

TASMANIA

HEALTH SERVICE ESTABLISHMENTS BILL 2006

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HEALTH SERVICE ESTABLISHMENTS BILL 2006

*(Brought in by the Minister for Health and Human Services,
the Honourable Larissa Tahireh Giddings)*

A BILL FOR

An Act to provide for the licensing and control of health service establishments and to repeal the *Hospitals Act 1918*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Health Service Establishments Act 2006*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

(1) In this Act, unless the contrary intention appears –

“**Advisory Committee**” means the Health Service Establishments Advisory Committee established under section 6;

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“application” means –

- (a) an application for a licence under section 9; or
- (b) an application for transfer of a licence under section 19; or
- (c) an application to alter or extend an establishment under section 20; or
- (d) an application for amendment of a licence under section 22;

“chief nurse” means the chief nurse of an establishment as referred to in section 39;

“commencement date” means the date fixed by proclamation under section 2;

“day-procedure centre” means an establishment at which any patient is admitted and discharged on the same day for medical, surgical or other treatment, but does not include –

- (a) any such establishment conducted by or on behalf of the State; or
- (b) a public hospital or health service under the control of a public health organisation within the meaning of the *Health Act 1997*; or
- (c) a private hospital licensed under this Act; or

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(d) a residential care service;

“establishment” means –

(a) a day-procedure centre; or

(b) a private hospital; or

(c) a residential care service;

“former Act” means the *Hospitals Act 1918*;

“funded resident” means a resident of a residential care service whose care is partly or fully funded, either directly or indirectly, by the Commonwealth or a State or Territory of the Commonwealth;

“licence” means a licence issued under section 12 and in force under this Act, and includes a temporary licence;

“licensee” means the holder, or any one or more of the holders, for the time being of a licence;

“licensing standards” means the standards prescribed by the regulations;

“member” means a member of an Advisory Committee appointed under section 6;

“patient” means –

(a) in respect of a private hospital, a person accommodated in the private hospital for treatment; or

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- (b) in respect of a day-procedure centre, a person admitted to the day-procedure centre for treatment; or
- (c) a person for whom any residential care service is provided;

“personal care” means –

- (a) assistance with one or more of the following:
 - (i) bathing, showering or personal hygiene;
 - (ii) dressing or undressing;
 - (iii) meals; or
- (b) physical assistance or supervision for persons subject to a disability; or
- (c) assistance or supervision in dispensing medicine; or
- (d) the provision of substantial emotional support;

“practitioner” means a medical practitioner or a dentist;

“premises” includes any land, building and part of any building;

“private hospital” means premises at which any patient is provided with

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accommodation, medical, surgical or other treatment and with ancillary nursing care, for fee, gain or reward, but does not include –

- (a) an establishment conducted by or on behalf of the State; or
- (b) a day-procedure centre; or
- (c) a residential care service;

“professional attention” means –

- (a) medical or surgical treatment by or under the supervision of a registered medical practitioner; or
- (b) obstetric treatment by or under the supervision of a registered medical practitioner or a registered nurse with obstetric qualifications; or
- (c) dental treatment by or under the supervision of a registered dental practitioner; or
- (d) podiatric treatment by a registered podiatrist;

“public hospital” means a State-funded hospital;

“register of patients” means the register that is required by section 42 to be kept at an establishment;

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“registered nurse” means a nurse registered or enrolled under the *Nursing Act 1995*;

“residential care service” means premises where accommodation and personal care or nursing care are provided to an elderly person who is not a member of the immediate family of the proprietor of the service, but does not include a service providing accommodation for persons otherwise living independently even though the provision of accommodation may or may not include domestic services such as the preparation of meals, cleaning and laundry services;

“Secretary” means the Secretary of the Department;

“temporary licence” means a licence issued under section 13 and in force under this Act;

“type A procedure” means a procedure involving professional attention normally requiring admitted overnight hospital stay;

“type B procedure” means a procedure involving professional attention normally requiring admitted hospital treatment that does not include part of an overnight stay;

“type C procedure” means a procedure involving professional attention that does

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not normally require admitted hospital treatment.

- (2) A reference in this Act to medical, surgical or other treatment includes a reference to a diagnosis for the purposes of any such treatment.
- (3) A reference in this Act to the conduct of an establishment (however expressed) is a reference to the carrying on of the business of the establishment.
- (4) A reference in this Act to a person who conducts an establishment (however expressed) is a reference –
 - (a) to a corporation which conducts the establishment, except where that corporation is acting only in its capacity as an agent; or
 - (b) to a natural person who conducts the establishment (whether jointly with other persons or alone), except where that person is acting only in the person's capacity as an employee or an agent.
- (5) For the purposes of this Act, a corporation is not a fit and proper person to be a licensee unless each director and each person concerned in the management of the corporation is a fit and proper person to be a licensee.

4. Objects of Act

The objects of this Act are to ensure –

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- (a) the quality and safety of services provided at private health establishments by specifying the standards to be met by those establishments; and
- (b) that services are provided to meet effectively the needs of Tasmanians in accordance with clinical practice guidelines as to the provision of services and standards observed in Tasmania and elsewhere in Australia.

PART 2 – LICENSING OF PREMISES

5. Requirement for licensing

- (1) Premises where type A procedures are undertaken require licensing as a private hospital.
- (2) Premises where type B procedures but no type A procedures are undertaken require licensing as a day-procedure centre whether or not any type C procedures are undertaken.
- (3) Any premises where only type C procedures are undertaken do not require licensing as a private hospital or a day-procedure centre unless the Secretary is satisfied that, having regard to considerations of public safety and the quality of service to be provided, the premises should be licensed as a private hospital or a day-procedure centre.
- (4) Any premises where no type A, type B or type C procedures are undertaken do not require licensing as a private hospital or a day-procedure centre unless the Secretary is satisfied that, having regard to considerations of public safety and the quality of service to be provided, the premises should be licensed as a private hospital or a day-procedure centre.
- (5) A residential care service is required to be licensed unless –

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- (a) the services are provided only to funded residents; or
 - (b) in a case where the services are provided to funded residents and residents who are not funded, the Secretary certifies in writing that he or she is satisfied that the same standards of care are, or will be, provided to all residents of the service.
- (6) The Secretary may exempt a residential care service from the requirement to be licensed if the Secretary is satisfied that –
 - (a) the residential care service does not provide, or is unlikely to provide, nursing care service for its residents; and
 - (b) a council has given approval for the service to be provided; and
 - (c) there are plans for fire safety and evacuation acceptable to the Tasmania Fire Service; and
 - (d) there are appropriate arrangements to facilitate access to any medical and nursing services as may be required by any resident; and
 - (e) there are acceptable guidelines to be observed for the management of medication for residents.
- (7) The Secretary may, by order published in the *Gazette*, declare that any premises where a service is provided, for which funding is

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provided by the State, is exempt from the requirement to be licensed.

