

South Australia

# Hospitals Act 1934

An Act to consolidate certain Acts relating to hospitals.

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### **The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title and commencement**

This Act may be cited as the *Hospitals Act 1934* and shall come into operation on a day to be fixed by proclamation.

### **2—Consolidation and repeal**

This Act is a consolidation of the Acts mentioned in the Schedule, and the said Acts are hereby repealed.

## 4—Interpretation

In this Act, unless the context otherwise requires—

*area* means a municipality or a district council district;

*council* means a municipal council or a district council;

*director-general* means the Director-General of Medical Services appointed pursuant to section 5A of this Act;

*domestic partner* means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

*insurance company* means any person or association of persons, whether corporate or unincorporate, carrying on insurance business in the State;

*public hospital* means any place declared to be a public hospital pursuant to section 5 or to *The Hospitals Act 1867*;

*spouse*—a person is the spouse of another if they are legally married;

*vehicle* includes motor vehicle, any vehicle run upon a railway or tramway, and any other kind of vehicle.

## Part 2—Management of public hospitals

### 5—Power to proclaim public hospitals

- (1) The Governor, may from time to time, by proclamation, declare any place or places deemed suitable and provided for the purposes of an hospital or institution for the cure of disease or for the relief of diseased persons, to be a public hospital.
- (2) The Governor may, by proclamation, declare that any place or places so proclaimed under this section or under *The Hospitals Act 1867* shall cease to be a public hospital.

### 5A—Appointment of Director-General of Medical Services and Deputy Director-General of Medical Services

- (1) There shall be a Director-General of Medical Services and a Deputy Director-General of Medical Services each of whom shall be a medical practitioner and appointed pursuant to and subject to the *Public Service Act 1967*.
- (2) The Deputy Director-General of Medical Services shall, in the case of illness or other incapacity, or absence of the Director-General, or of a vacancy in the office of Director-General, have all the powers, rights, and privileges, and perform all the duties and functions of the Director-General.
- (3) The Director-General of Medical Services and the Deputy Director-General of Medical Services holding office under the *Mental Health Act 1935* as in force immediately before the commencement of the *Hospitals Act Amendment Act 1966* shall continue to hold office as if appointed under this section.
- (4) Every reference in every other Act and in every regulation, proclamation or instrument, to the Inspector-General of Hospitals shall be deemed to be a reference to the Director-General of Medical Services.

## 6—Voluntary contributors to public hospitals

- (1) At every public hospital, a book, to be called "the Contributors' Book", shall be kept, in which shall be entered the names and addresses of such benevolent persons as may be desirous of contributing towards the funds for the support of the hospital.
- (2) The payment of a sum of forty dollars in one donation, shall entitle the person paying the same (hereinafter called a *life contributor*), to have and exercise during his life the rights and privileges hereinafter conferred upon contributors.

The payment of a sum of four dollars shall entitle the person paying the same to have and exercise the like rights and privileges until the second Friday in November next following the date of the payment.

## 7—Appointment of members of board of management

- (1) The Governor may appoint a board of management of any public hospital, towards the funds for the support of which the total amount of the annual contributions for any year ending on the second Friday in December, together with interest at the rate of ten dollars per centum per annum upon all sums previously paid by all life contributors then living, is less than one-sixth of the average annual expenditure of the three preceding years.
- (2) The board shall consist of any number of duly qualified medical practitioners and other persons as the Governor may determine.
- (3) The Governor may, from time to time, at pleasure—
  - (a) remove any member of the said board for the time being;
  - (b) upon any vacancy in the said board, either by removal, resignation, or death, appoint some other fit person to supply the vacancy.
- (4) Until any such new appointment, the surviving or continuing member or members of the board may act as if no such vacancy had occurred.

## 8—Election of board of management

- (1) Whenever the total amount of the annual contributions for any year ending on the second Friday in December, together with interest at the rate of ten dollars per centum per annum on all sums previously paid by all life contributors then living, shall amount to one-sixth of the average annual expenditure of any public hospital for the three preceding years, the Governor, upon the receipt of a memorial signed by not less than one-half of the contributors to the hospital, praying that they may be allowed to elect one-third of the members of the board of management, may cause the substance or prayer of the memorial to be published in the Government Gazette.
- (2) If no counter memorial, signed by an equal number of contributors, is forwarded to the Chief Secretary within one month after the date of the said publication, the Governor may, by proclamation—
  - (a) declare that the then present board shall, on a day to be therein mentioned, cease to be the board of management for the public hospital; and
  - (b) declare that a new board shall be appointed; and
  - (c) fix the number of members of which the board shall consist, and the number of members necessary to be present at any meeting to form a quorum.

- (3) At any time after the publication of any such proclamation any ten or more contributors, who have signed the said memorial, may convene a public meeting of the contributors to the hospital, by advertisement in some newspaper published in the neighbourhood of the hospital, or if there is no newspaper published in the neighbourhood, then in some newspaper circulating therein, at least one week previous to the meeting being held, for the purpose of electing one-third of the members of the board of management of the hospital, or in case the number of the members of the board is not divisible by three, then one-third of the number nearest to the number which is so divisible.
- (4) After any such election the names of the members so elected shall be forwarded to the Chief Secretary with a request that the Governor will appoint the persons so elected to be members of the board. Thereupon the Governor shall appoint the said persons, and, shall also appoint such other persons as may be necessary to complete the number of the board as fixed by the said proclamation.
- (5) If the contributors fail or neglect to elect any such members, and to forward the names to the Chief Secretary at least one week before the time at which the then present board of management is to retire from office, as mentioned in the proclamation, the Governor shall appoint the whole of the members of the board, and shall also specify which of the members shall be considered elected members for the purposes of retirement as hereinafter mentioned.

