



HOSPITALS AMENDMENT ACT (No. 2) 1984

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No. 73 of 1984
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AN ACT to amend the Hospitals Act 1918.

[Royal Assent 22 November 1984]

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. (No. 2) 1984.

Commencement. **2**—This Act shall commence on the day on which it receives the royal assent.

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

Amendment of section 41 of Principal Act. (Property vesting in board as successor of old board to remain subject to existing trusts). **4**—Section 41 of the Principal Act is amended as follows:—
 (a) by omitting “All ” and substituting “(1) Subject to subsection (2), all ”;
 (b) by adding the following subsection as subsection (2) of that section:—
 (2) Where a hospitals board exercises its powers under section 43 (2) in relation to any money vested in the board as mentioned in subsection (1), that last-mentioned subsection ceases to apply to and in relation to the dealing with that money by the board.

Amendment of section 42 of Principal Act (Power of board to accept property in trust for certain purposes). **5**—(1) Section 42 (2) of the Principal Act is amended by omitting “All ” and substituting “ Subject to subsection (3), all ”.
 (2) Section 42 of the Principal Act is further amended by inserting the following subsection after subsection (2):—
 (3) Where a board exercises its powers under section 43 (2) in relation to any money accepted by the board as mentioned in subsection (2), that last-mentioned subsection ceases to apply to and in relation to the dealing by the board with that money and with any income derived from that money.

Amendment of section 43 of Principal Act (Application of trust moneys). **6**—Section 43 of the Principal Act is amended as follows:—
 (a) by omitting “ When ” and substituting “(1) When ”;
 (b) by omitting “ save ” and substituting “ except where the board exercises its powers under subsection (2) in relation to that money or except ”;
 (c) by adding the following subsections as subsections (2), (3), (4), and (5) of that section:—

* 9 Geo. V No. 70. For this Act, as amended up to and including 1st September 1982, see the continuing Reprint of Statutes. Subsequently amended by No. 96 of 1982, No. 54 of 1983, and No. 29 of 1984.

(2) Where—

- (a) the terms of a will or gift under which any money is received in trust by a board on behalf of a public hospital provides for the purpose of the public hospital for which that money shall be applied; and
- (b) circumstances subsequently arise that, in the opinion of the board, make it impossible for the board to apply or continue to apply that money for that purpose,
the board may, with the prior approval of the Minister, pass a resolution—
 - (c) stating that it is of the opinion that circumstances have arisen that make it impossible for the board to apply or continue to apply that money for that purpose (being circumstances that are specified in the resolution); and
 - (d) specifying some other similar purpose of the hospital for which that money may be applied by the board (being a purpose approved by the Minister).

(3) Where a board passes a resolution pursuant to subsection (2) in relation to a trust—

- (a) on the day specified for that purpose in the resolution, that trust is terminated and the money to which the resolution relates is, or, if that money has been invested, the investments and the income of those investments are, freed and discharged from that trust;
- (b) subject to paragraph (c), the board shall, at any time after that day, apply the money to which the resolution relates, or, if that money has been invested, use the income of the investments, for the other purpose specified in the resolution as mentioned in subsection (2) (d);
- (c) if the money to which the resolution relates has been invested, the board may realize the investments and, if it does so, the board shall use the proceeds of the realization for the other purpose specified in the resolution as so mentioned; and

(d) on or after that day, no action, claim, suit, or demand may be instituted or made against the board in respect of the administration or intended administration of that trust before that day.

(4) A day specified in a resolution as mentioned in subsection (3) (a) shall be a day not earlier than the day on which the resolution is passed by the relevant board.

(5) Nothing in this section shall be construed as derogating from the right of a board to make an application under section 47 of the *Trustee Act* 1898 with respect to a matter in relation to which it may exercise its powers under subsection (2).