

**HEALTH AND DISABILITY SERVICES (OBJECTIVES  
REFORM AND REFERENDUM DEMAND) AMENDMENT  
BILL**

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EXPLANATORY NOTE

THE national health system has been the subject of a great deal of change in recent years. The most recent change has come with the introduction of the Health and Disability Services Act 1993.

The reform has not been welcomed by a large number of New Zealanders largely because they fear that the primary objective of the new Crown health enterprises is profit, not health delivery. This fear is most apparent in the rural districts where hospital closures appear imminent.

This bill amends the current legislation to eliminate those fears by replacing the objective of profit with an objective of effective health delivery. This means Crown health enterprises cannot rely on purely profit-driven reasons to close services or hospitals.

*Clause 3* amends the Crown health enterprise principal objective by replacing the directive to provide health and disability services while operating as a successful and efficient business, with the directive to provide health and disability services while operating as an effective organisation for the delivery of health services.

This clause also replaces the objective to be as successful and efficient as comparable businesses that are not owned by the Crown, with an objective to be as effective as comparable health organisations that are not owned by the Crown.

*Clauses 4 and 5* ensure a public consultation process will be carried out by the regional health authorities, and the Crown health enterprises.

*Clause 6* inserts three new sections each dealing with different aspects of a new referendum process in relation to proposals to close hospitals or reduce hospital services. The first outlines when a referendum may be required. The second outlines how the referendum is to take place. The third requires an immediate referendum to take place on proposals already publicly expressed regarding the closure or reduction of services of the listed hospitals or institutions. This list however, is not an exhaustive list.

*Jim Anderton*

**HEALTH AND DISABILITY SERVICES (OBJECTIVES  
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ANALYSIS

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A BILL INTITULED

An Act to—

- 5           (a) Amend the Health and Disability Services Act 1993  
            by replacing the Crown health enterprise  
            objective to operate as a successful business;  
            and
- 10          (b) To provide for a referendum to be held on any  
            proposal to close a hospital or reduce hospital  
            services where demanded by electors of the area  
            served by the hospital

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

15       **1. Short Title and commencement**—(1) This Act may be  
cited as the Health and Disability Services (Objectives Reform  
and Referendum Demand) Amendment Act 1996, and shall be  
read together with and deemed part of the Health and  
Disability Services Act 1993 (hereinafter referred to as the  
principal Act).

(2) This Act shall come into force on the 1st day of June  
1996.

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**2. Interpretation**—Section 2 of the principal Act is hereby amended by inserting, after the term “Board”, the term “‘comparable health organisation’ means a health organisation which provides the same or substantially similar health services.” 5

**3. Objectives of Crown health enterprises**—(1) Section 11 (1) of the principal Act is hereby amended by omitting the words “a successful and efficient business”, and substituting the words “an effective organisation for the delivery of health services”. 10

(2) Section 11 (2) of the principal Act is hereby amended by omitting the words “successful and efficient as comparable businesses”, and substituting the words “effective as comparable health organisations”.

**4. Regional health authorities to consult**—Section 34 of the principal Act is hereby amended by omitting the words “in accordance with its statement of intent”, and “such of”, and “as the authority considers appropriate”. 15

**5. Boards of Crown health enterprises**—Section 39 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection: 20

“(1A) Every Crown health enterprise shall on a regular basis consult in regard to its intentions relating to the provision of health services with the following:

(a) Individuals and organisations from the communities served by it who receive health services or disability services: 25

(b) Other persons including voluntary agencies, private agencies, departments of State, and territorial authorities. 30

**6. New sections inserted**—The principal Act is hereby amended by inserting new sections as follows:

“39A. **Referendum may be required**—(1) Notwithstanding section 39 of this Act, all proposals relating to the closure of hospitals or reduction of services shall require public endorsement of the electors in the area served by the hospital which is the subject of the Crown health enterprise board’s proposal by referendum in either of the following circumstances, namely,— 35

“(a) Where the original proposal to close or reduce services was not unanimously made by the board; or 40

“(b) Where not less than 10 percent of the electors residing within the area served by the hospital demand that a referendum be taken on the proposal to close a hospital or reduce hospital services.

5 “(2) Where a demand for a referendum of electors is made under this section, every person who signs that demand shall state against the signature the person’s name and address with sufficient particularity to enable the person to be identified as an elector in the area served by the hospital which is the  
10 subject of the Crown health enterprise board’s proposal.

“(3) No demand under this section shall be of any effect unless it is delivered or sent by post to the Crown health enterprise board not later than 5 pm on the day fixed 30 working days from the day the board gave notice of its  
15 proposal to close or reduce hospital services.

