

**MEDICAL (GIBRALTAR HEALTH AUTHORITY)  
ACT, 1987**

<b>Principal Act</b>		<i>Commencement</i>	<i>Listed below</i>
<b>Act. No. 1987-34</b>		<i>Assent</i>	24.12.1987
<b>Commencement dates</b>	<b>Legal Notice No.</b>	<b>Relevant provisions</b>	
18.2.1985	1987/173 <sup>1</sup>	<i>Paras. 15 and 16(a) of the Sch.</i>	
24.12.1987	1987/173	<i>ss. 1-5, 6(2)(b)-(d), 7, 9-10, 13-15, 19, 23, 25(5)</i>	
1.2.1988	1987/173	<i>25(1), Sch. (other than paras. 13-22, 26)</i>	
31.3.1988	1987/173	<i>Rest (save para. 31 of the Sch.)</i>	
12.1.1989	1989/004	<i>Para. 31 of the Sch.</i>	
<b>Amending enactment</b>		<b>Relevant current provisions</b>	<b>Commencement date</b>
Act. 1989-07	s.14(5)		2.3.1989
1989-39	s.15(1)		1.4.1989
1997-25	ss. 2, 3(1)(c), 4(2), 5(4), 6(2)(b)(ii), 10, 10(1), (2), (3) & (4), 11(1)(a), (1)(b), (1)(g), & (2), 12(2) and 14(2) and Sch.		21.8.1997

<sup>1</sup> Notice of Corrigendum (LN.1988/022)

**ARRANGEMENT OF SECTIONS**

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**THE SCHEDULE.**

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AN ACT TO ESTABLISH THE GIBRALTAR HEALTH AUTHORITY AND TO MAKE PROVISION FOR THE TRANSFER OF MEDICAL AND HEALTH SERVICES FROM THE GOVERNMENT TO THE AUTHORITY.

## **Title and Commencement.**

1. (1) This Act may be cited as the Medical (Gibraltar Health Authority) Act, 1987.

(2) The provisions of this Act shall come into operation on such day as the Governor may by notice published in the Gazette appoint, and different days may be so appointed for different purposes.

## **Interpretation.**

2. In this Act, unless the context otherwise requires,—

“Authority” means the Gibraltar Health Authority established by section 3;

“Chief Executive” means the Chief Executive of the Authority appointed under section 10.

“Medical Advisory Committee” means the Medical Advisory Committee established under section 12(1); and

“Minister” means the minister who is for the time being charged with responsibility for medical and public health services.

## **Establishment of Gibraltar Health Authority.**

3.(1) There is hereby established a Gibraltar Health Authority, which shall consist of —

- (a) the Minister, as chairman;
- (b) the Administrative Secretary of the Government of Gibraltar;
- (c) the Chief Executive;
- (d) two registered medical practitioners appointed by the Governor on the nomination of the Medical Advisory Committee;

- (e) one person appointed by the Governor after consultation with the Gibraltar Trades Council; and
- (f) three other persons appointed by the Governor not being persons in whole or part-time employment under the Crown in right of its Government of Gibraltar, of whom one shall be a barrister or solicitor of the Supreme Court;

(2) Any member of the Authority (other than a member referred to in paragraph (a), (b) or (c) of subsection (i)) shall hold office for such period and upon such terms as may be specified in the instrument appointing him.

(3) If the Governor is satisfied that any member referred to in paragraph (d), (e) and (f) of subsection (1) –

- (a) has been absent from three consecutive meetings of the Authority without the permission of the Authority;
- (b) has become bankrupt;
- (c) has been convicted of a criminal offence and been sentenced to a term of imprisonment;
- (d) is incapacitated by physical or mental illness; or
- (e) is otherwise unable or unfit to discharge the functions of a member,

the Governor may by notice in the Gazette declare his office as a member of the Authority to be vacant and thereupon his office shall become vacant.

(4) Notwithstanding the foregoing provisions of this section, any member may resign his office by giving written notice to the Authority.

(5) The chairman or any member of the Authority who ceases to be a member shall be eligible for re-appointment.

(6) The Authority shall appoint a person who is an employee of the Authority to be the Secretary of the Authority.

**Authority to be body corporate.**

4. (1) The Authority shall be a body corporate with perpetual succession under the name of the Gibraltar Health Authority and shall have a common seal which shall be officially and judicially noted.

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(2) The common seal of the Authority may only be affixed to an instrument in the presence of the Chief Executive or other person authorised by the Authority for that purpose and one other member of the Authority; the persons so present shall sign the instrument as witnesses to the sealing.

