

HOSPITALS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Hospitals Act 1957.

Clause 1 relates to the short title.

Clause 2 amends section 3 of the principal Act and extends the functions of the Minister of Health by empowering him to encourage the provision by Hospital Boards of services and facilities for the advancement of medical education and research at hospitals.

Clause 3 amends subsection (1) of section 4 of the principal Act which relates to the functions, duties, and status of Hospital Boards.

Subclause (1) replaces paragraph (c) of the subsection and, whilst retaining the existing provisions, enables provision to be made for Hospital Boards to receive into their institutions and to treat and care for persons who are prepared to donate organs or other parts of their bodies for the benefit, relief, and treatment of other persons, or for the advancement of medical knowledge, education, or research.

Subclause (2) is intended to enable Hospital Boards, if authorised by the Minister, to provide services such as research facilities incidental to their principal activities.

Clause 4 is a consequential amendment of the principal Act and is a result of the merger in 1965 of the County of Sounds and the Croisilles - French Pass and Kenepuru Road Districts into the County of Marlborough.

Clause 5 amends section 42 of the principal Act by enabling the Deputy Director-General of Health and any Deputy Director of the Division of Hospitals to attend and speak, but not to vote, at Hospital Board meetings. The Director-General of Health, the Director of the Division of Hospitals, and any Assistant Director already have this power.

Clause 6 further amends section 52A of the principal Act which deals with the award of gratuities on retirement of Hospital Board employees.

Subclause (1) inserts a new subsection (1A) which provides for the method to be used for calculating the length of service of a Hospital Board employee claiming to be entitled to a gratuity in accordance with subsection (1) of section 52A where he has previously been employed in the Public Service, Post Office, or Railways Department before joining the Hospital Service, or where he has had his hospital employment interrupted by such occurrences as military service and the like.

Subclause (2) inserts a new subsection (4A) which defines "gratuity" in relation to service with the Public Service, Post Office, and Railways Department.

Subclause (3) repeals subsection (5) and replaces it with a redrafted subsection designed to eliminate the use of the word "rules", which may bring into operation the Regulations Act 1936, a result which was not intended.

Clause 7 makes a minor amendment to section 59 of the principal Act. The amendment is consequential on the establishment of separate universities in place of the University of New Zealand.

Clause 8 amends subsection (2) of section 62 of the principal Act which deals with the non-disclosure of medical information relating to patients in public hospitals. The clause is designed to exempt information disclosed to Transport Department officers during the course of their official duties from the general prohibition on disclosures imposed by subsection (1) of section 62, and, consequent on the passing of the Defence Act 1964, substitutes the words "Ministry of Defence" for those relating to the Navy, Army, and Air Departments.

Clause 9 amends section 63 of the principal Act by enabling Hospital Boards to carry out laboratory tests and examinations for the purposes of diagnosing, treating, and assessing any disease, physical ailment, or illness or determining whether any person possesses immunity or resistance to any disease. At present Hospital Boards are empowered to carry out such tests and examinations only in respect of infectious diseases.

Clause 10 amends the principal Act by inserting a new provision, section 77A, which is a corollary to *subclause (1) of clause 3* of this Bill. It provides for free treatment to be given to persons who are prepared to donate organs or other parts from their bodies for the benefit, relief, and treatment of other persons, or for the advancement of medical knowledge, education, or research. The clause is intended to resolve doubts as to whether or not such a donor is entitled to free hospital care under the Social Security Act 1964.

Clause 11 substitutes new provisions for section 80 of the principal Act, and is intended to give a Hospital Board power, with the consent of the Minister of Health, to release any person from any contract, debt, or payment of any sum of money due to the Board. The existing power of Hospital Boards to enter into compositions with debtors and other persons is retained.

Clause 12: Under section 135 of the principal Act every licensed private hospital must have a resident manager or acting manager who may be a registered medical practitioner in all cases, or a registered midwife for a maternity hospital, or in the case of other specified types of hospital a registered nurse with the appropriate qualifications. Where the manager is a medical practitioner the hospital must also have a resident midwife or nurse depending on the type of hospital. Appointments of managers must be approved by the Director-General of Health. Subsection (7) authorises the Minister of Health in special circumstances, and on such terms and conditions as he thinks fit, to exempt a hospital from the requirement that the manager must be a registered medical practitioner or a registered midwife or nurse.

