

HOSPITALS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Hospitals Act 1957.

Clause 1 relates to the Short Title.

Clauses 2 and 3 insert in sections 2 and 3 of the principal Act references to family health counselling centres made necessary by the provision for such centres made by *clause 6*.

Clause 4 makes several amendments to matters at present contained in section 52 of the principal Act by repealing it and substituting a new section 52. The amendments have 2 effects. First, the Minister is given power to make determinations in relation to the remuneration and conditions of employment of medical students employed in hospitals, and to make determinations about the provision by Hospital Boards of accommodation, board and lodging, fuel, lighting, meals, and other amenities and services for employees. In the case of an employee whose conditions of employment are fixed by an award or collective agreement under the Industrial Relations Act 1973, or by an apprenticeship order made under the Apprentices Act 1948, to the extent that any determination relating to amenities and services provided by Hospital Boards is inconsistent with that award, agreement, or order, the award, agreement, or order will prevail. Similarly, in the case of an employee whose conditions of employment are not fixed by such an award, agreement, or order, such a determination will apply to the extent only that his remuneration and conditions of employment are not fixed by a determination or Tribunal under the State Services Remuneration and Conditions of Employment Act 1969.

Secondly, provision is made for the making of Orders in Council exempting classes of hospital employee from the provisions of the Industrial Relations Act 1973. Where most members of an occupational class are being paid in accordance with a determination made under the State Services Remuneration and Conditions of Employment Act 1969 that class may not be exempted unless the appropriate service organisation has so requested; and where most of such a class are being paid in accordance with an award or collective agreement made under the Industrial Relations Act 1973, the class may not be exempted unless the appropriate industrial union has so requested. An Order in Council exempting a class of employee may be made to come into force on a day before the day on which it is made if that earlier day is a day on which a determination was made under the State Services Remuneration and Conditions of Employment Act 1969 prescribing or purporting to prescribe the rates of remuneration of persons belonging to that class; but such a retroactive order will not affect the rights of an employee employed pursuant to an award or collective agreement until he elects that it apply to him.

No. 105—1

Clause 5 amends section 52A of the principal Act (which deals with the payment of grants on the death or retirement of Hospital Board officers and employees) to take account of the fact that most matters pertaining to the conditions of employment of Hospital Board employees are now fixed by determination rather than regulation.

Clause 6 inserts a new *section 64B* into the principal Act providing for the establishment of family health counselling centres. Any Hospital Board may establish such a centre, in a health centre, within an existing institution, or elsewhere. The purpose of such a centre is to improve the standard of family health; and every centre is to provide counselling relating to those aspects of family health that are complementary to medical services (whether or not the relevant services are in fact provided by that Board) for the persons attending the centre. No charge is to be made for any counselling provided.

Clause 7 corrects a minor drafting error in section 77A of the principal Act.

Clause 8 creates a new class of licensed hospital—a geriatric hospital.

Clause 9 removes the present \$10 maximum for licence fees in respect of private hospitals.

Clause 10 amends the requirements of the principal Act with regard to the managers and acting managers of licensed hospitals, by repealing section 135 and substituting a new section. The new *section 135* allows the manager of a licensed hospital to be resident elsewhere than on the premises of that hospital if there is on duty on those premises another person qualified to be manager of that hospital, does away with the requirement that where the manager of a licensed hospital is a registered medical practitioner there should be resident on the premises of the hospital some person other than a registered medical practitioner who is qualified to be manager of the hospital, and provides for the appointment of an acting manager in a licensed hospital that is temporarily without a manager.

Hon. Mr Gill

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 1976, and shall be read together with and deemed part of the Hospitals Act 1957* (in this Act referred to as the principal Act).

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

*Reprinted 1970, Vol. 3, p. 1865
Amendments: 1971, No. 31; 1971, No. 49; 1972, No. 68; 1973, No. 43; 1975, No. 5; 1975, No. 79

“‘Family health counselling centre’ means a family health counselling centre established under section 64B of this Act:”.

