

[AS REPORTED FROM THE SOCIAL SERVICES COMMITTEE]

House of Representatives, 8 June 1988

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Hon. David Caygill

HEALTH ACTS AMENDMENT

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A BILL INTITULED

An Act to amend the Health Act 1956, the Area Health Boards Act 1983, and the Hospitals Act 1957

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

1. Short Title and commencement—(1) This Act may be cited as the Health Acts Amendment Act 1988. 5

(2) Section 4 of this Act, and the First Schedule to this Act, shall come into force on the 1st day of October 1988.

(3) Section 13 of this Act, and section 25 of this Act so far as it substitutes sections 28 and 28A of the Hospitals Act 1957, shall come into force on the date on which this Act receives the Governor-General's assent. 10

New

(3A) Sections 9A and 19A of this Act shall be deemed to have come into force on the 1st day of April 1988. 15

(4) Except as provided in subsections (2) (and (3)) to 3A of this section, this Act shall come into force on the 28th day after the date on which it receives the Governor-General's assent.

PART I

AMENDMENTS TO HEALTH ACT 1956 20

2. Part to be read with Health Act 1956—This Part of this Act shall be read together with and deemed part of the Health Act 1956* (hereinafter in this Part referred to as the principal Act).

3. Interpretation— 25

New

(1A) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term "dwellinghouse", the following definition:

" 'Environmental Health Officer' means a Health Protection Officer or a City Environmental Health Officer, Borough Environmental Health Officer, 30

*R. S. Vol. 19, p. 493
Amendment: 1987, No. 194

New

County Environmental Health Officer, or District Environmental Health Officer.”.

5 hereby further amended by inserting, after the definition of the term “dwellinghouse”, the following definition:

“ ‘Health Protection Officer’ means—

10 “(a) An officer of the Department of Health appointed as a Health Protection Officer under this Act; or

“(b) An officer of an area health board appointed as a Health Protection Officer under the Area Health Boards Act 1983:”.

Struck Out

15 (2) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “Inspector of Health”.

New

20 (2) Section 2 (1) of the principal Act is hereby further amended by repealing the definitions of the terms “Inspector” and “Inspector of Health”.

25 (2A) Every reference to an Inspector in the principal Act or in any other enactment passed before the commencement of this Act shall now be read as a reference to an Environmental Health Officer.

(3) Every reference to an Inspector of Health in the principal Act or in any other enactment passed before the commencement of this Act shall now be read as a reference to a Health Protection Officer.

New

30 **3A. Advisory committees and subcommittees**—(1) The principal Act is hereby amended by repealing section 9A (as inserted by section 2 of the Health Amendment Act 1971), and substituting the following section:

New

“9A. (1) For the purposes of this Act, the Minister may from time to time appoint advisory committees, and subcommittees of any such advisory committee, as the Minister thinks fit.

“(2) Every such committee or subcommittee shall have such functions and powers as the Minister may from time to time determine. 5

“(3) Any such committee may from time to time, with the approval of the Minister, appoint a subcommittee consisting of 2 or more persons (who may or may not be members of the committee) to inquire into and report to the committee on any matter within the scope of the committee’s functions as may be referred to it by the committee. 10

“(4) Every subcommittee appointed under subsection (3) of this section shall be subject in all things to the control of the committee by which it is appointed and may at any time be discharged, altered, or reconstituted by that committee. 15

“(5) There shall be paid out of money appropriated by Parliament for the purpose to the members of any committee or subcommittee appointed under this section 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 every such committee and subcommittee were a statutory board within the meaning of that Act. 20 25

“(6) Subject to the provisions of this Act and of any regulations made under this Act, every such committee and subcommittee may regulate its own procedure.”

(2) Section 2 of the Health Amendment Act 1971 is hereby consequentially repealed. 30

4. Board of Health abolished—(1) The Board of Health is hereby abolished.

(2) The heading above section 11, and sections 11 to 18A, of the principal Act are hereby repealed.

(3) The provisions of the principal Act specified in the first column of Part I of the First Schedule to this Act are hereby amended in the manner indicated in the second column of that Part of that Schedule. 35

(4) The enactments specified in the first column of Part II of the First Schedule to this Act are hereby amended in the 40

manner indicated in the second column of that Part of that Schedule.

5. Method of constituting health districts changed—

(1) Section 19 of the principal Act is hereby amended by
5 repealing subsection (1), and substituting the following
subsection:

“(1) For the purposes of this Act, the Director-General may
from time to time, by notice in the *Gazette*, declare New
Zealand or any part of New Zealand to be divided into health
10 districts, with such names and boundaries as the Director-
General thinks fit.”

(2) Subject to any notice given by the Director-General under
section 19 (1) of the principal Act (as substituted by subsection (1)
of this section), the health districts existing immediately before
15 the commencement of this Act shall, notwithstanding the effect
of subsection (1) of this section, continue to exist, with the same
names and boundaries, as if they were declared by such a
notice.

6. Ship's declaration of health—(1) The principal Act is
20 hereby amended by repealing section 102, and substituting the
following section:

“102. (1) The master of any ship that is on its way to New
Zealand from any port beyond New Zealand shall, before the
ship arrives in New Zealand, ascertain the state of health of
25 each person on board.

