



# NORFOLK ISLAND HOSPITAL ACT 1985

[Consolidated as at 20 January 2013  
on the authority of the Administrator  
and in accordance with  
the *Enactments Reprinting Act 1980*]

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## Norfolk Island Hospital Act 1985

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An Act to provide for the management of the Norfolk Island Hospital, and for related purposes

### PART 1 — PRELIMINARY

#### Short title

1. This Act may be cited as the *Norfolk Island Hospital Act 1985*.

#### Commencement

2. This Act shall commence on a date fixed by the Administrator by notice published in the Gazette.

....

#### Definitions

4. (1) In this Act, unless the contrary intention appears —
  - “adult” means a person who has reached the age of 18 years;
  - “Advisory Board” means the Norfolk Island Hospital Advisory Board established under section 10;
  - “allied health professionals” includes, but is not limited to, Dentists, Physiotherapists, Radiographers, Pharmacists and Medical Scientists;
  - “Auditor” means the Norfolk Island Government Auditor;
  - “bank” means the same as in the *Banking Act 1959* of the Commonwealth;
  - “Chairperson” in relation to the Advisory Board means the member appointed as Chairperson under section 16;
  - “charge”, in relation to a health service, means a charge payable under Part 5;
  - “Chief Executive Officer” means the same as in the *Public Sector Management Act 2000*;
  - “Code of Conduct” means a code made in accordance with section 44;
  - “dentist” means a person registered in accordance with the *Registration of Dentists Act 1931*;
  - “Deputy Medical Superintendent” means the person appointed under subsection 23A(2) to be the Deputy Medical Superintendent of the Hospital;
  - “direct charging authority” means the same as in the *Healthcare Act 1989*;
  - “Director” means the person appointed, under section 19, to be the Director of the Enterprise;
  - “Director of Nursing” means the person appointed under section 23D to be the Director of Nursing;



“employee”, in relation to the Enterprise, means a person employed under paragraph 21(2A) and includes an employee who is the Deputy Director, but does not include the Director;

“Enterprise” means the Norfolk Island Hospital Enterprise established by section 6;

“financial year” means the period of 12 months commencing on each 1 July;

“Healthcare Fund” means the same as in the *Healthcare Act 1989*;

“Health Fund Management” means the Norfolk Island Health Fund Management established by the *Healthcare Act 1989*;

“health service” includes the provision of —

- (a) medical and dental services;
- (b) baby clinic services; and
- (c) district nursing services;

“Hospital” means the Norfolk Island Hospital;

“Manager”, in relation to Norfolk Island Health Fund Management, means the same as in the *Healthcare Act 1989*;

“medical practitioner” means a registered medical practitioner within the meaning of the *Medical Practitioners Registration Act 1983*;

“medical services” means the same as in the *Healthcare Act 1989*;

“Medical Superintendent” means the person appointed under section 23A to be the Medical Superintendent of the Hospital;

“member” means a person appointed under section 12 to be a member of the Advisory Board;

“Norfolk Island Government Auditor” means a person or firm appointed under section 51 of the *Norfolk Island Act 1979* of the Commonwealth;

“Norfolk Island Health Fund Management” means the same as in the *Healthcare Act 1989*;

“nuclear family” means the same as in the *Healthcare Act 1989*;

“paramedical services” includes all services provided by allied health professionals;

“Privacy Principles” means the principles, referred to in subsection 44(4) and section 46A, included in a Code of Conduct;

“Social Services Board” means the body established by section 4 of the *Social Services Act 1980*;

“Tribunal” means the same as in the *Public Sector Remuneration Tribunal Act 1992*.

(2) Where, in this Act, an instrument is expressed to be a disallowable instrument, subsections 41(3), 41(4), 41(5), 41(6) and 41(7) of the *Interpretation Act 1979* apply to the instrument as if the instrument were Regulations made by the Administrator under an enactment.

**Continuance of the Norfolk Island Hospital**

5. The Hospital known at the commencement of this Act as the Norfolk Island Public Hospital shall continue to be a public hospital under the name of the Norfolk Island Hospital, but shall be maintained and carried on in accordance with this Act.

**PART 2 — NORFOLK ISLAND HOSPITAL ENTERPRISE****Establishment of Norfolk Island Hospital Enterprise**

6. (1) The Norfolk Island Hospital Enterprise is established.
- (2) The Enterprise —
- (a) is a body corporate with perpetual succession;
  - (b) has a seal; and
  - (c) subject to this Act, is capable, in its corporate name, of —
    - (i) suing and being sued;
    - (ii) making contracts;
    - (iii) acquiring, holding and disposing of real and personal property; and
    - (iv) doing and suffering all other matters and things a body corporate may do or suffer.
- (3) All Courts, Judges and persons acting judicially must take judicial notice of the imprint of the seal of the Enterprise appearing on a document and must presume that the document was duly sealed.
- (4) The Enterprise is an instrumentality of the Crown in right of Norfolk Island.

**Functions of the Enterprise**

7. The functions of the Enterprise are —
- (a) to control, administer and manage the Hospital;
  - (b) to ensure the efficient and effective delivery of health services to the Norfolk Island community;
  - (c) to strive to maintain and improve the health of persons in the Norfolk Island community; and
  - (d) to plan for the long-term development of the delivery of health services to the Norfolk Island community.