- (8) The Secretary may not exempt a public hospital from the requirement to be licensed unless he or she is satisfied that administrative arrangements are in place which will enable the public hospital to provide substantially the same quality of service as is required of private hospitals under this Act.

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Part 3 – Health Service Establishments Advisory Committee

**PART 3 – HEALTH SERVICE ESTABLISHMENTS
ADVISORY COMMITTEE**

6. Constitution of Advisory Committee

- (1) There is established by this Act the Health Service Establishments Advisory Committee.
- (2) The Advisory Committee is to consist of at least 3 and no more than 7 members, as the Minister may determine.
- (3) The members are to be appointed by the Minister.
- (4) Of the members –
 - (a) at least one is to be a State Service officer or a State Service employee; and
 - (b) at least one is to be a person nominated by the private hospital industry; and
 - (c) one is to be a person who is not concerned in the management of an establishment and who is nominated by the Minister to represent the interests of the persons for whom services are provided by establishments.
- (5) Schedule 1 has effect with respect to the members and procedure of the Advisory Committee.

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7. Functions of Advisory Committee

The functions of the Advisory Committee are –

- (a) to provide advice to the Secretary in respect of applications for approval for new, altered or expanded private hospital services or services to be provided by other establishments taking account of –
 - (i) any relevant hospital services planning guidelines; and
 - (ii) the critical mass of patients required to comply with clinical practice recognised throughout Australia and with any guidelines as to the provision of services which are so recognised; and
 - (iii) any other similar matter that the Advisory Committee considers to be supported by expert opinion; and
 - (iv) the current availability of services in the local area; and
 - (v) the suitability of the applicant to provide any such services; and
- (b) to prepare such reports for the Minister, giving such advice, as may be required by the Minister from time to time.

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Part 3 – Health Service Establishments Advisory Committee

8. Subcommittees of Advisory Committee

- (1) The Advisory Committee may establish subcommittees to assist it in connection with the performance of any of its functions, and any or all of the members of a subcommittee need not be members of the Advisory Committee.
- (2) The procedure for the calling of meetings of a subcommittee and for the conduct of business at those meetings are to be as determined by the Advisory Committee or, subject to any determination of the Advisory Committee, by the subcommittee.

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PART 4 – LICENSING OF ESTABLISHMENTS

Division 1 – Applications for and issue of licences

9. Application for licence

- (1) An application for a licence for an establishment may be made to the Secretary by a person who intends to conduct the establishment.
- (2) The application –
 - (a) is to be in accordance with a form approved by the Secretary; and
 - (b) is to specify the class or classes of establishments in respect of which the licence is sought; and
 - (c) in the case of a proposed private hospital, is to specify the maximum number of patients that it is proposed to accommodate overnight at any one time at the hospital; and
 - (d) in the case of a proposed day-procedure centre, is to specify the number of procedure rooms that are proposed to be provided at the centre; and
 - (e) in the case of a proposed residential care service, is to specify the maximum number of residents to be accommodated; and

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- (f) is to be accompanied by such particulars as to the establishment and the conduct of the establishment as the Secretary may require; and
- (g) is to be accompanied by the prescribed application fee.

10. Approval in principle or refusal of application

- (1) The Secretary must, after considering an application for a licence under section 9 –
 - (a) approve the application in principle; or
 - (b) refuse the application.
- (2) The Secretary may impose conditions on an approval of an application in principle, including, but not limited to –
 - (a) conditions relating to the design and construction of any building to be constructed, altered or extended for the purposes of the proposed establishment; and
 - (b) the preparation and submission to the Secretary of a development timetable for any such building specifying the dates by which it is proposed that different stages in construction, alteration or extension will be completed.
- (3) The Secretary may refuse an application for a licence only if –

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- (a) the Secretary is of the opinion that the applicant, or any of the applicants, is not a fit and proper person to be a licensee; or
 - (b) the Secretary is satisfied that the proposed establishment is not capable of being conducted in accordance with the licensing standards applicable to it; or
 - (c) the Secretary is of the opinion that the application should be refused having regard to such development guidelines as may be prescribed by the regulations; or
 - (d) the Secretary is of the opinion that the proposed establishment will have insufficient patients to ensure a critical mass for the maintenance of skills or the recruitment and retention of specialist staff.
- (4) A decision on the limiting of specialty services is to be based on clinical considerations relating to service quality and is to be consistent with established clinical practice and guidelines relating to specialty service planning published by the Australian Health Ministers Advisory Committee, the Medicare Services Advisory Committee, the National Health and Medical Research Council, the Royal Colleges, any health authority established in any other State or a Territory or any other similar body or authority.

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- (5) The Secretary, in approving a licence in principle, is to state the type of specialty service authorised to be provided under the licence and any conditions for the provision of that service.
- (6) If the Secretary approves an application in principle, the Secretary is to give the applicant written notice of that approval and any conditions to which the approval is subject.

11. Approval in principle to remain effective for one year

- (1) An approval in principle of an application for a licence is effective for a period of one year from the date on which the applicant is given notice of that approval under section 10(6) and for any such further period or periods as the Secretary may, at the request of the applicant, allow.
- (2) More than one request may be made by an applicant under subsection (1), but any such request is to be made while the approval in principle of the application is effective.
- (3) If the Secretary has, as a condition of an approval in principle of an application, required the applicant to provide particulars of how the establishment is to be conducted, the Secretary may grant an extension of the period for which that approval is effective only if the Secretary is satisfied that the applicant has made a reasonable attempt to comply with that condition.

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12. Issue of licence

- (1) If the Secretary has approved in principle an application for a licence and any construction, alteration or extension of any building to which the application relates has been completed, the Secretary is to either –
 - (a) grant the application and issue a licence to the applicant; or
 - (b) refuse the application.
- (2) In any such case, the Secretary may not refuse the application for a licence unless –
 - (a) the approval in principle of the application expired before the completion of the construction, alteration or extension of any building to which the application relates; or
 - (b) any such building was not constructed, altered or extended in accordance with the approval in principle; or
 - (c) any other condition to which the approval in principle was subject has not been complied with.

