



Western Australia

Private Hospitals and Health Services Act 1927

Compare between:

[24 Jan 2017, 08-b0-03] and [05 Apr 2023, 08-c0-00]

Western Australia

Private Hospitals and Health Services Act 1927

**An Act to provide for the control and regulation of private hospitals
and private psychiatric hostels and for related purposes.**

[Long title inserted: No. 11 of 2016 s. 260.]

Part I — Preliminary

1. Short title

This is the *Private Hospitals and Health Services Act 1927*.

[Section 1 inserted: No. 11 of 2016 s. 261.]

2. Terms used

- (1) In this Act, subject to the context —

CEO has the meaning given by section 3 of the *Health Legislation Administration Act 1984*;

Chief Psychiatrist has the meaning given in the *Mental Health Act 2014* section 4;

Department means the department of the Public Service of the State principally assisting the Minister in the administration of this Act;

health service has the meaning given in the *Health Services Act 2016* section 7;

hospital has the meaning given in the *Health Services Act 2016* section 8;

medical practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

mental illness has the meaning given in the *Mental Health Act 2014* section 4;

nursing home means premises in which persons who do not require constant medical attention are received as patients and lodged for the purpose of medical supervision and nursing care but does not include any premises declared by the Minister under section 3 not to be a nursing home for the purposes of this Act;

private hospital means a hospital that is not a public hospital;

private hospital service provider means the holder of a licence granted under this Act to conduct a private hospital or a private psychiatric hostel;

private non-profit hospital means a private hospital which is maintained by a religious or charitable organization and is not carried on for the purpose of private gain;

private psychiatric hostel means private premises in which 3 or more persons who —

- (a) are socially dependent because of mental illness; and
- (b) are not members of the family of the proprietor of the premises,

reside and are treated or cared for;

public hospital has the meaning given in the *Health Services Act 2016* section 8(6) and —

- (a) includes a hospital declared to be a public hospital under the *Health Services Act 2016* section 8(7); and
- (b) does not include a hospital declared not to be a public hospital under the *Health Services Act 2016* section 8(8).

- (2) Notwithstanding the provisions of any other Act, the making or giving of a grant or subsidy to a private hospital under this Act does not affect the status of the hospital as a private hospital.

[Section 2 inserted: No. 33 of 1972 s. 5; amended: No. 71 of 1976 s. 2; No. 85 of 1983 s. 3; No. 28 of 1984 s. 49; No. 53 of 1985 s. 15; No. 103 of 1994 s. 6 and 15; No. 14 of 1996 s. 4; No. 69 of 1996 s. 41; No. 61 of 2004 s. 12; No. 28 of 2006 s. 263; No. 22 of 2008 Sch. 3 cl. 27; No. 35 of 2010 s. 93; No. 25 of 2014 s. 26; No. 11 of 2016 s. 262; No. 19 of 2016 s. 183.]

3. Application of Act

- (1) This Act applies to any private hospital howsoever founded or maintained (whether wholly or partly by or under governmental

authority or otherwise), but does not apply to a hospital used exclusively in connection with a prison.

[(2) *deleted*]

- (3) The Minister may by notice published in the *Gazette* declare that any institution is not a nursing home for the purposes of this Act.

[Section 3 inserted: No. 33 of 1972 s. 6; amended: No. 28 of 1984 s. 50; No. 53 of 1985 s. 16; No. 49 of 1994 s. 4; No. 69 of 1996 s. 42; No. 11 of 2016 s. 263.]

4. Application of Act to hospitals where mentally ill treated

Where a private hospital or part of a private hospital is an authorised hospital under the *Mental Health Act 2014*, this Act has effect in relation to the hospital or part of the hospital, and persons received or admitted into it, subject to the provisions of that Act.

[Section 4 inserted: No. 69 of 1996 s. 43; amended: No. 25 of 2014 s. 27; No. 11 of 2016 s. 264.]

Part II — Administration

5. Minister to control general administration

The general administration of this Act shall be under the control of the Minister.

[5A. Deleted: No. 11 of 2016 s. 265.]

[6. Deleted: No. 28 of 1984 s. 51.]

[6A. Deleted: No. 71 of 1976 s. 3.]

[7. Deleted: No. 11 of 2016 s. 265.]

7A. Minister's powers

The Minister has power —

- (a) with the approval of the Treasurer, to make payments to or on behalf of any religious or charitable organisation for the purpose of defraying the interest on moneys borrowed by that organisation and expended or intended to be expended by that organisation on a project approved by the Minister in connection with a private non-profit hospital or nursing home maintained by that organisation; and
- (b) to make payments by way of subsidy in respect of patients who are unable to afford the payment of reasonable fees.

[Section 7A inserted: No. 11 of 2016 s. 266.]

[7B-9. Deleted: No. 11 of 2016 s. 267.]

