



Republic of Namibia
Annotated Statutes

National Health Act 2 of 2015

(GG 5742)

This Act has been passed by Parliament, but it has not yet been brought into force.
It will come into force on a date set by the Minister in the *Government Gazette*.

ACT

To provide a framework for a structured uniform health system within Namibia; to consolidate the laws relating to state hospitals and state health services, and to regulate the conduct of state hospitals and state health services; to provide for financial assistance for special medical treatment of State patients; and to provide for incidental matters.

(Signed by the President on 22 April 2015)

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:

[The statement above normally appears below the **ARRANGEMENT OF SECTIONS**,
but it appears above the **ARRANGEMENT OF SECTIONS** in the
Government Gazette publishing this Act.]

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PART 1

PRELIMINARY

Definitions

1. In this Act, unless the context indicates otherwise -

“Advisory Committee” means the National Health Advisory Committee established by section 3(1);

“Allied Health Professions Act” means the Allied Health Professions Act, 2004 (Act No. 7 of 2004);

“Allied Health Professions Council” means the Allied Health Professions Council of Namibia established by section 3(1) of the Allied Health Professions Act;

“chief health officer” means the person referred to in section 20(1);

“district health board” means a district health board established by section 13(1);

“district health office” means a district health office contemplated in section 19(1);

“district health officer” means the person in-charge of a district health office;

“environmental health practitioner” means a person registered as an environmental health practitioner under the Allied Health Professions Act;

“head of health services” means an environmental health practitioner appointed by a local authority as such as contemplated in section 22;

“health practitioner” means a person registered or enrolled, as the case may be, under -

- (a) the Allied Health Professions Act;
- (b) the Medical and Dental Act;
- (c) the Nursing Act;
- (d) the Pharmacy Act; or
- (e) the Social Work and Psychology Act, 2004 (Act No. 6 of 2004);

“hospital rule” means any rule made as contemplated in section 34(2)(b);

“hospital service” means a hospital service contemplated in section 35;

“in-patient” means a person who receives treatment at a hospital or health service for a continuous period of longer than four hours;

“inspector” means a person designated as an inspector of state hospitals and state health services in accordance with section 39;

“Local Authorities Act” means the Local Authorities Act, 1992 (Act No. 23 of 1992);

“local authority council” means a local authority council as defined in section 1 of the Local Authorities Act;

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“local authority” means -

- (a) a local authority council as defined in section 1 of the Local Authorities Act; and
- (b) in relation to a settlement area as defined in section 1 of the Regional Councils Act the regional council concerned, as the case may be;

“local authority area” means a local authority area as defined in section 1 of the Local Authorities Act;

“Medical and Dental Act” means the Medical and Dental Act, 2004 (Act No. 10 of 2004);

“Medical and Dental Council” means the Medical and Dental Council of Namibia established by section 3(1) of the Medical and Dental Act;

“medical practitioner” means a person who is registered as such under the Medical and Dental Act;

“medicine” means medicine as defined in the Medicines and Related Substances Control Act, 2003 (Act No. 13 of 2003);

“Minister” means the Minister responsible for the administration of health;

“Ministry” means the Ministry responsible for health;

“Nursing Act” means the Nursing Act, 2004 (Act No. 8 of 2004);

“Nursing Council” means the Nursing Council of Namibia established by section 3(1) of the Nursing Act;

“out-patient” means a person who receives treatment at a state hospital or a state health service for a continuous period of four hours or less;

“patient” means a person being treated by a health practitioner;

“Permanent Secretary” means the Permanent Secretary of the Ministry;

“Pharmacy Act” means the Pharmacy Act, 2004 (Act No. 9 of 2004);

“Pharmacy Council” means the Pharmacy Council of Namibia established by section 3(1) of the Pharmacy Act;

“police officer” means a member of the Namibian Police Force as defined in section 1 of the Police Act, 1990 (Act No. 19 of 1990);

“prescribe” means -

- (a) to prescribe by regulation; or
- (b) the prescribing of medicines by an authorised prescriber as defined in section 1 of the Medicines and Related Substances Control Act, 2003;

“premises” includes any building, consulting rooms, institution, establishment or similar facility;

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“primary health care” means essential health care based on practical, scientifically sound and socially acceptable methods and technology made universally accessible to individuals and families in the community through their full participation and at a cost that the community and country can afford to maintain at every stage of their development in the spirit of self-reliance and self-determination;

“private hospital” means a private hospital licensed as such in terms of any law relating to the conducting of private hospitals;

“private patient” means any person classified as a private patient under section 47;

“private practice” means the conduct of a professional practice, including the treatment of patients and provision of health services to patients, for personal profit;

“Public Service Act” means the Public Service Act, 1995 (Act No. 13 of 1995);

“rateable property” means rateable property as defined in section 1 of the Local Authorities Act;

“region” means a region as defined in section 1 of the Regional Councils Act;

“Regional Councils Act” means the Regional Councils Act, 1992 (Act No. 22 of 1992);

“regional health board” means a regional health board established by section 8(1);

“regional health office” means a regional health office contemplated in section 18(1);

“regional director of health” means the person in charge of a regional health office;

“settlement area” mean a settlement area as defined in section 1 of the Regional Councils Act, 1992 (Act No. 22 of 1992);

[The verb “mean” should be “means” to be grammatically correct.]

“staff member” means a staff member as defined in section 1 of the Public Service Act;

“state health service” means any of the services contemplated in section 30(2);

“state hospital” means a hospital established or deemed to be established under section 30(1) and includes a hospital taken over by the Minister under section 31;

“state hospital committee” means a state hospital committee established under section 59;

“state patient” means any patient classified as a state patient under section 47, and in the case of Part 8, includes any other patient as approved by the Minister on the recommendation of the Coordinating Committee;

“superintendent” means the medical superintendent appointed under section 34;

“this Act” includes the regulations;

“treatment” means the management and care of a patient, whether inside or outside of a state hospital or a state health service, for the purpose of combating any disease or disorder, including wounds and injuries, in or on or in respect of that patient, and includes the provision to any patient of any one or more of the following -

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- (a) nursing services;
- (b) accommodation, food or clothing in any state hospital;
- (c) medical, surgical, gynaecological, obstetrical, dental, curative, diagnostic or preventative examination, measure or service;
- (d) immunisation services;
- (e) any dressing, medical apparatus or appliance; and
- (f) any other article, examination, measure or service as may be prescribed, and includes the prescribing of medicine by an authorised prescriber as defined in section 1 of the Medicines and Related Substances Control Act, 2003, or the dispensing of such medicine by a pharmacist registered under the Pharmacy Act, or the provision of any medicine by a health practitioner, and “treat” has a corresponding meaning.

Responsibility for health

2. (1) The Minister is responsible for the administration of this Act and the initiation, formulation, implementation, monitoring, evaluating and development of policies required for optimal service delivery or performance and to protect, promote, improve and maintain the health of the population.

(2) Without derogating from the general powers of the Minister in subsection (1), the Minister must, within the limits of available resources -

- (a) provide efficient, cost effective, appropriate and comprehensive quality health services at different levels of care;
- (b) provide rehabilitation services;
- (c) promote, regulate, support and conduct research to improve overall service delivery;
- (d) ensure the availability of trained human resources in the Ministry at various levels in order to strengthen and maintain professional standards; or
- (e) prepare and publish reports and statistics or other information relating to public health

PART 2**NATIONAL HEALTH ADVISORY COMMITTEE****National Health Advisory Committee**

3. (1) There is established a National Health Advisory Committee to be known as the Advisory Committee.

