

National Health Administration Act 1997

No. 35 of 1997.

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Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

AN ACT

entitled

[National Health Administration Act 1997](#),

Being an Act to provide for the administration of health services in accordance with the principles of decentralisation contained in the Organic Law on Provincial Governments and Local-level Governments, 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. 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 from arbitrary search and entry conferred by Section 44 of the Constitution; and
- (b) the right to freedom of employment conferred by Section 48 of the Constitution; and
- (c) the right to privacy conferred by Section 49 of the Constitution; and
- (d) the right to freedom of information conferred by Section 51 of the Constitution,

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

(2) For the purpose of Section 41(2) of the Organic Law, it is declared that this law relates to a matter of national interest.

2. INTERPRETATION.

In this Act, unless the contrary intention appears–

“district” has the same meaning as in Section 72(4) of the Organic Law;

“District Administrator” has the same meaning as in the Organic Law;

“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) non-government health care providers; and
- (d) private health care providers; and
- (e) persons registered under the Medical Registration Act 1980;

“hospital management board” means a management board established under the [Public Hospitals Act 1994](#);

“Joint District Planning and Budget Priorities Committee” has the same meaning as in the Organic Law;

“Joint Provincial Planning and Budget Priorities Committee” has the same meaning as in the Organic Law;

“Local-level Government” has the same meaning as in the Organic Law;
“National Department” means the National Department responsible for health matters;
“National Departmental Head” means the head of the National Department responsible for health matters;
“National Health Plan” means the National Health Plan approved in accordance with Section 4 including any extension, amendment or replacement in accordance with Section 4;
“National Health Standards” means National Health Standards approved in accordance with Section 5;
“non-government health care provider” means a person or organization who has received, or will receive, a grant from the National Government, a Provincial Government or a Local-level Government to operate health facilities or provide health services or programmes;
“Operational Directives” means Operational Directives issued by the National Departmental Head in accordance with Section 7;
“**Organic Law**” means the Organic Law on Provincial Governments and Local-level Governments;
“Provincial Administrator” has the same meaning as in the Organic Law;
“Provincial Government” has the same meaning as in the Organic Law;
“Provincial Implementation Plan” means a plan approved in relation to a province in accordance with Section 6;
“public hospital” means a hospital declared to be a public hospital under the [Public Hospitals Act 1994](#).

3. OBJECTIVES OF THIS ACT.

The objectives of this Act are to—

- (a) provide for a national policy relating to health matters and the imposition of national standards for the purpose of implementation the national policy; and
- (b) define the administrative functions of Provincial Governments and Local-level Governments in relation to health matters for the purposes of Sections 43 and 45 of the Organic Law, and Section 16 of the [Provincial Governments Administration Act 1997](#); and
- (c) determine the details of the administrative arrangements, functions and responsibilities in relation to health matters between the National Department of Health, and the offices of Provincial Administrator and District Administrator for the purposes of Section 80(3) of the Organic Law; and
- (d) establish a National Health Board, Provincial Health Boards and District Health Management Committees to monitor the implementation of national policy and co-ordinate the delivery of health services and programmes; and
- (e) provide for various aspects of the financing of health facilities, services and programmes, including charging of fees and the fixing of conditions attaching to grants.

PART II. – NATIONAL HEALTH PLAN AND NATIONAL HEALTH STANDARDS.

4. NATIONAL HEALTH PLAN.

- (1) The National Executive Council may, after considering a report and recommendations of the National Health Board, approve a National Health Plan for—

- (a) the establishment, maintenance and development of health facilities, services and programmes in the country; and
- (b) other measures for the achievement of improved health in the country, and may, in a similar manner extend, amend or replace the National Health Plan.

(2) For the purposes of the Organic Law, the National Health Plan is declared to be a national policy applying to the whole country.

5. NATIONAL HEALTH STANDARDS.

(1) The National Health Board may, on the recommendation of the National Departmental Head, approve National Health Standards for the purposes of implementing the National Health Plan and may, in a similar manner extend, amend or replace a National Health Standard.

(2) Without limiting the generality of Subsection (1), the National Health Board may approve National Health Standards specifying—

- (a) the components of health programmes required to implement the National Health Plan; or
- (b) minimum requirements for the provision of staff, equipment and facilities for the operation of health facilities and the delivery of health services and programmes consistently with the National Health Plan; or
- (c) procedures for planning, budgeting and managing the operation of health facilities and the delivery of health services and programmes; or
- (d) guidelines for the preparation of Provincial Implementation Plans; or
- (e) the nature, frequency and manner of collection of information to be provided to the National Department concerning any aspect of the implementation of the National Health Plan.