**Principles to be adhered to by Enterprise**

8. (1) In performing its functions, the Enterprise must, so far as is practicable, comply with —
- (a) the principle that health services provided by the Enterprise are to be so provided at the true economic cost of the services; and
  - (b) any policies of the Government notified by the Minister under subsection 9(1); and
  - (c) any directions given by the Minister under subsection 9(2); and
  - (d) the Performance Agreement developed for the Enterprise by the Minister after consultation with the Advisory Board.

(2) A Performance Agreement referred to in paragraph 8(1)(d) must set out goals and targets to be developed by the Minister to monitor the performance of the Enterprise.

**Minister may notify Enterprise of policy and give directions**

9. (1) The Minister may notify the Enterprise of general policies of the Government that are to apply in relation to the Enterprise.

(2) The Minister may give written directions to the Enterprise in relation to the performance of its functions and the exercise of its powers.

(3) As soon as practicable after giving a direction under subsection 9(2), the Minister must lay a copy of the direction before the Legislative Assembly.

(4) Without limiting the generality of subsection 9(2), the Minister may direct that the Advisory Board prepare and submit to the Minister a strategic plan in relation to a specified period setting out —

- (a) an assessment of the major issues relating to the Enterprise's functions that are likely to arise during the period; and
- (b) the manner in which the Advisory Board proposes that the Enterprise perform its functions in dealing with those issues during that period.

**PART 3 — NORFOLK ISLAND HOSPITAL ADVISORY BOARD**

**Establishment of Norfolk Island Hospital Advisory Board**

10. The Norfolk Island Hospital Advisory Board is hereby established.

**Functions and powers**

11. (1) The Advisory Board has the following functions:

- (a) to provide advice and direction on the strategic management of the Enterprise;

....

- (c) to advise the Minister on issues relating to the future development of the Enterprise;
- (d) to advise the Minister on public health issues.

(2) The Advisory Board has power to do all things necessary or convenient to be done in connection with the performance of its functions.

(3) In performing its functions, the Advisory Board must comply with the matters specified in section 8.

(4) Except as otherwise provided by or under this or any other Act, the Advisory Board is not subject to direction by or on behalf of the Administration.

(5) In performing its functions, the Advisory Board —

- (a) may consult any person or body; and
- (b) may take such steps as it considers practicable to consult the Norfolk Island community generally; and

- (c) must maintain the confidentiality necessary to protect the interests of the Enterprise in respect of the internal management issues, industrial relations matters, commercial transactions, dealings with individual members of the public and all matters affecting the interests of the Enterprise.

### **Membership**

**12. (1)** The Advisory Board consists of 5 members appointed by the Minister in accordance with a resolution of the Legislative Assembly.

**(2)** A person who is —

- (aa) the Director; or
- (a) an employee of the Enterprise; or
- (b) a Minister,

is not eligible for appointment as a member.

**(3)** An appointment under subsection 12(1) shall be by notice published in the Gazette.

**(4)** The appointment of a member is not invalid because of any defect or irregularity in connection with the member's appointment.

**(5)** The performance of the functions or the exercise of the powers of the Advisory Board is not affected by a vacancy in the membership of the Advisory Board.

### **Deputy member**

**12A. (1)** The Minister, in accordance with a resolution of the Legislative Assembly, may, in respect of each member, appoint a person to be his or her deputy.

**(2)** An appointment under subsection 12A(1) must be published in the Gazette.

**(3)** A deputy of a member may act as a member —

- (a) if the member in respect of whom the deputy is appointed is absent or unable to discharge official duties; or
- (b) if the position of the member in respect of whom the deputy is appointed is vacant.

**(4)** A reference in this Act to a member will be taken to include a reference to a deputy when acting as a member in accordance with this Act.

### **Term of office**

**13.** A member holds office for the period (not exceeding 3 years) specified in the instrument of appointment but is eligible for re-appointment.

### **Resignation**

**14. (1)** A member may resign his or her office by writing signed by the member and delivered to the Minister.

**(2)** The resignation of a member takes effect on the day on which it is delivered to the Minister or, if a later day is specified in the resignation, that later day.

**(3)** A member who becomes a person referred to in subsection 12(2) is to be taken to have resigned on the day on which the member became such a person.

**Termination of appointment**

**15. (1)** The Minister may terminate the appointment of a member because of the misbehaviour or physical or mental incapacity of the member.

**(2)** If a member —

- (a) becomes bankrupt, applies as a debtor to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration for their benefit; or
- (b) is absent, except with the leave of the Advisory Board, from 3 consecutive meetings of the Advisory Board,

the Minister shall terminate the appointment of that member.

**Chairperson**

**16.** The Minister shall appoint a member of the Advisory Board other than a person who is a member of the Legislative Assembly, to be the Chairperson of the Advisory Board.

**Reports of the Advisory Board**

**17. (1)** The Advisory Board shall furnish to the Minister for presentation to the Legislative Assembly a report relating to the activities of the Enterprise and the Advisory Board during each financial year.

**(2)** In addition to the report referred to in subsection 17(1), the Advisory Board shall furnish to the Minister such information or reports as requested by the Minister and shall keep the Minister regularly informed of the activities of the Enterprise and the Advisory Board.

**(3)** Where the Minister under subsection 9(2) has directed the Advisory Board to prepare a strategic plan in relation to a specified period, the report referred to in subsection 17(1) must include a review evaluating the extent to which the Advisory Board has been successful in implementing the strategic plan.

**Meetings**

**18. (1)** The Chairperson —

- (a) shall convene such meetings of the Advisory Board as are necessary for the efficient conduct of its functions and in any event not less than once per month; and
- (b) shall, on receipt of a written request from the Minister, convene a meeting of the Advisory Board.

