



NORFOLK ISLAND

NORFOLK ISLAND HOSPITAL ACT 1985

Act No 29 of 1986

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NORFOLK ISLAND

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Act No 29 of 1986

An Act to provide for the management of the Norfolk Island Hospital, and for related purposes

[Assented to 1 October 1986]

BE IT ENACTED by the Legislative Assembly of Norfolk Island as follows -

PART I - PRELIMINARY

Short title

1. This Act may be cited as the Norfolk Island Hospital Act 1985.

Commencement

2. This Act shall commence on a date fixed by the Administrator by notice published in the Gazette.

Repeal

3. (1) Subject to subsection (2) -

(a) the Norfolk Island Public Hospital Ordinance 1953; and

(b) the Norfolk Island Public Hospital Ordinance 1972,

are repealed.

(2) Notwithstanding the repeals effected by paragraph (1)(a), the bylaws made under section 25 of the Ordinance referred to in that paragraph that were in force immediately before the commencement of this Act, continue to apply and remain in full force and effect as if they were bylaws made under this Act.

Definitions

4. In this Act, unless the contrary intention appears -

"Board" means the Norfolk Island Hospital Board established under section 6;

"financial year" means the period of 12 months commencing on 1 July in each year;

"Hospital" means the Norfolk Island Hospital;

"member" means a person appointed under section 7 to be a member of the Board but does not include the Medical Superintendent;

"Medical Superintendent" means the person appointed under section 28 to be the Medical Superintendent of the Hospital;

"Secretary" means the person appointed under subsection 31(1) to be the Secretary to the Board.

Continuance of the Norfolk Island Hospital

5. The Hospital known at the commencement of this Act as the Norfolk Island Public Hospital shall continue to be a public hospital under the name of the Norfolk Island Hospital, but shall be maintained and carried on by the Board constituted under this Act.

PART II - NORFOLK ISLAND HOSPITAL BOARD**Establishment of Norfolk Island Hospital Board**

6. (1) There is established by this Act a Board by the name of the Norfolk Island Hospital Board.

(2) The Board -

(a) is a body corporate with perpetual succession;

(b) shall have a common seal; and

(c) is capable, in its corporate name, of acquiring, holding and disposing of real, leasehold and personal property and of suing and being sued.

(3) All Courts, Judges and persons acting judicially shall take judicial notice of the common seal of the Board affixed to a document and shall assume that it was duly affixed.

Composition of Board and appointment of members

7. (1) The Board shall consist of the Medical Superintendent and 6 members appointed in accordance with subsection (2).

(2) The executive member may, subject to subsection (3), and in accordance with a resolution of the Legislative Assembly, by notice published in the Gazette, appoint a person to be a member of the Board.

(3) A person who is -

(a) the Secretary to the Board; or

(b) a medical practitioner employed by the Administration for the purpose of performing duties at the hospital,

is not eligible for appointment as a member.

(4) The exercise of a power or the performance of a function by the Board is not affected by reason only of there being a vacancy or vacancies in the membership of the Board.

Period of appointment

8. (1) Subject to this Act, a member holds office until the expiration of the period, not exceeding 3 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

(2) Where a period of appointment is not specified in the instrument of appointment of a member, the member holds office, subject to this Act, for 3 years.

Chairman and Deputy Chairman

9. (1) The executive member shall, on the recommendation of the Board, appoint a person, other than the Medical Superintendent, who is, or is to be, a member of the Board to be the Chairman and another such person to be the Deputy Chairman of the Board.

(2) The Chairman or, in the absence of the Chairman, the Deputy Chairman, shall preside at meetings of the Board.

(3) In the absence of the Chairman and the Deputy Chairman, the Medical Superintendent and the members present at a meeting shall elect from amongst their own number a person to be the acting Chairman, and that person may exercise the powers and perform the duties of the Chairman for that meeting.

Resignation of members

10. (1) A member may resign the office of member by writing signed by the member and delivered to the executive member.

(2) As soon as practicable after the resignation of a member, a person shall be appointed under subsection 7(2) to be a member.

Termination of appointment of member

11. (1) The executive member may terminate the appointment of a member for inability, inefficiency, misbehaviour or physical or mental incapacity.

(2) Where a member -

(a) is absent, except on leave granted by the Board, from 3 consecutive meetings of the Board; or

(b) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit,

the executive member shall terminate the appointment of the member.

Acting appointment

12. (1) Where a member is or is expected to be absent from duty or from Norfolk Island, the executive member may appoint a person to act as member during that absence.

(2) Subject to subsection (3), where the office of Chairman or Deputy Chairman is or is expected to be vacant, or the Chairman or Deputy Chairman is or is expected to be absent from duty or from Norfolk Island, the executive member may appoint a member to act as Deputy Chairman during the vacancy or absence.

