

HOSPITALS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Hospitals Act 1957.

Clause 1 relates to the Short Title and commencement of the Bill.

Clause 2 amends section 3 of the principal Act which relates to the functions of the Minister of Health, and makes it clear that it is his duty, to such extent as he considers necessary, to ensure that hospital boards provide dental services at or in connection with its hospitals.

Clause 3 makes special provision for a number of nominees of Otago University, not exceeding 5, to be appointed to the Otago Hospital Board.

Clause 4 amends section 13 of the principal Act, which empowers the Minister of Health to appoint advisory or technical committees. One technical committee so appointed and having the responsibility for supervising the training of laboratory technicians has been charging examination fees for many years. Since there is some doubt as to whether the committee has power to charge fees, a new subsection (2A) is being inserted in the section to remove the doubt.

The clause also adds to the section a new subsection (6) which makes it clear that the Minister of Health has power to appoint an advisory committee under the section for any purpose relating to the conditions of employment of hospital employees notwithstanding that an advisory committee may be appointed pursuant to statutory regulations made under section 52 of the principal Act for the same purpose.

Clause 5 amends section 51 of the principal Act, which relates to contracts as to tenure of office. At present a board may employ any part-time medical or other officer or employee under a contract for a period not exceeding 3 years, but any such contract or any renewed contract may be renewed for a further period not exceeding 3 years. The clause will enable a board, with the approval of the Minister of Health, to replace any such contract with another contract providing for the officer or employee to be dismissed only for conduct justifying summary dismissal or after 3 months' notice.

Clause 6 inserts in the principal Act new sections 51A, 51B, 51C, and 51D.

Section 51A provides for the establishment of a committee to be known as the Review Committee for the purpose of inquiring into any complaint made under section 51C by any person aggrieved as a result of being dismissed or under notice of dismissal from his employment by a hospital board. The committee is to comprise three members appointed by the Minister of Health. They will hold office at the Minister's pleasure.

Section 51b empowers the Minister, by notice in the *Gazette*, to declare any class or classes of hospital employees to be under the committee's jurisdiction.

Section 51c provides for the making of complaints by persons aggrieved at being dismissed by or receiving a dismissal notice from the board employing him. A complaint is to be made to the Minister who, if made within the period limited by the section, is to refer it to the committee for inquiry. After completing its inquiry into the complaint, the committee is to report its findings and recommendations to the Minister who may give such direction or advice to the board as he considers appropriate.

Section 51d provides that neither the making of a complaint under section 51c, nor the fact that the inquiry into any such complaint has not been completed, is to affect the dismissal of the complainant or any notice purporting to dismiss him. The section also provides that the rights of a complainant under section 51c are in addition to his rights under the general law.

Clause 7 amends section 55 of the principal Act, which relates to closing by hospital boards of institutions under its control. The clause empowers a hospital board to close any such institution for any period not exceeding 3 months without obtaining the prior consent of the Minister of Health.

Clause 8 amends section 62 of the principal Act, which relates to the disclosure of information relating to a patient's condition or treatment. The clause makes it clear that, in the case of a patient who is a minor, he may consent to the disclosure of information relating to his condition or treatment if he has attained 16 years of age.

Clause 9 amends section 75 of the principal Act, which relates to the investment of trust money, and provides that, in addition to the existing purposes for which income from the investment of trust money may be applied, a hospital board may, unless the trust is for a special purpose, apply any such income for any purpose to which it can lawfully apply its own property or for any other purpose for the time being approved by the Minister of Health.

Clause 10 inserts in the principal Act a new section 78A, and re-enacts in an amended form section 51 of the Destitute Persons Act 1910, which relates to the liability of certain persons in respect of the cost of providing maintenance and relief by public and charitable institutions (including hospital boards). The new section 78A relates only to hospital boards. It provides that, subject to the Social Security Act 1964, when a board provides a person with relief, the cost of providing the relief may be recovered as a debt by the board from certain specified persons. The clause also deals with other matters relating to debts created under the section and to the recovery of those debts.

Provision is also made for a board which has paid the funeral expenses of any deceased person to recover the cost from his estate.

Clause 11 amends section 88 of the principal Act, which relates to the preparation by a hospital board of an estimate of its income and expenditure for its next financial year. The clause provides that, in preparing the estimate, it shall have regard to the amount or probable amount of the grant paid or to be paid to it under section 89 of the principal Act in respect of the financial year to which the estimate relates.

