



ANALYSIS

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| <p>Title</p> <ol style="list-style-type: none"> 1. Short Title and commencement 2. Interpretation 3. Repeal of provisions relating to Department of Health 4. Medical Officers of Health and other officers 5. Conservation of public health in areas outside jurisdiction of local authorities 6. Repeal of provisions relating to delegations, committees, and annual report 7. Health districts 8. Repeal of provision requiring Medical Officer of Health for every health district 9. Certain officers to have functions of Medical Officers of Health 10. General powers and duties of local authorities in respect of public health 11. Governor-General may exempt certain local authorities 12. Local authority to provide sanitary works 13. Appointment of Environmental Health Officers by local authorities 14. Provisions of this Act as to nuisances to apply to the Crown 15. Issue of closing order by Medical Officer of Health 16. Repeal of provision restricting use of materials for building 17. Powers of Director-General as to polluted water supply 18. Repeal of provision relating to duties and powers of Harbour Boards 19. Medical Officer of Health may cause sanitary works to be undertaken 20. Medical practitioners to give notice of cases of notifiable disease 21. National Cervical Screening Register 22. Isolation of persons likely to spread infectious disease | <ol style="list-style-type: none"> 23. Medical Officer of Health may order premises to be disinfected 24. Establishment of mortuaries and disinfecting stations 25. Notice of death from infectious disease 26. Communicable diseases occurring in animals 27. New Part IIIA substituted <p style="text-align: center;">PART IIIA</p> <p style="text-align: center;">TRADING IN HUMAN BLOOD</p> <ol style="list-style-type: none"> 92A. Interpretation 92B. Trading in own blood prohibited 92C. Collection of blood 92D. Charging for administered blood 92E. Exemptions 92F. Delegation by Minister 92G. Unauthorised advertising prohibited 92H. Liability of principals and agents 92I. Certain documents to be prima facie evidence 92J. Blood transfusion trust 92K. Exemption from Part II of Commerce Act 1986 <ol style="list-style-type: none"> 28. Restrictions applying while ship liable to quarantine 29. Disinfection and fumigation of ships 30. Power to board any ship and inspect 31. Regulations as to public health 32. Regulations as to homes and day-care centres for aged persons 33. Powers of Director-General on default by local authority 34. Constitution and powers of Boards of Appeal 35. Medical examination of children 36. Infirm and neglected persons 37. Persons attempting to commit suicide 38. Ministry of Health |
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An Act to amend the Health Act 1956

[10 May 1993]

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

1. Short Title and commencement—(1) This Act may be cited as the Health Amendment Act 1993, and shall be read together with and deemed part of the Health Act 1956 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of July 1993.

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “Director-General”, and substituting the following definition:

“ ‘Director-General’ means the chief executive under the State Sector Act 1988 of the Ministry of Health; and, in relation to any power or function delegated by that chief executive, includes any person to whom that chief executive has delegated that power or function:”.

(2) The said section 2 (1) is hereby further amended by repealing the definition of the term “Environmental Health Officer” (as inserted by section 2 (1) of the Health Amendment Act 1988), and substituting the following definition:

“ ‘Environmental Health Officer’ means an Environmental Health Officer appointed under section 28 of this Act or a Health Protection Officer:”.

(3) The said section 2 (1) is hereby further amended by repealing the definition of the term “Health Protection Officer” (as inserted by section 2 (2) of the Health Amendment Act 1988), and substituting the following definition:

“ ‘Health Protection Officer’ means a person designated by the Director-General as a Health Protection Officer under this Act:”.

(4) The said section 2 (1) is hereby further amended by repealing the definition of the term “hospital” (as amended by section 98 of the Area Health Boards Act 1983), and substituting the following definition:

“ ‘Hospital’ means a licensed hospital within the meaning of the Hospitals Act 1957:”.

(5) The said section 2 (1) is hereby further amended by repealing the definition of the term “local authority” (as amended by section 8 (3) of the Local Government Amendment Act 1979), and substituting the following definition:

“ ‘Local authority’ means a territorial authority as defined in section 2 of the Local Government Act 1974:”.

(6) The said section 2 (1) is hereby further amended by omitting from the definition of the term “Medical Officer of Health” (as amended by section 98 of the Area Health Boards Act 1983 and section 2 (a) of the Health Amendment Act 1982) the words “or appointed under the Area Health Boards Act 1983 by an area health board”.

