

HEALTH AND DISABILITY SERVICES AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Health and Disability Services Act 1993.

The main purpose of the Bill is to abolish the Public Health Commission as from 1 July 1995, and to transfer the functions of the Commission relating to public health to the Ministry of Health and to regional health authorities. Consequential amendments are made to the principal Act and certain other enactments.

Clause 1 relates to the Short Title and commencement. Apart from *clause 4*, the Bill is to come into force on 1 July 1995.

Clause 2: Subclause (1) provides that on 1 July 1995, the Public Health Commission is abolished, and the directors of the Commission cease to hold office without compensation.

Subclauses (2) and (3) make consequential amendments to the principal Act and to certain other enactments.

Clause 3 enacts transitional provisions relating to the abolition of the Public Health Commission. Except where they are transferred to another body pursuant to the Health Reforms (Transitional Provisions) Act 1993, the assets and liabilities of the Public Health Commission are to vest in the Crown with effect from 1 July 1995.

The provisions of the Health Reforms (Transitional Provisions) Act 1993 relating to the orderly transfer of assets under that Act are applied to the vesting of those assets and liabilities in the Crown, and the vesting is exempted from goods and services tax, conveyance duty, and gift duty.

The Ministry of Health is to be responsible for carrying out the financial reporting requirements of the Public Finance Act 1989 in relation to the Public Health Commission for the 1994–1995 financial year.

Clause 4 applies sections 13 and 15 of the Health Reforms (Transitional Provisions) Act 1993 to employees of the Public Health Commission.

Section 13 of that Act will impose restrictions on the payment of redundancy and other payments to such employees who are offered comparable alternative employment on or before ceasing employment with the Commission, or who accept certain employment within 3 months of so ceasing employment.

Section 15 of that Act will permit employees of the Public Health Commission who take up alternative employment with certain employers to retain membership of the Government Superannuation Fund.

Clause 5 amends section 4 of the principal Act, which sets out the purpose of the Act. The effect of the amendment is to provide that one of the objectives of the Act is to improve, promote, and protect public health.

Clause 6 amends section 6(1) of the principal Act, which provides for the National Advisory Committee on Core Health and Disability Support Services. The principal function of the committee is to advise the Minister of Health on the kinds, and relative priorities, of personal health services and disability services that should, in the committee's opinion, be publicly funded. The amendment extends that function to include public health services.

Clause 7 amends section 8 of the principal Act, which provides for the Minister of Health to notify, to purchasers who enter into funding agreements with the Crown, the Crown's objectives in relation to certain matters.

The amendment repeals those parts of section 8 that relate to the Public Health Commission, and—

- (a) Clarifies that the obligation on the Minister to notify to a purchaser the objectives specified in subsection (1) of that section does not apply where the funding agreement relates solely to public health services; and
- (b) Imposes an obligation on the Minister to notify the Crown's objectives in relation to public health in any case where the funding agreement relates to public health.

Clause 8 amends section 10 of the principal Act, which sets out the objectives of regional health authorities. The amendment adds the objective of improving, promoting, and protecting public health.

Clause 9 amends section 33(1) of the principal Act, which sets out the functions of regional health authorities. The amendment confers on each regional health authority the functions of—

- (a) Monitoring the state of public health, and identifying public health needs, of the people who are described in its funding agreement; and
- (b) Purchasing public health services for such people.

Clause 10 amends section 34 of the principal Act, which requires every regional health authority to consult in regard to its intentions relating to the purchase of services. The amendment inserts into paragraph (a) of that section a reference to public health services.

Clause 11 amends the Health Act 1956 by inserting a new section 3A. The new section provides that the Ministry of Health shall have the function of improving, promoting, and protecting public health.

The *First Schedule* contains amendments to the principal Act consequential on the abolition of the Public Health Commission.

The *Second Schedule* contains amendments to certain other enactments consequential on the abolition of the Public Health Commission.

Hon. Jenny Shipley

HEALTH AND DISABILITY SERVICES AMENDMENT

ANALYSIS

Title	6. National advisory committee on kinds and priorities of services
1. Short Title and commencement	7. Objectives of the Crown
2. Abolition of Public Health Commission	8. Objectives of regional health authorities
3. Transitional provisions relating to abolition of Public Health Commission	9. Functions of regional health authorities
4. Modification of application of Health Reforms (Transitional Provisions) Act 1993	10. Regional health authorities to consult
5. Purpose	11. Amendment to Health Act 1956
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A BILL INTITULED

An Act to amend the Health and Disability Services Act 1993 to abolish the Public Health Commission, and to provide for matters consequential thereto

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

10 **1. Short Title and commencement**—(1) This Act may be cited as the Health and Disability Services Amendment Act 1995, and shall be read together with and deemed part of the Health and Disability Services Act 1993* (hereinafter referred to as the principal Act).

