

No. 9 of 2007.

***Provincial Health Authorities Act 2007.***

Certified on: 12/9/2007.





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AN ACT

entitled

***Provincial Health Authorities Act 2007,***

Being an Act to provide for integral human development, in particular improvement in the standard of public health to enable our people to attain self fulfilment, in providing for provincial health partnerships and to establish provincial health authorities and to define their powers and functions, and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

**PART I. – PRELIMINARY.**

**1. PURPOSES.**

The main purposes of this Act are to –

- (a) improve the standard of public health of the people of PNG and the delivery of health services to the provinces and the National Capital District by providing for provincial health partnerships; and
- (b) the establishment of provincial health authorities; and
- (c) provide for the delivery of curative services and public health services from provincial health authorities,

and provide for other related matters.

**2. ACT APPLIES TO THE NATIONAL CAPITAL DISTRICT.**

Subject to the *National Capital District Commission Act 2001*, this Act applies to the National Capital District.

**3. 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 (qualified rights) of the *Constitution* 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 purposes of complying with Section 38 of the *Constitution*, taking account of the National Goals and Directive Principles of integral human development called for in the Preamble to the Constitution in particular –

(d) improvement in the standard of public health to enable our people to attain self fulfilment;

(e) providing for provincial health partnerships and to establish provincial health authorities and to define their powers and functions,

and for related purposes, for the purpose of giving effect to the public interest in public health, 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.

#### 4. APPLICATION.

This Act binds the State.

#### 5. AMENDMENT OF SCHEDULES.

(1) The Minister, by Order published in the National Gazette, may amend Schedule 1 by –

(a) adding the name of a provincial health authority; or

(b) removing the name of a provincial health authority; or

(c) amending the name of a provincial health authority.

(2) If the name of a provincial health authority listed in Schedule 1 changes, the reference in the relevant Schedule to the old name of the provincial health authority is taken to be a reference to the new name of the provincial health authority.

(3) The Minister, by Order published in the National Gazette, may amend Schedule 2 by –

(a) adding the name of a provincial hospital; or

(b) removing the name of a provincial hospital; or

(c) amending the name of a provincial hospital.

(4) If the name of a provincial hospital listed in Schedule 2 changes, the reference in the relevant Schedule to the old name of the public hospital is taken to be reference to the name of the public hospital.

(5) The Minister, by Order published in the National Gazette, may amend Schedule 3 by –

(a) adding the name of a provincial health authority; or

(b) removing the name of a provincial health authority; or

(c) amending the name of a provincial health authority; or

(d) adding the name of a provincial hospital; or

(e) removing the name of a provincial hospital; or

(f) amending the name of a provincial hospital.

(6) If the name of a provincial health authority or provincial hospital listed in Schedule 3 changes, the reference in the relevant Schedule to the old name of the provincial health authority or provincial hospital is taken to be reference to the new name of the provincial health authority or provincial hospital.

#### 6. INTERPRETATION.

In this Act, unless the contrary intention appears –



- “**Administrator**” means an administrator appointed under Section 44(1);
- “**Board**” means a Board of Governance established under Section 15, and, in relation to a provincial health authority, means the Board of that provincial health authority;
- “**Central Province**” means Central Province in Section 1(b) of the *Organic Law on Provincial Boundaries*;
- “**Chairman**” means the Chairman of a Board appointed under Section 19, and, in relation to the Board of a Provincial Health Authority, means the Chairman of the Board of that provincial health authority;
- “**Chief Executive Officer**” means a Chief Executive Officer appointed under Section 29(2), and, in relation to a provincial health authority, means the Chief Executive Officer of that provincial health authority;
- “**Committee**” means a Committee of Inquiry appointed under Section 40(1);
- “**curative services**” means medical services intended to assist in the management of injury or disease and includes surgical and medical services provided from the premises of a provincial hospital;
- “**Department Head**” means a department head appointed under the *Public Services (Management) Act 1995*;
- “**Deputy Chairman**” means the Deputy Chairman of a Board appointed under Section 19, and, in relation to the Board of a provincial health authority, means the Deputy Chairman of the Board of that provincial health authority;
- “**Director, Corporate Services**” means the Director Corporate Services appointed under Section 33(1)(c), and, in relation to a provincial health authority, means the Director Corporate Services of that provincial health authority;
- “**Director, Curative Services**” means the Director Curative Services appointed under Section 33(1)(a), and, in relation to a provincial health authority, means the Director Curative Services of that provincial health authority;
- “**Director, Public Health Services**” means the Director Public Services appointed under Section 33(1)(b), and, in relation to a provincial health authority, means the Director Public Health Services of that provincial health authority;
- “**Governor**” means the Governor of a Province and including the Governor of the National Capital District, as the case may require;
- “**health services**” includes public health services and curative services;
- “**manager**” means the Manager appointed under Section 19 of the *National Capital District Commission Act 2001*;
- “**member**” means a member of a Board appointed under Section 17 or 19, and, in relation to the Board of a provincial health authority, means a member of that Board of that provincial health authority;
- “**Minister**” means the Minister for Health;
- “**National Capital District**” means the National Capital District declared under Section 4 (National Capital District) of the *Constitution*;

