

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 29 April, 1971.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

J. R. STEVENSON,
Clerk of the Parliaments

*Legislative Council Chamber,
Sydney 5 May, 1971.*

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. , 1971.

An Act to transfer the exercise and performance of certain powers, authorities, duties and functions in relation to private hospitals and nursing homes to The Hospitals Commission of New South Wales; to make further provisions relating to the management of private hospitals and nursing homes; for these and other purposes to amend the Private Hospitals Act, 1908, and the Public Hospitals Act, 1929; and for purposes connected therewith.

BE

Private Hospitals (Amendment).

5 **B**E it enacted by the Queen'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 "Private Hospitals (Amendment) Act, 1971". Short title, commencement and construction.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation
10 published in the Gazette.

(3) The Private Hospitals Act, 1908, is in this Act referred to as the Principal Act.

2. The Principal Act is amended—

Amendment
of Act No.
14, 1908.

15 (a) (i) by inserting next after the definition of Sec. 2.
"Building" in section two the following new (Definitions.)
definition :—

"Commission" means The Hospitals Commission of New South Wales constituted under the Public Hospitals
20 Act, 1929.

(ii) by omitting the definition of "Manager" in the same section;

(iii) by inserting next before the definition of
25 "Patient" in the same section the following
new definition :—

"Nursing home" means a building established or used or intended to be established or used to board and lodge for fee or reward patients—

30 (a) who are recuperating from illness or childbirth and who require only nursing care; or
(b)

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- 5 (b) who, on account of age, senility, infirmity, chronic ill-health or other condition, require the exercise of oversight, nursing care and control with or without occasional attention by a medical practitioner,
- but does not include—
- 10 (c) an institution conducted by or on behalf of the State;
- (d) an incorporated hospital or separate institution within the meaning of the Public Hospitals Act, 1929;
- 15 (e) a private hospital;
- (f) an authorised hospital within the meaning of the Mental Health Act, 1958; or
- 20 (g) an institution within the meaning of the Inebriates Act, 1912.
- (iv) by omitting from the definition of "Patient" in the same section the words "rest home" and by inserting in lieu thereof the words "nursing home";
- 25 (v) by omitting the definition of "Private hospital" in the same section and by inserting in lieu thereof the following definition :—
- 30 "Private hospital" means a building established or used or intended to be established or used for the treatment for fee or reward of patients, but does not include—
- 35 (a) an institution conducted by or on behalf of the State;
- (b)

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- (b) an incorporated hospital or separate institution within the meaning of the Public Hospitals Act, 1929;
- (c) a nursing home;
- (d) an authorised hospital within the meaning of the Mental Health Act, 1958; or
- (e) an institution within the meaning of the Inebriates Act, 1912.
- (vi) by omitting the definition of "Rest home" in the same section;
- (vii) by omitting from the definition of "Ward" in the same section the words "rest home in which patients are received or lodged for treatment" and by inserting in lieu thereof the words "nursing home in which patients are lodged";
- (b) by omitting from the short heading appearing next before section six the words "*rest homes*" and by inserting in lieu thereof the words "*nursing homes*";

Short heading before sec. 6.
- (c) (i) by omitting from subsection one of section six the words "Minister on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission";

Sec. 6. (Licenses.)
- (ii) by omitting subsection (1A) of the same section and by inserting in lieu thereof the following subsection :—

(1A) No nursing home shall be carried on, used, or conducted, except under the authority of a license granted by the Commission.
- (iii) by omitting from subsection two of the same section the words "one hundred dollars and not less than twenty dollars" and by inserting in

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- in lieu thereof the words "two hundred dollars and, in addition, to a fine of not exceeding fifty dollars for every day on which the breach continues";
- 5 (iv) by omitting from subsection three of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";
- 10 (v) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";
- (vi) by omitting from subsection four of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";
- 15 (vii) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";
- 20 (viii) by inserting next after the same subsection the following new subsection :—
- (4A) The provisions of subsections three and four of this section have effect subject to the provisions of section 10c of this Act.
- 25 (d) (i) by omitting from subsection one of section ^{Sec. 7.} seven the words "Board of Health" and by ^(Application for license.) inserting in lieu thereof the word "Commission";
- (ii) by omitting from paragraph (a) of subsection two of the same section the words "rest home" and by inserting in lieu thereof the words "nursing home";
- 30 (e) (i) by omitting from subsection one of section ^{7A Sec. 7A.} the words "President of the Board of Health" and by inserting in lieu thereof the word ^(Interim license.) "Commission";
- 35 (ii)

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- (ii) by omitting from subsection two of the same section the word "Minister" and by inserting in lieu thereof the word "Commission";
- 5 (f) (i) by omitting from section eight the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home"; (Granting of the license.)
- (ii) by omitting from subsection one of the same section the words "Minister, on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission";
- 10 (iii) by omitting from the same subsection the words "Minister as aforesaid" and by inserting in lieu thereof the word "Commission";
- 15 (iv) by omitting from subsection two of the same section the words "Minister shall, as aforesaid, satisfy himself" and by inserting in lieu thereof the words "Commission shall satisfy itself";
- 20 (v) by omitting from the same section the words "rest homes" wherever occurring and by inserting in lieu thereof the words "nursing homes";
- (vi) by omitting subsection five of the same section and by inserting in lieu thereof the following subsection :—
- 25 (5) Where the Commission is satisfied that the particulars specified in a license require amendment, the Commission may cancel the license by notice in writing sent by post to the licensee at the address of the private hospital or nursing home to which the license applies and grant to him a substitute license containing the amended particulars.
- 30 The cancellation of a license under this subsection shall take effect upon the grant of the substitute license.
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The

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The cancelled license shall be forwarded by the licensee to the Commission within fourteen days of receipt of a notice under this subsection.

5 A licensee who fails to forward a license in accordance with the provisions of this subsection shall be guilty of an offence against this Act.

10 (g) (i) by omitting from section 8A the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home"; Sec. 8A. (Notification of change of particulars.)

(ii) by omitting from subsection one of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";

15

(iii) by omitting from subsection two of the same section the words "Board of Health" where firstly occurring and by inserting in lieu thereof the word "Commission";

20 (iv) by omitting from the same subsection the words "Board of Health with the approval of the Minister" and by inserting in lieu thereof the word "Commission";

25 (v) by omitting subsection three of the same section;

(h) (i) by omitting from section nine the words "Board of Health" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 9. (Annual license fee to be paid.)

30 (ii) by omitting from subsection four of the same section the words "with the approval of the Minister";

(i)

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- (i) by omitting from paragraph (b) of subsection two of section 9A the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 9A. (Death of licensee.)
- 5 (j) by omitting from subsection one of section 9B the words "Minister on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission"; Sec. 9B. (Transfer of licensee.)
- 10 (k) by omitting from the short heading appearing next before section ten the words "*rest homes*" and by inserting in lieu thereof the words "*nursing homes*"; Short heading before sec. 10.
- (l) by omitting section ten and by inserting in lieu thereof the following new section :— Subst. sec. 10.
- 15 10. (1) In this section, "establishment" means private hospital or nursing home. Chief nurses and assistant chief nurses.
- (2) The licensee of an establishment is guilty of an offence against this Act unless—
- 20 (a) there is a person who carries out the duties of chief nurse of the establishment and who is responsible for the conduct of the establishment; and
- (b) that person is a registered nurse and holds the prescribed qualifications that are applicable to the chief nurse of the establishment.
- 25
- 30 (3) Notwithstanding subsection two of this section, where the regulations prescribe qualifications that are applicable to the chief nurse of an establishment, the licensee of the establishment is not guilty of an offence under that subsection by reason only that the person who carries out the duties of chief nurse of the establishment does not hold those qualifications, if there is a person who is

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a registered nurse and who holds those qualifications and who carries out the duties of assistant chief nurse of the establishment.

5 (4) Notwithstanding subsections two and three of this section, the licensee of an establishment is not guilty of an offence under subsection two of this section by reason only that, for a number of days not exceeding the prescribed number of days during the prescribed period, there is no person
10 who is a registered nurse and who holds the prescribed qualifications that are applicable to the chief nurse of the establishment and who carries out the duties of chief nurse or assistant chief nurse of the establishment.

15 (5) Except as may be provided by the regulations, the licensee of an establishment shall, forthwith after a person commences to carry out the duties of chief nurse or assistant chief nurse of the establishment, notify the Commission in writing
20 of that fact and of the full name and the qualifications of that person.

(6) The Commission—

(a) may, by notification sent by post or delivered to the licensee of an establishment,
25 prohibit a person specified therein from carrying out the duties of chief nurse or assistant chief nurse of the establishment except in such circumstances (if any) as are specified therein; and

30 (b) may, by a like notification, revoke a notification under paragraph (a) of this subsection, and a notification under this subsection has effect according to its tenor.

35 (7) The licensee of an establishment is guilty of an offence against this Act if, while a notification sent or delivered to him under paragraph

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5 paragraph (a) of subsection six of this section in respect of a person remains unrevoked, that person carries out the duties of chief nurse or assistant chief nurse of the establishment in contravention of the notification.

10 (8) Nothing in this Act prevents the licensee of an establishment from carrying out the duties of chief nurse or assistant chief nurse of the establishment if he could carry out those duties had he not been the licensee.

15 (9) It shall be a defence to a prosecution for an offence against this Act arising under this section if the person charged proves that he took all such steps as are reasonable in the circumstances to avoid being guilty of the offence.

(10) The regulations may make provision for or with respect to determining the duties of the chief nurses and assistant chief nurses of establishments.

20 (m) (i) by omitting from section 10A the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home"; (Responsi-
bility of
licensees.)

(ii) by inserting at the end of the same section the following new subsections :—

25 (2) The licensee of a private hospital or nursing home shall ensure that a registered nurse is on duty in the private hospital or nursing home at all times.

30 Notwithstanding the foregoing provisions of this subsection, the licensee of a nursing home is not guilty of an offence against this Act arising under this subsection by reason that a registered nurse was not on duty in the nursing home during any period if he proves that during that period there was on the premises
35 thereof

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thereof a registered nurse who, though not on duty therein, was available for duty in the event of any emergency, was able to be contacted immediately in that event, and could be expected to enter on duty therein in sufficient time to deal with or assist in dealing with the emergency.

(3) The licensee of a private hospital or nursing home shall ensure that a copy of this Act and a copy of the regulations are at all times on the premises of the private hospital or nursing home and readily available for inspection at those premises by the chief nurse.

(4) Where any damage to the premises of a private hospital or nursing home, or to anything therein or thereon, occurs by reason of fire, the licensee of the private hospital or nursing home shall, except in such cases or classes of cases as are specified or described in the regulations, report the damage to the Commission in writing as soon as practicable after the occurrence.

- (n) (i) by omitting from section 10B the words "manager or resident assistant" wherever occurring and by inserting in lieu thereof the words "chief nurse or assistant chief nurse";
- (ii) by omitting from subsection one of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- (iii) by omitting from subsection two of the same section the words "rest home who is registered as a nurse under the Nurses Registration Act, 1953, as amended by subsequent Acts" and by inserting in lieu thereof the words "nursing home who is a registered nurse";

(o)

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- (o) by inserting next after section 10B the following new section :— New sec. 10C.

5 10C. (1) The licensee of a nursing home who, Name of nursing home.
after the expiration of six months after the com-
mencement of the Private Hospitals (Amendment)
Act, 1971, does anything, or suffers anything to
be done, whereby the nursing home is held out to
be a hospital by the use of the word "hospital",
whether in its name or otherwise, shall be guilty
10 of an offence against this Act and shall be liable
to a penalty not exceeding two hundred dollars and,
in addition, a penalty not exceeding fifty dollars
for every day on which the offence continues.

15 (2) The provisions of subsection one of
this section apply to a nursing home that is, under
section six of this Act, exempted from the operation
of this Act, and so apply as if the word "licensee"
were omitted therefrom and the words "proprietor
or person-in-charge" were inserted in lieu thereof.

- 20 (p) by omitting from section eleven the word "man- Sec. 11.
ager" wherever occurring and by inserting in lieu (Notice of certain diseases.)
thereof the words "chief nurse";

- (q) by omitting from section twelve the word Sec. 12.
"manager" wherever occurring and by inserting in (Notice of death or birth.)
25 lieu thereof the words "chief nurse";

- (r) by omitting from subsection one of section thirteen Sec. 13.
the words "rest home" wherever occurring and by (Keeping of register.)
inserting in lieu thereof the words "nursing home";

- 30 (s) (i) by omitting from section fourteen the words Sec. 14.
"rest home" and by inserting in lieu thereof (Inspection.)
the words "nursing home";

- (ii) by omitting from the same section the words
"the president of the Board of Health" and by
inserting in lieu thereof the words "a member
35 of the Commission";

(iii)

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- (iii) by omitting from the same section the words "Board of Health on that behalf" and by inserting in lieu thereof the words "Commission in that behalf";
- 5 (t) (i) by omitting from subsection one of section 14A the words "Board of Health" and by inserting in lieu thereof the word "Commission"; Sec. 14A. (Provision for repairs, etc.)
- 10 (ii) by omitting from subsection one of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- 15 (iii) by omitting from subsection two of the same section the words "Board of Health with the approval of the Minister" and by inserting in lieu thereof the word "Commission";
- (u) by omitting from section fifteen the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home"; Sec. 15. (Purpose for which hospital, etc., may be used.)
- 20 (v) (i) by omitting from subsection one of section sixteen the words "Minister may at any time" and by inserting in lieu thereof the words "Commission may at any time, and shall, if the Minister so directs,"; Sec. 16. (Inquiry as to management.)
- 25 (ii) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";
- (iii) by omitting from the same subsection the word "him" and by inserting in lieu thereof the word "it";
- 30 (iv) by omitting from subsection two of the same section the word "Minister" and by inserting in lieu thereof the words "Commission and, if the inquiry was made at the direction of the Minister, to the Minister";

(v)

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- (v) by omitting from subsection three of the same section the words "Minister may, if he" and by inserting in lieu thereof the words "Commission may, if it";
- 5 (vi) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";
- 10 (w) (i) by omitting from subsection one of section 16A the words "Minister may, on the recommendation of the Board of Health" and by inserting in lieu thereof the words "Commission may"; Sec. 16A. (Revocation of licenses.)
- 15 (ii) by omitting from the same subsection the words "Board of Health" where secondly and thirdly occurring and by inserting in lieu thereof the word "Commission";
- (iii) by omitting from the same subsection the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- 20 (iv) by omitting from paragraph (e) of the same subsection the word "if";
- (v) by omitting from paragraph (f) of the same subsection the words "or three";
- 25 (vi) by omitting from the same paragraph the words "this Act." and by inserting in lieu thereof the following words and new paragraph : —
- this Act; or
- 30 (g) the private hospital or nursing home ceases to operate as a private hospital or nursing home.

(vii)

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- (vii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection : —

5 (2) Before revoking a license under this section, the Commission shall serve notice in writing on the licensee that it proposes to revoke the license.

Any such notice shall—

- 10 (a) specify the grounds upon which it is proposed to revoke the license; and
(b) appoint a time within which the licensee may show cause why the license should not be revoked.

- 15 (x) (i) by omitting from section 16B the words “rest home” and by inserting in lieu thereof the words “nursing home”; Sec. 16B. (When revocation to take effect.)
(ii) by omitting from the same section the word “Minister” and by inserting in lieu thereof the word “Commission”;

- 20 (y) by omitting from section 16c the words “rest home” wherever occurring and by inserting in lieu thereof the words “nursing home”; Sec. 16c. (Appeal against revocation.)

- 25 (z) (i) by omitting from section seventeen the words “treatment, attendance, or” wherever occurring and by inserting in lieu thereof the words “treatment or attendance, or nursing”; Sec. 17. (Evidence that house, &c., is a private hospital or nursing home.)
(ii) by omitting from the same section the words “rest home” and by inserting in lieu thereof the words “nursing home”;

- 30 (aa) (i) by omitting from section eighteen the words “Board of Health” wherever occurring and by inserting in lieu thereof the word “Commission”; Sec. 18. (Regulations.)

(ii)

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- (ii) by omitting from the same section the words "rest homes" wherever occurring and by inserting in lieu thereof the words "nursing homes";
- 5 (iii) by omitting from subsection two of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- 10 (iv) by omitting from paragraph (c) of the same subsection the words "managers and resident assistants" and by inserting in lieu thereof the words "chief nurses and assistant chief nurses";
- 15 (v) by omitting from paragraph (e) of the same subsection the words "drainage and provision of fire escapes" and by inserting in lieu thereof the words "drainage, the sufficiency and efficiency of the means of escape in case of fire, any aspect of the construction and design of the buildings which relates to safety from fire and fire protection and the means of detecting and extinguishing fire";
- 20 (vi) by inserting next after paragraph (v) of the same subsection the following new paragraphs :—
- 25 (w) prescribing the records to be kept by private hospitals or nursing homes;
- 30 (x) prescribing the information to be furnished to the Commission in respect of private hospitals and nursing homes, the persons who are required to furnish it, the times within which it is to be furnished and the method of furnishing it.
- 35 (vii) by omitting from subsection four of the same section the words "one hundred dollars" and by inserting in lieu thereof the words "two hundred dollars";

(bb)

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- (bb) by omitting from section nineteen the words “rest home” and by inserting in lieu thereof the words “nursing home”; Sec. 19.
(Medicines dispensed by pharmacists.)
- 5 (cc) (i) by omitting from section twenty-one the words “Board of Health” wherever occurring and by inserting in lieu thereof the word “Commission”; Sec. 21.
(Certificate as to certain matters.)
- 10 (ii) by omitting from the same section the words “rest home” wherever occurring and by inserting in lieu thereof the words “nursing home”;
- (dd) by omitting from section twenty-two the words “Board of Health” wherever occurring and by inserting in lieu thereof the word “Commission”; Sec. 22.
(Notices.)
- 15 (ee) by omitting from section twenty-four the words “Consolidated Revenue Fund” and by inserting in lieu thereof the words “the Hospital Fund established under the Public Hospitals Act, 1929”; Sec. 24.
(Fees.)
- 20 (ff) (i) by inserting in section twenty-five after the word “done” where firstly occurring the words “or omitted to be done”; Sec. 25.
(Exoneration of certain persons.)
- 25 (ii) by inserting in the same section after the word “Health” where secondly occurring the words “, before the commencement of the Private Hospitals (Amendment) Act, 1971, or done or omitted to be done by the Commission, or by any member, officer or employee of or person authorised by the Commission, after that commencement,”;

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(gg) by inserting next after section twenty-five the following new section :—

New sec.
26.

5 26. (1) The Commission may, by instrument in writing, delegate to a person specified in the instrument of delegation the exercise or performance of such of its powers, authorities, duties and functions conferred or imposed upon it by or under this Act (except this power of delegation and the making of a recommendation for the purposes of subsection one of section eighteen of this Act) as may be specified in the instrument and may in like manner revoke wholly or in part any such delegation.

Delegation
by Com-
mission.

15 (2) Any power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time by the delegate in accordance with the terms of the delegation.

20 (3) A delegation made under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the specified powers, authorities, duties or functions or as to time or circumstances as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Commission may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

30 (5) Any act or thing done or suffered by a delegate when acting in the exercise of a delegation made under this section and within the terms of the delegation shall have the like force or effect as if the act or thing had been done or suffered by the Commission.

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3. The Public Hospitals Act, 1929, is amended—

Amendment
of Act No.
8, 1929.

- (a) (i) by inserting next after the definition of "In-patient" in section three the following new definition :—
- 5 "Nursing home" means a nursing home within the meaning of the Private Hospitals Act, 1908.
- (ii) by inserting next after the definition of "Prescribed" in the same section the following new definition :—
- 10 "Private hospital" means a private hospital within the meaning of the Private Hospitals Act, 1908.
- (b) by inserting in subsection one of section five after the word "Act" the words "and the Private Hos-
pitals Act, 1908";
- 15 (c) by inserting in subsection four of section eight after the word "hospital" the words "or any present or past patient of any private hospital or nursing home";
- 20 (d) (i) by omitting from paragraph (a) of section nine the words "or associated organisation" and by inserting in lieu thereof the words
25 ", associated organisation, private hospital or nursing home";
- (ii) by omitting from paragraph (ii) of the proviso to the same section the words "or associated organisation" and by inserting in lieu thereof the words
30 ", associated organisation, private hospital or nursing home";
- (iii) by inserting in paragraph (iii) of the same proviso after the word "organisation" the words "or the governing authority or licensee
- (within

Sec. 3.

(Interpre-
tation.)

Sec. 5.

(Appoint-
ment of
Commis-
sion.)

Sec. 8.

(Appoint-
ment of
officers and
employees.)

Sec. 9.

(Members
not to be
personally
interested
in contracts,
&c.)

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(within the meaning of the Private Hospitals Act, 1908) of any private hospital or nursing home”;

5 (e) by inserting in subsection one of section ten after the word “Act” the words “and the Private Hospitals Act, 1908”; Sec. 10.
(Salaries and expenses paid out of Hospital Fund.)

10 (f) by omitting from section 11A the words “such inquiry in respect of a private hospital to which the provisions of the Private Hospitals Act, 1908, as amended by subsequent Acts, applies, unless the funds for the establishment or maintenance of such private hospital are derived wholly or in part from the public by voluntary contributions” and by Sec. 11A.
(Inquiries by Commission.)
15 inserting in lieu thereof the words “inquiry under this section in respect of a private hospital or nursing home”.

4. (1) Any act, matter or thing that— Savings.

20 (a) was done or omitted to be done under the Principal Act (except section ten or fourteen thereof) before the commencement of this Act by, to or in respect of the Minister, the Board of Health or the Secretary of the Board of Health; and

25 (b) could, when it was so done or omitted to be done, have been done or omitted to be done by, to or in respect of the Commission or the Secretary of the Commission, as the case may require, had this Act been then in force, shall, after that commencement, be deemed to have been done or omitted to be done by, to or in respect of the Commission or Secretary Savings.
30 of the Commission, as the case may require.

(2)

Private Hospitals (Amendment).

(2) Subsection one of this section has effect in respect of any act, matter or thing done or omitted to be done—

- 5 (a) by the Minister—whether or not it was done or omitted to be done, or required to be done or omitted to be done, on the recommendation of the Board of Health; or
- 10 (b) by the Board of Health—whether or not it was done or omitted to be done, or required to be done or omitted to be done, with the approval of the Minister.

(3) A license granted by the Minister under subsection (1A) of section six of the Principal Act and in force immediately before the commencement of this Act shall, after that commencement, be deemed to have been granted by the
15 Commission under subsection (1A) of section six of the Principal Act, as amended by this Act.