6. PROVINCIAL IMPLEMENTATION PLANS.

(1) The National Health Board may approve a Provincial Implementation Plan submitted by a Provincial Government in respect of a Province for the achievement of the aims and objectives of the National Health Plan within the province.

(2) Subject to this Act, the National Health Plan and any National Health Standards, a provincial law may provide for the preparation of the Provincial Implementation Plan, including consultation on the plan.

7. OPERATIONAL DIRECTIVES.

Subject to this Act, the National Health Plan and any National Health Standards, the National Departmental Head may issue Operational Directives to—

- (a) members of the extended service of the National Department in a Province; and
- (b) any non-government health care provider,

concerning administrative measures, which are necessary or convenient for the implementation of the National Health Plan or the National Health Standards.

PART III. – NATIONAL AND PROVINCIAL HEALTH BOARDS AND DISTRICT HEALTH MANAGEMENT COMMITTEES.

8. ESTABLISHMENT OF NATIONAL HEALTH BOARD.

There is established a National Health Board.

9. MEMBERSHIP OF NATIONAL HEALTH BOARD.

(1) The National Health Board shall consist of–

- (a) the Departmental Head of the National Department, ex officio, who shall be the Chairman; and
- (b) the Departmental Head of the Department responsible for finance matters, ex officio, or his nominee; and
- (c) the Departmental Head of the Department responsible for justice and law matters, ex officio, or his nominee; and
- (d) the Departmental Head of the Department responsible for provincial governments and local-level governments matters, ex officio, or his nominee; and
- (e) the Departmental Head of the Department responsible for national planning matters, ex officio, or his nominee; and
- (f) the Departmental Head of the Department responsible for agriculture and livestock matters, ex officio, or his nominee; and
- (g) the Departmental Head of the Department responsible for environment matters, ex officio, or his nominee; and
- (h) the Director of the Institute of Medical Research, ex officio, or his nominee; and
- (i) one member representing the Churches Medical Council nominated by that Council; and
- (j) one member representing the Papua New Guinea Chamber of Commerce nominated by that Chamber; and
- (k) one member representing the National Council of Women nominated by that Council; and
- (l) one member representing Provincial Health Boards; and
- (m) one member representing the private health sector; and
- (n) one member representing public hospitals; and
- (o) one member representing the Papua New Guinea Medical Board and the Nursing Council.

(2) The National Health Board shall also include two senior officers of the National Department, appointed by the National Departmental Head, who may attend all meetings of the Board but are not entitled to vote or be counted towards a quorum.

(3) The members referred to in Subsection (1), other than ex officio members–

- (a) must be ordinarily resident in the country; and
- (b) shall be appointed by the Minister, by notice in the National Gazette; and
- (c) hold office for a term not exceeding three years and are eligible for reappointment; and
- (d) hold office on such terms and conditions as are determined under the Boards (Fees and Allowances) Act 1955.

(4) Where a body referred to in Subsection (1)(g), (h) and (i) fails to submit to the Minister a nominee for a vacant office within a reasonable time, the Minister may, without further reference to that body recommend the appointment of any person he considers suitable to represent that body.

10. FUNCTIONS AND POWERS OF NATIONAL HEALTH BOARD.

(1) The functions of the National Health Board are to—

(a) advise the Minister on policy matters relating to health, in particular—

- (i) the formulation, extension, amendment and replacement of the National Health Plan; and
- (ii) measures which are necessary or desirable to achieve the objects of the National Health Plan; and
- (iii) the operation of the health care system, including the administration of any legislation relating to health matters; and
- (iv) any other matter referred to the Board by the Minister; and

(b) approve National Health Standards in accordance with Section 5; and

(c) approve Provincial Implementation Plans in accordance with Section 6; and

(d) monitor the implementation of the National Health Plan and National Health Standards; and

(e) maintain effective liaison—

(i) with Provincial Health Boards; and

(ii) with the private sector; and

(iii) between National Government Departments responsible for health-related matters; and

(f) at the request of the Minister or the National Departmental Head, 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

(g) carry out investigations in accordance with Section 32 or Section 33; and

(h) carry out any other functions that are—

(i) delegated to the Board by the Minister 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.

(2) The Minister may, from time to time, request the National Health Board to meet and consider and advise him on matters he may refer to the National Health Board.

(3) Where he receives a reference under Subsection (2), the Chairman shall convene a meeting of the National Health Board within 14 days.

