
HOSPITALS AMENDMENT ACT 1981

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**HOSPITALS AMENDMENT ACT 1981**

No. 37 of 1981

AN ACT to amend the Hospitals Act 1918 to provide for the control of parking of vehicles on hospital lands, to empower hospital boards to control and administer the personal property held or received on behalf of in-patients, and to make further provision with respect to expenditure by those boards of money under their control.

[Royal Assent 30 June 1981]

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—This Act may be cited as the *Hospitals Amendment Act* Short title. 1981.

Commence-
ment.

2—This Act shall commence on the seventh day after the date of assent to this Act.

Principal Act.

3—In this Act, the *Hospitals Act 1918** is referred to as the Principal Act.

Amendment of
section 4 of
Principal Act
(Interpre-
tation).

4—Section 4 (1) of the Principal Act is amended as follows:—

(a) by inserting the following definition after the definition of “competent local authority”:

“hospital land” means land vested in or held by a board;

(b) by inserting the following definitions after the definition of “out-patient”:

“owner”, when used in relation to a vehicle, includes—

(a) a person having any property in the vehicle;

(b) a person who is in charge of, or has the use of, the vehicle;

(c) a person who is registered as the owner of the vehicle under the *Traffic Act 1925* or a law of a State or Territory of the Commonwealth requiring the registration of vehicles or vehicles of a particular kind;

(d) the holder of a temporary permit issued under the regulations referred to in section 10 (3) of the *Traffic Act 1925*; and

(e) the holder of a permit issued under the law of a State, Territory, or place referred to in section 10A (2) of the *Traffic Act 1925*;

* 9 Geo. V No. 70. For this Act, as amended to 1966, see Appendix B to the Annual Volume of Statutes for 1966. Subsequently amended by Nos. 24 and 58 of 1967, No. 24 of 1973, Nos. 28 and 77 of 1976, No. 28 of 1977, Nos. 6 and 64 of 1979, and Nos. 19, 56, 57, 80, and 87 of 1980.

“ park ”, when used in relation to a vehicle, means to stop the vehicle or allow it to remain in a place where the driver or the person in charge of the vehicle intends it to remain stationary, otherwise than—

(a) because the stopping of traffic prevents movement; or

(b) for so long only as is required to set down or take up passengers or goods without waiting.

5—Section 40 of the Principal Act is amended as follows:—

(a) by being renumbered as subsection (1);

(b) by adding the following subsection:—

(2) This section does not apply to money referred to in section 77.

Amendment of section 40 of Principal Act (Investment of trust money prior to application in terms of trust).

6—Section 49 of the Principal Act is amended as follows:—

(a) by omitting paragraph (b) of subsection (1) and substituting the following paragraph:—

(b) Subject to subsection (2), any purpose approved by the Minister and which the board considers necessary in relation to public hospitals under the control of the board.

(b) by omitting subsection (2) and substituting the following subsection:—

(2) Any money expended by the board pursuant to paragraph (b) of subsection (1) shall not, except with the consent in writing of the Minister, exceed in any one year—

(a) in the case of—

(i) the board of the Hobart Public Hospitals District;

(ii) the board of the Launceston Public Hospitals District; and

Amendment of section 49 of Principal Act (Expenditure by board of money under its control).

- (iii) any other board that is declared by the regulations to be a board to which that paragraph applies, the sum of \$2 000; or
- (b) in the case of any other board, the sum of \$1 000.
- (c) by omitting subsection (3) and substituting the following subsection:—
 - (3) This section does not apply to money referred to in section 77.

Amendment of section 51 of Principal Act (Power of board to make by-laws).

7—(1) Section 51 (1) of the Principal Act is amended by inserting the following paragraphs after paragraph (d):—

- (da) regulating the manner in which vehicles shall be arranged within the areas of hospital land which have been set aside by the board for the parking of vehicles;
- (db) prohibiting the parking of vehicles—
 - (i) contrary to the by-laws on those areas; and
 - (ii) on the areas of hospital land which have not been set aside for the parking of vehicles, and empowering authorized persons to remove vehicles from hospital land which are parked contrary to the by-laws or are parked in an area which is not set aside for the parking of vehicles;
- (dc) regulating the persons or classes of persons who may park vehicles on the areas of hospital land which have been set aside for the parking of vehicles and providing for the issuing of permits to those persons and for the payment by those persons to the board of fees for the issue of those permits;
- (dd) authorizing the disposal, at the risk and expense of the owner of, or a person having an interest in, a vehicle which is deemed under subsection (8) to be abandoned on hospital land;

(2) Section 51 of the Principal Act is further amended by inserting the following subsections after subsection (4):—

(5) By-laws made under this section may provide that it is an offence, punishable on summary conviction, for a person to contravene or fail to comply with any of the by-laws and may provide, in respect of any such offence, for the imposition of a penalty not exceeding \$200 and, in the case of a continuing offence, a further penalty not exceeding \$40 for each day during which the offence continues.

