

[AS REPORTED FROM THE SOCIAL SERVICES COMMITTEE]

House of Representatives, 19 October 1979.

Words struck out are shown with black rule at beginning and after last line; words inserted are shown with double rule before first line and after last line.

Hon. Mr Gair

HEALTH AMENDMENT

ANALYSIS

	PART IIIA
	TRADING IN HUMAN BLOOD
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A BILL INTITULED

An Act to amend the Health Act 1956

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**—This Act may be cited as the Health Amendment Act 1979, and shall be read together with and deemed part of the Health Act 1956* (hereinafter referred to as the principal Act).

*Reprinted, 1972, Vol. 2, p. 1449

Amendments: 1973, No. 111; 1957, No. 78; 1976, No. 91; 1978, No. 96

2. Delegation of powers by Director-General—(1) The principal Act is hereby amended by inserting, after section 5, the following section:

“5A. (1) The Director-General may from time to time, by writing under his hand, either generally or particularly, delegate to such person or persons employed in the Department of Health as he thinks fit all or any of the powers exercisable by him under this Act, except this power of delegation. 5

“(2) Subject to subsection (7) of this section, and to any general or special conditions attached by the Director-General, the person to whom any power is delegated under this section may exercise that power in the same manner and with the same effect as if it had been conferred on him directly by this Act and not by delegation. 10 15

“(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation until the contrary is proved.

“(4) Any delegation under this section may be made to a specified person or to persons belonging to a specified class or to the holder or holders for the time being of a specified office or class of office. 20

“(5) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Director-General. 25

“(6) Any such delegation shall, until revoked, continue in force according to its terms, notwithstanding that the Director-General by whom it was made may have ceased to hold office, and shall continue to have effect as if made by his successor in office. 30

“(7) Every person (hereinafter referred to as the delegate) to whom any power is delegated under this section shall exercise that power subject to the control and direction of the Director-General and of any other person (hereinafter referred to as the superior officer) superior to the delegate in the Department of Health to whom the same power has been delegated. 35

“(8) Without limiting any other power conferred on the Director-General by this Act, the Director-General or the superior officer may, before a decision of the delegate has been acted on, vary or reverse that decision; and, in that event, the decision of the Director-General or superior officer, as the case may require, shall be substituted for the decision so varied or reversed, and the date on which it takes effect shall be the effective date for the purpose of any computation of time under this Act.” 40 45

(2) Section 2 (1) of the principal Act is hereby amended by adding to the definition of the term "Director-General" the words "; and, in relation to any power delegated by him to any other person pursuant to section 5A of this Act, includes
5 that other person".

3. Local authority may require repairs and issue closing order—(1) Section 42 (1) of the principal Act is hereby amended by adding to paragraph (d) the word "; or", and by adding the following paragraph:

10 "(e) That any dwellinghouse within that district does not comply with any regulations made under section 120c of this Act."

(2) Section 46 (2) of the principal Act is hereby consequentially amended by omitting the expression "(d)", and
15 substituting the expression "(e)".

4. Three new sections (relating to housing improvement) inserted in principal Act—(1) The principal Act is hereby amended by inserting, after section 53, the following sections:

20 "53A. **Mortgagee may do acts required of owner**—Where, by or under any of sections 41, 42, 44, 46, 48, and 50 of this Act, the owner of any dwellinghouse or other premises is required to do any act or thing and the owner fails or refuses to do that act or thing, any mortgagee of the land on which the dwellinghouse or other premises is situated may do the
25 act or thing.

"(2) Notwithstanding any covenant or agreement to the contrary, any expenses incurred by any mortgagee pursuant to this section shall be recoverable by the mortgagee from the owner as a debt due to the mortgagee by the owner.

30 "(3) Without limiting subsection (2) of this section, on notice in writing to the mortgagor by the mortgagee, any such expenses incurred by the mortgagee shall be deemed to be added to the principal sum owing under the mortgage and to be secured thereby; and, if the mortgagor is not the owner,
35 the amount so deemed to be added shall be recoverable by the mortgagor from the owner as a debt due to the mortgagor by the owner.