“(2) On arriving in New Zealand, the master shall complete
and deliver to the Medical Officer of Health or the Health
Protection Officer a maritime declaration in the prescribed
form.

30 “(3) The form shall be countersigned by the ship's medical
officer (if there is one).

“(4) The master, and the medical officer (if there is one), shall
from time to time supply to the Medical Officer of Health, or to
any person acting under the authority of that officer, any
35 further information required by the Medical Officer of Health
or the Health Protection Officer relating to the state of health
of any person who was on board the ship on its arrival in New
Zealand.

40 “(5) The master or the medical officer commits an offence
and is liable to a fine not exceeding \$1,000 if the master or
medical officer—

“(a) Refuses, or fails without reasonable excuse, to comply with any of the preceding provisions of this section; or

“(b) Gives to the Medical Officer of Health, or to any person acting under the authority of that officer, any declaration, answer, or information that the master or medical officer knows to be false or misleading. 5

“(6) The master or medical officer, or any other person, commits an offence and is liable to a fine not exceeding \$2,000 if the master, medical officer, or other person deceives or attempts to deceive the Medical Officer of Health, or any person acting under the authority of that officer, in respect of any matter with intent—

“(a) To obtain pratique; or

“(b) To influence in any other respect the exercise by or on behalf of the Medical Officer of Health of any authority conferred on that officer by this Part of this Act.” 15

(2) The following enactments are hereby consequentially repealed: 20

(a) Section 104 of the principal Act:

(b) So much of the Schedule to the Health Amendment Act 1979 as relates to section 104 of the principal Act:

(c) So much of the First Schedule to the Health Amendment Act 1982 as relates to sections 102 and 104 of the principal Act. 25

7. Service of documents by post—Section 131 (1) of the principal Act is hereby amended by omitting the word “registered” in both places where it occurs.

PART II

30

AMENDMENTS TO AREA HEALTH BOARDS ACT 1983

8. Part to be read with Area Health Boards Act 1983—

This Part of this Act shall be read together with and deemed part of the Area Health Boards Act 1983* (hereafter in this Part referred to as the principal Act). 35

*1983, No. 134

Amendments: 1985, No. 165; 1986, No. 16

9. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, before the definition of the term “health computer system” (as inserted by section 2 (1) of the Area Health Boards Amendment Act 1986), the following definition: 40

“ ‘Financial year’ means a period of 12 months ending with the 31st day of March.”.

(2) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “initiating hospital board”, and substituting the following definition:

“ ‘Initiating hospital board’, in relation to an area health board, means the hospital board, or each of the hospital boards, whose hospital district was replaced in whole or in part by the area health (*board*) district of the area health board.”.

(3) Section 2 (1) of the principal Act is hereby further amended by inserting, after the definition of the term “institution”, the following definition:

“ ‘Local Government Commission’ means the Local Government Commission established under the Local Government Act 1974.”.

New

9A Effect of order establishing new district—Section 7 (2) of the principal Act is hereby amended by adding the following paragraph:

“(e) The provisions of Part IVA of this Act shall apply in respect of staff.”

10. Establishment of area health districts—(1) Section 5 (2) of the principal Act is hereby amended by omitting the words “the hospital board or hospital boards”, and substituting the words “any hospital board”.

New

(1A) Section 5 (3) of the principal Act is hereby amended by inserting, after the words “the Minister shall”, the words “consult with each of the hospital boards concerned and shall”.

(2) Section 5 (4) of the principal Act is hereby amended—

(a) By omitting the words “tendered with the consent of each hospital board whose district is to be affected, and of the area health board (where that is already in existence)”:

(b) By inserting in paragraph (a), after the words “forming part of”, the words “an area health district of an area health board or”.

11. Constitution of boards—The principal Act is hereby amended by repealing section 8, and substituting the following section:

“8. (1) Subject to the succeeding provisions of this section, every area health board shall have— 5

“(a) Not less than 8 nor more than 14 elected members, being one or more elected representatives of each of the constituent districts within the area health district; and

“(b) Such number (if any) of appointed members, being persons appointed by the Governor-General on the recommendation of the Minister, not exceeding 1 for every 4 elected members, as may be agreed between the elected members and the Minister under section 18 of this Act. 10 15

“(2) In any particular case the Minister may permit a board to have up to 17 elected members.

“(3) On establishing a new area health district by Order in Council under section 5 of this Act, the Governor-General shall, by the same order, determine the number of representatives each constituent district is to have on the area health board for that area health district. 20

“(4) By the same order, the Governor-General may—

“(a) Combine into one or more combined districts any number of the constituent districts, or any parts of constituent districts, (whether of the same or of different kinds) in the area health district for the purpose of the election of representatives on the area health board; and 25

“(b) Prescribe the number of members to be elected in common as the representative or representatives of any combined district; and 30

“(c) Select and appoint one of the local authorities of the combined district to be the principal local authority of that combined district for the purposes of the conduct of elections within that district. 35

