

PRIVATE HOSPITALS (AMENDMENT) ACT.

Act No. 22, 1954.

Elizabeth II,
No. 22, 1954.

An Act to make further provision with respect to the licensing, management and control of private hospitals and rest homes; to amend the Private Hospitals Act, 1908, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 23rd April, 1954.]

BE it enacted by the Queen'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,
citation and
commence-
ment.

1. (1) This Act may be cited as the "Private Hospitals (Amendment) Act, 1954."

(2) The Private Hospitals Act, 1908, as amended by subsequent Acts and by this Act, may be cited as the Private Hospitals Act, 1908-1954.

(3) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Private Hospitals Act, 1908, as amended by **No. 22, 1954.**
subsequent Acts, is amended—

(a) by omitting section two and by inserting in lieu thereof the following section:—

Amendment
of Act No.
14, 1908.

Substituted
sec. 2.

2. In this Act, unless the context or subject matter otherwise indicates or requires,—

Definitions.

“Birth” includes still-birth and miscarriage at any period.

“Building” includes any house, structure, tent, or place, or any part thereof, and the curtilage of any building.

“License” means license granted under this Act.

“Licensed” means licensed under this Act.

“Licensee” means holder of a license under this Act.

“Manager” means resident manager of a private hospital or rest home.

“Patient” means a person received and lodged in a private hospital or rest home.

“Premises” means a building with the appurtenances thereto, and includes land whether built upon or not.

“Prescribed” means prescribed by this Act or the regulations.

“Private hospital” means a building established or used or intended to be established or used for the treatment for fee or reward of patients but does not include—

(a) an institution wholly or in part supported by or receiving financial aid from the State; or

(b) an incorporated hospital or separate institution within the meaning of the Public Hospitals Act, 1929, as amended by subsequent Acts; or

(c) a rest home; or

(d)

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(d) a licensed house within the meaning of the Lunacy Act, 1898-1952; or

(e) institutions established or licensed under the Inebriates Act, 1912, as amended by subsequent Acts.

“Registered” as applied to a nurse means registered or deemed to be registered under the provisions of the Nurses Registration Act, 1953.

“Regulation” means regulation made under this Act.

“Rest home” means a building established or used or intended to be established or used to board and lodge for fee or reward patients:—

(a) who are recuperating from illness or childbirth and who require only nursing care, or

(b) who on account of age, senility, infirmity, chronic ill-health or other condition, require the exercise of oversight, nursing care and control with or without occasional attention by a medical practitioner,

but does not include—

(i) an institution wholly or in part supported by or receiving financial aid from the State; or

(ii) an incorporated hospital or separate institution within the meaning of the Public Hospitals Act, 1929, as amended by subsequent Acts; or

(iii) a private hospital; or

(iv) a licensed house within the meaning of the Lunacy Act, 1898-1952; or

(v)

(v) institutions established or licensed under the Inebriates Act, 1912, as amended by subsequent Acts. No. 22, 1954.

“Treatment” includes the care of or attendance upon a patient, the nursing of a patient, and any treatment of a medical or surgical nature given to a patient, whether by a medical practitioner or not.

“Ward” means any room, verandah or balcony of a private hospital or rest home in which patients are received or lodged for treatment, but does not include any labour room or operating theatre.

(b) by inserting at the end of the short heading appearing immediately before section six the words “*and rest homes*”; Short heading.

(c) (i) by inserting next after subsection one of section six the following new subsection:— Sec. 6.
(Licenses.)

(1A) From and after the expiration of three months after the commencement of the Private Hospitals (Amendment) Act, 1954, no rest home shall be carried on, used, or conducted, except under the authority of a license granted by the Minister on the recommendation of the Board of Health.

(ii) by omitting from subsection three of the same section the word “hospital” and by inserting in lieu thereof the words “private hospital or rest home”;

(iii) by inserting in subsection four of the same section after the word “hospital” the words “or rest home”;

(iv) by omitting subsection five of the same section;

(d) (i) by inserting at the end of subsection one of section seven the following paragraphs:— Sec. 7.
(Application for license.)

The amount of the prescribed license fee shall be paid upon lodgment of any such application made after the commencement of the Private Hospitals (Amendment) Act, 1954.

Such

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Such amount shall be refunded if a license is not granted upon such application.

