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KANTOOR VAN DIE PREMIER

OFFICE OF THE PREMIER

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24 January 1997

Hierby word bekend gemaak dat die Premier die onderstaande Wet bekragtig het, wat hierby ter algemene inligting gepubliseer word:-

No. 13 van 1996: Wet op die Vrystaatse Hospitale, 1996.

It is hereby notified that the Premier has assented to the following Act which is hereby published for general information:-

No. 13 of 1996: Free State Hospitals Act, 1996.

GENERAL EXPLANATORY NOTE :

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.

ACT

To provide for the establishment, maintenance and management of hospitals in the Province, and matters connected therewith. 5

BE IT ENACTED by the Provincial Legislature of the Free State Province, as follows : - 10

(Afrikaans text signed by the Premier.)
(Assented to 22 January 1997)

CHAPTER 1**Definitions****Definitions**

1. In this Act, unless the context indicates otherwise - 15
- "Administration" means the Provincial Administration : Free State, referred to in the first column of Schedule 1 to the Public Service Act, 1994; 25
- "board" means a hospital board established or deemed to have been established in terms of section 6; 30
- "chief executive officer" means the chief executive officer referred to in section 2(3); 35
- "Department" means the Department of Health, referred to in the first column of the Schedule to the Provincial Service Commission Act, 1994 (Act No 3 of 1994); 40
- "Head of Department" means the Head : Health, referred to in the second column of the Schedule to the Provincial Service Commission Act, 1994; 45
- "hospital management" means the persons jointly responsible for the management of a provincial hospital as referred to in section 5; 50
- "local authority" means any "local government body" as defined in section 1 of the Local Government Transition Act, 1993 (Act No 209 of 1993), and any "transitional council" or "transitional rural council" established under such Act which exercises local government functions to the exclusion of any such local government body;

- "medical practitioner" means a person registered in terms of the provisions of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No 56 of 1974), as a medical practitioner, intern or dentist; 55
- "operating-theatre unit" means a place where surgical activities are carried out and in which provision is made for those facilities as set out in the regulations governing private hospitals and unattached operating-theatre units; 60
- "prescribed" means prescribed by regulation;
- "private hospital" means any hospital or any other institution, building or place at which provision is made for the treatment and care of patients requiring medical and surgical treatment and nursing care, but excluding -
- (a) a hospital or any such institution, building or place conducted by the State, the Administration, a local authority or any other public body;
 - (b) any consulting room, surgery or dispensary of a medical practitioner which does not provide any bed accommodation; 5
 - (c) an unattached operating-theatre unit;
 - (d) a hospital or other institution licensed for the reception and detention of mentally ill persons in terms of section 46 of the Mental Health Act, 1973 (Act No 18 of 1973); and 10
 - (e) an institution, building or place for the treatment or nursing care of aged people attached to a registered home for the aged as defined in the Aged Persons Act, 1967 (Act No 81 of 1967), or a housing development scheme as defined in the Housing Development Schemes for Retired Persons Act, 1988 (Act No 65 of 1988); 15
- "provincial hospital" means a hospital established or deemed to have been established in terms of section 2; 20
- "Public Service Act, 1994" means the Public Service Act, 1994 (Proclamation No 103 of 3 June 1994); 25
- "regulation" means a regulation made or deemed to have been made under section 16; 30
- "responsible Member" means the member of the Executive Council responsible for Health;
- "this Act" includes a regulation; 35
- "unattached operating-theatre unit" means a operating-theatre unit not owned or managed by the State, the Administration, a local authority, a private hospital authority or any other public body and not attached to a provincial or private hospital or nursing home or maternity home, and where a patient operated on in such operating-theatre unit may remain for a period not exceeding 12 hours, reckoned from the time he or she enters the unit immediately before being operated on. 40

CHAPTER 2	45
Administration	
Establishment of hospitals	50
2. (1) The responsible Member may establish, maintain and manage provincial hospitals and any services incidental thereto.	55
(2) As from the date of commencement of this Act all hospitals in the province which are managed and controlled by the Department, shall be deemed to be provincial hospitals established in terms of this section.	60
(3) At the head of every provincial hospital shall be a chief executive officer appointed by the responsible Member in accordance with the provisions of the Public Service Act, 1994 : Provided that where the chief executive officer of a provincial hospital is not registered as a medical practitioner in terms of the Medical, Dental and Supplementary Health Service Professions Act, 1974, the head of clinical services of the provincial hospital concerned shall deal with the medico legal aspects of such hospital.	65
(4) A reference in any law to "medical superintendent" shall be construed as a reference to the chief executive officer of a provincial hospital or, in the circumstances referred to in the proviso to subsection (3), as a reference to the head of clinical services of such provincial hospital.	5
CHAPTER 3	
Classification of hospitals and co-operation with other institutions	10
Classification of hospitals	
3. The responsible Member may by notice in the <i>Provincial Gazette</i> classify or reclassify a provincial hospital as a tertiary, regional or a district hospital.	15
Co-operation with other institutions	20
4. The Department may, subject to the provisions of this Act, the Public Service Act, 1994, and any other law, conclude an agreement with any other institution in order to promote the provision of health services in the province.	25
CHAPTER 4	
Hospital management and hospital boards	30
Hospital management	
5. The daily management of a provincial hospital is jointly vested in -	35
(a) the chief executive officer;	40
(b) the head of nursing services;	40
(c) the head of clinical services; and	45
(d) the head of administrative and support services,	45

