

PUBLIC HOSPITALS (AMEND-  
MENT) ACT.

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Act No. 61, 1936.

**George VI,  
No. 61, 1936.** An Act to amend the Public Hospitals Acts, 1929-1934, in certain respects; to provide for the addition to the Second Schedule of the Public Hospitals Acts, 1929-1934, of the names of certain hospitals and for the consequential repeal of the Vegetable Creek Hospital Act, 1916, and certain other Acts; and for purposes connected therewith. [Assented to, 23rd December, 1936.]

BE

**B**E 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:—

**1.** (1) This Act may be cited as the "Public Hospitals (Amendment) Act, 1936." Short title and citation.

(2) The Public Hospitals Acts, 1929-1934, as amended by this Act, may be cited as the Public Hospitals Act, 1929-1936.

**2.** The Public Hospitals Acts, 1929-1934, is amended— Amendment of Act No. 8, 1929

(a) (i) by inserting at the end of subsection three of section four the words— Sec. 4.

This subsection shall not apply to or in respect of the Wallsend Mining District Hospital, the Newcastle Hospital, the Illawarra Cottage Hospital, the Vegetable Creek Hospital, or the Hawkesbury Benevolent Society and Hospital.

(Additions to or removals from Second and Third Schedules.)

(ii) by inserting at the end of the same section the following new subsection:—

(6) (a) On the day upon which an order is published pursuant to this section adding to the Second Schedule the name of the Wallsend Mining District Hospital, the Wallsend Mining District Hospital Act, 1915, shall be repealed.

(b) On the day upon which an order is published pursuant to this section adding to the Second Schedule the name of the Newcastle Hospital, the Newcastle Hospital Act, 1915, shall be repealed.

(c) On the day upon which an order is published pursuant to this section adding to the Second Schedule the name of the Illawarra Cottage Hospital, the Illawarra Cottage Hospital Act, 1916, shall be repealed.

(d)

No. 61, 1936.

(d) On the day upon which an order is published pursuant to this section adding to the Second Schedule the name of the Vegetable Creek Hospital, the Vegetable Creek Hospital Act, 1916, shall be repealed.

(e) On the day upon which an order is published pursuant to this section adding to the Second Schedule the name of the Hawkesbury Benevolent Society and Hospital, the following Acts shall be repealed, namely:—

The Act Fourth Victoria, number three, intituled “An Act to enable the Members of a certain Society in the Colony of New South Wales denominated ‘The Hawkesbury Benevolent Society’ to sue and be sued in the name of their Treasurer for the time being and for other purposes therein contained.”

The Act passed in the twenty-third year of the reign of Her Majesty Queen Victoria and intituled “An Act to amend the Hawkesbury Benevolent Society’s Act of Incorporation.”

The Hawkesbury Benevolent Society’s (Amendment) Act, 1903.

Sec. 17.  
(Commission to prepare and submit financial statement.)

(b) by omitting from subsection four of section seventeen the words “expenditure and revenue of” and by inserting in lieu thereof the words “receipts by and payments out of”;

Sec. 19.  
(Vesting of property.)

(c) (i) by inserting in paragraph (b) of section nineteen after the word “resumed” the words “appropriated or purchased”;

(ii) by inserting at the end of the same section the following new paragraphs:—

(d) all moneys, liquidated and unliquidated claims, which immediately before the date upon which the hospital was so constituted a  
body

- body corporate (in this section hereinafter referred to as the "said date") are payable to or recoverable by the hospital or by any person for or on behalf of the hospital, shall be moneys, liquidated and unliquidated claims, payable to or recoverable by the body corporate;
- (c) all suits, actions, and proceedings pending immediately before the said date at the suit of the hospital or of any person for or on behalf of the hospital shall be suits, actions and proceedings pending at the suit of the body corporate;
  - (f) all contracts, agreements and undertakings entered into with and all securities lawfully given to or by the hospital or any person for or on behalf of the hospital, and in force immediately before the said date shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the body corporate;
  - (g) the body corporate may pursue the same remedies for the recovery of any such moneys and claims and for the prosecution of such suits, actions, and proceedings as the hospital or any person, for or on behalf of the hospital might have done but for this Act;
  - (h) the body corporate may enforce and realise any security or charge existing immediately before the said date in respect of such moneys and claims as if such security or charge were existing in favour of the body corporate;

(i)

No. 61, 1936.

