

Queensland



HOSPITALS FOUNDATIONS ACT 1982

**Reprinted as in force on 19 September 1994
(includes amendments up to Act No. 15 of 1994)**

Reprint No. 1

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Information about this reprint

This Act is reprinted as at 19 September 1994. The reprint—

- shows the law as amended by all amendments that commenced on or before that day
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (Pt 4, Div 2)
- express gender specific provisions in a way consistent with current legislative drafting practice (s 24)
- use gender neutral office names (s 25)
- correct spelling and use different spelling consistent with current legislative drafting practice (s 26(2))
- use standard punctuation consistent with current legislative drafting practice (s 27)
- use conjunctives and disjunctives consistent with current legislative drafting practice (s 28)
- use expressions consistent with current legislative drafting practice (s 29)
- use aspects of format and printing style consistent with current legislative drafting practice (s 35)
- omit provisions that are no longer required (ss 36 and 39)
- omit unnecessary referential words (s 41)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43)
- correct minor errors (s 44).

Also see Endnotes for information about—

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
 - **Table of changed names and titles**
 - **Table of obsolete and redundant provisions**
 - **Table of corrected minor errors**
 - **Table of renumbered provisions.**

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HOSPITALS FOUNDATIONS ACT 1982

[as amended by all amendments that commenced on or before 19 September 19942]

An Act to provide for the establishment and incorporation of bodies to hold property for and apply property to a continuing object within or associated with hospitals, to make provision with respect to the administration of those bodies and for related purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Hospitals Foundations Act 1982*^{3–8}.

Commencement

2.(1) Section 1 and this section shall commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as is prescribed in subsection (1) the provisions of this Act shall commence on a date appointed by proclamation.

Definitions

4. In this Act—

“**appointed member**”, in relation to a body corporate, means a member of the body corporate other than the member thereof *ex officio*.

“**body corporate**” means a body corporate established under section 7.

“**hospital**” means a hospital controlled by a Regional Health Authority established under the *Health Services Act 1991* or by a board deemed

pursuant to any Act to be such a Regional Health Authority.

“regional director” means a regional director appointed for the relevant region under the *Health Services Act 1991*.

“Regional Health Authority” means a Regional Health Authority established under the *Health Services Act 1991*.

“register” means the register of bodies corporate kept in the Department of Health for the purposes of this Act.

“the associated hospital” means the hospital within or in association with which a body corporate pursues its objects.

“the fund” means the general fund established and maintained by a body corporate.

PART 2—APPLICATIONS FOR ESTABLISHMENT OF BODIES CORPORATE

Class of applicant

5. Any person in whom is vested property, being—

- (a) money in an amount of \$10 000, or such greater amount as may be prescribed, at the least; or
- (b) property of any other kind of a value of \$10 000, or such greater value as may be prescribed, at the least;

and who desires or is required by law to apply that property to a continuing object of a description within the scope of objects specified in section 13 may apply to the Minister for the establishment of a body corporate to hold, manage and apply the property.

Matter to be included in applications

6.(1) An application under section 5—

- (a) shall state the name in which it is sought to have a body corporate established under this Act, which name shall be consistent with

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the requirements of this Act; and

- (b) shall state the object or objects to which it is proposed to apply the property held by the applicant; and
- (c) shall state the name of the hospital within which or in association with which it is proposed to pursue that object or those objects; and
- (d) shall include or be accompanied by such other information and documents as the Minister may require.

(2) An application may be varied by the applicant at any time before the Minister makes a recommendation in relation to it.

(3) If the Minister is satisfied that an application, as originally made or as varied, has been made in circumstances where a body corporate should be established the Minister may recommend to the Governor in Council that a body corporate be established pursuant to section 7 but otherwise the Minister shall refuse the application.

PART 3—ESTABLISHMENT AND REGISTRATION OF BODIES CORPORATE

Establishment of bodies corporate

7.(1) The Governor in Council may establish a body corporate by regulation.

(2) The regulation must—

- (a) specify the body's name; and
- (b) appoint the first appointed members of the body.

(3) The body's name must not be the same as the name of another body corporate.

Body to be incorporated

8.(1) Every body established under section 7 shall be, under its registered name, a body corporate with perpetual succession and a common seal and, subject to this Act, shall be capable of—

- (a) suing and being sued, submitting itself to arbitration and complying with awards made by any arbitrator;
- (b) compounding or proving in any court of competent jurisdiction all debts and sums of money due to it;
- (c) acquiring, holding, leasing, letting, alienating and charging property and any interest therein, whether the property is situated in Queensland or elsewhere;
- (d) doing and suffering all such other acts and things as bodies corporate may in law do and suffer.

(2) All courts and persons acting judicially shall take judicial notice of the common seal of a body corporate and until the contrary is proved shall presume that it has been duly affixed to any document on which it appears.

Registration of bodies corporate

9. There shall be kept in the department a register of bodies corporate established under this Act in which shall be entered—

- (a) the name under which each body corporate is established; and
- (b) the date on which each body corporate was or is to become established; and
- (c) a copy of the current object or objects of each body corporate.

Name of bodies corporate

10. Each body corporate shall have included in its name the term ‘Foundation’ or the term ‘Trust’.

Restriction on change of objects

11.(1) If a body corporate desires to alter in any way the object or objects registered in respect of it in the register it shall first make application to the

Minister for his or her approval to the alteration.

(2) Where a body corporate, subsequently to its establishment, acquires property that is to be applied to uses or objects which under this Act are permitted to a body corporate, being uses or objects not specified in the register in relation to that body corporate, it shall as soon as is practicable, notify the fact of the acquisition and particulars of such uses or objects to the Minister and shall apply to the Minister for alteration of the objects entered in the register in respect of that body corporate.

(3) If the Minister approves of an alteration to the object or objects of a body corporate an appropriate alteration shall be made in the register in respect of that body.

PART 4—FUNCTION, OBJECTS AND POWERS OF BODIES CORPORATE

Function of body corporate

12. It is the function of each body corporate—

- (a) to pursue the object or objects from time to time registered in respect of it in the register; and
- (b) to manage and apply all property from time to time held by it, and the income arising therefrom, towards the attainment of that object or those objects and towards matters and things incidental thereto or calculated to assist therein; and
- (c) to properly govern and control the affairs of the body corporate.

Objects for which bodies corporate may apply property

13. The objects for which a body corporate may acquire, manage and apply property are—

- (a) to aid any health, hospital, ambulance or nursing service whether the service has been established or is proposed;
- (b) to supply aid to persons in respect of any matter concerning any

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aspect of the health or wellbeing of people or in respect of education or instruction in any such matter;

- (c) to provide money or travel grants, conference expenses, fellowships, allowances and prizes in relation to any matter concerning any aspect of the health or wellbeing of people;
- (d) to promote and provide improved facilities for education or instruction at undergraduate and postgraduate levels in medicine, preventive medicine and any other field concerning the health or wellbeing of people for persons engaged in studying or teaching medical or health sciences;
- (e) to seek to discover the nature, origins and causes of disease and bodily afflictions by the application of all or any of those branches of science that are relevant to the purpose and to make the best use of knowledge gained for improvement of the means of prevention or treatment of disease and bodily afflictions;
- (f) to research or arrange or promote research (including surveys relevant to health service or hospital functions) into and development of any branch of medical science, technological research, medical investigation or other matter concerning the health or wellbeing of people, with a view to general improvement in health services;
- (g) to provide money grants or loans for persons engaged in research at postgraduate level in medical or any other health science (including surveys relevant to any such science);
- (h) to provide money grants or loans for research or surveys relative to the functions, duties, management and administration of hospitals and for any public health service other than a hospital;
- (i) to arrange for research and development work in specific matters related to the health of people and to arrange for production and marketing of anything that results from such research or development work;
- (j) to invite lecturers renowned for their knowledge or expertise in any aspect of health care or the wellbeing of people to deliver instruction on such aspect and to finance the appearance of such a lecturer;

- (k) to do anything, relevant to the fields of medicine or health care, that is likely to be to the betterment of health services generally or of the administration of the associated hospital.

