

*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.*

**R. E. WARD,**  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 24 January, 1978.*

## **New South Wales**



ANNO VICESIMO SEXTO

**ELIZABETHÆ II REGINÆ**

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**Act No.       , 1978.**

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.

**BE**



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*Public Hospitals (Amendment).*

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

PART Vc.

VISITING MEDICAL OFFICERS.

29K. In this Part—

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“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— 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.

15 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.

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*Public Hospitals (Amendment).*

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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

Applica-  
tion of  
rules of  
evidence,  
etc.

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

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.

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(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.

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(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.

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(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.

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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)

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*Public Hospitals (Amendment).*

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(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)

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*Public Hospitals (Amendment).*

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(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. VI.B.)

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

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

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**PUBLIC HOSPITALS (AMENDMENT) ACT,  
1978, No. 22.**

**New South Wales**



ANNO VICESIMO SEPTIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 22, 1978.**

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. [Assented to, 16th March, 1978.]

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*Public Hospitals (Amendment).*

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**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.      **1.** This Act may be cited as the "Public Hospitals (Amendment) Act, 1978".

Commence-      **2.** (1) This section and section 1 shall commence on  
ment.            the date of assent to this Act.

(2) Section 3 (a), (b) and (c) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Section 3 (d) shall commence on such day, being the same day as or a later day than the day appointed and notified under subsection (2), as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

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

Sec. 1 (2).      (a) by inserting in section 1 (2) after the matter  
(Division        relating to Part VB the following matter :—  
of Act.)

**PART Vc.—VISITING MEDICAL OFFICERS.**

Sec. 3.            (b) by inserting in section 3 in appropriate alphabetical  
(Inter-            order the following definition :—  
pretation.)

"Visiting practitioner", in relation to a hospital, means a medical practitioner or dentist appointed to perform work as a medical practitioner or dentist, as the case may be, at that hospital otherwise than as an employee.

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*Public Hospitals (Amendment).*

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

PART Vc.

VISITING MEDICAL OFFICERS.

29K. In this Part—

Interpreta-  
tion:  
Pt. Vc.

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

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

“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;

“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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*Public Hospitals (Amendment).*


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Appoint-  
ment of  
arbitrator.

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

(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.

(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.

Nature of  
determina-  
tion.

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

(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

(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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*Public Hospitals (Amendment).*

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- 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.

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*Public Hospitals (Amendment).*

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(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.

(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.

Notification  
of deter-  
mination  
and finality  
thereof.

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

(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.

(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.

Determina-  
tion con-  
tractually  
binding.

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

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*Public Hospitals (Amendment).*

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- (d) (i) by omitting from the definition of "Committee" in section 33G the matter "33J (3);" and by inserting instead the matter "33J (3)."; (Interpretation: Pt. VIB.) Sec. 33G.
- (ii) by omitting from section 33G the definition of "visiting practitioner".

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

A. R. CUTLER,  
*Governor.*

*Government House,  
Sydney, 16th March, 1978.*

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

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