(2) Except as provided in **subsection (3)** of this section, this Act shall come into force on the **1st day of July 1995**.

(3) **Section 4** of this Act shall come into force on the day after the date on which this Act receives the Royal assent.

15 **2. Abolition of Public Health Commission**—(1) On the commencement of this section,—

(a) The Public Health Commission is hereby dissolved; and

(b) The directors of the Public Health Commission shall cease to hold office as directors of the Commission;

*1993, No. 22

and no such director shall be entitled to any compensation in respect of loss of office.

(2) The principal Act is hereby consequentially amended in the manner set out in the **First** Schedule to this Act.

(3) The enactments specified in the **Second** Schedule to this Act are hereby consequentially amended in the manner set out in that Schedule. 5

3. Transitional provisions relating to abolition of Public Health Commission—(1) Subject to **subsection (2)** of this section, the assets and liabilities of the Public Health Commission shall, with effect from the commencement of the **1st day of July 1995**, vest by virtue of this Act in the Crown. 10

(2) **Subsection (1)** of this section shall not apply in respect of any assets and liabilities of the Public Health Commission that, pursuant to the Health Reforms (Transitional Provisions) Act 1993, are transferred to a transferee (other than the Crown) with effect from the commencement of the **1st day of July 1995**. 15

(3) Section 6 and sections 8 to 15 of, and the First Schedule to, the Health Reforms (Transitional Provisions) Act 1993 shall, subject to **section 4** of this Act, apply in respect of the vesting of assets and liabilities by **subsection (1)** of this section as if those assets and liabilities were transferred to the Crown under section 5 of that Act. 20

(4) The vesting of any assets or liabilities of the Public Health Commission in the Crown by virtue of **subsection (1)** of this section— 25

(a) Shall not, for the purposes of the Goods and Services Tax Act 1985, be treated as a supply of any goods or services; and

(b) Shall not, for the purposes of the Stamp and Cheque Duties Act 1971, be treated as a conveyance of any property; and 30

(c) Shall not, for the purposes of the Estate and Gift Duties Act 1968, be treated as a dutiable gift.

(5) Notwithstanding **section 2 (2)** of this Act and the omission, by **section 2 (3)** of this Act, of the Public Health Commission from the Fourth, Fifth, Sixth, and Seventh Schedules to the Public Finance Act 1989,— 35

(a) Section 14 of the principal Act shall apply as if the reference in that section to the Public Health Commission had not been omitted; and 40

(b) Except to the extent that the Minister of Finance otherwise directs by written notice to the Director-General of Health, Parts III and V of the Public

Finance Act 1989 shall remain in force in regard to the Public Health Commission as if the Commission had not been omitted from the Fourth and Fifth Schedules to that Act—

5 in respect of the financial year ending with the **30th day of June 1995**; and the obligations of the Public Health Commission under those provisions in respect of that financial year shall be performed by the Ministry of Health.

10 (6) Notwithstanding the amendment, by **section 2 (2)** of this Act, of section 15 of the principal Act, the Audit Office shall take all steps necessary to undertake and complete the auditing of the annual financial statements of the Public Health Commission for the financial year ending with the **30th day of June 1995**.

15 (7) In this section and **section 4** of this Act, unless the context otherwise requires, the terms “assets”, “liabilities”, “transfer”, “transfer date”, “transferee”, and “transferor” shall have the same meanings as they have in section 2 of the Health Reforms (Transitional Provisions) Act 1993.

20 **4. Modification of application of Health Reforms (Transitional Provisions) Act 1993**—(1) This section applies to any person who—

(a) On the date of the commencement of this section, is an employee of the Public Health Commission; or

25 (b) Becomes an employee of the Public Health Commission at any time after that date.