40 "(4) The exercise by a mortgagee of the powers conferred by this section shall not relieve any person from liability to any penalty for failure to comply with the requirements of any of the provisions of this Act specified in subsection (1) of this section.

“(5) In this section the term ‘mortgagee’, in relation to a dwellinghouse, means a mortgagee of the land under a mortgage that is registered under the Deeds Registration Act 1908 or the Land Transfer Act 1952, or in respect of which a caveat is lodged with the appropriate District Land Registrar; and includes the holder of any charge on the land that is duly registered pursuant to the Statutory Land Charges Registration Act 1928. 5

“53B. Provisions where owner is a trustee—Where any owner who is a trustee is served with an order or a notice under any of sections 41, 42, 44, 46, 48, and 50 of this Act, he may, notwithstanding anything to the contrary in the instrument (if any) creating the trust,— 10

“(a) Carry out such repairs, alterations, or works as are specified in the notice: 15

“(b) Demolish the dwellinghouse or other premises to which the order or notice relates and, if he thinks fit, erect another dwellinghouse or other premises in substitution therefor, or sell the land on which the dwellinghouse or other premises were erected: 20

“(c) Pay or apply any capital money subject to the same trust for or towards any such purpose:

“(d) Raise any money required for or towards any such purpose by obtaining an advance from the council or by sale, conversion, calling in, or mortgage of all or any part of the property subject to the same trust and for the time being in possession. 25

“53C. Advances by council to owners—(1) A council may make advances to any owner upon whom an order or a notice is served under any of sections 41, 42, 44, 46, 48, and 50 of this Act to enable him to comply in all respects with the requirements of the order or notice. 30

“(2) Subsections (2) to (6) of section 229 of the Municipal Corporations Act 1954 (relating to the cost of drainage connections), as far as they are applicable and with the necessary modifications, shall apply with respect to every advance under this section as if it were an advance under the said section 229, and as if every reference in those subsections to drainage works and to drainage and sewerage were a reference to the work required to comply with the requirements of an order or a notice under any of the provisions of this Act specified in subsection (1) of this section.” 40

(2) The following enactments are hereby consequentially repealed:

- (a) Sections 4 to 16 of the Urban Renewal and Housing Improvement Act 1945:
- (b) Subsections (2) and (3) of section 13 of the Statutes Amendment Act 1951:
- 5 (c) Section 8 of the Finance Act 1953:
- (d) Sections 4 and 5 of the Urban Renewal and Housing Improvement Amendment Act 1969.

5. **New Part IIIA inserted in principal Act**—The principal Act is hereby amended by inserting after Part III, the
 10 following Part:

“PART IIIA

“TRADING IN HUMAN BLOOD

“92A. **Interpretation**—In this Part of this Act, unless the context otherwise requires, ‘blood’ (*includes*)—

- 15 “(a) Include—
 - “(a) (i) Any substance derived from human blood; and
 - “(b) (ii) Any human organ or human tissue, including the placenta, of a kind that is suitable as a source from which to derive a constituent of blood for therapeutic use or for the preparation of a substance for therapeutic use; but

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25 **but does not include any substance containing a fraction of human blood that the Minister of Health, by notice in the *Gazette*, declares not to be blood for the purposes of this Part of this Act.**

New

- 30 “(b) does not include—
 - “(i) Any substance derived from human blood that is intended for use in quality control or as a diagnostic product; or
 - “(ii) Any substance containing a fraction of human blood that the Minister of Health, by notice in the *Gazette*, declares not to be blood for the purposes of this Part of this Act.

“92B. **Unauthorised purchase of human blood prohibited**—
 (1) Subject to subsection (2) of this section, no person shall
 40 willing to purchase, or invite any other person to sell to him or to any other person,—

“(a) Human blood; or

“(b) The right to take blood from the body of another person.

