

**PUBLIC HOSPITALS (VISITING PRACTITIONERS)  
AMENDMENT ACT 1988 No. 31**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Public Hospitals Act 1929 No. 8

SCHEDULE 1—AMENDMENTS

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**PUBLIC HOSPITALS (VISITING PRACTITIONERS) AMENDMENT  
ACT 1988 No. 31**

NEW SOUTH WALES



**Act No. 31, 1988**

An Act to amend the Public Hospitals Act 1929 in relation to the conditions of service of visiting practitioners in public hospitals. [Assented to 6 July 1988]

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See also Area Health Services (Visiting Practitioners) Amendment Act 1988.

*Public Hospitals (Visiting Practitioners) Amendment 1988*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Public Hospitals (Visiting Practitioners) Amendment Act 1988.

**Commencement**

2. (1) This Act commences on a day to be appointed by proclamation, except as provided by subsection (2).

(2) Schedule 1 (6), and section 3 in its application to that provision, commence on the date of assent.

**Amendment of Public Hospitals Act 1929 No. 8**

3. The Public Hospitals Act 1929 is amended as set out in Schedule 1.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

(1) Part 5c, Division 1, heading—  
Before section 29k, insert:

**Division 1—Preliminary**

(2) Section 29k (**Definitions**)—

(a) Omit the definitions of “fee-for-service contract” and “sessional contract”, insert instead:

“fee-for-service contract” means a service contract under which the services of a medical practitioner are provided on a fee-for-service basis;

“honorary contract” means a service contract under which the services of a medical practitioner (to be referred to as an honorary medical officer) are provided to a specified class of patients otherwise than for monetary remuneration;

“service contract” means an agreement between—

(a) an area health service, an incorporated hospital or a separate institution (or its governing body); and

(b) a medical practitioner,

under which the practitioner agrees to provide (as a visiting practitioner) medical services specified in the contract, or medical services of a kind so specified, to—

(c) all patients at a specified hospital or specified hospitals under the control of that area health service; or

(d) all patients at that incorporated hospital or separate institution,

*Public Hospitals (Visiting Practitioners) Amendment 1988*

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SCHEDULE 1—AMENDMENTS—*continued*

or, if the contract so provides, to a specified class of those patients;

“sessional contract” means a service contract under which a medical practitioner is remunerated on the basis of services performed over a specified period or specified periods, but not on a fee-for-service basis;

“standard service contract”, in relation to a class of service contracts (such as fee-for-service contracts, honorary contracts or sessional contracts), means a contract which, when entered into, contains the set of conditions (if any) approved for the time being under section 29RB for those service contracts, whether or not it contains other conditions which are not inconsistent with the approved set of conditions;

(b) From the definition of “visiting medical officer”, omit “fee-for-service contract or a sessional”, insert instead “service”.

(3) Part 5C, Division 2, heading—

After section 29K, insert:

**Division 2—Arbitration of disputes involving certain service contracts**

(4) Section 29L (**Appointment of arbitrator**)—

After section 29L (3), insert:

(4) An application under this section which seeks to obtain a determination—

(a) in relation to a class of contracts for which there is a standard service contract; and

(b) which, if made, would be at variance with a condition approved under section 29RB,

cannot be made before the expiry of a period of 5 years from the last date on which the condition concerned was included, by force of an order under section 29RB, in the standard service contract.

(5) Part 5C, Division 3—

After section 29R, insert:

**Division 3—Service contracts with standardised provisions**

**Conditions of appointment of visiting medical officers**

29RA. (1) After the commencement of this section, a visiting medical officer must not be appointed unless the terms and conditions to which the officer is to be subject are reduced to the form of a written service contract between—

*Public Hospitals (Visiting Practitioners) Amendment 1988*

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SCHEDULE 1—AMENDMENTS—*continued*

- (a) the officer; and
- (b) the relevant area health service, incorporated hospital or separate institution (or its governing body).

(2) An appointment made in contravention of this section is void and of no effect.

**Approval of standard conditions**

29RB. (1) The Minister may, by order in writing, approve of sets of conditions recommended by the Association for inclusion in service contracts of a class specified in the order, being contracts entered into on or after the day on which the order takes effect.

(2) An order under this section takes effect on the day the order is made or, if the order so provides, on a later day specified in the order.

**Standard service contracts to be used**

29RC. (1) A service contract of a class for which there is a standard service contract must not be entered into unless it is an appropriate standard service contract.

