



ANALYSIS

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1999, No. 132

An Act to amend the Medical Practitioners Act 1995

[14 October 1999]

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

1. Short Title and commencement—(1) This Act may be cited as the Medical Practitioners Amendment Act 1999, and is part of the Medical Practitioners Act 1995 (“the principal Act”).

(2) This Act comes into force on the 7th day after the date on which it receives the Royal assent.

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

“‘Electronic transmission’ includes facsimile, electronic mail, or other similar means of communication.”

3. Membership of Council—(1) Section 124 (a) of the principal Act is repealed.

(2) Section 124 of the principal Act is amended by repealing paragraph (d), and substituting the following paragraph:

“(d) Five other persons appointed by the Minister, 2 of whom may be medical practitioners.”

4. Exclusion of liability—Section 135 of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

“(1) Neither the Council, nor a complaints assessment committee, nor the Tribunal, nor a committee appointed under clause 14 of the Second Schedule, nor any member, officer, legal assessor, agent, or employee of any of those bodies, is under any criminal or civil liability in respect of—

“(a) Any act done or omitted to be done in the course of performing or exercising any of their functions, duties, or powers; or

“(b) Any words spoken or written at or for the purposes of the hearing of any inquiry or other proceedings under this Act; or

“(c) Anything contained in any notice given under this Act,— unless that body or person has acted in bad faith or without reasonable care.

“(1A) Subsection (1) does not exclude the liability of the Council in respect of a power that is conferred solely by section 122 or clause 17 of the Second Schedule.”

5. Second Schedule amended—(1) The Second Schedule of the principal Act is amended—

(a) By omitting from clause 3 the words “the Director-General of Health and”;

(b) By omitting from clause 5 (1) the words “(other than the Director-General of Health)”.

(2) Clause 6 of the Second Schedule of the principal Act is amended by inserting, after subclause (3), the following subclause:

“(3A) A member of the Council appointed by the Minister may be removed from office by the Minister, with the concurrence of the Council, by notice given to the member, on the ground that the member’s performance on the Council is inadequate.”

(3) Clause 6 (4) of the Second Schedule of the principal Act is amended by inserting, after the words “subclauses (1) to (3)”, the words “or (3A)”.

(4) The Second Schedule of the principal Act is amended by repealing clause 7, and substituting the following clause:

“7. Members representing other members—(1) A member of the Council may be represented by another member of the Council (that other member is in this clause referred to as a representative).

“(2) A member may, by written notice to the Registrar, appoint a representative to represent the member on the Council, for 1 or more specific meetings that have been called

or are proposed to be called, whenever the member is absent or unable to act as a member of the Council.

“(3) The appointment of a representative ceases if—

“(a) The person who appointed the representative revokes, by written notice, the appointment; or

“(b) The person who appointed the representative ceases to be a member of the Council; or

“(c) The representative ceases to be a member of the Council.

“(4) A notice referred to in subclauses (2) or (3) may be delivered by hand or sent by mail or electronic transmission.

“(5) Subject to subclause (6), a representative may vote on behalf of the member whom he or she represents, and has and may exercise all the powers, rights, privileges, and duties of that member.

“(6) A representative may not, in his or her capacity as representative,—

“(a) Act as president or deputy president of the Council; or

“(b) Witness the affixing of the seal of the Council.

“(7) The voting and other powers that a person has as a representative are in addition to the powers that the person has as a member of the Council.”

(5) Clause 8 of the Second Schedule of the principal Act is amended by inserting, after subclause (3), the following subclause:

“(3A) For the purposes of determining the quorum, a member who is a representative under clause 7 may be counted only once.”

(6) The Second Schedule of the principal Act is amended by repealing clause 11, and substituting the following clause:

“11. **Resolution assented to by members**—(1) The president of the Council may circulate, by letter or electronic transmission, to each member of the Council a document setting out a draft resolution and requesting each member to assent to the resolution within a specified period of at least 3 clear days.

“(2) If a majority of the members of the Council, by letter or electronic transmission, signs or assents to a resolution circulated under subclause (1), the resolution is as valid and effective as if it had been passed at a meeting of the Council duly called and constituted.

“(3) Any such resolution may consist of several documents that are similar in form, each signed or appearing to have been sent by 1 or more members.

“(4) Every such resolution must be tabled at the next meeting of the Council held after the date on which the resolution takes effect.”

(7) Clause 12 (1) of the Second Schedule of the principal Act is amended—

(a) By inserting, after the words “The contemporaneous linking together by telephone”, the words “or videolink”:

(b) By omitting from paragraph (a) the words “or other means of communication”, and substituting the words “, letter, or electronic transmission”.

(8) Clause 14 of the Second Schedule of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:

“(a) Any such committee may include or consist of persons who are not members of the Council; and”.

This Act is administered in the Ministry of Health.