“(5) In deciding what provision to make in respect of any matter under this section, the Governor-General shall have regard, in such manner as the Governor-General thinks fit, to the relative populations of the constituent districts and of any combined districts, and to such other considerations as the Governor-General thinks necessary for ensuring the proper representation of all localities in the area health district.” 40

12. New sections (relating to union or reconstitution of area health districts and hospital districts) inserted—

The principal Act is hereby amended by inserting, after **section 8** (as substituted by **section 11** of this Act), the following sections:

5 **“8A. Union or reconstitution of districts—**(1) If at any time it appears to the Governor-General, on the recommendation of the Minister made after consultation by the Minister with each of the boards concerned, to be expedient that any 2 or more area health districts, or any area
10 health district and any hospital district, that constitute a single continuous area should be united or reconstituted to form the same or a smaller number of area health districts, the Governor-General may, by Order in Council,—

15 **“(a)** Abolish those districts, as from a date to be specified in the order; and

“(b) Constitute, as from the same date, the same or a smaller number of new area health districts, or one new area health district, as the Governor-General thinks fit, under a name or names to be specified in the
20 order and comprising the whole of the area included in the districts so abolished.

“(2) Each area health district so constituted shall comprise such counties and other areas (if any) as are specified in the order.

25 **“(3)** Two or more area health boards, or any area health board and any hospital board, whose districts constitute a single continuous area may, by resolutions, request the union or reconstitution of their districts under this section.

“(4) No such resolution shall be passed by any area health
30 board or hospital board at any meeting unless notice of the intention to propose the resolution has been given at a previous meeting of the board held not less than 14 days before the day of the meeting at which the resolution is proposed to be passed.

“(5) A copy of every such resolution, signed by the chairman
35 of the board, shall be sent to the Minister, and shall be conclusive evidence that the resolution was duly passed in accordance with **subsection (4)** of this section.

“(6) All the provisions of this Act relating to area health districts constituted by this Act shall apply, so far as they are
40 applicable and with the necessary modifications, to an area health district constituted by an Order in Council under this section.

“8B. Boards of united districts or reconstituted districts—(1) The area health board of any area health district

constituted under **section 8A** of this Act shall come into existence as a body corporate on the day on which the district comes into existence, and the boards of the districts abolished by the order shall thereupon be deemed to be dissolved.

“(2) In any case where one new area health district is so constituted, the board of the new district shall be deemed to be the successor of the boards of the abolished districts. 5

“(3) In any case where 2 or more new area health districts are so constituted, the boards of such of those districts as are specified in that behalf in the Order in Council shall, subject to the provisions of this Act, be deemed to be the successors of the boards of the abolished districts. 10

“(4) Except as otherwise expressly provided by this Act, every area health board created a body corporate under this section shall be deemed for all purposes to be the same corporation as any board of which it is declared by or under this section to be the successor. 15

“(5) All the provisions of this Act shall apply, so far as they are applicable and with the necessary modifications, with respect to every area health board constituted under this section as if it had been constituted under **section 8** of this Act. 20

“**8c. Property and contracts of boards of abolished districts**—(1) In any case where 2 or more districts are abolished and one new area health district is constituted by Order in Council under **section 8A** of this Act, the following provisions shall apply: 25

“(a) All real and personal property vested in the board of any district so abolished shall, on the coming into existence of the board of the new district, vest in the new board, without conveyance or assignment, for the estate and interest in the property of the board of which it is the successor, subject to all liabilities, charges, obligations, or trusts affecting that property: 30

“(b) All the contracts, debts, and liabilities of the board of any district so abolished shall, on the coming into existence of the board of the new district, become the contracts, debts, and liabilities of the new board. 35

“(2) In any case where, by any such Order in Council, 2 or more new area health districts are constituted, the following provisions shall apply: 40

“(a) All property, contracts, debts, and liabilities of the boards of the districts so abolished shall be apportioned between the boards of the new districts

in such manner and proportions and upon and subject to such terms and conditions as the boards of the new districts may agree:

5 “(b) Subject to any such terms and conditions,—

“(i) All property so apportioned to any board shall vest in that board, without conveyance or assignment, for the estate and interest in the property of the board to which that property formerly belonged; and

10 “(ii) All contracts, debts, and liabilities so apportioned to any board shall become the contracts, debts, and liabilities of that board:

“(c) It shall be the duty of the boards among which any such apportionment is made to comply with any terms and conditions on which the apportionment is made:

15 “(d) If any question, whether of law or of fact, or any disagreement, arises between any boards as to—

“ (i) An apportionment under this section; or

“ (ii) Any terms or conditions on which it is made;

or

20 “(iii) The mode of carrying the apportionment into effect or of complying with the terms or conditions,—

the question or disagreement shall be determined by the Minister, whose decision shall be final; and it shall be the duty of the boards to give effect to it accordingly.

25 “(3) Where, by virtue of this section, any land becomes vested in an area health board without conveyance or assignment, and a board of any district abolished under section 30 8A of this Act is registered as the proprietor of that land under the Land Transfer Act 1952, the District Land Registrar shall, at the request of the area health board, and on being satisfied, by statutory declaration or otherwise, of the title of the area 35 health board, register the area health board as the proprietor of that land instead of the board of the district so abolished.