General powers of bodies corporate

14.(1) A body corporate is authorised to do all lawful things necessary or convenient to be done in connection with or incidental to the proper discharge of its functions.

(2) Where a body corporate agrees to any condition affecting property vested in it the body corporate is authorised to do all lawful things necessary or convenient to be done to enable it to honour its agreement.

Specific powers of bodies corporate

15.(1) Without limiting the generality of section 14 or of any other provision of this Act that confers power on a body corporate the powers of a body corporate include power—

- (a) to raise money by way of public appeals for subscriptions or contributions, subject to the *Health Services Act 1991* and the *Collections Act 1966*;
- (b) subject to subsection (2), to make such contracts, agreements and arrangements and make and take such purchases, leases, sales and dispositions of property as it considers to be likely to assist the discharge of its function or the pursuit of any of its objects on such terms and conditions as it thinks fit;
- (c) to act as consultant to any person or association of persons that seeks its assistance;
- (d) to charge for work or investigations carried out by it or for anything produced on its behalf;
- (e) to incur expenditure for work carried out at its request;
- (f) to establish and conduct schools, courses, seminars, lectures and any other form of education or instruction, and in connection therewith to arrange the engagement or employment of lecturers or teachers and the payment of salaries, fees or honoraria;

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- (g) to teach, train and instruct persons and to promote education and research in fields concerning the health or wellbeing of people;
- (h) to purchase, print, publish, circulate or make available on loan or hire text books, magazines and journals, reference works, circulars, pamphlets and instructional material of any kind (including microfilm reproductions and audiovisual teaching aids) and all equipment necessary or desirable for the use of such lecture aids and materials and ancillary storage or transport equipment;
- (i) to conduct or assist any other person or association of persons in connection with the conduct of any research or other work that the body corporate considers to be in its interests or conducive to the discharge of its own function by such means as it considers appropriate and to set up, equip and maintain laboratories, offices and other buildings (including animal facilities) as it considers to be necessary or desirable;
- (j) to promote or attain any of its objects by way of facilities available in or associated with any hospital (other than the associated hospital), the Mater Misericordiae Hospitals or any private hospital, any university, college of advanced education or other educational institution, any medical, scientific, administrative or research institute, council, faculty, school or like institution and to that end to make to any of the entities aforesaid donations of money or gifts of property of any other kind;
- (k) to cooperate with any other person or association of persons (either within or outside Australia) connected with or having objectives similar, in whole or in part, to its objects and to join any association having such similar objectives and to establish and support or join in establishing and supporting, and to subscribe, give or lend money to any such person or association for the purpose of discharging the function of the body corporate;
- (l) to carry on or join in carrying on any business or arrangement that it thinks may be conveniently carried on by it and that is calculated to assist it (directly or indirectly) to discharge its function or to enhance (directly or indirectly) the value of its property;
- (m) with the Minister's approval first had and obtained, to acquire the

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whole of or a share in the business of any person and to assume the whole of or a share in the liabilities of that person in relation to the business if that business is of such a nature that the body corporate is by this Act authorised to carry it on;

(n) to apply for or acquire—

(i) any patent rights, copyrights, trademarks, formulas, licences, concessions and similar property rights conferring exclusive, non-exclusive or limited rights of user; or

(ii) any secret or other information as to any invention;

that it considers may be used for any of its purposes or may directly or indirectly assist it to discharge its function; and to use, exercise or develop such property rights or information or to grant licences in respect thereof or otherwise to turn them or it to account;

(o) with the Minister's approval first had and obtained, to enter into a partnership, an arrangement for sharing of profits, union of interest, cooperative joint venture, reciprocal concession or other similar arrangement with any person or persons carrying on or about to carry on any business or transaction that the body corporate is by this Act authorised to carry on, or any business or transaction capable of being so carried on as to assist it (directly or indirectly) to discharge its function;

(p) with the approval of the Minister first had and obtained, to acquire, hold and dispose of shares, debentures or securities of any corporation;

(q) with the approval of the Minister first had and obtained, to enter into arrangements with any government, authority, person or persons, being arrangements calculated to enable it (directly or indirectly) to discharge its function, and to carry out such arrangements, and to acquire from such government, authority, person or persons any right, privilege or concession that the body corporate considers desirable to acquire to assist it to discharge its function;

(r) to make money or other awards to persons concerned in such inventions or discoveries accepted by it as likely to benefit the

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health or wellbeing of people and as are approved by the Minister, having regard to the body corporate's recommendation;

- (s) with the Minister's approval first had and obtained, to sell or otherwise dispose of its land or buildings for such consideration as it determines and as the Minister approves or to exchange its property for shares, debentures or securities of a corporation that has objectives similar to the objects of the body corporate;
- (t) to improve, develop, exchange, lease or turn to account its land or buildings in such manner as the Minister approves;
- (u) to make known and further its objects by publishing and distributing papers, journals and other publications and by advertising;
- (v) to pursue its objects and exercise its powers in any part of the world whether as principal, agent, trustee or otherwise and whether through trustees, agents or servants, either on its own account or in conjunction with any person or persons;
- (w) to do all acts and things that are incidental or conducive to attaining its objects or to exercising its powers.

(2) Where a contract, agreement or arrangement to be made by a body corporate relates to any matter or thing for which this section requires the Minister's approval, it is not competent to the body corporate to make that contract, agreement or arrangement until that approval has been obtained.

Application of Collections Act

16.(1) Each of the purposes and objects to which a body corporate may lawfully apply property vested in it shall, without other authority than this section, be deemed to be sanctioned under the *Collections Act 1966* for the purposes of Part 3 of that Act.

(2) Subject to subsection (1), the provisions of the *Collections Act 1966*, other than section 31 of that Act, apply to a body corporate in the discharge of its function and the exercise of its powers.

Application of Pt 14 Property Law Act

17. For the purposes of the application of Part 14 of the *Property Law Act 1974* to any gift or devise to a body corporate it is declared that the purposes and objects of a body corporate are charitable purposes.

PART 5—CONSTITUTION OF BODIES CORPORATE**Members of body corporate**

18.(1) A body corporate shall consist of 7 or more members as the Governor in Council may from time to time declare by Gazette notice in respect of that body.

(2) The number of members to constitute a body corporate shall be such that the number of appointed members required to firstly constitute the body may be divided into 3 equal groups.

(3) Of the members required to constitute a body corporate—

- (a)** 1 shall be the chairperson of the Regional Health Authority that controls the hospital that is or is to be the associated hospital, or that person's nominee, who is to be a member ex officio; and
- (b)** 1 shall be an employee of a university or other body providing education at tertiary level with which the body corporate has become associated, or a person who, in the Minister's opinion, is knowledgeable and experienced in the field of knowledge or activity relevant to the purposes or objects of the body corporate, in any case nominated by the Minister in accordance with subsection (4); and
- (c)** 2 at least shall be officers or employees of the Regional Health Authority at the associated hospital or persons who, in the Minister's opinion, are knowledgeable and experienced in a field of knowledge or activity relevant to the purposes or objects of the body corporate, in any case nominated by the Minister in accordance with subsection (4); and
- (d)** the remainder shall be persons nominated by the Minister in

accordance with subsection (4) and section 19.