Clause 12 amends section 89 of the principal Act, which provides for the payment of annual grants for hospital boards out of money appropriated by Parliament for the purpose. The amendment will enable the Minister of Health to determine the amount of a board's annual grant without regard to its estimate.

The clause also inserts in section 89 a new subsection (4A) which provides that it shall be the duty of every board to manage its affairs so that the total payments made or due to be made by it in respect of any financial year do not exceed in the aggregate the grant (including any supplementary grant) appropriated to it and amounts paid by it in the course of that year out of its receipts from other sources.

Clause 13 amends section 93 of the principal Act, which relates to the application of a hospital board's funds. The clause will enable a board to apply its funds for the provision of dental requisites, and of dental attendance for sick or infirm persons who are not patients in any of the board's institutions.

Clause 14 amends section 153 of the principal Act, which empowers the making of regulations in respect of maternity hospitals and wards. The clause will enable regulations to be made requiring information relating to conditions in maternity hospitals to be given to certain officers of the Department of Health, and to the licensees or managers of maternity hospitals and medical practitioners who attend patients at such hospitals.

The clause will also authorise the making of regulations classifying maternity hospitals and making different provision for different classes of maternity hospitals.

Clause 15 inserts in the principal Act a new section 157A, and provides for the vesting of the Tuarangi Home in the Ashburton Hospital Board. The home, though in the Ashburton Hospital District, is at present under the control and management of the North Canterbury Hospital Board. Special provision is made in the clause with regard to certain trusts in favour of the home. The clause will come into force on a date to be appointed by the Governor-General by Order in Council. Section 157 (a) and the Fourth Schedule of the principal Act are consequentially being repealed.

Hon. Mr McKay

HOSPITALS AMENDMENT

ANALYSIS

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2. Provision of dental services by Hospital Boards	51d. Complaint not to affect dismissal or other legal remedies
3. Special provisions relating to the membership of Otago Hospital Board	7. Closing of institutions
4. Advisory and technical committees	8. Consents to disclosure of information by minors
5. Contracts as to tenure of office	9. Investment of trust money
6. Committee for the review of dismissals of certain hospital employees	10. Liability for cost of relief
51A. Review Committee established	11. Annual estimate
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A BILL INTITULED

An Act to amend the Hospitals Act 1957

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. Short Title and commencement—(1) This Act may be cited as the Hospitals Amendment Act 1968, and shall be read together with and deemed part of the Hospitals Act 1957* (hereinafter referred to as the principal Act).

*1957 Reprint, Vol. 6, p. 119
Amendments: 1961, No. 84; 1962, No. 43; 1964, No. 91; 1966, No. 35; 1967, No. 80

(2) Except as provided in section 15 of this Act, this Act shall come into force on the first day of January, nineteen hundred and sixty-nine.

2. Provision of dental services by Hospital Boards—Section 3 of the principal Act is hereby amended by inserting in paragraph (a), after the word “medical”, the word “dental”. 5

3. Special provisions relating to the membership of Otago Hospital Board—(1) The principal Act is hereby amended by inserting, after section 32, the following section:

“32A. (1) The Governor-General shall from time to time, in 10 addition to the members elected or appointed to the Board under sections 29 to 32 of this Act, appoint as members of the Otago Hospital Board such number of qualified persons, not exceeding five, as may be nominated by the Council of the University of Otago; and the persons so appointed shall hold 15 office as if they had been duly elected in accordance with this Act, notwithstanding that, because of their appointment, the total number of members of the Board may exceed fourteen.

“(2) Nothing in section 36 of this Act shall apply to any member of the Otago Hospital Board appointed under this 20 section; but, if any such member vacates his office pursuant to section 34 or section 35 of this Act, the Governor-General shall appoint another person nominated by the aforesaid Council to the vacated office.

“(3) Every person appointed as a member of the Otago 25 Hospital Board under this section shall, unless he sooner vacates his office under section 34 or section 35 of this Act, continue in office as a member until the next election of members to the Board.

“(4) If any new hospital district, comprising the Otago 30 Hospital District, is constituted under section 17 of this Act, this section shall apply to the Board of the district so constituted in the same manner and to the same extent that it applied to the Otago Hospital Board that existed immediately 35 before the new hospital district was constituted; and the members of the Otago Hospital Board appointed under this section and holding office immediately before the constituting of the new hospital district shall be members of the Board of that district without further appointment and shall, subject 40 to sections 34 and 35 of this Act, remain in office until the first election of members to the Board of the newly constituted district or, if the first election is held before the new district is constituted, until the next such election.”

