

QUEEN ELIZABETH II MEDICAL CENTRE.

No. 59 of 1985.

AN ACT to amend the Queen Elizabeth II Medical Centre Act 1966.

[Assented to 5 November 1985.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Queen Elizabeth II Medical Centre Amendment Act 1985*. Short title and principal Act.

(2) In this Act the Queen Elizabeth II Medical Centre Act 1966 is referred to as the principal Act. Approved for reprint 21 November 1978.

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

Section 7
amended.

3. Section 7 of the principal Act is amended in subsection (3) by—

- (a) deleting “of Public Health” in paragraph (a);
- (b) deleting “of Public Health” in paragraph (b); and
- (c) inserting after “two” in paragraph (c) the following—
“ shall be ”.

Section 13
amended.

4. Section 13 of the principal Act is amended—

- (a) in subsection (1) by deleting “The” and substituting the following—
“ Subject to this section, the ”;
- (b) by inserting after subsection (2) the following subsections—
“ (2a) The Trust may by instrument published in the *Gazette* set aside, without the consent of the Governor but with the approval of the Minister, land being the whole or any part of the reserve (in this section called “the site”) for such purposes incidental to the medical centre as it thinks fit and, subject to this section, delegate in respect of the site to any person specified in that instrument (in this section called “the delegate”) all or any of its powers under this Act, other than—

(a) this power of delegation;

- (b) the power to borrow money conferred on the Trust by subsection (3); and
- (c) the power to lease, mortgage, charge or otherwise deal with any land forming part of the reserve conferred on the Trust by subsection (6).

(2b) The Trust shall not without the prior consent of the person concerned make a delegation under subsection (2a) to that person or amend such a delegation.

(2c) Every instrument made under subsection (2a) and every instrument amending or revoking the delegation concerned shall come into operation on the day specified therein, not being a day prior to the day on which that instrument is published in the *Gazette*.

(2d) Notwithstanding that the Trust has, under subsection (2a), delegated any powers referred to in that subsection in respect of the site, the Trust may give directions with respect to any development of the site which the delegate proposes to undertake in the exercise of any power delegated under that subsection, and the delegate shall give effect to any such direction.

(2e) Whilst a setting aside and delegation under subsection (2a) are in force, the delegate—

- (a) shall for the purposes for which the site was set aside have all the powers delegated to the delegate under that subsection in respect of the site as if those powers had been conferred on the delegate by this Act; and

(b) if the delegate has power under another Act to make regulations or by-laws, may with the approval of the Governor given on the recommendation of the Trust make regulations or by-laws, as the case requires, under this subsection in respect of the site for all or any of the purposes for which the Trust may under section 20 make by-laws, including prescribing a fee for the use of the site for the purpose specified in the relevant instrument of delegation, as if references in that section to the Trust were references to the delegate, and section 20 shall apply to regulations or by-laws made under this subsection as if those regulations or by-laws were by-laws made under that section.

(2f) The delegate may require any person using the site to pay to the delegate a fee for any service provided on or in respect of the site by the delegate under any power delegated under subsection (2a).

(2g) The delegate shall pay any moneys—

(a) derived from the development, control and management of any land in respect of which the delegate exercises powers delegated under subsection (2a), including any moneys received in respect of penalties or modified penalties;

- (b) received by way of fees paid—
 - (i) under regulations or by-laws made under subsection (2e) (b); or
 - (ii) in compliance with a requirement made under subsection (2f);
- (c) granted or lent to the delegate under subsection (2k);
- (d) if the delegate is the board of the Sir Charles Gairdner Hospital, deemed to have been paid lawfully to or received lawfully by that board by virtue of section 9 (1) of the Queen Elizabeth II Medical Centre Amendment Act 1985 and not applied within the meaning of section 9 (2) (b) of that Act; or
- (e) other than moneys referred to in paragraphs (a), (b), (c) or (d), lawfully received by, made available to or payable to the delegate,

into an account opened and maintained by the delegate in the name of the delegate followed by “(as delegate of The Queen Elizabeth II Medical Centre Trust)” at a bank approved by the Treasurer, and may invest temporarily any moneys standing to the credit of that account in such manner and in such categories of investment as are approved by the Treasurer until those moneys are required for use in accordance with subsection (2h).

(2h) The delegate may use any moneys in the account maintained under subsection (2g), including interest derived from the investment of moneys under that subsection—

- (a) for the development, control and management of the site for any purpose for which the site was set aside;
- (b) in the exercise of any power delegated to it under subsection (2a); or
- (c) for the repayment of any moneys lent to the delegate under subsection (2k) and for the payment of any interest or charges payable in respect of that lending.