(7) The said section 2 (1) is hereby further amended by inserting, in its appropriate alphabetical order, the following definition:

“ ‘Ministry of Health’ means the department of the Public Service referred to by that name; and ‘Ministry’ has a corresponding meaning:”.

(8) The Local Government Amendment Act 1979 is hereby consequentially amended by repealing so much of Part III of the Third Schedule as relates to section 2 (1) of the Health Act 1956.

(9) Section 2 of the Health Amendment Act 1988 is hereby consequentially amended by repealing subsections (1) and (2).

3. Repeal of provisions relating to Department of Health—(1) The principal Act is hereby amended by repealing—

(a) Section 4:

(b) Sections 5 and 5A (as substituted by section 3 (1) of the Health Amendment Act 1987):

(c) Section 5B (as inserted by section 2 (1) of the Health Amendment Act 1979 and renumbered by section 3 (2) of the Health Amendment Act 1987):

(d) Section 6 (as substituted by section 4 (1) of the Health Amendment Act 1987):

(e) Section 6A (as inserted by section 2 of the Health Amendment Act 1975):

(f) Section 7.

(2) The following enactments are hereby consequentially repealed:

(a) Section 2 (1) of the Health Amendment Act 1979:

(b) The Health Amendment Act 1980:

(c) Section 3 of the Health Amendment Act (No. 2) 1982:

(d) Sections 3, 4, and 8 of the Health Amendment Act 1987.

4. Medical Officers of Health and other officers—The principal Act is hereby amended by inserting, before section 8, the following section:

“7A. (1) The Director-General shall from time to time designate as Medical Officers of Health such persons as, in the opinion of the Director-General, are required.

“(2) Each such person designated as a Medical Officer of Health shall be a medical practitioner suitably qualified and experienced in community medicine.

“(3) The Director-General shall, at the time of designation of a Medical Officer of Health, determine the health district or health districts within which the powers and duties of that Medical Officer of Health may be exercised or performed.

“(4) The Director-General shall from time to time designate as Health Protection Officers such persons as, in the opinion of the Director-General, are required.

“(5) Notwithstanding any other enactment, the Director-General may from time to time designate, as officers who have functions, duties, or powers under any enactment administered by the Ministry that is specified in the designation, such persons as, in the opinion of the Director-General, are required.

“(6) Any designation by the Director-General under this section of any person as a Medical Officer of Health, Health Protection Officer, or other officer may be made on such terms and conditions as the Director-General considers appropriate; and that person shall exercise the functions, duties, and powers of that office in accordance with any direction of the Director-General.

“(7) Where by virtue of any enactment, a reasonable belief in any particular state of affairs is a prerequisite for the exercise of any power by a Medical Officer of Health, Health Protection Officer, or other officer designated by the Director-General, it shall be sufficient if that officer exercises that power at the direction of the Director-General (or any other person designated by the Director-General for the purposes of this subsection) so long as, at the time of giving the direction, the Director-General or other person held such a belief in that state of affairs.”

5. Conservation of public health in areas outside jurisdiction of local authorities—Section 8 of the principal Act is hereby amended by omitting the word “Department” in each place where it occurs, and substituting in each case the word “Ministry”.

6. Repeal of provisions relating to delegations, committees, and annual report—(1) The principal Act is hereby amended by repealing—

(a) Section 9 (as amended by section 98 of the Area Health Boards Act 1983):

(b) Section 9A (as substituted by section 3 (1) of the Health Amendment Act 1988):

(c) Section 10.

(2) Section 3 of the Health Amendment Act 1988 is hereby consequentially repealed.

7. Health districts—(1) The principal Act is hereby amended by repealing section 19 (as amended by section 8 (3) of the Local Government Amendment Act 1979 and section 5 (1) of the Health Amendment Act 1988), and substituting the following section:

“19. (1) For the purposes of this Act, the Director-General may from time to time, by notice in the *Gazette*, declare New Zealand or any part of New Zealand to be divided into health districts, with such names and boundaries as the Director-General thinks fit.

“(2) The boundaries of every health district shall be fixed by reference to the boundaries of the territorial authority districts comprised therein, and shall vary with any alteration in such last-mentioned boundaries.

