



New South Wales

# Public Hospitals Regulation 1996

under the

Public Hospitals Act 1929

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Public Hospitals Act 1929*.

Andrew Refshauge

Deputy Premier and Minister for Health

## Explanatory note

The object of this Regulation is to repeal the *Public Hospitals Regulation 1991* and to remake it in substantially the same form.

This Regulation deals with the following:

- the appointment of visiting practitioners to public hospitals that are not under the control of an area health service,
- the management of Samaritan Funds,
- other matters of a minor, consequential or ancillary nature.

This Regulation comprises or relates to matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

This Regulation is made under the *Public Hospitals Act 1929*, and, in particular, under sections 11 (Power and duties of Director-General as to inquiries and inspections), 29L (Appointment of arbitrator), 33J (Notice of appeal), 40A (Samaritan Fund) and 42 (the general regulation making power).

This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

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## Public Hospitals Regulation 1996

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Public Hospitals Regulation 1996*.

#### 2 Commencement

This Regulation commences on 1 September 1996.

#### 3 Definitions

(1) In this Regulation:

***appointment*** includes re-appointment.

***board***, in relation to a hospital that is a separate institution, includes the governing body of the separate institution.

***clinical privileges***, in relation to a visiting practitioner to a hospital, means the kind and extent of work that the board of the hospital determines the visiting practitioner is to be allowed to perform at the hospital.

***Department*** means the Department of Health.

***Director-General*** means the Director-General of the Department.

***medical appointments advisory committee***, in relation to a hospital, means a committee:

- (a) established by the board of the hospital, and
- (b) having the function of advising the board in relation to the appointment of persons as visiting practitioners to the hospital and the clinical privileges that should be allowed to those persons.

***the Act*** means the *Public Hospitals Act 1929*.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

#### 4 Notes

The explanatory note and table of contents do not form part of this Regulation.

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Clause 5            Public Hospitals Regulation 1996

Part 2             Visiting practitioners

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## **Part 2        Visiting practitioners**

### **5    Application of Part**

This Part does not apply to a hospital that is under the control of an area health service.

### **6    Advertising of available appointments as visiting practitioners**

- (1) If the board of a hospital decides to make available an appointment as a visiting practitioner to the hospital, it must advertise the availability of the appointment in at least one newspaper circulating generally in New South Wales. The board may, in addition, advertise the availability in other ways.
- (2) An application for appointment as a visiting practitioner to a hospital is to be made in writing to the board of the hospital and is to include:
  - (a) a statement setting out the clinical privileges sought by the applicant, and
  - (b) an authority for the medical appointments advisory committee of the hospital to obtain information as to the applicant's past performance as a medical practitioner or dentist, as the case may be.
- (3) On receipt of the application, the board is to refer the application to that committee for advice.
- (4) Subclauses (1)–(3) do not apply:
  - (a) to an appointment as a visiting practitioner that is to be held as part of the duties of a person who is to be or has been appointed to a teaching position at a tertiary institution, or
  - (b) to an appointment as a visiting practitioner that is to be held by a person for a period of not more than 3 months, or
  - (c) to any appointment as a visiting practitioner, to the extent that the Director-General determines that the provisions of those subclauses are not to apply.

- (5) A determination under subclause (4) (c):
- (a) may be made in respect of a particular appointment or in respect of appointments of any specified kind or description, and
  - (b) must be made in writing, and
  - (c) must not be made except on the recommendation of the medical appointments advisory committee of the hospital concerned and at the request of the board of the hospital.

#### **7 Appointment and conditions to be in written agreement**

- (1) A person is to be appointed as a visiting practitioner to a hospital by written agreement between the person and the hospital.
- (2) The written agreement must specify the conditions to which the appointment is subject, including the clinical privileges of the visiting practitioner.
- (3) However, subclause (2) does not require conditions prescribed by or under the Act to be included in the written agreement.

#### **8 Term of appointment**

- (1) The period for which a person may be appointed as a visiting practitioner to a hospital is such period (not exceeding 5 years) as the board of the hospital determines.
- (2) A person is, if otherwise qualified, eligible for re-appointment from time to time.
- (3) Despite subclause (1), a person may be appointed as a visiting practitioner for the duration of the person's appointment to a teaching position at a tertiary institution (or for such lesser period as the board may determine) if the board has first obtained the advice of the medical appointments advisory committee about the length of the appointment.

#### **9 Resignation**

- (1) A person may resign an appointment as a visiting practitioner to a hospital by giving 3 months' written notice of resignation to the board of the hospital.
- (2) However, a board of a hospital may waive that requirement for notice or accept a lesser period of time for the giving of such notice if, in the opinion of the board, it is reasonable to do so.

## **Part 3      Miscellaneous**

### **10   Application for appointment of arbitrator—sessional contract determinations**

For the purposes of section 29L (I) of the Act, Form 1 is the prescribed form.

### **11   Application for appointment of arbitrator—fee-for-service contract determinations**

For the purposes of section 29L (3) of the Act, Form 2 is the prescribed form.

