

NATIONAL HEALTH BILL

9 NOVEMBER 2001

ARRANGEMENT OF SECTIONS

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PREAMBLE

RECOGNISING THAT –

In the spirit of the Constitution of the Republic of South Africa and recognising the socio-economic injustices, imbalances and inequities of health services of the past;

Section 27(1) of the Constitution provides for the right of everyone of access to health services including reproductive health care, section 27(2) of the Constitution requires the State to take reasonable legislative and other measures, within its available resources to achieve the progressive realisation of each of these rights;

Section 27(3) of the Constitution provides that no one may be refused emergency medical treatment.

AND BEARING IN MIND THAT –

The State must, in compliance with section 7(2) of the Constitution, respect, protect, promote and fulfil the rights in the Bill of Rights which is the cornerstone of democracy in South Africa;

Reasonable legislative measures be adopted in terms of section 27(2) of the Constitution to implement a plan of action to establish a national health system, utilising available resources to meet the health care needs of the people of the Republic of South Africa.

AND IN ORDER TO –

Be united in a common mission to actively promote and improve the health system in South Africa;

Provide for co-operative management of health services, within national guidelines, norms and standards and in which each province, municipality and district will address questions of policy and delivery of services;

Establish a health system of decentralised management, governance, research, enquiry and advocacy which encourages participation by everyone;

Promote a spirit of co-operation and shared responsibility among public, non-governmental and private health professionals and providers and other relevant sectors within the context of national, provincial and district health plans.

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:

CHAPTER 1

DEFINITIONS, PURPOSE AND RESPONSIBILITY FOR HEALTH

1. DEFINITIONS

In *this Act*, unless the context indicates otherwise -

“*academic health service complex*” will comprise several health establishments and a consortium of educational institutions all working together to educate and train a wide range of health professionals and conduct research;

“*authorised institution*” means an institution as contemplated in section 64;

“*basic health service*” means those services as *prescribed* by the *Minister*, after consultation with the *National Health Authority*;

“*blastomere*” means any of the cells which originate from a fertilized ovum;

“*capital expenditure*” means-

- (a) an expenditure made for or on behalf of a *health establishment* that, under generally accepted accounting principles, is not ordinarily chargeable as an expense of operation or maintenance and includes the cost of any surveys, designs, plans, working drawings and specifications essential to the acquisition, improvement, replacement, expansion or modification of any *health establishment* but excludes the cost of any feasibility study; and
- (b) a lease, donation or other arrangement that would be a *capital expenditure* if the money or any other property of value had changed hands;

“*certificate of need*” means the certificate referred to in section 47, which entitles the holder thereof to operate a *health establishment* on fulfilment of any term and condition set out in the certificate;

“clinical trials” is an investigation in human subjects intended to discover or verify the clinical, pharmacological and/or other pharmacodynamic effects of an investigational product(s), and/or to identify any adverse reactions to an investigational product(s), and/or to study absorption, distribution, metabolism, and excretion of an investigational product(s) with the object of ascertaining its safety and/or efficacy;

“communicable disease” means a disease resulting from an infection due to pathogenic agents or toxins generated by it, following the direct or indirect transmission of the agent from the source to the host;

“construction” means the erection, building, alteration, reconstruction, improvement, extension or modification undertaken for any purpose on behalf of a **health establishment** and includes the lease or purchase of equipment, excavation and so forth ;

“coterminous” means sharing similar boundaries;

“Director-General” means the head of the **national department** of health;

“disability” means a long term or recurring physical or mental impairment which substantially limits a **person’s** ability to perform an activity in the manner or within the range considered normal for a human being;

“discharge report” means a report specifying -

- (a) **user** registration information;
- (b) **health establishment** information;
- (c) date and time of admission at and discharge from **health establishment**;
- (d) **health care provider** information;
- (e) presenting complaint;
- (f) diagnosis;
- (g) investigations undertaken;
- (h) treatment provided; and
- (i) ongoing treatment management plan, or if appropriate, certification that no further treatment is required in respect of the presenting complaint;

“District Health Authority” means a body that has been established in accordance with the provisions of section 43;

“donation” in this Act means the *donation* of an *organ* in accordance with the procedures contemplated in Chapter 8 and includes the giving of consent in accordance with that Chapter to the post-mortem examination of such a body and **“donate”** and **“donor”** have corresponding meaning;

“emergency treatment” means treatment which is needed to treat a life-threatening but reversible deterioration in a person’s health status and it continues to be **emergency treatment** until the condition of the person has stabilised or has been reversed to a particular extent;

“gamete” means either of the two generative cells essential for human reproduction;

“health care provider” means a *person* providing health services;

“health district” means a district whose boundaries have been demarcated in accordance with the procedure contemplated in sections 41 and 42;

“health establishment” means the whole or part of a public or private institution, facility, agency, building or place whether organised for profit or not that is operated or designed to provide inpatient or outpatient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, preventative or other health services;

“health officer” means “health officer” as defined in the Health Act, 1977 (Act no. 63 of 1977);

“health research” includes any action contributing to knowledge of -

- (a) biological, clinical or psychological social processes in human beings;
- (b) improved methods for the provision of health services;
- (c) human pathology;
- (d) the causes of disease; and
- (e) the effects of the environment on the human body;

“health surveillance” shall include morbidity and mortality surveillance of disease surveillance, health systems surveillance, epidemiological surveillance, and socio-demographic surveillance;

“human cloning” means the creation of identical organisms from living or dead individuals by manipulation of genetic material, including:

- (a) removal of nuclear material from an *oocyte* or a female *gamete*, embryo or embryo cells and replace it with nuclear material from a *zygote* or somatic cell at any stage from foetal or adult development; or
- (b) embryo splitting or *blastomere* separation;

“Inspectorate of Health Establishment” means the inspectorate established in terms of section 38(1) and correspondingly **“Inspectorate”** bears the same meaning;

“Minister” means the member of cabinet responsible for health;

“municipality” means a *municipality* as defined in the Municipal Systems Act, 2000 (Act 32 of 2000);

“national department” means the *national department* responsible for health;

“National Health Authority” means the body established in terms of section 28;

“National Health Management Committee” means the committee established in terms of section 30(1);

“norm” means a statistical normative rate of provision or measurable target outcome over a specified period of time;

“oocyte” means a developing human egg cell;

“organ” means any part of the human body adapted by its structure to perform particular vital functions, including the eye and its accessories but excluding any skin and appendages, flesh, bone, bone marrow, body fluid, blood or *gamete*;

“palliative care” means the active total care of persons whose disease is not responsive to curative treatment;

“prescribe” means prescribe by regulation;

“private health establishment” means a *health establishment* that does not constitute or is not owned or controlled by an organ or quasi-organ of the State;

"provincial department" means the *provincial department* responsible for health;

"Provincial Health Authority" means a body established in terms of section 35;

"public health establishment" means a *health establishment* that constitutes or is owned or controlled by an organ or quasi-organ of the State;

"rehabilitation" means a goal-orientated and time-limited process aimed at enabling impaired persons to reach an optimum mental, physical and/or social functional level;

"relevant Member of the Executive Council" means the member of the Executive Council responsible for health in a province;

"the Constitution" means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

"tissue" means any human *tissue* including any flesh, bone, gland, organ, or body fluid, including any implanted medical or other assistive device, but excluding any bone marrow, blood or *gamete*;

"use" in relation to *tissue*, includes to preserve or dissect;

"user" means the *person* receiving treatment or using a health service; and in certain circumstances may include, where the person concerned is -

- (a) below the age contemplated in section 39(4) of the Child Care Act, 1983 (Act No.74 of 1983), that person's parent or guardian or a person authorised by law or court order to act on that person's behalf;
- (b) incapable of taking decisions, the person's next of kin or a person authorised by law or court order to act on that person's behalf;
- (c) where the person is deceased, an executor of that person's deceased estate;

"zygote" means the product of the union of a male and a female *gamete* outside the human body.

2. **APPLICATION AND INTERPRETATION**

In an instance where a conflict arises between the provisions of this Act and those of any other health legislation, with the exception of legislation that expressly amends this Act, the provisions of this Act will apply.

3. **PURPOSE OF THIS ACT**

The purpose of *this Act* is -

- (a) to establish a national health system which -
 - (i) encompasses public, private and non-governmental providers of health services; and
 - (ii) provides the population of the Republic with the best possible health services that available resources can afford;
- (b) to set out the rights and duties of both *health care providers* and *users*; and
- (c) to provide for related matters.

4. **RESPONSIBILITY FOR HEALTH**

- (1) The *Minister* is responsible within the limits of available resources to -
 - (a) protect, promote, improve and maintain the health of the population;
 - (b) promote the inclusion of health services in the socio-economic development plan of the country;
 - (c) determine the policies and measures necessary to protect, promote, improve and maintain the health and well-being of the population;
 - (d) ensure the rendering of *basic health services* to the population of the Republic;
 - (e) prioritise the health services that the state can provide taking into consideration health needs and resources available.

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- (2) (a) The *national* and each *provincial department* and *municipalities* must establish health services, and each *municipality*, all *public health establishments* and *health care providers* must render health services within the limits of available resources.
- (b) The *national department, provincial departments, municipalities, public health establishments* and *health care providers* must act in accordance with *this Act* when exercising or performing any power, duty or function relating to health.

5. ***PERSONS ELIGIBLE FOR FREE HEALTH SERVICES IN PUBLIC HEALTH ESTABLISHMENTS***

The Minister may, subject to any conditions as may be *prescribed*, determine that certain persons are eligible for free health services at *public health establishments*.

CHAPTER 2

RIGHTS AND DUTIES OF USERS AND HEALTH CARE PROVIDERS

6. ***RIGHT OF USERS TO INFORMATION ON HEALTH SERVICES***

The *national* and *provincial departments, district health authorities* and municipalities must ensure that adequate and comprehensive information is disseminated on the health services for which they are responsible.

