

**PUBLIC HOSPITALS (FURTHER
AMENDMENT) ACT.**

Act No. 49, 1934.

An Act to provide for the reconstitution of the boards of hospitals; to amend the Public Hospitals Act, 1929-1934, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 27th December, 1934.]

George V.
No. 49, 1934.

BE

Public Hospitals (Further Amendment) Act.

No. 49, 1934.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. (1) This Act may be cited as the "Public Hospitals (Further Amendment) Act, 1934."

(2) This Act shall be read with the Public Hospitals Act, 1929-1934, which Act is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Public Hospitals Acts, 1929-1934.

Amendment of Act No. 8, 1929.

Sec. 3.
(Definitions.)

2. The Principal Act is amended:—

(a) (i) by inserting in the definition of "Hospital" in section three after the word "institution" where firstly occurring the words "or organisation";

(ii) by inserting in the same section after the definition of "Hospital" the following new definition:—

"Hospital year" means the period from the first day of July in one year to the thirtieth day of June in the next following year.

(iii) by inserting in the definition of "Inpatient" in the same section after the word "from" the words "or by arrangement with";

(iv) by inserting at the end of the same definition the words "or in any other place approved by the hospital";

Sec. 4.
(Application of Act.)

(b) (i) by omitting from subsection two of section four the words "the name of any hospital to the Second Schedule, and" and by inserting in lieu thereof the words "to the Second Schedule the name of any hospital, district nursing association, bush nursing association, or organisation for providing aerial medical services or may";

(ii)

(ii) by inserting at the end of the same section No. 49, 1934.
the following new subsections:—

(4) The name of any district nursing association, bush nursing association, or organisation for providing aerial medical services which is conducting operations immediately before the commencement of the Public Hospitals (Further Amendment) Act, 1934, shall not be added to the Second Schedule without the consent of the governing body of such association or organisation.

(5) The Governor may, on the recommendation of the Commission, by order published in the Gazette—

(a) alter the name of any hospital mentioned in the Second Schedule or of any institution mentioned in the Third Schedule;

(b) remove from the Second Schedule the name of any hospital mentioned therein or from the Third Schedule the name of any institution mentioned therein.

Where the name of any hospital or institution has been so removed the provisions of this Act shall cease to apply to such hospital or institution.

3. The Principal Act is further amended—

(a) by inserting next after section eleven the following new sections:—

11A. The Commission may make careful inquiry into the administration, management and activities of any institution or organisation established for the relief of persons, or in respect of any person engaged in or any organisation engaged in or having as one of its objects the collection of funds for any hospital or for any such institution or organisation, but shall not make any such inquiry in respect of a private hospital to which the provisions of the Private Hospitals Act, 1908, as amended by subsequent Acts, applies, unless the funds for the establishment

Further amendment of Act No. 8, 1929.

New ss. 11A, 11B.

Inquiries by Commission.

Public Hospitals (Further Amendment) Act.

No. 49, 1934.

Delegation
of power to
conduct
inquiry.

establishment or maintenance of such private hospital are derived wholly or in part from the public by voluntary contributions.

11B. (1) Where the Commission is directed or authorised by or under this Act to make or conduct any inquiry, investigation or hearing it may, by writing under its seal, delegate to any member of the Commission or to an officer of the Public Service (in this section referred to as the "delegate") power to conduct a hearing for the purpose of taking any evidence or to make or conduct any inquiry or investigation with respect to any act, matter or thing specified in such writing and to report to the Commission.

(2) The delegate shall fix a date and place for the taking of any such evidence and shall give reasonable notice thereof to the Commission and to all persons interested.

(3) The Commission shall be entitled to be represented before the delegate at any hearing at which evidence is to be taken.

(4) The delegate shall forward to the Commission a copy certified under his hand of any evidence taken together with a report and recommendation; and shall furnish to the Commission a report of any such inquiry or investigation made by him together with a recommendation.

(5) The decision of the Commission shall be given after consideration of the copy of any evidence taken and of the report and recommendation of the delegate.

Sec. 12.
(Application
of Royal
Commissions
Act, 1923.)

(b) by omitting from section twelve the words "for the purpose of conducting any inquiry, investigation, or hearing under this Act, shall" and by inserting in lieu thereof the words "or the person to whom the Commission has made a delegation under section 11B of this Act shall, for the purpose of making or conducting any inquiry, investigation or hearing under this Act";

(c)