#### **9—Retirement of members of board of management**

- (1) On the second Friday in the month of January in every year, one-third of the elected members of every board of management and the whole of the members of the board appointed by the Governor shall cease to be members of the board, but may, nevertheless, be re-elected, or re-appointed, as hereinafter mentioned.
- (2) The members who shall so retire from office shall be those who have been the longest in office without re-election; or where two or more shall have been in office for the same length of time, then those who shall retire from office shall be determined by lot.
- (3) In any case where the number of elected members is not divisible by three, one-third of the number nearest to the number which is so divisible, shall retire from office.

#### **10—Meeting for election of members of board**

- (1) On the first Friday in January in every year, after the first appointment of a board of management, as hereinbefore mentioned, a meeting of the contributors to every public hospital (except as hereinafter mentioned) shall be held, for the purpose of electing such a number of the members of the board of management as is hereinafter mentioned in the place of members whose term of office is then about to expire.
- (2) The meeting shall be convened by the board of management by circulars sent to each of the contributors, stating the place where and the hour when the meeting is to take place, and the names of the persons so elected shall be forwarded to the Chief Secretary.
- (3) The said persons shall be appointed by the Governor in like manner, as hereinbefore prescribed in the case of the first election of members of a board of management, and the Governor shall also appoint so many other persons to be members of the board as together with the persons so elected shall be sufficient to complete the number of the members of the board as fixed by the proclamation hereinbefore mentioned.

- (4) If from any cause, except as is hereinafter mentioned, any such annual election does not take place, the Governor shall also appoint persons in the stead of the persons who should have been elected at the annual election who shall thereupon be deemed elected members.

## **11—Proceedings at elections**

- (1) The number of members of the board of management of any hospital, to be elected by the contributors at any annual meeting as aforesaid, shall be regulated as follows:
- I If the total amount of the annual contributions for the year next preceding the second Friday in December then last past, together with interest at the rate of ten dollars per centum per annum on all sums previously paid by all life contributors then living, exceeds one-sixth but is less than one-fourth of the average annual expenditure of the hospital for the three preceding years, the contributors shall elect such a number of the members of the board of management as together with the elected members continuing in office amounts to one-third of the number of the members of the board, or in case the number of members of the board is not divisible by three then one-third of the number nearest to the number which is so divisible:
  - II If the total amount as aforesaid exceeds one-fourth, but is less than one-half of the average expenditure, as aforesaid, the contributors shall elect such a number of the members of the board as, together with the elected members continuing in office, amounts to one-half of the number of the members of the board, or a minority thereof in case the number is indivisible by two:
  - III If the total amount as aforesaid exceeds one-half of the average expenditure as aforesaid, the contributors shall elect the whole of the members of the board.
- (2) If on the second Friday in December in any year, such total amount as aforesaid is less than one-sixth of the average expenditure as aforesaid, or if the number of elected members of any board of management, to retire on any second Friday in January, shall not, by reason of any falling off in the amount of the contributions for the preceding year, reduce the number of elected members remaining in office to the number which, according to the provisions hereinbefore contained, the contributors are entitled to elect, no such annual meeting shall take place, nor shall the contributors have the right to elect any person to be appointed to fill the annual vacancy amongst the elected members of the board of management, which, in that case, shall be filled by appointment by the Governor.

## **12—Proceedings at meetings**

- (1) Every meeting of contributors for the election of members of the board of management, shall choose its own chairman, who shall have a vote only in the event of there being an equality of votes.
- (2) Every question submitted to the meeting shall be decided by a majority of the votes of contributors then present and voting.

### **13—Vacancies**

- (1) If any member of any board of management dies, is removed, or resigns by letter under his hand addressed to the chairman of the board, or becomes lunatic, bankrupt, or compounds with his creditors, or is convicted of any indictable offence, or is absent for six consecutive meetings from the board of management without obtaining leave of absence from the board, his office shall become vacant.
- (2) In any such case the remaining members of the board may declare his office vacant, and in the case of an elected member shall temporarily appoint thereto some contributor to the hospital, until the next annual meeting for the election of members of the board, when the person thus temporarily elected shall retire, as one of those who, by the provisions of this Act, are required to retire from office.
- (3) If the vacancy is occasioned by the retirement or otherwise of a non-elected member, the chairman shall cause the fact of the vacancy to be communicated to the Chief Secretary, and thereupon the Governor shall appoint some other person in the place of the member causing the vacancy.

### **14—Quorum of board**

- (1) The number of members of a board of management fixed by the proclamation hereinbefore mentioned as necessary to form a quorum, shall be competent to act in the execution of the powers vested in the board.
- (2) The existence of any vacancy shall not invalidate any act done by the board during the continuance of the vacancy.

### **15—Functions of board**

- (1) The board of management of every public hospital shall, subject to the regulations of the public service, have the administration of all funds voted by Parliament for the support of the hospital, together with all funds which may be voluntarily contributed or given, or left to the hospital by benevolent persons, and shall also have the care, management, control, and supervision of the hospital.
- (2) The board of management may appoint such medical and other officers, nurses, attendants, and other persons as to the board may seem necessary for the requirements of the hospital, and may dismiss any such officers, nurses, attendants, and persons: Provided that, as regards offices and positions specified with respect to the hospital in a proclamation by the Governor and for the time being in force, no appointment or dismissal shall be made without the approval of the Governor first obtained, and that, as regards other offices and positions, no appointment or dismissal shall be made without the approval of the Chief Secretary first obtained.