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

(2) Every such application shall be accompanied by the prescribed particulars. Different particulars may be prescribed—

(a) according to the class of private hospital or rest home for which a license is sought;

(b) for applications for the first license after the commencement of the Private Hospitals (Amendment) Act, 1954, for any private hospital or rest home and for a new license for the same private hospital or rest home upon the expiration of the period for which an earlier license (granted after such commencement) remained in force.

New sec.
7A.

(e) by inserting next after section seven the following new section:—

Interim
license.

7A. (1) Where application is made for a license the President of the Board of Health may, pending consideration of the application, grant to the applicant an interim license.

(2) An interim license shall remain in force for such period, not exceeding two months, as may be specified in the interim license or until a license is granted whichever is the shorter period:

Provided that the Minister may in any particular case and from time to time extend the period during which an interim license may remain in force and any such interim license shall remain in force until the expiration of the period for which it has been so extended or until a license is granted whichever is the earlier.

(3)

(3) An interim license may be revoked ^{No. 22, 1954.} before the expiration of the period specified therein or where the interim license has been extended pursuant to subsection two of this section before the expiration of such extended period if the application for the license is refused.

- (f) (i) by inserting in subsection one of section ^{Sec. 8.} eight after the words "private hospital" ^(Granting of the license.) wherever occurring the words "or rest home";
- (ii) by inserting in the same subsection after the word "thereto" the words "and the provision made for the accommodation of the nursing and other staff of the private hospital or rest home (whether in such house or buildings or elsewhere)";
- (iii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsections:—
- (3) A license shall be granted in respect of one or more classes of private hospitals or rest homes.
- (4) Every license shall specify—
- (a) the particular class or classes of private hospitals or rest homes in respect of which it is issued; and
- (b) the maximum number of patients who may be lodged at any one time in each ward of the private hospital or rest home.
- (5) The Minister may, on the recommendation of the Board of Health, vary the particulars specified in any license by endorsement on the license.
- No such variation shall be made except upon the application of the licensee.
- (g) by omitting from section nine the words "The ^{Sec. 9.} license" and by inserting in lieu thereof the ^(Period of license.) words "Any license (other than an interim license)";

(h)

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New secs.
9A and 9B.Death of
licensee.

(h) by inserting next after section nine the following new sections:—

9A. (1) Where a license is granted to two or more persons jointly or in common and, during the period for which the license remains in force, any of such persons dies, the license shall, subject to this Act, continue in force for the balance of such period, and shall have effect as if granted to the survivors or survivor of such persons.

(2) (a) Where a licensee, who was either the sole licensee or the last survivor of any two or more licensees who held the license jointly or in common, dies during the period for which the license remains in force, the license shall, subject to this Act, continue in force for the balance of such period, and shall have effect as if granted to the executor or administrator of such licensee.

(b) The Minister may revoke any license continued in force by the operation of paragraph (a) of this subsection unless within two months after the death of the licensee or within such further period as the Minister may allow the license is transferred.

Transfer
of license.

9B. (1) A license may be transferred by the Minister on the recommendation of the Board of Health.

(2) Application for a transfer of a license shall be made by the licensee and the proposed transferee of the license, and shall be accompanied by the prescribed particulars.

The prescribed fee shall be paid upon lodgment of any such application.

(3) Where a license is transferred it shall have effect for the balance of the period for which it remains in force as if granted to the transferee.

Further
amendment
of Act No.
14, 1908.Short head-
ing.

3. The Private Hospitals Act, 1908, as amended by subsequent Acts, is further amended—

(a) by inserting at the end of the short heading appearing immediately before section ten the words "*and rest homes*";

(b)

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

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Substituted
sec. 10 and
new sec. 10A.

Managers
and resident
assistants.

10. (1) For every private hospital or rest home there shall be a manager who may be either the licensee himself or some person appointed by the licensee.

(2) The manager shall be—

- (a) a legally qualified medical practitioner;
- or
- (b) a registered nurse; or
- (c) a person approved by the Board of Health.

(3) A legally qualified medical practitioner may be the manager of a private hospital or rest home of any class.

Where a legally qualified medical practitioner is the manager of a private hospital or rest home, the licensee shall appoint one or more resident assistants of such private hospital or rest home.

Any such resident assistant shall be a nurse who holds the qualifications prescribed for resident assistants of private hospitals or rest homes of the class or classes to which such private hospital or rest home belongs.

(4) A registered nurse may be the manager of a private hospital or rest home if she holds the qualifications prescribed for managers of private hospitals or rest homes of the class or any of the classes to which such private hospital or rest home belongs.