(2) The powers and function of the Advisory Committee are to -

- (a) advise the Minister on all health matters in Namibia;
- (b) make recommendations to the Minister in relation to the application of this Act, any amendment to this Act and the making of regulations;

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- (c) carry out research into matters referred to the Advisory Committee by the Minister; and
- (d) exercise and perform such other powers and functions conferred or imposed under this Act or by the Minister.

(3) Subject to subsection (4), the Advisory Committee consists of the following members appointed by the Minister -

- (a) two medical practitioners registered with the Medical and Dental Council;
- (b) one dentist registered with the Medical and Dental Council;
- (c) one nurse or mid-wife registered with the Nursing Council of Namibia;
- (d) one pharmacist registered with the Pharmacy Council of Namibia;
- (e) one medical practitioner registered with the Medical and Dental Council, representing missionary bodies carrying on activities in the field of public health;
- (f) one environmental health practitioner registered with the Allied Health Professions Council;
- (g) one member representing bodies who perform the functions of medical aid societies in Namibia;
- (h) one member representing an association representing local authorities in Namibia;
- (i) one member who has expertise on health matters representing non-governmental organisations in Namibia;
- (j) one member representing trade unions as defined in section 1 of the Labour Act, 2007 (Act No. 11 of 2007);
- (k) one other health practitioner; and
- (l) such additional members, not exceeding two, as the Minister may appoint.

(4) The Permanent Secretary is an *ex officio* member of the Advisory Committee.

(5) The Minister must, for the purposes of selecting persons for appointment, by notice in the *Gazette* and in at least two local newspapers circulating nationally, request any interested person or body as contemplated in subsection (3) to submit, within 30 days, the names of persons complying with the relevant requirements for appointment as members of the Advisory Committee.

(6) If the names referred to in subsection (5) are not submitted to the Minister within the period referred to in that subsection, the Minister must appoint suitably qualified persons as members of the Advisory Committee and a person so appointed holds office as if his or her name was submitted in accordance with that subsection.

(7) The Minister must, as soon as possible after the constitution of the Advisory Committee as contemplated in subsection (3) or any change in the constitution, publish by

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notice in the *Gazette* the names of the members of the Advisory Committee and the dates of commencement of their terms of office.

(8) The Advisory Committee must submit a list of four names from its members to the Minister and the Minister must appoint two members from that list to be the chairperson and the vice-chairperson of the Advisory Committee.

(9) The Minister may appoint a legal advisor to the Advisory Committee.

Tenure of office of members of Advisory Committee

4. A member of the Advisory Committee holds office for a term of three years and is eligible for re-appointment at the expiry of that term.

Vacation of office and filling of vacancies

5. (1) A member of the Advisory Committee will be disqualified and removed from office if -

- (a) the member is convicted of an offence and sentenced to imprisonment without the option of a fine irrespective of whether or not that sentence has been suspended;
- (b) the member resigns from the Advisory Committee after giving the Minister 30 days written notice of his or her intention to resign;
- (c) the member has been absent from three consecutive meetings of the Advisory Committee;
- (d) the nomination of the member is withdrawn by the person or body that nominated him or her; or
- (e) the member is removed from office by the Minister under subsection (2).

(2) The Minister may remove a member of the Advisory Committee from office if the member -

- (a) is guilty of misconduct;
- (b) fails to comply with or contravenes this Act; or
- (c) is by reason of physical or mental illness or for any other reason incapable of acting as member.

(3) If a member of the Advisory Committee dies or vacates office, the vacancy must be filled for the unexpired portion of the term of office of that member in the manner contemplated in section 4(5).

Procedure at and meetings of Advisory Committee

6. (1) The Advisory Committee must determine its own rules and procedures governing the convening and holding of meetings, but such rules and procedures must be consistent with this Act.

(2) The Advisory Committee must hold at least four meetings per year and -

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- (a) the first meeting must be held at a date, place and time determined by the Minister; and
- (b) any meeting thereafter must be held at a date, place and time determined by the Advisory Committee.

Remuneration and expenses

7. (1) The members of the Advisory Committee must be paid such allowances, including travel, subsistence and sitting allowances as the Minister, with the concurrence of the Minister responsible for finance, determines.

(2) The expenses of the Advisory Committee relating to the Advisory Committee's functions are defrayed out of money appropriated for this purpose by Parliament.

PART 3

REGIONAL HEALTH BOARDS, DISTRICT HEALTH BOARDS, REGIONAL HEALTH OFFICES AND DISTRICT HEALTH OFFICES

Regional health boards

8. (1) There is established a regional health board for every region.
- (2) The functions of a regional health board are to -
- (a) advise the Minister, the Advisory Committee, the regional council and any local authority council in that region on matters concerning health in the region and in the local authority area in that region;
 - (b) advise regional health offices, district health boards and district health offices regarding health matters and its functions under this Act; and
 - (c) promote and facilitate health development in the region.

(3) A regional health board advises on any question referred to the board by the Minister, the Advisory Committee, the regional council, any local authority, any district health board or any interested person, or upon its own initiative as it may consider necessary.

- (4) A regional health board consist of -
- (a) the regional director of health in the region who is an *ex officio* member and has no right to vote; and
 - (b) the other members contemplated in subsection (5), appointed by the Minister on the ground of special knowledge, skill and expertise in health matters from persons nominated under subsection (5).

(5) The Minister must, for the purposes of appointment under subsection (4), by notice in the *Gazette*, request any interested person or body to submit within 30 days, the names of persons to be appointed as follows -

- (a) one person representing the regional council and two persons representing local authority councils in the region;
- (b) two persons representing district health boards in the region;

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- (c) three persons representing state hospitals and state health services in the region;
- (d) two persons representing private hospitals and private health services in the region;
- (e) one traditional leader who is resident in the region and who is a member of the Council of Traditional Leaders established by section 2 of the Council of Traditional Leaders Act, 1997 (Act No. 13 of 1997);
- (f) one medical practitioner and one dentist registered with the Medical and Dental Council and who are resident in the region;
- (g) one nurse or mid-wife registered with the Nursing Council of Namibia and who is resident in the region;
- (h) one pharmacist registered with the Pharmacy Council of Namibia and who is resident in the region;
- (i) one environmental health practitioner registered with the Allied Health Professions Council and who is resident in the region; and
- (j) one other health practitioner registered with the Allied Health Professions Council and who is resident in the region.

(6) The members of a regional health board must elect two persons from amongst themselves as chairperson and vice-chairperson who must not be staff members of the Ministry.

Tenure of office of members of regional health board

9. A member of a regional health board holds office for a term of three years and is eligible for re-appointment at the expiration of that term.

Vacation of office and filling of vacancies

- 10.** (1) A member of a regional health board vacates office if -
- (a) the member is convicted of an offence and sentenced to imprisonment without the option of a fine irrespective of whether or not that sentence has been suspended;
 - (b) the member resigns from the board after giving the chairperson thereof 30 days' written notice of the member's intention to resign;
 - (c) the member has been absent from three consecutive meetings of the board;
 - (d) the nomination of the member is withdrawn by the person or body that nominated him or her; or
 - (e) the member is removed from office by the Minister under subsection (2).

(2) The Minister may remove a member of a regional health board from office if the member -

- (a) is guilty of misconduct;
- (b) fails to comply with or contravenes this Act; or

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- (c) is by reason of physical or mental illness or for any other reason incapable of acting as member of a the board.

