

HEALTH ACTS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Health Act 1956 (Part I of the Bill), the Area Health Boards Act 1983 (Part II), and the Hospitals Act 1957 (Part III).

Clause 1 relates to the Short Title and commencement of the Bill.

PART I

AMENDMENTS TO HEALTH ACT 1956

Clause 2 is a machinery provision, designed to facilitate the final enactment of the Bill as 3 separate Acts.

Clause 3 changes the designation of "Inspector of Health" to "Health Protection Officer".

Clause 4 abolishes the Board of Health.

Clause 5 changes the method by which health districts are constituted. At present, health districts are constituted by Order in Council. Under this clause, they will be constituted by the Director-General of Health by notice in the *Gazette*.

Clause 6 deals with an oversight in the Health Amendment Act 1987. Section 14 of that Act repealed section 103 of the principal Act. Section 104 of the principal Act relates to offences against sections 102 and 103. It should have been consequentially amended upon the repeal of section 103, but it was not. This clause tidies up the matter by rewriting section 102, incorporating the relevant parts of section 104. Section 104 is repealed by *subclause (2) (a)*.

Clause 7 relates to service of notices by post. It drops the present insistence on registered mail.

PART II

AMENDMENTS TO AREA HEALTH BOARDS ACT 1983

Clause 8 is a machinery provision.

Clause 9 does 3 things. *Subclause (1)* inserts a definition of the term "financial year".

Subclause (2) substitutes a new definition of the term "initiating board". The present definition relies upon the fact that each hospital board whose district is

to become a part of a new area health district must be a party to the application for the constitution of that new district. That is the present position under section 5 of the principal Act. That is altered by *clause 10* of this Bill, and the point is further discussed in the note on that clause. Suffice it to say here that the new definition is largely consequential upon the changes proposed in that clause.

Subclause (3) inserts a definition of the term "Local Government Commission". That Commission is given certain functions in respect of area health boards by *clauses 12* (proposed *section 8E*) and *13* (proposed *section 13A*).

Clause 10 amends the procedure for the constitution of area health districts. As section 5 of the principal Act stands, every hospital board concerned in a proposal to establish an area health district must join in an application to the Minister. *Subclause (1)* provides that, in future, only 1 affected board need apply.

Section 5 (4) of the principal Act provides for the alteration of the boundaries of an area health district with the agreement of the boards concerned. *Subclause (2)* omits this requirement.

Clause 11 rewrites section 8 of the principal Act relating to the constitution of area health boards. The principal changes relate to the number of elected members, and to alterations in representation after the board has been established.

At present, the maximum number of elected members of a board is 14, and no minimum is prescribed. This clause fixes a minimum of 8. It also provides that, although the maximum is 14 generally, the Minister in a particular case may allow a board to have up to 17 elected members.

Secondly, the new section removes the right of the Governor-General to alter representation at some time in the future. This becomes a matter for the board (subject to objection to the Local Government Commission) under *clause 13* of the Bill.

Clause 12 inserts in the principal Act *sections 8A to 8E* relating to the union or reconstitution of area health districts and hospital districts, by Order in Council made on the advice of the Minister. Thus 2 or more adjoining area health districts, or an area health district and a hospital district, could be combined into 1 area health district. Various other permutations are possible under this clause.

The new provisions follow broadly sections 17 to 20 and 23 of the Hospitals Act 1957.

Clause 13 provides for the triennial review by area health boards of their constituent districts and of the representation of those districts on the boards. Following such a review, an area health board must promulgate its decision by resolution, a copy of which is given to each territorial authority within the area health district, and to the Local Government Commission. Any disgruntled local authority may object to the board and, if that is unsuccessful, to the Commission. The Commission's decision is final.

The new provisions follow broadly sections 42 to 44 of the Local Government Act 1974.

Clause 14 provides that in all cases the members of a hospital board whose district is converted to an area health district will become members of the new area health board. At present, this does not apply where the change occurs less than 12 months before the next triennial election. In those cases, a new election must be held on the establishment of a board.

Clause 15 imposes on the area health board the cost of its elections. At present, they are borne by the constituent districts.

Clause 16 makes it clear that an area health board may delegate functions to community committees established under section 31 of the principal Act in the same way as it can to committees of the board appointed under section 28 of that Act.

Clause 17 amends section 45 of the principal Act, relating to the closure of institutions and services by an area health board. At present, closure of any institution, other than a health centre or a family health counselling centre, requires the prior consent of the Minister given on the recommendation of the Hospitals Advisory Council. Under this clause, the closure will be a matter for the board, but subject to any direction given by the Minister under section 37 of the principal Act. However, before closing any institution, or ceasing to provide any service, it must give notice of its proposal, at least twice, in the press. It must not implement the proposal earlier than 1 month after the second publication of the notice.

Clause 18 provides for the recovery of costs by an area health board for treatment given to any person referred to the board by any other area health board or hospital board. If the treatment is of a type approved by the Minister and the method of calculating the cost is also approved by the Minister, the cost may be recovered from the referring board.

Clause 19 amends section 84(1) of the principal Act, relating to the expenditure of an area health board's funds. Under paragraph (g) of that provision, expenditure of funds to private or voluntary services and organisations requires the prior approval of the Minister. *Paragraph (a)* of this clause drops that requirement.

