



## HOUSE OF REPRESENTATIVES

# Supplementary Order Paper

## Tuesday, 5 October 1999

## HEALTH AND DISABILITY SERVICES (SAFETY) BILL

*Proposed Amendments*

Rt Hon WYATT CREECH, in Committee, to move the following amendments:

*Clause 1:* To omit from *subclause (2)* the word “and” at line 11 on page 2, and substitute the word “to”.

To omit *subclause (2A)*, and substitute the following subclauses:

(2A) Sections 22, 23, and 24 (1) come into force on a day to be appointed by the Governor-General by Order in Council.

(2B) The day appointed under *subsection (2A)* must be no earlier than the later of the following days:

(a) 1 July 2002:

(b) The day on which the service standards first issued or adopted under this Act are to come into force.

*Clause 2 (1):* To insert, after the definition of “the Ministry” (lines 19 to 21 on page 4), the following definition:

“New Zealand standard”, in relation to the provision of health care services of any kind, means a New Zealand Standard (within the meaning of section 2 of the Standards Act 1988) relating to services of that kind:

To omit the definition of “service standards” (lines 14 to 16 on page 5), and substitute the following definition:

“Service standards” means standards that are—

(a) Standards issued under *section 5A (1) (a)* (as from time to time amended under *section 5A (1) (b)*); or

(b) A New Zealand standard adopted under *section 5A (1) (c)* (as from time to time amended by amendments adopted under *section 5A (1) (d)*):

*Clause 4 (2):* To omit the expression “*section 5c*” at line 22 on page 8, and substitute the expression “*section 5b*”.

*Clauses 5A to 5c:* To omit *clauses 5A to 5c* (lines 13 to 34 on page 9, lines 1 to 40 on page 10, and lines 1 and 2 on page 11), and substitute the following clauses:

**5A. Minister may issue or adopt service standards—**

- (1) The Minister may from time to time by written notice—
- (a) Issue standards for the provision of health care services of any kind; or
  - (b) Amend or revoke any standards issued under paragraph (a); or
  - (c) Adopt any New Zealand standard for the provision of health care services of any kind; or
  - (d) Adopt any amendment or revocation of a New Zealand standard adopted under paragraph (c).
- (2) A notice under subsection (1) is regulations for the purposes of the Regulations (Disallowance) Act 1989.
- (3) Despite section 28 of the State Sector Act 1988, the Minister may not delegate the power to issue, amend, or revoke standards, or adopt New Zealand standards or amendments or revocations of New Zealand standards, under subsection (1).
- (4) The Director-General must take all practicable steps to ensure that—
- (a) Sufficient copies of all New Zealand standards and amendments of New Zealand standards for the time being adopted under subsection (1) are available for purchase at a reasonable price during ordinary business hours, at places designated by the Director-General for the purpose; and
  - (b) Copies of those standards and amendments, and a list of those places, are available for inspection free of charge during ordinary office hours, at the offices of the Ministry.

**5B. Consultation on issue of service standards—**(1) The Minister must not issue service standards for the provision of health care services of any kind unless the Minister—

- (a) Has, in relation both to the proposal to issue service standards for the provision of health care services of that kind and to the appropriate contents of such standards,—
    - (i) Consulted affected providers; and
    - (ii) Made reasonable attempts to seek the views of affected providers; and
    - (iii) Considered the views of affected providers given to the Minister; and
    - (iv) In the light of that consultation and those views, published an initial draft of the proposed standards; and
  - (b) Has, in relation to the initial draft,—
    - (i) Consulted every organisation that the Minister knows represent affected providers; and
    - (ii) Made reasonable attempts to seek the views of affected providers; and
    - (iii) Considered the views of affected providers given to the Minister; and
  - (c) Is satisfied that it is in the public interest for services of that kind to be provided in compliance with the standards.
- (2) For the purposes of consulting and seeking the views of affected providers as required by subsection (1) (a)—

- (a) The Minister may consult and seek views by reference to an existing document (whether originating in New Zealand or elsewhere) relating to the provision of health care services of the kind concerned; and
  - (b) Consulting and seeking the views of affected providers under **section 5BA (1) (a)** by reference to a New Zealand standard relating to the provision of health care services of that kind is capable of being a sufficient compliance.
- (3) The Minister must not amend service standards for the provision of health care services of any kind unless the Minister—
- (a) Has—
    - (i) Consulted every organisation that the Minister knows represent affected providers; and
    - (ii) Made reasonable attempts to seek the views of affected providers; and
    - (iii) Considered the views of affected providers given to the Minister; and
  - (b) Is satisfied that it is in the public interest for services of that kind to be provided in compliance with the standards as amended.
- (4) **Subsection (3)** does not apply to an amendment made to any service standards solely to correct an error or omission.
- (5) Actions taken by the Director-General before the commencement of this section are capable of being a sufficient compliance with the Minister's obligations under **paragraphs (a) and (b) of subsection (1)**, even if the proposed standards to which the actions related were not thought to be, or represented as being, proposed to be issued under the authority of any enactment.