7. ***EMERGENCY TREATMENT***

Subject to any limitations which the *Minister* or the *relevant members of the Executive Council* may *prescribe*, a *public* or *private health establishment* shall not deny a person requiring *emergency treatment* such treatment if the establishment is open and able to provide the necessary treatment.

8. ***PARTICIPATION IN DECISIONS***

Every *user* has a right to participate in any decision affecting his or her personal health and treatment, unless it is not reasonably practicable for the *user* to participate.

9. ***FULL KNOWLEDGE***

- (1) Every *health care provider* must inform a *user* in an appropriate manner of -
 - (a) the *user's* health status;
 - (b) the range of diagnostic procedures and treatment options generally available to the *user* ; and
 - (c) the benefits, risks, costs and consequences generally associated with each option.
- (2) *Health care providers* must provide a *discharge report* to any person who has received treatment in that establishment and has requested the *discharge report*.

10. ***REQUIREMENT FOR CONSENT***

Subject to any other law, no person or *health establishment* may provide a *user* with treatment of any nature, whether for examination, hospitalisation, specimen-taking, surgery, medicinal treatment or other intervention, unless -

- (a) the *user* has been adequately informed as required in section 9(1) and has consented to the treatment;
- (b) a law or court order has authorised the treatment;
- (c) the treatment is necessary for the protection of public health; or
- (d) any delay in treating a *user* might result in his or her death or irreversible damage to his or her health and the *user* has not impliedly or by conduct refused that treatment.

11. ADMISSION TO A HEALTH ESTABLISHMENT WITHOUT CONSENT

- (1) A *health establishment* must notify the head of the *provincial department* in the province in which that establishment is situated within 48 hours of the time that a *user* is admitted for treatment to that establishment without his or her consent.
- (2) The provisions of subsection 1 do not apply if the *user* consents to the treatment in that establishment within 24 hours of admission.
- (3) If a 48 hour period contemplated in subsection (1) expires on a Saturday, Sunday or public holiday, the *health establishment* may notify the head of the *provincial department* at any time before noon of the next day that is not a Saturday, Sunday or public holiday.

12. TREATMENT FOR EXPERIMENTAL OR RESEARCH PURPOSES

- (1) A *health establishment* must inform the *user* being treated in that establishment in the appropriate manner if any treatment procedures applied to that *user* are, at the time of treatment, intended to be part of an experimental or research project.
- (2) No *health establishment* may apply any treatment procedure on a *user* being treated at that establishment for a purpose contemplated in subsection (1) unless the following persons have each given prior written authorisation for the *use* of the procedure -
 - (a) the *user* ;
 - (b) the *health care provider* primarily responsible for the *user's* treatment; and
 - (c) the head of the *health establishment* and the ethics committee concerned, or any other *person* or body to whom that authority has been delegated.

13. OBLIGATIONS TO KEEP A RECORD

- (1) The person or body in charge of a *public* or *private health establishment* must maintain a permanent health record of every *user* of health services at that establishment in the *prescribed* manner.

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- (2) Any person required to maintain health records must do so in compliance with the provisions of the National Archives of South Africa Act, 1996 (Act no. 43 of 1996), and the Promotion of Access to Information Act, 2000 (Act no. 2 of 2000).

14. CONFIDENTIALITY

- (1) Every *user* is entitled to confidentiality of all information concerning the *user*, including information relating to her or his health status, treatment, or stay in a *public* or *private health establishment*.
- (2) No person or *health establishment* may disclose any information which a person is entitled to have kept confidential in terms of subsection (1), unless -
- (a) the *user* consents in writing to that disclosure; or
 - (b) *this Act*, a court order, or any other law, requires that disclosure.

15. HEALTH USER'S RIGHT OF ACCESS TO RECORDS

A person referred to in the Promotion of Access to Information Act (Act No.2 of 2000), as the Information Officer must allow access to the health records of a user in accordance with the provisions of that Act.

16. USER'S ACCESS

- (1) A person who holds parental authority over a *user* who is a minor is entitled to have access to the health records of that *user* unless -
- (a) the head of the *health establishment* concerned determines that that disclosure of the content of that record to the holder of parental authority could be prejudicial to the *user*;
 - (b) the *user*, after being consulted by the head of the *health establishment*, refuses to allow the contents of her/his health records to be disclosed to the holder of parental authority; or

- (c) the access would be in contravention of the rights of the user contained in the Choice on Termination of Pregnancy Act, 1996 (Act no 92 of 1996).
- (2) The head of a *health establishment*, after consulting the *health care provider* primarily responsible or another *health care provider* designated by the head of the *health establishment* concerned, may temporarily deny a *user* access to information contained in the *user's* health record if disclosure of that information would be likely to be seriously prejudicial to the *user*.

17. ADMINISTRATIVE STAFF ACCESS TO HEALTH RECORDS

Administrative staff at any *public* or *private health establishment* may have access to the health records of a *user* for any legitimate purpose within the ordinary course of their duties.

18. HEALTH CARE PROVIDER ACCESS TO HEALTH RECORDS

A *health care provider* may examine a *user's* health records for purposes of treatment, study, teaching or research, with the authorisation of the *user*, head of the establishment concerned and the ethics committee.

19. PROTECTION OF HEALTH RECORDS

- (1) The Information Officer of a *public* or *private health establishment* in which a *user's* details or files are recorded, must set up control measures to prevent unauthorised access to those records and to the storage facility in which, or system by which, those records are kept.
- (2) Any person who knowingly -
 - (a) fails to perform a duty imposed on them in terms of subsection (1);
 - (b) falsifies any record by adding, deleting, or changing any information contained in that record;
 - (c) creates, changes or destroys a record without the authority to do so;
 - (d) fails to create or change a record when properly required to do so;

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- (e) provides false information with the intent that it be included in a record;
 - (f) without authority, copies or attempts to copy, any part of a record, by any means;
 - (g) without authority, connects the personal identification elements of a *user's* record with any element of that record that concerns the *user's* condition, treatment or history;
 - (h) gains or attempts to gain, unauthorised access to a record or record-keeping system, by any means, including intercepting information being transmitted from one person, or one part of a record-keeping system, to another;
 - (i) without authority, connects any part of a computer or other electronic system on which records are kept to -
 - (i) any other computer or other electronic system;
 - (ii) any terminal or other installation connected to or forming part of any other computer or other electronic system; or
 - (iii) attempts or actually does modify or impair the operation of -
 - (aa) any part of the operating system of a computer or other electronic system on which a *user's* records are kept; or
 - (bb) any part of the programme used to record, store, retrieve or display information on a computer or other electronic system on which a *user's* records are kept,

commits an offence.

20. **LAYING OF COMPLAINTS**

- (1) Any person or *user* is entitled to lay a complaint about the manner in which he or she is treated at a *health establishment* and to have the complaint investigated.
- (2) In laying a complaint, the person or *user* referred to in subsection (1) must follow the complaints procedure established in terms of section 21.

21. COMPLAINTS PROCEDURES

The *relevant Member of the Executive Council*, with the concurrence of the *Provincial Health Authority*, must -

- (a) *prescribe* procedures to be followed by *users* for laying complaints regarding the provision of health services; and
- (b) establish mechanisms to inform the *users* of the procedures.

22. DUTIES OF USERS

Users have the following obligations -

- (a) to adhere to the rules and regulations that exist in the relevant *health services* and *establishments* contemplated in the provisions of this Act ;
- (b) to provide the *health care provider* with accurate and all relevant information pertaining to the *user's* health status and to generally co-operate with *health care providers* when using health services;
- (c) to treat *health care providers* with dignity and respect;
- (d) to assist in maintaining *health establishments* in habitable conditions;
- (e) to sign a discharge certificate if they refuse to accept recommended treatment;
- (f) to refrain from the use of tobacco products, *non-prescribed* alcohol products, and all such other products or substances which are hazardous, whilst on the premises of the *health establishments*; and
- (g) prohibited from carrying firearms and/or any weapons in contravention of any law onto the premises of a *health establishment*.

23. RIGHT TO A SAFE WORKING ENVIRONMENT

Subject to any other law, every *health establishment* must implement measures to minimise -

- (a) damage or injury to the person or property of *health care providers* working at that establishment; and
- (b) disease transmission.

24. NON-DISCRIMINATION ON GROUNDS OF HEALTH

- (1) No *health care provider* may be unfairly discriminated against on account of his or her health status.
- (2) Notwithstanding subsection (1), but subject to any other law, the head of the *health establishment* concerned may impose any such condition as may be deemed necessary on the services that may be rendered by a *health care provider* on the basis of the health status of the *health care provider*, and in accordance with any guidelines determined by the *Minister*.

CHAPTER 3

NATIONAL HEALTH – STRUCTURES AND FUNCTIONS

25. FUNCTIONS OF THE NATIONAL DEPARTMENT OF HEALTH

The functions of the *national department* are listed in Schedule 1.

26. PERFORMANCE OF NATIONAL FUNCTIONS BY THE PROVINCES

- (1) The *Minister* may delegate to a *relevant member of an Executive Council* the performance of any function listed in Schedule 1 Part B if -
 - (a) the *relevant Member of the Executive Council* has made a request to perform the function;
 - (b) the *Minister* is satisfied that the *provincial department* is able to perform the function; and

-
- (c) funding and other necessary resources are available for the performance of that function.
 - (2) The **Minister** may withdraw a delegation made in terms of subsection (1) if reasonable grounds exist that the **provincial department** is unable to continue to perform that function properly.
 - (3) The **Minister** may impose any such conditions as he or she deems necessary upon any delegation referred to in terms of subsection (1), and may at any time vary or withdraw such conditions.