[There is an error in the phrase “acting as member of a the board”, which was probably meant to read “acting as a member of the board”.]

(3) If a member of a regional health board dies or vacates office, the vacancy must be filled for the unexpired portion of the term of office of that member in the manner contemplated in section 8(5).

Procedure at and meetings of regional health board

- 11.** (1) A regional health board must -
- (a) subject to this Act, determine its own rules governing the convening and holding of meetings and procedure at meetings, but such rules and procedures must be consistent with this Act; and
 - (b) submit an annual report on its activities to the Advisory Committee.
- (2) A regional health board must hold at least four meetings per year and -
- (a) the first meeting must be held at a date, place and time determined by the Minister; and
 - (b) any meeting thereafter must be held at a date, place and time determined by the board.

Remuneration and expenses

12. (1) The expenses of a regional health board relating to the performance of its functions must be defrayed out of money appropriated for this purpose by Parliament.

(2) The members of a regional health board must be paid such allowances, including travel, subsistence and sitting allowances, as the Minister, with the concurrence of the Minister responsible for finance, determines.

District health boards

13. (1) There is established a district health board for the area of every district health office.

- (2) The functions of a district health board are to -
- (a) advise the Minister, the regional council and any local authority council in that district health office on matters concerning health in the district health office;
 - (b) advise regional health offices in its region regarding health matters and its functions under this Act; and
 - (c) promote and facilitate health development in its district health office.

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(3) A district health board advises on any question referred to the board by the Minister, the regional council, a local authority council, a regional health board or any interested person or on its own initiative as it may consider necessary.

(4) A district health board consists of -

- (a) the district health officer in the district health office who is an *ex officio* member and has no right to vote; and
- (b) the other members contemplated in subsection (5), appointed by the Minister on the ground of special knowledge, skill and expertise in health matters from persons nominated under subsection (5).

(5) The Minister must, for the purposes of appointment under subsection (4), by notice in the *Gazette*, request any interested person or body to submit within 30 days, the names of persons to be appointed as follows -

- (a) two persons representing local authorities in the area of the district health office;
- (b) one person representing the regional health board of the region;
- (c) one person representing state hospitals and state health services in the area of the district health office;
- (d) one person representing private hospitals and private health services in the area of the district health office, if any;
- (e) one medical practitioner and one dentist registered with the Medical and Dental Council who are resident in the area of the district health office;
- (f) one nurse or mid-wife registered with the Nursing Council of Namibia who is resident in the area of the district health office, if any;
- (g) one pharmacist or pharmacist's assistant registered with the Pharmacy Council of Namibia who is resident in the area of the district health office, if any;
- (h) one environmental health practitioner registered with the Allied Health Professions Council who is resident in the area of the district health office, if any; and
- (i) one other health practitioner registered with the Allied Health Professions Council who is resident in the area of the district health office.

(6) The members of a district health board must elect two persons from amongst themselves as chairperson and vice-chairperson who must not be staff members of the Ministry.

Tenure of office of members of district health board

14. A member of a district health board holds office for a term of three years and is eligible for re-appointment at the expiration of that term.

Vacation of office and filling of vacancies

15. (1) A member of a district health board vacates office if -

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- (a) the member is convicted of an offence and sentenced to imprisonment without the option of a fine irrespective of whether or not that sentence has been suspended;
- (b) the member resigns from the board after giving the chairperson thereof 30 days' written notice of the member's intention to resign;
- (c) the member has been absent from three consecutive meetings of the board;
- (d) the nomination of the member is withdrawn by the person or body that nominated him or her; or
- (e) the member is removed from office by the Minister under subsection (2).

(2) The Minister may remove a member of a district health board from office if the member -

- (a) is guilty of misconduct;
- (b) fails to comply with or contravenes this Act; or
- (c) is by reason of physical or mental illness or for any other reason incapable of acting as member of a the board.

[There is an error in the phrase "acting as member of a the board", which was probably meant to read "acting as a member of the board".]

(3) If a member of a district health board dies or vacates office, the vacancy must be filled for the unexpired portion of the term of office of that member in the manner contemplated in section 13(5).

Procedure at and meetings of district health board

- 16.** (1) A district health board must -
- (a) subject to this Act, determine its own rules governing the convening and holding of meetings and procedure at meetings, but such rules and procedures must be consistent with this Act; and
 - (b) submit an annual report on its activities to the Advisory Committee and the regional health board in its area.
- (2) A district health board must hold at least four meetings per year and -
- (a) the first meeting must be held at a date, place and time determined by the Minister; and
 - (b) any meeting thereafter must be held at a date, place and time determined by the board.

Remuneration and expenses

17. (1) The expenses of a district health board relating to the performance of its functions must be defrayed out of money appropriated for this purpose by Parliament.

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(2) The members of a district health board must be paid such allowances, including travel, subsistence and sitting allowances, as the Minister, with the concurrence of the Minister responsible for finance, determines.

Regional health offices

18. (1) On the recommendation of the Public Service Commission and after consultation with the Advisory Committee, the regional council and any local authority councils in the region, the Minister must establish a regional health office for each region.

(2) A staff member designated by the Minister as regional director of health administers, manages and controls a regional health office and performs such functions under the supervision and direction of the Permanent Secretary.

(3) The regional health office is responsible for the administration of the affairs relating to health as may be assigned to the office under this Act or any other law which may include the provision of secretariat services to the regional health board.

District health offices

19. (1) On the recommendation of the Public Service Commission and after consultation with the Advisory Committee, the regional council and local authority councils in the district, the Minister must establish -

- (a) one or more district health offices for each region; and
- (b) by notice in the *Gazette*, an area specified in the notice as the area of every district health office concerned.

(2) A staff member designated by the Minister as district health officer administers, manages and controls the district health office and performs such functions under the supervision and direction of the regional director of health.

(3) The district health office is responsible for the administration of the affairs relating to health as may be assigned to the office under this Act or any other law.

PART 4
ADMINISTRATION

Appointment of chief health officer and other staff members

20. (1) The Permanent Secretary is *ex officio* the chief health officer of the Ministry.

(2) It is the duty of the Ministry to ensure that staff members must, in terms of the Public Service Act, be appointed in the Ministry as may be necessary for the purposes of this Act.

Acting as local authority outside local authority area

21. (1) In respect of areas in a region that are outside a local authority area or a settlement area, the chairperson of a regional council acting under the instructions of the chief health officer has jurisdiction over that area and the chairperson may exercise, subject to subsection (2), any powers which a local authority may exercise in terms of this Act.

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(2) A chairperson of a regional council must obtain the written approval of the Minister for the making of any permanent appointment or for the incurrence of any capital expenditure under subsection (1).

Local authority to appoint head of health services

22. Every local authority council must appoint, on the written approval of the Minister, an environmental health practitioner as head of health services of the local authority.

Duties of head of health services

23. Every head of health services must -

- (a) keep himself or herself informed as to the public health and sanitary circumstances of the local authority area for which he or she has been appointed and must make such inspections and inquiries as may be necessary for this purpose;
- (b) furnish the local authority concerned with all information in respect of such inspections and inquiries; and
- (c) furnish to the chief health officer reports, when required, relating to the public health or sanitation of his or her local authority area.

District health officers to be heads of health services in respect of certain areas

24. (1) In respect of areas in a region outside local authority areas or in any local authority area where no head of health services for a local authority has been appointed, a district health officer in the Ministry designated by the Minister by *Gazette* is the head of health services for the area specified in the notice.

