

Queensland



ANNO UNDECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 27 of 1962

**An Act to Amend "The Health Acts, 1937 to 1960,"
in certain particulars**

[ASSENTED TO 13TH DECEMBER, 1962]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. (1) **Short title.** This Act may be cited as "*The Health Acts Amendment Act of 1962.*"
- (2) **Principal Act.** "*The Health Acts, 1937 to 1960,*" are in this Act referred to as the Principal Act.
- (3) **Collective title.** The Principal Act and this Act may be collectively cited as "*The Health Acts, 1937 to 1962.*"

2. **Amendment of s. 3.** Section three of the Principal Act is amended by inserting after the words and numerals "*Division XI.—Private Hospitals* (ss. 63–76)" the words and numerals "*Division XIA.—Convalescent Homes* (ss. 76B–76J)".

3. **Amendment of s. 64.** Section sixty-four of the Principal Act is amended by omitting the word "Minister" and inserting in its stead the word "Director-General".

4. **Amendment of s. 67.** Section sixty-seven of the Principal Act is amended by omitting the words "The Minister may from time to time on the recommendation of the Director-General" and inserting in their stead the words "The Director-General may".

5. **Amendments of s. 68.** Section sixty-eight of the Principal Act is amended by—

(a) in subsection (1) omitting the word "Minister" and inserting in its stead the word "Director-General";

(b) in subsection (2)—

(i) omitting the word "Minister", where appearing in the first paragraph, and inserting in its stead the word "Director-General";

(ii) omitting the words "The Minister may on the recommendation of the Director-General", where appearing in the second paragraph, and inserting in their stead the words "The Director-General may".

6. **Amendment of s. 72 (1).** Subsection (1) of section seventy-two of the Principal Act is amended by omitting, where appearing in paragraph (x) of the proviso, the words "including the delegation by the Minister to the Director-General of his power to grant or refuse to grant licenses or renewals of licenses of private hospitals".

7. **New headnote and ss. 76B, 76C and 76D inserted.** The Principal Act is amended by inserting after section 76A the following headnote and sections:—

"Division XIA.—Convalescent Homes.

[76B.] **Definitions.** In this Part of this Act—

"Convalescent home"—Means any house, apartment or premises which is used or intended to be used for the reception, care and treatment of persons (in this Division called "inmates") who on account of age, infirmity, chronic ill health or the effects of illness from which they are convalescent require nursing, care and supervision or care and supervision;

"License"—Means a license (including any renewal of a license) granted under this Division and in force at any material time;

"Registered nurse"—Means a nurse registered as a general nurse under "*The Nurses and Masseurs Registration Acts, 1928 to 1948.*"

[76C.] Issue, renewal, &c., of licenses. (1) The Director-General may, under, subject to and in accordance with this Division and the applicable regulations issue, renew, suspend, or cancel licenses.

The fee payable for a license or the renewal of a license shall be five pounds.

(2) Every application for a license or the renewal of a license shall be made to the Director-General, shall be in or to the effect of the prescribed form, and shall be accompanied by the amount of the fee.

(3) Subject to this Division and the applicable regulations, a license or any renewal thereof shall, unless the license is sooner cancelled, suspended or surrendered, be in force for such period, not being longer than twelve months, as is expressly stated in the license or in any endorsement thereon from and including the date of issue or renewal, as the case may be:

Provided that in the case of a license being suspended for a period less than that portion of the period for which the license (or the then current renewal thereof) is in force remaining at the date of the commencement of such period of suspension, such license upon the termination of that period of suspension shall only be in force until the date when it would have expired if it had not been so suspended.

(4) For the purposes of this section, the day immediately following the day on which a license or the next previous renewal thereof, as the case may be, expired shall, subject to subsection (5) of this section, be deemed to be the date of the renewal of any license renewed under this Division.

(5) Where a license is renewed subsequent to the date of expiry of the license or next previous renewal thereof, as the case may be, the renewal of the license shall come into force on the date of such subsequent renewal but shall expire on the date on which it would have expired had it been renewed prior to the date of expiry of the license or next previous renewal thereof, as the case may be.

(6) A license shall not be capable of being transferred or otherwise dealt with save with the prior approval in writing of the Director-General, and any transfer or other dealing with a license otherwise than with such approval shall be absolutely void.