**5BA. Consultation on adoption of service standards—**

- (1) The Minister must not adopt any New Zealand standard for the provision of health care services of any kind unless the Minister—
- (a) Has, in relation both to the proposal to adopt a standard for the provision of health care services of that kind and to whether the contents of the New Zealand standard concerned are appropriate,—
    - (i) Consulted affected providers; and
    - (ii) Made reasonable attempts to seek the views of affected providers; and
    - (iii) Considered the views of affected providers given to the Minister; and
  - (b) Is satisfied that it is in the public interest for services of that kind to be provided in compliance with the standards.
- (2) The Minister must not adopt any amendment of a New Zealand standard for the provision of health care services of any kind unless the Minister—
- (a) Has—
    - (i) Consulted every organisation that the Minister knows represent affected providers; and
    - (ii) Made reasonable attempts to seek the views of affected providers; and
    - (iii) Considered the views of affected providers given to the Minister; and

(b) Is satisfied that it is in the public interest for services of that kind to be provided in compliance with the standard as amended.

(3) **Subsection (2)** does not apply to the adoption of an amendment made to a New Zealand standard solely to correct an error or omission.

**5c. Commencement of service standards**—(1) Service standards and amendments to service standards come into force on a day specified in the notice issuing or adopting them.

(2) The day must be no earlier than 12 months after the day the notice is given.

(3) **Subsection (2)** does not apply to a notice issuing or adopting—

(a) The service standards first issued or adopted under this Act; or

(b) Amendments to service standards that are being made solely to correct an error or omission.

*Clause 6 (1) (b) (ii)*: To omit the word “accreditation” at line 40 on page 11, and substitute the word “certification”.

*Clause 11*: To omit *subclause (2)* (lines 36 to 39 on page 13), and substitute the following subclause:

(2) Nothing in **subsection (1)** limits or affects—

(a) The power of the Director-General to have a cessation order served on any person under **section 17A**; or

(b) The power of the Director-General to have a closing order served on any person under **section 18**.

*Clause 12A (2)*: To omit the expression “**section 5c**” at line 15 on page 15, and substitute the expression “**section 5d**”.

*Clause 20 (1) (a)*: To omit the expression “**section 4 (1)**” at line 35 on page 23, and substitute the expression “**section 4**”.

*Clause 22*: To insert, after *subsection (1)*, the following subsection:

(1A) The following enactments are consequentially repealed:

(a) **Section 20B of the Health Occupational Registration Acts Amendment Act 1999**;

(b) So much of the Schedule of **the Medicines Amendment Act 1999** as relates to section 24 of the Misuse of Drugs Act 1975.

*Schedule 1*: To omit from *paragraph (a)* of the form the expression “**section 4 (1)**”, and substitute the expression “**section 4**”.

*Schedule 2*: To omit so much of that schedule as relates to section 4 of the Occupational Therapy Act 1949, section 4 of the Nurses Act 1977, or section 3 of the Psychologists Act 1981.

To omit from proposed *new section 28 (1)* of Dietitians Act 1950 the expression “\$500”, and substitute the expression “\$10,000”.

To insert in proposed *new section 24* of the Misuse of Drugs Act 1975, after *subsection (1)*, the following subsection:

“(1A) Every registered midwife or designated practitioner commits an offence against this Act who prescribes, administers, or supplies a controlled drug for or to a person who the midwife or practitioner has reason to believe is dependent on that or any other controlled drug, in the course of, or for the purpose of, the treatment of the person for dependency.

---

## EXPLANATORY NOTE

The amendment to *clause 1* (which at present provides that *clauses 22, 23, and 24 (1)* come into force on the later of 1 July 2002 and the day when the first service standards issued under the Bill come into force) has the effect that—

- those provisions will be brought into force by Order in Council, but
  - they can be brought into force no earlier than the later of 1 July 2002 and the day when the first service standards issued or adopted under the Bill come into force.
- The result is the same; but it will be easier for the public to discover when the provisions commence.

The amendments to *clause 2* are consequential of proposed *new clause 5BA* (which allows the Minister the option of issuing service standards or adopting existing New Zealand standards).

The amendments to *clauses 4 (2), 12A (2), and 20 (1) (a), and Schedule 1* correct erroneous cross-references.

At present, *clause 5A* empowers the Minister to issue service standards, and *clause 5B* requires certain consultation to be undertaken before service standards are issued. It is now proposed to replace *clauses 5A to 5C* with 4 new clauses, with the following effect:

- Proposed *new clause 5A* empowers the Minister to issue service standards or to adopt existing New Zealand standards as service standards.
- Proposed *new clause 5B* specifies the consultation required before service standards are issued.
- Proposed *new clause 5BA* specifies the consultation required before service standards are adopted.
- Proposed *new clause 5C* (which relates to the commencement of service standards) reflects the changes effected by proposed *new clauses 5A to 5BA*, and in addition provides that neither service standards (other than the first service standards issued or adopted under the Bill) nor amendments to them (other than amendments correcting errors or omissions) can come into force before 12 months after they are issued.

The amendment to *clause 6 (1) (b) (ii)* replaces “accreditation” with “certification” in a provision overlooked when other references to “accreditation” “accredited” “accrediting”, etc., were replaced at the select committee.

The amendment to *clause 11* replaces *subclause (2)* with a redrafted subclause making clear that, if a designated agency’s designation is revoked, the 3-month grace period a client has to become certified by some other designated agency can be cut short by the issue of a cessation order or closing order.

The amendments to *section 22 and Schedule 2*—

- adjust the consequential amendments contained in that schedule so as to take account of the fact that the Acts that the Medicines Amendment Bill, and the Health Occupational Registration Acts Amendment Bill will become will come into force before certain provisions of this Bill; and
- consequentially repeal certain provisions of those Acts.