who shall endeavour to reach all decisions on the basis of consensus : Provided that if consensus on any matter cannot be achieved, the decision of the chief executive officer shall prevail. 50

Hospital boards

6. (1) (a) The responsible Member may establish a hospital board for a provincial hospital. 55
- (b) A board shall consist of 9 members : Provided that the responsible Member may, by notice in the *Provincial Gazette*, increase the number of members of a board after consultation with the board concerned. 60
- (2) The responsible Member may -
- (a) establish a hospital board for a group of 2 or more provincial hospitals;
- (b) transfer a provincial hospital falling under one hospital board to another hospital board; 5
- (c) abolish a hospital board. 10

Appointment and term of office of members of board

7. (1) The responsible Member shall, subject to subsection (3), appoint the members of a board. 15
- (2) The chief executive officer and the head of administrative and support services of a provincial hospital shall *ex officio* be members of a board. 20
- (3) The members of a board shall not be appointed unless the responsible Member has invited interested parties through the media and by notice in the *Provincial Gazette* to nominate candidates, within 21 days of the invitation in the media and the publication of such notice, for consideration by the responsible Member. 25
- (4) A member of a board shall, subject to subsection (6), hold office for such period, not exceeding 2 years, as the responsible Member may determine at the time of his or her appointment and shall be eligible for reappointment at the termination of his or her term of office. 30
- (5) Upon expiration of the period for which members were appointed, they shall remain in office until their successors have been appointed, but in no case for a further period of more than 3 months. 35
- (6) The responsible Member may, after he or she has afforded a member of a board the opportunity to make representations, at any time terminate the term of office of such member if - 40
- (a) there are sufficient reasons for doing so; 45
- (b) he or she has been absent from more than 2 consecutive meetings of the board without the prior leave of the chairperson; or 50

(c) such member has contravened the provisions of section 13.

(7) If for any reason the office of a member of a board becomes vacant before the expiration of the period for which he or she was appointed, the responsible Member may, subject to subsection (3), appoint any other person to fill the vacancy for the unexpired portion of the period for which such member was appointed. 55

(8) Members of a board who are not in the full-time service of the Administration may, out of moneys appropriated for this purpose by the Provincial Legislature, be paid his or her reasonable subsistence and travelling expenses when attending a meeting of the board, or a committee thereof, as the case may be. 60

(9) The administrative functions of a board shall be performed by officers, on the establishment of the Department at the provincial hospital concerned, to be designated by the Head of Department. 65

Meetings of board

8. (1) The first meeting of a board shall be held at a time and place determined by the Head of Department and all subsequent meetings shall be held at such times and places as the board may determine : Provided that a board shall hold at least 6 meetings per year. 5

(2) The chairperson of a board may at any time, and shall on the written request of at least 3 members of the board, call a special meeting of the board to be held at a time and place determined by him or her. 10

(3) The quorum for a meeting of a board shall be a simple majority of the members of the board. 15

(4) A decision of a board shall be taken by a majority of the votes of the members present at a meeting of the board and, in the event of an equality of votes on any matter, the chairperson shall have a casting vote in addition to his or her deliberative vote. 20

Chairperson and deputy chairperson of board

9. (1) The responsible Member shall appoint a member of a board, excluding a member referred to in section 7(2), as the chairperson of the board. 25

(2) At its first meeting a board shall elect one of its members to be deputy chairperson of the board. 30

(3) If the chairperson is absent or is for any reason unable to act as chairperson, the deputy chairperson shall perform the functions of the chairperson. 35

Committees of board

10. A board may appoint one or more committees to assist it in the carrying out of its functions. 40

Secretary of board

11. At its first meeting a board shall appoint the head of administrative and support services of the provincial hospital concerned, as secretary of the board. 45