Compliance by a holder of a license with the requirements of this subsection shall be an implied condition of every license for breach whereof the Director-General may cancel or suspend the license.

(7) The Director-General may refuse to issue or to renew a license.

Upon conviction of a licensee for any offence under the provisions of this Division or of the regulations applicable for the purposes of this Division the Director-General may cancel or suspend the license.

Suspension of a license may be for a specified time or without limit of time, in which event, the suspension shall remain in force until it is removed by the Director-General.

Suspension of a license shall, while it remains in force, have the same effect as a cancellation of the license.

[76D.] Who may hold licenses. (1) As well as a person, a religious body or order or a society or body or association of persons may, subject to the provisions of this Division, hold a license.

(2) In the case of a license granted to a person other than a medical practitioner or registered nurse, or a license granted to a religious body or order or a society or body or association of persons, the licensee shall employ in charge of the convalescent home a medical practitioner or a registered nurse whose name has been notified to the Director-General.

Compliance by the licensee with the requirements of this subsection shall be an implied condition of a license to which this subsection applies for breach whereof the Director-General may cancel or suspend the license."

8. New s. 76E inserted. The Principal Act is amended by inserting after section 76D, as previously inserted by this Act, the following section:—

“[76E.] Offences. (1) This section shall come into force on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*.

(2) A person or a religious body or order or a society or body or association of persons shall not erect or keep, or cause or permit to be erected or kept, a convalescent home otherwise than under and in accordance with a license.

For the purposes of this subsection a convalescent home shall be deemed to be erected or, as the case may be, kept otherwise than under and in accordance with the license therefor if, in respect of the erection or keeping thereof, the terms, provisions, conditions and stipulations of such license are not complied with in every respect.

(3) A person who contravenes any provision of subsection (2) of this section shall be guilty of an offence and liable to a penalty of not more than one hundred pounds.

A person who continues such an offence after he is convicted therefor shall be guilty of a further offence and liable to an additional penalty for each day during which the offence is continued of not more than twenty pounds.

(4) Where this section or section 76F of this Act is contravened in any respect by a religious body or order or by a society or body or association of persons every member of its committee of management or other governing body, by whatever name called, who was knowingly a party to the contravention, shall be deemed to have committed the offence and shall be liable accordingly."

9. New ss. 76F and 76G inserted. The Principal Act is amended by inserting after section 76E, as previously inserted by this Act, the following sections:—

“[76F.] Additions or alterations. A licensee shall not make or cause or permit to be made any structural addition or alteration to, in or about the premises of a convalescent home licensed under this Division until notice in writing of the proposed addition or alteration, accompanied by a plan thereof drawn upon the scale prescribed, has been given to the Director-General by the licensee, and the written approval of the Director-General has been given thereto.

Any licensee who contravenes any provision of this section shall be guilty of an offence and liable to a penalty of not more than one hundred pounds.

[76G.] Duties, &c., of licensee. (1) A licensee shall be responsible for the due conduct of the convalescent home in respect whereof he or it holds the license.

(2) (a) The licensee, if a medical practitioner or a registered nurse, shall continuously reside on the premises of the licensed convalescent home, or a medical practitioner or registered nurse appointed by the licensee and whose name has been notified by him to the Director-General shall continuously so reside.

(b) Where the licensee is a person other than a medical practitioner or a registered nurse or the licensee is a religious body or order or a society or a body or association of persons, the medical practitioner or registered nurse employed in charge of the licensed convalescent home whose name has been notified to the Director-General shall continuously reside on the premises of the licensed convalescent home.

(c) If the licensee or person appointed or employed by the licensee pursuant to paragraphs (a) or (b) of this subsection fails to comply with the requirements of this subsection the Director-General may cancel or suspend the license.

(3) Upon application in writing in that behalf, the Director-General may in writing grant to a licensee or person appointed or employed by a licensee pursuant to subsection (2) of this section leave of absence for a period not exceeding three months at any one time.

Subject to a person approved in writing by the Director-General being in charge of, and continuously residing on the premises of, the licensed convalescent home in question during any period of leave of absence granted by the Director-General, the licensee or person granted leave of absence may absent himself from such premises during such period.