The Governor may, from time to time, make and rescind or vary any such proclamations, and any such proclamation shall come into force upon the publication thereof in the Government Gazette.

## 16—Power to make regulations

- (1) The board of management of any public hospital may, from time to time, make regulations in respect to all or any of the following matters and may make regulations revoking or amending any such regulation:
  - I For the regulation of its own proceedings, including the appointment of chairman:
  - II For fixing the number of votes of contributors in proportion to the amount of their contributions:
  - III For determining the validity of disputed elections, and for conducting elections and all matters connected therewith:
  - IV For regulating the admission of patients into the hospital on the nomination or recommendation of contributors or otherwise, and of their discharge therefrom:
  - V For the affording relief by medicine and attendance to outdoor patients:
  - VI For the moral and religious instruction of the inmates of the hospital:
  - VII For the maintenance of order, discipline, decency, and cleanliness among the inmates of the hospital:
  - VIII For prescribing the duties of the several officers of any hospital, for keeping proper records, books, accounts, and vouchers; and for providing for the annual publication of an abstract of the expenditure, and the amounts contributed, for the information of contributors, and in order to determine the number of members of the board of management to be elected at each annual election:
  - IX For regulating the study of surgery and medicine by students who may desire to avail themselves of the facilities afforded by the hospital for that purpose:
  - X For all matters affecting the general management, care, control, and superintendence of any hospital.
- (1a) In respect of any public hospital which has no board of management but the care, management, control and supervision of which is vested in the Director-General, the Director-General may from time to time make regulations in respect to all or any of the matters set forth in subsection (1) of this section (other than those set forth in paragraphs I, II and III thereof) and may make regulations revoking or amending any such regulation.
- (2) All regulations shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be then sitting, or if Parliament be not then sitting within fourteen days after the commencement of the then next session of Parliament.

## 17—Publication of regulations

All regulations made under the preceding section shall be approved by the Governor, and when so approved, shall have the force of law, and a copy of the regulations published in the Government Gazette shall be received in evidence and judicially noticed, and shall, until the contrary be shown, be deemed sufficient evidence of the regulations, and that the same were duly made and approved.



## 18—Disallowance of rules and regulations

The Governor may, by proclamation, at any time revoke any such regulation or any rule or regulation made pursuant to *The Hospitals Act 1867*. Every proclamation by which any such rule or regulation is revoked, shall take effect from the time of the publication thereof in the Government Gazette.

## 19—Penalty for breach of regulations

Any person offending against any of the rules or regulations in force under the provisions of this Part or *The Hospitals Act 1867* shall, upon summary conviction thereof, be liable to a penalty not exceeding twenty dollars, or to be imprisoned for any term not exceeding three months.

## 20—Prosecution of offences

In any information or complaint for any offence committed upon or in respect of any property, money, goods, chattels, or effects under the management or control of any board of management of any public hospital, it shall be sufficient to state or allege the property, money, goods, chattels, or effects to belong to, and any offence to have been done or committed with the intent to injure or defraud "The Board of Management of the \_\_\_\_\_ Public Hospital" (the blank being filled up with the distinctive name of the hospital), without any further or other name, addition, or description whatever.

## 21—Notices to contributors and others

- (1) All notices to any officer of, or contributor to, any public hospital, required to be given by this Part, or the regulations made in pursuance hereof, may be served by post, directed according to an address to be left for that purpose by the officer or contributor, in writing under his hand, at the hospital, but nothing herein contained shall be held to render invalid any personal service of any notice.
- (2) No notice of any intended board meeting or election, shall be required to be served, either by post or otherwise, on any officer of, or contributor to, any such hospital as aforesaid, who has not left an address in the manner, at the place, and for the purpose hereinbefore mentioned.

## 22—Functions of director-general

The director-general shall have and may exercise, with respect to public hospitals, such duties and powers as are imposed or conferred upon him by this Act or any other Act or by the Governor.

# Part 3—The Royal Adelaide Hospital

## 23—Interpretation

In this Part—

*board* means the board of management of the Royal Adelaide Hospital constituted as provided by this Part.

## **24—Constitution of board**

The board shall continue to consist of—

- (a) the director-general, who shall be the chairman of the board; and
- (b) two other members to be appointed by the Governor.

## **25—Tenure of office**

- (1) Every member of the board appointed by the Governor shall be appointed for a term of three years, and may, from time to time, at the expiration of his term of office, be reappointed for a further term of three years.
- (2) Whenever a vacancy occurs in the office of either of such members, whether by the expiration of the member's term of office or otherwise, the Governor shall appoint a member to fill the vacancy: Provided that the member appointed to fill a vacancy caused otherwise than by the expiration of the term of office of a member shall hold office only for the unexpired portion of the term of office of the member in whose place he is appointed, and any retiring member shall hold office until his successor is appointed.

## **26—Casual vacancies**

In addition to the retirement of members by the expiration of their terms of office, the seat of a member appointed for a term only shall become vacant on—

- (a) his death, lunacy, or bankruptcy, or his executing a statutory deed of assignment for the benefit of his creditors, or compounding with his creditors for less than one hundred cents in the dollar, or his being convicted of an indictable offence; or
- (b) his resignation by notice in writing posted or delivered to the chairman; or
- (c) his absence from three consecutive meetings of the board without the leave of the board.