(2) The said section 2 is hereby further amended by adding to the definition of the term “institution” (as substituted by section 2 (3) of the Hospitals Amendment Act 1970) the words “and a family health counselling centre”. 5

3. Functions of Minister—Section 3 (cc) of the principal Act (as inserted by section 3 of the Hospitals Amendment Act 1970) is hereby amended by inserting, after the word “centres”, the words “and family health counselling centres”. 10

4. Remuneration and conditions of employment of hospital employees—(1) The principal Act is hereby further amended by repealing section 52 (as substituted by section 58 (1) of the State Services Remuneration and Conditions of Employment Act 1969) and substituting the following section: 15

“(1) Subject to subsections (3) and (4) of this section, the following matters shall be fixed by the Minister:

“(a) The remuneration and conditions of employment of medical practitioners employed as medical officers 20 by Hospital Boards:

“(b) The remuneration and conditions of employment of persons employed by Hospital Boards who are studying to qualify as medical practitioners:

“(c) The remuneration and conditions of employment of 25 other classes of person employed by Hospital Boards:

“(d) The extent to which any accommodation, board and lodging, fuel, lighting, meals, or other amenities or services provided for employees by Hospital 30 Boards are to be paid for by the employees for whom they are provided, the methods by which charges therefor are to be fixed and paid, the extent to which Hospital Boards may make payments to employees in lieu of providing any such 35 amenity or service, and the conditions (if any) subject to which any such amenity or service is to be provided:

“(e) The payments to be made to persons employed by Hospital Boards on the termination of their em- 40 ployment.

“(2) The Minister may from time to time, for the purposes of subsection (1) of this section and after considering any relevant report or recommendation made by a committee appointed under subsection (8) of this section,—

5 “(a) Issue instructions (to be called, and in this section referred to, as determinations) in such form as he thinks fit; and

“(b) Revoke or amend any determination, or consolidate any determinations,—

10 and every determination for the time being in force shall, subject to this section, be binding on Hospital Boards and their employees according to its tenor.

“(3) The following provisions shall apply to a person whose conditions of employment are fixed by an award or collective agreement under the Industrial Relations Act 1973, or
15 by an apprenticeship order under the Apprentices Act 1948:

“(a) A determination made under subsection (1) (c) or subsection (1) (e) of this section shall apply to him to the extent only that its application is to his
20 advantage:

“(b) Where a determination made under subsection (1) (d) of this section is inconsistent with that award, agreement, or order, the award, agreement, or order shall prevail to the extent of the in-
25 consistency.

“(4) A determination made under subsection (1) (c) or subsection (1) (e) of this section shall apply to a person whose conditions of employment are not fixed by an award or collective agreement under the Industrial Relations Act 1973
30 or by an apprenticeship order under the Apprentices Act 1948 to the extent only that his remuneration and conditions of employment are not fixed by a determination or Tribunal under the State Services Remuneration and Conditions of Employment Act 1969.

35 “(5) Section 6 of the State Services Remuneration and Conditions of Employment Act 1969 shall apply to the prescribing of pay scales under this section as it applies to the prescribing of pay scales under that Act.

40 “(6) Any determination or amendment of a determination may be expressed to come into force on any date specified by the Minister, whether that date is before or after the making of the determination, and if no date is so specified it shall come into force on the day on which it is made.