(4) A licensee may, with the written approval of the Director-General, transfer his license.

The transfer shall be effected by the production of the license to the Director-General and the endorsement thereon by the Director-General of the name of the transferee, who thereupon shall become and be the licensee under and for all purposes of this Act.

(5) In the event of the death or incapacity of the licensee, the Director-General may, by written endorsement on the license, transfer it to another person who shall thereupon become and be the licensee under and for all purposes of this Act.

Where a license is held by two or more persons jointly, in the event of the death of any of them the license shall continue in force as if it had been issued to the survivor or survivors.

(6) In the event of fire, flood, tempest or other unforeseen calamity rendering the premises of a convalescent home unfit for use as such, the license may by endorsement by the Director-General, be made applicable either permanently or temporarily to other premises."

10. New ss. 76H, 76I and 76J inserted. The Principal Act is amended by inserting after section 76G, as previously inserted by this Act, the following sections:—

“[76H.] Regulations. (1) The power conferred upon the Director-General to make with the approval of the Governor in Council regulations under this Act shall include power to make with such approval regulations, not inconsistent with this Act, for the control, management, supervision, and regulation, including the regulation of the erection, keeping and use of, convalescent homes, prescribing the information to be contained in applications for licenses or the renewal thereof, prescribing terms, provisions, conditions and stipulations upon and subject to which the Director-General may issue or renew licenses and, without limit to the generality of the foregoing provisions of this section, prescribing, providing for, regulating and controlling in respect of convalescent homes—

- (a) the construction, elevation, materials and form of buildings and other structures;
- (b) foundations and sites of buildings and other structures;
- (c) the mode in which and the materials of which such foundations and sites are to be made, excavated, filled up, prepared and completed for securing stability and for purposes of health;
- (d) a sufficiency of space about buildings and other structures to secure a free circulation of air, and a sufficiency of ventilation and air space within buildings and rooms;
- (e) the prevention of the overcrowding of land by buildings and other structures;

- (f) the distance from any other building or structure within which any building or structure comprised in a convalescent home shall not be erected or situated;
- (g) the thickness of walls, and the description and quality of materials whereof walls may be constructed, for securing stability, the prevention of fire, and for purposes of health;
- (h) means of escape from fire;
- (i) the number and qualifications of nursing staff, the number of domestics, and the rostering for duty of members of the qualified nursing staff ;
- (j) the accommodation to be provided for inmates, nurses, domestic staff and other persons; and
- (k) the prohibition of the alteration of buildings or structures in such a way that when and as altered they do not comply with the requirements of the regulations which would apply if such alteration were the original erection or construction thereof.

(2) The regulations may prescribe a penalty of not more than fifty pounds for any contravention of or failure to comply with any provision thereof, and may prescribe that any person who continues an offence against any provision of the regulations after he is convicted therefor, shall be guilty of a further offence, and liable to an additional penalty for each day during which the offence so continues of not more than ten pounds.

[76I.] **Inspection.** Every convalescent home and all records prescribed to be kept thereat shall at all times be open to the inspection of a health officer or other officer authorised by the Director-General, who may for such purpose enter the premises of the convalescent home with such assistants as may be required by him.

[76J.] **Local Government Acts to apply.** No provision of this Division or of any regulation made for the purposes of this Division and no license shall authorise, justify or excuse any contravention of or failure to comply with any provision of the Local Government Act or of any by-laws (including, in the case of Brisbane City Council, ordinances) in respect of the erection or use of any building or structure as, or as part of, or for a purpose of or connected with, a convalescent home."

11. Amendment of s. 110. Section one hundred and ten of the Principal Act is amended by omitting subsection (3).

12. Amendment of s. 152 (1). Subsection (1) of section one hundred and fifty-two of the Principal Act is amended by in paragraph (xvii), omitting the words "Regulating and restricting" and inserting in their stead the words "Regulating and controlling and, as deemed necessary, prohibiting or restricting".

13. Existing private hospital licenses. This Act shall not affect the continuity of any license under Division XI of Part III of the Principal Act subsisting at the date of the passing of this Act, but every such license shall continue in force and may be dealt with by the Director-General under, subject to and in accordance with the provisions of Division XI of Part III of the Principal Act as amended by this Act.