

HEALTH AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to the Health Act 1956.

Clause 1 relates to the Short Title and commencement.

Clause 2 repeals subsections (2) to (4) of section 4 of the principal Act. Those subsections provide that the Department of Health is to have certain specified divisions, and such other divisions as may be established with the approval of the Minister. The repeal of these subsections means that there will no longer be any legislative requirement to have any particular division within the Department.

Clause 3 repeals section 5 of the principal Act, and substitutes 2 new sections. The present section requires the appointment of a Director-General of Health, a Deputy Director-General of Health, a Deputy Director-General of Health (Administration), and a Deputy Director-General of Health (Public Health). Under the amendments, there will be a Director-General of Health and such Deputy Directors-General and Assistant Directors-General as may be necessary.

The present provision stipulates that the Director-General and the Deputy Director-General shall be medical practitioners. This stipulation is dropped.

Clause 4 repeals section 6 of the principal Act, which specifies a number of officers that must be appointed within the Department. In place of the long list presently prescribed, this clause requires only the appointment of Medical Officers of Health and Deputy Medical Officers of Health, and Inspectors of Health.

Clauses 5 and 6 are consequential upon the changes effected by *clauses 2 to 4*.

Clause 7 transfers certain executive powers from the Board of Health to the Minister, and certain other executive powers from the Board of Health to the Director-General.

Clause 8 is consequential upon a change of nomenclature from "public health" to "community health".

Clause 9 substitutes in the principal Act a new provision for section 22. That section gives the Director-General and certain Deputy Directors-General all the functions of a Medical Officer of Health. Under the new clause, the Director-General will only have those functions if he or she is a medical practitioner. If the Director-General is not a medical practitioner, he or she must designate a medical practitioner employed in the Head Office of the Department to perform those functions.

No. 158—1

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Clause 10 re-enacts section 27A of the principal Act in somewhat broader form. The present section provides for the payment of money out of public funds to local authorities to assist in meeting the capital costs of the construction of sewerage works and works for the disposal of sewage, or the construction of a public water supply. The new section includes preliminary investigation and planning prior to construction, as well as construction itself. Further, payments are authorised for refuse disposal works, as well as the works presently included. The opportunity has also been taken to make it clear that the power to make payments includes the power to pay both grants and subsidies.

Clause 11 makes it an offence for the owner of any premises to fail to comply with a repair notice served on the owner by the local authority. At present, if the local authority subsequently issues a closing order non-compliance with that order constitutes an offence, but it is not presently an offence to fail to comply with a repair notice.

Clause 12 repeals section 57 of the principal Act empowering local authorities to make bylaws relating to the keeping of animals. This matter is now covered by the Local Government Act 1974.

Clause 13 repeals section 103 of the principal Act relating to quarantine declarations required in respect of aircraft arriving in New Zealand. The necessary requirements are now prescribed by regulations made under section 118 of the principal Act.

Clause 14 redefines the term "home" for the purpose of section 120A of the principal Act, which empowers the making of regulations relating to homes for old people. At present, the definition relates to premises kept mainly for aged or infirm persons, where certain other conditions are met. This has led to some confusion where a large proportion of the residents are infirm rather than aged. The principal purpose of the new definition is to place the emphasis on the care of the aged. Thus, premises will come within this new definition only if they are conducted principally for the care of the aged.

Clause 15 is of a consequential nature only.

Hon. Dr Michael Bassett

HEALTH AMENDMENT

ANALYSIS

Title	
1. Short Title and commencement	7. Transfer of executive powers from the Board of Health
2. Department of Health	8. Part-time Deputy Medical Officers of Health
3. Two new sections (relating to Director-General and Deputies) substituted	9. Certain officers to have functions of Medical Officers of Health
5. Director-General of Health	10. Grants and subsidies for refuse disposal works, sewerage works, and water supplies
5A. Deputy Directors-General and Assistant Directors-General of Health	11. Local authority may require repairs and issue closing order
4. Other officers and employees	12. Keeping of animals
5. Certain references in other enactments consequentially changed	13. Aircraft declaration
6. Consequential amendments	14. Regulations as to homes for old people
	15. Repeal Schedules

A BILL INTITLED

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, as follows:

- 1. Short Title and commencement**—(1) This Act may be cited as the Health Amendment Act 1985, and shall be read together with and deemed part of the Health Act 1956* (hereinafter referred to as the principal Act).
- 10 (2) This Act shall come into force on the 28th day after the date on which it receives the Governor-General's assent.