Where any such nurse does not hold the qualifications prescribed for managers of any class of private hospital or rest home to which such private hospital or rest home belongs the licensee shall appoint a resident assistant who shall be a registered nurse who holds the qualifications prescribed for managers of that class of private hospital or rest home.

(5)

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(5) The full name and qualifications of any person appointed as manager or as resident assistant shall forthwith upon such appointment be submitted to the Board of Health for approval.

Any appointment of a person as manager or as resident assistant shall be deemed to have been made subject to the approval of the Board of Health, and shall be terminated forthwith if the Board of Health notifies the licensee that it does not approve of the appointment.

(6) Where for any cause whatsoever a manager or a resident assistant is unable to carry out his duties as such for such period as may be prescribed, the licensee shall appoint a person holding the appropriate qualifications required by this section to act as manager or resident assistant, as the case may be.

Where an appointment becomes necessary under this subsection, the full name and qualifications of the person appointed shall be submitted to the Board of Health for its approval. Any such appointment shall be deemed to have been made subject to the approval of the Board of Health and shall be terminated forthwith if the Board of Health notifies the licensee that it does not approve of the appointment.

(7) If the provisions of this section are not duly complied with the licensee shall be guilty of an offence against this Act.

Responsi-
bility
of licensees.

10A. The licensee of a private hospital or rest home shall conduct and manage such private hospital or rest home or cause such private hospital or rest home to be conducted and managed in an efficient manner.

Sec. 13.
(Keeping of
register.)

(c) (i) by inserting in subsection one of section thirteen after the words "private hospital" the words "or rest home";

(ii)

- (ii) by omitting from paragraph (a) of the same subsection the word "hospital" and by inserting in lieu thereof the words "private hospital or rest home";
- (iii) by omitting from paragraph (c) of the same subsection the word "hospital" and by inserting in lieu thereof the words "private hospital or rest home";
- (d) by inserting in section fourteen after the words "private hospital" the words "or rest home";
- (e) by inserting next after section fourteen the following new section:—

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Sec. 14.
(Inspection.)

New sec.
14A.

14A. (1) The Board of Health may by notice in writing require the licensee of any private hospital or rest home to effect such repairs, alterations, additions or improvements to the private hospital or rest home or to the accommodation provided for the nursing and other staff of the private hospital or rest home (whether such accommodation is provided in the premises of the private hospital or rest home or elsewhere) as may be specified in the notice.

Provision
for repairs,
etc.

(2) Any licensee who neglects or fails to comply with the requirements of any such notice within the time specified in the notice or within such further time as the Board of Health with the approval of the Minister may allow, shall be guilty of an offence against this Act.

- (f) (i) by inserting in section fifteen after the words "private hospital" the words "or rest home";
- (ii) by inserting at the end of the same section the following words and new subsection:—
"or as a private hospital or rest home of a class not specified in the license.
(2) If the provisions of this section are not duly complied with in relation to any private hospital or rest home the licensee shall be guilty of an offence against this Act."

Sec. 15.

(Use of
hospital.)

(g)

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Sec. 16.
(Inquiry as
to manage-
ment.)New secs.
16A-16C.Revocation
of licenses.

- (g) by inserting in section sixteen after the words "private hospital" wherever occurring the words "or rest home";
- (h) by inserting next after section sixteen the following new sections:—

16A. (1) The Minister may, on the recommendation of the Board of Health, revoke the license granted in respect of any private hospital or rest home if—

- (a) the licensee has been convicted of any offence against this Act or against the Nurses Registration Act, 1953; or
- (b) the licensee has been convicted in New South Wales of a felony or misdemeanour, or elsewhere, of any offence which, if committed in New South Wales, would be a felony or misdemeanour; or
- (c) the requirements of any notice given pursuant to section 14A of this Act are not duly complied with; or
- (d) in the opinion of the Board of Health the premises of the private hospital or rest home are insanitary, or insufficiently equipped, or the private hospital or rest home is managed or conducted in such a manner that the revocation of the license is necessary in the public interest; or
- (e) if the licensee has for a period of six months or upwards been absent from New South Wales without having made arrangements to the satisfaction of the Board of Health, for the carrying on, use or conduct of the private hospital or rest home during his absence.

(2) Before making a recommendation that any license be revoked under this section the Board of Health shall serve notice in writing upon the licensee that it proposes to make such a recommendation.

