

HOSPITALS.

18° GEO. V., No. XXIII.

No. 23 of 1927.

AN ACT to amend the Law relating to Public Hospitals, and to provide for the Establishment, Maintenance, and Management of such Institutions, for other relative purposes, and for the validation of certain acts of the Municipality of Collie and the Katanning Road Board.

[Assented to 23rd December, 1927.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Hospitals Act*, 1927, and shall come into operation on the first day of January, One thousand nine hundred and twenty-eight.

Short title and commencement.

2. In this Act, subject to the context—

Interpretation.

“Board” means a hospital board constituted under this Act, and includes a board of management appointed under the *Hospitals Act*, 1894, or a hospital committee existing prior to the commencement of this Act, until such time as any such board or committee is superseded by a hospital board appointed under this Act.

“Department” means the Medical Department.

“Health Act” means the *Health Act*, 1911-1919, as printed in the 1919 Sessional Volume, and includes any amendments thereof.

“Hospital Fund” shall mean a fund intended for the provision of hospital service for its contributors, and established and maintained by means of contributions made in accordance with regulations approved by the Minister.

“Hospital service” includes maintenance, nursing, care, and all other services rendered at a public hospital, other than the professional services of medical practitioners.

“Infectious disease” means an infectious disease within the meaning of the Health Act.

“Liabilities” includes any debts or liabilities, whether certain or contingent, and whether in existence or capable of arising at some future time.

“Local authority” means a municipal corporation or road board.

“Local Government Act” means the Municipal Corporations Act, 1906, the Road Districts Act, 1919, and any Acts amending or substituted for the same respectively.

“Minister” means the Minister of Public Health, or some other Minister of the Crown charged for the time being with the administration of this Act.

“Property” includes all property, real or personal, vested or contingent, and all rights and choses in action.

“Public hospital” includes (subject to the exceptions hereinafter mentioned) any institution founded or maintained (whether wholly or partly by or under governmental authority or otherwise howsoever) for the reception, treatment, and cure of persons suffering from disease or injury, or in need of medical or surgical treatment or assistance, whether the treatment or assistance afforded by the institution is wholly or partly gratuitous or otherwise.

The expression “public hospital” also includes a maternity home, and any convalescent home which is part or a branch of a public hospital; but it does not include any hospital, maternity home, or convalescent home carried on for the purpose of private gain, or any philanthropic institution carried on without any Government subsidy.

Application of Act.

3. This Act does not apply to any public hospital established or maintained under Part XI. of the Health Act by the Governor or by a local authority, or to any institution within the meaning of, and subject to, the Lunacy Act, 1903-1920, or to any hospital used exclusively in connection with a prison.

Repeal.

4. The Hospitals Act, 1894, is hereby repealed.

PART II.—ADMINISTRATION.

5. The general administration of this Act shall be under the control of the Minister. Minister.

6. (1.) To assist the Minister in the administration of this Act there shall be a Medical Department. Medical Department.

(2.) The Governor may from time to time appoint a Principal Medical Officer, a Secretary, and such other officers as may be considered necessary for the efficient administration of this Act, and such officers may exercise such functions and powers in and for the Department as may be approved by the Minister.

7. (1.) The Minister shall control any public hospital for which there is not, for the time being, any duly constituted board. Powers of the Minister.

(2.) Whilst the Minister is so controlling any hospital he shall be deemed to be the board thereof and to be incorporated under the name of such board, and shall have all the powers of a board, and all property which would vest in a board of such hospital shall vest in the Minister.

(3.) The Minister shall also have general power—

- (a) to establish depots and make contracts for the supply of equipment, stores, drugs, and other hospital requisites to public hospitals; and
- (b) to maintain an exchange through which hospitals may secure the services of matrons and nurses.

8. The Governor may close any public hospital or abolish any board, and may, by leave of the Supreme Court or any Judge thereof, make any necessary variation of any trusts affecting any property used or applicable for any of the purposes of any such public hospital. Power to close a public hospital or to abolish the board.

9. (1.) The Minister may, from time to time, hold such inquiries or investigations as he may deem necessary in relation to any matter concerning the public hospitals or any public hospital, or the administration of this Act, and may appoint one or more persons to conduct such inquiries or investigations as he may deem fit. Holding of inquiries.

Powers of persons
holding inquiries.

(2.) When an inquiry is being held the Minister or any such person shall have free access to all books, plans, maps, documents, and other things belonging to any board, and shall have in relation to witnesses and their examination, and the production of documents, the powers conferred upon a Royal Commission or the chairman thereof by the Royal Commissioners' Powers Act, 1902, and the Royal Commissioners' Powers Act Amendment Act, 1914, and may enter and inspect any building, premises, or place, the entry or inspection whereof appears to be requisite for the purpose of such inquiry.

