

HOSPITALS.

No. 85 of 1983.

AN ACT to amend the Hospitals Act 1927-1982.

[Assented to 22 December 1983.]

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 *Hospitals Amendment Act 1983*. Short title and citation.

(2) In this Act the Hospitals Act 1927-1982 is referred to as the principal Act. Reprinted as approved 11 December 1972 and amended by Acts Nos. 10 of 1973, 104 of 1975, 71 of 1976, 64 of 1980, 43 and 63 of 1981 and 84 of 1982.

(3) The principal Act as amended by this Act may be cited as the Hospitals Act 1927-1983.

Commence-
ment.

2. (1) Subject to subsection (2) of this section, this Act shall come into operation on the day on which it is assented to by the Governor.

(2) Sections 3, 4, 5, 6, 7, 8 and 9 of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation.

Section 2
amended.

3. Section 2 of the principal Act is amended—

(a) in the definition of “Department” by deleting “Medical Department” and substituting the following—

“ Department of Hospital and Allied Services of the State ”;

(b) by deleting the full stop at the end of the definition of “teaching hospital” and substituting a semi-colon; and

(c) by inserting after the definition of “teaching hospital” the following definition—

“ “the Commonwealth Act” means the Health Insurance Act 1973, as amended from time to time, of the Parliament of the Commonwealth. ”.

Section 7A
amended.

4. Section 7A of the principal Act is amended
bv—

(a) deleting the full stop at the end of paragraph (e) and substituting the following—

“ ; and ”; and

(b) inserting after paragraph (e) the following paragraph—

“ (f) to give effect to any agreement entered into by the Commonwealth with the State under section 23F

of the Commonwealth Act and to any guidelines formulated under section 17 (4) (c) of the Commonwealth Act. ”.

5. Section 18 of the principal Act is amended— Section 18 amended.

- (a) in subsection (1b) by deleting “The provision” and substituting the following—

“ Subject to subsection (1c) of this section, the provision ”; and

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

“ (1c) The Minister shall, in relation to a public hospital which is a recognized hospital within the meaning of the Commonwealth Act, determine terms and conditions, including the payment of charges, under subsection (1b) of this section in accordance with such guidelines (if any) as are formulated under section 17 (4) (c) of the Commonwealth Act. ”.

6. Section 22 of the principal Act is amended— Section 22 amended.

- (a) in subsection (1) by—

- (i) deleting “of the public hospital” in paragraph (c) and substituting the following—

“ of the board ”; and

- (ii) inserting after paragraph (d) the following paragraph—

“ (da) Regulating or prohibiting the driving, use, standing or parking of vehicles on

the ground attached to the public hospital or belonging to the board and regulating the control, supervision and management of parking or standing areas on that ground and in particular—

- (i) prescribing charges payable to the board 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 charges;
- (ii) prescribing conditions under which and the period or periods of time during which a parking or standing area may be used or occupied;
- (iii) 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;
- (iv) regulating the parking and standing of vehicles in any park-

ing 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 paragraph;

- (v) providing for the display, erection or marking of signs for the purposes of by-laws made under this paragraph;
- (vi) exempting any person or vehicle or class of person or class of vehicle from complying with any by-law made under this paragraph prohibiting or restricting the parking or standing of vehicles generally or otherwise;
- (vii) prescribing the method and means by which any charges or modified penalties prescribed by any by-law made under this paragraph may or shall be paid and collected or recovered;
- (viii) prescribing the circumstances under which an officer or servant of the board

may remove a vehicle or cause it to be removed from a parking or standing area or from any other area within that ground to a specified place, prescribing his further powers in relation thereto, prescribing the scale of charges to be paid to the board to recover the vehicle from that place, and authorizing the board to hold the vehicle until the prescribed charges are paid to the board;

(ix) prescribing, in respect of an alleged offence against any by-law made under this paragraph, 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;

(x) 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 paragraph, may or shall pay to the board the modified penalty prescribed for that offence, and the period within which a modified penalty is payable after receipt of notice;

- (xi) prescribing the method of notifying a person alleged to have committed an offence against any by-law made under this paragraph 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 board;
- (xii) prescribing a modified penalty not exceeding \$50 payable to the board 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 paragraph 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. ”;

- (b) in subsection (2) by deleting “Every such fine” and substituting the following—

“ Subject to any by-laws made under subsection (1) (da) of this section, every fine referred to in subsection (1) (i) of this section ”;

and

- (c) by inserting after subsection (2) the following subsection—

“ (2a) In paragraph (da) of subsection (1) of this section—

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

Section 31
amended.

7. Section 31 of the principal Act is amended—

- (a) in subsection (1) by deleting—

(i) the colon after “warrants hospital treatment” and substituting a full stop; and

(ii) the proviso;

and

- (b) by repealing subsection (2) and substituting the following subsection—

“ (2) Nothing in subsection (1) of this section prevents the admission to any hospital maintained under the provisions of this Act of any person in urgent need of medical or nursing attention. ”.