## **27—Provision as to defects in appointment**

- (1) No act or proceeding of the board shall be invalid or illegal in consequence only of the number of the members of the board not being complete at the time of the act or proceeding.
- (2) All acts and proceedings of the board shall, notwithstanding the discovery of any defect in the appointment of any member thereof, or that any member was disqualified or disentitled to act, be as valid as if the member had been duly appointed and was qualified and entitled to be and to act, and had acted, as a member of the board, and as if the board had been properly and fully constituted.

## **28—Chairman**

- (1) The chairman, when present, shall preside at every meeting of the board. In the absence of the chairman from any meeting another member, chosen for the purpose, shall preside.
- (2) The person presiding for the time being shall have a casting as well as a deliberative vote.

## **29—Quorum**

Any two members shall constitute a quorum at any meeting of the board.

## **30—Remuneration of members**

- (1) Every member of the board shall be entitled to a fee of four dollars twenty cents for every meeting of the board attended by him at which a quorum is present: Provided that no member shall be entitled to fees exceeding two hundred and eighteen dollars forty cents for meetings attended during any financial year.
- (2) Every member shall also be reimbursed any expenses incurred by him in the exercise of his office.

## **31—Reports by the board**

- (1) The board shall annually make and furnish the Minister with a report on its administration under this Act, and such other matters as the Minister directs; and shall at all times furnish the Minister with such other reports, and such estimates, accounts, vouchers, and documents relating to the administration, as the Minister requires of it.
- (2) The Minister, on receipt of the annual report, may publish the same in the Government Gazette, or in any other manner which he deems proper, and the report shall be laid before both Houses of Parliament as early as practicable.

## **32—Royal Adelaide Hospital to be medical and dental school**

- (1) The Royal Adelaide Hospital shall be a school of medical and dental instruction in connection with the University of Adelaide, and any person who has been admitted as a student of the said university, and is studying in the medical course or the dental course thereof, shall be entitled to attend at the Royal Adelaide Hospital for instruction in connection with any such course, subject to any statutes and regulations made by the council of the said university and any regulations made by the board.
- (2) The provisions contained in the Adelaide University Act relating to statutes and regulations and to the making and effect thereof shall apply to all statutes and regulations made by the said council under this section and to the making and effect thereof.

## **33—Advisory committee**

- (1) There shall be an advisory committee for the purpose of advising and assisting the council of the University of Adelaide and the board with respect to any matter concerning the medical course and the dental course of the said university and the attendance and instruction at the Royal Adelaide Hospital of students in the said courses.
- (2) The committee shall consist of a chairman and nine other members.
- (2a) The chairman shall be a person appointed by the Governor on the nomination of the Minister.
- (2b) The members of the committee other than the chairman shall be respectively nominated as follows:
  - One by the Council of the University of Adelaide:
  - One by the Faculty of Medicine of the said University:

One by the Council of the Royal Australian College of Physicians:

One by the Council of the Royal Australian College of Surgeons:

One by the Faculty of Dentistry of the said University:

Two by the board:

Two by members of the honorary medical staff of the Royal Adelaide Hospital.

- (3) When a vacancy occurs on the committee, whether by the expiration of a member's term of office or otherwise, the Governor shall, after nomination as hereinafter mentioned, appoint a member to fill the vacancy. The nomination of the member so appointed to fill the vacancy shall be made by the body or persons who nominated the member in whose place such member is appointed.
- (4) Every nomination shall be made in manner prescribed.
- (5) The provisions of sections 25 to 28 (both inclusive) shall, *mutatis mutandis*, apply to and in respect of the committee:

Provided that any five members shall constitute a quorum at a meeting of the committee.

### **34—Official visitors**

- (1) The Governor may appoint for the Royal Adelaide Hospital three or more official visitors, at least two of whom shall be women.
- (2) An official visitor shall be appointed for a term of one year, and may from time to time at the expiration of his term of office be reappointed for a further term of one year: Provided that he has during his term of office made at least twelve visits in his official capacity to the Royal Adelaide Hospital.

### **35—Competency of official visitors to hold inquiries**

An official visitor shall not have jurisdiction to hold any inquest or inquiry, as a coroner or as a justice, concerning the death of any patient of the Royal Adelaide Hospital.

### **36—Functions of official visitors**

The official visitors shall and may discharge and exercise all such powers and duties as are conferred or imposed upon them by regulations made under this Act, and shall report to the Minister at such times, in such manner, and on such matters, as the Minister from time to time directs.

## **Part 4—Rating for hospital purposes and incorporation of hospitals**

### **37—Powers of Governor**

- (1) This Part shall apply in respect of every hospital or proposed hospital in respect of which the Governor, by notice in the Government Gazette, declares that this Part shall apply.

- (2) Any hospital in respect of which a notice by the Governor has, before the commencement of this Act been given pursuant to the *Rating for Hospital Purposes Act 1919* shall be deemed to be a hospital to which this Part applies.