13. Temporary licences

- (1) If an application is made for a licence in respect of an existing building, the Secretary may, pending the determination of the application, issue to the applicant a temporary licence.

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- (2) A temporary licence remains in force until –
- (a) the date of its expiry; or
 - (b) the application for the licence is granted;
or
 - (c) the temporary licence is cancelled –
- whichever first occurs.
- (3) The date of expiry of a temporary licence is –
- (a) except as provided by paragraph (b), such date (not exceeding 2 months after the date of issue of the temporary licence) as may be specified in the temporary licence; or
 - (b) such later date as the Secretary may, by notice in writing served on the applicant, direct.

Division 2 – Provisions relating to licences

14. Classes of establishments

For the purposes of this Act, there are to be such classes of establishments as may be prescribed by the regulations.

15. Form of licence

Without limiting the particulars that may be included in a licence, a licence is to specify –

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- (a) the person to whom it is issued; and
 - (b) the address of the establishment for which it is issued; and
 - (c) the class or classes of establishments in respect of which it is issued; and
 - (d) in the case of a private hospital, the maximum number of patients who may be accommodated overnight at any one time, as determined by the Secretary; and
 - (e) in the case of a residential care service, the maximum number of residents who may be accommodated, as determined by the Secretary; and
 - (f) in the case of a day-procedure centre, the maximum number of rooms available for day procedures.

16. Conditions of licence

- (1) The Secretary may issue a licence subject to such conditions as may be specified in the licence.
- (2) A licence is subject to the condition that the licensee must, in respect of the conduct of the establishment concerned, be insured under a policy of insurance approved by the Secretary to a prescribed minimum amount of cover.

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17. Duration of licence

A licence (other than a temporary licence) remains in force until it is cancelled under this Act.

18. Annual licence fees

The licensee of an establishment must, on or before 31 December in each year, pay to the Secretary such annual licence fee as may be prescribed by the regulations in respect of the establishment.

19. Transfer of licence to another licensee

- (1) The Secretary may, on application made in accordance with this section, transfer the licence for an establishment to another person who intends to conduct the establishment –
 - (a) by an appropriate endorsement on the licence; or
 - (b) by cancelling the licence and issuing a substitute licence to that person.
- (2) An application under this section –
 - (a) is to be in, or to the effect of, a form approved by the Secretary; and
 - (b) is to be accompanied by such particulars as to the establishment and the conduct

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of the establishment as the Secretary may require; and

(c) is to be accompanied by such fee as may be prescribed by the regulations.

- (3) The Secretary may refuse an application if, in the Secretary's opinion, the proposed licensee, or any of the proposed licensees, is not a fit and proper person to be a licensee.

20. Notification of alterations or extensions to licensed establishments

If the licensee of an establishment proposes to make any material alteration to or extension of the establishment, he or she must give notice in writing to the Secretary at least 14 days before the proposed alteration or extension is proposed to commence.

21. Provision for repairs, &c.

- (1) The Secretary may, by notice in writing, require the licensee of an establishment to carry out such repairs, maintenance, alterations, extensions or improvements to the establishment as may be specified in the notice.
- (2) A licensee must comply with the requirements of any such notice within the time specified in the notice or within such further time as the Secretary may allow.

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Penalty: Fine not exceeding 20 penalty units.

- (3) Any such notice is not to take effect –
- (a) until the expiration of 14 days after the notice has been given to the licensee; or
 - (b) if the licensee applies for a review of the Secretary's decision under Division 4 before the expiration of the period referred to in paragraph (a), until the application for review is dealt with or withdrawn.

22. Amendment of licences

- (1) The Secretary may amend a licence in one or more of the following ways:
- (a) by specifying in the licence additional classes of establishments;
 - (b) by omitting any class of establishments specified in the licence;
 - (c) in the case of a private hospital, by increasing or decreasing the number of patients specified in the licence as the number of patients who may be accommodated overnight at any one time in the hospital;
 - (d) in the case of a residential care service, by increasing or decreasing the number of residents specified in the licence as the

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- number of residents who may be accommodated;
- (e) in the case of a day-procedure centre, by increasing or decreasing the number of rooms available for day procedures;
 - (f) by amending or revoking any condition to which the licence is subject, including a condition relating to a type of specialty service to be provided under the licence but excluding the condition referred to in section 16(2), or attaching further conditions to the licence.
- (2) The Secretary may amend a licence under this section if –
- (a) the licensee applies in writing to the Secretary to make the amendment and pays the prescribed fee; or
 - (b) the Secretary considers that the licence requires amendment.
- (3) The amendment is to be based on clinical considerations relating to service quality and is to be consistent with established clinical practice and guidelines relating to specialty service planning published by the Australian Health Ministers Advisory Committee, the Medicare Services Advisory Committee, the National Health and Medical Research Council, the Royal Colleges, any health authority established in any other State or a Territory or any other similar body or authority.

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- (4) A licence is amended under this section –
- (a) by an appropriate endorsement on the licence; or
 - (b) by the cancellation of the licence and the issue of a substitute licence incorporating the amendment; or
 - (c) by giving notice in writing to the licensee.
- (5) A licensee must forward his or her licence to the Secretary if the Secretary, by notice in writing, requires the licensee to do so for the purposes of this section.
- Penalty: Fine not exceeding 5 penalty units.
- (6) On the service of a notice referred to in subsection (4)(c), the licence to which the notice relates is taken to be amended in accordance with the notice.

Division 3 – General provisions relating to applications for licences, &c.

23. Additional information

- (1) The Secretary may, by notice in writing served on an applicant for a licence, direct the applicant to provide such information to the Secretary as the Secretary may reasonably require for the purpose of determining the application.

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- (2) The Secretary may refuse an application on the ground that the applicant has failed to comply with any such direction.

24. Notice of reasons for refusal of application

If the Secretary refuses an application for a licence, the Secretary must immediately cause the applicant to be notified in writing –

- (a) that the Secretary has refused the application; and
- (b) of the grounds on which the Secretary has refused the application; and
- (c) if the Secretary refuses the application on the ground that the applicant is not a fit and proper person to be a licensee, of the reasons why the applicant is considered not to be a fit and proper person to be a licensee.