*Reprinted 1972, Vol. 2, p. 1449

Amendments: 1973, No. 111; 1975, No. 78; 1976, No. 91; 1978, No. 96; 1979, No. 64; 1980, No. 79; 1982, No. 34; 1982, No. 35

2. Department of Health—(1) Section 4 of the principal Act is hereby amended by repealing subsections (2) to (4).

(2) Section 2 of the Health Amendment Act 1960, and the Schedule to that Act, are hereby consequentially repealed.

3. Two new sections (relating to Director-General and Deputies) substituted—(1) The principal Act is hereby amended by repealing section 5, and substituting the following sections: 5

“5. Director-General of Health—(1) There shall from time to time be appointed under the State Services Act 1962 a Director-General of Health, who shall be the administrative head of the Department. 10

“(2) Subject to any directions given by the State Services Commission under section 33 of the State Services Act 1962, on the occurrence from any cause of a vacancy in the office of Director-General (whether by reason of death, resignation, or otherwise), and from time to time while any such vacancy continues, all or any of the functions, duties, and powers of the Director-General or pertaining to that position may be performed or exercised by any Deputy Director-General or Assistant Director-General of Health. 15 20

“(3) Subject to any directions given by the State Services Commission under section 33 of the State Services Act 1962, and to any general or special directions given by the Director-General, in the absence of the Director-General (from whatever cause arising), and from time to time while the absence continues, all or any of the functions, duties, and powers of the Director-General or pertaining to that position may be performed or exercised by any Deputy Director-General or Assistant Director-General of Health. 25 30

“(4) The fact that any Deputy Director-General or Assistant Director-General of Health performs or exercises any function, duty, or power of the Director-General shall be conclusive evidence of that officer’s authority to do so, and no person shall be concerned to inquire whether the occasion requiring or authorising that officer to do so has arisen or has ceased. 35

“(5) For the purposes of this section, the functions, duties, and powers of the Director-General shall be deemed to include such of the powers of the Minister as the Director-General may for the time being be authorised to exercise pursuant to a delegation under section 9 of this Act. 40

“5A. Deputy Directors-General and Assistant Directors-General of Health—(1) There shall from time to time be appointed under the State Services Act 1962 such Deputy

Directors-General and Assistant Directors-General of Health as may be necessary for the effective and efficient carrying out of the functions of the Department.

“(2) All such officers shall, under the control of the Director-General, perform such general official duties as they are called upon to perform by the Director-General.”

(2) Section 5A of the principal Act (as inserted by section 2 of the Health Amendment Act 1979) is hereby renumbered as section 5B.

(3) The following enactments are hereby consequentially repealed:

(a) Section 2 of the Health Amendment Act 1973:

(b) Section 2 of the Health Amendment Act (No. 2) 1982.

4. Other officers and employees—(1) The principal Act is hereby amended by repealing section 6, and substituting the following section:

“(6. (1) There shall from time to time be appointed such Medical Officers of Health and Deputy Medical Officers of Health as may be required for the purposes of this Act, who shall be medical practitioners with special qualifications in community health.

“(2) There shall from time to time be appointed such Inspectors of Health as may be required for the purpose of this Act, who shall be holders of such qualifications as the Director-General may from time to time require.

“(3) There shall from time to time be appointed such other officers and employees of the Department as may be necessary for the effective and efficient carrying out of the functions of the Department.

“(4) Subject to **subsection (5)** of this section, all appointments made under this section shall be made under the State Services Act 1962.