(2) A service contract entered into in contravention of this section is void and of no effect.

(3) This section does not apply to honorary contracts.

- (6) Section 29S (**Certain conditions of appointment of visiting practitioners**)—

Omit the section.

- (7) Section 29T—

Omit the section, insert instead:

**Effect of contracts of service**

29T. (1) Where a provision of this Act (other than Part 5C), or of a regulation or by-law made under this Act before or after the commencement of the Public Hospitals (Visiting Practitioners) Amendment Act 1988, is inconsistent with any of the rights and obligations under an agreement between—

- (a) an area health service, an incorporated hospital or a separate institution (or its governing body); and
- (b) a visiting practitioner,

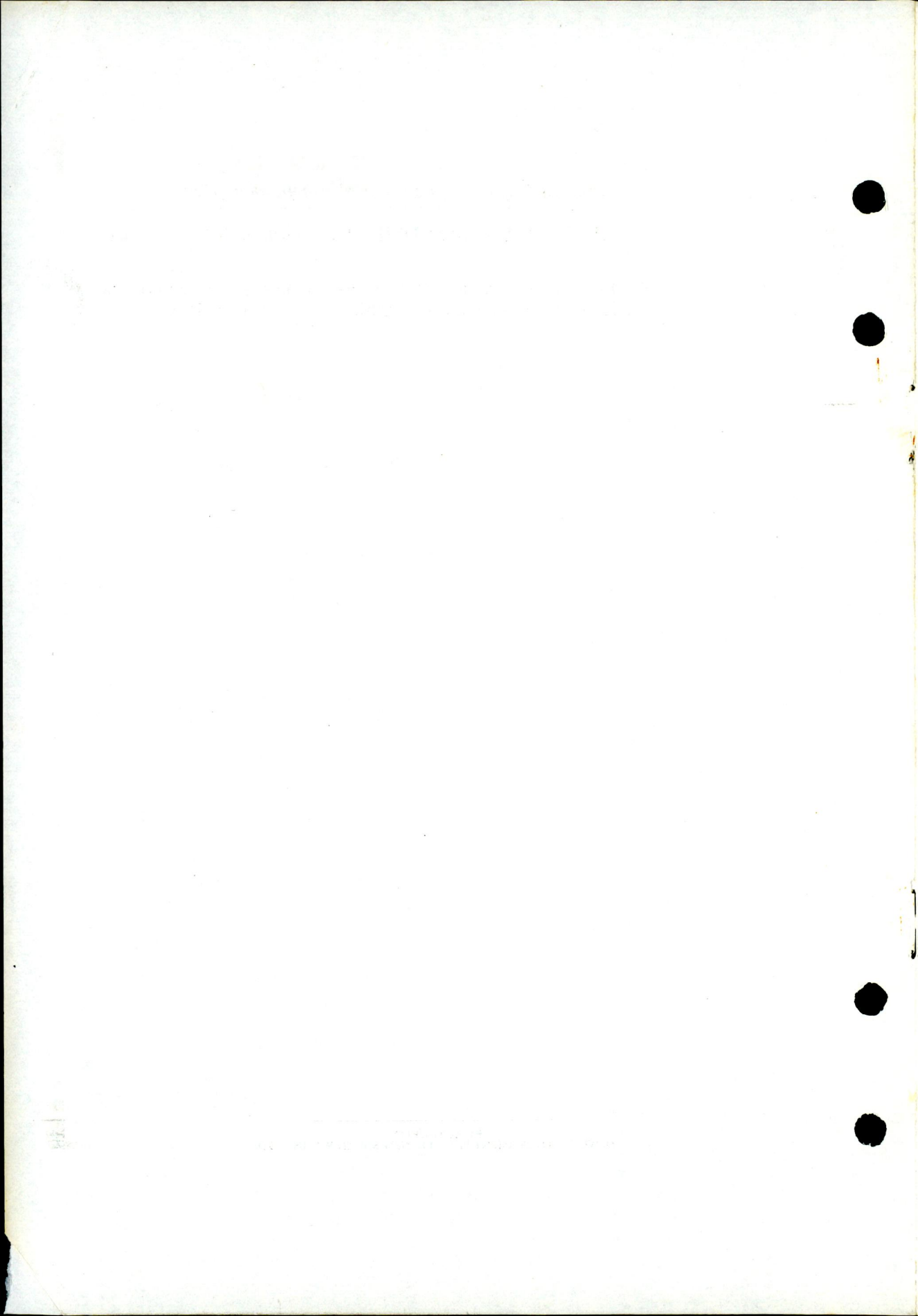
being an agreement relating to the performance of work by the visiting practitioner at the hospital (whether or not the agreement also relates to other matters), the provision shall, to the extent of the inconsistency, have no force or effect in relation to the visiting practitioner.