“(7) Where any person employed by a Hospital Board in any office or employment not subject to any such award, agreement, or order has ceased to be employed by the Board, the rate of the remuneration for that office or employment has been lawfully increased after he ceased to be so employed, and the increase applies retrospectively to a period commencing before he ceased to be so employed, the Board may, on application by that person, pay to him remuneration at the increased rate for any part of that period during which he was so employed. 5 10

“(8) The Minister shall appoint, in accordance with regulations made under subsection (9) of this section, a committee to be known as the Hospital Medical Officer’s Advisory Committee to advise him on the remuneration and conditions of employment of medical practitioners employed as medical officers by Hospital Boards, and may appoint, in accordance with any such regulations, such other committees as he thinks fit to advise him on the remuneration and conditions of employment of persons employed by Hospital Boards or of any particular class or classes of those persons, to the extent that he is empowered by this section to fix their remuneration and conditions of employment. 15 20

“(9) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes: 25

“(a) Prescribing the constitution of committees to be appointed under subsection (8) of this section, regulating the procedure of any such committee, and prescribing the matters to be taken into consideration by any such committee: 30

“(b) Providing for the grading of persons employed by Hospital Boards or any particular class or classes of those persons, and for the application of conditions of employment, whether fixed under this section or otherwise, to any particular person, subject to the provisions of any award, industrial agreement, or apprenticeship order affecting that person: 35

“(c) Providing for the appointment by the Minister of committees for the purpose of any regulations made under paragraph (b) of this subsection, and prescribing the functions, and regulating the procedure of any such committees: 40

5 “(d) Prescribing the terms and conditions as to pay and expenses on which persons employed by Hospital Boards may be granted leave to attend (whether as members, parties, advocates, witnesses, or in any other capacity) any meeting of a committee constituted under this section or any meeting or hearing conducted by any person or body of persons for the purpose of fixing the conditions of employment of persons employed by Hospital Boards under any other enactment or conducted by the Review Committee established under section 51A of this Act:

10 “(e) Prescribing the purpose for which and the extent to which any work or experience undertaken or undergone previous to employment in the service of a Hospital Board may count as service in the employment of that Board:

15 “(f) Prescribing the method of dealing with any complaints in respect of conditions of employment fixed under this section.

20 “(10) No determination or regulation made under this section shall be invalid by reason only that it delegates to, or confers on, a Hospital Board or any other person any discretionary authority.

25 “(11) There shall be paid to the members of any committee appointed by the Minister pursuant to this section, out of money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951; and the provisions of that Act shall apply accordingly as if the committee were a statutory Board within the meaning of that Act.

30 “(12) The Industrial Relations Act 1973 shall not apply to any hospital employee whose remuneration or conditions of employment have been the subject of a determination under Part II of the State Services Remuneration and Conditions of Employment Act 1969 or who belongs to an occupational class for the time being exempted from the application of the Act by Order in Council made under subsection (13) of this section:

40 “Provided that this subsection shall not prevent any service organisation from registering as an industrial union of workers under the Industrial Relations Act 1973:

“Provided also that, subject to the State Services Remuneration and Conditions of Employment Act 1969, every service organisation and every member of any such organisation registered as an industrial union of workers shall be subject to Parts IX, XII, and XIII of the Industrial Relations Act 1973, so far as they are applicable and with the necessary modifications; but none of the other provisions of that Act shall apply to any such organisation or member. 5

“(13) Subject to subsection (14) of this section, the Governor-General may, by Order in Council, exempt any occupational class of hospital employee from the application (except to the extent specified in subsection (12) of this section) of the Industrial Relations Act 1973. 10

“(14) No Order in Council shall be made under subsection (13) of this section— 15

“(a) In the case of an occupational class the majority of the hospital employees belonging to which are paid in accordance with a determination made under the State Services Remuneration and Conditions of Employment Act 1969, unless the appropriate service organisation (within the meaning of that Act) has so requested: 20

“(b) In the case of an occupational class the majority of the hospital employees belonging to which are paid in accordance with an award or collective agreement made or deemed to be made under the Industrial Relations Act 1973, unless the appropriate industrial union (within the meaning of that Act) has so requested: 25

“(c) In any case to which section 214 of the Industrial Relations Act 1973 applies, except after consultation with the Industrial Commission. 30