### **38—Power of director-general to require contribution**

- (1) Where, in the opinion of the director-general, any area, or any portion of an area, is served by any hospital to which this Part applies, or will be served by any proposed hospital to which this Part applies, he may, with the consent of the Minister, by notice to the council of the area, declare such his opinion and require the council to contribute any sum or sums of money for the purposes of the hospital or proposed hospital in accordance with the notice.
- (2) The notice shall also be published in the Government Gazette.
- (3) The notice shall specify—
- (a) the hospital by which the area, or portion thereof, is declared to be served, and in respect of which the contribution is required; and
  - (b) if portion only of an area is declared to be served by the hospital, the said portion; and
  - (c) the amount of the contribution required from the council, and if payable in instalments, the amount of the instalments; and
  - (d) the time or times before which, and the manner in which, the contribution or instalments are payable; and
  - (e) whether the contribution is payable periodically or in respect of any particular period; and
  - (f) such other matters as are prescribed.
- (4) The director-general may from time to time revoke or vary any such notice.

### **39—Duty of council to contribute**

- (1) Upon the receipt of the notice aforesaid the council shall, in accordance with the notice, pay to the director-general, for the purposes of the hospital, the contribution required of it.
- (2) The contribution may be paid by the council out of its revenue, or out of the proceeds of a special rate declared and levied by the council for that purpose, or partly by one means and partly by the other.
- (3) For the purpose of raising the money to pay the contribution the council may, without the consent of the ratepayers, declare a special rate on the rateable property within the area: Provided that where, by the notice given under section 38, it is declared that portion only of an area is served by a hospital to which this Part applies the special rate shall be declared and levied only on the rateable property within that portion of the area which is specified in the notice. The special rate shall be in addition to any special rate authorised to be declared and levied by a council under the *Local Government Act 1934* and the amount of the special rate shall not be taken into consideration in determining whether the limit up to which a council may rate has been reached.

- (4) Except in so far as inconsistent with this Act, all the provisions of the *Local Government Act 1934* shall apply to and in respect of the declaring, levying, and recovery of the said special rate.
- (5) The payment of the contribution as required by this section shall be deemed to be a duty imposed upon the council by the *Local Government Act 1934*.
- (6) The amount of any contribution required from any council which is for the time being unpaid may be deducted by the Minister of Local Government from any subsidy or grant payable to the council, and any amount so deducted may be paid to the director-general on account of the council from whose subsidy or grant the amount was deducted.

#### **40—Recovery of contributions**

Any contribution payable under this Part may be recovered by action in any court of competent jurisdiction as a debt due to the director-general.

#### **41—Application of moneys**

The director-general shall hold all moneys paid to him under this Part to the use and benefit of the hospitals in respect of which the moneys were respectively contributed, and shall deal with the moneys in manner prescribed.

#### **42—Regulations**

The Governor may make regulations for any of the purposes required, permitted, or contemplated by this Part, or which may be necessary or convenient for carrying out any of the provisions of this Part or for better effecting the objects and purposes of this Part.

#### **43—Incorporation of district hospitals**

- (1) Where a hospital has at any time, whether before or after the commencement of this Act, become a hospital to which this Part applies and is not incorporated under the provisions of any other Act, not less than two-thirds of the members of the board of management or other controlling authority of the hospital may present a petition to the Chief Secretary praying that the board of management or other controlling authority of the hospital, and the contributors thereto for the time being, shall be constituted a body corporate.
- (2) Upon receipt of any such petition the Chief Secretary shall cause the substance thereof to be published in the Government Gazette.
- (3) Unless within one month after the publication in the Government Gazette of the substance of the petition a counter-petition, signed by a majority of the contributors for the time being to the hospital, is presented to the Chief Secretary objecting to the proposed incorporation, and the Chief Secretary is of opinion that there is some adequate reason why the hospital should not be incorporated, the Governor may by proclamation declare the said board of management or other controlling authority of the hospital and the contributors thereto for the time being to be a body corporate, and upon the making of the proclamation they shall become a body corporate accordingly.
- (4) The name of every hospital incorporated under this section shall be formed of the name of the hospital prior to incorporation with the addition of the word "Incorporated":

Provided that this section shall not affect any power of the board of management or any other persons to change the name of the hospital so long as the word "Incorporated" appears at the end of the name as so changed.

#### **44—Powers of incorporated hospitals**

Every hospital incorporated pursuant to this Part or the *Hospitals (Incorporation) Act 1926* may—

- (a) have and use a common seal on which shall be inscribed the name of the hospital, and break, alter, and change the same from time to time;
- (b) sue and be sued under its corporate name;
- (c) purchase and hold lands, tenements, and hereditaments in its corporate name, and let, sell, mortgage, or dispose of the same and execute conveyances, mortgages, and assurances thereof, and otherwise deal with the same as fully and effectually as an individual owner could do.

#### **45—Transfer of property**

- (1) Upon the incorporation of any hospital pursuant to this Part or the *Hospitals (Incorporation) Act 1926* there shall be transferred to and vested in the hospital all property of whatever kind held by any persons in trust for the hospital.
- (2) The board of management of any such hospital may file in the office of the Registrar-General a memorial verified by the declaration of any two or more members of the board stating—
  - (a) that the hospital has been incorporated pursuant to this Part or the *Hospitals (Incorporation) Act 1926*; and
  - (b) the names of the trustees of any such property, being real estate; and
  - (c) a description of the property sufficient to enable the Registrar-General to identify the same; and
  - (d) the name of the hospital,

and upon the receipt of the memorial the Registrar-General shall make all entries in the register book or on any deed, instrument, or other document, registered or filed in the General Registry Office or the Lands Titles Registration Office, and do all things necessary or convenient to evidence the title of the hospital to the said property.

#### **46—Saving of liabilities**

The incorporation of any persons pursuant to this Part or the *Hospitals (Incorporation) Act 1926* shall not affect any liabilities incurred by those persons prior to their incorporation.

