executive Officer of Board

9. (1) The Governor may appoint a Chief Executive Officer of the Board.

(2) The employment of the Chief Executive Officer is subject to Part 2A of the Public Sector Management Act 1988, but is not subject to Part 2 of that Act.

(3) The Chief Executive Officer is to be taken, while holding that office, to be employed by the Ambulance Service, but nothing in this section is to be taken as authorising the Service to remove the Chief Executive Officer from office.

Chief Executive Officer to manage Ambulance Service

10. The affairs of the Ambulance Service are to be managed by the Chief Executive Officer in accordance with the directions of the Board.

Removal of directors

11. (1) The Governor may, by order published in the Gazette:

- (a) remove any director of the Board or all directors of the Board from office; or
- (b) remove all directors of the Board from office and appoint, as administrator of the Ambulance Service, a person specified in the order for such period as may be specified in the order; or
- (c) remove all directors of the Board (other than the Chief Executive Officer) from office and appoint, as administrator of the Ambulance Service, the Chief Executive Officer for such period as may be specified in the order.

(2) The Chief Executive Officer ceases to hold office as Chief Executive Officer if removed from office as a director of the Board.

(3) An administrator has, subject to any conditions that may be specified in the order by which the administrator was appointed, all the functions of the Board.

(4) An administrator of the Ambulance Service is entitled to be paid from the funds of the 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 an administrator of the Ambulance Service.

PART 4 - FUNCTIONS OF AMBULANCE SERVICE

Functions of Ambulance Service

- 12. (1)** The functions of the Ambulance Service are as follows:
- (a) to provide, conduct, operate and maintain ambulance services;
 - (b) to co-operate with or provide assistance to any person or organisation for the purposes of providing, conducting, operating and maintaining ambulance services;
 - (c) in connection with ambulance services referred to in paragraph (a), to protect persons from injury or death, whether or not those persons are sick or injured;
 - (d) 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 ambulance services;
 - (e) to consult and co-operate with individuals and organisations (including voluntary agencies, private agencies and public or local authorities) concerned with the provision of ambulance services;
 - (f) to co-ordinate and plan the future development of ambulance services, and towards that end:
 - (i) to consult with the Department of Health; and
 - (ii) to support, encourage and facilitate the organisation of community involvement in the planning of those services;
 - (g) to set objectives and determine priorities within the scope of its functions and to monitor whether those objectives are achieved;
 - (h) to achieve and maintain adequate standards of ambulance services in New South Wales;
 - (i) to make available to the public reports, information and advice concerning the operation of ambulance services in New South Wales.
- (2)** The Ambulance Service has such other functions as may be prescribed by the regulations or as are conferred or imposed on it by or under this or any other Act.
- (3)** The exercise of the functions of the Ambulance Service in emergencies and rescue operations is subject to the State Emergency and Rescue Management Act 1989.

Staff of Ambulance Service

13. (1) The Ambulance Service may appoint and employ such employees as may be necessary for the purpose of exercising its functions.

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

(3) The Ambulance Service may arrange for the use of the service of any staff (by secondment or otherwise) or facilities of a government department, an administrative office or a public or local authority.

Honorary ambulance officers

14. (1) The Ambulance Service may appoint such persons as it thinks fit to be honorary ambulance officers.

(2) Honorary ambulance officers:

(a) may carry out, without remuneration, such of the functions of the Ambulance Service as the Ambulance Service may from time to time direct; and

(b) are subject to the control and supervision of the Ambulance Service.

Determination of conditions of employment of staff

15. (1) The conditions of employment, including salaries, wages and remuneration, of the employees of the Ambulance Service (other than the Chief Executive Officer) are to be as determined from time to time by the Health Administration Corporation, except in so far as provision is otherwise made by law.

(2) The Health Administration Corporation is, for the purpose of making any determination under this section or of any proceedings relating to employees of the Ambulance Service held before a competent tribunal having power to deal with industrial matters, to be taken to be the employer of the employees of the Ambulance Service.

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

(4) Such an agreement binds 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, has any right of appeal against the terms of the agreement.

(5) The Ambulance Service must give effect to:

- (a) any such determination of the Health Administration Corporation; and
- (b) any order or determination made by such a competent tribunal; and
- (c) any such agreement with an association or organisation.

(6) 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.

Restriction on power to acquire or dispose of land

16. The Ambulance Service may not:

- (a) acquire land by purchase, lease or exchange; or
 - (b) dispose of land by sale, lease, mortgage or otherwise,
- except with the approval of the Minister.

Resumption of land

17. (1) The Ambulance 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 purpose of the acquisition of land under this section, 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 this section is to be taken to be for an authorised work within the meaning of the Public Works Act 1912 and the Ambulance Service is, in relation to that authorised work, to be taken 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 the Ambulance 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.

(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.

18. (1) The Ambulance Service may acquire, for any purpose connected with:

- (a) the provision of any ambulance service; or
- (b) any of the functions of the Ambulance 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 does not apply to any such condition to which the Ambulance Service has agreed.

(3) The Ambulance Service may act as a trustee of money or other property vested in the Service on trust.

Contracts

19. (1) The Ambulance 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 Service of its functions under this or any other Act.

(2) Any such contract or agreement is to be taken, 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.

Investments

20. (1) The Ambulance Service is to invest its funds:

- (a) in the manner authorised by the Public Authorities (Financial Arrangements) Act 1987; or
- (b) if that Act does not confer power on the Service to invest its funds, in any other manner approved by the Treasurer.

(2) The Ambulance 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.

Seal

21. The Ambulance Service may, subject to the regulations, make such arrangements as it sees fit with respect to the custody and use of the seal of the Service.

PART 5 - MISCELLANEOUS

Minister may fix fees

22. (1) The Minister may, by notice published in the Gazette:

- (a) fix a scale of fees in respect of ambulance services provided by the Ambulance Service; and
- (b) amend or revoke any scale of fees so fixed.

(2) The Ambulance Service may remit or postpone payment of any amount due to the Service, in respect of ambulance services provided:

- (a) by the Health Administration Corporation before the day on which section 4 commences; and
- (b) by the Ambulance Service.

(3) Nothing in this section affects Part 4 of the Health Insurance Levies Act 1982.

Unauthorised provision of ambulance transport

23. (1) A person must not:

- (a) directly or indirectly provide or take part in the provision of transport for sick or injured persons for fee or reward; or
- (b) conduct for fee or reward any operations similar to the operations carried on by the Ambulance Service under this Act, without the consent of the Director-General and except in accordance with such conditions (if any) as the Director-General may from time to time impose.

Maximum penalty: 5 penalty units.

(2) The Director-General may revoke any consent given, or revoke or vary any condition imposed, under this section.