- (c) (i) by inserting at the end of subparagraph (ii) of paragraph (c) of subsection one of section thirteen the words "or otherwise needing relief"; No. 49, 1934.
Sec. 13.
(Certain powers of Commission.)
- (ii) by inserting next after the same paragraph the following new paragraph:—
- (d) authorise the board of any hospital separately or jointly with the board of any other hospital to establish or assume control of and maintain district nursing services; Control of district nursing services.
- Provided that in the case of a district nursing service which is conducting operations immediately before the commencement of the Public Hospitals (Further Amendment) Act, 1934, the Governor shall not make any such order unless requested in writing so to do by the persons or body controlling such service.
- (iii) by inserting in paragraph (i) of subsection two of the same section after the word "hospital" where firstly occurring the words "the unsuitability of the locality or its proximity to another hospital";
- (d) by inserting at the end of section sixteen the following new subsection:— Sec. 16.
(Audit.)
- (2) The Trustees Audit Act, 1912, is amended— Amendment of Act No. 21, 1912.
- (a) by inserting in section four after the word "Crown" the words "or, in relation only to hospitals in receipt of subsidy or assistance under the Public Hospitals Acts, 1929-1934, of the Hospitals Commission of New South Wales"; Sec. 4.
(Inspection, examination and audit of certain accounts.)
- (b) by omitting from section five the words "any Minister of the Crown who has" and by inserting in lieu thereof the words "the Minister of the Crown or the Hospitals Commission of New South Wales, as the case may be, where such Minister or Commission"; Sec. 5.
(Report of result.)

(c)

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Schedule
Two.

(c) by inserting in Schedule Two after the word " hospitals " the words " in receipt of subsidy or assistance under the Public Hospitals Acts, 1929-1934, or otherwise ";

Sec. 17.

(Moneys payable to Hospital Fund.)

(e) (i) by inserting at the end of paragraph (a) of subsection two of section seventeen the words " and all other moneys received by the Commission from any other source ";

(ii) by inserting after paragraph (g) of subsection five of the same section the following new paragraph:—

(g1) the nature and extent of the services rendered by the hospital;

Further amendment of Act No. 8, 1929.

Sec. 21.
(Subscribers.)**4. The Principal Act is further amended—**

(a) by omitting from paragraph (b) of subsection one of section twenty-one the words " the relief received " and by inserting in lieu thereof the words " relief received or which might be received ";

(b) by inserting at the end of the same subsection the following new paragraph:—

(e) Any person nominated in the manner prescribed by the governing body of any association acting, with the consent of the board of the hospital, as an auxiliary to the hospital.

Nominations shall be made in accordance with the following provisions:—

(i) where the sum raised by the auxiliary and paid to the hospital exceeds two pounds and does not exceed fifty pounds, one person may be nominated;

(ii) where the sum raised by the auxiliary and paid to the hospital exceeds fifty pounds and does not exceed one hundred pounds, two persons may be nominated;

(iii)

- (iii) where the sum raised by the auxiliary and paid to the hospital exceeds one hundred pounds and does not exceed two hundred pounds, three persons may be nominated;
- (iv) for every one hundred pounds or part thereof in excess of two hundred pounds raised by the auxiliary and paid to the hospital one additional person may be nominated.

(c) by inserting next after subsection two of the same section the following new subsections:—

(2A) (a) A contributor to the Metropolitan Hospitals Contribution Fund of New South Wales or any contribution scheme established in pursuance of regulations made under this Act shall be deemed to be a subscriber to such incorporated hospital which is a constituent hospital of the fund or scheme as the contributor may select:

Provided that no such selection shall be made until the contributor has made contributions to the fund or scheme to the amount of not less than ten shillings in the hospital year.

Such contributor shall, if so required by the hospital, furnish evidence of his contributions to the fund or scheme.

The regulations may constitute such contributors a class of subscribers.

(b) Nothing in this subsection shall entitle a contributor to the fund or scheme to select more than one hospital or confer on a dependent of any such contributor any of the rights or privileges by this subsection conferred on the contributor.

(2B) A person who was a subscriber to a hospital during the hospital year immediately preceding the hospital year in which an election of directors is to be held shall for all purposes of or relating to such election be deemed to be a subscriber.

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ment of Act
No. 8, 1929.

Sec. 22.

(Board of
Directors.)**5.** (1) The Principal Act is further amended—

(a) by inserting next after subsection one of section twenty-two the following new subsection:—

(1A) On and from the first day of March, one thousand nine hundred and thirty-five, each board of a hospital incorporated under the provisions of this Act shall be reconstituted and shall consist of such number of directors (not being less than nine nor more than twelve) as the Commission may from time to time by order published in the Gazette, fix either generally or with reference to a particular hospital. The directors shall be elected and appointed as in this Act provided.

(b) by omitting from paragraph (e) of subsection one of section fourteen the word “annual.”

(2) The persons who, immediately before the commencement of this Act, held office as directors shall, subject to the Principal Act as amended by this Act, continue to hold office as such until the first day of March, one thousand nine hundred and thirty-five.

Sec. 14.
(Consequences
of amalgama-
tion.)Reconstitu-
tion of
Boards.

