

No. 2 of 1994.

Public Hospitals Act 1994.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. 2 of 1994.

Public Hospitals Act 1994.

ARRANGEMENT OF SECTIONS.

PART I – PRELIMINARY.

1. Compliance with constitutional requirements.
2. Application.
3. Interpretation.
 - “Board”
 - “Chairman”
 - “Chief Executive Officer”
 - “Committee”
 - “Deputy Chairman”
 - “Director, Medical Services”
 - “Director, Nursing Services”
 - “Manager”
 - “member”
 - “public hospital”
 - “this Act”

PART II – ADMINISTRATION.

Division 1 – Public Hospitals.

4. Establishment, etc., of Public Hospitals.
5. Purpose of Public Hospitals.

Division 2 – Management Boards.

6. Establishment of Management Boards.
- 6A. Objects of Boards.
7. Functions of Boards.
8. Powers of Boards.
9. Delegation by the Minister and by Boards.
10. Constitution of Boards.
- [11. *Repealed*]
12. Chairman and Deputy Chairman.

- [13. *Repealed*]
- 14. Leave of absence.
- 15. Oath and affirmation of Office.
- 16. Vacation of Office.
- 17. Vacancy not to affect powers and functions.
- 18. Disclosure of interests.
- 19. Meetings of Boards.
- 20. Custody and affixing of Seal.
- 21. Reports.

PART III – THE SERVICE OF PUBLIC HOSPITALS.

Division 1 – Chief Executive Officers.

- 22. Chief Executive Officers.
- 23. Functions of Chief Executive Officers.
- 24. Vacation of Office.
- 25. Public Service rights.

Division 2 – Officers of Public Hospitals.

- 26. Appointment of Officers.
- 27. Public Service rights.
- 28. Regulations for the service of public hospitals.
- 29. Temporary and casual employees.

PART IV – FINANCE.

- 30. Application of *Public Finances (Management) Act 1995*.
- 31. Funds of Boards.
- 32. Appropriation.
- 33. Application of Audit Act 1989.

PART V – SUSPENSION OF BOARDS.

- 34. Minister may appoint Committee of Inquiry.
- 35. Suspension.
- 36. Effect of suspension.
- 37. Appointment of Manager upon suspension.
- 38. Period of suspension.

PART VI – MISCELLANEOUS.

- 39. Proof of certain matters.
- 40. Service of process.
- 41. Protection from personal liability.
- 42. Recovery of money due.
- 43. By-laws.
- 44. Regulations.

PART VII – REPEAL.

- 45. Repeal.

PART VIII – SAVINGS AND TRANSITIONAL.

- 46. Public hospitals established etc., under repealed Act.
- 47. Actions, etc., not to abate.
- 48. Contracts.
- 49. Staff.

50. Transfer of assets.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Public Hospitals Act 1994,

Being an Act to provide for the establishment of public hospitals and to define their powers and functions, and for related purposes.

PART I. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C. of the *Constitution (Qualified Rights)*, namely–

- (a) the right to freedom of employment conferred by Section 48 of the *Constitution*; and
- (b) the right to privacy conferred by Section 49 of the *Constitution*; and
- (c) the right of freedom of movement conferred by Section 52 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in public order and public welfare.

(2) For the purpose of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*, it is hereby declared that this Act relates to a matter of national interest.

2. APPLICATION.

This Act binds the State.

3. INTERPRETATION.

In this Act, unless the contrary intention appears–

- “Board”** means a Management Board established by Section 6, and, in relation to a public hospital, means the Board of that public hospital;
- “Chairman”** means the Chairman of a Board appointed under Section 12, and, in relation to the Board of a public hospital, means the Chairman of the Board of that public hospital;
- “Chief Executive Officer”** means a Chief Executive Officer appointed under Section 22, and, in relation to a public hospital, means the Chief Executive Officer of that public hospital;
- “Committee”** means a Committee of Inquiry appointed under Section 34(1);
- “Deputy Chairman”** means the Deputy Chairman of a Board appointed under Section 12, and, in relation to the Board of a public hospital, means the Deputy Chairman of the Board of that public hospital;
- “Director, Medical Services”** means the medical officer-in-charge of medical services of a public hospital appointed under Section 26(1)(a), and, in relation to a public hospital, means the Medical Superintendent of that public hospital;
- “Director, Nursing Services”** means the sister-in-charge of a public hospital appointed under Section 26(1)(b), and, in relation to a public hospital, means the Matron of that public hospital;
- “Manager”** means a Manager appointed under Section 37(1);
- “member”** means a member of a Board appointed under Section 10, and, in relation to the Board of a public hospital, means a member of that Board of that public hospital;
- “public hospital”** means a hospital declared to be a public hospital under Section 4;
- “this Act”** includes the Regulations.

