

Statutory Immunity FAQs

When does statutory immunity become effective?

- Immunity applies only to gazetted quality assurance bodies and does not actually take effect until the notice is published in the *Government Gazette*. You will be advised in writing when this occurs.
- Immunity only covers current and former members, officers and employees of a gazetted quality assurance body. It does not cover the hospital itself or hospital staff who are not members, officers or employees of a gazetted quality assurance committee.

Refer to S139 (1) of the Health Services Act 1988.

If we change and/or add to the position/titles of committee members of an approved committee, do we need to re-apply for statutory immunity?

Yes, IF

- In the original application people's actual names were included in the Terms of Reference (and these people have now left, or you want to add more people); and/or
- The original Terms of Reference included position/titles and you want to add or delete position/titles.

However, IF

- The original application included position/titles and not people's actual names and a new person is now employed in one of the listed positions/titles, you would not need to re-apply.

Refer to your Hospital By-laws regarding Quality Assurance Committees.

If an approved committee changes its name, do we need to re-apply for statutory immunity?

Yes. Hospital By-laws usually include a section relating to the *Change of committee name or functions* which indicate that where changes have been and approved by the Board, a fresh application for approval pursuant to S139 should be submitted to the Department.

Refer to your Hospital By-laws regarding Quality Assurance Committees.

If an approved committee changes its terms of reference, do we need to re-apply for statutory immunity?

Yes. Hospital By-laws usually include a section relating to the *Change of committee name or functions* which indicate that where changes have been and approved by the Board, a fresh application for approval pursuant to S139 should be submitted to the Department. This includes amendments to terms of reference.

Refer to your Hospital By-laws regarding Quality Assurance Committees.

Does an existing, approved committee retain its immunity whilst having to re-apply for statutory immunity due, for example, to updating its terms of reference?

Yes, so long as the approved committee operates within its original Terms of Reference.

What happens to old committees with statutory immunity – are they wound up?

If, for example, the terms of reference of an approved committee have been amended resulting in re-application, the old committee is superseded by the new approved committee.

Refer to your Hospital By-laws regarding Quality Assurance Committees.

Can a committee relinquish its statutory immunity?

Yes,

- An approved committee can relinquish its statutory immunity;
- An application would need to be made to The Minister for Health under S139 (1) to revoke the previous declaration, and
- The revocation would not be effective until published in the *Government Gazette*. However, to relinquish statutory immunity is a serious step that should only be taken after the Board has considered the matter. When an approved committee has relinquished its statutory immunity, it would only be able to regain it under the Act by re-applying and the Minister being satisfied that the criteria set out in the Act are met.

Refer to S139 (1) of the Health Services Act 1988.

Is it necessary, for example, for a clinical risk management or sentinel events committee to have statutory immunity?

No. Some large metropolitan hospitals have elected not to seek statutory immunity under S139 for their clinical risk management committees.