8. Section 33A of the principal Act is repealed and the following sections are substituted—

Section 33A repealed and sections 33A, 33B and 33C substituted.

- “ 33A. (1) Notwithstanding anything in this Act or in any other Act, when an eligible person (not being a person to whom a declaration made under section 6 (2) of the Commonwealth Act applies in the relevant circumstances)—

Restrictions on medical practitioners in recognized hospitals.

- (a) as a public in-patient of a recognized hospital; or
- (b) as a registered out-patient under an outpatient service of a recognized hospital,

obtains a professional service from or under the supervision of a medical practitioner—

- (c) the eligible person is not liable to pay any fees; and
- (d) the medical practitioner shall not—
 - (i) render an account to the eligible person; or
 - (ii) seek or accept from the eligible person remuneration in any form, or any assignment of benefits,

in respect of the professional service.

(2) A medical practitioner shall not render on his own behalf a professional service in respect of a prescribed item—

- (a) to an in-patient of a recognized hospital;
- (b) in a recognized hospital, to an out-patient of the recognized hospital; or
- (c) in a case—
 - (i) to which neither paragraph (a) nor (b) of this subsection applies; and
 - (ii) in which the State is a party to an agreement under section 23F of the Commonwealth Act that declares the State to be a State to which section 17 (1) (aa) (iii) (A) of the Commonwealth Act applies,

to a patient at a recognized hospital,
unless—

- (d) there is in force between the medical practitioner and the board of the recognized hospital an approved agreement which—
 - (i) provides for the right of the medical practitioner to render on his own behalf a professional service of the kind in question; and
 - (ii) in the case of an approved agreement to which a board constituted under section 15 of this Act is a party, is in accordance with such directions (if any) as are given under subsection (3) of this section to that board;

and

- (e) the professional service rendered is rendered in accordance with the approved agreement referred to in paragraph (d) of this subsection.

(3) The Minister may, after consultation with a board constituted under section 15 of this Act and subject to section 17 of the Commonwealth Act and to any Commonwealth guidelines and State guidelines—

- (a) give to that board such directions in writing as he thinks fit in respect of such approved agreements as may be entered into by that board; and
- (b) by writing given to that board vary or revoke directions given to it under this subsection.

(4) Without limiting the generality of subsection (3) of this section, the Minister may give directions under that subsection—

- (a) prohibiting a board from entering into a particular approved agreement or approved agreements of any class or classes;
- (b) requiring a board to obtain his approval before entering into a particular approved agreement or approved agreements of any class or classes; or
- (c) with respect to, among other matters—
 - (i) the whole or any part of the recognized hospital concerned;
 - (ii) a particular kind of professional service or treatment; or
 - (iii) patients generally or patients of any class or classes.

(5) A board shall give effect to any directions given to it under subsection (3) of this section.

(6) The board of a recognized hospital shall ensure that—

- (a) an in-patient of the recognized hospital, being an in-patient referred to in subsection (2) (a) of this section, is not referred; or
- (b) a specimen taken from an in-patient referred to in paragraph (a) of this subsection is not consigned,

to a medical practitioner in private practice (in this subsection called “the private practitioner”) for the purpose of the rendering by the private practitioner to that in-patient or in respect of that specimen, as the case requires, of a professional service in respect of a prescribed item unless—

- (c) there is in force between the private practitioner and the board of the recognized hospital an approved agreement providing for the rendering by the private practitioner of a professional service of the kind in question; and
- (d) the reference of that in-patient or the consignment of that specimen, as the case requires, and the rendering of that professional service are in accordance with the approved agreement referred to in paragraph (c) of this subsection.

(7) The board of a recognized hospital shall ensure that—

- (a) an out-patient referred to in paragraph (b), or a patient referred to in paragraph (c), of subsection (2) of this section, being an out-patient or patient, as the case requires, of or at the recognized hospital, is not referred;

or

- (b) a specimen taken from an out-patient or patient referred to in paragraph (a) of this subsection is not consigned,

to a medical practitioner for the purpose of the rendering by that medical practitioner on his own behalf to that outpatient or patient or in respect of that specimen, as the case requires, of a professional service at or in the recognized hospital in respect of a prescribed item unless—

- (c) there is in force between the medical practitioner and the board of the recognized hospital an approved agreement providing for the rendering by the medical practitioner of a professional service of the kind in question; and
- (d) the reference of that out-patient or patient or the consignment of that specimen, as the case requires, and the rendering of that professional service are in accordance with the approved agreement referred to in paragraph (c) of this subsection.