“(2) Where the Minister considers it desirable by reason of special circumstances to do so, the Minister may, by a permit in writing, authorise a person, subject to such conditions and restrictions as may be specified in the permit, to purchase human blood or the right to take blood from the body of another person. 5

“(3) Every person commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding \$5,000 who contravenes subsection (1) of this section, or who contravenes or fails to comply with any conditions and restrictions imposed by any permit issued under subsection (2) of this section. 10 15

“92c. **Unauthorised advertising prohibited**—(1) No person shall—

“(a) Publish or otherwise disseminate, by newspaper, magazine, periodical, book, billboard, radio, television, cinematograph film, or any other means whatever; or 20

“(b) Exhibit to public view in any premises or place; or

“(c) Deposit in any area, yard, garden, or enclosure comprising part of or appurtenant to any premises,— an advertisement relating to the purchasing in New Zealand of human blood, or of the right to take blood, from the body of any person unless the proposed advertisement has been approved by the Minister in writing and contains a statement to that effect. 25

“(2) Every person commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$2,500 who contravenes subsection (1) of this section. 30

“92d. **Unauthorised selling of human blood prohibited**— (1) Subject to subsection (2) of this section, no person shall sell or agree to sell or offer to sell or expose for sale any human blood (including his own blood) or the right to take blood from the body of any person (including his own body). 35

“(2) Nothing in subsection (1) of this section applies to a sale or an agreement or offer to sell or an exposure for sale to a person who is, or is reasonably believed by the vendor to be, acting pursuant to and in accordance with a permit granted under section 92B (2) of this Act. 40

“(3) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who contravenes subsection (1) of this section.

5 “92E. **Liability of principals and agents**—(1) If an offence is committed against any of the provisions of this Part of this Act by any person acting as the agent or employee of another person, that other person shall, without prejudice to the liability of the first-mentioned person, be liable under this Act, in the same manner and to the same extent as if he had
10 personally committed the offence, if it is proved that the act that constituted the offence took place with his authority, permission, or consent, or that he knew the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

15 “(2) Where any body corporate is convicted of an offence against this Act, every director and every person concerned in the management of the body corporate shall be guilty of the same offence if it is proved that the act that constituted the offence took place with his authority, permission, or
20 consent, or that he knew the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

“92F. **Certain documents to be prima facie evidence**—A document purporting to be—

25 “(a) A permit granted under section 92B (2) of this Act; or

“ (b) A written approval of an advertisement given for the purposes of section 92C (1) of this Act,—
shall, in any proceeding, be prima facie evidence that the
30 Minister has given his authority or, as the case may require, his approval in the terms stated in the document.”

6. **Regulations as to homes for old people**—(1) Section 120A of the principal Act (as inserted by section 2 of the Health Amendment Act 1958) is hereby amended by adding, after
35 paragraph (h) (as added by section 10 (2) of the Health Amendment Act 1964), the following paragraphs:

“(i) Prescribe minimum standards of care to be provided for residents in homes:

40 “(j) Prescribe activity programmes to be conducted for residents in homes:

“(k) Prescribe the qualifications required for managers of homes:

“(l) Prescribe training courses required to be undergone by other persons employed in homes.”

(2) The said section 120A is hereby further amended by omitting from subsection (3) the expression "5" (as substituted by section 7 (2) of the Health Amendment Act 1973), and substituting the expression "3".

(3) Section 7 (2) of the Health Amendment Act 1973 is hereby consequentially repealed. 5

7. Regulations as to housing improvement and overcrowding—(1) The principal Act is hereby amended by inserting, after section 120B (as inserted by section 2 (1) of the Health Amendment Act 1976), the following section: 10

"120c. (1) For the purpose of prescribing standards of fitness with which any dwellinghouse, whether erected before or after the commencement of this section, must comply, regulations made under this Act may make provision for or with respect to— 15

"(a) The construction, condition, and situation of dwellinghouses, and the space about dwellinghouses:

"(b) The drainage, sanitation, ventilation, lighting, and cleanliness of dwellinghouses and of the land on which dwellinghouses are situated: 20

"(c) The repair of dwellinghouses:

"(d) The provision in respect of dwellinghouses of a proper supply of wholesome water and hot water, of bathing, laundry, cooking, and food storage facilities, and of sanitary conveniences: 25

"(e) The protection of dwellinghouses from damp, excessive noise, and heat loss:

"(f) The dimensions, cubical content, and height of rooms of dwellinghouses.

