



TASMANIA

HEALTH (REGIONAL BOARDS) ACT 1991

No. 4 of 1991

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HEALTH (REGIONAL BOARDS) ACT 1991

No. 4 of 1991

AN ACT to provide for the establishment of regional health boards, the provision of health services in the State and certain other matters

[Royal Assent 30 May 1991]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART 1

PRELIMINARY

Short title

1—This Act may be cited as the *Health (Regional Boards) Act 1991*.

Commencement

2—This Act commences on a day to be proclaimed.

Interpretation

3—(1) In this Act, unless the contrary intention appears—

“**Board**” means a Regional Health Board established under section 4;

“**employee**” means a person appointed or employed pursuant to section 22;

“**health service**” means any service relating to the maintenance or improvement of the health and well-being or restoration to health and well-being of persons or the prevention of disease in or injury to persons and without limiting the foregoing includes any hospital, medical, paramedical, mental health, community health, environmental health or other service (including any service of a class or description prescribed by the regulations);

“**intern**” has the meaning assigned to that expression by the *Medical Act 1959*;

“**nurse**” has the meaning assigned to that expression by the *Nursing Act 1987*;

“**region**” means the Southern Region, Northern Region and North-Western Region and when used in relation to a Board, means the region for which the Board was established;

“**registered medical practitioner**” has the meaning assigned to that expression by the *Medical Act 1959*;

“**the regulations**” means the regulations made and in force under this Act;

“**Secretary**” means the Secretary of the Department.

(2) In this Act, a reference to a Regional Medical Advisory Council, a Regional Medical Liaison Committee, a Regional Nursing Advisory Council or a Regional Nursing Liaison Committee, when used in relation to a Board, is a reference to such a Council or Committee established by that Board.

PART 2**ADMINISTRATION****Regional Health Boards**

4—(1) There is established by this Act a Regional Health Board for each region.

(2) Each Board shall be a body corporate with the corporate name—

- (a) in respect of the Southern Region—the Southern Regional Health Board; and
- (b) in respect of the Northern Region—the Northern Regional Health Board; and
- (c) in respect of the North-Western Region—the North West Regional Health Board.

(3) Each Board—

- (a) has perpetual succession; and
- (b) shall have a common seal; and
- (c) may sue and be sued in its corporate name; and
- (d) may purchase, hold, dispose of and otherwise deal with property.

(4) The seal of a Board shall not be imprinted on any document except upon a resolution of the Board and the execution of any document so sealed shall be attested by 2 members of the Board.

(5) All courts and persons acting judicially shall take judicial notice of the imprint of the common seal of a Board on a document and shall presume that the document was duly sealed by the Board.

Membership of Boards

5—(1) Subject to subsection (2), a Board consists of 7 members appointed by the Governor—

- (a) one of whom shall be a registered medical practitioner nominated by the Minister from a list of names submitted to the Minister by the Tasmanian Branch of the Australian Medical Association; and

(b) one of whom shall be a nurse nominated by the Minister from a list of names submitted to the Minister jointly by such bodies representing the professional interests of nurses as the Minister considers appropriate.

(2) If the Minister is not satisfied that any of the persons whose names appear on a list submitted to the Minister under paragraph (a) or (b) of subsection (1) are suitable for appointment to the Board, the Minister may require the body or bodies referred to in that paragraph to submit another list of names.

(3) The Southern Regional Health Board shall, in addition to the members specified in subsection (1), include the person holding office as Dean of the Faculty of Medicine at the University of Tasmania.

(4) In nominating a person for appointment as a member of a Board, the Minister shall take into account—

(a) the functions of the Board; and

(b) the community it serves; and

(c) the skills required of a member to enable the Board to carry out its functions effectively.

(5) Where an appointment is to be made to the office of a member of a Board, other than a member referred to in subsection (1) (a) or (b), the Minister shall cause an advertisement to be placed in a daily newspaper circulating in the Board's region calling for nominations of persons who wish to be appointed to the Board to be submitted to the Minister.

(6) The Governor may appoint a member of a Board to be chairperson of the Board.

(7) The Minister may require a body referred to in subsection (1) (a) or (b) to submit a list of names within a specified period (being a period of not less than 2 months).

(8) If the body or bodies referred to in paragraph (a) or (b) of subsection (1) fails or fail to comply with subsections (2) or (7), the Minister may nominate a person for the purposes of that paragraph.

(9) If the body referred to in paragraph (a) of subsection (1) changes its name, the Governor may, by order, amend that paragraph by substituting the body's new name.

(10) If the body referred to in paragraph (a) of subsection (1) ceases to exist, the Governor, on the recommendation of the Minister, may, by order, amend that paragraph by substituting the name of a body which the Governor is satisfied substantially represents the interests represented by the first-mentioned body.

(11) Schedule 1 has effect with respect to membership of a Board.

(12) Schedule 2 has effect with respect to meetings of a Board.

Removal of Boards

6—(1) If after an inquiry established by the Minister, the Minister is satisfied that a Board—

- (a) has failed to perform any of its functions under this Act; or
- (b) has failed to comply with a Health Service Agreement made under section 26; or
- (c) has contravened section 25 (2); or
- (d) has failed to comply with a direction of the Minister under section 9—

the Minister may recommend to the Governor that all members of the Board be removed from office.

(2) The Governor may, on receipt of a recommendation from the Minister under subsection (1), by order, remove all members of the Board from office and appoint an administrator for the period specified in the order.

(3) An administrator appointed under subsection (2) has all the functions and powers of the Board.

Functions of Boards

7—(1) The functions of a Board are as follows:—

- (a) to ensure that its resources are used in an effective, efficient and economical manner;
- (b) to promote, protect and maintain the health and well-being of the residents of its region;
- (c) to provide and maintain health services in its region;

- (d) to ensure that an appropriate range of health services is available and accessible to the residents of its region irrespective of their social or economic status;
- (e) to evaluate health services provided by it;
- (f) to ensure that funds at its disposal are allocated according to the needs of the residents of its region;
- (g) to consult and co-operate with individuals and organizations (including voluntary agencies, private agencies and public and local authorities) concerned with the promotion, protection and maintenance of health;
- (h) to investigate and assess health needs in its region;
- (i) to plan the future development of health services in its region and for that purpose—
 - (i) to consult and plan jointly with the Secretary; and
 - (ii) to support, encourage and facilitate the organization of community involvement in the planning of those services;
- (j) to set objectives and establish policies and priorities with respect to its functions;
- (k) to provide for the training and education of persons providing health services;
- (l) to provide such health services for the benefit of persons throughout the State as may be agreed between the Minister and the Board;
- (m) to promote and encourage the conduct of research and other investigations relating to the causes, prevention or treatment of illnesses, diseases, disorders and disabilities;
- (n) to make available to the public reports, information and advice concerning public health and health services available in its region.

