



Queensland

Health and Hospitals Network and Other Legislation Amendment Bill 2012



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2012

A Bill

for

An Act to amend the *Health and Hospitals Network Act 2011* and the *Industrial Relations Act 1999* and to make minor or consequential amendments of Acts as stated in the schedule

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Health and Hospitals Network and Other Legislation Amendment Act 2012*. 4
5

Clause 2 Commencement 6

(1) This Act, other than the provisions mentioned in subsection (2), commences on 1 July 2012. 7
8

(2) Sections 7, 18, 26 and 42 commence on a day to be fixed by proclamation. 9
10

Part 2 Amendment of Health and Hospitals Network Act 2011 11
12

Clause 3 Act amended 13

This part amends the *Health and Hospitals Network Act 2011*. 14

Note— 15

See also the amendments in the schedule. 16

Clause 4 Amendment of s 1 (Short title) 17

Section 1, '*Health and Hospitals Network*'— 18

omit, insert— 19

'Hospital and Health Boards'. 20

Clause 5	Replacement of s 7 (Establishment of Local Health and Hospital Networks)	1 2
	Section 7—	3
	<i>omit, insert—</i>	4
'7	Establishment of Hospital and Health Services	5
	'(1) Hospital and Health Services are statutory bodies and are the principal providers of public sector health services.	6 7
	'(2) Each Hospital and Health Service is independently and locally controlled by a Hospital and Health Board.	8 9
	'(3) Each Hospital and Health Board appoints a health service chief executive.	10 11
	'(4) Each Hospital and Health Board exercises significant responsibilities at a local level, including controlling—	12 13
	(a) the financial management of the Service; and	14
	(b) the management of the Service's land and buildings; and	15
	(c) for a prescribed Service, the management of the Service's staff.'	16 17
Clause 6	Amendment of s 8 (Management of the public sector health system)	18 19
	(1) Section 8(3)(b), 'employing staff and'—	20
	<i>omit.</i>	21
	(2) Section 8(3)(c)—	22
	<i>omit, insert—</i>	23
	'(c) managing major capital works;'	24
Clause 7	Insertion of new s 8A	25
	After section 8—	26
	<i>insert—</i>	27

[s 8]

‘8A	Funding of public sector health system	1
	‘(1) The public sector health system is funded by the State and the Commonwealth.	2 3
	‘(2) The State pool account and State managed fund enhance the accountability and transparency of the funding of the public sector health system.	4 5 6
	‘(3) The administrator of the National Health Funding Pool publicly reports on funds paid into, and out of, the State pool account and the State managed fund.’.	7 8 9
Clause 8	Amendment of s 10 (State-wide employment and industrial relations arrangements)	10 11
	Section 10(2), ‘working in networks’—	12
	<i>omit, insert</i> —	13
	‘employed by Services’.	14
Clause 9	Amendment of s 19 (Functions of networks)	15
	(1) Section 19(2)(h)—	16
	<i>omit, insert</i> —	17
	‘(h) to maintain land, buildings and other assets owned by the Service;’.	18 19
	(2) After section 19(2)(h)—	20
	<i>insert</i> —	21
	‘(ha) for a prescribed Service, to employ staff under this Act;’.	22 23
Clause 10	Amendment of s 20 (Powers of networks)	24
	(1) Section 20(2)—	25
	<i>omit, insert</i> —	26
	‘(2) A Service may not own assets prescribed by regulation.’.	27
	(2) Section 20(4)—	28

omit, insert—

- ‘(4) A Service prescribed by regulation may also employ other health service employees under this Act.

Note—

Section 80 states that employees employed in the department and working for a Service immediately before the prescribed day for the Service become employees of the Service on the same terms, conditions and entitlements.

- ‘(5) A regulation under subsection (4) may also restrict, limit or impose conditions on the power to employ health service employees.’.

Clause 11 Insertion of new s 20A

After section 20—

insert—

‘20A Limitation on Service’s dealing with land or buildings

- ‘(1) A Service must not buy or sell land or buildings without the prior written approval of the Minister and the Treasurer.
- ‘(2) A Service must not, without the prior written approval of the Minister and the Treasurer, grant or take a lease of land or buildings unless the lease is a type prescribed by regulation.’.

Clause 12 Amendment of s 23 (Membership of governing councils)

Section 23—

insert—

- ‘(3) One or more of the members of a board must be clinicians.’.

Clause 13 Insertion of new s 27A

After section 27—

insert—

[s 14]

‘27A	Suspension from office of Hospital and Health Board members	1
		2
‘(1)	This section applies if—	3
(a)	a matter has arisen in relation to a member of a board;	4
	and	5
(b)	the matter—	6
(i)	is one which is, or may be, grounds for removing a member from office under section 28; or	7
		8
(ii)	is alleged misconduct by the member; and	9
(c)	the Minister considers that it is necessary in the public interest for the member to be suspended from office pending further consideration of the matter.	10
		11
		12
‘(2)	The Minister may suspend the member from office for a period not exceeding 60 days by notice in writing to the member.	13
		14
		15
‘(3)	If the Minister considers it is necessary in the circumstances, the Minister may extend the suspension from time to time by periods not exceeding 60 days, by notice in writing to the member.	16
		17
		18
		19
‘(4)	The Minister must advise the member by notice in writing if the Minister ends the member’s suspension.’.	20
		21
Clause 14	Amendment of s 28 (Removal from office of governing council members)	22
		23
	Section 28(e)—	24
	<i>omit, insert—</i>	25
‘(e)	the Minister recommends the removal because the Minister is satisfied the member—	26
		27
(i)	has been guilty of misconduct; or	28
(ii)	is incapable of performing the member’s duties; or	29
(iii)	has neglected the member’s duties or performed the member’s duties incompetently; or	30
		31

	(iv) has been absent without permission of the board from 3 consecutive meetings of which due notice was given.’.	1 2 3
Clause 15	Replacement of pt 2, div 2, sdiv 3	4
	Part 2, division 2, subdivision 3—	5
	<i>omit, insert—</i>	6
	‘Subdivision 3 Delegation by Hospital and Health Boards	7 8
‘30	Delegation by boards	9
	‘(1) The board for a Hospital and Health Service may delegate any of the Service’s functions under this Act or the <i>Financial Accountability Act 2009</i> —	10 11 12
	(a) to a committee of the board if all of the members of the committee are board members; or	13 14
	(b) to the executive committee established by the board; or	15
	(c) to the health service chief executive.	16
	‘(2) The health service chief executive, with the written approval of the board, may sub-delegate a function mentioned in subsection (1) to an appropriately qualified—	17 18 19
	(a) employee of the Hospital and Health Service; or	20
	(b) health service employee employed in the department and working for the Service.	21 22
	‘(3) In this section—	23
	<i>appropriately qualified</i> includes having the qualifications, experience or standing appropriate to the exercise of the power.	24 25 26
	<i>Example of standing—</i>	27
	the person’s classification level or how senior the person is in the Hospital and Health Service’.	28 29

[s 16]

Clause 16	Insertion of new pt 2, div 2A	1	
	After part 2, division 2—	2	
	<i>insert—</i>	3	
	‘Division 2A	Executive committees	4
‘32A	Hospital and Health Board must establish executive committee for Hospital and Health Service	5 6	
	‘A board must establish, as a committee of the board, an executive committee for the Service controlled by the board.	7 8	
‘32B	Function of executive committee	9	
	‘(1) The function of the executive committee is to support the board in its role of controlling the Service for which it is established by—	10 11 12	
	(a) working with the health service chief executive to progress strategic issues identified by the board; and	13 14	
	(b) strengthening the relationship between the board and the health service chief executive to ensure accountability in the delivery of services by the Service.	15 16 17	
	‘(2) Without limiting subsection (1), an executive committee may, at the direction of the board—	18 19	
	(a) oversee the performance of the Service against the performance measures stated in the service agreement; and	20 21 22	
	(b) support the board in the development of engagement strategies and protocols with primary healthcare organisations, monitor their implementation, and address issues that arise in their implementation; and	23 24 25 26	
	(c) support the board in the development of service plans and other plans for the Service and monitor their implementation; and	27 28 29	

-
- (d) work with the health service chief executive in responding to critical emergent issues in the Service; and
 - (e) perform other functions given to the executive committee by the board.
- ‘(3) A regulation may prescribe other matters relating to an executive committee’s functions.

‘32C Membership of executive committee

- ‘An executive committee consists of the following—
- (a) the chair or deputy chair of the board who is to be chair of the committee;
 - (b) at least 2 other board members, decided by the board, at least one of whom is a clinician.

‘32D Conduct of business by executive committee

- ‘(1) The health service chief executive of a Service is to attend all meetings of the Service’s executive committee, unless excused by the chair of the committee.
- ‘(2) A quorum for a meeting of an executive committee is one-half of the number of its members, or if one-half is not a whole number, the next highest whole number.
- ‘(3) An executive committee must keep a record of the decisions it makes when exercising a power delegated to it by the board that established the committee.
- ‘(4) An executive committee is to otherwise conduct its business, including its meetings, in the way the board that established the committee considers appropriate.’

Clause 17 Replacement of pt 2, div 3

- Part 2, division 3—
- omit, insert—*

[s 18]

‘Division 3	Health service chief executives	1
‘33	Appointment of health service chief executives	2
‘(1)	A Hospital and Health Service’s board must appoint a health service chief executive to manage the Service.	3 4
‘(2)	The appointment is not effective until it is approved by the Minister.	5 6
‘(3)	The person appointed as health service chief executive must also be appointed as a health executive.	7 8
‘(4)	In managing the Service, the health service chief executive is subject to direction by the Service’s board.	9 10
‘34	Delegation by health service chief executive	11
‘(1)	A health service chief executive may delegate the health service chief executive’s functions under this Act to an appropriately qualified—	12 13 14
	(a) employee of the Hospital and Health Service; or	15
	(b) health service employee employed in the department and working for the Service.	16 17
‘(2)	However, the health service chief executive must not delegate the authorisation to disclose confidential information in the public interest under section 160.	18 19 20
‘(3)	In this section—	21
	<i>appropriately qualified</i> includes having the qualifications, experience or standing appropriate to the exercise of the power.	22 23 24
	<i>Example of standing—</i>	25
	the person’s classification level or how senior the person is in the Service’.	26 27
Clause 18	Insertion of new s 39A	28
	After section 39—	29

insert—

‘39A Chief executive to make service agreements available

- ‘(1) This section applies to a service agreement between the chief executive and a Service, including an amendment of the agreement.
- ‘(2) The chief executive must, within 28 days of entering into the service agreement or amendment—
- (a) give the administrator of the National Health Funding Pool a copy of the service agreement or amendment; and
 - (b) publish the service agreement or amendment in a way that allows the agreement to be accessed by members of the public, including, for example, on the internet.’.

Clause 19 Insertion of new pt 2, div 4A

After section 43—

insert—

‘Division 4A Hospital and Health Ancillary Boards

‘43A Minister may establish ancillary board

- ‘(1) The Minister may establish a Hospital and Health Ancillary Board (an *ancillary board*) to give advice to a Hospital and Health Board in relation to—
- (a) a public sector hospital; or
 - (b) a public sector health facility; or
 - (c) a public sector health service; or
 - (d) a part of the State.
- ‘(2) Before establishing an ancillary board the Minister may consult with—
- (a) the relevant Hospital and Health Board; and

[s 20]

- (b) the community who receive health services from, or in, the public sector hospital, public sector health facility, public sector health service or part of the State for which the ancillary board may be established. 1
2
3
4
- ‘(3) The Minister must assign a name to the ancillary board. 5
- ‘(4) A regulation may prescribe matters relating to the establishment and operation of an ancillary board. 6
7
- ‘(5) Without limiting subsection (4), a regulation may provide for the following— 8
9
 - (a) the way in which an ancillary board is to exercise its function of providing advice to a board; 10
11
 - (b) the way consultation is to occur between— 12
 - (i) an ancillary board and the board to which it is to provide advice; or 13
14
 - (ii) an ancillary board and the Service controlled by the board; 15
16
 - (c) the appointment and removal of members of an ancillary board.’. 17
18

Clause 20 Replacement of pt 2, div 5, heading 19
Part 2, division 5, heading— 20
omit, insert— 21

‘Division 5 Directions to Hospital and Health Services and appointment of advisers to Hospital and Health Boards’. 22
23
24
25

Clause 21 Amendment of s 44 (Minister may give directions to network) 26
27
Section 44(4) and (5)— 28
omit, insert— 29

-
- ‘(4) The Minister must give a copy of a direction to the chief executive who must, as soon as practicable, publish it in a way that allows it to be accessed by members of the public, including, for example, on the internet. 1
2
3
4
- ‘(5) A Service must comply with a direction given by the Minister. 5
- ‘(6) A Service’s annual report under the *Financial Accountability Act 2009* for a financial year must include a statement about— 6
7
- (a) each direction given by the Minister to the Service during the financial year; and 8
9
- (b) action taken by the Service as a result of the direction.’. 10

Clause 22 Insertion of new ss 44A to 44E 11

After section 44— 12

insert— 13

‘44A Minister may appoint advisers to boards 14

- ‘(1) The Minister may appoint a person to be an adviser to a board if the Minister considers that the adviser may assist the board to improve the performance of— 15
16
17
- (a) the board; or 18
- (b) the Service controlled by the board. 19
- ‘(2) An appointment under this section must be— 20
- (a) in writing; and 21
- (b) for the term not exceeding 1 year decided by the Minister; and 22
23
- (c) on the terms and conditions, including remuneration, decided by the Minister. 24
25
- ‘(3) The Minister must not appoint more than 2 persons to be advisers to a board at the same time. 26
27
- ‘(4) An appointment under this section is effective whether or not the board agrees to the appointment. 28
29
- ‘(5) An adviser may resign by notice in writing to the Minister. 30

[s 22]

‘44B	Matters to which Minister may have regard in deciding whether to appoint adviser	1 2
	‘In deciding whether to appoint an adviser to a board, the Minister may have regard to the performance of the board or the Service controlled by the board in relation to the following—	3 4 5 6
	(a) the safety and quality of the health services being provided by the Service;	7 8
	(b) the way in which the Service is complying with the service agreement for the Service;	9 10
	(c) the financial management of the Service.	11
‘44C	Functions of advisers	12
	The functions of an adviser are—	13
	(a) to attend board meetings; and	14
	(b) to provide information and advice to the board to assist it in performing its functions under this Act; and	15 16
	(c) to advise the Minister and the chief executive on any matter relating to the performance of the board or the Service controlled by the board.	17 18 19
‘44D	Adviser not a member of board but has duty of disclosure	20 21
	‘An adviser is not a member of the board, but schedule 2, section 9 applies to an adviser as if the adviser were a member of the board.	22 23 24
‘44E	Obligations of board in relation to adviser	25
	‘(1) While an adviser’s appointment is in force, the board must provide the adviser with all notices of board meetings, and all documents and other information provided to board members.	26 27 28
	‘(2) The board must permit the adviser—	29

-
- (a) to attend all meetings of the board; and 1
 - (b) to provide information and advice to the board during 2
meetings.’. 3

Clause 23	Insertion of new s 44F	4
	In part 3, division 1—	5
	<i>insert—</i>	6
‘44F	Chief executive subject to direction of the Minister	7
	‘(1) The chief executive is subject to the directions of the Minister 8 in managing the department. 9	
	‘(2) However, in making decisions about particular individuals, 10 the chief executive— 11	
	(a) must act independently, impartially and fairly; and 12	
	(b) is not subject to the direction of the Minister.’. 13	
Clause 24	Amendment of s 45 (Functions of chief executive)	14
	(1) Section 45(d)— 15	
	<i>omit.</i> 16	
	(2) Section 45(e)— 17	
	<i>omit, insert—</i> 18	
	‘(d) to manage major capital works for proposed public 19 sector health service facilities; 20	
	(e) to employ staff in the department, including to work for 21 Services other than prescribed Services;’. 22	
	(3) Section 45(f), ‘employ staff and’— 23	
	<i>omit.</i> 24	
Clause 25	Amendment of s 46 (Delegation by chief executive)	25
	Section 46(5)— 26	
	<i>omit, insert—</i> 27	

[s 26]

- ‘(5) A health service chief executive, with the written approval of the chief executive, may sub-delegate a function delegated to the health service chief executive under subsection (1) to an appropriately qualified—
- (a) health executive employed by the Service; or
 - (b) health service employee employed in the department and working for the Service.’.