6. (1) For the purposes only of the reconstitution pursuant to subsection (1A) of section twenty-two of the Principal Act, as inserted by this Act, of the boards of hospitals incorporated under the provisions of the Principal Act, and of any matters necessary for or incidental to such reconstitution, the provisions of this section shall have force and effect on and from the day upon which the assent of His Majesty to this Act is signified.

(2) Upon the first day of March, one thousand nine hundred and thirty-five, this section shall have full force and effect for all purposes.

(3) The Principal Act is further amended—

(a) by omitting subsections two and three of section twenty-two and by inserting in lieu thereof the following subsections:—

(2) (a) Where the board consists of not more than ten directors there shall be four appointed directors.

Sec. 22.
(Board of
directors.)

Where

Where the board consists of more than ten directors there shall be five appointed directors.

The appointed directors shall be appointed by the Governor on the recommendation of the Commission.

(b) The remaining directors (in this Part referred to as "the elected directors") shall be elected by the subscribers.

The Commission may from time to time, by order published in the Gazette, fix with reference to a particular hospital, classes of subscribers, and may by the same or a subsequent like order, fix the number of such directors to be elected by the subscribers of each such class.

(3) Five directors present at any meeting of a board shall form a quorum and any duly convened meeting at which a quorum is present shall be competent to transact any business of a board and shall have all the powers and authority by this Act conferred on a board.

(b) by omitting section twenty-three and by inserting in lieu thereof the following sections:—

Substituted s. 23 and new ss. 23A-23C.

23. (1) The first elections of elected directors after the commencement of the Public Hospitals (Further Amendment) Act, 1934, shall, in the case of hospitals the names of which are, immediately before such commencement, included in the Second Schedule to this Act, be held not later than the twenty-eighth day of February, in the year one thousand nine hundred and thirty-five.

Election of directors.

The persons elected at such elections shall assume office as directors on the first day of March next following their election.

(2) The first election of elected directors in the case of a hospital the name of which is added to the Second Schedule by an order made in pursuance of section four of this Act, shall be held on or before a date to be fixed by the order.

(3)

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(3) Subsequent elections of elected directors shall be held in the year one thousand nine hundred and thirty-eight and in each third year thereafter.

Such elections shall be held in the month of July or in the month of August in the year in which the election is to be held.

(4) All elections of elected directors shall be held and conducted in the manner prescribed.

Casual
vacancy in
office of
elected
director.

23A. Where a casual vacancy occurs in the office of an elected director the Governor may, on the recommendation of the Commission, appoint a subscriber to be director.

Any director so appointed shall hold office for the balance of his predecessor's term of office, and shall for the purposes of this Part be deemed to be an elected director.

Appointed
directors.

23B. The Governor may, on the recommendation of the Commission, appoint any subscriber to be an appointed director.

Tenure of
office of
directors.

23c. Every director elected or appointed under this Act shall—

- (a) except in the case of a person appointed under section 23A of this Act, assume office on the date on which he is elected or appointed;
- (b) cease to hold office upon the date on which his successor is elected or appointed.

Sec. 24.
(Disquali-
fication of
directors.)

- (c) (i) by omitting from subsection one of section twenty-four the words " a director " and by inserting in lieu thereof the words " an elected director ";
- (ii) by omitting from subsection two of the same section the words " a director " and by inserting in lieu thereof the words " an elected director ";

(iii)

(iii) by inserting at the end of the same subsection the following new paragraph:

(h) absent without leave from three consecutive meetings or from forty per centum of the meetings of the board in any hospital year.

(iv) by omitting subsection three of the same section.

7. The Principal Act is further amended—

(a) by inserting next after section twenty-nine the following new section:—

29A. (1) The board of any incorporated hospital may, with the approval of the Commission, acquire land for the purposes of the hospital by appropriation or resumption.

(2) Where any such board proposes to acquire land by appropriation or resumption it may apply to the Governor through the Minister.

(3) The board shall make provision to the satisfaction of the Governor for the payment of compensation for the land together with interest and all necessary charges and expenses incidental to the appropriation or resumption.

(4) The Governor may authorise the appropriation or resumption of the land.

(5) Thereupon the Minister for Public Works may—

(a) appropriate or resume the land by Gazette notification under Division 1 of Part V of the Public Works Act, 1912; and

(b) notify that the land is vested in the board.

(6) Thereupon the land shall vest in the board.

(7) For the purposes of the Public Works Act, 1912, such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act.

(8).

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Further amendment of Act No. 8, 1929. New s. 29A.

Resumption of land by board of a hospital. cf. Act No. 41, 1919, ss. 532-536.

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(8) In this section "land" means land in fee simple whether vacant or built upon or any easement right or privilege in over or affecting land.

New s. 30A.

(b) by inserting next after section thirty the following new section:—

Cost of relief granted to injured persons to be a charge on damages. N.Z. 23 Geo. V, No. 22, s. 15.