Power to visit and
inspect hospitals.

10. Any officer appointed under this Act may—

- (a) visit any public hospital;
- (b) inspect every part of any such hospital, including any outbuildings or premises appurtenant thereto; and
- (c) if the officer is a medical practitioner, medically examine any patient in any such hospital.

Obstruction.

11. No person shall—

- (a) obstruct any officer in the performance of his duties, or the visitation or inspection of any public hospital; or
- (b) wilfully mislead any officer in such a way as to be likely to interfere with the due discharge of the functions of such officer under this Act.

Penalty: One hundred pounds.

Hospital reserves.

12. (1.) It shall be lawful for the Governor to set apart and proclaim any lands vested in the Crown as a reserve for the endowment of any public hospital.

(2.) Any lands heretofore or hereafter set apart or proclaimed by the Governor as a reserve for a hospital site or for the endowment of any public hospital shall vest in the board of the hospital.

Annual report.

13. The Department shall, at the end of each financial year, submit to the Minister for presentation to Parliament a report of its operations under this Act, and such report shall include summaries of the reports rendered by hospital boards and visiting committees under sections twenty-four and twenty-five respectively.

PART III.—LOCAL ADMINISTRATION.

14. (1.) The boards of management of the Perth and Fremantle Public Hospitals and the hospital committees specified in the schedule to this Act shall continue, as at present constituted, to manage their respective hospitals. But the members thereof shall be liable to retire or be removed, and fresh appointments may be made thereto as before the commencement of this Act; provided that upon the appointment under this Act of a board for any such hospital, the relative board of management or committee shall retire from office.

Existing boards

Schedule.

(2.) On the appointment of a board as aforesaid for any hospital to which this section applies, such board shall, in its corporate capacity, be the successors of, and be entitled to all property whatsoever belonging to, or under the control of, the board of management or hospital committee of such hospital, and such property shall pass to, and by force of this Act be vested in, the board, and such board shall, in its corporate capacity, take over and assume all the debts and liabilities of such board of management or committee, as the case may be.

15. (1.) For the management and control of any public hospital subject to this Act, the Governor may appoint a hospital board, and may assign a name to such board.

Constitution of hospital boards.

(2.) The members of a hospital board shall be appointed for a period to be determined by the Governor, and shall be eligible for reappointment, but the Governor may from time to time remove all or any of the members, and on the removal, death, or resignation of any member, may from time to time appoint another person to fill the vacancy.

(3.) Notwithstanding anything hereinbefore contained, the Governor may, by Order in Council, appoint a local authority to be the board of any public hospital, and may at any time revoke such order.

16. (1.) Every board shall be a body corporate with perpetual succession and a common seal.

Board to be corporate body.

(2.) A majority of the members of a board shall form a quorum.

(3.) The members of a board shall appoint one of their number to be the chairman.

(4.) The chairman shall, when present, preside at all meetings of the board. In the absence of the chairman from any meeting or if, after being present, he retires, the members present may elect one of their number to be chairman for that meeting or for the remainder thereof. In the absence of the chairman from the State, or in case of the illness of the chairman, the members present at any meeting may elect one of their number acting chairman during such absence or illness.

(5.) At all meetings of the board all the members present shall vote on any question submitted, and the question shall be decided by the majority. Each member, including the chairman, shall have one vote, and in the case of an equality of votes, the question shall be declared carried in the negative.

(6.) When a local authority is a hospital board, it shall be deemed to be a different corporate body for the purposes of this Act from that which it is for the purposes of its Local Government Act, but its procedure shall, notwithstanding anything in this section, be regulated by its Local Government Act.

Powers of boards
over lands vested
in them.

17. (1.) The board of any public hospital shall be deemed to have the powers of an institution within the meaning of the Public Institutions and Friendly Societies Lands Improvement Act, 1892, and may exercise in respect of lands vested in it such powers as are thereby given to institutions: Provided that the portions of the Act requiring the concurrence of three-fourths of the members of an institution shall for the purposes of this Act be deemed to be eliminated.

(2.) A board shall also, with the consent of the Governor, have power to sell, lease, or exchange any lands vested in it, and to pay or receive money by way of equality of exchange.

(3.) The powers of selling, exchanging, mortgaging, or leasing lands which are conferred upon a board by this Act shall extend to land held in trust for any special purpose, notwithstanding the terms of the trust; but the proceeds of any such sale, and the land or money obtained by any such exchange, shall be subject to the like trusts, so far as may be, as the land so disposed of.