(4) A reference, in any other Act, or in any by-law, regulation or ordinance, or in any license granted under the Principal Act, or in any other instrument or document whatsoever, of the same or a different kind or nature, to a rest
20 home shall be read and construed as a reference to a nursing home.

(5) Subject to this section, any act, matter or thing done or omitted to be done under the Principal Act (except
25 section ten thereof) before the commencement of this Act in respect of or in relation to an establishment that was a rest home shall, after that commencement, have the same effect as it would have had in respect of or in relation to that establishment had the amendments made by this Act not been made.

30 (6) Any application made to the President of the Board of Health under section 7A of the Principal Act and pending immediately before the commencement of this Act shall be deemed to have been made to the Commission.

(7)

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(7) Any interim license granted by the President of the Board of Health under section 7A of the Principal Act and in force immediately before the commencement of this Act shall be deemed to have been granted by the Commission.

- 5 (8) All suits, actions and proceedings pending immediately before the commencement of this Act at the suit of any person against the Minister or the Board of Health in respect of any act, matter or thing done or omitted to be done under or in purported compliance with the Principal Act shall
10 be suits, actions and proceedings pending at the suit of that person against the Commission.

(9) In this section, "rest home" has the meaning ascribed to that expression in the Principal Act.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971

[20c]

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 29 April, 1971.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with
Amendments.*

Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, May, 1971.*

New South Wales



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ELIZABETHÆ II REGINÆ

Act No. , 1971.

An Act to transfer the exercise and performance of certain powers, authorities, duties and functions in relation to private hospitals and nursing homes to The Hospitals Commission of New South Wales; to make further provisions relating to the management of private hospitals and nursing homes; for these and other purposes to amend the Private Hospitals Act, 1908, and the Public Hospitals Act, 1929; and for purposes connected therewith.

BE

Private Hospitals (Amendment).

BE it enacted by the Queen'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
5 follows:—

1. (1) This Act may be cited as the "Private Hospitals
(Amendment) Act, 1971".

Short title,
commence-
ment and
construction.

(2) This Act shall commence upon a day to be
appointed by the Governor and notified by proclamation
10 published in the Gazette.

(3) The Private Hospitals Act, 1908, is in this Act
referred to as the Principal Act.

2. The Principal Act is amended—

Amendment
of Act No.
14, 1908.

15 (a) (i) by inserting next after the definition of Sec. 2.
"Building" in section two the following new (Defini-
definition :— tions.)

"Commission" means The Hospitals Com-
mission of New South Wales con-
stituted under the Public Hospitals
20 Act, 1929.

(ii) by omitting the definition of "Manager" in the
same section;

25 (iii) by inserting next before the definition of
"Patient" in the same section the following
new definition :—

"Nursing home" means a building estab-
lished or used or intended to be
established or used to board and lodge
for fee or reward patients—

30 (a) who are recuperating from
illness or childbirth and who
require only nursing care; or

(b)

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5 (b) who, on account of age, senility, infirmity, chronic ill-health or other condition, require the exercise of oversight, nursing care and control with or without occasional attention by a medical practitioner,

but does not include—

10 (c) an institution conducted by or on behalf of the State;

(d) an incorporated hospital or separate institution within the meaning of the Public Hospitals Act, 1929;

15 (e) a private hospital;

(f) an authorised hospital within the meaning of the Mental Health Act, 1958; or

20 (g) an institution within the meaning of the Inebriates Act, 1912.

25 (iv) by omitting from the definition of "Patient" in the same section the words "rest home" and by inserting in lieu thereof the words "nursing home";

(v) by omitting the definition of "Private hospital" in the same section and by inserting in lieu thereof the following definition :—

30 "Private hospital" means a building established or used or intended to be established or used for the treatment for fee or reward of patients, but does not include—

35 (a) an institution conducted by or on behalf of the State;

(b)

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- 5 (b) an incorporated hospital or
separate institution within the
meaning of the Public Hos-
pitals Act, 1929;
- (c) a nursing home;
- (d) an authorised hospital within
the meaning of the Mental
Health Act, 1958; or
- 10 (e) an institution within the mean-
ing of the Inebriates Act,
1912.
- (vi) by omitting the definition of "Rest home" in
the same section;
- 15 (vii) by omitting from the definition of "Ward" in
the same section the words "rest home in
which patients are received or lodged for treat-
ment" and by inserting in lieu thereof the
words "nursing home in which patients are
lodged";
- 20 (b) by omitting from the short heading appearing next Short head-
before section six the words "*rest homes*" and by ing before
inserting in lieu thereof the words "*nursing homes*"; sec. 6.
- (c) (i) by omitting from subsection one of section Sec. 6.
six the words "Minister on the recommenda- (Licenses.)
tion of the Board of Health" and by inserting
25 in lieu thereof the word "Commission";
- (ii) by omitting subsection (1A) of the same
section and by inserting in lieu thereof the
following subsection :—
- 30 (1A) No nursing home shall be carried on,
used, or conducted, except under the authority
of a license granted by the Commission.
- (iii) by omitting from subsection two of the same
section the words "one hundred dollars and
35 not less than twenty dollars" and by inserting
in

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in lieu thereof the words "two hundred dollars and, in addition, to a fine of not exceeding fifty dollars for every day on which the breach continues";

5 (iv) by omitting from subsection three of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";

10 (v) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";

15 (vi) by omitting from subsection four of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";

(vii) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";

20 (viii) by inserting next after the same subsection the following new subsection :—

(4A) The provisions of subsections three and four of this section have effect subject to the provisions of section 10c of this Act.

25 (d) (i) by omitting from subsection one of section Sec. 7. seven the words "Board of Health" and by (Application inserting in lieu thereof the word "Com- for license.) mission";

30 (ii) by omitting from paragraph (a) of subsection two of the same section the words "rest home" and by inserting in lieu thereof the words "nursing home";

35 (e) (i) by omitting from subsection one of section 7A Sec. 7A. the words "President of the Board of Health" (Interim and by inserting in lieu thereof the word license.) "Commission";

(ii)

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- (ii) by omitting from subsection two of the same section the word "Minister" and by inserting in lieu thereof the word "Commission";
- 5 (f) (i) by omitting from section eight the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home"; (Granting of the license.)
- 10 (ii) by omitting from subsection one of the same section the words "Minister, on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission";
- 15 (iii) by omitting from the same subsection the words "Minister as aforesaid" and by inserting in lieu thereof the word "Commission";
- 20 (iv) by omitting from subsection two of the same section the words "Minister shall, as aforesaid, satisfy himself" and by inserting in lieu thereof the words "Commission shall satisfy itself";
- 25 (v) by omitting from the same section the words "rest homes" wherever occurring and by inserting in lieu thereof the words "nursing homes";
- 30 (vi) by omitting subsection five of the same section and by inserting in lieu thereof the following subsection : —
- 35 (5) Where the Commission is satisfied that the particulars specified in a license require amendment, the Commission may cancel the license by notice in writing sent by post to the licensee at the address of the private hospital or nursing home to which the license applies and grant to him a substitute license containing the amended particulars.
- The cancellation of a license under this subsection shall take effect upon the grant of the substitute license.

The

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The cancelled license shall be forwarded by the licensee to the Commission within fourteen days of receipt of a notice under this subsection.

5 A licensee who fails to forward a license in accordance with the provisions of this subsection shall be guilty of an offence against this Act.

10 (g) (i) by omitting from section 8A the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home"; Sec. 8A. (Notification of change of particulars.)

(ii) by omitting from subsection one of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";

15 (iii) by omitting from subsection two of the same section the words "Board of Health" where firstly occurring and by inserting in lieu thereof the word "Commission";

20 (iv) by omitting from the same subsection the words "Board of Health with the approval of the Minister" and by inserting in lieu thereof the word "Commission";

25 (v) by omitting subsection three of the same section;

(h) (i) by omitting from section nine the words "Board of Health" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 9. (Annual license fee to be paid.)

30 (ii) by omitting from subsection four of the same section the words "with the approval of the Minister";

(i)

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- (i) by omitting from paragraph (b) of subsection two of section 9A the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 9A. (Death of licensee.)
- 5 (j) by omitting from subsection one of section 9B the words "Minister on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission"; Sec. 9B. (Transfer of license.)
- 10 (k) by omitting from the short heading appearing next before section ten the words "*rest homes*" and by inserting in lieu thereof the words "*nursing homes*"; Short heading before sec. 10.
- (l) by omitting section ten and by inserting in lieu thereof the following new section :— Subst. sec. 10.
- 15 10. (1) In this section, "establishment" means private hospital or nursing home. Chief nurses and assistant chief nurses.
- (2) The licensee of an establishment is guilty of an offence against this Act unless—
- 20 (a) there is a person who carries out the duties of chief nurse of the establishment and who is responsible for the conduct of the establishment; and
- 25 (b) that person is a registered nurse and holds the prescribed qualifications that are applicable to the chief nurse of the establishment.
- 30 (3) Notwithstanding subsection two of this section, where the regulations prescribe qualifications that are applicable to the chief nurse of an establishment, the licensee of the establishment is not guilty of an offence under that subsection by reason only that the person who carries out the duties of chief nurse of the establishment does not hold those qualifications, if there is a person who is

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a registered nurse and who holds those qualifications and who carries out the duties of assistant chief nurse of the establishment.

5 (4) Notwithstanding subsections two and three of this section, the licensee of an establishment is not guilty of an offence under subsection two of this section by reason only that, for a number of days not exceeding the prescribed number of days during the prescribed period, there is no person
10 who is a registered nurse and who holds the prescribed qualifications that are applicable to the chief nurse of the establishment and who carries out the duties of chief nurse or assistant chief nurse of the establishment.

15 (5) Except as may be provided by the regulations, the licensee of an establishment shall, forthwith after a person commences to carry out the duties of chief nurse or assistant chief nurse of the establishment, notify the Commission in writing
20 of that fact and of the full name and the qualifications of that person.

(6) The Commission—

25 (a) may, by notification sent by post or delivered to the licensee of an establishment, prohibit a person specified therein from carrying out the duties of chief nurse or assistant chief nurse of the establishment except in such circumstances (if any) as are specified therein; and

30 (b) may, by a like notification, revoke a notification under paragraph (a) of this subsection, and a notification under this subsection has effect according to its tenor.

35 (7) The licensee of an establishment is guilty of an offence against this Act if, while a notification sent or delivered to him under
paragraph

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paragraph (a) of subsection six of this section in respect of a person remains unrevoked, that person carries out the duties of chief nurse or assistant chief nurse of the establishment in contravention of the notification.

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(8) Nothing in this Act prevents the licensee of an establishment from carrying out the duties of chief nurse or assistant chief nurse of the establishment if he could carry out those duties had he not been the licensee.

10

(9) It shall be a defence to a prosecution for an offence against this Act arising under this section if the person charged proves that he took all such steps as are reasonable in the circumstances to avoid being guilty of the offence.

15

(10) The regulations may make provision for or with respect to determining the duties of the chief nurses and assistant chief nurses of establishments.

20

(m) (i) by omitting from section 10A the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";

Sec. 10A.
(Responsi-
bility of
licensees.)

(ii) by inserting at the end of the same section the following new subsections :—

25

(2) The licensee of a private hospital or nursing home shall ensure that a registered nurse is on duty in the private hospital or nursing home at all times.

30

Notwithstanding the foregoing provisions of this subsection, the licensee of a nursing home is not guilty of an offence against this Act arising under this subsection by reason that a registered nurse was not on duty in the nursing home during any period if he proves that during that period there was on the premises

35

thereof

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thereof a registered nurse who, though not on duty therein, was available for duty in the event of any emergency, was able to be contacted immediately in that event, and could be expected to enter on duty therein in sufficient time to deal with or assist in dealing with the emergency.

(3) The licensee of a private hospital or nursing home shall ensure that a copy of this Act and a copy of the regulations are at all times on the premises of the private hospital or nursing home and readily available for inspection at those premises by the chief nurse.

(4) Where any damage to the premises of a private hospital or nursing home, or to anything therein or thereon, occurs by reason of fire, the licensee of the private hospital or nursing home shall, except in such cases or classes of cases as are specified or described in the regulations, report the damage to the Commission in writing as soon as practicable after the occurrence.

(n) (i) by omitting from section 10B the words "manager or resident assistant" wherever occurring and by inserting in lieu thereof the words "chief nurse or assistant chief nurse";

Sec. 10B.
(Certain description not to be used.)

(ii) by omitting from subsection one of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";

(iii) by omitting from subsection two of the same section the words "rest home who is registered as a nurse under the Nurses Registration Act, 1953, as amended by subsequent Acts" and by inserting in lieu thereof the words "nursing home who is a registered nurse";

(o)

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- (o) by inserting next after section 10B the following new section :— New sec.
10c.

5 10c. (1) The licensee of a nursing home who, Name of
nursing
home.
after the expiration of six months after the com-
mencement of the Private Hospitals (Amendment)
Act, 1971, does anything, or suffers anything to
be done, whereby the nursing home is held out to
be a hospital by the use of the word "hospital",
whether in its name or otherwise, shall be guilty
10 of an offence against this Act and shall be liable
to a penalty not exceeding two hundred dollars and,
in addition, a penalty not exceeding fifty dollars
for every day on which the offence continues.

15 (2) The provisions of subsection one of
this section apply to a nursing home that is, under
section six of this Act, exempted from the operation
of this Act, and so apply as if the word "licensee"
were omitted therefrom and the words "proprietor
or person-in-charge" were inserted in lieu thereof.

- 20 (p) by omitting from section eleven the word "man- Sec. 11.
(Notice of
certain
diseases.)
ager" wherever occurring and by inserting in lieu
thereof the words "chief nurse";

- 25 (q) by omitting from section twelve the word Sec. 12.
(Notice of
death or
birth.)
"manager" wherever occurring and by inserting in
lieu thereof the words "chief nurse";

- (r) by omitting from subsection one of section thirteen Sec. 13.
(Keeping of
register.)
the words "rest home" wherever occurring and by
inserting in lieu thereof the words "nursing home";

- 30 (s) (i) by omitting from section fourteen the words Sec. 14.
(Inspection.)
"rest home" and by inserting in lieu thereof
the words "nursing home";

- 35 (ii) by omitting from the same section the words
"the president of the Board of Health" and by
inserting in lieu thereof the words "a member
of the Commission";

(iii)

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- (iii) by omitting from the same section the words "Board of Health on that behalf" and by inserting in lieu thereof the words "Commission in that behalf";
- 5 (t) (i) by omitting from subsection one of section 14A Sec. 14A.
the words "Board of Health" and by inserting (Provision
in lieu thereof the word "Commission"; for repairs,
etc.)
- (ii) by omitting from subsection one of the same
section the words "rest home" wherever
10 occurring and by inserting in lieu thereof the
words "nursing home";
- (iii) by omitting from subsection two of the same
section the words "Board of Health with the
approval of the Minister" and by inserting in
15 lieu thereof the word "Commission";
- (u) by omitting from section fifteen the words "rest Sec. 15.
home" wherever occurring and by inserting in lieu (Purpose
thereof the words "nursing home"; for which
hospital,
etc., may
be used.)
- 20 (v) (i) by omitting from subsection one of section Sec. 16.
sixteen the words "Minister may at any time" (Inquiry
and by inserting in lieu thereof the words as to
"Commission may at any time, and shall, if manage-
ment.)
the Minister so directs,";
- (ii) by omitting from the same subsection the
25 words "rest home" and by inserting in lieu
thereof the words "nursing home";
- (iii) by omitting from the same subsection the
word "him" and by inserting in lieu thereof
the word "it";
- 30 (iv) by omitting from subsection two of the same
section the word "Minister" and by inserting in
lieu thereof the words "Commission and, if the
inquiry was made at the direction of the
Minister, to the Minister";

(v)

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- (v) by omitting from subsection three of the same section the words "Minister may, if he" and by inserting in lieu thereof the words "Commission may, if it";
- 5 (vi) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";
- 10 (w) (i) by omitting from subsection one of section 16A Sec. 16A. the words "Minister may, on the recommenda- (Revocation of licenses.) tion of the Board of Health" and by inserting in lieu thereof the words "Commission may";
- 15 (ii) by omitting from the same subsection the words "Board of Health" where secondly and thirdly occurring and by inserting in lieu thereof the word "Commission";
- (iii) by omitting from the same subsection the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- 20 (iv) by omitting from paragraph (e) of the same subsection the word "if";
- (v) by omitting from paragraph (f) of the same subsection the words "or three";
- 25 (vi) by omitting from the same paragraph the words "this Act." and by inserting in lieu thereof the following words and new paragraph :—
- this Act; or
- 30 (g) the private hospital or nursing home ceases to operate as a private hospital or nursing home.

(vii)

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- (vii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection : —
- 5 (2) Before revoking a license under this section, the Commission shall serve notice in writing on the licensee that it proposes to revoke the license.
- Any such notice shall—
- 10 (a) specify the grounds upon which it is proposed to revoke the license; and
- (b) appoint a time within which the licensee may show cause why the license should not be revoked.
- 15 (x) (i) by omitting from section 16B the words “rest home” and by inserting in lieu thereof the words “nursing home”; Sec. 16B. (When revocation to take effect.)
- (ii) by omitting from the same section the word “Minister” and by inserting in lieu thereof the word “Commission”;
- 20 (y) by omitting from section 16C the words “rest home” wherever occurring and by inserting in lieu thereof the words “nursing home”; Sec. 16C. (Appeal against revocation.)
- 25 (z) (i) by omitting from section seventeen the words “treatment, attendance, or” wherever occurring and by inserting in lieu thereof the words “treatment or attendance, or nursing”; Sec. 17. (Evidence that house, &c., is a private hospital or nursing home.)
- (ii) by omitting from the same section the words “rest home” and by inserting in lieu thereof the words “nursing home”;
- 30 (aa) (i) by omitting from section eighteen the words “Board of Health” wherever occurring and by inserting in lieu thereof the word “Commission”; Sec. 18. (Regulations.)

(ii)

Private Hospitals (Amendment).

- (ii) by omitting from the same section the words "rest homes" wherever occurring and by inserting in lieu thereof the words "nursing homes";
- 5 (iii) by omitting from subsection two of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- 10 (iv) by omitting from paragraph (c) of the same subsection the words "managers and resident assistants" and by inserting in lieu thereof the words "chief nurses and assistant chief nurses";
- 15 (v) by omitting from paragraph (e) of the same subsection the words "drainage and provision of fire escapes" and by inserting in lieu thereof the words "drainage, the sufficiency and efficiency of the means of escape in case of fire, any aspect of the construction and design of the buildings which relates to safety from fire and fire protection and the means of detecting and extinguishing fire";
- 20 (vi) by inserting next after paragraph (v) of the same subsection the following new paragraphs :—
- 25 (w) prescribing the records to be kept by private hospitals or nursing homes;
- 30 (x) prescribing the information to be furnished to the Commission in respect of private hospitals and nursing homes, the persons who are required to furnish it, the times within which it is to be furnished and the method of furnishing it.
- 35 (vii) by omitting from subsection four of the same section the words "one hundred dollars" and by inserting in lieu thereof the words "two hundred dollars";

(bb)

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- (bb) by omitting from section nineteen the words "rest home" and by inserting in lieu thereof the words "nursing home"; Sec. 19. (Medicines dispensed by pharmacists.)
- 5 (cc) (i) by omitting from section twenty-one the words "Board of Health" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 21. (Certificate as to certain matters.)
- 10 (ii) by omitting from the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- (dd) by omitting from section twenty-two the words "Board of Health" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 22. (Notices.)
- 15 (ee) by omitting from section twenty-four the words "Consolidated Revenue Fund" and by inserting in lieu thereof the words "the Hospital Fund established under the Public Hospitals Act, 1929"; Sec. 24. (Fees.)
- 20 (ff) (i) by inserting in section twenty-five after the word "done" where firstly occurring the words "or omitted to be done"; Sec. 25. (Exoneration of certain persons.)
- 25 (ii) by inserting in the same section after the word "Health" where secondly occurring the words ", before the commencement of the Private Hospitals (Amendment) Act, 1971, or done or omitted to be done by the Commission, or by any member, officer or employee of or person authorised by the Commission, after that commencement,";

Private Hospitals (Amendment).

(gg) by inserting next after section twenty-five the following new section :—

New sec.
26

5 26. (1) The Commission may, by instrument in writing, delegate to a person specified in the instrument of delegation the exercise or performance of such of its powers, authorities, duties and functions conferred or imposed upon it by or under this Act (except this power of delegation and the making of a recommendation for the purposes of subsection one of section eighteen of this Act) as may be specified in the instrument and may in like manner revoke wholly or in part any such delegation.

Delegation
by Com-
mission.

15 (2) Any power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time by the delegate in accordance with the terms of the delegation.

20 (3) A delegation made under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the specified powers, authorities, duties or functions or as to time or circumstances as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Commission may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

30 (5) Any act or thing done or suffered by a delegate when acting in the exercise of a delegation made under this section and within the terms of the delegation shall have the like force or effect as if the act or thing had been done or suffered by the Commission.

Private Hospitals (Amendment).

3. The Public Hospitals Act, 1929, is amended—

Amendment
of Act No.
8, 1929.

- (a) (i) by inserting next after the definition of "In-patient" in section three the following new definition :—

Sec. 3.
(Interpre-
tation.)

5 "Nursing home" means a nursing home
within the meaning of the Private
Hospitals Act, 1908.

- (ii) by inserting next after the definition of "Prescribed" in the same section the following new definition :—

10 "Private hospital" means a private hospital
within the meaning of the Private
Hospitals Act, 1908.

- (b) by inserting in subsection one of section five after the word "Act" the words "and the Private Hos-
pitals Act, 1908";

Sec. 5.
(Appoint-
ment of
Commis-
sion.)

- (c) by inserting in subsection four of section eight after the word "hospital" the words "or any present or
past patient of any private hospital or nursing
home";

Sec. 8.
(Appoint-
ment of
officers and
employees.)

- (d) (i) by omitting from paragraph (a) of section nine the words "or associated organisation" and by inserting in lieu thereof the words
", associated organisation, private hospital or
nursing home;";

Sec. 9.
(Members
not to be
personally
interested
in contracts,
&c.)