(4) The National Health Board has, in addition to the powers otherwise conferred on it by this Act and any other law, all powers to do all things that are necessary or convenient to be done for or in connection with the performance of its functions and the achievement of its objectives.

11. DELEGATION OF POWERS.

The National Health Board may, by written instrument, delegate all or any of its powers and functions other than this power of delegation to a body established by or a person carrying out functions under this Act.

12. ESTABLISHMENT OF PROVINCIAL HEALTH BOARDS.

There is established for each Province a Provincial Health Board.

13. MEMBERSHIP OF PROVINCIAL HEALTH BOARDS.

(1) A Provincial Health Board shall consist of—

- (a) the Provincial Administrator, ex officio, who shall be the Chairman; and
- (b) the person appointed under Section 21 in respect of the Province, ex officio, who shall be the executive officer; and
- (c) one member representing the local business sector in the province; and
- (d) one member representing church health services in the province; and
- (e) one member representing Hospital Management Boards in the province; and
- (f) two members representing the local community, one of whom shall be a woman; and
- (g) the member of the extended service of the National Department responsible for works matters representing that Department in the province, ex officio; and
- (h) the member of the extended service of the National Department responsible for education matters representing that Department in the province, ex officio; and
- (i) one person representing the members of the extended service of the National Department in the province responsible for delivery of health services and programmes in the districts.

(2) A Provincial Health Board shall also include two officers holding senior management positions in public hospital in the province, appointed by the person appointed under Section 21 in respect of the province, who may attend all meetings of the Board but are not entitled to vote or be counted towards a quorum.

(3) The members referred to Subsection (1), other than ex officio members—

- (a) must be ordinarily resident in the country; and
- (b) shall be appointed by the Minister, acting on the recommendation of the Provincial Executive Council, by notice in the National Gazette; and
- (c) hold office for a term not exceeding three years and are eligible for reappointment; and
- (d) hold office on such terms and conditions as are determined under the Boards (Fees and Allowances) Act 1955.

14. FUNCTIONS AND POWERS OF THE PROVINCIAL HEALTH BOARDS.

(1) The functions of a Provincial Health Board are to—

- (a) advise the Provincial Government on policy matters relating to health, in particular—
 - (i) the implementation of the National Health Plan in the province; and
 - (ii) the formulation of the Provincial Implementation Plan; and
 - (iii) the co-ordination of the health care system in the province, including the administration of

any legislation relating to health matters; and

(iv) any other matter referred to the Board by the Governor; and

(b) co-ordinate the implementation of the National Health Plan, the National Health Standards and the Provincial Implementation Plan in the Province; and

(c) provide advice to the Joint Provincial Planning and Budget Priorities Committee 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; and

(d) monitor the implementation of the National Health Plan, the National Health Standards and the Provincial Implementation Plan in the Province; and

(e) maintain effective liaison—

(i) with the National Health Board and the District Health Management Committees; and

(ii) with public hospitals in the province; and

(iii) with the private sector in the province; and

(iv) between the extended services of National Government Departments responsible for health-related matters in the Province; and

(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; and

(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 Board 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.

(2) A Provincial Health Board has, in addition to the powers otherwise conferred on it by this Act and any other law, all powers to do all things that are necessary or convenient to be done for or in connection with the performance of its functions and the achievement of its objectives.

(3) Subject to this Act, a provincial law may prescribe further functions and powers for a Provincial Health Board, including but not limited to—

(a) procedures for the preparation of the Provincial Implementation Plan; and

(b) the delegation of powers to the Provincial Health Board, and the relationship of the Provincial Health Board to the Joint Provincial Planning and Budget Priorities Committee.

15. PROCEDURES OF NATIONAL HEALTH BOARD AND PROVINCIAL HEALTH BOARDS.

The procedures of the National Health Board and Provincial Health Boards are as provided for in Part VII.

16. ESTABLISHMENT OF DISTRICT HEALTH MANAGEMENT COMMITTEES.

There is established for each district of a Province a District Health Management Committee.

17. PROVINCIAL LAWS RELATING TO DISTRICT HEALTH MANAGEMENT COMMITTEES.

(1) A provincial law may prescribe the—

- (a) membership; and
- (b) functions and powers; and
- (c) procedures,

of a District Health Management Committees in that Province.

(2) Until a provincial law is in force setting out the membership, functions and powers of District Health Management Committees, the provisions of Schedule A apply to the District Health Management Committee in a province.

(3) Until a provincial law setting out the procedures applying to the operation of a District Health Management Committee is in force, the provisions of Part VII apply to a District Health Management Committee in a province.