## Part 5—Recovery of costs of maintenance

### 47—Maintenance of patients in public hospitals

- (1) After the coming into operation of the *Hospitals Act Amendment Act 1959* the Governor may from time to time, on the recommendation of the director-general, by regulations, which he is hereby empowered to make, fix in respect of any public hospital—
  - (a) rates of payment whether daily, weekly or for any other period for the maintenance of patients in the hospital, which rates may vary according to all or any of the following circumstances, namely the accommodation and treatment provided for the patient, the nature of his illness or disability, the persons liable to pay for his maintenance in the hospital, and any other circumstances which the director-general deems it just to take into consideration;
    - (a1) a special rate to be charged in special circumstances for the maintenance of any individual patient;
    - (b) rates of payment which shall be payable for the treatment of persons as out-patients at the hospital;
    - (c) rates of payment which shall be payable in respect of medical supplies provided to persons from or at the hospital.
- (2) If, whether before or after the commencement of this Act, any person is a patient in or is treated at, or is provided with any medical supplies from or at any public hospital, an amount in accord with the appropriate rate fixed pursuant to subsection (1), together with all other special costs and charges which may be incurred with respect to the said person, shall be a debt due to the Crown for which the following persons shall be jointly and severally liable:
  - I The person first mentioned:
  - II The spouse or domestic partner of the said person:
  - III If the said person is under the age of eighteen years, the father of the said person or, if the father is dead, the mother of the said person:
  - IV The children of the said person who were over eighteen years of age at the time the liability was incurred.
- (2a) The director-general may remit the whole or any part of any amount payable under this section. The director-general may, in writing, authorise any person to exercise any of the powers conferred upon the director-general by this subsection. Any such authority may be of such general or limited application as is determined by the director-general and may be revoked at any time by the director-general. The power of remitting a part of the amount payable under this section may be exercised from time to time in respect of the same debt.
- (3) When any person dies in any public hospital, any funeral expenses incurred in respect of that person by the Crown shall be recoverable in the same manner as any amount payable pursuant to subsection (2) is recoverable.



- (4) All moneys payable under this section for the maintenance of any person shall accrue from day to day, and any amount payable pursuant to this section may, whether incurred before or after the commencement of this Act, be recovered by the director-general, either summarily upon the complaint of the director-general, or any person authorised in writing by him for the purpose, or by action in any court of competent jurisdiction by action at the suit of the director-general or any person authorised as aforesaid, and shall be payable to the director-general or to any person authorised in writing by him to receive the same. In any proceedings pursuant to this subsection, the averment that any place is a public hospital within the meaning of this section shall be deemed proved in the absence of proof to the contrary.
- (5) When two or more persons are jointly and severally liable under this section for the same sum, they shall be entitled as against each other to such indemnity or contribution as is directed by the court.
- (6) Nothing in this section shall take away or restrict the liability of any person for the maintenance of any other person under any other Act or law for the time being in force, or the power of any court to make any order under any such Act or law in respect of the maintenance of any person.
- (7) The director-general may at any time make an agreement with any person that he will pay a fixed sum towards the payment of any amount payable pursuant to this section, and any sum so agreed to be paid shall constitute a debt payable to the Crown and recoverable in accordance with the foregoing provisions of this section; and every such person is hereby empowered to reimburse himself for all moneys paid by him in pursuance of any such agreement out of any property of the person in respect of whom the said amount is payable coming into his hands, or otherwise to recover the same in accordance with the said provisions of this section.
- (8) No such agreement shall take away or restrict any liability that would otherwise lie on the person making the same or on any other person in respect of the maintenance of the patient.
- (9) This section shall apply to any moneys incurred as maintenance as aforesaid before the commencement of this Act only when the said amounts have been incurred after the twenty-third day of October, 1925.
- (10) In this section—

*public hospital* means—

  - (a) the Royal Adelaide Hospital;
  - (b) any place declared to be a public hospital pursuant to *The Hospitals Act 1867* or to section 5 of this Act;
  - (c) any other hospital which is under the management of the director-general.

#### **48—Application of section 47 to subsidised hospitals**

- (1) The Governor may, on the recommendation of the director-general, by proclamation declare that section 47 shall apply to any hospital (other than a hospital referred to in section 47) for the purposes of which any Government grant or subsidy is paid by the Government to the board or committee of management thereof.

- (2) Upon the making of any such proclamation, the provisions of section 47 shall apply with respect to the hospital, and the said section shall be read as if the words "board or committee of management of the hospital" were substituted for the words "Crown" and "director-general", and as if the words "board or committee of management of the hospital may from time to time fix in respect of the hospital" were substituted for the words "the Governor may from time to time on the recommendation of the board or committee of management of the hospital by regulations which he is hereby empowered to make fix in respect of any public hospital". Provided that any rate of payment or special rate fixed in respect of the hospital shall be reasonable.
- (3) The Governor may, on the recommendation of the director-general, by proclamation revoke any such proclamation, in which event the provisions of section 47 shall cease to apply with respect to the hospital referred to in the proclamation.