(3) A person appointed under subsection (2) to act as Deputy Chairman shall not act as Chairman while there is a person appointed under subsection 9(1) to be the Deputy Chairman and that person is in Norfolk Island and is not absent from duty.

(4) The executive member may at any time terminate an appointment made under this section.

(5) The validity of a decision of the Board shall not, in any proceedings, be questioned on a ground arising from the fact that the occasion for the

appointment of a person purporting to be appointed under this section had not arisen or that an appointment under this section had ceased to have effect.

Disclosure of interest

13. (1) The Medical Superintendent or a member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons and of which the Medical Superintendent or member is not a director, shall, as soon as possible after the relevant facts have come to the knowledge of the Medical Superintendent or member, disclose the nature of that interest at a meeting of the Board.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the Board and the Medical Superintendent or the member -

- (a) shall not, while the Medical Superintendent or the member has that interest, take part after the disclosure in a deliberation or decision of the Board in relation to that matter; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Board in relation to that matter.

Meetings of Board

14. (1) The first meeting of the Board after the commencement of this Act shall be convened by the executive member by notice in writing to the Medical Superintendent and to each member and thereafter the Board shall meet once in each calendar month, so that the interval between one meeting and the next shall not exceed 5 weeks.

(2) The executive member may at any time, by notice in writing, direct the Chairman to convene a meeting of the Board and the Chairman shall convene a meeting in accordance with the direction of the executive member.

(3) At a meeting of the Board -

(a) either -

(i) the Medical Superintendent and 3 members; or

(ii) 4 members,

constitute a quorum;

(b) the Medical Superintendent and members who are present are entitled to vote;

(c) questions arising shall be determined by a majority vote of those present and voting and in the event of an equality of votes the question shall be taken to have been defeated; and

(d) subject to this Act, the Board shall determine the procedure to be followed at or in connection with the meeting.

(4) The Chairman shall, as soon as practicable before the holding of a meeting, inform the executive member of the holding of each meeting of the Board.

(5) The executive member or a person authorised for the purpose by the executive member by notice in writing is entitled to be present at a meeting of the Board and to speak at such a meeting but shall not take any other part in the proceeding of a meeting.

(6) The Board shall cause minutes of its meetings to be recorded and kept.

Liability of member

15. A member of the Board is not liable for any action taken in good faith in the course of his duties as a member.

PART III - FUNCTIONS AND POWERS OF BOARD

Functions of Board

16. The functions of the Board are -

(a) to determine matters concerning the general policy to be adopted by the Medical Superintendent in the medical administration of the Hospital;

- (b) to confer with the Medical Superintendent concerning the purchase, use, storage and maintenance of drugs, instruments, appliances, supplies and equipment used in carrying out the services of the Hospital; and
- (c) subject to this Act, to control, administer and manage the Hospital.

Powers of Board

17. (1) Subject to this Act, the Board has power to do all things that are necessary or convenient to be done for or in connection with, or incidental to, the performance of its functions and the exercise of its powers.

(2) Without limiting the generality of subsection (1), the Board may, for the purpose of carrying out its functions or exercising its powers, including the powers conferred on it elsewhere in this Act -

- (a) enter into contracts;
- (b) acquire, hold and dispose of real and personal property;
- (c) purchase drugs, instruments, appliances, supplies and equipment;
- (d) provide for the storage and maintenance of drugs, instruments, appliances, supplies and equipment; and
- (e) do anything incidental to any of its powers.

Directions to Board by executive member

18. (1) Where the executive member believes on reasonable grounds that -

- (a) the powers of the Board are not being exercised, or the functions of the Board are not being performed, in a proper manner; or
- (b) the powers of the Board are being exercised, or the functions of the Board are being performed, in a manner that is detrimental to the interests of the Hospital or the community,

the executive member may give to the Board directions as to -

(c) the conduct of the business or affairs of the Board; and

(d) the manner in which the Board exercises its powers and performs its functions,

and the Board shall give effect to those directions.

(2) The executive member shall lay a copy of directions given under subsection (1) before the Legislative Assembly at its first meeting after the giving of the directions.

Delegation

19. (1) The Board may, by instrument in writing, delegate to a person any of its powers and functions under this Act, other than this power of delegation.

(2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Board.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Board.

Borrowing by Board

20. The Board does not have power to enter into an arrangement to borrow money except with the prior approval in writing of the executive member.

Revenue of the Board

21. The revenue of the Board shall consist of -

(a) the amounts received -

(i) as payment from or for in-patients or out-patients, persons treated at or from the Hospital, or persons attending at or attended to from the Hospital;

(ii) in respect of any services rendered by the Hospital, including the hire of plant and equipment;

(iii) by way of subscription or donation for the purposes of the Hospital; and

(iv) as proceeds of functions held or actions taken for the raising of money for the purposes of the Hospital; and

- (b) amounts received as subsidy from the Administration.

