



ANALYSIS

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1993, No. 26

An Act to amend the Hospitals Act 1957

[10 May 1993]

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

1. Short Title and commencement—(1) This Act may be cited as the Hospitals Amendment Act 1993, and shall be read together with and deemed part of the Hospitals Act 1957 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of July 1993.

2. Interpretation—(1) The principal Act is hereby amended by repealing section 2, and substituting the following section:

- “2. In this Act, unless the context otherwise requires,—
- “ ‘Director-General’ has the meaning given to it by section 2 (1) of the Health Act 1956:
- “ ‘Equipment’ includes any machinery, apparatus, or appliance, whether fixed or not, and any vehicle:
- “ ‘Licensed hospital’ has the meaning given to it by section 118 of this Act:
- “ ‘Medical’ includes surgical:
- “ ‘Minister’ means the Minister of Health:
- “ ‘Prescribed’ means prescribed by regulations made under this Act.”

(2) The following enactments are hereby consequentially repealed:

- (a) Section 2 of the Hospitals Amendment Act 1970:
- (b) Section 2 of the Hospitals Amendment Act 1976:
- (c) So much of Part III of the Third Schedule to the Local Government Amendment Act 1989 as relates to section 2 of the Hospitals Act 1957:
- (d) Section 2 of the Hospitals Amendment Act 1986:
- (e) Section 2 of the Hospitals Amendment Act 1988:
- (f) Section 2 of the Hospitals Amendment Act (No. 2) 1989.

3. Repeal of provisions relating to functions of Minister, functions of Hospital Boards, and administration—(1) The principal Act is hereby amended by repealing sections 3 to 6.

(2) The following enactments are hereby consequentially repealed:

- (a) Sections 2 and 3 of the Hospitals Amendment Act 1966:
- (b) Sections 3 and 4 of the Hospitals Amendment Act 1970:
- (c) Sections 2 and 3 of the Hospitals Amendment Act 1973:
- (d) Section 3 of the Hospitals Amendment Act 1976:
- (e) Section 3 of the Hospitals Amendment Act 1988.
- (3) The following regulations and orders are hereby revoked:
- (a) The Private Hospitals (Hours of Work) Regulations 1938 (S.R. 1938/71):
- (b) The Hospital Boards Finance Regulations 1958 (S.R. 1958/52):
- (c) The West Coast Hospital District Order 1967 (S.R. 1967/166):
- (d) The Northland Hospital District Order 1967 (S.R. 1967/177):
- (e) The Taranaki Hospital District Order 1968 (S.R. 1968/130):

- (f) The Wanganui Hospital District Order 1968 (S.R. 1968/131):
- (g) The West Coast Hospital District Order 1967, Amendment No. 4 (S.R. 1968/132):
- (h) The Hospital Boards Finance Regulations 1958, Amendment No. 2 (S.R. 1969/265).

4. Repeal of Parts II and III—(1) The principal Act is hereby amended by repealing Parts II and III.

(2) The following enactments are hereby consequentially repealed:

- (a) The Hospitals Amendment Act 1961:
- (b) Sections 4, 5, 7, 9, and 11 of the Hospitals Amendment Act 1966:
- (c) Sections 3, 5, 9, 10, 11, 12, and 13 of the Hospitals Amendment Act 1968:
- (d) Sections 6, 8, 10, and 12 of the Hospitals Amendment Act 1970 and so much of the First Schedule to that Act as relates to sections 53 and 72 of the principal Act:
- (e) So much of the First Schedule to the Age of Majority Act 1970 as relates to the Hospitals Act 1957:
- (f) Section 3 of the Hospitals Amendment Act 1971:
- (g) So much of the Second Schedule to the Stamp and Cheque Duties Act 1971 as relates to the Hospitals Act 1957:
- (h) Sections 8, 9 (2), 11, 14, 16, and 17 of the Hospitals Amendment Act 1973:
- (i) Sections 6 and 7 of the Hospitals Amendment Act 1976:
- (j) The Hospitals Amendment Act 1977:
- (k) So much of Part III of the Third Schedule to the Local Government Amendment Act 1979 as relates to the Hospitals Act 1957:
- (l) The Hospitals Amendment Act 1980:
- (m) The Hospitals Amendment Act 1982:
- (n) The Hospitals Amendment Act (No. 2) 1982:
- (o) Sections 2 (3) and 5 of the Hospitals Amendment Act 1986:
- (p) Sections 4, 6, 7, 8, 9, and 10 of the Hospitals Amendment Act (No. 2) 1986:
- (q) The Hospitals Amendment Act (No. 3) 1988:
- (r) The Hospitals Amendment Act 1989.

