

## HOSPITAL BENEFITS AGREEMENT.

12° and 13° GEO. VI., No. LVIII.

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No. 58 of 1948.

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**AN ACT to authorise the Execution by or on behalf of the State of an Agreement between the Commonwealth and the State in relation to Hospital Benefits.**

[Assented to 21st January, 1949.]

**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 Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the *Hospital Benefits Agreement Act, 1948.*

Execution of  
Agreement  
authorised.

2. The execution by or on behalf of the State of an Agreement between the Commonwealth and the State substantially in accordance with the form of agreement contained in the Schedule to this Act is hereby authorised.

**SCHEDULE.**

Agreement made the \_\_\_\_\_ day of \_\_\_\_\_,  
 One thousand nine hundred and forty-\_\_\_\_\_, between the Common-  
 wealth of Australia (hereinafter called "the Commonwealth") and  
 the State of \_\_\_\_\_ (hereinafter called "the  
 State"):

Whereas on the \_\_\_\_\_ day of \_\_\_\_\_,  
 One thousand nine hundred and forty-\_\_\_\_\_, the Commonwealth  
 entered into an agreement (hereinafter called "the principal agree-  
 ment") with the State in pursuance of the Hospital Benefits Act,  
 1945 whereby the Commonwealth granted to the State financial  
 assistance to enable it to make hospital services more fully available  
 to the people of the State upon and subject to the terms and condi-  
 tions set out in the principal agreement:

And whereas it is desired to amend the principal agreement in the  
 manner hereinafter appearing:

Now it is hereby agreed as follows:—

1. This agreement shall not have any force or effect unless and  
 until authorised or approved by the Parliament of the State.

2. Clause 1 (or clause 2 as the case may be) of the principal  
 agreement is amended by omitting the definitions of "public hospi-  
 tal," "qualified person," "the Commonwealth Hospital Benefit Ex-  
 penditure Rate for Public Wards," "the Commonwealth Hospital  
 Benefit Rate for Non-Public Wards," and "the Commonwealth Hospi-  
 tal Benefit Rate for Public Wards" and substituting the following  
 definitions—

"public hospital" means a hospital which—

(a) is ordinarily recognised as a public hospital; and

(b) is in receipt of a grant for maintenance from the  
 State,

and includes a State institution used for hospital purposes  
 and a ward in any other institution maintained or subsidised  
 by the State which is used for hospital purposes and is for  
 the time being approved by the Commonwealth, but does not  
 include a public ward in a tuberculosis hospital within the  
 meaning of the Tuberculosis Act, 1945, of the Commonwealth  
 or a public ward in any hospital or part of a hospital the  
 maintenance expenditure of which by the State is subject to  
 an agreement under the Tuberculosis Act, 1948;

"qualified person" means a person who was ordinarily resident  
 in Australia at the time of admission to a public hospital  
 and is occupying a bed for the purpose of hospital treatment  
 and includes, where two or more children are born at one  
 birth, any child born at that birth in excess of one, and also  
 any newly born child except during the time the mother of  
 that child is occupying a bed, but does not include the per-  
 sons referred to in subclause (1) of clause 3A hereof;

“the Commonwealth Hospital Benefit Rate for Non-Public Wards” means—

- (a) in relation to the period from the date of commencement of this agreement until the thirty-first day of October, 1948—an amount of Six shillings;
- (b) in relation to the remainder of the term of this agreement—an amount of Eight shillings, or such other amount as is, from time to time, agreed upon between the Commonwealth and the State;

“the Commonwealth Hospital Benefit Rate for Public Wards” means—

- (a) in relation to the period from the date of commencement of this agreement until the 30th day of June, 1948—an amount of Six shillings;
- (b) in relation to the remainder of the term of this agreement—an amount of Eight shillings, or such other amount as is, from time to time, agreed upon between the Commonwealth and the State.

3. After clause 3 of the principal agreement the following clauses are inserted:—

3A. (1) The following persons shall not be qualified persons for the purposes of this agreement—

- (a) a member of the staff of a public hospital receiving treatment in his or her own quarters;
- (b) a person the whole of whose hospital fees (hereafter in this clause referred to as “fees”) are paid or payable (directly or indirectly) by the Commonwealth;
- (c) a person who has received, may receive or is entitled to receive, whether by way of damages or otherwise, the whole of his fees, or an amount representing in whole or in part the whole of his fees, under any law (including the common law) in force in the State, or in settlement of a claim under any such law; and
- (d) a person the whole of whose fees are payable by any other person under any law in force in the State.

(2) In the case of a person—

- (a) portion of whose fees are paid or payable (directly or indirectly) by the Commonwealth;
- (b) who has received, may receive or is entitled to receive, whether by way of damages or otherwise, portion of his fees, or an amount representing in whole or in part portion of his fees, under any law (including the common law) in force in the State, or in settlement of a claim under any such law; or

(c) portion of whose fees are payable by any other person under any law in force in the State, the portion of the fees, or the portion of an amount representing fees, referred to in this subclause shall, for the purposes of this subclause, be deducted from the total hospital fees payable in respect of the hospital treatment of that person and the number (calculated to the nearest whole number) arrived at by dividing the remaining amount by the daily hospital fee shall be deemed to be the number of days during which that person was a qualified person for the purposes of this agreement.

3B. (1) Where the Minister for Health of the State, or a person authorised by him to act under this clause, considers that the question whether, having regard to the last preceding clause, a person is, or was during any period, a qualified person cannot be satisfactorily determined for the time being, he may, by writing under his hand, direct that that person shall not be treated as being, or shall not be treated as having been during a specified period, a qualified person, and that person shall, subject to the next succeeding subclause, be deemed not to be at any time after the direction is given, or not to have been during the period (if any) specified in the direction, a qualified person for the purposes of this agreement.

(2) The Minister for Health of the State or a person authorised by him to act under this clause may, by writing under his hand, revoke a direction given under the last preceding subclause, and thereupon—

- (a) the question whether the person affected by the direction is, or was during any period, a qualified person shall be determined as if the direction so revoked had not been given;
- (b) any necessary adjustment in payments by the Commonwealth under this agreement shall be made; and
- (c) the State shall ensure that any necessary adjustment in respect of hospital fees paid or payable by that person shall be made.

4. After clause 6 of the principal agreement the following clause is inserted:—

6A. Where an agreement is entered into between the Government of the Commonwealth and the Government of another part of His Majesty's dominions or of any foreign country providing for reciprocity in matters relating to hospital benefits, the Treasurer of the Commonwealth, on behalf of the Commonwealth, may enter into arrangements with the Treasurer of the State, on behalf of the State, providing for hospital benefits to be made available in accordance with the terms of that agreement to residents of that part of His Majesty's dominions or of that foreign country who are for the time being in Australia.

5. As from the first day of July, 1948, clauses 7 and 8 (or 8 and 9 as the case may be) of the principal agreement (dealing with amounts to be set aside by the State for capital expenditure on public hospitals and further payments to the State) shall be deemed to have ceased to have effect, but the State shall not use any amount (or interest) which has been set aside or should have been set aside in pursuance of the said clauses otherwise than for capital expenditure on public hospitals as approved by the Commonwealth.

6. In all other respects the principal agreement is confirmed.

In witness whereof the Prime Minister of the Commonwealth and the Premier of the State have signed this amending agreement the day and year first above written.

SIGNED by the Prime Minister of the  
Commonwealth for and on behalf  
of the Commonwealth in the  
presence of—

SIGNED by the Premier of the State  
for and on behalf of the State  
in the presence of—

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