PART II. – ADMINISTRATION.

Division 1.

Public Hospitals.

4. ESTABLISHMENT, ETC., OF PUBLIC HOSPITALS.

(1) The Minister may establish and maintain a hospital in any place in the country, and may declare a hospital to be a public hospital for the purposes of this Act.

(2) A public hospital established under Subsection (1) shall be administered and maintained in accordance with this Act.

(3) A public hospital established under Subsection (1) shall have a name determined by the Minister with the words “General Hospital” appearing after the name of that public hospital.

5. PURPOSE OF PUBLIC HOSPITALS.

A public hospital established under Section 4 shall be administered and maintained for the reception or relief of—

- (a) persons requiring medical or surgical treatment; and
- (b) persons suffering from any disease.

Division 2.

Management Boards.

6. ESTABLISHMENT OF MANAGEMENT BOARDS.

(1) There is established a Management Board for each public hospital.

(2) The Board of a public hospital—

- (a) is a Corporation, with perpetual succession; and
- (b) shall have a seal; and
- (c) may acquire, hold and dispose of property; and
- (d) may sue and be sued in its Corporate name.

(3) All courts, judges and persons acting judicially shall take judicial notice of the seal of a Board affixed to a document and shall presume that it was duly affixed.

6A. OBJECTS OF BOARDS.

¹In relation to the public hospital for which it is established, the objects of a Board are—

- (a) to make the public hospital accountable to the local community; and

¹ Section 6A inserted by *Public Hospitals (Amendment) Act 1995* (No. 29 of 1995), s1.

- (b) to provide services in the public hospital appropriate and acceptable to the local community; and
- (c) to encourage the local community to participate in planning and in the decision-making process in relation to the public hospital.

7. FUNCTIONS OF BOARDS.

(1)² ³Subject to the *National Health Administration Act 1997*, a Board has, in respect of the public hospital for which it is established, the following functions:—

- (a) to administer and maintain the public hospital and its facilities for the care and treatment of the local people;
- (b) to engage in and assist local authorities in the provision of community health education and public health information services to local communities;
- (c) to provide or assist in the provision of facilities for, or in connection with, education, instruction or practical training of its professional staff and other employees;
- (d) to disseminate information and knowledge in the field of public health for the benefit of the public;
- (e) to provide facilities for teaching, instruction, research or post-graduate studies in medicine, dentistry, obstetrics, pediatrics, surgery, ophthalmology, pathology, psychiatry, radiology, oncology and other related fields as the Board may consider fit;
- (f) to encourage research and experimentation into any areas of health services, medical activities or paramedical activities;
- (g) to administer and expend money appropriated by the State for the purposes of the public hospital;
- (h) to consult and co-operate with appropriate authorities and with other organizations, associations and persons on matters related to its activities;
- (ha)⁴ to supervise, assist and monitor curative services provided by lower level health facilities and to support their operations;
- (i) generally to do such supplementary, incidental or consequential acts and things as are necessary and convenient for carrying out or giving effect to its functions.

(2) The Board of a public hospital may perform any of its functions in co-operation with the Provincial Government of the province in which the public

² Section 7(1) amended by *Public Hospitals (Amendment) Act 1998* (No. 23 of 1998), s1.

³ Section 7(1) amended by *Public Hospitals (Amendment) Act 1998* (No. 23 of 1998), s1.

⁴ Section 7(1)(ha) inserted by *Public Hospitals (Amendment) Act 1995* (No. 29 of 1995), s2.

hospital is situated or with any body established by that Provincial Government for the purpose of encouraging the provision of health services in the province.