**“National Capital District Commission”** means the National Capital District Commission established under Section 4 of the *National Capital District Commission Act 2001*;

**“province”** means a province declared under Section 5 (province) of the *Constitution*;

**“provincial administrator”** means a provincial administrator appointed under Section 73(2) of the *Organic Law on Provincial Governments and Local-level Governments*;

**“provincial government”** means a Provincial Government established under Section 10 of the *Organic Law on Provincial Governments and Local-level Governments*;

**“provincial health authority”** means a provincial health authority established under Section 1 of this Act and listed in Schedule 1;

**“provincial health board”** means a provincial health board established under Section 12 of the *National Health Administration Act 1997*;

**“provincial health partnership agreement”** means an agreement entered under Section 7 of this Act;

**“provincial hospital”** means a hospital controlled by a provincial health authority listed in Schedule 2 and includes premises occupied by a provincial hospital;

**“public hospital”** means a public hospital as defined in the *Public Hospitals Act 1994*;

**“public hospital board”** means a board appointed under Section 6 of the *Public Hospitals Act 1994*;

**“public health services”** means public health services provided by a provincial health authority health authority, or in the National Capital District, the National Department of Health and includes: –

- (a) services intended to prevent disease or control the spread of disease; and
- (b) services to promote health; and
- (c) services delivered from aid posts, health centres and hospitals; and
- (d) health care and dental care services;

**“this Act”** includes the Regulations.

**PART II. – ADMINISTRATION.*****Division 1. – Provincial Health Partnership Agreements.*****7. ENTERING A PROVINCIAL HEALTH PARTNERSHIP.**

(1) If the Governor of a province and the Minister are satisfied that the delivery of health services in the area satisfied that the delivery of health services in the province or the National Capital District may be more effective if they were delivered by a provincial health authority, the Governor and the Minister may agree to enter into a provincial health partnership.

(2) If a decision is reached under Subsection (1) to enter a provincial health partnership, the Governor and the Minister may sign a provincial health partnership agreement to create a provincial health authority to deliver –

- (a) public health services; and
- (b) curative services,

in the province or the National Capital District as the case may be.

(3) The agreement shall be in the prescribed form.

(4) The prescribed form of the agreement must contain particulars of the agreement to create a provincial health authority in the province of the National Capital District, as the case may be, with respect to –

- (a) adopt the model list of policy functions for a provincial health authority in Schedule 6 or develop an agreed list of policy functions; and
- (b) delegation of administration; and
- (c) personnel management and necessary delegations of authority; and
- (d) acting arrangements for senior management staff of the provincial health authority; and
- (e) financing of curative services delivered from provincial hospitals from an appropriation from the National Parliament; and
- (f) financing of public health services and curative services delivered from premises other than provincial hospitals from grants paid to the province and other provincial funds or funds available to the National District Commission; and
- (g) budgeting to enable the provision of curative services; and
- (h) budgeting to enable the provision of public health services; and
- (i) if the provincial health partnership agreement is in relation to a province, the agreement must cover arrangements for the delivery of health services in the districts of the provinces; and
- (j) a plan to delivery health services to the districts of the province;; and
- (k) transitional arrangements; and
- (l) monitoring and evaluation arrangements; and
- (m) an implementation plan; and
- (n) if the provincial health partnership agreement is between the Governor of the National Capital District and the Minister, the agreement must cover the coordination of arrangements between the National Capital District and Central Province; and
- (o) if the provincial health partnership agreement is between the Governor of the Central Province and the Minister, the agreement must cover the coordination of arrangements between Central Province and the National Capital District; and

(p) any other matter necessary or convenient to enable the creation of a provincial health partnership or the establishment and functioning of a provincial health authority.

(5) The prescribed form of the agreement operates, where necessary, as a delegation of functions from the National Government and Provincial Government to the provincial health authority.

(6) The prescribed form of the agreement must state which functions of the National Government and the Provincial Government have been delegated to the provincial health authority.

(7) An agreement entered under this Part may be varied in writing signed by the Minister and the Governor of the province or Governor of the National Capital District to which the agreement relates.

(8) Nothing in this Act prevents a provincial health partnership agreement between the Governor of Central Province, the Governor of the National Capital District and the Minister.

## **8. MINISTER MAY ORDER ESTABLISHMENT OF A PROVINCIAL HEALTH AUTHORITY.**

(1) The Minister may by Order published in the National Gazette direct that a provincial health authority is established in a province or the National Capital District when an agreement has been signed under Section 9.