“8D. **Transmission of rights of boards of abolished districts**—(1) Every area health board that is the successor of the board of any district that has been abolished under section 40 8A of this Act shall have and may exercise all the rights, powers, and authorities that the board of which it is the successor could have exercised.

“ (2) Every area health board to which any property of any board is apportioned, or to which any contracts, debts, or

liabilities of any board are apportioned under the foregoing provisions of this Act, shall have and may exercise all the rights, powers, and authorities that the abolished board could have exercised in respect of that property, or those contracts, debts, or liabilities. 5

“**8E. Inquiries by Local Government Commission**—If at any time the Minister is of the opinion that for the purposes of this Act an inquiry should be made into any question relating to the union, reconstitution, or alteration of boundaries of any area health districts or hospital districts, the Minister may request the Minister of Local Government to refer the question to the Local Government Commission for inquiry and report under the Local Government Act 1974.” 10

13. New sections (relating to review of constituent districts and membership) substituted—The principal Act is hereby amended by repealing section 13, and substituting the following sections: 15

“**13. Review of constituent districts and membership**—
(1) Every area health board shall, in the year preceding that in which a general election of the board is to be held and not later than the 30th day of June in that year, review the number of its constituent districts and the distribution of membership of the board among those districts. 20

“(2) For the purposes of the review, the board shall have regard to— 25

“(a) The respective areas and populations of the several constituent districts, combined districts, and wards, as the case may be; and

“(b) Such additional factors of any kind as the board considers relevant. 30

“(3) In having regard, pursuant to subsection (2) of this section, to the population of the several constituent districts, combined districts, and wards, the board shall have regard to the population as at the immediately preceding 31st day of March.

“(4) At the conclusion of the review, the board may, by resolution,— 35

“(a) Alter the number of representatives that a constituent district has on the board; and

“(b) Combine into one or more combined districts any number of the constituent districts, or any parts of the constituent districts, (whether of the same or of different kinds) in the area health district for the 40

purpose of the election of representatives on the area health board; and

“(c) Prescribe the number of members to be elected in common as the representative or representatives of any combined district; and

“(d) Select and appoint one of the local authorities of the combined district to be the principal local authority of that combined district for the purposes of the conduct of elections within that district.

“(5) In deciding what provision to make in respect of any matter under this section, the board shall have regard, in such manner as it thinks fit, to the relative populations of the constituent districts and of any combined districts, and to such other considerations as the board thinks necessary for ensuring the proper representation of all localities in the area health district.

“(6) Every resolution under this section shall come into force only on the date of the next general election, except to such extent as may be necessary for providing for that election.

“(7) Every resolution under this section shall forthwith be publicly notified.

“(8) A copy of every resolution under this section shall forthwith be sent to each territorial authority within the area health district and to the Local Government Commission.

“(9) A copy of every such resolution shall be kept at the office of the board and in such other place or places within the area health district as the board considers necessary, and shall be open to inspection without fee during ordinary office hours by any resident of the areas health district.

“(10) Nothing in this section shall apply in any case where the triennial general election is to be held within 15 months after the date of the constitution of the area health district.

“13A. **Objections to decision of board**—(1) Any territorial authority whose district is within the area health district may, not later than the 30th day of August after the passing of any resolution of the board made under **section 13** of this Act, object to the board against the resolution.

“(2) The objecting territorial authority shall, forthwith after lodging its objection with the board, serve a copy of the objection on every other territorial authority in the area health district, and every such other territorial authority shall be entitled to make written representations to the board on that objection.

“(3) Subject to **subsection (4)** of this section,—

“(a) The board, after considering the objection and any representations received, shall be entitled to alter the number of constituent districts, and the number of members of the board to represent each constituent district; and 5

“(b) In doing so, the board shall have regard to the matters specified in subsections (2) and (5) of section 13 of this Act.

“(4) If any territorial authority affected is dissatisfied with the decision of the board under subsection (3) of this section, it may, 10 not later than the 31st day of October after the passing of the resolution, object to the Local Government Commission against that decision, in which case it shall serve a copy of the objection on the board and every other territorial authority within the area health district. 15

“(5) The Local Government Commission shall, not later than the 15th day of April after receiving any such objection, duly consider and determine it.

“(6) In determining the objection, the Local Government Commission— 20

“(a) Shall be entitled to alter the number of constituent districts, and the number of members of the board to represent each constituent district, so far as that alteration is necessary to give effect to its decision on the objection or is consequential on that decision; 25 and

“(b) Shall, in doing so, have regard to—

“(i) The respective areas and populations of the several districts, combined districts, and wards, as the case may be; and 30

“(ii) Such additional factors of any kind as the Local Government Commission considers relevant.

“(7) The Local Government Commission shall advise the board and every territorial authority within the area health district of the Commission’s decision on the objection. 35

“(8) The determination of the Local Government Commission on any objection under this section shall be final, and shall have effect so as to confirm or amend, as the case may be, the resolution of the board and shall be implemented by the board accordingly.” 40

14. First election of members—(1) Section 14 (1) of the principal Act is hereby repealed.

(2) Section 14 (2) is hereby amended by omitting the words “Except in a case to which subsection (1) of this section applies,”.