(i) all debts due and moneys payable by the hospital or by any person (other than a surety or guarantor) for or on behalf of the hospital and all claims, liquidated and unliquidated, recoverable against the hospital or against any person (other than a surety or guarantor) for or on behalf of the hospital shall be debts due and moneys payable by and claims recoverable against the body corporate;

Sec. 20.  
(Power to hold property.)

(d) (i) by inserting in section twenty after the words "its property" the words "and may dedicate land as a public road";

(ii) by inserting in the same section after the words "buildings, or hereditaments" the words "or to dedicate land as a public road";

Sec. 21.  
(Subscribers.)

(e) (i) by inserting at the end of paragraph (a) of subsection one of section twenty-one the following paragraph:—

A person who, immediately before the publication of an order under section four of this Act adding the name of any hospital to the Second Schedule, was a life member of such hospital, shall be deemed to be a life member of such hospital as incorporated under this Act.

(ii) by omitting subsection (2B) of the same section and by inserting in lieu thereof the following subsection:—

(2B) A person who was a subscriber to a hospital during any hospital year shall, during the next succeeding hospital year, be deemed to be a subscriber for all the purposes of this Act.

(iii) by inserting in subsection three of the same section after the word "contributor" the words "or member";

(f).

Public Hospitals (Amendment) Act.

937

(f) by inserting at the end of subsection two of section twenty-three the words "or on or before such later date as the Governor, on the recommendation of the Commission, may, by order published in the Gazette appoint";

No. 61, 1936.

Sec. 23.

(Election of directors.)

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

Sec. 24.

(Disqualification of directors.)

(2A) Where a director fails during any hospital year to qualify as a subscriber he shall cease to hold office as a director upon the expiration of that hospital year.

This subsection shall not apply to or in respect of any director who is a life member of the hospital.

(h) (i) by omitting from subsection one of section 29A the words "The board of any" and by inserting in lieu thereof the word "An";

Sec. 29A.

(Resumption of land by hospital.)

(ii) by omitting from subsection two of the same section the words "any such board" and by inserting in lieu thereof the words "an incorporated hospital";

(iii) by omitting from subsection three of the same section the word "board" and by inserting in lieu thereof the words "incorporated hospital";

(iv) by omitting from subsection five of the same section the words "Minister for Public Works" and by inserting in lieu thereof the word "Governor";

(v) by omitting from the same subsection the words "by Gazette notification";

(vi) by omitting from the same subsection the word "board" and by inserting in lieu thereof the words "incorporated hospital";

(vii) by omitting from subsection six of the same section the word "board" and by inserting in lieu thereof the words "incorporated hospital";

(viii)

No. 61, 1936.

(viii) by inserting at the end of the same section the following new subsection:—

(9) Where, before the commencement of the Public Hospitals (Amendment) Act, 1936, any land has, by operation of this section, become vested in the board of an incorporated hospital, such land shall, upon such commencement, vest in the body corporate of which such board is the board of directors.

Sec. 37.  
(Power to  
borrow.)

(i) (i) by omitting from subsection one of section thirty-seven the words “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” and by inserting in lieu thereof the words “on behalf of the hospital”;

(ii) by inserting at the end of subsection three of the same section the words “and that the borrowing is for a purpose authorised by this section”;

(iii) by inserting next after the same subsection the following new subsection:—

(3A) Every such borrowing shall be binding on the hospital and if the borrowing is by mortgage the mortgage may be over the real and personal property of the hospital or any part thereof (including property held in trust for the hospital or any purposes thereof) and may contain such powers and provisions as the Governor approves.

(iv) by inserting at the end of subsection four of the same section the following new paragraph:—

No time credit or other indulgence granted at any time or times to the hospital or other principal debtor by the lender or other person entitled to repayment of the  
money

money borrowed shall affect the liability of the Government or the Consolidated Revenue under such guarantee. No. 61, 1936.