27. ASSUMPTION OF PROVINCIAL FUNCTIONS BY THE NATIONAL DEPARTMENT OF HEALTH

- (1) If the **Minister** has reasonable grounds to believe that a **provincial department** is not performing any of the functions listed in Schedule 2, the **Minister** must request the **relevant Member of the Executive Council** to furnish written representations on the matter.
- (2) After due consideration of the written representations referred to in sub-section (1) above, the **Minister** may, pursuant to the provisions of section 100 of **the Constitution**, issue directions to remedy the situation, which may include a direction that any function listed in Schedule 2 be performed within that province by the **national department**.

28. ESTABLISHMENT AND COMPOSITION OF THE NATIONAL HEALTH AUTHORITY

- (1) A **National Health Authority** is hereby established.
- (2) The **National Health Authority** consists of -
 - (a) the **Minister**,
 - (b) the **relevant Members of the Executive Councils**;
 - (c) 3 **persons** representing organised local government appointed by the national organisation contemplated in section 163(a) of **the Constitution**; and

- (d) the **Director-General**, the Deputy **Directors-General** of the **national department**, the heads of **provincial departments**, and the head of the South African Military Health Service shall serve in an *ex officio* capacity.

29. DUTIES AND POWERS OF THE NATIONAL HEALTH AUTHORITY

- (1) The **National Health Authority** must function in an advisory capacity to the **Minister**.
- (2) The **National Health Authority** must at the request of the **Minister** or may of its own accord advise the **Minister** on -
- (a) policy concerning any matter that will protect, promote, improve and maintain the health of the population, including -
- (i) responsibilities for health by individuals, the public sector, non-governmental sector and the private sector;
 - (ii) targets, priorities, norms and standards relating to the equitable provision and financing of health services;
 - (iii) efficient co-ordination of health service;
 - (iv) human resources planning, production, management and development;
 - (v) development, procurement, and use of health service technology;
 - (vi) equitable financial mechanisms for the funding of health service;
 - (vii) the designing and implementation of programmes to provide for effective referral of patients, or to enable integration of **public** and **private health establishments**;
 - (viii) financial and other assistance received from foreign governments and inter-governmental or non-governmental organisations including the conditions applicable to receiving such assistance and the mechanisms to ensure compliance with these conditions;
 - (ix) epidemiological surveillance and monitoring of national and provincial trends with regard to major diseases and risk factors for disease; and

-
- (x) obtaining, processing and use of statistical returns.
 - (b) proposed legislation pertaining to health matters prior to such legislation being introduced in Parliament or a provincial legislature;
 - (c) any request by a provincial health department to perform functions listed in Part B of Schedule 1;
 - (d) norms and standards for the establishment of health establishments;
 - (e) guidelines for the management of *health districts*;
 - (f) the implementation of health policy;
 - (g) an integrated national strategy for *health research*; and
 - (h) the performance of any other function as may be determined by the *Minister*.
- (3) In performing its functions, the *National Health Authority* must -
- (a) strive to reach its decisions by consensus; and
 - (b) where decisions cannot be reached by consensus the decision of the majority of the members of the *National Health Authority* is deemed to be the decision of the *National Health Authority*.
- (4) For the purposes of performing its functions, the *National Health Authority* may in its discretion consult or receive representations from any person, body or authority.
- (5) The *National Health Authority* may create a committee(s) to advise it on any matter.
- (6) The *National Health Authority* must be presided over by the *Minister* or his or her nominee, and shall determine its own procedure for conducting its business.

30. ESTABLISHMENT AND COMPOSITION OF THE NATIONAL HEALTH MANAGEMENT COMMITTEE

- (1) A *National Health Management Committee* is hereby established.
- (2) The *National Health Management Committee* must consist of -

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- (a) the *Director-General* and the deputy *Directors-General* of the *national department*;
 - (b) the head of each *provincial department*;
 - (c) the head of the South African Military Health Service; and
 - (d) representatives of the management of *health districts*.
- (3) The number of *persons* contemplated in subsection (2)(d) will be determined by the *National Health Authority* in consultation with the national organisation contemplated in section 163(a) of *the Constitution*.

31. DUTIES AND POWERS OF THE NATIONAL HEALTH MANAGEMENT COMMITTEE

- (1) The *National Health Management Committee* must -
- (a) of its own accord, or at the request of the *National Health Authority*, investigate and consider any matter relating to health, and report on its findings to the *National Health Authority*;
 - (b) if requested to do so, make recommendations to the *National Health Authority* with regard to any matter relating to health;
 - (c) co-ordinate policy implementation; and
 - (d) in general perform the acts that are considered by the *National Health Management Committee* to be necessary or expedient to ensure that the objects of *this Act* are achieved.
- (2) The *National Health Management Committee* may establish one or more sub-committees to inquire into, and to report to the Committee regarding any matter falling within the scope of the Committee's functions.
- (3) The *National Health Management Committee* must determine the composition of a sub-committee and designate a member to be the chairperson of the sub-committee.
- (4) The *National Health Management Committee* may at any time dissolve or reconstitute a sub-committee established under subsection (2).

32. **PREPARATION OF NATIONAL HEALTH PLANS**

- (1) The *Director-General* must prepare strategic medium term and annual health plans for the exercise of the powers and the performance of the duties of the *national department* which must form the basis of –
 - (a) the annual budget as required by the *national department* responsible for finance and state expenditure; and
 - (b) any other governmental planning exercise as may be required by any other law.
- (2) The *Director-General* must annually compile a summary of the health plans of the *national department* and *provincial departments* and submit these to the *National Health Authority* for recommendation.
- (3) The national health plans must comply with any policy adopted in terms of sections 4 and 29.
- (4) The *National Health Authority* may determine the time frames, guidelines and the format for the preparation of national and provincial health plans.

CHAPTER 4

PROVINCIAL HEALTH – STRUCTURES AND FUNCTIONS

33. **FUNCTIONS OF A PROVINCIAL DEPARTMENT OF HEALTH**

The functions of a *provincial department* are listed in Schedule 2.

34. **PROVINCIAL HEALTH SERVICES**

Every *provincial department* must act in accordance with policy determined by the *National Health Authority* in terms of section 29 when establishing and operating its health services.

35. ESTABLISHMENT OF PROVINCIAL HEALTH AUTHORITY

A *Provincial Health Authority* is established in respect of each Province.

36. COMPOSITION OF PROVINCIAL HEALTH AUTHORITY

- (1) The *Provincial Health Authority* consists of -
 - (a) the *relevant Member of the Executive Council*;
 - (b) the Councillor responsible for health in the Metropolitan Council where such municipalities exist;
 - (c) the Councillor responsible for health in each of the District Councils in the province;
 - (d) a representative of the provincial local government association responsible for health;
 - (e) the head of a *provincial department* in an *ex officio* capacity;
 - (f) the representatives of the management of health districts in an *ex officio* capacity; and
 - (g) any other person whom the *relevant Member of the Executive Council* considers appropriate, in an *ex officio* capacity.
- (2) A person contemplated in subsection (1)(c) must be appointed by in accordance with the provisions of section 163(a) of *the Constitution*.
- (3) The number of persons contemplated in subsection (1)(e) will be determined by the *Provincial Health Authority* in consultation with the national organisation contemplated in section 163(a) of *the Constitution*.

37. DUTIES AND PROCEDURES OF PROVINCIAL HEALTH AUTHORITY

The *Provincial Health Authority* is established in respect of each Province.

- (1) The **Provincial Health Authority** must function in an advisory capacity to the **relevant Member of the Executive Council**.
- (2) The **Provincial Health Authority** must at the request of the **relevant Member of the Executive Council** or may of its own accord advise the **relevant Member of the Executive Council** on -
 - (a) policy concerning any matter that will promote the health of the population within the province;
 - (b) legislation related to health policy before it is introduced in the relevant provincial legislation;
 - (c) any request by a **District Health Authority** to perform functions listed in Part B of Schedule 2; and
 - (d) the performance of any other function as may be determined by the **relevant Member of the Executive Council**.
- (3) The **Provincial Health Authority** may consult with or receive representations from any person, body or authority.
- (4) The **relevant Member of the Executive Council**, or any other **person** nominated by the former, must preside over the **Provincial Health Authority**.
- (5) The **Provincial Health Authority** may determine its own procedures for conducting business.

38. ESTABLISHMENT OF INSPECTORATE FOR HEALTH ESTABLISHMENTS

- (1) In each province, the **relevant Member of the Executive Council** must establish an **Inspectorate for Health Establishments**, whose function is to monitor and evaluate compliance by **health establishments** with the relevant requirements as may be set out in *this Act*.
- (2) The **Inspectorate for Health establishments** must submit a monthly (or quarterly) report on its activities to the **relevant Member of the Executive Council** who in turn must submit an annual report to the **Minister**.

39. PREPARATION OF PROVINCIAL HEALTH PLANS

- (1) The head of the *provincial department* must, within a reasonable period after the commencement of *this Act, with the concurrence* of the *Provincial Health Authority*, prepare strategic medium term and annual plans for the exercise of the powers of, the performance of the duties of, and the provision of health services in the province by the *provincial department*.
- (2) Provincial health plans must conform to any policy and guidelines issued in terms of section 29.
- (3) The *Provincial Health Authority* may determine time frames and guidelines for the preparation of district health plans including their format.
- (4) The head of the *provincial department* must submit the plans referred to in subsection (1) to the *Director-General* within the stipulated time frames and in accordance with the guidelines determined by the *National Health Authority* as contemplated in section 32.

CHAPTER 5

THE DISTRICT HEALTH SYSTEM

40. ESTABLISHMENT OF THE DISTRICT HEALTH SYSTEM

In addition to this chapter, provincial health legislation must provide for the establishment of a district health system in a province.

41. DEMARCATION OF HEALTH DISTRICTS

- (1) The entire area of the Republic of South Africa must be demarcated into *health districts*.
- (2) The boundaries of all *health districts* must be *coterminous* with municipal boundaries.
- (3) Notwithstanding the provisions of subsection (2), a *health district* may be situated in more than one municipality.