10. Visiting and inspecting private hospitals

- (1) Any person authorised by the CEO for that purpose may —
 - (a) visit any private hospital; and

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- (b) inspect every part of any private hospital, including any outbuildings or premises attached to the private hospital; and
 - (c) subject to subsection (2) if the person is a medical practitioner, medically examine any patient in any hospital.
- (2) Where a patient is a patient in a private hospital the following provisions apply in respect of an examination under subsection (1)(c) —
 - (a) an examination must not be made except on complaint to the CEO; and
 - (b) the patient's medical practitioner must be notified of the intention of the authorised person to examine the patient and given an opportunity to be present at the examination; and
 - (c) the person who is the licence holder under Part IIIA in relation to the hospital in which the patient is accommodated must be notified of the intention to conduct the examination.

[Section 10 inserted: No. 11 of 2016 s. 268.]

11. Obstructing visits etc. under s. 10, offence

No person shall —

- (a) obstruct any person authorised under section 10 in the performance of his duties; or
- (b) wilfully mislead any person authorised under section 10 in such a way as to be likely to interfere with the due discharge of the functions of such officer under this Act.

Penalty: \$200.

[Section 11 amended: No. 33 of 1972 s. 14; No. 28 of 1984 s. 53; No. 11 of 2016 s. 269.]

[12-12A. Deleted: No. 11 of 2016 s. 270.]

[13. Deleted: No. 28 of 1984 s. 55.]

[Part III (s. 15-26) Deleted: No. 11 of 2016 s. 271.]

Part IIIA — Private hospitals

[Heading inserted: No. 53 of 1985 s. 22.]

26A. Terms used

In this Part —

body corporate includes any association of persons whether incorporated or not but does not include a partnership;

licence means a licence issued under this Part.

[Section 26A inserted: No. 53 of 1985 s. 22.]

26B. Licence to conduct private hospital

- (1) Any natural person or body corporate who or which desires to conduct a private hospital may apply and obtain a licence to conduct a private hospital.
- (2) Subject to this Act, a person not being a member of a firm or a body corporate who desires to obtain a licence to conduct a private hospital shall satisfy the CEO —
 - (a) that he or she has attained the age of 18 years; and
 - (b) that he or she is a person of good character and repute and a fit and proper person to conduct a private hospital; and
 - (c) that he or she has sufficient material and financial resources available to him or her to comply with the requirements of this Act; and
 - (d) that he or she understands fully the duties and obligations imposed on him or her in relation to the conduct of a private hospital under this Act and otherwise.
- (3) Subject to this Act, 2 or more persons constituting a firm who desire to obtain a licence to conduct a private hospital shall satisfy the CEO —
 - (a) that all the natural persons by whom the firm is constituted and all of the persons concerned in the

- management or conduct of any body corporate by which the firm is constituted are persons of good character and repute and are persons fit to be concerned in the management or control of the private hospital;
- (b) that the persons by whom or by which the firm is constituted have sufficient material and financial resources available to them to enable them to comply with the requirements of this Act;
 - (c) that at least one of the natural persons referred to in paragraph (a) understands fully the duties and obligations imposed in relation to the conduct of a private hospital under this Act and otherwise.
- (4) Subject to this Act, a body corporate that desires to obtain a licence to conduct a private hospital shall satisfy the CEO —
- (a) that all the natural persons concerned in the management or conduct of the applicant are persons of good character and repute and are persons fit to be concerned in the management or control of a private hospital; and
 - (b) that the applicant has sufficient material and financial resources available to it to enable it to comply with the provisions of this Act; and
 - (c) that at least one of the persons referred to in paragraph (a) understands fully the duties and obligations imposed in relation to the conduct and management of a private hospital under this Act and otherwise.

[Section 26B inserted: No. 53 of 1985 s. 22; amended: No. 28 of 2006 s. 264.]

26C. Premises to be approved etc. before licence granted

The CEO shall not grant a licence to conduct a private hospital unless he is satisfied —

- (a) that the proposed premises are suitable to be approved as a private hospital; and

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- (b) that arrangements for the management, equipment and staffing of the private hospital are satisfactory.

[Section 26C inserted: No. 53 of 1985 s. 22; amended: No. 28 of 2006 s. 264.]

26D. Licence, grant and conditions of etc.

- (1) Where the CEO is satisfied that an applicant complies with the requirements of section 26B and the premises at which the applicant proposes to conduct the private hospital are satisfactory for that purpose and that the arrangements for the management, equipment and staffing of the private hospital are satisfactory he may grant a licence to the applicant.
- (2) The CEO may impose such terms and conditions as he thinks fit in relation to any licence granted under this section.
- (3) Without limiting the generality of subsection (2) conditions imposed in relation to a private hospital may specify —
 - (a) the maximum number of patients that may be treated at any one time at the private hospital and kinds or classes of patients that may be treated at the private hospital; and
 - (b) the number and the categories of nursing and other staff, the kinds of nursing and other care that shall be provided or available at the private hospital and the periods and times at which they shall be provided or available.
- (4) Subject to subsection (5), the granting of a licence and the terms and conditions imposed in relation thereto under this section shall, subject to subsection (6), be in the discretion of the CEO.
- (5) When an application for a licence —
 - (a) is in respect of premises that are not approved as premises for a hospital under this Part the CEO shall notify the applicant of his decision within 3 months of the day that the application for the licence is lodged at the office of the CEO;

- (b) is in respect of premises that are approved premises for a hospital under this Part the CEO shall notify the applicant of his decision within 30 days of the day that the application for the licence is lodged at the office of the CEO.
- (6) A person who is aggrieved by a decision of the CEO refusing to grant a licence may within 30 days of that decision appeal to the Minister.
- (7) The CEO may revoke or vary any terms or conditions or both that apply in relation to any licence issued under this Part.
[Section 26D inserted: No. 53 of 1985 s. 22; amended: No. 28 of 2006 s. 264.]