5. Interpretation—The principal Act is hereby amended by repealing section 118, and substituting the following section:

“118. In this Part of this Act, unless the context otherwise requires,—

“‘Crown health enterprise’ means a Crown health enterprise within the meaning of the Health and Disability Services Act 1993:

“‘Hospital’ means any premises in which 2 or more patients are maintained at the same time, other than—

“(a) An institution that, immediately before the commencement of the Mental Health (Compulsory Assessment and Treatment) Act 1992, was a licensed institution under section 9 of the Mental Health Act 1969:

“(b) An institution in which habitual inebriates or any other persons are detained under the authority of any Act, unless any individual (other than a person so detained) is maintained therein:

“‘Licence’ means a licence issued under this Act for the keeping of a hospital:

“‘Licensed hospital’ means a hospital in respect of which a licence is in force, or is deemed to be in force, under this Act:

“‘Licensee’ means any person licensed to keep a hospital under this Act:

“‘Patient’ means any person for the time being maintained in any premises for the purpose of receiving any medical treatment in consideration of payment made or to be made in respect of such treatment:

“‘Premises’ means any house, building, tent or other structure, whether permanent or temporary, used or intended to be used for human habitation; and where there are 2 or more premises in the occupation of the same person, and situated on the same piece of land, they shall be deemed to constitute single premises within the meaning of this Part of this Act:

“‘Subsidiary’ has the same meaning as in section 158 of the Companies Act 1955.”

6. Licence to conduct hospital—The principal Act is hereby amended by repealing section 119, and substituting the following section:

“119. (1) No premises shall be used as a hospital except under the authority and in accordance with the terms of a licence issued by the Minister under this Act.

“(2) If any premises are used as a hospital in breach of this section, the person in charge of those premises commits an offence against this Part of this Act.

“(3) Subject to subsections (4) to (6) of this section, there shall be deemed to have been issued by the Minister under this Act a licence in respect of each of the following premises:

“(a) Premises used as a hospital by any Crown health enterprise or any subsidiary of an enterprise:

“(b) Premises used as a hospital by any person approved by the Minister by notice in the *Gazette* in accordance with subsection (5) of this section, being premises specified in the notice.

“(4) Every licence deemed to have been issued under subsection (3) of this section shall be a licence limited to the kind and scale of services which, in the opinion of the Director-General, were provided at the premises concerned on the day before the day on which this section comes into force.

“(5) The Minister shall approve for the purposes of subsection (3) (b) of this section only such persons as have acquired or taken over from a Crown health enterprise or an area health board premises used as a hospital and such premises shall be specified in the notice of approval.

“(6) The Minister may,—

“(a) By not less than 3 months notice in the *Gazette*, terminate any licence deemed to have been issued by subsection (3) of this section; and

“(b) By notice in the *Gazette*, specify the kind of hospital that a licence deemed to have been issued by subsection (3) of this section applies to.

“(7) Subsections (3) to (6) of this section, and all licences deemed to have been issued by subsection (3) of this section, shall expire on a date specified by the Minister by notice in the *Gazette* (being a date not earlier than 3 months after the date of the notice).”

7. Application for licence—Section 120 (1) of the principal Act is hereby amended by omitting the word “private”.

8. Repeal of provision requiring Minister to have regard to existing services—(1) The principal Act is hereby amended by repealing section 121A (as inserted by section 12 (1) of the Hospitals Amendment Act (No. 2) 1986).

(2) Section 12 (1) of the Hospitals Amendment Act (No. 2) 1986 is hereby consequentially repealed.

9. Issue or refusal of licence—Section 122 (1) of the principal Act (as amended by section 13 (2) of the Hospitals Amendment Act 1966 and by section 12 (2) (a) of the Hospitals Amendment Act (No. 2) 1986) is hereby amended by omitting the word “private” in both places where it occurs.

10. Terms of licence—Section 124 of the principal Act (as amended by section 129 (4) of the Mental Health Act 1969) is hereby amended by repealing subsection (4).

11. Licence fees—Section 125 (1) of the principal Act (as amended by section 9 of the Hospitals Amendment Act 1976) is hereby amended by omitting the word “private”.

12. Transfer of licence on application of licensee—Section 127 of the principal Act is hereby amended by omitting the word “private”.