(3) This section does not apply to:

- (a) the Ambulance Service; or
- (b) the Saint John Ambulance Association and the Saint John Ambulance Brigade (Overseas) New South Wales District in respect of operations similar to the operations lawfully carried on by those bodies immediately before the day on which this provision commences; or
- (c) the Royal Flying Doctor Service of Australia (N.S.W. Section); or
- (d) the committee of a district constituted under the Mines Rescue Act 1925; or
- (e) any prescribed person or class of persons.

Unauthorised collections

24. (1) A person must not organise, conduct or take part in the collection or soliciting of money or property from the public for, towards or in return for the provision of ambulance services without the consent of the Director-General and except in accordance with such conditions (if any) as the Director-General may from time to time impose.

Maximum penalty: 5 penalty units.

(2) The Director-General may revoke any consent given, or revoke or vary any condition imposed, under this section.

(3) This section does not apply to:

- (a) the Ambulance Service; or
- (b) any person engaged in the conduct or operation of the State Ambulance Insurance Plan established under the Health Insurance Levies Act 1982; or
- (c) an insurer under a policy of insurance to the extent that the money or the property represents consideration for an indemnity provided in that policy against the cost of the transport of a sick or injured person, being an indemnity incidental to the risks insured under that policy; or

- (d) any prescribed person or class of persons.

Delegation

25. The Ambulance Service may delegate to a person the exercise of any of its functions, other than this power of delegation.

Exculpation from certain liability

26. An employee of the Ambulance Service or an honorary ambulance officer is not liable for any injury or damage caused by the employee or officer in the carrying out, in good faith, of any of the employee's or officer's duties relating to:

- (a) the provision of ambulance services; or
- (b) the protection of persons from injury or death, whether or not those persons are or were sick or injured.

Authentication of documents

27. Every document requiring authentication by the Ambulance Service may be sufficiently authenticated without the seal of the Service if signed by the Chief Executive Officer or by an employee of the Service authorised to do so by the Chief Executive Officer.

Proof of certain matters not required

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

- (a) the constitution of the Board; or
- (b) any resolution of the Board; or
- (c) the appointment of, or the holding of office by, any director of the Board; or
- (d) the presence of a quorum at any meeting of the Board.

Proceedings for offences

29. Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Regulations

30. (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) records to be kept by the Ambulance Service; and
- (b) the furnishing of information and reports to the Minister, Director-General or any other person by the Ambulance Service; and
- (c) the control and governance of persons employed under section 13 and any other matter or thing to ensure the maintenance of discipline and efficiency of those persons; and
- (d) the election of the elected staff director of the Board.

(2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

Repeal

31. (1) The Ambulance Services Act 1976 is repealed.

(2) The Ambulance Services Regulation 1976 is repealed.

Consequential amendment of other Acts

32. Each Act specified in Schedule 2 is amended in the manner set out in that Schedule.

Savings, transitional and other provisions

33. Schedule 3 has effect.

**SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
AND PROCEDURE OF THE AMBULANCE SERVICE BOARD**

(Sec. 8)

Definitions

1. In this Schedule:

"**appointed director**" means a director other than the Chief Executive Officer;

"**director**" means any director of the Board;

"**elected staff director**" means a director referred to in section 8 (2).

Elected staff director

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

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

(3) Employees of the Ambulance Service are entitled to vote at an election in accordance with the regulations made under this clause for the elected staff director.

(4) A person's nomination as a candidate for election as the elected staff director is invalid if:

- (a) the nomination is not made by at least 2 persons who are employees of the Ambulance Service; or
- (b) the person is not, at the time of nomination, an employee of the Ambulance Service.

(5) A person may be, at the same time, both the elected staff director and an employee of the Ambulance Service.

(6) Nothing in any law, rule, direction or other requirement that:

- (a) is applicable to the elected staff director in his or her capacity as an employee of the Ambulance Service; and

SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
AND PROCEDURE OF THE AMBULANCE SERVICE
BOARD - *continued*

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

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

(7) 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 director, and the person, on being appointed, is to be taken to be a person elected in the manner prescribed by the regulations made for the purposes of this clause.

(8) If a vacancy occurs in the office of elected staff director otherwise than by reason of the expiration of the period for which the elected staff director was appointed:

- (a) the Minister may appoint a person eligible for election to hold, subject to this Schedule, the office of elected staff director 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 director; and
- (b) the person is, on being so appointed, to be taken to be a person elected in the manner prescribed by the regulations made for the purposes of this clause.

(9) The Minister may, pending the election of the first elected staff director of the Ambulance Service after its constitution:

- (a) appoint any person as the elected staff director to hold, subject to this Schedule, the office of elected staff director until the election of that director and the person is, on being so appointed, to be taken to be a person elected in the manner prescribed by the regulations made for the purposes of this clause; or
- (b) appoint the other directors of the Board and leave the office of elected staff director vacant pending the election of that director.

SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
AND PROCEDURE OF THE AMBULANCE SERVICE
BOARD - *continued*

(10) In this clause:

"**employee**" means an employee of the Ambulance Service employed under section 13.

Chairperson of the Board

3. (1) Of the appointed directors of the Board, one is, in and by the relevant instrument of appointment as such a director, or by another instrument executed by the Minister, to be appointed as Chairperson of the Board.

(2) The Minister may remove an appointed director from the office of Chairperson of the Board.

(3) A person who is an appointed director and Chairperson of the Board is to be taken to have vacated office as Chairperson if the person:

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

Acting directors and acting Chairperson

4. (1) The Minister may, from time to time, appoint a person to act in the office of a director during the illness or absence of the director, and the person, while so acting, has all the functions of the director and is to be taken to be a director.

(2) The Minister may, from time to time, appoint an appointed director to act in the office of Chairperson of the Board during the illness or absence of the Chairperson, and the appointed director, while so acting, has all the functions of the Chairperson and is to be taken to be the Chairperson.

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

SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
AND PROCEDURE OF THE AMBULANCE SERVICE
BOARD - *continued*

- (4) For the purposes of this clause:
- (a) a vacancy in the office of a director or the Chairperson of the Board is to be taken to be an absence from office of the director or Chairperson, as the case may be; and
 - (b) an appointed director is to be taken to be absent from office as an appointed director during any period when the director acts in the office of the Chief Executive Officer pursuant to an appointment under subclause (1).

Terms of office

5. An appointed director holds office, subject to this Schedule:
- (a) in the case of an elected staff director - for such period not exceeding 2 years; and
 - (b) in any other case, for such period not exceeding 4 years,
- as may be specified in the instrument of appointment of the director, but is eligible (if otherwise qualified) for re-appointment.

Casual vacancies

6. An appointed director of the Board is to be taken to have vacated office if the director:
- (a) dies; or
 - (b) absents himself or herself from 4 consecutive meetings of the Board of which reasonable notice has been given to the director personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the director is excused by the Board for being absent from those meetings; or
 - (c) 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; or
 - (d) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a

SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
AND PROCEDURE OF THE AMBULANCE SERVICE
BOARD - *continued*

protected person within the meaning of the Protected Estates Act 1983; or

- (e) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable; or
- (f) being the elected staff director, ceases to be an employee of the Ambulance Service; or
- (g) is removed from office by the Governor under section 11 or under Part 8 of the Public Sector Management Act 1988.