(4) Subject to this Act, a provincial law may provide for—

- (a) the delegation of powers to District Health Management Committees; and
- (b) procedures for planning in relation to health matters in a district; and
- (c) the relationship of the District Health Management Committee to the Joint District Planning and Budget Priorities Committee in a district.

PART IV. – ADMINISTRATION OF HEALTH FUNCTIONS.

18. FUNCTIONS AND RESPONSIBILITIES OF THE NATIONAL GOVERNMENT, PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS.

(1) The responsibilities of the National Government in relation to health are to—

- (a) oversee the establishment, maintenance and development of a health care system in the country; and
- (b) set policy and fix standards for the improvement of the health of the population; and
- (c) provide technical advice and support and for the operation of health facilities and the delivery of health services; and
- (d) oversee the management of public hospitals in accordance with the [Public Hospitals Act 1994](#); and
- (e) maintain a national health information system.

(2) The responsibilities of a Provincial Government are to co-ordinate the operation of health facilities and the provision of health services and programmes in the province, other than the operation of public hospitals and the provision of services in public hospitals.

(3) The responsibility of a Local-level Government is to ensure that adequate funds are budgeted to meet the expenses of health care facilities, services and programmes which service the population of the Local-level Government area.

(4) The regulations may prescribe the functions which are the responsibility of Provincial Governments and Local-level Governments in relation to particular health facilities, services and programmes.

(5) A Provincial Government or a Local-level Government shall carry out its responsibilities consistently with the National Health Plan.

(6) In this section, responsibility for a function involves–

(a) meeting reasonable expenses involved in carrying out the function; and

(b) directing and supervising staff carrying out the function; and

(c) ensuring that National Health Standards in relation to the functions are met; and

(d) providing and maintaining facilities and equipment to carry out the function.

19. LAW-MAKING POWERS OF PROVINCIAL GOVERNMENTS.

For the purposes of Section 42 of the Organic Law, and subject to this Act, the law-making powers of Provincial Governments in relation to rural health include powers to make laws with respect to–

(a) aid posts, health centres and subcentres and rural hospitals; and

(b) rural water supply; and

(c) environmental hygiene and rubbish disposal; and

(d) health care and dental care services other than those provided in a public hospital; and

(e) preventive health services; and

(f) disease control.

20. FUNCTIONS OF THE NATIONAL DEPARTMENT.

Subject to this Act, in addition to the functions vested in it under the [Public Services \(Management\) Act 1995](#), the functions of the National Department are to–

(a) oversee the carrying out of the National Health Plan in the country; and

(b) provide advice to the National Health Board in relation to policy matters; and

(c) act as executive to the National Health Board; and

(d) provide advice to the Provincial Government and the Provincial Administrators as to steps which should be taken to ensure the implementation of the National Health Plan; and

(e) provide technical advice to members of the extended service of the National Department in the provinces concerning the operation of health facilities and the delivery of health services and programmes; and

(f) provide training to members of the extended service of the National Department in the provinces; and

(g) provide–

- (i) technical services; and
- (ii) specialist medical equipment; and
- (iii) pharmaceutical supplies,

to Provincial Governments for use in the delivery of health services in the province; and

(h) maintain a national health and information system and a national health planning and data system in relation to health.

21. REPRESENTATIVE OF THE NATIONAL DEPARTMENT IN THE PROVINCE.

(1) The National Departmental Head may appoint a member of the extended service of the National Department in a province to act as the representative of the National Department in the province.

(2) The functions of the representative of the National Department in the province are to—

(a) provide to the Provincial Administrator and the National Departmental Head concerning the implementation of the National Health Plan and compliance with National Health standards in the province; and

(b) give support and directions to members of the extended service of the National Department in the province on technical matters relating to the operation of health facilities and the delivery of health services and programmes in the province; and

(c) act as Executive Officer to the Provincial Health Board; and

(d) co-ordinate the provision of information to the National Department for the purposes of the national health information system and the national health planning and data system.

(3) The person appointed under Subsection (1) is deemed to have been appointed as a Local Medical Authority in accordance with the Public Health Act 1973.

22. FUNCTIONS OF PUBLIC HOSPITALS.

Subject to this Act, and in addition to the purposes of hospitals specified in the [Public Hospitals Act 1994](#), the functions of the public hospitals are to—

(a) provide clinical services to the public; and

(b) engage in and assist local authorities in the provision of community health, information and public health education; and

(c) support rural health services; and

(d) assist and conduct investigation into out break of diseases and epidemics; and

(e) conduct in-service training; and

(f) enter into agreements with other non-governmental health care providers for the delivery of health services.