42. VARIATION OF HEALTH DISTRICT BOUNDARIES

- (1) The *relevant Member of the Executive Council* may, in consultation with the Minister, vary the boundaries of any *health district* and may create new *health districts* or abolish existing *health districts*.
- (2) The variation of the boundaries and the creation or abolition of *health districts* referred to in subsection (1) must –
 - (a) be made after consultation with –
 - (i) the *District Health Authority* and the municipality affected by the proposed variation, creation or abolition; and
 - (ii) the Executive Council of the province concerned; and
 - (b) be published in the *Gazette*.

43. DISTRICT HEALTH AUTHORITY

- (1) Provincial health legislation must provide for the establishment of *District Health Authorities* in the provinces by the *relevant members of the Executive Council*, in consultation with the members of the Executive Council responsible for Provincial and Local government.
- (2) The *District Health Authorities* referred to in subsection (1) –
 - (a) may be-
 - (i) a municipality;
 - (ii) a provincial department; or
 - (iii) a body constituted in terms of provincial health legislation; and
 - (b) shall plan for and ensure the delivery of health services in a particular health district.
- (3) Provincial health legislation referred to in subsection (1) shall also provide for the management of *District Health Authorities*.

44. MUNICIPAL HEALTH SERVICES

- (1) The following constitutes municipal health services and must be rendered by the municipalities:
 - (a) environmental health services;
 - (b) promotive and preventive health services; and
 - (c) other municipal health services, in addition to those referred to in subparagraphs (a) and (b), that are rendered by other municipalities at the time of coming into operation of this Act.
- (2) Municipal health services referred to in subparagraph (1)(c) may only be rendered by municipalities if-
 - (i) the affected municipality;
 - (ii) the *relevant member of the Executive Council*; and
 - (iii) the member of the Executive Council responsible for Provincial and Local Government,agree to the rendering of such services.
- (3) In addition to municipal health services referred to in subsection (1) and other health services referred to in subsection (2), a province may request a municipality to perform further services and such request must be –
 - (i) supported by members of the members of the Executive Council responsible for health and provincial and local government matters as well the municipality concerned;
 - (ii) accompanied by the necessary funding arrangements for the performance of such further health services.

45. **HEALTH SERVICES**

- (1) Health services that are rendered by municipalities at the time of coming into operation of this Act shall be deemed to have been assigned to municipalities in terms of section 156(4) of the Constitution.
- (2) Nothing in subsection (1) must be construed as prohibiting a province from requesting a municipality to render health services after the coming into operation of this Act and such request must be by way of an assignment in terms of section 156(4) of the Constitution.
- (3) The services referred to in subsections (1) and (2) must be deemed to have been so assigned if the municipality concerned, *the relevant member of the Executive Council*, and a member of the Executive Council responsible for Provincial and Local Government, agree to such assignment.

46. **PREPARATION OF DISTRICT HEALTH PLANS**

Provincial health legislation must provide for the preparation of district health plans by *District Health Authorities* and the submission of such plans to the *relevant Member of the Executive Council*.

CHAPTER 6

HEALTH ESTABLISHMENTS

47. **CLASSIFICATION OF HEALTH ESTABLISHMENTS**

The *Minister* may by regulation –

- (a) classify all *health establishments* into such categories as is considered appropriate; and
- (b) determine, amongst other things, the establishment of hospital boards in the case of hospitals, and in the case of such classified *public health establishments*, their management system.

48. APPLICATION FOR CERTIFICATE OF NEED

Any *person* desiring to-

- (a) establish, modify or acquire a *health establishment*;
- (b) increase the number of beds or acquire *prescribed* specialised equipment;
- (c) provide *prescribed* specialised services; or
- (d) continue operating a *health establishment* existing at the time of commencement of this Act,

must apply in the *prescribed* manner to the *Director-General* for a *certificate of need*.

49. REVIEW OF APPLICATION FOR CERTIFICATE OF NEED

A person aggrieved by the decision of the *Director-General* may, within seven days of being notified of such decision, in writing request the *Minister* to review such decision.

50. DURATION OF CERTIFICATE OF NEED

The duration of the validity of a *certificate of need* shall be prescribed but shall not exceed 10 years.

51. REGULATIONS RELATING TO CERTIFICATES OF NEED

The *Minister* may, after consultation with the *National Health Authority*, make regulations relating to -

- (a) requirements for the renewal of a certificate of need;
- (b) requirements for a certificate of need of *health establishments* existing at the time of commencement of this Act;
- (c) requirements for the type, size, management, staffing and equipment in *health establishments*;

- (d) requirements relating to building standards, maintenance of physical facilities, and operational issues;
- (e) reporting requirements of *health establishments*; and
- (f) any other matter related to the issuance of a certificate of need, inspection and administration of *health establishments*.

52. ENFORCEMENT, REMEDIES AND SANCTIONS

- (1) The *Inspectorate of Health Establishments* shall inspect every *health establishment* at least once annually to ensure compliance with *this Act*, but may conduct announced or unannounced inspections of a *health establishment* at any time.
- (2) The *Inspectorate of Health Establishments* may order the total or partial closure of a *health establishment* if a *certificate of need* was not issued in respect of that *health establishment* prior to any activities contemplated in section 48 being undertaken.
- (3) The *Inspectorate of Health Establishments* must issue a written notice of non-compliance to the head of a *health establishment* if the *Inspectorate of Health Establishments* determines that –
 - (a) the *health establishment* does not comply with –
 - (i) any provision of *this Act*;
 - (ii) any condition imposed in a *certificate of need*;
 - (iii) building regulations; or
 - (iv) the provisions of any other law; or
 - (b) a *health care provider* who is employed by, or refers *users* to, the *health establishment* has a financial interest in the ownership or control of that *health establishment*.
- (4) An order issued in terms of subsection (2) for the total or partial closure of a *health establishment* must be issued in writing to the head of a *health establishment*.

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- (5) It is an offence for any *person* to act in accordance of section 48(a), (b) or (c) without a *certificate of need*.
 - (6) If a person is convicted of an offence in terms of subsection (5), that person will be liable on conviction to a fine not exceeding R100, 000, 00 or a period of imprisonment not exceeding five years, or both fine and imprisonment.

53. *PROVISION OF HEALTH SERVICES AT HOSPITALS*

- (1) The *Minister*, in the case of prescribed hospitals or the *relevant Member of the Executive Council* in respect of all other hospitals within the jurisdiction of the relevant province, may:
 - (a) determine the range of health services to be provided at any particular hospital;
 - (b) *prescribe* the procedure and criteria for admission to and referral from a hospital or group of hospitals;
 - (c) subject to subsection (2) *prescribe* schedules of fees, including penalties for not following the procedures contemplated in paragraph (b) for:
 - (i) different categories of *users*;
 - (ii) for various forms of treatment; and
 - (iii) for various categories of hospitals; and
 - (d) determine the proportion of revenue generated by a particular hospital that may be retained by that hospital, and how those funds may be used.
- (2) When determining a schedule of fees the fee for a particular service may not be varied in respect of *users* who are not ordinarily resident in a province.
- (3) Notwithstanding the provisions of subsection (2), a province whose residents make *use* of another province's services must compensate that province for services rendered.
- (4) The *Minister*, after consultation with the *National Health Authority*, must appoint a hospital board for each central hospital or for a group of central hospitals.

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- (5) The functions of the hospital boards shall be as prescribed.
 - (6) The *relevant member of the Executive Council*, after consultation with the *Provincial Health Authority*, must appoint hospital boards in respect of each hospital or group of hospitals in that province, excluding central hospitals.
 - (7) The boards contemplated in subsections (4) and (5) must be composed of –
 - (a) one representative from the national department in the case of central hospitals;
 - (b) one representative from the provincial department in the case of central and other hospitals;
 - (c) one representative from any other department in respect of central hospitals;
 - (d) persons with expertise in areas such as accounting, financial management, human resources management, information management and legal matters;
 - (e) representatives of the communities served by the hospital, including special interest groups representing users; and
 - (f) representatives of staff and management.
 - (8) Members of a hospital board will be appointed for a period of three years at a time, and the *Minister*, in the case of central hospitals, or the *relevant member of the Executive Council*, in the case of other hospitals, may replace them on good cause shown.

54. CLINIC AND COMMUNITY HEALTH CENTRE COMMITTEES

- (1) Provincial legislation shall provide for the establishment of a clinic committee or committees, or community health centre committee or committees for clinics and community health centres as the case may be, in the province.
- (2) The composition of committees referred to in subsection (1) shall include, but not be limited to –
 - (i) local government councillors;
 - (ii) members of the community served by the health facility;

- (iii) persons with expertise in legal and financial matters;
 - (iv) the head of the clinic or health centre; and
 - (v) any other person designated by the *relevant member of the Executive Council*.
- (3) The functions of the committees shall be prescribed.

55. THE PROVISION OF HEALTH SERVICES AT NON-HEALTH ESTABLISHMENTS AND AT PUBLIC HEALTH ESTABLISHMENTS OTHER THAN HOSPITALS

- (1) The *Minister* may *prescribe* –
- (a) minimum standards and requirements for the rendering of health services in locations other than *health establishments*, including schools and other public places; and
 - (b) penalties for failure to comply with such standards or requirements.
- (2) Provincial health legislation must provide for health services to be provided at *health establishments* other than hospitals in the province concerned.