(2i) The delegate shall as soon as possible after 30 June in each year furnish to the Trust—

- (a) a report relating to the exercise during the year ended on that date by the delegate of the powers delegated to or conferred on the delegate by the Trust or by this section, as the case requires; and
- (b) such accounts, duly audited, as the Trust requires.

(2j) For the purposes of subsections (2a) to (2h), a reference to a purpose shall be construed as including anything that is incidental to that purpose.

(2k) The Trust may for the purpose of enabling the exercise of any power delegated under subsection (2a) make a grant of, or lend, moneys to the delegate on such terms and conditions as it thinks fit.

(2l) On the revocation of a delegation made under subsection (2a)—

- (a) all personal property and every right or interest therein that immediately before that revocation was vested in the person to whom that delegation was made (in this subsection called "the former delegate") in his capacity as the former delegate shall without any transfer or assignment pass to and become vested in the Trust;
- (b) all rights, liabilities and obligations of the former delegate in his capacity as the former delegate that were in existence immediately before that revocation shall devolve on the Trust;
- (c) all contracts, agreements and undertakings made by and with the former delegate in his capacity as the former delegate and having effect immediately before that revocation shall have effect as contracts, agreements and undertakings made by and with the Trust and may be enforced by or against the Trust accordingly;

- (d) any legal or other proceedings or any remedies that might, but for that revocation, have been commenced or continued or available by or against or to the former delegate in his capacity as the former delegate may be commenced or continued, or shall be available, by or against or to the Trust, as the case requires;

and

- (e) a reference to the former delegate in his capacity as the former delegate in—

- (i) a written law in force;

or

- (ii) a document in existence,

immediately before that revocation shall for the purposes of this subsection be construed as a reference to the Trust.

(2m) The funds available for the purpose of enabling the Trust to perform its functions under this Act consist of—

- (a) all moneys received by the Trust from performing those functions;
- (b) all moneys borrowed by the Trust under subsection (3);
- (c) the sums and funds referred to in subsection (5);

- (d) the proceeds, and the income from any investment of the proceeds, referred to in subsection (7);
- (e) any rents derived from land leased by the Trust; and
- (f) any other moneys lawfully received by, made available to or payable to the Trust.

(2n) The funds referred to in subsection (2m) shall be paid into and placed to the credit of an account at a bank approved by the Treasurer to be known as the Queen Elizabeth II Medical Centre Trust Account.

(2o) There shall be paid from the moneys from time to time in the account referred to in subsection (2n)—

- (a) interest on and repayments of money borrowed by the Trust under subsection (3);
 - (b) grants or loans of moneys made under subsection (2k);
- and
- (c) all other expenditure lawfully incurred by the Trust in the performance of its functions under this Act. ”;

and

- (c) in subsection (6) by deleting “The Trust” and substituting the following—

“ Subject to subsection (2a), the Trust ”.

Section 15
amended.

5. (1) Section 15 of the principal Act is amended—

(a) by repealing subsection (2) and substituting the following subsection—

“ (2) The Trust shall, as soon as practicable after 30 June in each year, furnish to the Minister a report of the operations of the Trust during the year ended on that date—

(a) subject to paragraph (b), in such form as the Minister approves; and

(b) containing such financial statements as the Treasurer requires in such form as the Treasurer approves,

and shall at the same time furnish a copy of that report to the Senate. ”;

and

(b) in subsection (3) by deleting “and financial statements of the Trust” and substituting the following—

“ referred to in subsection (2) ”.

(2) Notwithstanding section 15 (2) of the principal Act as repealed and substituted by subsection (1), the report to be furnished by the Trust to the Minister under that section in respect of the year ending on 30 June 1986 shall be a report of the operations of the Trust during the period commencing on 1 August 1985 and ending on 30 June 1986.

6. Section 16 of the principal Act is amended— Section 16 amended.

(a) in subsection (4) by—

(i) deleting “Each” and substituting the following—

“ Subject to subsection (5a), each ”;

(ii) inserting after “the Chairman” in paragraph (a) the following—

“ for the time being ”;

(iii) deleting “Australia,” in paragraph (c) and substituting the following—

“ Australia. ”; and

(iv) deleting “each of the three persons referred to in paragraph (b) and in paragraph (c) of this subsection,” and substituting the following—

“ (4a) Each of the persons referred to in subsection (4) (b) and (c) ”;

(b) in subsection (5) by inserting after “Committee” the following—

“ , except for the member referred to in subsection (4) (a) or a member co-opted under subsection (5a), ”;

(c) by inserting after subsection (5) the following subsection—

“ (5a) An Appointments Committee may, for the purpose of considering the appointment to an office on the medical staff of the teaching hospital of the Appointments Committee of a person who holds or is to be appointed to an office on the medical staff of a

hospital other than that teaching hospital, co-opt a representative of that other hospital to be a member of the Appointments Committee for the duration of the whole or any part of the meeting of the Appointments Committee at which that consideration is to take place. ”;

and

(d) by inserting after subsection (7) the following subsection—

“ (8) In this section—

“managing body” has the meaning given by section 2 of the University Medical School, Teaching Hospitals, Act 1955. ”.