- (v) by inserting at the end of subsection five of the same section the words "and the expression 'hospital' includes any such institution.

The governing authority for the time being of any such institution which is not a body corporate shall be jointly and severally liable as a principal debtor with respect to the repayment of the money borrowed under this section and interest thereon."

- (vi) by inserting next after the same subsection the following new subsections:—

(6) Any borrowing under this section by a board of a hospital or the governing authority of an institution as aforesaid which is a body corporate shall be deemed to have been and to be sufficiently evidenced by an instrument under the seal of the hospital or institution.

(7) With respect to any institution the name of which is included in the Third Schedule to this Act and which is not a body corporate a certificate under the common seal of the Commission shall in favour of a lender or other person entitled to repayment of the money borrowed and of the Government be conclusive evidence that the person or persons named in the certificate is or are at the date stated or referred to therein the governing authority of the institution referred to in the certificate.

(8) Any trustee unless expressly forbidden by the instrument (if any) creating the trust may invest and shall be deemed to have been entitled to invest any trust moneys in his hands in any loan borrowed under this section and the investment shall be



be and be deemed to have been an investment authorised by the Trustee Act, 1925.

(9) Any loan made under this section shall be and be deemed to have been a lawful investment for any moneys which any company or body corporate incorporated by any Act of Parliament of New South Wales is or was authorised or directed to invest in addition to any other investments expressly provided for the investment of such moneys.

Sec. 49.  
(Contribution  
schemes.)

(j) by inserting at the end of section forty the following new subsections:—

(6) It shall not be lawful for any person or association of persons not acting for or on behalf of a hospital or group of hospitals to establish a contribution scheme conducted for the purpose of ensuring relief to contributors or to contributors and their dependants, except with the consent in writing of the Commission.

(7) A contribution scheme shall not, after the commencement of the Hospitals (Amendment) Act, 1936, be established in pursuance of subsection one of this section unless the constitution and rules of such scheme have been approved by the Commission.

(8) Any alteration of the rules of a contribution scheme established or deemed to have been provided in pursuance of subsection one of this section shall be submitted to the Commission, and shall not take effect unless and until the Commission approves of the same.

(9) (a) The Commission may from time to time by notification published in the Gazette delimit the boundaries of any district within the limits of which contributors to any specified contribution scheme (including the scheme conducted by the Metropolitan Hospitals Contribution Fund of New South Wales) may be enrolled or retained.

(b)

(b) The Commission may, from time to time, by notification published in the Gazette, revoke any notification made under paragraph (a) of this subsection or vary the boundaries of the district delimited in any such notification. No. 61, 1936.

(c) While any such notification delimiting a district remains in force it shall be unlawful to enrol as a contributor to the contribution scheme so specified any person who is resident outside the boundaries of the district delimited in respect of such scheme, or to retain any such person as a contributor to such scheme after the expiration of a period of twelve months from the date of publication of such notification.

(k) by inserting next after section forty the following new section:-- New s. 40A.

40A. (1) All money and personal effects (being choses in possession) which are left in the custody of a hospital by any patient who dies in the hospital and which are not claimed by the person lawfully entitled thereto within a period of twelve months after the death of such patient shall be the property of the corporate body or in the case of an unincorporated hospital the property of the governing authority of such hospital. Samaritan Fund.

(2) All money and personal effects (being choses in possession) which are left in the custody of a hospital by any patient discharged from the hospital and which are not claimed by the patient or other the person lawfully entitled thereto within a period of twelve months after the date of discharge of such patient shall be the property of the corporate body, or, in the case of an unincorporated hospital, the property of the governing authority of such hospital.

(3) All such money and the proceeds of the realisation of any such personal effects shall form

942

**Bills of Sale (Amendment) Act.**

No. 61, 1936.

form a distinct and separate fund to be called the Samaritan Fund which fund shall be managed and disposed of in such manner as may be prescribed for the benefit of necessitous outgoing patients.

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