“(3) In no case shall part only of any territorial authority district be included within the boundaries of a health district.”

(2) The following enactments are hereby consequentially repealed:

(a) So much of Part III of the Third Schedule to the Local Government Amendment Act 1979 as relates to section 19 of the Health Act 1956:

(b) Section 5 of the Health Amendment Act 1988.

(3) The following notices are hereby revoked:

(a) The Health Districts Notice 1988 (S.R. 1988/211):

(b) The Health Districts Notice 1988, Amendment No. 1 (S.R. 1988/275):

(c) The Health Districts Notice 1988, Amendment No. 2 (S.R. 1989/9).

8. Repeal of provision requiring Medical Officer of Health for every health district—(1) The principal Act is hereby amended by repealing section 20 (as substituted by section 9 of the Health Amendment Act 1987).

(2) Section 9 of the Health Amendment Act 1987 is hereby consequentially repealed.

9. Certain officers to have functions of Medical Officers of Health—Section 22 (2) of the principal Act (as substituted by section 10 (1) of the Health Amendment Act 1987) is hereby amended by omitting the words “Head Office of the Department of Health”, and substituting the word “Ministry”.

10. General powers and duties of local authorities in respect of public health—Section 23 of the principal Act is hereby amended by repealing paragraph (f) (as amended by section 4 (3) of the Health Amendment Act 1988), and substituting the following paragraph:

“(f) To furnish from time to time to the Medical Officer of Health and to the Public Health Commission such reports as to diseases and sanitary conditions within its district as the Director-General or the Medical Officer of Health or the Public Health Commission may require.”

11. Governor-General may exempt certain local authorities—Section 24 of the principal Act is hereby amended by repealing subsections (5) and (6), and substituting the following subsections:

“(5) While an Order in Council under this section remains in force with respect to any local authority, it shall be the duty of the Ministry to do all such things as it considers necessary, having regard to the provisions of the Order in Council, for the promotion and conservation of the public health within the district of the local authority.

“(6) All expenses incurred by the Ministry in the exercise of its powers under this section in the district of any local authority shall be recoverable from that local authority as a debt due to the Crown.”

12. Local authority to provide sanitary works—Section 25 of the principal Act is hereby amended by repealing subsection (11) (as amended by section 114 (6) of the Public Finance Act 1977), and substituting the following subsection:

“(11) Any expenses so paid and any charges so made for services may be recovered as a debt due from the local authority or authorities to the Crown or may be deducted from any money payable by the Crown to the local authority or authorities.”

13. Appointment of Environmental Health Officers by local authorities—(1) The principal Act is hereby amended by repealing section 28, and substituting the following section:

“28. (1) For the purposes of this Part of this Act, every local authority shall, subject to the provisions of any regulations made under this Act, appoint one or more Environmental Health Officers, being not less in any case than the number required in that behalf by the Director-General.

“(2) Notwithstanding anything in subsection (1) of this section or in any other enactment, the Minister may at any time, acting on the recommendation of the Director-General, by notice in writing given to 2 or more local authorities, require those local authorities to combine to appoint an Environmental Health Officer upon and subject to such terms and conditions as to payment of the salary and expenses of the Environmental Health Officer, and as to the apportionment of his or her duties among the local authorities, as may be agreed upon between the local authorities:

“Provided that no local authority whose district has a population of 15,000 or more shall be required, without its consent, to combine with any other local authority to appoint an Environmental Health Officer.

“(3) If the local authorities to whom any such notice is given fail to agree on any question relating to the salary, expenses, or apportionment of duties of any such Environmental Health Officer, the question shall be determined by the Director-General. If any such local authority is dissatisfied with the determination of the Director-General, it may appeal to the Minister against the determination by notice in writing given within one month after it has received notice of the Director-General’s determination. Notice of the appeal shall at the same time be given to the other local authorities who are parties to the dispute. On any such appeal the Minister may either confirm the Director-General’s determination or vary it as the Minister thinks fit, and the Minister’s decision shall be final and binding on the parties to the dispute.

“(4) Every Environmental Health Officer appointed under subsection (2) of this section shall be deemed for the purposes of this Part of this Act to be the Environmental Health Officer for each of the districts of the local authorities by whom he or she is appointed.