(2) A Board shall have such other functions as may be prescribed or as are imposed on it by or under this or any other Act.

Powers of Boards

8—(1) A Board may do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of its functions under this or any other Act.

(2) The generality of subsection (1) shall not be taken to be limited by any other provision of this Act conferring power on a Board.

(3) A Board may—

- (a) undertake commercial exploitation of any research or intellectual property rights undertaken by or belonging to the Board for any purpose relating to the carrying on of health services; and
- (b) be a member of or form or participate in the formation of a corporation, association, trust or partnership, the objects or purposes of which include one or more objects or purposes that are incidental or conducive to any functions of the Board; and
- (c) enter into a joint venture with another person or other persons if the objects or purposes of the joint venture include one or more objects or purposes that are incidental or conducive to any functions of the Board.

(4) Subsection (1) does not confer a power on a Board to employ persons.

Power of Minister to give directions to Boards

9—(1) The Minister may from time to time give to a Board such directions as the Minister considers necessary or expedient for the purposes of this Act.

(2) A direction may be given generally or in relation to a specified Board.

(3) A Board to which directions are given shall, subject to this section, comply with those directions.

(4) A Board is not bound by a direction given to it unless the direction is in writing and signed by the Minister.

(5) The power conferred on the Minister by this section shall not be exercised so as to require a Board to do anything that it is not empowered to do by this or any other Act.

(6) The Minister may, from time to time, by notice in writing given to a Board revoke a direction given to it.

Disclosure of interests

10—(1) A member of a Board who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to that member's knowledge, disclose the nature of that interest at a meeting of the Board.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Board and the member shall not, unless the Board otherwise determines—

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

(3) For the purpose of making a determination by the Board under subsection (2) in relation to a member who has made a disclosure under subsection (1), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not take part in the making by the Board of the determination.

Delegation by Boards

11—(1) A Board may, by resolution—

- (a) delegate any of its functions or powers other than this power of delegation; and
- (b) revoke wholly or partly a delegation.

(2) A delegation—

- (a) may be made either generally or as otherwise provided by the instrument of delegation; and
- (b) does not prevent the performance or exercise of a function or power by a Board.

(3) A function or power performed or exercised by a delegate has the same effect as if performed or exercised by a Board.

Committees

12—A Board may, by resolution, establish committees of such persons as the Board considers appropriate for the purpose of assisting it in the performance of its functions and the exercise of its powers under this Act.

Regional Medical Advisory Councils

13—(1) Each Board shall establish a Regional Medical Advisory Council which shall be responsible for representing the professional interests of medical practitioners and interns in the Board's region.

(2) All registered medical practitioners practising, and all interns employed, in the Board's region are eligible to be members of the Regional Medical Advisory Council.

(3) The first meeting of a Regional Medical Advisory Council shall be held at such time and place as is appointed by the Board in a notice of meeting published in a daily newspaper circulating in the Board's region.

(4) The procedure for the conduct of business at the first meeting of a Regional Medical Advisory Council shall be determined by the Board.

(5) A Regional Medical Advisory Council shall elect from its members an Executive Committee, representative of the range of medical disciplines and specialities of members of the Council.

(6) The Executive Committee of a Regional Medical Advisory Council is empowered to act on behalf of the Council.

(7) The procedures for—

(a) the calling of, and for the conduct of business at, meetings of a Regional Medical Advisory Council, other than its first meeting; and

(b) the conduct of elections of its Executive Committee; and

(c) the conduct of business of the Executive Committee—shall be determined by the Council.

Regional Medical Liaison Committees

14—(1) Each Board shall establish a Regional Medical Liaison Committee.

(2) A Regional Medical Liaison Committee comprises—

(a) the chairperson of the Board who shall be chairperson of the Committee; and

(b) such members of the Board as the Board may determine; and

- (c) the General Manager of the Board; and
 - (d) such number of members of the Executive Committee of the Regional Medical Advisory Council, being not more than 4, as the Council may determine; and
 - (e) such other persons as the Board may determine.
- (3) A Regional Medical Liaison Committee shall provide advice to the Board and the Regional Medical Advisory Council on all matters considered by it.
- (4) The Board and the Regional Medical Advisory Council—
- (a) may refer to the Regional Medical Liaison Committee for advice any matters relating to the services provided by the Board which the Board or Council consider appropriate; and
 - (b) shall advise the Regional Medical Liaison Committee of any matters relating to the professional interests of medical practitioners and interns which have been decided by the Board or the Council.
- (5) A Regional Medical Liaison Committee shall meet not less than once in each period of 2 months and shall, following its meeting, report to the next meeting of the Board and to the next meeting of the Regional Medical Advisory Council.

Regional Nursing Advisory Councils

- 15—**(1) Each Board shall establish a Regional Nursing Advisory Council which shall be responsible for representing the professional interests of nurses.
- (2) Any nurses employed in the Board's region are eligible to be members of the Regional Nursing Advisory Council.
- (3) The first meeting of a Regional Nursing Advisory Council shall be held at such time and place as is appointed by the Board in a notice of meeting published in a daily newspaper circulating in the Board's region.
- (4) The procedure for the conduct of business at the first meeting of a Regional Nursing Advisory Council shall be determined by the Board.
- (5) A Regional Nursing Advisory Council shall elect from its members an Executive Committee, representative of the range of nursing interests and specialities of members of the Council.

(6) The Executive Committee of a Regional Nursing Advisory Council is empowered to act on behalf of the Council.