Paragraph (m) of the present provision allows a board to make annual contributions to the Hospital Boards' Association of New Zealand, Incorporated, or to any other body approved by the Minister. *Paragraph (b)* of this clause drops the reference to the Minister. It will suffice if the other bodies have similar purposes to those of the Association.

Clause 20 widens the power of area health boards to contract. At present, a board is able to contract with another party for the provision by that other party of goods or services to the board, but the converse is not provided for. This clause solves that problem.

PART III

AMENDMENTS TO HOSPITALS ACT 1957

Most of the provisions in this Part mirror those for area health districts and area health boards in Part II of the Bill. Where that is so, the appropriate corresponding provision is identified in this note, but no further explanation is offered.

Clause 21 is a machinery provision.

Clause 22 corresponds to *clause 9 (2)*.

Clause 23 abolishes the Hospitals Advisory Council.

Clause 24 corresponds to *clause 12 (proposed section 8E)*.

Clause 25 corresponds to *clauses 11 and 13*.

Clause 26 corresponds to *clause 15*.

Clause 27 removes the present requirement of prior Ministerial approval for the establishment of a new institution by a Hospital Board.

Clause 28 similarly removes the requirement of prior Ministerial approval for combining or dividing institutions by a Hospital Board.

Clause 29 corresponds to *clause 17*.

Clause 30 corresponds to *clause 18*.

Clause 31 removes the present requirement of prior Ministerial approval for the release by a Hospital Board of any person from a contractual obligation to the Board.

Clause 32 corresponds to *clause 19*.

Hon. David Caygill

HEALTH ACTS AMENDMENT

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A BILL INTITULED

An Act to amend the Health Act 1956, the Area Health Boards Act 1983, and the Hospitals Act 1957

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 Acts Amendment Act 1988.

(2) **Section 4** of this Act, and the **First Schedule** to this Act, shall come into force on the 1st day of October 1988.

(3) **Section 13** of this Act, and **section 25** of this Act so far as it substitutes **sections 28 and 28A** of the Hospitals Act 1957, shall come into force on the date on which this Act receives the Governor-General's assent. 5

(4) Except as provided in **subsections (2) and (3)** of this section, this Act shall come into force on the 28th day after the date on which it receives the Governor-General's assent. 10

PART I

AMENDMENTS TO HEALTH ACT 1956

2. Part to be read with Health Act 1956—This Part of this Act shall be read together with and deemed part of the Health Act 1956* (hereinafter in this Part referred to as the principal Act). 15

3. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term "dwellinghouse", the following definition: 20

“ ‘Health Protection Officer’ means—

“(a) An officer of the Department of Health appointed as a Health Protection Officer under this Act; or

“(b) An officer of an area health board appointed as a Health Protection Officer under the Area Health Boards Act 1983.”. 25

(2) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “Inspector of Health”. 30

(3) Every reference to an Inspector of Health in the principal Act or in any other enactment passed before the commencement of this Act shall now be read as a reference to a Health Protection Officer.

4. Board of Health abolished—(1) The Board of Health is hereby abolished. 35

(2) The heading above section 11, and sections 11 to 18A, of the principal Act are hereby repealed.

(3) The provisions of the principal Act specified in the first column of Part I of the **First Schedule** to this Act are hereby 40

*R. S. Vol. 19, p. 493

Amendment: 1987, No. 194

amended in the manner indicated in the second column of that Part of that Schedule.

(4) The enactments specified in the first column of Part II of the First Schedule to this Act are hereby amended in the manner indicated in the second column of that Part of that Schedule.

5. Method of constituting health districts changed—

(1) Section 19 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(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) Subject to any notice given by the Director-General under section 19 (1) of the principal Act (as substituted by subsection (1) of this section), the health districts existing immediately before the commencement of this Act shall, notwithstanding the effect of subsection (1) of this section, continue to exist, with the same names and boundaries, as if they were declared by such a notice.

6. Ship's declaration of health—(1) The principal Act is hereby amended by repealing section 102, and substituting the following section:

“102. (1) The master of any ship that is on its way to New Zealand from any port beyond New Zealand shall, before the ship arrives in New Zealand, ascertain the state of health of each person on board.

(2) On arriving in New Zealand, the master shall complete and deliver to the Medical Officer of Health or the Health Protection Officer a maritime declaration in the prescribed form.

(3) The form shall be countersigned by the ship's medical officer (if there is one).

(4) The master, and the medical officer (if there is one), shall from time to time supply to the Medical Officer of Health, or to any person acting under the authority of that officer, any further information required by the Medical Officer of Health or the Health Protection Officer relating to the state of health of any person who was on board the ship on its arrival in New Zealand.