Clause 26	Insertion of new pt 3A	8
	After part 3—	9
	<i>insert—</i>	10
‘Part 3A	Funding of public sector health system	11
		12
‘Division 1	Purpose of part	13
‘53A	Purpose	14
	‘The main purpose of this part is to enhance the accountability and transparency of the funding of public sector hospitals, other public sector health services, and teaching, training and research related to the provision of health services.	15 16 17 18
‘Division 2	State pool account	19
‘53B	Establishment of State pool account	20
	‘The chief executive is to establish an account with the Reserve Bank of Australia to be called the State pool account.	21 22
‘53C	Payment into State pool account	23
	‘(1) The following must be paid into the State pool account—	24

(a)	all activity-based funding allocated from State funds for the provision of hospital services under the National Health Reform Agreement;	1 2 3
(b)	all funding received from the Commonwealth for the provision of hospital and other health services under the National Health Reform Agreement.	4 5 6
‘(2)	The following may be paid into the State pool account—	7
(a)	exceptional payments for the provision of health services decided by the chief executive;	8 9
(b)	interest earned on the account.	10
‘(3)	The amounts paid into the State pool account may include adjustments—	11 12
(a)	to reflect the difference between estimated and actual services provided; and	13 14
(b)	for other funding reconciliations under the National Health Reform Agreement.	15 16
‘(4)	In this section—	17
	<i>health services</i> also includes teaching, training and research related to the provision of health services.	18 19
‘53D	Payments from State pool account	20
‘(1)	The payment of funds from the State pool account, including the timing of the payments, is to be made only by the administrator at the direction of the Minister.	21 22 23
‘(2)	The administrator is required to authorise personally each payment made from the State pool account.	24 25
‘(3)	Payments from the State pool account are to be made only to—	26 27
(a)	Hospital and Health Services and other providers of hospital and other health services; or	28 29
(b)	the State managed fund; or	30

[s 26]

- (c) an account in the department other than the State pool account or the State managed fund. 1
2
- ‘(4) A direction made by the Minister to the administrator for the payment of funds from the State pool account is to be consistent with— 3
4
5
 - (a) the purpose for which the funding was paid into the account; and 6
7
 - (b) the National Health Reform Agreement; and 8
 - (c) advice provided by the administrator about the basis on which the administrator has calculated payments into the account by the Commonwealth; and 9
10
11
 - (d) any relevant service agreement between the chief executive and a Service. 12
13
- ‘(5) This section does not prevent the Minister from directing the administrator to pay funds— 14
15
 - (a) to reflect the difference between estimated and actual services provided; or 16
17
 - (b) for other funding reconciliations under the National Health Reform Agreement; or 18
19
 - (c) to correct any error in payments out of the State pool account; or 20
21
 - (d) to pay fees associated with maintaining the State pool account, including financial institution fees and audit fees; or 22
23
24
 - (e) for interest earned on the State pool account, for any purpose decided by the Treasurer; or 25
26
 - (f) to the department for the provision of support services to Services. 27
28

‘53E	Payment from State pool account if no administrator or administrator not available to make the payment	1 2
	‘The chief executive may pay funds from the State pool account at the direction of the Minister as if the chief executive were the administrator—	3 4 5
	(a) if there is no administrator or acting administrator appointed under this Act; or	6 7
	(b) the administrator is not available to make the payment.	8
‘Division 3	State managed fund	9
‘53F	Establishment of State managed fund	10
	‘The chief executive is to establish an account with a financial institution to be called the State managed fund.	11 12
‘53G	Payment into State managed fund	13
	‘(1) The following must be paid into the State managed fund—	14
	(a) block funding allocated by the State, or paid from the State pool account, for the provision of hospital and other health services under the National Health Reform Agreement;	15 16 17 18
	(b) funding for teaching, training and research related to the provision of health services allocated by the State, or paid from the State pool account, under the National Health Reform Agreement.	19 20 21 22
	‘(2) Exceptional payments for the provision of health services decided by the chief executive may be paid into the State managed fund.	23 24 25
	‘(3) The amounts paid into the State managed fund may include adjustments—	26 27
	(a) to reflect the difference between estimated and actual services provided; and	28 29

[s 26]

- (b) for other funding reconciliations under the National Health Reform Agreement. 1
2
- ‘(4) In this section— 3
- block funding* means funding for public patient services that 4
are not appropriately funded through activity-based funding 5
but does not include top-up funding provided by the 6
Commonwealth under the National Health Reform 7
Agreement. 8
- ‘53H Payments from State managed fund 9**
- ‘(1) Payments of funds from the State managed fund, including the 10
timing of the payments, are to be decided by the chief 11
executive. 12
- ‘(2) Payments from the State managed fund are to be made only 13
to— 14
- (a) Hospital and Health Services and other providers of 15
hospital and other health services; and 16
- (b) universities and other providers of teaching, training and 17
research related to the provision of health services. 18
- ‘(3) Payment of funds from the State managed fund is to be 19
consistent with— 20
- (a) the purpose for which the funding was paid into the 21
fund; and 22
- (b) the National Health Reform Agreement; and 23
- (c) any relevant service agreement between the chief 24
executive and a Service. 25
- ‘(4) This section does not prevent the chief executive from paying 26
amounts from the State managed fund— 27
- (a) to reflect the difference between estimated and actual 28
services provided; or 29
- (b) for other funding reconciliations under the National 30
Health Reform Agreement; or 31
- (c) to correct any error in payments out of the fund; or 32

(d)	to pay fees associated with maintaining the fund, including financial institution fees and audit fees; or	1 2
(e)	to another account in the department for the provision of support services to Services.	3 4
‘Division 4	Provisions applying to administrator for all States, Territories and the Commonwealth	5 6 7
‘Subdivision 1	Preliminary	8
‘53I	Definitions for div 4	9
‘(1)	In this division—	10
	<i>administrator</i> means the administrator of the National Health Funding Pool appointed under section 53K and under the corresponding provision of the laws of the Commonwealth and the other States.	11 12 13 14
	<i>COAG</i> means the Council of Australian Governments.	15
	<i>function</i> includes a power, authority or duty.	16
	<i>Hospital and Health Service</i> —	17
(a)	for Queensland, means a Hospital and Health Service established under section 17; or	18 19
(b)	for another State, means an organisation that is a local hospital network (however described) for the purposes of the National Health Reform Agreement.	20 21 22
	<i>National Health Funding Pool</i> means the combined State pool accounts for each State.	23 24
	<i>National Health Reform Agreement</i> means the National Health Reform Agreement between the Commonwealth and the States that was agreed to by COAG on 2 August 2011, as amended from time to time.	25 26 27 28

[s 26]

responsible Minister for a jurisdiction means the relevant Minister with portfolio responsibility for the administration of the provision of this division in which the expression occurs (or of the corresponding provision of the laws of the Commonwealth and the other States).

Note—

see also section 53ZB

Standing Council on Health means (subject to subsection (2)) the Ministerial Council by that name or, if there is no such Ministerial Council, the standing Ministerial Council established or recognised by COAG whose members include all Ministers in Australia having portfolio responsibility for health.

State includes the Australian Capital Territory and the Northern Territory.

State managed fund of a State means a bank account or fund established or designated by the State for the purposes of health funding under the National Health Reform Agreement that is required to be undertaken in the State through a State managed fund.

State pool account of a State means the bank account established by the State under section 53B or under the corresponding provisions of the law of another State.

(2) The Standing Council on Health, when acting under this division, is to be constituted only by a single Minister for the Commonwealth and a single Minister for each of the States, and any reference in this division to a member of that Council is to be construed as a reference to those Ministerial members only.

(3) If there are 2 or more Ministers for the Commonwealth or for a State who are members of the Standing Council on Health, the relevant Minister for the purposes of this division is the Minister having primary portfolio responsibility for health in his or her jurisdiction.

‘(4)	A reference in this division to the agreement of, or a request by, a member of the Standing Council on Health is a reference to an agreement or request in writing.	1 2 3
‘(5)	This division is to be interpreted in accordance with Schedule 7 to the <i>Health Practitioner Regulation National Law</i> set out in the Schedule to the <i>Health Practitioner Regulation National Law Act 2009</i> .	4 5 6 7
‘(6)	The <i>Acts Interpretation Act 1954</i> does not apply to or in respect of this division.	8 9
‘Subdivision 2	Administrator of the National Health Funding Pool	10 11
‘53J	The office of administrator	12
‘(1)	The office of administrator of the National Health Funding Pool is established by this division.	13 14
‘(2)	It is the intention of Parliament that the same individual holds the office established under subsection (1) and under the corresponding provision of the laws of the Commonwealth and the other States.	15 16 17 18
‘(3)	The administrator appointed under this division may exercise and perform the functions of the administrator in relation to—	19 20
	(a) one jurisdiction; or	21
	(b) 2 or more or all jurisdictions collectively.	22
‘(4)	A reference in a provision of this division (other than in section 53P(1)) to a function of the administrator under this division includes a reference to a function of the administrator under the corresponding provision of the laws of the Commonwealth and the other States.	23 24 25 26 27
‘53K	Appointment of administrator	28
‘(1)	The Minister for this jurisdiction who is a member of the Standing Council on Health is to appoint an individual to the	29 30

[s 26]

office of the administrator of the National Health Funding Pool under this division.	1 2
‘(2) Before the appointment is made, the Chair of the Standing Council on Health is to give each member of the Council an opportunity to nominate an individual for appointment.	3 4 5
‘(3) An appointment is not to be made unless all the members of the Standing Council on Health have agreed on the individual who will be appointed as administrator, the date that the appointment will take effect, the period of appointment and the conditions of appointment.	6 7 8 9 10
‘(4) The appointment is to be made by instrument in writing.	11
‘(5) The administrator is to be appointed (subject to subsection (3)) for the period, not exceeding 5 years, and on the conditions specified in his or her instrument of appointment, but is eligible for re-appointment.	12 13 14 15
‘(6) The administrator is entitled to the remuneration determined in accordance with the law of the Commonwealth.	16 17
‘53L Suspension of administrator	18
‘(1) The Chair of the Standing Council on Health is required to suspend the administrator from office if requested to do so by—	19 20 21
(a) at least 3 members of the Council who are Ministers of a State; or	22 23
(b) the member of the Council who is a Minister of the Commonwealth.	24 25
‘(2) A member of the Standing Council on Health is not to request the suspension of the administrator unless the member is satisfied that the administrator—	26 27 28
(a) is, because of any physical or mental incapacity or otherwise, unable to perform his or her functions satisfactorily; or	29 30 31
(b) has failed to comply with his or her obligations or duties as administrator; or	32 33

(c)	has been accused or convicted of an offence that carries a penalty of imprisonment; or	1 2
(d)	has or may become bankrupt.	3
‘(3)	A suspension is to be effected by an instrument in writing and is to be notified by the Chair of the Standing Council on Health to all members of the Council.	4 5 6
‘(4)	A suspension is terminated after a period of suspension of 60 days unless before the end of that period the administrator is removed or resigns from office or a majority of the members of the Standing Council on Health—	7 8 9 10
(a)	terminate the suspension; or	11
(b)	extend the suspension for a specified further period.	12
‘(5)	Despite subsection (1), the Chair of the Standing Council on Health is not to suspend the administrator from office within the period of 90 days after an earlier period of suspension was terminated unless a majority of the members of the Council request the Chair to do so.	13 14 15 16 17
‘53M	Removal or resignation of administrator	18
‘(1)	The Minister for this jurisdiction who is a member of the Standing Council on Health is required to remove the administrator from office if a majority of the members of the Council agree to the administrator’s removal from office.	19 20 21 22
‘(2)	The administrator is to be removed from office by an instrument in writing that takes effect on the date agreed to by the majority of the members of the Standing Council on Health.	23 24 25 26
‘(3)	The administrator may resign as administrator by notice in writing to the Chair of the Standing Council on Health.	27 28
‘(4)	The resignation of the administrator takes effect on the date notified by the Chair of the Standing Council on Health to all members of the Council.	29 30 31

[s 26]

‘53N Acting administrator	1
‘(1) The Chair of the Standing Council on Health may, from time to time, appoint an individual to act as the administrator during any period when the office is vacant or the holder of the office is suspended or absent from duty.	2 3 4 5
‘(2) Any such appointment may only be made from a panel of persons, and in accordance with the procedure, agreed to by all the members of the Standing Council on Health.	6 7 8
‘53O Provision of staff and facilities for administrator	9
‘(1) Staff and facilities to assist the administrator in exercising or performing his or her functions under this division are to be provided by the National Health Funding Body constituted under the <i>National Health Reform Act 2011</i> of the Commonwealth.	10 11 12 13 14
‘(2) The administrator is not entitled to delegate a function conferred on the administrator under this division to that body, to any such member of staff or to any other person or body.	15 16 17
‘53P Functions of administrator	18
‘(1) The administrator is—	19
(a) to calculate and advise the Treasurer of the Commonwealth of the amounts required to be paid by the Commonwealth into each State pool account of the National Health Funding Pool under the National Health Reform Agreement (including advice on any reconciliation of those amounts based on subsequent actual service delivery); and	20 21 22 23 24 25 26
(b) to monitor State payments into each State pool account for the purposes of subdivision 3; and	27 28
(c) to make payments from each State pool account in accordance with the directions of the State concerned; and	29 30 31

-
- (d) to report publicly on the payments made into and from each State pool account and other matters on which the administrator is required to report under this division; and
- (e) to exercise or perform any other functions conferred on the administrator under this division.