(2) Where an Order is made under Subsection (1) –

- (a) on a date specified in the Order the incorporation of the board of each public hospital to which the Order relates that is an incorporated body shall be cancelled; and
- (b) on the date a provincial health board established in the province under Section 12 of the *National Health Administration Act 1997* is extinguished and ceased to exist; and
- (c) on that date a provincial health authority having an interim board of governance constituted as specified in the Order shall come into existence by operation of the Order as if on that date it had been incorporated under this Act; and
- (d) the interim board constituted as specified in the Order shall continue in existence until a board is appointed pursuant to the procedure in Section 19; and
- (e) on that date, the policy functions agreed in the provincial health partnership agreement signed in accordance with Section 7(4) become the policy functions of the provincial authority unless or until they are varied in accordance with Section 7(4); and
- (f) on the date, the property of each public hospital board that is the subject of the Order vests in the provincial health authority without the necessity for any conveyance, transfer or assignment and so vests subject to –
  - (i) any trust; and
  - (ii) any restriction, limitation, mortgage, charge, encumbrance, lien, lease, covenant, contract or liability; to which the property was subject immediately before that date; and
- (g) on that date, all debts and liabilities, whether certain or contingent, of a public hospital board that is the subject of Order existing at that date become the debts and liabilities of the provincial health authority; and

- (h) on and from that date, each public hospital board to which the Order relates must be taken, for the purposes of any trust in relation to that agency, not to have had its incorporation cancelled or to have ceased to exist and the provincial health authority must be taken to be the same body as that agency for those purposes; and
  - (i) without limiting the effect of Paragraph (f), on and from that date, an instrument creating a trust in relation to a public hospital board to which the Order relates continues to have effect according to its tenor as if the trust were in relation to the provincial health authority; and
  - (j) on and from that date, a reference in any by law made under the *Public Hospitals Act 1994* to the public hospital board to which the order relates will be deemed to be a reference to the provincial health authority.
- (3) An Order under Subsection (1) may include such other provisions not inconsistent with this Division as are necessary or convenient, including –
- (a) the name of the provincial health authority; and
  - (b) provisions giving effect to the agreement under Section 9; and
  - (c) provisions of a savings and transitional nature consequent on the making of the Order.

### *Division 2. – Provincial Health Authorities.*

## **9. ESTABLISHMENT OF PROVINCIAL HEALTH AUTHORITIES.**

(1) There are established by this section such provincial health authorities as are specified from time to time in Schedule 1.

(2) Each provincial health authority, by operation of this Act –

- (a) is a body corporate with perpetual succession; and
- (b) shall have an official seal; and
- (c) may sue and be sued in its corporate name; and
- (d) is capable of purchasing, taking, holding, selling, leasing, taking on lease, exchanging and disposing of real and personal property; and
- (e) is capable of doing and suffering all acts and things which bodies corporate may by law do or suffer.

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

## **10. NAMES OF PROVINCIAL HEALTH AUTHORITIES.**

A provincial health authority shall have a name determined by the Minister with the words “provincial health authorities” appearing after the name of that provincial health authority.

## **11. PURPOSE OF PROVINCIAL HEALTH AUTHORITIES.**

Subject to the provisions of a provincial health partnership agreement, the purpose of a provincial health authority shall be to –

- (a) provide relief to sick and injured persons through the provision of care and treatment; and
- (b) promote, protect and maintain the health of the community; and
- (c) make the provincial health authority accountable to the local community; and
- (d) encourage the local community to participate in planning and in the decision-making process in relation to the provincial health authority; and

- (e) deliver public health services appropriate and acceptable to the local community; and
- (f) deliver curative services from the premises of a provincial hospital or provincial health authority or other place as the case may be which are appropriate and acceptable to the local community.

## **12. FUNCTIONS OF PROVINCIAL HEALTH AUTHORITIES.**

(1) The service functions of a provincial health authority are the service functions set out in Schedule 5.

(2) The Minister may from time to time, by notice in the National Gazette, amend Schedule 5 as circumstances require.

(3) The policy functions of a provincial health authority are the policy functions set out in the provincial health partnership agreement signed in accordance with Section 9.

(4) A provincial health authority may perform any of its functions in cooperation with –

- (a) the Provincial Government of the province in which the provincial health authority is situated, or the National Capital District Commission as the case may be;
- (b) any body established by that Provincial Government, or the National Capital District Commission as the case may be, for the purpose of encouraging the provision of health services in the province;
- (c) a church or non government organisation existing in the province in which the provincial health authority, or the National Capital District Commission as the case may be, is situated; or
- (d) any other person or group which satisfies the Board that it can assist the Board to carry out its functions

## **13. POWERS OF PROVINCIAL HEALTH AUTHORITIES.**

A provincial health authority has 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 National or Provincial Government as the case may be, where the provincial health authority is located and made available for the purposes of the provincial health authority; 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 health services and the use of medical and hospital facilities of the provincial health authority; and
- (d) raise funds and resources, including all monies referred to in Section 37, as the Board may consider necessary for the purposes of the provincial health authority; 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 provincial hospital; and
- (f) make grants or lend money or like benefits; and
- (g) engage persons to perform services for the provincial health authority; and

- (h) accept gifts, bequests and demises made to the provincial health authority, whether on trust or otherwise, and act as trustee of money or other property vested in the provincial health authority on trust; and
- (i) generally do such supplementary, incidental or consequential acts and things as are necessary and convenient for carrying out or giving effect to its purposes and functions.

#### **14. CUSTODY AND AFFIXING OF SEAL.**

The Seal of the provincial health authority –

- (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.