13. Transfer or revocation of licence on application of licensee—Section 128 (1) of the principal Act (as amended by section 13 (4) (a) of the Hospitals Amendment Act 1966) is hereby amended by omitting the word “private”.

14. Revocation of licence—Section 132 (1) (c) of the principal Act is hereby amended by omitting the word “private”.

15. Surrender of licence—Section 133 (2) of the principal Act is hereby amended by omitting the word “private”.

16. Temporary licence—Section 134 (1) of the principal Act is hereby amended by omitting the word “private”.

17. Manager and acting manager of licensed hospital—Section 135 of the principal Act is hereby amended by adding the following subsection:

“(10) Where a licence that is deemed by section 119 (3) of this Act to have been issued by the Minister is in force in respect of any premises used as a hospital, nothing in this section shall apply to that hospital.”

18. Power to hold licence—Section 136 (1) of the principal Act (as substituted by section 13 (1) of the Hospitals

Amendment Act 1966) is hereby amended by omitting the word “private”.

19. Director-General of Health may enter unlicensed premises—Section 144 (1) of the principal Act (as amended by section 15 of the Hospitals Amendment Act 1966 and by section 5 (1) and (3) of the Health Amendment Act 1987) is hereby amended by omitting the word “private”.

20. Burden of proof in prosecutions to be on defendant—Section 146 (2) of the principal Act is hereby amended by omitting the word “private”.

21. Inspection of institutions, etc.—(1) Section 148 of the principal Act is hereby amended by omitting from subsection (1) (as amended by section 14 (2) of the Hospitals Amendment Act 1970) the words “, and any property or service under the control of a Hospital Board”.

(2) Section 148 (2) (a) of the principal Act is hereby repealed.

(3) Section 148 (2) of the principal Act is hereby further amended by repealing paragraph (c), and substituting the following paragraph:

“(c) Being an officer or employee to whom paragraph (b) of this subsection applies, to produce any documents, books, or records in his custody or under his control relating to the affairs of the institution or service or hospital, or to individuals and their treatment, when required by the Director-General to do so, and to permit the Director-General to make any copy of the whole or any part of any such document, book, or record or of any entry therein.”

(4) Section 148 (2) of the principal Act is hereby further amended by adding the following proviso:

“Provided that any officer or employee to whom paragraph (b) or paragraph (c) of this subsection applies shall have the same privileges as a witness has in a Court of law.”

22. Repeal of provision relating to hours of employment of nurses—The principal Act is hereby amended by repealing section 149.

23. Repeal of provision relating to payments without probate—(1) The principal Act is hereby amended by repealing section 150 (as substituted by section 2 (1) of the Hospitals Amendment Act 1983).

(2) Section 2 of the Hospitals Amendment Act 1983 is hereby consequentially repealed.

24. Repeal of provision relating to sale of unclaimed personal property—(1) The principal Act is hereby amended by repealing section 151.

(2) The Hospitals Amendment Act 1970 is hereby consequentially amended by repealing so much of the First Schedule as relates to section 151 of the principal Act.

25. Regulations—(1) The principal Act is hereby amended by repealing section 152, and substituting the following section:

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

“(a) Prescribing the staff to be maintained in connection with licensed hospitals, and sanitary appliances and sterilising apparatus to be provided and maintained therein:

“(b) Regulating or prohibiting the performance of any specified class of surgical operation in licensed maternity hospitals:

“(c) Regulating or prohibiting the admission into licensed hospitals of persons suffering or suspected of suffering from any communicable disease within the meaning of the Health Act 1956, and prescribing precautions to be taken in licensed hospitals for preventing the spread of any such disease:

“(d) Regulating or prohibiting, for the purpose of preventing the spread of any communicable disease within the meaning of the Health Act 1956, the admission of persons into a licensed hospital where any individuals are suffering from any such disease:

“(e) Regulating or providing for the custody and disposal of registers required to be kept in accordance with this Act:

“(f) Prescribing forms, fees, particulars, and records for the purposes of this Act:

“(g) Prescribing offences in respect of the contravention of or non-compliance with any regulations made under this Act, and the amount of the fines that may be imposed in respect of any such offences, which fines shall be an amount not exceeding \$1,000 and, where the offence is a continuing one, a further

amount not exceeding \$50 for every day or part of a day during which the offence has continued:

“(h) Providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

“(2) Different provisions may be prescribed under subsection (1) of this section for different kinds or classes of hospitals or for hospitals having licences deemed to have been issued under section 119 of this Act.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 17 of the Hospitals Amendment Act 1966:

(b) Section 6 of the Hospitals Amendment Act 1986.

