

[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.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 16 June 1988

[Clauses 22 to 32 and the Schedule of this Bill were formerly clauses 22 to 32 and the Second Schedule of the Health Acts Amendment Bill]

Hon. David Caygill

HOSPITALS AMENDMENT (NO. 3)

ANALYSIS

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A BILL INTITULED

An Act to amend 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 Hospitals Amendment Act (No. 3) 1988, and shall

No. 37—3c

Price
incl. GST \$1.90

be read together with and deemed part of the Hospitals Act 1957 (hereinafter referred to as the principal Act).

(2) **Section 25** of this Act, so far as it substitutes **sections 28 and 28A** of the principal Act, shall come into force on the date on which this Act receives the Governor-General's assent. 5

(3) Except as provided in **subsection (2)** 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.

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: 10

“‘Local Government Commission’ means the Local Government Commission established under the Local Government Act 1974.” 15

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(2) The heading above section 7, and sections 7 to 11, of the principal Act are hereby repealed.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. 20

New

<p>(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. 25</p>
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24. Inquiries by Local Government Commission—The principal Act is hereby amended by repealing section 23, and substituting the following section: 30

“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.” 35

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:

5 “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.

10 “(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.

15 “(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.

20 “(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 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.

25 “(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.

30 “(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.

35 “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.

“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. 5

“(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, 10
as the case may be; and

“(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 15
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,—

“(a) Alter the number of representatives that a constituent 20
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 hospital district for the 25
purposes of the election of representatives on the Hospital Board; and

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

“(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 35
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 hospital district. 40

“(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.

“(7) Every resolution under this section shall forthwith be 45
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.

5 “(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.

10 “(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.

“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
15 resolution of the Board made under **section 28** 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 hospital
20 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,—

25 “(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

30 “(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
35 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.

40 “(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—

“(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; and 5

“(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 10

“(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. 15

“(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.” 20

(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: 25

“31. The cost of every election of a representative or 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.” 30

New

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 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. 40

New

“(2) 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 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 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,”.

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 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:

“(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.

“(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.”

(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:

“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—

“(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.”

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,”.

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,”;
 - (c) By omitting from paragraph (o) the word “Minister” where it secondly occurs, and substituting the word “Board”.
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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,".
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,".

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

PART II

Amendments to 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.