



ANNO DUODECIMO

GEORGII VI REGIS.

A.D. 1948.

No. 36 of 1948.

An Act to authorise the State to enter into a further Agreement with the Commonwealth respecting hospital benefits, and for purposes incidental thereto.

[Assented to 16th December, 1948.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

- Short title.** 1. This Act may be cited as the "Hospital Benefits (Amending Agreement) Act, 1948".
- Commencement** 2. This Act shall come into operation on a day to be fixed by the Governor by proclamation.
- Power to execute amending Agreement.** 3. The Minister of Health, on behalf of the State, may enter into, execute and carry out an agreement with the Commonwealth, substantially in accordance with the agreement set out in the schedule to this Act.
- Financial provision.** 4. This Act without further appropriation shall be sufficient authority for the issue and application of money received by the State under any agreement made pursuant to this Act, in accordance with the terms of that agreement.
- Regulations.** 5. The Governor may make regulations prescribing any matters or things necessary or convenient to be prescribed for carrying into effect any agreement made pursuant to this Act, and may by any such regulations prescribe penalties recoverable summarily and not exceeding fifty pounds for breach of any regulation.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

C. W. M. NORRIE, Governor.

THE SCHEDULE.

AMENDING AGREEMENT RESPECTING HOSPITAL BENEFITS.

AGREEMENT made the _____ day of _____ one thousand nine hundred and forty-eight BETWEEN THE COMMONWEALTH 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 agreement") 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 conditions 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 authorized or approved by the Parliaments of the Commonwealth and 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 hospital", "qualified person", "the Commonwealth Hospital Benefit Expenditure Rate for Public Wards", "the Commonwealth Hospital Benefit Rate for Non-Public Wards", and "the Commonwealth Hospital Benefit Rate for Public Wards" and substituting the following definitions:—

"public hospital" means a hospital which—

- (a) is ordinarily recognized 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 subsidized by the State which is used for hospital purposes and is for the time being approved by the Commonwealth but does not include a tuberculosis hospital within the meaning of the Tuberculosis Act, 1945, of the Commonwealth or 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 persons referred to in clause 3A hereof:—

"the Commonwealth Hospital Benefit Rate for Non-public Wards" means:—

- (a) from the date of commencement of the principal agreement until the _____ day of _____ 1948 an amount of six shillings;
- (b) for the remainder of the term of the principal 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) from the date of commencement of the principal agreement until the 30th day of June, 1948, an amount of six shillings;
- (b) for the remainder of the term of the principal agreement an amount of eight shillings or such other amount as is, from time to time, agreed upon between the Commonwealth and the State.

AMENDING AGREEMENT RESPECTING HOSPITAL BENEFITS—*continued.*

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 an officer authorized by him to act under this clause, considers that the question whether, having regard to the last preceding paragraph, 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 an officer authorized 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 with the Government of any foreign country, providing for reciprocity in matters relating to hospital benefits the Treasurer of the Commonwealth may enter into arrangements with the Treasurer of the State providing for hospital benefits to be made available in accordance with the terms of that agreement to any inhabitants of that part of His Majesty's dominions or of that foreign country who are for the time being in Australia."

AMENDING AGREEMENT RESPECTING HOSPITAL BENEFITS—*continued.*

5. As from the first day of July nineteen forty-eight, clauses 7 and 8 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 cease to have effect provided however that 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 Minister of Health 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 Minister of Health of the }
State for and on behalf of the State }
in the presence of }