
QUEEN VICTORIA HOSPITAL ACT 1979

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QUEEN VICTORIA HOSPITAL

No. 22 of 1979

AN ACT to amend the Queen Victoria Hospital Act 1952.

[12 July 1979]

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 *Queen Victoria Hospital Act 1979*.

Short title,
citation, and
commencement.

(2) The *Queen Victoria Hospital Act 1952**, as subsequently amended, is in this Act referred to as the Principal Act.

* No. 72 of 1952. For this Act, as amended to 1958, see the Reprint of Statutes (1826-1958), Vol. 7, p. 483. Subsequently amended by No. 4 of 1964, No. 18 of 1967, and No. 37 of 1971.

(3) The provisions of this Act, other than this section and subsections (1) and (2) of section 15, shall commence on such days as may be respectively fixed by proclamation in relation to them.

Interpretation.

2—Section 2 of the Principal Act is amended by adding at the end the following definition:—

“Staff Advisory Committee” means the Staff Advisory Committee constituted as provided in section 8B.

3—Section 6 of the Principal Act is repealed and the following section is substituted:—

Constitution
of the
Board.

6 The Board shall consist of 8 members of whom—

- (a) four shall be appointed in accordance with section 7;
- (b) two shall be elected in accordance with section 8;
- (c) one shall be appointed in accordance with section 8A; and
- (d) one shall be the person who is appointed under section 8B as the chairman of the Staff Advisory Committee.

Medical
Advisory
Committee's
member.

4—Section 8A of the Principal Act is amended—

- (a) by omitting from subsection (1) the word “The” and substituting the words “Subject to subsection (1A), the”;
- (b) by inserting after that subsection the following subsection:—
 - (1A) A member of the Medical Advisory Committee who is employed by the Board temporarily or on probation is not eligible to be appointed as a member of the Board under subsection (1).
- (c) by omitting from subsection (2) all the words after the words “person appointed”; and
- (d) by adding at the end the following subsections:—

(3) Where there is a failure to appoint a member of the Board as required by subsection (1), the Minister may appoint a member of the Medical Advisory Committee to be that member, and the member of the committee so appointed shall, for all the purposes of this Act, be deemed to be the member of the Board appointed by the committee and shall hold office as a member of the Board as if he were such an appointed member.

(4) The Minister shall, on appointing a person as a member of the Board pursuant to subsection (3), give a certificate of his appointment to the person appointed.

(5) A certificate under subsection (2) or subsection (4) is conclusive in all proceedings that are not in the nature of *quo warranto*.

5—After section 8A of the Principal Act the following section is inserted:—

8B—(1) Subject to this section, there shall be a staff advisory committee consisting of the same prescribed number of representatives of each of the following classes of members of the staff of the Board:—

Staff's
member.

(a) The nursing staff;

(b) The administrative and clerical staff; and

(c) Staff not coming within either of the classes mentioned in the foregoing paragraphs the members of which are not entitled to be members of the Medical Advisory Committee.

(2) Subject to the provisions of the regulations made for the purposes of section 9 (7), the chairman of the Staff Advisory Committee shall be such member thereof as the committee appoints.

(3) The person presiding at a meeting of the Staff Advisory Committee at which the chairman of the committee is appointed shall notify the appointment to the Board and the Minister shall give a certificate of his appointment to the person appointed, and such a certificate is conclusive in all proceedings that are not in the nature of *quo warranto*.

(4) The chairman of the Staff Advisory Committee may, by writing under his hand, tender his resignation from office to the secretary of the committee and vacates office if his resignation is accepted by the committee.

(5) Subject to subsection (6), a representative of any of the classes of members of the staff of the Board referred to in subsection (1) shall be a member of that class elected as prescribed by the members of that class.

(6) A member of the staff of the Board who has not attained the age of 18 years or who is employed by the Board temporarily or on probation shall not hold office as a member of the Staff Advisory Committee representing members of the class to which he belongs.

(7) Where there is a failure to elect a member of the Staff Advisory Committee as required by subsection (5), the Minister may appoint a member of the staff of the Board of the appropriate class to be that member of the committee, and the member so appointed shall, for all the purposes of this Act, be deemed to be the elected representative of that class of members and shall hold office as a member of the committee for the same term as if he were such an elected representative.

