

**HOSPITAL BENEFITS AGREEMENT
(AMENDMENT) ACT.**

Act No. 20, 1949.

An Act to approve an Agreement between the Commonwealth and the State in relation to hospital benefits; to amend the Public Hospitals Act, 1929, as amended by subsequent Acts, and certain other Acts; and for purposes connected therewith.
[Assented to, 30th June, 1949.]

George VI.
No. 20, 1949.

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. (1) This Act may be cited as the "Hospital Benefits Agreement (Amendment) Act, 1949."

Short title
and
citation.

(2)

Hospital Benefits Agreement (Amendment) Act.

No. 20, 1949.

(2) The Hospital Benefits Agreement Act, 1946, as amended by this Act, may be cited as the Hospital Benefits Agreement Act, 1946-1949.

Amendment
of Act No.
37, 1946.

2. The Hospital Benefits Agreement Act, 1946, is amended—

Sec. 2.
(Execution
of Agree-
ment
relating to
hospital
benefits.)

(a) by omitting from subsection one of section two the word "Schedule" and by inserting in lieu thereof the words "First Schedule";

New
sec. 2A.

(b) by inserting next after section two the following new section:—

Approval of
amending
Agreement.

2A. The Agreement made on the sixteenth day of June, one thousand nine hundred and forty-nine, a copy of which is set forth in the Second Schedule to this Act, is hereby approved.

Sec. 3.
(Amend-
ment
of Act No.
8, 1929.)

(c) by inserting in paragraph (a) of section three after the words "Hospital Benefits Agreement Act, 1946" the words "or that Agreement as amended";

The
Schedule.

(d) by omitting the heading "The Schedule" and by inserting in lieu thereof the heading and sub-heading:—

"THE SCHEDULES.

FIRST SCHEDULE";

New Second
Schedule.

(e) by inserting at the end thereof the following new Schedule:—

SECOND SCHEDULE.

Sec. 2A.

AGREEMENT made the sixteenth day of June, One thousand nine hundred and forty-nine BETWEEN THE COMMONWEALTH OF AUSTRALIA (hereinafter called "the Commonwealth") and THE STATE OF NEW SOUTH WALES (hereinafter called "the State").

WHEREAS on the first day of July One thousand nine hundred and forty-six 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

Hospital Benefits Agreement (Amendment) Act.

121

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: **No. 20, 1949.**

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 2 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 subclause (1) of clause 3A hereof;

"the

Hospital Benefits Agreement (Amendment) Act.**No. 20, 1949.****"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 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)

No. 20, 1949.

(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 subclause shall, for the purposes of this subclause, 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 subclause, 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 subclause, 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)

Hospital Benefits Agreement (Amendment) Act.**No. 20, 1949.**

(c) the State shall ensure that any necessary adjustment in respect of hospital fees paid or payable by that person shall be made.

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 One thousand nine hundred and forty-eight clauses 7 and 8 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:	J. B. CHIFLEY.
J. H. GARRETT.	

SIGNED by the Premier of the State for and on behalf of the State in the presence of:	JAMES MCGIRR.
P. H. ROPER.	

LANDLORD