(4) With a view to nominating persons for appointment as members of a body corporate the Minister shall consult—

- (a) the Regional Health Authority that controls the hospital that is or is to be the associated hospital; and
- (b) the applicant or applicants for establishment of the body corporate if the applicant or applicants are readily available to the Minister; and
- (c) such other persons as the Minister thinks fit;

and in making the Minister's nomination the Minister shall give consideration to the wishes of the Regional Health Authority and persons the Minister has consulted within the associated hospital.

Minister's nomination from panel of names

19.(1) With a view to nominating for appointment as members of a body corporate persons referred to in section 18(3)(b) to (d) the Minister shall, by notice in writing call upon the Regional Health Authority and the applicant or applicants consulted by the Minister pursuant to section 18(4) to join in furnishing to the Minister, within a time limited by the Minister, a panel of names of 6 persons at the least, chosen for their interest in and ability to assist in attaining the body corporate's objects, and the Minister may, by notice in writing, invite any other person as the Minister thinks fit to join in the furnishing of that panel.

(2) Where an invitation is issued under subsection (1)—

- (a) the Regional Health Authority and the applicant or applicants called upon to furnish a panel of names shall extend to each invitee adequate opportunity to contribute to compilation of the panel to which the invitation relates; and
- (b) the panel furnished to the Minister and to which the invitation relates shall not be a sufficient panel unless it bears a notation by the Authority concerned that paragraph (a) was complied with in its compilation and that the panel is acceptable to the Authority and to every other person (naming the person or persons) who has taken part in its compilation.

(3) If a sufficient panel of names is furnished to the Minister within the time limited by the Minister, the Minister shall nominate from that panel the persons referred to in section 18(3) for appointment to the body corporate in question but otherwise the Minister may nominate such persons as the Minister thinks fit without further reference to the Regional Health Authority concerned or any other person.

Appointment of members

20.(1) The members of a body corporate (other than the member specified in section 18(3)(a)) are to be appointed by the Governor in Council by Gazette notice

(2) A body corporate shall be first duly constituted on the date on which notification of appointment of the total number of the appointed members (being persons eligible for appointment) is published in the Gazette or, if a later date is therein specified for the purpose, on such later date.

Term of appointment

21.(1) The appointed members firstly appointed shall be divided into 3 equal groups, the members of each group being determined by the Governor in Council.

(1A) The term of appointment of members of 1 such group, determined by the Governor in Council, shall terminate upon the expiration of the period of 3 years commencing on the date on which the appointment of those members takes effect; the term of appointment of members of another such group, determined by the Governor in Council, shall terminate upon the expiration of the period of 4 years commencing on the date on which the appointment of those members takes effect; the term of appointment of members of the remaining group shall terminate upon the expiration of the period of 5 years commencing on the date on which the appointment of those members takes effect.

(2) One-third of the number of appointed members required for the time being to constitute a body corporate (other than the members firstly appointed) shall be appointed to take account of the termination of members' terms of appointment by effluxion of time.

(2A) The term of appointment of a person appointed under

subsection (2) shall be 3 years from the date on which the person's predecessor's term of appointment as a member of the body corporate expired by effluxion of time.

(3) Every appointed member shall, subject to this Act, hold office as a member until his or her term of appointment expires by effluxion of time or until his or her successor's appointment as a member takes effect, whichever is the later date.

(4) Every appointed member is eligible for reappointment as a member if the appointed member is qualified as prescribed.

Increase in number of members

22. If the number of appointed members required to constitute a body corporate is at any time increased it shall be deemed that a casual vacancy exists in the office or offices of appointed member to the number of the increase and—

- (a) each such casual vacancy may be filled as provided by section 23; and
- (b) the term of appointment of a person appointed to fill each such a vacancy shall be a term nominated by the Governor in Council.

Casual vacancies

23.(1) Where a vacancy occurs in the office of an appointed member during the currency of his or her term of office as such member the Governor in Council may appoint another person to fill that vacancy.

(2) A person appointed to fill a casual vacancy shall, subject to this Act, be appointed and hold office for the balance of his or her predecessor's term of office or until the person sooner vacates that office and shall, if otherwise qualified, be eligible for reappointment as a member.

(3) If for any reason any member, other than the chairperson, is unable to carry out the duties of his or her office as member the Governor in Council may appoint some other person to act as a member during the period of such inability.

Vacation of office

24. The office of an appointed member shall become vacant if the member—

- (a) dies; or
- (b) declines to act or to act further as a member; or
- (c) resigns office by signed writing addressed to the Minister (such resignation to be complete and take effect from the time it is received by the Minister); or
- (d) is absent without prior leave granted by the body corporate from 3 consecutive meetings of the body corporate of which due notice has been given to the member personally or in the ordinary course of post; or
- (e) ceases to be qualified to be a member; or
- (f) is removed from office as a member by the Governor in Council.

Disclosure of interests

25.(1) If—

- (a) a member of a body corporate has a personal interest, or a direct or indirect pecuniary interest, in a matter being considered, or about to be considered, by the body corporate; and
- (b) the interest could conflict with the proper performance of the member's duties in relation to consideration of the matter;

the member must, as soon as practicable after the relevant facts come to the member's knowledge, disclose the nature of the interest to a meeting of the body corporate.

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

- (a) be present during any deliberation of the body corporate in relation to the matter; or
- (b) take part in any decision of the body corporate in relation to the matter.

(3) For the purpose of the making of a determination by the body corporate under subsection (2) in relation to the member, the member or another member who has a personal interest, or a direct or indirect pecuniary interest, in the matter to which the disclosure relates must not—

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

Members to act honestly and with propriety

25A.(1) A member of a body corporate must at all times act honestly in the exercise of the member's powers and the discharge of the member's functions under this Act.

(2) A member of a body corporate must not make improper use of—

- (a) the office of member; or
- (b) information acquired by virtue of holding that office;

to gain, directly or indirectly, an advantage for the member or another person or to cause detriment to the body corporate.

Disqualification from office

26. A person is not eligible to be or to continue to be a member of a body corporate if—

- (a) the person is an undischarged bankrupt or takes advantage of the laws in force for the time being relating to bankruptcy or insolvent debtors;
- (b) the person has been convicted in Queensland of an indictable offence or elsewhere than in Queensland in respect of an act or omission that if done or made by the person in Queensland would have constituted an indictable offence or has been convicted of an offence punishable on summary conviction for which the person is sentenced to imprisonment otherwise than in default of payment of a fine or has been convicted of an offence against this Act;

- (c) the person is a patient within the meaning of the *Mental Health Act 1974*;
- (d) the person is an employee of the body corporate;

unless, in the case referred to in paragraph (d), the person is nominated by the Minister as a person referred to in section 18(3)(c).

Removal from office

27. The Governor in Council may at any time remove an appointed member from office as member if—

- (a) the appointed member becomes incapable, in the opinion of the Governor in Council, of discharging the duties of his or her office;
- (b) the appointed member is, in the opinion of the Governor in Council, incompetent or unfit to hold office.

Chairperson and deputy chairperson

28.(1) The Governor in Council, by Gazette notice, shall appoint a member of a body corporate, being a member referred to in section 18(3)(b) to (d) to be chairperson of the body corporate—

- (a) upon the first appointment of members of the body corporate; or
- (b) upon each subsequent appointment of members of the body corporate made at a time when there is no chairperson of the body corporate or the chairperson's term of office as a member is being renewed; or
- (c) upon the filling of a casual vacancy in the office of the member of the body corporate who was chairperson immediately before the occurrence of the vacancy.

(1A) The person so appointed shall be chairperson of the body corporate concerned.

(2) The body corporate shall at its first meeting and thereafter as it becomes necessary appoint a member to be deputy chairperson of the body corporate.