Disclosure of pecuniary interests

7. (1) A director:

- (a) who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board; and
- (b) whose interest appears to raise a conflict with the proper performance of the director's duties in relation to the consideration of the matter,

must, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure by a director at a meeting of the Board that the director:

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

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.

SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
AND PROCEDURE OF THE AMBULANCE SERVICE
BOARD - *continued*

(3) Particulars of any disclosure made under this clause are to be recorded by the directors in a book kept for the purpose and that book is to be open at all reasonable hours to inspection by any person on payment of the fee determined by the directors.

(4) After a director has disclosed the nature of an interest in any matter, the director must not, unless the Minister or the other directors otherwise determine:

- (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in any decision of the Board with respect to the matter.

(5) For the purposes of the making of a determination by the directors under subclause (4), a director who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the other directors for the purpose of making the determination; or
- (b) take part in the making by the other directors of the determination.

(6) A contravention of this clause does not invalidate any decision of the Board.

(7) This clause does not apply to or in respect of an interest of a director (being the provision of goods or services to the director by the Board) if the goods or services are, or are to be, available to the public on the same terms and conditions.

Effect of certain other Acts

8. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of an appointed director.

(2) If by or under any Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

**SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
AND PROCEDURE OF THE AMBULANCE SERVICE
BOARD - *continued***

the provision does not operate to disqualify the person from holding that office and also the office of an appointed director or from accepting and retaining any remuneration payable to the person under this Act as such a director.

(3) The office of an appointed director is not, for the purposes of any Act, an office or place of profit under the Crown.

Travelling and other out-of-pocket expenses

9. An appointed director is entitled to be paid from the funds of the Ambulance Service the actual travelling and other out-of-pocket expenses properly and reasonably incurred by the appointed director in the performance of the official duties of the appointed director.

Liability of directors etc.

10. No matter or thing done by the Ambulance Service, the Board, any director or any person acting under the direction of the Service or Board is, if the matter or thing was done in good faith for the purpose of executing this or any other Act, to subject a director or a person so acting personally to any action, liability, claim or demand.

General procedure

11. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Board.

Quorum

12. The quorum for a meeting of the Board is a majority of the directors for the time being.

Presiding director

13. (1) The Chairperson of the Board or, in the absence of the Chairperson, another appointed director elected as Chairperson for the meeting by the directors present is to preside at a meeting of the Board.

SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
AND PROCEDURE OF THE AMBULANCE SERVICE
BOARD - *continued*

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

Voting

14. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

First meeting of Ambulance Service Board

15. The Director-General is to call the first meeting of the Board in such manner as the Director-General thinks fit.

SCHEDULE 2 - CONSEQUENTIAL AMENDMENT OF OTHER
ACTS

(Sec. 32)

Attachment of Wages Limitation Act 1957 No. 28

Schedule:

Omit "Health Commission of New South Wales in respect of persons employed under section 14A of the Health Commission Act, 1972, in connection with ambulance services" insert instead "Ambulance Service of New South Wales constituted under the Ambulance Services Act 1990".

Health Administration Act 1982 No. 135

(1) Section 4 (**Definitions**):

Before the definition of "area health service" in section 4 (1), insert:

"**Ambulance Service**" means the Ambulance Service of New South Wales constituted under the Ambulance Services Act 1990;

SCHEDULE 2 - CONSEQUENTIAL AMENDMENT OF
OTHER ACTS - *continued*

- (2) Section 7 (**Public Service staff**):
- (a) After section 7 (3) (a1), insert:
 - (a2) the Ambulance Service of New South Wales;
 - (b) After "area health service" where secondly occurring in section 7 (3), insert "Ambulance Service,".
- (3) Schedule 3 (**Transfer of health employees**):
- (a) From paragraph (c) of the definition of "designated person" in clause 1 (1), omit "or";
 - (b) From the definition of "designated person" in clause 1 (1), omit paragraph (d), insert instead:
 - (d) the Ambulance Service of New South Wales; or
 - (e) any person who is specified in a proclamation under subclause (6).
 - (c) From clause 2 (4), omit "after 17th December, 1990", insert instead "after 1 July 1991".

Health Insurance Levies Act 1982 No. 159

Section 17 (**Exemption from ambulance fees**):

Omit from section 17 (2) "Ambulance Services Act, 1976", insert instead "Ambulance Services Act 1990".

Local Government Act 1919 No. 41

Section 298 (**Provision and management**):

Omit "Health Commission" wherever occurring, insert instead "Ambulance Service of New South Wales".

State Authorities Non-contributory Superannuation Act 1987 No. 212

Schedule 1 (**Employers**):

At the end of Part 1, insert "Ambulance Service of New South Wales".

**SCHEDULE 2 - CONSEQUENTIAL AMENDMENT OF
OTHER ACTS - *continued***

State Authorities Superannuation Act 1987 No. 211

Schedule 1 (**Employers**):

At the end of Part 1, insert "Ambulance Service of New South Wales".

State Emergency and Rescue Management Act 1989 No. 165

Section 50 (**Police at scene to co-ordinate etc. rescue operation**):

Omit from section 50 (4) "the Ambulance Services Act 1976", insert instead "the Ambulance Services Act 1990".

Superannuation Act 1916 No. 28

Schedule 1 (**Employers**):

At the end of Part 1, insert "Ambulance Service of New South Wales".

Sydney Turf Club Act 1943 No. 22

From section 11 (2) (c), omit "Health Administration Corporation", insert instead "Ambulance Service constituted under the Ambulance Services Act 1990".

**SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS**

(Sec. 33)

PART 1 - PRELIMINARY

Savings and transitional regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) Any such provision may, if the regulations so provide, take effect on the date of assent to this Act or a later date.

(3) To the extent to which any such provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

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

PART 2 - PROVISIONS CONSEQUENT ON THE ENACTMENT OF THIS ACT

Definitions

2. In this Part:

"**appointed day**" means the date of commencement of section 4;

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

"**repealed Act**" means the Ambulance Services Act 1976.

Staff

3. (1) Any members of the staff of the Corporation engaged, immediately before the appointed day, in the New South Wales Ambulance Service established by the Corporation are to be taken to be employed under this Act as members of the staff of the Ambulance Service constituted under this Act.

(2) For the purpose of any law, any period of service with the Corporation by any such member of staff is to be taken to be a period of service with the Ambulance Service.

(3) Any such member retains any rights to annual leave, extended service leave and sick leave accrued or accruing in his or her previous employment with the Corporation.

(4) Any such members of staff are (until other provision is duly made) to be employed in accordance with the awards, industrial agreements and determinations applying immediately before the appointed day to those members.