23. FUNCTIONS OF PROVINCIAL AND DISTRICT ADMINISTRATORS.

(1) For the purposes of Section 74(1) of the Organic Law, the functions of a Provincial Administrator in relation to health matters are to—

- (a) provide advice to the Joint Provincial Planning and Budget Priorities Committee on budgetary and other measures necessary to implement the National Health Plan and National Health Standards in the Province; and
- (b) co-ordinate the extended service of the National Department of Health in the Province in accordance with the National Health Plan and National Health Standards; and
- (c) provide advice and direction to District Administrators in implementing the National Health Plan and National Health Standards; and
- (d) act as Chairman of the Provincial Health Board; and
- (e) provide information to the National Department for the purposes of the national health information system and the national health planning and data system.

(2) For the purposes of Section 74(2) of the Organic Law, the functions of a District Administrator are to–

- (a) provide advice to the Joint District Planning and Budget Priorities Committee on budgetary and other measures necessary to implement the National Health Plan and National Health Standards in the province; and
- (b) co-ordinate the extended service of the National Department of Health in the district so as to carry into effect the National Health Plan and National Health Standards; and
- (c) provide information to the National Department for the purposes of the national health information system and the national health planning and data system.

PART V. – FINANCES, PLANNING AND INFORMATION.

24. NATIONAL PLANNING AND DATA SYSTEMS.

(1) The National Departmental Head may give directions as to the establishment of a national health information system.

(2) The National Departmental Head may require–

- (a) any person or body or level of government carrying out functions or responsibilities under this Act; and
- (b) any person or body in respect of funding for the purposes of operating health facilities or providing health services and programmes; and
- (c) any person registered under the Medical Registration Act 1980,

to provide information for the purposes of the national health information system or the national health planning and information system.

25. FORMAT OF HEALTH BUDGET.

The Minister may request the Minister responsible for finance matters to issue Financial Instructions in accordance with the [Public Finances \(Management\) Act 1995](#) specifying the format in which the provincial budget relating to health is to be provided.

26. CONSIDERATION OF PROVINCIAL BUDGETS.

(1) Where the Minister is of the opinion that a provincial budget which is before the Minister for Finance for approval under the [Public Finances \(Management\) Act 1995](#) contains inadequate provision—

(a) for the proper operation of health facilities, or provision of health services and programmes; or

(b) to meet the National Health Standards applying in the province,

the Minister may advise the Minister responsible for finance matters of the measures necessary to make adequate provision for health facilities, services and programmes in the budget.

(2) For the purpose of advising the Minister in relation to the exercise of his powers under Subsection (1), the National Health Board may request a Provincial Health Board to provide advice on the provincial budget for health matters.

27. GRANT CONDITIONS.

(1) In this section—

“grant” means a grant, subsidy, gift, allocation or allowance, whether in money or in kind, given by the National Government, or a Provincial Government or Local-level Government; and “recipient” means a person or body in receipt of, or entitled to receive, a grant.

(2) The Minister may enter into an agreement with—

(a) a Provincial Government; or

(b) a Local-level Government; or

(c) a public hospital; or

(d) 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.

(3) A—

(a) Provincial Government; or

(b) Local-level Government,

may enter into an agreement with—

(c) a public hospital; or

(d) a non-government health care provider,

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

(4) It is a condition of any grant to a non-government health care provider that the non-government health care provider shall—

- (a) operate the facility or provide the services or programmes in a manner which is consistent with the National Health Plan, National Health Standards, Provincial Implementation Plan and any Operational Directives; and
- (b) provide reports and other information concerning the health of the population or concerning the operation of facilities and the provision of services and programmes to the Provincial Government or the National Department as requested.

(5) In addition to any conditions, which may be applicable under Subsection (4), an agreement under Subsection (2) or (3) may contain conditions relating to the application of the grant.

28. RECOVERY OF GRANT MONEYS.

(1) Subject to the terms on which the grant is made, where the recipient of a grant fails to use the whole or any part of the grant in accordance with the grant conditions, the amount of the grant is repayable on demand to the National Government, Provincial Government or Local-level Government, as the case may be, and the amount may be recovered as a debt.

(2) Any money recoverable under Subsection (1) may be deducted from the amount of any grant, which is subsequently made to the same recipient.

(3) A demand for repayment under Subsection (1) shall be made by a notice in writing addressed to the recipient stating the conditions of the grant which the recipient is alleged to have breached.