**(2)** The Chairperson shall preside at all meetings of the Advisory Board at which he or she is present but if the Chairperson is absent from a meeting the members present shall elect one of the members present, other than a member of the Legislative Assembly, to preside at the meeting.

**(3)** The quorum at a meeting of the Advisory Board is 3 members.

**(4)** The Advisory Board may regulate the conduct of proceedings at its meetings as it thinks fit.

**(5)** The Advisory Board shall keep minutes of its proceedings at its meetings and shall, not later than 7 days after a meeting, send a copy of the minutes of the meeting to the Minister.

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

(7) The Director, the Medical Superintendent and the Director of Nursing shall, where practicable, attend all meetings of the Advisory Board.

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#### **Protection of members, etc**

**18B.** No action, suit or proceeding lies against a person who is or has been —

- (a) a member of the Advisory Board; or
- (b) a temporary member of the Advisory Board; or
- (c) the Director; or
- (d) the Deputy Director,

in relation to an act done or omitted to be done in good faith in the performance or purported performance of a function under this Act.

### **PART 4 — MANAGEMENT OF NORFOLK ISLAND HOSPITAL ENTERPRISE**

#### **Director of Enterprise**

**19. (1)** The Minister on the recommendation of the Advisory Board may appoint a person to be the Director of the Norfolk Island Hospital Enterprise.

(2) The Director holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Minister on the advice of the Advisory Board.

#### **Resignation**

**19A. (1)** The Director may resign by writing signed by him or her and delivered to the Minister and the Advisory Board.

(2) The resignation of the Director takes effect on the day on which it is delivered to the Minister or, if a later day is specified in the resignation, that later day.

#### **Termination of appointment**

**19B. (1)** The Minister may, in consultation with the Advisory Board, terminate the appointment of the Director because of incompetence, misbehaviour or physical or mental incapacity.

(2) If the Director —

- (a) becomes bankrupt, applies as a debtor to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the Director's creditors or makes an assignment of the Director's remuneration for their benefit; or
- (b) is absent from duty except with leave of the Minister, for 7 consecutive days or for 14 days in any period of 12 months; or
- (c) engages in paid employment outside the duties of the office of Director without the written consent of the Minister,

the Minister shall terminate the appointment of the Director.

**Duties of Director**

**20. (1)** The Director is responsible for the management of the Enterprise having regard to —

- (a) the advice of the Advisory Board; and
- (b) the principles in section 8,

and must maintain the confidentiality necessary to protect the interests of the Enterprise in respect of the internal management issues, industrial relations matters, commercial transactions, dealings with individual members of the public and all matters affecting the interests of the Enterprise.

**(2)** In the performance of his or her duties, the Director shall regularly report to the Advisory Board and must keep the Advisory Board fully informed about the operations of the Enterprise.

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**Powers of Director**

**21. (1)** Subject to this Act, the Director has power to do anything that is necessary or convenient to be done for or in connection with, or incidental to, the performance of the Enterprise's functions or the exercise of its powers.

**(2)** Without limiting subsection 21(1), the Director may exercise any of the powers of the Enterprise specified in paragraph 6(2)(c).

**(2A)** The Director may employ persons for the purposes of the Enterprise.

**(2B)** In the exercise of powers conferred by subsection 21(2A), the Director shall have regard to such Human Resources Policies and Procedures as adopted from time to time by the Enterprise.

**(3)** Subject to subsection 21(4), the duties of an employee are to be as determined by the Director, and each employee is to be responsible for the performance of his or her duties to —

- (a) the Director; or
- (b) another employee determined by the Director.

**(4)** If an employee is employed by the Director to perform duties of a professional nature, the employee is not subject to the directions of the Director in respect of the exercise by the employee of the employee's professional or clinical judgement.

**(5)** For the purposes of subsection 21(4), 'duties of a professional nature' include (but are not limited to) the duties of —

- (a) a medical practitioner, in the practitioner's capacity as such; and
- (b) a dentist, in the dentist's capacity as such; and
- (c) a nurse, in the nurse's capacity, as such; and
- (d) an allied health professional in his or her capacity as such.

**Deputy Director**

**22. (1)** The Director may, with the written approval of the Minister, appoint an employee of the Enterprise to be the Deputy Director of the Enterprise.

**(2)** Unless the Minister on the advice of the Advisory Board has appointed a person to act in the office of Director, the Deputy Director may exercise and perform the powers and duties of the Director during a vacancy in the office of Director or during the absence from duty of the Director.

**(3)** Nothing done by the Deputy Director is to be called into question, or is invalid, because the occasion for the Deputy Director to exercise or perform the powers or duties of the Director had not arisen or had ceased.

**General wage adjustments not affected**

**23. (1)** Nothing in this Act affects the operation, in relation to the Enterprise, of the *Public Sector Remuneration Tribunal Act 1992*.

**(2)** For the avoidance of doubt, the Tribunal has exclusive power to determine whether general adjustments are to be made to wages payable to persons employed under this Act.

**PART 4A — PROFESSIONAL STAFF****Medical Superintendent and Deputy Medical Superintendent**

**23A. (1)** There shall be —

- (a) a Medical Superintendent of the Hospital; and
- (b) a Deputy Medical Superintendent of the Hospital.

**(2)** The Minister may appoint an employee who is a medical practitioner to be the Medical Superintendent of the Hospital and another such employee who is a medical practitioner to be the Deputy Medical Superintendent.