26DA. Private hospital not to treat etc. mentally ill unless licence endorsed

- (1) A person shall not conduct or manage a private hospital in which any person is detained for the treatment of mental illness unless the licence for that hospital is endorsed under this section.
Penalty: \$5 000.
- (2) A licence may be endorsed by the CEO to allow persons to be received and admitted to the hospital under the *Mental Health Act 2014* and to be detained as involuntary patients under that Act.
- (3A) The CEO cannot endorse a licence unless the Chief Psychiatrist recommends the endorsement.
- (3) An application may be made to the CEO for an endorsement under this section —
 - (a) on the application for a licence; or
 - (b) on an application under regulations referred to in subsection (5).

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- (4) The CEO may make an endorsement under this section subject to any condition or restriction.
- (5) Regulations may be made under section 26O making provision for and in respect of applications for endorsements under this section, including the payment of fees in connection with the application.

[Section 26DA inserted: No. 69 of 1996 s. 44; amended: No. 28 of 2006 s. 264; No. 25 of 2014 s. 28.]

26E. Licence, duration and renewal of etc.

- (1) Subject to this Act, every licence is valid from the date of its being granted but may be surrendered or cancelled pursuant to this Part.
- (2) A licence may be renewed annually in accordance with the regulations.
- (3) A licence is not transferable.

[Section 26E inserted: No. 53 of 1985 s. 22.]

26F. Licence, cancelling etc.

- (1) Where the CEO is satisfied that —
 - (a) the holder of a licence to conduct a private hospital is not fit to be concerned in or able to conduct a private hospital or, if the holder of a licence is a body corporate, any person concerned in the management or conduct of the body corporate is not fit to be concerned in or able to conduct a private hospital; or
 - (b) the premises of a private hospital or any portion thereof are no longer suitable to be used as a private hospital; or
 - (c) a licence holder does not comply with this Act or the terms or conditions imposed by the CEO in relation to the licence issued to him or it; or

- (d) a licence holder fails to carry out an order given under section 26G,

the CEO may cancel or refuse to renew the licence granted in respect of that licence holder.

- (2) A licence shall not be cancelled under subsection (1) unless and until a notice of intention to cancel the licence and summary of the reasons for the proposed cancellation have been served on the licence holder and the licence holder has been given a reasonable opportunity to be heard on the matter.

[Section 26F inserted: No. 53 of 1985 s. 22; amended: No. 28 of 2006 s. 264.]

26FA. Endorsement under s. 26DA, cancelling

- (1) The CEO may cancel an endorsement under section 26DA if he or she is satisfied that —
 - (a) a private hospital is no longer suitable to have its licence endorsed under that section; or
 - (b) the licence holder —
 - (i) has contravened any provision of the *Mental Health Act 2014*; or
 - (ii) failed to comply with any condition or restriction to which the endorsement is subject.

- (2A) The CEO must consult the Chief Psychiatrist before deciding whether or not to cancel an endorsement.

- (2) Section 26F(2) applies to a proposed cancellation under this section as it applies to the proposed cancellation of a licence.

[Section 26FA inserted: No. 69 of 1996 s. 45; amended: No. 28 of 2006 s. 264; No. 25 of 2014 s. 29.]

26G. CEO may close private hospital

- (1) Notwithstanding the fact that any premises are approved under this Part as premises for a private hospital where the CEO is

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satisfied that any building work in the private hospital has not been carried out in a workmanlike manner or that any part of the building is unsafe or unsatisfactory or that any equipment or thing is faulty or unsatisfactory the CEO may by order in writing direct the licence holder to have the building work remedied or to remedy or renew the faulty or unsatisfactory equipment or thing within such time as the CEO specifies in the order.

- (2) A licence holder who fails to comply with an order given under subsection (1) within the time specified in the order commits an offence.

Penalty: \$2 000.

- (3) Where a licence holder fails to comply with an order under subsection (1) within the time specified therein the CEO may order the closure of the private hospital notwithstanding the fact that proceedings for an offence against subsection (2) have not been commenced or if commenced have not been completed.

- (4) Notwithstanding anything in this section, the CEO may, if in the opinion of the CEO, the necessity of the case so requires, order any private hospital which the CEO deems unsafe to be closed forthwith and thereupon the hospital shall be closed accordingly until the CEO by order in writing permits the private hospital to be opened.

[Section 26G inserted: No. 53 of 1985 s. 22; amended: No. 28 of 2006 s. 264.]

26H. State Administrative Tribunal may review decisions under s. 26F and 26FA

- (1) A person whose licence to conduct a private hospital is cancelled or whose licence is not renewed under section 26F or whose endorsement under section 26DA is cancelled may apply to the State Administrative Tribunal for a review of the cancellation or non-renewal.