“(5) The master or the medical officer commits an offence and is liable to a fine not exceeding \$1,000 if the master or medical officer—

“(a) Refuses, or fails without reasonable excuse, to comply with any of the preceding provisions of this section; 5
or

“(b) Gives to the Medical Officer of Health, or to any person acting under the authority of that officer, any declaration, answer, or information that the master or medical officer knows to be false or misleading. 10

“(6) The master or medical officer, or any other person, commits an offence and is liable to a fine not exceeding \$2,000 if the master, medical officer, or other person deceives or attempts to deceive the Medical Officer of Health, or any person acting under the authority of that officer, in respect of 15
any matter with intent—

“(a) To obtain pratique; or

“(b) To influence in any other respect the exercise by or on behalf of the Medical Officer of Health of any authority conferred on that officer by this Part of 20
this Act.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 104 of the principal Act:

(b) So much of the Schedule to the Health Amendment Act 25
1979 as relates to section 104 of the principal Act:

(c) So much of the First Schedule to the Health Amendment Act 1982 as relates to sections 102 and 104 of the principal Act.

7. Service of documents by post—Section 131 (1) of the 30
principal Act is hereby amended by omitting the word “registered” in both places where it occurs.

PART II

AMENDMENTS TO AREA HEALTH BOARDS ACT 1983

8. Part to be read with Area Health Boards Act 1983— 35
This Part of this Act shall be read together with and deemed part of the Area Health Boards Act 1983* (hereafter in this Part referred to as the principal Act).

*1983, No. 134

Amendments: 1985, No. 165; 1986, No. 16

9. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, before the definition of the term 40
“health computer system” (as inserted by section 2 (1) of the

Area Health Boards Amendment Act 1986), the following definition:

“‘Financial year’ means a period of 12 months ending with the 31st day of March.”

5 (2) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “initiating hospital board”, and substituting the following definition:

10 “‘Initiating hospital board’, in relation to an area health board, means the hospital board, or each of the hospital boards, whose hospital district was replaced in whole or in part by the area health board district of the area health board.”

(3) Section 2 (1) of the principal Act is hereby further amended by inserting, after the definition of the term 15 “institution”, the following definition:

“‘Local Government Commission’ means the Local Government Commission established under the Local Government Act 1974.”

10. Establishment of area health districts—(1) Section 20 5 (2) of the principal Act is hereby amended by omitting the words “the hospital board or hospital boards”, and substituting the words “any hospital board”.

(2) Section 5 (4) of the principal Act is hereby amended—

25 (a) By omitting the words “tendered with the consent of each hospital board whose district is to be affected, and of the area health board (where that is already in existence)”:

30 (b) By inserting in paragraph (a), after the words “forming part of”, the words “an area health district of an area health board or”.

11. Constitution of boards—The principal Act is hereby amended by repealing section 8, and substituting the following section:

35 “8. (1) Subject to the succeeding provisions of this section, every area health board shall have—

“(a) Not less than 8 nor more than 14 elected members, being one or more elected representatives of each of the constituent districts within the area health district; and

40 “(b) Such number (if any) of appointed members, being persons appointed by the Governor-General on the recommendation of the Minister, not exceeding 1 for every 4 elected members, as may be agreed

between the elected members and the Minister under section 18 of this Act.

“(2) In any particular case the Minister may permit a board to have up to 17 elected members.

“(3) On establishing a new area health district by Order in Council under section 5 of this Act, the Governor-General shall, by the same order, determine the number of representatives each constituent district is to have on the area health board for that area health district. 5

“(4) By the same order, the Governor-General may— 10

“(a) Combine into one or more combined districts any number of the constituent districts, or any parts of constituent districts, (whether of the same or of different kinds) in the area health district for the purpose of the election of representatives on the area health board; and 15

“(b) Prescribe the number of members to be elected in common as the representative or representatives of any combined district; and

“(c) Select and appoint one of the local authorities of the combined district to be the principal local authority of that combined district for the purposes of the conduct of elections within that district. 20

“(5) In deciding what provision to make in respect of any matter under this section, the Governor-General shall have regard, in such manner as the Governor-General thinks fit, to the relative populations of the constituent districts and of any combined districts, and to such other considerations as the Governor-General thinks necessary for ensuring the proper representation of all localities in the area health district.” 30

12. New sections (relating to union or reconstitution of area health districts and hospital districts) inserted—
The principal Act is hereby amended by inserting, after section 8 (as substituted by section 11 of this Act), the following sections:

“8A. **Union or reconstitution of districts—**(1) If at any time it appears to the Governor-General, on the recommendation of the Minister, to be expedient that any 2 or more area health districts, or any area health district and any hospital district, that constitute a single continuous area should be united or reconstituted to form the same or a smaller number of area health districts, the Governor-General may, by Order in Council,— 40

“(a) Abolish those districts, as from a date to be specified in the order; and

5 “(b) Constitute, as from the same date, the same or a smaller number of new area health districts, or one new area health district, as the Governor-General thinks fit, under a name or names to be specified in the order and comprising the whole of the area included in the districts so abolished.

10 “(2) Each area health district so constituted shall comprise such counties and other areas (if any) as are specified in the order.

 “(3) Two or more area health boards, or any area health board and any hospital board, whose districts constitute a single continuous area may, by resolutions, request the union or
15 reconstitution of their districts under this section.

 “(4) No such resolution shall be passed by any area health board or hospital board at any meeting unless notice of the intention to propose the resolution has been given at a previous meeting of the board held not less than 14 days before the day
20 of the meeting at which the resolution is proposed to be passed.

 “(5) A copy of every such resolution, signed by the chairman of the board, shall be sent to the Minister, and shall be conclusive evidence that the resolution was duly passed in accordance with **subsection (4)** of this section.