(2) Where, at any time after the commencement of this section, any person (being a person to whom this section applies) is or becomes, or is deemed to be or to have become,
30 an employee of a transferor, whether by virtue of—

(a) The vesting of any assets or liabilities of the Public Health Commission in the Crown by **section 3 (1)** of this Act; or

35 (b) The transfer, under section 4 or section 5 of the Health Reforms (Transitional Provisions) Act 1993, of any assets or liabilities of the Public Health Commission to any transferee, where the transfer date applicable to the transfer is before the **1st day of July 1995**; or

40 (c) The transfer, under section 4 or section 5 of the Health Reforms (Transitional Provisions) Act 1993, of any assets or liabilities of the Public Health Commission that, by virtue of **section 3 (1)** of this Act, have vested in the Crown, where the transfer date applicable to the transfer is on or after the **1st day of July 1995**,—

then, for the purposes of the application of section 13 of the Health Reforms (Transitional Provisions) Act 1993 in respect of that person in his or her capacity as an employee of a transferor,—

(d) The reference in section 13 (2) of that Act to 9 months shall be read as a reference to 3 months; and 5

(e) The reference in section 13 (6) of that Act to the 31st day of December 1994 shall be read as a reference to the **31st day of December 1996.**

(3) Where, at any time after the commencement of this section, any person (being a person to whom this section applies) is or becomes, or is deemed to be or to have become, an employee of a transferee by virtue of the vesting or transfer of any assets or liabilities, or former assets or liabilities, of the Public Health Commission in any of the ways described in any of **paragraphs (a) to (c) of subsection (2)** of this section, then, for the purposes of the application of section 15 of the Health Reforms (Transitional Provisions) Act 1993 in respect of that person in his or her capacity as an employee of a transferee, the reference in section 15 (1) of that Act to the 31st day of March 1994 shall be read as a reference to the **31st day of March 1996.** 10 15 20

5. Purpose—Section 4 of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraph: 25

“(aa) Improve, promote, and protect public health; and”.

6. National advisory committee on kinds and priorities of services—Section 6 (1) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph: 30

“(a) The kinds, and relative priorities, of public health services, personal health services, and disability services that should, in the committee’s opinion, be publicly funded; and”.

7. Objectives of the Crown—(1) Section 8 (1) of the principal Act is hereby amended by omitting the words “(other than the Public Health Commission)”, and substituting the words “(other than a funding agreement that relates solely to public health services)”. 35

(2) Section 8 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections: 40

“(2) Before entering into a funding agreement with a purchaser (being a funding agreement that relates to public health services), the Minister shall give to the purchaser written notice of the Crown’s objectives in relation to public health.

5 “(2A) Any objectives notified to a purchaser under subsection (2) of this section may be included in a notice given to that purchaser under subsection (1) of this section, or may be the subject of a separate notice to that purchaser.”

8. Objectives of regional health authorities—Section 10 of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraph:

“(ca) To improve, promote, and protect public health; and”.

9. Functions of regional health authorities—(1) Section 33 (1) of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraph:

15 “(aa) To monitor the state of public health, and to identify public health needs, in relation to those people:”.

(2) Section 33 (1) (b) of the principal Act is hereby amended by omitting the words “health services”, and substituting the words “public health services, health services,”.

10. Regional health authorities to consult—Section 34 (a) of the principal Act is hereby amended by omitting the words “health services”, and substituting the words “public health services or personal health services”.

25 **11. Amendment to Health Act 1956**—The Health Act 1956 is hereby amended by inserting in Part I, immediately after the heading “*Ministry of Health*”, the following section:

30 “3A. **Function of Ministry in relation to public health**—Without limiting any other enactment or rule of law, and without limiting any other functions of the Ministry or of any other person or body, the Ministry shall have the function of improving, promoting, and protecting public health.”

SCHEDULES

Section 2 (2)

FIRST SCHEDULE

AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON ABOLITION OF PUBLIC HEALTH COMMISSION

Provision of Principal Act	Amendment
Title	By inserting, after paragraph (a), the following paragraph: “(aa) Improve, promote, and protect public health; and ”.
Section 2	By repealing the definition of the term “Board”, and substituting the following definition: “‘Board’, in relation to a regional health authority or a Crown health enterprise, means the board of directors of that authority or enterprise.” By repealing the definition of the term “Director”, and substituting the following definition: “‘Director’, in relation to a regional health authority or a Crown health enterprise, means a director of that authority or enterprise.”
Section 5 (1)	By repealing the definition of the term “Public Health Commission”. By repealing paragraph (a), and substituting the following paragraph: “(a) A national advisory committee on the kinds, and relative priorities, of public health services, personal health services, and disability services that should be publicly funded; and”.
Section 9	By repealing paragraph (c).
Section 12	By repealing this section.
Section 14	By omitting the words “, the Public Health Commission,”. By omitting the words “The Public Health Commission and every regional health authority and”, and substituting the words “Every regional health authority and every”.
Section 15 (1)	By omitting the words “the Public Health Commission and of”.