8. POWERS OF BOARDS.

⁵Subject to the *National Health Administration Act 1997*, a Board has, in respect of the public hospital for which it is established, power to do all things necessary or convenient to be done for or in connection with the performance of its functions, and, in particular, may—

- (a) enter into contracts; and
- (b) occupy, use, control or otherwise deal with land or buildings owned or held by the State and made available for the purposes of the public hospital; and
- (c) in consultation with the Department responsible for health matters, recommend to the Minister the amount of fees and charges payable for the provision of medical services and the use of medical and hospital facilities of the public hospital; and
- (d) raise funds and resources, including all monies referred to in Section 31, as the Board may consider necessary for the purposes of the public hospital; and
- (e) in consultation with the Department responsible for health matters, recommend to the Minister the terms on which patients may be admitted to and all other matters affecting patients in, the public hospital; and
- (f) with the written approval of the Minister, make grants or lend money or like benefits; and
- (g) engage persons to perform services for the public hospital; and
- (h) accept gifts, bequests and demises made to the public hospital, whether on trust or otherwise, and act as trustee of money or other property vested in the public hospital on trust; and
- (i) generally do anything incidental to any of its functions.

9. DELEGATION BY THE MINISTER AND BY BOARDS.

(1) A Board may, by written instrument, delegate to a person all or any of its powers and functions under this Act except this power of delegation.

(2) The Minister may, if it is appropriate and in the public interest that a particular Hospital would be suitable for management by a registered Church organization, declare that Hospital to be a Church managed Hospital and delegate all of the powers of a Board to the Church organization.

⁵ Section 8 amended by *Public Hospitals (Amendment) Act 1998* (No. 23 of 1998), s2.

10. CONSTITUTION OF BOARDS.

(1) Subject to this section, the Board of a public hospital shall consist of nine members of whom—

- (a) one shall be a representative of the Department responsible for health matters, or his nominee; and
- (b) three shall represent the local business sector; and
- (c) one shall represent the local religious denominations; and
- (d) one shall represent the staff of that public hospital; and
- (e)⁶ three shall represent the local community of whom one shall be a woman nominated by the women's group in the local community.

(2)⁷ ⁸A Board constituted under Subsection (1) shall also include, as an *ex officio* member, the Chief Executive Officer who shall be an advisory member of the Board.

(3) A person appointed under Subsection (1)—

- (a) shall be appointed, on the nomination of the Minister, by the Head of State, acting on advice; and
- (b) shall hold office for a period of three years; and
- (c) shall be eligible for re-appointment; and
- (d) shall hold office on such terms and conditions as are determined under the *Boards (Fees and Allowances) Act 1955*.

(4) The persons appointed as advisory members of the Board under Subsection (2) shall be entitled to attend all meetings of the Board of which they are a member and shall be entitled to take part in debate but shall not vote on any matter or be counted towards a quorum.

11⁹. [REPEALED.]**12. CHAIRMAN AND DEPUTY CHAIRMAN.**

(1) The Minister shall, by notice in the National Gazette, appoint one of the members of each Board to be the Chairman of that Board, and one other member to be the Deputy Chairman of that Board.

(2) The Chairman and Deputy Chairman shall hold office for a period not exceeding three years and on such terms and conditions as are fixed by the Minister.

⁶ Section 10(1)(e) repealed and replaced by *Public Hospitals (Amendment) Act 1995* (No. 29 of 1995), s3(a).

⁷ Section 10(2) repealed and replaced by *Public Hospitals (Amendment) Act 1995* (No. 29 of 1995), s3(b).

⁸ Section 10(2) repealed and replaced by *Public Hospitals (Amendment) Act 1995* (No. 29 of 1995), s3(b).

⁹ Section 11 repealed by *Public Hospitals (Amendment) Act 1995* (No. 29 of 1995), s4.

13¹⁰. [REPEALED.]**14. LEAVE OF ABSENCE.**

¹¹The Minister may grant leave of absence to a member of a Board after consultation with the Chairman.

15. OATH AND AFFIRMATION OF OFFICE.

A member of a Board shall, before entering on the duties of his office, make or subscribe before the Minister, or a person authorized by the Minister for that purpose, an oath or affirmation of office in the prescribed form.

16. VACATION OF OFFICE.

(1) A member of a Board, other than an *ex officio* member, may resign his office by writing signed by him and delivered to the Minister.