(2) A district health officer contemplated in subsection (1) must carry out the duties imposed by section 23 on a head of health services and must furnish the information referred to in that section to the chief health officer.

Local authority council to appoint environmental health practitioners

25. Every local authority council must appoint, after consultation with the Minister, one or more environmental health practitioners to assist, subject to the supervision of the head of health services, in carrying out duties under this Act and any other law governing public and environmental health within its area.

Removal from office of head of health services or environmental health practitioner

26. (1) Subject to subsection (2), a head of health services or environmental health practitioner appointed by a local authority may not, except -

- (a) with his or her own consent; or
- (b) in conformity with any enactment relating to retirement on account of age or ill-health or contract governing his or her appointment,

be removed from office or have his or her salary or his or her emoluments reduced by the local authority concerned without the prior written approval of the Minister.

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(2) A local authority may suspend a head of health services or environmental health practitioner for incapacity, neglect or misconduct pending the written approval of the Minister as to dismissal and in the event of such dismissal being granted, the head of health services or environmental health practitioner concerned is considered to have been removed from office from the date of such suspension.

Minister may appoint head of health services or environmental health practitioner

27. (1) If a local authority fails to appoint a head of health services or environmental health practitioner within six months after being required to do so by the Minister, the Minister may -

- (a) appoint a head of health services or environmental health practitioner for the local authority;
- (b) in consultation with other line ministries determine the remuneration to be paid by the local authority to the head of health services or environmental health practitioner, as well as the other conditions of service; and
- (c) in case of default of payment of such remuneration by the local authority, direct that same be paid out of the State Revenue Fund, and that the amount be recovered by deduction from any subsidy or other moneys payable out of that Fund to the local authority.

(2) If the Minister appoints in terms of subsection (1) a staff member to be a head of health services or environmental health practitioner for a local authority, the Minister may -

- (a) determine the remuneration to be paid to the State in respect of such appointment; and
- (b) in the case of default of payment of such remuneration by the local authority, direct that the amount be recovered by deduction from any subsidy or other moneys payable out of the State Revenue Fund to the local authority.

Combined appointments

28. Nothing in this Act or any other law contained is construed as precluding any person from holding at the same time an appointment as -

- (a) a head of health services who is a staff member;
- (b) a head of health services for two or more local authorities;
- (c) an environmental health practitioner who is a staff member; or
- (d) an environmental health practitioner for two or more local authorities.

Defaulting local authorities

29. (1) If, on any report of the chief health officer, it appears to the Minister that the public health of any area within a local authority area is in danger by the failure or refusal on the part of any local authority -

- (a) to exercise the powers or to perform the duties devolving upon it under any law; or

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- (b) to take the lawful and necessary steps to obtain powers to deal through regulations with that danger,

the Minister may cause an inquiry to be held in that regard with the local authority.

(2) After having given the local authority an opportunity to be heard at the inquiry contemplated in subsection (1), the Minister may in writing call on the local authority to exercise any powers or to perform properly any duties and if the local authority fails to comply, the Minister may -

- (a) exercise such powers or perform such duties; and
- (b) authorise any person to take all necessary steps for that purpose in the same manner as if the person were the local authority.

(3) Any expenditure incurred by the Minister or the State under subsections (1) and (2) in respect of the inquiry may be recovered -

- (a) by action in a competent court against the local authority in default;
- (b) by the State levying a special rate on all rateable property within the area of jurisdiction of the local authority in default;
- (c) by deduction from any subsidy, grant or other moneys payable by the State to the local authority in default; or
- (d) by any of the methods of recovery in paragraphs (a) to (c).

PART 5
ESTABLISHMENT AND MANAGEMENT OF STATE HOSPITALS,
STATE HEALTH SERVICES AND HOSPITAL SERVICES

Establishment and closure of state hospitals and state health services

- 30.** (1) The Minister may -
- (a) by notice in the *Gazette*, establish or close down a state hospital;
 - (b) prescribe the categories into which state hospitals are classified; or
 - (c) declare, by notice in the *Gazette*, any institution or facility to be a state hospital for the purposes of this Act.
- (2) The services set out in Schedule 1 are state health services.
- (3) The Minister may by notice in the *Gazette* amend Schedule 1.
- (4) The Minister may -
- (a) prescribe the categories into which state health services are classified; and
 - (b) determine the terms and conditions on which persons may make use of state health services and related services.

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(5) The Minister may enter into an agreement with a provider registered in terms of the applicable laws for the supply of health services.

(6) A person, except a local authority or other prescribed authority, may not establish or maintain an ambulance service without the written approval of the Minister which may be granted subject to conditions the Minister may determine.

(7) The Minister may, subject to such conditions as determined by the Minister and out of moneys appropriated by law for that purpose, financially assist an ambulance service -

- (a) established or maintained by a local authority or other prescribed authority; or
- (b) established or maintained by any person in accordance with an approval granted under subsection (6).

Taking over of private hospital as state hospital

31. (1) The Minister may in the public health interest, after consultation with the Advisory Committee, the regional health board of the region and the district health board of the district health office concerned, take over, acquire, purchase, lease or otherwise procure a private hospital as a state hospital, subject to -

- (a) the payment of just compensation; and
- (b) such terms and conditions as may be mutually agreed upon between the Minister and the owner of the private hospital,

and may thereafter conduct such private hospital as a state hospital.

(2) If the owner of a private hospital gives written notice in terms of any law governing the establishment and management of private hospitals of his or her intention to close down a private hospital or part or any service therein, the Minister may take over, for such period as he or she may consider necessary and upon such terms and conditions as may be mutually agreed upon between the Minister and the owner of the private hospital, the private hospital, part thereof or service and conduct it as a state hospital or service.

(3) If the terms and conditions referred to in subsection (1) and (2) cannot be mutually agreed upon, they must be determined by arbitration under the Arbitration Act, 1965 (Act No. 42 of 1965).

Taking over of private health service as state health service

32. (1) The Minister may in the public health interest, after consultation with the Advisory Committee, the regional health board of the region and the district health board of the district health office concerned, take over, acquire, purchase, lease or otherwise procure a private health service as a state health service, subject to -

- (a) the payment of just compensation; and
- (b) such terms and conditions as may be mutually agreed upon between the Minister and the owner of the private health service,

and may thereafter conduct such private health service as a state health service.

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(2) If the owner of a private health service gives written notice under or in terms of any law governing the establishment and management of private health services of his or her intention to close down a private health service or part thereof or any service therein, the Minister may take over, for such period as he or she may consider necessary and upon such terms and conditions as may be mutually agreed upon between the Minister and the owner of the private health service, the private health service, part thereof or service and conduct it as a state health service or service.

(3) If the terms and conditions referred to in subsection (1) and (2) cannot be mutually agreed upon, they must be determined by arbitration under the Arbitration Act, 1965 (Act No. 42 of 1965).

Minister to be responsible for state hospitals and state health services

33. (1) Every state hospital and state health service falls under the responsibility and control of the Minister.

(2) The Minister may, subject to such conditions as the Minister may determine and with the concurrence of the Minister responsible for works, lease out to -

- (a) private health practitioners, for the purpose of conducting a private practice; or
- (b) any other person for any other business purposes,

any available rooms or other space in a state hospital or a state health service which is not required for use by the State or for public purposes.