### **12   Notice of appeal**

For the purposes of section 33J (1) of the Act:

- (a)   Form 3 is the prescribed form, and
- (b)   a notice under that subsection is given in the prescribed manner if it is delivered or sent by-post to an office of the Department.

### **13   Samaritan Funds**

- (1)   A Samaritan Fund is to be kept as a separate account in the Special Purposes and Trust Fund for the hospital or area health service for which the Samaritan Fund is established.
- (2)   The Minister may determine the manner in which the accounts for a Samaritan Fund are to be kept and the circumstances in which those accounts are to be audited.
- (3)   Money is not to be withdrawn from a Samaritan Fund except by, or with the written approval of, the chief executive officer (or person authorised in writing by the chief executive officer) of the hospital or area health service in respect of which the Samaritan Fund is kept.
- (4)   Money is not to be withdrawn from a Samaritan Fund except for payment to, or for the purchase of items for, a necessitous patient or necessitous outgoing patient. The payment or purchase may be made only if it is essential to the well-being of the patient.

- (5) In this clause:

*Samaritan Fund* means the Samaritan Fund referred to in section 40A (3) of the Act.

*Special Purposes and Trust Fund*, in relation to a hospital, means the fund of that name established by the hospital or, in the case of a hospital that is under the control of an area health service, by the area health service.

#### 14 Inspections authorised by Director-General

For the purposes of section 11 (4) of the Act, Form 4 is the prescribed form.

#### 15 Repeal

- (1) The *Public Hospitals Regulation 1991* is repealed.
- (2) Any act, matter or thing that was done for the purposes of, or immediately before that repeal had effect under, that Regulation is taken to have been done for the purposes of, or to have effect under, this Regulation.

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Schedule 1      Forms

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## **Schedule 1      Forms**

### **Form 1      Application for appointment of arbitrator for sessional contract determination**

(Clause 10)

Public Hospitals Act 1929

(Section 29L (1))

\*The New South Wales Branch of the Australian Medical Association and the Minister for Health

\*The New South Wales Branch of the Australian Medical Association

\*The Minister for Health

requests the Attorney General to appoint a member of the Industrial Relations Commission of New South Wales to be the arbitrator for the purposes of making a determination under section 29M (1) of the *Public Hospitals Act 1929*.

The terms, conditions, amounts or rates of remuneration, and the bases on which those amounts or rates are applicable, that are proposed for inclusion in sessional contracts are set out in the attached schedule.

Applicant .....

Date .....

The Attorney General

Sydney

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\*Delete whichever does not apply.



Public Hospitals Regulation 1996

Forms

Schedule 1

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## **Form 2      Application for appointment of arbitrator for fee-for-service contract determination**

(Clause 11)

Public Hospitals Act 1929

(Section 29L (3))

\*The New South Wales Branch of the Australian Medical Association and the Minister for Health

\*The New South Wales Branch of the Australian Medical Association

\*The Minister for Health

requests the Attorney General to appoint a member of the Industrial Relations Commission of New South Wales to be the arbitrator for the purposes of making a determination under section 29M (1A) of the *Public Hospitals Act 1929*.

The rates on a fee-for-service basis of remuneration in respect of medical services provided by visiting medical officers under fee-for-service contracts that are sought by this application are set out in the attached schedule.

Applicant .....

Date .....

The Attorney General

Sydney

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Delete whichever does not apply.

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Schedule 1      Forms

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**Form 3      Notice of appeal**

(Clause 12)

Public Hospitals Act 1929

(Section 33J (1))

I, .....  
(Full name)

of .....  
(Residential address)

appeal to the Minister for Health against:

\*(1) the decision of the board of .....  
(Name of hospital/area health service)

to .....  
.....  
.....  
(Details of decision—section 33I (1))

for .....  
.....  
(Reasons given by hospital/area health service)

OR

\*(2) the failure or refusal of the board of .....  
(Name of hospital/area health service)

to .....  
.....  
.....  
(Details of failure or refusal—section 33I (2))

My address for the service of notices is .....

Applicant .....

Date .....

.....  
\*Delete whichever does not apply.

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## Form 4    Certificate of authority

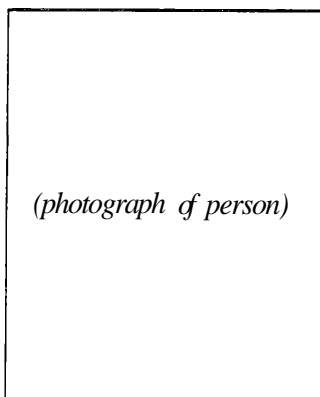
(Clause 14)

Public Hospitals Act 1929

(Section 11 (4))

Department of Health, NSW

No.: ..... Valid until: .....



This is to certify that:

.....  
*(insert name of person being authorised)*

a specimen of whose signature appears below:

.....  
*(specimen of signature)*

is authorised under section 11 (4) of the Public Hospitals Act 1929 to carry out inspections for the purposes of section 11 of the Act.

Dated this ..... day of ..... 19 .....

.....  
Director-General  
Department of Health, NSW