*Public Hospitals (Visiting Practitioners) Amendment 1988*

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SCHEDULE 1—AMENDMENTS—*continued*

(2) In this section, a reference to an agreement includes a reference to a service contract within the meaning of Part 5c.





FIRST PRINT

**PUBLIC HOSPITALS (VISITING PRACTITIONERS)  
AMENDMENT BILL 1988**

NEW SOUTH WALES



**EXPLANATORY NOTE**

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

The Area Health Services (Visiting Practitioners) Amendment Bill 1988 is cognate with this Bill.

The object of this Bill is to amend the Public Hospitals Act 1929 so as to provide—

- (a) that the conditions of service of visiting medical officers who take up appointments in public hospitals are to be set out in written service contracts, in appropriate cases containing common form provisions approved under that Act by the Minister; and
- (b) that, where a provision of that Act (or a regulation or by-law under it, whenever made) is inconsistent with the rights and obligations under a service contract, the provisions of the contract will prevail to the extent of the inconsistency.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

**Clause 3** is a formal provision that gives effect to the Schedule of amendments to the Public Hospitals Act 1929.

**SCHEDULE 1—AMENDMENTS**

**Amendments relating to the conditions under which visiting medical officers perform their duties**

Part 5C of the Principal Act now provides a system for the arbitration of disputes arising between visiting medical officers and hospitals or other similar bodies over the conditions on which visiting medical officers provide medical services.

*Public Hospitals (Visiting Practitioners) Amendment 1988*

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The proposed Act will have the effect of dividing Part 5C of the Principal Act into 3 Divisions (Schedule 1 (1), (3) and (5)). Division 1 will consist of definitions of terms used in the amended Part (set out in section 29K, as amended by Schedule 1 (2)). Division 2 will consist of the existing provisions of the Part. Division 3 will consist of proposed new sections 29RA-29RC.

Under these new provisions, the rights and obligations under which a person is appointed as a visiting medical officer to a hospital or other similar body will be set out in a written "service contract" between that person and those who control the hospital (proposed section 29RA). The Minister will be empowered (on the recommendation of the New South Wales Branch of the Australian Medical Association) to approve of standard service contracts containing common form provisions (proposed section 29RB).

After the commencement of the new provisions, the appropriate standard service contract (if any) is to be used as the contract under which any new appointment (or re-appointment) of a visiting medical officer (other than an honorary medical officer) is made (proposed section 29RC). An existing service contract continues to have effect in accordance with its tenor until it expires.

The system of arbitration now in place under the existing provisions of Part 5C of the Principal Act will continue in force in relation to service contracts that are not standard service contracts. Standard service contracts, too, will be capable of arbitration, but unlike non-standard contracts, they cannot be the subject of arbitration at any time. Proposed section 29L (4) (inserted by Schedule 1 (4)) provides, in effect, that a condition of a standard service contract cannot be brought up, either by the Minister or by the A.M.A., for arbitration until 5 years have elapsed since the time of its inclusion in the standard service contract. (This of course does not prevent the variation at any time, by an order under proposed section 29RB, of any of the conditions of a standard service contract.)

**Amendment relating to the conditions on which visiting practitioners (whether medical or dental practitioners) perform their duties**

Schedule 1 (6) and (7) contain amendments to Part 5D of the Principal Act.

Schedule 1 (6) repeals section 29S of the Principal Act. That section currently specifies certain conditions that form part of the conditions of service of visiting medical and dental officers.

Schedule 1 (7) substitutes section 29T of the Principal Act. Under that section, as currently in force, the provisions of a service agreement between a visiting practitioner and the controllers of a hospital prevail (to the extent of any inconsistency) over the provisions of any regulation or by-law made under the Principal Act. Under the new section, the provisions of such an agreement will prevail over the provisions of the Principal Act itself (other than the provisions relating to service agreements), as well as those regulations and by-laws.

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**PUBLIC HOSPITALS (VISITING PRACTITIONERS)  
AMENDMENT BILL 1988**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Public Hospitals Act 1929 No. 8

SCHEDULE 1—AMENDMENTS

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PUBLIC HOUSING ADMINISTRATION  
WASHINGTON, D. C. 20548

NEW YORK, N. Y.



UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**PUBLIC HOSPITALS (VISITING PRACTITIONERS)  
AMENDMENT BILL 1988**

NEW SOUTH WALES



No. , 1988

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**A BILL FOR**

An Act to amend the Public Hospitals Act 1929 in relation to the conditions of service of visiting practitioners in public hospitals.

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See also Area Health Services (Visiting Practitioners) Amendment Bill 1988.

*Public Hospitals (Visiting Practitioners) Amendment 1988*

**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Public Hospitals (Visiting Practitioners) Amendment Act 1988.

**5 Commencement**

2. (1) This Act commences on a day to be appointed by proclamation, except as provided by subsection (2).

(2) Schedule 1 (6), and section 3 in its application to that provision, commence on the date of assent.

**10 Amendment of Public Hospitals Act 1929 No. 8**

3. The Public Hospitals Act 1929 is amended as set out in Schedule 1.

**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

(1) Part 5C, Division 1, heading—

15 Before section 29K, insert:

**Division 1—Preliminary**

(2) Section 29K (Definitions)—

(a) Omit the definitions of “fee-for-service contract” and “sessional contract”, insert instead:

20 “fee-for-service contract” means a service contract under which the services of a medical practitioner are provided on a fee-for-service basis;

25 “honorary contract” means a service contract under which the services of a medical practitioner (to be referred to as an honorary medical officer) are provided to a specified class of patients otherwise than for monetary remuneration;

“service contract” means an agreement between—

30 (a) an area health service, an incorporated hospital or a separate institution (or its governing body); and

(b) a medical practitioner,

under which the practitioner agrees to provide (as a visiting practitioner) medical services specified in the contract, or medical services of a kind so specified, to—

35 (c) all patients at a specified hospital or specified hospitals under the control of that area health service; or

(d) all patients at that incorporated hospital or separate institution,

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SCHEDULE 1—AMENDMENTS—*continued*

or, if the contract so provides, to a specified class of those patients;

5 “sessional contract” means a service contract under which a medical practitioner is remunerated on the basis of services performed over a specified period or specified periods, but not on a fee-for-service basis;

10 “standard service contract”, in relation to a class of service contracts (such as fee-for-service contracts, honorary contracts or sessional contracts), means a contract which, when entered into, contains the set of conditions (if any) approved for the time being under section 29RB for those service contracts, whether or not it contains other conditions which are not inconsistent with the approved set of conditions;

15 (b) From the definition of “visiting medical officer”, omit “fee-for-service contract or a sessional”, insert instead “service”.

(3) Part 5C, Division 2, heading—

After section 29K, insert:

20 **Division 2—Arbitration of disputes involving certain service contracts**

(4) Section 29L (Appointment of arbitrator)—

After section 29L (3), insert:

(4) An application under this section which seeks to obtain a determination—

25 (a) in relation to a class of contracts for which there is a standard service contract; and

(b) which, if made, would be at variance with a condition approved under section 29RB,

30 cannot be made before the expiry of a period of 5 years from the last date on which the condition concerned was included, by force of an order under section 29RB, in the standard service contract.

(5) Part 5C, Division 3—

After section 29R, insert:

35 **Division 3—Service contracts with standardised provisions**  
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*Public Hospitals (Visiting Practitioners) Amendment 1988*

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SCHEDULE 1—AMENDMENTS—*continued*

(a) the officer; and

(b) the relevant area health service, incorporated hospital or separate institution (or its governing body).

(2) An appointment made in contravention of this section is void and of no effect.

**Approval of standard conditions**

29RB. (1) The Minister may, by order in writing, approve of sets of conditions recommended by the Association for inclusion in service contracts of a class specified in the order, being contracts entered into on or after the day on which the order takes effect.

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(6) Section 29S (**Certain conditions of appointment of visiting practitioners**)—

Omit the section.

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Omit the section, insert instead:

**Effect of contracts of service**

29T. (1) Where a provision of this Act (other than Part 5C), or of a regulation or by-law made under this Act before or after the commencement of the Public Hospitals (Visiting Practitioners) Amendment Act 1988, is inconsistent with any of the rights and obligations under an agreement between—

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



*Public Hospitals (Visiting Practitioners) Amendment 1988*

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**SCHEDULE 1—AMENDMENTS—*continued***

(2) In this section, a reference to an agreement includes a reference to a service contract within the meaning of Part 5C.

