

PUBLIC HOSPITALS (AMENDMENT) BILL, 1977

No. , 1977.

A BILL FOR

An Act to amend the Public Hospitals Act, 1929, so as to make provision for the appointment of an arbitrator to determine the terms and conditions of work and the remuneration of medical practitioners performing sessional work at incorporated hospitals or separate institutions within the meaning of that Act.

[MR K. J. STEWART—22 *September*, 1977.]

BE

Public Hospitals (Amendment).

(c) by inserting after Part VB the following Part :—

PART Vc.

VISITING MEDICAL OFFICERS.

29K. In this Part—

5

“arbitrator” means a person appointed under section 29L (1) to be an arbitrator;

Interpreta-
tion:
Pt. Vc.

“Association” means the New South Wales Branch of the Australian Medical Association;

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“sessional contract” means a contract between an incorporated hospital, a separate institution or the governing body of a separate institution and a medical practitioner under which the medical practitioner is required to provide medical services or medical services of any class or description specified in the contract, during periods or sessions specified in the contract, to all patients of that incorporated hospital or separate institution or to any class of patients of that incorporated hospital or separate institution specified in the contract;

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“visiting medical officer”, in relation to an incorporated hospital or separate institution, means a visiting practitioner appointed to perform work, as a medical practitioner, under a sessional contract with that incorporated hospital or separate institution or the governing body of that separate institution.

29L.

Public Hospitals (Amendment).

29L. (1) The Attorney-General shall, upon receipt of an application in the prescribed form made by— <sup>Appoint-
ment of
arbitrator.</sup>

5 (a) the Association and the Commission jointly; or

(b) either the Association or the Commission, appoint a member of the Industrial Commission of New South Wales to be the arbitrator for the purposes of making a determination under section 29M.

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(2) An application under subsection (1) (b) shall not, except where that application is the first application made after the commencement of this Part, be made unless a period of 6 months has elapsed since the date of the previous determination made under section 29M.

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29M. (1) The arbitrator shall, as soon as practicable after his appointment, determine— <sup>Nature of
determina-
tion.</sup>

20 (a) the terms and conditions of work and the rates on an hourly basis of remuneration in respect of medical services provided by visiting medical officers under sessional contracts; and

25 (b) the date or dates, not being a date or dates earlier than the date of the determination, on and from which any determination made under paragraph (a) shall have effect.

(2) The arbitrator shall endeavour to bring the persons appearing before him to agreement regarding the matters in respect of which he is required to make a determination under subsection (1).

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29N.

Public Hospitals (Amendment).

29N. The arbitrator in making a determination— Applica-
tion of
rules of
evidence,
etc.

- 5 (a) is not bound by the rules of evidence and may inform himself on any matter as he sees fit; and
- (b) shall act judicially and be governed by equity and good conscience without regard to technicalities and legal forms.

10 29o. (1) The Commission and the Association may appear and be heard by their respective representatives in any proceedings before the arbitrator Rights of
appearance,
administra-
tion of
oaths,
legal
representa-
tion.

15 (2) Any other person may by his representative appear before and be heard by the arbitrator with his leave and subject to such conditions as he determines.

(3) The arbitrator shall not grant leave under subsection (2) unless he considers that the person concerned has a special interest in the outcome of the proceedings.

20 (4) The arbitrator may administer an oath to any person appearing as a witness in any proceedings before him.

(5) A person appearing before the arbitrator may be represented by counsel or solicitor.

25 29P. (1) Subject to this Act and the regulations, proceedings before the arbitrator shall be conducted in such manner as he may determine. Conduct of
proceed-
ings and
protection
of arbitra-
tor.

(2)

Public Hospitals (Amendment).

(2) The arbitrator may conduct any proceedings under this Part or any part of any such proceedings in public or in private as he thinks fit.

5 (3) The arbitrator shall in the exercise of his duty as arbitrator have the same protection and immunity as a judge of the Supreme Court.

29Q. (1) The arbitrator shall notify, in writing, the Association and the Commission of his determination. Notification of determination and finality thereof.

10 (2) A determination made under this Part shall be final and shall not be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed or called into question by any court of 15 judicature on any account whatever.

(3) No judgment or order under section 69 of the Supreme Court Act, 1970, granting any relief or remedy or doing any other thing in the nature of prohibition or certiorari shall be given 20 or made in respect of a determination by the arbitrator in the exercise or purported exercise of the jurisdiction, powers or functions conferred or imposed on him by this Part.

25 29R. Where a determination has been made under this Part, any provision of a sessional contract which is inconsistent with the determination shall, to the extent of the inconsistency, be of no effect on and from the date or dates that the determination is to take effect and the sessional contract shall, on 30 and from that date or those dates, be deemed to be varied so as to include the terms of the determination. Determination contractually binding.

(d)

Public Hospitals (Amendment).

(d) (i) by omitting from the definition of "Committee" in section 33G the matter "33J (3);" and by inserting instead the matter "33J (3).";

Sec. 33G.
(Inter-
pretation:
Pt. VIB.)

5 (ii) by omitting from section 33G the definition of "visiting practitioner".