Note—

The *National Health Reform Act 2011* (Cwlth) provides that the functions of the administrator include monitoring Commonwealth payments into each State pool account for the purposes of financial management and reporting.

- ‘(2) The administrator and the body and staff assisting the administrator are not subject to the control or direction of any Minister of the Commonwealth in relation to the exercise or performance of the administrator’s functions under this division.
- ‘(3) However, the administrator is required to comply with any directions given by COAG in relation to the manner in which the administrator exercises or performs his or her functions under this division (including in relation to the preparation or provision of annual or monthly reports, financial statements or information under subdivision 3).
- ‘(4) Directions given by COAG under subsection (3)—
- (a) are to be given in accordance with a written resolution of COAG passed in accordance with the procedures determined by COAG; and
- (b) are to be notified in writing to the administrator; and
- (c) are to be made publicly available by the administrator.
- ‘(5) To avoid doubt, this division is not intended—
- (a) to give the Commonwealth ownership or control of money in a State pool account; or
- (b) to affect the obligation of the administrator under the law of a State to make payments from the State pool account of the State in accordance with the directions of the State.

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- ‘(6) To avoid doubt, the administrator may have regard to information obtained in the exercise or performance of functions under the law of another jurisdiction in the exercise or performance of the administrator’s functions under subdivision 3.

‘Subdivision 3 Financial management and reporting

‘53Q Financial management obligations of administrator

- ‘The administrator must—
- (a) develop and apply appropriate financial management policies and procedures with respect to the State pool accounts (including policies and procedures to ensure payments from those accounts are made in accordance with the directions of the responsible Ministers); and
 - (b) keep proper records in relation to the administration of the State pool accounts, including records of all payments made into and from those accounts and the basis on which the payments were made; and
 - (c) prepare the financial statements required by this subdivision in relation to the State pool accounts and arrange for the audit of those financial statements in accordance with this subdivision.

‘53R Monthly reports by administrator

- ‘(1) The administrator must provide monthly reports to the Commonwealth and each State containing the following information for the relevant month—
- (a) the amounts paid into each State pool account and State managed fund by the relevant State and the basis on which the payments were made;

-
- (b) the amounts paid into each State pool account by the Commonwealth and the basis on which the payments were made; 1
2
3
- (c) the amounts paid from each State pool account to Hospital and Health Services, a State managed fund or other organisations or funds and the basis on which the payments were made; 4
5
6
7
- (d) the amounts paid from each State managed fund to Hospital and Health Services or other organisations or funds and the basis on which the payments were made; 8
9
10
- (e) the number of public hospital services funded for each Hospital and Health Service (including a running financial year total) in accordance with the system of activity-based funding; 11
12
13
14
- (f) the number of other public hospital services and functions funded from each State pool account or State managed fund (including a running financial year total). 15
16
17
- ‘(2) A monthly report required to be provided to a jurisdiction under this section is to be provided to the responsible Minister for that jurisdiction or to a body or officer notified to the administrator by that Minister. 18
19
20
21
- ‘(3) The administrator is to make reports provided under this section publicly available. 22
23

‘53S Annual report by administrator 24

- ‘(1) The administrator must, within 4 months after the end of each financial year, provide to the responsible Ministers an annual report on the exercise or performance of his or her functions under this division during the financial year. 25
26
27
28
- ‘(2) The annual report must include the following information for the relevant financial year— 29
30
- (a) the amounts paid into each State pool account and State managed fund by the relevant State and the basis on which the payments were made; 31
32
33

[s 26]

- (b) the amounts paid into each State pool account by the Commonwealth and the basis on which the payments were made; 1
2
3
 - (c) the amounts paid from each State pool account to Hospital and Health Services, a State managed fund or other organisations or funds and the basis on which the payments were made; 4
5
6
7
 - (d) the amounts paid from each State managed fund to Hospital and Health Services or other organisations or funds and the basis on which the payments were made; 8
9
10
 - (e) the number of public hospital services funded for each Hospital and Health Service in accordance with the system of activity-based funding; 11
12
13
 - (f) the number of other public hospital services and functions funded from each State pool account or State managed fund. 14
15
16
- ‘(3) The annual report is to be accompanied by— 17
- (a) an audited financial statement for each State pool account; and 18
19
 - (b) a financial statement that combines the audited financial statements for each State pool account. 20
21
- ‘(4) A responsible Minister must, as soon as practicable after receiving an annual report under this section, cause a copy of the report to be tabled in the Parliament of the responsible Minister’s jurisdiction. 22
23
24
25
- ‘53T Administrator to prepare financial statements for State pool accounts 26
27**
- ‘The administrator must, after each financial year, prepare— 28
- (a) a financial statement for each State pool account that details financial transactions during that financial year; 29
30
and 31

-
- (b) a combined financial statement that consists of the
financial statements for each State pool account for the
financial year.

‘53U Audit of financial statements

- ‘(1) The auditor-general must, for each financial year—
- (a) audit the financial statements under this subdivision for
the State pool account established under section 53B;
and
- (b) prepare an auditor’s report about the financial
statements.
- ‘(2) As soon as practicable after the auditor-general has audited
the financial statements and prepared an auditor’s report, the
auditor-general must—
- (a) give the certified statements and the auditor’s report to
the chief executive; and
- (b) give a copy of the certified statements and the auditor’s
report to the administrator, the Minister and the
Treasurer.
- ‘(3) The *Auditor-General Act 2009* applies to an audit under this
section as if it were conducted under that Act.
- ‘(4) Without limiting subsection (3)—
- (a) the auditor-general has the same powers the
auditor-general has in relation to an audit of the
consolidated fund or an entity under the
Auditor-General Act 2009; and
- (b) the *Auditor-General Act 2009*, section 53 applies to a
record made, or information divulged or communicated,
in relation to an audit under this section as if it were a
record made, or information divulged or communicated,
under that Act.

[s 26]

‘53V Performance audits	1
‘(1) This section applies to all or any particular activities of the administrator that relate to Queensland.	2 3
‘(2) The auditor-general may conduct a performance audit, under the <i>Auditor-General Act 2009</i> , section 37A, of all or any of the particular activities of the administrator as if the administrator were a public sector entity under that Act.	4 5 6 7
‘(3) Before the auditor-general of this jurisdiction conducts a performance audit, the auditor-general must notify the Auditors-General of all other jurisdictions of his or her intention to conduct the proposed audit.	8 9 10 11
‘(4) Auditors-General who are conducting performance audits at the same time are to make arrangements to coordinate the conduct of those audits in relation to any requirements imposed on the administrator.	12 13 14 15
‘53W States to provide administrator with information about State managed funds	16 17
‘The responsible Minister for a State is to provide information to the administrator about any of the following matters relating to the State managed fund of the State that the administrator requires for the preparation of reports and financial statements under this subdivision—	18 19 20 21 22
(a) the amounts paid by the State into the State managed fund and the basis on which the payments were made;	23 24
(b) the amounts paid by the State from the State managed fund to Hospital and Health Services or other organisations or funds and the basis on which the payments were made;	25 26 27 28
(c) public hospital services and functions that are funded from the State managed fund.	29 30

‘53X Provision of information generally	1
‘(1) The administrator is required to provide to the responsible Minister for a jurisdiction any information requested by that responsible Minister that relates to that jurisdiction.	2 3 4
‘(2) The information is to be provided by the time requested by that responsible Minister.	5 6
‘(3) The administrator is required to provide to the responsible Ministers of all jurisdictions a copy of advice provided by the administrator to the Treasurer of the Commonwealth about the basis on which the administrator has calculated the payments to be made into State pool accounts by the Commonwealth.	7 8 9 10 11 12
‘(4) The administrator may at any time provide any information that relates to a jurisdiction to the responsible Minister for that jurisdiction.	13 14 15
‘(5) Any information relating to a jurisdiction that is provided by the administrator to another jurisdiction may only be publicly released by that other jurisdiction in accordance with arrangements approved by the responsible Minister for the jurisdiction to which the information relates.	16 17 18 19 20
‘Subdivision 4 Miscellaneous	21
‘53Y Application of Acts to administrator	22
‘(1) The administrator is a unit of public administration under the <i>Crime and Misconduct Act 2001</i> .	23 24
‘(2) The following Acts do not apply to the administrator in performing a function under this Act—	25 26
(a) the <i>Information Privacy Act 2009</i> ;	27
(b) the <i>Ombudsman Act 2001</i> ;	28
(c) the <i>Right to Information Act 2009</i> ;	29
(d) the <i>Public Records Act 2002</i> .	30

[s 26]

- ‘(3) To remove doubt, it is declared that the administrator is not a statutory body for—
- (a) the *Statutory Bodies Financial Arrangements Act 1982*;
or
 - (b) the *Financial Accountability Act 2009*

‘53Z Application of Commonwealth Acts

- (1) The following Acts apply (subject to subsection (2)) as laws of this jurisdiction to or in respect of the administrator and any function exercised or performed by the administrator—
- (a) the *Archives Act 1983* of the Commonwealth;
 - (b) the *Australian Information Commissioner Act 2010* of the Commonwealth;
 - (c) the *Freedom of Information Act 1982* of the Commonwealth;
 - (d) the *Ombudsman Act 1976* of the Commonwealth;
 - (e) the *Privacy Act 1988* of the Commonwealth.
- (2) Each of those Acts so applies subject to the modifications made by Regulations made under the *National Health Reform Act 2011* of the Commonwealth with the agreement of all the members of the Standing Council on Health.

‘53ZA Extra territorial operation of Act

- ‘It is the intention of Parliament that the operation of this division is to include, as far as possible, operation in relation to the following—
- (a) things situated in or outside the territorial limits of this jurisdiction;
 - (b) acts, transactions and matters done, entered into or occurring in or outside the territorial limits of this jurisdiction;

-
- (c) things, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this division, be governed or otherwise affected by the law of another jurisdiction.

'53ZB Transitional and validation provisions

- '(1) If, on the commencement of this division, corresponding provisions to this division have not been enacted by another jurisdiction, the responsible Minister for that jurisdiction for the purposes of this division is the Minister of that jurisdiction with portfolio responsibility for health.
- '(2) Any thing done by a Minister of the Commonwealth or of a State before the commencement of this division that would have been validly done if this division, and the corresponding provisions of other jurisdictions, had been in force at the time is taken to have been validly done.'

Clause 27 Amendment of s 54 (Chief executive may provide data to Commonwealth)

Section 54(3)—
omit, insert—

- '(3) In this section—
relevant data means—
- (a) data the State and Commonwealth have agreed is to be provided to—
- (i) the Commonwealth; or
- (ii) an entity established under an Act of the Commonwealth; or
- (b) data the State and an entity established under an Act of the Commonwealth have agreed is to be provided to the entity.'

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Clause 28	Amendment of s 60 (Power of health service auditors)	1
	Section 60(2) to (4)—	2
	<i>omit, insert—</i>	3
	‘(2) A health service auditor may, in the exercise of the auditor’s functions, ask an employee of the department or a Service to give to the auditor a document, including a document containing confidential information, that—	4 5 6 7
	(a) is relevant to the auditor’s functions; and	8
	(b) is in the possession or control of the employee.	9
	‘(3) The employee must comply with the request.	10
	‘(4) If requested by the employee, the health service auditor must produce the auditor’s instrument of appointment to the employee.’.	11 12 13
Clause 29	Amendment of s 67 (Appointment of health service employees)	14 15
	(1) Section 67(3) and (4)—	16
	<i>renumber</i> as section 67(4) and (5).	17
	(2) Section 67(1) and (2)—	18
	<i>omit, insert—</i>	19
	‘(1) The chief executive may appoint a person as a health service employee in the department, including as an employee of the department working for a Service that is not a prescribed Service.	20 21 22 23
	‘(2) A Service may appoint a person as a health executive in the Service.	24 25
	‘(3) A prescribed Service may appoint a person as any health service employee in the Service.’.	26 27
Clause 30	Amendment of s 68 (Contracted health service employees other than health executives)	28 29
	Section 68(2)—	30

omit, insert—

- (2) A person appointed on a contract for a fixed term must enter into a written contract of employment—
- (a) for an employee of the department—with the chief executive; or
 - (b) for an employee of a prescribed Service—with the health service chief executive.’.

Clause 31 Insertion of new s 69A

Part 5, division 1, after section 69—

insert—

‘69A Modification of Industrial Relations Act 1999 for health service employees

‘The *Industrial Relations Act 1999*, schedule 4A states the way that Act is modified for Hospital and Health Services prescribed under the *Hospital and Health Boards Act 2011*, section 20(4) and their employees.’.