(3) The Authority may sue and be sued in its corporate name. Service of any process or notice on the Authority may be effected by leaving it at, or sending it by registered post to the principal office of the Authority.

## **Meetings and proceedings.**

5. (1) The quorum at all meetings of the Authority shall be five members in addition to the chairman or other person presiding.

(2) At all meetings of the Authority the chairman or, in his absence, such member as the Authority may select shall preside.

(3) Any matters arising at a meeting of the Authority shall be decided by a majority of the members present and voting thereon at the meeting and, in the case of an equality of votes, the person presiding shall have a second or casting vote.

(4) All orders and directions of the Authority shall be given under the hand of the Chief Executive.

## **Duties of the Authority.**

6.(1) It shall be the principal duty of the Authority to carry out the functions conferred upon it by this or any other Act so far as practicable.

(2) Without prejudice to the generality of the provision of subsection (1), it shall be the duty of the Authority–

(a) to provide a comprehensive preventive, diagnostic and treatment service in respect of physical and mental health;

(b) to employ–

(i) a registered medical practitioner to carry out the duties of a specialist in community medicine under this or any other Act;

(ii) a Deputy Chief Executive and Finance Officer;

(iii) a Personnel Officer;

- (iv) a Director of Nursing Services;
  - (v) a Hospital Manager; and
  - (vi) a Primary Care Manager;
- (c) to employ such persons (including advisors and consultants) as the Authority thinks fit for the proper discharge by the Authority of its functions;
  - (d) to publish codes for regulating the terms of service, discipline and training of all persons employed by the Authority;
  - (e) to administer and inspect all facilities provided by the Authority so as to ensure the effective and efficient operation of such facilities;
  - (f) to ensure that all complaints made against the Authority or any employee or contractor of the Authority are properly investigated without delay;
  - (g) to provide a comprehensive medical service and a health advisory service to the Government of Gibraltar;
  - (h) to prepare and implement schemes providing policies and plans designed to meet the present and anticipated future medical and health needs of persons in Gibraltar and to secure continued medical and health services in the event of an emergency;
  - (i) to comply fully with any precaution scheme made by the Governor from time to time under section 4 of the Civil Defence Act; and
  - (j) to carry out such other duties as the Governor may from time to time direct.

**Powers of the Authority.**

7.(1) Subject to the provisions of this or any other Act, the Authority shall have power to do all things necessary for the carrying out of its duties under this or any other Act.

(2) The Authority may acquire any freehold or leasehold land required for the purposes of any of its functions under this or any other Act and dispose of any such land no longer required for such purposes.

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- (3) Without prejudice to the generality of the provision of subsection (1), the Authority may—
- (a) purchase, lease or otherwise acquire and hold any property (other than land acquired under subsection (2)) required for the purposes of the Authority and dispose of any such property no longer required for such purposes;
  - (b) contract with any person for the supply to, or by, the Authority of any goods, services or personnel;
  - (c) erect, equip and maintain all necessary buildings, plant, and equipment;
  - (d) compile, prepare, print, publish, issue, circulate and distribute, whether for payment or otherwise, such papers, leaflets, magazines, periodicals, books and other literary matter as may be conducive to the attainment of the objects of the Authority or the advancement of its functions; and
  - (e) reimburse the members of the Authority for such expenses as are incurred by them with the consent of the Authority.

**Discharge of functions by the Authority.**

8. (1) Subject to any express provision contained in this or any other Act, the Authority may arrange for the discharge of any of its function –

- (a) by a committee, a sub-committee or an employee of the Authority; or
- (b) by any Government department or by any other authority.

(2) Any arrangements made by the Authority under this section for the discharge of any of its functions by a committee, sub-committee, employee, Government department or other authority shall not prevent the Authority from exercising those functions.

**Standing Orders.**

9. (1) Subject to the provisions of this or any other Act, the Authority may regulate its own procedure.

(2) The Authority may make standing orders as respects any Committee of the Authority with respect to the quorum, proceedings and place of meeting of the committee (including any sub-committee) but, subject to any

such standing orders, the quorum, proceedings and place of meeting shall be such as the committee or sub-committee may determine.

**Appointment of Chief Executive.**

10.(1) The Authority shall appoint a person to be the Chief Executive of the Authority.

(2) The Chief Executive shall hold office for such period and upon such terms as may be specified in the instrument appointing him.

(3) The Chief Executive shall be the executive officer of the Authority and shall in addition perform such other functions, and exercise such other powers, as are from time to time conferred upon him by this or any other Act or are delegated to him by the Authority.