Any

Any such notice—

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- (a) shall specify the grounds upon which it will be recommended that the license be revoked;
- (b) shall appoint a time within which the licensee may show cause why the recommendation should not be made.

16B. A revocation, pursuant to section sixteen or section 16A of this Act, of the license granted in respect of a private hospital or rest home shall not take effect until the expiration of a period of twenty-one days after notification in the prescribed manner by the Minister to the licensee, of such revocation.

When revocation to take effect.

If within such period the licensee gives due notice of appeal to a district court, such revocation shall not take effect unless and until the revocation is confirmed by the district court or the appeal is for any reason dismissed by that court.

16c. (1) There shall be a right of appeal to a district court against the revocation, pursuant to section sixteen or section 16A of this Act, of the license granted in respect of a private hospital or rest home, and the district court shall have jurisdiction to hear and determine the appeal.

Appeal against revocation.

(2) Every such appeal shall be made to the district court having jurisdiction in the district within which the private hospital or rest home is situated and on such appeal the district court may make such order as it thinks proper, having regard to the merits of the case and the public welfare.

(3) Any such appeal shall be in the nature of a rehearing, and shall be made in accordance with rules of court.

- (i) by inserting in section seventeen after the words “private hospital” the words “or rest home”; (Evidence.)
- (j)

Sec. 17.

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Substituted
sec. 18.

Regulations.

(j) by omitting section eighteen and by inserting in lieu thereof the following section:—

18. (1) The Governor may, on the recommendation of the Board of Health, make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of the power conferred by subsection one of this section the Governor may, on the recommendation of the Board of Health, make regulations—

- (a) for the licensing, management and inspection of private hospitals and rest homes;
- (b) prescribing classes of private hospitals and rest homes and the class of patient who may be received and lodged in any specified class of private hospital or rest home;
- (c) prescribing the qualifications for managers and resident assistants of private hospitals and rest homes;
- (d) prescribing the forms to be used for the purposes of this Act;
- (e) prescribing structural requirements as to buildings carried on, used or conducted or intended to be carried on, used or conducted as a private hospital or rest home including lighting, ventilation, drainage and provision of fire escapes, and the accommodation to be provided for patients, nurses, domestic staff and other persons;
- (f) prescribing requirements as to furnishing and equipment of private hospitals and rest homes and the provision and structural requirements of operating theatres,

theatres, labour rooms, nurseries or other specified portions of a private hospital or rest home; No. 22, 1954.

- (g) prescribing requirements as to the number and qualifications of nursing staff in private hospitals or rest homes;
- (h) prescribing requirements as to the number of domestic staff in private hospitals or rest homes;
- (i) prescribing requirements as to methods and apparatus to be used in cleansing or disinfecting buildings, furnishings or equipment in or in connection with private hospitals or rest homes;
- (j) prescribing requirements as to isolation or removal from a private hospital or rest home of persons suffering from infectious disease;
- (k) regulating or prohibiting the admission into a private hospital or rest home of persons suffering from any infectious disease or other specified condition;
- (l) prescribing the number and type of sanitary conveniences in private hospitals or rest homes to be provided for each sex;
- (m) prescribing the methods of disposal of refuse and other material from private hospitals or rest homes;
- (n) for preventing and remedying overcrowding of any ward in a private hospital or rest home;
- (o) regulating the keeping of birds or animals on the premises of private hospitals or rest homes;
- (p) regulating the disposition of dead bodies on the premises of private hospitals or rest homes;

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- (q) regulating the cleanliness of premises, furnishings or equipment in private hospitals or rest homes;
- (r) regulating or prohibiting the performance of any specified surgical operation **in private hospitals or rest homes**;
- (s) prescribing the fee to be paid for the license or the transfer of the license of a private hospital or rest home, and prescribing different fees for the first license after the commencement of the Private Hospitals (Amendment) Act, 1954, for any private hospital or rest home and for a new license for the same private hospital or rest home upon the expiration of the period for which an earlier license (granted after such commencement) remains in force;
- (t) prescribing requirements as to site, situation, and distance from other premises of private hospitals or rest homes;
- (u) for the prevention or destruction of flies or other vermin on the premises of private hospitals or rest homes;
- (v) prescribing the provision to be made for the storage, preparation and serving of food in private hospitals or rest homes.

(3) Any regulation may be made to apply generally to all private hospitals or rest homes, or to any specified class of private hospitals or rest homes or to all private hospitals or rest homes other than those of a specified class.