15. Cost of elections—The principal Act is hereby
5 amended by repealing section 16, and substituting the following section:

“16. The cost of every election of a representative or representatives on an area health board of any constituent district or combined district (excluding the expenses incurred
10 by or on behalf of candidates) shall be borne and paid by the area health board.”

16. Community committees—(1) Section 31 of the principal Act is hereby amended by inserting, after subsection (2), the following subsections:

15 “(2A) The board may authorise any such committee—
“(a) To manage any undertaking or service within the functions of the board; or
“(b) To regulate and undertake, or to inquire into and report upon, such matters as the board thinks fit.
20 “(2B) The board shall have the same powers of delegation to any such committee as it has in respect of committees appointed under section 28 of this Act; and the provisions of subsection (2) of that section shall apply accordingly.”

(2) Section 31 (4) of the principal Act is hereby amended by
25 inserting, before the words “Every community committee”, the words “In addition to performing any function required of it by the board under subsection (2A) or subsection (2B) of this section,”.

17. Opening and closing of institutions and health services—(1) Section 45 (2) of the principal Act is hereby
30 amended by inserting, after the words “subject to subsection (3) of this section”, the words “and to any direction given to the board by the Minister pursuant to section 37 of this Act”.

(2) Section 45 of the principal Act is hereby further amended by repealing subsections (3) to (5), and substituting the
35 following subsections:

“(3) Before closing any institution other than a health centre or a family health counselling centre, or ceasing to provide any service, an area health board shall give notice of its proposal, at least twice at intervals of not less than 7 days, in a newspaper
40 or newspapers circulating in the area health district, and shall not close the institution or cease providing the service for at

least 1 month after the date of the second publication of the notice.

“(4) Nothing in subsection (3) of this section applies to the closure of any institution for a period not exceeding 3 months at any one time.”

5

18. Recovery of certain costs of treatment—The principal Act is hereby amended by inserting, after section 54, the following section:

“54A. Notwithstanding anything in section 101 of the Social Security Act 1964, an area health board may recover as a debt due to that board from the referring board the costs of treatment incurred in respect of a patient referred to the board by another area health board or any hospital board where—

“(a) The treatment given to the patient is within such classes of treatment as may from time to time be approved for the purposes of this section in writing by the Minister; and

“(b) The method of calculation of the sum sought to be recovered from the referring board has been approved in writing by the Minister, whether generally or in any particular case.”

19. Application of board's funds—Section 84 (1) of the principal Act is hereby amended—

- (a) By omitting from paragraph (g) the words “, subject to the approval of the Minister in each case,”;
- (b) By omitting from paragraph (m) the words “for the time being approved by the Minister in that behalf”, and substituting the words “with similar purposes”.

New

19A. New Part IVA inserted in principal Act—The principal Act is hereby amended by inserting, after section 89, the following Part:

“PART IVA

“TRANSITIONAL PROVISIONS RELATING TO TRANSFERRED STAFF

“89A. **Interpretation**—In this Part of this Act, unless the context otherwise requires,—

“‘Affected district office’, in relation to an area health board, means the district office that, on the date of transfer, is replaced by that board and, in any case

New

where 2 or more such offices are so replaced, means each of those district offices:

“ ‘Date of transfer’, in relation to—

5 “(a) A hospital board, or a district office, that is replaced by an area health board; or

10 “(b) An employee of a hospital board or a district office that is replaced by an area health board who thereupon becomes an employee of the area health board,—

means the operative date for that area health board:

“ ‘District office’ means a district office of the Department of Health:

15 “ ‘Transferred employee’ means a person who is employed by an area health board by virtue of **section 89c** of this Act.

“**89B. Application of Part**—The provisions of this Part of this Act apply whenever an area health board is established under this Act.

20 “**89c. Transfer of staff**—(1) On the date of transfer, every person employed by the initiating hospital board or by the Department of Health in the affected district office shall cease to be employed by the board or the Department of Health, as the case may be, and shall become an employee of the area
25 health board.

“(2) Every person who, on the date of transfer, becomes an employee of the area health board by virtue of **subsection (1)** of this section shall, as from that date, have the same functions, duties, and powers as that person had immediately before that
30 date unless and until the general manager otherwise determines.

“**89D. Conditions of employment of transferred employees**—Every transferred employee—

35 “(a) Whose conditions of employment, immediately before the date of transfer, were prescribed by—

“(i) An award or agreement issued under the Labour Relations Act 1987; or

“(ii) An apprenticeship order made under the Apprentices Act 1948; and

40 “(b) Whose position in the employment of the area health board on the date of transfer is the same in terms of

New

<p>responsibility and function as that which that person occupied immediately before that date,— shall continue to be employed on the same conditions until a new award or agreement is registered under the Labour Relations Act 1987.”</p>	5
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20. Contracts—Section 92 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Subject to subsection (2) of this section, and subject to any general or special directions of the Minister, any contract for the execution or provision of any work or service by any area health board, or for the supply by an area health board of any fuel, goods, stores, or equipment required for the purposes of this Act, may be made by the board in respect of any period.”