Expenditure by Board

22. (1) The Board may apply any money in its hands in such proportions and in such manner as it thinks fit for the purposes of -

- (a) the maintenance of the Hospital;
- (b) the provision of medicines, disinfectants and surgical equipment;
- (c) medical, surgical and nursing attendance for persons admitted to the Hospital as in-patients or out-patients;
- (d) payment of the salaries, wages or pay of persons appointed or employed under this Act; and
- (e) payment of other expenses necessarily incurred in carrying this Act into effect or in exercising its powers or performing its functions under this Act or under any other law of Norfolk Island.

(2) The Board shall exercise the powers and perform the functions conferred and imposed on it by this Act or by any other law of Norfolk Island in such a manner that its operations will be financially self-supporting and no expenditure in a financial year shall, except with the consent in writing of the executive member, exceed the revenue of the Board for that year.

Bank account

23. The revenue received by the Board shall be paid into an account opened by the Board at the Norfolk Island Branch of the Commonwealth Bank of Australia, and that account shall be operated on in the manner directed by the Board by resolution.

Board to keep accounts and furnish reports

24. (1) The Board shall keep full and particular accounts of all money received and expended by it and such accounts shall be kept so that the revenue derived from patients' fees is shown separately from the revenue derived from other sources.

(2) The Board shall prepare and furnish to the executive member as soon as practicable after the end of each financial year a report setting out in respect of the immediately preceding financial year -

- (a) such particulars as are prescribed; and
- (b) such additional information as the executive member thinks fit.

Audit

25. (1) The books and accounts kept by the Board shall be audited at least once in each financial year by a person appointed for the purpose by the executive member by notice in writing.

(2) The person appointed under subsection (1) shall make a report on the audit referred to in that subsection to the executive member.

Reports

26. The executive member shall cause a copy of each report referred to in subsection 24(2) and subsection 25(2) to be laid before the Legislative Assembly at the meeting of the Assembly next following the receipt of the report by the executive member.

Bylaws

27. (1) The Board may, with the approval of the executive member, make bylaws, not inconsistent with this Act, for or with respect to -

- (a) the charges to be paid for -
 - (i) accommodation, maintenance, services, attendance and treatment at or from the Hospital;
 - (ii) the hire of plant and equipment of the Hospital; and
 - (iii) the removal of patients to or from the Hospital;
- (b) the duties of the staff of the Board;
- (c) the maintenance of order, discipline, decency and cleanliness among patients;
- (d) the times to be observed as visiting hours at the Hospital;
- (e) all matters affecting the non-medical management, care, control and superintendence of the Hospital; and
- (f) the imposition of penalties not exceeding 2 penalty units for contravention of, or failure to comply with, a bylaw.

(2) Notice of the making of bylaws under subsection (1) shall be published in the Gazette.

(3) Unless the contrary intention appears in the bylaws, the bylaws under subsection (1) take effect on the date of publication of the notice under subsection (2).

(4) Bylaws shall not be expressed to take effect from and including a date before the date of publication of the notice under subsection (2) where, if they so took effect -

(a) the rights of a person (other than the Board) existing at the date of publication of the notice, would be affected in a manner prejudicial to that person; or

(b) liabilities would be imposed on a person (other than the Board) in respect of anything done or omitted to be done before the date of publication of the notice,

and where, in a bylaw, a provision is made in contravention of this subsection, that provision is void and of no effect.

(5) A copy of bylaws made under subsection (1) shall be kept displayed in a conspicuous position at the Hospital.

PART IV - ADMINISTRATION OF HOSPITAL

Medical Superintendent and Deputy Medical Superintendent

28. (1) The executive member may appoint a person who is a registered medical practitioner within the meaning of the Medical Practitioners Registration Act 1983 and who is employed under the Public Service Ordinance 1979 to act as a medical practitioner at the Hospital to be the Medical Superintendent of the Hospital and another such medical practitioner to be the Deputy Medical Superintendent.

(2) Where the Medical Superintendent is, or is expected to be, absent from duty or from Norfolk Island the Deputy Medical Superintendent has, and may exercise, the powers and perform the functions of, and shall act as, the Medical Superintendent, during that absence.

(3) where there is no person appointed to be the Medical Superintendent or Deputy Medical Superintendent, the executive member may, by notice in writing, appoint a person who is a registered medical practitioner within the meaning of the Medical Practitioners Registration Act 1983 employed under the Public Service Ordinance 1979 to act as the Medical Superintendent for the period specified in the notice.

Responsibility, etc, of Medical Superintendent

29. (1) The Medical Superintendent is responsible for all matters concerning the medical administration of the Hospital.