30A. (1) Where any person is liable to the board of a hospital for the cost of any relief granted (whether before or after the commencement of the Public Hospitals (Further Amendment) Act, 1934) in respect of bodily injury suffered by himself or by any other person, and such first-mentioned person has a right to recover damages against any other person in respect of such injury, the amount of such person's liability to the board shall be a charge on all moneys that are or may become payable after such commencement in respect of such right to recover damages.

(2) Every such charge as aforesaid shall be enforceable by way of an action by the board in the same way as if the action were an action by or on behalf of the person liable to the board claiming the amount of such liability as special damages; and in respect of any such action, and of the judgment given therein, the parties shall, to the extent of the charge, have the same rights and liabilities, and the court shall have the same powers, as if the action were by or on behalf of the person liable to the board.

(3) Such an action may be brought notwithstanding any judgment recovered by or on behalf of the person liable to the board, and notwithstanding any payment made to such person or any other person except the board in respect of the defendant's liability, and notwithstanding any complete or partial discharge given by any such person.

(4) Notwithstanding anything to the contrary in this section, any payment made or any complete or partial discharge given as aforesaid

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in respect of a claim for damages after the person injured has ceased to receive relief in respect of the injury, and after the cost of all such relief theretofore granted by any board has been fully paid or satisfied, shall, to the extent of such payment or discharge, be a valid discharge to the person making such payment or receiving such discharge.

- (c) (i) by omitting from subsection one of section thirty-six the words "except in the circumstances and under the conditions prescribed"; Sec. 36.
(Fees for medical attendance.)
- (ii) by inserting at the end of the same subsection the words "unless such patient has been classified as a private or intermediate patient in accordance with the regulations";
- (iii) by omitting from subsection two of the same section the words "prescribed by the regulations" and by inserting in lieu thereof the words "referred to in subsection one of this section."

- (d) by omitting section thirty-seven and by inserting in lieu thereof the following section:— Substituted s. 37.

37. (1) The board of a hospital may, if the Minister so recommends and the Governor approves, borrow by mortgage or otherwise on the credit of the hospital, and on the security of any revenues or other property, real or personal, of the hospital, not held in trust for any specific purpose, any sum of money required for— Power to borrow.

- (a) the execution of any works which may be approved by the Governor on the recommendation of the Minister or which have been approved by the Governor under the section which this section replaces, whether in connection with the provision of accommodation for paying patients or otherwise, or the enlargement or equipment of the hospital buildings;
- (b)

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(b) the discharge or partial discharge of any capital indebtedness of the hospital.

(2) A person advancing money to a board shall not be bound to inquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

(3) A notification in the Gazette of the approval of the Governor having been given to a borrowing by a board shall, in favour of a lender, be conclusive evidence that all conditions precedent to the borrowing have been complied with.

(4) The due repayment of any money borrowed under the authority of this section, and interest thereon, is hereby guaranteed by the Government.

Any liability arising from such guarantee shall be payable out of the Consolidated Revenue Fund.

(5) In this section the expressions "board of a hospital" and "board" include the governing authority of any institution the name of which is included in the Third Schedule to this Act.

Sec. 39.
(Establishment of new institutions.)

(e) (i) by inserting in subsection one of section thirty-nine after the word "establish" the words "nor solicit contributions for nor take any steps towards the establishment of";

(ii) by omitting from subsection two of the same section the words "this section" and by inserting in lieu thereof the words "subsection one of this section";

Sec. 40.
(Contribution schemes.)

(f) (i) by omitting from subsection one of section forty the words "by agreement between employers and employees of industrial contribution schemes" and by inserting in lieu thereof the words "and control of contribution schemes conducted for the purpose of ensuring relief to contributors and their dependents";

(ii)

- (ii) by omitting from subsection two of the same section the words " an industrial contribution scheme " and by inserting in lieu thereof the words " a contribution scheme ";
- (iii) by omitting from the same subsection the words " this Act " and by inserting in lieu thereof the words " the Public Hospitals (Further Amendment) Act, 1934 ";
- (iv) by omitting from subsection three of the same section the word " industrial " where secondly occurring;
- (v) by omitting from subsection four of the same section the word " industrial ";
- (vi) by inserting in the same subsection after the word " hospital " where secondly occurring the words " when they have paid by way of contributions within the hospital year an amount of not less than ten shillings ";
- (vii) by inserting at the end of the same section the following new subsection:—
- (5) Any industrial contribution scheme in operation immediately before the commencement of the Public Hospitals (Further Amendment) Act, 1934, shall, as from such commencement, be deemed to be a contribution scheme within the meaning of this section.
- (g) by inserting in paragraph (o) of subsection one of section forty-two after the words " public appeal " the words " or otherwise."

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Sec. 42.
(Regulations.)