PART III

AMENDMENTS TO HOSPITALS ACT 1957

21. Part to be read with Hospitals Act 1957—This Part of this Act shall be read together with and deemed part of the Hospitals Act 1957* (hereafter in this Part referred to as the principal Act).

*R.S. Vol. 19, p. 665

22. Interpretation—Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “land” (as substituted by section 2(4) of the Hospitals Amendment Act 1970), the following definition:

“‘Local Government Commission’ means the Local Government Commission established under the Local Government Act 1974:”.

23. Hospitals Advisory Council abolished—(1) The Hospitals Advisory Council is hereby abolished.

(2) The heading above section 7, and sections 7 to 11, of the principal Act are hereby repealed.

(3) The provisions of the principal Act specified in the first column of Part I of the **Second** Schedule to this Act are hereby amended in the manner indicated in the second column of that **(Schedule) Part**.

New

(4) The enactments specified in the first column of **Part II** of the **Second Schedule** to this Act are hereby amended in the manner indicated in the second column of that Part.

5 **24. Inquiries by Local Government Commission**—The principal Act is hereby amended by repealing section 23, and substituting the following section:

10 “23. If at any time the Minister is of the opinion that for the purposes of this Act an inquiry should be made into any question relating to the union, reconstitution, or alteration of boundaries of any hospital districts, the Minister may request the Minister of Local Government to refer the question to the Local Government Commission for inquiry and report under the Local Government Act 1974.”

15 **25. New provisions (relating to constitution of Boards) substituted**—(1) The principal Act is hereby amended by repealing sections 26 to 28, and substituting the following sections:

20 “26. **Constitution of Boards**—(1) Subject to the succeeding provisions of this section, every Hospital Board shall consist of one or more representatives of each of the constituent districts within the hospital district.

25 “(2) Subject to any decision of the Local Government Commission under **section 28A** of this Act and to section 32A of this Act, no Hospital Board shall have less than 8 members nor more than 14 members.

30 “(3) Subject to **sections 28 and 28A** of this Act, the number of representatives of each constituent district shall be such as is determined from time to time by the Board having regard, in such manner as it thinks fit, to the relative populations of those districts and to such other considerations as it thinks necessary for ensuring the proper representation of all areas in the hospital district.

35 “(4) Where by reason of the number of constituent districts in any hospital district, or by reason of the smallness of the population of any such constituent district, it is, in the opinion of the Board, impracticable or inexpedient to give full effect to the intent of **subsection (1)** of this section, the Board may from time to time combine into one or more combined districts any
40 number of the constituent districts (whether of the same or of

different kinds) in the hospital district for the purpose of the election of representatives on the Board.

“(5) The Board shall determine the number of members to be elected in common as the representative or representatives of any combined district, having regard, in such manner as it thinks fit, to the relative populations of that district and of every other combined district or separate constituent district within the hospital district, and to such other considerations as it thinks necessary for ensuring the proper representation of all areas in the hospital district. 5
10

“(6) The Board shall select and appoint one of the local authorities of the combined district to be the principal local authority of that combined district for the purposes of the conduct of elections within that district.

“27. **Qualification of members**—Subject to section 12 (3) of the Local Elections and Polls Act 1976 and section 33 of this Act, every person who is a parliamentary elector shall be qualified to be elected or appointed as a member of any one or more Hospital Boards. 15

“28. **Review of constituencies and membership**—
(1) The Board shall, in the year preceding that in which a general election of the Board is to be held and not later than the 30th day of June in that year, review the number of its constituent districts and the distribution of membership of the Board among those districts. 20
25

“(2) For the purposes of the review, the Board shall have regard to—

“(a) The respective areas and populations of the several constituent districts, combined districts, and wards, as the case may be; and 30

“(b) Such additional factors of any kind as the board considers relevant.

“(3) In having regard, pursuant to subsection (2) of this section, to the population of the several constituent districts, combined districts, and wards, the Board shall have regard to the population as at the immediately preceding 31st day of March. 35

“(4) At the conclusion of the review, the Board may, by resolution,—

“(a) Alter the number of representatives that a constituent district has on the Board; and 40

“(b) Combine into one or more combined districts any number of the constituent districts, or any parts of the constituent districts, (whether of the same or of different kinds) in the hospital district for the

purposes of the election of representatives on the Hospital Board; and

5 “(c) Prescribe the number of members to be elected in common as the representative or representatives of any combined district; and

“(d) Select and appoint one of the local authorities of the combined district to be the principal local authority of that combined district for the purposes of the conduct of elections within that district.

10 “(5) In deciding what provision to make in respect of any matter under this section, the Board shall have regard, in such manner as it thinks fit, to the relative populations of the constituent districts and of any combined districts, and to such other considerations as the Board thinks necessary for ensuring
15 the proper representation of all localities in the hospital district.

“(6) Every resolution under this section shall come into force only on the date of that general election, except to such extent as may be necessary for providing for that election.

20 “(7) Every resolution under this section shall forthwith be publicly notified.

“(8) A copy of every resolution under this section shall forthwith be sent to each territorial authority within the hospital district and to the Local Government Commission.

25 “(9) A copy of every such resolution shall be kept at the office of the Board and in such other place or places within the hospital district as the Board considers necessary, and shall be open to inspection without fee during all office hours by any resident of the hospital district.