#### ***Division 3. – Boards of Governance.***

#### **15. ESTABLISHMENT OF BOARDS.**

- (1) There shall be a Board of governance of each provincial health authority.
- (2) The functions of the Board are –
  - (a) to oversee and govern the provincial health authority; and
  - (b) to ensure that the services provided by the provincial health authority comply with the requirements of this Act and the purposes and functions of the provincial health authority.
- (3) The Board has such powers as are necessary to enable it to carry out its functions, including the power to make, amend or revoke by-laws.
- (4) The Board shall have regard to principles of good governance in carrying out its purposes and functions.

#### **16. 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) If the Minister, in consultation with the Governor of the province, or the National Capital District, as the case may be in which the provincial health authority is located, is satisfied that it is appropriate and in the public interest that a particular aid post, health centre or hospital would be suitable for management by –
  - (a) a registered Church; or
  - (b) non government organization,the Minister may declare that aid post, health centre or hospital to be a Church or non government managed health service and delegate all or any of the powers of a Board to the Church or non government organization.

#### **17. CONSTITUTION OF BOARDS.**

- (1) Subject to this section, a board shall consist of a maximum of nine members appointed, on the nomination of the Minister, by the Head of State, acting on advice.

(2) After consultation with the Governor of the province or Governor of National Capital District, as the case may be in which the provincial health authority is located, the Minister shall nominate nine members for appointment to a Board under Subsection (1) of whom –

- (a) one is a representative of the National Department of Health nominated by the provincial administrator or manager as the case may be; and
- (b) one has knowledge and experience of district affairs in the province and is nominated by the provincial administrator or manager as the case may be; and
- (c) three are experienced members of the local business sector nominated by the provincial Chamber of Commerce and Industry or like organisation, where no such organisation exists, as nominated by the Minister; and
- (d) one is member of a local run or Christian organisation nominated by the Church Medical Council or like organisation; and
- (e) one is a woman with a high level understanding of issues for women of the province nominated by the Provincial Women's Organisation or like organisation; and
- (f) two are members of the local community appointed by a panel consisting of the Chief Executive Officer, the provincial administrator or manager as the case may be and a representative of the local community.

(3) If the Minister is satisfied that –

- (a) reasonable steps have been taken to locate suitably qualified persons; and
- (b) no persons have been located in the province who are suitably qualified and available for one or more of the positions on the board as required in Subsection (2),

the Minister may nominate less than nine members for appointment to the Board.

(4) A vacancy in board positions created by operation of Subsection (3) may be filled as soon as –

- (a) reasonable steps are taken to locate a person or persons in the province who are qualified and available to fill such vacant position or positions; and
- (b) a person or persons are located who are qualified and available for any or all vacant positions; and
- (c) the Minister is informed that a person or persons have been nominated in compliance with Subsection (4) to vacant position or positions on the board.

(5) A Board constituted under Subsection (1) shall also include, as and *ex officio* member the provincial administrator or manager as the case may be who shall be advisory member of the Board.

(6) The person appointed as an advisory member of the Board under Subsection (5) shall be entitled to attend all meetings of the Board of which he or she is a member and shall be entitled to take part in debate but shall not vote on any matter or be counted towards a quorum.

## **18. CO-OPTED MEMBERS OF THE BOARD.**

(1) To assist in the consideration of a particular matter or issue, the Board may co-opt any person as a member of the Board with skills and expertise in the area of –

- (a) finance; or
- (b) management; or
- (c) law; or
- (d) governance; or



- (e) other areas of skill or expertise relevant to a matter under consideration by the Board.
- (2) A person co-opted under this section –
  - (a) may only attend meetings of the Board relating to and vote on the matter or issues in relation to which he or she is co-opted; and
  - (b) may be removed at any time by the Board.

## **19. CHAIRMAN AND DEPUTY CHAIRMAN.**

- (1) The Minister shall, by notice in the National Gazette appoint –
  - (a) one of the member of the Board appointed under Section 19(2) to be the Chairman of that Board; and
  - (b) one of the members of the Board appointed under Section 19(2) to be the Deputy Chairman of that Board.
- (2) The Chairman and Deputy Chairman appointed under Subsection (1) –
  - (a) shall hold office for a period not exceeding three years and on such terms and conditions as are fixed by the Minister; and
  - (b) shall be eligible for reappointment.

## **20. LEAVE OF ABSENCE.**

The Chairman may grant leave of absence to a member of a Board.

## **21. OATH AND AFFIRMATION OF OFFICE.**

A member of a Board shall, before entering on the duties of 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.

## **22. VACATION OF OFFICE.**

- (1) A member of a Board, other than an *ex officio* member, may resign that office in writing signed by the member and addressed to the Minister.
- (2) The office of a member of a Board becomes vacant, if a member of a Board –
  - (a) becomes permanently incapable of performing the duties of a member; or
  - (b) resigns from office in accordance with Subsection (1); or
  - (c) is absent, except with the written consent of the Chair, from three consecutive meetings of the Board of which he or she is a member; or
  - (d) fails to comply with Section 23; or
  - (e) becomes bankrupt or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration payable to the member for their benefit; or
  - (f) is convicted of an offence punishable under any law by a term of imprisonment or by death.
- (3) The Minister may, at any time, by written notice, advise a member of a Board that the Minister intends to terminate the appointment of the member of 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.

