



## ANALYSIS

|  |   |
|--|---|
| Title  | 5. Classification and grading of employees  |
| 1. Short Title and commencement                        | 6. Review of grading  |
| 2. Interpretation                                      | 7. Grading Review Committees  |
| 3. Criteria for making appointments                    | 8. Rights of appeal in respect of enterprise units and positions for which range of rates of remuneration is prescribed |
| 4. Reappointment after absence for child care purposes | 9. Individual contracts of service  |

1987, No. 121

**An Act to amend the Health Service Personnel Act 1983**

[1 July 1987]

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 Service Personnel Amendment Act 1987, and shall be read together with and deemed part of the Health Service Personnel Act 1983 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of August 1987.

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

“‘Enterprise unit’ has the meaning given to it by section 2 of the State Services Conditions of Employment Act 1977:”.

(2) Section 2 of the principal Act is hereby further amended by repealing the definition of the term “promotion”, and substituting the following definitions:

“‘Promotion’—

“(a) Means advancement from one grade to another within an occupational class or transfer from one occupational class to another involving in either case an increase in maximum salary; but

“(b) Does not include—

“(i) An appointment to an occupational class from an enterprise unit or vice versa; or

“(ii) An appointment to or from a position for which there is a range of rates of remuneration prescribed:

“ ‘Ranges of rates of remuneration’ means a remuneration structure that—

“(a) Fixes an upper limit and a lower limit of remuneration; and

“(b) Is not confined to fixed salary levels or incremental steps within those limits; and

“(c) Allows the Commission to decide from time to time, within those limits the actual remuneration that, subject to any other conditions of employment, is to be paid to the holder of a position or to any particular holder of a position:”.

**3. Criteria for making appointments**—Section 16 of the principal Act is hereby amended by adding the following subsection:

“(4) The employer, in making an appointment to—

“(a) A position in an enterprise unit; or

“(b) A position for which a range of rates of remuneration is prescribed,—

shall have regard to the foregoing provisions of this section notwithstanding that the appointment may not be a promotion as defined in this Act.”

**4. Reappointment after absence for child care purposes**—Section 24 (7) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) Either—

“(i) Does not have a current maximum salary that exceeds the current maximum salary for the position held at the time of resignation; or

“(ii) In the case of a person who held, at the time of resignation, a position in an enterprise unit or a position in respect of which a range of rates of remuneration was applicable, entitles the person to a rate of remuneration substantially the same as the current rate of remuneration of the position held at the time of resignation,—”.

**5. Classification and grading of employees—**(1) The principal Act is hereby amended by repealing section 26 (as amended by section 4 of the Health Service Personnel Amendment Act 1985 and section 5 of the Health Service Personnel Amendment Act (No. 2) 1985), and substituting the following section:

“26. (1) Subject to subsections (2) and (3) of this section, the Commission shall be responsible for establishing, and conducting a regular review of, the classification and grading of positions or (where appropriate) persons in the Health Service, and in discharging that responsibility shall—

“(a) Ascertain whether or not there is a need to adjust the scope and content of occupational classes or enterprise units, or the conditions of employment, of any occupational class or enterprise unit or the salary scale or grading pattern of any occupational class:

“(b) Ensure that all positions are placed in—

“(i) The occupational class most closely related to the nature of the duties involved; or

“(ii) An enterprise unit:

“(c) Ensure that every position in each occupational class is placed in a grade appropriate to the nature and relative importance of the duties and responsibilities of, and the level of skill required for, the position:

“(d) Ensure that every position in each enterprise unit is placed at a level appropriate to the nature and relative importance of the duties and responsibilities of, and the level of skill required for, the position.

“(2) The Commission—

“(a) Shall place every person appointed to a position in the Health Service in an occupational class or enterprise unit; and

“(b) Where it places any such person in an occupational class, shall also place that person in a grade in that occupational class that accords to the level of responsibility and skill required to be exercised in the performance of the duties allocated to that person.

“(3) The provisions of subsection (1) of this section shall not apply—

“(a) To employees of area health boards and hospital boards who are employed under an award or collective

agreement made pursuant to the Industrial Relations Act 1973; or

“(b) To medical practitioners employed as medical officers in the Health Service (other than medical practitioners employed as resident medical officers in the Health Service).

“(4) Without limiting the general powers of the Commission to appoint committees under clause 10 of the First Schedule to this Act, the Commission may appoint such advisory or technical committees as it considers necessary to assist it in the performance of its functions under subsection (1) (c) of this section.