FIRST SCHEDULE—*continued*

AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON ABOLITION OF PUBLIC HEALTH COMMISSION—*continued*

Provision of Principal Act	Amendment
Section 16	By omitting the words “the Public Health Commission and every regional health authority and”, and substituting the words “every regional health authority and every”.
Section 17	By omitting the words “The Public Health Commission and every regional health authority and”, and substituting the words “Every regional health authority and every”.
Section 18	By repealing subsection (3).
Section 20	By repealing paragraph (a).
Section 23	<p>By repealing this section, and substituting the following section:</p> <p>“23. Public Finance Act 1989 and audit—(1) Without limiting sections 41c to 41H of the Public Finance Act 1989,—</p> <p>“(a) Every statement of intent of a regional health authority shall include, in respect of each financial year to which it relates, the information specified in the First Schedule to this Act; and</p> <p>“(b) For the purposes of the Public Finance Act 1989, that information shall be deemed to be provisions of a kind referred to in paragraphs (a) to (h) of section 41D (1) of that Act.</p> <p>“(2) For the purposes of the Public Finance Act 1989, the Minister shall be the Responsible Minister in relation to each regional health authority.</p> <p>“(3) The Audit Office shall be the auditor of every regional health authority. Every regional health authority shall pay to the Audit Office for carrying out its duties and functions as auditor fees at such rates as may be prescribed by the Minister of Finance.”</p>
Section 25	<p>By repealing subsection (1), and substituting the following subsection:</p> <p>“(1) The Minister may from time to time, by written notice to a regional health authority, give to the authority</p>

FIRST SCHEDULE—*continued*AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON ABOLITION OF PUBLIC HEALTH COMMISSION—*continued*

Provision of Principal Act	Amendment
Section 25— <i>continued</i>	<p>such directions as the Minister considers necessary or expedient in relation to any matter relating to the authority, and the authority shall comply with every such direction.”</p> <p>By omitting from subsection (3) the words “Commission or”.</p> <p>By omitting from subsection (4) the words “the Commission or”.</p>
Section 26 	<p>By repealing this section, and substituting the following section:</p> <p>“26. Provision of financial information—The Minister of Finance may from time to time, by written notice, require a regional health authority to supply to that Minister or such other person or class of persons as that Minister specifies, such financial forecasts or other financial information relating to the authority as that Minister specifies in the notice, and the authority shall comply with the requirement.”</p>
Sections 27 to 31 and heading above section 27	<p>By repealing these sections, and this heading.</p>
Section 49 (a) 	<p>By omitting the expression “28, 29, 30,”.</p>
Section 51 	<p>By repealing subsection (1), and substituting the following subsection:</p> <p>“(1) Where a regional health authority gives notice of the terms and conditions on which the authority will make a payment to any person or persons, and, after notice is given, such a payment is accepted by any such person from the authority, then—</p> <p> “(a) Acceptance by the person of the payment shall constitute acceptance by the person of the terms and conditions; and</p> <p> “(b) Compliance by the person with the terms and conditions may be enforced by the authority as if the person had signed a deed under which the person agreed to the terms and conditions.”</p>
Heading to Part II of First Schedule	<p>By omitting from this heading the words “Public Health Commission and”.</p>

FIRST SCHEDULE—*continued*

AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON ABOLITION OF PUBLIC HEALTH COMMISSION—*continued*

Provision of Principal Act	Amendment
Second Schedule ...	By omitting from the heading to this Schedule the expression "Sections 31, 36", and substituting the expression "Section 36". By omitting from the heading to this Schedule the words "THE PUBLIC HEALTH COMMISSION AND". By omitting from clause 1 of this Schedule the words "the Public Health Commission or".