25. Advertising of applications

Before –

- (a) approving in principle an application for a licence, or refusing any such application under section 12; or
- (b) determining an application to transfer a licence –

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the Secretary is to cause the application to be publicly advertised in such manner as the Secretary thinks fit and is to take into consideration any representations made in respect of the application within the time specified in the advertisement.

26. Amendment of applications

An applicant may, with the approval of the Secretary, amend an application for a licence.

Division 4 – Review of decisions of Secretary

27. Interpretation of Division 4

In this Division –

“**decision of the Secretary**” means –

- (a) a decision of the Secretary to refuse an application; or
- (b) a determination by the Secretary, when issuing a licence, of the class or classes of establishments for which the licence is issued; or
- (c) a determination by the Secretary, when issuing a licence for a private hospital, of the maximum number of patients who may be accommodated overnight at any one time in the hospital; or

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- (d) a determination by the Secretary, when issuing a licence for a residential care service, of the maximum number of residents who may be accommodated overnight; or
 - (e) a determination by the Secretary of the conditions subject to which a licence is issued; or
 - (f) a decision of the Secretary to require the licensee of an establishment to carry out repairs, maintenance, alterations, extensions or improvements to the establishment; or
 - (g) a decision of the Secretary to amend a licence (otherwise than on the application of the licensee); or
 - (h) a decision of the Secretary to cancel a licence.

**28. Right of appeal to Magistrates Court
(Administrative Appeals Division)**

A person aggrieved by a decision of the Secretary may appeal to the Magistrates Court (Administrative Appeals Division) in accordance with the *Magistrates Court (Administrative Appeals Division) Act 2001*.

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Part 4 – Licensing of Establishments

Division 5 – Cancellation of licences

29. Cancellation of licence without notice

The Secretary may cancel the licence for an establishment without holding an inquiry or giving any notice to the licensee –

- (a) if the licensee requests the Secretary in writing to cancel the licence; or
- (b) if the premises to which the licence relates have ceased to be an establishment of a class in respect of which the licence was issued; or
- (c) in the case of a temporary licence, if the Secretary considers that it is appropriate to do so.

30. Cancellation of licence with notice

(1) The Secretary may cancel the licence for an establishment –

- (a) if the annual licence fee payable under section 18 in respect of the establishment has not been paid by the due date; or
- (b) if the licensee is considered no longer to be a fit and proper person to be a licensee; or
- (c) if the licensee or, where the licensee is a corporation, any director or other person

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concerned in the management of the corporation is convicted of an offence under this Act or the regulations; or

- (d) if the licensee (or, where the licensee is a corporation, any director or other person concerned in the management of the corporation) is convicted in Tasmania of an offence punishable by imprisonment for a period of 12 months or more, or is convicted elsewhere than in Tasmania of an offence which, if committed in Tasmania, would be an offence so punishable; or
- (e) if the licensee commits a breach of any condition to which the licence is subject; or
- (f) if the licensee, in the case of a natural person, becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (g) where the licensee is a corporation, if a receiver or manager has been appointed in respect of the property of the licensee or if the licensee has commenced to be wound up or is under official management; or

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- (h) if the establishment has not been conducted in accordance with the licensing standards applicable to it; or
 - (i) if the establishment is conducted in such a manner –
 - (i) that reasonable standards of patient care have not been maintained; or
 - (ii) that the cancellation of the licence is otherwise, in the Secretary's opinion, in the public interest.
- (2) The Secretary may, for the purpose of exercising any of his or her powers under subsection (1), cause an inquiry to be made by a person appointed by the Secretary for the purpose.
- (3) The Secretary is not to cancel a licence under this section unless, before cancelling the licence, the Secretary –
 - (a) has given notice to the licensee that he or she intends to cancel the licence; and
 - (b) has specified in that notice the reasons for the Secretary's intention to cancel the licence; and
 - (c) has given the licensee (whether in the course of an inquiry under subsection (2) or otherwise) a reasonable opportunity to make submissions to the Secretary in respect of the proposed cancellation; and

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- (d) has taken into consideration any such submissions by the licensee.
- (4) The cancellation of a licence under this section does not take effect until the expiration of 14 days after notice of the Secretary's decision is given to the licensee, subject to any order made under the *Magistrates Court (Administrative Appeals Division) Act 2001*.

PART 5 – CONDUCT OF ESTABLISHMENTS

31. Duty to comply with *Aged Care Act 1997* of Commonwealth

(1) In this section –

“Commonwealth Act” means the *Aged Care Act 1997* of the Commonwealth.

- (2) A licensee must provide for each resident of a residential care service who is not a funded resident a standard of accommodation and a standard of care as required by any enactment or under any guidelines published under any law of the Commonwealth or Tasmania.
- (3) Without limiting subsection (2), the Minister may, by order published in the *Gazette*, declare that any Quality of Care Principles in respect of aged care that are in force under Chapter 4 of the Commonwealth Act or any Principles made by the Minister administering that Act in force under Chapter 7 of that Act are to apply as a law of Tasmania.
- (4) It is the duty of the licensee of an establishment to provide for the health, wellbeing, personal care and social and cultural needs of all persons for whom any health service is provided and, in particular –
- (a) to maintain an adequate number of appropriately skilled staff to ensure that the needs of all such persons are met; and

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- (b) to provide care and services of a quality that is consistent with any rights and responsibilities of those persons; and
 - (c) to comply with the Accreditation Standards, Residential Care Standards, Community Care Standards and Flexible Care Standards, as may be appropriate, in force under the Commonwealth Act; and
 - (d) to provide access to an appropriate complaints mechanism for those persons; and
 - (e) to provide such care and services as are required by any other Principles in respect of aged care that are in force under this section.
- (5) A licensee who fails to discharge any of his or her duties under this section is guilty of an offence punishable on summary conviction by a fine not exceeding 100 penalty units and, in the case of a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues.

32. Unauthorised procedures

If –

- (a) any type A or type B procedures are carried out without the authority of a licence as required under section 5(1); or

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- (b) any type C procedures which require licensing under section 5(3) are carried out without the authority of a licence; or
- (c) any procedures are carried out in premises which are required to be licensed under section 5(4) but which are not so licensed –

the manager of the premises at which the procedures are carried out is guilty of an offence punishable on summary conviction by a fine not exceeding 100 penalty units and, in the case of a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues.

33. Unlicensed private hospitals

- (1) A person must not conduct a private hospital unless –
 - (a) the private hospital is licensed; and
 - (b) the person is the licensee.

Penalty: Fine not exceeding 100 penalty units and, in the case of a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues.