26. Regulations in respect of maternity hospitals and wards—(1) The principal Act is hereby amended by repealing section 153, and substituting the following section:

“153. (1) Without limiting the general power to make regulations under section 152 of this Act, regulations may be made under that section in respect of maternity hospitals, maternity wards, and maternity services for all or any of the following purposes:

“(a) For any of the purposes for which regulations may be made in respect of licensed hospitals under that section; or applying to maternity hospitals and maternity wards, with such modifications as may be necessary or expedient, any regulations for the time being in force under that section:

“(b) Safeguarding the health of women and infants:

“(c) Preventing the occurrence or spread of any infection:

“(d) Prescribing methods and procedures to be followed in respect of all or any of the aforesaid matters:

“(e) Prescribing precautions to be taken and conditions and requirements to be complied with in respect of all or any of the aforesaid matters:

“(f) Requiring information to be given to the Medical Officer of Health within the meaning of the Health Act 1956, or to such officer of the Ministry of Health as may be prescribed, or to the licensee or manager of any maternity hospital, or to any medical practitioner who from time to time attends women in any such hospital, in respect of—

“(i) All or any of the aforesaid matters:

“(ii) Matters relating to the admission, discharge, condition, treatment, or death of women and infants in any such hospitals:

“(iii) Other matters relating to the conditions prevailing in any such hospitals:

“(g) Classifying maternity hospitals and making different provisions for different classes of maternity hospitals in respect of all or any of the aforesaid matters.

“(2) For the purposes of subsection (1) of this section,—

“‘Maternity hospital’ means any maternity hospital which is a licensed maternity hospital under Part V of this Act; and includes, in the case of any licensed hospital under the said Part V, any part of that hospital which is licensed as a maternity hospital:

“‘Maternity ward’ means any ward or annex or room which is maintained in or in connection with any maternity hospital or private hospital, and in which women stay for maternity purposes.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 14 of the Hospitals Amendment Act 1968:

(b) So much of the First Schedule to the Hospitals Amendment Act 1970 as relates to section 153 of the principal Act.

27. Repeal of provisions prescribing offences in respect of institutions under control of Hospital Boards—(1) The principal Act is hereby amended by repealing section 155A (as inserted by section 12 (1) of the Hospitals Amendment Act 1981).

(2) Section 12 (1) of the Hospitals Amendment Act 1981 is hereby consequentially repealed.

28. Repeal of special provisions relating to obstetrical and gynaecological hospital at Auckland—The principal Act is hereby amended by repealing section 156.

29. Repeal of special provisions relating to Waimate Hospital—The principal Act is hereby amended by repealing section 157 and the Fifth Schedule.

30. Repeal of provisions relating to Tuarangi Home—(1) The principal Act is hereby amended by repealing section 157A (as inserted by section 15 (1) of the Hospitals Amendment Act 1968).

(2) Section 15 (1) of the Hospitals Amendment Act 1968 is hereby consequentially repealed.

31. Repeals and revocations—(1) The principal Act is hereby amended by repealing the First Schedule (as substituted by section 15 (1) of the Hospitals Amendment Act 1970).

(2) The following enactments are hereby consequentially repealed:

(a) Section 15 of, and the Second Schedule to, the Hospitals Amendment Act 1970:

(b) Section 3 of the Hospitals Amendment Act 1983:

(c) Section 14 of the Hospitals Amendment Act (No. 2) 1986.

(3) The following Orders in Council are hereby consequentially revoked:

(a) The Hawke's Bay Hospital District Order 1971 (S.R. 1971/77):

(b) The Bay of Plenty Hospital District Order 1974 (S.R. 1974/213):

(c) The Hospital Districts (Borough of Kapiti) Order 1974 (S.R. 1974/219).

32. Amendment to Summary Proceedings Act 1957—

The Summary Proceedings Act 1957 is hereby amended by omitting from Part II of the First Schedule (as amended by section 4 (3) of the Hospitals Amendment Act 1980) the item relating to the Hospitals Act 1957.

33. Amendment to Public Bodies Contracts Act 1959—

The Public Bodies Contracts Act 1959 is hereby amended by repealing so much of Part I of the First Schedule as relates to Hospital Boards.

34. Amendment to Local Government Act 1974—The

Local Government Act 1974 is hereby amended by repealing so much of Part IV of the First Schedule (as substituted by clause 2 of the Local Government Act (First Schedule) Order (No. 2) 1989) as relates to Hospital Boards.