Powers and functions of board

12.	A board -	50
	(a) shall advise the responsible Member, the Head of Department and the chief executive officer of the provincial hospital for which it was established with regard to the control and management of such hospital;	55
	(b) may make recommendations -	
	(i) in connection with matters referred to it by the responsible Member, the Head of Department or the chief executive officer of the provincial hospital concerned;	60
	(ii) to the responsible Member regarding the appointment of the chief executive officer of such provincial hospital;	65
	(c) shall represent community needs and priorities in the hospital management by -	5
	(i) channeling community complaints to hospital management for a response;	
	(ii) informing the community about developments in the provincial hospital concerned;	10
	(iii) informing the responsible Member of any aspects not addressed by the hospital management;	15
	(d) shall oversee hospital performance by -	
	(i) inspecting the facilities and grounds of the provincial hospital concerned to ensure quality and acceptability;	20
	(ii) monitoring monthly financial statements;	25
	(iii) monitoring monthly patient statistics;	
	(iv) informing the Head of Department of any matters not clarified by hospital management;	30
	(e) shall play an active role in the governance of the provincial hospital concerned by -	35
	(i) monitoring annual operational hospital management plans;	
	(ii) setting hospital policy and strategy in conjunction with the hospital management within the framework of national and provincial health policies;	40
	(iii) attempting to resolve personnel matters that are not resolved by normal procedures;	45

- (iv) accepting and administering moneys and other property bequeathed or donated to it in trust for hospital purposes; and 50
- (f) shall carry out such other functions as may from time to time be assigned to it by the responsible Member. 55

Member of board may not have financial interest in matter before board

13. A member of a board shall not vote upon, or take part in or be present during discussions of, any matter before the board in which he or she has, directly or indirectly any pecuniary interest.

CHAPTER 5

General provisions

Admission and discharge of patients 5

14. (1) The head of clinical services of a provincial hospital shall, subject to any regulations, determine the order in which persons shall be admitted to such hospital having regard to the urgency of their need for treatment : Provided that admission to a provincial hospital may not be denied in the case of an emergency. 10

(2) Subject to the provisions of the Mental Health Act, 1973, and subsection (3), no patient can be denied discharge from a provincial hospital. 15

(3) A patient requesting to be discharged from a provincial hospital shall sign a refusal of hospital treatment form if his or her discharge is deemed not to be in his or her interest by the clinician concerned or the hospital management. 20

Admission of medical practitioner to provincial hospital to treat patients

15. (1) A medical practitioner who is not in the full-time employment of the Administration, shall not treat a patient in a provincial hospital, except with the permission of 25

(a) the board of the provincial hospital concerned or, where no board has been established, the chief executive officer of such provincial hospital; or 30

(b) in the case of an emergency, the head of clinical services or the chief executive officer of such provincial hospital : Provided that such permission shall only remain valid until the board has had an opportunity to consider the matter. 35

(2) An application for permission in terms of subsection (1) shall be made in the form determined by the Head of Department and shall not be considered unless the applicant has undertaken in writing - 40

(a) to comply with the rules and regulations applicable to the provincial hospital concerned and the instructions of the chief executive officer of such hospital; and 45

	(b)	to render the part-time medical service in a provincial hospital as is from time to time determined by the Head of Department.	50
(3)		A board or a chief executive officer, as the case may be, may -	55
	(a)	grant or refuse such permission, or grant it subject to such conditions as he, she or it may deem fit or as may be prescribed;	60
	(b)	cancel any such permission.	
(4)		A medical practitioner who is aggrieved at -	
	(a)	the refusal to grant such permission;	
	(b)	a condition imposed in respect of such permission; or	5
	(c)	the cancellation of such permission,	
		may, within 21 days after such refusal, imposition or cancellation lodge an appeal in writing with the Head of Department against it and, if the appeal is allowed, the board or chief executive officer, as the case may be, shall give effect to the decision of the Head of Department.	10
(5)		Any person who contravenes or fails to comply with a provision of subsection (1), shall be guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.	15
Regulations			20
16.	(1)	The responsible Member may make regulations with regard to -	
	(a)	the classification, admission, treatment, care and transfer of patients in a provincial hospital and their discharge from such hospital;	25
	(b)	the maintenance of order, discipline, decency and cleanliness among the patients and visitors in a provincial hospital;	30
	(c)	the conditions which medical practitioners, who have been granted permission to treat patients in a provincial hospital, have to comply with;	35
	(d)	the fees payable by patients for services provided to them in a provincial hospital;	40
	(e)	the admission to the premises of a provincial hospital of persons who are not patients, medical practitioners or members of the staff;	45
	(f)	the bringing in of goods into a provincial hospital;	
	(g)	the proceedings and the maintenance of order at meetings of a board or a committee of a board;	50