“(5) Any District Inspector or Official Visitor appointed for the purposes of the Mental Health Act 1969, in an honorary or part-time capacity, shall be appointed pursuant to and subject to the provisions of that Act, and shall not be deemed by reason only of that appointment to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or of the Government Superannuation Fund Act 1956.”

(2) The following enactments are hereby consequentially repealed:

(a) So much of the Schedule to the Health Amendment Act 1960 as relates to paragraphs (a) and (b) of section 6 (1) of the principal Act:

(b) Section 2 of the Health Amendment Act 1964.

5. Certain references in other enactments consequentially changed—(1) Every reference in any enactment passed before the date of the commencement of this Act to any Deputy Director-General of Health shall hereafter be read as a reference to the Director-General of Health. 5

(2) Every reference in any enactment passed before the date of the commencement of this Act to any Division of the Department shall hereafter be read as a reference to the Department of Health. 10

(3) Every reference in any enactment passed before the date of the commencement of this Act to the Director, Deputy-Director, or Assistant Director of any Division of the Department shall hereafter be read as a reference to the Director-General. 15

6. Consequential amendments—The enactments specified in the first column of the **First** Schedule to this Act are hereby amended in the manner indicated in the second column of that Schedule.

7. Transfer of executive powers from the Board of Health—(1) Certain executive powers that were, immediately before the date of the commencement of this Act, vested in the Board of Health are hereby vested in the Minister by amending the provisions of the principal Act specified in the first column of the **Second** Schedule to this Act in the manner specified in the second column of that Schedule. 20 25

(2) Certain other executive powers that were, immediately before the date of the commencement of this Act, vested in the Board of Health are hereby vested in the Director-General by amending the provisions of the principal Act specified in the first column of the **Third** Schedule to this Act in the manner specified in the second column of that Schedule. 30

(3) Section 26 of the principal Act is hereby consequentially repealed.

8. Part-time Deputy Medical Officers of Health—Section 6A of the principal Act (as inserted by section 2 of the Health Amendment Act 1975) is hereby amended by omitting from subsection (1) the word “public”, and substituting the word “community”. 35

9. Certain officers to have functions of Medical Officers of Health—(1) The principal Act is hereby amended by repealing section 22, and substituting the following section:

5 “22. (1) Every person who holds the office of Director-General of Health shall, if that person is a medical practitioner, have all the functions of a Medical Officer of Health, and may exercise those functions in any part of New Zealand.

10 “(2) Every person who holds the office of Director-General of Health and is not a medical practitioner shall designate a medical practitioner or medical practitioners employed in the Head Office of the Department of Health to exercise the functions of a Medical Officer of Health in any part of New Zealand.”

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

(a) So much of the Schedule to the Health Amendment Act 1960 as relates to section 22 of the principal Act:

(b) Section 2 (4) of the Health Amendment Act 1970.

10. Grants and subsidies for refuse disposal works, sewerage works, and water supplies—(1) The principal Act is hereby amended by repealing section 27A (as inserted by section 3 (1) of the Health Amendment Act 1970), and substituting the following section:

25 “27A. (1) There may from time to time be paid to any local authority, out of money appropriated by Parliament for the purpose, towards the cost of the investigation, planning, and construction of public water supplies, refuse disposal works, sewerage works, and works for the disposal of sewage by the local authority such sums by way of grant, subsidy, or otherwise as the Minister may think fit in the particular case.

30 “(2) For the purposes of this section, the term ‘local authority’ includes the Auckland Regional Authority and any district community council.”

35 (2) The Local Government Amendment Act 1979 is hereby consequentially amended by repealing so much of Part III of the Third Schedule as relates to section 27A (2) of the principal Act.

11. Local authority may require repairs and issue closing order—(1) Section 42 of the principal Act is hereby amended by inserting in subsection (2), after the words “if the notice is not complied with”, the words “an offence is committed and”.

(2) Section 42 of the principal Act is hereby further amended by adding the following subsection:

“(6) Without limiting anything in subsections (3) and (4) of this section, every owner commits an offence against this Act who fails without reasonable excuse to comply with a repair notice served on the owner under subsection (2) of this section.”