(2) Without limiting the generality of subsection (1), the responsibility of the Medical Superintendent includes -

- (a) medical and paramedical services;
- (b) nursing services;
- (c) pharmacy services including the dispensing requirements of the Hospital;
- (d) baby clinic services;
- (e) district nursing services;
- (f) the maintenance in an efficient condition and the practical operation of the radiography equipment; and
- (g) the safe-keeping and maintenance in an efficient condition of medical and surgical instruments and appliances.

(3) The Medical Superintendent is responsible for taking stock of the medical and surgical instruments and appliances referred to in paragraph (2)(g) as directed by the Board, and in any case, not less than once every 6 months.

(4) Following a stocktaking referred to in subsection (3), the Medical Superintendent shall, as soon as practicable, submit a report on the medical and surgical instruments and appliances to the Secretary for presentation to the Board.

(5) where charges for the services of the Hospital are not prescribed under the bylaws, the Medical Superintendent shall assess those charges.

Medical Superintendent to provide information, etc

30. (1) Where the Board requests the Medical Superintendent to provide information or advice on a matter, the Medical Superintendent shall, where there is no conflict with standards of professional conduct, as soon as practicable after receiving the request, comply with the request in writing.

(2) Where a matter that, in the opinion of the Medical Superintendent, requires the attention of the Board comes to the notice of the Medical Superintendent, the Medical Superintendent shall, as soon as practicable, by notice in writing or by raising the matter at a meeting of the Board, refer the matter to the Board.

Staff of Board

31. (1) The Board -

(a) may appoint a person to be -

(i) the Secretary to the Board; and

(ii) the Matron of the Hospital; and

(b) may employ such number of persons to be nurses, attendants and employees as it thinks necessary or expedient for the efficient running and maintenance of the Hospital.

(2) Subject to bylaws made under section 27, the duties of -

(a) the Secretary - are as the Board determines; and

(b) the Matron - are as the Medical Superintendent determines.

(3) Subject to this section, the terms and conditions of employment of persons appointed under subsection (1) shall be as the Board determines.

PART V - MISCELLANEOUS**Liability of patients**

32. (1) Every person who is -

(a) an in-patient or out-patient;

(b) treated at, or from, the Hospital; or

(c) attends at, or is attended to from, the Hospital,

is liable to pay to the Board such charges as are prescribed under the bylaws or as are assessed by the Medical Superintendent under subsection 29(5).

(2) The Board may, in such cases as it thinks fit, remit, wholly or in part, or postpone the payment of, all or any amount of money becoming due and payable under subsection (1).

Recovery of amounts due to Board

33. (1) The amount of the liability of a person under section 32 is a debt due and payable to the Board, and may be sued for and recovered by action instituted summarily by a person authorised for that purpose in writing by the Board.

(2) Where the person first referred to in subsection (1) has not attained the age of 18 years at the time the liability was incurred, the parent or guardian of that person is liable for the amount payable under section 32.

Regulations

34. (1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters -

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the regulations may prescribe the particulars to be included in, and the form of, a report -

- (a) for the purposes of subsection 24(2); and
- (b) for the purposes of subsection 25(2).

Transitional

35. (1) For the purposes of this section -

"the former Board" means the Norfolk Island Public Hospital Board constituted under the repealed Act;

"the former Secretary" means the Secretary appointed under the repealed Act to the former Board;

"the former staff" means the nurses, attendants and other servants appointed under the repealed Act;

"the repealed Act" means the Norfolk Island Public Hospital Ordinance 1953 as amended and in force immediately before the commencement of this Act.

(2) Until such time as the members of the Board are appointed under this Act, the members of the former Board shall be members of the Board as if they had been appointed under this Act.

(3) Until such time as the Board -

(a) appoints -

(i) a Secretary to the Board; and

(ii) the Matron of the Hospital; and

(b) employs persons to be nurses, attendants and employees,

under this Act, the persons appointed to be the former Secretary, the former Matron and former staff shall continue to be the Secretary to the Board, Matron, and nurses, attendants and employees, as the case may be, as if they had been appointed or employed respectively under this Act.

(4) The -

(a) medical instruments, appliances, supplies and equipment of the Hospital vested in the former Board;

(b) furniture, furnishings, plant and equipment in use at or fitted or installed for the purposes of the Hospital and vested in the former Board; and

(c) money standing to the credit of, or held on behalf of, the Hospital by the former Board,

immediately before the commencement of this Act are, on that commencement, vested in the Board.

(5) The -

(a) liabilities and obligations of the former Board; and

- (b) legal or other proceedings instituted or to be instituted by or against the former Board and legal or other proceedings that might have been continued or commenced by or against the former Board,

on behalf of the Hospital immediately before the commencement of this Act are, on that commencement, vested in, or may be continued or commenced by or against, as the case may be, the Board.

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