[(2) deleted]

- (3) Notwithstanding section 26K where the CEO has cancelled a licence or endorsement or refused to renew a licence under section 26F and the licence holder applies for a review of the cancellation of the licence or endorsement or refusal to renew the licence the CEO may pending the determination of the application permit a person to conduct the private hospital conducted by the licence holder prior to the cancellation or refusal subject to such terms and conditions as the CEO specifies in writing.

[Section 26H inserted: No. 53 of 1985 s. 22; amended: No. 69 of 1996 s. 46; No. 55 of 2004 s. 517; No. 28 of 2006 s. 264.]

26I. Grants and subsidies by State to private hospitals

- (1) The Governor may, out of moneys appropriated by Parliament, make grants or subsidies towards the costs of establishing or maintaining, or both, a private hospital in respect of which a licence is granted under this Part.
- (2) A grant or subsidy shall not be made or given under this section unless the licence holder agrees to conduct the private hospital in accordance with the regulations and such conditions as are imposed by the CEO and to comply with any directions given by the CEO.

[Section 26I inserted: No. 53 of 1985 s. 22; amended: No. 28 of 2006 s. 264.]

26J. Guidelines for construction etc. of private hospitals

- (1) The CEO may issue guidelines with respect to the construction, establishment and maintenance of private hospitals.
- (2) Guidelines issued under subsection (1) may —
- (a) specify standards to be observed and procedures to be followed in relation to the construction, establishment and maintenance of private hospitals;

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- (b) adopt, either wholly or in part or with modifications and either specifically or by reference to any rules, regulations, codes, instructions or subsidiary legislation under any Act of the State or the Commonwealth or any standards, rules, codes or specifications of the bodies known as Standards Australia, the British Standards Institution or other body specified in the guidelines.

[Section 26J inserted: No. 53 of 1985 s. 22; amended: No. 74 of 2003 s. 67(3); No. 28 of 2006 s. 264.]

26K. Offences

A person must not —

- (a) conduct or manage, or by any means hold out that the person conducts or manages, a private hospital unless —
 - (i) the person is the holder of a licence; or
 - (ii) the private hospital is a nursing home and the conduct or management of the nursing home is a residential care service, or part of a residential care service, that is certified under Part 2.6 of the *Aged Care Act 1997* of the Commonwealth;or
- (b) conduct or manage, or by any means hold out that that person conducts or manages, a private hospital unless —
 - (i) the premises are premises that are approved as a private hospital under this Part; or
 - (ii) the premises are a nursing home and the conduct or management of the nursing home is a residential care service, or part of a residential care service, that is certified under Part 2.6 of the *Aged Care Act 1997* of the Commonwealth;or

- (c) build, alter or extend a private hospital unless —
 - (i) the CEO has approved of the building, alteration or extension, as the case requires; or
 - (ii) the private hospital is a nursing home and the conduct or management of the nursing home is a residential care service, or part of a residential care service, that is certified under Part 2.6 of the *Aged Care Act 1997* of the Commonwealth.

Penalty: \$5 000.

[Section 26K inserted: No. 45 of 2006 s. 4; amended: No. 47 of 2011 s. 27.]

26L. Failure to comply with licence conditions

A licence holder who or which fails to comply with any term or condition specified in the licence issued to the licence holder commits an offence.

Penalty: \$1 000.

[Section 26L inserted: No. 53 of 1985 s. 22.]

26M. ~~Vicarious liability of directors etc.~~ Liability of officers for offence by body corporate

~~Where a body corporate is guilty of an offence against any provision of this Part, every director and every person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of the body corporate, or was acting, or purporting to act in any such capacity, shall also be liable to be convicted of the offence unless that person proves that the offence was committed without his or her consent or knowledge and that he or she exercised all such diligence to prevent the commission of the offence as he or she ought to have exercised having regard to his or her functions in that capacity and in all the circumstances.~~

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[The Criminal Code section 39 \(which provides for the criminal liability of officers of a body corporate\) applies to an offence under a provision of this Act listed in the Table.](#)

Table

s. 26DA(1)	s. 26G(2)
s. 26K	s. 26L

[Section 26M inserted: No. ~~539~~ of ~~1985~~2023 s. ~~22~~120.]

26N. Application for licence and licence, forms of

- (1) An application for a licence under this Part and any licence issued under this Part shall be in the form of a form approved by the CEO.
- (2) The CEO may require an applicant for a licence to submit such additional information in support of the application as the CEO specifies and the CEO may require any information in support of an application to be verified by statutory declaration.

[Section 26N inserted: No. 53 of 1985 s. 22; amended: No. 28 of 2006 s. 264.]

26O. Regulations

- (1) The Governor may make such regulations as are contemplated by this Part or as he considers necessary or expedient for the purposes of this Part.
- (2) Without limiting the generality of subsection (1), the regulations may —
 - (a) prescribe the fees payable in relation to an application for a licence to be paid to the CEO, for the renewal of any licence and for the approval of any premises as a private hospital;
 - (b) provide for the conduct, good management and staffing of private hospitals;

- (c) provide for the establishment and keeping of registers containing such information as may be prescribed in relation to private hospitals;
 - (d) provide for the separation or removal of any patient suffering from any fever or infectious or contagious disease;
 - (e) prescribe penalties not exceeding \$500 for a breach of any regulation.
- (3) The Governor may by order published in the *Government Gazette* exempt any private hospital from any of the regulations made under this section generally or for such period as is specified in the order.
- (4) An order made under subsection (3) may be cancelled or extended from time to time by the Governor by further order published in the *Government Gazette*.