(6) A penalty recovered in respect of a contravention of or failure to comply with a by-law made under this section shall be paid to the board by whom the by-law was made.

(7) In any proceedings for an offence against a by-law made under this section—

- (a) there is a rebuttable presumption that the person named as defendant in a complaint is the owner of the vehicle referred to in the complaint;
- (b) where it is proved that a vehicle was parked on hospital land contrary to a by-law, there is a rebuttable presumption that the vehicle was parked by the owner; and
- (c) where an owner of a vehicle is proceeded against for an offence against the by-laws relating to the parking of a vehicle and the owner alleges that another person parked the vehicle at the relevant time, a justice may, on the owner's application, issue a summons to that other person to attend at the hearing of the complaint against the owner, at which, if the facts of the offence are proved, the court hearing the complaint may—
 - (i) determine whether that other person did park the vehicle; and
 - (ii) if the court finds that the other person did park the vehicle, discharge the owner and adjudge the other person guilty of the offence charged against the owner, and impose on that other person any penalty that it could have imposed on the owner.

(8) Where a vehicle is left on hospital land for more than 28 days, it shall be deemed to be abandoned.

Insertion in
Principal Act
of new
section 51A.

8—After section 51 of the Principal Act, the following section is inserted:—

Alternative
procedure
for parking
offences.

51A—(1) Instead of proceeding in the manner referred to in the by-laws made under section 51 in respect of an offence against those by-laws relating to the parking of a vehicle on hospital land, a person authorized by a board may proceed by the alternative procedure provided in this section.

(2) A board may authorize a person to issue notices on its behalf with respect to any vehicles which are parked on hospital land contrary to the by-laws made under section 51 and, where such a person issues such a notice, he shall affix the notice to the vehicle immediately after issuing it.

(3) A notice referred to in subsection (2) shall—

(a) bear the date on which it was issued; and

(b) require the owner of a vehicle to which the notice relates to pay to the board on whose behalf the notice was issued within a period of 14 days from the date on which the notice is issued the amount prescribed from time to time by the by-laws, but the amount prescribed shall not exceed the amount prescribed from time to time by the by-laws of the corporation of the city of Hobart in respect of similar offences.

(4) Where—

(a) a notice is issued and affixed to a vehicle under subsection (2); and

(b) the owner of that vehicle does not pay to the board on whose behalf the notice was issued within the time specified in that notice the amount prescribed in the by-laws as payable for the contravention in respect of which the notice was issued,

a person authorized by the board to do so may proceed against that owner by complaint for an offence against the by-laws made under section 51 relating to the parking of the vehicle.

(5) An amount payable pursuant to a notice issued under subsection (2) may be paid to, and shall be accepted by, the board on whose behalf the notice was issued, at any time before a complaint for the breach in respect of which the notice was issued is called on for hearing in the court, but if it is paid—

(a) after the expiration of the period referred to in subsection (3) (b) and before the filing of the complaint, the amount payable is the amount prescribed in the by-laws in respect of payment in those circumstances but the amount shall not exceed the amount prescribed from time to time in the by-laws of the corporation of the city of Hobart as being payable in similar circumstances; or

(b) after the filing of the complaint but before the complaint is called on for hearing, the amount payable is the amount prescribed in the by-laws in respect of payment in those circumstances, but the amount shall not exceed the amount prescribed from time to time in the by-laws of the corporation of the city of Hobart as being payable in similar circumstances.

(6) Where an owner of a vehicle—

(a) has been issued with a notice with respect to an offence against the by-laws made under section 51 relating to the parking of the vehicle;

(b) was not the person who parked the vehicle at the time at which the offence was alleged to have been committed; and

(c) pays to the board on whose behalf the notice was issued in relation to that offence the amount necessary to discharge his liability in accordance with subsection (5),

he may recover the amount paid from the person who parked the vehicle at the time at which the offence was alleged to have been committed.

(7) Where an owner of a vehicle who is proceeded against on a complaint under subsection (4) for an offence against the by-laws made under section 51 relating to the parking of the vehicle—

- (a) was not the person who parked the vehicle at the time at which the offence was alleged to have been committed;
- (b) did not, in the proceedings, allege that another person parked the vehicle at that time and did not make an application to a justice to issue a summons to that other person to attend the hearing of the complaint against the owner; and
- (c) pays, in relation to that offence, the fine imposed on him by a court of competent jurisdiction,

the owner may recover the amount paid, and any costs imposed by the court, from the person who parked the vehicle at the time at which the offence was alleged to have been committed.

(8) An amount recoverable by an owner under subsection (6) or (7) may be recovered as a debt due to that owner in a court of competent jurisdiction.

(9) Where the board on whose behalf a notice is issued under subsection (2) is paid the amount which is necessary to discharge the liability of a person specified in the notice, that payment is a bar to subsequent proceedings by the board for the offence in respect of which the notice was issued.

Insertion in
Principal Act
of new sections
75, 76, and 77.

