

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE]

*House of Representatives, 70 September 1973*

Words struck out by the Committee are shown in italics within bold round brackets; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line

*Hon. Mr Tizard*

## HOSPITALS AMENDMENT

### ANALYSIS

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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,  
5 as follows:

1. **Short Title**—This Act may be cited as the Hospitals Amendment Act 1973, and shall be read together with and deemed part of the Hospitals Act 1957\* (hereinafter referred to as the principal Act).
- 10 2. **Functions of Minister**—Section 3 of the principal Act is hereby amended by inserting, after paragraph (aa) (as inserted by section 2 of the Hospitals Amendment Act 1966), the following paragraph:

\*Reprinted 1970, Vol. 3, p. 1865  
Amendments: 1971, No. 31; 1971, No. 49; 1972, No. 68

“(ab) To ensure and encourage, to such extent and subject to such conditions and limitations as he considers necessary, the provision, maintenance, and equipment by Hospital Boards of public mortuaries.”.

### 3. Functions, duties, and status of Hospital Boards— 5

(1) Subsection (1) of section 4 of the principal Act is hereby amended by adding to subparagraph (v) of paragraph (c) (as substituted by section 3 (1) of the Hospitals Amendment Act 1966) the words “or for any other lawful purpose”.

(2) The said section 4 is hereby further amended by adding to subsection (1) (as amended by section 3 (2) of the Hospitals Amendment Act 1966) the following paragraph:

“(g) To provide, maintain, and equip, to such extent and subject to such conditions and limitations as the Minister thinks necessary, a public mortuary, whether or not the same mortuary is used for the Board’s purposes.” 15

(3) The said section 4 is hereby further amended by inserting in subsection (5), after the word “Act”, the words “but subject to subsection (6) of this section”. 20

(4) The said section 4 is hereby further amended by adding the following subsection:

“(6) For the purposes of sections 55 to 58 of the Patents Act 1953, the services of a Board shall be deemed to be the services of the Crown.” 25

### 4. Hospitals Advisory Council—(1) Section 7 of the principal Act is hereby amended by omitting from subsection (2) the figure “6”, and substituting the figure “7”.

(2) The said subsection (2) is hereby further amended by adding the following paragraph: 30

“(f) A medical practitioner *[nominated by the Council of the Medical Association of New Zealand]*.”

(3) The said section 7 is hereby further amended by inserting in subsection (3), after the words “paragraph (e)”, the words “or paragraph (f)”. 35

(4) This section shall come into force on the 1st day of April 1974. 41

5. Meetings of Council—(1) Section 11 of the principal Act is hereby amended by omitting from paragraph (a) of the proviso to subsection (5) the word “two-thirds”, and substituting the expression “4”.

5 (2) The said section 11 is hereby further amended by inserting, after subsection (7), the following subsection:

“(7A) For the purposes of meetings of the Council, *[the Council of the Medical Association of New Zealand may, with the approval of]* the Minister *[nominate]* may appoint

10 a medical practitioner as the deputy of the member of the Council referred to in paragraph (f) of subsection (2) of the said section 7, and such deputy may attend any meeting of the Council in the absence from that meeting of that member.

He shall continue to be the deputy of that member during

15 the term for which that member was appointed, but may from time to time *[with the approval of the Minister]* be *[renominated]* reappointed or may at any time resign his

office as deputy by writing addressed to the *[Secretary of the Medical Association of New Zealand]* Minister. If such

20 deputy dies or resigns another deputy may be so *[nominated]* appointed in his place for the residue of such term.”

(3) The said section 11 is hereby further amended by inserting in subsection (8), after the words “subsection (7)”, the words “or subsection (7A)”.

25 (4) This section shall come into force on the 1st day of April 1974.

#### 6. Review Committee to be Commission of Inquiry—

Section 51A of the principal Act (as inserted by section 6 of the Hospitals Amendment Act 1968) is hereby amended by

30 inserting, after subsection (5), the following subsections:

“(5A) The Review Committee shall, within the scope of its jurisdiction, be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908; and, subject to the provisions of this Act, all the provisions of that Act

35 except sections 11 and 12 (which relate to costs) shall apply accordingly.

“(5B) If, in the opinion of the Review Committee, any complaint or appeal under sections 51C to 51F of this Act is frivolous or vexatious, or one that should not have been

40 made, the Committee may order the complainant or appellant to pay the costs of the hearing and determination of the

complaint or appeal, and the costs of the Hospital Board which is a party thereto, in whole or in part, and the sum so ordered to be paid shall be recoverable by deduction from the salary of the complainant or appellant, whether he is for the time being employed by that Board or by another Hospital Board, or as a debt due to the Crown." 5

*New*

**6A. Combining and dividing institutions**—The principal Act is hereby further amended by inserting, after section 54, the following section: 10

"54A. Notwithstanding anything to the contrary in any other Act, a Board may, with the prior written consent of the Minister, combine 2 or more institutions into 1 institution or divide 1 institution into 2 or more institutions."