56. THE INTER-RELATIONSHIP BETWEEN PUBLIC HEALTH ESTABLISHMENTS

- (1) Subject to *this Act*, a *user* shall be entitled to attend any *public health establishment* for purposes of receiving health services on such terms as may be determined by the *Minister* or the *relevant Member of the Executive Council*.
- (2) If a *public health establishment* is not capable of providing the necessary treatment or care, such a *user* must be referred by the *public health establishment* concerned to an appropriate *public health establishment* in such manner and on such terms as may be determined by the *Minister* or the *relevant Member of the Executive Council*.
- (3) If a *user* chooses to make use of a *health establishment* other than a health post, clinic or community health centre without an appropriate referral letter, the *user* shall be required to pay a by-pass fee, except in emergencies.

57. RELATIONSHIP BETWEEN PUBLIC AND PRIVATE HEALTH ESTABLISHMENTS

- (1) The *Minister* must *prescribe* mechanisms to enable a co-ordinated relationship between private and *public health establishments* in the delivery of health services.
- (2) The *national department* and *provincial departments*, districts and *municipalities* may enter into contractual or other arrangements with private practitioners, *private health establishments* and non-governmental organisations in order to achieve the objectives of this Act.
- (3) An arrangement contemplated in subsection (2) may permit the use of *public health establishments* by the private health sector in accordance with the provisions of the Public Finance Management Act, 1999 (Act 1 of 1999), and Municipal Finance Management legislation, as the case may be.

58. OBLIGATIONS OF PRIVATE HEALTH ESTABLISHMENTS

- (1) Every *private health establishment* must appoint an administrative officer for purposes of liaison with district health authorities, *provincial* and *national departments*.
- (2) Every *private health establishment* must ensure that it has adequate insurance cover to indemnify a *user* for damages that he or she might suffer as a consequence of the wrongful or unlawful, or both wrongful and unlawful, acts of its staff and/or employees.

59. EVALUATING THE SERVICES OF HEALTH ESTABLISHMENTS

- (1) All *health establishments* must comply with the quality requirements as prescribed by the *Minister* in consultation with the National Health Authority.
- (2) The quality requirements contemplated in subsection (1) may relate, but need not be limited to staffing, equipment, hygiene, safety or cost-effectiveness of services.
- (3) The *Inspectorate for Health Establishments* must monitor and enforce compliance with such quality requirements.

CHAPTER 7

ACADEMIC HEALTH SERVICE COMPLEXES

60. ESTABLISHMENT OF ACADEMIC HEALTH SERVICE COMPLEXES

- (1) The **Minister** may establish *academic health service complexes*, with the concurrence of
 - (a) the member of Cabinet responsible for Education;
 - (b) the *relevant Member of the Executive Council*;
 - (c) relevant educational institutions; and
 - (d) the relevant hospital boards.
- (2) The functions and responsibilities of *academic health service complexes* shall be to -
 - (a) co-ordinate the education and training of students at undergraduate and post-graduate levels in respect of the health occupations for which they have enrolled;
 - (b) promote research and continuing education;
 - (c) provide appropriate facilities for education, training and research; and
 - (d) to provide health care services as *prescribed* for each of the constituent *health establishments*.

61. ESTABLISHMENT, COMPOSITION AND DUTIES OF NATIONAL COUNCIL FOR ACADEMIC HEALTH SERVICE COMPLEXES

- (1) The National Council for Academic Health Service Complexes is hereby established.
- (2) The National Council for Academic Health Service Complexes, shall consist of -
 - (a) a chairperson appointed by the **Minister**;
 - (b) the **Director-General**;

-
- (c) representative appointed by Minister of Education;
 - (d) representative appointed by the Minister of Arts, Culture, Science and Technology;
 - (e) two representatives from the *academic health service complex* co-ordinating committee;
 - (f) one representative from each *provincial department*;
 - (g) three *persons* from Health Statutory Councils; and
 - (h) one *person* from health related statutory research institutes.
- (3) The functions and responsibilities of the National Council for Academic Health Service Complexes are -
- (a) to consider any matter relating to the functions of any *academic health service complex* and make recommendations to the *Minister* and the *National Health Authority*;
 - (b) to promote co-operation between health authorities, educational and research institutions in the *academic health service complex*;
 - (c) to determine the area for which each *academic health service complex* will take primary responsibility for providing academic resources and continuing health professional education, and for monitoring and promoting academic and professional standards; and
 - (d) to perform any function the Council considers necessary or expedient for the achievement of the objectives of *this Act*.
- (4) The National Council for Academic Health Service Complexes may -
- (a) determine its own procedures for conducting its business;
 - (b) establish one or more committees to assist it in the co-ordination of academic health service complexes and performance of its functions; and

- (c) determine the composition of each committee, which may include *persons* who are not members of the Council.

62. DEVELOPMENT AND PROVISION OF HUMAN RESOURCES IN THE NATIONAL HEALTH SYSTEM

The *National Health Authority* must develop policy and guidelines for and monitor the production, provision, distribution, development, management, and utilisation of human resources within the health system.

63. MAXIMISING THE SERVICES OF HEALTH CARE PROVIDERS

The *Minister*, with the concurrence of the *National Health Authority*, must determine guidelines to enable the *provincial departments* and *district health authorities* to implement programmes for the appropriate distribution of *health care providers*.

64. PRIMARY HEALTH CARE AND REFERRAL TEAMS

Provincial legislation must provide for the establishment of primary health care and referral teams.

CHAPTER 8

CONTROL OF THE USE OF TISSUE AND ORGANS IN HUMANS

65. NATIONAL BLOOD TRANSFUSION SERVICE

- (1) A National Blood Transfusion Service is hereby established.
- (2) The composition of the National Blood Transfusion Service will be determined by regulation by the *Minister*.
- (3) The operation and functioning of the National Blood Transfusion Service will be in terms of national health policy.

- (4) The National Blood Transfusion Service may establish provincial units that will exercise maximal management autonomy.
- (5) Notwithstanding the provisions of subsection (3) above, the executive authority of the regional blood transfusion services will reside with the National Blood Transfusion Service.
- (6) No person other than the National Blood Transfusion Service must render a blood transfusion service in the Republic of South Africa.
- (7) Any person who contravenes the provisions of subsection (5) above commits an offence.
- (8) The National Blood Transfusion Service is a non-profit organisation.

66. DESIGNATION OF AUTHORISED INSTITUTION

- (1) The **Minister** may, by notice in the *Gazette*, designate any institution which is not an institution referred to in section 75 as an **authorised institution** for purposes of empowering the institution to -
 - (a) acquire, use and supply bodies of deceased persons for any of the purposes referred to in section 76;
 - (b) acquire or use any tissue lawfully imported or removed from the body of a living or deceased person for any of the purposes referred to in section 76 or 68 , as the case may be; and
 - (c) supply any tissue preserved by it to an institution or person referred to in section 75 for any of the purposes referred to in section 76 or 68.
- (2) The **Minister** may impose conditions on authorised institutions and may vary or withdraw conditions applicable to any **authorised institution**.

67. CONSENT FOR THE REMOVAL OF TISSUE, BLOOD OR GAMETES FROM LIVING PERSONS

A person may not remove *tissue*, blood or *gametes* from the body of another living person for a purpose referred to in section 68 unless the removal is effected -

- (a) in accordance with the *prescribed* conditions; and
- (b) with written consent thereto granted in the prescribed manner.

68. PURPOSES FOR WHICH TISSUE, BLOOD OR GAMETES OF LIVING PERSONS MAY BE USED

- (1) Subject to the provisions of this Chapter and unless otherwise *prescribed*, a person may use *tissue*, blood or *gametes* removed or withdrawn from a living person only for medical or dental purposes.
- (2) *Tissue*, blood or *gametes* of the following types or persons may not be used for the purposes that are contemplated in section 76:
 - (a) *tissue*, blood or *gamete* of a person who is mentally ill within the meaning of the Mental Health Act, 1973 (Act No. 18 of 1973);
 - (b) *tissue* which is not replaceable by natural processes and which has been removed from a person younger than eighteen years;
 - (c) a *gamete* removed from a person younger than eighteen years; or
 - (d) placenta, foetal *tissue* and umbilical cord(s),except with the consent of the *Minister* and subject to any condition mentioned in the consent.

69. PROHIBITION OF THE TRANSPLANT OF GONADS

- (1) No person may transplant a gonad removed from a deceased or living person to another living person where that transplant could result in procreation, without the prior written authorisation of the *Minister* for the transplant.

- (2) Any person who contravenes the provisions of subsection (1) commits an offence.

70. REQUIREMENTS WITH REGARD TO TISSUE TRANSPLANTS

- (1) A person may not remove *tissue* from a living person for transplantation to another living person or carry out such transplantation except -
- (a) in a *hospital, health establishment* or *authorised institution*; and
 - (b) with the written authority of a medical practitioner responsible for clinical services in that *hospital, health establishment* or *authorised institution* concerned.
- (2) A medical practitioner contemplated in subsection (1)(b) may not participate in a transplant for which she or he has granted authorisation in terms of that subsection.

71. CONTROL OF REMOVAL AND USE OF TISSUE OR BLOOD

- (1) Only a registered medical practitioner or dentist may, for the purposes of this Chapter, remove any *tissue* from a living person and/or use or transplant *tissue* so removed on another living person.
- (2) Only a registered medical practitioner, dentist or a person acting under the supervision of the medical practitioner or dentist, may for purposes of this Chapter administer blood or a blood product to a living *person*.

72. PAYMENT IN CONNECTION WITH THE IMPORTATION, ACQUISITION, OR SUPPLY OF TISSUE, BLOOD, BLOOD PRODUCTS OR GAMETES

- (1) No person except -
- (a) a person or institution referred to in section 74, an *authorised institution* or, in the case of *tissue* or *gametes* imported in terms of the regulations, the importer concerned, may receive payment in respect of the importation, acquisition or supply of any *tissue* or *gamete* for or to another person for any of the purposes referred to in section 67 or 75;

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- (b) a person or institution referred to in section 74, an **authorised institution** or person may receive any payment in respect of the importation or acquisition for or the supply to another person of blood or a blood product.
- (2) The provisions of this section do not prevent a registered medical practitioner or registered dentist from receiving remuneration for professional services rendered by him or her to any person.
- (3) It is an offence for a person who has donated **tissue, gametes** or blood to receive any form of financial reward for such a **donation**, except for the reimbursement of costs incurred by him or her to provide such **donation**

73. **HUMAN ORGANS AS NATIONAL ASSETS**

- (1) Human **organs** obtained from deceased persons for the purpose of transplantation, treatment, or medical or dental training and research are national assets.
- (2) It is an offence to charge a fee in relation to the **donation** of human **organs**.