“(15) Any Order in Council or provision thereof made pursuant to subsection (13) of this section in relation to any occupational class may be expressed to come into force on a day before the date it is made (being the day on which a determination was made under the State Services Remuneration and Conditions of Employment Act 1969 prescribing or purporting to prescribe the rates of remuneration of persons belonging to that class); and in the case of an Order in Council a provision of which is so expressed to come into force on a day before the day it is made that provision shall be deemed to have come into force accordingly, and that Act shall be deemed to have applied to all hospital employees belonging to that class on and after that day: 40 45

“Provided that the rights of a person employed by a Hospital Board pursuant to an award or collective agreement (within the meaning of the Industrial Relations Act 1973) immediately before the making of such an order shall not be affected until he elects, by notice in writing addressed to the Hospital Board, that the relevant determination apply to him; and the determination shall apply to him instead of the award or collective agreement on and after the date he so elects.

“(16) Nothing in the State Services Remuneration and Conditions of Employment Act 1969 shall prevent a Hospital Board from contracting with a hospital employee in respect of any condition of employment not fixed by a determination or Tribunal order or Order in Council or by or under any regulations made under this Act, or by an award or collective agreement made under the Industrial Relations Act 1973, or by any apprenticeship order made under the Apprentices Act 1948, but any term of any such contract which is inconsistent with the State Services Remuneration and Conditions of Employment Act 1969 or with this Act, or with any determination, Tribunal order, Order in Council, or regulation, or (subject to subsection (3) (a) of this section) with any such award, agreement, or order, shall be void to the extent of the inconsistency.”

(2) The following enactments are hereby consequentially repealed:

- (a) Section 58 (1) of the State Services Remuneration and Conditions of Employment Act 1969:
- (b) Section 152 (2) (g) of the principal Act:
- (c) Section 2 of the Hospitals Amendment Act 1971:
- (d) Section 20 of the Hospitals Amendment Act (No. 2) 1971:
- (e) As much of the Third Schedule to the Industrial Relations Act 1973 as relates to the principal Act.

(3) On the issue of a determination pursuant to section 52 (1) (d) of the principal Act (as substituted by subsection (1) of this section), the Hospital Boards (Staff Amenities) Regulations 1970 and the Hospital Boards (Staff Amenities) Regulations 1970, Amendment No. 1 shall cease to have effect in respect of any person to whom the determination applies.

5. Grants on retirement or death of officers or employees—
Section 52A (6) (b) of the principal Act (as inserted by section 2 (1) of the Hospitals Amendment Act 1962) is hereby amended by inserting, after the word “regulations”, the words “or determination”.

6. **Family health counselling**—The principal Act is hereby further amended by inserting, after section 64A (as inserted by section 8 of the Hospitals Amendment Act 1970), the following heading and section:

“Family Health Counselling Centres 5

“64B. (1) Subject to the provisions of this Act, any Board may establish, within health centres or other institutions under its control, or otherwise, one or more family health counselling centres for the purpose of improving the standard of family health. 10

“(2) Every family health counselling centre shall contain facilities for the provision of counselling relating to family health; and the Board controlling the family health counselling centre shall provide for the persons attending it such counselling relating to family health as is complementary to any medical services (whether or not those medical services are provided by that Board). 15

“(3) There may also be performed, exercised, or carried out in any family health counselling centre, by the Board that established it and any person employed or engaged by the Board to work in it, any function, power, or duty conferred or imposed on the Board or any such person by any other enactment. 20

“(4) A Board may employ or engage a person solely to work in a family health counselling centre, whether full-time or part-time, or partly in a family health counselling centre and partly in some other capacity for which it may legally employ or engage persons. 25

“(5) Every person who, pursuant to section 91 of the Social Security Act 1964, is entitled to claim the benefits provided by Part II of that Act shall be entitled to attend a family health counselling centre without the payment of any fee, charge, or cost.” 30

7. **Free care of persons donating organs of the body**—
 (1) The principal Act is hereby further amended by repealing section 77A (as inserted by section 10 of the Hospitals Amendment Act 1966 and amended by section 13 of the Hospitals Amendment Act 1973), and substituting the following section: 35

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

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

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

or for any other lawful purpose.”