(7) The procedures for—

(a) the calling of, and for the conduct of business at, meetings of a Regional Nursing Advisory Council, other than its first meeting; and

(b) the conduct of elections of its Executive Committee; and

(c) the conduct of business of the Executive Committee—
shall be determined by the Council.

Regional Nursing Liaison Committees

16—(1) Each Board shall establish a Regional Nursing Liaison Committee.

(2) A Regional Nursing Liaison Committee comprises—

(a) the chairperson of the Board who shall be chairperson of the Committee; and

(b) such members of the Board as the Board may determine; and

(c) the General Manager of the Board; and

(d) such number of members of the Executive Committee of the Regional Nursing Advisory Council, being not more than 4, as the Council may determine; and

(e) such other persons as the Board may determine.

(3) A Regional Nursing Liaison Committee shall provide advice to the Board and the Regional Nursing Advisory Council on all matters considered by it.

(4) The Board and the Regional Nursing Advisory Council—

(a) may refer to the Regional Nursing Liaison Committee for advice any matters relating to the services provided by the Board which the Board or Council consider appropriate; and

(b) shall advise the Regional Nursing Liaison Committee of any matters relating to the professional interests of nurses which have been decided by the Board or Council.

(5) A Regional Nursing Liaison Committee shall meet not less than once in each period of 2 months and shall, following its meeting, report to the next meeting of the Board and to the next meeting of the Regional Nursing Advisory Council.

Regional Health Professionals Liaison Committees

17—(1) Each Board shall establish a Regional Health Professionals Liaison Committee.

(2) A Regional Health Professionals Liaison Committee comprises—

- (a) the chairperson of the Board who shall be chairperson of the Committee; and
- (b) such members of the Board as the Board may determine; and
- (c) the General Manager of the Board; and
- (d) such number of members of the Executive Committee of the Regional Committee of the Tasmanian Health Professionals Council, being not more than 4, as the Council may determine; and
- (e) such other persons as the Board may determine.

(3) A Regional Health Professionals Liaison Committee shall provide advice to the Board and the Regional Committee of the Tasmanian Health Professionals Council on all matters considered by it.

(4) The Board and the Regional Committee of the Tasmanian Health Professionals Council—

- (a) may refer to the Regional Health Professionals Liaison Committee for advice any matters relating to the services provided by the Board which the Board or Council consider appropriate; and
- (b) shall advise the Regional Health Professionals Liaison Committee of any matters relating to the professional interests of health professionals which have been decided by the Board or the Council.

(5) A Regional Health Professionals Liaison Committee shall meet not less than once in each period of 2 months and shall, following its meeting, report to the next meeting of the Board and to the next meeting of the Regional Committee of the Tasmanian Health Professionals Council.

(6) If the body referred to in paragraph (d) of subsection (2) changes its name, the Governor may, by order, amend that paragraph by substituting the body's new name.

(7) If the body referred to in paragraph (d) of subsection (2) ceases to exist, the Governor, on the recommendation of the Minister, may, by order, amend that paragraph by substituting the name of a body which the Governor is satisfied substantially represents the interests represented by the first-mentioned body.

District Health Forums

18—(1) The Minister shall from time to time establish District Health Forums in respect of any district within each region.

(2) A District Health Forum shall comprise a committee of between 15 and 20 persons appointed by the Minister, on the recommendation of the Board for the relevant region, for such term, not exceeding 4 years, as is specified in the relevant instrument of appointment.

(3) One of the persons appointed by the Minister under subsection (2) shall be a person recommended by the Board from a list of names submitted jointly by the bodies representing the interests of auxiliaries associated with a hospital or other service administered by the Board in the district.

(4) The functions of a District Health Forum are as follows:—

- (a) to provide a forum for the various community groups working in the health field and for interested members of the public to discuss health issues relevant to the district and region;
- (b) to provide a liaison between groups or persons referred to in paragraph (a) and the Board for the relevant region;
- (c) to perform such other functions as are consistent with guidelines issued by the Minister under subsection (10) (a).

(5) The first meeting of a District Health Forum shall be held at such time and place as is appointed by the Minister in a notice of meeting published in a newspaper circulating in the district for which the Forum is established.

(6) The procedure for the calling of, and for the conduct of business at, meetings of a District Health Forum shall be determined by the Forum.

(7) A Board shall make available to each District Health Forum in its region such resources as it considers appropriate or as the Minister may direct.

(8) A Board or such of its members as the Board may determine shall meet with each District Health Forum in its region at least once in each financial year.

(9) Before submitting its estimates of revenue and expenditure for a financial year and any other proposals to the Minister, a Board shall consult with and take into consideration the views of each District Health Forum in its region.

(10) The Minister may issue guidelines in respect of—

(a) the membership, objectives and terms of reference of, and provision of resources to, District Health Forums; and

(b) meetings between Boards and District Health Forums.

Appointment of General Manager

19—The Governor may appoint a person employed under the *Tasmanian State Service Act 1984* to be the General Manager of a Board and that person shall hold that office in conjunction with a position or an office under that Act.

Functions and powers of General Manager

20—(1) The General Manager of a Board shall—

(a) manage all facilities, services and resources under the jurisdiction of the Board; and

(b) perform such other functions imposed on the General Manager by or under this or any other Act.

(2) In performing the functions imposed on the General Manager of a Board by or under this Act, the General Manager shall comply with any directions issued by the Secretary under section 21.

(3) The General Manager of a Board has power to do all things necessary or convenient to be done for or in accordance with, or incidental to, the performance of the functions imposed on the General Manager by or under this Act.

(4) In exercising powers under this Act, the General Manager of a Board shall have regard to the policies, priorities and resolutions of the Board.

Power of Secretary to give directions to General Manager

21—(1) The Secretary may, from time to time, give to the General Manager of a Board such directions as the Secretary considers necessary or expedient in relation to—

- (a) action to be taken or avoided to enable the State to comply with the terms of any agreement in relation to health services made between the State and the Commonwealth or any other State of the Commonwealth; and
- (b) the conduct of industrial matters affecting employees; and
- (c) the maintenance of standards of health services to be provided by the Board; and
- (d) the supply of returns and other information to the Secretary.

(2) A direction may be given generally or in relation to a specified General Manager of a Board.

(3) The General Manager of a Board to whom directions are given shall, subject to this section, comply with those directions.