**(3)** When making the appointments referred to in 23A(2) the Minister may obtain and act on such professional advice as may be deemed necessary, in his or her absolute discretion.

**(4)** Notwithstanding subsection 23A(2), the Minister may appoint a medical practitioner who is not an employee of the Enterprise as Medical Superintendent of the Hospital for a period not exceeding three months.

**Responsibility, etc of Medical Superintendent**

**23B. (1)** The Medical Superintendent is responsible for all matters concerning the medical administration of the Hospital including the supervision of clinical quality activities.

**(2)** Without limiting the generality of subsection 23B(1) the responsibility of the Medical Superintendent includes —

- (a) medical and paramedical services;
- (b) pharmacy services including the dispensing requirements of the Hospital; and
- (c) the maintenance in an efficient condition and practical operation of medical equipment at the Hospital.

(3) The Medical Superintendent is responsible for the maintenance of professional standards of doctors and allied health professionals, employed by the Enterprise to perform duties of a professional nature and such employees are subject to the direction of the Medical Superintendent in respect of their professional duties.

(4) For the purpose of subsection 23B(3) “duties of a professional nature” has the same meaning as in subsection 21(5).

#### **Medical Superintendent to comply with directions**

**23C. (1)** In performing his or her duties under section 23B, the Medical Superintendent shall act in accordance with any policies determined, and any direction given, by the Director in writing.

(2) The Director shall not direct the Medical Superintendent to take action that is in conflict with standards of professional conduct.

(3) In the performance of his or her duties, the Medical Superintendent shall regularly report to the Director and shall keep the Director fully informed about matters concerning the medical administration of the Hospital.

#### **Director of Nursing**

**23D. (1)** The Minister may appoint an employee who is a qualified nurse to be the Director of Nursing.

(2) The Director of Nursing has the functions, powers and responsibilities as set out in the Act and in particular shall be responsible for —

- (a) nursing services; and
- (b) baby clinic services; and
- (c) district nursing services.

(3) Where the Director of Nursing is, or is expected to be absent from duties, or from Norfolk Island, the Minister may appoint an employee who is a qualified nurse to act as the Director of Nursing for such period of time as necessary during that absence.

### **PART 5 — CHARGES FOR HEALTH SERVICES**

#### **Determination of charges for health services**

**24. (1)** Subject to this section, the Minister may by written instrument specify charges to be paid to the Enterprise for the provision of health services by the Enterprise.

(2) Before doing so, the Minister must —

- (a) consult the Advisory Board; and
- (b) have regard to the principle set out in paragraph 8(1)(a).

(3) The instrument —

- (a) must be published in the Gazette, and takes effect from the date of publication or from a later date specified in the instrument; and
- (b) must be laid before the Legislative Assembly as soon as practicable after it has been published.

(4) Different charges may be specified for different kinds of health services.

(5) An instrument may instead of directly specifying a charge specify a charge by reference to another instrument or document as in force on a particular date or as in force from time to time.

(6) The Director, in consultation with the Advisory Board shall review the charges specified for health services not less than once every 2 years or as directed by the Minister, and shall advise the Minister on the need for variation in such charges.

#### **Collection of charges - general rule**

**25. (1)** The Director is to make arrangements for collecting charges payable under this Part so that, so far as is practicable, a charge is paid immediately after the provision of the health service in relation to which the charge is payable.

(2) The arrangements must not have the effect of requiring a person to pay a charge before the person is permitted to be provided with a health service.

(3) A charge, unless paid, may be sued for by the Enterprise in a Court of competent jurisdiction.

(4) A charge is payable —

- (a) in relation to a health service provided to an adult - by that adult; or
- (b) in relation to a health service provided to a person who is not an adult —
  - (i) if the person is not a member of a nuclear family - by the person; or
  - (ii) if the person is a member of a nuclear family - by an adult, chosen by the Enterprise, who is a member of that family.

(5) This section has effect subject to sections 26, 27, 28 and 29.

#### **Collection of charges - HMA recipients**

**26. (1)** The Chief Executive Officer is to make arrangements to ensure that the Enterprise is kept informed in writing of —

- (a) the name of each person who, from time to time, is approved by a Minister (otherwise than under an enactment) as being eligible for hospital and medical assistance; and
- (b) the extent to which the person is so entitled.

(2) The Director is to make arrangements to ensure that a charge payable under section 25 in respect of such a person is paid —

- (a) to the extent to which the person is so entitled to assistance - by the Administration; and
- (b) to the extent that the person is not so entitled - under section 25, as if this section did not apply to the person.

(3) The Enterprise must not sue the Administration for recovery of a charge payable by the Administration under paragraph 26(2)(a), but the Chief Executive Officer must ensure that the charge is paid to the Enterprise, in accordance with the normal trading terms of the Enterprise, out of money lawfully available for the purpose.

**Collection of charges - certain veterans**

**27. (1)** If the Director is satisfied that a person is entitled to the provision of health services, or to the payment of all or part of the costs of the services, under the *Veterans' Entitlements Act 1986* of the Commonwealth, the Director is to make arrangements to ensure that a charge payable under section 25 in respect of such a person is paid —

- (a) to the extent that the person is so entitled - by the Department of State of the Commonwealth responsible for the administration of that Act; and
- (b) to the extent that the person is not so entitled - under section 25, as if this section did not apply to the person.