This clause amends section 135 (7) by extending the Minister's present powers of exemption so that it applies to all or any of the other requirements of the section.

Clause 13: This clause repeals section 136 of the principal Act which provides that a licence to operate a private hospital cannot be held by a person not qualified to be the manager of a licensed hospital. The effect of the clause is that persons of good character who are not medically qualified will in future be able to hold a licence to operate a private hospital. The clause will also enable a corporation (which is so empowered by any enactment or its constitution) to hold a private hospital licence if the Minister of Health is satisfied that the members of the governing body of the corporation are of good character and fit persons to supervise the administration of such a hospital.

Clause 14 is intended to enable licencees of private hospitals, and medical practitioners attending patients at private hospitals, to furnish to the Director-General of Health, at his request, medical information relating to their patients in order to provide medical statistics and to advance medical science, without incurring the risk of being legally liable for so doing.

Clause 15 amends section 144 of the principal Act by empowering the Deputy Director-General of Health and any Deputy Director of the Division of Hospitals to inspect premises which he has reason to believe or suspect are being used as a private hospital without a licence. At present only the Director-General, Director of the Division of Hospitals, and any Assistant Director of that Division have this power of inspection.

Clause 16 amends subsection (3) of section 148 of the principal Act by empowering the Deputy Director-General of Health and any Deputy Director of the Division of Hospitals to exercise the powers of the Director-General in relation to the inspection of public or private hospitals in addition to the Director and any Assistant Director of the Division of Hospitals who already have those powers.

Clause 17 amends subsection (2) of section 152 of the principal Act which relates to regulation-making powers.

Subclause (1) amends paragraph (c) of subsection (2) by enabling regulations to be made regulating appointments of members of the Waimate and Picton Hospitals' local committees of management and the terms of office of those members.

Subclause (2) inserts two new paragraphs (ll) and (lm) in subsection (2). Paragraph (ll) enables regulations to be made regulating the admission of persons into a private hospital where patients are suffering from certain communicable diseases, and paragraph (lm) enables regulations to be made providing for the custody and disposal of medical registers and the like kept in accordance with the provisions of the principal Act.

Clause 18 amends the First Schedule to the principal Act by omitting from the second column of the Schedule certain counties and road districts which have ceased to exist since being merged with other counties.

Clause 19 amends the Fifth Schedule to the principal Act (which relates to the Waimate Hospital) by replacing clause 3 with a new clause. A similar amendment is being made to the Sixth Schedule which relates to the Picton Hospital. The amendments are consequential on *subclause (1) of clause 17* of this Bill.

Clause 20 amends the Sixth Schedule to the principal Act which relates to Picton Hospital. The membership of the Picton Hospital committee of management is to be reduced to five. Certain other amendments consequent on the dissolution of the County of Sounds and the Kenepuru and Croisilles - French Pass Road Districts are also being made.

Subclause (3) brings these provisions into operation on the date of the next triennial general elections of Hospital Boards.

Hon. Mr McKay

HOSPITALS AMENDMENT

ANALYSIS

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| 3. Functions and duties of Hospital Boards | 13. Power to hold licence |
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A BILL INTITULED

An act to amend the Hospitals Act 1957

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Hospitals Amendment Act 1966, and shall be read together with and deemed part of the Hospitals Act 1957* (hereinafter referred to as the principal Act).

*1957 Reprint, Vol. 6, p. 119
Amendments: 1961, No. 84; 1962, No. 43; 1964, No. 91

2. Additional function of the Minister—Section 3 of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) To encourage the provision and maintenance by Hospital Boards, to such extent as he considers necessary, of services and facilities for the advancement of medical education and research at or in connection with hospitals:”.