(4) In the event of the illness, death, retirement, suspension or removal from office or absence from Gibraltar of the Chief Executive the Authority shall appoint a person to act as Chief Executive.

**Management Board.**

11. (1) The Authority shall establish a Management Board which shall consist of—

- (a) the Chief Executive, as chairman;
- (b) Deputy Chief Executive and Finance Officer;
- (c) the Personnel Officer;
- (d) the Director of Nursing Services;
- (e) the Hospital Manager;
- (f) the Primary Care Manager;
- (g) the Public Health Director;
- (h) the chairman and vice-chairman of the Medical Advisory Committee; and
- (i) the Medical Officer-in-Charge of the Royal Naval Hospital.

(2) It shall be the function of the Management Board to advise and assist the Chief Executive in the execution of his functions.



## **Professional advisory committees.**

12. (1) The Authority shall establish a Medical Advisory Committee, the membership of which shall comprise all registered medical and dental practitioners employed by the Authority.

(2) The Authority may establish any other advisory committee to give to the Authority, the Chief Executive and the Management Board such professional and technical advice as may be required.

## **Financial duty of the Authority.**

13. The Authority shall so manage its affairs as to ensure that, taking one year with another, its outgoings are not greater than its revenues from –

- (a) all funds which may from time to time be voted by the Parliament for the purposes of the Authority;
- (b) all revenue accruing from contributions made under section 5 of the Medical (Group Practice Scheme) Act;
- (c) any sums received by the Authority under sections 14(3) and 16 of this Act in that year;
- (d) all fees due to the Authority for the provision of services and facilities provided by the Authority in the exercise of its functions; and
- (e) any monies properly accruing to the Authority from any other source.

## **Establishment and operation of general fund.**

14. The Authority shall establish a general fund –

- (a) into which all] monies received by the Authority shall be paid; and
- (b) out of which all payments made by the Authority shall be paid.

(2) The Chief Executive shall be responsible for the management of the general fund established under sub-section (1).

(3) The Authority may borrow temporarily by way of overdraft or otherwise such sums as it may require for meeting its obligations and discharging its functions.

(4) The Financial and Development Secretary may make advances for the purposes of meeting expenditure of a capital nature.

(5) Without prejudice to the provisions of subsection (3), the Authority may borrow money for its purposes in any way, including the issue of bonds or debentures as it shall think fit.

**Accounts and auditing.**

15. (1) The Authority shall keep proper books of account of its operations during each financial year, and shall also cause a statement of its accounts for each financial year to be prepared within nine months (or such longer period as the Governor shall allow) after the end of each financial year.

(2) The accounts of the Authority for each financial year shall be audited and certified by the Principal Auditor as soon as practicable after the end of that year.

(3) The Principal Auditor shall, with reference to the accounts of the Authority, report—

- (a) whether he has obtained all] the information and explanations which to the best of his knowledge and belief were necessary for the purposes of the audit; and
- (b) whether, in his opinion, proper books of account have been kept by the Authority, so far as appears from his examination of those books; and
- (c) whether the Authority has discharged its financial duties and obligations under the provisions of this Act.

(4) Within three months after the end of the audit of its accounts for any financial year, the Authority shall prepare and submit to the Governor a written report of its operations for that year together with a copy of the audited accounts for that year, and shall also submit copies of the report and audited accounts to the Minister and to the Financial and Development Secretary.

(5) The Minister shall lay one copy of the annual report and of the audited accounts on the table of the Parliament as soon as practicable after they have been received by him.

(6) The Authority shall furnish to the Financial and Development Secretary —

- (a) a copy of the estimates of income and expenditure, including capital expenditure, no later than the 1st day of January in each year; and
- (b) such financial and statistical returns as he may from time to time require.

## **Power of Authority to engage fund-raising activities.**

16. (1) The Authority shall have power to engage in activities intended to stimulate the giving (whether on trust or otherwise) of money or other property to assist the Authority in providing or improving any services or any facilities or accommodation which is, or are, or is or are to be, provided by the Authority, or to assist it in connection with its functions.

(2) Subject to any directions of the Governor excluding specific descriptions of activity, the activities authorised by this section include public appeals or collections and competitions, entertainments, bazaars, sales of produce or other goods and other similar activities and the activities may involve the use of land, premises or other property held by or for the benefit of the Authority, subject however to any restrictions on the purposes for which trust property may be used.

(3) Subject to the following provisions of this section, the Authority shall, after defraying out of it any expenses incurred in obtaining it, hold, administer and apply property given in pursuance of this section on trust or for the purpose for which it was given.