### **23. VACANCIES AND ABSENCES.**

(1) The Minister may fill a vacancy in the office of member of the Board however arising;

(2) The Minister may appoint another person to act as a member of the Board during the period of absence.

(3) A person appointed under Subsection (2) as an acting member of the Board, while so acting –

(a) has all the powers, and may perform all the functions and duties, of a member of the Board; and

(b) is to be taken to be a member of the Board.

(4) An act or decision of the Board is not invalid only because of –

(a) a vacancy in its membership; or

(b) a defect or irregularity in the appointment of any of its members, including an acting member.

### **24. 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 or she is a member shall, as soon as possible after the relevant facts have come to his or her 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.

### **25. MEETING OF BOARDS.**

(1) The Board of a provincial health authority shall hold such meetings as are necessary for the efficient performance of its functions and at such times and places within the province in which the provincial health authority is situated as it determines or as the Chairman or in the absence of the Chairman, 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 the Board; and

(b) 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 that Board.

(4) Where the Chairman is not present at a meeting of that Board, 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) a quorum of the Board consists of a majority of members for the time being appointed; and

(b) matters arising shall be decided by a majority of votes of the members of that Board 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.

(6) A Board shall cause minutes of its meetings to be recorded and kept;

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

## **26. TERMS AND CONDITIONS OF APPOINTMENT.**

(1) A member of the Board holds office for three years and is eligible for re-appointment.

(2) The instrument of appointment of a member of the Board may specify terms and conditions of appointment.

(3) A member of the Board, other than a member who is an officer or employee of the public service, is entitled to receive the fees, travelling and other allowances (if any) from time to time fixed by the Minister under the *Boards (Fees and Allowances) Act 1955*.

(4) The *Public Services (Management) Act 1995* does not apply to a member of the Board who is not a public servant in respect of the office of member.

## **27. ALLOWANCES.**

A person co-opted as a member of the Board under Section 18, other than a person who is an employee of the public service, is entitled to receive the travelling and other allowances (if any) from time to time fixed by the Minister under *Boards (Fees and Allowances) Act 1955*.

## **28. ANNUAL REPORT.**

(1) The Board must make an annual report to the Minister and the Governor of the province in which the provincial health authority is located on the performance of its functions and duties under this Act.

(2) The Board must submit the report to the Minister and the Governor as required in Subsection (1) by 31 May of the year immediately following year to which the report relates.

**PART III. – THE SERVICES OF PROVINCIAL HEALTH AUTHORITIES.*****Division 1. – Chief Executive Officer.*****29. CHIEF EXECUTIVE OFFICER.**

(1) There shall be a Chief Executive Officer for each provincial health authority 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 provincial health authority –

- (a) shall be appointed for such period not exceeding four years as the Board determines; and
- (b) subject to this Act, holds office on such terms and conditions as are determined under Section 31; and
- (c) is eligible for re-appointment.

**30. FUNCTIONS OF CHIEF EXECUTIVE OFFICER.**

(1) The Chief Executive Officer of a provincial health authority appointed under Section 29(2) –

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

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

**31. VACATION OF OFFICER.**

(1) The Chief Executive Officer of a provincial health authority may resign the office in writing delivered to the Board of that provincial health authority.

(2) If the Chief Executive Officer of a provincial health authority –

- (a) becomes permanently incapable of performing duties of the Chief Executive Officer; or
- (b) resigns the office of the Chief Executive Officer 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 provincial health authority;
- (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 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 the appointment of the Chief Executive officer.

(3) The Board of a provincial health authority, 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 provincial health authority that it intends to terminate the appointment of the Chief Executive Officer on the grounds of inefficiency, incapacity or misbehaviour.

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

### **32. PUBLIC SERVICE RIGHTS.**

Where an officer of the Public Service is appointed under Section 29(2), the appointment of the officer as Chief Executive Officer shall be counted as Service in the Public Service for the purpose of determining existing and accruing rights of the Chief Executive Officer under the *Public Services (Management) Act 1995*.

#### ***Division 2. – Officers of Provincial Health Authorities.***

### **33. APPOINTMENT OF OFFICERS.**

(1) The Chief Executive Officer of a provincial health authority may, through a selection process approved by the Departmental Head of the Department responsible for personnel management matters, appoint to be officers of that provincial health authority –

- (a) suitably qualified person to be the Director Curative Services;
- (b) a suitably qualified person to be Director Public Health Services; and
- (c) a suitably qualified person to be the Director Corporate Services; and
- (d) such other suitably qualified persons as the Chief Executive Officer considers necessary for the purposes of that provincial health authority.

(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.

### **34. REGULATIONS FOR THE SERVICES OF PROVINCIAL HEALTH AUTHORITIES.**

(1) For the purposes of this section, the persons appointed as officers of a provincial health authority under Sections 33 and 35 constitute the Service of that provincial health authority.

(2) The Regulations may make provision in relation to the Service of a provincial health authority, and, in particular, may –

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

(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 there under shall, in so far as they are relevant, apply.