Appointment of superintendent

34. (1) The Minister must appoint in respect of every state hospital a health practitioner employed as a staff member, who has been practising for not less than five years, to be the superintendent of the hospital.

(2) In addition to the duties imposed on him or her under this Act, the superintendent is -

- (a) the chief administrative officer and head of the state hospital;
- (b) responsible for the management and maintenance of the state hospital and hospital services, including the making of hospital rules in respect of that hospital;
- (c) responsible for directing and supervising the staff of the state hospital; and
- (d) accountable to the Minister in the performance of his or her duties under this Act.

(3) Until a superintendent is appointed in respect of a state hospital under subsection (1), the Minister may designate a health practitioner employed as staff member, who has not been practising for five years, as acting superintendent, who must perform the functions and duties of a superintendent under this Act.

Establishment of hospital services

35. The Minister may establish and maintain the following hospital services subject to conditions that he or she prescribe -

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- (a) workshops, motor garages and depots for the manufacture, maintenance, service, repair and safekeeping of hospital apparatus, motor vehicles and equipment;
- (b) laundries and linen services;
- (c) medical stores;
- (d) mortuaries; and
- (e) any other hospital service which the Minister may consider necessary or expedient for the efficient functioning of state hospitals and health services.

Amenities and services for hospital staff and patients

36. The Minister may establish or provide amenities and services which he or she may consider necessary or useful for the convenience of and the use by the staff or patients of a state hospital out of moneys appropriated by law for such purpose, subject to conditions that the Minister may prescribe.

Services to other institutions

37. The Minister may make available to any health or other institution, supplies of any medicine, medical substance, preparation or hospital equipment and apparatus at a state hospital or a state health service, subject to conditions that the Minister determine.

Inspection of state hospitals and state health services

38. The Permanent Secretary or an inspector designated under section 39, may at all reasonable times inspect any state hospital or a state health service, for the purpose of ascertaining whether this Act is being complied with or for such other purpose as the Permanent Secretary may determine.

Designation and duties of inspectors of state hospitals and state health services

39. (1) The Permanent Secretary may designate one or more staff members in the ministry to be inspectors of state hospitals and state health services under this Act and must furnish each inspector with a certificate of appointment which must be produced on demand in the performance of the inspector's duties.

(2) For the purposes of ensuring compliance with this Act, an inspector may at all reasonable times, but subject to subsection (3), without a warrant or permission, enter premises on which a state hospital or state health service is being conducted or is about to be conducted or is reasonably suspected of being conducted and -

- (a) inspect those premises in order to ascertain whether -
 - (i) they are a fit and proper place for the conduct of a state hospital or a state health service; and
 - (ii) the state hospital or state health service is adequately equipped; employs adequate qualified staff and is being conducted in a manner conducive to the physical, mental and moral welfare of the patients and staff;
- (b) require a person in charge of those premises to produce any book, record, document or other article in his or her possession or control for inspection;

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- (c) examine any book, record, document or other article found on the premises which in the inspector's opinion may contain information relating to the inspector's investigation and take samples there from and demand from the person in charge an explanation of any entry;
- (d) seize and remove from those premises any book, record, document or other article which in the inspector's opinion may furnish proof of contravention of this Act or any other law governing the establishment and management of state hospitals or state health services or conditions in a registration certificate or licence issued;
- (e) question any person found or believed to be employed on those premises or receiving treatment or health services about any matter relevant to the inspector's enquiries; and
- (f) conduct any further or other investigation considered necessary.

(3) An inspector may not under subsection (2) enter any premises or part of the premises which is a residence or is being used as a residence, unless -

- (a) the occupier of the premises consents to the entry and search;
- (b) a warrant authorising the entry and search of the premises has been obtained from a judge of the High Court or a magistrate who has jurisdiction in the area in which the premises are situated; or
- (c) the inspector on reasonable grounds believes -
 - (i) that a warrant of entry and search would be issued to him or her if he or she applied for it; and
 - (ii) that the delay in obtaining the warrant would defeat the object of the investigation.

(4) To the extent that subsections (2) and (3) authorise the interference with a person's fundamental right to privacy by authorising the entry and search of premises, those provisions are enacted on the authority of Article 13 of the Namibian Constitution for the protection of health, the prevention of crime and the protection of the rights or freedoms of others.

(5) An inspector may, in the performance of his or her duties under this Act, be accompanied and assisted by a police officer.

[The word "duties" is misspelt in the Government Gazette, as reproduced above.]

(6) If, after an inspection under this section, the inspector is satisfied that subsection (2)(a) have been complied with, he or she must issue a certificate to that effect in respect of the inspected premises.

- (7) Any person who -
 - (a) resists or obstructs an inspector in the course of duty under this Act;
 - (b) refuses to submit any article, book, record or document required by an inspector or to answer to the best of his or her knowledge any question put to him or her by an inspector; or

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- (c) with intent to deceive or mislead an inspector into believing that the premises being inspected meets the requirements referred to in subsection (2)(a), makes a false statement or representation to or withholds vital information from an inspector,

commits an offence and is liable on conviction to a fine not exceeding N\$12 000 or to a period of imprisonment not exceeding three years or to both such fine and such imprisonment.

PART 6**ACCESS AND ADMISSION TO AND TREATMENT IN STATE HOSPITALS
AND STATE HEALTH SERVICES****Access to state hospital or state health service**

40. (1) Every person in Namibia has access to a state hospital or a state health service and is entitled, subject to this Act and to such hospital rules as may be made as contemplated in section 34(2)(b), to -

- (a) receive treatment or other medical care; and
(b) benefit from any of the health services established under this Act.

(2) The superintendent of a state hospital may deny any person, including a health practitioner, access to the hospital -

- (a) if such person contravenes this Act or a hospital rule;
(b) if such person refuses or fails to comply with any order made in terms of this Act; or
(c) for any other reason whatsoever considered sufficient by the superintendent.

(3) Any person to whom access to a state hospital is denied under subsection (2) may appeal within 14 days after the denial, in writing to the Minister against the refusal of access.

(4) The Minister may prescribe the form and the procedures relating to the noting and the conducting of an appeal under subsection (3).

Admission of in-patients to state hospital

41. (1) Subject to subsections (2), (3) and (4) and taking into consideration the urgency of the need for treatment, any person suffering from a disease or ailment for which treatment as an in-patient is essential, is on the recommendation of a health practitioner entitled to be admitted to a state hospital for the purposes of receiving such treatment.

(2) The superintendent may deny a person admission to a state hospital or may order the discharge of any person if, in his or her opinion -

- (a) such admission is unnecessary or would adversely affect the health or treatment of other patients at that hospital;
(b) such person is guilty of conduct which justifies his or her discharge from the hospital; or
(c) there is other sufficient reason to justify the denial of admission or the discharge.

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(3) Any person denied admission to or discharged from a state hospital under subsection (2) may appeal within 14 days after the denial, in writing to the Minister against the refusal of access, and the Minister's decision on the matter is final.

(4) Despite subsection (1), the superintendent may, in consultation with the Minister, temporarily close a state hospital or part of the hospital to the public in order to facilitate the admission or treatment of particular patients.

Assignment of ward, section and bed on admission

42. On admission of a person to a state hospital as an in-patient, the superintendent or any other person duly authorised by the superintendent -

- (a) must assign that in-patient the ward, section and bed for occupation during the period of admission; and
- (b) may transfer the patient to another ward, section or bed in that hospital as he or she may consider necessary.