(4) Where property held by the Authority under this section is more than sufficient to enable the purpose for which it was given to be fulfilled the excess shall be applicable, in default of any provision for its application made by the trust or other instrument under or in accordance with which the property comprising the excess was given, for such purposes connected with any of the functions of the Authority as the Authority thinks fit.

(5) Where property held by the Authority under this section is insufficient to enable the purpose for which it was given to be fulfilled then—

- (a) the Authority may apply so much of the capital or income at its disposal as is needed to enable the purpose to be fulfilled subject, however, in the case of trust property, to any restrictions on the purpose for which the trust property may be applied; but

- (b) where the capital or income applicable under paragraph (a) above is insufficient or is not applied to enable the purpose to be fulfilled, the property so held by the Authority shall be applicable, in default of any provision for its application made by the trust or other instrument under or in accordance with which the property was given, for such purposes connected with any of the functions of the Authority as the Authority thinks fit.

(6) Where under sub-section (4) or (5) property becomes applicable for purposes other than that for which it was given the Authority shall have regard to the desirability of applying the property for a purpose similar to that for which it was given.

**Financial Year.**

17. The financial year of the Authority shall be such period as may from time to time be prescribed by section 2 of the Financial Year Act:

Provided that the first financial year of the Authority shall be the period commencing on the date of establishment of the Authority and ending on the 31st day of March, 1989.

**Power of Accountant-General to make payments.**

18. As soon as may be after the end of each month, the Accountant- General shall pay to the Authority all contributions received during the month in accordance with section 5 of the Medical (Group Practice Scheme) Act.

**No personal liability to attach to members.**

19. Subject to the provisions of section 20, no personal liability shall attach to any member of the Authority in respect of anything done or suffered in good faith and without negligence under the provisions of this or any other Act.

**Proceedings on failure of Authority to perform its duties.**

20. (1) If at any time it appears to the Governor that the Authority has failed to comply with any of the provisions of this or any other Act, he may by notice in writing require the Authority to make good the default within such time as may be specified in the notice.

(2) If the Authority fails to comply with the requirements of a notice issued under the provisions of subsection (1), the Attorney General may apply to the Supreme Court for an order requiring the Authority to remedy

the default specified and the Supreme Court may make such order on the application as it thinks fit. Every member of the Authority shall be personally liable for compliance with any such order to the best of his ability.

## **Restriction on execution.**

21. No execution by attachment of property or process in the nature thereof shall be issued against the Authority.

## **Acquisition of land compulsorily.**

22. The functions of the Authority are a public purpose within the definition of “public purpose” contained in section 2 of the Land (Acquisition) Act.

## **Exemptions from taxes, etc.**

23. The Authority shall be exempt from all taxes, duties, rates, levies or other charges whatsoever.

## **Transfer of property.**

24. (1) Subject to subsection (2), on the commencement of this Act there shall by virtue of this subsection be transferred to and vest in the Authority all property which immediately before that time was held by the Government wholly or mainly for one or more of its health functions.

(2) In this section, “property” does not include freehold or leasehold land.

(3) In this section, “health functions” means functions relating to health under the Medical and Health Act, the Medical (Group Practice Scheme) Act, the Mental Health Act, the Education Act, the Quarantine Act and the Public Health Act, but does not include those functions under the Public Health Act or any other Act which by the provisions of this Act are transferred to the chief Environmental Health Officer.

## **Consequential modifications and amendments.**

25. (1) The Acts specified in the Schedule shall have effect subject to the modifications and amendments set out in that Schedule.

(2) The Governor may make regulations for the purpose of modifying and amending any orders, regulations or rules made under any Act for the purpose of giving effect to any modifications or amendments made to any Act by this Act and for the purpose of transferring the functions of any

person or body to the Authority, notwithstanding that the power to make such orders, regulations and rules is vested in some person or body other than the Governor.

### THE SCHEDULE.

#### ANIMALS AND BIRDS ACT.

1. Sections 4, 7, 10 and 24 are amended by repealing the words “Director of Medical and Health Services” in each place where they occur and substituting in each such place the words “chief Environmental Health Officer”.

#### THE EDUCATION ACT.

2. Section 2(1) is amended by inserting in its appropriate alphabetical position the following additional definitions –

“Authority” means the Gibraltar Health Authority;

“Specialist in Community Medicine” means a registered medical practitioner appointed as such by the Authority;”.

3. Section 56(1) is amended by repealing the words–

“Government Medical Officer” and substituting the words

“registered medical practitioner appointed by the Authority”.