(4) The regulations may impose a penalty not exceeding fifty pounds for any breach of the regulations.

(5) The regulations shall—

(a) be published in the Gazette;

(b)

(b) take effect from the date of publication No. 22, 1954.
or from a later date to be specified in
the regulations;

(c) be laid before both Houses of Parlia-
ment within fourteen sitting days after
publication if Parliament is in session,
and if not, then within fourteen sitting
days after the commencement of the
next session.

If either House of Parliament passes
a resolution of which notice has been
given at any time within fifteen sitting
days after the regulations have been
laid before such House disallowing any
regulation or part thereof, such regula-
tion or part shall thereupon cease to
have effect.

(k) by omitting from section nineteen the words Sec. 19.
“hospitals as defined” and by inserting in lieu (Dispensing
thereof the words “any private hospital or rest of
home licensed.” medicines.)

4. The Private Hospitals Act, 1908, as amended by Further
subsequent Acts, is further amended by inserting next amendment
after section nineteen the following new short heading of Act No.
and sections:— 14, 1908.
New secs.
20-25.

General provisions.

20. Any person guilty of an offence against this General
Act for which no other penalty is specifically pro- penalty.
vided shall be liable for a first offence to a penalty
not exceeding fifty pounds, and for a second or any
subsequent offence to a penalty not exceeding one
hundred pounds.

21. A certificate purporting to be signed by the Certificate
Secretary of the Board of Health and to certify as to cer-
that— tain matters.

(a) on a specified day or days or during the
whole of a specified period—

(i) a license or an interim license was
or was not in force in relation to
a particular private hospital or
rest home; or

(ii)

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- (ii) a particular person was or was not the holder of the license or interim license issued in relation to a particular private hospital or rest home; or
 - (iii) the particulars set out in the certificate were the particulars specified in the license issued in relation to a particular private hospital or rest home; or
- (b) on a specified day the license issued in relation to a particular private hospital or rest home expired or was transferred or was revoked or the particulars specified in any such license were altered in the manner set out in the certificate,

shall without proof of the signature of the person purporting to sign such certificate or that he was the Secretary of the Board of Health, be prima facie evidence of the matters certified in and by such certificate.

Notices.

22. (1) Every licensee shall furnish the Board of Health with an address for the service of notices under this Act.

Such address shall be so furnished at the time of making any application under this Act for the grant or transfer of a license.

(2) Any change of such address shall be notified to the Board of Health.

(3) Any notice required or authorised by this Act to be given to or served on a licensee shall be deemed to be sufficiently given or served—

- (a) if delivered personally to the licensee; or
- (b) if left for the licensee at the address for service furnished or last notified, as the case may be, to the Board of Health; or
- (c) if sent by post in a prepaid letter addressed to the licensee at the address for service furnished or last notified, as the case may be, to the Board of Health;

and

and shall be deemed to have been given or served ^{No. 22, 1954.} at the time when the letter would, in the ordinary course of post, be delivered.

23. Where under this Act or the regulations any person is guilty of an offence or is liable to any penalty the matter may be heard and determined in a summary manner before a stipendiary magistrate or any two or more justices in petty sessions. ^{Recovery of penalties.}

24. All fees received under this Act shall be paid ^{Fees.} to the Consolidated Revenue Fund.

25. No matter or thing done by the Board of Health, or by any member or officer of or person authorised by the Board of Health shall, if the matter or thing was done bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever. ^{Exoneration of certain persons.}

5. (1) All licenses granted under the Private Hospitals Act, 1908, as amended by subsequent Acts, before the commencement of this Act and in force immediately before such commencement shall, subject to the Private Hospitals Act, 1908-1954, continue in force until the thirty-first day of December next after such commencement. ^{Existing licenses.}

(2) The Private Hospitals Act, 1908-1954, shall, during the period for which any license is continued in force by the operation of subsection one of this section, apply to and in respect of the private hospital to which such license relates, subject to the following modifications:—

- (a) Such private hospital may be carried on, used or conducted for the purpose or purposes stated in the license and, whilst so carried on, used or conducted, shall be deemed to be carried on, used or conducted as a private hospital of the class or classes specified in the license.
- (b) Where under section ten of the Private Hospitals Act, 1908-1954, the appointment of a resident assistant would be required, such appointment shall be made not later than one month after the commencement of this Act.

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