"(2) Regulations may also be made under this Act for the purpose of preventing overcrowding in dwellinghouses. 30

"(3) Without limiting the general power conferred by subsection (2) of this section, regulations may be made pursuant to that subsection for all or any of the following purposes: 35

"(a) Prescribing the number of persons permitted to reside in dwellinghouses, having regard to the number of rooms, the amount of floor space, air space, or ventilation thereof, and the amenities provided: 35

"(b) Prescribing methods of calculating the number of persons, the number of rooms, and the amount of the floor space, air space, or ventilation thereof: 40

"(c) Prescribing offences in respect of the contravention of or non-compliance with any regulations made under that subsection, and the amounts of fines

that may be imposed in respect of any such offences, which fines shall be an amount not exceeding \$500.”

(2) The following regulations shall continue in force after the commencement of this section as if they had been made under section 120c of the principal Act (as inserted by subsection (1) of this section):

- (a) The Housing Improvement Regulations 1947 (Reprinted with Amendment No. 1, S.R. 1962/196):
- (b) The Housing Improvement Regulations 1947, Amendment No. 1:
- (c) The Housing Improvement Regulations 1947, Amendment No. 2 (S.R. 1975/83):
- (d) The Housing Improvement Regulations 1947, Amendment No. 3 (S.R. 1975/218).

8. **Medical examination of children**—Section 125 of the principal Act (as substituted by section 3 (1) of the Health Amendment Act 1967) is hereby amended by inserting in subsection (2), after the words “on an officer so authorised”, the words “, or any nurse employed by the Royal New Zealand Society for the Health of Women and Children (Incorporated) engaged in work pursuant to a contract in that behalf between the said Society and the Minister,”.

9. **Certain maximum penalties increased**—The provisions of the principal Act specified in the first column of the Schedule to this Act (as amended by section 7 (1) of the Decimal Currency Act 1964) are hereby amended in the manner indicated in the second column of that Schedule.

SCHEDULE

Section 9

PROVISIONS AMENDED BY INCREASING PENALTY

Provision	Amendment
Section 39 (2)	By omitting the expression “\$100”, and substituting the expression “\$500”.
Section 39 (3)	By omitting the expression “\$10”, and substituting the expression “\$50”.
Section 54 (6)	By omitting the expression “\$200”, and substituting the expression “\$1,000”. By omitting the expression “\$20”, and substituting the expression “\$100”.

SCHEDULE—continued

PROVISIONS AMENDED BY INCREASING PENALTY—continued

Provision	Amendment
Section 58 (4)	By omitting the expression "\$200", and substituting the expression "\$1,000".
Section 60 (1)	By omitting the expression "\$20", and substituting the expression "\$100".
Section 60 (2)	By omitting the expression "\$200", and substituting the expression "\$1,000".
Section 66 (1)	By omitting the expression "\$100", and substituting the expression "\$500".
Section 71 (3)	By omitting the expression "\$10", and substituting the expression "\$50".
Section 72	By omitting the expression "\$200", and substituting the expression "\$1,000".
Section 91	By omitting the expression "\$200", and substituting the expression "\$1,000".
Section 92	By omitting the expression "\$200", and substituting the expression "\$1,000".
Section 104 (1)	By omitting the expression "\$200", and substituting the expression "\$1,000".
Section 104 (2)	By omitting the expression "\$400", and substituting the expression "\$2,000".
Section 110 (2)	By omitting the expression "\$200", and substituting the expression "\$1,000".
Section 112 (1)	By omitting the expression "\$400", and substituting the expression "\$2,000".
Section 112 (2)	By omitting the expression "\$400", and substituting the expression "\$2,000".
Section 112 (3)	By omitting the expression "\$400", and substituting the expression "\$2,000".
Section 136	By omitting the expression "\$100", and substituting the expression "\$500".
	By omitting the expression "\$10", and substituting the expression "\$50".