



ANALYSIS

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1980, No. 25

An Act to amend the Hospitals Act 1957

[7 October 1980

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 Hospitals Amendment Act 1980, and shall be read together with and deemed part of the Hospitals Act 1957 (hereinafter referred to as the principal Act).

2. Committees—(1) Section 44 of the principal Act is hereby amended by repealing subsection (1) (as amended by section 5 (1) of the Public Bodies Contracts Act 1959), and substituting the following subsection:

“(1) Any Board may from time to time appoint standing or special committees, consisting of 2 or more persons, for any of the following purposes:

“(a) The management of any institution under the control of the Board:

“(b) The management of, and the operation of a bank account for, a canteen in a hospital:

“(c) The regulation and management of, or for enquiring into and reporting upon, such matters as the Board thinks fit;—

and may from time to time, either generally or particularly, delegate to any such committee—

“(d) Subject to paragraph (e) of this subsection, any of the powers or duties conferred on the Board by this Act except the power to—

“(i) Borrow money; or

“(ii) Make a bylaw; or

“(iii) Institute an action:

“(e) In accordance with section 4 of the Public Bodies Contracts Act 1959, any power of the Board to enter into a contract.”

(2) So much of the Second Schedule to the Public Bodies Contracts Act 1959 as relates to the principal Act is hereby consequentially repealed.

3. Non-disclosure of medical information—(1) The principal Act is hereby further amended by repealing section 62 (as amended by section 8 of the Hospitals Amendment Act 1966, section 8 of the Hospitals Amendment Act 1968, and section 10 of the Hospitals Amendment Act 1973), and substituting the following section:

“62.(1) This section shall apply only to—

“(a) Persons who are or have been employed by a Board (whether as honorary or part-time medical officers or otherwise, and whether as employees or independent contractors); and

“(b) Persons who are or have been allowed access to an institution pursuant to section 59 (1), or section 60, or section 61, of this Act; and

“(c) Persons who are or have been employed by any company, firm, or other body, that has, or by any person who has, contracted to perform work for a Board.

“(2) Subject to subsections (4) and (5) of this section, no person to whom this section applies shall disclose to any person any information concerning the condition or medical history of any patient in any institution without the prior consent of the patient or his representative, whether the patient is still in the institution or not.

“(3) Where a patient is a minor who has attained the age of 16 years he may give his consent personally.

“(4) Any person to whom this section applies may, at his discretion, in respect of any patient in an institution, disclose information that is—

“(a) Information in general terms concerning the condition of the patient on the day on which the information is given:

“(b) Information disclosed by a member of the medical staff of the institution to the next of kin or other near relative of the patient in accordance with the recognised customs of medical practice:

“(c) Information required in connection with the further treatment of the patient or the administration of that institution or the Board that controls it:

“(d) Information properly required in the course of his official duties by any officer of the Department of Health, the Department of Justice, the Department of Social Welfare, the Ministry of Transport, or the Ministry of Defence, or by any officer of any of Her Majesty’s Forces, or by any member of the Police:

“(e) Information required by any person pursuant to the provisions of any Act:

“(f) Information required by the Director-General of Health for statistical purposes or for the purpose of ascertaining the validity of claims for benefits under the Social Security Act 1964:

“(g) Information briefly describing the nature of the injuries of a patient suffering from the results of an accident if the information is disclosed within 24 hours after the patient’s admission to the institution by the Medical Superintendent of the institution or any other medical officer authorised by him in that behalf to—

“(i) Any person authorised by the editor or publisher of any registered newspaper to collect information for publication in that newspaper; or

“(ii) Any person authorised by the holder of a warrant within the meaning of the Broadcasting Act 1976 to collect information for publication by means of the news services provided by that holder:

- “(h) Information disclosed to a solicitor who requests it, in any case where the Medical Superintendent of the institution suspects on reasonable grounds that an injury to the patient was intentionally self-inflicted and the solicitor’s request is made specifically in respect of a claim arising from that injury:
- “(i) Information disclosed to the Attorney-General or the Solicitor-General, or to any solicitor acting for either of them, who requests it for the purpose of performing the functions conferred on either of them by the Matrimonial Proceedings Act 1963 or the Matrimonial Proceedings Rules 1964:
- “(j) Information properly required in the course of his official duties by any traffic officer employed by a Borough Council, a Town Council, a County Council, or a District Council:
- “(k) Information required by such other persons or classes of person, in such circumstances, and subject to such conditions (if any), as the Minister may from time to time specify by notice in writing.
- “(5) Any person to whom this section applies may use or disclose any information concerning the condition or medical history of any patient for the purposes of the advancement of medical knowledge or research or the advancement of other knowledge or research relating to any profession or activity associated with hospitals or health services; but—
- “(a) Where information is disclosed in any publication, that person shall not disclose the name, initials, or identity of the patient without the prior consent of the patient or his representative, whether the patient is still in the institution or not; and
- “(b) Every person to whom any information is disclosed pursuant to this subsection (otherwise than in any publication as aforesaid) shall be deemed to be a person to whom this section applies.
- “(6) Nothing in this section shall derogate from Part III of the Evidence Act (No. 2) 1980 or any other enactment or rule of law relating to evidence in any civil or criminal proceeding.
- “(7) For the purposes of subsection (2) of this section, ‘representative’, in respect of any patient,—
- “(a) Where the patient is dead, means his personal representative, or any dependant within the meaning of the Workers Compensation Act 1956; or