(2) Section 26 of the principal Act is hereby amended by inserting in subsection (4), before the words “The total number of the members”, the words “Except as provided in section 32A of this Act”.

5 **4. Advisory and technical committees**—(1) Section 13 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

10 “(2A) The Minister may from time to time authorise or require any such committee to charge such fees in relation to the performance of its functions as he may approve or determine. On receiving any such fees, the committee shall pay them into the Consolidated Revenue Account.”

(2) The said section 13 is hereby further amended by adding the following subsection:

15 “(6) Nothing in section 52 of this Act, or in any regulations made for the purposes of that section, shall prevent the Minister, or any committee appointed by him under this section, from exercising the powers conferred by this section in respect of matters relating to the conditions of employment of persons employed by Hospital Boards.”

20 **5. Contracts as to tenure of office**—Section 51 of the principal Act is hereby amended by adding to subsection (2) the words “or, with the approval of the Minister, given generally or in relation to any particular part-time officer or employee, or any particular class of part-time officers or employees, replaced by an agreement providing that the officer or employee shall not be removed from his office or employment except for conduct justifying summary dismissal or after three months’ notice”.

30 **6. Committee for the review of dismissals of certain hospital employees**—The principal Act is hereby amended by inserting, after section 51, the following sections:

35 “**51A. Review Committee established**—(1) There is hereby established for the purposes of this Act a committee to be known as the Review Committee.

“ (2) It shall be the function of the committee to inquire into any complaint relating to the dismissal from employment by a Board of any person under the committee’s jurisdiction, and to report its findings to the Minister.

“(3) The committee shall consist of three members appointed by the Minister of whom—

“(a) One shall be appointed as chairman:

“(b) One shall be appointed on the nomination of the executive committee of the Hospital Boards’ Association of New Zealand Incorporated: 5

“(c) One shall be appointed on the nomination of the council of the Medical Association of New Zealand:

“Provided that, where any complaint is made under section 51c of this Act by any person under the committee’s jurisdiction who is not a medical practitioner, the Minister may, at the request of that person and for the purposes of the inquiries into that complaint only, appoint to be a member of the committee, in substitution for the member appointed under this paragraph, a person nominated by an organisation which appears to the Minister to be competent to represent the interests of the class of employees to which the person making the complaint belongs. 10 15 20

“(4) Every person appointed to be a member of the committee shall hold office at the pleasure of the Minister.

“(5) There shall be paid out of money appropriated by Parliament for the purpose to members of the committee remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951 as if the committee were a statutory Board within the meaning of that Act. 25

“(6) Without limiting the general power to make regulations under section 152 of this Act and subject to the provisions of section 51c of this Act, regulations may be made under that section regulating the procedure of the committee. 30

“51B. Minister may declare class or classes of hospital employees to be within Review Committee’s jurisdiction—(1) The Minister may from time to time by notice in the *Gazette*, after consultation with any organisation which appears to him to represent the interests of the class or classes concerned, declare such class or classes of employees (including officers) of Boards as may be specified in the notice to be under the jurisdiction of the Review Committee. 35 40

“(2) The Minister may from time to time vary or revoke any such notice.

“(3) Every such notice shall have effect according to its tenor and may be made so as to come into force on a day to be specified in that behalf in the notice, being the date of the notice or any date after the date of the notice.

5 “51c. **Inquiries into complaints made by dismissed employees**—(1) Where any Board has dismissed or has served a notice purporting to dismiss from its employment any employee under the Review Committee’s jurisdiction (in this section and in section 51D of this Act referred to as the
10 complainant), he may, if he is aggrieved by the dismissal or notice, make a complaint in writing setting out his grievance to the Minister within twenty-eight days from the date of the dismissal or the service of the notice, as the case may be, or within such extended period as the Minister may in any particular case allow.

15 “(2) On receipt of any complaint made in accordance with subsection (1) of this section, the Minister shall refer it to the chairman of the committee who shall convene such meetings of the committee as may be necessary to enable it to
20 inquire into the complaint and report on it to the Minister as provided in subsection (6) of this section.

“ (3) In carrying out its inquiries into the complaint the committee shall not be bound to follow any formal procedure, but shall observe the rules of natural justice and consider all
25 written submissions made by or on behalf of the complainant and the Board employing or formerly employing him. The committee may, if it thinks fit, also hear oral submissions made by or on behalf of the complainant and the Board and may likewise summon and hear witnesses if it believes the
30 interests of justice will be furthered by so doing.

“(4) Every statement made during any such hearing and investigation or in any report submitted to the Minister shall be absolutely privileged for the purposes of the law relating to defamation.