“(5) While any regulations are in force under this Act prescribing the qualifications to be possessed by persons appointed as Environmental Health Officers, no person shall be appointed by any local authority as an Environmental Health

Officer who is not qualified for appointment as such in accordance with those regulations.

“(6) If any local authority fails to appoint or to continue to employ such number of Environmental Health Officers as the Director-General may require, or fails to appoint an Environmental Health Officer when required to do so by the Minister as aforesaid, any Health Protection Officer authorised in that behalf by the Director-General may carry out the duties of an Environmental Health Officer within the district of that local authority; and in any such case the salary and expenses of that Health Protection Officer for the period during which he or she so acts, or such proportion thereof as the Director-General may appoint, shall be payable by the local authority, and may be recovered accordingly as a debt due to the Crown, or may be deducted from any money payable to that local authority out of the Crown Bank Account or any departmental bank account.

“(7) Notwithstanding anything in the foregoing provisions of this section, any local authority may with the approval of the Director-General, instead of appointing any Environmental Health Officer as aforesaid, pay into the Crown Bank Account from time to time such sums as may be agreed on between the Director-General and the local authority towards the salary and expenses of a Health Protection Officer; and in any such case the powers, functions, and duties of an Environmental Health Officer within the district of that local authority shall be exercised and performed by such Health Protection Officer as for the time being is authorised in that behalf by the Director-General.

“(8) No agreement entered into by a local authority for the purposes of subsection (7) of this section shall, except with the concurrence of the Director-General, be terminated unless at least 12 months’ notice in writing of intention to terminate the agreement has been given to the Director-General by the local authority.”

(2) The following enactments are hereby consequentially repealed:

- (a) Section 4 of the Health Amendment Act 1960:
- (b) So much of Part III of the Third Schedule to the Local Government Amendment Act 1979 as relates to section 28 (1) (e) of the Health Act 1956.

14. Provisions of this Act as to nuisances to apply to the Crown—Section 32 of the principal Act is hereby

amended by omitting the word “officer” in both places where it occurs, and substituting in each case the word “employee”.

15. Issue of closing order by Medical Officer of Health—Section 44 of the principal Act is hereby amended by repealing subsection (2) (as amended by section 98 of the Area Health Boards Act 1983), and substituting the following subsection:

“(2) All costs incurred by or against the Medical Officer of Health on any appeal under this section shall be recoverable from the local authority as a debt due to the Crown or may be deducted from any money payable by the Crown to the local authority.”

16. Repeal of provision restricting use of materials for building—The principal Act is hereby amended by repealing section 53.

17. Powers of Director-General as to polluted water supply—Section 63 (2) of the principal Act is hereby amended by omitting the words “out of the Public Account”, and substituting the words “by the Crown”.

18. Repeal of provision relating to duties and powers of Harbour Boards—The principal Act is hereby amended by repealing section 69 and the heading above that section.

19. Medical Officer of Health may cause sanitary works to be undertaken—Section 73 of the principal Act is hereby amended by repealing subsection (2) (as amended by section 98 of the Area Health Boards Act 1983), and substituting the following subsection:

“(2) All such expenses shall be recoverable as a debt due to the Crown.”

20. Medical practitioners to give notice of cases of notifiable disease—(1) Section 74 of the principal Act is hereby amended by repealing subsection (2).

(2) Section 74 of the principal Act is hereby further amended by adding the following subsection:

“(5) Every Medical Officer of Health shall forthwith forward to the Public Health Commission any information received pursuant to subsection (1) or subsection (3) of this section.”

(3) Section 5 of the Health Amendment Act 1964 is hereby consequentially repealed.

21. National Cervical Screening Register—The principal Act is hereby amended by inserting, after section 74, the following section:

“74A. (1) In this section,—

“ ‘Cervical smear test’ means any test or the taking of any cytological or histological specimen to determine the presence in the cervix of any woman of a cancer or non-invasive, pre-cancerous lesion:

“ ‘Register’ means the National Cervical Screening Register maintained by the Ministry of Health or by a person who is appointed by the Director-General for this purpose.