(3) A member appointed as the chairperson or deputy chairperson shall hold office as such until—

- (a) the appointment of another member as the chairperson or, as the case may be, deputy chairperson; or
- (b) the member ceases to hold office as a member;

whichever first occurs.

(4) The chairperson may, by signed writing addressed to the Minister resign office as chairperson and the deputy chairperson may by signed writing addressed to the chairperson resign office as deputy chairperson.

(5) A person appointed to fill a vacancy in the office of a member who was chairperson or deputy chairperson shall not by reason only of his or her appointment as member be chairperson or, as the case may be deputy chairperson.

(6) If the deputy chairperson resigns office as deputy chairperson or member, or his or her office otherwise becomes vacant, the body corporate shall, within 2 months of the office becoming vacant, appoint a member to be deputy chairperson and the member so appointed shall, subject to this Act, hold office as deputy chairperson in accordance with subsection (3).

(7) When requested so to do by the chairperson, or at any time when the chairperson is unable to carry out his or her duties by reason of illness, absence or any other cause the deputy chairperson shall act as chairperson and while so acting shall have all the powers, functions, duties and immunities of the chairperson.

(8) If the members fail to appoint a deputy chairperson when required so to do the Governor in Council may appoint a member to be deputy chairperson.

Fees and allowances

29.(1) Subject to subsection (2), each member shall be paid such fees and allowances (if any) as the Governor in Council from time to time determines.

(2) Allowances shall not be paid by a body corporate to a member who is an officer of the public service for attendance at any meeting of the body corporate held during ordinary office working hours of that officer.

Holder of office not affected by restrictive employment provisions

30. A provision of any enactment requiring the holder of an office to devote the whole of his or her time to the duties of his or her office or prohibiting the holder from engaging in employment outside the duties of his or her office shall not operate to hinder his or her holding that office and also an appointment as member, chairperson or deputy chairperson of a body corporate or, subject to section 29(2), his or her acceptance and retention of any allowances payable under this Act.

**PART 6—MEETINGS, PROCEEDINGS AND
BUSINESS OF BODIES CORPORATE****Conduct of business**

31. Subject to this Act, a body corporate shall conduct its business and proceedings at meetings in such manner as it determines from time to time.

Quorum

32.(1) The quorum of a body corporate shall consist of a majority of the total number of persons for the time being holding office as members.

(2) A duly convened meeting of a body corporate at which a quorum is present shall be competent to transact any business of the body corporate and shall have and may exercise all the powers, authorities, functions and duties by this Act conferred or imposed upon the body corporate.

Meetings

33.(1) The first meeting of a body corporate shall be convened by the Minister.

(2) Meetings held after the first meeting shall be held at such times and places as the body corporate determines.

(2A) The chairperson shall have power to convene special meetings of the body corporate.

(3) Notice of every meeting or adjourned meeting, other than a meeting adjourned to a later hour of the same day on which it was appointed to be held, shall be in writing and shall be given to every member at least 7 days prior to the date appointed for that meeting.

(3A) Where circumstances exist which in the opinion of the chairperson or 2 members constitute an emergency, the chairperson or, as the case may be, 2 members may call a meeting of the body corporate and that meeting may be held without notice having been given as prescribed.

(3B) A notice of a meeting or an adjourned meeting may be given to a member personally or by prepaid post letter addressed to his or her place of business or residence last known to the chairperson.

(4) The members present at a meeting of the body corporate may from time to time adjourn the meeting.

(4A) If a quorum is not present at a meeting of the body corporate within 15 minutes after the time appointed for the commencement of the meeting, the member or members present or the majority of them if more than 2 are present or the secretary of the body corporate if no member is present or if the members present are equally divided on the issue may adjourn the meeting to a time and date not later than 7 days from the date of the adjournment.

(4B) The provisions of subsection (4) shall be construed, so as not to prevent the adjournment of a meeting to a later hour of the same day on which the meeting was appointed to be held.

(5) The chairperson shall preside at each meeting of the body corporate at which the chairperson is present and in his or her absence the deputy chairperson, if present, shall preside.

(6) If both the chairperson and deputy chairperson are absent from a meeting, a member elected at that meeting shall preside.

(7) A member elected to preside at a meeting shall, while the member presides, have all the powers, functions, duties and immunities of the chairperson.

Conduct of affairs

34.(1) A body corporate shall exercise or perform a power, authority,

function or duty by a majority vote of its members present at the meeting and voting on the business in question.

(2) A member who being present at a meeting and eligible to vote, abstains from voting shall be taken to have voted for the negative.

(3) The chairperson shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

(4) The chairperson shall give effect to any resolution, minute or report that is passed or adopted by the body corporate.

Minutes

35. A body corporate shall keep a record of its proceedings at meetings.

Validity of transactions

36.(1) No act or proceeding of a body corporate shall be invalid or prejudiced by reason only of the fact that at the time when the act or proceeding was done, taken or commenced—

- (a) there was a vacancy in the office of any member or there was a defect in the appointment of any person as a member or a person not qualified so to act has acted as a member; or
- (b) the body corporate was without capacity or power to do the act or take the proceeding.

(2) Lack of capacity or power in a body corporate to do any act or take any proceeding may be asserted or relied upon only in—

- (a) proceedings against the body corporate by a member thereof to restrain the doing of the act or the taking of the proceeding by the body corporate;
- (b) proceedings by the body corporate against former members of the body or by a member thereof against present or former members thereof.

(3) If the unauthorised act or proceeding sought to be restrained in proceedings referred to in subsection (2) is being or ought to be performed or taken pursuant to a contract to which the body corporate is a party, the court having jurisdiction in the matter may, if all parties to the contract are

parties to the proceedings and if the court deems it to be just and equitable, set aside and restrain performance of the contract and may allow to the body corporate or to other parties to the contract compensation for loss or damage sustained by reason of the action of the court in setting aside and restraining performance of the contract but anticipated profits to be derived from performance of the contract shall not be awarded by the court as a loss or damage sustained.

Employees

37.(1) The secretary of a body corporate shall be a suitably senior officer of the associated hospital who is nominated by the regional director and approved by the Minister.

(2) A body corporate may appoint and employ such employees as it thinks necessary for attaining its objects.

(2A) Employees appointed pursuant to subsection (2) shall, subject to any applicable award of any industrial court, commission, tribunal or authority, be employed on such terms and conditions as the body corporate thinks fit.

(3) A body corporate may appoint honorary research workers to attain its objects or any of them.

(3A) Any such worker, during the term of the worker's appointment, may be designated in such style as the body corporate thinks fit having regard to the qualifications and experience of individual workers.

(4) While any honorary research worker is actively engaged in work on behalf of a body corporate or in anything incidental to the work, the worker is taken, for the purposes of the *Workers' Compensation Act 1990*, to be a worker within the meaning of that Act employed by the body corporate.

Use of certain officers and premises

38.(1) With the approval of the Minister first had and obtained, a body corporate may make use of officers and other employees of the Regional Health Authority that controls the associated hospital on such terms and conditions as are agreed upon by the body corporate and the Authority and approved by the Minister.

(2) For the purpose of discharging its function, a body corporate may—

- (a) occupy land in the occupation of the Regional Health Authority that controls the associated hospital; and
- (b) use premises, office furniture and equipment occupied, owned or used by that Regional Health Authority;

on such terms and conditions as are agreed upon by the body corporate and the Authority or, failing such agreement, as are determined by the Minister.

Common seal

39.(1) The common seal of a body corporate shall be kept in the custody of the secretary of the body corporate or, where there is a vacancy in that position, the chairperson.

(2) The common seal shall not be affixed to a document except under the authority of a resolution of the body corporate and shall be affixed by the person who has custody of the seal in accordance with this Act.