Clause 32 Amendment of s 74 (Basis of employment for health executives)

- (1) Section 74(1)—

omit, insert—

- (1) Each person appointed as a health executive must enter into a written contract of employment with the following—
- (a) for a health executive employed by a Service (other than the health service chief executive)—the health service chief executive;
 - (b) for a health executive in the department—the chief executive;
 - (c) for a health service chief executive—the chair of the board for the Service.’.
- (2) Section 74(4) and (5)—

‘Division 4	Matters relating to employment of health service employees by Services	1
		2
		3
‘80	Departmental health service employees to be employed by Services	4
		5
‘(1)	This section applies to a person employed in the department who is working for a Service immediately before the prescribed day for that Service.	6
		7
		8
‘(2)	From the prescribed day, the person is taken to be employed by the Service on the same terms, conditions and entitlements as those applying to the person’s employment in the department immediately before the prescribed day.	9
		10
		11
		12
‘(3)	Also, the following apply for the person—	13
	(a) the person retains and is entitled to all rights, benefits and entitlements that have accrued to the person because of the person’s previous employment as a health service employee in the department;	14
		15
		16
		17
	(b) the person’s accruing rights, including to superannuation or recreation, sick, long service or other leave are not affected;	18
		19
		20
	(c) continuity of service is not interrupted, except that the person is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service;	21
		22
		23
		24
	(d) the employment does not constitute a termination of employment or a retrenchment or redundancy;	25
		26
	(e) the person is not entitled to a payment or other benefit because he or she is no longer employed in the department.	27
		28
		29
‘(4)	Subject to this section, the chief executive may issue a direction to a person to facilitate the transition of employees from the department to a Service.	30
		31
		32
‘(5)	A person given a direction must comply with the direction.	33

[s 34]

‘(6)	If a person employed under subsection (2) was employed in the department under a contract, the person is taken to be employed by the Service under the contract under which the person was employed before the prescribed day.	1 2 3 4
‘80A	Appointment to perform functions or do other things not affected by becoming employees of prescribed Service	5 6
‘(1)	Subsection (2) applies if—	7
(a)	a person is employed in the department and is working for a Service before the person becomes an employee of the Service under section 80; and	8 9 10
(b)	before the person becomes an employee of the Service the person is appointed to perform a function or to do anything under this Act; and	11 12 13
(c)	the function or thing has not been completed immediately before the prescribed day.	14 15
‘(2)	The person’s appointment mentioned in subsection (1)(b) is not affected and the function or thing may be completed after the prescribed day.	16 17 18
	<i>Example—</i>	19
	A person’s appointment as a clinical reviewer or as a member of an RCA team is not affected by the person becoming an employee of a Service and the person may complete the matter for which he or she was appointed.	20 21 22 23
‘80B	Matters and proceedings not affected by persons becoming employees of prescribed Service	24 25
‘(1)	Subsection (2) applies if—	26
(a)	a person is employed in the department and is working for a Service before the person becomes an employee of the Service under section 80; and	27 28 29
(b)	before the person becomes an employee of the Service a proceeding is taken by or against the person or anything else is done in relation to the person as an employee of the department; and	30 31 32 33

(c) the proceeding or other thing has not been completed immediately before the prescribed day. 1
2

‘(2) The proceeding may be continued and completed after the prescribed day by or against the Service instead of the department. 3
4
5

‘(3) For anything other than a proceeding, the thing may be continued unaffected by the person becoming an employee of the Service. 6
7
8

Examples for subsection (3)— 9

A recruitment and selection process involving a person employed in the department and working for a Service started before the prescribed day may continue after the prescribed day. 10
11
12

The approval of the annual leave for a person employed in the department and working for a Service before the prescribed day is effective after the prescribed day.’. 13
14
15

Clause 35 Amendment of s 87 (Protection for documents and information) 16
17

Section 87(3)— 18

omit, insert— 19

‘(3) A person must not, and can not be compelled to, produce the document or information, or give evidence relating to the document or information— 20
21
22

(a) in any proceeding, other than a proceeding for an offence under this division; or 23
24

(b) in compliance with a requirement under an Act or legal process.’. 25
26

Clause 36 Amendment of s 119 (Protection for documents and information) 27
28

Section 119(3)— 29

omit, insert— 30

[s 37]

- ‘(3) A person must not, and can not be compelled to, produce the document or information, or give evidence relating to the document or information—
- (a) in any proceeding, other than a proceeding for an offence under this division; or
- (b) in compliance with a requirement under an Act or legal process.’.

Clause 37 Amendment of s 129 (Powers of clinical reviewers) 8

Section 129(2) to (4)— 9

omit, insert— 10

- ‘(2) A clinical reviewer may, in the exercise of the reviewer’s functions, ask an employee of the department or a Service to give to the reviewer a document, including a document containing confidential information, that—
- (a) is relevant to the reviewer’s functions; and
- (b) is in the possession or control of the employee.
- ‘(3) The employee must comply with the request. 17
- ‘(4) If requested by the employee, the clinical reviewer must produce the reviewer’s instrument of appointment to the employee.’. 20

Clause 38 Amendment of s 138 (Protection for documents and information) 21
22

(1) Section 138, heading, ‘documents and information’— 23

omit, insert— 24

‘reports’. 25

(2) Section 138(3)— 26

omit, insert— 27

- ‘(3) A person must not, and can not be compelled to, produce the report, or give evidence relating to the report— 28
29

-
- (a) in any proceeding, other than a proceeding for an offence under this division; or 1
2
- (b) in compliance with a requirement under an Act or legal process.’. 3
4

Clause 39	Amendment of s 143 (Disclosure required or permitted by law)	5 6
(1)	Section 143(1), ‘another Act’— ‘an Act’.	7 8
(2)	Section 143(2)— <i>insert</i> —	9 10
	‘(d) information provided to the administrator under part 3A, division 4.’.	11 12

Clause 40	Amendment of s 194 (Powers of health service investigators)	13 14
	Section 194(2) to (4)— <i>omit, insert</i> —	15 16
‘(2)	A health service investigator may, in the exercise of the investigator’s functions, ask an employee of the department or a Service to give to the investigator a document, including a document containing confidential information, that—	17 18 19 20
(a)	is relevant to the investigator’s functions; and	21
(b)	is in the possession or control of the employee.	22
‘(3)	The employee must comply with the request.	23
‘(4)	If requested by the employee, the health service investigator must produce the investigator’s instrument of appointment to the employee.’.	24 25 26

Clause 41	Amendment of s 279 (Delegation by Minister)	27
	Section 279(2)—	28

[s 42]

omit, insert— 1

‘(2) However, the Minister must not delegate— 2

(a) the function to decide the terms of a service agreement 3
under section 38 or the amendment of a service 4
agreement under section 39; or 5

(b) the function to give a direction to a Service under 6
section 44; or 7

(c) the function to appoint a person to be an adviser to a 8
board under section 44A; or 9

(d) the functions under part 3A, division 4 in relation to the 10
appointment, suspension or removal of the 11
administrator.’. 12

Clause 42 Amendment of s 280 (Protecting officials) 13

(1) Section 280(1)— 14

insert— 15

‘(i) the administrator appointed under section 53K.’. 16

(2) Section 280(3)(b), ‘subsection (1)(f) to (h)’— 17

omit, insert— 18

‘subsection (1)(f) to (i)’.

Clause 43 Amendment of s 282 (Regulation-making power) 20

Section 282(4) to (6)— 21

omit, insert— 22

‘(4) Also, a regulation may provide for matters relating to the 23
movement of health service employees between Services or 24
between a Service and the department. 25

‘(5) Without limiting subsection (4), a regulation may provide for 26
the following— 27

-
- (a) movements of health service employees by agreement of the chief executive, health service chief executives or chairs of boards; 1
2
3
 - (b) movements of health service employees by the written direction of the Minister or the chief executive; 4
5
 - (c) health service employees establishing reasonable grounds to refuse movements; 6
7
 - (d) the rights and entitlements of health service employees who are subject to movements, including matters relating to employment contracts. 8
9
10
- ‘(6) Also, a regulation may prescribe a matter relating to the transition of employees from the department to a prescribed Service under part 5, division 4 if this Act does not make provision or sufficient provision for the matter. 11
12
13
14
- ‘(7) Also, a regulation made under this Act may impose a penalty of not more than 20 penalty units for a contravention of a provision of a regulation.’. 15
16
17

Clause 44 Replacement of pt 13, div 2, heading 18
Part 13, division 2, heading— 19
omit, insert— 20

‘Division 2 Savings and transitionals for Act No. 32 of 2011’. 21
22

Clause 45 Amendment of s 307 (Transfer notice) 23
Section 307— 24
insert— 25

‘(2A) A transfer notice may amend an earlier transfer notice, or a further transfer notice may be made, to correct an error in an earlier transfer notice. 26
27
28

‘(2B) Nothing prevents an amending or further transfer notice from transferring something mentioned in subsection (2) from a Service to the State.’. 29
30
31

[s 46]

Clause 46	Insertion of new pt 13, div 3	1
	After section 319—	2
	<i>insert—</i>	3
‘Division 3	Savings and transitionals for the Health and Hospitals Network and Other Legislation Amendment Act 2012	4 5 6 7
‘319A	Definitions for div 3	8
	‘In this division—	9
	<i>amendment Act</i> means the <i>Health and Hospitals Network and Other Legislation Amendment Act 2012</i> .	10 11
	<i>commencement</i> means 1 July 2012.	12
‘319B	Governing councils continue in existence as Hospital and Health Boards	13 14
	‘(1) A governing council in existence immediately before the commencement continues in existence as a Hospital and Health Board under this Act.	15 16 17
	‘(2) If something is done by or in relation to a governing council before the commencement, the thing is taken to be done by or in relation to the board.	18 19 20
	‘(3) Without limiting subsection (2), an appointment of a member of a governing council is taken to be an appointment to the board.	21 22 23
‘319C	Networks continue in existence as Hospital and Health Services	24 25
	‘(1) A network in existence immediately before the commencement continues in existence as a Hospital and Health Service under this Act.	26 27 28

-
- ‘(2) If something is done by or in relation to a network before the commencement, the thing is taken to be done by or in relation to the Service.’

‘319D Transitional regulation-making power for amendment Act

- ‘(1) A regulation (a *transitional regulation*) may amend a provision of this or another Act to take account of, or give effect to, the renaming of an entity or other thing by the amendment Act.
- ‘(2) The following are examples of the amendments that may be made by regulation—
- (a) ‘Local Health and Hospital Network’ may be omitted and ‘Hospital and Health Service’ inserted;
 - (b) ‘Network’ may be omitted and ‘Hospital and Health Service’ inserted;
 - (c) ‘network’ may be omitted and ‘Service’ inserted;
 - (d) ‘network area’ may be omitted and ‘health service area’ inserted;
 - (e) ‘network chief executive’ may be omitted and ‘health service chief executive’ inserted;
 - (f) ‘governing council’ may be omitted and ‘Hospital and Health Board’ inserted;
 - (g) ‘governing council’ may be omitted and ‘board’ inserted.
- ‘(3) For this section, a regulation may amend a provision of this or another Act—
- (a) that has not been amended by the amendment Act; or
 - (b) that has been amended by the amendment Act but requires further amendment to give effect to the renaming of an entity or other thing by the amendment Act.
- ‘(4) This section expires on 30 June 2013.’.

[s 47]

Clause 47	Replacement of sch 1, pt 2	1	
	Schedule 1, part 2—	2	
	<i>omit, insert—</i>	3	
	‘Part 2	Amendment of other legislation	4
	Ambulance Service Act 1991	5	
1	Section 23(4), definition <i>chief executive (health)</i>—	6	
	<i>omit, insert—</i>	7	
	<i>‘chief executive (health)</i> means the chief executive of the department in which the <i>Hospital and Health Boards Act 2011</i> is administered.’.	8 9 10	
2	Sections 43(3)(b), 48(2)(a) and 53C(c), ‘<i>Health Services Act 1991</i>’—	11 12	
	<i>omit, insert—</i>	13	
	<i>‘Hospital and Health Boards Act 2011’.</i>	14	
3	Schedule, definition <i>health service</i>—	15	
	<i>omit, insert—</i>	16	
	<i>‘health service</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.’.	17 18	
	Building Act 1975	19	
1	Section 245G(4), definition <i>person in charge</i>, paragraph (a)—	20 21	
	<i>omit, insert—</i>	22	

	‘(a) for a public sector hospital under the <i>Hospital and Health Boards Act 2011</i> —the person responsible for the day-to-day operation and control of the hospital; or’.	1 2 3
2	Section 245H(6), definition <i>health professional</i>, paragraph (a)— <i>omit, insert—</i>	4 5 6
	‘(a) a person who is a health professional under the <i>Hospital and Health Boards Act 2011</i> ;’.	7 8
3	Schedule 2, definition <i>chief executive (health)</i>— <i>omit, insert—</i>	9 10
	‘ <i>chief executive (health)</i> means the chief executive of the department in which the <i>Hospital and Health Boards Act 2011</i> is administered.’.	11 12 13
Child Protection Act 1999		14
1	Section 159D, definition <i>prescribed entity</i>— <i>insert—</i>	15 16
	‘(daa) a health service chief executive within the meaning of the <i>Hospital and Health Boards Act 2011</i> ;’.	17 18
2	Section 159H(1)— <i>insert—</i>	19 20
	‘(baa) a health service chief executive within the meaning of the <i>Hospital and Health Boards Act 2011</i> ;’.	21 22

[s 47]

3	Section 159M(1)—	1
	<i>insert—</i>	2
	‘(caa) a health service chief executive within the meaning of the <i>Hospital and Health Boards Act 2011</i> ;’.	3 4
4	Section 159O(4), definitions <i>confidential information</i> and <i>health services designated person</i>—	5 6
	<i>omit, insert—</i>	7
	‘ <i>confidential information</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	8 9
	<i>designated person</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	10 11
	<i>health services designated person</i> means a designated person.’.	12 13
5	Section 159R(2), examples, ‘<i>Health Services Act 1991</i>, <i>section 62A(1)</i>’—	14 15
	<i>omit, insert—</i>	16
	‘ <i>Hospital and Health Boards Act 2011</i> , section 142(1)’.	17
6	Section 248—	18
	<i>insert—</i>	19
	(1A) Also, the prescribed entity mentioned in subsection (5)(a)(viii) must include details, in the report, of the operations of each Hospital and Health Service, established under the <i>Hospital and Health Boards Act 2011</i> , during the previous financial year, that are relevant to child protection.’.	20 21 22 23 24

Child Protection (Offender Prohibition Order) Act 2008	1
1 Section 42(5), definition <i>government entity</i>—	2
<i>omit, insert—</i>	3
‘ <i>government entity</i> does not include the chief executive of the department in which the <i>Hospital and Health Boards Act 2011</i> is administered or a Hospital and Health Service under that Act.’	4 5 6 7
Commission for Children and Young People and Child Guardian Act 2000	8 9
1 Section 45(2), examples, ‘<i>Health Services Act 1991, section 62A</i>’—	10 11
<i>omit, insert—</i>	12
‘ <i>Hospital and Health Boards Act 2011, section 142</i> ’.	13
2 Section 144(7), definition <i>genuine researcher</i>, paragraph (b)—	14 15
<i>omit, insert—</i>	16
‘(b) a member of a quality assurance committee established under the <i>Hospital and Health Boards Act 2011, section 82; or</i> ’.	17 18 19
3 Section 147(6), from ‘<i>Health Services Act 1991</i>’ to ‘agent’—	20 21
<i>omit, insert—</i>	22
‘ <i>Hospital and Health Boards Act 2011, section 142, it is declared a designated person</i> ’.	23 24

[s 47]

Coroners Act 2003	1
1 Section 9(1)(a)(iii)(B), from ‘Health Services Act 1991’—	2
<i>omit, insert—</i>	3
‘ <i>Hospital and Health Boards Act 2011</i> is administered or by a	4
Hospital and Health Service under that Act, or at which the	5
department or a Hospital and Health Service provides	6
services; or’.	7
2 Section 25(7), definitions <i>health executive</i> and <i>health service employee</i>—	8
<i>omit, insert—</i>	9
‘ <i>health executive</i> means a health executive under the <i>Hospital</i>	10
and <i>Health Boards Act 2011</i> .	11
<i>health service employee</i> means a health service employee	12
under the <i>Hospital and Health Boards Act 2011</i> .’.	13
3 Section 47(3), definition <i>relevant Act</i>, paragraph (a)(iii)—	14
<i>omit, insert—</i>	15
‘(iii) for the death of a person mentioned in section	16
9(1)(a)(iii)—the <i>Hospital and Health Boards Act</i>	17
2011; or’.	18
4 Section 53(9), definition <i>genuine researcher</i>, paragraph (b)—	19
<i>omit, insert—</i>	20
‘(b) a person who is a member of a quality assurance	21
committee established under the <i>Hospital and Health</i>	22
<i>Boards Act 2011</i> , section 82; or’.	23
5 Schedule 2, definition <i>health chief executive</i>—	24
<i>omit, insert—</i>	25
	26
	27

'health chief executive means the chief executive of the department in which the *Hospital and Health Boards Act 2011* is administered.'