**Collection of charges – Health Fund Management direct charging**

**28. (1)** If the Director is satisfied that, in respect of a health service provided to a person, the Manager of Norfolk Island Health Fund Management has issued a direct charging authority in relation to the person, the Director is to make arrangements to ensure that a charge payable under section 25 in respect of the service is paid —

- (a) to the extent that the direct charging authority so provides - by Norfolk Island Health Fund Management; and
- (b) to the extent that the direct charging authority does not so provide - under section 25, as if this section did not apply to the person.

**(2)** The Enterprise must not sue Norfolk Island Health Fund Management for recovery of a charge payable by Health Fund Management under paragraph 28(1)(a), but the Manager of Health Fund Management must ensure that the charge is paid to the Enterprise, in accordance with the normal trading terms of the Enterprise, out of the money of the Healthcare Fund.

**Collection of charges - other statutory schemes**

**29. (1)** If the Director is satisfied that, in respect of a health service provided to a person, the person is entitled to be paid the costs of the service, in whole or in part —

- (a) under Part 3 of the *Employment Act 1988*; or
- (b) under a prescribed law,

the Director is to make arrangements to ensure that a charge payable under section 25 in respect of such a person is paid —

- (c) to the extent that the person is so entitled - by the person or body responsible, under the *Employment Act 1988* or the prescribed law as the case may be, for the payment of the charge; or
- (d) to the extent that the person is not so entitled - under section 25, as if this section did not apply to the person.

**(2)** If, under paragraph 29(1)(c), the body responsible for the payment of the charge is the Administration, the Enterprise must not sue for the recovery of a charge so payable but the Chief Executive Officer must ensure that the charge is paid to the Enterprise, in accordance with the normal trading terms of the Enterprise, out of money lawfully available for the purpose.

## PART 6 — FINANCE

### Public Moneys Act

**29A.** The *Public Moneys Act 1979* does not apply to moneys of the Enterprise.

### Revenue of Enterprise

**30.** The revenue of the Enterprise consists of —

- (a) money derived from charges payable under Part 5;
- (b) money given or bequeathed for the purposes of the Enterprise or the Hospital;
- (c) the proceeds of investments made by the Enterprise;
- (d) money derived as a result of the provision, hire or sale by the Enterprise of goods or services (other than health services); and
- (e) money, if any, appropriated by enactment for the purposes of the Enterprise.

### Expenditure of Enterprise

**31. (1)** The Director may authorise the expenditure of the money of the Enterprise for any purpose of, or incidental to, the operations of the Enterprise.

**(2)** The Director shall not authorise the expenditure of amounts greater than \$5000 except with the approval of the Advisory Board.

**(3)** At the end of each month the Director must prepare and submit to the Advisory Board a statement in such form as the Advisory Board directs setting out the expenditure of the Enterprise for that month.

### Investments

**32. (1)** In spite of section 31, the money of the Enterprise must not be issued or expended for the purpose of making an investment, unless the investment is an approved investment.

**(2)** For the purposes of subsection 32(1), an approved investment is —

- (a) an investment in securities of, or guaranteed by, the Government of the Commonwealth or the Government of a State or Territory (other than Norfolk Island);
- (b) an investment on fixed deposit in a bank; or
- (c) an investment authorised in writing by the Minister.

### Trust money

**33. (1)** In spite of section 31, any money that is —

- (a) held on trust for the purposes of the Enterprise, or the Hospital, or a purpose ancillary to the purposes of the Enterprise or Hospital; or
- (b) accepted by the Enterprise for any of those purposes subject to a condition,

is not to be dealt with except in accordance with the obligations imposed by the law relating to trustees or in accordance with the condition, as the case may be.

**(2)** Separate accounts are to be kept of each sum of money standing to the credit of the Enterprise that represents an amount to which subsection 33(1) has a separate application.

### Revenue and expenditure estimates

**34.** Not later than 1 April in a year, the Advisory Board is to cause to have prepared and give to the Minister an estimate of —

- (a) the revenue likely to be derived by the Enterprise; and
- (b) the expenditure and liabilities likely to be made or incurred by the Enterprise,

in the next financial year.

### Borrowing of money

**35.** The Enterprise does not have power to enter into an arrangement to borrow money.

### Bank accounts

**36. (1)** The Enterprise must operate one or more bank accounts for the purposes of the operations of the Enterprise.

**(2)** A bank shall not open or close a bank account in respect of moneys of the Enterprise without the authority in writing of the Advisory Board.

**(3)** A bank shall not, without the authority in writing of the Minister, permit the Enterprise to have an overdraft on any bank account in respect of moneys of the Enterprise.

### Financial records

**37. (1)** The Director is to ensure that books and records of the financial transactions of the Enterprise are kept, and retained for the prescribed period.

**(2)** The books and records are to be kept in a manner that is adequate to enable the financial transactions of the Enterprise to be reported on in accordance with accounting practice.

### Annual performance report

**38. (1)** Not later than 3 months after the end of each financial year, the Director shall prepare a report on the performance of the Enterprise in relation to that financial year.

**(2)** The report must provide information as to —

- (a) the financial position of the Enterprise;
- (b) the financial performance of the Enterprise;
- (c) the cash flows of the Enterprise; and
- (d) the achievements of the Enterprise; in respect of —
  - (i) the performance of its functions; and
  - (ii) the implementation of the current strategic plan; and
- (e) the achievements of the targets set out in the Performance Agreement referred to in paragraph 8(1)(d).

....

**(4)** The *Annual Reports Act 2004* applies to a report under this section.

**(5)** It is not necessary that the information provided under subsection (2) be audited before presentation of the report.