(8) Subject to subsection (9), on the application of the Board or a member of the staff of the Board, the Director-General shall determine which of the classes of members of the staff referred to in subsection (1) the member is to be regarded as belonging to for the purposes of this section.

(9) Subject to a determination by the Director-General under subsection (8), the administrative and clerical staff of the Board comprises such staff as the Board determines to be engaged wholly or mainly on administrative or clerical duties.

(10) A member of the staff of the Board who is dissatisfied with a determination made by the Director-General under subsection (8) on his or the Board's application may apply to the Director-General for a review of the determination and the Director-General shall, on receiving an application under this subsection, review the determination and, as he thinks fit, confirm it or make another determination under subsection (8) in relation to the member.

(11) The decision of the Director-General on a review under subsection (10) is final.

(12) In this section, "Director-General" means the Director-General of Health Services.

Disqualifica-
tion of
members.

6—Section 9 of the Principal Act is amended—

(a) by inserting after subsection (1) the following subsection:—

(1A) Subsection (1) (a) does not apply to a person who is a member of the Board by virtue of an appointment under section 8A or by virtue of being the chairman of the Staff Advisory Committee.

(b) by adding at the end the following subsections:—

(6) A person is not eligible to be appointed or elected as a member of the Board if—

- (a) he has attained the age of 70 years; or
- (b) he would, if he were so appointed or elected, attain that age during his term of office.

(7) Notwithstanding the provisions of subsections (1A) and (3), a person is not eligible to be appointed or elected, or to continue, as a member of the Board if he is a member of the staff of the Board who holds an office of a prescribed class.

(8) A decision of the Board is not invalidated and shall not be called in question by reason of a person holding office as a member of the Board in contravention of this section.

7—Section 10 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:—

Vacation of
office.

(1) A member of the Board may tender his resignation from office, by writing under his hand—

- (a) to the Governor, if appointed by him;
- (b) to the Secretary of the Association, if elected by it; or
- (c) to the Medical Advisory Committee, if appointed by it.

(1A) A member of the Board shall vacate his office if his resignation pursuant to subsection (1) is, as the case requires, accepted by—

- (a) the Governor;
- (b) the Association or a committee of the Association empowered by its rules to accept resignations of members of the Board; or
- (c) the Medical Advisory Committee or a person appointed by that committee to accept resignations of members of the Board.

8—Section 12 of the Principal Act is amended—

(a) by inserting after subsection (1) the following subsection:—

Procedure
of Board.

(1A) Five members of the Board constitute a quorum at a meeting of the Board.

(b) by inserting in subsection (2), after the words “subject to”, the words “subsection (1A) and”.

Powers of
the Board.

9—Section 13 of the Principal Act is amended—

- (a) by omitting from subsection (2) the word “The” and substituting the words “Subject to this section, the”;
- (b) by inserting after that subsection the following subsections:—

(2A) A person appointed under subsection (2) by the Board—

- (a) may be appointed as a permanent employee or temporary employee or employed part-time as an employee of either kind; or
- (b) may be employed for the period of his training in a profession, trade, or occupation at the hospital.

(2B) In subsection (2A)—

“permanent employee” means an employee who is not a temporary employee;

“temporary employee” means an employee who is employed—

- (a) for a period not exceeding 3 months; or
- (b) for a period exceeding 3 months, if he is employed to carry out the duties of a permanent employee who is absent during that period—
 - (i) on leave of any kind to which he is entitled under an industrial award or a contract of service;
 - (ii) on leave under the *State Employees (Long - Service Leave) Act 1950*;
 - (iii) on leave of any other kind granted by the Board; or
 - (iv) owing to disablement as the result of an injury or disease for which he is entitled to compensation under the *Workers' Compensation Act 1927*.

(c) by omitting subsections (3) and (4) and substituting the following subsections:—

(3) The remuneration payable by the Board to the persons appointed by it under subsection (2) shall be paid out of the revenue received by the Board.