30 “(10) Nothing in this section shall apply in any case where the triennial general election is to be held within 15 months after the date of the constitution of the hospital district.

35 “28A. **Objections to decision of Board**—(1) Any territorial authority whose district is within the hospital district may, not later than the 30th day of August after the passing of any resolution of the Board made under **section 28** of this Act, object to the Board against the resolution.

40 “(2) The objecting territorial authority shall, forthwith after lodging its objection with the Board, serve a copy of the objection on every other territorial authority in the hospital district, and every such other territorial authority shall be entitled to make written representations to the Board on that objection.

“(3) Subject to **subsection (4)** of this section,—

- “(a) The Board, after considering the objection and any representations received, shall be entitled to alter the number of constituent districts, and the number of members of the Board to represent each constituent district; and 5
- “(b) In doing so, the Board shall have regard to the matters specified in subsections (2) and (5) of section 28 of this Act.

“(4) If any territorial authority affected is dissatisfied with the decision of the Board under subsection (3) of this section, it may, not later than the 31st day of October after the passing of the resolution, object to the Local Government Commission against that decision, in which case it shall serve a copy of the objection on the Board and every other territorial authority within the hospital district. 10 15

“(5) The Local Government Commission shall, not later than the 15th day of April after receiving any such objection, duly consider and determine it.

“(6) In determining the objection, the Local Government Commission— 20

“(a) Shall be entitled to alter the number of constituent districts, and the number of members of the Board to represent each constituent district, so far as that alteration is necessary to give effect to its decision on the objection or is consequential on that decision; 25 and

“(b) Shall, in doing so, have regard to—

“(i) The respective areas and populations of the several districts, combined districts, and wards, as the case may be; and 30

“(ii) Such additional factors of any kind as the Local Government Commission considers relevant.

“(7) The Local Government Commission shall advise the Board and every territorial authority within the hospital district of the Commission’s decision on the objection. 35

“(8) The determination of the Local Government Commission on any objection under this section shall be final, and shall have effect so as to confirm or amend, as the case may be, the resolution of the Board, and shall be implemented by the Board accordingly.” 40

(2) The Local Government Amendment Act 1986 is hereby consequentially amended by repealing so much of the First Schedule as relates to section 26A of the principal Act.

26. Cost of elections—The principal Act is hereby amended by repealing section 31, and substituting the following section:

“31. The cost of every election of a representative or
 5 representatives on a Hospital Board of any constituent district or combined district (excluding the expenses incurred by or on behalf of candidates) shall be borne and paid by the Hospital Board.”

New

10 **26A. Contracts**—The principal Act is hereby amended by repealing section 45, and substituting the following section:

“45. (1) Subject to **subsection (3)** of this section, and subject to any general or special directions of the Minister, any contract for the execution or provision of any work or service for any
 15 Hospital Board, or for the supply to a Hospital Board of any fuel, goods, stores, or equipment required for the purposes of this Act, may be made by the Board in respect of any period.

“2) Subject to **subsection (3)** of this section, and subject to any general or special directions of the Minister, any contract for
 20 the execution or provision of any work or service by any Hospital Board, or for the supply by a Hospital Board of any fuel, goods, stores, or equipment required for the purposes of this Act, may be made by the Board in respect of any period.

“3) No contract shall be made by a Hospital Board in respect
 25 of any period in excess of 3 years without the consent of the Minister.”

27. Establishment of new institutions—Section 54 (1) of the principal Act is hereby amended by omitting the words “, with the prior consent of the Minister,”.

30 **28. Combining and dividing institutions**—Section 54A of the principal Act (as inserted by section 8 of the Hospitals Amendment Act 1973) is hereby amended by omitting the words “, with the prior written consent of the Minister,”.

29. Closing of institutions and health services—(1) The
 35 principal Act is hereby amended by repealing section 55 (as substituted by section 5 (1) of the Hospitals Amendment Act (No. 2) 1986), and substituting the following section:

“55. (1) Subject to subsection (2) of this section and to any direction given by the Minister to the Board pursuant to section 5 of this Act, any Board may at any time—

“(a) Close any institution under its control:

“(b) Restrict the forms of care, treatment, or relief granted in or from any institution or service under its control: 5

“(c) Cease to provide any particular service.

“(2) Before closing any institution other than a health centre or a family health counselling centre, or ceasing to provide any service, a Board shall give notice of its proposal, at least twice at intervals of not less than 7 days, in a newspaper or newspapers circulating in the hospital district, and shall not close the institution or cease providing the service for at least 1 month after the date of the second publication of the notice. 10

“(3) Nothing in subsection (2) of this section applies to the closure of any institution for a period not exceeding 3 months at any one time.” 15

(2) Section 5 of the Hospitals Amendment Act (No. 2) 1986 is hereby consequentially repealed.