[Section 26O inserted: No. 53 of 1985 s. 22; amended: No. 28 of 2006 s. 264.]

Part IIIB — Private psychiatric hostels

[Heading inserted: No. 69 of 1996 s. 47.]

26P. Term used: resident

In this Part —

resident, in relation to a private psychiatric hostel, means a person —

- (a) who is socially dependent because of mental illness; and
- (b) who is residing and being cared for or treated in the hostel.

[Section 26P inserted: No. 69 of 1996 s. 47; amended: No. 25 of 2014 s. 30; No. 11 of 2016 s. 272.]

26Q. Part IIIA, with modifications, applies to private psychiatric hostels

- (1) Subject to this section, Part IIIA applies to and in relation to private psychiatric hostels as if references in that Part to a private hospital were references to a private psychiatric hostel.
- (2) In its application under subsection (1) Part IIIA is modified as follows —
 - (a) section 26D(3)(a) is to be read as if it referred to “the maximum number of residents who may reside in a private psychiatric hostel at any one time and the kinds or classes of residents that may be cared for or treated at the private psychiatric hostel”; and
 - (b) section 26DA does not apply; and
 - (c) in section 26O(2)(d) the reference to “patient” is to be read as “resident”; and
 - (d) section 26O is to be read as authorising the making of regulations —
 - (i) prescribing, in relation to residents of private psychiatric hostels who are in receipt of pension

payable under laws of the Commonwealth, the minimum proportion of pension that is to be paid or remitted to the resident for his or her own use; and

- (ii) prescribing returns and other particulars to be furnished to the Chief Psychiatrist.

[Section 26Q inserted: No. 69 of 1996 s. 47; amended: No. 25 of 2014 s. 31.]

Part IIIC — Information

[Heading inserted: No. 11 of 2016 s. 273.]

26R. Purpose for collecting, using or disclosing information

The purpose for which the CEO may collect, use or disclose information under this Part is to assist in —

[(a), (c) deleted]

- (b) the regulation of private hospitals and private psychiatric hostels; and
- (d) health related research, whether that research is conducted by persons employed or engaged in the Department or other persons.

[Section 26R inserted: No. 61 of 2004 s. 14; amended: No. 28 of 2006 s. 264; No. 11 of 2016 s. 274.]

26S. CEO may direct private hospital service provider to give information

- (1) The CEO may direct a private hospital service provider to give to the CEO the information specified in the direction.
- (2) The information specified may include personal information.
- (3) The CEO may not specify information in a direction unless —
 - (a) the information relates to hospital, health or psychiatric services provided to individuals by the private hospital service provider; and
 - (b) the CEO is satisfied that collecting the information is consistent with the purpose for which information may be collected under this Part.
- (4) The direction may specify the information by reference to a class of information and may specify the form in which it is to be given.

- (5) The private hospital service provider must comply with the direction.
- (6) A direction may be given in relation to information obtained by the private hospital service provider before the commencement of this Part.
- (7) A particular direction may be given to one or more named private hospital service providers, one or more classes of private hospital service providers, or all private hospital service providers.
- (8) In this section —

personal information means information or an opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

[Section 26S inserted: No. 61 of 2004 s. 14; amended: No. 28 of 2006 s. 264; No. 11 of 2016 s. 275.]

26T. No liability for disclosure

If a private hospital service provider discloses information in compliance with a direction under section 26S —

- (a) no civil or criminal liability is incurred in respect of the disclosure; and
- (b) the disclosure is not to be regarded as —
 - (i) a breach of any duty of confidentiality or secrecy imposed by law; or
 - (ii) a breach of professional ethics or standards or any principles of conduct applicable to a person's employment; or
 - (iii) unprofessional conduct.

[Section 26T inserted: No. 11 of 2016 s. 276.]

Part IV — General

[27. Deleted: No. 11 of 2016 s. 277.]

[28. Deleted: No. 33 of 1972 s. 25.]

[29. Deleted: No. 11 of 2016 s. 277.]

[30. Deleted: No. 33 of 1972 s. 26.]

[31-31A. Deleted: No. 11 of 2016 s. 277.]

[32. Deleted: No. 53 of 1985 s. 25.]

[33. Deleted: No. 11 of 2016 s. 277.]

[33A-33C. Deleted: No. 17 of 1996 s. 11.]

[34-35. Deleted: No. 11 of 2016 s. 277.]

35A. Protection from personal liability

- (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.
- (2) The protection given by this section applies even though the thing done as described in subsection (1) may have been capable of being done whether or not this Act had been enacted.
- (3) Despite subsection (1), the State is not relieved of any liability that it might have for another person having done any thing as described in that subsection.
- (4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

[Section 35A inserted: No. 11 of 2016 s. 278.]

