



ANALYSIS

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1991, No. 24

An Act to amend the Area Health Boards Act 1983
[7 May 1991]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Area Health Boards Amendment Act 1991, and shall be read together with and deemed part of the Area Health Boards Act 1983 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 15th day of May 1991.

2. Interpretation—(1) The principal Act is hereby amended by repealing section 2, and substituting the following section:

“2. (1) In this Act, unless the context otherwise requires,—

“‘Applicable collective employment contract’ means the collective employment contract that is binding on the relevant employee, employees, employer, or employers (as the case may require) at the relevant point in time:

“‘Area health board’ or ‘board’ means an area health board established under section 6 of this Act;

“‘Area health district’ or ‘district’ means an area health district established under section 5 of this Act;

“‘Authorised’—

“(a) In relation to a health computer system under the control of the Director-General, means authorised by the Director-General; and

“(b) In relation to a health computer system under the control of a board, means authorised by that board:

“‘Bank’ means—

“(a) The Reserve Bank of New Zealand;

“(b) Any bank registered under the Reserve Bank of New Zealand Act 1964;

“‘Collective employment contract’ means an employment contract that is binding on one or more employers and 2 or more employees;

“‘Combined district’ means any 2 or more constituent districts, or parts thereof, combined under this Act for the purposes of the election of representatives on any board;

“‘Committee of the board’, in relation to any area health board, means a committee appointed by that board under section 28 of this Act;

“‘Community committee’ means a community committee appointed under section 31 of this Act;

“‘Conditions of employment’—

“(a) Includes remuneration; but

“(b) Does not include—

“(i) Allowances payable to employees serving outside New Zealand; or

“(ii) Other conditions of service of employees serving outside New Zealand;

“‘Constituent district’ means,—

“(a) In relation to an area health district (other than an area health district to which paragraph (b) of this definition applies), the district of a territorial authority within the meaning of the Local Government Act 1974; or

“(b) In relation to an area health district whose boundaries are declared by an Order in Council that includes a declaration of the kind described in section 5A (1) of this Act, each area declared by that order to be a constituent district of that area health district;

“‘Department’ means the Department of Health;

“‘Director-General’ has the meaning given to it by section 2 (1) of the Health Act 1956;

“‘Employment contract’ means a contract of service;

- “ ‘Financial year’ means a period of 12 months ending with the 30th day of June:
- “ ‘General manager’, in relation to any area health board, means the general manager appointed under section 39 of this Act:
- “ ‘Health computer system’ means any system of computers and terminals—
 “(a) Under the control of the Director-General; or
 “(b) Part of which is under the control of the Director-General and part of which is under the control of a board;—
and includes any part of any such system:
- “ ‘Health services’—
 “(a) Means—
 “(i) Services to promote health:
 “(ii) Services to protect health:
 “(iii) Services to prevent disease or ill-health:
 “(iv) Treatment services:
 “(v) Nursing services:
 “(vi) Rehabilitative services:
 “(vii) Diagnostic services; and
 “(b) Includes—
 “(i) Psychotherapy and counselling services:
 “(ii) Contraception services and advice:
 “(iii) Sterilisation services:
 “(iv) Ambulance services:
 “(v) Mortuaries:
- “ ‘Hospital board’ means a hospital board constituted by section 25 of the Hospitals Act 1957:
- “ ‘Hospital district’ means a hospital district constituted by section 14 of the Hospitals Act 1957:
- “ ‘Hospital Works Committee’ means the committee of that name established by section 12 of the Hospitals Act 1957:
- “ ‘Individual employment contract’ means an employment contract that is binding on only one employer and one employee:
- “ ‘Initiating hospital board’, in relation to an area health board, means the hospital board, or each of the hospital boards, whose hospital district was replaced in whole or in part by the area health district of the area health board:
- “ ‘Institution’ means any hospital or other institution under the control of an area health board under this

Act; and includes a health centre and a family health counselling centre:

“‘Local Government Commission’ means the Local Government Commission established under the Local Government Act 1974;

“‘Lockout’ has the meaning given to it by section 62 of the Employment Contracts Act 1991;

“‘Minister’ means the Minister of Health;

“‘To operate’, in relation to any health computer system, means to—

“(a) Enter information into; or

“(b) Modify information stored in; or

“(c) Delete information from; or

“(d) Retrieve information from—

that system; and ‘operation’ has a corresponding meaning;

“‘Operative date’, in relation to an area health board, means the date specified in the Order in Council made under section 5 (1) of this Act for the establishment of the area health district of that board;

“‘Primary objectives’, in relation to an area health board, means the primary objectives set out in section 9 of this Act;