25 “(6) All the provisions of this Act relating to area health districts constituted by this Act shall apply, so far as they are applicable and with the necessary modifications, to an area health district constituted by an Order in Council under this section.

30 “**8B. Boards of united districts or reconstituted districts**—(1) The area health board of any area health district constituted under **section 8A** of this Act shall come into existence as a body corporate on the day on which the district comes into existence, and the boards of the districts abolished by the order
35 shall thereupon be deemed to be dissolved.

 “(2) In any case where one new area health district is so constituted, the board of the new district shall be deemed to be the successor of the boards of the abolished districts.

40 “(3) In any case where 2 or more new area health districts are so constituted, the boards of such of those districts as are specified in that behalf in the Order in Council shall, subject to the provisions of this Act, be deemed to be the successors of the boards of the abolished districts.

“(4) Except as otherwise expressly provided by this Act, every area health board created a body corporate under this section shall be deemed for all purposes to be the same corporation as any board of which it is declared by or under this section to be the successor. 5

“(5) All the provisions of this Act shall apply, so far as they are applicable and with the necessary modifications, with respect to every area health board constituted under this section as if it had been constituted under **section 8** of this Act.

“**8c. Property and contracts of boards of abolished districts**—(1) In any case where 2 or more districts are abolished and one new area health district is constituted by Order in Council under **section 8A** of this Act, the following provisions shall apply: 10

“(a) All real and personal property vested in the board of any district so abolished shall, on the coming into existence of the board of the new district, vest in the new board, without conveyance or assignment, for the estate and interest in the property of the board of which it is the successor, subject to all liabilities, charges, obligations, or trusts affecting that property: 15 20

“(b) All the contracts, debts, and liabilities of the board of any district so abolished shall, on the coming into existence of the board of the new district, become the contracts, debts, and liabilities of the new board. 25

“(2) In any case where, by any such Order in Council, 2 or more new area health districts are constituted, the following provisions shall apply:

“(a) All property, contracts, debts, and liabilities of the boards of the districts so abolished shall be apportioned between the boards of the new districts in such manner and proportions and upon and subject to such terms and conditions as the boards of the new districts may agree: 30 35

“(b) Subject to any such terms and conditions,—

“(i) All property so apportioned to any board shall vest in that board, without conveyance or assignment, for the estate and interest in the property of the board to which that property formerly belonged; and 40

“(ii) All contracts, debts, and liabilities so apportioned to any board shall become the contracts, debts, and liabilities of that board:

“(c) It shall be the duty of the boards among which any such apportionment is made to comply with any terms and conditions on which the apportionment is made:

5 “(d) If any question, whether of law or of fact, or any disagreement, arises between any boards as to—

“(i) An apportionment under this section; or

“(ii) Any terms or conditions on which it is made;

or

10 “(iii) The mode of carrying the apportionment into effect or of complying with the terms or conditions,—

the question or disagreement shall be determined by the Minister, whose decision shall be final; and it shall be the duty of the boards to give effect to it

15 accordingly.

“(3) Where, by virtue of this section, any land becomes vested in an area health board without conveyance or assignment, and a board of any district abolished under **section 8A** of this Act is registered as the proprietor of that land under 20 the Land Transfer Act 1952, the District Land Registrar shall, at the request of the area health board, and on being satisfied, by statutory declaration or otherwise, of the title of the area health board, register the area health board as the proprietor of that land instead of the board of the district so abolished.

25 “**8D. Transmission of rights of boards of abolished districts**—(1) Every area health board that is the successor of the board of any district that has been abolished under **section 8A** of this Act shall have and may exercise all the rights, powers, and authorities that the board of which it is the successor could 30 have exercised.

“(2) Every area health board to which any property of any board is apportioned, or to which any contracts, debts, or liabilities of any board are apportioned under the foregoing provisions of this Act, shall have and may exercise all the rights, 35 powers, and authorities that the abolished board could have exercised in respect of that property, or those contracts, debts, or liabilities.

40 “**8E. Inquiries by Local Government Commission**—If at any time the Minister is of the opinion that for the purposes of this Act an inquiry should be made into any question relating to the union, reconstitution, or alteration of boundaries of any area health districts or hospital districts, the Minister may request the Minister of Local Government to refer the question

to the Local Government Commission for inquiry and report under the Local Government Act 1974.”

13. New sections (relating to review of constituent districts and membership) substituted—The principal Act is hereby amended by repealing section 13, and substituting the following sections: 5

“13. Review of constituent districts and membership—

(1) Every area health board shall, in the year preceding that in which a general election of the board is to be held and not later than the 30th day of June in that year, review the number of its constituent districts and the distribution of membership of the board among those districts. 10

“(2) For the purposes of the review, the board shall have regard to—

“(a) The respective areas and populations of the several constituent districts, combined districts, and wards, as the case may be; and 15

“(b) Such additional factors of any kind as the board considers relevant.