....

**Audit**

**40. (1)** The operations of the Enterprise are subject to audit by the Norfolk Island Government Auditor.

**(2)** The Auditor is, at least once in each year, to inspect and audit the operations of the Enterprise and must provide to the Minister, as soon as practicable after the completion of the audit, a report on the audit.

**(3)** As soon as practicable after receiving the report, the Minister is to lay it before the Legislative Assembly.

**Scope of audit report**

**41.** The audit report is to include an assessment of each of the matters referred to in paragraphs 38(2)(a), 38(2)(b), 38(2)(c) and 38(2)(d).

**Misappropriation of moneys or stores, etc.**

**41A.** A person shall not —

- (a)** misapply, improperly dispose of, or make use of money, property or stores of the Enterprise otherwise than in accordance with this Act or a direction of the Director; or
- (b)** wilfully damage or destroy property or stores of the Enterprise; or
- (c)** pay any moneys of the Enterprise into the persons own private account at a bank. This paragraph does not apply to any cheque in payment of wage, salary or allowance due to an employee or to an electronic transfer in respect of such payment.

Penalty: 100 penalty units or imprisonment for 5 years, or both.

**Writing off**

**41B. (1)** The Director may write off —

- (a)** losses or deficiencies of moneys of the Enterprise; and
- (b)** irrecoverable amounts of revenue; and
- (c)** irrecoverable debts and overpayments; and
- (d)** amounts of revenue, or debts or overpayments, the recovery of which would, in the opinion of the Director, be uneconomical; and
- (e)** the value of lost, deficient, condemned, unserviceable or obsolete stores.

**(2)** The Advisory Board may not write off an amount exceeding \$5000 unless the Minister has given his or her approval in writing.

**Access to documents etc.**

**42. (1)** The Auditor, or a person authorised in writing by the Auditor, is entitled at all reasonable times to full and free access to the records, documents and papers of the Enterprise for the purposes of undertaking an audit under section 40.

**(2)** The Auditor, or a person authorised in writing by the Auditor, may make copies of, or take extracts from, any such records, documents or papers.

(3) The Auditor, or a person authorised in writing by the Auditor, may require a person to provide to the Auditor such information in the possession of that person, or to which that person has access, as the Auditor, or person authorised in writing by the Auditor, considers necessary for the purposes of undertaking an audit under section 40.

(4) A person to whom such a requirement is directed must comply with the requirement.

Penalty for an offence against this subsection: 50 penalty units.

**Auditor not subject to direction**

43. The Auditor is not, in the exercise of powers and performance of functions under this Act, subject to the direction of any person.

**PART 7 — MISCELLANEOUS**

**Code of Conduct**

44. (1) The Director shall, after such consultations with the employees of the Enterprise as are appropriate and practicable, make, in writing, a code governing the manner in which the employees are to perform their duties.

(1A) A Code of Conduct made under subsection 44(1) has no effect until approved by the Minister in consultation with the Advisory Board.

(2) The Code of Conduct referred to in subsection 44(1) applies to all employees.

(3) A Code of Conduct must not be inconsistent with this Act.

(4) A Code of Conduct must include Privacy Principles, being principles to be complied with by employees in respect of the maintenance of privacy as to any matter relating to the delivery of a health service to a person.

**Breach of Code of Conduct by Medical Superintendent, Deputy Medical Superintendent or Director of Nursing**

45. (1) If the Director is of the opinion that the Medical Superintendent, the Deputy Medical Superintendent or the Director of Nursing has breached the Code of Conduct, the Director must —

- (a) provide to the Medical Superintendent, the Deputy Medical Superintendent or the Director of Nursing written particulars of the conduct said to constitute the breach or grounds for removal; and
- (b) give to the Medical Superintendent, the Deputy Medical Superintendent or the Director of Nursing a reasonable opportunity to make representations to the Director.

(2) After consideration of the Medical Superintendent, the Deputy Medical Superintendent or the Director of Nursing's representations the Director may —

- (a) take no further action; or

- (b) take action in one of the following ways —
  - (i) admonish the Medical Superintendent, the Deputy Medical Superintendent or Director of Nursing; or
  - (ii) cause a sum not exceeding one month's pay to be deducted from the Medical Superintendent, the Deputy Medical Superintendent or the Director of Nursing's salary or entitlement;
  - (iii) suspend the Medical Superintendent, the Deputy Medical Superintendent or the Director of Nursing without pay for a period not to exceed one month;
  - (iv) recommend to the Minister that the Medical Superintendent, the Deputy Medical Superintendent or the Director of Nursing be dismissed.

(3) On receiving a recommendation under subparagraph 45(2)(b)(iv) the Minister shall determine whether a breach of the Code of Conduct has occurred, and in his or her absolute discretion, may either —

- (i) give directions to the Medical Superintendent, the Deputy Medical Superintendent or the Director of Nursing in respect of compliance with the Code of Conduct; or
- (ii) terminate the employment and/or the appointment of the Medical Superintendent, the Deputy Medical Superintendent or the Director of Nursing.

(4) The Director shall as soon as practicable inform the Medical Superintendent, the Deputy Medical Superintendent or the Director of Nursing of the decision in the matter.

(5) The Medical Superintendent, the Deputy Medical Superintendent or the Director of Nursing in respect of whom the action has been taken under subparagraph 45(2)(b)(iii) or paragraph 45(3)(ii) may appeal under the provisions of the Human Resources Policies and Procedures as adopted from time to time by the Enterprise.