(5) Any such determinations are to be taken to be determinations made by the Corporation under section 15.

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

(6) Any such awards or industrial agreements are (until other provision is duly made) to be taken as applying to members of the staff of the Ambulance Service employed after the appointed day.

Honorary ambulance officers

4. A person who, immediately before the appointed day, was a person in respect of whom an appointment as an honorary ambulance officer was in force under section 6 of the repealed Act is to be taken to be an honorary ambulance officer appointed under section 14.

Exculpation from certain liability

5. Section 14A of the repealed Act is to be taken as continuing to apply in respect of any injury or damage caused by a person before the repeal of that Act.

Approved ambulance service

6. For the purposes of section 298 of the Local Government Act 1919, an ambulance service that, immediately before the appointed day, was an ambulance service approved by the Corporation is, on and from that day, to be taken to be an ambulance service approved by the Ambulance Service.

Vesting of assets etc. in Ambulance Service

7. (1) The Minister may determine in writing the arrangements to be made for the apportionment of assets (excluding land and interests in land), rights, debts and liabilities of the Corporation between it and the Ambulance Service.

(2) In making such a determination, the Minister is to specify in writing when it is to take effect, being a day not earlier than the date of the determination.

(3) The following provisions apply on the day on which such a determination takes effect in respect of any asset, right, debt or liability to the extent to which it is vested in the Ambulance Service by the determination:

- (a) all personal property (including any estate or interest in, or right to control or manage, personal property) that, immediately

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued*

- before that day, was vested in the Corporation vests in the Ambulance Service;
- (b) any money that, immediately before that day, was payable to the Corporation becomes payable to the Ambulance Service;
 - (c) any liquidated or unliquidated claim that, immediately before that day, was enforceable by the Corporation becomes enforceable by the Ambulance Service;
 - (d) any liquidated or unliquidated claim that, immediately before that day, was enforceable against the Corporation becomes enforceable against the Ambulance Service;
 - (e) any proceeding pending immediately before that day at the suit of the Corporation becomes a proceeding pending at the suit of the Ambulance Service;
 - (f) any proceeding pending immediately before that day against the Corporation becomes a proceeding pending against the Ambulance Service;
 - (g) any contract, agreement or undertaking entered into with the Corporation and in force immediately before that day becomes a contract, agreement or undertaking entered into with the Ambulance Service;
 - (h) any security or charge given to or by the Corporation and in force immediately before that day becomes a security or charge given to or by the Ambulance Service.
- (4) Any trust property that is vested in the Ambulance Service as a consequence of the making of a determination under this section is to vest in the Service on the same trusts as those to which the property was subject immediately before the transfer.

[*Minister's second reading speech made in -
Legislative Assembly on 15 May 1990
Legislative Council on 22 May 1990*]



FIRST PRINT

AMBULANCE SERVICES BILL 1990

NEW SOUTH WALES



EXPLANATORY NOTE

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

The objects of this Bill are:

- * to provide for the constitution of the Ambulance Service of New South Wales.
- * to provide for the management of the Ambulance Service by a board the membership of which includes a Chief Executive Officer appointed by the Governor and a staff elected director.
- * to define the functions of the Ambulance Service - it will be responsible for ambulance services in New South Wales.
- * to enact other provisions for the effective operation of the Ambulance Service.
- * to repeal the Ambulance Services Act 1976 (which makes the Health Administration Corporation responsible for ambulance services in New South Wales).

PART 1 - PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a proclaimed day or days.

Clause 3 defines expressions used in the proposed Act.

PART 2 - CONSTITUTION OF AMBULANCE SERVICE OF NEW SOUTH WALES

Clause 4 constitutes, as a statutory body representing the Crown, the Ambulance Service of New South Wales.

PART 3 - AMBULANCE SERVICE BOARD

Clause 5 establishes an Ambulance Service Board.

Clause 6 provides that the Board's function is to control the affairs of the Ambulance Service.

Clause 7 subjects the Board to the control and direction of the Minister.

Clause 8 provides that the Board is to consist of:

- (a) the Chief Executive Officer; and
- (b) not fewer than 6 and not more than 11 other directors appointed by the Minister (including a person elected by the employees of the Ambulance Service).

Clause 9 provides for the appointment of a Chief Executive Officer of the Board.

Clause 10 provides for the affairs of the Board to be managed by the Chief Executive Officer in accordance with the directions of the Board.

Clause 11 empowers the Governor, by order published in the Gazette, to remove from office any or all of the directors of the Board. The clause also enables the Governor to appoint the Chief Executive Officer or some other person as administrator in place of the Board.

PART 4 - FUNCTIONS OF AMBULANCE SERVICE

Clause 12 sets out the functions of the Ambulance Service. In addition to providing ambulance services, its functions include:

- * assisting others to provide ambulance services.
- * planning the future development of ambulance services.

Clauses 13 and 14 provide for the appointment of staff and honorary ambulance officers of the Service.

Clause 15 provides that the conditions of employment, including salaries, wages or remuneration, of employees are to be determined by the Health Administration Corporation, subject to any other law.

Clause 16 imposes on the Service, in dealing with land, a requirement to obtain the Minister's approval.

Clause 17 empowers the Service, with the approval of the Minister, to acquire land by resumption or appropriation for the purpose of the exercise of its functions.

Clause 18 enables the 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 19 enables the Service to make and enter into contracts or agreements for the performance of services or the supply of goods.

Ambulance Services 1990

Clause 20 sets out the investment powers of the Service.

Clause 21 provides for the custody and use of the seal of the Service.

PART 5 - MISCELLANEOUS

Clause 22 enables the Minister to fix a scale of fees for ambulance services by notice in the Gazette.

Clause 23 requires a person or body to first obtain the consent of the Director-General before providing ambulance services. The clause does not apply to bodies such as the Saint John Ambulance Association or the Royal Flying Doctor Service.

Clause 24 makes it an offence to collect money from the public for ambulance services without first obtaining the consent of the Director-General.

Clause 25 provides for the Service to delegate its functions under the proposed Act.

Clause 26 protects employees and honorary ambulance officers of the Service against liability for any injury or damage they may cause when providing ambulance services in good faith.

Clause 27 provides for the authentication of documents by the Service without the use of the seal of the Service.

Clause 28 sets out certain matters of which proof is not required in legal proceedings.

Clause 29 provides that proceedings for an offence against the proposed Act or regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Clause 30 empowers the making of regulations for the purposes of the proposed Act.

Clause 31 repeals the Ambulance Services Act 1976 and the regulations made under that Act.

Clause 32 gives effect to Schedule 2 which contains consequential amendments to other Acts.

Clause 33 gives effect to Schedule 3 which contains savings, transitional and other provisions.

SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS AND PROCEDURE OF THE AMBULANCE SERVICE BOARD

Clause 1 defines expressions used in the Schedule.