(4.) No power conferred by this section shall be exercised without the consent of the Governor.

18. A board shall be responsible for the control, management, and maintenance of the public hospital or hospitals for which it is or has been appointed, and may exercise such other duties and functions for the purposes of this Act, as may from time to time be prescribed.

Functions of hospital boards.

19. (1.) A board may from time to time appoint and remove a secretary, a treasurer, and such other medical and other officers, matrons, nurses, attendants, and servants as it thinks requisite to assist in the management of any public hospital under the control of the board, or otherwise in the execution of this Act.

Board may appoint officers and servants.

(2.) A board may also from time to time appoint and remove such medical officers and district nurses as it thinks fit for the purpose of attending sick persons elsewhere than in a public hospital; provided the circumstances of such persons are such as to bring them within the provisions of the first paragraph of section thirty-one.

(3.) All persons so appointed may be paid out of the revenues of the board such salaries, wages, or other remuneration as the board thinks fit.

(4.) No officer who is entrusted or is intended to be entrusted with moneys shall be appointed or continued in office by a board until and unless he shall have given adequate security for the faithful discharge of his duties, and it shall be the duty of such officer to keep and maintain such security in full force and effect.

20. A board may authorise any person to collect voluntary contributions and donations from the public for the purpose of the maintenance of the public hospital under its control, or for any other special purpose within the powers of the board, or for the general purposes of the administration of this Act by the board.

Boards may appoint collectors of voluntary contributions.

21. A board may apply any moneys in its hands in such proportions and in such manner as it thinks fit for any of the purposes following:—

Expenditure by boards of moneys under their control.

(a) The maintenance of the public hospital under its control.

(b) The equipment of buildings to be used as such a public hospital.

- (c) Repairing, altering, or adding to any buildings used for the purposes of such a public hospital; provided that expenditure exceeding fifty pounds on any alteration or addition shall first receive the approval of the Minister.
- (d) The provision or subsidising of ambulances or other facilities for the transport of the sick or injured.
- (e) The provision of medicines, disinfectants, surgical requisites, and medical, surgical, and nursing attendance for sick or injured persons.
- (f) Making such provision as is deemed requisite for the isolation of persons suffering from any infectious disease, or who have been in contact with persons so suffering.

Boards may make
by-laws in respect
of institutions.

22. (1.) A board, in respect of any public hospital under its control, may from time to time make by-laws, not inconsistent with this Act, as to any of the following matters:—

- (a) Regulating the admission or discharge of patients and other persons entitled to the benefits of the public hospital.
- (b) Maintaining order, discipline, decency, and cleanliness among the inmates of the public hospital.
- (c) Prescribing the duties of the officers, nurses, attendants, and servants of the public hospital.
- (d) Preventing trespass upon the premises of the public hospital or the ground attached or belonging thereto.
- (e) Prohibiting the introduction of any specified articles into the public hospital.
- (f) Regulating the grant of nursing care by the public hospital to patients or other persons not being inmates of the public hospital.
- (g) Prescribing what fees shall be payable for hospital service granted in or by any public hospital under the control of the board, and under what circumstances any such fees shall be chargeable.
- (h) Generally making provision for all matters affecting the management, care, control, and superintendence of the public hospital and the fulfilment of the purposes thereof.
- (i) Providing for a breach of any such by-law a fine not exceeding five pounds.

(2.) Every such fine shall be recoverable on summary conviction.

(3.) All by-laws, rules, or regulations in force with respect to any public hospital at the commencement of this Act shall, so far as they are consistent with this Act, remain in force with respect to that public hospital, and may be revoked, varied, proved, and enforced in the same manner as if they had been made by the board controlling the particular hospital.

(4.) In case there is any conflict between a by-law made under this section and a regulation made by the Governor, the latter shall prevail and the former shall, to the extent of the inconsistency, be invalid.

23. (1.) A board may itself establish and manage a medical fund the object of which shall be to secure for its subscribers medical attendance, hospital treatment, or other similar benefits; and may by by-laws provide for the regulation and control of such fund. Medical Funds.

(2.) Such by-laws shall provide, *inter alia*, for—

- (a) the rates of subscription of such fund, and the benefits to be received by subscribers;
- (b) the administration of such fund, and the keeping of proper accounts thereof, and the provision by any person handling any moneys of such guarantee of fidelity as the board may decide or the department may require.

24. Every board shall as soon as possible after the close of each financial year forward to the department a report of its operations during the year, together with a statement of its accounts, and of its receipts and expenditure in the prescribed form. Annual report.