(4) The General Manager of a Board is not bound by a direction given under this section unless the direction is in writing and signed by the Secretary.

(5) The power conferred on the Secretary by this section shall not be exercised so as to require the General Manager of a Board to do anything that the General Manager is not empowered to do by this or any other Act.

(6) The Secretary may, from time to time, by notice in writing given to the General Manager of a Board revoke a direction given to the General Manager.

Appointment of employees

22—(1) Subject to and in accordance with the *Tasmanian State Service Act 1984*, persons may be appointed or employed for the purpose of enabling a Board to perform its functions and exercise its powers under this or any other Act.

(2) The remuneration payable to persons appointed or employed to enable a Board to perform its functions and exercise its powers under this or any other Act shall be paid from the funds of the Board.

(3) For the purposes of the *Workers Compensation Act 1988*, a Board shall be deemed to be the employer of all persons appointed or employed to enable it to perform its functions or exercise its powers under this or any other Act.

PART 3

FINANCIAL PROVISIONS

Funds of Boards

23—(1) A Board shall establish and maintain such bank accounts as it considers necessary.

(2) The funds of a Board shall consist of any money received from any source by the Board and shall be paid to the credit of such of the accounts referred to in subsection (1) as it determines.

(3) The funds of a Board shall be applied—

(a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Board in the performance of its functions and the exercise of its powers; and

(b) subject to the Minister's consent, for such other purposes as may be approved by two-thirds of the members present and voting at a meeting of the Board.

(4) Any money expended by a Board pursuant to subsection (3) (b) shall not, except with the consent in writing of the Minister, exceed in any one year 1% of its revenue for the previous financial year.

Investment of funds

24—A Board may invest any money that it is holding and for which it has no immediate use in such manner as the Treasurer may approve.

Borrowing by Boards

25—(1) A Board may, subject to subsection (2), borrow by overdraft on its bank accounts for the purpose of performing any of its functions or exercising any of its powers under this or any other Act.

(2) A Board shall not borrow by overdraft an amount in excess of 10% of its revenue for the previous financial year except with the approval of the Treasurer.

(3) If a Board contravenes subsection (2), the Minister shall establish an inquiry into the contravention.

PART 4**MISCELLANEOUS****Health Service Agreements**

26—(1) A Board shall, not later than 31 May in each year, enter into a Health Service Agreement in accordance with this section with the Minister in respect of the following financial year.

(2) A Health Service Agreement shall be in respect of one year or such other period as is specified in the Agreement.

(3) A Health Service Agreement may contain matters relating to the range, level and distribution of health services to be provided and maintained in a region, the resources to be made available to a Board and any other matters relating to the functions of the Board.

(4) The Minister shall not enter into a Health Service Agreement with a Board under subsection (1) unless the Minister is satisfied that the Board has consulted with all District Health Forums in its region.

(5) The Minister and each Board shall cause copies of any Health Service Agreement in force under this section to be available for inspection by the public during ordinary business hours.

(6) If a Board or the Minister becomes aware of any circumstances affecting or likely to affect its or the Minister's ability to comply with a Health Service Agreement—

- (a) the Board or Minister shall inform the other party in writing; and
- (b) the other party shall within 6 weeks respond in writing; and
- (c) where appropriate, the parties may amend the agreement.

Power of Boards to accept property in trust for certain purposes

27—(1) A Board may accept any money, land or other property, by way of bequest, devise or gift in trust for the purposes of any existing or future hospital, facility or service under the control of the Board, or in trust for any purpose to which the Board can lawfully apply its own money, land or other property.

(2) All money, land and other property accepted by a Board in trust under the authority of this section, and all income derived from that money, land or other property shall be appropriated and dealt with by the Board for the purposes of the trust, and in accordance with the terms of the trust, so far as those purposes and terms are consistent with the functions and powers of the Board.

Investment of trust money prior to application in terms of trust

28—(1) All money held in trust by a Board shall, pending the application of that money in accordance with the terms of the trust, be invested—

- (a) in a manner directed or authorized by the trust; or
- (b) notwithstanding the terms of the trust, in any manner in which a trustee is authorized to invest trust funds.

(2) This section does not apply to money referred to in section 32.

Application of trust money

29—Where any money is received by a Board by way of bequest or gift in trust, the money shall, except in so far as it is otherwise provided by the terms of the will or gift, be applied in such manner as the Board thinks fit in or towards the provision or maintenance of any health service, or shall be invested by the Board, and the income of such investments shall be appropriated and used for the provision and maintenance of health services.

Powers of Boards to sell, &c., land held in trust

30—(1) The powers of disposing of, or otherwise dealing with, land which are conferred upon a Board by this Act shall, with the consent of the Minister, extend to land held in trust for any special purpose notwithstanding the terms of that trust.

(2) The proceeds of any disposal of, or dealing with, land under subsection (1) and any land obtained as a result of such dealing shall be subject to the same or similar trusts as the land so disposed of.

Property in possession of person on admission to hospital, &c.

31—(1) A person upon admission to a hospital may, in respect of any money or personal effects in that person's possession, elect—

- (a) subject to any restrictions relating to the bringing into, or possession in, the hospital of any money or personal effects, to retain custody of all or part of that property for the period during which the person is in the hospital; or
- (b) to require the Board which maintains and operates that hospital to hold all or part of that property in custody on behalf of that person; or
- (c) to appoint a person other than the Board to hold all or part of that property in custody on behalf of the person.

(2) Where a person at the time of admission to a hospital is incapable of making an election under subsection (1), the person shall be deemed to have made the election referred to in subsection (1) (b) until such time as the person is capable of making an election under subsection (1).

(3) Where a person at the time of admission to a hospital fails to make an election under subsection (1) for any reason otherwise than as a result of incapacity, the person shall be deemed to have made the election referred to in subsection (1) (b).

(4) Where a person is deemed, pursuant to subsection (2), to have made an election referred to in subsection (1) (b), the Board or a person authorized by it may, at the request of that person's next of kin, release the money or personal effects of the person to the next of kin—

(a) on receipt of a statutory declaration as to the identity of the next of kin and the degree of relationship of the next of kin to the person; and

(b) on receipt of an instrument indemnifying the Board against all claims likely to be made against the Board by any other person who may claim to be entitled to the money or personal effects.