- (ii) by omitting from paragraph (ii) of the proviso to the same section the words "or
associated organisation" and by inserting in
lieu thereof the words ", associated organisa-
tion, private hospital or nursing home";

- (iii) by inserting in paragraph (iii) of the same proviso after the word "organisation" the
words "or the governing authority or licensee

(within

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(within the meaning of the Private Hospitals Act, 1908) of any private hospital or nursing home”;

- 5 (e) by inserting in subsection one of section ten after the word “Act” the words “and the Private Hospitals Act, 1908”; Sec. 10. (Salaries and expenses paid out of Hospital Fund.)
- 10 (f) by omitting from section 11A the words “such inquiry in respect of a private hospital to which the provisions of the Private Hospitals Act, 1908, as amended by subsequent Acts, applies, unless the funds for the establishment or maintenance of such private hospital are derived wholly or in part from the public by voluntary contributions” and by inserting in lieu thereof the words “inquiry under this section in respect of a private hospital or nursing home”. Sec. 11A. (Inquiries by Commission.)
- 15
4. (1) Any act, matter or thing that— Savings.
- 20 (a) was done or omitted to be done under the Principal Act (except section ten or fourteen thereof) before the commencement of this Act by, to or in respect of the Minister, the Board of Health or the Secretary of the Board of Health; and
- 25 (b) could, when it was so done or omitted to be done, have been done or omitted to be done by, to or in respect of the Commission or the Secretary of the Commission, as the case may require, had this Act been then in force, shall, after that commencement, be deemed to have been done or omitted to be done by, to or in respect of the Commission or Secretary of the Commission, as the case may require.
- 30

(2)

Private Hospitals (Amendment).

(2) Subsection one of this section has effect in respect of any act, matter or thing done or omitted to be done—

- 5 (a) by the Minister—whether or not it was done or omitted to be done, or required to be done or omitted to be done, on the recommendation of the Board of Health; or
- (b) by the Board of Health—whether or not it was done or omitted to be done, or required to be done or omitted to be done, with the approval of the
10 Minister.

(3) A license granted by the Minister under subsection (1A) of section six of the Principal Act and in force immediately before the commencement of this Act shall, after that commencement, be deemed to have been granted by the
15 Commission under subsection (1A) of section six of the Principal Act, as amended by this Act.

(4) A reference, in any other Act, or in any by-law, regulation or ordinance, or in any license granted under the Principal Act, or in any other instrument or document whatsoever, of the same or a different kind or nature, to a rest
20 home shall be read and construed as a reference to a nursing home.

(5) Subject to this section, any act, matter or thing done or omitted to be done under the Principal Act (except
25 section ten thereof) before the commencement of this Act in respect of or in relation to an establishment that was a rest home shall, after that commencement, have the same effect as it would have had in respect of or in relation to that establishment had the amendments made by this Act not been made.

30 (6) Any application made to the President of the Board of Health under section 7A of the Principal Act and pending immediately before the commencement of this Act shall be deemed to have been made to the Commission.

(7)

Private Hospitals (Amendment).

(7) Any interim license granted by the President of the Board of Health under section 7A of the Principal Act and in force immediately before the commencement of this Act shall be deemed to have been granted by the Commission.

5 (8) All suits, actions and proceedings pending immediately before the commencement of this Act at the suit of any person against the Minister or the Board of Health in respect of any act, matter or thing done or omitted to be done under or in purported compliance with the Principal Act shall
10 be suits, actions and proceedings pending at the suit of that person against the Commission.

(9) In this section, "rest home" has the meaning ascribed to that expression in the Principal Act.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 29 April, 1971.*

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. , 1971.

An Act to transfer the exercise and performance of certain powers, authorities, duties and functions in relation to private hospitals and nursing homes to The Hospitals Commission of New South Wales; to make further provisions relating to the management of private hospitals and nursing homes; for these and other purposes to amend the Private Hospitals Act, 1908, and the Public Hospitals Act, 1929; and for purposes connected therewith.

BE

Private Hospitals (Amendment).

5 **B**E it enacted by the Queen'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 "Private Hospitals (Amendment) Act, 1971".

Short title,
commence-
ment and
construction.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation
10 published in the Gazette.

(3) The Private Hospitals Act, 1908, is in this Act referred to as the Principal Act.

2. The Principal Act is amended—

Amendment
of Act No.
14, 1908.

15 (a) (i) by inserting next after the definition of Sec. 2.
"Building" in section two the following new
definition :—

(Defini-
tions.)

20 "Commission" means The Hospitals Com-
mission of New South Wales con-
stituted under the Public Hospitals
Act, 1929.

(ii) by omitting the definition of "Manager" in the
same section;

25 (iii) by inserting next before the definition of
"Patient" in the same section the following
new definition :—

"Nursing home" means a building estab-
lished or used or intended to be
established or used to board and lodge
for fee or reward patients—

30 (a) who are recuperating from
illness or childbirth and who
require only nursing care; or
(b)

Private Hospitals (Amendment).

5 (b) who, on account of age, senility, infirmity, chronic ill-health or other condition, require the exercise of oversight, nursing care and control with or without occasional attention by a medical practitioner,

but does not include—

10 (c) an institution conducted by or on behalf of the State;

(d) an incorporated hospital or separate institution within the meaning of the Public Hospitals Act, 1929;

15 (e) a private hospital;

(f) an authorised hospital within the meaning of the Mental Health Act, 1958; or

20 (g) an institution within the meaning of the Inebriates Act, 1912.

(iv) by omitting from the definition of "Patient" in the same section the words "rest home" and by inserting in lieu thereof the words "nursing home";

(v) by omitting the definition of "Private hospital" in the same section and by inserting in lieu thereof the following definition :—

30 "Private hospital" means a building established or used or intended to be established or used for the treatment for fee or reward of patients, but does not include—

35 (a) an institution conducted by or on behalf of the State;

(b)

Private Hospitals (Amendment).

- (b) an incorporated hospital or separate institution within the meaning of the Public Hospitals Act, 1929;
- 5 (c) a nursing home;
- (d) an authorised hospital within the meaning of the Mental Health Act, 1958; or
- 10 (e) an institution within the meaning of the Inebriates Act, 1912.
- (vi) by omitting the definition of "Rest home" in the same section;
- 15 (vii) by omitting from the definition of "Ward" in the same section the words "rest home in which patients are received or lodged for treatment" and by inserting in lieu thereof the words "nursing home in which patients are lodged";
- 20 (b) by omitting from the short heading appearing next before section six the words "*rest homes*" and by inserting in lieu thereof the words "*nursing homes*"; Short heading before sec. 6.
- (c) (i) by omitting from subsection one of section six the words "Minister on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission"; Sec. 6. (Licenses.)
- 25 (ii) by omitting subsection (1A) of the same section and by inserting in lieu thereof the following subsection :—
- 30 (1A) No nursing home shall be carried on, used, or conducted, except under the authority of a license granted by the Commission.
- (iii) by omitting from subsection two of the same section the words "one hundred dollars and not less than twenty dollars" and by inserting
- 35 in

Private Hospitals (Amendment).

- in lieu thereof the words "two hundred dollars and, in addition, to a fine of not exceeding fifty dollars for every day on which the breach continues";
- 5 (iv) by omitting from subsection three of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";
- 10 (v) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";
- (vi) by omitting from subsection four of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";
- 15 (vii) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";
- 20 (viii) by inserting next after the same subsection the following new subsection :—
- (4A) The provisions of subsections three and four of this section have effect subject to the provisions of section 10c of this Act.
- 25 (d) (i) by omitting from subsection one of section Sec. 7. seven the words "Board of Health" and by (Application inserting in lieu thereof the word "Com- for license.) mission";
- (ii) by omitting from paragraph (a) of subsection two of the same section the words "rest home" and by inserting in lieu thereof the words "nursing home";
- 30 (e) (i) by omitting from subsection one of section 7A Sec. 7A. the words "President of the Board of Health" (Interim and by inserting in lieu thereof the word license.) "Commission";
- 35 (ii)

Private Hospitals (Amendment).

- (ii) by omitting from subsection two of the same section the word "Minister" and by inserting in lieu thereof the word "Commission";
- 5 (f) (i) by omitting from section eight the words "rest Sec. 8.
home" wherever occurring and by inserting in (Granting
lieu thereof the words "nursing home"; of the
license.)
- (ii) by omitting from subsection one of the same section the words "Minister, on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission";
- 10 (iii) by omitting from the same subsection the words "Minister as aforesaid" and by inserting in lieu thereof the word "Commission";
- 15 (iv) by omitting from subsection two of the same section the words "Minister shall, as aforesaid, satisfy himself" and by inserting in lieu thereof the words "Commission shall satisfy itself";
- 20 (v) by omitting from the same section the words "rest homes" wherever occurring and by inserting in lieu thereof the words "nursing homes";
- (vi) by omitting subsection five of the same section and by inserting in lieu thereof the following subsection :—
- 25

(5) Where the Commission is satisfied that the particulars specified in a license require amendment, the Commission may cancel the license by notice in writing sent by post to the licensee at the address of the private hospital or nursing home to which the license applies and grant to him a substitute license containing the amended particulars.

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The cancellation of a license under this subsection shall take effect upon the grant of the substitute license.

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The

Private Hospitals (Amendment).

The cancelled license shall be forwarded by the licensee to the Commission within fourteen days of receipt of a notice under this subsection.

5 A licensee who fails to forward a license in accordance with the provisions of this subsection shall be guilty of an offence against this Act.

10 (g) (i) by omitting from section 8A the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home"; Sec. 8A. (Notification of change of particulars.)

(ii) by omitting from subsection one of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";

15 (iii) by omitting from subsection two of the same section the words "Board of Health" where firstly occurring and by inserting in lieu thereof the word "Commission";

20 (iv) by omitting from the same subsection the words "Board of Health with the approval of the Minister" and by inserting in lieu thereof the word "Commission";

25 (v) by omitting subsection three of the same section;

(h) (i) by omitting from section nine the words "Board of Health" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 9. (Annual license fee to be paid.)

30 (ii) by omitting from subsection four of the same section the words "with the approval of the Minister";

(i)

Private Hospitals (Amendment).

- (i) by omitting from paragraph (b) of subsection two of section 9A the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission";
- 5 (j) by omitting from subsection one of section 9B the words "Minister on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission";
- 10 (k) by omitting from the short heading appearing next before section ten the words "*rest homes*" and by inserting in lieu thereof the words "*nursing homes*";
- (l) by omitting section ten and by inserting in lieu thereof the following new section :—
- 15 10. (1) In this section, "establishment" means private hospital or nursing home.
- (2) The licensee of an establishment is guilty of an offence against this Act unless—
- 20 (a) there is a person who carries out the duties of chief nurse of the establishment and who is responsible for the conduct of the establishment; and
- 25 (b) that person is a registered nurse and holds the prescribed qualifications that are applicable to the chief nurse of the establishment.
- 30 (3) Notwithstanding subsection two of this section, where the regulations prescribe qualifications that are applicable to the chief nurse of an establishment, the licensee of the establishment is not guilty of an offence under that subsection by reason only that the person who carries out the duties of chief nurse of the establishment does not hold those qualifications, if there is a person who is

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a registered nurse and who holds those qualifications and who carries out the duties of assistant chief nurse of the establishment.

5 (4) Notwithstanding subsections two and three of this section, the licensee of an establishment is not guilty of an offence under subsection two of this section by reason only that, for a number of days not exceeding the prescribed number of days during the prescribed period, there is no person
10 who is a registered nurse and who holds the prescribed qualifications that are applicable to the chief nurse of the establishment and who carries out the duties of chief nurse or assistant chief nurse of the establishment.

15 (5) Except as may be provided by the regulations, the licensee of an establishment shall, forthwith after a person commences to carry out the duties of chief nurse or assistant chief nurse of the establishment, notify the Commission in writing
20 of that fact and of the full name and the qualifications of that person.

(6) The Commission—

(a) may, by notification sent by post or delivered to the licensee of an establishment, prohibit a person specified therein from carrying out the duties of chief nurse or assistant chief nurse of the establishment except in such circumstances (if any) as are specified therein; and
25

30 (b) may, by a like notification, revoke a notification under paragraph (a) of this subsection, and a notification under this subsection has effect according to its tenor.

35 (7) The licensee of an establishment is guilty of an offence against this Act if, while a notification sent or delivered to him under paragraph

Private Hospitals (Amendment).

5 paragraph (a) of subsection six of this section in respect of a person remains unrevoked, that person carries out the duties of chief nurse or assistant chief nurse of the establishment in contravention of the notification.

10 (8) Nothing in this Act prevents the licensee of an establishment from carrying out the duties of chief nurse or assistant chief nurse of the establishment if he could carry out those duties had he not been the licensee.

15 (9) It shall be a defence to a prosecution for an offence against this Act arising under this section if the person charged proves that he took all such steps as are reasonable in the circumstances to avoid being guilty of the offence.

(10) The regulations may make provision for or with respect to determining the duties of the chief nurses and assistant chief nurses of establishments.

20 (m) (i) by omitting from section 10A the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home"; Sec. 10A.
(Responsibility of
licensees.)

(ii) by inserting at the end of the same section the following new subsections :—

25 (2) The licensee of a private hospital shall ensure that a registered nurse is on duty in the private hospital at all times.

(3)

Private Hospitals (Amendment).

(3) The licensee of a private hospital or nursing home shall ensure that a copy of this Act and a copy of the regulations are at all times on the premises of the private hospital or nursing home and readily available for inspection at those premises by the chief nurse.

(4) Where any damage to the premises of a private hospital or nursing home, or to anything therein or thereon, occurs by reason of fire, the licensee of the private hospital or nursing home shall, except in such cases or classes of cases as are specified or described in the regulations, report the damage to the Commission in writing as soon as practicable after the occurrence.

(n) (i) by omitting from section 10B the words "manager or resident assistant" wherever occurring and by inserting in lieu thereof the words "chief nurse or assistant chief nurse";

Sec. 10B.
(Certain description not to be used.)

(ii) by omitting from subsection one of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";

(iii) by omitting from subsection two of the same section the words "rest home who is registered as a nurse under the Nurses Registration Act, 1953, as amended by subsequent Acts" and by inserting in lieu thereof the words "nursing home who is a registered nurse";

(o)

Private Hospitals (Amendment).

- (o) by inserting next after section 10B the following new section :— New sec.
10c.

5 10c. (1) The licensee of a nursing home who, Name of
nursing
home.
after the expiration of six months after the com-
mencement of the Private Hospitals (Amendment)
Act, 1971, does anything, or suffers anything to
be done, whereby the nursing home is held out to
be a hospital by the use of the word "hospital",
10 whether in its name or otherwise, shall be guilty
of an offence against this Act and shall be liable
to a penalty not exceeding two hundred dollars and,
in addition, a penalty not exceeding fifty dollars
for every day on which the offence continues.

15 (2) The provisions of subsection one of
this section apply to a nursing home that is, under
section six of this Act, exempted from the operation
of this Act, and so apply as if the word "licensee"
were omitted therefrom and the words "proprietor
or person-in-charge" were inserted in lieu thereof.

- 20 (p) by omitting from section eleven the word "man- Sec. 11.
ager" wherever occurring and by inserting in lieu (Notice of
certain
diseases.)
thereof the words "chief nurse";

- 25 (q) by omitting from section twelve the word Sec. 12.
"manager" wherever occurring and by inserting in (Notice of
death or
birth.)
lieu thereof the words "chief nurse";

- (r) by omitting from subsection one of section thirteen Sec. 13.
the words "rest home" wherever occurring and by (Keeping of
register.)
inserting in lieu thereof the words "nursing home";

- 30 (s) (i) by omitting from section fourteen the words Sec. 14.
"rest home" and by inserting in lieu thereof (Inspection.)
the words "nursing home";

- (ii) by omitting from the same section the words
"the president of the Board of Health" and by
inserting in lieu thereof the words "a member
35 of the Commission";

(iii)

Private Hospitals (Amendment).

- (iii) by omitting from the same section the words "Board of Health on that behalf" and by inserting in lieu thereof the words "Commission in that behalf";
- 5 (t) (i) by omitting from subsection one of section 14A Sec. 14A. the words "Board of Health" and by inserting (Provision for repairs, etc.) in lieu thereof the word "Commission";
- (ii) by omitting from subsection one of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- 10 (iii) by omitting from subsection two of the same section the words "Board of Health with the approval of the Minister" and by inserting in lieu thereof the word "Commission";
- 15 (u) by omitting from section fifteen the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home"; Sec. 15. (Purpose for which hospital, etc., may be used.)
- 20 (v) (i) by omitting from subsection one of section sixteen the words "Minister may at any time" and by inserting in lieu thereof the words "Commission may at any time, and shall, if the Minister so directs,"; Sec. 16. (Inquiry as to management.)
- (ii) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";
- 25 (iii) by omitting from the same subsection the word "him" and by inserting in lieu thereof the word "it";
- 30 (iv) by omitting from subsection two of the same section the word "Minister" and by inserting in lieu thereof the words "Commission and, if the inquiry was made at the direction of the Minister, to the Minister";

(v)

Private Hospitals (Amendment).

- (v) by omitting from subsection three of the same section the words "Minister may, if he" and by inserting in lieu thereof the words "Commission may, if it";
- 5 (vi) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";
- 10 (w) (i) by omitting from subsection one of section 16A Sec. 16A. the words "Minister may, on the recommenda- (Revocation of licenses.) tion of the Board of Health" and by inserting in lieu thereof the words "Commission may";
- 15 (ii) by omitting from the same subsection the words "Board of Health" where secondly and thirdly occurring and by inserting in lieu thereof the word "Commission";
- (iii) by omitting from the same subsection the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- 20 (iv) by omitting from paragraph (e) of the same subsection the word "if";
- (v) by omitting from paragraph (f) of the same subsection the words "or three";
- 25 (vi) by omitting from the same paragraph the words "this Act." and by inserting in lieu thereof the following words and new paragraph : —
- this Act; or
- 30 (g) the private hospital or nursing home ceases to operate as a private hospital or nursing home.

(vii)

Private Hospitals (Amendment).

(vii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection : —

5 (2) Before revoking a license under this section, the Commission shall serve notice in writing on the licensee that it proposes to revoke the license.

Any such notice shall—

10 (a) specify the grounds upon which it is proposed to revoke the license; and

(b) appoint a time within which the licensee may show cause why the license should not be revoked.

15 (x) (i) by omitting from section 16B the words “rest home” and by inserting in lieu thereof the words “nursing home”; Sec. 16B. (When revocation to take effect.)

(ii) by omitting from the same section the word “Minister” and by inserting in lieu thereof the word “Commission”;

20 (y) by omitting from section 16c the words “rest home” wherever occurring and by inserting in lieu thereof the words “nursing home”; Sec. 16c. (Appeal against revocation.)

25 (z) (i) by omitting from section seventeen the words “treatment, attendance, or” wherever occurring and by inserting in lieu thereof the words “treatment or attendance, or nursing”; Sec. 17. (Evidence that house, &c., is a private hospital or nursing home.)

(ii) by omitting from the same section the words “rest home” and by inserting in lieu thereof the words “nursing home”;

30 (aa) (i) by omitting from section eighteen the words “Board of Health” wherever occurring and by inserting in lieu thereof the word “Commission”; Sec. 18. (Regulations.)

(ii)

Private Hospitals (Amendment).

- (ii) by omitting from the same section the words "rest homes" wherever occurring and by inserting in lieu thereof the words "nursing homes";
- 5 (iii) by omitting from subsection two of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- 10 (iv) by omitting from paragraph (c) of the same subsection the words "managers and resident assistants" and by inserting in lieu thereof the words "chief nurses and assistant chief nurses";
- 15 (v) by omitting from paragraph (e) of the same subsection the words "drainage and provision of fire escapes" and by inserting in lieu thereof the words "drainage, the sufficiency and efficiency of the means of escape in case of fire, any aspect of the construction and design of the buildings which relates to safety from fire and fire protection and the means of detecting and extinguishing fire";
- 20 (vi) by inserting next after paragraph (v) of the same subsection the following new paragraphs :—
- 25 (w) prescribing the records to be kept by private hospitals or nursing homes;
- 30 (x) prescribing the information to be furnished to the Commission in respect of private hospitals and nursing homes, the persons who are required to furnish it, the times within which it is to be furnished and the method of furnishing it.
- 35 (vii) by omitting from subsection four of the same section the words "one hundred dollars" and by inserting in lieu thereof the words "two hundred dollars";

(bb)

Private Hospitals (Amendment).

- (bb) by omitting from section nineteen the words "rest home" and by inserting in lieu thereof the words "nursing home"; Sec. 19. (Medicines dispensed by pharmacists.)
- 5 (cc) (i) by omitting from section twenty-one the words "Board of Health" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 21. (Certificate as to certain matters.)
- 10 (ii) by omitting from the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- (dd) by omitting from section twenty-two the words "Board of Health" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 22. (Notices.)
- 15 (ee) by omitting from section twenty-four the words "Consolidated Revenue Fund" and by inserting in lieu thereof the words "the Hospital Fund established under the Public Hospitals Act, 1929"; Sec. 24. (Fees.)
- 20 (ff) (i) by inserting in section twenty-five after the word "done" where firstly occurring the words "or omitted to be done"; Sec. 25. (Exoneration of certain persons.)
- 25 (ii) by inserting in the same section after the word "Health" where secondly occurring the words ", before the commencement of the Private Hospitals (Amendment) Act, 1971, or done or omitted to be done by the Commission, or by any member, officer or employee of or person authorised by the Commission, after that commencement,";

Private Hospitals (Amendment).

(gg) by inserting next after section twenty-five the following new section :—

New sec.
26.

5 26. (1) The Commission may, by instrument in writing, delegate to a person specified in the instrument of delegation the exercise or performance of such of its powers, authorities, duties and functions conferred or imposed upon it by or under this Act (except this power of delegation and the making of a recommendation for the purposes of subsection one of section eighteen of this Act) as may be specified in the instrument and may in like manner revoke wholly or in part any such delegation.

Delegation
by Com-
mission.

15 (2) Any power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time by the delegate in accordance with the terms of the delegation.

20 (3) A delegation made under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the specified powers, authorities, duties or functions or as to time or circumstances as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Commission may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

30 (5) Any act or thing done or suffered by a delegate when acting in the exercise of a delegation made under this section and within the terms of the delegation shall have the like force or effect as if the act or thing had been done or suffered by the Commission.

35

Private Hospitals (Amendment).

3. The Public Hospitals Act, 1929, is amended—

Amendment
of Act No.
8, 1929.