Transfer of state patients to other hospitals

43. (1) Despite anything provided to the contrary in this Act, the superintendent of a state hospital may authorise the transfer to any other hospital of a state patient or a patient receiving free treatment, to receive treatment at that other hospital free of charge or as a state patient.

(2) On the completion of the treatment of a patient transferred under subsection (1), the patient must be transferred back to the state hospital from which he or she had originally been transferred and the costs incidental to the transfer of that patient must be borne by the State.

(3) If a patient in a state hospital requires urgent transportation to or from another hospital and no ambulance is available, the patient may be transported in any other vehicle that the superintendent may consider suitable.

(4) Subject to subsections (5) and (6), if a patient transferred to another hospital under subsection (1) dies at that other hospital, the cost of returning the body of the patient to the state hospital from which the patient was originally transferred must be borne by the State.

(5) Despite subsection (4), a relative or good faith friend of a deceased patient referred to in that subsection may within 14 days after the death of the patient, apply to the Minister for custody of the body and the Minister may, subject to conditions as he or she may determine, grant custody of the body to the relative or friend.

(6) Despite subsection (4), if a patient referred to in that subsection dies destitute and no relatives or good faith friend claims the body of the patient within 14 days after his or her death, the Minister may direct that the body of the patient be buried at a cemetery nearest to the hospital where he or she has died or that it be disposed of in accordance with regulations prescribed for that purpose.

Accommodation of person accompanying patient

44. The superintendent -

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- (a) may permit any person accompanying a patient to stay in the state hospital and to be accommodated with that patient in the hospital, subject to such conditions as the Minister may prescribe; and
- (b) may order the person to leave the hospital as he or she may consider necessary.

State patients not to engage private health practitioners without prior approval

45. (1) A patient in a state hospital who receives free treatment or who is a state patient may not engage a private health practitioner for treatment in a state hospital except -

- (a) in the case of an emergency; or
- (b) with the written approval of the superintendent on such conditions as the superintendent may determine.

(2) A patient who engages a private health practitioner contrary to subsection (1) is treated as a private patient and is personally liable for the cost of such treatment.

(3) Despite subsection (1) and (2), the Minister may by notice in the *Gazette* designate a state hospital or part of a state hospital where treatment of patients by private health practitioners is prohibited.

Private health practitioners not to practise in state hospital or state health service without authorisation

46. (1) A health practitioner who is not in the full-time employment as a staff member may not, subject to subsections (6) and (7) -

- (a) engage in the treatment of patients; or
- (b) perform a procedure,

in a state hospital or a state health service except with the written authorisation of the Minister.

(2) An application for authorisation under subsection (1) must -

- (a) be in writing;
- (b) be signed by the applicant;
- (c) be submitted to the Minister through the superintendent of the state hospital or supervisor of the state health service where the applicant intends to practise;
- (d) contain an undertaking by the applicant that he or she will comply with this Act and any hospital rules or regulations applicable to that state hospital or a state health service; and
- (e) conform to any other prescribed requirements.

(3) On consideration of an application submitted under subsection (2) the Minister may -

- (a) reject the application; or

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- (b) grant the application unconditionally or on any one or more of the conditions that the applicant must restrict his or her practice in the state hospital or a state health service to -
 - (i) the specified part of the state hospital or a state health service;
 - (ii) the specified type of treatment;
 - (iii) the specified period or periods; or
 - (iv) other conditions as the Minister may specify in the authorisation.
- (4) The Minister may at any time -
 - (a) withdraw an authorisation granted under subsection (3);
 - (b) amend any of the conditions in the authorisation; or
 - (c) impose additional conditions in the authorisation,

and must notify the health practitioner concerned in writing of the withdrawal or change in the conditions.

- (5) A practitioner who is aggrieved by -
 - (a) a decision of the Minister rejecting his or her application for authorisation under this section;
 - (b) a condition imposed under subsection (3) or (4); or
 - (c) the withdrawal of an authorisation under subsection (4),

may after the expiry of six months from the date of the decision complained of, re-apply to the Minister for the grant of authorisation or for the amendment or withdrawal of the condition complained of and subsections (2) and (3) apply to an application under this subsection.

(6) Despite subsection (1), the superintendent of a state hospital may, in the case of a patient requiring emergency treatment, permit a private health practitioner to treat that patient in the state hospital without the Minister's authorisation.

(7) Despite subsection (1), the Minister may, subject to the Public Service Act, enter into an agreement with a health practitioner, whether or not such health practitioner is employed as a staff member, to permit the health practitioner to treat private patients for his or her own benefit, at a state hospital or a state health service according to conditions that may be specified in the agreement.

PART 7

CLASSIFICATION OF AND FEES PAYABLE BY PATIENTS RECEIVING TREATMENT AT STATE HOSPITALS AND STATE HEALTH SERVICES

Classification of patients at state hospitals

47. (1) A patient, who is an in-patient or an out-patient, may elect to be classified as either a state patient or a private patient on admission to a state hospital or a state health service for treatment.

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(2) If a patient is a minor or a person under legal disability, the election to be classified as either a state patient or a private patient must be made by the patient's guardian or curator.

(3) A person who is not a Namibian citizen or who has not lawfully been admitted to Namibia for permanent residence and who is admitted for treatment in a state hospital or a state health service may only be classified as a state patient with the written approval of the Permanent Secretary.

(4) A patient admitted to a state hospital or a state health service for treatment may retract, after having been so admitted to the state hospital or a state health service, his or her election as a state patient or a private patient only with the written approval of the Permanent Secretary.

(5) A person who is aggrieved by a refusal of the Permanent Secretary to grant his or her approval in terms of subsection (3) or (4) may appeal, in writing, to the Minister within 21 days of the date on which he or she is notified of the Permanent Secretary's decision.

Minister to prescribe fees

48. (1) The Minister, in consultation with other line ministries, may prescribe -

(a) tariffs of fees to be paid for

[There is no hyphen after the opening phrase in the *Government Gazette*.]

(i) the treatment of patients at a state hospital or a state health service; and

(ii) for any other service which may be rendered or item supplied; and

(b) the conditions upon which a patient may receive free treatment at a state hospital or a state health service.

(2) The Minister may prescribe different tariffs of fees in respect of -

(a) the various categories of patients as determined by the Minister;

(b) the different classes of state hospitals or state health services in which patients may receive treatment;

(c) the different kinds of treatment or an element of such treatment; and

(d) the different kinds of health services rendered by state hospitals and state health services or items supplied thereat.

(3) Despite subsection (1) and (2), the Minister may at any time determine that a patient or category of patients may be -

(a) exempted from payment of fees for treatment or for other services rendered;

(b) exempted from payment for items supplied at a state hospital or a state health service; or

(c) liable for payment at reduced fees as the Minister may determine.

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Agreement of undertaking

49. The Minister may enter into an agreement with any government, organisation, company or person where the government, organisation, company or person undertakes to pay for the treatment or health services rendered to any person by a state hospital or a state health service at tariff of fees and subject to conditions as may be agreed between the parties to the agreement.

Payment for transportation and treatment of emergency cases

50. (1) In the case of an emergency owing to serious illness or injury and a patient, other than a state patient or a patient receiving free treatment, has to be transported by road, rail, sea or air to a hospital within or outside Namibia for urgent treatment and that patient or any person liable to pay for the cost of that treatment and transportation is unable at that time to pay, the Minister may, subject to subsection (2), pay for the treatment and transportation of that patient.

(2) A patient or person referred to in subsection (1) must, subject to conditions as the Minister may determine, refund to the Minister the amount paid under subsection (1) for the patient's treatment and transportation.