Section 20
amended.

7. Section 20 of the principal Act is amended—

(a) in subsection (1) by deleting—

(i) the semi-colon after paragraph (c) and substituting a full stop; and

(ii) paragraph (d);

(b) by inserting after subsection (1) the following subsections—

“ (1a) Without limiting the generality of subsection (1), the Trust may, with the approval of the Governor, make by-laws regulating or prohibiting—

(a) pedestrian traffic; and

(b) the driving, use, standing or parking of vehicles on the reserve or any part thereof,

and regulating the control, supervision and management of parking or standing areas, and in particular—

- (c) prescribing fees payable to the Trust by a person using, or in respect of a vehicle occupying, a parking or standing area and exempting any person or vehicle or class of person or class of vehicle from paying all or any of those fees;
- (d) providing for the sale of tickets, whether by means of vending machines or otherwise, entitling the holders of those tickets to park vehicles in parking areas or elsewhere within the reserve and for such periods and under such other terms and conditions as are specified;
- (e) providing for the issue of permits, whether on application to a specified person or otherwise, entitling the holders of those permits to park vehicles in parking areas or elsewhere in the reserve and for such periods and on such other terms and conditions as are specified, and for the circumstances in which any such permit may be amended, suspended or revoked by a specified person;
- (f) prescribing the manner in which tickets referred to in paragraph (d) and permits referred to in paragraph (e) are to be displayed, and the respective forms of those tickets and permits;

- (g) prescribing the terms and conditions under which and the period or periods of time during which a parking or standing area may be used or occupied;
- (h) providing for the protection of parking and standing areas and all equipment pertaining to them against misuse, damage, interference or attempted interference by any person;
- (i) regulating the parking and standing of vehicles in any parking or standing area and prohibiting any person from parking or standing any vehicle in a parking area or standing area otherwise than in accordance with by-laws made under this subsection;
- (j) requiring persons in charge of vehicles or animals within the reserve to obey the orders and directions of specified persons or members of specified classes of persons given for the purpose of controlling traffic;
- (k) providing for the display, erection or marking of signs for the purposes of by-laws made under this subsection;
- (l) prohibiting, or empowering the Secretary to the Trust or any other specified person by the

display, erection or marking of a sign referred to in paragraph (k) to prohibit—

- (i) the use of a parking area for a purpose other than a specified purpose; or
 - (ii) the parking of a vehicle in a parking area by a person other than a specified person or a member of a specified class of persons;
- (m) exempting, or empowering the Secretary to the Trust or any other specified person to exempt, any person or vehicle or class of person or class of vehicle from complying with any by-law made under this subsection prohibiting or restricting the parking or standing of vehicles generally or otherwise;
- (n) prescribing the method and means by which any charges or modified penalties prescribed by any by-law made under this subsection may or shall be paid and collected or recovered;
- (o) prescribing the circumstances under which an officer or servant of the Trust may remove a vehicle or cause it to be removed from a parking or standing area or from any other area within the reserve to a specified place, whether within the reserve or not, prescribing his further powers

in relation thereto, prescribing the scale of fees to be paid to the Trust to recover the vehicle from that place, and authorizing the Trust to hold the vehicle until the prescribed fees are paid to the Trust;

- (p) prohibiting the driving of vehicles in any part of the reserve at a speed in excess of that specified in respect of that part by a by-law made under this subsection or by any sign referred to in paragraph (k);
- (q) prescribing, in respect of an alleged offence against any by-law made under this subsection, the circumstances under which the owner of a vehicle is deemed to be the driver or person in charge of the vehicle at the time of that alleged offence;
- (r) prescribing the period of time within which a person, after being served with notice of an offence alleged to have been committed by him against any by-law made under this subsection, may pay to the Trust the modified penalty prescribed for that offence, and the period within which a modified penalty is payable after receipt of notice;
- (s) prescribing the method of notifying a person alleged to have committed an offence

against any by-law made under this subsection of that alleged offence and how it may or shall be dealt with and prohibiting the removal by any person other than the driver of a vehicle in respect of which an offence against such a by-law is alleged to have been committed of any notice relating to that offence affixed to the vehicle or left in or on the vehicle by an officer or servant of the Trust;

- (t) prescribing a modified penalty not exceeding \$50 payable to the Trust by a person or one of a class of persons who does not contest an allegation that he committed a specified offence against a by-law made under this subsection and providing that the due payment of a modified penalty is a defence to a charge of the offence in respect of which that modified penalty was paid.

(1b) In subsection (1a)—

“specified” means specified in by-laws made under that subsection.