- (a) (i) by inserting next after the definition of Sec. 3.
"In-patient" in section three the following new (Interpre-
definition : — tation.)
- 5 "Nursing home" means a nursing home
within the meaning of the Private
Hospitals Act, 1908.
- (ii) by inserting next after the definition of
"Prescribed" in the same section the following
10 new definition : —
- "Private hospital" means a private hospital
within the meaning of the Private
Hospitals Act, 1908.
- (b) by inserting in subsection one of section five after Sec. 5.
15 the word "Act" the words "and the Private Hos- (Appoint-
pitals Act, 1908"; ment of
Commission.)
- (c) by inserting in subsection four of section eight after Sec. 8.
the word "hospital" the words "or any present or (Appoint-
20 past patient of any private hospital or nursing ment of
home"; officers and
employees.)
- (d) (i) by omitting from paragraph (a) of section Sec. 9.
nine the words "or associated organisation" (Members
and by inserting in lieu thereof the words not to be
25 ", associated organisation, private hospital or personally
nursing home"; interested
in contracts,
&c.)
- (ii) by omitting from paragraph (ii) of the
proviso to the same section the words "or
associated organisation" and by inserting in
lieu thereof the words ", associated organisa-
30 tion, private hospital or nursing home";
- (iii) by inserting in paragraph (iii) of the same
proviso after the word "organisation" the
words "or the governing authority or licensee
(within

Private Hospitals (Amendment).

(within the meaning of the Private Hospitals Act, 1908) of any private hospital or nursing home”;

- 5 (e) by inserting in subsection one of section ten after the word “Act” the words “and the Private Hospitals Act, 1908”; Sec. 10.
(Salaries and expenses paid out of Hospital Fund.)
- 10 (f) by omitting from section 11A the words “such inquiry in respect of a private hospital to which the provisions of the Private Hospitals Act, 1908, as amended by subsequent Acts, applies, unless the funds for the establishment or maintenance of such private hospital are derived wholly or in part from the public by voluntary contributions” and by inserting in lieu thereof the words “inquiry under this section in respect of a private hospital or nursing home”. Sec. 11A.
(Inquiries by Commission.)
- 15

4. (1) Any act, matter or thing that—

Savings.

- 20 (a) was done or omitted to be done under the Principal Act (except section ten or fourteen thereof) before the commencement of this Act by, to or in respect of the Minister, the Board of Health or the Secretary of the Board of Health; and
- 25 (b) could, when it was so done or omitted to be done, have been done or omitted to be done by, to or in respect of the Commission or the Secretary of the Commission, as the case may require, had this Act been then in force, shall, after that commencement, be deemed to have been done or omitted to be done by, to or in respect of the Commission or Secretary of the Commission, as the case may require.
- 30

(2)

Private Hospitals (Amendment).

(2) Subsection one of this section has effect in respect of any act, matter or thing done or omitted to be done—

- 5 (a) by the Minister—whether or not it was done or omitted to be done, or required to be done or omitted to be done, on the recommendation of the Board of Health; or
- 10 (b) by the Board of Health—whether or not it was done or omitted to be done, or required to be done or omitted to be done, with the approval of the Minister.

(3) A license granted by the Minister under subsection (1A) of section six of the Principal Act and in force immediately before the commencement of this Act shall, after that commencement, be deemed to have been granted by the
15 Commission under subsection (1A) of section six of the Principal Act, as amended by this Act.

(4) A reference, in any other Act, or in any by-law, regulation or ordinance, or in any license granted under the Principal Act, or in any other instrument or document whatsoever, of the same or a different kind or nature, to a rest
20 home shall be read and construed as a reference to a nursing home.

(5) Subject to this section, any act, matter or thing done or omitted to be done under the Principal Act (except
25 section ten thereof) before the commencement of this Act in respect of or in relation to an establishment that was a rest home shall, after that commencement, have the same effect as it would have had in respect of or in relation to that establishment had the amendments made by this Act not been made.

30 (6) Any application made to the President of the Board of Health under section 7A of the Principal Act and pending immediately before the commencement of this Act shall be deemed to have been made to the Commission.

(7)

Private Hospitals (Amendment).

(7) Any interim license granted by the President of the Board of Health under section 7A of the Principal Act and in force immediately before the commencement of this Act shall be deemed to have been granted by the Commission.

5 (8) All suits, actions and proceedings pending immediately before the commencement of this Act at the suit of any person against the Minister or the Board of Health in respect of any act, matter or thing done or omitted to be done under or in purported compliance with the Principal Act shall
10 be suits, actions and proceedings pending at the suit of that person against the Commission.

(9) In this section, "rest home" has the meaning ascribed to that expression in the Principal Act.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971
[20c]

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(7) The Board of Directors of the Federal Reserve Bank of New York, in its capacity as the Board of Directors of the Federal Reserve Bank of New York, has the honor to acknowledge the receipt of the letter of the Board of Directors of the Federal Reserve Bank of New York, dated 10/1/71, regarding the proposed merger of the Federal Reserve Bank of New York and the Federal Reserve Bank of New York.

The Board of Directors of the Federal Reserve Bank of New York, in its capacity as the Board of Directors of the Federal Reserve Bank of New York, has the honor to acknowledge the receipt of the letter of the Board of Directors of the Federal Reserve Bank of New York, dated 10/1/71, regarding the proposed merger of the Federal Reserve Bank of New York and the Federal Reserve Bank of New York.

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THE AMERICAN ...

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No. , 1971.

A BILL

To transfer the exercise and performance of certain powers, authorities, duties and functions in relation to private hospitals and nursing homes to The Hospitals Commission of New South Wales; to make further provisions relating to the management of private hospitals and nursing homes; for these and other purposes to amend the Private Hospitals Act, 1908, and the Public Hospitals Act, 1929; and for purposes connected therewith.

[MR JAGO—20 April, 1971.]

BE

Private Hospitals (Amendment).

5 **B**E it enacted by the Queen'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 "Private Hospitals (Amendment) Act, 1971". Short title, commencement and construction.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation
10 published in the Gazette.

(3) The Private Hospitals Act, 1908, is in this Act referred to as the Principal Act.

2. The Principal Act is amended—

Amendment
of Act No.
14, 1908.

15 (a) (i) by inserting next after the definition of Sec. 2.
"Building" in section two the following new (Definitions.)
definition :—

20 "Commission" means The Hospitals Commission of New South Wales constituted under the Public Hospitals Act, 1929.

(ii) by omitting the definition of "Manager" in the same section ;

25 (iii) by inserting next before the definition of "Patient" in the same section the following new definition :—

"Nursing home" means a building established or used or intended to be established or used to board and lodge for fee or reward patients—

30 (a) who are recuperating from illness or childbirth and who require only nursing care ; or
(b)

Private Hospitals (Amendment).

- 5 (b) who, on account of age, senility, infirmity, chronic ill-health or other condition, require the exercise of oversight, nursing care and control with or without occasional attention by a medical practitioner,
- 10 but does not include—
- 15 (c) an institution conducted by or on behalf of the State;
- (d) an incorporated hospital or separate institution within the meaning of the Public Hospitals Act, 1929;
- (e) a private hospital;
- (f) an authorised hospital within the meaning of the Mental Health Act, 1958; or
- 20 (g) an institution within the meaning of the Inebriates Act, 1912.
- 25 (iv) by omitting from the definition of "Patient" in the same section the words "rest home" and by inserting in lieu thereof the words "nursing home";
- (v) by omitting the definition of "Private hospital" in the same section and by inserting in lieu thereof the following definition :—
- 30 "Private hospital" means a building established or used or intended to be established or used for the treatment for fee or reward of patients, but does not include—
- 35 (a) an institution conducted by or on behalf of the State;
- (b)

Private Hospitals (Amendment).

- (b) an incorporated hospital or separate institution within the meaning of the Public Hospitals Act, 1929;
- 5 (c) a nursing home;
- (d) an authorised hospital within the meaning of the Mental Health Act, 1958; or
- 10 (e) an institution within the meaning of the Inebriates Act, 1912.
- (vi) by omitting the definition of "Rest home" in the same section;
- 15 (vii) by omitting from the definition of "Ward" in the same section the words "rest home in which patients are received or lodged for treatment" and by inserting in lieu thereof the words "nursing home in which patients are lodged";
- 20 (b) by omitting from the short heading appearing next before section six the words "*rest homes*" and by inserting in lieu thereof the words "*nursing homes*"; Short heading before sec. 6.
- (c) (i) by omitting from subsection one of section six the words "Minister on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission"; Sec. 6. (Licenses.)
- 25 (ii) by omitting subsection (1A) of the same section and by inserting in lieu thereof the following subsection :—
- 30 (1A) No nursing home shall be carried on, used, or conducted, except under the authority of a license granted by the Commission.
- (iii) by omitting from subsection two of the same section the words "one hundred dollars and not less than twenty dollars" and by inserting in
- 35

Private Hospitals (Amendment).

in lieu thereof the words "two hundred dollars and, in addition, to a fine of not exceeding fifty dollars for every day on which the breach continues";

5 (iv) by omitting from subsection three of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";

10 (v) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";

(vi) by omitting from subsection four of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";

15 (vii) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";

20 (viii) by inserting next after the same subsection the following new subsection :—

(4A) The provisions of subsections three and four of this section have effect subject to the provisions of section 10c of this Act.

25 (d) (i) by omitting from subsection one of section seven the words "Board of Health" and by inserting in lieu thereof the word "Commission";

30 (ii) by omitting from paragraph (a) of subsection two of the same section the words "rest home" and by inserting in lieu thereof the words "nursing home";

35 (e) (i) by omitting from subsection one of section 7A the words "President of the Board of Health" and by inserting in lieu thereof the word "Commission";

(ii)

Private Hospitals (Amendment).

- (ii) by omitting from subsection two of the same section the word "Minister" and by inserting in lieu thereof the word "Commission";
- 5 (f) (i) by omitting from section eight the words "rest Sec. 8.
home" wherever occurring and by inserting in (Granting
lieu thereof the words "nursing home"; of the
license.)
- (ii) by omitting from subsection one of the same section the words "Minister, on the recom-
10 mendation of the Board of Health" and by
inserting in lieu thereof the word "Com-
mission";
- (iii) by omitting from the same subsection the words "Minister as aforesaid" and by inserting
in lieu thereof the word "Commission";
- 15 (iv) by omitting from subsection two of the same section the words "Minister shall, as aforesaid,
satisfy himself" and by inserting in lieu thereof
the words "Commission shall satisfy itself";
- 20 (v) by omitting from the same section the words
"rest homes" wherever occurring and by
inserting in lieu thereof the words "nursing
homes";
- (vi) by omitting subsection five of the same section
25 and by inserting in lieu thereof the following
subsection :—
- (5) Where the Commission is satisfied that
the particulars specified in a license require
amendment, the Commission may cancel the
30 license by notice in writing sent by post to the
licensee at the address of the private hospital
or nursing home to which the license applies
and grant to him a substitute license containing
the amended particulars.
- 35 The cancellation of a license under this
subsection shall take effect upon the grant of
the substitute license.

The

Private Hospitals (Amendment).

The cancelled license shall be forwarded by the licensee to the Commission within fourteen days of receipt of a notice under this subsection.

5

A licensee who fails to forward a license in accordance with the provisions of this subsection shall be guilty of an offence against this Act.

10

- (g) (i) by omitting from section 8A the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";

Sec. 8A.
(Notification of change of particulars.)

15

- (ii) by omitting from subsection one of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";

20

- (iii) by omitting from subsection two of the same section the words "Board of Health" where firstly occurring and by inserting in lieu thereof the word "Commission";

- (iv) by omitting from the same subsection the words "Board of Health with the approval of the Minister" and by inserting in lieu thereof the word "Commission";

25

- (v) by omitting subsection three of the same section;

30

- (h) (i) by omitting from section nine the words "Board of Health" wherever occurring and by inserting in lieu thereof the word "Commission";

Sec. 9.
(Annual license fee to be paid.)

- (ii) by omitting from subsection four of the same section the words "with the approval of the Minister";

(i)

Private Hospitals (Amendment).

- (i) by omitting from paragraph (b) of subsection two of section 9A the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 9A. (Death of licensee.)
- 5 (j) by omitting from subsection one of section 9B the words "Minister on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission"; Sec. 9B. (Transfer of license.)
- 10 (k) by omitting from the short heading appearing next before section ten the words "*rest homes*" and by inserting in lieu thereof the words "*nursing homes*"; Short heading before sec. 10.
- (l) by omitting section ten and by inserting in lieu thereof the following new section :— Subst. sec. 10.
- 15 10. (1) In this section, "establishment" means private hospital or nursing home. Chief nurses and assistant chief nurses.
- (2) The licensee of an establishment is guilty of an offence against this Act unless—
- 20 (a) there is a person who carries out the duties of chief nurse of the establishment and who is responsible for the conduct of the establishment; and
- 25 (b) that person is a registered nurse and holds the prescribed qualifications that are applicable to the chief nurse of the establishment.
- 30 (3) Notwithstanding subsection two of this section, where the regulations prescribe qualifications that are applicable to the chief nurse of an establishment, the licensee of the establishment is not guilty of an offence under that subsection by reason only that the person who carries out the duties of chief nurse of the establishment does not hold those qualifications, if there is a person who is

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a registered nurse and who holds those qualifications and who carries out the duties of assistant chief nurse of the establishment.

5 (4) Notwithstanding subsections two and three of this section, the licensee of an establishment is not guilty of an offence under subsection two of this section by reason only that, for a number of days not exceeding the prescribed number of days during the prescribed period, there is no person
10 who is a registered nurse and who holds the prescribed qualifications that are applicable to the chief nurse of the establishment and who carries out the duties of chief nurse or assistant chief nurse of the establishment.

15 (5) Except as may be provided by the regulations, the licensee of an establishment shall, forthwith after a person commences to carry out the duties of chief nurse or assistant chief nurse of the establishment, notify the Commission in writing
20 of that fact and of the full name and the qualifications of that person.

(6) The Commission—

25 (a) may, by notification sent by post or delivered to the licensee of an establishment, prohibit a person specified therein from carrying out the duties of chief nurse or assistant chief nurse of the establishment except in such circumstances (if any) as are specified therein; and

30 (b) may, by a like notification, revoke a notification under paragraph (a) of this subsection, and a notification under this subsection has effect according to its tenor.

35 (7) The licensee of an establishment is guilty of an offence against this Act if, while a notification sent or delivered to him under
paragraph

Private Hospitals (Amendment).

5 paragraph (a) of subsection six of this section in respect of a person remains unrevoked, that person carries out the duties of chief nurse or assistant chief nurse of the establishment in contravention of the notification.

10 (8) Nothing in this Act prevents the licensee of an establishment from carrying out the duties of chief nurse or assistant chief nurse of the establishment if he could carry out those duties had he not been the licensee.

15 (9) It shall be a defence to a prosecution for an offence against this Act arising under this section if the person charged proves that he took all such steps as are reasonable in the circumstances to avoid being guilty of the offence.

(10) The regulations may make provision for or with respect to determining the duties of the chief nurses and assistant chief nurses of establishments.

20 (m) (i) by omitting from section 10A the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home"; **Sec. 10A.**
(Responsibility of licensees.)

(ii) by inserting at the end of the same section the following new subsections :—

25 (2) The licensee of a private hospital shall ensure that a registered nurse is on duty in the private hospital at all times.

(3)

Private Hospitals (Amendment).

5 (3) The licensee of a private hospital or nursing home shall ensure that a copy of this Act and a copy of the regulations are at all times on the premises of the private hospital or nursing home and readily available for inspection at those premises by the chief nurse.

10 (4) Where any damage to the premises of a private hospital or nursing home, or to anything therein or thereon, occurs by reason of fire, the licensee of the private hospital or nursing home shall, except in such cases or classes of cases as are specified or described in the regulations, report the damage to the Commission in writing as soon as practicable after the occurrence.

(n) (i) by omitting from section 10B the words "manager or resident assistant" wherever occurring and by inserting in lieu thereof the words "chief nurse or assistant chief nurse"; Sec. 10B. (Certain description not to be used.)

20 (ii) by omitting from subsection one of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";

25 (iii) by omitting from subsection two of the same section the words "rest home who is registered as a nurse under the Nurses Registration Act, 1953, as amended by subsequent Acts" and by inserting in lieu thereof the words "nursing home who is a registered nurse";

30

(o)

Private Hospitals (Amendment).

- (o) by inserting next after section 10B the following new section :—

New sec.
10c.

5 10c. (1) The licensee of a nursing home who, after the expiration of six months after the commencement of the Private Hospitals (Amendment) Act, 1971, does anything, or suffers anything to be done, whereby the nursing home is held out to be a hospital by the use of the word "hospital", whether in its name or otherwise, shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding two hundred dollars and, in addition, a penalty not exceeding fifty dollars for every day on which the offence continues.

15 (2) The provisions of subsection one of this section apply to a nursing home that is, under section six of this Act, exempted from the operation of this Act, and so apply as if the word "licensee" were omitted therefrom and the words "proprietor or person-in-charge" were inserted in lieu thereof.

- 20 (p) by omitting from section eleven the word "manager" wherever occurring and by inserting in lieu thereof the words "chief nurse";

Sec. 11.
(Notice of
certain
diseases.)

- 25 (q) by omitting from section twelve the word "manager" wherever occurring and by inserting in lieu thereof the words "chief nurse";

Sec. 12.
(Notice of
death or
birth.)

- (r) by omitting from subsection one of section thirteen the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";

Sec. 13.
(Keeping of
register.)

- 30 (s) (i) by omitting from section fourteen the words "rest home" and by inserting in lieu thereof the words "nursing home";

Sec. 14.
(Inspection.)

- 35 (ii) by omitting from the same section the words "the president of the Board of Health" and by inserting in lieu thereof the words "a member of the Commission";

(iii)

Private Hospitals (Amendment).

- (iii) by omitting from the same section the words "Board of Health on that behalf" and by inserting in lieu thereof the words "Commission in that behalf";
- 5 (t) (i) by omitting from subsection one of section 14A Sec. 14A. the words "Board of Health" and by inserting (Provision for repairs, etc.) in lieu thereof the word "Commission";
- (ii) by omitting from subsection one of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- 10 (iii) by omitting from subsection two of the same section the words "Board of Health with the approval of the Minister" and by inserting in lieu thereof the word "Commission";
- 15 (u) by omitting from section fifteen the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home"; Sec. 15. (Purpose for which hospital, etc., may be used.)
- 20 (v) (i) by omitting from subsection one of section sixteen the words "Minister may at any time" and by inserting in lieu thereof the words "Commission may at any time, and shall, if the Minister so directs,"; Sec. 16. (Inquiry as to management.)
- 25 (ii) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";
- (iii) by omitting from the same subsection the word "him" and by inserting in lieu thereof the word "it";
- 30 (iv) by omitting from subsection two of the same section the word "Minister" and by inserting in lieu thereof the words "Commission and, if the inquiry was made at the direction of the Minister, to the Minister";

(v)

Private Hospitals (Amendment).

- (v) by omitting from subsection three of the same section the words "Minister may, if he" and by inserting in lieu thereof the words "Commission may, if it";
- 5 (vi) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";
- 10 (w) (i) by omitting from subsection one of section 16A Sec. 16A. the words "Minister may, on the recommenda- (Revocation of licenses.) tion of the Board of Health" and by inserting in lieu thereof the words "Commission may";
- 15 (ii) by omitting from the same subsection the words "Board of Health" where secondly and thirdly occurring and by inserting in lieu thereof the word "Commission";
- (iii) by omitting from the same subsection the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- 20 (iv) by omitting from paragraph (e) of the same subsection the word "if";
- (v) by omitting from paragraph (f) of the same subsection the words "or three";
- 25 (vi) by omitting from the same paragraph the words "this Act." and by inserting in lieu thereof the following words and new paragraph :—

this Act; or

(g) the private hospital or nursing home ceases to operate as a private hospital or nursing home.
- 30

(vii)

Private Hospitals (Amendment).

- (vii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection : —
- 5 (2) Before revoking a license under this section, the Commission shall serve notice in writing on the licensee that it proposes to revoke the license.
- Any such notice shall—
- 10 (a) specify the grounds upon which it is proposed to revoke the license; and
- (b) appoint a time within which the licensee may show cause why the license should not be revoked.
- 15 (x) (i) by omitting from section 16B the words “rest home” and by inserting in lieu thereof the words “nursing home”; Sec. 16B. (When revocation to take effect.)
- (ii) by omitting from the same section the word “Minister” and by inserting in lieu thereof the word “Commission”;
- 20 (y) by omitting from section 16c the words “rest home” wherever occurring and by inserting in lieu thereof the words “nursing home”; Sec. 16c. (Appeal against revocation.)
- 25 (z) (i) by omitting from section seventeen the words “treatment, attendance, or” wherever occurring and by inserting in lieu thereof the words “treatment or attendance, or nursing”; Sec. 17. (Evidence that house, &c., is a private hospital or nursing home.)
- (ii) by omitting from the same section the words “rest home” and by inserting in lieu thereof the words “nursing home”;
- 30 (aa) (i) by omitting from section eighteen the words “Board of Health” wherever occurring and by inserting in lieu thereof the word “Commission”; Sec. 18. (Regulations.)

(ii)

Private Hospitals (Amendment).

- (ii) by omitting from the same section the words "rest homes" wherever occurring and by inserting in lieu thereof the words "nursing homes";
- 5 (iii) by omitting from subsection two of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- 10 (iv) by omitting from paragraph (c) of the same subsection the words "managers and resident assistants" and by inserting in lieu thereof the words "chief nurses and assistant chief nurses";
- 15 (v) by omitting from paragraph (e) of the same subsection the words "drainage and provision of fire escapes" and by inserting in lieu thereof the words "drainage, the sufficiency and efficiency of the means of escape in case of fire, any aspect of the construction and design of the buildings which relates to safety from
- 20 fire and fire protection and the means of detecting and extinguishing fire";
- (vi) by inserting next after paragraph (v) of the same subsection the following new paragraphs :—
- 25 (w) prescribing the records to be kept by private hospitals or nursing homes;
- (x) prescribing the information to be furnished to the Commission in respect of private hospitals and nursing homes,
- 30 the persons who are required to furnish it, the times within which it is to be furnished and the method of furnishing it.
- 35 (vii) by omitting from subsection four of the same section the words "one hundred dollars" and by inserting in lieu thereof the words "two hundred dollars";

(bb)

Private Hospitals (Amendment).

- (bb) by omitting from section nineteen the words “rest home” and by inserting in lieu thereof the words “nursing home”; Sec. 19.
(Medicines dispensed by pharmacists.)
- 5 (cc) (i) by omitting from section twenty-one the words “Board of Health” wherever occurring and by inserting in lieu thereof the word “Commission”; Sec. 21.
(Certificate as to certain matters.)
- 10 (ii) by omitting from the same section the words “rest home” wherever occurring and by inserting in lieu thereof the words “nursing home”;
- (dd) by omitting from section twenty-two the words “Board of Health” wherever occurring and by inserting in lieu thereof the word “Commission”; Sec. 22.
(Notices.)
- 15 (ee) by omitting from section twenty-four the words “Consolidated Revenue Fund” and by inserting in lieu thereof the words “the Hospital Fund established under the Public Hospitals Act, 1929”; Sec. 24.
(Fees.)
- 20 (ff) (i) by inserting in section twenty-five after the word “done” where firstly occurring the words “or omitted to be done”; Sec. 25.
(Exoneration of certain persons.)
- 25 (ii) by inserting in the same section after the word “Health” where secondly occurring the words “, before the commencement of the Private Hospitals (Amendment) Act, 1971, or done or omitted to be done by the Commission, or by any member, officer or employee of or person authorised by the Commission, after that commencement,”;

Private Hospitals (Amendment).