9—After section 74 of the Principal Act, the following sections are inserted in Part V:—

Property in
possession of
person on
admission as
in-patient.

75—(1) A person upon admission as an in-patient to a public hospital may, in respect of any personal property in his possession, elect—

- (a) to retain custody of all or part of that property for the period during which he is an in-patient at the hospital;
- (b) to require the board of that hospital to hold all or part of that property in custody on behalf of the in-patient; or
- (c) to appoint a person other than the board to hold all or part of that property in custody on behalf of the in-patient.

(2) Where a person at the time of his admission as an in-patient to a public hospital is incapable of making an election under subsection (1), he shall be deemed to have made the election referred to in subsection (1) (b) until such time as he is capable of making an election under subsection (1).

(3) Where a person at the time of his admission as an in-patient to a public hospital fails to make an election under subsection (1) for any reason otherwise than as a result of his incapacity, he shall be deemed to have made the election referred to in subsection (1) (b).

76—(1) Where a person is deemed, pursuant to section 75 (2), to have made an election referred to in section 75 (1) (b), the board of the hospital at which that person was admitted as an in-patient may, at the request of that person's next of kin, release the personal property of the person to the next of kin—

Power of board to release property to in-patient's next of kin.

(a) upon receipt of a statutory declaration as to the identity of the next of kin and the degree of relationship of the next of kin to the in-patient; and

(b) upon receipt of an instrument indemnifying the board against all claims likely to be made against the board by any other person who may claim to be entitled to the personal property.

(2) In this section " next of kin " means the person who, in the opinion of the board referred to in subsection (1), is sufficiently closely related to the person who was admitted as an in-patient for the purposes of releasing the personal property to the first mentioned person.

77—(1) A board shall establish a trust fund at a bank approved by the Treasurer and shall cause all money—

Money held by board on behalf of in-patient.

(a) that is held by the board in custody on behalf of an in-patient at a hospital under its control and that has not been released to the in-patient's next of kin pursuant to section 76; or

(b) that is received by the board from an in-patient at such a hospital to be held in custody on behalf of the in-patient or from some other person for the benefit, use, or enjoyment of the in-patient,

to be paid into that trust fund.

(2) A board shall, in respect of each in-patient, keep a separate account of all money paid into the in-patients' trust fund in respect of that in-patient.

(3) Money standing to the credit of an account kept in respect of an in-patient under subsection (2) in the in-patients' trust fund may be withdrawn by that in-patient for any purpose.

(4) Where an in-patient is, in the opinion of the board of the hospital at which that person is an in-patient, incapable, through infirmity arising from disease, age, or any other reason, of withdrawing money from an account kept in respect of that in-patient under subsection (2), the board may authorize the withdrawal of such sum from that account as it considers necessary or desirable for the purchase of goods and services for the benefit, use, or enjoyment of that in-patient.

(5) A certificate by any 2 persons authorized by the board referred to in subsection (4) and employed on the staff of the hospital referred to in that subsection to the effect that the goods or services purchased with the sum withdrawn have been received by the in-patient for his benefit, use, or enjoyment is evidence that the in-patient received the goods or services.

(6) Subject to this section, a board may invest money in the in-patients' trust fund in any manner in which trustees are authorized to invest trust funds.

(7) Subsection (6) does not authorize a board to invest more than 70 per cent of the amount standing to the credit of the in-patients' trust fund at any time.

(8) A board shall, at a bank approved by the Treasurer, establish an amenities account into which it shall pay the interest received from investments made pursuant to subsection (6).

(9) A board may apply money in the in-patients' amenities account towards the payment for goods, services, or amenities for the benefit, use, or enjoyment of in-patients generally in a hospital under its control.

(10) Any capital profit made on the realization of investments made pursuant to subsection (6) shall be deposited by a board in the in-patients' amenities account and any loss on the realization of those investments shall be met from that account.

(11) When a person is discharged from a public hospital, the board of that hospital shall pay to that person any money standing to the credit of that person's account in the in-patient's trust fund.

(12) In this section—

“in-patients' amenities account” means the account established by a board pursuant to subsection (8);

“in-patients' trust fund” means the trust fund established by a board pursuant to subsection (1).

10—Section 86 (1) of the Principal Act is amended by omitting “thereto” and inserting “to the money or personal effects”.

Amendment of section 86 of Principal Act (Unclaimed property of patients).

11—Section 87 of the Principal Act is amended by inserting after subsection (1) the following subsection:—

Amendment of section 87 of Principal Act (Regulations).

(1A) Without limiting subsection (1), the regulations may provide for and with respect to the custody, control, and possession by a board of personal property in the possession of a person on his admission as an in-patient to a public hospital and the release of that property.

12—Section 77 of the Principal Act (as inserted by this Act) applies in respect of any money received before the commencement of this Act by a board from or on behalf of an in-patient in a hospital under its control as if it had been in force at the time the money was received.

Validation of existing accounts.