(1c) Notwithstanding anything in subsection (1a), a person specified in by-laws made under that subsection who considers that an alleged specified offence against those by-laws cannot adequately be punished by the payment of a modified penalty may cause payment of a modified penalty in

respect of that offence not to be accepted and may cause proceedings to be taken against the alleged offender in respect of that offence.

(1d) Without limiting the generality of subsection (1), the Trust may, with the approval of the Governor, make by-laws enabling—

- (a) control measures to be taken with respect to vandalism, ingress, egress, security, trespass, hawkers, vending machines, the presence of animals and bill posting;
- (b) the provision of pathways, roadways, kerbing, signs, landscaping, lighting, sewerage and drainage;
- (c) the maintenance of gardens, grounds and equipment; and
- (d) the removal of litter and refuse,

in, to or from, as the case requires, the reserve.

(1e) A by-law made under this section does not take away, restrict or otherwise affect any liability, civil or criminal, arising at common law or under any written law other than this Act. ”;

(c) in subsection (2) by deleting “forty dollars” and substituting the following—

“ \$50 ”;

(d) in subsection (3) by inserting after “any other Act” the following—

“ but subject to this Act ”; and

(e) by inserting after subsection (3) the following subsection—

“ (4) Proceedings for an offence against the by-laws may be taken on behalf of the Trust by any person specified in the by-laws for the purpose in the name of the Trust and any such person taking those proceedings shall be reimbursed out of the funds of the Trust for all damages or reasonable expenses which he may incur or for which he may become liable by reason of taking those proceedings. ”.

8. The principal Act is amended by inserting after section 20 the following section—

Section 21
inserted.

“ 21. (1) The Minister shall carry out a review of the operation and effectiveness of this Act as soon as practicable after 1 January 1991 and after the end of each successive period of 5 years calculated from that date, and in the course of that review the Minister shall consider and have regard to—

Review
of Act.

(a) the attainment of the object of this Act;

(b) the administration of this Act;

(c) the effectiveness of the operations of the Trust and of each committee referred to in section 12, each delegate under section 13, each managing body referred to in section 14 and each Appointments Committee referred to in section 14;

- (d) the need for the continuation of the Trust and each committee, delegate, managing body and Appointments Committee referred to in paragraph (c); and
- (e) such matters, other than those referred to in paragraphs (a) to (d), as appear to the Minister to be relevant.

(2) The Minister shall prepare a report based on the review referred to in subsection (1) and shall, as soon as is practicable after its preparation, cause that report to be laid before each House of Parliament. ”.

Validation.

9. (1) Any moneys paid to or received by the board of the Sir Charles Gairdner Hospital before the coming into operation of this Act, which moneys arose from the development, control or management of any part of the reserve by that board and, if—

- (a) this Act had before those moneys so arose come into operation; and
- (b) the Trust had under section 13 of the principal Act as amended by this Act before those moneys so arose—
 - (i) set aside that part; and
 - (ii) delegated to that board such powers as would have enabled those moneys lawfully to be so paid or received,

could lawfully have been so paid or received, shall be deemed lawfully to have been so paid or received, and any proceeding, matter or thing taken or done for or in connection with the payment or recovery of those moneys shall be deemed to be and always to have been taken or done lawfully.

(2) Any moneys—

- (a) deemed by virtue of subsection (1) to have been paid or received lawfully; and
- (b) applied by the board of the Sir Charles Gairdner Hospital to the development, control or management of parking areas or standing areas for vehicular traffic in the reserve before the coming into operation of this Act,

shall be deemed lawfully to have been so applied.

(3) Any acts of development, control or management done in or in relation to any part of the reserve by the board of the Sir Charles Gairdner Hospital before the coming into operation of this Act, which acts of development, control or management, if—

- (a) this Act had before the doing of those acts of development, control or management come into operation; and
- (b) the Trust had under section 13 of the principal Act as amended by this Act before those acts of development, control or management were so done—
 - (i) set aside that part; and
 - (ii) delegated to that board such powers as would have enabled those acts of development, control or management lawfully to be so done,

could lawfully have been so done, shall be deemed lawfully to have been so done.

(4) In this section—

“acts of development, control or management”
includes—

- (a) control measures taken with respect to vandalism, ingress, egress, parking or standing of vehicles, security, trespass, hawkers, vending machines, the presence of animals and bill posting;
- (b) provision of pathways, roadways, parking areas or standing areas for vehicular traffic, kerbing, signs, landscaping, lighting, sewerage and drainage;
- (c) maintenance of gardens, grounds and equipment; and
- (d) removal of litter and refuse;

“board” has the meaning given by section 2 of the Hospitals Act 1927;

“the reserve” and “the Trust” have the respective meanings given by section 3 of the principal Act.