12. Keeping of animals—Section 57 of the principal Act is hereby repealed. 5

13. Aircraft declaration—Section 103 of the principal Act is hereby repealed.

14. 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 repealing subsection (3), and substituting the following subsection: 10

“(3) In this section the term ‘home’ means any premises where 3 or more persons who have attained the age of 65 years and are not related by blood or marriage to the householder are, or are to be, in residence and paying for their lodging and for 1 or more meals a day, being any premises that are, or purport to be, conducted principally for aged-frail persons, and not being a licensed private hospital, an institution under the control of the Department of Health or of an area health board or of a Hospital Board, or a hospital within the meaning of the Mental Health Act 1969.” 15 20

(2) The following enactments are hereby consequentially repealed:

- (a) Section 4 (3) of the Hospitals Amendment Act 1971: 25
- (b) Section 2 (2) of the Health Amendment Act 1979:
- (c) So much of the Schedule to the Area Health Boards Act 1983 as relates to section 120A (3) of the principal Act.

15. Repeal—The Health Amendment Act 1970 is hereby consequentially repealed. 30

SCHEDULES

FIRST SCHEDULE

Section 6

ENACTMENTS AMENDED

Enactment	Amendment
1957, No. 40—The Hospitals Act 1957 (R.S. Vol. 2, p. 757)	By repealing section 6 (2). By repealing section 148 (3).
1962, No. 132—The State Services Act 1962 (R.S. Vol. 14, p. 601)	By omitting from the Third Schedule (as substituted by section 10 (1) of the State Services Amendment Act 1978), in the list of offices or positions in the Department of Health, the following items: “Deputy Director-General (Administrative).” “Deputy Director-General (Public Health).”
1969, No. 16—The Mental Health Act 1969	By omitting from section 2 the definition of the terms “Director” and “Deputy Director”, and substituting the following definitions: “ ‘Director’, and ‘Deputy Director’, mean respectively the Director and Deputy Director of Mental Health in the Department of Health appointed under section 3 of this Act.” By repealing subsections (1) and (2) of section 3, and substituting the following subsection: “(1) There shall from time to time be appointed under the State Services Act 1962 the following officers in the Department of Health: “(a) A Director of Mental Health, who shall be a medical practitioner and who shall have the general administration of this Act under the direction of the Minister and of the Director-General of Health under the Health Act 1956: “(b) A Deputy Director of Mental Health, who shall, under the control of the Director, perform such general official duties as the Director may from time to time require.” By repealing subsection (6) of that section, and substituting the following subsections: “(6) Every person who holds the office of Director-General of Health, and every person who holds the office of Deputy Director-General of Health, may, if that

FIRST SCHEDULE—*continued*
ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1969, No. 16—The Mental Health Act 1969— <i>continued</i>	<p>person is a medical practitioner, exercise all or any of the powers and discretions conferred on the Director by this Act.</p> <p>“(7) If neither the person who holds the office of Director-General of Health nor the person who holds the office of Deputy Director-General of Health is a medical practitioner, the Director-General of Health shall designate a medical practitioner or medical practitioners to exercise all or any of the powers and discretions conferred on the Director by this Act.”</p>
1972, No. 31—The Clean Air Act 1972	<p>By omitting from clause 1 (b) of the Third Schedule the words “public health”, and substituting the words “community health”.</p>
1979, No. 27—The Toxic Substances Act 1979	<p>By omitting from section 2 (1) the definition of the term “Director”, and substituting the following definition:</p> <p>“‘Director’ means the person for the time being designated as Director under section 8A of this Act.”</p> <p>By inserting, after section 8, the following section:</p> <p>“8A. Designation of Director—There shall from time to time be designated by the Director-General a person, being an officer of the Department of Health, to hold the office of Director under this Act.”</p>
1981, No. 45—The Food Act 1981	<p>By omitting from section 2 the definition of the term “Director”, and substituting the following definition:</p> <p>“‘Director’ means the person for the time being designated as Director under section 7A of this Act.”</p> <p>By inserting, after section 7, the following section:</p> <p>“7A. Designation of Director—There shall from time to time be designated by the Director-General a person, being an officer of the Department of Health, to hold the office of Director under this Act.”</p>
1981, No. 125—The Wine Makers Act 1981	<p>By omitting from section 25 (5) the definition of the term “Director”, and substituting the following definition:</p> <p>“‘Director’ means the officer of the Department of Health who is for the time being designated as Director under section 7A of the Food Act 1981.”</p>