(gg) by inserting next after section twenty-five the following new section :—

New sec.
26.

26. (1) The Commission may, by instrument in writing, delegate to a person specified in the instrument of delegation the exercise or performance of such of its powers, authorities, duties and functions conferred or imposed upon it by or under this Act (except this power of delegation and the making of a recommendation for the purposes of subsection one of section eighteen of this Act) as may be specified in the instrument and may in like manner revoke wholly or in part any such delegation.

Delegation
by Com-
mission.

(2) Any power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time by the delegate in accordance with the terms of the delegation.

(3) A delegation made under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the specified powers, authorities, duties or functions or as to time or circumstances as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Commission may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate when acting in the exercise of a delegation made under this section and within the terms of the delegation shall have the like force or effect as if the act or thing had been done or suffered by the Commission.

Private Hospitals (Amendment).

3. The Public Hospitals Act, 1929, is amended—

Amendment
of Act No.
8, 1929.

- (a) (i) by inserting next after the definition of Sec. 3.
“In-patient” in section three the following new (Interpre-
definition : — tation.)

5 “Nursing home” means a nursing home
within the meaning of the Private
Hospitals Act, 1908.

- (ii) by inserting next after the definition of
“Prescribed” in the same section the following
10 new definition : —

“Private hospital” means a private hospital
within the meaning of the Private
Hospitals Act, 1908.

- 15 (b) by inserting in subsection one of section five after Sec. 5.
the word “Act” the words “and the Private Hos- (Appoint-
pitals Act, 1908”; ment of
Commis-
sion.)

- (c) by inserting in subsection four of section eight after Sec. 8.
the word “hospital” the words “or any present or (Appoint-
past patient of any private hospital or nursing ment of
20 home”; officers and
employees.)

- (d) (i) by omitting from paragraph (a) of section Sec. 9.
nine the words “or associated organisation” (Members
and by inserting in lieu thereof the words not to be
25 “, associated organisation, private hospital or personally
interested
in contracts,
&c.)

- (ii) by omitting from paragraph (ii) of the
proviso to the same section the words “or
associated organisation” and by inserting in
lieu thereof the words “, associated organisa-
30 tion, private hospital or nursing home”;

- (iii) by inserting in paragraph (iii) of the same
proviso after the word “organisation” the
words “or the governing authority or licensee

(within

Private Hospitals (Amendment).

(within the meaning of the Private Hospitals Act, 1908) of any private hospital or nursing home”;

- 5 (e) by inserting in subsection one of section ten after the word “Act” the words “and the Private Hospitals Act, 1908”; Sec. 10. (Salaries and expenses paid out of Hospital Fund.)
- 10 (f) by omitting from section 11A the words “such inquiry in respect of a private hospital to which the provisions of the Private Hospitals Act, 1908, as amended by subsequent Acts, applies, unless the funds for the establishment or maintenance of such private hospital are derived wholly or in part from the public by voluntary contributions” and by inserting in lieu thereof the words “inquiry under this section in respect of a private hospital or nursing home”. Sec. 11A. (Inquiries by Commission.)
- 15

4. (1) Any act, matter or thing that—

Savings.

- 20 (a) was done or omitted to be done under the Principal Act (except section ten or fourteen thereof) before the commencement of this Act by, to or in respect of the Minister, the Board of Health or the Secretary of the Board of Health; and
- 25 (b) could, when it was so done or omitted to be done, have been done or omitted to be done by, to or in respect of the Commission or the Secretary of the Commission, as the case may require, had this Act been then in force, shall, after that commencement, be deemed to have been done or omitted to be done by, to or in respect of the Commission or Secretary of the Commission, as the case may require.
- 30

(2)

Private Hospitals (Amendment).

(2) Subsection one of this section has effect in respect of any act, matter or thing done or omitted to be done—

- 5 (a) by the Minister—whether or not it was done or omitted to be done, or required to be done or omitted to be done, on the recommendation of the Board of Health; or
- 10 (b) by the Board of Health—whether or not it was done or omitted to be done, or required to be done or omitted to be done, with the approval of the Minister.

(3) A license granted by the Minister under subsection (1A) of section six of the Principal Act and in force immediately before the commencement of this Act shall, after that commencement, be deemed to have been granted by the
15 Commission under subsection (1A) of section six of the Principal Act, as amended by this Act.

(4) A reference, in any other Act, or in any by-law, regulation or ordinance, or in any license granted under the Principal Act, or in any other instrument or document whatsoever,
20 of the same or a different kind or nature, to a rest home shall be read and construed as a reference to a nursing home.

(5) Subject to this section, any act, matter or thing done or omitted to be done under the Principal Act (except
25 section ten thereof) before the commencement of this Act in respect of or in relation to an establishment that was a rest home shall, after that commencement, have the same effect as it would have had in respect of or in relation to that establishment had the amendments made by this Act not been made.

30 (6) Any application made to the President of the Board of Health under section 7A of the Principal Act and pending immediately before the commencement of this Act shall be deemed to have been made to the Commission.

(7)

Private Hospitals (Amendment).

(7) Any interim license granted by the President of the Board of Health under section 7A of the Principal Act and in force immediately before the commencement of this Act shall be deemed to have been granted by the Commission.

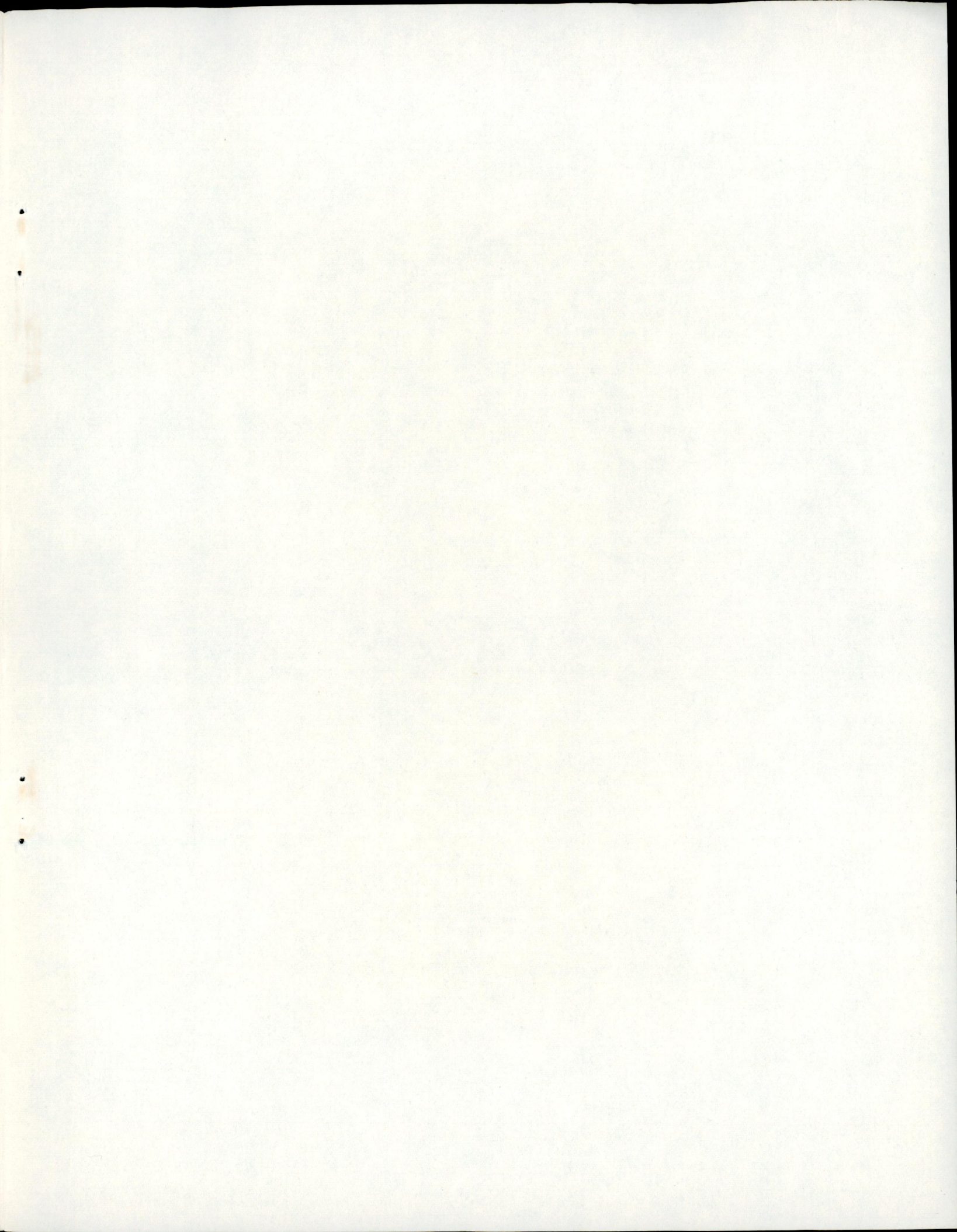
5 (8) All suits, actions and proceedings pending immediately before the commencement of this Act at the suit of any person against the Minister or the Board of Health in respect of any act, matter or thing done or omitted to be done under or in purported compliance with the Principal Act shall
10 be suits, actions and proceedings pending at the suit of that person against the Commission.

(9) In this section, "rest home" has the meaning ascribed to that expression in the Principal Act.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971

[30c]



PRIVATE HOSPITALS (AMENDMENT) BILL, 1971

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to replace the expressions “rest home”, “manager” and “resident assistant” with the expressions “nursing home”, “chief nurse” and “assistant chief nurse” respectively;
- (b) to transfer the exercise and performance of certain powers, authorities, duties and functions, conferred and imposed on the Minister and the Board of Health in relation to private hospitals and nursing homes, to The Hospitals Commission of New South Wales (hereinafter referred to as “the Commission”);
- (c) to prohibit the use of the word “hospital” in the name or description of a nursing home;
- (d) to require licensees of private hospitals and nursing homes to have certain persons with prescribed qualifications carrying out the duties of chief nurse or assistant chief nurse;
- (e) to require a registered nurse to be on duty in a private hospital at all times;
- (f) to require damage caused by fire in a private hospital or nursing home to be reported to the Commission;
- (g) to enable the Commission to revoke a license if the private hospital or nursing home ceases to operate as such;
- (h) to extend the power to make regulations in relation to fire prevention and safety;
- (i) to increase the maximum penalty for conducting an unlicensed private hospital or nursing home to \$200 and impose a daily penalty of not exceeding \$50;
- (j) to increase the maximum penalty that may be imposed under the regulations to \$200;
- (k) to authorise the Commission to delegate certain of its powers, authorities, duties and functions; and
- (l) to make other provisions of a minor, consequential or ancillary character.

PROOF

No. , 1971.

A BILL

To transfer the exercise and performance of certain powers, authorities, duties and functions in relation to private hospitals and nursing homes to The Hospitals Commission of New South Wales; to make further provisions relating to the management of private hospitals and nursing homes; for these and other purposes to amend the Private Hospitals Act, 1908, and the Public Hospitals Act, 1929; and for purposes connected therewith.

[MR JAGO—20 April, 1971.]

BE

Private Hospitals (Amendment).

BE it enacted by the Queen'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
5 follows:—

1. (1) This Act may be cited as the "Private Hospitals
(Amendment) Act, 1971". Short title,
commence-
ment and
construction.

(2) This Act shall commence upon a day to be
appointed by the Governor and notified by proclamation
10 published in the Gazette.

(3) The Private Hospitals Act, 1908, is in this Act
referred to as the Principal Act.

2. The Principal Act is amended—

Amendment
of Act No.
14, 1908.

(a) (i) by inserting next after the definition of
15 "Building" in section two the following new
definition :— Sec. 2.
(Defini-
tions.)

"Commission" means The Hospitals Com-
mission of New South Wales con-
stituted under the Public Hospitals
20 Act, 1929.

(ii) by omitting the definition of "Manager" in the
same section ;

(iii) by inserting next before the definition of
25 "Patient" in the same section the following
new definition :—

"Nursing home" means a building estab-
lished or used or intended to be
established or used to board and lodge
for fee or reward patients—

(a) who are recuperating from
30 illness or childbirth and who
require only nursing care ; or
(b)

Private Hospitals (Amendment).

- 5 (b) who, on account of age, senility, infirmity, chronic ill-health or other condition, require the exercise of oversight, nursing care and control with or without occasional attention by a medical practitioner,
- 10 but does not include—
- 15 (c) an institution conducted by or on behalf of the State;
- (d) an incorporated hospital or separate institution within the meaning of the Public Hospitals Act, 1929;
- (e) a private hospital;
- (f) an authorised hospital within the meaning of the Mental Health Act, 1958; or
- 20 (g) an institution within the meaning of the Inebriates Act, 1912.
- 25 (iv) by omitting from the definition of "Patient" in the same section the words "rest home" and by inserting in lieu thereof the words "nursing home";
- (v) by omitting the definition of "Private hospital" in the same section and by inserting in lieu thereof the following definition :—
- 30 "Private hospital" means a building established or used or intended to be established or used for the treatment for fee or reward of patients, but does not include—
- 35 (a) an institution conducted by or on behalf of the State;
- (b)

Private Hospitals (Amendment).

- (b) an incorporated hospital or separate institution within the meaning of the Public Hospitals Act, 1929;
- 5 (c) a nursing home;
- (d) an authorised hospital within the meaning of the Mental Health Act, 1958; or
- 10 (e) an institution within the meaning of the Inebriates Act, 1912.
- (vi) by omitting the definition of "Rest home" in the same section;
- 15 (vii) by omitting from the definition of "Ward" in the same section the words "rest home in which patients are received or lodged for treatment" and by inserting in lieu thereof the words "nursing home in which patients are lodged";
- 20 (b) by omitting from the short heading appearing next before section six the words "*rest homes*" and by inserting in lieu thereof the words "*nursing homes*"; Short heading before sec. 6.
- 25 (c) (i) by omitting from subsection one of section six the words "Minister on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission"; Sec. 6. (Licenses.)
- (ii) by omitting subsection (1A) of the same section and by inserting in lieu thereof the following subsection :—
- 30 (1A) No nursing home shall be carried on, used, or conducted, except under the authority of a license granted by the Commission.
- (iii) by omitting from subsection two of the same section the words "one hundred dollars and not less than twenty dollars" and by inserting in
- 35

Private Hospitals (Amendment).

in lieu thereof the words "two hundred dollars and, in addition, to a fine of not exceeding fifty dollars for every day on which the breach continues";

5 (iv) by omitting from subsection three of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";

10 (v) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";

15 (vi) by omitting from subsection four of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";

(vii) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";

20 (viii) by inserting next after the same subsection the following new subsection :—

(4A) The provisions of subsections three and four of this section have effect subject to the provisions of section 10C of this Act.

25 (d) (i) by omitting from subsection one of section Sec. 7. seven the words "Board of Health" and by (Application inserting in lieu thereof the word "Com- for license.) mission";

30 (ii) by omitting from paragraph (a) of subsection two of the same section the words "rest home" and by inserting in lieu thereof the words "nursing home";

35 (e) (i) by omitting from subsection one of section 7A Sec. 7A. the words "President of the Board of Health" (Interim and by inserting in lieu thereof the word license.) "Commission";

(ii)

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- (ii) by omitting from subsection two of the same section the word "Minister" and by inserting in lieu thereof the word "Commission";
- 5 (f) (i) by omitting from section eight the words "rest Sec. 8.
home" wherever occurring and by inserting in (Granting
lieu thereof the words "nursing home"; of the
license.)
- (ii) by omitting from subsection one of the same section the words "Minister, on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission";
- 10 (iii) by omitting from the same subsection the words "Minister as aforesaid" and by inserting in lieu thereof the word "Commission";
- 15 (iv) by omitting from subsection two of the same section the words "Minister shall, as aforesaid, satisfy himself" and by inserting in lieu thereof the words "Commission shall satisfy itself";
- (v) by omitting from the same section the words "rest homes" wherever occurring and by inserting in lieu thereof the words "nursing homes";
- 20 (vi) by omitting subsection five of the same section and by inserting in lieu thereof the following subsection : —
- 25 (5) Where the Commission is satisfied that the particulars specified in a license require amendment, the Commission may cancel the license by notice in writing sent by post to the licensee at the address of the private hospital or nursing home to which the license applies and grant to him a substitute license containing the amended particulars.
- 30 The cancellation of a license under this subsection shall take effect upon the grant of the substitute license.
- 35

The

Private Hospitals (Amendment).

The cancelled license shall be forwarded by the licensee to the Commission within fourteen days of receipt of a notice under this subsection.

5

A licensee who fails to forward a license in accordance with the provisions of this subsection shall be guilty of an offence against this Act.

10

(g) (i) by omitting from section 8A the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home"; Sec. 8A. (Notification of change of particulars.)

15

(ii) by omitting from subsection one of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";

(iii) by omitting from subsection two of the same section the words "Board of Health" where firstly occurring and by inserting in lieu thereof the word "Commission";

20

(iv) by omitting from the same subsection the words "Board of Health with the approval of the Minister" and by inserting in lieu thereof the word "Commission";

25

(v) by omitting subsection three of the same section;

(h) (i) by omitting from section nine the words "Board of Health" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 9. (Annual license fee to be paid.)

30

(ii) by omitting from subsection four of the same section the words "with the approval of the Minister";

(i)

Private Hospitals (Amendment).

- (i) by omitting from paragraph (b) of subsection two of section 9A the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 9A. (Death of licensee.)
- 5 (j) by omitting from subsection one of section 9B the words "Minister on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission"; Sec. 9B. (Transfer of license.)
- 10 (k) by omitting from the short heading appearing next before section ten the words "*rest homes*" and by inserting in lieu thereof the words "*nursing homes*"; Short heading before sec. 10.
- (l) by omitting section ten and by inserting in lieu thereof the following new section :— Subst. sec. 10.
- 15 10. (1) In this section, "establishment" means private hospital or nursing home. Chief nurses and assistant chief nurses.
- (2) The licensee of an establishment is guilty of an offence against this Act unless—
- 20 (a) there is a person who carries out the duties of chief nurse of the establishment and who is responsible for the conduct of the establishment; and
- 25 (b) that person is a registered nurse and holds the prescribed qualifications that are applicable to the chief nurse of the establishment.
- 30 (3) Notwithstanding subsection two of this section, where the regulations prescribe qualifications that are applicable to the chief nurse of an establishment, the licensee of the establishment is not guilty of an offence under that subsection by reason only that the person who carries out the duties of chief nurse of the establishment does not hold those qualifications, if there is a person who is

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a registered nurse and who holds those qualifications and who carries out the duties of assistant chief nurse of the establishment.

5 (4) Notwithstanding subsections two and three of this section, the licensee of an establishment is not guilty of an offence under subsection two of this section by reason only that, for a number of days not exceeding the prescribed number of days during the prescribed period, there is no person
10 who is a registered nurse and who holds the prescribed qualifications that are applicable to the chief nurse of the establishment and who carries out the duties of chief nurse or assistant chief nurse of the establishment.

15 (5) Except as may be provided by the regulations, the licensee of an establishment shall, forthwith after a person commences to carry out the duties of chief nurse or assistant chief nurse of the establishment, notify the Commission in writing
20 of that fact and of the full name and the qualifications of that person.

(6) The Commission—

(a) may, by notification sent by post or delivered to the licensee of an establishment,
25 prohibit a person specified therein from carrying out the duties of chief nurse or assistant chief nurse of the establishment except in such circumstances (if any) as are specified therein; and

30 (b) may, by a like notification, revoke a notification under paragraph (a) of this subsection, and a notification under this subsection has effect according to its tenor.

35 (7) The licensee of an establishment is guilty of an offence against this Act if, while a notification sent or delivered to him under
(c) paragraph

Private Hospitals (Amendment).

5 paragraph (a) of subsection six of this section in respect of a person remains unrevoked, that person carries out the duties of chief nurse or assistant chief nurse of the establishment in contravention of the notification.

10 (8) Nothing in this Act prevents the licensee of an establishment from carrying out the duties of chief nurse or assistant chief nurse of the establishment if he could carry out those duties had he not been the licensee.

15 (9) It shall be a defence to a prosecution for an offence against this Act arising under this section if the person charged proves that he took all such steps as are reasonable in the circumstances to avoid being guilty of the offence.

(10) The regulations may make provision for or with respect to determining the duties of the chief nurses and assistant chief nurses of establishments.

20 (m) (i) by omitting from section 10A the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home"; Sec. 10A. (Responsibility of licensees.)

(ii) by inserting at the end of the same section the following new subsections :—

25 (2) The licensee of a private hospital shall ensure that a registered nurse is on duty in the private hospital at all times.

(3)

Private Hospitals (Amendment).

5 (3) The licensee of a private hospital or nursing home shall ensure that a copy of this Act and a copy of the regulations are at all times on the premises of the private hospital or nursing home and readily available for inspection at those premises by the chief nurse.

10 (4) Where any damage to the premises of a private hospital or nursing home, or to anything therein or thereon, occurs by reason of fire, the licensee of the private hospital or nursing home shall, except in such cases or classes of cases as are specified or described in the regulations, report the damage to the Commission in writing as soon as practicable
15 after the occurrence.

(n) (i) by omitting from section 10B the words "manager or resident assistant" wherever occurring and by inserting in lieu thereof the words "chief nurse or assistant chief nurse"; (Certain description not to be used.)

20 (ii) by omitting from subsection one of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";

25 (iii) by omitting from subsection two of the same section the words "rest home who is registered as a nurse under the Nurses Registration Act, 1953, as amended by subsequent Acts" and by inserting in lieu thereof the words "nursing
30 home who is a registered nurse";

(o)

Private Hospitals (Amendment).

- (o) by inserting next after section 10B the following new section :— New sec.
10c.

10c. (1) The licensee of a nursing home who, Name of
nursing
home.
after the expiration of six months after the com-
5 commencement of the Private Hospitals (Amendment)
Act, 1971, does anything, or suffers anything to
be done, whereby the nursing home is held out to
be a hospital by the use of the word "hospital",
10 whether in its name or otherwise, shall be guilty
of an offence against this Act and shall be liable
to a penalty not exceeding two hundred dollars and,
in addition, a penalty not exceeding fifty dollars
for every day on which the offence continues.