Clause 2 makes provision for the election of a director by the employees of the Service.

Clause 3 provides for the appointment of a director (other than the Chief Executive Officer) as Chairperson of the Board.

Clause 4 provides for the appointment of acting directors and an acting Chairperson of the Board.

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Clause 5 specifies that an appointed director holds office:

- * in the case of the elected staff director - for up to 2 years.
- * in the case of the other appointed directors - for up to 4 years.

Clause 6 specifies the circumstances in which there is a casual vacancy in the office of an appointed director.

Clause 7 requires, and establishes a procedure for, the disclosure by a director of any direct or indirect pecuniary interest in matters being considered or done by the Board.

Clause 8 provides that Part 2 of the Public Sector Management Act 1988 does not apply to the appointment of an appointed director. The clause also declares that the office of director is not an office of profit under the Crown.

Clause 9 provides for the payment of a director's travelling and other out-of-pocket expenses.

Clause 10 protects directors or persons acting under the direction of the 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 11-15 make provision with respect to meetings of the Board.

SCHEDULE 2 - CONSEQUENTIAL AMENDMENT OF OTHER ACTS

This Schedule updates references in other Acts to references to the Ambulance Service.

The amendments to Schedule 3 to the Health Administration Act 1982 extend certain provisions of that Act (relating to the transfer of staff of the Department of Health and of the Health Administration Corporation to public hospitals and area health services) to include the transfer of staff to the Ambulance Service.

The amendments also extend those transfer provisions to 1 July 1991. (The provisions at present expire on 17 December 1990.)

This Schedule also contains amendments to certain superannuation legislation to provide that the Ambulance Service is an employer for the purposes of that legislation.

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

This Schedule contains savings and transitional provisions consequent on the enactment of the proposed Act.

FIRST PRINT

AMBULANCE SERVICES BILL 1990

NEW SOUTH WALES



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SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS AND
PROCEDURE OF THE AMBULANCE SERVICE BOARD

SCHEDULE 2 - CONSEQUENTIAL AMENDMENT OF OTHER ACTS

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

AMBULANCE SERVICES BILL 1990

NEW SOUTH WALES



No. , 1990

A BILL FOR

An Act to constitute the Ambulance Service of New South Wales; to define its functions; to amend certain Acts; and for other purposes.

The Legislature of New South Wales enacts:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the Ambulance Services Act 1990.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

3. (1) In this Act:

"**Ambulance Service**" means the Ambulance Service of New South Wales constituted by section 4;

"**ambulance services**" means services relating to the work of rendering first aid to, and the transport of, sick and injured persons;

"**Board**" means the Ambulance Service Board constituted by section 5;

"**Chief Executive Officer**" means the Chief Executive Officer of the Board appointed under section 9;

"**Director-General**" means the Director-General of the Department of Health;

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

"**honorary ambulance officer**" means a person appointed to be an honorary ambulance officer under section 14.

- (2) In this Act:

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

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

PART 2 - CONSTITUTION OF AMBULANCE SERVICE OF NEW SOUTH WALES

Constitution of Ambulance Service

4. (1) There is constituted by this Act a corporation under the corporate name of the Ambulance Service of New South Wales.
- (2) The Ambulance Service represents the Crown.

PART 3 - AMBULANCE SERVICE BOARD

Constitution of Board

5. There is to be an Ambulance Service Board.

Function of Board

6. (1) The function of the Board is to control the affairs of the Ambulance Service.
- (2) Any act, matter or thing done in the name of, or on behalf of, the Ambulance Service by the Board, or with the authority of the Board, is to be taken to have been done by the Ambulance Service.

Ministerial control of Board

7. The Board is subject to the control and direction of the Minister.

Directors of Board

8. (1) There are to be directors of the Board consisting of the Chief Executive Officer of the Board and not fewer than 6 and not more than 11 directors appointed by the Minister.
- (2) Of the directors appointed by the Minister, one is to be a person elected in the manner prescribed by regulations made for the purposes of clause 2 of Schedule 1.
- (3) The other directors appointed by the Minister must each have such managerial or other qualifications as the Minister considers necessary to enable the directors to carry out their functions.
- (4) Schedule 1 has effect with respect to the directors and procedure of the Board.

Chief Executive Officer of Board

9. (1) The Governor may appoint a Chief Executive Officer of the Board.

(2) The employment of the Chief Executive Officer is subject to Part 2A of the Public Sector Management Act 1988, but is not subject to Part 2 of that Act.

(3) The Chief Executive Officer is to be taken, while holding that office, to be employed by the Ambulance Service, but nothing in this section is to be taken as authorising the Service to remove the Chief Executive Officer from office.

Chief Executive Officer to manage Ambulance Service

10. The affairs of the Ambulance Service are to be managed by the Chief Executive Officer in accordance with the directions of the Board.

Removal of directors

11. (1) The Governor may, by order published in the Gazette:

- (a) remove any director of the Board or all directors of the Board from office; or
- (b) remove all directors of the Board from office and appoint, as administrator of the Ambulance Service, a person specified in the order for such period as may be specified in the order; or
- (c) remove all directors of the Board (other than the Chief Executive Officer) from office and appoint, as administrator of the Ambulance Service, the Chief Executive Officer for such period as may be specified in the order.

(2) The Chief Executive Officer ceases to hold office as Chief Executive Officer if removed from office as a director of the Board.

(3) An administrator has, subject to any conditions that may be specified in the order by which the administrator was appointed, all the functions of the Board.

(4) An administrator of the Ambulance Service is entitled to be paid from the funds of the 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 an administrator of the Ambulance Service.

PART 4 - FUNCTIONS OF AMBULANCE SERVICE

Functions of Ambulance Service

12. (1) The functions of the Ambulance Service are as follows:

- (a) to provide, conduct, operate and maintain ambulance services;
- (b) to co-operate with or provide assistance to any person or organisation for the purposes of providing, conducting, operating and maintaining ambulance services;
- (c) in connection with ambulance services referred to in paragraph (a), to protect persons from injury or death, whether or not those persons are sick or injured;
- (d) 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 ambulance services;
- (e) to consult and co-operate with individuals and organisations (including voluntary agencies, private agencies and public or local authorities) concerned with the provision of ambulance services;
- (f) to co-ordinate and plan the future development of ambulance services, and towards that end:
 - (i) to consult with the Department of Health; and
 - (ii) to support, encourage and facilitate the organisation of community involvement in the planning of those services;
- (g) to set objectives and determine priorities within the scope of its functions and to monitor whether those objectives are achieved;
- (h) to achieve and maintain adequate standards of ambulance services in New South Wales;
- (i) to make available to the public reports, information and advice concerning the operation of ambulance services in New South Wales.

(2) The Ambulance Service has such other functions as may be prescribed by the regulations or as are conferred or imposed on it by or under this or any other Act.

(3) The exercise of the functions of the Ambulance Service in emergencies and rescue operations is subject to the State Emergency and Rescue Management Act 1989.