29. USER FEES.

A person or body in receipt of funding for the operation of health facilities or the provision of health services or programmes may charge fees in accordance with the Public Hospitals (Charges) Act 1972 or any other laws.

30. REPORTS.

(1) The National Health Board shall furnish to the Minister—

- (a) on or before 31 May in every year, a report on the progress and performance of the Board for the year ending 31 December preceding; and
- (b) such other reports in relation to the functions of the Board as are requested by the Minister.

(2) As soon as practicable after he has received the report referred to in Subsection (1)(a), the Minister shall forward the report to the Speaker for presentation to the Parliament.

(3) A Provincial Health Board shall furnish to the National Health Board—

- (a) on or before 30 March in every year, a report on the progress and performance of that Board for the year ending 31 December preceding; and
- (b) such other reports in relation to the functions of that Board as are requested by the National Health Board.

(4) A District Health Management Committee shall furnish to the Provincial Health Board—

- (a) on or before 30 January in every year, a report on the progress and performance of that Board for the year ending 31 December preceding; and
- (b) such other reports in relation to the functions of that Board as are requested by the Provincial Health Board.

PART VI. – WITHDRAWAL OF HEALTH FUNCTIONS FROM PROVINCIAL GOVERNMENTS AND LOCAL-LEVEL GOVERNMENTS.

31. ADVICE TO PROVINCIAL GOVERNOR.

(1) Where the Minister, acting on the advice of the National Health Board, is concerned that there has been within a province a–

- (a) breakdown of health administration; or
- (b) failure to provide adequate resources for the operation of health facilities and provision of health services and programmes; or
- (c) failure to carry out health functions in accordance with the National Health Plan; or
- (d) deliberate and persistent failure to comply with National Health Standards and Operational Directives,

he may direct the Governor of the province to take such steps as are necessary to ensure that the administration of health in the province conforms to the National Health Plan and National Health Standards.

(2) A direction under Subsection (1) shall be in writing and shall specify a reasonable time for compliance by the Provincial Government with the direction.

(3) Before the National Health Board makes a recommendation to the Minister under Subsection (1), it shall first consult with–

- (a) the Provincial Health Board; and
- (b) where the matter relates to a specific district within a province–the District Health Management Committee,

as to the reasons for the breakdown or failure.

32. ADVICE TO MINISTER RESPONSIBLE FOR PROVINCIAL AFFAIRS MATTERS.

(1) Where a direction given under Section 1 is not followed within the specified time, the Minister may refer the matter to the Minister responsible for provincial affairs matters with a recommendation that powers and functions in relation to health be withdrawn in accordance with Section 51 of the Organic Law.

(2) A recommendation to the Minister responsible for provincial affairs matters under Subsection (1) shall specify–

- (a) the grounds on which the recommendation is based; and
- (b) the direction which should be given to rectify the matter and the time within which rectification should be made; and

(c) the powers and functions to be withdrawn in the event that there is no rectification within the specified time; and

(d) the amount of funding which is reasonably required for the performance of those powers and functions,

and be accompanied by—

(e) a report of the National Health Board setting out the facts relating to the recommendation; and

(f) any submission or representation by the Provincial or Local-level Government concerned, or by the Provincial Health Board or a District Health Management Committee.

(3) A copy of a recommendation and accompanying documents shall be provided to the Provincial Governor and the Provincial Health Board.

33. APPOINTMENT OF NATIONAL HEALTH BOARD AS SPECIAL INVESTIGATING COMMITTEE.

(1) The National Executive Council may appoint the National Health Board as a Special Investigating Committee for the purposes of Section 51(1) of the Organic Law.

(2) The National Health Board may appoint a committee to carry out its functions under Subsection (1).

PART VII. – PROCEDURES APPLYING TO NATIONAL HEALTH BOARD, PROVINCIAL HEALTH BOARDS AND DISTRICT HEALTH MANAGEMENT COMMITTEES.

34. INTERPRETATION.

In this Part, unless the contrary intention appears—

“Board” means—

(a) in relation to the National Health Board, that Board; and

(b) in relation to a Provincial Health Board, that Board;

“Committee” means, in relation to a District Health Management Committee, that Committee;

“Governor”, in relation to a Provincial Health Board, means the Governor of the province to which that Provincial Health Board relates;

“Provincial Administrator”, in relation to a District Health Management Committee, means the Provincial Administrator of the province to which that District Health Management Committee relates.

35. DEPUTY CHAIRMAN.

The members of the Board or Committee may from time to time appoint one of their number to be the Deputy Chairman of the Board or Committee, and may revoke such an appointment at any time.