[35B-36. Deleted: No. 11 of 2016 s. 279.]

37. Regulations

- (1) The Governor may make regulations for or with respect to any matter, whether general or to meet a particular case, that is requisite or expedient to give effect to the purposes of this Act.

[(2)-(2g) deleted]

- (3) Regulations may be made under this section —

(a) so as to apply —

- (i) at all times or at a specified time or at specified times; and
- (ii) throughout the State or in a specified part or specified parts of the State; and
- (iii) generally or in a particular class of case or in particular classes of cases;

and

(b) so as to require a matter affected by them to be —

- (i) in accordance with a specified standard or specified requirement; or
- (ii) as approved by, or to the satisfaction of, a specified person or body or a specified class of person or body;

and

(c) so as to confer on a specified person or body or a specified class of person or body a discretionary authority; and

(d) so as to provide that, whether on specified conditions or unconditionally, persons or things or a class or classes of persons or things may be exempted from the provisions of the regulations, either wholly or to such extent as is specified; and

(e) so as to impose a penalty not exceeding \$50 for any breach of the regulations.

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- (4) In subsection (3) *specified* means specified in the regulations.

[Section 37 inserted: No. 33 of 1972 s. 30; amended: No. 64 of 1980 s. 5; No. 43 of 1981 s. 4; No. 85 of 1983 s. 9; No. 28 of 1984 s. 56; No. 53 of 1985 s. 29; No. 73 of 1994 s. 4; No. 17 of 1996 s. 13; No. 28 of 2006 s. 264; No. 19 of 2010 s. 51; No. 11 of 2016 s. 280.]

38. Review of Act

- (1) The Minister shall carry out a review of the operation of this Act as soon as is practicable after 1 January 1991 and every fifth anniversary of that date and in the course of such review the Minister shall consider and have regard to —

- (a) the attainment of the objects of this Act;
- (b) the administration of this Act;
- (c) the effectiveness of the operations of the Minister, the Department, the CEO and authorised persons under this Act;

[(d) deleted]

- (e) such other matters as appear to the Minister to be relevant.

- (2) The Minister shall prepare a report based on the review referred to in subsection (1) and shall, as soon as is practicable after its preparation, cause the report to be laid before each House of Parliament.

[Section 38 inserted: No. 53 of 1985 s. 30; amended: No. 28 of 2006 s. 264; No. 11 of 2016 s. 281.]

[Schedule deleted: No. 11 of 2016 s. 282.]

Notes

¹—This is a compilation of the *Private Hospitals and Health Services Act 1927* and includes ~~the~~ amendments made by ~~the~~ other written laws ~~referred to in the following table^{1,2,3}~~. ~~The table also contains~~. [For provisions that have come into operation, and for](#) information about any ~~reprint~~reprints, [see the compilation table](#).

Compilation table

Short title	Number and year	Assent	Commencement
<i>Hospitals Act 1927</i> ⁴³	23 of 1927 (18 Geo. V No. 23)	23 Dec 1927	1 Jan 1928 (see s. 1)
<i>Hospitals Act Amendment Act 1948</i>	9 of 1948 (12 Geo. VI No. 9)	11 Nov 1948	11 Nov 1948
<i>Hospitals Act Amendment Act 1953</i>	16 of 1953 (2 Eliz. II No. 16)	20 Nov 1953	20 Nov 1953
<i>Hospitals Act Amendment Act 1955</i>	51 of 1955 (4 Eliz. II No. 51)	9 Dec 1955	9 Dec 1955
Reprint of the <i>Hospitals Act 1927</i> approved 14 Aug 1961 in Volume 15 of Reprinted Acts (includes amendments listed above)			
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	Act other than s. 4-9: 21 Dec 1965 (see s. 2(1)); s. 4-9: 14 Feb 1966 (see s. 2(2))
<i>Hospitals Act Amendment Act 1969</i>	89 of 1969	17 Nov 1969	17 Nov 1969
<i>Hospitals Act Amendment Act 1972</i>	33 of 1972	16 Jun 1972	30 Jun 1972 (see s. 2 and <i>Gazette</i> 30 Jun 1972 p. 2098-9)
Reprint of the <i>Hospitals Act 1927</i> approved 11 Dec 1972 (includes amendments listed above)			
<i>Hospitals Act Amendment Act 1973</i>	10 of 1973	25 May 1973	25 May 1973
<i>Hospitals Act Amendment Act 1975</i>	104 of 1975	1 Dec 1975	1 Dec 1975
<i>Hospitals Act Amendment Act 1976</i>	71 of 1976	6 Oct 1976	6 Oct 1976
<i>Hospitals Amendment Act 1980</i>	64 of 1980	26 Nov 1980	8 Jul 1983 (see s. 2 and <i>Gazette</i> 8 Jul 1983 p. 2475)