“(4) The notice referred to in subsection (3) of this section shall be made by the Crown health enterprise as soon as practicable after the proposal to close a hospital or reduce its services is made by the board and the notice shall be by advertisement in  
20 all newspapers serving the area of the board and shall include the following particulars:

“(a) The name of the Crown health enterprise:

“(b) The name of the hospital to be closed or to have a reduction of services, in the latter instance the name  
25 of the services to be reduced:

“(c) A statement giving full reasons for the closure or reduction of services:

“(d) A statement detailing how the Crown health enterprise intends to provide services in a manner which does not decrease the level or convenience of services  
30 previously provided:

“(e) A statement to the effect that a referendum of electors of the area is required to be taken if the electors so demand in the manner specified in this section, and setting out the manner in which the referendum  
35 may be demanded.

**“39B. Referendum to be held for endorsement of hospital closure or reduction of services proposal—**

40 (1) Where the requirements of section 39A of this Act have been complied with, the Crown health enterprise board shall be directed by the Minister to hold forthwith a referendum for public endorsement of the hospital closure or services reduction proposal in accordance with subsections (2), (3), (4), and (5) of this section.

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“(2) The question to be proposed at a referendum shall be in the form set out in the **Third Schedule** to this Act.

“(3) The provisions of the Citizens Initiated Referenda Act 1993 shall apply, as far as applicable and with the necessary modifications, to a referendum as if the referendum were the indicative referendum referred to in the Citizens Initiated Referenda Act 1993. 5

“(4) For the purposes of this Act, the referendum result will be binding on the Crown health enterprise, notwithstanding that the provisions of the Citizens Initiated Referenda Act 1993 relate to indicative referenda. 10

“(5) Where the result binds the Crown health enterprise to retain a hospital or hospital services the Crown health enterprise, where it can show additional funding is necessary, shall negotiate with the Crown for additional funding. 15

“(6) The costs of and incidental to the holding of a referendum shall constitute a debt due to the Crown by the Crown health enterprise to which the referendum relates.

“39c. **Immediate referendum**—(1) The requirements of notice and referendum demand as outlined in **section 39A** of this Act shall be deemed to have been fulfilled on the day this Act comes into force in relation to the closure or service reduction proposals already publicly expressed regarding any hospital or institution, including the following: 20

“(a) Templeton Psychopaedic Centre: 25

“(b) Balclutha Hospital:

“(c) Oamaru Hospital:

“(d) Ashburton Hospital:

“(e) Darfield Hospital:

“(f) Dannevirke Hospital: 30

“(g) Thames Hospital

“(h) Dargaville Hospital:

“(i) Napier Hospital:

“(j) Kawakawa Hospital:

“(k) New Plymouth Hospital: 35

“(l) Murchison Hospital:

“(m) Taumarunui Hospital:

“(n) Tapanui Hospital:

“(o) Roxborough Hospital:

“(p) Ranfurly Hospital: 40

“(q) Opotiki Hospital:

“(r) Hawera Hospital:

“(s) Waihi Hospital:

“(t) Paeroa Hospital:

“(u) Huntly Hospital:

“(v) Pahiatua Hospital:

“(w) Greytown Hospital:

“(x) Ngawhatu Hospital:

5 “(y) Invercargill Hospital:

“(z) Gore Hospital:

“(za) Waimate Hospital:

“(zb) Morrinsville Hospital:

“(zc) Te Aroha Hospital,—

10 and a referendum as set out in **section 39B** of this Act shall be taken forthwith, unless the Crown health enterprise board responsible for any of the hospitals or institutions listed above publicly give notice that they no longer propose to close the hospital or reduce its services.

15 “(2) The notice referred to in **subsection (1)** of this section shall be made by the Crown health enterprise by advertisement in all newspapers serving the area of the board and shall include the following particulars:

“(a) The name of the Crown health enterprise:

20 “(b) The name of the hospital or hospital services:

“(c) A statement that the hospital or hospital services shall be retained.

25 “**39D. Expiry of section 39c—Section 39c** of this Act shall expire on the day all referenda regarding the above have been completed and the results announced, or where applicable, a **section 39c (2)** notice has been completed.”

**7. New schedule inserted**—The principal Act is hereby amended by inserting the following Schedule:

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“THIRD SCHEDULE

Crown Health Enterprise Hospital Closure/Services Reduction Proposal.

Are you in favour of the hospital closure/services reduction proposal of (insert hospital and services description here) of (insert name of Crown health enterprise here)?

**Vote Here**

**YES**

**NO**

**TICK ONE PROPOSAL**

If a majority of the votes cast in this referendum are for the proposals described, the hospital closure or hospital services reduction will commence at a date notified in the local newspapers by the Crown health enterprise.

If a majority of the votes cast in this referendum are against the proposals described, the hospital or hospital services will be retained.