Criminal Code

- 1 Sections 282(4) and 316A(7), definition *health professional*—**
- omit, insert—*
- 'health professional* see the *Hospital and Health Boards Act 2011*, schedule 2.'
- 2 Section 340(3), definition *public officer*, paragraph (b)—**
- omit, insert—*
- '(b) a health service employee under the *Hospital and Health Boards Act 2011*; and'*

Criminal Law Amendment Act 1945

- 1 Section 18(8A), from *'chief executive'*—**
- omit, insert—*
- 'director of mental health.'*
- 2 Section 18(9), *'Health Services Act 1991'*—**
- omit, insert—*
- 'Hospital and Health Boards Act 2011'.*

[s 47]

3	Section 18(14)—	1
	<i>insert—</i>	2
	<i>‘director of mental health</i> means the person appointed as Director of Mental Health under the <i>Mental Health Act 2000</i> , section 488.’.	3 4 5
 Disability Services Act 2006		6
1	Section 123ZZG, definition <i>chief executive (health)</i>—	7
	<i>omit.</i>	8
2	Section 123ZZG—	9
	<i>insert—</i>	10
	<i>‘chief executive (health)</i> means the chief executive of the department in which the <i>Hospital and Health Boards Act 2011</i> is administered.	11 12 13
	<i>health service chief executive</i> means a health service chief executive under the <i>Hospital and Health Boards Act 2011</i> .’.	14 15
3	Section 123ZZH, heading ‘health professional or chief executive (health)’—	16 17
	<i>omit, insert—</i>	18
	‘health professional, chief executive (health) or health service chief executive’.	19 20
4	Section 123ZZH(1), ‘health professional, or the chief executive (health)’	21 22
	<i>omit, insert—</i>	23
	‘health professional, the chief executive (health), or a health service chief executive’.	24 25

5	Section 168(2)(g), ‘Health Services Act 1991’—	1
	<i>omit, insert—</i>	2
	<i>‘Hospital and Health Boards Act 2011’.</i>	3
6	Schedule 7—	4
	<i>insert—</i>	5
	<i>‘health service chief executive, for part 10A, division 8,</i>	6
	<i>subdivision 3, see section 123ZZG.</i>	7
	Disaster Management Act 2003	8
1	Section 24(1)(e), after ‘a department’—	9
	<i>insert—</i>	10
	<i>‘, or a Hospital and Health Service.’.</i>	11
2	Section 24(2), ‘subsection (1)(c)(ii)’—	12
	<i>omit, insert—</i>	13
	<i>‘subsection (1)(d)(ii)’.</i>	14
3	Section 24(3)—	15
	<i>omit, insert—</i>	16
	<i>‘(3) The members mentioned in subsection (1)(e) are to be</i>	17
	<i>appointed by the chief executive of the department, or the</i>	18
	<i>health service chief executive of the Hospital and Health</i>	19
	<i>Service, the member represents.’.</i>	20
4	Section 24(5), ‘subsection (1)(e)’—	21
	<i>omit, insert—</i>	22

[s 47]

	‘subsection (1)(f)’.	1
5	Section 24(6), ‘subsection (1)(c)’—	2
	<i>omit, insert—</i>	3
	‘subsection (1)(d)’.	4
6	Section 24(7)—	5
	<i>omit, insert—</i>	6
	‘(7) As soon as practicable after a chief executive or health service chief executive appoints a person under subsection (3), the chief executive or health service chief executive must inform the chief executive of the department, and the chairperson of the district group, of the appointment.’.	7 8 9 10 11
7	Section 28B(1)(d), after ‘a department’—	12
	<i>insert—</i>	13
	‘, or a Hospital and Health Service,’.	14
8	Schedule—	15
	<i>insert—</i>	16
	‘ <i>health service chief executive</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	17 18
	<i>Hospital and Health Service</i> means a Hospital and Health Service established under the <i>Hospital and Health Boards Act 2011</i> , section 17.’.	19 20 21
9	Schedule, definition <i>government doctor</i>, paragraph (b)—	22
	<i>omit, insert—</i>	23
	‘(b) employed in the following—	24
	(i) the department which administers the <i>Public Health Act 2005</i> ;	25 26

	(ii) a Hospital and Health Service.’.	1
10	Schedule, definition <i>government nurse</i>, paragraph (b)—	2
	<i>omit, insert—</i>	3
	‘(b) employed in the following—	4
	(i) the department which administers the <i>Public Health Act 2005</i> ;	5
		6
	(ii) a Hospital and Health Service.’.	7
	Drug Court Act 2000	8
1	Section 36A(3), definition <i>interested entity</i>, paragraph (d)—	9
	<i>omit, insert—</i>	10
	‘(d) the department in which the <i>Hospital and Health Boards Act 2011</i> is administered.’.	11
		12
		13
2	Section 39A(2), definition <i>drug court team</i>, paragraph (d)—	14
	<i>omit, insert—</i>	15
	‘(d) a health service employee under the <i>Hospital and Health Boards Act 2011</i> ;’.	16
		17
		18
3	Schedule, definitions <i>chief executive (health)</i> and <i>health professional</i>—	19
	<i>omit, insert—</i>	20
	‘ <i>chief executive (health)</i> means the chief executive of the department in which the <i>Hospital and Health Boards Act 2011</i> is administered.	21
		22
		23
		24

[s 47]

health professional see the *Hospital and Health Boards Act 2011*, schedule 2.’. 1
2

Evidence Act 1977 3

1 Section 95A(9), definition *chief executive*— 4

omit, insert— 5

‘*chief executive* means the chief executive of the department 6
within which the *Hospital and Health Boards Act 2011* is 7
administered.’. 8

2 Section 133A(1)— 9

omit, insert— 10

‘(1) The chief executive of the department within which the 11
Hospital and Health Boards Act 2011 is administered, if 12
satisfied the officer has the necessary qualifications and 13
experience to be a DNA analyst, may appoint as a DNA 14
analyst— 15

(a) a public service officer employed in the department; or 16

(b) a health service employee employed in the department 17
under the *Hospital and Health Boards Act 2011*.’. 18

3 Section 134A(6)— 19

omit, insert— 20

‘(6) If a document mentioned in subsection (1) is a document that 21
contains information to which the *Hospital and Health 22
Boards Act 2011*, section 142(1) applies, the document is, for 23
the purposes of section 143 of that Act, information that is 24
required or permitted to be given under this Act.’. 25

Food Act 2006	1
1 Schedule 3, definition <i>health service employee</i>—	2
<i>omit, insert—</i>	3
‘ <i>health service employee</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.’	4
	5
Food Production (Safety) Act 2000	6
1 Schedule 2, definition <i>health chief executive</i>—	7
<i>omit, insert—</i>	8
‘ <i>health chief executive</i> means the chief executive of the department responsible for the administration of the <i>Hospital and Health Boards Act 2011</i> .’	9
	10
	11
Guardianship and Administration Act 2000	12
1 Schedule 4, definition <i>ethics committee</i>, paragraph (b)(i)—	13
<i>omit, insert—</i>	14
‘(i) an ethics committee established by a public sector hospital within the meaning of the <i>Hospital and Health Boards Act 2011</i> ; or’	15
	16
	17
	18

[s 47]

Health Act 1937	1
1 Section 5, definition <i>hospital</i>—	2
<i>omit, insert—</i>	3
‘ <i>hospital</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.’	4 5
2 Sections 18A(3) and 136, definition <i>health service employee</i>—	6 7
<i>omit, insert—</i>	8
‘ <i>health service employee</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.’	9 10
3 Section 132(za), ‘<i>Health Services Act 1991</i>’—	11
<i>omit, insert—</i>	12
‘ <i>Hospital and Health Boards Act 2011</i> ’.	13
Health Quality and Complaints Commission Act 2006	14
1 Sections 16(d) and 170—	15
<i>omit.</i>	16
2 Schedule 5, definitions <i>chief health officer, health community council</i> and <i>public sector hospital</i>—	17 18
<i>omit.</i>	19
3 Schedule 5—	20
<i>insert—</i>	21

<i>‘chief health officer</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	1 2
<i>public sector hospital</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.’.	3 4

Hospitals Foundations Act 1982 5

1	Section 4, definitions <i>associated health community council, health community council, health service district and hospital</i>—	6 7 8
	<i>omit.</i>	9
2	Section 4—	10
	<i>insert—</i>	11
	<i>‘associated Hospital and Health Service</i> , for an associated hospital, means a Hospital and Health Service for the health service area in which the hospital is situated.	12 13 14
	<i>health service area</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	15 16
	<i>hospital</i> means a public sector hospital.	17
	<i>Hospital and Health Service</i> means a Hospital and Health Service established under the <i>Hospital and Health Boards Act 2011</i> , section 17.	18 19 20
	<i>public sector hospital</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.’.	21 22
3	Section 15(1)(a), ‘<i>Health Services Act 1991</i> and the’—	23
	<i>omit.</i>	24

[s 47]

4	Section 18(3)(a)(i) and (ii)—	1
	<i>omit, insert—</i>	2
	‘(i) if there is only one Hospital and Health Service for the hospitals that are, or are to be, the associated hospitals for the body corporate—the chairperson of the Hospital and Health Board for the Hospital and Health Service or the chairperson’s nominee;	3 4 5 6 7
	(ii) if there is more than one Hospital and Health Service for the hospitals that are, or are to be, the associated hospitals for the body corporate—the chairperson of the Hospital and Health Board for the Hospital and Health Service prescribed under a regulation or the chairperson’s nominee;’.	8 9 10 11 12 13
5	Section 37(1), from ‘chief’—	14
	<i>omit, insert—</i>	15
	‘health service chief executive of the associated Hospital and Health Service.’.	16 17
6	Section 38(1)—	18
	<i>omit, insert—</i>	19
	‘(1) A body corporate may make use of employees in the associated Hospital and Health Service on the terms and conditions agreed upon by the body corporate and the health service chief executive of the Hospital and Health Service.’.	20 21 22 23
7	Section 38(2), from ‘may’—	24
	<i>omit, insert—</i>	25
	‘may, with the agreement of the health service chief executive of an associated Hospital and Health Service—	26 27
	(a) occupy land under the control of the Hospital and Health Service; and	28 29

	(b) use premises, office furniture and equipment occupied, owned or used by the Hospital and Health Service.’.	1 2
8	Section 74—	3
	<i>omit, insert—</i>	4
‘Part 9	Transitional provisions for Hospital and Health Boards Act 2011	5 6 7
‘74	Definition for pt 9	8
	‘In this part—	9
	<i>commencement</i> means the commencement of this part.	10
‘75	Members of body corporate continue to hold office after commencement	11 12
	‘(1) This section applies to a person who is a member of a body corporate under section 18(3)(a) immediately before the commencement.	13 14 15
	‘(2) The person continues to hold office after the commencement until—	16 17
	(a) the end of the person’s term of office; or	18
	(b) the person earlier vacates office.’.	19
	Information Privacy Act 2009	20
1	Section 27(1), section 30, editor’s note and section 31, ‘the health department’—	21 22
	<i>omit, insert—</i>	23
	‘health agencies’.	24

[s 47]

2	Section 31, heading, ‘Health department’—	1
	<i>omit, insert—</i>	2
	‘Health agencies’.	3
3	Section 31(1), ‘The health department’—	4
	<i>omit, insert—</i>	5
	‘Health agencies’.	6
4	Section 31(3), ‘the health department’s’—	7
	<i>omit, insert—</i>	8
	‘a health agency’s’.	9
5	Section 32(1), ‘The health department is’—	10
	<i>omit, insert—</i>	11
	‘Health agencies are’.	12
6	Section 33, ‘the health department’—	13
	<i>omit, insert—</i>	14
	‘a health agency’.	15
7	Schedule 4, section 1, subsections (1) and (2), section 2, subsection (1) and notes, section 3, section 4, subsection (1), section 5, subsection (1), section 6, subsection (2), section 7, subsection (4) and section 9, subsection (1), ‘The department’—	16
	<i>omit, insert—</i>	17
	‘A health agency’.	18
		19
		20
		21
		22