### **35. TEMPORARY AND CASUAL EMPLOYEES.**

(1) The Chief Executive Officer of a provincial health authority may appoint such temporary and casual employees as the Chief Executive Officer thinks necessary for the purpose of that provincial health authority.

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

(1) A provincial health authority is a public body under *Public Finances (Management) Act 1995*.

(2) The sections of the *Public Finances (Management) Act 1995* which relate to public bodies apply to provincial health authorities.

**37. FUNDS OF PROVINCIAL HEALTH AUTHORITIES.**

The funds of a provincial health authority shall consist of –

- (a) such sums as are appropriated in accordance with Section 38; and
- (b) such sums as are received, whether by loan, gift or otherwise by the provincial health authority.

**38. APPROPRIATION.**

(1) There shall be payable to the Board of a provincial health authority out of the Consolidated Revenue Fund such monies as are appropriated by Parliament for delivery of curative services of that provincial health authority from the premises of the provincial hospital.

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

**39. APPLICATION TO AUDIT ACT 1989.**

The accounts of the Board of a provincial health authority shall be audited in accordance with Part III of the *Audit Act 1989*.

**40. MINISTER MAY APPOINT COMMITTEE OF INQUIRY.**

(1) Where, in respect of a provincial health authority, the Minister is of the opinion that –

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

the Minister may appoint a Committee of Inquiry comprising three persons to look into and report to the Minister 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 reasons for appointing a Committee.

**PART V. – SUSPENSION OF BOARDS.****41. INTERPRETATION OF PART V.**

In this Part –

“**widespread corruption**” means of a serious nature affecting more than one operating system or involving more than one employee or board member of a provincial health authority;

“**mismanagement of funds**” means the management of funds in a manner that results in loss of funds or application of funds for a purpose not related to the provision of health services in the province or is likely to result in loss of funds or application of funds for a purpose not related to the provision of health services in the province.

**42. SUSPENSION.**

(1) The Minister, acting on advice, given after consideration of the report and statement referred to in Section 40(1), may, by notice in the National Gazette, suspend the Board of that provincial health authority while an investigation is being carried out.

(2) The Minister may appoint a caretaker Board during suspension ordered under Subsection (1).

**43. EFFECT OF SUSPENSION.**

(1) Subject to Subsection (2), a suspension notice under Section 42(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 42(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.

**44. APPOINTMENT OF ADMINISTRATOR UP SUSPENSION.**

(1) Where the Board of a provincial health authority is suspended under Section 42(1), the Head of State, acting on advice, may, in the notice of suspension or under a subsequent instrument, appoint an Administrator in relation to that suspended Board.

(2) Subject to any directions given by the Head of State, acting on advice, an Administrator 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 a prescribed.

**45. PERIOD OF SUSPENSION.**

A suspension under this Part operates until –

- (a) the end of the period specified in the notice under Section 42(1); or
- (b) such time as the suspension notice under Section 42(1) is revoked by the Minister, whichever first occurs.



**PART VI. – PROVINCIAL HOSPITALS.**

**46. ESTABLISHMENT OF PROVINCIAL HEALTH.**

(1) There are established by this section such provincial hospitals as are specified from time to time in Schedule 2.

(2) A provincial hospital shall be administered and maintained in accordance with this Act.

**47. PROVINCIAL HEALTH AUTHORITIES CONTROL PROVINCIAL HOSPITALS.**

(1) A provincial health authority, by operation of this Act, may control one or more provincial hospitals.

(2) A provincial health authority which controls a provincial hospital may provide public health services or curative services from the premises of the provincial hospital controlled by the provincial health authority.

**48. DIRECTOR CURATIVE SERVICES OF THE PROVINCIAL HEALTH AUTHORITY TO MANAGE THE AFFAIRS OF THE PROVINCIAL HOSPITALS.**

The affairs of a provincial hospital are to be managed by the director curative services of the provincial health authority.

**49. FUNCTIONS OF DIRECTOR CURATIVE SERVICES GENERALLY.**

The director curative services of a provincial health authority –

- (a) has, and may exercise, such functions as are conferred or imposed on the director curative services by or under this or any other Act; and
- (b) is, in the exercise of his or functions, subject to the control and direction of the chief executive officer of the provincial health authority which controls the provincial hospital.

**50. DETERMINATION OF FUNCTIONS OF PROVINCIAL HOSPITALS.**

The provincial health authority may, from time to time, determine the role, functions and activities of any provincial hospital under the control of that provincial health authority and, for that purpose, give any necessary directions to the director curative services.

**PART VII. – MISCELLANEOUS.****51. PROOF OF CERTAIN MATTERS.**

In any proceedings against a provincial health authority, proof is not required, unless evidence is given to the contrary, of –

- (a) the constitution of the Board;
- (b) a resolution of the Board;
- (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.

**52. SERVICE OF PROCESS.**

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

**53. PROTECTION FROM PERSONAL LIABILITY.**

A member of the Board of a provincial health authority or officer or employee or agent of that provincial health authority is not personally liable for any act or default of him or her or the Board done or omitted to be done in good faith and in the course of the operations of that provincial health authority or for the purposes of that provincial health authority.