(3) In an emergency the Permanent Secretary may authorise the conveyance by road, rail, sea or air of any patient referred to in subsection (1) and the treatment of such patient in any hospital whether in or outside Namibia.

(4) An authorisation under subsection (3) is for the purposes of this Act regarded as an authorisation by the patient himself or herself or an authorisation by such other person who may by law for and on behalf of such patient authorise such conveyance or treatment.

PART 8
FINANCIAL ASSISTANCE FOR SPECIAL MEDICAL
TREATMENT OF STATE PATIENTS

Establishment of Special Fund for Treatment of State Patients

51. (1) In this Part -

“banking institution” means the banking institution authorised to conduct banking business under the Banking Institutions Act, 1998 (Act No. 2 of 1998);

“Coordinating Committee” means the Financial Assistance Coordinating Committee established by section 57;

“Fund” means the Special Fund for the Treatment of Special Medical Conditions established by subsection (2);

“Post Office Savings Bank” means the Post Office Savings Bank controlled and managed by the Namibia Post Limited established by section 2 of the Posts and Telecommunications Companies Establishment Act, 1992 (Act No. 17 of 1992); and

“special medical treatment” means any of the following medical treatments that a State patient may receive -

- (a) cardiac angiogram and the insertion of stents that can only be performed outside Namibia;

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- (b) cardio-thoracic surgery, including cardiac bypass;
- (c) radical prostatectomy;
- (d) major spinal surgery, including the insertion of internal prosthesis;
- (e) major brain surgery, including brain aneurysm repair;
- (f) major abdominal surgery, abdominal aorta aneurysm repair;
- (g) organ transplant, including stem cell, liver or kidney transplant;
- (h) radiotherapy for cancer patients;
- (i) kidney dialysis;
- (j) specialised surgery for resections;
- (k) any other medical treatment that requires treatment in an intensive or high care unit in a hospital due to post surgery complications; or
- (1) any prescribed medical treatment.

(2) There is established a fund to be known as the Special Fund for the Treatment of State Patients for the purpose of assisting State patients in need of special medical treatment in terms of this Part.

Finances of Fund

52. The Fund consists of -

- (a) moneys appropriated by Parliament for the purposes of the Fund;
- (b) donations made to the Fund for the purposes of the Fund;
- (c) moneys accruing to and vesting in the Fund from any other source; and
- (d) interest and dividends derived from the investment of moneys made on behalf of the Fund.

Utilisation of Fund

53. (1) The Fund is utilised for -

- (a) the funding of special medical treatment of State patients; or
- (b) any other prescribed purpose.

(2) Donations made to the Fund for a specific purpose may be utilised in the manner agreed upon by the Coordinating Committee and the donor with the approval of the Minister.

Administration of Fund

54. (1) The Permanent Secretary -

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- (a) is, for the purposes of the State Finance Act, 1991 (Act No. 31 of 1991), the accounting officer of the Fund;
- (b) is responsible for the administration of the Fund, when necessary, subject to the directions of the Minister;
- (c) must open, maintain and operate, subject to this section, such banking accounts at any banking institution or the Post Office Savings Bank;
- (d) with the consent of the Minister and the Minister responsible for finance, may invest any money that is not immediately required for expenditure by the Fund at -
 - (i) a banking institution;
 - (ii) the Post Office Savings Bank; or
 - (iii) a building society registered in terms of the Building Societies Act, 1986 (Act No. 2 of 1986).

(2) The Minister, with the concurrence of the Minister responsible for finance, may, in addition to this section, make regulations relating to the administration of the Fund.

Financial year of Fund, audit of accounts and annual report

55. (1) The financial year of the Fund ends on 31 March in each year.

(2) The Permanent Secretary must keep records of accounts in accordance with generally accepted accounting practices, principles and procedures as are necessary -

- (a) to represent fairly the state of affairs and operation of the Fund; and
- (b) to explain the transactions and financial position of the Fund.

(3) Not later than three months after the end of each financial year of the Fund, the Permanent Secretary must -

- (a) prepare and submit to the Coordinating Committee for consideration an annual report on activities, including financial statements, comprising -
 - (i) a statement, with suitable and sufficient particulars, reflecting the income and expenditure of the Fund during such financial year; and
 - (ii) a balance sheet showing the state of the assets, liabilities and financial position of the Fund as at the end of such financial year; and
- (b) after the annual report of the Fund having been considered by the Coordinating Committee, submit it together with the records of accounts to the Auditor-General for audit.

(4) The Auditor-General must submit to the Minister a report on the audit of the accounts and financial statements of the Fund submitted to him or her in terms of subsection (3).

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(5) The Minister must table the annual report within 14 days from the receipt in the National Assembly, if it is then in ordinary session, or within 14 days from the commencement of the next ordinary session, if the Assembly is not in ordinary session.

(6) Any moneys to the credit of the Fund at the end of a financial year of the Fund must be carried forward to the next financial year of the Fund.

Exemption from payment of tax and other charges

56. The Fund is not liable to pay any tax, other charge or duty on income or transfer duty or stamp duty imposed by any law.

Financial Assistance Coordinating Committee

57. (1) There is established a committee to be known as the Financial Assistance Coordinating Committee.

(2) The powers and functions of the Coordinating Committee are -

(a) to receive, scrutinise and make recommendations to the Minister regarding any application for financial assistance for special medical treatment made by or on behalf of State patients; and

(b) to exercise and perform any additional powers and functions as may be prescribed.

(3) The Coordinating Committee consists of the Permanent Secretary who is *ex officio* member and the chairperson of the Committee -

(a) one staff member of the Office of the Prime Minister, designated by the Prime Minister;

(b) one staff member of the Ministry administering finance, designated by the Minister responsible for finance;

(c) one staff member of the Ministry designated by the Minister;

(d) one medical practitioner appointed by the Minister; and

(e) one additional member appointed by the Minister.

(4) The Coordinating Committee, at its first meeting, must elect from amongst its members a deputy chairperson of the Committee.

(5) The Minister, for the purposes of designation under subsection (3), must in writing request the Office of the Prime Minister and the Minister responsible for finance to designate staff members as members of the Coordinating Committee.

Tenure and vacation of office of members, procedure at meetings of Coordinating Committee, allowances and expenses

58. The Minister must -

(a) prescribe the -

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- (i) tenure and vacation of office of members of the Coordinating Committee; and
 - (ii) convening of and procedures at meetings of the Coordinating Committee; and
- (b) with the consent of the Minister responsible for finance, determine -
- (i) the travel and subsistence allowances; and
 - (ii) sitting allowances payable to members who are not in the full-time employment of the State, to be defrayed from the budget of the Ministry.

PART 9
STATE HOSPITAL COMMITTEES

State hospital committees

59. (1) The health practitioners practising at a state hospital and other staff employed at the hospital must annually elect from among themselves a state hospital committee in respect of the hospital, consisting of such number of members as the Minister may prescribe, and the members of the state hospital committee must elect one of themselves to be the chairperson of the committee.

(2) A state hospital committee must perform such functions as are required of it by the Minister or superintendent.

(3) A state hospital committee must meet for the performance of its duties as often as is necessary or if required to do so by the superintendent.

- (4) The Minister may prescribe -
- (a) the manner of election of a member of a state hospital committee;
 - (b) the grounds upon which a member of a state hospital committee may vacate office;
 - (c) the manner in which vacancies on the state hospital committee may be filled;
 - (d) the procedure at meetings of a state hospital committee; and
 - (e) any other procedural or administrative matter necessary for the proper functioning of a state hospital committee under this section.