(5) In this section, “next of kin” means the person who, in the opinion of the Board, is sufficiently closely related to the person who was admitted to the hospital for the purpose of releasing the personal property to the first-mentioned person.

(6) A reference in this section to a hospital shall be read as a reference to a hospital or nursing home maintained and operated by a Board.

Money held on behalf of person admitted to hospital

32—(1) A Board shall establish a trust fund at a bank and shall cause all money—

(a) that is held by the Board in custody pursuant to section 31 and that has not been released pursuant to that section; and

(b) that is received by the Board from a person admitted to a hospital or nursing home maintained and operated by the Board to be held in custody on behalf of the person or from some other person for the benefit, use or enjoyment of the person admitted to the hospital or nursing home—

to be paid into that trust fund.

(2) The Public Trustee may issue guidelines with respect to the practices and procedures to be observed by Boards in the maintenance and operation of trust funds established under subsection (1) and a Board shall maintain and operate the trust fund in accordance with those guidelines.

Disposal of unclaimed property

33—(1) Where there is left at a hospital or nursing home maintained and operated by a Board any money or personal effects of a person admitted to the hospital or nursing home and no claim is made by a person lawfully entitled to the money or personal effects within a period of 12 months after the death of the person or the date on which that person left the hospital or nursing home, the Board or a person authorized by it shall pay over or forward to the Public Trustee the money or personal effects.

(2) Where money is paid over or personal effects are forwarded to the Public Trustee under subsection (1), the Board or person authorized by it shall give the Public Trustee such information as the Board or person is able to enable the Public Trustee to deal with, or establish the person lawfully entitled to, the money or personal effects.

(3) The Public Trustee, in the case of personal effects referred to in subsection (1), may sell them by public auction and shall, after deducting the expenses of the sale, hold the proceeds and any money received under that subsection in trust for the person lawfully entitled.

(4) Where the property to which this section applies left by a person exceeds \$500 in value and is not claimed as mentioned in subsection (1) within a period of 3 months after the death of the person or the date on which the person left the hospital or nursing home, the Board or a person authorized by it shall so inform the Public Trustee.

Fees

34—(1) Where any service is provided to any person by a Board, a fee determined in accordance with the fees prescribed in the regulations is payable to the Board by or on behalf of that person and the Board may recover that fee in a court of competent jurisdiction.

(2) A Board may waive the payment of the whole or part of any fee payable under subsection (1) in such circumstances as the Board considers appropriate.

Quality Assurance Committees

35—(1) The Minister, by notice published in the *Gazette*, may declare that a specified committee established by a Board or a professional association is an approved quality assurance committee for the purposes of this Act and by like notice, may revoke the declaration.

(2) The Minister shall not make a declaration under subsection (1) unless satisfied—

- (a) that the committee is established under a resolution of a Board or a professional association; and
- (b) that the committee's functions include the assessment and evaluation of the quality of health services provided by the Board or by members of a professional association including the review of clinical practices or clinical competence of persons providing those services; and
- (c) that the carrying out of the committee's functions and powers would be facilitated by the provision of immunities afforded by this section in respect of its proceedings; and
- (d) that it is in the public interest that persons be prohibited from disclosing information given to the committee in the course of the performance of its functions.

(3) A person who is or has been a member of a committee in respect of which a declaration under subsection (1) has been made shall not either directly or indirectly—

- (a) make a record of or divulge or communicate to any person any information gained by or conveyed to that person as such a member while the declaration was in force; or
- (b) make use of any such information—

except to the extent necessary for the performance of the functions of that committee or of the person as such a member.

Penalty: Fine not exceeding 50 penalty units.

(4) A person who is or has been a member of a committee in respect of which a declaration under subsection (1) has been made shall not be required—

- (a) to produce before any court, tribunal, board, agency or person any document in the person's possession or under the person's control as such a member while the declaration was in force; or
- (b) to divulge or communicate to any court, tribunal, board, agency or person any matter or thing coming under the person's notice as such a member while the declaration was in force.

(5) Subsections (3) and (4) apply to a person who prepares or has prepared information or documents concerning the proceedings, or for the purposes, of a committee in respect of which a declaration under subsection (1) has been made as if that person is or was a member of the committee.

(6) Evidence of any information or document relating to the proceedings, or prepared for the purposes, of a committee at any time when a declaration under this section was in force in respect of it is not admissible in any action or proceedings before any court, tribunal, board, agency or person.

(7) If there is an inconsistency between this section and a provision of any other Act or law, this section prevails to the extent of the inconsistency.

(8) In this section, “**professional association**” means an association, society, college or other body, of health professionals, that is prescribed.

Collection of voluntary contributions

36—(1) A voluntary association, or committee of persons, approved by a Board may collect and expend voluntary contributions and donations from the public for—

- (a) the general purposes of any facility or service under the control of the Board; or
- (b) the provision of amenities and facilities for the welfare, comfort or recreation of persons receiving any such service or of employees.

(2) A Board may appoint any member of the Board to be its representative on any association or committee of persons referred to in subsection (1).

(3) The General Manager of a Board may authorize any employee to perform, as part of the employee's ordinary duties, secretarial, clerical or accounting services for any association or committee of persons referred to in subsection (1).

(4) Every association or committee of persons referred to in this section shall cause true and regular accounts to be rendered to the Board.

(5) The General Manager of a Board shall appoint an appropriately qualified employee to audit the accounts of an association or committee referred to in subsection (1).

(6) In determining the purposes for which money collected under subsection (1) may be applied, the associations or committees referred to in that subsection shall consult with the Board in relation to the needs of the facilities or services under the control of the Board.

Regulations

37—(1) The Governor may make regulations for the purpose of this Act.

(2) Without limiting the generality of subsection (1), the regulations may make provision for or with respect to—

- (a) regulating the admission and discharge of persons to and from a hospital or nursing home maintained and operated by a Board; and
- (b) preventing or regulating the bringing of specified articles and things into such a hospital or nursing home and the possession by any person of specified articles or things in such a hospital or nursing home; and
- (c) preventing or regulating the entry of persons into such a hospital or nursing home and regulating their conduct in such a hospital or nursing home and preventing trespass upon any land vested in or held by a Board; and
- (d) regulating the parking of vehicles on land vested in or held by a Board; and
- (e) any other matter affecting the operation, management, care, control and superintendence of such a hospital or nursing home or any other facility or service maintained, operated or provided by a Board or any land or buildings used in connection with the hospital, nursing home, facility or service.