**Breach of Code of Conduct by employee other than Medical Superintendent, Deputy Medical Superintendent or Director of Nursing**

**45A. (1)** If the Director is of the opinion that an employee has breached the Code of Conduct, the Director must —

- (a) provide to the employee written particulars of the conduct said to constitute the breach or grounds for removal; and
- (b) give to the employee a reasonable opportunity to make representations to the Director.

(2) After consideration of the employee's representations the Director may —

- (a) take no further action; or
- (b) take action in one of the following ways —
  - (i) admonish the employee;
  - (ii) cause a sum not exceeding one month's pay to be deducted from the employee's salary or entitlement;

- (iii) suspend the employee without pay for a period not to exceed one month;
- (iv) dismiss the employee.

(3) The Director shall as soon as practicable inform the employee of his or her decision in the matter.

(4) An employee in respect of whom the Director has taken action under subparagraphs (2)(b)(iii) or (2)(b)(iv) may appeal under the provisions of the Human Resources Policies and Procedures as adopted from time to time by the Enterprise.

**Terms and conditions of employment not affected by implication.**

46. Nothing in sections 44, 45 or 45A is to be taken to imply that the employment of an employee may only be terminated for breach of a Code of Conduct.

**Code of Conduct for Advisory Board**

46A. (1) The Director shall after consultation with members of the Advisory Board develop a Code of Conduct including Privacy Principles to apply to members of the Advisory Board.

(2) In the event of the Director reaching the conclusion that a member of the Advisory Board has breached the Code of Conduct referred to in subsection 46A(1) the matter shall be referred to the Minister who shall determine whether or not a breach of the Code of Conduct has occurred.

(3) In the event of any breach of the Code of Conduct, the Minister shall —

- (a) provide to the member of the Advisory Board written particulars of the conduct said to constitute a breach of the Code; and
- (b) give the member of the Advisory Board a reasonable opportunity to make representations in writing; and
- (c) in his or her absolute discretion terminate the appointment of the Advisory Board member or alternatively give directions to the member in respect of compliance with the Code of Conduct.

(4) At all times the Minister has power to act on his or her own initiative to take action in respect of any breach of the Code of Conduct.

**Bylaws**

47. (1) The Director, in consultation with the Advisory Board may, with the approval of the Minister, make bylaws prescribing matters relating to the conduct of persons (other than employees) in and in relation to the property or operations of the Enterprise.

(2) The bylaws must not be inconsistent with this Act.

(3) The bylaws may prescribe penalties not exceeding 10 penalty units for a contravention or breach of the bylaws.

(4) As soon as practicable after the making of bylaws, the Minister must lay a copy of the bylaws before the Legislative Assembly.

(5) The bylaws are a disallowable instrument.

**Delegation**

**48. (1)** The Minister may, in writing, delegate to a person any of the Minister's powers or functions under this Act, other than this power of delegation.

**(2)** A power or function so delegated, when exercised or performed by the delegate, is, for the purposes of this Act, to be taken to have been exercised or performed by the Minister.

**(3)** Such a delegation does not prevent the exercise of a power or the performance of a function by the Minister.

....

**Regulations**

**50. (1)** The Administrator may make Regulations prescribing matters —

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**(2)** Without limiting the generality of subsection 50(1), the Administrator may make Regulations prescribing accounting standards and the manner in which accounts and financial records of the Enterprise are to be kept.

**NOTES**

The *Norfolk Island Hospital Act 1985* as shown in this consolidation comprises Act No. 29 of 1986 and amendments as indicated in the Tables below.

<b>Enactment</b>	<b>Number and year</b>	<b>Date of commencement</b>	<b>Application saving or transitional provision</b>
<i>Norfolk Island Hospital Act 1985</i>	29, 1986	11.12.86	
<i>Norfolk Island Hospital Amendment Act 1989</i>	26, 1989	1.3.90	15
<i>Norfolk Island Hospital Amendment Act 1992</i>	11, 1992	5.11.92	
<i>Norfolk Island Hospital Amendment Act 1993</i>	3, 1993	31.5.93	
<i>Norfolk Island Hospital Amendment Act 1995</i>	3, 1995	27.4.95	26
<i>Norfolk Island Hospital Amendment Act 1996</i>	30, 1996	28.11.96	5

[previously consolidated as at 27 February 2003]

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Norfolk Island Hospital Amendment Act 2003</i>	15, 2003	1.8.03	26
<i>[previously consolidated as at 15 August 2003]</i>			
<i>Norfolk Island Hospital Amendment (No. 2) Act 2003</i>	20, 2003	24.12.03	
<b>NB - Norfolk Island Hospital Bylaws 1987 are repealed by subsection 8(6) of the Healthcare (Consequential Amendments and Transitional Provisions) Act 1993 (Act No. 5 of 1993.)</b>			
<i>[previously consolidated as at 4 March 2004]</i>			
<i>Norfolk Island Hospital (Amendment) Act 2005</i>	4, 2005	24.3.05	
<i>Healthcare (Medical Evacuation Fund) Amendment Act 2006</i>	14, 2006	26.5.06	
<i>[Previously consolidated as at 12 July 2006]</i>			
<i>Interpretation (Amendment) Act 2012</i>	14, 2012	28.12.2012	
<i>[to substitute throughout — Commonwealth Minister for Minister; and executive member for Minister]</i>			
<i>Norfolk Island Hospital (Amendment) Act 2012</i>	2, 2013	18.1.2013	