25. (1.) In respect of any public hospital controlled by the Minister, the Governor may appoint a visiting and advisory committee. Local visiting and advisory committees.

(2.) Any such committee may—

- (a) visit and inspect the hospital premises;
- (b) solicit and receive donations and subscriptions, and expend the same on the welfare and comfort of the patients and staff, and any other object of benefit to the hospital;
- (c) submit reports and recommendations to the department.

(3.) Every such committee shall submit a report to the department as soon as possible after the close of the financial year, together with a statement in the prescribed form of any moneys received and expended during the year.

Accounts.

26. (1.) Every board shall cause books to be provided and kept in the prescribed form, and true and regular accounts to be entered therein of all sums received and paid by the board and of the several purposes for which those sums were received and paid.

(2.) A separate account shall be kept of every trust fund or trust property under the control of the board.

(3.) Such books shall at all reasonable times be open to the inspection of any member of the board.

(4.) The accounts of such board shall be audited annually by an officer appointed by the Minister.

PART IV.—GENERAL.

Power of local authorities to expend revenues on, and borrow money for, public hospitals.

27. (1.) A local authority shall have power to expend and apply or, with the approval of the Minister, to give a binding undertaking to expend and apply for any number of years any portion of its general rates in subsidising any hospital scheme, and in or towards the construction or acquisition, establishment, and maintenance of any public hospital, and in subsidising any district nursing scheme, and in contributing towards a subsidy or providing a subsidy to secure the services of a medical practitioner, and the powers of its local government Act shall be deemed to be extended accordingly:

Provided that no portion of the general rates shall be expended or applied as aforesaid, and no such undertaking as aforesaid shall be valid in so far as it purports to bind the local authority to expend or apply in any year a sum exceeding ten per centum of the average annual amount received by it from general rates during the last two financial years preceding the year in which the undertaking was given, but so that no such sum shall exceed in any year the sum of five hundred pounds.

Provided also, that no such agreement shall have effect for more than five years, but any such agreement may be renewed during the last year thereof (with or without modification) from time to time for any period not exceeding five years.

(2.) It shall be lawful for any local authority to borrow money for all or any of the following objects, that is to say—the construction, enlargement, improvement, and equipment

of any hospital within the area of such local authority, and such objects shall be deemed to be works and undertakings within the meaning of Part XXIV. of the Municipal Corporations Act, 1906, and Part VII. of the Road Districts Act, 1919, as though the same had been included therein respectively, and the powers and provisions contained in the said respective Acts relating to the borrowing of money shall apply to the objects above-mentioned.

(3.) It shall not be lawful for any local authority to make any contribution under this section, whether out of revenue or loan moneys, towards the capital cost of the construction, enlargement, improvement, or equipment of a hospital unless the Minister shall have previously given a valid undertaking to provide at least one-half of such capital cost.

(4.) The provisions of this section are without prejudice to any power vested in a local authority by or under its local government Act.

(5.) Any two or more local authorities, whose boundaries are adjacent, may enter into an agreement between themselves and the Minister for the purposes of this section.

28. Any loan heretofore raised by the Municipality of Collie, or the Katanning Road Board, for any such object as aforesaid is hereby validated notwithstanding that such municipality or board may not have had any legal authority to raise such loan, or that any of the relative provisions of its local government Act were not complied with. Validation of loans.

29. In the case of a public hospital which is closed under section eight hereof, the following provisions shall apply:— Effect of closing of hospitals.

The buildings and equipment may be utilised by the Minister as he deems best in the interests of other public hospitals, and for carrying out the purposes of this Act.

Any money in the hands of the board, and all debts owing to the board, shall vest in the Minister who, after paying the liabilities of the board, shall dispose of any balance remaining for the benefit of existing hospitals as he may think fit.

30. The existence of any vacancy in the membership of any hospital board shall not invalidate the proceedings thereof. Vacancy not to invalidate proceedings.

Qualifications of person for admission to hospital.

31. (1.) The qualifications of any person for admission to any hospital maintained under the provisions of this Act shall be sickness of such a nature as in the opinion of the medical or other officer in charge warrants hospital treatment:

Provided that any person receiving such treatment shall, if he is able to pay the fees for medical or surgical attention by the medical practitioner bestowing such attention, be liable to such practitioner accordingly, in addition to the payment for hospital service under section thirty-three.

(2.) In the case of any hospital where the medical and surgical work is largely performed by an honorary medical staff, then the patients admitted to those wards which are served by such honorary staff shall be such as are unable to pay the ordinary fees of medical practitioners:

Provided that nothing shall prevent the admission of any person in urgent need of medical, surgical, or nursing attention.