Private Hospitals and Health Services Act 1927**Notes**

Compilation table

Short title	Number and year	Assent	Commencement
<i>Hospitals Amendment Act 1981</i>	43 of 1981	26 Aug 1981	1 Sep 1981 (see s. 2)
<i>Acts Amendment (Statutory Designations) and Validation Act 1981</i> s. 4	63 of 1981	13 Oct 1981	13 Oct 1981
<i>Hospitals Amendment Act 1982</i>	84 of 1982	15 Nov 1982	15 Nov 1982
<i>Hospitals Amendment Act 1983</i>	85 of 1983	22 Dec 1983	Act other than s. 3-9: 22 Dec 1983 (see s. 2(1)); s. 3-9: 1 Feb 1984 (see s. 2(2) and <i>Gazette</i> 20 Jan 1984 p. 120)
<i>Health Legislation Amendment Act 1984</i> Pt. X	28 of 1984	31 May 1984	1 Jul 1984 (see s. 2 and <i>Gazette</i> 15 Jun 1984 p. 1629)
<i>Acts Amendment (Hospitals) Act 1985</i> Pt. III	53 of 1985 (as amended by No. 55 of 2004 s. 518)	5 Nov 1985	23 Jan 1987 (see s. 2 and <i>Gazette</i> 23 Jan 1987 p. 179)
<i>Acts Amendment (Financial Administration and Audit) Act 1985</i> s. 3	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Acts Amendment (Public Service) Act 1987</i> s. 32	113 of 1987	31 Dec 1987	16 Mar 1988 (see s. 2 and <i>Gazette</i> 16 Mar 1988 p. 813)
<i>Guardianship and Administration Act 1990</i> s. 123	24 of 1990	7 Sep 1990	20 Oct 1992 (see s. 2 and <i>Gazette</i> 2 Oct 1992 p. 4811)
Reprint of the <i>Hospitals Act 1927</i> as at 22 Apr 1993 (includes amendments listed above)			
<i>Financial Administration Legislation Amendment Act 1993</i> s. 11	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Acts Amendment (Health Services Integration) Act 1994</i> Pt. 2	49 of 1994	10 Oct 1994	10 Oct 1994 (see s. 2)
<i>Statutes (Repeals and Minor Amendments) Act 1994</i> s. 4	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)

Short title	Number and year	Assent	Commencement
<i>Hospitals Amendment Act 1994</i>	103 of 1994	11 Jan 1995	s. 1 and 2: 11 Jan 1995; s. 3 and Pt. 2 and 3: 3 Feb 1995 (see s. 2 and <i>Gazette</i> 3 Feb 1995 p. 333)
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Hospitals and Health Services Amendment Act 1996</i>	17 of 1996	2 Jul 1996	s. 1 and 2: 2 Jul 1996; Act other than s. 1 and 2: 18 Sep 1996 (see s. 2 and <i>Gazette</i> 17 Sep 1996 p. 4691)
<i>Financial Legislation Amendment Act 1996</i> s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Mental Health (Consequential Provisions) Act 1996</i> Pt. 10	69 of 1996	13 Nov 1996	13 Nov 1997 (see s. 2)
<i>Acts Amendment (Land Administration) Act 1997</i> Pt. 32	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Statutes (Repeals and Minor Amendments) Act 1997</i> s. 74(3) ⁵⁴	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<i>Acts Amendment and Repeal (Financial Sector Reform) Act 1999</i> s. 86	26 of 1999	29 Jun 1999	1 Jul 1999 (see s. 2(1) and <i>Gazette</i> 30 Jun 1999 p. 2905)
Reprint of the <i>Hospitals and Health Services Act 1927</i> as at 15 Oct 1999 (includes amendments listed above)			
<i>Statutes (Repeals and Minor Amendments) Act 2000</i> s. 18	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000</i> s. 48(1) ⁴⁸	43 of 2000 (as amended by No. 11 of 2016 s. 304)	2 Nov 2000	17 Feb 2001 (see s. 2(2) and <i>Gazette</i> 16 Feb 2001 p. 903)
<i>Hospitals and Health Services Amendment Act 2002</i> ⁶⁵	17 of 2002	8 Jul 2002	8 Jul 2002 (see s. 2)

Private Hospitals and Health Services Act 1927

Notes

Compilation table

Short title	Number and year	Assent	Commencement
<i>Acts Amendment (Equality of Status) Act 2003 s. 119</i>	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)
<i>Statutes (Repeals and Minor Amendments) Act 2003 s. 67 and 146(2)</i>	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
<i>Workers' Compensation Reform Act 2004 s. 161</i>	42 of 2004	9 Nov 2004	14 Nov 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7131 and 17 Jun 2005 p. 2657); Para (b) of proclamation published 31 Dec 2004 p. 7131 revoked (see <i>Gazette</i> 17 Jun 2005 p. 2657)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 63 Subdiv. 1 ⁴⁶</i>	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Health Legislation Amendment Act 2004 Pt. 4</i>	61 of 2004	24 Nov 2004	24 Nov 2004 (see s. 2)
Reprint 5: The Hospitals and Health Services Act 1927 as at 26 Aug 2005 (includes amendments listed above except those in the <i>Workers' Compensation Reform Act 2004</i>)			
<i>Machinery of Government (Miscellaneous Amendments) Act 2006 Pt. 9 Div. 6 ⁴⁷</i>	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
<i>Hospitals and Health Services Amendment Act 2006</i>	45 of 2006	4 Oct 2006	4 Oct 2006 (see s. 2)
<i>Financial Legislation Amendment and Repeal Act 2006 s. 4 and Sch. 1 cl. 86</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Duties Legislation Amendment Act 2008 Sch. 1 cl. 16</i>	12 of 2008	14 Apr 2008	1 Jul 2008 (see s. 2(d))
<i>Medical Practitioners Act 2008 Sch. 3 cl. 27</i>	22 of 2008	27 May 2008	1 Dec 2008 (see s. 2 and <i>Gazette</i> 25 Nov 2008 p. 4989)
Reprint 6: The Hospitals and Health Services Act 1927 as at 13 Feb 2009 (includes amendments listed above)			