SECOND SCHEDULE

Section 7 (1)

AMENDMENTS TO PRINCIPAL ACT TO TRANSFER CERTAIN POWERS FROM THE BOARD OF HEALTH TO THE MINISTER

Provision	Amendment
Section 24	By repealing subsection (4), and substituting the following subsection: “(4) An Order in Council shall not be issued under this section unless the Minister is satisfied that the local authority is unable to make adequate provision for the promotion and conservation of the public health within its district.”
Section 25	By omitting from subsection (2) the words “Board of Health may”, and substituting the words “Minister may, by notice in the <i>Gazette</i> ,”. By omitting from subsection (2) the word “Board” where it secondly occurs, and substituting the word “Minister”.
Section 27	By omitting from subsection (2) the words “Board of Health”, and substituting the word “Minister”.

THIRD SCHEDULE

Section 7 (2)

AMENDMENTS TO PRINCIPAL ACT TO TRANSFER CERTAIN POWERS FROM THE BOARD OF HEALTH TO THE DIRECTOR-GENERAL

Provision	Amendment
Section 23	By omitting from paragraph (d) the words “of the Board of Health or”.
Section 25	By omitting the word “Board” wherever it occurs in the second sentence of subsection (2), subsection (3), and subsections (5) to (10), and substituting in each case the words “Director-General”. By omitting from subsection (4) the words “under the seal of the Board”.
Section 28	By omitting from subsection (3), and also from subsection (9), the word “Board’s”, and substituting in each case the word “Director-General’s”.
	By omitting from subsection (2A) (as inserted by section 4 (1) of the Health Amendment Act 1960), and also from subsection (2B) (as so inserted), the words “Board of Health”, and substituting in each case the word “Director-General”.

THIRD SCHEDULE—*continued*AMENDMENTS TO PRINCIPAL ACT TO TRANSFER CERTAIN POWERS FROM THE BOARD OF HEALTH TO THE DIRECTOR-GENERAL—*continued*

Provision	Amendment
Section 28— <i>continued</i>	<p>By omitting from the said subsection (2B) the word “Board” where it secondly occurs, and substituting the word “Director-General”.</p> <p>By omitting from the said subsection (2B) the word “Board’s” in both places where it occurs, and substituting in each case the word “Director-General’s”.</p> <p>By omitting the word “Board” or “Board’s” in every other place where either of those words occur, and substituting the word “Director-General” or “Director-General’s”, as the case may require.</p>
Section 42	By omitting from subsection (2), and also from subsection (3), the words “Board of Health”, and substituting in each case the word “Director-General”.
Section 46	By omitting from subsection (2) the words “, with the prior approval of the Board of Health,”.
Section 48	By omitting from subsection (1) the words “Board of Health”, and substituting the word “Director-General”.
Section 50	By omitting from subsection (1) the words “Board of Health”, and substituting the word “Director-General”.
Section 69	By omitting from subsection (1) (d) the words “of the Board of Health or”.
Section 117	By omitting from subsection (3) the words “Board of Health”, and substituting the word “Director-General”.
Section 123	<p>By omitting from subsection (1) the words “Subject to the provisions of section 26 of this Act,”.</p> <p>By omitting from that subsection the words “Board may itself”, and substituting the words “Director-General may, at the direction of the Minister,”.</p> <p>By omitting the word “Board” in every other place where it occurs, and substituting in each case the word “Director-General”.</p>