“(3) In having regard, pursuant to subsection (2) of this section, to the population of the several constituent districts, combined districts, and wards, the board shall have regard to the population as at the immediately preceding 31st day of March. 20

“(4) At the conclusion of the review, the board may, by resolution,— 25

“(a) Alter the number of representatives that a constituent district has on the board; and

“(b) Combine into one or more combined districts any number of the constituent districts, or any parts of the constituent districts, (whether of the same or of different kinds) in the area health district for the purpose of the election of representatives on the area health board; and 30

“(c) Prescribe the number of members to be elected in common as the representative or representatives of any combined district; and 35

“(d) Select and appoint one of the local authorities of the combined district to be the principal local authority of that combined district for the purposes of the conduct of elections within that district. 40

“(5) In deciding what provision to make in respect of any matter under this section, the board shall have regard, in such manner as it thinks fit, to the relative populations of the

constituent districts and of any combined districts, and to such other considerations as the board thinks necessary for ensuring the proper representation of all localities in the area health district.

5 “(6) Every resolution under this section shall come into force only on the date of the next general election, except to such extent as may be necessary for providing for that election.

“(7) Every resolution under this section shall forthwith be publicly notified.

10 “(8) A copy of every resolution under this section shall forthwith be sent to each territorial authority within the area health district and to the Local Government Commission.

“(9) A copy of every such resolution shall be kept at the office of the board and in such other place or places within the area health district as the board considers necessary, and shall be
15 open to inspection without fee during ordinary office hours by any resident of the areas health district.

“10) Nothing in this section shall apply in any case where the triennial general election is to be held within 15 months
20 after the date of the constitution of the area health district.

“13A. **Objections to decision of board**—(1) Any territorial authority whose district is within the area health district may, not later than the 30th day of August after the passing of any resolution of the board made under **section 13** of this Act, object
25 to the board against the resolution.

“2) The objecting territorial authority shall, forthwith after lodging its objection with the board, serve a copy of the objection on every other territorial authority in the area health district, and every such other territorial authority shall be
30 entitled to make written representations to the board on that objection.

“3) Subject to **subsection (4)** of this section,—

“a) The board, after considering the objection and any representations received, shall be entitled to alter
35 the number of constituent districts, and the number of members of the board to represent each constituent district; and

“b) In doing so, the board shall have regard to the matters specified in **subsections (2) and (5) of section 13** of this Act.
40

“4) If any territorial authority affected is dissatisfied with the decision of the board under **subsection (3)** of this section, it may, not later than the 31st day of October after the passing of the resolution, object to the Local Government Commission against

that decision, in which case it shall serve a copy of the objection on the board and every other territorial authority within the area health district.

“(5) The Local Government Commission shall, not later than the 15th day of April after receiving any such objection, duly consider and determine it. 5

“(6) In determining the objection, the Local Government Commission—

“(a) Shall be entitled to alter the number of constituent districts, and the number of members of the board to represent each constituent district, so far as that alteration is necessary to give effect to its decision on the objection or is consequential on that decision; and 10

“(b) Shall, in doing so, have regard to— 15

“(i) The respective areas and populations of the several districts, combined districts, and wards, as the case may be; and

“(ii) Such additional factors of any kind as the Local Government Commission considers relevant. 20

“(7) The Local Government Commission shall advise the board and every territorial authority within the area health district of the Commission’s decision on the objection.

“(8) The determination of the Local Government Commission on any objection under this section shall be final, and shall have effect so as to confirm or amend, as the case may be, the resolution of the board and shall be implemented by the board accordingly.” 25

14. First election of members—(1) Section 14 (1) of the principal Act is hereby repealed. 30

(2) Section 14 (2) is hereby amended by omitting the words “Except in a case to which subsection (1) of this section applies,”.

15. Cost of elections—The principal Act is hereby amended by repealing section 16, and substituting the following section: 35

“16. The cost of every election of a representative or representatives on an area health board of any constituent district or combined district (excluding the expenses incurred by or on behalf of candidates) shall be borne and paid by the area health board.” 40

16. Community committees—(1) Section 31 of the principal Act is hereby amended by inserting, after subsection (2), the following subsections:

5 “(2A) The board may authorise any such committee—
“(a) To manage any undertaking or service within the functions of the board; or

“(b) To regulate and undertake, or to inquire into and report upon, such matters as the board thinks fit.

10 “(2B) The board shall have the same powers of delegation to any such committee as it has in respect of committees appointed under section 28 of this Act; and the provisions of subsection (2) of that section shall apply accordingly.”

(2) Section 31 (4) of the principal Act is hereby amended by inserting, before the words “Every community committee”, the
15 words “In addition to performing any function required of it by the board under subsection (2A) or subsection (2B) of this section,”.

17. Opening and closing of institutions and health services—(1) Section 45 (2) of the principal Act is hereby amended by inserting, after the words “subject to subsection (3)
20 of this section”, the words “and to any direction given to the board by the Minister pursuant to section 37 of this Act”.

(2) Section 45 of the principal Act is hereby further amended by repealing subsections (3) to (5), and substituting the following subsections:

25 “(3) Before closing any institution other than a health centre or a family health counselling centre, or ceasing to provide any service, an area health board shall give notice of its proposal, at least twice at intervals of not less than 7 days, in a newspaper or newspapers circulating in the area health district, and shall
30 not close the institution or cease providing the service for at least 1 month after the date of the second publication of the notice.

“(4) Nothing in subsection (3) of this section applies to the closure of any institution for a period not exceeding 3 months
35 at any one time.”

