

Health Services (Conciliation and Review) Bill

EXPLANATORY MEMORANDUM

Preamble outlines the background to and the aims of the Act.

Clause 1 describes the purposes of the Act. *

Clause 2 provides for the Act to come into operation on a day or days to be proclaimed.

Clause 3 defines various terms used in the Act.

Clause 4 sets out the objective of the legislation.

Clause 5 excludes the application of various sections of the *Public Service Act 1974* to the Health Services Commissioner.

Clause 6 sets out the circumstances in which the Commissioner ceases to hold office.

Clause 7 specifies the grounds on which the Commissioner may be suspended and removed from office.

Clause 8 empowers the Commissioner to delegate the powers and functions of the office to an officer or employee employed for the purposes of the Act.

Clause 9 describes the functions of the Commissioner.

Clause 10 expresses the powers of the Commissioner.

Clause 11 deals with the annual report of the Commissioner and, among other things, goes on to require the Commissioner to investigate any matter referred to the Commissioner by the Parliament or by a Parliamentary committee.

Clause 12 provides for the establishment of a Health Services Review Council.

Clause 13 contains various machinery provisions relating to the conduct of meetings of the Council.

Clause 14 defines the functions of the Council.

Clause 15 identifies who can complain to the Commissioner and the basis upon which a user's representative can be recognised by the Commissioner.

Clause 16 lists those matters which can be the subject of a complaint.

Clause 17 sets out the manner in which a complaint can be made to the Commissioner.

Clause 18 entitles a person called before the Commissioner during the investigation of a complaint to be represented by another person, but prohibits representation during conciliation, unless the Commissioner is of the opinion that the process will not work without representation.

Clause 19 sets out the procedures for making a preliminary assessment of a complaint to determine whether it should be accepted or rejected or referred to another body.

Clause 20 deals with the procedures for resolving a complaint referred for conciliation.

Clause 21 sets out the nature of the complaints which the Commissioner may investigate and the procedures the Commissioner may use in conducting an investigation.

Clause 22 identifies the various notices which must be given under the Act.

Clause 23 sets out the circumstances in which the Commissioner must stop dealing with a complaint.

Clause 24 sets out the circumstances in which a registration board investigating or dealing with a complaint must report to the Commissioner and the details which must be included in such report.

Clause 25 applies to the Commissioner certain powers vested in a Board of Inquiry under the Evidence Act. These relate to compulsory attendance and the subpoena of documents.

Clause 26 prohibits the Commissioner from exercising any of the powers under clause 25 while a complaint is being dealt with by a conciliator. The clause goes on to provide that a person is not required to answer a question or produce a document if it involves legal professional privilege, would tend to incriminate the person, or if it relates to medical records unless the records relate to the complaint and the person to whom the records relate consents to the disclosure of the information.

Clause 27 sets out the procedures for seeking a warrant from a magistrate to enter and inspect premises and to examine persons.

Clause 28 creates various offences in relation to the execution of warrants.

Clause 29 makes it an offence to make a false statement under the Act.

Clause 30 makes it an offence to intimidate or to dismiss a person because of a complaint made to the Commissioner.

Clause 31 extends section 21A of the *Evidence Act* 1958 to conciliation and investigation proceedings and inquiries under the Act. The effect is to apply to such proceedings and inquiries the same privileges and immunities as in an action before the Supreme Court. The clause also precludes reviews or appeals with respect to proceedings, or a decision of the Commissioner or conciliator except a proceeding or decision in exercise of the powers of investigation or inquiry under the Act.

Clause 32 protects the confidentiality of information gained for the purposes of this Act.

Clause 33 requires prescribed providers to give information to the Commissioner about complaints received and action taken each financial year.

Clause 34 authorizes the Commissioner to take proceedings for offences against the Act.

Clause 35 empowers the Governor in Council to make regulations with respect to certain matters.

Clause 36 is a "sunset" provision. It has the effect of repealing the Act three years after the commencement of section 1.

The Schedule contains a list of registration boards.