(3) A document made or issued by the body corporate for the purposes of this Act shall be sufficiently authenticated if it is made or, as the case may be, signed by the chairperson or otherwise as determined by the body corporate by resolution.

Protection of members

40. A person who is or has been a member of a body corporate is not personally liable for anything done or omitted in good faith, in, or in connection with the exercise of any power conferred or the carrying out of any duty imposed on the body corporate by this Act, or believed by that person on reasonable grounds to have been conferred or imposed by this Act.

Insurance

41.(1) Subject to subsection (2), as soon as practicable after a body corporate is established under this Act it shall effect insurance in respect of damage to property death and bodily injury for which it may be held liable for an amount of cover prescribed by regulation or, if not prescribed, for an

amount of \$100 000 at the least and shall keep such insurance current at all times.

(2) Subsection (1) does not apply to a body corporate that is exempted by the Minister from the requirement to effect the insurance referred to in the subsection, the Minister being hereby empowered to grant such an exemption if the Minister is satisfied that the functions of the body corporate are such as to make the effecting of the insurance unnecessary.

PART 7—FINANCIAL PROVISIONS

Accounts and statements

42.(1) A body corporate shall cause accounts to be established and properly kept to contain such financial information as to enable the statements referred to in subsection (2) to be prepared and such other information as the Minister may direct.

(2) The secretary of a body corporate shall, within 3 months after the close of each financial year prepare or cause to be prepared a statement setting forth particulars of the following—

- (a) the income and expenditure of the body corporate during the financial year last concluded;
- (b) the assets and liabilities of the body corporate at the close of the financial year last concluded;
- (c) all mortgages, charges and securities of any description affecting the property of the body corporate at the close of the financial year last concluded.

Certification of statements

43.(1) The statement of accounts referred to in section 42(2) shall be certified as correct by the chairperson and secretary of the body corporate and sealed with the seal of the body corporate.

(2) Forthwith upon certification of the statement of accounts the secretary

of the body corporate shall cause the certified statement and the accounts of the body corporate, together with all proper vouchers in support thereof and all books, papers, writings and records of the body corporate relating thereto, to be placed before the auditor appointed under this Act to examine the accounts of the body corporate.

Audit of accounts

44.(1) The accounts of a body corporate shall be audited by the Auditor-General or an authorised officer within the meaning of the *Financial Administration and Audit Act 1977* directed by the Auditor-General each of whom shall have with respect to such audit and accounts all the powers and authorities conferred on the Auditor-General by that Act as if the body corporate were a department of the Government of the State.

(1A) The fee payable by the body corporate in respect of the audit shall be fixed by the Auditor-General.

(2) The Auditor-General shall certify whether the statements of account prepared on behalf of the body corporate—

- (a) are, where applicable, prepared in the form required by this Act; and
- (b) are in agreement with the accounts; and
- (c) in the Auditor-General's opinion fairly set out the financial transactions for the period to which they relate and show a true and fair view of the state of affairs at the close of that period on a basis consistent with that applied in respect of the financial year last preceding.

(3) The Auditor-General shall at least once in each year report to the Minister the results of each audit carried out pursuant to this section and shall, if the Auditor-General thinks fit, include with the report recommendations to the Minister or to the chairperson of the body corporate with respect to the financial statements and the manner of operating and maintaining the accounts in question.

(3A) A copy of the report and the recommendations (if any) shall be furnished to the chairperson of the body corporate.

(3B) The Minister or, as the case may be, the chairperson shall give due consideration to the report and the recommendations (if any) of the Auditor-General made pursuant to subsection (3).

(4) The Auditor-General shall include in the Auditor-General's annual report to Parliament such matters concerning the financial transactions of the body corporate as the Auditor-General thinks fit.

(4A) If in the Auditor-General's opinion the circumstances so warrant, the Auditor-General may make an additional or special report to Parliament at any time.

(5) The report of the Auditor-General together with the accounts certified as prescribed by subsection (2) shall be submitted to the members of the body corporate at the first ordinary meeting held after the report becomes available to the chairperson of the body corporate.

(6) Whenever it appears to or comes to the knowledge of a body corporate that any property of or received by it has been stolen or not accounted for the body corporate shall forthwith give notice thereof to the Auditor-General and to a police officer of the rank of sergeant of police or of a higher rank.

(6A) A body corporate shall not—

- (a) abstain from, discontinue or delay a prosecution for an offence in relation to property of or received by it that has been stolen or not accounted for; or
- (b) withhold or promise to withhold, abstain from, discontinue or delay the production of evidence for the purpose of an investigation or prosecution of a case referred to in subsection (6).

(7) A person who fails to comply with a requisition made on the person by the Auditor-General or an authorised auditor directed to perform the audit of a body corporate under the authority of this Act commits an offence against this Act.

Financial statement available for inspection

45.(1) The secretary of a body corporate shall make available for inspection by the public a copy of the statement of accounts of the body corporate, audited as prescribed.

(2) The Minister may, where the Minister considers it desirable so to do, direct a body corporate in writing to publish a copy of the statement of its accounts, audited as prescribed, in such manner and within such time as is specified in the direction.

(3) The body corporate to which a direction is given under subsection (2) and its secretary shall comply in all respects with the direction.

Estimates of receipts and disbursements

46.(1) If it is required by the Minister so to do, a body corporate shall frame, adopt and present to the Minister, a statement in respect of the fund showing estimates of its receipts and disbursements in respect of the balance of the financial year in which the statement is presented and thereafter the body corporate shall before 31 August of each succeeding year or such later date as the Minister may on the application of the body corporate allow, frame, adopt and present to the Minister a statement in respect of the fund showing estimates of its receipts and disbursements in respect of the succeeding financial year.

(2) In framing the statement the body corporate shall estimate in respect of the financial year for which the statement is being framed and shall therein show—

- (a) the amounts to be disbursed upon the several functions, matters and things to which the fund is applicable;
- (b) the amounts expected to be received from the several sources of income and other moneys of the body corporate which income or moneys are required by this Act to be paid to the fund.

(3) In any statement—

- (a) the estimates of receipts shall be set out separately so as to indicate as nearly as possible opposite each other the several sources of receipts required by this section to be shown in the statement;
- (b) the estimates of disbursements required by this section to be shown in the statement shall be set out so as to indicate as nearly as possible opposite each other the power, authority, function, duty or obligation in respect of which the disbursement is to be made.

(4) The body corporate may in any financial year make an ordinary disbursement prior to adopting the statement for that year but, if it does so, the item of disbursement shall be included in the statement for that year.

(5) A statement framed pursuant to subsection (1) shall be of no force or effect until it is approved by the body corporate and when approved it shall be binding upon the body corporate except to the extent that it may be amended by the Minister.

(6) The Minister may amend a statement framed pursuant to subsection (1) in such a way as the Minister thinks reasonable having regard to the purposes for which moneys forming the fund may be applied.

(7) If at the close of any financial year there is a surplus or deficit the surplus or deficit shall be carried forward and taken into account in framing the statement for the next following year.

Observance of statement

47.(1) Subject to subsection (2), a body corporate that is required to present a statement referred to in section 46 shall not in any financial year expend its finances other than for the items specified in the statement for the financial year in question and to the amount specified in the statement in respect of that item.

(2) If during any financial year it appears to the body corporate that an unforeseen or extraordinary circumstance has arisen that requires the body corporate to make a disbursement in that financial year that was not provided for in the statement (as approved) for that financial year or that exceeds the amount estimated in respect of an item specified in the statement the body corporate shall before making the disbursement, by resolution, approve that the disbursement be made and obtain the approval of the Minister for such disbursement.

(3) The body corporate shall ensure that the amount of any disbursement approved pursuant to subsection (2) is not exceeded.