18. Recovery of certain costs of treatment—The principal Act is hereby amended by inserting, after section 54, the following section:

40 “54A. Notwithstanding anything in section 101 of the Social Security Act 1964, an area health board may recover as a debt due to that board the costs of treatment incurred in respect of a patient referred to the board by another area health board or any hospital board where—

“(a) The treatment given to the patient is within such classes of treatment as may from time to time be approved for the purposes of this section in writing by the Minister; and

“(b) The method of calculation of the sum sought to be recovered from the referring board has been approved in writing by the Minister, whether generally or in any particular case.” 5

19. Application of board's funds—Section 84 (1) of the principal Act is hereby amended— 10

(a) By omitting from paragraph (g) the words “, subject to the approval of the Minister in each case,”;

(b) By omitting from paragraph (m) the words “for the time being approved by the Minister in that behalf”, and substituting the words “with similar purposes”. 15

20. Contracts—Section 92 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Subject to subsection (2) of this section, and subject to any general or special directions of the Minister, any contract for the execution or provision of any work or service by any area health board, or for the supply by an area health board of any fuel, goods, stores, or equipment required for the purposes of this Act, may be made by the board in respect of any period.” 20 25

PART III

AMENDMENTS TO HOSPITALS ACT 1957

21. Part to be read with Hospitals Act 1957—This Part of this Act shall be read together with and deemed part of the Hospitals Act 1957* (hereafter in this Part referred to as the principal Act). 30

*R.S. Vol. 19, p. 665

22. Interpretation—Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “land” (as substituted by section 2 (4) of the Hospitals Amendment Act 1970), the following definition: 35

“‘Local Government Commission’ means the Local Government Commission established under the Local Government Act 1974:”.

23. Hospitals Advisory Council abolished—(1) The Hospitals Advisory Council is hereby abolished. 40

(2) The heading above section 7, and sections 7 to 11, of the principal Act are hereby repealed.

(3) The provisions of the principal Act specified in the first column of Part I of the **Second Schedule** to this Act are hereby
5 amended in the manner indicated in the second column of that Schedule.

24. Inquiries by Local Government Commission—The principal Act is hereby amended by repealing section 23, and substituting the following section:

10 “23. If at any time the Minister is of the opinion that for the purposes of this Act an inquiry should be made into any question relating to the union, reconstitution, or alteration of boundaries of any hospital districts, the Minister may request the Minister of Local Government to refer the question to the
15 Local Government Commission for inquiry and report under the Local Government Act 1974.”

25. New provisions (relating to constitution of Boards) substituted—(1) The principal Act is hereby amended by
20 repealing sections 26 to 28, and substituting the following sections:

“26. **Constitution of Boards**—(1) Subject to the succeeding provisions of this section, every Hospital Board shall consist of one or more representatives of each of the constituent districts within the hospital district.

25 “(2) Subject to any decision of the Local Government Commission under **section 28A** of this Act and to section 32A of this Act, no Hospital Board shall have less than 8 members nor more than 14 members.

30 “(3) Subject to **sections 28 and 28A** of this Act, the number of representatives of each constituent district shall be such as is determined from time to time by the Board having regard, in such manner as it thinks fit, to the relative populations of those districts and to such other considerations as it thinks necessary for ensuring the proper representation of all areas in the
35 hospital district.

“4) Where by reason of the number of constituent districts in any hospital district, or by reason of the smallness of the population of any such constituent district, it is, in the opinion of the Board, impracticable or inexpedient to give full effect to the intent of **subsection (1)** of this section, the Board may from
40 time to time combine into one or more combined districts any number of the constituent districts (whether of the same or of

different kinds) in the hospital district for the purpose of the election of representatives on the Board.

“(5) The Board shall determine the number of members to be elected in common as the representative or representatives of any combined district, having regard, in such manner as it thinks fit, to the relative populations of that district and of every other combined district or separate constituent district within the hospital district, and to such other considerations as it thinks necessary for ensuring the proper representation of all areas in the hospital district.

“(6) The Board shall select and appoint one of the local authorities of the combined district to be the principal local authority of that combined district for the purposes of the conduct of elections within that district.

“27. **Qualification of members**—Subject to section 12 (3) of the Local Elections and Polls Act 1976 and section 33 of this Act, every person who is a parliamentary elector shall be qualified to be elected or appointed as a member of any one or more Hospital Boards.

“28. **Review of constituencies and membership**— (1) The Board shall, in the year preceding that in which a general election of the Board is to be held and not later than the 30th day of June in that year, review the number of its constituent districts and the distribution of membership of the Board among those districts.

“(2) For the purposes of the review, the Board shall have regard to—

“(a) The respective areas and populations of the several constituent districts, combined districts, and wards, as the case may be; and

“(b) Such additional factors of any kind as the board considers relevant.

“(3) In having regard, pursuant to subsection (2) of this section, to the population of the several constituent districts, combined districts, and wards, the Board shall have regard to the population as at the immediately preceding 31st day of March.

