



ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p> <p>2. Interpretation</p> <p>3. Establishment of district or variation of boundaries at time of triennial general election</p> <p>4. New sections inserted</p> <p> 5a. Proposed area health districts</p> <p> 5c. Cancellation of triennial general election</p> <p> 5d. Continuation in office of existing members</p> <p>5. Constitution of boards</p> <p>6. Union or reconstitution of districts</p>	<p>7. Election of representatives of constituent districts</p> <p>8. Appointed members</p> <p>9. Acquisition of land under Public Works Act 1981</p> <p>10. Borrowing powers</p> <p>11. Bank accounts</p> <p>12. Application of board's funds</p> <p>13. Board may delegate expenditure decisions to general manager</p> <p>14. Control of expenditure</p> <p>15. Half-yearly financial statements</p> <p>16. Annual balance and statement</p> <p>17. Mental Health Act 1969 amended</p>
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1989, No. 42

An Act to amend the Area Health Boards Act 1983

[13 July 1989]

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 (No. 2) 1989, 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 date on which it receives the Royal assent.

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “award” (as inserted by section 2 (3) of the Area Health Boards Amendment Act 1988), the following definition:

“ ‘Bank’ means—

“(a) The Reserve Bank of New Zealand:

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

(2) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “financial

year” (as inserted by section 2 (1) of the Area Health Boards Amendment Act (No. 3) 1988), and substituting the following definition:

“‘Financial year’ means a period of 12 months ending with the 30th day of June:”.

(3) Section 2 (1) of the Area Health Boards Amendment Act (No. 3) 1988 is hereby consequentially repealed.

3. Establishment of district or variation of boundaries at time of triennial general election—Section 5A of the principal Act (as inserted by section 4 of the Area Health Boards Amendment Act 1989) is hereby amended by adding the following subsection:

“(8) In this section ‘area health district’ includes an area health district proposed to be constituted by an Order in Council made under section 8A of this Act.”

4. New sections inserted—The principal Act is hereby amended by inserting, after section 5A (as inserted by section 4 of the Area Health Boards Amendment Act 1989), the following sections:

“**5B. Proposed area health districts**—Where, for the purposes of the next triennial general election of members of local authorities as prescribed by section 4 of the Local Elections and Polls Act 1976, an Order in Council made under section 5A of this Act declares, in respect of an area health district proposed to be constituted by an Order in Council made under section 8A of this Act, the boundaries that will be deemed to be the boundaries of that proposed area health district,—

“(a) The boundaries so declared may include within the proposed area health district to be constituted any land forming the whole or part of an existing area health district or an existing hospital district; and

“(b) The Order in Council made under section 5A of this Act may be combined with an order made under section 5 or section 8A of this Act; and

“(c) The Order in Council made under section 5A of this Act, when combined with an order made under section 8A of this Act, may, notwithstanding anything in section 8A of this Act, provide—

“(i) That the operative date for the abolition of the districts affected shall be the close of the 57th day after polling day for the next triennial general election of members of local authorities as

prescribed by section 4 of the Local Elections and Polls Act 1976; and

“(ii) Constitute, on the 58th day after polling day for the next triennial general election of members of local authorities as prescribed by section 4 of the Local Elections and Polls Act 1976, the new area health district, under a name to be specified in the order, which new area health district may include within its boundaries the whole or any part of the area included in the districts so abolished.

“5C. **Cancellation of triennial general election**—Where an Order in Council made pursuant to sections 5B and 8A of this Act provides for the dissolution of any area health district or hospital district as from the close of the 57th day after polling day for the next triennial general election of members of local authorities as prescribed by section 4 of the Local Elections and Polls Act 1976, no election of the representatives on the board for any such district shall be held at that triennial general election.

“5D. **Continuation in office of existing members**—
(1) Notwithstanding anything in any other provision of this Act or in any provision of the Hospitals Act 1957 or the Local Elections and Polls Act 1976, but subject to subsection (2) of this section,—

“(a) Every person who, on the close of the day before polling day for a triennial general election of members of local authorities as prescribed by section 4 of the Local Elections and Polls Act 1976 is holding office as a representative on an area health board or a Hospital Board of any constituent district or combined district (being a Board to which an order under sections 5A and 8A of this Act relates) shall, unless he or she sooner vacates office under section 21 of this Act or section 34 or section 35 of the Hospitals Act 1957, continue to hold office until the close of the 57th day after that polling day; and

“(b) The term of office of any member continued in office by paragraph (a) of this subsection shall, subject to section 21 of this Act and sections 34 and 35 of the Hospitals Act 1957, be deemed to expire with the close of the 57th day after that polling day.