Hospitals for paying patients.

32. The Minister may, with the approval of the Governor, set apart wards in certain hospitals, for the reception and treatment of patients able and liable to pay the fees of the medical practitioners attending them as well as the fees for hospital treatment, maintenance, and nursing.

Cost of relief to constitute a debt.

33. (1.) The cost of hospital service granted by or at the expense of a board to any person shall constitute a debt due by that person to the board, and may be recovered by action in any court of competent jurisdiction.

(2.) The cost of hospital service granted to a married woman not living apart from her husband or a minor shall, without excluding the liability of the person so relieved, constitute a debt due by the husband of the married woman, and each of the parents or the sole surviving parent of the minor, as the case may be, and may be recovered by action in any court of competent jurisdiction.

(3.) Without prejudice to the liability of any other person, the board which has granted any such service as aforesaid to any person whomsoever is hereby empowered to enforce payment of the cost thereof against any adult child of such person.

(4.) The cost so recoverable shall be the sum payable in accordance with the relative by-laws, or such lesser sum as the court in which any action for the recovery thereof is brought thinks reasonable, having regard to the means of the defendant and the circumstances of the case, and in the absence of such by-law it shall be such sum as such court so thinks reasonable as aforesaid.

(5.) A board may contract for the payment to it, by any body corporate, registered friendly society, registered branch of a friendly society, or other society or person, of the cost of hospital service to be afforded by the board to any person, and the amount so agreed to be paid, or a reasonable sum if no specific amount is so agreed upon, shall be a debt recoverable in any court of competent jurisdiction.

(6.) A financial member of a registered friendly society contributing to the hospital fund thereof, or a person entitled to the benefits of a hospital fund, shall be entitled to receive from the board relief from his indebtedness under this section to the extent of twenty per centum of the amount of such cost as aforesaid.

34. Notwithstanding anything in this Act any person who received hospital service in or in connection with any public hospital within the meaning of the Hospitals Act, 1894, or any hospital carried on by the Government of the State, or under the control of the Minister or the department, prior to the commencement of this Act, shall be liable to pay the board of such hospital for such service, and such board, or its successor, may sue for and recover in any court of competent jurisdiction such sum as the person liable shall have agreed to pay therefor, or, in the absence of any agreement, as the court shall deem reasonable.

Relief granted before this Act may be recovered.

35. All receipts given by and on behalf of the department or a board, and all declarations required or authorised by this Act, and any agreement entered into under and for the purposes of this Act, shall be exempt from stamp duty.

Receipts exempt from stamp duty.

36. Every person failing to observe any provision of this Act which he ought to have observed, or to do any act directed by this Act to be done, or doing any act forbidden to be done by this Act, shall be guilty of an offence and liable on summary conviction, if there is no other penalty provided under this Act for such offence, to a penalty not exceeding ten pounds.

General penalty.

37. (1.) The Governor may make regulations for the purposes of this Act, and may thereby—

Regulations.

- (a) formulate model by-laws for the guidance of boards in respect of all or any of the matters regarding which boards may make by-laws;

- (b) enable the principal medical officer to transfer patients, or inmates of homes for aged or infirm people, from any hospital or home to any other hospital or home having special facilities, skill, or equipment for treating such patients or inmates;
 - (c) prescribe all matters which are required or permitted to be prescribed by regulation, or which are necessary or convenient to be prescribed for the purpose of giving effect to this Act.
- (2.) A board may, of its own motion, by resolution adopt the whole or any portion of such by-laws.
- (3.) Such resolution shall be published in the *Government Gazette* and thereupon shall operate with the same legal effect for all purposes as if the by-laws or portion so adopted had been passed by the board and duly brought into effect as provided in this Act.

THE SCHEDULE.

Hospital Committees.

The Hospital Committees of the following Hospitals:—

Beverley	Leonora
Broad Arrow	Mornington
Brookton	Mt. Barker
Bridgetown	Moorra
Bruce Rock	Mt. Magnet
Boyup Brook	Mt. Morgaus
Cue-Day Dawn	Meekatharra
Corrigin	Norseman
Dumbleyung	Nannine
Dwellingup	Nannup
Dalwallinu	Northampton
East Kirup	Sandstone
Greenbushes	Toodyay
Goomalling	Three Springs
Gnowangerup	Tambellup
Jarrahdale	Wiluna
Jarnadup	Westonia
Kellerberrin	Wyalkatchem
Kojonup	Woodanilling
Kondinin	Wickepin
Kununoppin	Yarloop
Laverton	Youanmi
Lake Grace	