(8) The Minister may, if Commonwealth guidelines have been formulated, formulate guidelines by notice published in the *Gazette* for the purpose of giving effect to the Commonwealth guidelines and may by notice published in the *Gazette* vary or revoke any guidelines formulated under this subsection.

(9) An approved agreement shall, in addition to being in accordance with the Commonwealth guidelines, be in accordance with the State guidelines.

(10) Notwithstanding anything in this Act, the board of a recognized hospital—

- (a) has all the powers necessary for entering into and complying with an approved agreement; and
- (b) shall comply with every approved agreement entered into by it.

(11) This section shall have effect only while an agreement entered into by the Commonwealth with the State under section 23F of the Commonwealth Act is in force.

(12) Subject to subsection (13) of this section, a word or phrase to which a meaning is attributed by, or by virtue of its use in, any provision of the Commonwealth Act has the same meaning when it is used in this section.

(13) In this section—

“Commonwealth guidelines” means guidelines formulated under section 17 (4) (c) of the Commonwealth Act;

“medical practitioner” has the meaning given by section 3 of the Medical Act 1894;

“public in-patient” has the meaning given by regulations made under section 37 of this Act;

“State guidelines” means guidelines formulated by the Minister under subsection (8) of this section.

33B. (1) Subject to section 33A of this Act and to any approved agreement within the meaning of section 17 of the Commonwealth Act in force in respect of him and to any exemption granted under subsection (5) of

this section, a medical practitioner or dentist shall not render on his own behalf any professional service or treatment to a patient at or in a public hospital unless—

- (a) there is in force between the medical practitioner or dentist and the board of the public hospital an agreement (in this section called a “private practice agreement”) which—

- (i) provides for the right (in this section called a “right of private practice”) of the medical practitioner or dentist to render on his own behalf a professional service or treatment of the kind in question; and

- (ii) in the case of an agreement to which a board constituted under section 15 of this Act is a party, is in accordance with such directions (if any) as are given under subsection (2) of this section to that board;

and

- (b) the professional service or treatment rendered is rendered in accordance with the agreement referred to in paragraph (a) of this subsection.

(2) The Minister may, after consultation with a board constituted under section 15 of this Act—

- (a) give to that board such directions in writing as he thinks fit in respect of such private practice agreements as may be entered into by that board;

and

- (b) by writing given to that board vary or revoke directions given to it under this subsection.

(3) Without limiting the generality of subsection (2) of this section, the Minister may give directions under that subsection—

- (a) prohibiting a board from entering into a particular private practice agreement or private practice agreements of any class or classes;
- (b) requiring a board to obtain his approval before entering into a particular private practice agreement or private practice agreements of any class or classes;
- (c) with respect to, among other matters—
 - (i) the whole or any part of the public hospital concerned;
 - (ii) a particular kind of professional service or treatment; or
 - (iii) patients generally or patients of any class or classes.

(4) A board shall give effect to any directions given to it under subsection (2) of this section.

(5) The Minister may by notice published in the *Gazette*—

- (a) exempt medical practitioners or dentists generally from complying with this section in relation to a public hospital specified in that notice during such period as is so specified; and
- (b) revoke an exemption granted under this subsection.

(6) Notwithstanding anything in this Act, a board—

- (a) has all the powers necessary for entering into and complying with a private practice agreement; and
- (b) shall comply with every private practice agreement entered into by it.

(7) In this section—

“dentist” has the meaning given by section 4 of the Dental Act 1939;

“medical practitioner” has the meaning given by section 3 of the Medical Act 1894.

33C. Nothing in sections 33A and 33B of this Act prevents the combination of all 4 or any 2 or 3 of the agreements referred to in subsections (2), (6) and (7) of section 33A, and in section 33B (1), of this Act into a combined agreement which complies with the requirements of section 33A, or of section 33A and section 33B, as the case requires, of this Act. ”.

Combined
agreements.

9. Section 37 of the principal Act is amended—

Section 37
amended.

- (a) in subsection (2a) by inserting after “may make regulations” the following—

“ under this section ”; and

- (b) by inserting after subsection (2c) the following subsections—

“ (2d) Notwithstanding anything in this Act, the Governor may make regulations under this section giving effect to—

- (a) any agreement entered into by the Commonwealth with the State under section 23F of

the Commonwealth Act and in particular—

(i) ensuring that care and treatment of a kind specified in any such agreement will be available to all eligible persons (not being persons to whom a declaration made under section 6 (2) of the Commonwealth Act applies in the relevant circumstances) without charge as public patients; and

(ii) prescribing charges specified by any such agreement to apply,

in recognized hospitals in the State; and

(b) any approved agreement within the meaning of section 17 (4) of the Commonwealth Act.

(2e) In subsection (2d) of this section—

“eligible persons” and “recognized hospitals” have the meanings respectively given by the Commonwealth Act. ”.