- (3) The regulations may—
- (a) be of general or limited application; and
 - (b) differ according to differences in place or circumstance; and
 - (c) authorize any matter or thing to be determined, applied or regulated by a Board or the General Manager of a Board; and
 - (d) apply, adopt or incorporate (with or without modification) any matter contained in a code, standard, rule, specification or method formulated, issued, prescribed or published at the time the regulation is made or at any earlier time.
- (4) The regulations may—
- (a) prescribe different rates of fees in respect of different hospitals, facilities or services maintained, operated or provided by a Board or in relation to different classes of persons or different services; and
 - (b) prescribe the circumstances in which, or the persons by whom, a fee is not payable for any facility or service provided by a Board.
- (5) The regulations may provide that it is an offence, punishable on summary conviction, for a person to contravene or fail to comply with any of the regulations and may provide, in respect of any such offence, for the imposition of a fine not exceeding 10 penalty units and in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.
- (6) A fine recovered in respect of a contravention of or failure to comply with the regulations shall be paid to the appropriate Board.
- (7) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (8) A provision referred to in subsection (7) may, if the regulations so provide, take effect from the commencement of this Act or a later date.

Transitional and savings provisions

38—The transitional and savings provisions set out in Schedule 3 have effect.

Consequential repeal and amendments

39—(1) The *Public Welfare Institutions Act 1935* is repealed.

(2) The Acts specified in Schedule 4 are amended in the manner set out in that Schedule.

Administration of Act

40—Until an order is made under section 4 of the *Administrative Arrangements Act 1990*—

- (a) the administration of this Act is assigned to the Minister for Health; and
 - (b) the Department responsible to the Minister for Health is the Department of Health.
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SCHEDULE 1

Section 5

PROVISIONS WITH RESPECT TO MEMBERSHIP OF A BOARD**Terms of office**

1—(1) A member of a Board shall be appointed for such term, not exceeding 4 years, as is specified in the relevant instrument of appointment and shall, if otherwise qualified, be eligible for reappointment from time to time for a term, not exceeding 4 years.

(2) A person is not eligible to be appointed as a member of a Board if the person has attained the age of 70 years.

Provisions requiring devotion of whole of time to other duties

2—Where, by or under any Act, provision is made requiring the holder of an office to devote the whole of his or her time to the duties of office under that Act, that provision shall not operate to disqualify that person from holding that office and also the office of a member of a Board.

Remuneration

3—(1) Subject to subclause (2), a member of a Board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Governor may from time to time determine.

(2) A member of a Board who is employed under the *Tasmanian State Service Act 1984* is not entitled to remuneration under subclause (1), except with the approval of the Minister administering that Act.

***Tasmanian State Service Act 1984* not to apply**

4—The *Tasmanian State Service Act 1984* does not apply to, or in respect of, the appointment of a member of a Board and a member of a Board shall not, in the capacity as such a member, be subject to that Act during the member's term of office.

SCHEDULE 1—continued

Vacation of office

5—(1) The office of a member of a Board becomes vacant—

- (a) when the member dies; or
- (b) if the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration or estate for their benefit; or
- (c) if the member is absent from 3 consecutive ordinary meetings of the Board of which reasonable notice has been given to the member, either personally or in the ordinary course of post, except on leave granted by the Minister or unless before the expiration of 21 days after the last of those meetings, the member is excused by the Minister for having been absent from those meetings; or
- (d) if the member becomes liable to be detained under the *Mental Health Act 1963* in a hospital, being a hospital within the meaning of section 3 (1) of that Act; or
- (e) if the member is convicted in Tasmania of a crime or an offence which is punishable by imprisonment for a period of not less than 12 months, or convicted outside Tasmania of an offence which, if committed in Tasmania, would be a crime or an offence so punishable; or
- (f) if the member resigns office by instrument in writing addressed to the Governor; or
- (g) if the member is removed from office by the Governor under subclause (2) or (3).

(2) The Governor may remove from office a member of a Board if the Governor is satisfied that the member—

- (a) has failed to comply with section 10; or
- (b) is unable to perform adequately or competently the duties of the member's office.

(3) The Governor may remove a member of a Board from office if the Governor is satisfied, having regard to the information supplied by the person that nominated that member for appointment to the Board, that the member is no longer qualified to be appointed to the Board.

SCHEDULE 1—*continued***Validity of proceedings, &c.**

6—(1) No act or proceeding of a Board or of any person acting pursuant to any direction of a Board is invalidated or prejudiced by reason only of the fact that, at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the membership of the Board.

(2) All acts and proceedings of a Board or of any person acting pursuant to any decision or direction of a Board are, notwithstanding the subsequent discovery of any defect in the appointment of any member of the Board or that any person was disqualified from acting as, or incapable of being, a member of the Board, as valid as if the member had been duly appointed and was qualified to act as, or capable of being, a member, and as if the Board had been fully constituted.

(3) Where a member of a Board does or purports to do, or omits or purports to omit to do, any act or thing in good faith for the purpose of administering or executing this Act, the member shall not be personally subjected to any action, liability, claim or demand in respect of that act or omission.

Presumptions

7—In any proceedings by or against a Board, unless evidence is given to the contrary, no proof shall be required of—

- (a) the constitution of the Board; or
 - (b) any resolution of the Board; or
 - (c) the appointment of any member of the Board; or
 - (d) the presence of a quorum at any meeting of the Board.
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SCHEDULE 2

Section 5

PROVISIONS WITH RESPECT TO MEETINGS OF A BOARD

Convening of meetings of a Board

1—Meetings of a Board may be convened by the chairperson of the Board or by any 3 members of the Board.

Procedure at meetings

2—(1) Four members of a Board shall form a quorum at any duly convened meeting of the Board.

(2) Any duly convened meeting of a Board at which a quorum is present shall be competent to transact any business of the Board.