74. **DONATION OF HUMAN BODIES AND TISSUE**

- (1) A person who is competent to make a will may in the will, or in a document signed by him or her and at least two competent witnesses, or in a oral statement made in the presence of at least two competent witnesses -
- (a) donate his or her body or any specific **tissue** thereof, to be used after death for any medical and/or dental purposes in terms of this Act ; or
- (b) give consent to a post-mortem examination of his or her body for any of those purposes; and
- (c) nominate an institution or person as donee.
- (2) Subsection (1)(c) does not apply in respect of the **donation** of an **organ** which constitutes a national asset and the donee of such an **organ** must be determined in terms of subsection (4) below.

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- (3) In the absence of a **donation** under subsection (1)(a) or of a contrary direction given by that person, the spouse, major child, parent, guardian, major brother or major sister of that person may, after that person's death, donate the body or any specific **tissue** of that person to an institution or person in terms of this Act.
 - (4) The **Director-General** may, after the death of a person, donate any specific **tissue** of that person to a specific institution or person if -
 - (a) none of the persons referred to in subsection (3) can be located; and
 - (b) the **Director-General** is satisfied that all reasonable steps have been taken to locate those persons.

75. INSTITUTIONS TO WHICH AND PERSONS TO WHOM HUMAN BODIES OR TISSUE MAY BE DONATED

- (1) A human body, **tissue**, blood or **gametes** may be donated, in terms of section 73, to any of the prescribed institutions or persons.
- (2) A person may only remove and allocate **organs** in accordance with procedures **prescribed** by the **Minister**.
- (3) A person may not transplant an **organ** into another person who is not a citizen or permanent resident of the Republic of South Africa without written authority from the **Minister**.
- (4) The **Minister** must determine -
 - (a) criteria for the approval of **organ** transplant facilities; and
 - (b) procedural measures to be applied for such approval.

76. PURPOSES OF DONATION

A person may donate a human body or specific **tissue** to a person or institution only for the purposes of -

- (a) medical or dental training;

- (b) research;
- (c) the advancement of medicine or dentistry; or
- (d) therapeutic purposes, including the *use of tissue* on any living person or persons or for the production of a therapeutic, diagnostic or prophylactic substance.

77. REVOCATION OF DONATION

A donor may revoke a *donation* in the same way in which it was made or, in the case of a *donation* by way of a will or other document, also by the intentional destruction of that will or document.

78. POST-MORTEM EXAMINATION OF BODIES

A post-mortem examination of a deceased person may be conducted before the burial of that person if

- (a) the person gave consent thereto;
- (b) the spouse, major child, parent, guardian, major brother or sister of the deceased gave consent thereto ; or
- (c) such an examination is necessary for determining the cause of death.

79. REMOVAL OF TISSUE AT POST-MORTEM EXAMINATIONS AND OBTAINING OF TISSUE BY INSTITUTIONS AND PERSONS

- (1) The *Minister* may, on the written application of an institution or person requiring *tissue* for a purpose referred to in section 76, authorise that institution or person in writing to obtain such *tissue* from a medical practitioner referred to in section 71 or an institution.
- (2) When granting an authorisation in terms of subsection (1), the *Minister* may prescribe conditions for which the *tissue* that is so obtained may be used.

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- (3) Notwithstanding any law, a medical practitioner who is to conduct a post-mortem examination in terms of -
- (a) section 3 of the Inquests Act, 1959 (Act No. 58 of 1959); or
 - (b) section 78 of this Act;
- may remove or cause to be removed from a body *tissue* stated in an authority referred to in subsection (1) and shall hand it over to the person in possession of the authority
- (4) Subsection (3) does not preclude the removal of eyes or eye *tissue* from a body by an eye bank technician.

80. REGULATIONS RELATING TO TISSUE, ORGANS, BLOOD AND GAMETES

- (1) The *Minister* may make regulations regarding the following -
- (a) the post-mortem examination of bodies of deceased persons;
 - (b) the preservation, *use* and disposal of unclaimed bodies of deceased persons;
 - (c) the removal of donated *tissue* from deceased persons, *tissue* obtained from post-mortem examinations, and the procurement, storage and allocation of *tissue* by institutions and persons;
 - (d) *tissue* transplant;
 - (e) the production, packaging, sealing, labelling, storage and supplying of therapeutic, diagnostic and prophylactic substances from *tissue*;
 - (f) the sale and supply of human *tissue*, blood, blood products or *gametes*;
 - (g) the importation and exportation of *tissue*, blood, blood products or *gametes*;
 - (h) the withdrawal of blood from living persons and the preservation, testing, processing, supply or disposal of withdrawn or imported blood;
 - (i) the administering of blood and any blood product to living persons;
 - (j) the production, packaging, sealing, labelling and supplying of blood products;

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- (k) the bringing together outside the human body of male and female *gametes*, and research with regard to the product of the union of those *gametes*;
 - (l) the artificial fertilization of persons;
 - (m) the appointment, powers and functions of inspectors of anatomy and investigating officers;
 - (n) the registers to be kept by persons and institutions;
 - (o) the returns and reports, including extracts from registers to be submitted to specified persons and institutions; and
 - (p) any other matter related to regulating the control and the use of *tissue, organs, gametes*, blood and blood products in humans.
- (2) The *Minister*, with the concurrence of the member of the Cabinet responsible for State Expenditure, may make regulations concerning the payment of public money to persons or institutions in connection with procurement, storage, supply, import or export of human *tissue*, blood, blood products or *gametes*.

CHAPTER 9

HEALTH SURVEILLANCE, RESEARCH AND INFORMATION

81. THE ESSENTIAL NATIONAL HEALTH RESEARCH COMMITTEE

- (1) The Essential National *Health Research* Committee is established.
- (2) The Committee shall be composed of persons appointed by the *Minister*, including but not limited to:
 - (a) 3 research managers;
 - (b) 3 basic researchers;
 - (c) 3 clinical researchers;
 - (d) 3 community researchers;

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- (e) 2 policy analysts from the *national department* and 2 representatives of *provincial departments* of health, 3 policy makers from other relevant government departments and 2 service providers; and
 - (f) 2 private sector representatives with a special interest in or knowledge of research.
- (3) The functions of this Committee include -
- (a) the determination of *health research* to be carried out by public health authorities;
 - (b) directing *health research* agenda and research resources to focus on priority health problems;
 - (c) the development and application of an integrated national strategy for *health research*; and
 - (d) the co-ordination of research activities of public health authorities.
- (4) The *Minister* must *prescribe* -
- (a) procedures for conducting the Committee's business;
 - (b) the procedure for appointing and terminating the services of persons referred to in subsection (2) and their terms, conditions of service, remuneration and allowances.

82. DETERMINATION OF HEALTH RESEARCH PRIORITIES

The *Essential National Health Research Committee*, in determining *health research* priorities, must have regard, amongst other things, to –

- (a) the burden of disease;
- (b) the cost-effectiveness of interventions aimed at reducing the burden of disease;
- (c) the availability of human and institutional resources for the implementation of intervention at the level closest to the affected communities; and
- (d) the health needs of communities.

83. **RESEARCH ON HUMAN SUBJECTS**

Notwithstanding the provisions of any other law, research on human subjects may only be carried out as determined by the **Minister**, with the written consent of the subject, after he or she has been informed of the objects of the experimentation and the possible positive or negative consequences on his or her health, provided in the case of a minor there is compliance with section 39 (4) of the Child Care Act, 1983 (Act No.74 of 1983).

84. **ESTABLISHMENT, DUTIES AND COMPOSITION OF THE NATIONAL HEALTH ETHICS COUNCIL**

- (1) The National Health Ethics Council is established.
- (2) The **Minister** shall, in consultation with the **National Health Authority**, appoint the members of the National Health Ethics Council from a list of nominations and publish the list of appointees in the *Gazette*.
- (3) The functions of the National Health Ethics Council shall include -
 - (a) the provision of guidelines for the functioning of health ethics committees;
 - (b) registration and auditing of health ethics committees for human and animal research;
 - (c) setting of norms and standards for conducting research on humans and animals, including *clinical trials*;
 - (d) adjudicating instances of complaints about the functioning of health ethics committees;
 - (e) hearing complaints by researchers who believe that they have been discriminated against by a health ethics committee;
 - (f) instituting disciplinary action against those found to be in violation of acceptable ethical research practice;
 - (g) providing advice to the *national and provincial departments* on ethical issues; and

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- (h) any other activities that may be required to maintain and improve ethical practice in research.
 - (4) The National Health Ethics Council shall be appointed by the *Minister* from a list of nominations and composed of the following -
 - (a) 3 persons with distinguished record of research ethics;
 - (b) 3 persons involved in ethics education;
 - (c) 3 community representatives;
 - (d) 3 persons from the public health sector;
 - (e) 2 persons from the private health sector; and
 - (f) 1 person representing the Medicines Control Council.
 - (5) The National Health Ethics Council shall be funded through *prescribed* registration fees paid by Health Ethics Committees referred to in section 85 below.

85. *HEALTH ETHICS COMMITTEES*

- (1) Research institutions and *health establishments* at which *health research* is conducted, shall establish or have access to health ethics committees which shall register with the National Health Ethics Council.
- (2) The functions of the Health Ethics Committee shall include:
 - (a) reviewing research proposals and protocols to ensure that research conducted will promote health, prevent disease and *disability* and cure disease; and
 - (b) granting approval in instances where research proposal and protocol meet the ethical standards of the committee.