3. Functions and duties of Hospital Boards—(1) Section 4 of the principal Act is hereby amended by repealing paragraph (c) of subsection (1), and substituting the following paragraph:

“(c) To make such provision as the Minister from time to time thinks necessary for the reception, relief, care, treatment, isolation, and removal to a hospital or other place of—

“(i) Persons who are suffering from any injury or disease, or who are otherwise in need of relief, care, or treatment:

“(ii) Women requiring care or treatment in or in respect of childbirth:

“(iii) Persons who have been in contact with other persons suffering from any infectious disease as defined in the Health Act 1956:

“(iv) Aged, infirm, incurable, or destitute persons:

“(v) Any person who is willing to donate any organ or other part from his body or who is otherwise prepared to undergo medical or surgical procedure or operation for the purpose of assisting the relief and medical or surgical treatment of some other person or for the advancement of medical knowledge, education, or research:”.

(2) Section 4 of the principal Act is hereby further amended by adding to subsection (1) the following paragraph:

“(f) To provide such other hospital and medical services, facilities, and amenities as the Minister may from time to time specify pursuant to his functions under this Act.”

4. Constitution of Marlborough Hospital Board—Section 26 of the principal Act is hereby amended by repealing subsection (3).

5. Meetings of Hospital Boards—Section 42 of the principal Act is hereby amended by repealing subsection (5), and substituting the following subsection:

“ (5) The Director-General or Deputy Director-General
5 of Health, or the Director or any Deputy or Assistant
Director of the Division of Hospitals of the Department of
Health or any other officer of that Department deputed
by the Director-General, shall be entitled to be present and
to speak at any meeting of a Board or committee of a
10 Board, but shall not take any other part in its proceedings.”

6. Grants on retirement or death of officers or employees—

(1) Section 52A of the principal Act (as inserted by section
2 (1) of the Hospitals Amendment Act 1962 and amended by
section 2 of the Hospitals Amendment Act 1964) is hereby
15 further amended by inserting, after subsection (1), the
following subsection:

“(1A) For the purposes of subsection (1) of this sub-
section—

“(a) The length of service of any officer or employee
20 with the Public Service, the Post Office, or the
New Zealand Government Railways Department
shall be calculated in accordance with the law
and practice applicable to those organisations
at the time when the service was given:

“(b) Service with a Board shall be deemed to have con-
25 tinued during an interval in employment—

“(i) During the whole of which the officer or
employee served in the New Zealand armed forces,
or the armed forces of any Commonwealth country,
30 after having joined those forces at a time when
New Zealand was at war or was engaged in any
warlike operations or armed conflict:

“(ii) During the whole of which an officer or
employee served in the New Zealand armed forces
after having been called up for service under the
35 National Military Service Act 1961:

“(iii) Which is due to any other cause which
the Minister considers sufficient:

“Provided that the Minister may direct that part
40 of any interval to which subparagraph (iii) of this
paragraph relates shall be excluded when calcu-
lating the length of service with a Board, and the
length of service shall then be calculated accord-
ingly.”

(2) The said section 52A is hereby further amended by inserting, after subsection (4), the following subsection:

“(4A) For the purposes of subsection (4) of this section, the term “gratuity” where it secondly appears includes any retiring allowance or other payment on retirement (by whatever name it is called) except any superannuation or pension payment.” 5

(3) The said section 52A is hereby further amended by repealing subsection (5), and substituting the following subsection: 10

“(5) Subject to this section and to any regulations made for the purposes of this section, all payments and deductions made pursuant to this section shall be calculated in such manner as the Minister may from time to time determine.”