35 “(5) Subject to the provisions of this section and of any regulations made under this Act, the committee may regulate its procedure in such manner as it thinks fit.

40 “(6) After completing its inquiries into the complaint and considering all submissions, representations, and evidence made or given to it, the committee shall prepare a report of its findings and submit it to the Minister for his consideration. The report may include such recommendations regarding the

employment of the complainant as the committee thinks fit, but in any event shall state whether or not the committee considers the complaint to be justified.

“(7) For the purposes of this section the report of the majority of the members of the committee shall be the report of the committee; but any member who disagrees with the majority may, if he so desires, submit a minority report to the Minister through the chairman. 5

“(8) When submitting its report to the Minister pursuant to subsection (6) of this section, the committee shall supply a copy of the report (together with any minority report) to the complainant and to the Board concerned. 10

“(9) The Minister shall consider the report as soon as practicable after receiving it, and may then, if he thinks fit, give such direction or advice to the Board as he considers appropriate. 15

“(10) Nothing in this section shall prevent a Board from withdrawing a dismissal notice at any time.

“51D. Complaint not to affect dismissal or other legal remedies—(1) Neither the fact that a complaint has been made under section 51c of this Act, nor the fact that inquiries into any such complaint have not been completed, shall affect the dismissal of the complainant or any notice purporting to dismiss him from his employment; but, notwithstanding anything in section 51 of this Act, if the Board engages the complainant in accordance with any direction or advice given to it by the Minister under section 51c of this Act, the re-engagement shall be on the same terms and conditions as those subsisting immediately before the dismissal or expiration of the notice, as the case may be. 20 25 30

“(2) The rights conferred on a complainant by section 51c of this Act in relation to the termination of his employment by a Board shall be in addition to any other legal remedy he may have against the Board.”

7. Closing of institutions—Section 55 of the principal Act is hereby amended by adding, as subsection (2), the following subsection: 35

“(2) Notwithstanding anything in subsection (1) of this section, a Board may, without obtaining the prior consent of the Minister, close any institution under its control for a period not exceeding three months at any one time.” 40

8. Consents to disclosure of information by minors—Section 62 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

5 “(1A) Any such consent may be given personally by a patient who is a minor if he has attained sixteen years of age.”

9. Investment of trust money—Section 75 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

- 10 “(2) The income of any such investments shall be applied—
“(a) In accordance with the terms of the trust; or
“(b) Where the trust is not for any special purpose—
 “(i) In accordance with this Act for the purposes of any institution or service under the control of the Board; or
15 “(ii) For any purpose for which the Board can lawfully apply its own property; or
 “(iii) For any other purpose for the time being approved by the Minister.”

10. Liability for cost of relief—(1) The principal Act is
20 hereby further amended by inserting, after section 78, the following section:

“78A. (1) Notwithstanding anything in section 77 of this Act, but subject to the provisions of the Social Security Act 1964 and of any regulations made under that Act, where any
25 person is provided with relief by a Board, whether before or after the commencement of this section, the cost of the relief shall be recoverable as a debt due to the Board.

“(2) The following persons shall be liable to pay any such debt:

- 30 “(a) The person receiving relief:
 “(b) The husband or wife of the person receiving relief:
 “(c) If the person receiving relief is under twenty-one years of age, the father or mother of that person so long as he remains under that age.
35 “(3) Where any liability is imposed by this section on two or more persons in respect of the relief of the same person, the liability of the first-mentioned persons shall be joint and several; and every person paying money in discharge of that liability shall be entitled to recover from any other person so
40 liable such sum by way of contribution or indemnity as the Court considers just and reasonable in the circumstances of the case.

“(4) On the death or bankruptcy of any person who owes a debt arising under this section, the debt, so far as it has accrued at the time of the death or at the commencement of the bankruptcy (but, in the case of bankruptcy, no further) shall be recoverable from his estate or provable in his bankruptcy, as the case may be. 5

“(5) Nothing in this section shall negative the liability of any person under an agreement made by him in respect of relief provided for him or for any other person or under any order of a Court. 10

“(6) Every debt created by this section shall accrue from day to day.