Periodical statements of account

48.(1) The secretary of a body corporate shall present to each ordinary meeting of the body corporate statements of account in relation to the

receipts and disbursements for the period of the financial year from commencement to the close of the month last concluded.

(2) The statements of account, in the case of a body corporate that is required to present a statement referred to in section 46, shall show estimated receipts and disbursements and actual receipts and disbursements with such explanations as will give a true indication of the progressive state of the headings provided in the estimates.

(3) The statements submitted to the first meeting of the body corporate held after the last day of December and March shall include an estimate of the anticipated position at the end of the financial year.

Members liable

49. If a body corporate that is required to present a statement referred to in section 46 makes a disbursement that has not been provided for in an approved statement or that has not been approved pursuant to section 47(2) the members who, after having had the facts fully explained to them in relation to the disbursement, voted for such disbursement shall be jointly and severally liable to repay to the body corporate the amount of the disbursement and that amount may be recovered by the Minister in a court of competent jurisdiction as a debt due and owing to the body corporate.

General fund

50.(1) A body corporate shall establish and maintain a general fund in accordance with this Act at a bank and the bank account therefor shall be kept separate and distinct from any other bank accounts of the body corporate.

(2) There shall be paid into the fund—

- (a) all moneys received by the body corporate for its purposes or objects other than moneys rightly appropriated to any trust fund established by the body corporate; and
- (b) all moneys received by the body corporate by way of income from investments of the body corporate other than income from investment of moneys in a trust fund established by the body corporate and rightly accruing to that trust fund; and

- (c) all moneys received by the body corporate in the discharge of its functions and the pursuit of its objects.

(3) Moneys from time to time forming the fund shall be applied—

- (a) to any use or object which for the time being is specified in the register as a use or object for which the body corporate is established; and
- (b) to payment of fees and allowances payable to members of the body corporate; and
- (c) to payment of salaries and wages of employees of the body corporate; and
- (d) to payment of any other expenditure necessarily incurred by the body corporate in the discharge of its functions, the pursuit of its objects and the exercise of its powers.

Investment of moneys

51.(1) Moneys of a body corporate may, until required by it for a purpose to which the money may lawfully be applied, be invested—

- (a) in any investment authorised by the *Trusts Act 1973*; or
- (b) in any investment approved by the Minister upon the advice of the Treasurer.

(2) Every security or safe custody acknowledgment or other document evidencing title issued in respect of any investment of moneys of a body corporate shall be held by the body corporate.

(3) Subsection (1)—

- (a) shall not apply in relation to moneys acquired by a body corporate under an instrument that expressly directs to the contrary; and
- (b) shall not be construed to restrict, in relation to particular moneys, the powers of investment conferred on a body corporate by an instrument under which it has acquired those moneys.

Power to establish trust funds and to accept gifts and the like subject to conditions

52.(1) A body corporate may establish and administer trust funds for any purpose in connection with the exercise and performance of its function, powers, and duties and, if it does so, shall establish at a bank 1 or more bank accounts in respect of the trust funds.

(2) A body corporate, with the approval of the Minister first had and obtained, may agree to and carry out conditions to which a gift, grant, bequest, devise, purchase, lease or other means whereby it acquires or holds property is subject.

Advances by way of overdraft

53.(1) A body corporate may obtain temporary financial accommodation from any bank or banks by way of overdraft on the fund.

(2) A body corporate shall not, during any financial year, suffer the amount of its overdraft to exceed the amount for the time being authorised by the Minister after considering any recommendation made by the body corporate.

Illegal borrowing

54.(1) If a body corporate borrows money other than by way of financial accommodation referred to in section 53 the person who lends the money shall have no remedy or right of any kind to recover money from the body corporate in respect of that loan.

(2) If a body corporate borrows money other than by way of financial accommodation referred to in section 53 the members who consented to the borrowing of the money shall be jointly and severally liable to repay it and to pay interest thereon to the person from whom it was borrowed and that money and interest may be recovered from those members or any of them as money lent by that person to those members or, as the case may be, that member by action in a court of competent jurisdiction.

(3) If moneys are appropriated from any fund kept by a body corporate for the purpose of repaying money borrowed other than by way of financial accommodation referred to in section 53 or paying interest thereon, the

members who consented to the appropriation shall be jointly and severally liable to refund the moneys with interest thereon at a rate determined by the Treasurer and the moneys and interest may be recovered from those members or any of them by action in a court of competent jurisdiction at the suit of the Minister.

(4) In any action brought under this section, the Minister shall be entitled to costs as between solicitor and client and any amount recovered as a result of that action shall be paid into the fund of the body corporate concerned.

PART 8—GENERAL PROVISIONS

Sale or disposal of certain property

55.(1) Where a body corporate is satisfied that any property for the time being vested in it and held by it subject to any condition or trust is unfit or not required for its purposes, it may, subject to the approval of the Governor in Council and notwithstanding the terms of any trust affecting the property or any arrangement or condition made or agreed to by it at the time of its acquisition of the property—

- (a) sell the property or exchange it for any other property; or
- (b) dispose of the property without consideration or, in the case of personal property, destroy the property if the body corporate adjudges it to be of no saleable value.

(2) The proceeds of any sale made by a body corporate in exercise of the power conferred on it by subsection (1) shall after deduction therefrom of the costs of and incidental to the sale be held for the objects of the body corporate.

(3) Any property sold or disposed of by way of exchange or otherwise by a body corporate purporting to exercise any of the powers conferred on it by subsection (1) shall vest in the person acquiring the property by virtue of the sale or disposal freed and discharged from any trust, arrangement or condition relating to any sale or disposal of the property or to the use of the property to which the property was subject in the hands of the body corporate.

(4) A person acquiring any property from a body corporate purporting to exercise any of the powers conferred on it by subsection (1) shall not be concerned to enquire whether a case has arisen to authorise the sale or other disposal of the property or whether the power was otherwise properly and regularly exercised or to see to the application of any purchase money paid to the body corporate.

Removal from register

56.(1) A body corporate may at any time make application to the Minister that the entry in the register in respect of it be removed.

(2) The Governor in Council may, by Gazette notice, order that the entry in the register in respect of a body corporate be removed—

- (a) in consequence of an application made by the body corporate under subsection (1); or
- (b) where the Governor in Council is satisfied that the body corporate should be terminated.

Winding-up of bodies corporate

57.(1) If an entry in the register about a body corporate is removed on application by the body corporate, the provisions of the Corporations Law about the voluntary winding-up of companies apply, with all necessary changes and any changes prescribed by regulation, to the winding-up of the body corporate.

(2) If an entry in the register about a body corporate is removed other than on application by the body corporate, the body corporate may be wound-up by the Supreme Court.

(3) A body corporate, a member of the body corporate, a creditor or the chief executive of the department may apply to the Court for the body corporate to be wound-up.

(4) In the application of Part 5.7 of the Corporations Law to the winding-up of a body corporate, a reference—

- (a) to a Part 5.7 body—is a reference to the body corporate; and
- (b) to a director of a Part 5.7 body—is a reference to a member of the

body corporate; and

- (c) to the secretary of a Part 5.7 body—is a reference to the secretary of the body corporate; and
- (d) to the principal place of business of a Part 5.7 body—is a reference to the associated hospital of the body corporate.

Disposal of assets used by body corporate

58.(1) Land granted by the Crown in trust to a body corporate or reserved and set apart for the purposes of a body corporate, in either case under the *Land Act 1962*, shall not form part of the assets of the body corporate for the purposes of its winding-up.

(2) Subject to subsection (3), the Governor in Council may in relation to property held in trust by a body corporate or, being land, reserved and set apart and placed under the control of a body corporate as trustee, constitute or nominate any other person as trustee, nominate any other use to which the property should be held or applied, terminate a trust or make such other order as the Governor in Council thinks fit.