7. Access by teachers and students—Section 59 of the principal Act (as amended by section 3 (1) of the New Zealand University Amendment Act 1957) is hereby further amended by omitting from subsection (1) the words “constituent institution of the University of New Zealand”, and substituting the words “university in New Zealand”. 15 20

8. Medical information—Section 62 of the principal Act is hereby amended by omitting from paragraph (d) of subsection (2) the words “the Navy Department, the Army Department, or the Air Department”, and substituting the words “the Transport Department, or the Ministry of Defence”. 25

9. Laboratory tests—Section 63 of the principal Act is hereby amended by repealing paragraph (c), and substituting the following paragraph:

“(c) For the carrying out of laboratory tests and examinations for the purposes of diagnosing, treating, or assessing any disease, physical ailment, or illness whatsoever or determining whether or not persons possess immunity or resistance to any disease.” 30

10. Free care of persons donating organs of the body— 35
The principal Act is hereby further amended by inserting, after section 77, the following section:

“77A. Any Board may agree to provide relief, care, and treatment free of charge to any person who is willing to donate any organ or other part from his body or who is otherwise prepared to undergo medical or surgical procedure or operation for the purpose of assisting—

“(a) The relief and medical or surgical treatment of some other person; or

“(b) The advancement of medical knowledge, education, or research.”

10 **11. Power to release persons from contractual obligations—**
The principal Act is hereby further amended by repealing section 80, and substituting the following section:

“80. A Board may, before or after the commencement of any proceedings in respect of any debt or sum of money owed to it, or in respect of any breach of contract,—

15 “(a) Compound with the person from whom the debt or sum of money is due, or who is in breach of contract, for such sum of money or other recompense as it thinks fit:

20 “(b) With the consent of the Minister, release any person from his contractual obligations with the Board or from his liability to pay any debt or sum of money owed.”

25 **12. Managers of licensed private hospitals—**(1) Section 135 of the principal Act is hereby amended by omitting from subsection (7) the words “from the requirements of subsection (2) of this section”, and substituting the words “from all or any of the requirements of subsections (1) to (5) of this section”.

30 (2) The said section 135 is hereby further amended by inserting at the beginning of subsection (6), before the word “If”, the words “Subject to subsection (7) of this section”.

35 **13. Power to hold licence—**(1) The principal Act is hereby amended by repealing section 136, and substituting the following section:

“136. (1) A licence for a private hospital may be granted or transferred to any person or persons or to any corporation empowered by any enactment or by its memorandum of association, rules, or constitution to operate a private hospital.

“(2) Any application or notice required or permitted to be made, signed, or given under this part of this Act by any applicant or licensee that is a corporation aggregate shall either be under the seal of the corporation or be signed on its behalf by two members of the board of directors or committee or board of trustees or other governing body of the corporation or by one such member and the secretary or other proper officer of the corporation.” 5

(2) Section 122 of the principal Act is hereby amended by adding to subsection (1) the words “or, where the applicant is a corporation aggregate, as to the character of the members of the board of directors or committee or board of trustees or other governing body of the corporation and their fitness to supervise the administration of a private hospital”. 10

(3) Section 126 of the principal Act is hereby amended by inserting, after the word “dies”, the words “or, being a corporation, is dissolved”. 15

(4) Section 128 of the principal Act is hereby amended—

(a) By inserting in subsection (1), after the word “dies”, the words “or, being a corporation, is dissolved”: 20

(b) By inserting in subsection (1), after the words “deceased licensee”, the words “or, where the licensee was a corporation, by the liquidator or like person responsible for the winding up of the corporation”: 25

(c) By inserting in subsection (3), after the word “death”, the words “or dissolution”.

14. Furnishing medical information relating to patients in private hospitals—The principal Act is hereby amended by inserting, after section 139, the following section: 30

“139A. (1) The Director-General of Health may from time to time request any licensee of a licensed hospital, and any medical practitioner who attends patients at a licensed hospital, to furnish medical information concerning the condition or treatment of patients in the hospital in order to obtain statistics for medical purposes or for the purposes of advancing medical knowledge, education, or research. 35

“(2) On receipt of a request in that behalf, the licensee or medical practitioner, as the case may be, may furnish information for the aforesaid purposes to the Director-General of Health in the form prescribed by him. The information may 40

be furnished as aforesaid whether or not it is obtainable from a register or record required to be maintained under this Act and whether or not it relates to any patient who has been discharged from the hospital.

5 “(3) Notwithstanding any rule of law to the contrary, no licensee or medical practitioner shall incur civil or criminal liability by reason only that he furnished medical information in accordance with this section.”