**7. Access by teachers and students**—(1) Section 59 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection: 15

"(1A) For the purposes of paragraphs (b) and (c) of subsection (1) of this section, the term "remuneration" includes all payments made or proposed to be made in consideration of services rendered or to be rendered, and, subject to the terms of the agreement, shall not be limited by any determination fixing the remuneration of persons employed by Hospital Boards." 20

(2) The said section 59 is hereby further amended by adding the following subsection: 25

"(9) In addition to their application in respect of instruction for students of any school of medicine or surgery under the control of any university in New Zealand, the provisions of this section shall apply in respect of instruction for students in any other profession or activity associated with hospitals or health services, and, for that purpose, references to any such school shall be read as references to any institution providing such instruction, and references to the medical staff or medical officers of a Board shall be read as references to other classes of persons employed by the Board." 30 35

**8. Non-disclosure of medical information**—Section 62 of the principal Act is hereby amended by inserting in subsection (3), after the word "research", the words "or of other knowledge or research relating to any profession or activity associated with hospitals or health services." 40

**9. Health centres**—Section 64A of the principal Act (as inserted by section 8 of the Hospitals Amendment Act 1970) is hereby amended by inserting, after subsection (5), the following subsection:

5 “(5A) Notwithstanding anything in the Public Bodies Leases Act 1969 or in section 71 of this Act, a Board may lease the whole or any part of a health centre by private contract for any term not exceeding 10 years with a right of renewal for 1 further term not exceeding 10 years. The rent  
10 for the renewed term shall be determined by valuation in accordance with the provisions of the First Schedule to the Public Bodies Leases Act 1969.”

**10. Bylaws**—Subsection (1) of section 65 of the principal Act is hereby amended by repealing subparagraphs (i) and  
15 (ii) of paragraph (ff) (as inserted by section 9 of the Hospitals Amendment Act 1970), and substituting the following subparagraphs:

20 “(i) Prohibiting or restricting the entry of vehicles or any specified class of vehicle, or of vehicles owned or operated by members of any specified class of person or by persons not belonging to any such specified class, on to any such land:

25 “(ii) Prohibiting or restricting vehicles or any specified class of vehicle, or vehicles owned or operated by members of any specified class of person or by persons not belonging to any such specified class, from being stopped or parked on any such land, and prescribing charges to be paid  
30 to the Board in respect of the stopping or parking of vehicles or any specified class of vehicle, or of vehicles so owned or operated, on any such land:”.

**11. Free care**—Section 77A of the principal Act (as inserted by section 10 of the Hospitals Amendment Act 1966) is  
35 hereby amended by adding to paragraph (b) the words “, or for any other lawful purpose”.

**12. Liability for cost of treatment**—(1) Section 78A of the principal Act (as inserted by section 10 (1) of the Hospitals Amendment Act 1968) is hereby amended by inserting in  
40 subsection (2), after the words “section 77”, the words “, but subject to section 77A,”.

(2) The said section 78A (as so inserted) is hereby further amended by adding the following subsection:

“(11) Nothing in this section shall apply in respect of the cost of any treatment to the extent that such cost is payable by the Accident Compensation Commission under the Accident Compensation Act 1972.” 5

**13. Money to be paid into bank**—Section 91 of the principal Act is hereby amended—

(a) By omitting from subsection (1) the word “cheques” where it first occurs, and substituting the words “a cheque or other instrument (not being a promissory note or bill)”:

(b) By omitting from the said subsection (1) the words “to sign cheques on its behalf”, and substituting the words “for that purpose”. 15

**14. Application of Board’s funds**—Section 93 of the principal Act is hereby amended by inserting in subsection (1), after paragraph (n), the following paragraph:

“(na) The payment, with the approval of the Minister, of travelling allowances and expenses incurred or to be incurred by persons for the purpose of taking up appointments in the service of the Board.”. 20

**15. Application of surcharge provisions of Public Revenues Act 1953**—The principal Act is hereby further amended by inserting, after section 99, the following section:

“99A. (1) If in any financial year a Board—

“(a) Fails to perform the duty imposed on it by subsection (4A) of section 89 of this Act to control expenditure made or due to be made within the limits of the grant, including any supplementary grant, appropriated to it in respect of that year; or 30

“(b) Otherwise fails to perform the duty imposed on it by the said subsection (4A); or

“(c) Incurs expenditure in excess of any limit imposed by or under section 94 of this Act— 35

and the Audit Office is satisfied that any payment made or liability incurred by the Board during that year was made or incurred *(in reckless disregard of)* without due regard for the said duty, or (of) for the provisions of the said section 94, as the case may require, section 90 of the Public 40

Revenues Act 1953 shall apply as if the amount of any such payment were money administrable by the Board which has been unlawfully expended, and as if any such liability were a liability which has been unlawfully incurred.

- 5 “(2) Except as provided in subsection (1) of this section, section 90 of the Public Revenues Act 1953 shall not apply to members of a Hospital Board by reason only of the fact that the Board has failed to perform a duty, or incurred expenditure, in terms of paragraph (a) or paragraph (b) or  
10 paragraph (c) of that subsection.”

**16. Revocation of licence to conduct private hospital—**Section 132 of the principal Act is hereby amended by inserting in subsection (1), after paragraph (a), the following paragraph:

- 15 “(aa) That the licensee is a mentally disordered person within the meaning of the Mental Health Act 1969, or has been adjudged a bankrupt.”

- 17. Managers of licensed hospitals—**Section 135 of the principal Act is hereby amended by adding to subsection (8)  
20 (as added by section 3 of the Hospitals Amendment Act 1967) the words “, but do not include any person who is for the time being suspended from practice under the provisions of that Act”.