(2A) Every order made under subsection (2) shall be given effect.

(3) It is not competent to the Governor in Council under subsection (2) to override the provisions of any instrument creating a trust on which a body corporate holds property where the instrument provides for variation of the trust or substitution of a new trust upon the termination of the body corporate.

Dissolution of bodies corporate

59. Where an entry in the register in respect of a body corporate has been removed and the Governor in Council is satisfied that the affairs of the body corporate are such that there is no need for it to be wound-up (voluntarily or by the Court), the Governor in Council may dissolve the body corporate by regulation.

Distribution of residual property

60. If upon the winding-up of a body corporate there remains property of

the body corporate that would have been available for but is not required to satisfy claims against the body corporate or expenses of the winding-up or if upon the dissolution of a body corporate there is property that would have been available for but is not required to satisfy liabilities of the body corporate, that property shall not be distributed among the members of the body corporate but shall be transferred to such body as in the opinion of the Governor in Council has objects similar to those of the body corporate that is wound-up or dissolved or if in the opinion of the Governor in Council there is no such body reasonably available, that property shall be disposed of in such manner or held on such trusts as the Governor in Council orders.

Effect of winding-up etc. on offices

61. Where a body corporate has been wound-up, voluntarily or by the Court, or has been dissolved under section 59 the members of the body corporate shall be taken to have vacated their offices as such members.

Form of contract etc.

62.(1) The authority of a body corporate to enter into contracts and agreements may be exercised in the following manner—

- (a) any agreement or contract that, if made between private persons, would by law be required to be in writing under seal may be made on behalf of the body corporate in writing under its common seal;
- (b) any agreement or contract that, if made between private persons, would by law be required to be in writing signed by the parties to be charged therewith may be made on behalf of the body corporate in writing signed by a person acting under the express or an implied authority of the body corporate;
- (c) any agreement or contract that, if made between private persons, would by law be valid although made by parol only (and not reduced into writing) may be made by parol on behalf of the body corporate by a person acting under the express or an implied authority of the body corporate.

(2) A contract or agreement entered into by a body corporate may be varied or discharged by agreement in the manner in which it is by this

section authorised to be made.

(3) Authentication by a body corporate of any document or proceeding may be given by the signature of any person authorised by the body corporate so to do.

Delegation by Minister

63. The Minister may delegate the Minister's powers under this Act (other than the power under section 46(1)) to an officer of the department.

Delegation by body corporate

64. A body corporate may delegate its powers under this Act (other than the power to make rules) to a member or employee of the body.

Liability for damage to property

65.(1) A person shall not—

- (a) unlawfully take from the possession of a body corporate anything; or
- (b) unlawfully damage, mutilate or destroy anything in the possession of a body corporate.

(2) A person who contravenes subsection (1) shall be liable to pay to the body corporate the full value of the thing taken, damaged, mutilated or destroyed, which value may be recovered in a summary way under the *Justices Act 1886* or by action for a debt due and owing to the body corporate in a court of competent jurisdiction.

(3) The liability imposed by subsection (2) is in addition to any other liability incurred by reason of a contravention of subsection (1).

(4) Proceedings under the *Justices Act 1886* to enforce the liability imposed by subsection (2) may be taken by the secretary of the body corporate or by a person authorised in that behalf, either generally or in a particular case, by the body corporate.

Reward for information

66.(1) A body corporate may, subject to the approval of the Minister, offer and pay a reward to any person who gives information to a body corporate or to any of its members or employees concerning the taking, damaging, mutilation or destruction of anything in contravention of section 65(1) or concerning the commission of any other offence against this Act.

(2) The amount of any reward paid or required to be paid by a body corporate to any person pursuant to subsection (1) may be recovered from any person convicted of the taking, damaging, mutilation or destruction to which relates the information in consideration of which the reward is or is to be paid in a summary way under the *Justices Act 1886* or by action for a debt due and owing to the body corporate in a court of competent jurisdiction.

(3) Proceedings under the *Justices Act 1886* to recover an amount of any reward may be taken by the secretary of the body corporate or by a person authorised in that behalf, either generally or in a particular case, by the body corporate.

Orders to enforce additional liability

67.(1) Where a person is convicted of an offence that consists in—

- (a) unlawfully taking anything from the possession of a body corporate, with or without a further element; or
- (b) unlawfully damaging, mutilating or destroying anything in the possession of a body corporate;

whether or not the person's conviction relates to an offence defined in section 65(1) or defined in some other provision of law, the court by which the person is convicted may, in addition to imposing a penalty on the person—

- (c) order that the person discharge to the body corporate the liability imposed on the person by section 65(2); and
- (d) order that the person pay to the body corporate the amount of any reward paid by it or required to be paid by it to any person for information concerning the taking, damaging, mutilation or

destruction of which the person has been convicted.

(2) An order, for payment of money made pursuant to subsection (1) may be enforced in the same manner as if it were an order for payment of a penalty but the existence of such an order shall not prejudice the taking by or on behalf of the body corporate of any other proceeding in law for the recovery of the sum ordered to be paid.

Averment as to ownership

68. In any proceeding in which it is material to prove ownership of anything that at a time relevant to the proceeding is or was in the possession of a body corporate it shall be sufficient to aver ownership of the thing to be in the body corporate.

General penalty

69.(1) A person who contravenes or fails to comply with a provision of this Act commits an offence against this Act and, except where a specific penalty is otherwise provided, is liable to a penalty of \$500.

(2) Every penalty recovered in respect of an offence against this Act shall be paid to the body corporate on whose behalf prosecution proceedings were brought.

Proceedings for offences

70.(1) Proceedings in respect of an offence against this Act may be taken in a summary way under the *Justices Act 1886* upon the complaint of the secretary of the body corporate concerned or by any other person authorised in that behalf, either generally or in a particular case, by the body corporate.

(2) Proceedings in respect of an offence against this Act may be commenced at any time within 1 year from the commission of the offence or within 6 months after the commission of the offence comes to the knowledge of the complainant, whichever period is the later to expire.

Evidentiary provisions

71.(1) A document that purports to be a copy of or an extract from an

entry in the register and that purports to be certified as a true copy or extract by the person who, at the time of the production of the document in evidence, is charged with keeping the register shall be evidence of the state of the register, as shown by such document, at the date of the certification.

(2) The authority of a person to lay a complaint relating to an offence against this Act, who describes himself or herself in the complaint as secretary of a body corporate or as a person authorised by a body corporate to lay the complaint, shall be presumed until the contrary is proved.

(3) A statement in a complaint that commences a proceeding in respect of an offence against this Act as to the date on which the matter of complaint came to the knowledge of the complainant shall be evidence of the matter.

Regulations

72.(1) The Governor in Council may make regulations for the purposes of this Act.

(2) A regulation may create offences and prescribe penalties for the offences of not more than 4 penalty units.

Rules

73.(1) A body corporate may from time to time make rules not inconsistent with this Act with respect to—

- (a) the management of the affairs of the body corporate;
- (b) the application of the property of the body corporate to its objects;
- (c) the general management and control of property of or occupied by the body corporate;
- (d) the investment of money, both capital and income, from time to time under the control of the body corporate;
- (e) the protection of property of or occupied by the body corporate from trespass, damage or misuse;
- (f) the conduct of research or other activities relevant to the objects of the body corporate;
- (g) the functions, powers and duties of employees of the body

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corporate and of other persons engaged in pursuit of its objects;

- (h) the fees to be paid for use of the facilities of the body corporate;
- (i) the admission or exclusion or removal of the public or any person to or from property occupied by the body corporate or of which it has control;
- (j) the conduct of proceedings at meetings of the body corporate and the times and places of its meetings.