4. Sections 54(1), 56(1) and (5), 58(1) and 59 are amended by repealing the words “Director of Medical and Health Services” in each place where they appear and substituting in each such place the words “Specialist in Community Medicine”.

#### THE FOOD AND DRUGS ACT.

5. Section 2 is amended–

(a) by repealing the definition of “Director”; and

(b) by inserting in the appropriate alphabetical position the following additional definition -

“Specialist in Community Medicine” means the registered medical practitioner appointed as such by the Gibraltar Health Authority;”.

6. Sections 15, 16, 17,21 and 39 are amended by repealing the word “Director” in each place where it appears and substituting in each such place the words “Chief Environmental Health Officer”.

7. Sections 18A and 20 are amended by repealing the word “Director” in each place where it appears and substituting in each such place the words “Specialist in Community Medicine”.

8. Section 31(2) is amended by repealing the words “Director and the” and substituting the words “Chief Environmental Health Officer and”.

**LABOUR FROM ABROAD (ACCOMMODATION) ACT.**

9. Section 2 is amended by repealing the definition of “Director”.

10. Sections 4,5,6, 7,9 and 10 are amended by repealing the word “Director” in each place where it occurs and substituting in each such place the words “Chief Environmental Health Officer”.

*Paras. 11 to 16 repealed.*

**THE MENTAL HEALTH ACT.**

17. Section 2 is amended –

- (a) in the definition of “Superintendent” by repealing the words “Medical Administrator” and substituting the words “General Manager”; and
- (b) by inserting in the appropriate alphabetical position the following new definition -

“General Manager” means the General Manager of the Gibraltar Health Authority;”.

18. Section 13(2)(i) is amended by repealing the words “Medical Administrator” and by substituting the words “General Manager”.

19. Section 73 is amended by repealing the words “Financial and Development Secretary” and substituting the words “General Manager”.

20. Paragraph 1(b) of the Schedule is amended by deleting the words “Medical Administrator” and substituting the words “General Manager”.

**THE POLICE ACT.**

21. Section 4 is amended –
- (a) in paragraph (e) by substituting a full stop for the semi-colon at the end thereof; and
  - (b) by repealing paragraph (f).
22. Section 52A is repealed.

**THE PUBLIC HEALTH ACT.**

23. Section 2 is amended–
- (a) by repealing the definition of “Director”; and
  - (b) by inserting in the appropriate alphabetical positions the following additional definitions -

“Authority” means the Gibraltar Health Authority;

“Specialist in Community Medicine” means the registered medical practitioner appointed as such by the Authority;”.

24. Sections 72, 73, 74, 87, 151, 152, 155, 156, 157, 158, 160, 167, 182, 183, 184, 185, 187, 188, 190, 223, 224, 225, 226, 228 and 235 are amended by repealing the word “Director” in each place where it appears and substituting in each such place the words “Chief Environmental Health Officer”.

25. Sections 144, 149, 150, 162, 163, 168, 173(3), 174, 1%, 203, 229 and 230 are amended by repealing the word “Director” in each place where it appears and substituting in each such place the words “Specialist in Community Medicine –

26. Section 178 is amended –

- (a) by repealing subsection (1) and substituting the following new subsections –

“(1) The Authority may provide ambulances and may make charges for the use thereof.

(1A) The Chief Environmental Health Officer may provide hearses and may make charges for the use thereof.”



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- (b) in subsection (2), by repealing the word “Government” and substituting the word “Authority”.

27. Section 204 is amended –

- (a) by repealing the expression “23 or who are vaccinated by a public vaccinator” and substituting the number “203”; and
- (b) by repealing the proviso.

28. Section 168 is amended –

- (a) by repealing the word “Director” and substituting the word “Specialist in Community Medicine”;
- (b) by repealing the word “Government” in each place where it appears and substituting in each such place the words “Chief Environmental Health Officer”.

29. Sections 193, 194, 195, 197, 198, 199, 200, 201, 202 and are repealed.

#### THE QUARANTINE ACT.

30. Section 2 is amended –

- (a) in the definition of “health officer” by repealing the words “the Director of Medical and Health Services” and substituting the words “the Specialist in Community Medicine”; and
- (b) by inserting in the appropriate alphabetical, position the following additional definition –

“Specialist in Community Medicine” means the registered medical practitioner appointed as such by the Gibraltar Health Authority;”

#### THE SUPREME COURT ACT

31. Section 20 is amended –

- (a) in paragraph (p) by substituting a semi-colon for the full stop at the end thereof; and
- (b) by inserting after paragraph (p) the following new paragraph–

“(q) the General Manager of the Gibraltar Health Authority”.