8	Schedule 4, section 1, subsection (3), from ‘the department collects’ to ‘the department must’—	1
	<i>omit, insert—</i>	2
	‘a health agency collects personal information about an individual from the individual, the health agency must’.	3
9	Schedule 4, section 1, subsections (3)(a) and (3)(d), section 2, subsections (1)(a)(ii), (1)(c)(i), (1)(c)(iii), (1)(d), (1)(e), (1)(g), (3)(b), (5)(a), (5)(b), (5)(d) and (5)(e), section 4, subsection (2), section 6, subsection (2)(a), section 9, subsection (2)(a) and (3)(c), ‘the department’—	6
	<i>omit, insert—</i>	7
	‘the health agency’.	8
10	Schedule 4, section 1, subsections (4), (5), (6) and (7)(a), section 2, subsection (1), notes, subsections (2) and (3), section 5, subsection (2), section 6, subsection (1), section 7, subsections (1), (2) and (3)(a), section 8, section 9, subsections (1)(e) and (2), ‘the department’—	9
	<i>omit, insert—</i>	10
	‘a health agency’.	11
11	Schedule 4, section 1, subsection (7)(b), ‘the department under’ to ‘the department.’—	12
	<i>omit, insert—</i>	13
	‘a health agency under an Act requiring a person to give information to the health agency.’.	14
12	Schedule 4, section 2, subsection (5), ‘the department may use an individual’s’—	15
	<i>omit, insert—</i>	16
	‘a health agency may use an individual’s’.	17

[s 47]

13	Schedule 4, section 9(3), ‘the department may collect health information about’—	1
	<i>omit, insert—</i>	2
	‘a health agency may collect health information about’.	3
14	Schedule 4, section 2, subsection (1)(c)(ii) ‘department’—	5
	<i>omit, insert—</i>	6
	‘health department’.	7
15	Schedule 4, section 2, subsection (5) ‘the department’s’—	8
	<i>omit, insert—</i>	9
	‘the health agency’s’.	10
16	Schedule 4, section 7, subsection (3)(a), ‘the department’s’—	11
	<i>omit, insert—</i>	12
	‘the health agency’s’.	13
17	Schedule 4, section 2(1), notes, ‘<i>Health Services Act 1991</i>, section 62A’—	15
	<i>omit, insert—</i>	16
	‘ <i>Hospital and Health Boards Act 2011</i> , section 142’.	17
18	Schedule 4, section 9, subsection (3)(d)(ii), ‘chief executive of the department’—	19
	<i>omit, insert—</i>	20
	‘relevant chief executive’.	21
		22

19	Schedule 4, section 9, subsection (3)(d)(iii), ‘department’—	1
	<i>omit, insert—</i>	2
	<i>‘health department’.</i>	3
20	Schedule 4, section 9, subsection (3)(d)(ii), note, ‘The chief executive’—	4
	<i>omit, insert—</i>	5
	<i>‘A relevant chief executive’.</i>	6
21	Schedule 4, section 9, subsection (4), from ‘the department collects’ to ‘the department must’—	7
	<i>omit, insert—</i>	8
	<i>‘a health agency collects health information about an individual in accordance with subsection (3), the health agency must’.</i>	9
22	Schedule 5, definitions <i>department, designated person, health department</i> and <i>health professional</i>—	10
	<i>omit.</i>	11
23	Schedule 5—	12
	<i>insert—</i>	13
	<i>‘designated person</i> , for the NPPs, see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	14
	<i>health agency</i> means the health department or a Hospital and Health Service.	15
	<i>health department</i> means the department in which the <i>Hospital and Health Boards Act 2011</i> is administered.	16
	<i>health professional</i> , for the NPPs, see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	17

[s 47]

<i>health service chief executive</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	1 2
<i>Hospital and Health Service</i> means a Hospital and Health Service established under the <i>Hospital and Health Boards Act 2011</i> , section 17.	3 4 5
<i>relevant chief executive</i> means—	6
(a) for information held by a Hospital and Health Service—the health service chief executive or the chief executive of the health department; or	7 8 9
(b) for information held by the health department—the chief executive of the health department.’.	10 11

Mater Public Health Services Act 2008 12

1 Section 7, definitions <i>confidential information</i>, <i>designated person</i> and <i>health professional</i>—	13 14
<i>omit, insert</i> —	15
‘ <i>confidential information</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	16 17
<i>designated person</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	18 19
<i>health professional</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.’.	20 21
2 Schedule, definitions <i>health service</i> and <i>public sector health service</i>—	22 23
<i>omit, insert</i> —	24
‘ <i>health service</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	25 26
<i>public sector health service</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.’.	27 28

Mental Health Act 2000	1
1 Sections 318L and 318ZB, ‘Health Services Act 1991, section 62B’—	2 3
<i>omit, insert—</i>	4
‘Hospital and Health Boards Act 2011, section 143.’	5
2 Section 492(1), ‘Health Services Act 1991, part 3’—	6
<i>omit, insert—</i>	7
‘Hospital and Health Boards Act 2011, part 5’.	8
3 After section 493A—	9
<i>insert—</i>	10
‘493AB Director may require production of documents etc.	11
‘(1) For the proper and efficient administration of this Act, the director may, by written notice, require the administrator of an authorised mental health service to—	12 13 14
(a) produce to the director a stated document (including a medical record), or a copy of a stated document, about a patient receiving treatment in the service or another document relevant to the administration or enforcement of this Act; or	15 16 17 18 19
(b) provide stated information to the director about—	20
(i) a patient who has been examined or assessed or is being examined or assessed in the health service; or	21 22 23
(ii) a patient who has received, or is receiving, treatment in the health service; or	24 25
(iii) another matter relevant to the administration or enforcement of this Act.	26 27

[s 47]

‘(2)	The notice must state the day (the <i>stated day</i>) on which the document, record or information is to be produced or provided.	1 2 3
‘(3)	The stated day must be a reasonable time after the notice is given.	4 5
‘(4)	The administrator must comply with the notice unless the administrator has a reasonable excuse. Maximum penalty—40 penalty units.	6 7 8
‘(5)	It is a reasonable excuse if complying with the notice might tend to incriminate the administrator.	9 10
‘(6)	If a document or medical record is produced to the director, the director—	11 12
(a)	may inspect it and make copies of, or take extracts from, the document if it is relevant to the administration of this Act; and	13 14 15
(b)	for an original document—must return it to the administrator within a reasonable time after it is produced.’.	16 17 18
4	Section 530(1)(a), ‘Health Services Act 1991, part 7’— <i>omit, insert—</i> <i>‘Hospital and Health Boards Act 2011, part 7’.</i>	19 20 21
5	After chapter 16, part 4— <i>insert—</i>	22 23
‘Part 4A	Transitional provisions for Hospital and Health Boards Act 2011	24 25 26
‘601A	Definition for part 4A <i>‘In this part—</i>	27 28

	<i>commencement</i> means the commencement of this part.	1
'601B Act not to affect declaration of authorised mental health service		2 3
'(1) This section applies to the declaration of an authorised mental health service before the commencement.		4 5
'(2) Nothing in the <i>Hospital and Health Boards Act 2011</i> affects the declaration.'		6 7
6 Schedule, definitions <i>public sector health service</i> and <i>public sector hospital</i>—		8 9
<i>omit, insert—</i>		10
' <i>public sector health service</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.		11 12
' <i>public sector hospital</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.'		13 14
Penalties and Sentences Act 1992		15
1 Section 176(1)(a), 'Health Services Act 1991'—		16
<i>omit, insert—</i>		17
' <i>Hospital and Health Boards Act 2011</i> '.		18
2 Section 176(4), from 'Health Services Act 1991' to 'part 7'—		19 20
<i>omit, insert—</i>		21
' <i>Hospital and Health Boards Act 2011</i> , section 142(1), does not apply to a designated person under part 7'.		22 23

[s 47]

	Personal Injuries Proceedings Act 2002	1
1	Section 9A(7)(a)—	2
	<i>omit, insert—</i>	3
	‘(a) if the place at which the medical incident happened is a place under the control of a Hospital and Health Service—the health service chief executive of the Hospital and Health Service; or’.	4 5 6 7
2	Section 9A(14), definition <i>district manager</i>—	8
	<i>omit.</i>	9
3	Section 9A(14)—	10
	<i>insert—</i>	11
	‘ <i>Hospital and Health Service</i> means a Hospital and Health Service established under the <i>Hospital and Health Boards Act 2011</i> , section 17.’.	12 13 14
4	Schedule, definition <i>health care provider</i>, paragraph (b)—	15
	<i>omit, insert—</i>	16
	‘(b) a provider of a public sector health service as defined under the <i>Hospital and Health Boards Act 2011</i> , schedule 2; or’.	17 18 19
5	Schedule, definition <i>provider</i>—	20
	<i>omit, insert—</i>	21
	‘ <i>provider</i> means a person who is a registrant under a health practitioner registration Act as defined under the <i>Hospital and Health Boards Act 2011</i> , schedule 2.’.	22 23 24

Pest Management Act 2001	1
1 Schedule 3, definition <i>health service employee</i>—	2
<i>omit, insert—</i>	3
‘ <i>health service employee</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.’	4
	5
Pharmacy Business Ownership Act 2001	6
1 Schedule, definition <i>health service employee</i>—	7
<i>omit, insert—</i>	8
‘ <i>health service employee</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.’	9
	10
Plumbing and Drainage Act 2002	11
1 Section 9(3)(a)(iii), ‘<i>Health Services Act 1991</i>’—	12
<i>omit, insert—</i>	13
‘ <i>Hospital and Health Boards Act 2011</i> ’.	14
Police Powers and Responsibilities Act 2000	15
1 Sections 545(6) and 546(1), ‘unit of the health department’—	16
<i>omit, insert—</i>	17
	18

[s 47]

	‘health agency’.	1
2	Section 546, ‘officer of the health department’—	2
	<i>omit, insert—</i>	3
	‘officer of the health agency’.	4
3	Schedule 6, definitions <i>health department</i> and <i>prescribed nurse</i>—	5
	<i>omit.</i>	6
		7
4	Schedule 6—	8
	<i>insert—</i>	9
	‘ <i>health agency</i> means the health department or a Hospital and Health Service.	10
		11
	<i>health department</i> means the department within which the <i>Hospital and Health Boards Act 2011</i> is administered.	12
		13
	<i>Hospital and Health Service</i> means a Hospital and Health Service established under the <i>Hospital and Health Boards Act 2011</i> , section 17.	14
		15
		16
	<i>prescribed nurse</i> means a nurse who is employed in the health department or in a Hospital and Health Service.’.	17
		18
	 Private Health Facilities Act 1999	 19
1	Schedule 3, definition <i>chief health officer</i>—	20
	<i>omit, insert—</i>	21
	‘ <i>chief health officer</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.’.	22
		23

Public Health Act 2005	1
1 After chapter 12, part 2—	2
<i>insert—</i>	3
‘Part 3 Transitional provisions for Hospital and Health Boards Act 2011	4 5 6
‘493 Definitions for pt 3	7
‘In this part—	8
<i>commencement</i> means the commencement of this part.	9
<i>Hospital and Health Service</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	10 11
‘494 Application for information for research	12
‘(1) This section applies if—	13
(a) the chief executive has granted an application under chapter 6, part 4 for a person to be given health information held by the department for research; and	14 15 16
(b) on the commencement, the period for which the application has been granted has not ended; and	17 18
(c) on the commencement, some or all of the health information given, or that may be given, to the person is held by a Hospital and Health Service instead of the department.	19 20 21 22
‘(2) The grant is taken to also apply to the health information held by the Hospital and Health Service instead of the department.’.	23 24 25

[s 47]

2	Sections 7(f), 103, 173, 279A, 280A, chapter 6, part 4, division 2, heading, 281(4), 282(1), 283(1), 284, 288, 290, 291(1) and 292, heading, ‘the department’—	1 2 3
	<i>omit, insert—</i>	4
	‘a health agency’.	5
3	Sections 55(3), 75(7), editor’s note, 77(2), 103(3), 105(2), 145(3), 173(5), 175(2), 208(5), editor’s note, 218(5), editor’s note, 220(2), 236(5), editor’s note, 238(2), 265(5), editor’s note, 266(3), 281(3) and 291(3), ‘Health Services Act 1991, section 62A’—	6 7 8 9 10
	<i>omit, insert—</i>	11
	‘Hospital and Health Boards Act 2011, section 142’.	12
4	Sections 55(3), note, ‘Health Services Act 1991, section 62A (Confidentiality)’—	13 14
	<i>omit, insert—</i>	15
	‘Hospital and Health Boards Act 2011, section 142 (Confidential information must not be disclosed)’.	16 17
5	Section 158, definition <i>health service facility</i>, paragraph (a)—	18 19
	<i>omit, insert—</i>	20
	‘(a) a public sector health service facility within the meaning of the <i>Hospital and Health Boards Act 2011</i> ; or’.	21 22
6	Sections 227, 245 and 270, ‘approved quality assurance committee’—	23 24
	<i>omit, insert—</i>	25
	‘quality assurance committee’.	26

7	Schedule 2, definitions <i>approved quality assurance committee, chief health officer, commencement, health information held by the department, health service employee, public sector health service and public sector hospital</i>—	1 2 3 4 5
	<i>omit.</i>	6
8	Schedule 2—	7
	<i>insert—</i>	8
	<i>‘chief health officer</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	9 10
	<i>commencement</i> means—	11
	(a) for chapter 4, see section 147; or	12
	(b) for chapter 12, part 3, see section 493.	13
	<i>health agency</i> means the department or a Hospital and Health Service.	14 15
	<i>health information held by a health agency</i> means—	16
	(a) information held by the agency about a person’s health or the provision of a health service to a person; or	17 18
	(b) information about a person’s health or the provision of a health service to the person obtained by the agency under this Act or another Act; or	19 20 21
	(c) for chapter 6, part 4, information about a person’s health or the provision of a health service to a person held or obtained by a contractor for the contractor to keep the Queensland Cancer Register.	22 23 24 25
	<i>health service employee</i> see <i>Hospital and Health Boards Act 2011</i> , schedule 2.	26 27
	<i>Hospital and Health Service</i> for chapter 12, part 3, see section 493.	28 29
	<i>public sector health service</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	30 31

[s 47]