- (2) If, in any proceedings, it is shown that –

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- (a) during any month, 2 or more persons who are not members of the family of the occupier of premises; or
- (b) during any year, 6 or more persons who are not members of that family –

have been accommodated in the premises and that those persons have been provided at the premises with medical, surgical or other treatment and with ancillary nursing care, that fact is evidence that the premises are a private hospital (whether or not there is any evidence that a charge was made for the treatment).

34. Unlicensed day-procedure centres

- (1) A person must not conduct a day-procedure centre unless –
 - (a) the day-procedure centre is licensed; and
 - (b) the person is the licensee.

Penalty: Fine not exceeding 100 penalty units and, in the case of a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues.

- (2) A day-procedure centre is not required to be licensed if it is conducted in the same premises as a licensed private hospital and by the same person who conducts the private hospital.

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35. Unlicensed residential care service

A person must not provide a residential care service unless –

- (a) he or she holds a licence authorising the residential care service; or
- (b) residential care services are provided for funded residents only; or
- (c) the Secretary has exempted under section 5(6) the residential care service from the requirement to be licensed.

Penalty: Fine not exceeding 100 penalty units and, in the case of a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues.

36. Executor or administrator regarded as licensee

If the licensee of an establishment dies and he or she was the only licensee of the establishment, the executor of the will or administrator of the estate of the licensee is taken to be the licensee for a period not exceeding 2 months or such longer period as the Secretary may, in writing, approve.

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37. Purposes for which establishments may be used

- (1) The licensee of an establishment must not cause or permit the licensed premises to be used for any purpose other than the following purposes:
- (a) the conduct of an establishment of the class or classes specified in the licence;
 - (b) a purpose permitted by a condition to which the licence is subject;
 - (c) a purpose which is prescribed by the regulations for the purposes of this paragraph.

Penalty: Fine not exceeding 20 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.

- (2) A reference in subsection (1)(a) to the conduct of an establishment does not include a reference to the conduct of a pharmacist's shop or dispensary in the establishment.

38. Overcrowding

- (1) The licensee of an establishment must not cause or permit the number of patients accommodated overnight at any one time in the establishment to exceed the number of patients specified in the licence.

Penalty: Fine not exceeding 20 penalty units.

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- (2) The licensee of an establishment is not guilty of an offence under this section in respect of anything done in an emergency.

39. Chief nurse of establishment

- (1) This section applies to an establishment that is a day-procedure centre or a private hospital.
- (2) The licensee of an establishment to which this section applies must not conduct the establishment unless –
 - (a) there is a person who carries out the duties of chief nurse of the establishment and who is responsible for the care of the patients in the establishment as prescribed by the regulations; and
 - (b) that person is a registered nurse and has such experience as the Secretary considers necessary for the proper conduct of the establishment.

Penalty: Fine not exceeding 20 penalty units.

- (3) The licensee of an establishment to which this section applies is not guilty of an offence under subsection (2) merely because, from time to time (not exceeding at any one time a period of 21 days), there is no person who is a registered nurse with the experience referred to in subsection (2)(b) carrying out the duties of chief nurse of the establishment.

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- (4) Except as may be provided by the regulations, the licensee of an establishment to which this section applies must notify the Secretary in writing of the full name and the qualifications of the person who carries out the duties of chief nurse of the establishment.

Penalty: Fine not exceeding 5 penalty units.

- (5) A notification under subsection (4) –
- (a) is to be given before the person to whom it relates commences to carry out the duties of chief nurse or, if that is not practicable, immediately after that time; and
 - (b) is to be accompanied by such particulars as may be prescribed.
- (6) Nothing in this Act prevents the licensee of an establishment to which this section applies who is a natural person from carrying out the duties of chief nurse of the establishment if the licensee is qualified to carry out those duties.
- (7) It is a defence to a prosecution for an offence under this section if the person charged proves that he or she took all such steps as are reasonable in the circumstances to avoid the commission of the offence.

40. Title of “matron” and “director of nursing”

- (1) The licensee of an establishment or a person employed at the establishment must not use the

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title “matron” or “director of nursing” unless the licensee or person is the chief nurse of the establishment.

Penalty: Fine not exceeding 20 penalty units.

- (2) The licensee of an establishment must not permit a person employed at the establishment to contravene this section.

Penalty: Fine not exceeding 20 penalty units.

41. Registered nurse to be on duty

The licensee of an establishment must, at all times while the establishment is being conducted, cause a registered nurse to be on duty in the establishment, unless the establishment is exempt from this requirement under any condition to which the licence is subject.

Penalty: Fine not exceeding 20 penalty units.

42. Register of patients

- (1) The licensee of an establishment must cause a register of patients to be kept, in a form approved by the Secretary, at the establishment.
- (2) The following particulars are to be entered in the register of patients:
- (a) the name, age and residential address of each patient at the establishment;

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- (b) the date when the patient was received at the establishment;
 - (c) the date when the patient left the establishment or, in the event of the patient's death, the date of death;
 - (d) the name of the medical practitioner attending the patient;
 - (e) such other particulars as may be prescribed.
- (3) The particulars referred to in subsection (2) are to be entered in the register of patients by the persons, at the time and in the manner, approved by the Secretary for the purposes of this subsection.
- (4) A person must not –
- (a) enter in the register of patients any particular that the person knows or has reason to believe to be false or misleading in a material particular; or
 - (b) wilfully fail to enter in the register of patients any particular which the person is required by subsection (2) to enter.

Penalty: Fine not exceeding 20 penalty units.

43. Copy of Act and regulations to be available

The licensee of an establishment must, at all times while the establishment is being

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conducted, cause a copy of this Act and the regulations to be readily available at the establishment for inspection by the chief nurse.

Penalty: Fine not exceeding 5 penalty units.

PART 6 – MISCELLANEOUS

44. Delegation

The Secretary may delegate any of his or her functions or powers under this Act.

45. Disclosure of pecuniary interests to patients

- (1) If a practitioner has a pecuniary interest in an establishment, the practitioner must not –
 - (a) advise a person to be admitted to the establishment; or
 - (b) arrange the admission of a person to the establishment; or
 - (c) provide medical, surgical or other treatment to, or arrange the provision of any such treatment to, any patient in the establishment –

unless, before so doing, the practitioner has notified the person or patient, in the prescribed manner, that the practitioner has a pecuniary interest in the establishment.

Penalty: Fine not exceeding 20 penalty units.