(2) A rule may create offences and prescribe penalties for the offences of not more than 4 penalty units.

(3) As soon as practicable after its establishment as prescribed by this Act a body corporate shall make rules with respect to—

- (a) the management of the affairs of the body corporate;
- (b) the application of property of the body corporate to its objects;
- (c) the general management and control of property of or occupied by the body corporate;
- (d) the investment of money, both capital and income, from time to time under the control of the body corporate.

(4) Every rule shall be adopted at a special meeting of the body corporate called for that purpose and shall be sealed with the seal of the body corporate.

(5) Every rule, adopted and sealed as prescribed, shall be submitted to the Minister for the approval of the Governor in Council and, if it is so approved, shall be published in the Gazette and thereupon it shall have force and effect and shall be observed by all persons concerned.

Annual report

74.(1) As soon as practicable after the expiration of each financial year a body corporate shall furnish to the Minister a report on its operations throughout that year.

(2) The report shall include such statements of account and other financial and relevant information as may be prescribed, together with the auditor's certificate prescribed by section 44(2).

(3) The Minister shall lay the report of the body corporate before the Legislative Assembly within 14 sitting days of the Minister's receipt of the report.

ENDNOTES**1 Index to Endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 19 September 1994. Future amendments of the Hospitals Foundations Act 1982 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 List of legislation**Hospitals Foundations Act 1982 No. 45**

date of assent 6 October 1982

ss 1–2 commenced on date of assent

remaining provisions commenced 18 December 1982 (proc pubd Gaz
18 December 1982 p 1808–9)

as amended by—

Statute Law (Miscellaneous Provisions) Act 1989 No. 103 s 3 Sch

date of assent 25 October 1989

commenced on date of assent

Health Services Act 1991 No. 24 s 7.3 Sch 3

date of assent 5 June 1991

commenced 1 July 1991 (proc pubd Gaz 22 June 1991 p 974)

Health Legislation Amendment Act 1992 No. 66 Pts 1, 8

date of assent 7 December 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 18 December 1992 (1992 SL No. 450)

Health Legislation Amendment Act 1993 No. 79 Pts 1, 8

date of assent 17 December 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 14 March 1994 (1994 SL No. 84)

Statute Law (Miscellaneous Provisions) Act 1994 No. 15 s 3 Sch 2

date of assent 10 May 1994

commenced on date of assent

4 List of annotations

Key to abbreviations in list of annotations

amd	=	amended
Ch	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
RA	=	Reprints Act 1992
R1	=	Reprint No. 1
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

Arrangement

s 3 om R1 (see RA s 36)

Definitions

prov hdg sub 1992 No. 66 s 44(1)

s 4 def “**body corporate**” amd 1993 No. 79 s 47(2)def “**financial year**” om 1993 No. 79 s 47(1)def “**hospital**” sub 1991 No. 24 s 7.3 Sch 3

amd 1993 No. 79 s 47(3)

def “**Hospitals Board**” om 1991 No. 24 s 7.3 Sch 3def “**Minister**” om 1992 No. 66 s 44(2)def “**regional director**” ins 1991 No. 24 s 7.3 Sch 3def “**Regional Health Authority**” ins 1991 No. 24 s 7.3 Sch 3

def “**register**” amd 1989 No. 103 s 3 Sch

Class of applicant

s 5 amd 1993 No. 79 s 48

Establishment of bodies corporate

s 7 sub 1993 No. 79 s 49

Body to be incorporated

s 8 amd 1993 No. 79 s 50

Registration of bodies corporate

s 9 amd 1993 No. 79 s 51

Name of bodies corporate

s 10 amd 1993 No. 79 s 52

Objects for which bodies corporate may apply property

s 13 amd 1989 No. 103 s 3 Sch

Specific powers of bodies corporate

s 15 amd 1991 No. 24 s 7.3 Sch 3

Members of body corporate

s 18 amd 1991 No. 24 s 7.3 Sch 3; 1993 No. 79 s 53

Minister’s nomination from panel of names

s 19 amd 1991 No. 24 s 7.3 Sch 3

Appointment of members

s 20 amd 1993 No. 79 s 54; 1994 No. 15 s 3 Sch 2

Term of appointment

s 21 amd 1993 No. 79 s 55

Casual vacancies

s 23 amd 1989 No. 103 s 3 Sch; 1993 No. 79 s 56

Vacation of office

s 24 amd 1993 No. 79 s 57

Disclosure of interests

s 25 sub 1992 No. 66 s 45

Members to act honestly and with propriety

s 25A ins 1992 No. 66 s 46

Chairperson and deputy chairperson

s 28 amd 1989 No. 103 s 3 Sch; 1993 No. 79 s 58

Employees

s 37 amd 1991 No. 24 s 7.3 Sch 3; 1993 No. 79 s 59

Use of certain officers and premises

s 38 amd 1991 No. 24 s 7.3 Sch 3

Insurance

s 41 amd 1993 No. 79 s 60

Audit of accounts

s 44 amd 1993 No. 79 s 61

Removal from register

s 56 amd 1993 No. 79 s 62

Winding-up of bodies corporate

s 57 sub 1993 No. 79 s 63

Dissolution of bodies corporate

s 59 amd 1993 No. 79 s 64

Effect of winding-up etc. on offices

s 61 amd 1993 No. 79 s 65

Delegation by Minister

s 63 sub 1993 No. 79 s 66

Delegation by body corporate

s 64 sub 1993 No. 79 s 67

Evidentiary provisions

s 71 amd 1993 No. 79 s 68

Regulations

s 72 sub 1993 No. 79 s 69

Rules

s 73 amd 1993 No. 79 s 70

5 Table of changed names and titlesTABLE OF CHANGED NAMES AND TITLES
under the Reprints Act 1992 ss 23 and 23A

Old	New	Reference provision
authorised officer (within the meaning of Financial Administration and Audit Act 1977)	authorised auditor	Financial Administration and Audit Act 1977 s 111

6 Table of obsolete and redundant provisionsTABLE OF OBSOLETE AND REDUNDANT PROVISIONS
under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A
references to Queensland implied	Acts Interpretation Act 1954 s 35

7 Table of corrected minor errorsTABLE OF CORRECTED MINOR ERRORS
under section 44 of the Reprints Act 1992

Provision	Description
21(2)	ins ‘,’ after ‘Council’ (1st occurring)

8 Table of renumbered provisionsTABLE OF RENUMBERED PROVISIONS
under section 43 of the Reprints Act 1992

Previous	Renumbered as
21(1), 2nd sentence	21(1A)
21(2), 2nd sentence	21(2A)
28(1), 2nd sentence	28(1A)
33(2), 2nd sentence	33(2A)
33(3), 2nd sentence	33(3A)
33(3), 3rd sentence	33(3B)
33(4), 2nd sentence	33(4A)
33(4), 3rd sentence	33(4B)
33(5), 2nd sentence	33(6)
33(5), 3rd sentence	33(7)
34, 1st sentence	34(1)
34, 2nd sentence	34(2)
34, 3rd sentence	34(3)
34, 4th sentence	34(4)

37(2), 2nd sentence	37(2A)
37(3), 2nd sentence	37(3A)
44(1), 2nd sentence	44(1A)
44(3), 2nd sentence	44(3A)
44(3), 3rd sentence	44(3B)
44(4), 2nd sentence	44(4A)
44(6), 2nd sentence	44(6A)
45(2), 2nd sentence	45(3)
48, 1st sentence	48(1)
48, 2nd sentence	48(2)
48, 3rd sentence	48(3)
53, 1st sentence	53(1)
53, 2nd sentence	53(2)
54(3), 2nd sentence	54(4)
58(2), 2nd sentence	58(2A)
73(4), 2nd sentence	73(5)