86. CO-ORDINATION OF NATIONAL HEALTH INFORMATION SYSTEM

The *national department* shall co-ordinate the establishment and maintenance by *provincial departments*, district health authorities, municipalities and the private health sector of a comprehensive national health information system;

87. ESTABLISHMENT OF NATIONAL HEALTH INFORMATION SYSTEM COMMITTEE

- (1) A National Health Information System Committee is established.
- (2) The *Minister*, with the concurrence of the *National Health Authority* shall appoint members of the committee.
- (3) The functions of the committee shall include the investigation and making of recommendations when requested to do so by the *National Health Authority* on any matter relating to the development, implementation and review of the national health system.
- (4) The size, period of office and functioning of the committee shall be determined by the *Minister*.

88. PROVINCIAL FUNCTIONS IN RELATION TO HEALTH INFORMATION

The *relevant Member of the Executive Council* of each province shall establish a committee for her or his province whose duties shall include the facilitation and implementation of the national health information system at provincial and district level.

89. DUTIES OF DISTRICT HEALTH AUTHORITIES AND MUNICIPALITIES

District health authorities and *municipalities* which render health services must establish and maintain a health information system in connection with matters within the scope of their functions.

CHAPTER 10

HEALTH OFFICERS AND COMPLIANCE PROCEDURES

90. APPOINTMENT OF HEALTH OFFICER

- (1) Subject to the provisions of any other law -
 - (a) the *Minister* may appoint any person in the employ of the *national department* to be a health officer in respect of the *national department's* functions;
 - (b) the *relevant Member of the Executive Council* may appoint any person in the employ of the *provincial department*, or of a *District Health Authority*, to be a health officer in respect of the *provincial department's* functions.
- (2) The appointment in terms of either subsection (1)(a) or (b) may be general or specific.
- (3) The *relevant Member of the Executive Council* may request the National Commissioner of the South African Police Service to designate a member of that service to be a health officer with general authorisation.
- (4) A document in the *prescribed* form issued by the *Minister* or *relevant Member of the Executive Council* as the case may be, certifying that a person has been appointed to serve as a health officer, is proof of such appointment.

91. FUNCTIONS OF HEALTH OFFICERS

A health officer appointed in terms of section 90 must monitor and enforce compliance with *this Act* or any other law.

92. INSPECTION PROCEDURE FOR MONITORING OR ENFORCING COMPLIANCE

- (1) A health officer must conduct an inspection for purposes of carrying out the functions contemplated in section 91 in accordance with the procedure outlined in sections 93 and 94.
- (2) A health officer who conducts an inspection is obliged to attend to the following -

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- (a) inspect residential and business land or premises;
 - (b) question any person whom he or she believes may have information relevant to the inspection;
 - (c) inspect any document that a person is required to maintain in terms of any law or that may be relevant to the inspection; and
 - (d) take samples of any substance that is relevant to the inspection.
- (3) A health officer who removes any item other than that contemplated in subsection (2)(d) from land or premises being inspected must -
- (a) issue a receipt for it to the owner of or person in control of the premises; and
 - (b) return it as soon as practicable after achieving the purpose for which it was removed.

93. ENTRY AND INSPECTION WITH A WARRANT

- (1) A health officer who is in possession of a warrant duly issued by a magistrate may enter and inspect any residential land or premises for the purpose of carrying out the functions in compliance with this Act.
- (2) A health officer must on entry into premises identify him- or herself by producing a certificate issued in terms of section 90 above, as well as the warrant issued in terms of subsection (1) above.
- (3) A magistrate may issue a warrant to enter and inspect if, from information on oath, there are reasonable grounds to believe that -
 - (a) there is non-compliance with the terms of *this Act* or any other law on the land or those premises; or
 - (b) in the interest of public health, it is necessary to obtain information that cannot be obtained without entering the land or those premises.

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- (4) A warrant in terms of subsection (2) may only be carried out between 07:00 and 19:00 unless the magistrate who issued it states in writing that it may be carried out at night or at any other time reasonable in the circumstances.

94. ENTRY AND INSPECTION WITHOUT A WARRANT

- (1) A health officer appointed in terms of the provisions of this Act is hereby authorised to enter into business land or premises to carry out an inspection contemplated in this Chapter without a warrant of search, if in his or her opinion there is a reasonable belief that the provisions of this Act are being, about to be or have been contravened.
- (2) A health officer who is not in possession of a warrant may enter and inspect any residential land or premises, with the consent of the owner or person in charge of the land or those premises.
- (3) A health officer must on entry into premises identify him- or herself by producing the certificate issued in terms of section 90 above.
- (4) In addition to the entry permitted in terms of subsection (2), a health officer without a warrant may enter any land or premises in respect of which there is an outstanding compliance notice, issued in terms of section 96 below, for the purpose of determining whether that notice has been complied with.
- (5) Upon entering the land or premises in terms of this section, but before an inspection is carried out, a health officer must identify him or herself and show an appointment certificate to the person giving permission for entry to the premises or land.

95. HEALTH OFFICER MAY BE ACCOMPANIED

During an inspection, a health officer may be accompanied by either an interpreter or any other person reasonably required to assist in conducting the inspection, or both.

96. COMPLIANCE NOTICES

- (1) A health officer who discovers that any provision of *this Act* has not been complied with may issue a compliance notice to the owner or person in charge of any relevant land or premises.
- (2) A health officer who is satisfied that the owner or person in charge of any land or premises has satisfied the terms of a compliance notice may issue a compliance certificate.
- (3) A compliance notice remains in force until a health officer issues a compliance certificate in respect of that notice.

97. MISCELLANEOUS PROVISIONS RELATING TO HEALTH OFFICERS, INSPECTORS AND COMPLIANCE PROCEDURES

For the purposes of *this Act* the heads of *national* and *provincial departments*, manager of a *health district* and the head of a health department of a *municipality* is deemed to be -

- (a) the owner and occupier of any land or premises that the department occupies or uses to the exclusion of any other person; and
- (b) the employer of persons in the service of that department if, as an employer, the department -
 - (i) bears any duty imposed by *this Act*; or
 - (ii) exercises any power conferred by *this Act*.

98. OFFENCES PERTAINING TO HEALTH OFFICERS AND THEIR FUNCTIONS

It is an offence for any person -

- (a) to refuse a health officer acting in terms of this Act access to land or premises ;
- (b) to obstruct or hinder a health officer who is carrying out a duty under *this Act*;

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- (c) to refuse to provide a health officer any information that the person is required to provide under *this Act*;
 - (d) to knowingly give false or misleading information to a health officer;
 - (e) to unlawfully prevent the owner of any land or premises, or a person working for that owner, from entering the land or premises in order to comply with a requirement of *this Act*;
 - (f) to impersonate a health officer;
 - (g) to falsify a warrant, compliance notice, compliance or appointment certificate contemplated in this Chapter;
 - (h) to fail to comply with a compliance notice;
 - (i) to act contrary to the terms of a warrant issued in accordance with the provisions of this Chapter; or
 - (j) who, in the performance of any function or exercise of any power in terms of *this Act*, acquires any information relating to the financial or business affairs of any person, discloses that information except -
 - (i) to a person who requires that information in order to perform a function or exercise a power in terms of *this Act*;
 - (ii) if the disclosure is ordered by a court of law; or
 - (iii) if the disclosure is in compliance with the provisions of any law.

CHAPTER 11

REGULATIONS

99. GENERAL REGULATIONS

The *Minister*, after consultation with the *National Health Authority*, may issue regulations on any matter in order to achieve the purpose of *this Act*, including the following:

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- (a) Procedure for determining policy contemplated in section 29(2)(a);
 - (b) Payment of fees of **public health establishments** for services rendered;
 - (c) Norms, standards, use, cleaning and disposal of specified types of protective clothing;
 - (d) Development of an essential drugs and medical and other assistive devices list;
 - (e) Human resource development;
 - (f) Integration of private care providers and **private health establishments** into the national health system;
 - (g) Returns, registers, records, documents and forms in the **national department, provincial departments**, district health authorities or **public health establishments**;
 - (h) Functions of persons who render voluntary, charitable or similar services with a **public health establishment**;
 - (i) Rendering of forensic pathology, forensic medicine and related laboratory services including the provision of medico-legal mortuaries and medico-legal services;
 - (j) Control on human bodies and tissue;
 - (k) All aspects of the management, treatment, control, prevention, notification, information, restrictions, reporting, surveillance, obligations and any other matter regarding certain **communicable diseases**;
 - (l) Actions required in a specific area in terms of the International Health Regulations Act, 1974 (Act 28 of 1974);
 - (m) The import and export of pathogenic micro-organisms;
 - (n) Health laboratory services including –
 - (i) Classification, accreditation and licensing of health laboratories;
 - (ii) Setting, monitoring and enforcing quality control standards applicable to health laboratories; and

- (o) Prevention, intervention and treatment of *non-communicable diseases*.

100. CONTENT OF REGULATIONS

In any regulation made in terms of *this Act*, the *Minister* or *relevant Member of the Executive Council*, as the case may be, may -

- (a) designate as authoritative any published methodology, procedure, practice or standard that is generally recognised as authoritative within the relevant profession; and
- (b) require any person or body to comply with that designated methodology, procedure, practice or standard.

101. PROCEDURE FOR ISSUING REGULATIONS

The *Minister* must give notice for comment in the *Government Gazette* of the proposed Regulation, not less than three months before its promulgation.