“(b) Where the patient is alive but an infant, means a parent or guardian; or

“(c) Subject to paragraphs (a) and (b) of this subsection, where the patient is unable to give his consent, means a person appearing to the Medical Superintendent of the institution concerned to be lawfully acting on the patient’s behalf or in his interests.

“(8) Every person who acts in contravention of any provision of this section commits an offence and shall be liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$2,000.

“(9) No person commits an offence under this section by reason only of the fact that he places, stores, or processes, any information in, or retrieves any information from, the computer system.”

(2) The enactments specified in the First Schedule to this Act are hereby consequentially repealed.

(3) The notices specified in the Second Schedule to this Act are hereby consequentially revoked.

4. Computer system—(1) The principal Act is hereby further amended by inserting, after section 62, the following section:

“62A. (1) The Director-General, and every Board, shall cause to be taken all reasonable steps to prevent access to the computer system by persons not authorised to have access to it.

“(2) The Director-General shall cause to be kept a record of all requests for information from that part of the computer system under his control.

“(3) Every person commits an offence, and shall be liable on conviction on indictment to imprisonment for a term not exceeding 3 years or a fine not exceeding \$5,000, or to both, who—

“(a) Connects any part of the computer system to—

“(i) Any other computer; or

“(ii) Any terminal or other installation connected to or forming part of any other computer;
or

“(b) Knowingly falsifies any record of the computer system by the addition, deletion, or modification of any information contained within that record;
or

- “(c) Knowing that he is not authorised to do so, adds to or deletes from the computer system any record; or
- “(d) Knowing that he is required in the course of his duties to do so, fails or omits to add any record or information to the information contained in the computer system; or
- “(e) Knowingly provides false information with the intent that it be included in the computer system; or
- “(f) Knowing that he is not authorised to do so, gains or attempts to gain access to the computer system, whether by means of any device or apparatus that is part of the computer system or by any other means.

“(4) Nothing in this section shall limit the rights, powers, and duties of the Audit Office in relation to records and information contained in the computer system.

“(5) Notwithstanding subsection (3) (a) of this section, no person commits an offence against this Act who—

- “(a) With the consent of a Board inserts into any computer, or any terminal or other installation forming part of any computer (being a computer, terminal, or installation, not forming part of the computer system), any computer-readable storage medium containing information relating solely to the remuneration of employees of that Board; or
- “(b) With the consent of the Director-General, inserts into any computer, or any terminal or other installation forming part of any computer (being a computer, terminal, or installation, not forming part of the computer system) that is under the control of the State Services Commission, the Government Printer, or the Government Statistician any computer-readable storage medium containing information that—
 - “(i) Relates solely to medical and health statistics; and
 - “(ii) Contains no indication of the identities of the individual persons to whom those statistics relate.”

(2) Section 2 of the principal Act is hereby consequentially amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Access’, in relation to the computer system, means the ability to—

“(a) Place information in; or

“(b) Modify information in; or

“(c) Delete information from; or

“(d) Retrieve information from—

that system:

“‘Authorised’, in relation to any person, means authorised by or under regulations made under this Act, and—

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

“(b) In relation to any part of the computer system under the control of any Board, authorised by that Board or by any bylaw of that Board;—

and ‘unauthorised’ has a corresponding meaning:

“‘Computer system’ means any system comprising computers and terminals, where the computers and some of the terminals are under the control of the Director-General and the other terminals are under the control of Boards.”

(3) The Summary Proceedings Act 1957 is hereby amended by inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item:

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| “The Hospitals Act 1957 | | 62A. Offences in relation to computer system”. |
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5. Money to be paid into bank—(1) The principal Act is hereby further amended by repealing section 91 (as amended by section 3 (1) of the Hospitals Amendment Act 1964 and section 15 of the Hospitals Amendment Act 1973), and substituting the following section:

“91. (1) All money belonging to a Board shall, pending its investment or application in accordance with this Act, be paid into accounts at such banks as the Minister of Finance from time to time approves.