15 (2) The provisions of subsection one of
this section apply to a nursing home that is, under
section six of this Act, exempted from the operation
of this Act, and so apply as if the word "licensee"
were omitted therefrom and the words "proprietor
or person-in-charge" were inserted in lieu thereof.

- 20 (p) by omitting from section eleven the word "man- Sec. 11.
ager" wherever occurring and by inserting in lieu (Notice of
certain
diseases.)
thereof the words "chief nurse";

- (q) by omitting from section twelve the word Sec. 12.
"manager" wherever occurring and by inserting in (Notice of
death or
birth.)
25 lieu thereof the words "chief nurse";

- (r) by omitting from subsection one of section thirteen Sec. 13.
the words "rest home" wherever occurring and by (Keeping of
register.)
inserting in lieu thereof the words "nursing home";

- 30 (s) (i) by omitting from section fourteen the words Sec. 14.
"rest home" and by inserting in lieu thereof (Inspection.)
the words "nursing home";

- (ii) by omitting from the same section the words
"the president of the Board of Health" and by
inserting in lieu thereof the words "a member
35 of the Commission";

(iii)

Private Hospitals (Amendment).

- (iii) by omitting from the same section the words "Board of Health on that behalf" and by inserting in lieu thereof the words "Commission in that behalf";
- 5 (t) (i) by omitting from subsection one of section 14A Sec. 14A.
the words "Board of Health" and by inserting (Provision
in lieu thereof the word "Commission"; for repairs,
etc.)
- (ii) by omitting from subsection one of the same
section the words "rest home" wherever
10 occurring and by inserting in lieu thereof the
words "nursing home";
- (iii) by omitting from subsection two of the same
section the words "Board of Health with the
approval of the Minister" and by inserting in
15 lieu thereof the word "Commission";
- (u) by omitting from section fifteen the words "rest Sec. 15.
home" wherever occurring and by inserting in lieu (Purpose
thereof the words "nursing home"; for which
hospital,
etc., may
be used.)
- 20 (v) (i) by omitting from subsection one of section Sec. 16.
sixteen the words "Minister may at any time" (Inquiry
and by inserting in lieu thereof the words as to
"Commission may at any time, and shall, if manage-
ment.)
the Minister so directs,";
- (ii) by omitting from the same subsection the
25 words "rest home" and by inserting in lieu
thereof the words "nursing home";
- (iii) by omitting from the same subsection the
word "him" and by inserting in lieu thereof
the word "it";
- 30 (iv) by omitting from subsection two of the same
section the word "Minister" and by inserting in
lieu thereof the words "Commission and, if the
inquiry was made at the direction of the
Minister, to the Minister";

(v)

Private Hospitals (Amendment).

- (v) by omitting from subsection three of the same section the words "Minister may, if he" and by inserting in lieu thereof the words "Commission may, if it";
- 5 (vi) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";
- 10 (w) (i) by omitting from subsection one of section 16A Sec. 16A. the words "Minister may, on the recommenda- (Revocation of licenses.) tion of the Board of Health" and by inserting in lieu thereof the words "Commission may";
- 15 (ii) by omitting from the same subsection the words "Board of Health" where secondly and thirdly occurring and by inserting in lieu thereof the word "Commission";
- (iii) by omitting from the same subsection the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- 20 (iv) by omitting from paragraph (e) of the same subsection the word "if";
- (v) by omitting from paragraph (f) of the same subsection the words "or three";
- 25 (vi) by omitting from the same paragraph the words "this Act." and by inserting in lieu thereof the following words and new paragraph : —

this Act; or

(g) the private hospital or nursing home ceases to operate as a private hospital or nursing home.
- 30

(vii)

Private Hospitals (Amendment).

(vii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection : —

5 (2) Before revoking a license under this section, the Commission shall serve notice in writing on the licensee that it proposes to revoke the license.

Any such notice shall—

10 (a) specify the grounds upon which it is proposed to revoke the license; and

(b) appoint a time within which the licensee may show cause why the license should not be revoked.

15 (x) (i) by omitting from section 16B the words “rest home” and by inserting in lieu thereof the words “nursing home”; Sec. 16B. (When revocation to take effect.)

(ii) by omitting from the same section the word “Minister” and by inserting in lieu thereof the word “Commission”;

20 (y) by omitting from section 16C the words “rest home” wherever occurring and by inserting in lieu thereof the words “nursing home”; Sec. 16C. (Appeal against revocation.)

25 (z) (i) by omitting from section seventeen the words “treatment, attendance, or” wherever occurring and by inserting in lieu thereof the words “treatment or attendance, or nursing”; Sec. 17. (Evidence that house, &c., is a private hospital or nursing home.)

(ii) by omitting from the same section the words “rest home” and by inserting in lieu thereof the words “nursing home”;

30 (aa) (i) by omitting from section eighteen the words “Board of Health” wherever occurring and by inserting in lieu thereof the word “Commission”; Sec. 18. (Regulations.)

(ii)

Private Hospitals (Amendment).

- (ii) by omitting from the same section the words "rest homes" wherever occurring and by inserting in lieu thereof the words "nursing homes";
- 5 (iii) by omitting from subsection two of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- 10 (iv) by omitting from paragraph (c) of the same subsection the words "managers and resident assistants" and by inserting in lieu thereof the words "chief nurses and assistant chief nurses";
- 15 (v) by omitting from paragraph (e) of the same subsection the words "drainage and provision of fire escapes" and by inserting in lieu thereof the words "drainage, the sufficiency and efficiency of the means of escape in case of fire, any aspect of the construction and design of the buildings which relates to safety from fire and fire protection and the means of detecting and extinguishing fire";
- 20 (vi) by inserting next after paragraph (v) of the same subsection the following new paragraphs :—
- 25 (w) prescribing the records to be kept by private hospitals or nursing homes;
- 30 (x) prescribing the information to be furnished to the Commission in respect of private hospitals and nursing homes, the persons who are required to furnish it, the times within which it is to be furnished and the method of furnishing it.
- 35 (vii) by omitting from subsection four of the same section the words "one hundred dollars" and by inserting in lieu thereof the words "two hundred dollars";

(bb)

Private Hospitals (Amendment).

- (bb) by omitting from section nineteen the words "rest home" and by inserting in lieu thereof the words "nursing home"; Sec. 19. (Medicines dispensed by pharmacists.)
- 5 (cc) (i) by omitting from section twenty-one the words "Board of Health" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 21. (Certificate as to certain matters.)
- 10 (ii) by omitting from the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- (dd) by omitting from section twenty-two the words "Board of Health" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 22. (Notices.)
- 15 (ee) by omitting from section twenty-four the words "Consolidated Revenue Fund" and by inserting in lieu thereof the words "Hospital Fund established under the Public Hospitals Act, 1929"; Sec. 24. (Fees.)
- 20 (ff) (i) by inserting in section twenty-five after the word "done" where firstly occurring the words "or omitted to be done"; Sec. 25. (Exoneration of certain persons.)
- 25 (ii) by inserting in the same section after the word "Health" where secondly occurring the words ", before the commencement of the Private Hospitals (Amendment) Act, 1971, or done or omitted to be done by the Commission, or by any member, officer or employee of or person authorised by the Commission, after that commencement,";

Private Hospitals (Amendment).

(gg) by inserting next after section twenty-five the following new section :—

New sec.
26

5 26. (1) The Commission may, by instrument in writing, delegate to a person specified in the instrument of delegation the exercise or performance of such of its powers, authorities, duties and functions conferred or imposed upon it by or under this Act (except this power of delegation and the making of a recommendation for the purposes of subsection one of section eighteen of this Act) as may be specified in the instrument and may in like manner revoke wholly or in part any such delegation.

Delegation
by Com-
mission.

15 (2) Any power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time by the delegate in accordance with the terms of the delegation.

20 (3) A delegation made under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the specified powers, authorities, duties or functions or as to time or circumstances as may be specified in the instrument of delegation.

25 (4) Notwithstanding any delegation made under this section, the Commission may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

30 (5) Any act or thing done or suffered by a delegate when acting in the exercise of a delegation made under this section and within the terms of the delegation shall have the like force or effect as if the act or thing had been done or suffered by the Commission.

35

Private Hospitals (Amendment).

3. The Public Hospitals Act, 1929, is amended—

Amendment
of Act No.
8, 1929.

- (a) (i) by inserting next after the definition of Sec. 3.
“In-patient” in section three the following new (Interpre-
definition : — tation.)

5 “Nursing home” means a nursing home
within the meaning of the Private
Hospitals Act, 1908.

- (ii) by inserting next after the definition of
“Prescribed” in the same section the following
10 new definition : —

“Private hospital” means a private hospital
within the meaning of the Private
Hospitals Act, 1908.

- (b) by inserting in subsection one of section five after Sec. 5.
the word “Act” the words “and the Private Hos- (Appoint-
pitals Act, 1908”; ment of
Commission.)

- (c) by inserting in subsection four of section eight after Sec. 8.
the word “hospital” the words “or any present or (Appoint-
past patient of any private hospital or nursing ment of
20 home”; officers and
employees.)

- (d) (i) by omitting from paragraph (a) of section Sec. 9.
nine the words “or associated organisation,” (Members
and by inserting in lieu thereof the words not to be
25 “, associated organisation, private hospital or personally
interested
nursing home;”; in contracts,
&c.)

- (ii) by omitting from paragraph (ii) of the
proviso to the same section the words “or
associated organisation” and by inserting in
lieu thereof the words “, associated organisa-
30 tion, private hospital or nursing home”;

- (iii) by inserting in paragraph (iii) of the same
proviso after the word “organisation” the
words “or the governing authority or licensee

(within

Private Hospitals (Amendment).

(within the meaning of the Private Hospitals Act, 1908) of any private hospital or nursing home”;

5 (e) by inserting in subsection one of section ten after the word “Act” the words “and the Private Hospitals Act, 1908”;

Sec. 10.
(Salaries
and expenses
paid out of
Hospital
Fund.)

10 (f) by omitting from section 11A the words “such inquiry in respect of a private hospital to which the provisions of the Private Hospitals Act, 1908, as amended by subsequent Acts, applies, unless the funds for the establishment or maintenance of such private hospital are derived wholly or in part from the public by voluntary contributions” and by inserting in lieu thereof the words “inquiry under this section in respect of a private hospital or nursing home”.

Sec. 11A.
(Inquiries
by Com-
mission.)

4. (1) Any act, matter or thing that—

Savings.

20 (a) was done or omitted to be done under the Principal Act (except section ten or fourteen thereof) before the commencement of this Act by, to or in respect of the Minister, the Board of Health or the Secretary of the Board of Health; and

25 (b) could, when it was so done or omitted to be done, have been done or omitted to be done by, to or in respect of the Commission or the Secretary of the Commission, as the case may require, had this Act been then in force, shall, after that commencement, be deemed to have been done or omitted to be done by, to or in respect of the Commission or Secretary of the Commission, as the case may require.

30

(2)

Private Hospitals (Amendment).

(2) Subsection one of this section has effect in respect of any act, matter or thing done or omitted to be done—

- 5 (a) by the Minister—whether or not it was done or omitted to be done, or required to be done or omitted to be done, on the recommendation of the Board of Health; or
- (b) by the Board of Health—whether or not it was done or omitted to be done, or required to be done or omitted to be done, with the approval of the
10 Minister.

(3) A license granted by the Minister under subsection (1A) of section six of the Principal Act and in force immediately before the commencement of this Act shall, after that commencement, be deemed to have been granted by the
15 Commission under subsection (1A) of section six of the Principal Act, as amended by this Act.

(4) A reference, in any other Act, or in any by-law, regulation or ordinance, or in any license granted under the Principal Act, or in any other instrument or document whatsoever, of the same or a different kind or nature, to a rest
20 home shall be read and construed as a reference to a nursing home.

(5) Subject to this section, any act, matter or thing done or omitted to be done under the Principal Act (except
25 section ten thereof) before the commencement of this Act in respect of or in relation to an establishment that was a rest home shall, after that commencement, have the same effect as it would have had in respect of or in relation to that establishment had the amendments made by this Act not been made.

30 (6) Any application made to the President of the Board of Health under section 7A of the Principal Act and pending immediately before the commencement of this Act shall be deemed to have been made to the Commission.

(7)

Private Hospitals (Amendment).

(7) Any interim license granted by the President of the Board of Health under section 7A of the Principal Act and in force immediately before the commencement of this Act shall be deemed to have been granted by the Commission.

5 (8) All suits, actions and proceedings pending immediately before the commencement of this Act at the suit of any person against the Minister or the Board of Health in respect of any act, matter or thing done or omitted to be done under or in purported compliance with the Principal Act shall
10 be suits, actions and proceedings pending at the suit of that person against the Commission.

(9) In this section, "rest home" has the meaning ascribed to that expression in the Principal Act.

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 10, 1971.

An Act to transfer the exercise and performance of certain powers, authorities, duties and functions in relation to private hospitals and nursing homes to The Hospitals Commission of New South Wales; to make further provisions relating to the management of private hospitals and nursing homes; for these and other purposes to amend the Private Hospitals Act, 1908, and the Public Hospitals Act, 1929; and for purposes connected therewith. [Assented to, 14th May, 1971.]

BE

Private Hospitals (Amendment).

BE it enacted by the Queen'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:—

Short title,
commence-
ment and
construction.

1. (1) This Act may be cited as the "Private Hospitals (Amendment) Act, 1971".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) The Private Hospitals Act, 1908, is in this Act referred to as the Principal Act.

Amendment
of Act No.
14, 1908.

2. The Principal Act is amended—

Sec. 2.
(Defini-
tions.)

(a) (i) by inserting next after the definition of "Building" in section two the following new definition :—

"Commission" means The Hospitals Commission of New South Wales constituted under the Public Hospitals Act, 1929.

(ii) by omitting the definition of "Manager" in the same section;

(iii) by inserting next before the definition of "Patient" in the same section the following new definition :—

"Nursing home" means a building established or used or intended to be established or used to board and lodge for fee or reward patients—

- (a) who are recuperating from illness or childbirth and who require only nursing care; or
- (b)

Private Hospitals (Amendment).

- (b) who, on account of age, senility, infirmity, chronic ill-health or other condition, require the exercise of oversight, nursing care and control with or without occasional attention by a medical practitioner,

but does not include—

- (c) an institution conducted by or on behalf of the State;
- (d) an incorporated hospital or separate institution within the meaning of the Public Hospitals Act, 1929;
- (e) a private hospital;
- (f) an authorised hospital within the meaning of the Mental Health Act, 1958; or
- (g) an institution within the meaning of the Inebriates Act, 1912.

- (iv) by omitting from the definition of “Patient” in the same section the words “rest home” and by inserting in lieu thereof the words “nursing home”;

- (v) by omitting the definition of “Private hospital” in the same section and by inserting in lieu thereof the following definition :—

“Private hospital” means a building established or used or intended to be established or used for the treatment for fee or reward of patients, but does not include—

- (a) an institution conducted by or on behalf of the State;

(b)

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- (b) an incorporated hospital or separate institution within the meaning of the Public Hospitals Act, 1929;
 - (c) a nursing home;
 - (d) an authorised hospital within the meaning of the Mental Health Act, 1958; or
 - (e) an institution within the meaning of the Inebriates Act, 1912.
- (vi) by omitting the definition of "Rest home" in the same section;
- (vii) by omitting from the definition of "Ward" in the same section the words "rest home in which patients are received or lodged for treatment" and by inserting in lieu thereof the words "nursing home in which patients are lodged";

Short heading
before
sec. 6.

- (b) by omitting from the short heading appearing next before section six the words "*rest homes*" and by inserting in lieu thereof the words "*nursing homes*";

Sec. 6.
(Licenses.)

- (c) (i) by omitting from subsection one of section six the words "Minister on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission";
- (ii) by omitting subsection (1A) of the same section and by inserting in lieu thereof the following subsection :—
- (1A) No nursing home shall be carried on, used, or conducted, except under the authority of a license granted by the Commission.
- (iii) by omitting from subsection two of the same section the words "one hundred dollars and not less than twenty dollars" and by inserting in

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in lieu thereof the words “two hundred dollars and, in addition, to a fine of not exceeding fifty dollars for every day on which the breach continues”;

- (iv) by omitting from subsection three of the same section the words “Board of Health” and by inserting in lieu thereof the word “Commission”;
- (v) by omitting from the same subsection the words “rest home” and by inserting in lieu thereof the words “nursing home”;
- (vi) by omitting from subsection four of the same section the words “Board of Health” and by inserting in lieu thereof the word “Commission”;
- (vii) by omitting from the same subsection the words “rest home” and by inserting in lieu thereof the words “nursing home”;
- (viii) by inserting next after the same subsection the following new subsection :—

(4A) The provisions of subsections three and four of this section have effect subject to the provisions of section 10C of this Act.

- (d) (i) by omitting from subsection one of section 7A Sec. 7A. seven the words “Board of Health” and by inserting in lieu thereof the word “Com- (Application for license.) mission”;
- (ii) by omitting from paragraph (a) of subsection two of the same section the words “rest home” and by inserting in lieu thereof the words “nursing home”;
- (e) (i) by omitting from subsection one of section 7A Sec. 7A. the words “President of the Board of Health” and by inserting in lieu thereof the word (Interim license.) “Commission”;

(ii)

Private Hospitals (Amendment).

Sec. 8.
(Granting
of the
license.)

- (ii) by omitting from subsection two of the same section the word "Minister" and by inserting in lieu thereof the word "Commission";
- (f) (i) by omitting from section eight the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- (ii) by omitting from subsection one of the same section the words "Minister, on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission";
- (iii) by omitting from the same subsection the words "Minister as aforesaid" and by inserting in lieu thereof the word "Commission";
- (iv) by omitting from subsection two of the same section the words "Minister shall, as aforesaid, satisfy himself" and by inserting in lieu thereof the words "Commission shall satisfy itself";
- (v) by omitting from the same section the words "rest homes" wherever occurring and by inserting in lieu thereof the words "nursing homes";
- (vi) by omitting subsection five of the same section and by inserting in lieu thereof the following subsection : —

(5) Where the Commission is satisfied that the particulars specified in a license require amendment, the Commission may cancel the license by notice in writing sent by post to the licensee at the address of the private hospital or nursing home to which the license applies and grant to him a substitute license containing the amended particulars.

The cancellation of a license under this subsection shall take effect upon the grant of the substitute license.

The

Private Hospitals (Amendment).

The cancelled license shall be forwarded by the licensee to the Commission within fourteen days of receipt of a notice under this subsection.

A licensee who fails to forward a license in accordance with the provisions of this subsection shall be guilty of an offence against this Act.

- (g) (i) by omitting from section 8A the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home"; Sec. 8A. (Notification of change of particulars.)
- (ii) by omitting from subsection one of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";
- (iii) by omitting from subsection two of the same section the words "Board of Health" where firstly occurring and by inserting in lieu thereof the word "Commission";
- (iv) by omitting from the same subsection the words "Board of Health with the approval of the Minister" and by inserting in lieu thereof the word "Commission";
- (v) by omitting subsection three of the same section;
- (h) (i) by omitting from section nine the words "Board of Health" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 9. (Annual license fee to be paid.)
- (ii) by omitting from subsection four of the same section the words "with the approval of the Minister";

(i)

Private Hospitals (Amendment).

Sec. 9A.
(Death of
licensee.)

- (i) by omitting from paragraph (b) of subsection two of section 9A the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission";

Sec. 9B.
(Transfer
of license.)

- (j) by omitting from subsection one of section 9B the words "Minister on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission";

Short
heading
before
sec. 10.

- (k) by omitting from the short heading appearing next before section ten the words "*rest homes*" and by inserting in lieu thereof the words "*nursing homes*";

Subst.
sec. 10.

- (l) by omitting section ten and by inserting in lieu thereof the following new section :—

Chief
nurses and
assistant
chief nurses.

10. (1) In this section, "establishment" means private hospital or nursing home.

(2) The licensee of an establishment is guilty of an offence against this Act unless—

- (a) there is a person who carries out the duties of chief nurse of the establishment and who is responsible for the conduct of the establishment; and
- (b) that person is a registered nurse and holds the prescribed qualifications that are applicable to the chief nurse of the establishment.

(3) Notwithstanding subsection two of this section, where the regulations prescribe qualifications that are applicable to the chief nurse of an establishment, the licensee of the establishment is not guilty of an offence under that subsection by reason only that the person who carries out the duties of chief nurse of the establishment does not hold those qualifications, if there is a person who is

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a registered nurse and who holds those qualifications and who carries out the duties of assistant chief nurse of the establishment.

(4) Notwithstanding subsections two and three of this section, the licensee of an establishment is not guilty of an offence under subsection two of this section by reason only that, for a number of days not exceeding the prescribed number of days during the prescribed period, there is no person who is a registered nurse and who holds the prescribed qualifications that are applicable to the chief nurse of the establishment and who carries out the duties of chief nurse or assistant chief nurse of the establishment.

(5) Except as may be provided by the regulations, the licensee of an establishment shall, forthwith after a person commences to carry out the duties of chief nurse or assistant chief nurse of the establishment, notify the Commission in writing of that fact and of the full name and the qualifications of that person.

(6) The Commission—

- (a) may, by notification sent by post or delivered to the licensee of an establishment, prohibit a person specified therein from carrying out the duties of chief nurse or assistant chief nurse of the establishment except in such circumstances (if any) as are specified therein; and
- (b) may, by a like notification, revoke a notification under paragraph (a) of this subsection, and a notification under this subsection has effect according to its tenor.

(7) The licensee of an establishment is guilty of an offence against this Act if, while a notification sent or delivered to him under
paragraph

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paragraph (a) of subsection six of this section in respect of a person remains unrevoked, that person carries out the duties of chief nurse or assistant chief nurse of the establishment in contravention of the notification.

(8) Nothing in this Act prevents the licensee of an establishment from carrying out the duties of chief nurse or assistant chief nurse of the establishment if he could carry out those duties had he not been the licensee.

(9) It shall be a defence to a prosecution for an offence against this Act arising under this section if the person charged proves that he took all such steps as are reasonable in the circumstances to avoid being guilty of the offence.

(10) The regulations may make provision for or with respect to determining the duties of the chief nurses and assistant chief nurses of establishments.

Sec. 10A.
(Responsi-
bility of
licensees.)

- (m) (i) by omitting from section 10A the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- (ii) by inserting at the end of the same section the following new subsections :—

(2) The licensee of a private hospital or nursing home shall ensure that a registered nurse is on duty in the private hospital or nursing home at all times.