“(7) For the purposes of this section, the cost of providing any person with relief shall be such sum as may be agreed between a person liable under this section and the Board providing the relief or, in default of any such agreement, such sum as the Court considers just and reasonable in the circumstances of the case. 15

“(8) Where a Board applies money in payment of the funeral expenses of any deceased person, the amount of that money shall be recoverable in the same way as the cost of providing relief; and nothing in subsection (4) of this section shall prevent the Board from recovering that amount from the estate of the deceased person under subsection (2) of section 150 of this Act or under any other enactment or rule of law. 20 25

“(9) Nothing in this section shall be construed so as to create a debt in respect of the provision of aid to any person pursuant to paragraph (f) of subsection (1) of section 93 of this Act; but, subject to any regulations made or directions given by the Minister under this Act or under the Social Security Act 1964 to the contrary, a Board may, as a condition of providing any such aid (not being money), impose on the person receiving the aid a charge not exceeding the cost to the Board of providing the aid: 30 35

“Provided that the Board may in its discretion waive any such charge either in whole or in part.”

(2) The Third Schedule to the principal Act is hereby amended by inserting below the reference to sections 77 and 78 the following words: 40

“78A | Liability for cost of relief.”

11. Annual estimate—Section 88 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

5 “(1A) In preparing the estimate the Board shall have regard to the amount or probable amount of the grant paid or to be paid to it under section 89 of this Act in respect of the financial year to which the estimate relates.”

12. Grant payable to Board—(1) Section 89 of the principal Act is hereby amended—

10 (a) By omitting from subsection (1) the words “having regard to the estimate for that year approved under section eighty-eight of this Act”:

15 (b) By omitting from subsection (2) the words “approval of such estimate as aforesaid”, and substituting the words “determination of the Board’s grant”:

(c) By omitting from subsection (2) the words “that estimated grant”, and substituting the words “the probable grant”.

20 (2) The said section 89 is hereby further amended by inserting, after subsection (4), the following subsection:

“(4A) It shall be the duty of every Board to manage its affairs so that the total payments made or due to be made by it in respect of any financial year do not exceed in the aggregate—

25 “(a) The grant appropriated to it in respect of that year, together with any supplementary grant made to it under section 90 of this Act; and

30 “(b) Amounts lawfully paid by it in the course of that year out of money received by it from other sources.”

13. Application of Board’s funds—Section 93 of the principal Act is hereby amended by omitting from paragraph (g) of subsection (1) the words “surgical requisites, and medical, surgical, and nursing attendance”, and substituting the words
35 “surgical and dental requisites, and medical, surgical, dental, and nursing attendance”.

14. Regulations in respect of maternity hospitals and wards—Section 153 of the principal Act is hereby amended by adding to subsection (1) the following paragraphs:

- “(g) Requiring information to be given to the Medical Officer of Health within the meaning of the Health Act 1956, or to such other officer of the Department 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 patients in any such hospital, in respect of— 5
- “(i) All or any of the aforesaid matters:
- “(ii) Matters relating to the admission, discharge, condition, treatment, or death of patients and infants in any such hospitals: 10
- “(iii) Other matters relating to the conditions prevailing in any such hospitals:
- “(h) Classifying maternity hospitals and making different provision for different classes of maternity hospitals in respect of all or any of the aforesaid matters.” 15

15. Tuarangi Home—(1) The principal Act is hereby further amended by inserting, after section 157, the following section: 20

“157A. (1) The institution known as Tuarangi Home in the Ashburton Hospital District is hereby declared to be vested in and to be under the control and management of the Ashburton Hospital Board.

“(2) Section 22 of this Act (except subsection (1)) shall, so far as it is applicable and with the necessary modifications, apply to the Tuarangi Home as if it were an institution which had been vested by an Order in Council made under subsection (1) of the said section 22 and as if this section were an Order in Council made under that section. For the purposes of the application of the said section 22, the North Canterbury Hospital Board shall be deemed to be the former Board and the Ashburton Hospital Board shall be deemed to be the new Board. 30

“(3) The North Canterbury Hospital Board shall pay to the Ashburton Hospital Board— 35

 “(a) As soon as conveniently practicable, one-third of the net income derived from the trust known as the Twigger Bequest and unspent at the time of the vesting of the institution in the Ashburton Hospital Board; and 40

 “(b) In each year so long as the institution remains under the control and management of the Ashburton Hospital Board, one-third of the net income derived from the trust. 45

“(4) Except as provided in subsection (3) of this section, nothing shall affect the property and income comprised in the said trust or the provisions of the Stephen Cole Moule Trustees Empowering Act 1904.”

5 (2) Section 157 of the principal Act is hereby consequentially amended by repealing paragraph (a).

(3) The Fourth Schedule to the principal Act is hereby consequentially repealed.

10 (4) This section shall come into force on a date to be appointed for its commencement by the Governor-General by Order in Council.