## Part 6—Payment of hospital charges resulting from accidents

### 49—Interpretation

In this Part—

**Government hospital** means—

- (a) the Royal Adelaide Hospital;
- (b) any place declared to be a public hospital pursuant to *The Hospitals Act 1867* or to section 5 of this Act;
- (d) any other hospital which is under the management of the director-general;

**hospital** means Government hospital or private hospital;

**insurer** means any person or association of persons carrying on the business of insurance;

**owner** includes every person who is the owner or joint owner or part owner of a vehicle and any person who has the use of any vehicle under a hire-purchase agreement, but does not include an unpaid owner of a vehicle the subject of a hire-purchase agreement;

**policy of insurance** includes a cover note which is binding on the insurer;

**private hospital** means any hospital other than a Government hospital.

### 50—Report of accidents

If owing to the presence of a vehicle an accident occurs whereby bodily injury is caused to any person and the accident is reported at a police station or to a police constable then, as soon as may be after the accident is reported as aforesaid, the Commissioner of Police shall supply to the director-general in writing such of the following information as is known to the Commissioner of Police, namely:

- (a) The place and nature of the accident and the time at which it occurred;
- (b) The name and address of the person injured;
- (c) The name and address of the driver of the vehicle;
- (d) The name and address of the owner of the vehicle;

- (e) The name and address of the insurer under any policy of insurance in force with respect to the vehicle.

### **51—Duty of insurer**

- (1) If any insurer by whom a policy of insurance has been issued is informed (whether by the person by whom the policy was effected or otherwise) that owing to the presence of a vehicle an accident has occurred whereby bodily injury has been caused to any person and if by virtue of the policy the insurer is or may be under any liability in respect of the injury, the insurer shall, within twenty-four hours of the receipt of the information, give to the director-general notice in writing setting out such of the particulars relating to the accident as are referred to in paragraphs (a) to (e) inclusive of section 50 and as are known to the insurer.
- (2) Any insurer who fails to comply with subsection (1) of this section shall be guilty of an offence punishable summarily and liable to a penalty not exceeding forty dollars.
- (3) On request by any insurer, the director-general may supply to the insurer printed forms for the purpose of supplying the said particulars.

### **52—Notice by hospital to insurer**

- (1) If owing to the presence of a vehicle an accident occurs whereby bodily injury is caused to any person and that person receives treatment at a hospital (whether as an in-patient or as an out-patient) in respect of the bodily injury (fatal or otherwise) arising from the accident, notice in writing may be given by the hospital to any insurer stating that the said person has received treatment at the hospital and that the hospital has a claim for payment for the treatment given or to be given.
- (2) Any such notice shall be given within two months after the occurrence of the accident.
- (3) If the hospital in which the treatment is given is a Government hospital the notice shall be given by the director-general or by some person authorised in that behalf by the director-general and if the hospital is a private hospital the notice shall be given by or on behalf of the person having the management of the hospital.

### **53—Payment by insurer of cost of hospital treatment**

- (1) Where—
  - (a) any payment is made (whether or not with an admission of liability) by an insurer, under or in consequence of a policy of insurance, in respect of the death or bodily injury to any person caused by or arising out of the use of a vehicle; and
  - (b) the person who has so died or been injured received treatment at a hospital (whether as an in-patient or as an out-patient) in respect of the bodily injury (fatal or otherwise) so caused or arising; and
  - (c) notice has been given to the insurer by the hospital as provided by section 52,the insurer shall pay to the hospital the amount of the claim of the hospital in respect of treatment afforded to the person who has so died or been injured and if the notice to the insurer by the hospital does not state the amount of the claim of the hospital the onus shall be on the insurer to ascertain from the hospital or in the case of a Government hospital from the director-general what is the amount of the claim.

- (2) Where two or more insurers make payments under or in consequence of a policy of insurance in respect of the death of or bodily injury to a person caused by or arising out of the use of two or more vehicles each such insurer shall pay an equal share of the payments required to be made under subsection (1) of this section.
- (3) The liability (if any)—
- (a) of the owner or driver of the vehicle in respect of the death or bodily injury; and
  - (b) of the insurer in respect of the policy of insurance (whether to the owner or driver or in pursuance of subsection (2) of section 70D of the *Road Traffic Act 1934*),
- shall be deemed to be reduced by the amount paid by the insurer to the hospital under this section.
- (4) The amount to be paid by the insurer to the hospital in respect of any such bodily injury (fatal or otherwise) shall not exceed—
- (a) the total amount of the claim of the hospital; or
  - (b) the total amount payable by the insurer in respect of such fatal or bodily injury,
- whichever is the lesser.
- (5) If the person who has died or been bodily injured has received treatment at more than one hospital, and the total amount of the claims of those hospitals in respect of treatment afforded to that person exceeds the total amount payable by the insurer in respect of the fatal or bodily injury, any payment required to be made by subsection (1) of this section shall be divisible between the hospitals in proportion to the claims of the hospitals.

#### **54—Notice of claim to and payment by other than insurer**

- (1) If owing to the presence of a vehicle an accident occurs whereby bodily injury is caused to any person and that person receives treatment at a hospital (whether as an in-patient or as an out-patient) in respect of bodily injury (fatal or otherwise) arising from the accident, notice in writing may be given by the hospital to any person (other than an insurer) stating that the said person injured as aforesaid has received treatment at the hospital and stating the amount claimed by the hospital in respect of that treatment.
- (2) If the hospital in which the treatment is given is a Government hospital the notice shall be given by the director-general or by some person authorised in that behalf by the director-general and if the hospital is a private hospital shall be given by or on behalf of the person having the management of the hospital.
- (3) If after the giving of any such notice to any person any payment is made by that person by way of damages or compensation for the death or bodily injury to the injured person, the person to whom the notice is given shall pay to the hospital the amount of the claim of the hospital in respect of treatment afforded to the person who has so died or been injured and any amount so paid shall be deemed to be in reduction of the said damages or compensation.