“(4) At the conclusion of the review, the Board may, by resolution,—

“(a) Alter the number of representatives that a constituent district has on the Board; and

“(b) Combine into one or more combined districts any number of the constituent districts, or any parts of the constituent districts, (whether of the same or of different kinds) in the hospital district for the

purposes of the election of representatives on the Hospital Board; and

5 “(c) Prescribe the number of members to be elected in common as the representative or representatives of any combined district; and

“(d) Select and appoint one of the local authorities of the combined district to be the principal local authority of that combined district for the purposes of the conduct of elections within that district.

10 “(5) In deciding what provision to make in respect of any matter under this section, the Board shall have regard, in such manner as it thinks fit, to the relative populations of the constituent districts and of any combined districts, and to such other considerations as the Board thinks necessary for ensuring
15 the proper representation of all localities in the hospital district.

“(6) Every resolution under this section shall come into force only on the date of that general election, except to such extent as may be necessary for providing for that election.

20 “(7) Every resolution under this section shall forthwith be publicly notified.

“(8) A copy of every resolution under this section shall forthwith be sent to each territorial authority within the hospital district and to the Local Government Commission.

25 “(9) A copy of every such resolution shall be kept at the office of the Board and in such other place or places within the hospital district as the Board considers necessary, and shall be open to inspection without fee during all office hours by any resident of the hospital district.

30 “(10) Nothing in this section shall apply in any case where the triennial general election is to be held within 15 months after the date of the constitution of the hospital district.

“28A. **Objections to decision of Board**—(1) Any territorial authority whose district is within the hospital district may, not later than the 30th day of August after the passing of any
35 resolution of the Board made under **section 28** of this Act, object to the Board against the resolution.

40 “(2) The objecting territorial authority shall, forthwith after lodging its objection with the Board, serve a copy of the objection on every other territorial authority in the hospital district, and every such other territorial authority shall be entitled to make written representations to the Board on that objection.

“(3) Subject to **subsection (4)** of this section,—

“(a) The Board, after considering the objection and any representations received, shall be entitled to alter the number of constituent districts, and the number of members of the Board to represent each constituent district; and

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“(b) In doing so, the Board shall have regard to the matters specified in subsections (2) and (5) of section 28 of this Act.

“(4) If any territorial authority affected is dissatisfied with the decision of the Board under subsection (3) of this section, it may, not later than the 31st day of October after the passing of the resolution, object to the Local Government Commission against that decision, in which case it shall serve a copy of the objection on the Board and every other territorial authority within the hospital district.

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“(5) The Local Government Commission shall, not later than the 15th day of April after receiving any such objection, duly consider and determine it.

“(6) In determining the objection, the Local Government Commission—

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“(a) Shall be entitled to alter the number of constituent districts, and the number of members of the Board to represent each constituent district, so far as that alteration is necessary to give effect to its decision on the objection or is consequential on that decision; and

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“(b) Shall, in doing so, have regard to—

“(i) The respective areas and populations of the several districts, combined districts, and wards, as the case may be; and

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“(ii) Such additional factors of any kind as the Local Government Commission considers relevant.

“(7) The Local Government Commission shall advise the Board and every territorial authority within the hospital district of the Commission's decision on the objection.

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“(8) The determination of the Local Government Commission on any objection under this section shall be final, and shall have effect so as to confirm or amend, as the case may be, the resolution of the Board, and shall be implemented by the Board accordingly.”

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(2) The Local Government Amendment Act 1986 is hereby consequentially amended by repealing so much of the First Schedule as relates to section 26A of the principal Act.

26. Cost of elections—The principal Act is hereby amended by repealing section 31, and substituting the following section:

5 “31. The cost of every election of a representative or representatives on a Hospital Board of any constituent district or combined district (excluding the expenses incurred by or on behalf of candidates) shall be borne and paid by the Hospital Board.”

10 **27. Establishment of new institutions**—Section 54 (1) of the principal Act is hereby amended by omitting the words “, with the prior consent of the Minister,”.

28. Combining and dividing institutions—Section 54A of the principal Act (as inserted by section 8 of the Hospitals Amendment Act 1973) is hereby amended by omitting the 15 words “, with the prior written consent of the Minister,”.

29. Closing of institutions and health services—(1) The principal Act is hereby amended by repealing section 55 (as substituted by section 5 (1) of the Hospitals Amendment Act (No. 2) 1986), and substituting the following section:

20 “55. (1) Subject to subsection (2) of this section and to any direction given by the Minister to the Board pursuant to section 5 of this Act, any Board may at any time—

“(a) Close any institution under its control:

25 “(b) Restrict the forms of care, treatment, or relief granted in or from any institution or service under its control:

“(c) Cease to provide any particular service.

30 “(2) Before closing any institution other than a health centre or a family health counselling centre, or ceasing to provide any service, a Board shall give notice of its proposal, at least twice at intervals of not less than 7 days, in a newspaper or newspapers circulating in the hospital district, and shall not close the institution or cease providing the service for at least 1 month after the date of the second publication of the notice.

35 “(3) Nothing in subsection (2) of this section applies to the closure of any institution for a period not exceeding 3 months at any one time.”

(2) Section 5 of the Hospitals Amendment Act (No. 2) 1986 is hereby consequentially repealed.