“(2) Every person who, for the purposes of a cervical smear test, takes a specimen from a woman shall—

“(a) Ensure that, before the specimen is forwarded to a laboratory for analysis, the woman is informed that, unless she objects, a report on the test will be forwarded for inclusion in the register; and

“(b) If aware that the woman objects to a report on the test being forwarded for inclusion in the register, ensure that—

“(i) A written acknowledgement of the objection is given to the woman; and

“(ii) The specimen is accompanied by a written notice of the objection.

“(3) The person in charge of a laboratory where a specimen from a cervical smear test is analysed—

“(a) Must not allow a report of the results of the test to be forwarded for inclusion in the register if the specimen was accompanied by a written notice of objection under subsection (2) of this section; but

“(b) In every other case, must cause such a report to be forwarded for inclusion in the register.

“(4) Cervical smear test information held by any area health board on the day before the day on which this section comes into force shall, if the Director-General so requests, be forthwith forwarded for inclusion in the register by the holder of the information at the date of the request.

“(5) No person may disclose information on the register that identifies a woman, unless the information is disclosed—

“(a) With the consent of the woman; or

“(b) To a medical practitioner who has been engaged by the woman and who is seeking information to assist in

diagnosis or treatment or to determine when the woman should next have a cervical smear test; or

“(c) For the purpose of enabling positive results from a cervical smear test to be followed up; or

“(d) For the purpose of enabling reminder notices to be sent to women whose names appear in the register and who are due for another cervical smear test; or

“(e) For the purpose of giving access to the register in accordance with regulations made under subsection (7) (a) of this section to persons studying cancer; or

“(f) For the purpose of enabling the compilation and publication of statistics that do not enable the identification of the women to whom those statistics relate.

“(6) All information on the register that identifies a woman shall be removed from the register if the woman so requests in writing.

“(7) Regulations may be made under this Act for any one or more of the following purposes:

“(a) Regulating access to the register by persons studying cancer:

“(b) Specifying the obligations of the person who maintains the register to women named on the register:

“(c) Regulating the use and publication of information from the register.

“(8) Every person who fails to comply with the requirements of this section, or any regulations made under this section, commits an offence against this Act.”

22. Isolation of persons likely to spread infectious disease—Section 79 of the principal Act is hereby amended by omitting from subsection (5) (as amended by section 98 of the Area Health Boards Act 1983) the words “or of an area health board”.

23. Medical Officer of Health may order premises to be disinfected—Section 82 (3) of the principal Act (as amended by section 98 of the Area Health Boards Act 1983) is hereby amended by omitting the words “or (as the case may require) the area health board”.

24. Establishment of mortuaries and disinfecting stations—Section 84 (1) of the principal Act (as amended by section 3 (2) of the Health Amendment Act 1973 and by section 98 of the Area Health Boards Act 1983) is hereby amended by

omitting the words “or with an area health board or a Hospital Board”.

25. Notice of death from infectious disease—Section 85 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) Every Medical Officer of Health shall forthwith forward to the Public Health Commission any information received pursuant to subsection (1) of this section.”

26. Communicable diseases occurring in animals—Section 87A of the principal Act (as inserted by section 6 of the Health Amendment Act 1964) is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) Every Medical Officer of Health shall forthwith forward to the Public Health Commission any information received by that Medical Officer of Health pursuant to subsection (2) or subsection (3) of this section.”

27. New Part IIIA substituted—(1) The principal Act is hereby amended by repealing Part IIIA (as inserted by section 5 of the Health Amendment Act 1979), and substituting the following Part:

“PART IIIA

“TRADING IN HUMAN BLOOD

“92A. **Interpretation**—In this Part of this Act, unless the context otherwise requires, ‘blood’—

“(a) Includes—

“(i) Any substance derived from human blood; and

“(ii) Any human organ or human tissue, including the placenta, of a kind that is suitable as a source from which to derive a constituent of blood for therapeutic use or for the preparation of a substance for therapeutic use; but

“(b) Does not include—

“(i) Any substance derived from human blood that is intended for use in quality control or as a diagnostic product; or

“(ii) Any substance containing a fraction of human blood that the Minister, by notice in the *Gazette*, declares not to be blood for the purposes of this Part of this Act.

“92B. Trading in own blood prohibited—(1) No person shall require or accept financial or other consideration for his or her own blood.

“(2) No person shall provide financial or other consideration for the taking of blood from the body of a person for administration to another person.

“(3) Every person commits an offence and is liable to a fine not exceeding \$1,000 who contravenes subsection (1) of this section.

