

HOSPITAL BENEFITS AGREEMENT ACT.

Act No. 37, 1946.

An Act to authorise an Agreement between the Commonwealth of Australia and the State of New South Wales relating to hospital benefits to be executed by or on behalf of the State of New South Wales and to approve such Agreement; to amend the Public Hospitals Act, 1929-1943; and for purposes connected therewith. [Assented to, 21st May, 1946.]

George VI.
No. 37, 1946.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Hospital Benefits Agreement Act, 1946."

Short
title.

2. (1) The execution, by or on behalf of the State of New South Wales, of an Agreement with the Commonwealth of Australia, relating to the provision of hospital benefits, substantially in accordance with the heads of agreement specified in the Schedule to this Act, is hereby authorised.

Execution
of Agree-
ment
relating
to hospital
benefits.

(2) The Agreement as made and executed by or on behalf of the State of New South Wales and the Commonwealth of Australia is hereby approved.

Approval
of
executed
Agreement.

3. The Public Hospitals Act, 1929-1943, is amended:

Amendment
of Act No. 8,
1929.

(a) by inserting next after section thirty-two the following new section:—

New section
32A.

32A. During the period within which the Agreement executed and approved under the provisions of the Hospital Benefits Agreement Act, 1946, is in force—

Charges
during
operation
of Agree-
ment under
Hospital
Benefits
Agreement
Act, 1946.

(a) no means test shall be imposed on and no fees shall be charged to or in respect

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respect of qualified persons occupying beds in public wards in public hospitals;

Provided that the Commission may permit the board to charge fees in respect of beds in a public ward which are temporarily used as non-public ward beds;

- (b) (i) the charges per day payable by qualified persons pursuant to the provisions of this Part and in force at the commencement of the aforesaid Agreement in respect of beds in non-public wards in public hospitals shall be reduced by the amount of the Commonwealth Hospital Benefit Rate for non-public wards;
- (ii) the charges payable by qualified persons pursuant to the provisions of this Part and in force at the commencement of the aforesaid Agreement in respect of beds in non-public wards in public hospitals shall not be increased or varied without the approval of the Commission, nor shall any charges be imposed by a board in respect of beds in non-public wards in public hospitals established after the commencement of the aforesaid Agreement unless such charges have been approved by the Commission.

In this section the terms "qualified person", "public ward", "public hospital", "non-public ward" and "Commonwealth Hospital Benefit Rate for non-public wards" shall have the meanings respectively ascribed thereto in the aforesaid Agreement.

Sec. 40.
(Contri-
bution
schemes.)

- (b) by inserting at the end of section forty the following new subsection:—

(10) The Governor may by proclamation published in the Gazette direct that the contribution

contribution scheme conducted under and in accordance with the provisions of this section by any hospital or group of hospitals and any scheme conducted by the Metropolitan Hospitals Contribution Fund of New South Wales and in operation immediately before a date specified in such proclamation shall as from such date terminate and cease to be in operation or be varied in its operation and amended as to rates, benefits and conditions in such manner and to such extent as the Governor deems desirable as a consequence of the coming into force of the Agreement executed and approved under the provisions of the Hospital Benefits Agreement Act, 1946. Such proclamation shall contain such provisions as the Governor may deem necessary for giving effect to the objects and purposes of this subsection. No. 37, 1946.

Upon the date so specified in such proclamation such proclamation shall be given effect to according to its tenor.

As from the date upon which any contribution scheme terminates and ceases to be in operation any contribution paid in advance under any such contribution scheme in respect of any period of more than one week after such date shall on application by the contributor within one month from such date be refundable to the contributor.

Upon publication of any such proclamation under which any such contribution scheme is terminated and ceases to be in operation a contributor under any such contribution scheme shall only be entitled to any benefit under the rules of any such contribution scheme up to and including the date specified in such proclamation as the date upon which such contribution scheme shall terminate and cease to be in operation.

HOSPITAL BENEFITS: HEADS OF AGREEMENT.

1. The agreement shall not have any force or effect unless and until authorized or approved by the Parliament of the State concerned.

2. The agreement shall be in force for a minimum period of five years and thereafter shall be subject to termination after [*here specify a period of notice by either party of not less than one year*].

3. The Commonwealth shall, subject to compliance by the State with the provisions of the agreement, pay to the State, by way of financial assistance, in respect of beds occupied by qualified persons in public and non-public wards in public hospitals, amounts determined in accordance with the agreement.