“(2) Nothing in subsection (1) of this section affects section 21 of this Act or section 34 or section 35 of the Hospitals Act 1957.”

5. Constitution of boards—(1) Section 8 of the principal Act (as substituted by section 5 of the Area Health Boards Amendment Act (No. 3) 1988) is hereby amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) Subject to the succeeding provisions of this section, each area health board shall have—

“(a) Such number of elected members as the Minister may determine, being one or more elected representatives of each of the constituent districts within the area health district, and being in total not less than 8 nor more than 12; and

“(b) Such number (if any) of members appointed by the Minister in accordance with section 18 of this Act.

“(2) The Minister may, in a special case, determine that a board shall have up to 14 elected members.”

(2) Section 8 of the principal Act (as so substituted) is hereby further amended by repealing paragraph (c) of subsection (4).

(3) Section 8 of the principal Act (as so substituted) is hereby further amended by inserting, after subsection (4), the following subsection:

“(4A) The Governor-General may from time to time—

“(a) In respect of a combined district, by Order in Council select and appoint a local authority (which need not be a local authority of the combined district or the local authority of the combined district) to be the principal local authority in relation to the combined district for the purposes of the conduct of elections within that district:

“(b) In respect of a constituent district that comprises—

“(i) A district of a territorial authority within the meaning of the Local Government Act 1974 and one or more wards of any other such district; or

“(ii) One or more wards of a district of a territorial authority within the meaning of the Local Government Act 1974,—

by Order in Council select and appoint a local authority (which need not be a territorial authority whose district is affected) to conduct elections within that constituent district.”

(4) Section 13 of the principal Act (as substituted by section 7 of the Area Health Boards Amendment Act (No. 3) 1988) is hereby amended by inserting, after subsection (5), the following subsection:

“(5A) Nothing in subsection (4) or subsection (5) of this section, or in subsection (3) (a) of section 13A of this Act, shall empower the board to alter the total number of members of the board.”

(5) Section 13A of the principal Act (as so substituted) is hereby amended by inserting, after subsection (6), the following subsection:

“(6A) Nothing in subsection (6) of this section shall empower the Local Government Commission to alter the total number of members of the board.”

(6) Subsection (1) of this section shall not apply in respect of any area health board constituted before the commencement of this section until the 14th day of October 1989.

6. Union or reconstitution of districts—Section 8A (2) of the principal Act (as enacted by section 6 of the Area Health Boards Amendment Act (No. 3) 1988) is hereby amended by omitting the words “counties and other areas (if any)”, and substituting the word “areas”.

7. Election of representatives of constituent districts—Section 11 (2c) of the principal Act (as enacted by section 6 (1) of the Area Health Boards Amendment Act 1989) is hereby amended by omitting the expression “3 months”, and substituting the expression “80 days”.

8. Appointed members—The principal Act is hereby amended by repealing section 18, and substituting the following section:

“18. (1) At any time after the election of members of a board (whether in accordance with section 14 of this Act following the establishment of the board or following a subsequent election of members in accordance with section 15 of this Act), the Minister may, by notice in the *Gazette*, appoint further members of the board, so long as the number of appointed members in office at any one time does not exceed 5.

“(2) Subject to subsection (3) of this section, every appointed member shall hold office until the expiration of the term of office of the elected members, and may from time to time be reappointed.

“(3) The Minister may at any time, by notice in the *Gazette*, revoke the appointment of any appointed member.”

9. Acquisition of land under Public Works Act 1981—

(1) The principal Act is hereby amended by repealing section 68, and substituting the following section:

“68. An area health board may take or otherwise acquire under the Public Works Act 1981 any land required, whether as a site for any institution or service or otherwise, for the purposes of any of its functions under this Act.”