- (4) The amount to be paid by the person to whom notice is given as aforesaid to the hospital in respect of any such bodily injury (fatal or otherwise), shall not exceed—
- (a) the total amount of the claim of the hospital; or
  - (b) the total amount payable by such person as damages or compensation in respect of such bodily injury,
- whichever is the lesser.
- (5) If the person who has died or been bodily injured has received treatment at more than one hospital, and the total amount of the claims of those hospitals in respect of treatment afforded to that person exceeds the total amount payable as damages or as compensation in respect of the fatal or bodily injury, any payment required to be made by subsection (3) of this section shall be divisible between the hospitals in proportion to the claims of the hospitals.
- (6) The provisions of this section shall apply to any body corporate constituted pursuant to any Act.

### **55—Default by insurer or other person**

If any insurer fails to make any payment as required by section 53 or if any person fails to make any payment as required by section 54, the director-general, in the case of a Government hospital, or the person having the management of the hospital, in the case of a private hospital, may, by action in any court of competent jurisdiction, sue for and recover the amount required to be paid by section 53 or, as the case may be, section 54, as a debt due to the hospital by the insurer or person, as the case may be.

### **56—Payments to Government hospitals**

Any payment required to be made by this Part to a Government hospital shall be paid to the director-general.

### **57—Service of notice**

Any notice required to be given by this Part may be given—

- (a) by sending the same by post in a prepaid letter addressed to the person to whom it is given at his usual or last known place of residence or business or, in the case of a body corporate, by sending the same by post in a prepaid letter addressed to the body corporate at its place of business; or
- (b) by serving the same on the person to whom it is given or, in the case of a body corporate, by serving the same on the manager or secretary thereof.

### **58—Saving provision**

Nothing in this Part shall affect the right of any hospital to recover the cost of treatment of any person or any part thereof from any person liable to pay the same.

## **Schedule—Acts repealed**

<b>Number and year of Act</b>	<b>Short title</b>
No 7 of 1867	<i>The Hospitals Act 1867</i>
No 1075 of 1912	<i>The Hospitals Act Amendment Act 1912</i>

**Hospitals Act 1934—1.6.2007 to 30.6.2008—repealed**  
Schedule—Acts repealed

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<b>Number and year of Act</b>	<b>Short title</b>
No 1409 of 1919	<i>Rating for Hospital Purposes Act 1919</i>
No 1497 of 1921	<i>Hospitals Act Amendment Act 1921</i>
No 1728 of 1926	<i>Hospitals (Incorporation) Act 1926</i>
No 1957 of 1930	<i>Hospitals Act Amendment Act 1930</i>
No 2035 of 1931	<i>Public Hospitals (Charges) Act 1931</i>

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Repeal of Act

The *Hospitals Act 1934* was repealed by Sch 4 cl 33(b) of the *Health Care Act 2008* on 1.7.2008.

### Principal Act and amendments

Year	No	Title	Assent	Commencement
1934	2158	<i>Hospitals Act 1934</i>	1.11.1934	1.5.1937 ( <i>Gazette</i> 25.3.1937 p642)
1941	10	<i>Hospitals Act Amendment Act 1941</i>	1.10.1941	1.10.1941
1951	30	<i>Hospitals Act Amendment Act 1951</i> as amended by 77/1973	29.11.1951	29.11.1951
1952	20	<i>Hospitals Act Amendment Act 1952</i>	30.10.1952	30.10.1952
1958	47	<i>Hospitals Act Amendment Act 1958</i>	27.11.1958	16.3.1959 ( <i>Gazette</i> 5.3.1959 p486)
1959	41	<i>Hospitals Act Amendment Act 1959</i>	17.12.1959	17.12.1959
1961	28	<i>Hospitals Act Amendment Act 1961</i>	9.11.1961	17.12.1959: s 4
1962	13	<i>Hospitals Act Amendment Act 1962</i>	25.10.1962	25.10.1962
1966	65	<i>Hospitals Act Amendment Act 1966</i>	24.11.1966	24.11.1966: s 3
1967	54	<i>Hospitals Act Amendment Act 1967</i>	9.11.1967	9.11.1967
1971	15	<i>Age of Majority (Reduction) Act 1971</i>	8.4.1971	15.4.1971 ( <i>Gazette</i> 15.4.1971 p1598)
1973	77	<i>Statute Law Revision Act 1973</i>	6.12.1973	6.12.1973
1994	59	<i>Criminal Law Consolidation (Felonies and Misdemeanours) Amendment Act 1994</i>	27.10.1994	1.1.1995 ( <i>Gazette</i> 8.12.1994 p1942)
2006	43	<i>Statutes Amendment (Domestic Partners) Act 2006</i>	14.12.2006	Pt 45 (ss 126 & 127)—1.6.2007 ( <i>Gazette</i> 26.4.2007 p1352)

### Provisions amended since 3 February 1976

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 4 of *The Public General Acts of South Australia 1837-1975* at page 719.

**Hospitals Act 1934—1.6.2007 to 30.6.2008—repealed**  
Legislative history

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Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
<i>s 3</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 4		
domestic partner	inserted by 43/2006 s 126(1)	1.6.2007
spouse	inserted by 43/2006 s 126(2)	1.6.2007
Pt 2		
s 13		
s 13(1)	amended by 59/1994 Sch 2	1.1.1995
Pt 5		
s 47		
s 47(2)	amended by 43/2006 s 127	1.6.2007

### **Historical versions**

Reprint No 1—1.1.1995