- (h) any other matter, the nature of which shall not be limited by the preceding paragraphs, in connection with the management and control or supervision of a provincial hospital; 55
- (i) private hospitals, nursing homes, maternity homes or other similar institutions where nursing is carried on for the benefit of patients accommodated therein and where fees are charged by the owner or lessee of any such hospital, home or institution in respect of nursing services rendered to such patients or where contributions are made by such patients towards the cost of such services - 60
- (i) regulating, restricting or prohibiting the establishment or running of such hospitals, homes or institutions; 65
- (ii) prescribing minimum standards with which such hospitals, homes or institutions shall comply;
- (iii) relating to the registration and inspection of such hospitals, homes or institutions; 5
- (iv) prescribing the fees to be paid, the registers to be kept, the certificates to be issued and any other requirements to be complied with in connection with the registration of such places; 10
- (v) relating to patients who may be accommodated therein; 15
- (vi) relating to the registration of persons in charge of such hospitals, homes or institutions, and the furnishing of returns or particulars of patients admitted thereto and persons employed therein; and 20
- (vii) providing for the refusal to register, or the removal from the appropriate register of, any such hospital, home or institution which the responsible Member or any specified person or class of person may consider unsatisfactory on specified grounds; 25
- 30
- (j) any place, excluding a provincial hospital or a private hospital, nursing home, maternity home or other institution referred to in paragraph (i), where surgical or other medical activities are performed in respect of which special equipment or facilities are necessary - 35
- (i) prescribing the surgical or other medical activities which may be performed at such place; 40
- (ii) prescribing the standards in respect of space which shall be complied with, the equipment and other facilities which shall be provided at such a place, the records of such activities to be kept and the qualifications and number of nurses to be employed in connection therewith; 45
- (iii) providing for the registration of such places and the inspection of such places, equipment and facilities; 50

(iv)	prescribing the fees to be paid, the registers to be kept, the certificates to be issued and any other requirements to be complied with in connection with the registration of such places; and	55
(v)	providing for the refusal to register, or the removal from the appropriate register of, any such place which the responsible Member or any specified person or class of person may consider unsatisfactory on specified grounds,	60
	Provided that the regulations made under subparagraph (ii) may prescribe different standards in respect of different categories of places specified therein;	5
(k)	any matter which in terms of this Act is required to or may be prescribed;	10
(l)	generally, all matters which he or she considers necessary or expedient for achieving the objects of this Act.	15
(2)	Different regulations may be made under this section for different provincial hospitals, and the regulations made in terms of subsection (1)(d) may provide that depending on the financial and other personal circumstances of patients, no fees or different fees may be levied against different categories of patients.	20
(3)	Regulations under this section may, in respect of a contravention thereof or a failure to comply therewith, prescribe a penalty of a fine not exceeding R5 000 or imprisonment for a period not exceeding 6 months or both such fine and imprisonment.	25
Delegations		
17.	(1) The responsible Member may, subject to such conditions as he or she may determine, delegate any power or function conferred upon him or her under this Act, except the power to make regulations, to the Head of Department and he or she may authorize the Head of Department to delegate that power or function to any officer on the establishment of the Department.	30 35
	(2) The Head of Department may, subject to such conditions as he or she may determine, delegate any of his or her powers or functions under this Act, to an officer on the establishment of the Department.	40
	(3) A delegation under subsection (1) or (2) shall not prevent the responsible Member or Head of Department, as the case may be, from exercising or performing such power or function himself or herself.	45
Transitional provisions		
18.	(1) Any hospital board or private hospital established under the provisions of a law repealed by this Act, shall be deemed to be a hospital board or private hospital respectively, established in terms of this Act.	50

(2) The responsible Member may, by notice in the *Provincial Gazette*, dissolve a board referred to in subsection (1) and replace it with a board constituted in terms of this Act. 55

Repeal of laws and savings 60

19. (1) The laws mentioned in the Schedule are hereby repealed to the extent indicated in the second column of the Schedule.

(2) Any proclamation, regulation, notice, order, authority, permission or document issued, made, promulgated, given or granted and any other action taken under a law repealed by subsection (1) shall, if not inconsistent with the provisions of this Act, be deemed to have been issued, made, promulgated, given, granted or taken under the corresponding provisions of this Act. 5

Short title 10

20. This Act shall be called the Free State Hospitals Act, 1996.

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SCHEDULE**Laws repealed****(Section 20)**

	Title, No and Year of Law	Extent of repeal
1.	Hospitals Ordinance, 1971 (Ordinance No 8 of 1971)	The repeal of the whole.
2.	Health Act, 1977 (Act No 63 of 1977)	The repeal of section 44.
3.	Qwaqwa Health Act, 1985 (Act No 13 of 1985)	The repeal of section 47.