(2) If a member—

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office in accordance with Subsection (1); or
- (c) is absent, except with the written consent of the Minister, from three consecutive meetings of the Board of which he is a member; or
- (d) fails to comply with Section 18; or
- (e) becomes bankrupt or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (f)¹² is convicted of an offence punishable under any law by a term of imprisonment or by death,

the Minister shall terminate his appointment.

(3) The Minister may, at any time, by written notice, advise a member of a Board that he intends to terminate his appointment to that Board on the grounds of inefficiency, incapacity or misbehaviour.

(4) Within 14 days of the receipt of a notice under Subsection (3), the member may reply in writing to the Minister, who shall consider the reply, and, where appropriate, terminate the appointment.

(5) Where the member does not reply in accordance with Subsection (4), his appointment is terminated.

(6) Where a vacancy in the membership of a Board occurs under this section, the vacancy shall be filled as soon as possible.

¹⁰ Section 13 repealed by *Public Hospitals (Amendment) Act 1995* (No. 29 of 1995), s5.

¹¹ Section 14 amended by *Public Hospitals (Amendment) Act 1995* (No. 29 of 1995), s6.

¹² Section 16(2)(f) repealed and replaced by *Public Hospitals (Amendment) Act 1995* (No. 29 of 1995), s7.

17. VACANCY NOT TO AFFECT POWERS AND FUNCTIONS.

The exercise of a power of performance of a function of a Board under this Act is not invalidated by reason only of a vacancy in the membership of that Board.

18. DISCLOSURE OF INTERESTS.

(1) A member who has a direct or indirect interest in a matter being considered or about to be considered by the Board of which he is a member shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of the interest at a meeting of the Board.

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

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

19. MEETINGS OF BOARDS.

(1) The Board of a public hospital shall hold such meetings as are necessary for the efficient performance of its functions and at such times and places as it determines or as the Chairman or in his absence, the Deputy Chairman directs, but in any event, shall meet not less frequently than four times in every year.

(2) The Chairman of a Board—

- (a) may at any time, convene a meeting of that Board; and
- (b)¹³ shall, on receipt of a written request signed by not less than three other members of that Board, convene a meeting of that Board.

(3) The Chairman shall preside at all meetings of the Board of which he is the Chairman.

(4) Where the Chairman is not present at a meeting of the Board of which he is the Chairman, the Deputy Chairman shall preside, and where both the Chairman and the Deputy Chairman are not present, the members present shall elect one of their number to preside at that meeting.

(5) At a meeting of a Board—

- (a)¹⁴ five members are a quorum; and
- (b) matters arising shall be decided by a majority of votes of the members of that Board present and voting; and
- (c) the person presiding has a deliberative and, in the event of an equality of votes on any matter, also a casting vote.

¹³ Section 19(2)(b) amended by *Public Hospitals (Amendment) Act 1995* (No. 29 of 1995), s8(a).

¹⁴ Section 19(5)(a) amended by *Public Hospitals (Amendment) Act 1995* (No. 29 of 1995), s8(b).

(6) A Board shall cause minutes of its meeting to be recorded and kept.

(7) Subject to this Act, the procedures of a Board are as determined by that Board.

20. CUSTODY AND AFFIXING OF SEAL.

The Seal of the Board of a public hospital—

- (a) shall be kept in the custody of the Chief Executive Officer; and
- (b) shall be affixed to an instrument pursuant to a resolution of the Board in the presence of the Chairman or the Deputy Chairman, and the Chief Executive Officer.

21. REPORTS.

The Board of a public hospital shall—

- (a) on 31 December in each year; and
- (b) at such other times as the Minister may require,

furnish to the Minister a report on the progress and performance of the Board in relation to its functions.

PART III. – THE SERVICE OF PUBLIC HOSPITALS.***Division 1.******Chief Executive Officers.*****22. CHIEF EXECUTIVE OFFICERS.**

(1)¹⁵ ¹⁶There shall be a Chief Executive Officer for each public hospital whose manner of appointment, suspension and dismissal is as specified in the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(2) A Chief Executive Officer of a public hospital–

- (a)¹⁷ shall be appointed by the Board through a selection process approved by the Departmental Head of the Department responsible for personnel matters;
- (b) shall be appointed for such period not exceeding four years as that Board determines; and
- (c) subject to this Act, holds office on such terms and conditions as are determined under Section 28; and
- (d) is eligible for re-appointment.