“‘Relief’ includes maintenance, and every other form of aid or relief (other than a health service), given to any person by a board in the exercise of its powers, whether or not the person is an inmate of any institution;

“‘Remuneration’ includes—

“(a) Salary, wages, and other payments, whether in the form of bonuses or otherwise, in return for services; and

“(b) Benefits and other emoluments (whether in money or not) in return for services;

“‘State Services Commissioner’ means the State Services Commissioner appointed under section 3 of the State Sector Act 1988;

“‘Strike’ has the meaning given to it by section 61 of the Employment Contracts Act 1991;

“‘Terminal’, in relation to any health computer system, means any device or apparatus by the use of which any person may operate that system;

“‘Territorial authority’ has the same meaning as in section 2 (1) of the Local Government Act 1974.

“(2) Where there is under the control of a board any computer or terminal that is connected to a health computer system from time to time only,—

- “(a) When it is so connected, it shall be deemed to be part of that system; and
- “(b) When it is not so connected, it shall be deemed not to be part of that system.”

(2) The following enactments are hereby consequentially repealed:

- (a) Subsections (1) and (2) of section 2 of the Area Health Boards Amendment Act 1986;
- (b) Section 2 of the Area Health Boards Amendment Act 1988;
- (c) Subsections (2) and (3) of section 2 of the Area Health Boards Amendment Act (No. 3) 1988;
- (d) Section 2 of the Area Health Boards Amendment Act 1989;
- (e) Section 2 of the Area Health Boards Amendment Act (No. 2) 1989.

3. Application of Labour Relations Act 1987 in respect of general manager—The principal Act is hereby amended by repealing section 39L (as enacted by section 4 of the Area Health Boards Amendment Act 1988).

4. Appointment and dismissal of employees—Section 39P (1) (b) of the principal Act (as enacted by section 4 of the Area Health Boards Amendment Act 1988) is hereby amended by omitting the words “any award or agreement”, and substituting the words “the employment contract applying to the employee”.

5. New sections substituted—The principal Act is hereby amended by repealing sections 39x to 39z (as enacted by section 4 of the Area Health Boards Amendment Act 1988), and substituting the following sections:

“39x. Application of Employment Contracts Act 1991 to area health boards—Except as otherwise provided in this Act, the Employment Contracts Act 1991 shall apply in relation to area health boards.

“39y. Negotiation of conditions of employment—

- (1) The State Services Commissioner shall be responsible for negotiating under the Employment Contracts Act 1991 every

collective employment contract applicable to employees of area health boards.

“(2) The negotiations, which shall be conducted by the State Services Commissioner with the employees themselves or their authorised representatives, shall be conducted by the Commissioner in consultation with—

“(a) The Director-General; and

“(b) The general manager of each board affected.

“(3) Every collective employment contract shall be entered into between—

“(a) The State Services Commissioner; and

“(b) The employees to whom the collective contract is applicable or representatives acting with the authority of those employees.

“(4) Any person, group, or organisation authorised to represent any employees of area health boards in negotiations for a collective employment contract applicable to those employees may become a party to that contract with the agreement of the State Services Commissioner and any other representatives acting in those negotiations with the authority of any such employees.

“(5) Every collective employment contract entered into between the Commissioner and any employees of a board shall be binding on the general manager of that board.

“39VA. Personal grievances and disputes—
Notwithstanding the provisions of section 39Y of this Act—

“(a) In relation to a personal grievance, the employer shall be the general manager of the Board; and

“(b) In relation to a dispute about the interpretation, application, or operation of any collective employment contract the employer shall be the general manager of the Board acting, if the State Services Commissioner so requires, together with or in consultation with the State Services Commissioner.

“39Z. Delegation of State Services Commissioner’s powers—(1) The State Services Commissioner may from time to time delegate, in writing, to—

“(a) A general manager of a board; or

“(b) Any organisation of employers of persons employed in the Health Service,—

any of the Commissioner’s powers under section 39Y of this Act.

“(2) Where the State Services Commissioner, acting under subsection (1) of this section, delegates to a general manager of a board or an organisation of employers the function, under section 39Y (1) of this Act, of conducting negotiations with the employees themselves or their representatives, the general manager or organisation of employers shall conduct those negotiations in consultation with the State Services Commissioner and the Director-General.

“(3) Nothing in this section limits the provisions of section 28 of the State Sector Act 1988.”

6. Repeals—The principal Act is hereby amended by repealing sections 39zA and 39zB (as enacted by section 4 of the Area Health Boards Amendment Act 1988).

This Act is administered in the Department of Health.