4. The amount to be paid by the Commonwealth for any financial year in respect of beds in public wards in public hospitals shall be determined by multiplying the Commonwealth Hospital Benefit Rate for Public Wards by the number of daily occupied beds in public wards in that financial year.

5. The amount to be paid by the Commonwealth for any financial year in respect of beds in non-public wards in public hospitals shall be determined by multiplying the Commonwealth Hospital Benefit Rate for Non-public Wards by the number of daily occupied beds in non-public wards in that financial year.

6. (1) The State shall, out of the amount paid to the State for each financial year under paragraph four of this Schedule, set aside the amount (if any) ascertained by subtracting from the amount so paid the aggregate of—

(a) the amount ascertained by multiplying the Commonwealth Hospital Benefit Expenditure Rate for Public Wards by the number of daily occupied beds in public wards in that financial year; and

(b) the amount by which donations (including voluntary contributions) received by public hospitals during that financial year and used for the maintenance of public hospitals is less than [*here insert an amount determined by the Commonwealth and the State based on the average amount received by public hospitals during the financial years 1942-43 and 1943-44 by way of donations (including voluntary contributions) and used for the maintenance of public hospitals*].

(2) The State shall not use the amount so set aside, or interest thereon, otherwise than for capital expenditure on public hospitals as approved by the Commonwealth.

7. If the amount paid to the State for any financial year under paragraph four of this Schedule is less than the aggregate of the amounts referred to in clauses (a) and (b) of sub-paragraph (1) of the last preceding paragraph, the Commonwealth shall pay to the State the amount of the difference.

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THE SCHEDULE—*continued.*

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8. (1) Subject to the next succeeding paragraph, the State shall ensure that no means test is imposed on, and that no fees are charged to or in respect of, qualified persons occupying beds in public wards in public hospitals.

(2) The State may permit a public hospital to charge fees in respect of beds in a public ward which are temporarily used as non-public ward beds.

9. (1) The State shall ensure that the charges per day payable by qualified persons in respect of beds in non-public wards in public hospitals shall be reduced by the amount of the Commonwealth Hospital Benefit Rate for Non-public Wards.

(2) The State shall ensure that no increase in those charges is made without the concurrence of the Commonwealth and that any such increase made after the first day of September, 1945, and prior to the date of the agreement shall cease to be applied, as from the date of the agreement, unless the Commonwealth concurs in the increase.

(3) The Commonwealth shall not refuse its concurrence under the last preceding sub-paragraph in respect of any increase of charges necessitated by increased costs.

(4) The State shall ensure that, except with the concurrence of the Commonwealth, no charge is made to qualified persons for services or comforts in public or non-public wards in public hospitals for which it was not customary to make a charge as at the first day of September, 1945.

10. The Commonwealth and the State, in conjunction with any other State which enters into an agreement with the Commonwealth in terms similar to the terms of the agreement, shall establish a council, to be known as the National Hospital Council, to advise the Commonwealth and the States with respect to any matter relating to hospitals which is referred to the Council by the Commonwealth or a State.

11. The agreement may provide that nothing in the agreement shall be construed so as to affect the State's control of clinical teaching and research in public hospitals.

12. The agreement may contain such incidental and supplementary provisions as are necessary to give effect to the Commonwealth Hospital Benefits Scheme.

13. The agreement shall contain definitions substantially to the following effect and such other definitions as are necessary:—

“the Commonwealth Hospital Benefit Rate for Public Wards” means six shillings or such other rate as is, from time to time, agreed upon between the Commonwealth and the State;

“the Commonwealth Hospital Benefit Rate for Non-public Wards” means six shillings or such other rate as is, from time to time, agreed upon between the Commonwealth and the State;

THE

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THE SCHEDULE—*continued*.

"the Commonwealth Hospital Benefit Expenditure Rate for Public Wards" means *[here insert an amount determined by the Commonwealth and the State based on the average amount recovered during the financial years 1942-43 and 1943-44 from patients in public wards for each daily occupied bed]* or such other amount as is, from time to time, agreed upon between the Commonwealth and the State;

"public hospital" means a hospital (not being a tuberculosis hospital within the meaning of the *Tuberculosis Act 1945*) 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.

"public ward" means a ward which is ordinarily recognized as a public ward;

"non-public ward" means a ward other than a public ward;

"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 purposes 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 a member of the staff of a public hospital receiving treatment in his own quarters or a person whose fees are borne by the Commonwealth or who has received, or is entitled to receive, those fees under any law in force in the State; and

"daily occupied bed" means a bed occupied by a qualified person for a full day (the day of admission and the day of discharge together being counted as one day).