23. FUNCTIONS OF CHIEF EXECUTIVE OFFICERS.

(1) The Chief Executive Officer of a public hospital appointed under Section 22(2)–

- (a) is the Chief Executive of the public hospital for which he is appointed; and
- (b) shall manage and direct the affairs of that public hospital; and
- (c) in relation to the management of that public hospital and the direction of its affairs, shall act in accordance with the policies determined by the Board of that public hospital.

(2) The Chief Executive Officer of a public hospital has such other functions as the Board of that public hospital may from time to time determine.

24. VACATION OF OFFICE.

(1) The Chief Executive Officer of a public hospital may resign his office by writing signed by him and delivered to the Board of that public hospital.

(2) If the Chief Executive Officer of a public hospital–

- (a) becomes permanently incapable of performing his duties; or

¹⁵ Section 22 Subsection (1) substituted by No. 97 of 2006, Sched. 1.

¹⁶ Section 22 Subsection (1) substituted by No. 97 of 2006, Sched. 1.

¹⁷ Section 22(2)(a) repealed and replaced by *Public Hospitals (Amendment) Act 1995* (No. 29 of 1995), s9.

- (b) resigns his office in accordance with Subsection (1); or
- (c) occupies or holds any other paid office or employment or engages in the practice of any profession or business without the written consent of the Board of that public hospital; or
- (d) becomes bankrupt or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (e) is convicted of an offence punishable under any law by a term of imprisonment for one year or longer, or by death, and a result of the conviction, is sentenced to imprisonment or death,

the Board shall terminate his appointment.

(3)^{18 19}The Board of a public hospital, after consultation with the Departmental Head of the Department responsible for personnel matters, may, at any time, by written notice, advise the Chief Executive Officer of that public hospital that it intends to terminate his appointment on the grounds of inefficiency, incapacity or misbehaviour.

(4)^{20 21}Within 14 days of the receipt of a notice under Subsection (3), the Chief Executive Officer may reply in writing to the Board, who shall consider the reply, and, where appropriate and after consultation with the Departmental Head of the Department responsible for personnel matters, terminate the appointment.

(5) Where the Chief Executive Officer does not reply in accordance with Subsection (4), his appointment is terminated.

25. PUBLIC SERVICE RIGHTS.

Where an officer of the Public Service is appointed under Section 22, his appointment as Chief Executive Officer shall be counted as Service in the Public Service for the purpose of determining his existing and accruing rights under the *Public Services (Management) Act 1995*.

Division 2.

Officers of Public Hospitals.

26. APPOINTMENT OF OFFICERS.

(1) The Board of a public hospital may, through a selection process approved by the Departmental Head of the Department responsible for personnel management matters, appoint to be officers of that public hospital—

- (a) a suitably qualified person to be the Director, Medical Services; and

¹⁸ Section 24(3) amended by *Public Hospitals (Amendment) Act 1995* (No. 29 of 1995), s10(a).

¹⁹ Section 24(3) amended by *Public Hospitals (Amendment) Act 1995* (No. 29 of 1995), s10(a).

²⁰ Section 24(4) amended by *Public Hospitals (Amendment) Act 1995* (No. 29 of 1995), s10(b).

²¹ Section 24(4) amended by *Public Hospitals (Amendment) Act 1995* (No. 29 of 1995), s10(b).

- (b) a suitably qualified person to be the Director, Nursing Services; and
- (c) such other suitably qualified persons as it considers necessary for the purposes of that public hospital.

(2) An officer appointed under Subsection (1) shall hold office for such period and on such terms and conditions as are determined under this Division.

27. PUBLIC SERVICE RIGHTS.

Where an officer of the Public Service is appointed under Section 26, his appointment shall be counted as service in the Public Service for the purpose of determining his existing and accruing rights under the *Public Service (Management) Act 1995*.

28. REGULATIONS FOR THE SERVICE OF PUBLIC HOSPITALS.

(1) For the purposes of this section, the persons appointed as officers of a public hospital under Sections 22 and 26 constitute the Service of that public hospital.

(2) The Regulations may make provision in relation to the Service of a public hospital, and, in particular, may—

- (a) subject to the *Salaries and Conditions Monitoring Committee Act 1988*, prescribe the terms and conditions of employment of officers of that public hospital; and
- (b) make provision for a superannuation or other retirement benefits scheme for officers of that public hospital; and
- (c) prescribe disciplinary procedures, creation and abolition of offices, promotion of officers and other matters for the regulation of the Service of that public hospital.