Short title	Number and year	Assent	Commencement
<i>Statutes (Repeals and Miscellaneous Amendments) Act 2009</i> s. 13	8 of 2009	21 May 2009	22 May 2009 (see s. 2(b))
<i>Acts Amendment (Bankruptcy) Act 2009</i> s. 43	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))
<i>Standardisation of Formatting Act 2010</i> s. 4 and 51	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
<i>Health Practitioner Regulation National Law (WA) Act 2010</i> Pt. 5 Div. 26	35 of 2010	30 Aug 2010	18 Oct 2010 (see s. 2(b) and <i>Gazette</i> 1 Oct 2010 p. 5075-6)
<i>Public Sector Reform Act 2010</i> s. 89	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and <i>Gazette</i> 5 Nov 2010 p. 5563)
<i>Statutes (Repeals and Minor Amendments) Act 2011</i> s. 16 and 27	47 of 2011	25 Oct 2011	26 Oct 2011 (see s. 2(b))
Reprint 7: The Hospitals and Health Services Act 1927 as at 27 Jan 2012 (includes amendments listed above)			
<i>National Health Funding Pool Act 2012</i> Pt. 7	44 of 2012	20 Nov 2012	15 Dec 2012 (see s. 2(b) and <i>Gazette</i> 14 Dec 2012 p. 6195)
<i>Mental Health Legislation Amendment Act 2014</i> Pt. 4 Div. 3	25 of 2014	3 Nov 2014	30 Nov 2015 (see s. 2(b) and <i>Gazette</i> 13 Nov 2015 p. 4632)
<i>Health Services Act 2016</i> Pt. 20 Div. 1	11 of 2016	26 May 2016	1 Jul 2016 (see s. 2(b) and <i>Gazette</i> 24 Jun 2016 p. 2291)
<i>Public Health (Consequential Provisions) Act 2016</i> Pt. 3 Div. 23	19 of 2016	25 Jul 2016	24 Jan 2017 (see s. 2(1)(c) and <i>Gazette</i> 10 Jan 2017 p. 165)
Reprint 8: The Private Hospitals and Health Services Act 1927 as at 21 Oct 2016 (includes amendments listed above except the <i>Public Health (Consequential Provisions) Act 2016</i>)			
<i>Directors' Liability Reform Act 2023</i> Pt. 3 Div. 48	9 of 2023	4 Apr 2023	5 Apr 2023 (see s. 2(j))

Other notes

- ¹ The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 25 was deleted by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).
- ³² The *Hospitals and Health Services Amendment Act 2013* s. 3-7 had not come into operation when they were deleted by the *Health Services Act 2016* s. 283.
- ⁴³ The short title was initially the *Hospitals Act 1927* and was subsequently changed to the *Hospitals and Health Services Act 1927* then to the *Private Hospitals and Health Services Act 1927* (see note under s. 1).
- ⁵⁴ The amendments in the *Statutes (Repeals and Minor Amendments) Act 1997* s. 74(1) and (2) are not included because the subsections they sought to amend were amended by the *Mental Health (Consequential Provisions) Act 1996* s. 42 before the amendments purported to come into operation.
- ⁶⁵ The *Hospitals and Health Services Amendment Act 2002* s. 8 reads as follows:

8. Validation

- (1) In this section —
agency has the same meaning as it has in the *Hospitals and Health Services Act 1927*.
- (2) Anything done or purporting to have been done by an agency for the purposes referred to in section 7B(1) of the *Hospitals and Health Services Act 1927* is, and is taken always to have been, as valid and effective as it would have been if the amendments to that Act in sections 5 and 6 had at all relevant times been made.

- ⁷⁶ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.
- ⁸⁷ The *Machinery of Government (Miscellaneous Amendments) Act 2006* Pt. 9 Div. 13 reads as follows:

Division 13 — Transitional provisions

289. Commissioner of Health

- (1) A thing done or omitted to be done by, to or in relation to, the Commissioner of Health before commencement under, or for the purposes of, an enactment has the same effect after commencement, to the extent that it has any force or significance

after commencement, as if it had been done or omitted by, to or in relation to, the CEO.

(2) In this section —

CEO has the meaning given by section 3 of the *Health Legislation Administration Act 1984* as in force after commencement;

commencement means the time at which this Division comes into operation;

Commissioner of Health means the Commissioner of Health referred to in section 6(1)(a) of the *Health Legislation Administration Act 1984* as in force before commencement.

⁹⁸ The *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 48(2) was deleted by the *Health Services Act 2016* s. 304.