“(4) Every person commits an offence and is liable to imprisonment for a term not exceeding 6 months or a fine not exceeding \$5,000 who contravenes subsection (2) of this section.

“92C. Collection of blood—(1) Except as provided in subsection (2) of this section, no person shall take blood from the body of a person for the purpose of obtaining blood for administration to another person.

“(2) The Minister may, in his or her discretion and upon such terms and conditions (if any) as he or she thinks fit, by a permit in writing, permit any person or persons or class of persons to take blood for administration to another person, and may in like manner vary or revoke any such permit.

“(3) Every permit granted pursuant to subsection (2) of this section shall, in addition to any terms or conditions imposed by the Minister under that subsection, be subject to a condition requiring the person to whom it is granted to give due recognition to the fact that the blood taken under that permit has been donated.

“(4) For the avoidance of doubt, it is hereby declared that a permit granted pursuant to subsection (2) of this section may contain terms and conditions imposed by the Minister with regard to the use or disposal of blood taken under the permit.

“(5) Every person commits an offence and is liable to imprisonment for a term not exceeding 6 months or a fine not exceeding \$5,000 who contravenes subsection (1) of this section.

“92D. Charging for administered blood—(1) No person who administers blood to another person shall require or accept financial or other consideration for that blood from the person to whom it is administered.

“(2) Every person commits an offence and is liable to imprisonment for a term not exceeding 6 months or a fine not exceeding \$5,000 who contravenes subsection (1) of this section.

“92E. Exemptions—(1) The Minister may, in his or her discretion and upon such terms and conditions (if any) as the Minister thinks fit, by notice in writing, exempt any person or persons or class of persons from compliance with any or all of the provisions of subsections (1) and (2) of section 92B and of subsection (1) of section 92D of this Act, and may in like manner vary or revoke any such exemption.

“(2) Where a notice is given under subsection (1) of this section, the Minister shall as soon as practicable after the giving of the notice, publish in the *Gazette* and lay before the House of Representatives a copy of the notice.

“92F. Delegation by Minister—(1) The Minister may from time to time delegate to any person or persons the Minister’s power to grant permits under section 92C of this Act.

“(2) Every delegation under this section—

“(a) Shall be in writing; and

“(b) Shall be revocable at will; and

“(c) May be made subject to such restrictions and conditions as the Minister thinks fit; and

“(d) May be made either generally or in relation to any particular case or class of cases.

“(3) No delegation under this section shall include the power to delegate under this section.

“(4) A delegate acting under any delegation under this section may, unless otherwise provided in the delegation, exercise the power in the same manner and with the same effect as if it had been conferred directly on the person by this Act.

“92G. Unauthorised advertising prohibited—(1) No person shall—

“(a) Publish or otherwise disseminate, by newspaper, magazine, periodical, book, billboard, radio, television, cinematograph film, or any other means whatever; or

“(b) Exhibit to public view in any premises or place; or

“(c) Deposit in any area, yard, garden, or enclosure comprising part of or appurtenant to any premises,—

an advertisement relating to the purchase or sale in New Zealand of human blood.

“(2) Every person commits an offence and is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$2,500 who contravenes subsection (1) of this section.

“92H. Liability of principals and agents—(1) If an offence is committed against any of the provisions of this Part of this Act by any person acting as the agent or employee of another person, that other person shall, without prejudice to the liability of the first-mentioned person, be liable under this Act, in the same manner and to the same extent as if he or she had personally committed the offence, if it is proved that the act that constituted the offence took place with his or her authority, permission, or consent, or that he or she knew the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

“(2) Where any body corporate is convicted of an offence against this Act, every person, being a director or a person concerned in the management of the body corporate, shall be guilty of the same offence if it is proved that the act that constituted the offence took place with that person’s authority, permission, or consent, or that that person knew the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

“92I. Certain documents to be prima facie evidence—A document purporting to be—

“(a) A permit granted under section 92C, or under sections 92C and 92F, of this Act; or

“(b) A notice under section 92E of this Act; or

“(c) A delegation under section 92F of this Act—

shall, in any proceedings, be prima facie evidence of that permit, notice, or delegation.