(3) In the absence of Regulations under Subsection (2), the appropriate provisions of the *Public Services (Management) Act 1995* and the Regulations and General Orders made thereunder shall, in so far as they are relevant, apply.

29. TEMPORARY AND CASUAL EMPLOYEES.

(1) The Chief Executive Officer of a public hospital may appoint such temporary and casual employees as he thinks necessary for the purposes of that public hospital.

(2) Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, employees appointed under Subsection (1) shall be appointed on such terms and conditions as the Chief Executive Officer determines.

PART IV. – FINANCE.

30. APPLICATION OF *PUBLIC FINANCES (MANAGEMENT) ACT 1995*.

The *Public Finances (Management) Act 1995* applies to and in relation to the Board of a public hospital.

31. FUNDS OF BOARDS.

The funds of the Board of a public hospital shall consist of–

- (a) such sums as are appropriated in accordance with Section 32; and
- (b)²² fees and charges imposed for–
 - (i) the provision of–
 - (A) medical services; and
 - (B) patient accommodation; and
 - (C) patient subsistence; and
 - (D) drugs; and
 - (ii) other services provided to the patient; and
- (c) such sums as are received, whether by loan, gift or otherwise by the Board in the course of the exercise or performance of its powers and functions under this Act.

32. APPROPRIATION.

(1) There shall be payable to the Board of a public hospital out of the Consolidated Revenue Fund such monies as are appropriated by Parliament for the purposes of that public hospital.

(2) The Minister responsible for finance matters may give directions as to the amounts in which, and the times at which, money referred to in Subsection (1) is to be paid to the Board.

33. APPLICATION OF AUDIT ACT 1989.

The accounts of the Board of a public hospital shall be audited in accordance with Part III of the *Audit Act 1989*.

²² Section 31(b) repealed and replaced by *Public Hospitals (Amendment) Act 1995* (No. 29 of 1995), s11.

PART V. – SUSPENSION OF BOARDS.**34. MINISTER MAY APPOINT COMMITTEE OF INQUIRY.**

(1) Where, in respect of a public hospital, the Minister is of the opinion that—

- (a) there is widespread corruption in the administration of the affairs of that public hospital; or
- (b) there has been gross mismanagement of the financial affairs of that public hospital; or
- (c) there has been a breakdown of the administration of that public hospital; or
- (d) there has been persistent and deliberate frustration of, or failure to comply with, lawful directions of the National Government by the Board of that public hospital; or
- (e) the Board of that public hospital had persistently exceeded its powers or disobeyed applicable laws; or
- (f) it is in the national interest to do so,

he may appoint a Committee of Inquiry comprising three persons to look into and report to him on the matter.

(2) On receipt of a report under Subsection (1), the Minister shall refer the report to the National Executive Council with a statement of his reasons for appointing a Committee.

35. SUSPENSION.

(1) The Head of State, acting on advice, given after consideration of the report and statement referred to in Section 34(2), may, by notice in the National Gazette, suspend the Board of that public hospital for a stated or indefinite period.

(2) In advising the Head of State under Subsection (1), the National Executive Council is not bound by the terms of, or recommendations contained in, the report of the Committee.

36. EFFECT OF SUSPENSION.

(1) Subject to Subsection (2), a suspension notice under Section 35(1) operates to deprive the Board, to which that notice relates, of the powers and functions of that Board during the period of suspension.

(2) The suspension of a Board under Section 35(1) does not affect any right, privilege, obligation or liability acquired, accrued under or in respect of the powers or functions of that Board prior to the suspension, or any investigation, legal proceeding or remedy in respect of such right, privilege, obligation or liability which may, subject to this Act, be carried on or endorsed as if the suspension had not taken place.

37. APPOINTMENT OF MANAGER UPON SUSPENSION.

(1) Where the Board of a public hospital is suspended under Section 35(1), the Head of State, acting on advice, may, in the notice of suspension or under a subsequent instrument, appoint a Manager in relation to that suspended Board.

(2) Subject to any directions given by the Head of State, acting on advice, a Manager appointed under Subsection (1), in relation to the suspended Board—

- (a) has and may exercise all or any of the powers and functions of that Board under this Act; and
- (b) has such and other powers and functions as are prescribed.