30. Recovery of certain costs of treatment—The principal Act is hereby amended by inserting, after section 77A (as substituted by section 7 (1) of the Hospitals Amendment Act 1976), the following section: 20

“77B. Notwithstanding anything in section 101 of the Social Security Act 1964, a Hospital Board may recover as a debt due to that Board from the referring board the costs of treatment incurred in respect of a patient referred to the Board by another Hospital Board or any area health board where— 25

“(a) The treatment given to the patient is within such classes of treatment as may from time to time be approved for the purposes of this section in writing by the Minister; and 30

“(b) The method of calculation of the sum sought to be recovered from the referring board has been approved in writing by the Minister.” 35

31. Power to release persons from contractual obligation—Section 80 of the principal Act (as substituted by section 11 of the Hospitals Amendment Act 1966) is hereby amended by omitting from paragraph (b) the words “With the consent of the Minister,”. 40

32. Application of Board’s funds—Section 93 (1) of the principal Act is hereby amended—

- (a) By omitting from paragraph (h) the words “, subject to the approval of the Minister in each case,”:
 - (b) By omitting from paragraph (o) the words “, subject to the approval of the Minister,”:
 - 5 (c) By omitting from paragraph (o) the word “Minister” where it secondly occurs, and substituting the word “Board”.
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SCHEDULES

Section 4 (3), (4)

FIRST SCHEDULE

AMENDMENTS CONSEQUENTIAL UPON ABOLITION OF BOARD OF HEALTH

PART I

Amendments to Health Act 1956

Provision	Amendment
Section 2 (1)	By repealing the definition of the term "Board".
Section 23 (f)	By omitting the words "the Board of Health or".
Section 123A	By omitting the words ", on the recommendation of the Board of Health,".
Section 124 (3)	By omitting the words "or of the Board of Health".

PART II

Amendments of Other Enactments

Enactment	Amendment
1957, No. 40—The Hospitals Act 1957 (R.S. Vol. 19, p. 665)	By repealing section 3 (cd) (as inserted by section 2 of the Hospitals Amendment Act (No. 2) 1986). By omitting from section 131 (4) the words "Subject to the provisions of section 143 of this Act,". By omitting from section 132 (4) the words "Subject to the provisions of section 143 of this Act,". By repealing section 143.
1960, No. 96—The Health Amendment Act 1960 (R.S. Vol. 19, p. 607)	By repealing section 3 (3).
1968, No. 26—The Maternal Mortality Act 1968 (R.S. Vol. 17, p. 321)	By omitting from section 3 (2) the words ", after consultation with the Board of Health or any appropriate committee of that Board". By omitting from the proviso to section 3 (4) the words ", after consultation with the Board of Health or any appropriate committee of that Board,". By omitting from section 3 (5) the words ", after consultation with the Board of Health or any appropriate committee of that Board,".
1972, No. 31—The Clean Air Act 1972	By omitting from section 35 (5) the words "or of the Board of Health".

PART II—continued
 Amendments of Other Enactments—continued

Enactment	Amendment
1982, No. 35—The Health Amendment Act (No. 2) 1982 (R.S. Vol. 19, p. 617)	By repealing sections 4 to 10.
1983, No. 134—The Area Health Boards Act 1983	By repealing section 35 (b).
1986, No. 19—The Hospitals Amendment Act (No. 2) 1986 (R.S. Vol. 19, p. 820)	By repealing section 2.
1987, No. 10—The Health Amendment Act 1987 (R.S. Vol. 19, p. 618)	By repealing section 7.

SECOND SCHEDULE

Section 23 (3), (4)

AMENDMENTS CONSEQUENTIAL UPON ABOLITION OF HOSPITALS ADVISORY COUNCIL

PART I

Amendments to Hospitals Act 1957

Provision	Amendment
Section 13 (3)	By omitting the words “Any such committee may, if the Minister thinks fit, consist of or include a member or members of the Hospitals Advisory Council.”
Section 17	By omitting from subsection (1) the words “the Hospitals Advisory Council made to”. By omitting from subsection (2) the words “On receipt of the copy, the terms of every such resolution shall be referred to the Hospitals Advisory Council for its consideration under this section.”
Section 21 (1)	By omitting the words “the Hospitals Advisory Council made to”.
Section 65 (5)	By omitting the words “acting on the recommendation of the Hospitals Advisory Council,”.

SECOND SCHEDULE—*continued*AMENDMENTS CONSEQUENTIAL UPON ABOLITION OF HOSPITALS ADVISORY COUNCIL—*continued*

Provision	Amendment
Section 84 (1)	By omitting the words “on the recommendation of the Hospitals Advisory Council.”.
Section 152 (2) (a)	By omitting the words “the Hospitals Advisory Council.”.

PART II

Amendments of Other Enactments

Enactment	Amendment
1973, No. 43—The Hospitals Amendment Act 1973 (R.S. Vol. 19, p. 812)	By repealing sections 4 and 5.
1983, No. 134—The Area Health Boards Act 1983	By omitting from section 2 (1) the definition of the term “Hospitals Advisory Council”. By omitting from section 62 (1) the words “on the recommendation of the Hospitals Advisory Council.”. By repealing so much of the Schedule as relates to sections 7 and 8 of the principal Act.
1986, No. 57—The Hospitals Amendment Act (No. 3) 1986 (R.S. Vol. 19, p. 821)	By repealing section 2 (1).
1988, No. 65—The Hospitals Amendment Act (No. 2) 1988	By repealing sections 2 and 3.