**54. RECOVERY OF MONEY DUE.**

Any money due to a provincial health authority may be recovered by the Board of that provincial health authority as a debt.

**55. BY-LAWS.**

(1) The Board of a provincial health authority may make by-laws not inconsistent with this Act for the operation and management of, and the provision of public health services and curative services and by that provincial health authority, and in particular for and in relation to –

- (a) the protection of provincial health authority property and staff;
- (b) the maintenance of law and order within the premises of the provincial health authority;
- (c) the operation of any provincial hospital controlled by the provincial health authority;
- (d) the prevention of interference with the provision of public health services and curative services provided by the provincial health authority;
- (e) the prevention of the obstruction of provincial health authority staff and employees in the performance of their duties; and
- (f) 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.

**56. 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) the relationship between the provincial health authority and the provincial government;
- (b) procedures of boards of provincial health authorities;
- (c) staffing arrangements;
- (d) coordination of public health services and curative health services;
- (e) use medical facilities;
- (f) the terms on which patients may be admitted to provincial hospitals;
- (g) the operation of provincial health authorities;
- (h) the terms and conditions of appointment of officers of provincial health authorities; and
- (i) penalties of fines not exceeding K1,000.00 for offences against the regulations.

**PART VIII. – CONSEQUENTIAL AMENDMENTS, EXEMPTIONS AND  
TRANSITIONAL PROVISIONS.**

*Division 1. – Exemptions and Transitional Provisions.*

**57. EXEMPTIONS FROM CERTAIN PROVISIONS OF THE NATIONAL HEALTH ADMINISTRATION ACT 1997.**

A province where a provincial health authority is established under this Act will be exempted from the application of section 12, 13, 14, 15, 16, 17, 18(6)(b), 21(2)(c), 22, 30(3) and (4), 36(2),(3), and (4), 37(3)(h) and (i), and Schedule A(1) of the National Health Administration Act 1997.

**58. 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 whose existence is extinguished by operation of this 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 or against or in favour of the person or body as if this Act had not been made.

*Division 2. – Consequential Amendments to the National Health Administration Act 1997.*

**59. REPEAL AND REPLACEMENT OF DEFINITION OF “HEALTH CARE SYSTEM” IN SECTION 2.**

Section 2 of the National Health Administration Act 1997 is amended by repealing the definition of “health care system” and substituting the following definition: –

“**health care system**” means the persons and organizations providing health care and related services in the country, including but not limited to –

- (a) health facilities, services and programmes provided by the National Government, or a Provincial Government or a Local-level Government; and
- (b) public hospitals; and
- (c) provincial health authorities; and
- (d) provincial hospitals; and
- (e) non-government health care providers; and
- (f) private health care providers; and
- (g) persons registered under *Medical Registration Act 1980*.

**60. AMENDMENT OF SECTION 2.**

Section 2 of the National Health Administration Act 1997 is amended by adding the following definitions: –

“**provincial health authority**” means a provincial health authority listed in Schedule 1 of the Provincial Health Authorities Act 2007.

**“provincial hospital”** means a hospital controlled by a provincial health authority listed in schedule 2 of the Provincial Health Authorities Act 2007 and includes premises occupied by provincial hospital.

**61. AMENDMENT OF SECTION 9(1).**

Section 9(1) of the Provincial Health Authorities Act 1997 is amended by adding the following Subsection: –

(p) one member representing provincial health authorities.”

**62. AMENDMENT OF SECTION 23.**

Section 23 of the National Health Administration Act 1997 is amended by adding the following Subsection: –

(f) serving as an *ex officio* member of any provincial health authority established in the province.”

**63. REPEAL AND REPLACEMENT OF SECTION 27(2) AND (3).**

(1) Section 27(2) of the National Health Administration Act 1997 is amended by repealing Section 27(2) and substituting the following Subsection: –

**“(2) The Minister may enter into an arrangement with –**

- (a) a Provincial Government; or
- (b) a Local-level Government; or
- (c) a provincial health authority; or
- (d) a public hospital; or
- (e) a non-government health care provider,

“in respect of a grant made by the National Government for the operation of health facilities or the provision of health services or programmes.”

(2) Section 27(3) of the National Health Administration Act 1997 is amended by repealing Section 27(3) and substituting the following Subsection: –

**“(3) A –**

- (a) Provincial Government; or
- (b) Local-level Government,

“May enter into an agreement with –

- (c) a public hospital; or
- (d) a provincial health authority; or
- (e) a non-government health care provider,

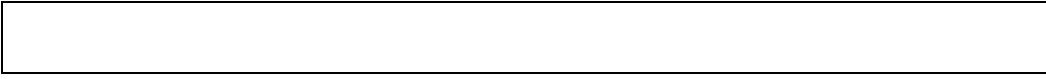
“to provide a grant for the operation of health facilities or the provision of health services or programmes.”

