

COMMONWEALTH AND STATE HOSPITAL BENEFITS AGREEMENT.

No. 70 of 1948.

AN ACT to amend the *Commonwealth and State Hospital Benefits Agreement Act 1945*.

[15 December, 1948.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Commonwealth and State Hospital Benefits Agreement Act 1948*. Short title and citation.

(2) The *Commonwealth and State Hospital Benefits Agreement Act 1945** is in this Act referred to as the Principal Act.

2 After section two of the Principal Act the following section is inserted:— Execution of amending agreements.

“2A.—(1) The execution by the Premier, on behalf of the State, of an agreement with the Commonwealth substantially in accordance with the form of agreement specified in the second schedule is hereby authorised.

(2) Subject to subsection (3), the Governor may make regulations authorising the execution by the Premier, on behalf of the State, of agreements with the Commonwealth relating to hospital benefits substantially in accordance with the forms of agreement specified in the regulations, amending any agreement the execution of which is authorised by this Act, including any such agreement as previously amended.

(3) An agreement, the execution of which is authorised by any regulation—

(a) shall deal only with the provision of hospital benefits; and

(b) shall contain a provision that, if such regulation is disallowed by either House of Parliament in pursuance of section forty-seven of the *Acts Interpretation Act 1931*†, the operation of the agreement shall thereupon terminate.”

* 9 & 10 Geo. VI. No. 33.

† 22 Geo. V. No. 59. For this Act, as amended to 1936, see Reprint of Statutes, Vol. I., p. 8. Subsequently amended by 11 Geo. VI. No. 43.

Schedule.

3 The Principal Act is amended by inserting in the heading to the schedule thereto, after the word "The", the word "First", and by adding at the end thereof the following schedule:—

"THE SECOND SCHEDULE.

(Section 2A.)

AGREEMENT made the _____ day of _____, one thousand nine hundred and forty-_____, BETWEEN THE COMMONWEALTH OF AUSTRALIA (hereinafter called 'the Commonwealth') and THE STATE OF TASMANIA (hereinafter called 'the State'):

WHEREAS on the twenty-first day of December, One thousand nine hundred and forty-five, 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 authorised or approved by the Parliament of the State.

2. Clause 1 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 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 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 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 persons referred to in sub-clause (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 thirtieth 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 sub-clause shall, for the purposes of this sub-clause, 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 authorized 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 sub-clause, 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 authorized by him to act under this clause may, by writing under his hand, revoke a direction given under the last preceding sub-clause, 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.¹

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 8 and 9 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—

LAND SALES CONTROL (No. 2).

No. 71 of 1948.

AN ACT to amend the *Land Sales Control Act*
1948. [15 December, 1948.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Land Sales Control Act* (No. 2) 1948.

(2) The *Land Sales Control Act* 1948* is in this Act referred to as the Principal Act.

* No 34 of 1948.