	<i>public sector hospital</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	1 2
	<i>quality assurance committee</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.’.	3 4
	Public Health (Infection Control for Personal Appearance Services) Act 2003	5 6
1	Sections 9(6)(b) and 146(1)(b), ‘Health Services Act 1991’—	7 8
	<i>omit, insert—</i>	9
	‘ <i>Hospital and Health Boards Act 2011</i> ’.	10
	Public Records Act 2002	11
1	Part 6, after section 62A—	12
	<i>insert—</i>	13
‘Division 3	Transitional provisions for Hospital and Health Boards Act 2011	14 15
‘62B	Definitions	16
	‘In this division—	17
	<i>commencement</i> means the commencement of this division.	18
	<i>department</i> means the department in which the <i>Hospital and Health Boards Act 2011</i> is administered.	19 20
	<i>Hospital and Health Service</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	21 22

‘62C	Responsible public authority for public record	1
‘(1)	Subsection (2) applies to a public record given by the department to the archives before the commencement.	2 3
‘(2)	Despite section 15, the department remains the responsible public authority for the record even if the record relates to a function or power transferred to a Hospital and Health Service.’.	4 5 6 7
 Public Safety Preservation Act 1986		 8
1	Schedule, definition <i>government doctor</i>, paragraph (b)— <i>omit, insert—</i>	9 10
	‘(b) who is employed in—	11
	(i) the department which administers the <i>Public Health Act 2005</i> ; or	12 13
	(ii) a Hospital and Health Service.’.	14
2	Schedule, definition <i>government nurse</i>, paragraph (b)— <i>omit, insert—</i>	15 16
	‘(b) who is employed in—	17
	(i) the department which administers the <i>Public Health Act 2005</i> ; or	18 19
	(ii) a Hospital and Health Service.’.	20
3	Schedule, definition <i>medical controller</i>— <i>omit.</i>	21 22
4	Schedule— <i>insert—</i>	23 24

[s 47]

‘Hospital and Health Service means a Hospital and Health Service established under the *Hospital and Health Boards Act 2011*, section 17. 1
2
3

medical controller means a government health officer whose duties include performing functions as a controller of health officers responding to a CBR emergency, employed in— 4
5
6

(a) the department which administers the *Public Health Act 2005*; or 7
8

(b) a Hospital and Health Service.’. 9

Public Trustee Act 1978 10

1 Section 105(4), definition *governing body*, paragraph (a)— 11
12

omit, insert— 13

‘(a) for a public sector hospital within the meaning of the *Hospital and Health Boards Act 2011*—the health service chief executive of the Hospital and Health Service, under the *Hospital and Health Boards Act 2011*, in which the hospital is located; or’. 14
15
16
17
18

Radiation Safety Act 1999 19

1 Section 209(7), ‘*Health Services Act 1991*, section 62A(1)’— 20
21

omit, insert— 22

‘Hospital and Health Boards Act 2011, section 142(1)’. 23

2	Section 209(7), editor’s note, ‘Health Services Act 1991, section 62A (Confidentiality)’—	1
	<i>omit, insert—</i>	2
	<i>‘Hospital and Health Boards Act 2011, section 142 (Confidential information must not be disclosed)’.</i>	3
3	Schedule 2, definitions <i>chief health officer</i> and <i>health service employee</i>—	4
	<i>omit, insert—</i>	5
	<i>‘chief health officer</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	6
	<i>health service employee</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.’.	7

Right to Information Act 2009 13

1	Schedule 1, section 9(b), ‘Health Services Act 1991, part 4B’—	14
	<i>omit, insert—</i>	15
	<i>‘Hospital and Health Boards Act 2011, part 6’.</i>	16
2	Schedule 1, section 9(b), notes, ‘Health Services Act 1991, part 4B, see sections 38G and 38H’—	18
	<i>omit, insert—</i>	19
	<i>‘Hospital and Health Boards Act 2011, part 6, see sections 94 and 95’.</i>	20
3	Schedule 2, part 1, item 6—	21
	<i>omit, insert—</i>	22

[s 47]

‘a quality assurance committee established under the *Hospital and Health Boards Act 2011*, section 82’.

Tobacco and Other Smoking Products Act 1998 3

- 1 Schedule, definition *health service employee*—** 4
omit, insert— 5
‘*health service employee* see the *Hospital and Health Boards Act 2011*, schedule 2.’. 6
7

Transplantation and Anatomy Act 1979 8

- 1 Section 4(1), definition *chief health officer*—** 9
omit, insert— 10
‘*chief health officer* see the *Hospital and Health Boards Act 2011*, schedule 2.’. 11
12
- 2 Section 4(1), definition *hospital*, paragraph (a)—** 13
omit, insert— 14
‘(a) any public sector hospital under the *Hospital and Health Boards Act 2011*; or’.
- 3 Section 23A(4), ‘*Health Services Act 1991*, section 62A(1)’—** 17
omit, insert— 18
‘*Hospital and Health Boards Act 2011*, section 142(1)’.

4	Section 23A(5), definitions <i>designated person</i> and <i>health professional</i>—	1
	<i>omit, insert—</i>	2
	<i>‘designated person</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	3
	<i>health professional</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.’.	4
		5
		6
		7

Victims of Crime Assistance Act 2009 8

1	Section 74(4), definition <i>designated person</i>—	9
	<i>omit, insert—</i>	10
	<i>‘designated person</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.’.	11
		12

Water Fluoridation Act 2008 13

1	Schedule, definitions <i>chief dental officer</i>, <i>chief health officer</i> and <i>health service employee</i>—	14
	<i>omit.</i>	15
		16
2	Schedule—	17
	<i>insert—</i>	18
	<i>‘chief dental officer</i> means the health executive appointed as the chief dental officer.	19
		20
	<i>chief health officer</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	21
		22

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health executive see the *Hospital and Health Boards Act 2011*, schedule 2. 1
2

health service employee see the *Hospital and Health Boards Act 2011*, schedule 2.'. 3
4

Workers' Compensation and Rehabilitation Act 2003 5

1 Section 152(3), definition *contract worker*, paragraph (e)— 6
7
omit, insert— 8
'(e) as a health service employee under the *Hospital and Health Boards Act 2011*'. 9
10

2 Section 215, definition *contracted hospital*, paragraph (a)— 11
12
omit, insert— 13
'(a) a public sector hospital under the *Hospital and Health Boards Act 2011*; or'. 14
15

3 Section 218(2), '*Health Services Act 1991*'— 16
omit, insert— 17
'*Hospital and Health Boards Act 2011*'.'. 18

Clause 48 Amendment of sch 3 (Dictionary) 19

(1) Schedule 3, dictionary, definitions *governing council*, 20
network, *network area*, *network chief executive*, *network* 21
employee, *network health executive*— 22

omit. 23

(2) Schedule 3, dictionary— 24

<i>insert</i> —	1
<i>‘administrator</i> —	2
(a) for sections 276 and 277, means the administrator appointed under section 276; or	3 4
(b) otherwise, means the administrator appointed under section 53K.	5 6
<i>ancillary board</i> means a Hospital and Health Ancillary Board.	7 8
<i>board</i> means a Hospital and Health Board.	9
<i>building</i> includes the building services’ plant and equipment for the building.	10 11
<i>Examples</i> —	12
air conditioning, electrical light and power, water and waste services, data and communication, and lifts	13 14
<i>COAG</i> , for part 3A, division 4, has the meaning given in section 53I.	15 16
<i>executive committee</i> means an executive committee established under section 32A.	17 18
<i>health service area</i> means a health service area declared under section 17.	19 20
<i>health service chief executive</i> means a health service chief executive appointed for a Service under section 33.	21 22
<i>Hospital and Health Board</i> , for a Service, means the board appointed for the Service under section 23.	23 24
<i>Hospital and Health Service</i> —	25
(a) for part 3A, division 4, has the meaning given in section 53I; and	26 27
(b) otherwise, means a Hospital and Health Service established under section 17.	28 29
<i>misconduct</i> , for a member of a board, means—	30
(a) inappropriate or improper conduct in performing the member’s duties; or	31 32

[s 48]

- (b) inappropriate or improper conduct in a private capacity that reflects seriously or adversely on the board. 1
2
- National Health Funding Pool* has the meaning given in section 53I. 3
4
- National Health Reform Agreement* has the meaning given in section 53I. 5
6
- prescribed Service* means a Service prescribed under section 20(4). 7
8
- prescribed day*, for a Service, means the day the Service is prescribed under section 20(4). 9
10
- responsible Minister*, for part 3A, division 4, has the meaning given in section 53I. 11
12
- Service* means a Hospital and Health Service. 13
- Standing Council on Health*, for part 3A, division 4, has the meaning given in section 53I. 14
15
- State*, for part 3A, division 4, has the meaning given in section 53I. 16
17
- State managed fund* has the meaning given in section 53I. 18
- State pool account* has the meaning given in section 53I. 19
- working for a Service*, for a person employed in the department, means— 20
21
- (a) working in and for a Service under an agreement between the chief executive and the Service for the chief executive to provide departmental employees to perform work for the Service; and 22
23
24
25
- (b) reporting directly or indirectly to the health service chief executive. 26
27
- Example of a person who does not work for a Service—* 28
- a person employed in the department who provides pathology services to a hospital and health service and does not report directly or indirectly to a health service chief executive'. 29
30
31

Part 3	Amendment of Industrial Relations Act 1999	1
		2
Clause 49	Act amended	3
	This part amends the <i>Industrial Relations Act 1999</i> .	4
Clause 50	Insertion of new ch 16A	5
	After chapter 16—	6
	<i>insert—</i>	7
	‘Chapter 16A Application of this Act to prescribed Hospital and Health Services and their employees	8
		9
		10
		11
‘693	How this Act applies to prescribed Services and their employees	12
		13
	‘(1) The <i>Hospital and Health Boards Act 2011</i> provides for the establishment of Hospital and Health Services.	14
		15
	‘(2) The <i>Hospital and Health Boards Act 2011</i> further provides for a Hospital and Health Service to become a prescribed Service.	16
		17
	‘(3) schedule 4A states the way this Act is modified for the prescribed Services and their employees.’.	18
		19
Clause 51	Insertion of new sch 4A	20
	Before schedule 5—	21
	<i>insert—</i>	22

[s 51]

‘Schedule 4A	Application of this Act to prescribed Hospital and Health Services and their employees	1 2 3
	section 693	4
‘Part 1	General	5
‘1	Definitions for sch 4A	6
	‘In this schedule—	7
	<i>chief executive</i> means the chief executive administering the <i>Hospital and Health Boards Act 2011</i> .	8 9
	<i>health service employee</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	10 11
	<i>health system employer</i> means—	12
	(a) the department in which the <i>Hospital and Health Boards Act 2011</i> is administered; or	13 14
	(b) a prescribed Service.	15
	<i>prescribed Service</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	16 17
	<i>Service</i> see the <i>Hospital and Health Boards Act 2011</i> , schedule 2.	18 19
‘Part 2	Modification of chapter 3 — Dismissals	20 21
‘2	How s 77 (Matters to be considered in deciding an application) applies	22 23
	‘(1) This section applies if the dismissal of a health service employee by a health system employer related to the	24 25

[s 51]

employer instead of the prescribed Service and may make an application under that section.	1 2
‘6 How s 129 (Flow-on of certified agreements) applies	3
‘Despite section 129(3), if the chief executive is a party to a certified agreement for health service employees, the provisions that are included in an award must also apply to the prescribed Services.	4 5 6 7
‘Part 4 Modification of chapter 6 — Certified agreements	8 9
‘7 Chief executive to be party to certified agreement	10
‘(1) This section applies to a certified agreement applying to health service employees employed by a prescribed Service.	11 12
‘(2) The chief executive is to be a party to the certified agreement instead of the prescribed Service as if the chief executive were the employer of the health service employees.	13 14 15
‘8 Proceedings in relation to agreements	16
‘(1) This section applies to a proceeding under chapter 6 in relation to an agreement for health service employees employed by a prescribed Service.	17 18 19
‘(2) The chief executive is to be a party to the proceeding instead of the prescribed Service as if the chief executive were the employer of the health service employees.	20 21 22
‘9 How s 142 (Who may make certified agreements) applies	23 24
‘For section 142, for health service employees employed by a prescribed Service, the chief executive is taken to be the employer instead of the prescribed Service and may make a certified agreement under that section.	25 26 27 28

‘10	How s 143 (Proposed parties to be advised when agreement is proposed) applies	1 2
	‘For section 143, for health service employees employed by a prescribed Service, the chief executive is taken to be the employer instead of the prescribed Service and can propose to make a certified agreement as an employer under that section.	3 4 5 6
‘11	How s 144 (What is to be done when an agreement is proposed) applies	7 8
	‘For section 144(2)(c) and (3), for health service employees employed by a prescribed Service, the chief executive is taken to be the employer instead of the prescribed Service for negotiating with an employee organisation.	9 10 11 12
‘12	How s 147 (Peace obligation period to assist negotiations) applies	13 14
	‘(1) This section applies to a proposed agreement between the chief executive and the health service employees employed by a prescribed Service or an employee organisation representing the employees.	15 16 17 18
	‘(2) For section 147, the prescribed Service has the same obligations as the proposed parties during the peace obligation period.	19 20 21
‘13	How s 148 (Assistance in negotiating by conciliation) applies	22 23
	‘(1) For section 148(1)(b), a prescribed Service is also taken to be a negotiating party.	24 25
	‘(2) For section 148(5), a prescribed Service is also taken to be a party.	26 27
‘14	How s 150 (Determinations made under s 149) applies	28
	‘For section 150(4) and (5), for health service employees employed by a prescribed Service, the chief executive is taken	29 30

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	to be the employer instead of the prescribed Service in relation to the revocation of a determination.	1 2
'15	How s 152 (Certificate as to requested representation) applies	3 4
	'For section 152(2), for health service employees employed by a prescribed Service, the chief executive is taken to be the employer instead of the prescribed Service for an application to the registrar about not negotiating about a proposed agreement.	5 6 7 8 9
'16	How s 166 (Persons bound) applies	10
	'(1) This section applies to a certified agreement between the chief executive and the health service employees of the prescribed Services or an employee organisation representing the employees.	11 12 13 14
	'(2) For section 166, the certified agreement binds the prescribed Services.	15 16
'17	How s 167 (Successor employers bound) applies	17
	'Section 167(2)(b) and (c) apply subject to the modifications contained in this schedule.	18 19
'18	How s 168 (Extending a certified agreement) applies	20
	'(1) This section applies to a certified agreement between the chief executive and the health service employees of the prescribed Services or an employee organisation representing the employees.	21 22 23 24
	'(2) For section 168, the chief executive is taken to be the employer instead of the prescribed Services and may apply to the commission to extend the certified agreement's nominal expiry date.	25 26 27 28