10 **15. Inspection of unlicensed premises**—Section 144 of the principal Act is hereby amended by omitting from subsection (1) the words “Director-General, or the Director of the Division of Hospitals under the Health Act 1956, or any Assistant Director of that Division”, and substituting the words
15 “Director-General or Deputy Director-General of Health, or the Director or any Deputy or Assistant Director of the Division of Hospitals of the Department of Health”.

20 **16. Inspection of hospitals**—Section 148 of the principal Act is hereby amended by omitting from subsection (3) the words “Director and any Assistant Director of the Division
25 of Hospitals under the Health Act 1956 and the Director of the Division of Nursing under that Act”, and substituting the words “Deputy Director-General of Health, the Director or any Deputy or Assistant Director of the Division of Hospitals of the Department of Health, and the Director of
the Division of Nursing of that Department”.

30 **17. Regulations**—(1) Section 152 of the principal Act is hereby amended by inserting in paragraph (c) of subsection (2), after the words “Regulating elections”, the words “and appointments”.

(2) Section 152 of the principal Act is hereby further amended by inserting, after paragraph (1) of subsection (2), the following paragraphs:

35 “(ll) Regulating or prohibiting, for the purpose of preventing the spread of any communicable disease within the meaning of the Health Act 1956, the admission of persons into a private hospital where any patients are suffering from any such disease:

40 “(lm) Regulating or providing for the custody and disposal of registers required to be kept in accordance with this Act:”.

18. Hospital districts—The First Schedule to the principal Act is hereby amended by omitting—

- (a) From the item relating to the Auckland Hospital District the word “Manukau”:
- (b) From the item relating to the Waiapu Hospital District the word “Matakaoa”:
- (c) From the item relating to the Cook Hospital District the word “Uawa”:
- (d) From the item relating to the Wellington Hospital District the word “Makara”:
- (e) From the item relating to the Wairarapa Hospital District the word “Castlepoint”, and also the word “Mauriceville”:
- (f) From the item relating to the Marlborough Hospital District the words “Sounds; and also the Kenepuru and Croisilles - French Pass Road Districts”:
- (g) From the item relating to the Nelson Hospital District the word “Murchison”:
- (h) From the item relating to the North Canterbury Hospital District the word “Springs”, and also the word “Selwyn”.

19. Waimate and Picton Hospitals—(1) The Fifth Schedule to the principal Act is hereby amended by repealing clause 3, and substituting the following clause:

“3. The mode of election or appointment and the tenure of office of the persons so elected or appointed shall be prescribed by regulations made under this Act.”

(2) The Sixth Schedule to the principal Act is hereby amended by repealing clause 3, and substituting the following clause:

“3. The mode of election or appointment and the tenure of office of the persons so elected or appointed shall be prescribed by regulations made under this Act.”

20. Picton Hospital Committee—(1) The Sixth Schedule to the principal Act is hereby further amended by repealing clause 2, and substituting the following clause:

“2. There shall at all times be a local committee of management for the hospital, consisting of five members, of whom two shall be appointed by the Marlborough Hospital Board, one shall be elected by the electors of the Borough of Picton,

one shall be elected by the electors of the Spring Creek - Picton Riding of the County of Marlborough, and one shall be elected by the electors of the Kenepuru Riding of the County of Marlborough.”

- 5 (2) The Sixth Schedule to the principal Act is hereby further amended by omitting from clause 5 the words “and as if, in the case of the members appointed by the Minister, the areas they are appointed to represent were constituent districts of the Marlborough Hospital District”.
- 10 (3) Subsections (1) and (2) of this section shall come into force on the date of the triennial general election of Hospital Boards following the passing of this Act; and until that date the provisions of the Sixth Schedule to the principal Act shall continue to have full force and effect as if the Order
- 15 in Council dated the fourth day of August, nineteen hundred and sixty-five, and published in the *Gazette* on the fifth day of August, nineteen hundred and sixty-five (which ordered the inclusion and merger of the areas comprised within the County of Sounds, the Croisilles - French Pass Road District,
- 20 and the Kenepuru Road District with the County of Marlborough) had not been made.