36. LEAVE OF ABSENCE.

(1) The Minister may grant leave of absence to the Chairman of the National Health Board on such terms and conditions as the Minister determines.

(2) The Governor may grant leave to the Chairman of a Provincial Health Board on such terms and conditions as the Governor determines.

(3) The Provincial Administrator may grant leave to the Chairman of a District Health Management Committee on such terms and conditions as the Provincial Administrator determines.

(4) The Chairman may grant leave of absence to a member of a Board or Committee on such terms and conditions as the Chairman determines.

37. VACATION OF OFFICE.

(1) In this section, “relevant authority” means—

- (a) in the case of the National Health Board or a Provincial Health Board—the Minister; and
- (b) in the case of a District Health Management Committee—the Provincial Executive Council.

(2) A member of a Board or Committee, other than an ex officio member, may resign his office by writing signed by him and delivered to the relevant authority.

(3) If a member of a Board or Committee, other than an ex officio member—

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office in accordance with Subsection (2); or
- (c) is absent from three consecutive meetings of the Board except with leave of absence granted in accordance with Section 36; or
- (d) fails to comply with Section 41; or
- (e) becomes bankrupt or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (f) is convicted of an offence punishable under a law by a term of imprisonment of one year or longer and, as a result of the conviction, is sentenced to death or imprisonment; or
- (g) ceases to be ordinarily resident in the country,

the relevant authority shall—

- (h) in the case of a member of a Provincial Health Board—terminate his appointment after consultation with the relevant Provincial Governor; or
- (i) in any other case—terminate his appointment.

(4) Where the body, which has nominated a member to a Board or Committee, requests the relevant authority to terminate the appointment of that member, the relevant authority shall terminate the appointment.

(5) The Minister may, at any time, by written notice, advise a member of a Board, other than an ex officio member, that he intends to terminate the appointment of that member on the grounds of inability, incapacity, inefficiency or misbehaviour.

(6) Within 14 days of receipt of a notice under Subsection (5), the member may reply in writing to the Minister, who shall consider the reply, and, where appropriate, terminate the appointment of that member.

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

38. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.

The exercise of a power or the performance of a function of a Board or Committee is not invalidated by reason only of a vacancy in the membership of the Board.

39. FILLING OF VACANCIES.

Where there is a vacancy in the membership of a Board or Committee (other than a vacancy in the office of an ex officio member)—

(a) an appointment to fill the vacancy shall, subject to Paragraphs (b) and (c), be made as soon as practicable and in any case not later than three months after the date on which the vacancy occurs; and

(b) the appointment shall be made in accordance with—

(i) in the case of the National Health Board—Section 9; or

(ii) in the case of a Provincial Health Board—Section 13; or

(iii) in the case of a District Health Management Committee—

(A) where a provincial law is in force in accordance with Section 17—that provincial law; or

(B) in any other case—Schedule A; and

(c) where the vacancy occurs within three months before the expiration of the term of office, the vacancy shall remain unfilled for the remainder of the term.

40. MEETINGS.

(1) A Board or Committee shall meet as often as the business of the Board or Committee requires, and at such times, and at such places as the Chairman directs, but in any event not less frequently than once in every three months.

(2) At a meeting of a Board or Committee—

(a) half the number of members of the Board plus one constitute a quorum; and

(b) the Chairman, or in his absence, the Deputy Chairman, shall preside, and if both the Chairman and Deputy Chairman are absent, the members present shall appoint from among their own number a Chairman for that meeting; and

(c) matters arising shall be decided by a majority of the votes of the members present and voting;

and

(d) the person presiding has a deliberative, and in the event of an equality of votes on any matter, also a casting vote.

(3) A resolution of a Board or Committee endorsed with the signature of—

(a) sufficient members of the Board or Committee to constitute a quorum; and

(b) the Chairman,

constitutes a valid decision of the Board or Committee.

(4) A Board or Committee shall cause minutes of its meetings to be recorded and kept.

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

41. DISCLOSURE OF INTEREST.

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

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the Board or Committee and the member—

(a) shall not take part, after the disclosure, in any deliberation or decision of the Board or Committee in relation to the matter; and

(b) shall be disregarded for the purpose of constituting a quorum of the Board or Committee for any deliberation or decision.

(3) If a Board or Committee member with a direct or indirect personal or pecuniary interest in a matter before a Board or Committee has participated in any deliberation or decision on the matter, or has been included in the quorum for the deliberation or decision, the deliberation or decision on that matter is invalid.