'19	How s 169 (Amending a certified agreement) applies	1
	'(1) This section applies to a certified agreement between the chief executive and the health service employees of the prescribed Services or an employee organisation representing the employees.	2 3 4 5
	'(2) For section 169(2), the chief executive is taken to be the employer instead of the prescribed Services and may apply to the commission to amend the certified agreement.	6 7 8
	'(3) For section 169(6), an application to amend a certified agreement may be made by the chief executive instead of a prescribed Service.	9 10 11
'20	How s 170 (Amendment if discrimination between unionists and non-unionists) applies	12 13
	'(1) This section applies to a certified agreement between the chief executive and the health service employees of the prescribed Services or an employee organisation representing the employees.	14 15 16 17
	'(2) For section 170, the chief executive is taken to be the employer instead of the prescribed Services for seeking the commission's approval to amend the agreement.	18 19 20
'21	How s 172 (Terminating certified agreement on or before its nominal expiry date) applies	21 22
	'(1) This section applies to a certified agreement between the chief executive and the health service employees of the prescribed Services or an employee organisation representing the employees.	23 24 25 26
	'(2) For section 172, the chief executive is taken to be the employer instead of the prescribed Services for terminating the agreement by notice.	27 28 29

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‘22	How s 173 (Terminating agreement after its nominal expiry date) applies	1 2
‘(1)	This section applies to a certified agreement between the chief executive and the health service employees of the prescribed Services or an employee organisation representing the employees.	3 4 5 6
‘(2)	For section 173, the chief executive is taken to be the employer instead of the prescribed Services for applying to the commission to terminate the agreement.	7 8 9
‘23	How s 185 (Coercion of persons to make, amend or terminate certified agreements etc.) applies	10 11
	‘For section 185(3), the obligation not to coerce, or attempt to coerce, an employee also applies to the chief executive for health service employees of the prescribed Services.	12 13 14
‘Part 5	Modification of chapter 7 — Industrial disputes	15 16
‘24	When chief executive taken to be party to industrial dispute	17 18
‘(1)	This section applies if section 229(1) applies in relation to a dispute involving a prescribed Service as an employer.	19 20
‘(2)	The prescribed Service must give the chief executive notice of the dispute—	21 22
(a)	at the same time as the registrar is first given notice of the dispute under section 229(2); and	23 24
(b)	in a way mentioned in section 229(3).	25
‘(3)	The chief executive is taken to be a party for proceedings for the dispute instead of the prescribed Service unless the chief executive gives written notice to the prescribed Service that the prescribed Service is to be a party to the dispute.	26 27 28 29

‘(4)	In deciding whether to give a written notice under subsection (3), the chief executive is to have regard to whether the subject of the dispute may affect the terms and conditions of employment of health service employees in more than one health system employer.	1 2 3 4 5
‘(5)	If the prescribed Service is to be a party to the dispute, the prescribed Service must give the commission a copy of the chief executive’s written notice under subsection (3) as soon as practicable after receiving the notice.	6 7 8 9
‘25	When chief executive may intervene in industrial dispute	10 11
‘(1)	This section applies if—	12
(a)	the chief executive has given written notice under section 24(3) of this schedule to a prescribed Service that the prescribed Service is to be a party to the dispute; and	13 14 15 16
(b)	during the proceedings the chief executive considers that the subject of the dispute may affect the terms and conditions of employment of health service employees in more than one health system employer.	17 18 19 20
‘(2)	The chief executive may intervene in the proceedings.	21
‘(3)	On intervention, the chief executive becomes a party to the proceedings.	22 23
‘26	How s 235 (Secret ballot on strike action) applies	24
	‘For section 235, for health service employees employed by a prescribed Service, the chief executive—	25 26
(a)	is taken to be the employer instead of the prescribed Service; and	27 28
(b)	may make application under section 235(2) for the commission to act under section 235(4) in relation to conducting a secret ballot.	29 30 31

[s 51]

‘27	How s 239 (Orders the commission may make) applies	1
	‘For section 239, for health service employees employed by a prescribed Service, the chief executive—	2 3
	(a) is taken to be the employer instead of the prescribed Service; and	4 5
	(b) may make application under section 239(2) for a contravention of section 238(2) or (3) about payment for strikes.	6 7 8
‘Part 6	Modification of other provisions	9 10
‘28	Who makes application to commission as employer	11
	‘(1) This section applies to a provision of this Act (other than chapter 5, 6 or 7) under which an application may be made to the commission by an employer about a matter.	12 13 14
	‘(2) If the application relates to health service employees employed by a prescribed Service, the chief executive is taken to be the employer instead of the prescribed Service and may make the application for the matter.	15 16 17 18
	‘(3) However, the chief executive may give a written notice to the prescribed Service that the prescribed Service may make the application as the employer.	19 20 21
	‘(4) In deciding whether to give a written notice under subsection (3), the chief executive is to have regard to whether the subject of the application may affect the terms and conditions of employment of health service employees in more than one health system employer.	22 23 24 25 26
	‘(5) If the prescribed Service makes the application, the prescribed Service must give the commission a copy of the chief executive’s written notice under subsection (3) when making the application.	27 28 29 30

‘29	Who is party to proceedings as employer before commission	1 2
‘(1)	This section applies to a proceeding in the commission for a matter (other than a proceeding under chapter 5, 6 or 7) if the proceeding relates to health service employees employed by a prescribed Service.	3 4 5 6
‘(2)	The chief executive is taken to be the employer for the proceeding instead of the prescribed Service unless—	7 8
(a)	the chief executive has given written notice under section 28(3) of this schedule that a prescribed Service may make application for a matter the subject of the proceeding; or	9 10 11 12
(b)	if paragraph (a) does not apply, the chief executive gives written notice to the prescribed Service that the prescribed Service is the employer for the proceeding.	13 14 15
‘(3)	In deciding whether to give a written notice under subsection (2)(b), the chief executive is to have regard to whether the matter may affect the terms and conditions of employment of health service employees in more than one health system employer.	16 17 18 19 20
‘(4)	The prescribed Service must give the commission a copy of the chief executive’s written notice under subsection (2)(b) as soon as practicable after receiving the notice.	21 22 23
‘30	Commission’s orders may bind prescribed Services even if chief executive is taken to be employer or party for proceeding	24 25 26
‘(1)	This section applies to a proceeding before the commission if the chief executive is a party to the proceeding because the chief executive is taken to be the employer of health service employees instead of a prescribed Service.	27 28 29 30
‘(2)	The commission may make orders, give directions or do anything else it may do under this Act in relation to the prescribed Service as if the prescribed Service was a party to the proceeding.	31 32 33 34

[s 52]

‘(3) Subsection (2) does not limit the orders, directions or other
action the commission may take in relation to the chief
executive. 1
2
3

‘31 How s 265 (Commission’s jurisdiction) applies 4

‘(1) For section 265(2), for health service employees employed by
a prescribed Service, the chief executive is taken to be the
employer instead of the prescribed Service and may make an
application to regulate a calling by an award. 5
6
7
8

‘(2) For section 265(5), for health service employees employed by
a prescribed Service, the chief executive is taken to be the
employer instead of the prescribed Service and may make an
application to consolidate an award.’ 9
10
11
12

Clause 52 Amendment of sch 5 (Dictionary) 13

Schedule 5, dictionary— 14

insert— 15

‘chief executive, for schedule 4A, see schedule 4A, part 1,
section 1. 16
17

health service employee, for schedule 4A, see schedule 4A,
part 1, section 1. 18
19

health system employer, for schedule 4A, see schedule 4A,
part 1, section 1. 20
21

prescribed Service, for schedule 4A, see schedule 4A, part 1,
section 1. 22
23

Service, for schedule 4A, see schedule 4A, part 1, section 1.’. 24

Part 4	Amendment of Private Health Facilities Act 1999	1
		2
Clause 53	Insertion of new s 147B	3
	After section 147A—	4
	<i>insert—</i>	5
	‘147B Disclosure for funding arrangements	6
	‘(1) Section 147 does not apply to the disclosure of information to the Commonwealth or an entity of the Commonwealth if the disclosure is to give effect to a funding arrangement between the State and the Commonwealth for public sector health services and other health services.	7
		8
		9
		10
		11
	‘(2) In this section—	12
	<i>funding arrangement</i> see <i>Hospital and Health Boards Act 2011</i> , schedule 2.	13
		14
	<i>public sector health service</i> see <i>Hospital and Health Boards Act 2011</i> , schedule 2.’.	15
		16
Part 5	Minor and consequential amendments	17
		18
Clause 54	Acts amended	19
	The schedule amends the Acts it mentions.	20

Schedule	Acts amended	1
	section 54	2
Forensic Disability Act 2011		3
1	Section 123(1)(a), ‘Health Services Act 1991’—	4
	<i>omit, insert—</i>	5
	<i>‘Hospital and Health Boards Act 2011’.</i>	6
Health and Hospitals Network Act 2011		7
1	Section 8(1), ‘networks’—	8
	<i>omit, insert—</i>	9
	<i>‘Hospital and Health Services’.</i>	10
2	Section 9(1), ‘Networks’—	11
	<i>omit, insert—</i>	12
	<i>‘Hospital and Health Services’.</i>	13
3	Part 2, heading, ‘Local Health and Hospital Networks’—	14
	<i>omit, insert—</i>	15
	<i>‘Hospital and Health Services’.</i>	16

4	Section 17(a) and (b), ‘Local Health and Hospital Network’—	1
	<i>omit, insert—</i>	2
	‘Hospital and Health Service’.	3
		4
5	Part 2, division 2, heading, ‘Governing councils’—	5
	<i>omit, insert—</i>	6
	‘Hospital and Health Boards’.	7
6	Part 2, division 2, subdivision 1, heading, ‘governing councils’—	8
	<i>omit, insert—</i>	9
	‘Hospital and Health Boards’.	10
		11
7	Section 22, ‘governing council’—	12
	<i>omit, insert—</i>	13
	‘Hospital and Health Board’.	14
8	Section 53(b), ‘chief executive;’—	15
	<i>omit, insert—</i>	16
	‘chief executive; and’.	17
9	Section 55(2), definition <i>health service audit</i>, paragraph (b), ‘network or service’—	18
	<i>omit, insert—</i>	19
	‘Service or specialised health service’.	20
		21
10	Section 80—	22
	<i>omit.</i>	23

Schedule

11	Section 84(2), ‘someone else,’—	1
	<i>omit, insert—</i>	2
	‘someone else’.	3
12	Section 87(4), ‘proceeding,’—	4
	<i>omit, insert—</i>	5
	‘proceeding’.	6
13	Section 94, ‘Root cause analysis’—	7
	<i>omit, insert—</i>	8
	‘root cause analysis’.	9
14	Section 132(3)(c)—	10
	<i>omit.</i>	11
15	Section 318—	12
	<i>omit.</i>	13
16	Schedule 2, section 8(4)(a), ‘governing council’s’—	14
	<i>omit, insert—</i>	15
	‘board’s’.	16
17	Schedule 3, definition <i>Australian Commission on Safety and Quality in Health Care</i>, ‘National Health and Hospitals Network Act 2011 (Cwlth)’—	17
	<i>omit, insert—</i>	18
	‘ <i>National Health Reform Act 2011</i> (Cwlth)’.	19
		20
		21

18	Schedule 3, definition <i>corporate support service</i>, 'support service,'—	1 2
	<i>omit, insert—</i>	3
	‘support service’.	4
19	Amendment for references to ‘network’	5
	All provisions of the <i>Health and Hospitals Network Act 2011</i>	6
	are amended by omitting ‘network’ and inserting ‘Service’	7
	except where—	8
	(a) the word ‘network’ is used in the terms ‘network area’,	9
	‘network chief executive’, ‘network chief executives’ or	10
	‘network chief executive’s’; or	11
	(b) a provision is amended elsewhere in this Act to omit the	12
	word ‘network’.	13
20	Amendment for references to ‘networks’	14
	All provisions of the <i>Health and Hospitals Network Act 2011</i>	15
	are amended by omitting ‘networks’ and inserting ‘Services’	16
	except where—	17
	(a) the word ‘networks’ is used in the term ‘clinical	18
	networks’; or	19
	(b) a provision is amended elsewhere in this Act to omit the	20
	word ‘networks’ and insert other words.	21
21	Amendment for references to ‘Networks’	22
	All provisions of the <i>Health and Hospitals Network Act 2011</i>	23
	are amended by omitting ‘Networks’ and inserting ‘Services’	24
	except where—	25
	(a) the word ‘Networks’ is used in the term ‘Local Health	26
	and Hospital Networks’; or	27
	(b) a provision is amended elsewhere in this Act to omit the	28
	word ‘Networks’ and insert other words.	29

Schedule

22	Amendment for references to ‘network’s’	1
	All provisions of the <i>Health and Hospitals Network Act 2011</i>	2
	are amended by omitting ‘network’s’ and inserting	3
	‘Service’s’.	4
23	Amendment for references to ‘network area’	5
	All provisions of the <i>Health and Hospitals Network Act 2011</i>	6
	are amended by omitting ‘network area’ and inserting ‘health	7
	service area’.	8
24	Amendment for references to ‘network chief executive’	9
	All provisions of the <i>Health and Hospitals Network Act 2011</i>	10
	are amended by omitting ‘network chief executive’ and	11
	inserting ‘health service chief executive’.	12
25	Amendment for references to ‘network chief executives’	13
	All provisions of the <i>Health and Hospitals Network Act 2011</i>	14
	are amended by omitting ‘network chief executives’ and	15
	inserting ‘health service chief executives’.	16
26	Amendment for references to ‘network chief executive’s’	17
	All provisions of the <i>Health and Hospitals Network Act 2011</i>	18
	are amended by omitting ‘network chief executive’s’ and	19
	inserting ‘health service chief executive’s’.	20
27	Amendment for references to ‘governing council’	21
	All provisions of the <i>Health and Hospitals Network Act 2011</i>	22
	are amended by omitting ‘governing council’ and inserting	23
	‘board’ except where a provision is amended elsewhere in this	24
	Act to omit the words ‘governing council’ and insert other	25
	words.	26

28	Amendment for references to ‘governing councils’	1
	All provisions of the <i>Health and Hospitals Network Act 2011</i>	2
	are amended by omitting ‘governing councils’ and inserting	3
	‘boards’ except where a provision is amended elsewhere in	4
	this Act to omit the words ‘governing councils’ and insert	5
	other words.	6

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