Staff of Ambulance Service

13. (1) The Ambulance Service may appoint and employ such employees as may be necessary for the purpose of exercising its functions.

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

(3) The Ambulance Service may arrange for the use of the service of any staff (by secondment or otherwise) or facilities of a government department, an administrative office or a public or local authority.

Honorary ambulance officers

14. (1) The Ambulance Service may appoint such persons as it thinks fit to be honorary ambulance officers.

(2) Honorary ambulance officers:

(a) may carry out, without remuneration, such of the functions of the Ambulance Service as the Ambulance Service may from time to time direct; and

(b) are subject to the control and supervision of the Ambulance Service.

Determination of conditions of employment of staff

15. (1) The conditions of employment, including salaries, wages and remuneration, of the employees of the Ambulance Service (other than the Chief Executive Officer) are to be as determined from time to time by the Health Administration Corporation, except in so far as provision is otherwise made by law.

(2) The Health Administration Corporation is, for the purpose of making any determination under this section or of any proceedings relating to employees of the Ambulance Service held before a competent tribunal having power to deal with industrial matters, to be taken to be the employer of the employees of the Ambulance Service.

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

(4) Such an agreement binds 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, has any right of appeal against the terms of the agreement.

- (5) The Ambulance Service must give effect to:
- (a) any such determination of the Health Administration Corporation; and
 - (b) any order or determination made by such a competent tribunal; and
 - (c) any such agreement with an association or organisation.
- (6) 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.

Restriction on power to acquire or dispose of land

16. The Ambulance Service may not:

- (a) acquire land by purchase, lease or exchange; or
- (b) dispose of land by sale, lease, mortgage or otherwise,

except with the approval of the Minister.

Resumption of land

17. (1) The Ambulance 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 purpose of the acquisition of land under this section, 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 this section is to be taken to be for an authorised work within the meaning of the Public Works Act 1912 and the Ambulance Service is, in relation to that authorised work, to be taken 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 the Ambulance 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.

(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.

18. (1) The Ambulance Service may acquire, for any purpose connected with:

- (a) the provision of any ambulance service; or
 - (b) any of the functions of the Ambulance 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 does not apply to any such condition to which the Ambulance Service has agreed.

(3) The Ambulance Service may act as a trustee of money or other property vested in the Service on trust.

Contracts

19. (1) The Ambulance 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 Service of its functions under this or any other Act.

(2) Any such contract or agreement is to be taken, 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.

Investments

20. (1) The Ambulance Service is to invest its funds:

- (a) in the manner authorised by the Public Authorities (Financial Arrangements) Act 1987; or
- (b) if that Act does not confer power on the Service to invest its funds, in any other manner approved by the Treasurer.

(2) The Ambulance 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.

Seal

21. The Ambulance Service may, subject to the regulations, make such arrangements as it sees fit with respect to the custody and use of the seal of the Service.

PART 5 - MISCELLANEOUS

Minister may fix fees

22. (1) The Minister may, by notice published in the Gazette:

- (a) fix a scale of fees in respect of ambulance services provided by the Ambulance Service; and
- (b) amend or revoke any scale of fees so fixed.

(2) The Ambulance Service may remit or postpone payment of any amount due to the Service, in respect of ambulance services provided:

- (a) by the Health Administration Corporation before the day on which section 4 commences; and
- (b) by the Ambulance Service.

(3) Nothing in this section affects Part 4 of the Health Insurance Levies Act 1982.

Unauthorised provision of ambulance transport

23. (1) A person must not:

- (a) directly or indirectly provide or take part in the provision of transport for sick or injured persons for fee or reward; or
- (b) conduct for fee or reward any operations similar to the operations carried on by the Ambulance Service under this Act, without the consent of the Director-General and except in accordance with such conditions (if any) as the Director-General may from time to time impose.

Maximum penalty: 5 penalty units.

(2) The Director-General may revoke any consent given, or revoke or vary any condition imposed, under this section.

(3) This section does not apply to:

- (a) the Ambulance Service; or
- (b) the Saint John Ambulance Association and the Saint John Ambulance Brigade (Overseas) New South Wales District in respect of operations similar to the operations lawfully carried on by those bodies immediately before the day on which this provision commences; or
- (c) the Royal Flying Doctor Service of Australia (N.S.W. Section); or
- (d) the committee of a district constituted under the Mines Rescue Act 1925; or
- (e) any prescribed person or class of persons.

Unauthorised collections

24. (1) A person must not organise, conduct or take part in the collection or soliciting of money or property from the public for, towards or in return for the provision of ambulance services without the consent of the Director-General and except in accordance with such conditions (if any) as the Director-General may from time to time impose.

Maximum penalty: 5 penalty units.

(2) The Director-General may revoke any consent given, or revoke or vary any condition imposed, under this section.

(3) This section does not apply to:

- (a) the Ambulance Service; or
- (b) any person engaged in the conduct or operation of the State Ambulance Insurance Plan established under the Health Insurance Levies Act 1982; or
- (c) an insurer under a policy of insurance to the extent that the money or the property represents consideration for an indemnity provided in that policy against the cost of the transport of a sick or injured person, being an indemnity incidental to the risks insured under that policy; or

- (d) any prescribed person or class of persons.

Delegation

25. The Ambulance Service may delegate to a person the exercise of any of its functions, other than this power of delegation.

Exculpation from certain liability

26. An employee of the Ambulance Service or an honorary ambulance officer is not liable for any injury or damage caused by the employee or officer in the carrying out, in good faith, of any of the employee's or officer's duties relating to:

- (a) the provision of ambulance services; or
- (b) the protection of persons from injury or death, whether or not those persons are or were sick or injured.

Authentication of documents

27. Every document requiring authentication by the Ambulance Service may be sufficiently authenticated without the seal of the Service if signed by the Chief Executive Officer or by an employee of the Service authorised to do so by the Chief Executive Officer.

Proof of certain matters not required

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

- (a) the constitution of the Board; or
- (b) any resolution of the Board; or
- (c) the appointment of, or the holding of office by, any director of the Board; or
- (d) the presence of a quorum at any meeting of the Board.

Proceedings for offences

29. Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Regulations

30. (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) records to be kept by the Ambulance Service; and
- (b) the furnishing of information and reports to the Minister, Director-General or any other person by the Ambulance Service; and
- (c) the control and governance of persons employed under section 13 and any other matter or thing to ensure the maintenance of discipline and efficiency of those persons; and
- (d) the election of the elected staff director of the Board.

(2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

Repeal

31. (1) The Ambulance Services Act 1976 is repealed.

(2) The Ambulance Services Regulation 1976 is repealed.