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977
[8c]

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
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BY APPOINTMENT
OF THE BOARD OF THE UNIVERSITY OF CHICAGO
OFFICE OF THE DEAN OF THE PHYSICAL SCIENCES
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PROOF

PUBLIC HOSPITALS (AMENDMENT) BILL, 1977

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

THE objects of this Bill are—

- (a) to insert a new Part Vc into the Public Hospitals Act, 1929, so as to enable the terms and conditions of work and the rates of remuneration of visiting medical practitioners under sessional contracts with incorporated hospitals and separate institutions within the meaning of that Act to be determined by an arbitrator;
 - (b) to provide for the appointment of a member of the Industrial Commission as an arbitrator for the purpose of making any such determination; and
 - (c) to make other provisions of a minor or ancillary nature.
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PROOF

PUBLIC HOSPITALS (AMENDMENT) BILL, 1977

EXPLANATORY NOTE

(This Explanatory Note relates to the Bill as introduced into Parliament.)

- The objects of this Bill are—
- (a) to amend the Public Health Act 1937, so as to enable the terms and conditions of any contract for the supply of goods or services to be varied by the authority concerned, and to provide for the authority to be bound by any such contract;
 - (b) to provide for the appointment of a Director of Public Health for the purpose of dealing with such matters as may be referred to him by the authority concerned;
 - (c) to provide for the appointment of a Director of Public Health for the purpose of dealing with such matters as may be referred to him by the authority concerned.

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[MR K. J. STEWART—22 September, 1977.]

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Public Hospitals (Amendment).

(c) by inserting after Part VB the following Part :—

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29K. In this Part—

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Interpreta-
tion:
Pt. Vc.

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“Association” means the New South Wales Branch of the Australian Medical Association;

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“visiting medical officer”, in relation to an incorporated hospital or separate institution, means a visiting practitioner appointed to perform work, as a medical practitioner, under a sessional contract with that incorporated hospital or separate institution or the governing body of that separate institution.

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29L.

Public Hospitals (Amendment).

29L. (1) The Attorney-General shall, upon receipt of an application in the prescribed form made by— Appointment of arbitrator.

5 (a) the Association and the Commission jointly; or

(b) either the Association or the Commission, appoint a member of the Industrial Commission of New South Wales to be the arbitrator for the purposes of making a determination under section 29M.

10 (2) An application under subsection (1) (b) shall not, except where that application is the first application made after the commencement of this Part, be made unless a period of 6 months has elapsed since the date of the previous determination made under section 29M.

29M. (1) The arbitrator shall, as soon as practicable after his appointment, determine— Nature of determination.

20 (a) the terms and conditions of work and the rates on an hourly basis of remuneration in respect of medical services provided by visiting medical officers under sessional contracts; and

25 (b) the date or dates, not being a date or dates earlier than the date of the determination, on and from which any determination made under paragraph (a) shall have effect.

30 (2) The arbitrator shall endeavour to bring the persons appearing before him to agreement regarding the matters in respect of which he is required to make a determination under subsection (1).

29N.

Public Hospitals (Amendment).

29N. The arbitrator in making a determination—

(a) is not bound by the rules of evidence and may inform himself on any matter as he sees fit; and

(b) shall act judicially and be governed by equity and good conscience without regard to technicalities and legal forms.

Application of rules of evidence, etc.

29o. (1) The Commission and the Association may appear and be heard by their respective representatives in any proceedings before the arbitrator

Rights of appearance, administration of oaths, legal representation.

(2) Any other person may by his representative appear before and be heard by the arbitrator with his leave and subject to such conditions as he determines.

(3) The arbitrator shall not grant leave under subsection (2) unless he considers that the person concerned has a special interest in the outcome of the proceedings.

(4) The arbitrator may administer an oath to any person appearing as a witness in any proceedings before him.

(5) A person appearing before the arbitrator may be represented by counsel or solicitor.

29P. (1) Subject to this Act and the regulations, proceedings before the arbitrator shall be conducted in such manner as he may determine.

Conduct of proceedings and protection of arbitrator.

(2)

Public Hospitals (Amendment).

(2) The arbitrator may conduct any proceedings under this Part or any part of any such proceedings in public or in private as he thinks fit.

5 (3) The arbitrator shall in the exercise of his duty as arbitrator have the same protection and immunity as a judge of the Supreme Court.

29Q. (1) The arbitrator shall notify, in writing, the Association and the Commission of his determination. Notification of determination and finality thereof.

10 (2) A determination made under this Part shall be final and shall not be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed or called into question by any court of judicature on any account whatever.

15 (3) No judgment or order under section 69 of the Supreme Court Act, 1970, granting any relief or remedy or doing any other thing in the nature of prohibition or certiorari shall be given or made in respect of a determination by the arbitrator in the exercise or purported exercise of the jurisdiction, powers or functions conferred or imposed on him by this Part.

25 29R. Where a determination has been made under this Part, any provision of a sessional contract which is inconsistent with the determination shall, to the extent of the inconsistency, be of no effect on and from the date or dates that the determination is to take effect and the sessional contract shall, on Determination contractually binding.

30 and from that date or those dates, be deemed to be varied so as to include the terms of the determination.

(d)

Public Hospitals (Amendment).

(d) (i) by omitting from the definition of "Committee" in section 33G the matter "33J (3);" and by inserting instead the matter "33J (3).";

Sec. 33G.
(Inter-
pretation:
Pt. VIb.)

5 (ii) by omitting from section 33G the definition of "visiting practitioner".

Public Health Amendment

- (b) (i) by omitting from the definition of "committee" the words "in section 320 the matter '331' (3)" and by inserting instead the words "331" (3);
- (ii) by omitting from section 320 the definition of "visiting practitioner".