10 (2) The following enactments are hereby consequentially repealed:

(a) Section 10 of the Hospitals Amendment Act 1966:

(b) Section 13 of the Hospitals Amendment Act 1973.

15 **8. Kinds of licensed hospital**—Section 123 of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraph:

“(cc) A geriatric hospital; or”.

20 **9. Licence fees**—Section 125 of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby further amended by omitting, in each case where it appears, the expression “, not exceeding \$10,”.

10. Managers of licensed hospitals—(1) The principal Act is hereby further amended by repealing section 135, and substituting the following section:

25 “135. (1) For every licensed hospital there shall at all times be a manager who, subject to subsection (2) of this section, may be the licensee, and who shall control the day to day activities of the hospital.

30 “(2) No person shall be the manager of a licensed hospital unless he is qualified to be the manager of a hospital of that kind.

“**(3) Only the following persons shall be qualified to be the manager of a licensed hospital:**

“**(a) A registered medical practitioner in any case:**

35 “**(b) A registered midwife in the case of a maternity hospital:**

“**(c) A registered comprehensive nurse or a registered general nurse in the case of a medical hospital, a surgical hospital, a geriatric hospital, a convalescent hospital, or a children’s hospital:**

40 “**(d) A registered comprehensive nurse or registered psychiatric nurse in the case of a psychiatric hospital:**

“(e) A registered comprehensive nurse or registered general nurse in the case of a hospital licensed as both a maternity hospital and some other kind of hospital, if he or some other employee resident on the premises is a registered midwife: 5

“(f) A registered comprehensive nurse or registered general nurse in the case of a hospital licensed as both a psychiatric hospital and some other kind of hospital, if he or some other employee resident on the premises is a registered psychiatric nurse. 10

“(4) No person other than the licensee of a licensed hospital shall be appointed the manager thereof until his name and qualifications have been submitted to and approved by the Director-General.

“(5) Except where there is at all times on duty in a licensed hospital a person qualified to be the manager thereof, the manager thereof shall be resident on the premises of the hospital. 15

“(6) During the temporary absence, illness, or incapacity of the manager of a licensed hospital, or if for the time being there is no manager of the hospital, the licensee may, without notifying the Director-General, appoint a person qualified to be the manager thereof to be acting manager thereof; and every person so appointed shall, while he so acts, be deemed to be the manager thereof for the purposes of this Act: 20 25

“Provided that except with the prior approval of the Director-General, no person shall so act, whether under one or more appointments, for a continuous period exceeding 4 weeks.

“(7) Subject to subsection (8) of this section, if at any time a licensed hospital is used as such while there is no manager or acting manager thereof, or while the manager thereof is not resident on the premises and no person qualified to be manager thereof is on duty in the hospital, the licensee shall be deemed to commit an offence against this Part of this Act. 30 35

“(8) The Minister may in writing exempt any licensed hospital from any requirement imposed by this section, subject to such conditions (if any) as he thinks fit; and until by

notice in writing delivered to the licensee of the hospital he withdraws or modifies the exemption, the hospital shall be exempt accordingly.

- 5 “(9) For the purposes of this section, the expressions ‘registered comprehensive nurse’, ‘registered general nurse’, ‘registered midwife’, and ‘registered psychiatric nurse’ have the meanings assigned to them by the Nurses Act 1971, but do not include any person for the time being suspended from practice under that Act.”
- 10 (2) The following provisions are hereby consequentially repealed:
- (a) Section 12 of the Hospitals Amendment Act 1966:
 - (b) Section 3 of the Hospitals Amendment Act 1967:
 - (c) Section 19 of the Hospitals Amendment Act 1973.