(3) Questions arising at a meeting of a Board shall be determined by a majority of votes of the members of the Board present and voting.

Chairing of meetings

3—(1) The chairperson of a Board shall preside at all meetings of the Board at which the chairperson is present.

(2) If the chairperson of a Board is not present at a meeting of the Board, a member of the Board elected by the members present shall preside at that meeting.

General procedure

4—The procedure for the calling of, and for the conduct of business at, meetings of a Board shall, subject to any procedure that is specified in this Schedule, be as determined by the Board.

SCHEDULE 3

Section 38

TRANSITIONAL AND SAVINGS PROVISIONS

Interpretation

1—In this Schedule—

“**former hospital board**” means a hospital board constituted under the *Hospitals Act 1918* and in existence immediately before the commencement of this Act;

“**proclaimed day**” means the day proclaimed under section 2.

Assets and liabilities of former hospital boards

2—(1) On the proclaimed day—

(a) the assets of a former hospital board are, by virtue of this clause, vested in the Board having jurisdiction over the area of the hospitals district of the former hospital board on the same terms and conditions as they were vested in the former hospital board; and

(b) all rights, obligations and liabilities of a former hospital board which are subsisting immediately before that day are transferred to the Board having jurisdiction over the area of the hospitals district of the former hospital board.

(2) Any instrument made for the purposes of subclause (1) is exempt from stamp duty and may be filed, recorded or registered without payment of any fee.

(3) All money, land and other property which vests in a Board as the successor of a former hospital board remains subject to any trusts affecting that property at the time when it so vests, and shall be appropriated and dealt with by the Board for the purposes of those trusts and in accordance with the terms of those trusts, in so far as those purposes and terms are consistent with this Act.

SCHEDULE 3—continued

Contracts and agreements

3—On and from the proclaimed day any contract or agreement entered into by a former hospital board before that day shall be treated for all purposes as a contract or agreement entered into by the Board having jurisdiction over the area of the hospital district of the former hospital board.

References to former hospital board

4—A reference to a former hospital board in—

(a) a law; or

(b) a contract, award or other instrument to which the former hospital board was a party—

shall be construed as a reference to the Board having jurisdiction over the hospital district of the former hospital board.

Legal proceedings

5—Any legal or other proceedings which may, before the proclaimed day, have been instituted or continued by or against a former hospital board may, on and after that day, be instituted or continued by or against the Board having jurisdiction over the area of the hospital district of the former hospital board.

Employees

6—(1) A person who immediately before the proclaimed day holds office as a person appointed or employed pursuant to section 32 of the *Hospitals Act 1918* (as in force immediately before that day) continues, on that commencement, to hold office as if that person had been appointed or employed pursuant to section 22 of this Act on the same terms and conditions as were applicable to that person immediately before that day.

SCHEDULE 3—*continued*

(2) A person referred to in subclause (1) retains all rights, entitlements and privileges which accrued during that person's employment pursuant to section 32 of the *Hospitals Act 1918*.

Acts, &c., done by or to former hospital board

7—All acts, matters and things done or omitted to be done by, or done or suffered in relation to a former hospital board before the proclaimed day shall, on that day, have the same force and effect as if they had been done or omitted to be done by, or done or suffered in relation to, the Board having jurisdiction over the area of the hospitals district of the former hospitals board.

Money paid into trust fund

8—On the proclaimed day, any money paid into a trust fund established under section 77 of the *Hospitals Act 1918*, section 11A of the *Public Welfare Institutions Act 1935* or section 25B of the *Mental Health Services Act 1967* shall be treated for all purposes as having been paid into a trust fund established under section 32 and may be dealt with in accordance with that section.

Unclaimed property

9—Any money or personal effects of a patient who has died in a public hospital or of an inmate or patient who has died in an institution and which have not been dealt with before the proclaimed day in accordance with section 86 of the *Hospitals Act 1918*, section 11B of the *Public Welfare Institutions Act 1935* or section 25C of the *Mental Health Services Act 1967*, as the case may require, may on and after the proclaimed day be dealt with under section 33.

Application of certain provisions to board of management of Royal Derwent Hospital

10—The provisions of clauses 2 (1), 3, 4, 5 and 7 apply to the board of management of the Royal Derwent Hospital established under the *Mental Health Services Act 1967* as if—

- (a) the reference to a former hospital board were read as a reference to that board of management; and

SCHEDULE 3—*continued*

- (b) the reference to the Board having jurisdiction over the area of the hospitals district of the former hospital board were read as a reference to the Southern Regional Health Board.
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SCHEDULE 4

Section 39

CONSEQUENTIAL AMENDMENTS

Anatomy Act 1964

(No. 59 of 1964)

Section 3 (1) is amended by omitting the definition of “public hospital” and substituting the following definition:—

“**public hospital**” means a hospital maintained and operated by a board under the *Health (Regional Boards) Act 1991*;

Child Protection Act 1974

(No. 104 of 1974)

Section 7 is amended as follows:—

(a) by omitting paragraph (a) of subsection (1) and substituting the following paragraph:—

(a) a hospital maintained and operated by a board under the *Health (Regional Boards) Act 1991*;
or

(b) by omitting subsection (3) and substituting the following subsection:—

(3) For the purposes of this Act, the responsible authority for an assessment centre that is a hospital maintained and operated by a board under the *Health (Regional Boards) Act 1991* is the General Manager of that board.

SCHEDULE 4—continued

Cosgrove Park Act 1962

(No. 16 of 1962)

Section 2 is amended by omitting the definition of “board” and substituting the following definition:—

“**board**” means the Northern Regional Health Board established under the *Health (Regional Boards) Act 1991*;

Dental Act 1982

(No. 43 of 1982)

Section 37 (4) is amended as follows:—

(a) by omitting paragraph (a) and substituting the following paragraph:—

(a) a hospital maintained and operated by a board under the *Health (Regional Boards) Act 1991*;
or

(b) by omitting from paragraph (b) “Act; or” and substituting “Act.”;

(c) by omitting paragraph (c).