Section 2 (3)

SECOND SCHEDULE

CONSEQUENTIAL AMENDMENTS TO OTHER ENACTMENTS

Enactment	Amendment
<p>1948, No. 36—The Tuberculosis Act 1948 (R.S. Vol. 11, p. 693)</p> <p>1956, No. 65—The Health Act 1956 (R.S. Vol. 31, p. 467)</p>	<p>By repealing section 3 (3A) (as inserted by section 32 of the Health Reforms (Transitional Provisions) Act 1993).</p> <p>By omitting from section 8 (1) the words “promotion and conservation of the”, and substituting the words “improvement, promotion, and protection of”.</p> <p>By omitting from section 22B (as substituted by section 2 of the Health Amendment Act (No. 2) 1993) the definition of the term “Public Health Commission”.</p> <p>By repealing subsection (1) of section 22C (as so substituted), and substituting the following subsection:</p> <p>“(1) Any person (in this section referred to as a ‘provider’) who has claimed payment from a regional health authority for services provided shall, forthwith after a request by the authority, make available any records of the provider that relate to those services for inspection—</p> <p>“(a) By a person authorised in writing by the authority for this purpose, being a person who holds a professional qualification relevant to the services provided by the provider or such other person as the authority considers appropriate; and</p> <p>“(b) For the purposes of verifying the claim for payment.”</p> <p>By omitting from section 23 the words “promote and conserve the”, and substituting the words “improve, promote, and protect”.</p> <p>By omitting from section 23 (e) the words “the public health”, and substituting the words “public health”.</p> <p>By repealing paragraph (f) of section 23 (as substituted by section 10 of the Health Amendment Act 1993), and substituting the following paragraph:</p> <p>“(f) To furnish from time to time to the Medical Officer of Health such reports as to diseases and sanitary conditions within its</p>

SECOND SCHEDULE—*continued*

CONSEQUENTIAL AMENDMENTS TO OTHER ENACTMENTS—*continued*

Enactment	Amendment
1956, No. 65—The Health Act 1956 (R.S. Vol. 31, p. 467)— <i>continued</i>	<p>district as the Director-General or the Medical Officer of Health may require.”</p> <p>By omitting from section 24 (4) (as substituted by section 7 (1) of the Health Amendment Act 1987) the words “promotion and conservation of the”, and substituting the words “improvement, promotion, and protection of”.</p> <p>By omitting from section 24 (5) (as substituted by section 11 of the Health Amendment Act 1993) the words “promotion and conservation of the”, and substituting the words “improvement, promotion, and protection of”.</p> <p>By omitting from section 64 (1) (a) the word “Conserving”, and substituting the words “Improving, promoting, or protecting”.</p> <p>By repealing subsection (5) of section 74 (as added by section 20 (2) of the Health Amendment Act 1993).</p> <p>By repealing subsection (2) of section 85 (as added by section 25 of the Health Amendment Act 1993).</p> <p>By repealing subsection (3A) of section 87A (as inserted by section 26 of the Health Amendment Act 1993).</p> <p>By repealing paragraph (a) of section 117 (1), and substituting the following paragraph: “(a) The improvement, promotion, and protection of public health.”</p> <p>By omitting from section 117 (2) the words “the public health”, and substituting the words “public health”.</p> <p>By omitting from section 127 the words “the public health”, and substituting the words “public health”.</p>
1975, No. 9—The Ombudsmen Act 1975 (R.S. Vol. 21, p. 657)	<p>By omitting from Part II of the First Schedule the item “The Public Health Commission” (as inserted by section 30 (3) of the Health Reforms (Transitional Provisions) Act 1993).</p>
1979, No. 27—The Toxic Substances Act 1979	<p>By repealing subsection (3) of section 76 (as added by section 32 of the Health Reforms (Transitional Provisions) Act 1993).</p>

SECOND SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS TO OTHER ENACTMENTS—*continued*

Enactment	Amendment
1989, No. 44—The Public Finance Act 1989 (R.S. Vol. 33, p. 419)	By omitting from the Fourth, Fifth, Sixth, and Seventh Schedules (as added by section 41 of the Public Finance Amendment Act 1992) the item “Public Health Commission” (as inserted by section 27 of the Health Reforms (Transitional Provisions) Act 1993).
1992, No. 13—The Accident Rehabilitation and Compensation Insurance Act 1992	By repealing section 27c(2)(c)(vi) (as inserted by section 11 of the Accident Rehabilitation and Compensation Insurance Amendment Act (No. 2) 1993).
1993, No. 23—The Health Reforms (Transitional Provisions) Act 1993	By omitting from the definition of the term “transferee” in section 2(1) the words “the Public Health Commission,”.
	By omitting from the definition of the term “transferor” in section 2(1) the words “the Public Health Commission,”.
	By repealing so much of the Fourth Schedule as relates to section 3 of the Tuberculosis Act 1948.
	By repealing so much of the Fourth Schedule as adds a new subsection (3) to section 76 of the Toxic Substances Act 1979.
1993, No. 24—The Health Amendment Act 1993	By repealing sections 10, 20, 25, and 26.