Notwithstanding the foregoing provisions of this subsection, the licensee of a nursing home is not guilty of an offence against this Act arising under this subsection by reason that a registered nurse was not on duty in the nursing home during any period if he proves that during that period there was on the premises

thereof

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thereof a registered nurse who, though not on duty therein, was available for duty in the event of any emergency, was able to be contacted immediately in that event, and could be expected to enter on duty therein in sufficient time to deal with or assist in dealing with the emergency.

(3) The licensee of a private hospital or nursing home shall ensure that a copy of this Act and a copy of the regulations are at all times on the premises of the private hospital or nursing home and readily available for inspection at those premises by the chief nurse.

(4) Where any damage to the premises of a private hospital or nursing home, or to anything therein or thereon, occurs by reason of fire, the licensee of the private hospital or nursing home shall, except in such cases or classes of cases as are specified or described in the regulations, report the damage to the Commission in writing as soon as practicable after the occurrence.

- (n) (i) by omitting from section 10B the words "manager or resident assistant" wherever occurring and by inserting in lieu thereof the words "chief nurse or assistant chief nurse"; (Certain description not to be used.)
- (ii) by omitting from subsection one of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- (iii) by omitting from subsection two of the same section the words "rest home who is registered as a nurse under the Nurses Registration Act, 1953, as amended by subsequent Acts" and by inserting in lieu thereof the words "nursing home who is a registered nurse";

(o)

Private Hospitals (Amendment).

- New sec.
10c. (o) by inserting next after section 10B the following new section :—
- Name of nursing home. 10c. (1) The licensee of a nursing home who, after the expiration of six months after the commencement of the Private Hospitals (Amendment) Act, 1971, does anything, or suffers anything to be done, whereby the nursing home is held out to be a hospital by the use of the word "hospital", whether in its name or otherwise, shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding two hundred dollars and, in addition, a penalty not exceeding fifty dollars for every day on which the offence continues.
- (2) The provisions of subsection one of this section apply to a nursing home that is, under section six of this Act, exempted from the operation of this Act, and so apply as if the word "licensee" were omitted therefrom and the words "proprietor or person-in-charge" were inserted in lieu thereof.
- Sec. 11. (Notice of certain diseases.) (p) by omitting from section eleven the word "manager" wherever occurring and by inserting in lieu thereof the words "chief nurse";
- Sec. 12. (Notice of death or birth.) (q) by omitting from section twelve the word "manager" wherever occurring and by inserting in lieu thereof the words "chief nurse";
- Sec. 13. (Keeping of register.) (r) by omitting from subsection one of section thirteen the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- Sec. 14. (Inspection.) (s) (i) by omitting from section fourteen the words "rest home" and by inserting in lieu thereof the words "nursing home";
- (ii) by omitting from the same section the words "the president of the Board of Health" and by inserting in lieu thereof the words "a member of the Commission";

(iii)

Private Hospitals (Amendment).

- (iii) by omitting from the same section the words "Board of Health on that behalf" and by inserting in lieu thereof the words "Commission in that behalf";
- (t) (i) by omitting from subsection one of section 14A the words "Board of Health" and by inserting in lieu thereof the word "Commission"; Sec. 14A. (Provision for repairs, etc.)
- (ii) by omitting from subsection one of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- (iii) by omitting from subsection two of the same section the words "Board of Health with the approval of the Minister" and by inserting in lieu thereof the word "Commission";
- (u) by omitting from section fifteen the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home"; Sec. 15. (Purpose for which hospital, etc., may be used.)
- (v) (i) by omitting from subsection one of section sixteen the words "Minister may at any time" and by inserting in lieu thereof the words "Commission may at any time, and shall, if the Minister so directs,"; Sec. 16. (Inquiry as to management.)
- (ii) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";
- (iii) by omitting from the same subsection the word "him" and by inserting in lieu thereof the word "it";
- (iv) by omitting from subsection two of the same section the word "Minister" and by inserting in lieu thereof the words "Commission and, if the inquiry was made at the direction of the Minister, to the Minister";

(v)

Private Hospitals (Amendment).

Sec. 16A.
(Revocation
of licenses.)

- (v) by omitting from subsection three of the same section the words "Minister may, if he" and by inserting in lieu thereof the words "Commission may, if it";
- (vi) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";
- (w) (i) by omitting from subsection one of section 16A the words "Minister may, on the recommendation of the Board of Health" and by inserting in lieu thereof the words "Commission may";
- (ii) by omitting from the same subsection the words "Board of Health" where secondly and thirdly occurring and by inserting in lieu thereof the word "Commission";
- (iii) by omitting from the same subsection the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- (iv) by omitting from paragraph (e) of the same subsection the word "if";
- (v) by omitting from paragraph (f) of the same subsection the words "or three";
- (vi) by omitting from the same paragraph the words "this Act." and by inserting in lieu thereof the following words and new paragraph :—
 - this Act; or
 - (g) the private hospital or nursing home ceases to operate as a private hospital or nursing home.

(vii)

Private Hospitals (Amendment).

- (vii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection :—

(2) Before revoking a license under this section, the Commission shall serve notice in writing on the licensee that it proposes to revoke the license.

Any such notice shall—

- (a) specify the grounds upon which it is proposed to revoke the license; and
 - (b) appoint a time within which the licensee may show cause why the license should not be revoked.
- (x) (i) by omitting from section 16B the words “rest home” and by inserting in lieu thereof the words “nursing home”; Sec. 16B.
(When revocation to take effect.)
- (ii) by omitting from the same section the word “Minister” and by inserting in lieu thereof the word “Commission”;
- (y) by omitting from section 16c the words “rest home” wherever occurring and by inserting in lieu thereof the words “nursing home”; Sec. 16c.
(Appeal against revocation.)
- (z) (i) by omitting from section seventeen the words “treatment, attendance, or” wherever occurring and by inserting in lieu thereof the words “treatment or attendance, or nursing”; Sec. 17.
(Evidence that house, &c., is a private hospital or nursing home.)
- (ii) by omitting from the same section the words “rest home” and by inserting in lieu thereof the words “nursing home”;
- (aa) (i) by omitting from section eighteen the words “Board of Health” wherever occurring and by inserting in lieu thereof the word “Commission”; Sec. 18.
(Regulations.)

(ii)

Private Hospitals (Amendment).

- (ii) by omitting from the same section the words "rest homes" wherever occurring and by inserting in lieu thereof the words "nursing homes";
- (iii) by omitting from subsection two of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- (iv) by omitting from paragraph (c) of the same subsection the words "managers and resident assistants" and by inserting in lieu thereof the words "chief nurses and assistant chief nurses";
- (v) by omitting from paragraph (e) of the same subsection the words "drainage and provision of fire escapes" and by inserting in lieu thereof the words "drainage, the sufficiency and efficiency of the means of escape in case of fire, any aspect of the construction and design of the buildings which relates to safety from fire and fire protection and the means of detecting and extinguishing fire";
- (vi) by inserting next after paragraph (v) of the same subsection the following new paragraphs :—
 - (w) prescribing the records to be kept by private hospitals or nursing homes;
 - (x) prescribing the information to be furnished to the Commission in respect of private hospitals and nursing homes, the persons who are required to furnish it, the times within which it is to be furnished and the method of furnishing it.
- (vii) by omitting from subsection four of the same section the words "one hundred dollars" and by inserting in lieu thereof the words "two hundred dollars";

(bb)

Private Hospitals (Amendment).

- (bb) by omitting from section nineteen the words "rest home" and by inserting in lieu thereof the words "nursing home"; Sec. 19.
(Medicines
dispensed by
pharma-
cists.)
- (cc) (i) by omitting from section twenty-one the words "Board of Health" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 21.
(Certificate
as to certain
matters.)
- (ii) by omitting from the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- (dd) by omitting from section twenty-two the words "Board of Health" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 22.
(Notices.)
- (ee) by omitting from section twenty-four the words "Consolidated Revenue Fund" and by inserting in lieu thereof the words "the Hospital Fund established under the Public Hospitals Act, 1929"; Sec. 24.
(Fees.)
- (ff) (i) by inserting in section twenty-five after the word "done" where firstly occurring the words "or omitted to be done"; Sec. 25.
(Exonera-
tion of
certain
persons.)
- (ii) by inserting in the same section after the word "Health" where secondly occurring the words ", before the commencement of the Private Hospitals (Amendment) Act, 1971, or done or omitted to be done by the Commission, or by any member, officer or employee of or person authorised by the Commission, after that commencement,";

Private Hospitals (Amendment).

New sec.
26

(gg) by inserting next after section twenty-five the following new section :—

Delegation
by Com-
mission.

26. (1) The Commission may, by instrument in writing, delegate to a person specified in the instrument of delegation the exercise or performance of such of its powers, authorities, duties and functions conferred or imposed upon it by or under this Act (except this power of delegation and the making of a recommendation for the purposes of subsection one of section eighteen of this Act) as may be specified in the instrument and may in like manner revoke wholly or in part any such delegation.

(2) Any power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time by the delegate in accordance with the terms of the delegation.

(3) A delegation made under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the specified powers, authorities, duties or functions or as to time or circumstances as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Commission may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate when acting in the exercise of a delegation made under this section and within the terms of the delegation shall have the like force or effect as if the act or thing had been done or suffered by the Commission.

Private Hospitals (Amendment).

3. The Public Hospitals Act, 1929, is amended—Amendment
of Act No.
8, 1929.

- (a) (i) by inserting next after the definition of "In-patient" in section three the following new definition :— Sec. 3.
(Interpre-
tation.)
- "Nursing home" means a nursing home within the meaning of the Private Hospitals Act, 1908.
- (ii) by inserting next after the definition of "Prescribed" in the same section the following new definition :—
- "Private hospital" means a private hospital within the meaning of the Private Hospitals Act, 1908.
- (b) by inserting in subsection one of section five after the word "Act" the words "and the Private Hospitals Act, 1908"; Sec. 5.
(Appoint-
ment of
Commis-
sion.)
- (c) by inserting in subsection four of section eight after the word "hospital" the words "or any present or past patient of any private hospital or nursing home"; Sec. 8.
(Appoint-
ment of
officers and
employees.)
- (d) (i) by omitting from paragraph (a) of section nine the words "or associated organisation" and by inserting in lieu thereof the words ", associated organisation, private hospital or nursing home;"; Sec. 9.
(Members
not to be
personally
interested
in contracts,
&c.)
- (ii) by omitting from paragraph (ii) of the proviso to the same section the words "or associated organisation" and by inserting in lieu thereof the words ", associated organisation, private hospital or nursing home";
- (iii) by inserting in paragraph (iii) of the same proviso after the word "organisation" the words "or the governing authority or licensee

(within

Private Hospitals (Amendment).

(within the meaning of the Private Hospitals Act, 1908) of any private hospital or nursing home”;

Sec. 10.
(Salaries
and expenses
paid out of
Hospital
Fund.)

- (e) by inserting in subsection one of section ten after the word “Act” the words “and the Private Hospitals Act, 1908”;

Sec. 11A.
(Inquiries
by Com-
mission.)

- (f) by omitting from section 11A the words “such inquiry in respect of a private hospital to which the provisions of the Private Hospitals Act, 1908, as amended by subsequent Acts, applies, unless the funds for the establishment or maintenance of such private hospital are derived wholly or in part from the public by voluntary contributions” and by inserting in lieu thereof the words “inquiry under this section in respect of a private hospital or nursing home”.

Savings.

4. (1) Any act, matter or thing that—

- (a) was done or omitted to be done under the Principal Act (except section ten or fourteen thereof) before the commencement of this Act by, to or in respect of the Minister, the Board of Health or the Secretary of the Board of Health; and
- (b) could, when it was so done or omitted to be done, have been done or omitted to be done by, to or in respect of the Commission or the Secretary of the Commission, as the case may require, had this Act been then in force, shall, after that commencement, be deemed to have been done or omitted to be done by, to or in respect of the Commission or Secretary of the Commission, as the case may require.

(2)

Private Hospitals (Amendment).

(2) Subsection one of this section has effect in respect of any act, matter or thing done or omitted to be done—

- (a) by the Minister—whether or not it was done or omitted to be done, or required to be done or omitted to be done, on the recommendation of the Board of Health; or
- (b) by the Board of Health—whether or not it was done or omitted to be done, or required to be done or omitted to be done, with the approval of the Minister.

(3) A license granted by the Minister under subsection (1A) of section six of the Principal Act and in force immediately before the commencement of this Act shall, after that commencement, be deemed to have been granted by the Commission under subsection (1A) of section six of the Principal Act, as amended by this Act.

(4) A reference, in any other Act, or in any by-law, regulation or ordinance, or in any license granted under the Principal Act, or in any other instrument or document whatsoever, of the same or a different kind or nature, to a rest home shall be read and construed as a reference to a nursing home.

(5) Subject to this section, any act, matter or thing done or omitted to be done under the Principal Act (except section ten thereof) before the commencement of this Act in respect of or in relation to an establishment that was a rest home shall, after that commencement, have the same effect as it would have had in respect of or in relation to that establishment had the amendments made by this Act not been made.

(6) Any application made to the President of the Board of Health under section 7A of the Principal Act and pending immediately before the commencement of this Act shall be deemed to have been made to the Commission.

(7)

Private Hospitals (Amendment).

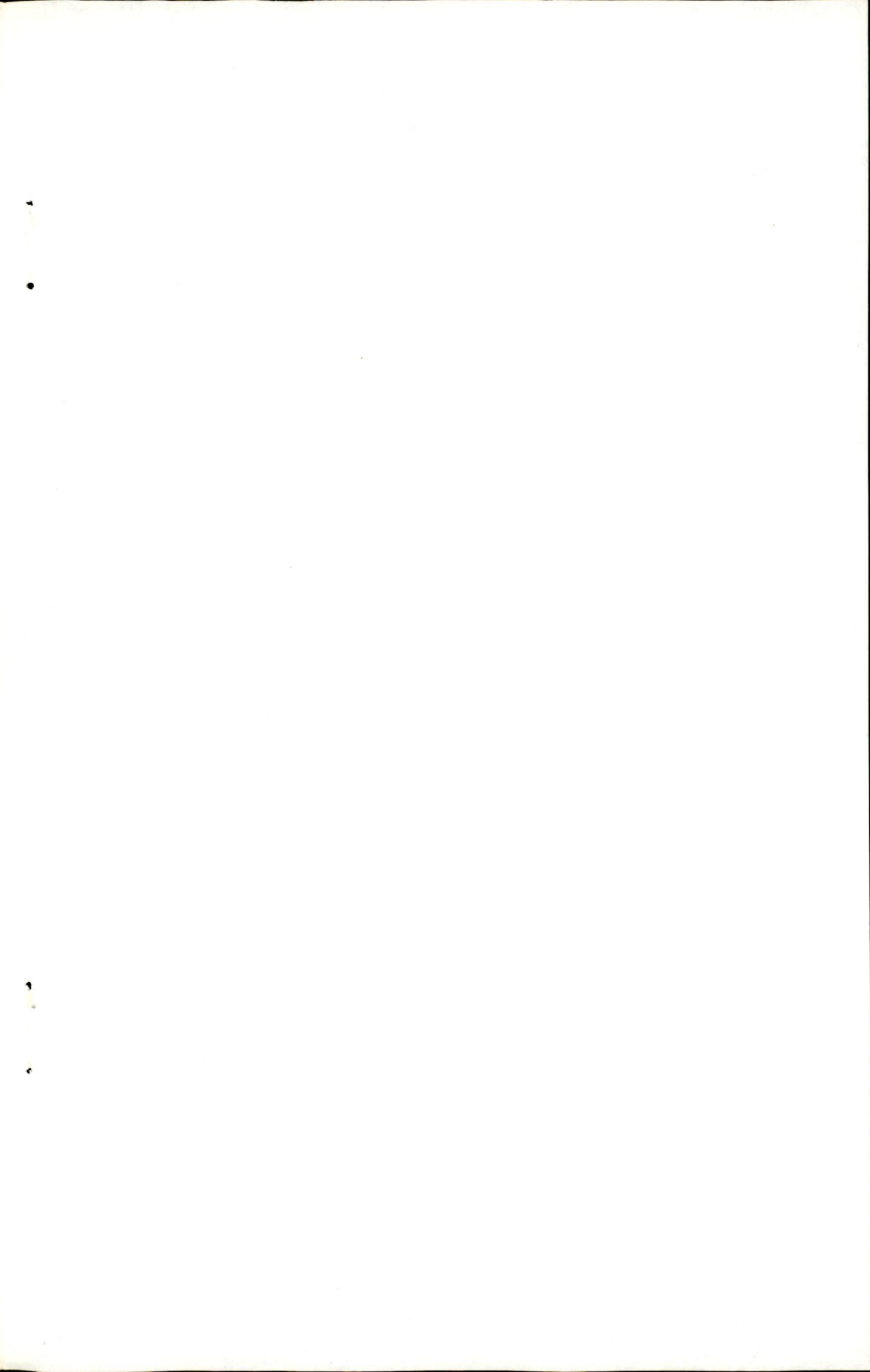
(7) Any interim license granted by the President of the Board of Health under section 7A of the Principal Act and in force immediately before the commencement of this Act shall be deemed to have been granted by the Commission.

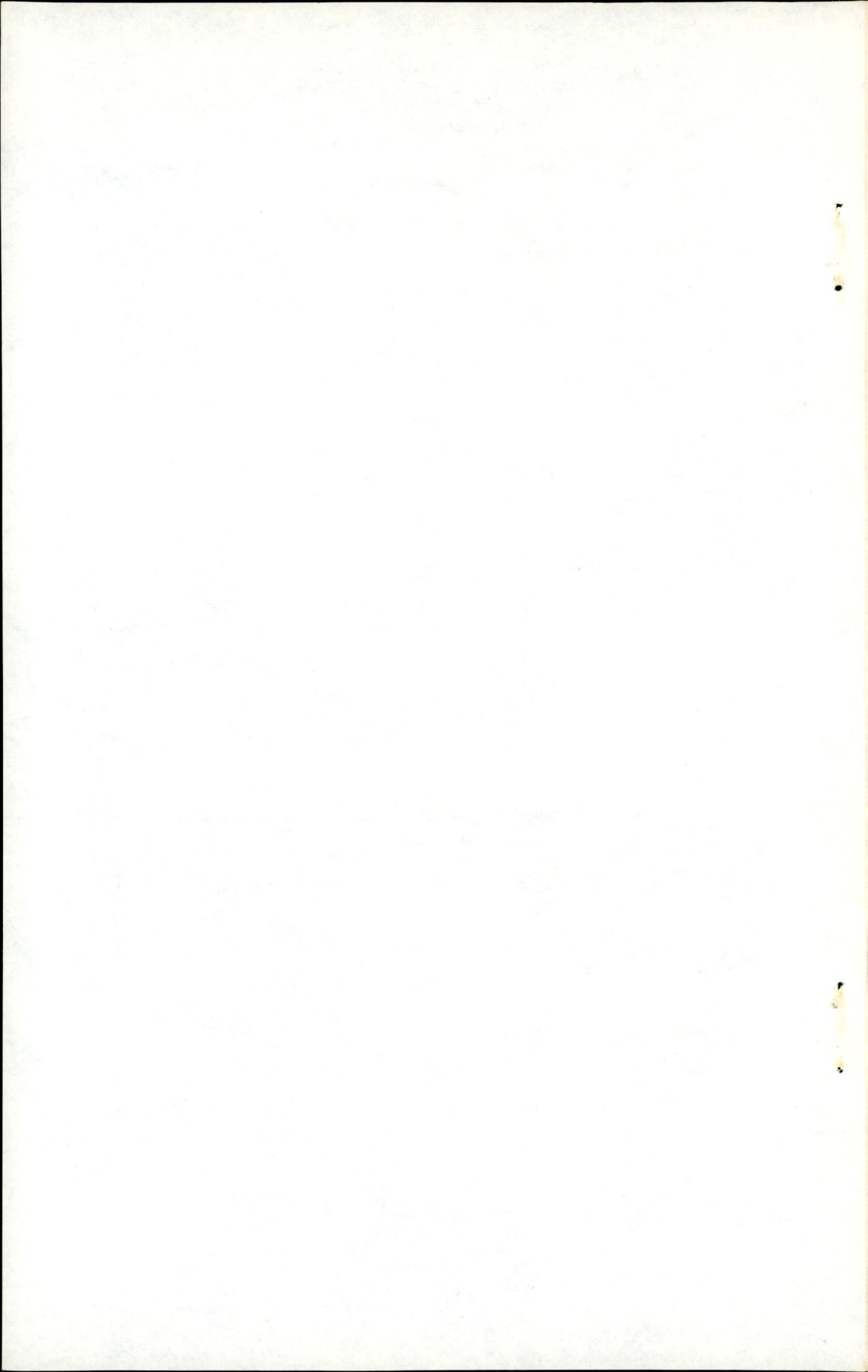
(8) All suits, actions and proceedings pending immediately before the commencement of this Act at the suit of any person against the Minister or the Board of Health in respect of any act, matter or thing done or omitted to be done under or in purported compliance with the Principal Act shall be suits, actions and proceedings pending at the suit of that person against the Commission.

(9) In this section, "rest home" has the meaning ascribed to that expression in the Principal Act.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971





I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 6 May, 1971.*

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 10, 1971.

An Act to transfer the exercise and performance of certain powers, authorities, duties and functions in relation to private hospitals and nursing homes to The Hospitals Commission of New South Wales; to make further provisions relating to the management of private hospitals and nursing homes; for these and other purposes to amend the Private Hospitals Act, 1908, and the Public Hospitals Act, 1929; and for purposes connected therewith. [Assented to, 14th May, 1971.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

L. A. PUNCH,
Chairman of Committees of the Legislative Assembly.

Private Hospitals (Amendment).

BE it enacted by the Queen'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:—

Short title,
commence-
ment and
construction.

1. (1) This Act may be cited as the "Private Hospitals (Amendment) Act, 1971".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) The Private Hospitals Act, 1908, is in this Act referred to as the Principal Act.

Amendment
of Act No.
14, 1908.

2. The Principal Act is amended—

Sec. 2.
(Defini-
tions.)

(a) (i) by inserting next after the definition of "Building" in section two the following new definition:—

"Commission" means The Hospitals Commission of New South Wales constituted under the Public Hospitals Act, 1929.

(ii) by omitting the definition of "Manager" in the same section;

(iii) by inserting next before the definition of "Patient" in the same section the following new definition:—

"Nursing home" means a building established or used or intended to be established or used to board and lodge for fee or reward patients—

(a) who are recuperating from illness or childbirth and who require only nursing care; or

(b)

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(b) who, on account of age, senility, infirmity, chronic ill-health or other condition, require the exercise of oversight, nursing care and control with or without occasional attention by a medical practitioner,

but does not include—

- (c) an institution conducted by or on behalf of the State;
- (d) an incorporated hospital or separate institution within the meaning of the Public Hospitals Act, 1929;
- (e) a private hospital;
- (f) an authorised hospital within the meaning of the Mental Health Act, 1958; or
- (g) an institution within the meaning of the Inebriates Act, 1912.