CHAPTER 12

GENERAL PROVISIONS

102. ESTABLISHMENT OF ADVISORY OR TECHNICAL COMMITTEES OR ANY OTHER BODY ESTABLISHED UNDER THE PROVISIONS OF THIS ACT

- (1) The *Minister* may, with the concurrence of the *National Health Authority*, appoint any advisory or technical committees for purposes of achieving the objectives of *this Act*.
- (2) When appointing an advisory or technical committee, the *Minister*, by regulation, may determine -
 - (a) its composition, functions, and working procedure;
 - (b) the terms, conditions, remuneration and allowances applicable to its members; and

- (c) any other incidental matters relating to it.

103. ASSIGNMENT AND DELEGATION OF POWERS

Subject to the provisions of sections 36 and 49 of the Public Finance Management Act (Act No.1 of 1999),

- (a) the **Minister**, in writing, may delegate any power conferred on the **Minister** by **this Act** or any other Act, to -
 - (i) any person in the employ of the State; or
 - (ii) any board or body established in terms of **this Act**; and
- (b) the **relevant Member of the Executive Council**, in writing, may delegate any power conferred on that member by **this Act**, the **Minister**, or any other law, to any person or body mentioned in subsection (1)(a)(i) or (ii); or
- (c) the head of a **provincial department** may delegate, in writing, any power conferred on her or him in terms of **this Act**, to an official in the employment of that **provincial department**.

104. REQUIREMENTS FOR LEGAL LIABILITY

- (1) At least one month before instituting legal proceedings against any person in respect of any act or omission in terms of **this Act**, a claimant must serve written notice of intention to institute proceedings on -
 - (a) the **Minister**,
 - (b) the **relevant Member of the Executive Council** in the province in which the cause of action arose; or
 - (c) the defendant concerned.
- (2) Notice in terms of subsection (1) to the **Minister** or a **relevant Member of the Executive Council** is deemed to be notice to the defendant concerned.

- (3) If the *Minister*, or a *relevant Member of the Executive Council*, is the defendant or respondent in any proceedings contemplated in subsection (1), any process by which those proceedings are initiated may be served on the *Minister* or *relevant member of Executive Council*, as the case may be.
- (4) A court may dispense with the requirements of subsections (1) if the interests of justice require.

105. RESTRICTION OF LIABILITY

- (1) The State Liability Act 1957 (Act No 20 of 1957) applies, with the changes required by context, to each body established in terms of *this Act*, though the reference in that Act to "the *Minister* of the Department concerned" must be interpreted as referring to the Chairperson or head of the relevant body.
- (2) No member of staff, person or contractor of a body listed in subsection (1) is liable for any report, finding, point of view, or recommendation that is given in good faith and submitted to the *Minister*, Parliament or published generally in terms of *this Act*.

106. PENALTIES

Any person who upon being charged is found guilty of an offence in terms of *this Act*, is liable to a fine or imprisonment for a period not exceeding five years, or both a fine and imprisonment.

107. SHORT TITLE AND COMMENCEMENT

This Act is called the National Health Act, 2000, and comes into operation on a date fixed by proclamation in the *Gazette*.

SCHEDULE 1

National Functions

PART A

- 1 Formulating national health policy and legislation.
- 2 Liaising with national health departments in other countries and with international agencies.
- 3 Formulating policy for and allocating resources to academic health complexes.
- 4 Determining guidelines for donor funding.
- 5 Determining and issuing norms and standards on matters including -
 - (a) nutritional intervention;
 - (b) environmental conditions that constitute a health hazard;
 - (c) human ***tissue blood, blood products*** and ***gametes***;
 - (d) sterilisation and abortion;
 - (e) providing health services, including social, physical and ***mental health*** care;
 - (f) health care for convicted ***persons*** and ***persons*** awaiting trial;
 - (g) genetic services; and
 - (h) any other matter that affects the health status of people in more than one province.
- 6 Promoting adherence to norms and standards for the training of medical, dental and auxiliary health staff.
- 7 Identifying national health goals and priorities and ensuring the monitoring of progress in their implementation.
- 8 Participating in the equitable allocation of financial resources through the development of formulae and other methods.

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- 9 Planning, developing and regulating human resources for health care and health professions.
 - 10 Planning the development of all public and private hospitals and related institutions.
 - 11 Determining priorities for *health research* conducted by national research institutions created by Act of Parliament or within the Department and funded wholly or partly by the State.
 - 12 Controlling and regulating the cost and financing of health services.
 - 13 Regulating medical aid schemes or such insurance, including fee structures.
 - 14 Evaluating, regulating and registering drugs and other substances.
 - 15 Evaluating, regulating and registering the acquisition and use of health technology.
 - 16 Facilitating the arrangement of national tenders or contracts for the procurement of health supplies and services.
 - 17 Co-ordinating emergency services during national disasters.
 - 18 Developing a National Health Laboratory Service.
 - 19 Creating, co-ordinating and monitoring a framework for national health laboratory services.
 - 20 Ensuring the provision of forensic pathology, forensic medicine and related laboratory services.
 - 21 Ensuring the provision of Occupational Health Services.
 - 22 Designing national systems and methods for quality management.
 - 23 Ensuring the provision of highly specialised services which cannot be rendered economically and efficiently at provincial level.
 - 24 Regulating, licensing and monitoring blood transfusion services.
 - 25 Ensuring inter-sectoral and inter-departmental collaboration.

PART B

- 1 Promoting health, healthy lifestyles and healthy policies.

-
- 2 Ensuring the promotion of community participation in the planning, provision and evaluation of health services.
 - 3 Ensuring the use of health systems research in the planning, evaluation and management of health services.
 - 4 Regulating foodstuffs, cosmetics, disinfectants and hazardous substances.
 - 5 Regulating, licensing and controlling ionised radiation, non-ionised radiation and electro-medical devices.
 - 6 Regulating, licensing and monitoring public and private hospitals and related institutions.
 - 7 Ensuring the provision of indoor and outdoor environmental pollution control services.
 - 8 Ensuring the provision of services for the management, prevention and control of *communicable diseases*.
 - 9 Ensuring the provision of services for the management, prevention and control of *non-communicable diseases*.

SCHEDULE 2

PROVINCIAL FUNCTIONS

PART A

- 1 Formulating and implementing provincial health policy, norms, standards and legislation.
- 5 2 Ensuring the provision of secondary hospital services.
- 3 Ensuring the provision of specialised hospital services.
- 4 Ensuring the provision of health services in academic health centres.
- 5 Ensuring the planning and management of a provincial health information system.
- 6 Ensuring the screening of applications for licensing and the inspection of private health
10 establishments.
- 7 Ensuring inter-provincial and inter-sectoral co-ordination and collaboration.
- 8 Ensuring the co-ordination of funding and financial management of District Health
Authorities.
- 9 Ensuring the provision of technical and logistical support to District Health Authorities.
- 15 10 Ensuring research on, and the planning, co-ordination, monitoring and evaluation of health,
and of the health services rendered in the province.
- 11 Ensuring that nationally delegated functions are carried out.
- 12 Planning and developing human resources for health care and ensuring the regulation of
health professions.
- 20 13 Planning the development of all public and private hospitals and related institutions.
- 14 Controlling and regulating the cost and financing of health services.
- 15 Ensuring the provision of port health services.

PART B

- 1 Ensuring the provision of comprehensive primary health care services.
- 2 Ensuring the provision of community hospital services.
- 3 Ensuring appropriate human resources management and development.
- 5 4 Ensuring the rendering and co-ordination of medical emergency services.
- 5 Ensuring the rendering of forensic pathology, forensic clinical medicine and related services including the provision of medico-legal mortuaries and medico-legal services.
- 6 Ensuring the rendering of health services to *persons* who have been detained, arrested or charged.
- 10 7 Ensuring quality control of all health services and facilities.
- 8 Ensuring the rendering of specific provincial service programmes.
- 9 Ensuring the provision of non-personal health services.
- 10 Ensuring the provision and maintenance of equipment, vehicles and health care facilities.
- 11 Ensuring effective consultation regarding health matters at community level.
- 15 12 Ensuring the provision of occupational health services.
- 13 Promoting health, healthy lifestyles and healthy policies.
- 14 Ensuring the promotion of community participation in the planning, provision and evaluation of health services.
- 15 Ensuring the use of health systems research in the planning, evaluation and management of health services.
- 20 16 Ensuring the provision of indoor and outdoor environmental pollution control services.
- 17 Ensuring the provision of services for the management, prevention and control of *communicable diseases*.

- 18 Ensuring the provision of services for the management, prevention and control of *non communicable diseases*.

SCHEDULE 3

PART A HEALTH CARE

- 1 Health promotion services.
- 2 -government sectors in promoting
- 3 Community participation in health promotion and health service provision including the
10 promotion of the capaci
- 4
- 5 Preventive, promotive, health services for children and youth, including services at schools
and at institutions.
- 6 ve and promotive services for communicable and non-
- 15 Family planning services (note: does not include provision of TOP).
- Primary environmental care services, including maintaining the area in a hygienic
environmental hygiene; investigating complaints; enforcement
of environmental health legislation (sanitation, housing, smoke, noise, litter, food hygiene
and occupational hygiene); and the identification and control of local health hazards.

PART B SUPPORT SERVICES

- Accommodation for staff where appropriate.
- 2 health awareness and educational programmes.
- 3

- 4 Services for maintenance of equipment, facilities and other assets.

PART C ADMINISTRATION AND FINANCE

- 1 Ensure equity in health and health service provision within the district.
- 2 Ensure proper management and implementation of donor funded projects.

5 ***PART D PLANNING AND HUMAN RESOURCES***

- 1 Collect and analyse environmental health data, and use it for policy development and service planning.
 - 2 Provide for appropriate human resources development.
 - 3 Provide for co-operation between all ***health care providers*** in the district, including general practitioners, traditional and complementary healers and NGOs.
- 10
- 4 Render personnel management services.
 - 5 Ensure the performance of any other health function or duty assigned or delegated.