Consequential amendment of other Acts

32. Each Act specified in Schedule 2 is amended in the manner set out in that Schedule.

Savings, transitional and other provisions

33. Schedule 3 has effect.

**SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
AND PROCEDURE OF THE AMBULANCE SERVICE BOARD**
(Sec. 8)

Definitions

1. In this Schedule:

"**appointed director**" means a director other than the Chief Executive Officer;

"**director**" means any director of the Board;

"**elected staff director**" means a director referred to in section 8 (2).

Elected staff director

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

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

(3) Employees of the Ambulance Service are entitled to vote at an election in accordance with the regulations made under this clause for the elected staff director.

(4) A person's nomination as a candidate for election as the elected staff director is invalid if:

- (a) the nomination is not made by at least 2 persons who are employees of the Ambulance Service; or
- (b) the person is not, at the time of nomination, an employee of the Ambulance Service.

(5) A person may be, at the same time, both the elected staff director and an employee of the Ambulance Service.

(6) Nothing in any law, rule, direction or other requirement that:

- (a) is applicable to the elected staff director in his or her capacity as an employee of the Ambulance Service; and

SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
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BOARD - *continued*

- (b) would not be applicable if the elected staff director were not such an employee,
operates so as to prevent or restrict the exercise by the elected staff director of any of the functions of an elected staff director.
- (7) 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 director, and the person, on being appointed, is to be taken to be a person elected in the manner prescribed by the regulations made for the purposes of this clause.
- (8) If a vacancy occurs in the office of elected staff director otherwise than by reason of the expiration of the period for which the elected staff director was appointed:
- (a) the Minister may appoint a person eligible for election to hold, subject to this Schedule, the office of elected staff director 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 director; and
 - (b) the person is, on being so appointed, to be taken to be a person elected in the manner prescribed by the regulations made for the purposes of this clause.
- (9) The Minister may, pending the election of the first elected staff director of the Ambulance Service after its constitution:
- (a) appoint any person as the elected staff director to hold, subject to this Schedule, the office of elected staff director until the election of that director and the person is, on being so appointed, to be taken to be a person elected in the manner prescribed by the regulations made for the purposes of this clause; or
 - (b) appoint the other directors of the Board and leave the office of elected staff director vacant pending the election of that director.

SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
AND PROCEDURE OF THE AMBULANCE SERVICE
BOARD - *continued*

(10) In this clause:

"employee" means an employee of the Ambulance Service employed under section 13.

Chairperson of the Board

3. (1) Of the appointed directors of the Board, one is, in and by the relevant instrument of appointment as such a director, or by another instrument executed by the Minister, to be appointed as Chairperson of the Board.

(2) The Minister may remove an appointed director from the office of Chairperson of the Board.

(3) A person who is an appointed director and Chairperson of the Board is to be taken to have vacated office as Chairperson if the person:

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

Acting directors and acting Chairperson

4. (1) The Minister may, from time to time, appoint a person to act in the office of a director during the illness or absence of the director, and the person, while so acting, has all the functions of the director and is to be taken to be a director.

(2) The Minister may, from time to time, appoint an appointed director to act in the office of Chairperson of the Board during the illness or absence of the Chairperson, and the appointed director, while so acting, has all the functions of the Chairperson and is to be taken to be the Chairperson.

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

**SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
AND PROCEDURE OF THE AMBULANCE SERVICE
BOARD - *continued***

- (4) For the purposes of this clause:
- (a) a vacancy in the office of a director or the Chairperson of the Board is to be taken to be an absence from office of the director or Chairperson, as the case may be; and
 - (b) an appointed director is to be taken to be absent from office as an appointed director during any period when the director acts in the office of the Chief Executive Officer pursuant to an appointment under subclause (1).

Terms of office

5. An appointed director holds office, subject to this Schedule:
- (a) in the case of an elected staff director - for such period not exceeding 2 years; and
 - (b) in any other case, for such period not exceeding 4 years,
- as may be specified in the instrument of appointment of the director, but is eligible (if otherwise qualified) for re-appointment.

Casual vacancies

6. An appointed director of the Board is to be taken to have vacated office if the director:
- (a) dies; or
 - (b) absents himself or herself from 4 consecutive meetings of the Board of which reasonable notice has been given to the director personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the director is excused by the Board for being absent from those meetings; or
 - (c) 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; or
 - (d) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a

SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
AND PROCEDURE OF THE AMBULANCE SERVICE
BOARD - *continued*

- protected person within the meaning of the Protected Estates Act 1983; or
- (e) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable; or
 - (f) being the elected staff director, ceases to be an employee of the Ambulance Service; or
 - (g) is removed from office by the Governor under section 11 or under Part 8 of the Public Sector Management Act 1988.

Disclosure of pecuniary interests

7. (1) A director:

- (a) who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board; and
- (b) whose interest appears to raise a conflict with the proper performance of the director's duties in relation to the consideration of the matter,

must, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure by a director at a meeting of the Board that the director:

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

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.

SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
AND PROCEDURE OF THE AMBULANCE SERVICE
BOARD - *continued*

(3) Particulars of any disclosure made under this clause are to be recorded by the directors in a book kept for the purpose and that book is to be open at all reasonable hours to inspection by any person on payment of the fee determined by the directors.

(4) After a director has disclosed the nature of an interest in any matter, the director must not, unless the Minister or the other directors otherwise determine:

- (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in any decision of the Board with respect to the matter.

(5) For the purposes of the making of a determination by the directors under subclause (4), a director who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the other directors for the purpose of making the determination; or
- (b) take part in the making by the other directors of the determination.

(6) A contravention of this clause does not invalidate any decision of the Board.

(7) This clause does not apply to or in respect of an interest of a director (being the provision of goods or services to the director by the Board) if the goods or services are, or are to be, available to the public on the same terms and conditions.

Effect of certain other Acts

8. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of an appointed director.

(2) If by or under any Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

**SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
AND PROCEDURE OF THE AMBULANCE SERVICE
BOARD - *continued***

the provision does not operate to disqualify the person from holding that office and also the office of an appointed director or from accepting and retaining any remuneration payable to the person under this Act as such a director.

(3) The office of an appointed director is not, for the purposes of any Act, an office or place of profit under the Crown.

Travelling and other out-of-pocket expenses

9. An appointed director is entitled to be paid from the funds of the Ambulance Service the actual travelling and other out-of-pocket expenses properly and reasonably incurred by the appointed director in the performance of the official duties of the appointed director.

Liability of directors etc.

10. No matter or thing done by the Ambulance Service, the Board, any director or any person acting under the direction of the Service or Board is, if the matter or thing was done in good faith for the purpose of executing this or any other Act, to subject a director or a person so acting personally to any action, liability, claim or demand.

General procedure

11. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Board.

Quorum

12. The quorum for a meeting of the Board is a majority of the directors for the time being.

Presiding director

13. (1) The Chairperson of the Board or, in the absence of the Chairperson, another appointed director elected as Chairperson for the meeting by the directors present is to preside at a meeting of the Board.