Hospitals Act 1918

(9 Geo. V No. 70)

1. The long title is amended by omitting “the administration, management, and control of public hospitals, and for”.

2. Section 4 is amended by omitting the definitions of “board” or “hospitals board”, “chairman”, “clerk”, “component local authority”, “hospital land”, “member”, “municipality”, “owner”, “park”, “public hospital”, “public hospitals district” or “hospitals district” and “relief”.

3. Section 5 (2) is amended by omitting “, 74, 75, and 76 (4)” and substituting “and 74”.

SCHEDULE 4—*continued*

4. Section 6 is amended as follows:—
 - (a) by omitting paragraph (b) of subsection (1);
 - (b) by omitting subsections (2), (3) and (4).
5. Part II is repealed.
6. Section 71 (1) is amended by omitting “public hospitals and”.
7. Section 72 is amended as follows:—
 - (a) by omitting from subsection (1) “public hospital or any”;
 - (b) by omitting from subsection (2) “hospital or” (twice occurring).
8. Section 73 is amended as follows:—
 - (a) by omitting from subsection (1) “board or”;
 - (b) by omitting from subsection (2) “board or” (twice occurring).
9. Sections 75, 76, 77, 79, 81 and 82 are repealed.
10. Sections 85, 86 and 86A are repealed.
11. Section 87 is amended by omitting subsection (1A).
12. Schedules 2 and 3 are repealed.

Industrial Relations Act 1984

(No. 21 of 1984)

Section 66 is amended as follows:—

- (a) by omitting from subsection (3) “*Hospitals Act 1918* concerning the provision of services for a public hospitals board” and substituting “*Health (Regional Boards) Act 1991* concerning the provision of services for a hospitals board”;
- (b) by omitting from subsection (5) the definition of “public hospitals board” and substituting the following definition:—

“hospitals board” means a board established under the *Health (Regional Boards) Act 1991*.

SCHEDULE 4—continued

Lady Clark Geriatric Centre Act 1968

(No. 23 of 1968)

Section 2 is amended by omitting the definition of “board” and substituting the following definition:—

“**board**” means the Southern Regional Hospitals Board established under the *Health (Regional Boards) Act 1991*.

Mental Health Act 1963

(No. 63 of 1963)

1. Section 3 is amended as follows:—

(a) by omitting the definition of “board of management”;

(b) by omitting paragraph (b) of the definition of “hospital authority” and substituting the following paragraph:—

(b) when used in relation to a public hospital, means the board maintaining and operating that hospital under the *Health (Regional Boards) Act 1991*;

(c) by omitting the definition of “public hospital” and substituting the following definition:—

“**public hospital**” means a hospital maintained and operated by a board under the *Health (Regional Boards) Act 1991*;

2. Section 6 (2) (b) is amended by omitting “of management”.

3. Section 109 (5) (ea) is amended by omitting all the words after “authority” (first occurring).

SCHEDULE 4—continued

Mental Health Services Act 1967

(No. 24 of 1967)

1. Section 2 is amended as follows:—

(a) by omitting the definitions of “authorized officer” and “board of management”;

(b) by omitting the definition of “hospitals board” and substituting the following definition:—

“**hospitals board**” means a board established under the *Health (Regional Boards) Act 1991*;

(c) by omitting the definition of “management order”;

(d) by omitting “board of management, that board of management” from the definition of “managing authority” and substituting “board established under the *Health (Regional Boards) Act 1991*, that board”;

(e) by omitting the definition of “public hospital” and substituting the following definition:—

“**public hospital**” means a hospital maintained and operated by a board under the *Health (Regional Boards) Act 1991*;

2. Section 9 (1) (b) is amended by omitting “and of each board of management”.

3. Part III is repealed.

4. Section 17 (3) is amended by omitting “*Hospitals Act 1918*” and substituting “*Health (Regional Boards) Act 1991*”.

5. Sections 18 and 19 are repealed.

6. Section 22 is amended as follows:—

(a) by omitting from subsection (1) “, and, with the consent of the Commission, a board of management,”;

(b) by omitting from subsection (2) “or a board of management”.

7. Section 23 is repealed and the following section is substituted:—

Estimates of Commission

23—The Commission shall, before the commencement of each financial year, submit to the Minister an estimate of its revenue and expenditure for that financial year.

SCHEDULE 4—continued

8. Section 24 is amended as follows:—

- (a) by omitting from subsection (1) “and each board of management are” and substituting “is”;
- (b) by omitting from subsection (2) all the words after “considers” and substituting “necessary.”;
- (c) by omitting from subsection (3) “or a board of management”;
- (d) by omitting subsection (4).

9. Section 25 is amended by omitting “and each board of management” and “and of each board of management”.

10. Sections 25B and 25C are repealed.

Pharmacy Act 1908

(8 Edw. VII No. 33)

1. Section 30B (6) is amended by inserting “maintained and operated by a board under the *Health (Regional Boards) Act 1991*” after “public hospital”.

2. Section 30C (2) is amended by inserting “maintained and operated by a board under the *Health (Regional Boards) Act 1991*” after “public hospital”.

Poisons Act 1971

(No. 81 of 1971)

Section 3 (1) is amended by omitting the definition of “public hospital” and substituting the following definition:—

“**public hospital**” means a hospital maintained and operated by a board under the *Health (Regional Boards) Act 1991*;

SCHEDULE 4—*continued****Public Health Act 1962***

(No. 75 of 1962)

1. Section 20 (2) is amended by omitting “The managing board or committee of a public hospital” and substituting “A Regional Health Board established under the *Health (Regional Boards) Act 1991*”.

2. Section 54 (4) is amended by omitting paragraph (c) and substituting the following paragraph:—

- (c) hospital maintained and operated by a board under the *Health (Regional Boards) Act 1991*;
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State Authorities Financial Management Act 1990

(No. 45 of 1990)

Schedule 1 is amended as follows:—

- (a) by omitting “Hospitals Boards under the *Hospitals Act 1918*”;
- (b) by inserting after Public Trust Office “Regional Health Boards established under the *Health (Regional Boards) Act 1991*”.
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Therapeutic Goods and Cosmetics Act 1976

(No. 1 of 1976)

Section 2 (1) is amended by omitting paragraph (b) of the definition of “public institution” and substituting the following paragraph:—

- (b) a hospital maintained and operated by a board under the *Health (Regional Boards) Act 1991*;

