

1991—No. 460

**PUBLIC HOSPITALS ACT 1929—REGULATION**

(Public Hospitals Regulation 1991)

NEW SOUTH WALES



*[Published in Gazette No. 121 of 30 August 1991]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Public Hospitals Act 1929, has been pleased to make the Regulation set forth hereunder.

J. P. HANNAFORD  
Minister for Health and Community Services.

**PART 1—PRELIMINARY**

**Citation**

1. This Regulation may be cited as the Public Hospitals Regulation 1991.

**Commencement**

2. This Regulation commences on 1st September, 1991.

**Definitions**

3. (1) In this Part:

“**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 persons so appointed;

“**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;

“**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.

## **PART 2—VISITING PRACTITIONERS**

### **Application of Part**

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

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

5. (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 throughout New South Wales and in such other manner (if any) as the board may determine.

(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 of the hospital must refer the application to the medical appointments advisory committee of the hospital for advice.

(4) The provisions of 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 those provisions 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.

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

6. (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) Subclause (2) does not require conditions prescribed by the Act or this Regulation to be included in the written agreement.

#### **Term of appointment**

7. (1) Except as otherwise provided by this clause and clause 8, the period for which a person may be appointed as a visiting practitioner to a hospital is to be such period (not exceeding 5 years) as the board of the hospital may determine.

(2) A person appointed as a visiting practitioner to a hospital is, if otherwise qualified, eligible for re-appointment from time to time.

(3) If:

- (a) a person has been, or is to be, appointed to a teaching position at a tertiary institution; and

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(b) the board of a hospital has referred a proposal to appoint the person as a visiting practitioner to the hospital to the medical appointments advisory committee of the hospital for advice, the person may be appointed as a visiting practitioner to the hospital for the duration of the appointment to the teaching position or for such lesser period as the board may determine.

**Age of visiting practitioners**

**8. (1)** Subject to subclause (2):

- (a) a person of or over the age of 65 years is not eligible to be appointed as a visiting practitioner to a hospital; and
- (b) the appointment of a person as a visiting practitioner to a hospital terminates when the person attains the age of 65 years.

**(2)** A person of or over the age of 65 years may, with the approval of the Director-General, be appointed as a visiting practitioner to a hospital for such period as the Director-General may determine, but not exceeding one year on any one occasion.

**Resignation**

**9. (1)** Except as otherwise provided by this clause, 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)** The board of a hospital may waive the requirement for notice prescribed by subclause (1), 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.

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

**10.** For the purposes of section 29L (1) of the Act, Form 1 is the prescribed form of application referred to in that subsection.

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

**11.** For the purposes of section 29L (3) of the Act, Form 2 is the prescribed form of application referred to in that subsection.

**Notice of appeal**

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

- (a) Form 3 is the prescribed form of notice of appeal referred to in that subsection; 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.

**PART 3—MISCELLANEOUS****Samaritan Funds**

**13. (1)** A Samaritan Fund must 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 under which those accounts are to be audited.

**(3)** Money is not to be withdrawn from a Samaritan Fund except by, or with the prior written approval of, the chief executive officer of the hospital or area health service, as the case may be, in respect of which the Samaritan Fund is kept.

**(4)** Money may not be withdrawn from a Samaritan Fund except for payment to, or for the purchase of items for, a necessitous patient or necessitous outgoing patient where such payment or purchase is essential to assist or improve the well-being of the patient.

**Inspections authorised by the Director-General**

**14.** For the purposes of section 11 (4) of the Act, Form 4 is the prescribed form of certificate referred to in that subsection.

**Repeal**

**15.** The Public Hospitals Regulations are repealed.

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**SCHEDULE 1—FORMS**

**Form 1**

(C1. 10)

PUBLIC HOSPITALS ACT 1929

*(Section 29L (1))*

**APPLICATION FOR APPOINTMENT OF ARBITRATOR FOR  
SESSIONAL CONTRACT DETERMINATION**

Application is hereby made by:

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

for the Attorney General to appoint a member of the Industrial Commission of New South Wales to be the arbitrator for the purposes of making a determination under section 28M (1) of the Public Hospitals Act 1929.

The terms, conditions, rates etc. that are proposed for inclusion in sessional contracts are set out in the attached schedule.

.....  
Applicant

.....  
Date

The Attorney General,  
Sydney.

\* Delete whichever is not applicable.

**Form 2**

(C1. 11)

PUBLIC HOSPITALS ACT 1929

*(Section 29L (3))*

**APPLICATION FOR APPOINTMENT OF ARBITRATOR FOR  
FEE-FOR-SERVICE CONTRACT DETERMINATION**

Application is hereby made by:

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

for the Attorney General to appoint a member of the Industrial Commission of New South Wales to be the arbitrator for the purposes of making a determination under section 28M (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.

\*Delete whichever is not applicable.

Form 3

(C1. 12)

PUBLIC HOSPITALS ACT 1929

(Section 33J (1))

NOTICE OF APPEAL

I, ..... , of .....  
(Full name) (Residential Address)

hereby appeal to the Minister for Health and Community Services against:

\* (1) the decision of the board of .....  
(Name of hospital)

to .....

.....

(Details of decision—section 33I (1))

for .....

.....

(Reasons given by hospital)

OR

"(2) the failure or refusal of the board of .....  
(Name of hospital)

to.....

.....

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

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

.....

.....  
Applicant

.....  
Date

\*Delete whichever is not applicable.



**Form 4**

(C1.14)

PUBLIC HOSPITALS ACT 1929

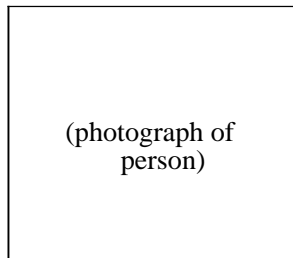
*(Section 11 (4))*

DEPARTMENT OF HEALTH, N.S.W.

**CERTIFICATE OF AUTHORITY**

Valid until: .....

No. ....



This 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,  
N.S.W.

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**EXPLANATORY NOTE**

The object of this Regulation is to repeal and remake the Public Hospitals Regulations. The new Regulation deals with:

- (a) the appointment and remuneration of visiting practitioners to hospitals that are not under the control of an area health service; and
- (b) the establishment and management of Samaritan Funds; and
- (c) other matters of a minor, consequential or ancillary nature.

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

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