“92J. Blood transfusion trust—(1) The Minister, acting on behalf of the Crown, may by deed establish, on such terms and conditions as the Minister thinks fit, a trust for the purposes of—

“(a) Receiving blood donated in New Zealand; and

“(b) Authorising the processing and supply of such blood for therapeutic and other purposes; and

“(c) Such other purposes as the Minister thinks fit.

“(2) As soon as practicable after establishing a trust under subsection (1) of this section, the Minister shall lay a copy of the deed before the House of Representatives.

“92K. Exemption from Part II of Commerce Act 1986—Nothing in Part II of the Commerce Act 1986 shall apply to—

“(a) Any contract, arrangement, understanding, or covenant in relation to blood that—

“(i) At the time it is entered into is, or is of a class that is, approved; or

“(ii) Is entered into by a person who (at the time it is entered into) is, or is of a class that is, approved— for the purposes of this section by the Governor-General by Order in Council; or

“(b) Any act done to give effect to a provision of any contract, arrangement, understanding, or covenant to which paragraph (a) of this section applies.”

(2) Section 5 of the Health Amendment Act 1979 is hereby consequentially repealed.

(3) The Public Finance Act 1989 is hereby amended by inserting in the Fourth, Fifth, and Sixth Schedules (as added by section 41 of the Public Finance Amendment Act 1982), in its appropriate alphabetical order, the following item:

“The blood transfusion trust established under section 92j of the Health Act 1956.”

(4) Part II of the First Schedule to the Ombudsmen Act 1975 is hereby amended by inserting, in its appropriate alphabetical order, the following item:

“The blood transfusion trust established under section 92j of the Health Act 1956.”

(5) Nothing in section 13 (7) (b) of the Ombudsmen Act 1975 shall prevent an Ombudsman from investigating any decision, recommendation, act, or omission of any person in that person’s capacity as a trustee of the blood transfusion trust established under section 92j of the Health Act 1956.

28. Restrictions applying while ship liable to quarantine—(1) The principal Act is hereby amended by repealing section 99, and substituting the following section:

“99. (1) Subject to the provisions of any regulations made under this Act, while any ship is liable to quarantine it shall not be lawful, except in the case of urgent necessity due to a marine casualty or other like emergency, or except with the authority of the Medical Officer of Health or Health Protection Officer,—

“(a) For the master, pilot, or other officer in charge of the navigation of that ship to bring that ship or allow that ship to be brought to any wharf or other landing place; or

“(b) For any person to go on board that ship, except the Medical Officer of Health or Health Protection Officer, and the assistants of any such officer, or a pilot, or an officer of Customs, or a member of the Police, or an officer appointed or authorised under the Immigration Act 1987, or an Inspector

appointed under section 6 of the Ministry of Agriculture and Fisheries Act 1953; or

“(c) For any person to leave that ship, except the persons specified in paragraph (b) of this subsection; or

“(d) For any goods, mails, or other articles whatsoever to be landed or transhipped from that ship; or

“(e) For any boat, launch, or vessel, other than one in the service of the Police or the Ministry of Health, to be brought within 50 metres of that ship.

“(2) Any authority given by the Medical Officer of Health or Health Protection Officer under this section may be given subject to such exceptions and conditions as that officer thinks fit, and may be revoked by that officer at any time.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 3 of the Health Amendment Act 1962:

(b) Section 6 of the Health Amendment Act 1973:

(c) So much of the First Schedule to the Health Amendment Act 1982 as relates to section 99 of the principal Act.

29. Disinfection and fumigation of ships—Section 110 of the principal Act is hereby amended by repealing subsection (3) (as amended by section 4 (2) of the Health Amendment Act 1982 and by section 98 of the Area Health Boards Act 1983), and substituting the following subsection:

“(3) Without limiting the liability of the master under subsection (2) of this section, if the order is not complied with the Medical Officer of Health or Health Protection Officer may cause the ship to be cleansed, fumigated, or treated, in accordance with the order or otherwise, at the expense in all things of the owners or agents of the ship. All expenses incurred under this subsection shall accordingly be recoverable from the owner or agents as a debt due to the Crown.”