- (2) The regulations may provide, for the purposes of subsection (1), that the manner of notification is to be any one or more of the following:
 - (a) a statement made by the practitioner;

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- (b) a written notification given by the practitioner and, if so required by the regulations, signed by the person to whom it is given;
 - (c) a notice displayed prominently at the establishment;
 - (d) a notice displayed prominently in any surgery or other premises of the practitioner.
- (3) A person is not guilty of an offence under subsection (1) if the person proves that he or she –
 - (a) contravened that subsection in the course of providing emergency medical, surgical or other treatment to a person; or
 - (b) was not, at the time the contravention occurred, aware that he or she had a pecuniary interest in the establishment concerned.
- (4) For the purposes of this section, a practitioner has a pecuniary interest in an establishment only if the practitioner has an interest in the establishment of a kind which is prescribed by the regulations as a pecuniary interest in the establishment.
- (5) The regulations may provide that an interest of a relative or associate of a practitioner is taken to be a pecuniary interest of the practitioner.

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46. Power to enter and inspect establishments

- (1) A person authorised by the Secretary to do so may, at any time, enter and inspect –
 - (a) any licensed establishment; or
 - (b) any premises which are the subject of an application for a licence.
- (2) Every person so authorised is to be provided by the Secretary with a certificate of authority, and on applying for admission to any premises which the person is empowered by this section to enter must, if requested to do so, produce the certificate to the person apparently in charge of the premises.

Penalty: Fine not exceeding 10 penalty units.

47. Power to inspect registers and records

- (1) In this section –

“prescribed records”, in respect of an establishment, means the register of patients or any other records required by or under this Act to be kept at the establishment.
- (2) A person authorised by the Secretary under section 46 –
 - (a) may inspect and take copies of, or extracts from, any prescribed records of an establishment; or

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- (b) may take and retain possession of any prescribed records of an establishment for such period as is necessary to enable those records to be inspected and copies of, or extracts from, those records to be taken.
- (3) Where a person retains possession of any prescribed records of an establishment under subsection (2)(b), the person must, during the period for which he or she retains possession of them –
 - (a) permit a person who is entitled to inspect any one or more of those records to inspect at all reasonable times such of the records as he or she is entitled to inspect; and
 - (b) permit a person who is required by or under this Act to make an entry in those records to make the entry at any reasonable time.
- (4) Subsection (2)(b) does not authorise a person who takes possession of any prescribed records of an establishment to remove those records from the establishment if those records –
 - (a) relate to a person who is then a patient of the establishment; and
 - (b) may be required to be referred to for the purposes of providing the patient with nursing care or medical, surgical or other treatment.

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- (5) Subject to subsections (6) and (7), in any legal proceedings (whether or not proceedings under this Act) a copy of or extract from a prescribed record is admissible in evidence as if it were the original record or the relevant part of the original record.
 - (6) A copy of or extract from a prescribed record is not admissible in evidence under subsection (5) unless it is proved that the copy or extract is a true copy of the record or of the relevant part of the record.
 - (7) For the purposes of subsection (6), evidence that a copy of or extract from a prescribed record is a true copy of the record or of a part of the record may be given by a person who has compared the copy or extract with the record or the relevant part of the record and may be given either orally or by an affidavit sworn, or by a declaration made, before a person authorised to take affidavits or statutory declarations.

48. Obstruction of officers

A person must not wilfully hinder, obstruct or delay any person in the performance of any function under this Act.

Penalty: Fine not exceeding 20 penalty units.

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49. False or misleading statements, &c.

A person must not, in any application under this Act (including an application for review), or in support of any such application, or for the purposes of any inquiry under this Act –

- (a) make a statement knowing it to be false or misleading; or
- (b) omit any matter from a statement knowing that without that matter the statement is false or misleading.

Penalty: Fine not exceeding 20 penalty units.

50. Evidentiary certificates

A certificate which purports to be signed by the Secretary and which states that, on a date specified in the certificate –

- (a) a person so specified was or was not the licensee of an establishment so specified; or
- (b) any premises so specified were or were not licensed; or
- (c) the licence for an establishment so specified was cancelled; or
- (d) any particulars so specified were the particulars specified in the licence for an establishment so specified; or

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- (e) the licence for an establishment so specified was subject to any condition so specified –

is admissible in evidence in any legal proceedings as evidence of the matters stated in the certificate.

51. Service of notices by Secretary

- (1) If, under this Act, a notice or other document is required to be or may be given or served by the Secretary, that notice may be given to or served on –

- (a) a natural person –

- (i) by delivering it to the person personally; or
- (ii) by leaving it at his or her place of residence last known to the Secretary with a person who apparently resides there or, if the person is a licensee, by leaving it at the establishment to which the licence relates with a person apparently employed at the establishment (if in either case the person is apparently 16 years of age or more); or
- (iii) by sending it by post addressed to the person at that place of

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residence or that establishment;
or

(b) a corporation –

(i) by delivering it to a person who is apparently engaged in the control or management of the corporation; or

(ii) by leaving it at the registered office of the corporation with a person who is apparently employed at that office or, if the corporation is a licensee, by leaving it at the establishment to which the licence relates with a person who is apparently employed at the establishment (if in either case the person is apparently 16 years of age or more); or

(iii) by sending it by post addressed to the corporation at that registered office or that establishment.

(2) A notice or other document that is sent by post in accordance with subsection (1) must, in the absence of evidence to the contrary, be taken to have been given or served when it would have been delivered in the ordinary course of post.

52. Offences by corporations

- (1) If a corporation contravenes any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.
- (2) A person may be proceeded against and convicted under a provision under subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.
- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

53. Proceedings for offences

Proceedings for offences against this Act or the regulations are to be dealt with summarily by a magistrate sitting alone.

54. Provision of information

A person who conducts an establishment must provide the Secretary with any information that in the opinion of the Secretary is required for the purposes of this Act.

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Penalty: Fine not exceeding 100 penalty units.

55. Confidentiality

- (1) A person who is, or has been, employed in performing functions related to the administration of this Act must not disclose confidential information acquired in the course, or as a result, of performing those functions except –
- (a) in the course of carrying out official duties; or
 - (b) as authorised by the person to whom the duty of confidentiality is owed; or
 - (c) as authorised by the regulations; or
 - (d) as required by a court or other lawfully constituted authority; or
 - (e) as authorised by the Secretary after consultation, where practicable, with the person to whom the duty of confidentiality is owed.