38. PERIOD OF SUSPENSION.

A suspension under this Part operates until—

- (a) the end of the period specified in the notice under Section 35(1); or
- (b) such time as the suspension notice under Section 35(1) is revoked by the Head of State, acting on advice,

whichever first occurs.

PART VI. – MISCELLANEOUS.**39. PROOF OF CERTAIN MATTERS.**

In any proceedings against the Board of a public hospital, proof is not required, unless evidence is given to the contrary, of—

- (a) the constitution of the Board; or
- (b) a resolution of the Board; or
- (c) the appointment of a member, officer, servant or agent of the Board; or
- (d) the presence of a quorum at a meeting at which a determination is made or an act is done by the Board.

40. SERVICE OF PROCESS.

Any notice, summons, writ or other process required to be served on the Board of a public hospital shall be served personally on the Chief Executive Officer of that public hospital.

41. PROTECTION FROM PERSONAL LIABILITY.

A member of the Board of a public hospital or officer or employee or agent of that public hospital is not personally liable for any act or default of himself or the Board done or omitted to be done in good faith and in the course of the operations of that public hospital or for the purposes of that public hospital.

42. RECOVERY OF MONEY DUE.

Any money due to a public hospital may be recovered by the Board of that public hospital as a debt.

43. BY-LAWS.

(1) The Board of a public hospital may make by-laws not inconsistent with this Act for the operation and management of, and the provision of medical services by, that public hospital, and in particular for and in relation to—

- (a) the protection of hospital property and staff; and
- (b) the maintenance of law and order within the hospital premises; and
- (c) the prevention of interference with the provision of hospital and medical services; and
- (d) the prevention of the obstruction of hospital staff and employees in the performance of their duties; and
- (e) imposition of penalties for the breach of any of the by-laws.

(2) A by-law made under Subsection (1) is of no force or effect until—

- (a) approved by the Head of State, acting on advice; and

- (b) published in the National Gazette.

44. REGULATIONS.

The Head of State, acting on advice, may make regulations not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing—

- (a) hospital fees and charges for the provision of medical services and use of medical facilities; and
- (b) the terms on which patients may be admitted to public hospitals; and
- (c) terms and conditions of appointment of officers of public hospitals; and
- (d) penalties of fines not exceeding K1,000.00 for offences against the regulations.

s. 45.

Public Hospitals 1994

PART VII. – REPEAL.

45. REPEAL.

The *Public Hospital Act* (Chapter 232) is hereby repealed.

PART VIII. – SAVINGS AND TRANSITIONAL.

46. PUBLIC HOSPITALS ESTABLISHED ETC., UNDER REPEALED ACT.

A public hospital established and maintained under the repealed Act shall, on the coming into operation of this Act, be deemed to be a public hospital under this Act, and the provisions of this Act may be applied to that public hospital.

47. ACTIONS, ETC., NOT TO ABATE.

Where immediately before the coming into operation of this Act, any action, arbitration or proceeding was pending or existing by or against a person or body under the repealed Act, it does not, on that coming into operation, abate or discontinue or be in any way affected by any provision of this Act but it may be prosecuted, continued and enforced by against or in favour of the person or body as if this Act had not been made.

48. CONTRACTS.

All contracts and agreements entered into or addressed to the State through the Department of Health in so far as they relate to the functions of the Board of a public hospital under this Act are to the extent that they were, immediately before the coming into operation of this Act, binding on of full force or effect against or in favour of the Department of Health are, on coming into operation, binding on and of full effect against or in favour of that Board as fully and effectually as if, instead of the State, that Board has been a party to them or bound by them or entitled to the benefit of them.

49. STAFF.

A person who, immediately before the commencement of this Act, held an office or appointment in the Department of Health and serving in a public hospital shall, on the commencement of this Act, hold a similar office of appointment under this Act and on the same terms and conditions of appointment until appointments and terms and conditions of appointments are made under this Act in respect of that public hospital.

50. TRANSFER OF ASSETS.

All assets (other than land held by the State) which, immediately before the coming into operation of this Act, were vested in a public hospital through the Department of Health are, on the coming into operation of this Act, and upon the declaration of that public hospital under Section 4(1)(a), transferred to and become assets of that public hospital.