“(5) Nothing in this section shall prevent an area health board or a hospital board in its capacity as employer from seeking a review of a decision made by the Commission under subsection (1) (c) of this section.”

(2) The following enactments are hereby consequentially repealed, namely:

(a) Section 4 of the Health Service Personnel Amendment Act 1985:

(b) Section 5 of the Health Service Personnel Amendment Act (No. 2) 1985.

**6. Review of grading**—(1) Section 27 of the principal Act is hereby amended by repealing subsection (5) (as substituted by section 5 of the Health Service Personnel Amendment Act 1985 and amended by section 6 of the Health Service Personnel Amendment Act (No. 2) 1985), and substituting the following subsection:

“(5) The provisions of subsection (1) of this section shall not apply—

“(a) To employees of area health boards and Hospital Boards who are employed under an award or collective agreement made pursuant to the Industrial Relations Act 1973; or

“(b) To medical practitioners employed as medical officers in the Health Service (other than medical practitioners employed as resident medical officers in the Health Service); or

“(c) To any employee who holds a position in an enterprise unit; or

“(d) To any decision of the Commission as to the remuneration to be paid to an officer who holds a

position in respect of which ranges of rates of remuneration are prescribed.”

(2) The following enactments are hereby consequentially repealed, namely:

(a) Section 5 of the Health Service Personnel Amendment Act 1985:

(b) Section 6 of the Health Service Personnel Amendment Act (No. 2) 1985.

**7. Grading Review Committees**—Section 28 of the principal Act is hereby amended by adding the following subsection:

“(7) No Grading Review Committee appointed under subsection (1) of this section shall have power to investigate—

“(a) Any matter relating to the classification or grading of any employee who holds a position in an enterprise unit; or

“(b) Any decision of the Commission as to the remuneration to be paid to an employee who holds a position in respect of which ranges of rates of remuneration are prescribed.”

**8. Rights of appeal in respect of enterprise units and positions for which range of rates of remuneration is prescribed**—The principal Act is hereby amended by inserting, after section 38, the following section:

“38A. (1) The Commission and the appropriate service organisation may, by agreement in writing, confer on any part-time or full-time employee of the Commission or an area health board or a hospital board a right to appeal to the Appeal Board in respect of an appointment to or from—

“(a) A position in an enterprise unit; or

“(b) A position for which a range of rates of remuneration is prescribed.

“(2) An agreement under subsection (1) of this section may provide that the right of appeal conferred by the agreement is to be available only if conditions specified in the agreement are satisfied or if circumstances specified in the agreement exist.

“(3) Subsections (4) to (11) of section 38 of this Act and sections 41 to 44 of this Act shall apply, with all necessary modifications, in respect of any appeal conferred by an agreement under subsection (1) of this section as if that appeal were an appeal under section 38 of this Act.

“(4) Every agreement under subsection (1) of this section shall be notified within the Health Service by notice in the *Health Service Official Circular* or otherwise.

“(5) Except where an appeal is conferred by an agreement under subsection (1) of this section, no appeal shall lie under this Act in respect of an appointment of the kind described in subsection (1) of this section.

“(6) Nothing in this section prevents the Commission and the appropriate service organisation agreeing on any other procedure for the review of an appointment of the kind described in subsection (1) of this section.”

**9. Individual contracts of service**—The principal Act is hereby amended by inserting, after section 61, the following section:

“61A. (1) The Commission or an area health board or a hospital board may engage any person as an employee of the Health Service under an individual contract of service.

“(2) The power conferred by subsection (1) of this section may be exercised only where—

“(a) The employee is required to provide specialist advice and an employee with the necessary skills or knowledge is not normally available within the Health Service; or

“(b) The employee is required to provide specialist advice and the task in respect of which the employee is required to provide specialist advice is a short-term temporary task; or

“(c) It is agreed between the Commission or the area health board or the hospital board and the appropriate service organisation that the employee is to be employed under this section.

“(3) The Commission or the area health board or the hospital board shall, before engaging any person under subsection (1) of this section, in reliance on subsection (2) (a) or subsection (2) (b) of this section, consult with the appropriate service organisation or service organisations, either generally or in the particular case.

“(4) Persons engaged under subsection (1) of this section shall be engaged for such terms, and on such terms and conditions of service, as the Commission or the area health board or the hospital board decides.

“(5) This section shall have effect notwithstanding anything in section 11 of this Act requiring the conditions of

employment of employees of the Health Service to be prescribed by determination under the State Services Conditions of Employment Act 1977.”

---

This Act is administered in the Department of Health.

---