Penalty: Fine not exceeding 200 penalty units.

- (2) No civil liability attaches to any person for a disclosure of confidential information made as authorised under subsection (1).

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56. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may make provision for, or with respect to, the following:
 - (a) fees payable to the Secretary for the administration of this Act;
 - (b) the display of licences at establishments;
 - (c) the supply by the licensee of an establishment to the Secretary of information relating to –
 - (i) any particulars that are required to be provided when an application for a licence is made; and
 - (ii) the number of patients, and the length of stay of patients, at the establishment and the provision of health services to those patients; and
 - (iii) staffing at the establishment;
 - (d) the supply by the licensee of an establishment to the Secretary of a copy of the register of patients for the establishment or a copy of a part of that register;

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- (e) the safety, care or quality of life of patients at establishments, including the following matters:
 - (i) design and construction of premises;
 - (ii) facilities and equipment;
 - (iii) clinical standards, including accreditation of practitioners to provide services at the establishment, delineation of clinical privileges of practitioners and quality assurance;
 - (iv) staffing, including qualifications of staff members, number of staff and duties;
 - (v) operational matters, including administration and support services;
 - (vi) clinical records, including access by patients to, and confidentiality of, those records;
 - (vii) management of private hospitals and other establishments which are funded by the State;
- (f) the requirement that any information submitted for the purposes of this Act is to be supported by a statutory declaration.

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- (3) The regulations may adopt, either wholly or in part and with or without modification and either specifically or by reference, any of the standards, rules, codes, specifications, management plans or similar documents of any body approved by the Minister, whether the standards, rules, codes, specifications, management plans or documents are published, made or amended before or after the commencement of the regulations.
- (4) A reference in subsection (3) to standards, rules, codes, specifications, management plans or documents includes an amendment of those standards, rules, codes, specifications, management plans or documents whether the amendment is published, made or issued before or after the commencement of the regulations.
- (5) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (6) Any such provision may, if the regulations so provide, take effect from the commencement date or a later day.
- (7) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the *Gazette*, the provision does not operate so as –
- (a) to affect, in a manner prejudicial to any person (other than the State or a statutory authority), the rights of that person existing before the date of its publication;
or

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- (b) to impose liabilities on any person (other than the State or a statutory authority) in respect of anything done or omitted to be done before the date of its publication.
- (8) A regulation (including a regulation prescribing a licensing standard) may create an offence punishable by a penalty not exceeding 5 penalty units.

57. Savings and transitional provisions

The savings and transitional provisions specified in Schedule 2 have effect.

58. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Health and Human Services; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Health and Human Services.

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59. Consequential Amendments

The legislation specified in Schedule 3 is amended as specified in that Schedule.

60. Act repealed

The Act specified in Schedule 4 is repealed.

**SCHEDULE 1 – MEMBERS AND PROCEDURE OF
HEALTH SERVICE ESTABLISHMENTS ADVISORY
COMMITTEE**

Section 6(5)

1. Chairperson of Advisory Committee

- (1) One of the members is to be appointed, in the member's instrument of appointment or a subsequent instrument executed by the Secretary, as Chairperson of the Advisory Committee.
- (2) The Secretary may remove a member from the office of Chairperson.
- (3) A person who is a member and Chairperson is taken to have vacated office as Chairperson if the person –
 - (a) is removed from that office by the Secretary under this clause; or
 - (b) resigns that office by instrument in writing addressed to the Secretary; or
 - (c) ceases to be a member.

2. Deputies for members

- (1) The Secretary may, from time to time, appoint a person to be the deputy of a member of the Advisory Committee (including the Chairperson).

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- (2) A person must not be appointed as a deputy of any member unless the person has the same qualifications as that member for appointment.
 - (3) A deputy may act in the office of the member for whom he or she is the deputy during the illness or absence of that member and, while so acting, has all the functions of the member.
 - (4) The Secretary may remove at any time a deputy from any office to which the deputy was appointed under this clause.
 - (5) A deputy while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Secretary may from time to time determine in respect of the deputy.
 - (6) For the purposes of this clause, a vacancy in the office of a member is taken to be an absence of the member.

3. Term of office

A member is to, subject to this Schedule, hold office for such term, not exceeding 3 years, as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for reappointment.

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4. Remuneration

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Secretary may from time to time determine in respect of the member.

5. Vacation of office

- (1) A member is taken to have vacated office if the member –
- (a) dies; or
 - (b) absents himself or herself from 4 consecutive meetings of the Advisory Committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Committee or unless, before the expiration of a period of 4 weeks after the last of those meetings, the member is excused by the Committee for being absent from those meetings; or
 - (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or

- (d) is being treated for a mental health condition or under guardianship; or
 - (e) is convicted in Tasmania of an offence which is punishable by imprisonment for 12 months or more or is convicted elsewhere than in Tasmania of an offence which if committed in Tasmania would be an offence so punishable; or
 - (f) resigns the office by instrument in writing addressed to the Secretary; or
 - (g) is removed from office by the Secretary under subclause (2).
- (2) The Secretary may remove a member from office at any time.

6. Filling of vacancy in office of member

If the office of any member becomes vacant, a person must, subject to this Act, be appointed to fill the vacancy.

7. Effect of certain other Acts

- (1) The *State Service Act 2000* does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act.
- (2) If by or under any other Act provision is made –
 - (a) requiring a person who is the holder of a specified office to devote the whole of

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his or her time to the duties of that office;
or

- (b) prohibiting the person from engaging in employment outside the duties of that office –

that provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

- (3) The office of a member is not for the purposes of any Act to be taken not to be an office or place of profit under the Crown.

8. Liability of members, &c.

Any matter or thing done by the Advisory Committee, or by any member or person acting under the direction of the Committee, if the matter or thing was done in good faith for the purpose of executing this or any other Act, does not subject a member or a person so acting personally to any action, liability, claim or demand.

9. General procedure

The procedure for the calling of meetings of the Advisory Committee and for the conduct of business at those meetings must, subject to this Act, be as determined by the Committee.

10. Quorum

The quorum for a meeting of the Advisory Committee is a majority of the members for the time being appointed by the Secretary.

11. Presiding member

- (1) The Chairperson or, in the absence of the Chairperson, another member elected to chair the meeting by the members present must preside at a meeting of the Advisory Committee.
- (2) The person presiding at any meeting of the Advisory Committee has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

12. Voting

A decision supported by a majority of the votes cast at a meeting of the Advisory Committee at which a quorum is present is taken to be the decision of the Advisory Committee.