## Table of Amendments

ad = added or am = amended rep = repealed rs = repealed and  
inserted substituted

Provisions affected	How affected	
3	rep	3, 1993
4	rs	3, 1993; 3, 1995
4(1)	am	15, 2003; 14, 2006
5	am	3, 1993
6	rs	3, 1993
7	rs	3, 1993
8	rs	3, 1993
	am	3, 1995; 15, 2003;
9	rs	3, 1993; 3, 1995
9(4)	am	15, 2003
Heading – Part 3	am	15, 2003
10	rs	3, 1993; 3, 1995; 15, 2003
11	rs	3, 1993; 3, 1995
11(1)	am	15, 2003
11(1)(a)	rs	15, 2003
11(1)(b)	rep	15, 2003
11(2)	am	15, 2003
11(3)	am	15, 2003
11(4)	am	15, 2003
11(5)	am	15, 2003
11(5)(c)	ad	15, 2003
12	rs	3, 1993; 3, 1995
	am	2, 2013
12(1)	rs	15, 2003
12(2)(aa)	ad	15, 2003
12(5)	am	15, 2003
12A	ad	20, 2003
13	rs	3, 1993; 3, 1995
14	rs	3, 1993; 3, 1995
15	rs	3, 1993; 3, 1995
15(2)(b)	am	15, 2003
16	rs	3, 1993; 3, 1995;
	am	15, 2003
17	rs	3, 1993; 3, 1995
	am	15, 2003
17(1)	am	15, 2003
17(2)	am	15, 2003
17(3)	am	15, 2003
18	rs	3, 1993; 3, 1995
18(1)(a), 18(1)(b)	am	15, 2003
18(2)	am	15, 2003

ad = added or am = amended rep = repealed rs = repealed and  
inserted substituted

Provisions affected	How affected	
18(3)	am	15, 2003; 2, 2013
18(4)	am	15, 2003
18(5)	am	15, 2003
18(6)	am	15, 2003
18(7)	rs	15, 2003
18A	ad	3, 1995
	am	15, 2003
	rep	20, 2003
18B	ad	3, 1995
18B(a)	am	15, 2003
18B(b)	am	15, 2003
19	rs	3, 1993
	am	3 1995
19(1)	am	15, 2003
19(2)	am	15, 2003
19A(1)	am	15, 2003
19B(1)	am	15, 2003
19B(2)(b)	am	15, 2003
19B(2)(c)	am	15, 2003
19A	ad	3, 1995
19B	ad	3, 1995
20	rs	3, 1993; 3, 1995; 15, 2003
21	rs	3, 1993
21(2)	rs	15, 2003
21(2A), 21(2B)	ad	15, 2003
21(5)	ad	15, 2003
22	rs	3, 1993
	am	3, 1995
22(2)	am	15, 2003
23	ad	3, 1993; am 3, 1995
23A	ad	3, 1995
	rs	15, 2003
23B	ad	3, 1995
	am	15, 2003
23B(3)	am	15, 2003
23C	ad	3, 1995
	am	15, 2003
23D	ad	15, 2003
24	ad	3, 1993; 15, 2003
	am	3, 1995
24(2)(a)	am	15, 2003
24(2)(b)	am	15, 2003

ad = added or am = amended rep = repealed rs = repealed and  
inserted substituted

Provisions affected	How affected
24(5)	rs 30, 1996
24(6)	am 15, 2003
25	ad 3, 1993
26	ad 3, 1993
	am 2, 2013
27	ad 3, 1993
27(d)	am 14, 2006
28	ad 3, 1993
	am 14, 2006
29	ad 3, 1993
29A	ad 3, 1995
30	ad 3, 1993
31	ad 3, 1993
	am 3, 1995
31(2)	am 15, 2003
31(3)	am 15, 2003
32	ad 3, 1993
33	ad 3, 1993
34	rs 3, 1993
	am 3, 1995; 15, 2003
35	rs 3, 1993
36	ad 3, 1993
	am 3, 1995
36(2)	am 15, 2003
37	ad 3, 1993
	am 3, 1995
38	ad 3, 1993
	am 3, 1995; 15, 2003
38(1)	am 15, 2003; 4, 2005
38(2)	ad 15, 2003
38(2)(d)	ad 15, 2003
38(4)	rs 4, 2005
38(5)	ad 4, 2005
39	ad 3, 1993
	rep 3, 1995
40	ad 3, 1993
41	ad 3, 1993
	rs 3, 1995
41A	ad 3, 1995
41A(a)	am 15, 2003
41A(c)	am 15, 2003

ad = added or am = amended rep = repealed rs = repealed and  
inserted substituted

Provisions affected	How affected	
41B	ad	3, 1995
41B(1)	am	15, 2003
41B(1)(d)	am	15, 2003
41B(2)	am	15, 2003
42	ad	3, 1993
43	ad	3, 1993
44	ad	3, 1993
44(1)	am	3, 1995; 15, 2003
44(1A)	am	15, 2003
44(2)	rs	15, 2003
44(4)	am	15, 2003
45	ad	3, 1993
	am	3, 1995
	rs	15, 2003
45A	ad	15, 2003
	am	2, 2013
46	ad	3, 1993
	am	15, 2003
46A	ad	15, 2003
47	ad	3, 1993
	am	3, 1995
47(1)	am	15, 2003
48	ad	3, 1993
49	ad	3, 1993
	rep	3, 1995
50	ad	3, 1993
	am	3, 1995

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