40 **30. Recovery of certain costs of treatment**—The principal Act is hereby amended by inserting, after section 77A

(as substituted by section 7 (1) of the Hospitals Amendment Act 1976), the following section:

“77B. Notwithstanding anything in section 101 of the Social Security Act 1964, a Hospital Board may recover as a debt due to that Board the costs of treatment incurred in respect of a patient referred to the Board by another Hospital Board or any area health board where—

“(a) The treatment given to the patient is within such classes of treatment as may from time to time be approved for the purposes of this section in writing by the Minister; and

“(b) The method of calculation of the sum sought to be recovered from the referring board has been approved in writing by the Minister.”

31. Power to release persons from contractual obligation—Section 80 of the principal Act (as substituted by section 11 of the Hospitals Amendment Act 1966) is hereby amended by omitting from paragraph (b) the words “With the consent of the Minister,”.

32. Application of Board’s funds—Section 93 (1) of the principal Act is hereby amended—

(a) By omitting from paragraph (h) the words “, subject to the approval of the Minister in each case,”:

(b) By omitting from paragraph (o) the words “, subject to the approval of the Minister,”:

(c) By omitting from paragraph (o) the word “Minister” where it secondly occurs, and substituting the word “Board”.

SCHEDULES

Section 4 (3), (4)

FIRST SCHEDULE

AMENDMENTS CONSEQUENTIAL UPON ABOLITION OF BOARD OF HEALTH

PART I

Amendments to Health Act 1956

Provision	Amendment
Section 2 (1)	By repealing the definition of the term "Board".
Section 23 (f)	By omitting the words "the Board of Health or".
Section 123A	By omitting the words ", on the recommendation of the Board of Health,".
Section 124 (3)	By omitting the words "or of the Board of Health".

PART II

Amendments of Other Enactments

Enactment	Amendment
1957, No. 40—The Hospitals Act 1957 (R.S. Vol. 19, p. 665)	By repealing section 3 (cd) (as inserted by section 2 of the Hospitals Amendment Act (No. 2) 1986). By omitting from section 131 (4) the words "Subject to the provisions of section 143 of this Act,". By omitting from section 132 (4) the words "Subject to the provisions of section 143 of this Act,". By repealing section 143. By repealing section 3 (3).
1960, No. 96—The Health Amendment Act 1960 (R.S. Vol. 19, p. 607)	
1968, No. 26—The Maternal Mortality Act 1968 (R.S. Vol. 17, p. 321)	By omitting from section 3 (2) the words ", after consultation with the Board of Health or any appropriate committee of that Board". By omitting from the proviso to section 3 (4) the words ", after consultation with the Board of Health or any appropriate committee of that Board,". By omitting from section 3 (5) the words ", after consultation with the Board of Health or any appropriate committee of that Board,".
1972, No. 31—The Clean Air Act 1972	By omitting from section 35 (5) the words "or of the Board of Health".

PART II—continued

Amendments of Other Enactments—continued

Enactment	Amendment
1982, No. 35—The Health Amendment Act (No. 2) 1982 (R.S. Vol. 19, p. 617)	By repealing sections 4 to 10.
1983, No. 134—The Area Health Boards Act 1983	By repealing section 35 (b).
1986, No. 19—The Hospitals Amendment Act (No. 2) 1986 (R.S. Vol. 19, p. 820)	By repealing section 2.
1987, No. 10—The Health Amendment Act 1987 (R.S. Vol. 19, p. 618)	By repealing section 7.

SECOND SCHEDULE

Section 23 (3)

AMENDMENTS CONSEQUENTIAL UPON ABOLITION OF HOSPITALS ADVISORY COUNCIL

PART I

Amendments to Hospitals Act 1957

Provision	Amendment
Section 13 (3)	By omitting the words "Any such committee may, if the Minister thinks fit, consist of or include a member or members of the Hospitals Advisory Council."
Section 17	By omitting from subsection (1) the words "the Hospitals Advisory Council made to". By omitting from subsection (2) the words "On receipt of the copy, the terms of every such resolution shall be referred to the Hospitals Advisory Council for its consideration under this section."
Section 21 (1)	By omitting the words "the Hospitals Advisory Council made to".
Section 65 (5)	By omitting the words "acting on the recommendation of the Hospitals Advisory Council,".
Section 84 (1)	By omitting the words "on the recommendation of the Hospitals Advisory Council,".
Section 152 (2) (a)	By omitting the words "the Hospitals Advisory Council,".

PART II
Amendments of Other Enactments

Enactment	Amendment
1973, No. 43—The Hospitals Amendment Act 1973 (R.S. Vol. 19, p. 812)	By repealing sections 4 and 5.
1983, No. 134—The Area Health Boards Act 1983	By omitting from section 2 (1) the definition of the term "Hospitals Advisory Council".
1986, No. 57—The Hospitals Amendment Act (No. 3) 1986 (R.S. Vol. 19, p. 821)	By omitting from section 62 (1) the words "on the recommendation of the Hospitals Advisory Council,".
1988, No. 00—The Hospitals Amendment Act 1988	By repealing so much of the Schedule as relates to sections 7 and 8 of the principal Act.
1986, No. 57—The Hospitals Amendment Act (No. 3) 1986 (R.S. Vol. 19, p. 821)	By repealing section 2 (1).
1988, No. 00—The Hospitals Amendment Act 1988	By repealing sections 2 and 3.