30. Power to board any ship and inspect—(1) Section 111 of the principal Act is hereby amended by repealing subsection (1) (as amended by section 4 (2) of the Health Amendment Act 1982 and by section 98 of the Area Health Boards Act 1983), and substituting the following subsection:

“(1) The Medical Officer of Health or Health Protection Officer or any officer of the Ministry of Health or any person acting under the authority of a Medical Officer of Health or a Health Protection Officer may at any time board any ship in any port and enter and inspect any part of the ship, and inspect all animals and goods on board the ship, and the passenger list,

and, with the prior authority of the Director-General, inspect the logbook and other ship's papers."

(2) The Health Amendment Act 1982 is hereby consequentially amended by repealing so much of the First Schedule as relates to section 111 (1) of the principal Act.

31. Regulations as to public health—Section 117 of the principal Act is hereby amended by omitting from subsection (3) (as amended by section 7 (2) of the Health Amendment Act 1987) the words "out of the Public Account", and substituting the words "by the Crown".

32. Regulations as to homes and day-care centres for aged persons—Section 120A of the principal Act (as substituted by section 92 (1) of the Building Act 1991) is hereby amended—

- (a) By omitting from subsection (3) the words "licensed private hospital", and substituting the words "licensed hospital within the meaning of the Hospitals Act 1957 or a hospital within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992"; and
- (b) By omitting from subsection (4) the words "and not being a licensed private hospital, an institution under the control of the Department of Health or of an area health board, or a hospital within the meaning of the Mental Health Act 1969", and substituting the words "and not being a licensed hospital within the meaning of the Hospitals Act 1957 or a hospital within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992".

33. Powers of Director-General on default by local authority—Section 123 of the principal Act is hereby amended by repealing subsections (5) to (7) (as substituted by section 134 of the Public Finance Act 1977), and substituting the following subsections:

"(5) All expenses incurred by the Director-General under this section shall be paid in the first instance out of public money.

"(6) All public money so paid, together with reasonable costs in respect of administration, shall be recoverable from the local authority as a debt due to the Crown, or may be deducted from any money payable by the Crown to the local authority.

“(7) All money recovered from any local authority under this section, or deducted as aforesaid, shall be paid into the Crown Bank Account or a departmental bank account.”

34. Constitution and powers of Boards of Appeal—

(1) Section 124 of the principal Act is hereby amended by repealing subsection (3) (as amended by section 4 (3) of the Health Amendment Act 1988), and substituting the following subsection:

“(3) No member or officer of any local authority or of the Ministry shall be appointed to be an assessor.”

(2) The Health Amendment Act 1988 is hereby consequentially amended by repealing so much of Part I of the Schedule as relates to section 124 (3) of the principal Act.

35. Medical examination of children—Section 125 of the principal Act (as substituted by section 3 (1) of the Health Amendment Act 1967) is hereby amended by omitting from subsection (2) (as amended by section 8 of the Health Amendment Act 1979 and section 98 of the Area Health Boards Act 1983) the words “Department of Health or by an area health board or other officer so employed and”, and substituting the words “Ministry or other person”.

36. Infirm and neglected persons—Section 126 (1) of the principal Act is hereby amended by omitting the words “any hospital or institution under the control of a Hospital Board and”, and substituting the words “any appropriate hospital or institution”.

37. Persons attempting to commit suicide—(1) The principal Act is hereby amended by repealing section 126A (as inserted by section 6 of the Health Amendment Act 1960 and amended by section 98 of the Area Health Boards Act 1983).

(2) Section 6 of the Health Amendment Act 1960 is hereby consequentially repealed.

38. Ministry of Health—(1) Nothing in this Act affects—

- (a) The continued existence of the department of State existing immediately before the commencement of this Act and known as the Department of Health; or
- (b) The appointment or tenure of the Director-General, or any other employee, of the Department of Health; or
- (c) The continued existence of any advisory committee appointed under section 9A of the principal Act.

(2) Every delegation under section 5B or section 9 of the principal Act that was in force immediately before the commencement of this Act shall continue to have effect according to its tenor as if it had been made on that commencement under section 28 or section 41 of the State Sector Act 1988.

(3) Every reference in—

(a) Any Act, regulation, or other enactment, passed, made, or enacted before the commencement of this Act; or

(b) Any contract, agreement, deed, instrument, application, licence, notice, or other document, entered into, made, granted, given, or executed, before the commencement of this Act,—

to the Department of Health shall be read as a reference to the Ministry of Health.

This Act is administered in the Ministry of Health.
