



## ANALYSIS

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1985, No. 165

**An Act to amend the Area Health Boards Act 1983**

*[17 December 1985]*

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title**—This Act may be cited as the Area Health Boards Amendment Act 1985, and shall be read together with and deemed part of the Area Health Boards Act 1983 (hereinafter referred to as the principal Act).

**2. Superannuation**—Section 42 (2) of the principal Act is hereby amended by adding to paragraph (c) the word “; or”, and by adding the following paragraph:

“(d) Holds a position referred to in section 13 (1A) of the Health Service Personnel Act 1983.”

**3. Two new sections inserted in principal Act**—The principal Act is hereby amended by inserting, after section 44, the following sections:

**“44A. Remuneration and conditions of employment of employees subject to awards or collective agreements—**  
(1) The Minister may from time to time issue a determination, or revoke or amend a determination, specifying the limits to

which area health boards may provide rates of pay or allowances and other conditions of employment in excess of those prescribed in any relevant award or collective agreement.

“(2) A determination made under subsection (1) of this section shall apply to a person whose conditions of employment are fixed by an award or collective agreement under the Industrial Relations Act 1973 or by an apprenticeship order under the Apprenticeship Act 1983 only to the extent that its application is to that person’s advantage.

“(3) The provisions of sections 9 to 12 of the State Services Conditions of Employment Act 1977 shall, with any necessary modifications, apply to the prescribing of pay scales under this section in the same manner as they apply to the prescribing of pay scales under that Act.

“(4) Subject to subsection (5) of this section, any determination or amending determination may be expressed to come into force on any date specified by the Minister, whether that date is before or after the making of the determination, and if no date is so specified it shall come into force on the day on which it is made.

“(5) No determination or amendment of a determination—

“(a) Shall take effect on a date earlier than 12 months before the day on which it is made; or

“(b) Shall be expressed to continue in force for less than 12 months.

“(6) Subject to subsections (7) and (8) of this section, the Industrial Relations Act 1973 shall not apply to any employee whose remuneration or conditions of employment have been the subject of a determination under Part II of the State Services Conditions of Employment Act 1977 or who belongs to an occupational class for the time being exempted from the application of the Act by Order in Council made under subsection (9) of this section.

“(7) Subsection (6) of this section shall not prevent any service organisation from registering as an industrial union of workers under the Industrial Relations Act 1973.

“(8) Subject to the State Services Conditions of Employment Act 1977, every service organisation and every member of any such organisation registered as an industrial union of workers, shall be subject to Parts XII and XIII of the Industrial Relations Act 1973, so far as they are applicable and with the necessary modifications; but none of the other provisions of that Act shall apply to any such organisation or member.

“(9) Subject to subsection (10) of this section, the Governor-General may, by Order in Council, exempt any occupational

class of employee from the application (except to the extent specified in subsections (6) to (8) of this section) of the Industrial Relations Act 1973.

“(10) No Order in Council shall be made under subsection (9) of this section,—

“(a) In the case of an occupational class the majority of the employees belonging to which are paid in accordance with a determination made under the State Services Conditions of Employment Act 1977, unless the appropriate service organisation (within the meaning of that Act) has so requested; or

“(b) In the case of an occupational class the majority of the employees belonging to which are paid in accordance with any award or collective agreement made or deemed to be made under the Industrial Relations Act 1973, unless the appropriate industrial union (within the meaning of that Act) has so requested; or

“(c) In any case to which section 214 of the Industrial Relations Act 1973 applies.

“(11) Subject to subsection (12) of this section, any Order in Council or any provision of any such order made under subsection (9) of this section in relation to any occupational class may be expressed to come into force on a day before the date it is made (being the day on which a determination was made under the State Services Conditions of Employment Act 1977 prescribing or purporting to prescribe the rates of remuneration of persons belonging to that class); and, in the case of an Order in Council a provision of which is so expressed to come into force on a day before the day it is made, that provision shall be deemed to have come into force accordingly, and that Act shall be deemed to have applied to all employees belonging to that class on and after that day.

“(12) The rights of a person employed by an area health board pursuant to any award or collective agreement (within the meaning of the Industrial Relations Act 1973) immediately before the making of such an order shall not be affected unless and until that person elects, by notice in writing addressed to the board, that the relevant determination apply to him or her; and the determination shall apply to that person instead of the award or collective agreement on and after the date on which that person so elects.

“(13) Nothing in the State Services Conditions of Employment Act 1977 shall prevent an area health board from contracting with an employee in respect of any condition of employment

not fixed by a determination or Tribunal order or Order in Council or under any regulations made under this Act, or by any award or collective agreement made under the Industrial Relations Act 1973, or by an apprenticeship order made under the Apprenticeship Act 1983; but any term of any such contract that is inconsistent with the State Services Conditions of Employment Act 1977 or with this Act, or with the Health Service Personnel Act 1983 or with any determination, Tribunal order, Order in Council, or regulation, or with any such award, agreement, or order shall be void to the extent of the inconsistency.

**“44B. Board to consult Commission on obligations under the Industrial Relations Act 1973—**(1) Every area health board shall from time to time consult with the Health Service Personnel Commission in respect of its obligations as an employer under the Industrial Relations Act 1973, and shall observe such policies and procedures as the Commission may determine in respect of such matters.

“(2) Nothing in subsection (1) of this section shall empower the Commission or a board to act in a manner that is contrary to any of the provisions of the Industrial Relations Act 1973.”

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This Act is administered in the Department of Health.

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