42. COMMITTEES.

(1) A Board may, from time to time, establish permanent or temporary committees of the Board to advise the Board on such matters as the Board considers necessary, including but not limited to—

(a) an executive committee; and

(b) in the case of the National Health Board, a special investigation committee for the purposes of Section 33; and

(c) any other committee of inquiry.

(2) In establishing a committee under Subsection (1), the Board may—

- (a) appoint such persons, including members, as it considers necessary; and
- (b) specify the functions and procedures of the committee.

(3) A Board may delegate any of its powers or functions to a committee established by it.

(4) This section does not apply to District Health Management Committees, but a District Health Management Committee may appoint a sub-committee and may determine the procedure and functions of the sub-committee.

PART VI. – MISCELLANEOUS.

43. PROOF OF CERTAIN MATTERS.

In any proceedings against a body established under this Act, proof is not required, unless evidence is given to the contrary, of–

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

44. SERVICE OF PROCESS.

Any notice, summons, writ or other process required to be served on a body established under this Act shall be served personally on the Chairman of that body.

45. PROTECTION FROM PERSONAL LIABILITY.

A member of a body established by this Act or an officer or employee or agent of that body is not personally liable for any act or default of himself or that body done or omitted to be done in good faith and in the course of the operations of that body or for the purposes of that body.

46. REGULATIONS.

The Head of State, acting on advice, may make regulations not inconsistent with the Act, prescribing all matters that by this Act are required 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) user fees for health facilities, except those in relation to which fees are prescribed under the Public Hospitals (Charges) Act 1972; and
- (b) standards of health services and facilities; and
- (c) such other matters as are necessary or convenient for this Act.

47. TRANSITIONAL.

(1) The 1996-2000 National Health Plan, in force on the coming into operation of this Act, is deemed to have been approved as the National Health Plan for the purposes of Section 4.

(2) The members of the extended service of the National Department for health matters who, on the coming into operation of this Act, hold positions designated as “Provincial Health Adviser” within the administrative structures for members of the extended service of National Departments in the Provinces, shall be deemed to have been appointed for the purposes of Section 21.

SCHEDULE A – MEMBERSHIP, FUNCTIONS AND POWERS OF DISTRICT HEALTH MANAGEMENT COMMITTEE.

(1) A District Health Management Committee shall consist of–

- (a) the District Administrator, ex officio, who shall be the Chairman; and
- (b) the most senior member of the extended service of the National Department responsible for health matters in the district, ex officio, who shall be the Deputy Chairman; and
- (c) the officer appointed under Section 44(2), ex officio, who shall be the executive officer of the Committee; and
- (d) one member representing the churches in the district; and
- (e) one member representing the education agencies in the district; and
- (f) one member representing the aid post services in the district; and
- (g) one member representing the community generally in the district; and
- (h) one member representing women in the district.

(2) The members referred to in Subsection (1), other than ex officio members–

- (a) shall be appointed by the Provincial Executive Council on the recommendation of the Provincial Administrator;
- (b) hold office for a term not exceeding three years and are eligible for reappointments;
- (c) hold office in accordance with the Boards (Fees and Allowances) Act 1955.

(3) The functions of a District Health Management Committee are to–

- (a) advise the Joint District Planning and Budget Priorities Committee on policy matters relating to health, in particular–
 - (i) the implementation of the National Health Plan in the district; and
 - (ii) the implementation of the Provincial Implementation Plan in the district; and
 - (iii) the co-ordination of the health care system in the district; and
- (b) co-ordinate the implementation of the National Health Plan, the National Health Standards and the Provincial Implementation Plan in the district; and
- (c) monitor the implementation of the National Health Plan, the National Health Standards and the Provincial Implementation Plan in the province; and
- (d) maintain effective liaison with–
 - (i) other extended services of the National Departments in the district; and
 - (ii) non-government health care providers; and
- (e) provide information on the operation of the health care system in the district to the Provincial Health Board as requested or as required in the National Health Plan or National Health Standards; and

(f) at the request of the Governor, or the head of a Local-level Government, or on its own initiative, conduct inquiries into the operation of health facilities and the provision of health services and programs and make recommendations for the improvement of those facilities and services; and

(g) carry out any other functions that are delegated to it or are necessary or convenient for carrying out, or that are ancillary to, the functions set out in this subsection.

(4) A District Health Management Committee has, in addition to the powers otherwise conferred on it by this Act and any other law, all powers to do all things that are necessary or convenient to be done for or in connection with the performance of its functions and the achievement of its objectives.

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