13. First meeting of Advisory Committee

The Secretary must call the first meeting of the Advisory Committee in such manner as the Secretary thinks fit.

**SCHEDULE 2 – SAVINGS AND TRANSITIONAL
PROVISIONS**

Section 57

1. Existing licences

- (1) A licence for an establishment that was in force under the former Act immediately before the commencement date is taken to have been issued under this Act.
- (2) The licence is taken to be subject to the conditions specified in the licence immediately before the commencement date.
- (3) Nothing in subclause (2) affects the operation of section 22.

2. Pending applications for licences

- (1) An application for a licence for an establishment made under the former Act that has not been determined before the repeal of section 61 of the former Act is taken to be an application for a licence under section 9.
- (2) If the Secretary has, under section 61 of the former Act, approved (whether or not subject to conditions) the plans and specifications relating to any building to be constructed, altered or extended that accompany an application for a licence for an establishment, the Secretary –

- (a) may not, under section 10 of this Act, impose a condition relating to the construction or design of the building on an approval of the application in principle; and
- (b) may, without limiting the operation of Division 2 of Part 4, refuse an application if the building is not constructed, altered or extended in accordance with those plans and specifications or if a condition to which the approval of the plans and specifications was subject has not been complied with.

3. Pending applications to transfer licences

An application to transfer a licence for an establishment made under section 61 of the former Act that has not been determined before the commencement date is taken to have been made under this Act and is to be dealt with in accordance with this Act.

4. Pending applications to alter establishments

An application to alter or extend an establishment made under section 65 of the former Act that has not been determined before the commencement date is taken to have been made under this Act and is to be dealt with in accordance with this Act.

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5. Notice

- (1) A notice given to a licensee of an establishment under the former Act and in force immediately before the commencement date is taken to have been given under section 21 and is to have effect accordingly.
- (2) If a notice was given to a licensee of an establishment under the former Act less than 14 days before the commencement date –
 - (a) the licensee may apply to the Secretary for a review of the decision of the Secretary to issue the notice; and
 - (b) the notice does not take effect until the expiration of 14 days after the notice has been given to the licensee.

6. Pending applications to amend licences

An application for amendment of a licence for an establishment made under the former Act that has not been determined before the commencement date is taken to have been made under this Act and is to be dealt with in accordance with the provisions of this Act.

7. Requests for review

A request for review of a decision of the Secretary relating to an establishment that was made under the former Act and that has not been

determined by the Secretary immediately before the commencement date is taken to be an application for review made under this Act and must be dealt with in accordance with the provisions of this Act.

8. Inquiry

Where, immediately before the commencement date, an inquiry relating to the cancellation of a licence for an establishment was being made (or continued by the former Act), the inquiry may continue as if it were made under section 30(2) of this Act.

9. Cancellation

If, immediately before the commencement date, the licensee or manager of a private medical establishment, within the meaning of the former Act, is disqualified from holding a licence or being a manager under section 68 or 70A of that Act, he or she is taken to be disqualified from holding a licence under this Act.

10. Appeal

Any appeal against a decision of the Minister under section 70I of the former Act that was pending immediately before the commencement date is taken to be pending under section 28 of

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this Act and may be heard and determined accordingly.

11. Authority to enter and inspect premises

Any person who, immediately before the commencement date, was authorised under the former Act to perform any functions specified in that Act (in respect of any licensed establishment or any premises of a proposed establishment) is taken to be a person authorised under this Act.

12. References to former Act

A reference in any other Act, in any instrument made under any Act or in any other instrument of any kind to, or required (immediately before the commencement date) to be construed as a reference to, the *Hospitals Act 1918*, in so far as the reference relates to establishments, is to be read as a reference to this Act.

13. Saving for type B procedures

Where, during the period of 12 months immediately before the commencement date, type B procedures but no type A procedures were undertaken in any premises, those premises are not required to be licensed until 6 months after that date.

SCHEDULE 3 – CONSEQUENTIAL AMENDMENTS

Section 59

Ambulance Service Act 1982

1. Section 3 is amended by omitting the definition of “private medical establishment”.
2. Section 36(2) is amended by omitting paragraph (c) and substituting the following paragraph:
 - (c) a private hospital within the meaning of the *Health Service Establishments Act 2006*; or

Approvals (Deadlines) Act 1993

1. Schedule 1 is amended by omitting

Hospitals Act 1918

Approval of alteration or addition to private medical establishments

60 days from the day on which plans, specifications and descriptions under section 65 (1) of the *Hospitals Act 1918* are received by the responsible Minister.

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Duties Act 2001

1. Section 227(1)(a) is amended by omitting “*Hospitals Act 1918*” and substituting “*Health Service Establishments Act 2006*”.

Health Act 1997

1. Section 3 is amended by omitting “a private medical establishment within the meaning of the *Hospitals Act 1918*” from the definition of “health service establishment” and substituting “an establishment within the meaning of the *Health Service Establishments Act 2006*”.

Perinatal Registry Act 1994

1. Section 16 is amended as follows:
 - (a) by omitting “a private medical” from paragraph (a) of the definition of “attendant” in subsection (1) and substituting “an”;
 - (b) by omitting “a private medical” first occurring from paragraph (c) of the definition of “attendant” in subsection (1) and substituting “an”;
 - (c) by omitting “a private medical” from paragraph (c)(iii)(A) of the definition of “attendant” in subsection (1) and substituting “an”;

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- (d) by omitting “a private medical” from paragraph (d) of the definition of “attendant” in subsection (1) and substituting “an”;
- (e) by inserting the following definition after the definition of “attendant” in subsection (1):

“establishment” has the same meaning as in the *Health Service Establishments Act 2006*;

- (f) by omitting the definition of “private medical establishment” from subsection (1);
- (g) by omitting from subsection (3)(a) “a private medical” and substituting “an”.

Public Health Act 1997

1. Section 94(2) is amended by omitting paragraph (c) and substituting the following paragraph:

(c) *Health Service Establishments Act 2006*;

Public Trustee Act 1930

1. Section 61(2) is amended by omitting “private medical establishment within the meaning of the *Hospitals Act 1918*” from the definition of “charges for medical treatment” and substituting

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“establishment within the meaning of the *Health Service Establishments Act 2006*”.

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SCHEDULE 4 – ACT REPEALED

Section 60

Hospitals Act 1918 (No. 70 of 1918)