(2) Section 2 of the Area Health Boards Amendment Act (No. 2) 1988 is hereby consequentially repealed.

10. Borrowing powers—(1) Section 77 of the principal Act is hereby amended by omitting from subsection (1), and also from subsection (2), and also from subsection (4), the words “, with the prior consent of the Minister,”.

(2) Section 77 (6) of the principal Act is hereby repealed.

(3) The repeal by subsection (2) of this section of section 77 (6) of the principal Act shall not apply in respect of any money borrowed by an area health board before the 1st day of July 1989; and the repayment of all such money, and the payment of interest on that money, shall continue to be deemed to be guaranteed by the Crown.

11. Bank accounts—The principal Act is hereby amended by repealing section 82, and substituting the following section:

“82. (1) An area health board may establish, maintain, and operate such bank accounts with such bank or banks as it thinks fit.

“(2) All money received by an area health board shall, as soon as practicable after it has been received, be paid into a bank account in the name of the board.

“(3) The withdrawal or payment of money from any bank account of an area health board shall be properly authorised by the board.”

12. Application of board's funds—(1) Section 84 (1) of the principal Act is hereby amended by inserting, after paragraph (e), the following paragraph:

“(ea) The accumulation of reserve funds for the repayment from time to time of the whole or any part of the money borrowed under subsection (1) of section 77 of this Act, or to meet the whole or any part of planned future expenditure for any of the purposes specified in paragraphs (a) to (d) of that subsection, and, pending such repayment or expenditure, the

investment of such reserve funds for such period or periods as the board thinks fit.”.

(2) Section 84 (2) of the principal Act is hereby repealed.

13. Board may delegate expenditure decisions to general manager—The principal Act is hereby amended by inserting, after section 84, the following section:

“84A. (1) An area health board may from time to time, either generally or particularly, delegate to the general manager the power to expend or approve the expenditure of the board’s funds, up to such limit and subject to such other conditions as the board may impose, in respect of any of the following matters:

“(a) Erecting buildings or making additions or alterations to buildings; or

“(b) Purchasing or developing land; or

“(c) Purchasing equipment; or

“(d) Repaying or converting the whole or any part of any loan that has previously been raised by the board or for which the board is liable.

“(2) Subject to any general or special directions given or imposed by the board, the general manager may exercise any power delegated to the general manager under this section in the same manner and with the same effect as if the power had been conferred on the general manager directly by this Act and not by delegation.

“(3) When purporting to act pursuant to any delegation under this section, the general manager shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

“(4) No delegation under this section shall affect or prevent the exercise of any function or power by the board, nor shall any such delegation affect the responsibility of the board for the actions of the general manager acting under the delegation.

“(5) Every delegation under this section shall be revocable by the board at will.

“(6) Every delegation under this section, until it is revoked, shall continue in force according to its tenor, notwithstanding that the general manager to whom the power was delegated may have ceased to hold office, and shall continue to have effect as if the power had been delegated to the successor in office of that general manager.”

14. Control of expenditure—(1) Section 85 of the principal Act is hereby repealed.

(2) The Area Health Boards (Control of Expenditure) Regulations 1987 (S.R. 1987/324) are hereby revoked.

15. Half-yearly financial statements—The principal Act is hereby amended by inserting, after section 87, the following section:

“87A. (1) Every area health board shall, as soon as practicable after the end of the first 6 months of each financial year, prepare financial statements for the board for that half-year.

“(2) The half-yearly financial statements of each board shall be in such form and shall contain such particulars as may be determined from time to time by the Minister.

“(3) The board shall forward the half-yearly financial statements to the Audit Office not later than the last day of February in each financial year.”

16. Annual balance and statement—Section 88 of the principal Act is hereby amended—

(a) By omitting from subsection (1), and also from subsection (4), and also from subsection (5) (b), the expression “30th day of September”, and substituting in each case the expression “31st day of August”:

(b) By omitting from subsection (4) the expression “1st day of October”, and substituting the expression “1st day of September”.

17. Mental Health Act 1969 amended—Section 7 of the Mental Health Act 1969 (as substituted by section 98 of the Area Health Boards Act 1983) is hereby amended by omitting from subsection (4) the expression “section 68” where it first occurs, and substituting the expression “section 69”.