(iv) by omitting from the definition of "Patient" in the same section the words "rest home" and by inserting in lieu thereof the words "nursing home";

(v) by omitting the definition of "Private hospital" in the same section and by inserting in lieu thereof the following definition :—

"Private hospital" means a building established or used or intended to be established or used for the treatment for fee or reward of patients, but does not include—

- (a) an institution conducted by or on behalf of the State;
- (b)

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- (b) an incorporated hospital or separate institution within the meaning of the Public Hospitals Act, 1929;
 - (c) a nursing home;
 - (d) an authorised hospital within the meaning of the Mental Health Act, 1958; or
 - (e) an institution within the meaning of the Inebriates Act, 1912.
- (vi) by omitting the definition of "Rest home" in the same section;
 - (vii) by omitting from the definition of "Ward" in the same section the words "rest home in which patients are received or lodged for treatment" and by inserting in lieu thereof the words "nursing home in which patients are lodged";
- Short heading before sec. 6.
- (b) by omitting from the short heading appearing next before section six the words "*rest homes*" and by inserting in lieu thereof the words "*nursing homes*";
- Sec. 6.
(Licenses.)
- (c) (i) by omitting from subsection one of section six the words "Minister on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission";
 - (ii) by omitting subsection (1A) of the same section and by inserting in lieu thereof the following subsection :—
 - (1A) No nursing home shall be carried on, used, or conducted, except under the authority of a license granted by the Commission.
 - (iii) by omitting from subsection two of the same section the words "one hundred dollars and not less than twenty dollars" and by inserting in

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in lieu thereof the words "two hundred dollars and, in addition, to a fine of not exceeding fifty dollars for every day on which the breach continues";

(iv) by omitting from subsection three of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";

(v) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";

(vi) by omitting from subsection four of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";

(vii) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";

(viii) by inserting next after the same subsection the following new subsection :—

(4A) The provisions of subsections three and four of this section have effect subject to the provisions of section 10C of this Act.

(d) (i) by omitting from subsection one of section Sec. 7. seven the words "Board of Health" and by (Application inserting in lieu thereof the word "Com- for license.) mission";

(ii) by omitting from paragraph (a) of subsection two of the same section the words "rest home" and by inserting in lieu thereof the words "nursing home";

(e) (i) by omitting from subsection one of section 7A Sec. 7A. the words "President of the Board of Health" (Interim and by inserting in lieu thereof the word license.) "Commission";

(ii)

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Sec. 8.
(Granting
of the
license.)

(ii) by omitting from subsection two of the same section the word "Minister" and by inserting in lieu thereof the word "Commission";

(f) (i) by omitting from section eight the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";

(ii) by omitting from subsection one of the same section the words "Minister, on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission";

(iii) by omitting from the same subsection the words "Minister as aforesaid" and by inserting in lieu thereof the word "Commission";

(iv) by omitting from subsection two of the same section the words "Minister shall, as aforesaid, satisfy himself" and by inserting in lieu thereof the words "Commission shall satisfy itself";

(v) by omitting from the same section the words "rest homes" wherever occurring and by inserting in lieu thereof the words "nursing homes";

(vi) by omitting subsection five of the same section and by inserting in lieu thereof the following subsection : —

(5) Where the Commission is satisfied that the particulars specified in a license require amendment, the Commission may cancel the license by notice in writing sent by post to the licensee at the address of the private hospital or nursing home to which the license applies and grant to him a substitute license containing the amended particulars.

The cancellation of a license under this subsection shall take effect upon the grant of the substitute license.

(11)

The

Private Hospitals (Amendment).

The cancelled license shall be forwarded by the licensee to the Commission within fourteen days of receipt of a notice under this subsection.

A licensee who fails to forward a license in accordance with the provisions of this subsection shall be guilty of an offence against this Act.

- (g) (i) by omitting from section 8A the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home"; Sec. 8A. (Notification of change of particulars.)
- (ii) by omitting from subsection one of the same section the words "Board of Health" and by inserting in lieu thereof the word "Commission";
- (iii) by omitting from subsection two of the same section the words "Board of Health" where firstly occurring and by inserting in lieu thereof the word "Commission";
- (iv) by omitting from the same subsection the words "Board of Health with the approval of the Minister" and by inserting in lieu thereof the word "Commission";
- (v) by omitting subsection three of the same section;
- (h) (i) by omitting from section nine the words "Board of Health" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 9. (Annual license fee to be paid.)
- (ii) by omitting from subsection four of the same section the words "with the approval of the Minister";

(i)

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Sec. 9A.
(Death of licensee.) (i) by omitting from paragraph (b) of subsection two of section 9A the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission";

Sec. 9B.
(Transfer of license.) (j) by omitting from subsection one of section 9B the words "Minister on the recommendation of the Board of Health" and by inserting in lieu thereof the word "Commission";

Short heading before sec. 10. (k) by omitting from the short heading appearing next before section ten the words "*rest homes*" and by inserting in lieu thereof the words "*nursing homes*";

Subst. sec. 10. (l) by omitting section ten and by inserting in lieu thereof the following new section :—

Chief nurses and assistant chief nurses. 10. (1) In this section, "establishment" means private hospital or nursing home.

(2) The licensee of an establishment is guilty of an offence against this Act unless—

(a) there is a person who carries out the duties of chief nurse of the establishment and who is responsible for the conduct of the establishment; and

(b) that person is a registered nurse and holds the prescribed qualifications that are applicable to the chief nurse of the establishment.

(3) Notwithstanding subsection two of this section, where the regulations prescribe qualifications that are applicable to the chief nurse of an establishment, the licensee of the establishment is not guilty of an offence under that subsection by reason only that the person who carries out the duties of chief nurse of the establishment does not hold those qualifications, if there is a person who is

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a registered nurse and who holds those qualifications and who carries out the duties of assistant chief nurse of the establishment.

(4) Notwithstanding subsections two and three of this section, the licensee of an establishment is not guilty of an offence under subsection two of this section by reason only that, for a number of days not exceeding the prescribed number of days during the prescribed period, there is no person who is a registered nurse and who holds the prescribed qualifications that are applicable to the chief nurse of the establishment and who carries out the duties of chief nurse or assistant chief nurse of the establishment.

(5) Except as may be provided by the regulations, the licensee of an establishment shall, forthwith after a person commences to carry out the duties of chief nurse or assistant chief nurse of the establishment, notify the Commission in writing of that fact and of the full name and the qualifications of that person.

(6) The Commission—

(a) may, by notification sent by post or delivered to the licensee of an establishment, prohibit a person specified therein from carrying out the duties of chief nurse or assistant chief nurse of the establishment except in such circumstances (if any) as are specified therein; and

(b) may, by a like notification, revoke a notification under paragraph (a) of this subsection, and a notification under this subsection has effect according to its tenor.

(7) The licensee of an establishment is guilty of an offence against this Act if, while a notification sent or delivered to him under

paragraph

Private Hospitals (Amendment).

paragraph (a) of subsection six of this section in respect of a person remains unrevoked, that person carries out the duties of chief nurse or assistant chief nurse of the establishment in contravention of the notification.

(8) Nothing in this Act prevents the licensee of an establishment from carrying out the duties of chief nurse or assistant chief nurse of the establishment if he could carry out those duties had he not been the licensee.

(9) It shall be a defence to a prosecution for an offence against this Act arising under this section if the person charged proves that he took all such steps as are reasonable in the circumstances to avoid being guilty of the offence.

(10) The regulations may make provision for or with respect to determining the duties of the chief nurses and assistant chief nurses of establishments.

Sec. 10A.
(Responsi-
bility of
licensees.)

(m) (i) by omitting from section 10A the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";

(ii) by inserting at the end of the same section the following new subsections :—

(2) The licensee of a private hospital or nursing home shall ensure that a registered nurse is on duty in the private hospital or nursing home at all times.

Notwithstanding the foregoing provisions of this subsection, the licensee of a nursing home is not guilty of an offence against this Act arising under this subsection by reason that a registered nurse was not on duty in the nursing home during any period if he proves that during that period there was on the premises

thereof

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thereof a registered nurse who, though not on duty therein, was available for duty in the event of any emergency, was able to be contacted immediately in that event, and could be expected to enter on duty therein in sufficient time to deal with or assist in dealing with the emergency.

(3) The licensee of a private hospital or nursing home shall ensure that a copy of this Act and a copy of the regulations are at all times on the premises of the private hospital or nursing home and readily available for inspection at those premises by the chief nurse.

(4) Where any damage to the premises of a private hospital or nursing home, or to anything therein or thereon, occurs by reason of fire, the licensee of the private hospital or nursing home shall, except in such cases or classes of cases as are specified or described in the regulations, report the damage to the Commission in writing as soon as practicable after the occurrence.

(n) (i) by omitting from section 10B the words "manager or resident assistant" wherever occurring and by inserting in lieu thereof the words "chief nurse or assistant chief nurse"; (Certain description not to be used.)

(ii) by omitting from subsection one of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";

(iii) by omitting from subsection two of the same section the words "rest home who is registered as a nurse under the Nurses Registration Act, 1953, as amended by subsequent Acts" and by inserting in lieu thereof the words "nursing home who is a registered nurse";

(iii)

(o)

Private Hospitals (Amendment).

New sec.
10c.

- (o) by inserting next after section 10B the following new section :—

Name of
nursing
home.

10c. (1) The licensee of a nursing home who, after the expiration of six months after the commencement of the Private Hospitals (Amendment) Act, 1971, does anything, or suffers anything to be done, whereby the nursing home is held out to be a hospital by the use of the word "hospital", whether in its name or otherwise, shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding two hundred dollars and, in addition, a penalty not exceeding fifty dollars for every day on which the offence continues.

(2) The provisions of subsection one of this section apply to a nursing home that is, under section six of this Act, exempted from the operation of this Act, and so apply as if the word "licensee" were omitted therefrom and the words "proprietor or person-in-charge" were inserted in lieu thereof.

Sec. 11.
(Notice of
certain
diseases.)

- (p) by omitting from section eleven the word "manager" wherever occurring and by inserting in lieu thereof the words "chief nurse";

Sec. 12.
(Notice of
death or
birth.)

- (q) by omitting from section twelve the word "manager" wherever occurring and by inserting in lieu thereof the words "chief nurse";

Sec. 13.
(Keeping of
register.)

- (r) by omitting from subsection one of section thirteen the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";

Sec. 14.
(Inspection.)

- (s) (i) by omitting from section fourteen the words "rest home" and by inserting in lieu thereof the words "nursing home";
- (ii) by omitting from the same section the words "the president of the Board of Health" and by inserting in lieu thereof the words "a member of the Commission";

(iii)

Private Hospitals (Amendment).

- (iii) by omitting from the same section the words "Board of Health on that behalf" and by inserting in lieu thereof the words "Commission in that behalf";
- (t) (i) by omitting from subsection one of section 14A the words "Board of Health" and by inserting in lieu thereof the word "Commission"; Sec. 14A. (Provision for repairs, etc.)
- (ii) by omitting from subsection one of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- (iii) by omitting from subsection two of the same section the words "Board of Health with the approval of the Minister" and by inserting in lieu thereof the word "Commission";
- (u) by omitting from section fifteen the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home"; Sec. 15. (Purpose for which hospital, etc., may be used.)
- (v) (i) by omitting from subsection one of section sixteen the words "Minister may at any time" and by inserting in lieu thereof the words "Commission may at any time, and shall, if the Minister so directs,"; Sec. 16. (Inquiry as to management.)
- (ii) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";
- (iii) by omitting from the same subsection the word "him" and by inserting in lieu thereof the word "it";
- (iv) by omitting from subsection two of the same section the word "Minister" and by inserting in lieu thereof the words "Commission and, if the inquiry was made at the direction of the Minister, to the Minister";

(v)

Private Hospitals (Amendment).

Sec. 16A.
(Revocation
of licenses.)

- (v) by omitting from subsection three of the same section the words "Minister may, if he" and by inserting in lieu thereof the words "Commission may, if it";
- (vi) by omitting from the same subsection the words "rest home" and by inserting in lieu thereof the words "nursing home";
- (w) (i) by omitting from subsection one of section 16A the words "Minister may, on the recommendation of the Board of Health" and by inserting in lieu thereof the words "Commission may";
- (ii) by omitting from the same subsection the words "Board of Health" where secondly and thirdly occurring and by inserting in lieu thereof the word "Commission";
- (iii) by omitting from the same subsection the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- (iv) by omitting from paragraph (e) of the same subsection the word "if";
- (v) by omitting from paragraph (f) of the same subsection the words "or three";
- (vi) by omitting from the same paragraph the words "this Act." and by inserting in lieu thereof the following words and new paragraph :—

this Act; or

- (g) the private hospital or nursing home ceases to operate as a private hospital or nursing home.

(vii)

Private Hospitals (Amendment).

- (vii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection : —
- (2) Before revoking a license under this section, the Commission shall serve notice in writing on the licensee that it proposes to revoke the license.
- Any such notice shall—
- (a) specify the grounds upon which it is proposed to revoke the license; and
- (b) appoint a time within which the licensee may show cause why the license should not be revoked.
- (x) (i) by omitting from section 16B the words “rest home” and by inserting in lieu thereof the words “nursing home”; Sec. 16B. (When revocation to take effect.)
- (ii) by omitting from the same section the word “Minister” and by inserting in lieu thereof the word “Commission”;
- (y) by omitting from section 16c the words “rest home” wherever occurring and by inserting in lieu thereof the words “nursing home”; Sec. 16c. (Appeal against revocation.)
- (z) (i) by omitting from section seventeen the words “treatment, attendance, or” wherever occurring and by inserting in lieu thereof the words “treatment or attendance, or nursing”; Sec. 17. (Evidence that house, &c., is a private hospital or nursing home.)
- (ii) by omitting from the same section the words “rest home” and by inserting in lieu thereof the words “nursing home”;
- (aa) (i) by omitting from section eighteen the words “Board of Health” wherever occurring and by inserting in lieu thereof the word “Commission”; Sec. 18. (Regulations.)

(ii)

Private Hospitals (Amendment).

- (ii) by omitting from the same section the words "rest homes" wherever occurring and by inserting in lieu thereof the words "nursing homes";
- (iii) by omitting from subsection two of the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- (iv) by omitting from paragraph (c) of the same subsection the words "managers and resident assistants" and by inserting in lieu thereof the words "chief nurses and assistant chief nurses";
- (v) by omitting from paragraph (e) of the same subsection the words "drainage and provision of fire escapes" and by inserting in lieu thereof the words "drainage, the sufficiency and efficiency of the means of escape in case of fire, any aspect of the construction and design of the buildings which relates to safety from fire and fire protection and the means of detecting and extinguishing fire";
- (vi) by inserting next after paragraph (v) of the same subsection the following new paragraphs :—
 - (w) prescribing the records to be kept by private hospitals or nursing homes;
 - (x) prescribing the information to be furnished to the Commission in respect of private hospitals and nursing homes, the persons who are required to furnish it, the times within which it is to be furnished and the method of furnishing it.
- (vii) by omitting from subsection four of the same section the words "one hundred dollars" and by inserting in lieu thereof the words "two hundred dollars";

(ii)

(bb)

Private Hospitals (Amendment).

- (bb) by omitting from section nineteen the words "rest home" and by inserting in lieu thereof the words "nursing home"; Sec. 19.
(Medicines dispensed by pharmacists.)
- (cc) (i) by omitting from section twenty-one the words "Board of Health" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 21.
(Certificate as to certain matters.)
- (ii) by omitting from the same section the words "rest home" wherever occurring and by inserting in lieu thereof the words "nursing home";
- (dd) by omitting from section twenty-two the words "Board of Health" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 22.
(Notices.)
- (ee) by omitting from section twenty-four the words "Consolidated Revenue Fund" and by inserting in lieu thereof the words "the Hospital Fund established under the Public Hospitals Act, 1929"; Sec. 24.
(Fees.)
- (ff) (i) by inserting in section twenty-five after the word "done" where firstly occurring the words "or omitted to be done"; Sec. 25.
(Exoneration of certain persons.)
- (ii) by inserting in the same section after the word "Health" where secondly occurring the words ", before the commencement of the Private Hospitals (Amendment) Act, 1971, or done or omitted to be done by the Commission, or by any member, officer or employee of or person authorised by the Commission, after that commencement,";

(gg)

Private Hospitals (Amendment).

New sec.
26.

(gg) by inserting next after section twenty-five the following new section :—

Delegation
by Com-
mission.

26. (1) The Commission may, by instrument in writing, delegate to a person specified in the instrument of delegation the exercise or performance of such of its powers, authorities, duties and functions conferred or imposed upon it by or under this Act (except this power of delegation and the making of a recommendation for the purposes of subsection one of section eighteen of this Act) as may be specified in the instrument and may in like manner revoke wholly or in part any such delegation.

(2) Any power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time by the delegate in accordance with the terms of the delegation.

(3) A delegation made under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the specified powers, authorities, duties or functions or as to time or circumstances as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Commission may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate when acting in the exercise of a delegation made under this section and within the terms of the delegation shall have the like force or effect as if the act or thing had been done or suffered by the Commission.

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3. The Public Hospitals Act, 1929, is amended—

Amendment
of Act No.
8, 1929.

- (a) (i) by inserting next after the definition of "In-patient" in section three the following new definition :—

Sec. 3.
(Interpre-
tation.)

"Nursing home" means a nursing home within the meaning of the Private Hospitals Act, 1908.

- (ii) by inserting next after the definition of "Prescribed" in the same section the following new definition :—

"Private hospital" means a private hospital within the meaning of the Private Hospitals Act, 1908.

- (b) by inserting in subsection one of section five after the word "Act" the words "and the Private Hospitals Act, 1908";

Sec. 5.
(Appoint-
ment of
Commis-
sion.)

- (c) by inserting in subsection four of section eight after the word "hospital" the words "or any present or past patient of any private hospital or nursing home";

Sec. 8.
(Appoint-
ment of
officers and
employees.)

- (d) (i) by omitting from paragraph (a) of section nine the words "or associated organisation" and by inserting in lieu thereof the words ", associated organisation, private hospital or nursing home";

Sec. 9.
(Members
not to be
personally
interested
in contracts,
&c.)

- (ii) by omitting from paragraph (ii) of the proviso to the same section the words "or associated organisation" and by inserting in lieu thereof the words ", associated organisation, private hospital or nursing home";

- (iii) by inserting in paragraph (iii) of the same proviso after the word "organisation" the words "or the governing authority or licensee

(within

Private Hospitals (Amendment).

(within the meaning of the Private Hospitals Act, 1908) of any private hospital or nursing home”;

Sec. 10.
(Salaries
and expenses
paid out of
Hospital
Fund.)

- (e) by inserting in subsection one of section ten after the word “Act” the words “and the Private Hospitals Act, 1908”;

Sec. 11A.
(Inquiries
by Com-
mission.)

- (f) by omitting from section 11A the words “such inquiry in respect of a private hospital to which the provisions of the Private Hospitals Act, 1908, as amended by subsequent Acts, applies, unless the funds for the establishment or maintenance of such private hospital are derived wholly or in part from the public by voluntary contributions” and by inserting in lieu thereof the words “inquiry under this section in respect of a private hospital or nursing home”.

Savings.

4. (1) Any act, matter or thing that—

- (a) was done or omitted to be done under the Principal Act (except section ten or fourteen thereof) before the commencement of this Act by, to or in respect of the Minister, the Board of Health or the Secretary of the Board of Health; and
- (b) could, when it was so done or omitted to be done, have been done or omitted to be done by, to or in respect of the Commission or the Secretary of the Commission, as the case may require, had this Act been then in force, shall, after that commencement, be deemed to have been done or omitted to be done by, to or in respect of the Commission or Secretary of the Commission, as the case may require.

(2)

Private Hospitals (Amendment).

(2) Subsection one of this section has effect in respect of any act, matter or thing done or omitted to be done—

- (a) by the Minister—whether or not it was done or omitted to be done, or required to be done or omitted to be done, on the recommendation of the Board of Health; or
- (b) by the Board of Health—whether or not it was done or omitted to be done, or required to be done or omitted to be done, with the approval of the Minister.

(3) A license granted by the Minister under subsection (1A) of section six of the Principal Act and in force immediately before the commencement of this Act shall, after that commencement, be deemed to have been granted by the Commission under subsection (1A) of section six of the Principal Act, as amended by this Act.

(4) A reference, in any other Act, or in any by-law, regulation or ordinance, or in any license granted under the Principal Act, or in any other instrument or document whatsoever, of the same or a different kind or nature, to a rest home shall be read and construed as a reference to a nursing home.

(5) Subject to this section, any act, matter or thing done or omitted to be done under the Principal Act (except section ten thereof) before the commencement of this Act in respect of or in relation to an establishment that was a rest home shall, after that commencement, have the same effect as it would have had in respect of or in relation to that establishment had the amendments made by this Act not been made.

(6) Any application made to the President of the Board of Health under section 7A of the Principal Act and pending immediately before the commencement of this Act shall be deemed to have been made to the Commission.

(7)

Private Hospitals (Amendment).

(7) Any interim license granted by the President of the Board of Health under section 7A of the Principal Act and in force immediately before the commencement of this Act shall be deemed to have been granted by the Commission.

(8) All suits, actions and proceedings pending immediately before the commencement of this Act at the suit of any person against the Minister or the Board of Health in respect of any act, matter or thing done or omitted to be done under or in purported compliance with the Principal Act shall be suits, actions and proceedings pending at the suit of that person against the Commission.

(9) In this section, "rest home" has the meaning ascribed to that expression in the Principal Act.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

Government House,
Sydney, 14th May, 1971.

PRIVATE HOSPITALS (AMENDMENT) BILL.

*Schedule of Amendments referred to in Legislative Council's
Message of 5 May, 1971.*

No. 1.—Clause 2, page 10, line 25. *After the word "hospital" insert the words
"or nursing home".*

No. 2.—Clause 2, page 10, line 27. *After the word "hospital" insert the words
"or nursing home".*

No. 3.—Clause 2, page 10. *After line 27 insert the following:—*

Notwithstanding the foregoing provisions of this subsection, the licensee of a nursing home is not guilty of an offence against this Act arising under this subsection by reason that a registered nurse was not on duty in the nursing home during any period if he proves that during that period there was on the premises thereof a registered nurse who, though not on duty therein, was available for duty in the event of any emergency, was able to be contacted immediately in that event, and could be expected to enter on duty therein in sufficient time to deal with or assist in dealing with the emergency.