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**SCHEDULE 1 – PROVINCIAL HEALTH AUTHORITIES.**



**SCHEDULE 2 – PROVINCIAL HOSPITALS.**



**SCHEDULE 3 – PROVINCIAL HEALTH AUTHORITIES WHICH CONTROL  
PROVINCIAL HOSPITALS.**

<b>Column 1</b> <b>Name of Provincial Health Authority</b>	<b>controls</b>	<b>Column 2</b> <b>Name of Provincial Hospital</b>
	controls	
	controls	
	controls	
	controls	
	controls	
	controls	



**SCHEDULE 4 – PROVINCIAL HEALTH AUTHORITY TO BE THE SUCCESSOR IN LAW TO PUBLIC HOSPITAL BOARD.**

<b>Column 1</b> <b>Name of Provincial Health Authority.</b>	<b>is successor in law to</b>	<b>Column 2</b> <b>Name of Public Hospital Board.</b>
	is successor in law to	
	is successor in law to	
	is successor in law to	
	is successor in law to	
	is successor in law to	
	is successor in law to	

**SCHEDULE 5 – SERVICE FUNCTIONS OF PROVINCIAL HEALTH AUTHORITIES.**

A Provincial Health Authority has the following services functions: –
(a) to administer and maintain the provincial health authority and its facilities for provision of public health services and curative services for the protection, care and treatment of the local people;
(b) to engage in and assist local authorities in the provision of community health education, services to promote health and provide 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, nursing, allied health professional training, dentistry, obstetrics, paediatrics, surgery, ophthalmology, pathology, psychiatry, radiology, oncology, community health workers and other related fields as the Board may consider fit;
(f) to encourage research and experimentation into any areas of public health services, health services, medical activities or paramedical activities conducted according to national and international ethical standards;
(g) to administer and expend money appropriated by the State and development partners for the purposes of the provincial health authority; and
(h) to consult and co-operate with appropriate authorities and with other organizations, associations and persons on matters related to its activities.

**SCHEDULE 6 – MODEL POLICY FUNCTIONS OF PROVINCIAL HEALTH AUTHORITIES.**

<p>Subject to the provisions of a provincial health partnership agreement, the following model policy functions may be adopted by a Provincial Health Authority in the provincial health partnership agreement signed in accordance with Section 7: –</p>
<p>(a) advise the Provincial Government on policy matters relating to health, in particular –</p>
<p>(i) the implementation of the National Health Plan in the province;</p>
<p>(ii) the formulation of the Provincial Implementation Plan;</p>
<p>(iii) the co-ordination of the health care system in the province,</p>
<p>including the administration of any legislation relating to health matters; and</p>
<p>(b) co-ordinate the implementation of the National Health Plan, the National Health Standards and the Provincial Implementation Plan in the Province;</p>
<p>(c) provide advice to the Department of Health on the provision of adequate resources to carry out the National Health Plan, the National Health Standards and the Provincial Implementation Plan in the Province;</p>
<p>(d) monitor the implementation of the National Health Plan, the National Health Standards and the Provincial Implementation Plan in the Province;</p>
<p>(e) maintain effective liaison –</p>
<p>(i) with the National Health Department;</p>
<p>(ii) with the private sector in the province;</p>
<p>(iii) between the extended services of the National Government Department responsible for health-related matters in the Province; and</p>
<p>(iv) with the districts in the province in relation to the delivery of district health services;</p>
<p>(f) provide information on the operation of the health care system in the Province to the National Health Board as requested or as required in the National Health Plan or National Health Standards;</p>
<p>(g) at the request of the Governor or on its own initiative conduct inquiries into the operation of health facilities and the provision of health services and programmes and make recommendations for the improvement of those facilities and services; and</p>

(h) carry out any other functions that are –
(i) delegated to the provincial health authority by the Provincial Government or the National Departmental Head; or
(ii) necessary or convenient for carrying out, or that are ancillary to, the functions set out in this subsection.
Subject to the provisions of a provincial health partnership agreement, the following model policy functions may be adopted by a Provincial Health Authority in the provincial health partnership agreement signed in accordance with Section 7: –
(a) advise the Provincial Government on policy matters relating to health, in particular –
(i) the implementation of the National Health Plan in the province;
(ii) the formulation of the Provincial Implementation Plan;
(iii) the co-ordination of the health care system in the province,
including the administration of any legislation relating to health matters; and
(b) co-ordinate the implementation of the National Health Plan, the National Health Standards and the Provincial Implementation Plan in the Province;
(c) provide advice to the Department of Health on the provision of adequate resources to carry out the National Health Plan, the National Health Standards and the Provincial Implementation Plan in the Province;
(d) monitor the implementation of the National Health Plan, the National Health Standards and the Provincial Implementation Plan in the Province;
(e) maintain effective liaison –
(i) with the National Health Department;
(ii) with the private sector in the province;
(iii) between the extended services of the National Government Department responsible for health-related matters in the Province; and
(iv) with the districts in the province in relation to the delivery of district health services;

(f) provide information on the operation of the health care system in the Province to the National Health Board as requested or as required in the National Health Plan or National Health Standards;
(g) at the request of the Governor or on its own initiative conduct inquiries into the operation of health facilities and the provision of health services and programmes and make recommendations for the improvement of those facilities and services; and
(h) carry out any other functions that are –
(i) delegated to the provincial health authority by the Provincial Government or the National Departmental Head; or
(ii) necessary or convenient for carrying out, or that are ancillary to, the functions set out in this subsection.