(4) The Board shall not appoint a person under subsection (2) as an employee of a class declared by order made by the Governor to be a class for the purposes of this subsection until the Minister has approved the appointment.

10—Section 14 of the Principal Act is amended by omitting from subsection (1) all the words following the words “signed by” and substituting the words “at least two of the members of the Board or of its staff who are authorized by the Board to sign cheques on its behalf”.

Property of
the Board.

11—After section 14 of the Principal Act the following section is inserted:—

14A—(1) The provisions of Part IIA of the *Hospitals Act* 1918 (which makes provision for certain rights of appeal in respect of appointments to the hospital service and certain disciplinary and other action taken in that service) are extended to persons appointed under section 13 (2) in a manner similar to that in which they apply to officers of the hospital service within the meaning of that Part.

Extension of
appeal pro-
visions of Part
IIA of the
Hospitals Act
1918 to
staff of the
hospital.

(2) For the purposes of the extension of the rights of appeal contained in Part IIA of the *Hospitals Act* 1918 to a person to whom subsection (1) applies—

- (a) a reference in that Part to an officer of the hospital service shall be read as including a reference to that person;
- (b) a reference in that Part to an office in the hospital service shall be read as including a reference to an office in the service of the Hospital; and
- (c) a reference in that Part to a hospital authority shall be read as including a reference to the Board.

12—Section 22 of the Principal Act is amended by inserting after paragraph (ca) of subsection (1) the following paragraphs:—

Regulations.

- (cb) the purposes of section 9 (7);

(cc) prescribing—

- (i) the number of representatives of each of the classes of members of the staff of the Board referred to in section 8B (1);
- (ii) the manner of election of members of the Staff Advisory Committee and their terms of office under section 8B;
- (iii) the manner of appointment of the chairman of that committee and his term of office; and
- (iv) any other matter relating to the proceedings of that committee;

Non-application in certain cases of extension of the provisions of Part IIA of the *Hospitals Act* 1918.

13—Notwithstanding the extension of the provisions of Part IIA of the *Hospitals Act* 1918 to the staff of the Board made by section 14A of the Principal Act, as inserted by this Act, nothing in that Part applies—

- (a) to a vacancy in the service of the Hospital that was subsisting at the commencement of that section; or
- (b) to any such decision as is referred to in section 57B of the *Hospitals Act* 1918 that was made before that commencement.

Provisions relating to certain members of the Board.

14—A person who, immediately before the commencement of section 9 (6) of the Principal Act, as inserted by this Act, is a member of the Board and who, on or before that commencement, has attained the age of 70 years continues to be a member of the Board until the expiration or sooner determination under the Principal Act of the term of office for which he was appointed or elected.

Transitional and other provisions.

15—(1) The Board may make regulations under its common seal in respect of the matters referred to in paragraphs (cb) and (cc) of section 22 (1) of the Principal Act, as inserted by this Act, before the commencement of those paragraphs, but those regulations have no effect until those paragraphs have effect.

(2) The provisions of subsections (3) and (4) of section 22 of the Principal Act apply to regulations made by the Board pursuant to subsection (1).

(3) Notwithstanding the taking effect of regulations made in respect of the matter referred to in paragraph (cb) of section 22 (1) of the Principal Act, as inserted by this Act, a member of the Board who, immediately before the taking effect of those regulations, holds an office of a class prescribed by those regulations continues to be a member of the Board—

- (a) until the expiration or sooner determination under the Principal Act of the term of office for which he was appointed or elected; or
- (b) in the case of a person who holds office by virtue of being the chairman of the Staff Advisory Committee, until he ceases to be the chairman of the committee.

(4) Notwithstanding the amendment of the Principal Act contained in section 14A of that Act, as inserted by this Act, a person who, immediately before the commencement of that amendment, is a member or deputy member of the Hospital Service Appeal Board by virtue of an election under section 53 of the *Hospitals Act* 1918 continues in office as a member or deputy member of the Appeal Board on and after that commencement as though the persons employed by the Board of Management of the Queen Victoria Hospital under section 13 (2) of the Principal Act were entitled to vote at the election when it was held under section 53 of the *Hospitals Act* 1918.