PART 10
RETURNS AND EXEMPTIONS

State hospitals and state health services to submit returns to Minister

60. (1) The Minister must by notice in the *Gazette*, and in such other manner as he or she may deem expedient, require -

- (a) the superintendent of a state hospital; and
- (b) the person in charge of a state health service,

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to submit to the Permanent Secretary a written report of the activities of the state hospital or state health service not later than the date specified in the notice.

- (2) A report submitted under subsection (1) must -
- (a) be in the prescribed form;
 - (b) cover the period specified in the notice; and
 - (c) contain the information specified in the notice.

Exemption from provisions of Act

61. Despite anything provided to the contrary in this Act, the Minister may exempt, whenever he or she considers it expedient, by notice in the *Gazette*, any state hospital or a state health service from all or any of the provisions of this Act.

Exemption from provisions of Pharmacy Act

62. The Pharmacy Act does not apply to a pharmacy contemplated in section 30(2).

PART 11
GENERAL AND SUPPLEMENTARY PROVISIONS

Research into diseases, mental illnesses and other medical conditions

- 63.** The Minister may -
- (a) commission or authorise the conduct of research in any state hospital into any matter relating to the occurrence, cause, prevention, diagnosis or treatment of any illness, disease, mental illnesses and other medical conditions in human beings; and
 - (b) by means of grants or otherwise aid such research, whether in a state hospital or not.

Delegation of powers and assignment of duties or functions by Minister or Permanent Secretary

- 64.** (1) The Minister may in writing -
- (a) delegate any power conferred on the Minister by this Act, excluding the power to make regulations and to determine any appeal under this Act to the Permanent Secretary or any staff member in the Ministry; and
 - (b) assign any duty or function imposed upon the Minister by this Act to the Permanent Secretary or any staff member in the Ministry.
- (2) The Permanent Secretary may in writing -
- (a) delegate any power conferred upon the Permanent Secretary by this Act to any staff member in the Ministry; and
 - (b) assign any duty or function imposed upon the Permanent Secretary by this Act to any staff member in the Ministry.

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- (3) The Minister or Permanent Secretary -
- (a) is not divested of any power delegated or any duty or function assigned under subsection (1) or (2);
 - (b) may vary or set aside any decision made under the power so delegated or perform any duty or function so assigned; and
 - (c) at any time withdraw the delegation of any power or the assignment of any duty or function.

(4) If a decision varied or set aside under subsection (3)(b) relates to any person, that person may, within 14 days after the variation or setting aside of the decision, make written representation to the Minister or the Permanent Secretary regarding the variation or setting aside.

Regulations

- 65.** (1) The Minister may make regulations relating to -
- (a) the categories into which state hospitals and state health services may be classified and the criteria for such classification;
 - (b) the conditions on which a hospital service may be established, financed, maintained or controlled;
 - (c) matters in relation to state hospitals regarding -
 - (i) the control of persons entering and leaving a state hospital including patients, staff and visitors on the hospital premises;
 - (ii) the custody of property belonging to admitted patients including the disposal of soiled or infected articles;
 - (iii) the keeping of records in respect of patients visiting a state hospital;
 - (iv) the control of articles and objects that may be brought into a state hospital by persons visiting the hospital;
 - (v) the supply of medicine to a state hospital and the dispensing of such medicine to patients and other persons at a state hospital pharmacy; and
 - (vi) any other matter concerning the conduct of and administration of a state hospital that requires regulation;
 - (d) the conditions on which a person referred to in section 44 may be accommodated with a patient in a state hospital;
 - (e) the disposal of a body which has not been claimed for burial under section 43;
 - (f) the format of any application or certificate required to be prescribed under this Act;
 - (g) the tariff of fees payable under this Act, including rebates and special rates payable at state hospitals and state health services for treatment and hospital services and the manner of payment;

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- (h) the conditions upon which patients at state hospitals and state health services may receive free or subsidised treatment and health services;
- (i) the number and categories of members of a state hospital committee, the manner of electing those members and the procedure of meetings of such committee;
- (j) the format of any report or returns required to be submitted under this Act;
- (k) any matter which in terms of this Act is required or permitted to be prescribed; and
- (l) generally any other matter which the Minister considers necessary or expedient for the effective implementation of this Act.

(2) The Minister may make different regulations in respect of the different categories of state hospitals and state health services under this Act.

(3) A regulation made under this section may prescribe penalties not exceeding a fine of N\$5 000 or imprisonment not exceeding a period of one year, or both such fine and such imprisonment, for any contravention of or failure to comply with such regulation.

Indemnity

66. A person, generally or specifically, authorised to exercise any power or perform any function conferred or imposed by or under this Act is not liable for anything done or omitted to be done in good faith in the exercise of such power or the performance of such function, or for anything that may result therefrom, unless such thing is done or omitted to be done due to the gross negligence of such person.

Repeal of laws and savings

67. (1) The laws set out in Schedule 2 are repealed to the extent indicated in the third column.

- (2) Despite subsection (1) -
 - (a) any state hospital or a state health service established, or a private hospital or private health service taken over, maintained, managed, controlled and financed as a state hospital or a state health service under any law repealed by subsection (1) and in existence immediately before the commencement of this Act, is deemed to have been established, taken over, maintained, managed, controlled, or financed as the case may be, under the corresponding provisions of this Act;
 - (b) any regulation, notice, approval, appointment, authority, certificate or document made, issued, given or granted, or any other thing done under any law repealed by subsection (1) is, except in so far as may be otherwise required by this Act, is considered to have been made, given, issued, granted or done under the corresponding or allied provision of this Act and continues to have force and effect -
 - (i) except if it is inconsistent with this Act; or
 - (ii) until it is set aside, cancelled or repealed.

Short title and commencement

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68. This Act is called the National Health Act and comes into operation on a date determined by the Minister by notice in the *Gazette*.

(2) Different dates may be determined under subsection (1) in respect of different provisions of this Act.

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**SCHEDULE 1
STATE HEALTH SERVICES
(Section 30 (2))**

1. Ambulance.
2. Blood bank.
3. Clinic.
4. Community Health centre.
5. Consulting rooms or surgery of a health practitioner.
6. Convalescent home.
7. Dental laboratory or workshop.
8. Dispensary of health-related treatment, aids and appliances.
9. First-aid station.
10. Health spa or hydro.
11. Maternity home or unattached delivery suite.
12. Medical laboratory.
13. Mobile clinic.
14. Occupational health clinic.
15. Prosthetic and Orthotic laboratory
16. Pharmacy.
17. Radiological clinic.
18. Sanatorium.
19. Unattached operating theatre.
20. Geriatric unit.

**SCHEDULE 2
(LAWS REPEALED)
(Section 67)**

Number and year of law	Short title	Extent of repeal
Act No. 36 of 1994	Hospitals and Health Facilities Act, 1994	Part II, Part III, Part IV, Part V and sections 33(1) (a) and (b) and (2), 34, 35, 36, 37, 38(1)(a), (c), (d), (e), (f), (g), (h), (i), (j), (m) and (n) and (2), 39(1) and (2)(a) and (c) and 40.
Act No. 1 of 1998	Hospitals and Health Facilities Amendment Act, 1998	Sections 1, 2, 3, 4, 5, 6, 11, 12 and 13.