“(2) All money shall be paid out by a Board—

“(a) In cash; or

“(b) By direct credit in a manner approved by the Board; or

“(c) By cheque or withdrawal notice—

“(i) Signed by any responsible officer of the Board; and

“(ii) Countersigned by any member or officer of the Board—
for the time being by resolution of the Board authorised to do so.

“(3) Notwithstanding paragraph (c) of subsection (2) of this section, any Board may pay any money by cheque bearing a facsimile of the signature of the Treasurer, or of his signature and that of any member authorised pursuant to that subsection to countersign cheques; and every cheque bearing such a facsimile shall be deemed to have been duly signed and countersigned in accordance with that paragraph.”

(2) Section 3 of the Hospitals Amendment Act 1964 and section 15 of the Hospitals Amendment Act 1973 are hereby consequentially repealed.

6. Imprest accounts—(1) Section 92 (1) of the principal Act is hereby amended by omitting from paragraph (a) and paragraph (b) the words “an imprest account”, and substituting, in each case, the words “imprest accounts”.

(2) Section 92 (5) of the principal Act is hereby amended by omitting the words “, with the express approval in writing of the Audit Office, but not otherwise,”.

(3) Section 92 (6) of the principal Act is hereby amended by repealing the proviso.

(4) The said section 92 is hereby further amended by repealing subsection (7).

(5) Section 92 (8) of the principal Act is hereby amended by omitting the words “paragraph (b) of”.

7. Annual balance and statement—(1) Section 99 of the principal Act is hereby amended by repealing subsection (1) (as amended by section 3 (2) of the Hospitals Amendment Act 1961), and substituting the following subsections:

“(1) In every financial year, as soon as possible and, subject to subsection (1A) of this section, not later than the 30th day of September, every Board shall cause its accounts for the preceding financial year to be balanced, and a true statement and accounts to be prepared.

“(1A) Any Board may, before the 1st day of October in any financial year, apply in writing to the Minister for further time to present the statement and accounts required to be prepared not later than the 30th day of September in that year, and on receiving any such application the Minister, after consultation with the Audit Office, and being satisfied that there are grounds justifying an extension, may extend the time within which that statement and accounts are required to be prepared to a later date specified by him; and in that case—

- “(a) The Minister shall inform the Board and the Audit Office of the extension; and
- “(b) The reference in subsection (1) of this section to the 30th day of September shall be deemed to be a reference to the date specified.”

8. Regulations—Section 152 of the principal Act is hereby amended by adding the following subsection:

“(3) The Governor-General may from time to time, upon the advice of the Minister given after consultation with the Hospital Boards Association, by Order in Council, make regulations for all or any of the following purposes:

- “(a) Requiring or authorising specified kinds of information to be, or prohibiting specified kinds of information from being, placed on the computer system:
- “(b) Prescribing conditions subject to which information, or specified kinds of information, may be placed on, stored or processed in, or retrieved from, the computer system:
- “(c) Prescribing the qualifications required to be held by persons before they can be employed to programme, operate, or retrieve information from, the computer system:
- “(d) Prescribing the conditions subject to which persons may be employed to programme, operate, or retrieve information from, the computer system:
- “(e) Authorising specified classes of person employed by the Department of Health or a Board to have access to all or specified kinds of information stored in the computer system:

- “(f) Prohibiting specified classes of person from having access to specified kinds of information stored in the computer system:
- “(g) Prescribing, in relation to specified kinds of information stored or to be stored in the computer system,—
- “(i) The form in which the information is to be stored:
- “(ii) The period for which the information is to be retained.”

SCHEDULES

Section 3 (2)

FIRST SCHEDULE**ENACTMENTS REPEALED**

1966, No. 35—The Hospitals Amendment Act 1966: Section 8.
 1968, No. 57—The Hospitals Amendment Act 1968: Section 8.
 1973, No. 43—The Hospitals Amendment Act 1973: Section 10.

Section 3 (3)

SECOND SCHEDULE**NOTICES REVOKED**

S.R. 1959/87—The Hospitals Medical Information Notice 1959.
 S.R. 1972/97—The Hospitals Medical Information Notice 1972.
 S.R. 1976/221—The Hospitals Medical Information Notice 1976.
 S.R. 1977/206—The Hospitals Medical Information Notice 1977.

This Act is administered in the Department of Health.