**SCHEDULE 1 - PROVISIONS RELATING TO THE DIRECTORS
AND PROCEDURE OF THE AMBULANCE SERVICE
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(2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

14. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

First meeting of Ambulance Service Board

15. The Director-General is to call the first meeting of the Board in such manner as the Director-General thinks fit.

**SCHEDULE 2 - CONSEQUENTIAL AMENDMENT OF OTHER
ACTS**

(Sec. 32)

Attachment of Wages Limitation Act 1957 No. 28

Schedule:

Omit "Health Commission of New South Wales in respect of persons employed under section 14A of the Health Commission Act, 1972, in connection with ambulance services" insert instead "Ambulance Service of New South Wales constituted under the Ambulance Services Act 1990".

Health Administration Act 1982 No. 135

(1) Section 4 (**Definitions**):

Before the definition of "area health service" in section 4 (1), insert:

"**Ambulance Service**" means the Ambulance Service of New South Wales constituted under the Ambulance Services Act 1990;

SCHEDULE 2 - CONSEQUENTIAL AMENDMENT OF
OTHER ACTS - *continued*

- (2) Section 7 (**Public Service staff**):
- (a) After section 7 (3) (a1), insert:
 - (a2) the Ambulance Service of New South Wales;
 - (b) After "area health service" where secondly occurring in section 7 (3), insert "Ambulance Service,".
- (3) Schedule 3 (**Transfer of health employees**):
- (a) From paragraph (c) of the definition of "designated person" in clause 1 (1), omit "or";
 - (b) From the definition of "designated person" in clause 1 (1), omit paragraph (d), insert instead:
 - (d) the Ambulance Service of New South Wales; or
 - (e) any person who is specified in a proclamation under subclause (6).
 - (c) From clause 2 (4), omit "after 17th December, 1990", insert instead "after 1 July 1991".

Health Insurance Levies Act 1982 No. 159

Section 17 (Exemption from ambulance fees):

Omit from section 17 (2) "Ambulance Services Act, 1976", insert instead "Ambulance Services Act 1990".

Local Government Act 1919 No. 41

Section 298 (Provision and management):

Omit "Health Commission" wherever occurring, insert instead "Ambulance Service of New South Wales".

State Authorities Non-contributory Superannuation Act 1987 No. 212

Schedule 1 (Employers):

At the end of Part 1, insert "Ambulance Service of New South Wales".

**SCHEDULE 2 - CONSEQUENTIAL AMENDMENT OF
OTHER ACTS - *continued***

State Authorities Superannuation Act 1987 No. 211

Schedule 1 (Employers):

At the end of Part 1, insert "Ambulance Service of New South Wales".

State Emergency and Rescue Management Act 1989 No. 165

Section 50 (Police at scene to co-ordinate etc. rescue operation):

Omit from section 50 (4) "the Ambulance Services Act 1976", insert instead "the Ambulance Services Act 1990".

Superannuation Act 1916 No. 28

Schedule 1 (Employers):

At the end of Part 1, insert "Ambulance Service of New South Wales".

Sydney Turf Club Act 1943 No. 22

From section 11 (2) (c), omit "Health Administration Corporation", insert instead "Ambulance Service constituted under the Ambulance Services Act 1990".

**SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS**

(Sec. 33)

PART 1 - PRELIMINARY

Savings and transitional regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) Any such provision may, if the regulations so provide, take effect on the date of assent to this Act or a later date.

(3) To the extent to which any such provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

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

PART 2 - PROVISIONS CONSEQUENT ON THE ENACTMENT OF THIS ACT

Definitions

2. In this Part:

"appointed day" means the date of commencement of section 4;

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

"repealed Act" means the Ambulance Services Act 1976.

Staff

3. (1) Any members of the staff of the Corporation engaged, immediately before the appointed day, in the New South Wales Ambulance Service established by the Corporation are to be taken to be employed under this Act as members of the staff of the Ambulance Service constituted under this Act.

(2) For the purpose of any law, any period of service with the Corporation by any such member of staff is to be taken to be a period of service with the Ambulance Service.

(3) Any such member retains any rights to annual leave, extended service leave and sick leave accrued or accruing in his or her previous employment with the Corporation.

(4) Any such members of staff are (until other provision is duly made) to be employed in accordance with the awards, industrial agreements and determinations applying immediately before the appointed day to those members.

(5) Any such determinations are to be taken to be determinations made by the Corporation under section 15.

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued*

(6) Any such awards or industrial agreements are (until other provision is duly made) to be taken as applying to members of the staff of the Ambulance Service employed after the appointed day.

Honorary ambulance officers

4. A person who, immediately before the appointed day, was a person in respect of whom an appointment as an honorary ambulance officer was in force under section 6 of the repealed Act is to be taken to be an honorary ambulance officer appointed under section 14.

Exculpation from certain liability

5. Section 14A of the repealed Act is to be taken as continuing to apply in respect of any injury or damage caused by a person before the repeal of that Act.

Approved ambulance service

6. For the purposes of section 298 of the Local Government Act 1919, an ambulance service that, immediately before the appointed day, was an ambulance service approved by the Corporation is, on and from that day, to be taken to be an ambulance service approved by the Ambulance Service.

Vesting of assets etc. in Ambulance Service

7. (1) The Minister may determine in writing the arrangements to be made for the apportionment of assets (excluding land and interests in land), rights, debts and liabilities of the Corporation between it and the Ambulance Service.

(2) In making such a determination, the Minister is to specify in writing when it is to take effect, being a day not earlier than the date of the determination.

(3) The following provisions apply on the day on which such a determination takes effect in respect of any asset, right, debt or liability to the extent to which it is vested in the Ambulance Service by the determination:

- (a) all personal property (including any estate or interest in, or right to control or manage, personal property) that, immediately

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued*

- before that day, was vested in the Corporation vests in the Ambulance Service;
- (b) any money that, immediately before that day, was payable to the Corporation becomes payable to the Ambulance Service;
 - (c) any liquidated or unliquidated claim that, immediately before that day, was enforceable by the Corporation becomes enforceable by the Ambulance Service;
 - (d) any liquidated or unliquidated claim that, immediately before that day, was enforceable against the Corporation becomes enforceable against the Ambulance Service;
 - (e) any proceeding pending immediately before that day at the suit of the Corporation becomes a proceeding pending at the suit of the Ambulance Service;
 - (f) any proceeding pending immediately before that day against the Corporation becomes a proceeding pending against the Ambulance Service;
 - (g) any contract, agreement or undertaking entered into with the Corporation and in force immediately before that day becomes a contract, agreement or undertaking entered into with the Ambulance Service;
 - (h) any security or charge given to or by the Corporation and in force immediately before that day becomes a security or charge given to or by the Ambulance Service.
- (4) Any trust property that is vested in the Ambulance Service as a consequence of the making of a determination under this section is to vest in the Service on the same trusts as those to which the property was subject immediately before the transfer.
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