

NURSES AMENDMENT BILL

AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE

THE Health and Disability Commissioner Bill, as reported from the Social Services Committee, has been divided into 12 separate Bills by the Committee of the whole House as follows:

This Bill, comprising clauses 89 to 91.

The Health and Disability Commissioner Bill, comprising clauses 2 to 6, Parts I to IV, clauses 46 to 64A, clauses 101 to 107, and the Schedules.

The Physiotherapy Amendment Bill, comprising clauses 65 to 69.

The Occupational Therapy Amendment Bill, comprising clauses 70 to 74.

The Dietitians Amendment Bill, comprising clauses 75 to 78.

The Medical Auxiliaries Amendment Bill, comprising clauses 79 to 81.

The Medical Practitioners Amendment Bill, comprising clauses 82 and 83.

The Pharmacy Amendment Bill, comprising clauses 84 and 85.

The Optometrists and Dispensing Opticians Amendment Bill, comprising clauses 86 to 88.

The Psychologists Amendment Bill, comprising clauses 92 to 94.

The Chiropractors Amendment Bill, comprising clauses 95 to 97.

The Dental Amendment Bill, comprising clauses 98 to 100.

No. 44—3H

Price Code: J

[AS REPORTED FROM THE SOCIAL SERVICES COMMITTEE]

House of Representatives, 16 June 1994.

Clauses inserted are shown with single rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 28 September 1994.

Clauses now forming separate Bills are indicated by points of ellipsis.

Hon. Jenny Shipley

NURSES AMENDMENT

ANALYSIS

Title	
1. Short Title and commencement	48E. Suspension of action under this Act
90. New heading and sections inserted	48F. Director of Proceedings may lay charge under this Part of this Act
<i>Application of Health and Disability Commissioner Act 1994</i>	48G. Director of Proceedings to prosecute charge
48B. Interpretation	48H. Costs may be awarded to Commissioner
48C. Complaints to be notified to Commissioner	91. Matters on which appeals lie
48D. Consultation with Commissioner	

A BILL INTITULED

An Act to amend the Nurses Act 1977

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

5 **1. Short Title and commencement**—(1) This Act may be cited as the Nurses Amendment Act 1994, and shall be read together with and deemed part of the Nurses Act 1977 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

New

90. New heading and sections inserted—The principal Act is hereby amended by inserting in Part IV, after section 48A (as inserted by section 12 of the Nurses Amendment Act 1983), the following heading and sections: 5

“Application of Health and Disability Commissioner Act 1994

“48B. Interpretation—In this section and sections 48c to 48H of this Act, unless the context otherwise requires,—

“‘Code’ means the Code of Health and Disability Services Consumers’ Rights for the time being prescribed by regulations made under section 64 of the Health and Disability Commissioner Act 1994: 10

“‘Commissioner’ means the Health and Disability Commissioner under the Health and Disability Commissioner Act 1994: 15

“‘Director of Proceedings’ means the person for the time being designated under section 13A of the Health and Disability Commissioner Act 1994 as the Director of Proceedings.

“48C. Complaints to be notified to Commissioner— 20
(1) Where a complaint is made under section 40 of this Act, the registrar shall forthwith notify the Commissioner of that complaint.

“(2) Where, pursuant to section 41 (6) of this Act, the Preliminary Proceedings Committee becomes aware that a registered or enrolled nurse might be guilty of professional misconduct, the convener shall forthwith notify the Commissioner of that matter. 25

“48D. Consultation with Commissioner—Where, in accordance with section 48c of this Act, a complaint or matter is notified to the Commissioner, the Commissioner may at any time after receiving the notification, consult with the Council in relation to the complaint or matter. 30

“48E. Suspension of action under this Act— 35
(1) Notwithstanding anything in this Part of this Act, but subject to subsection (2) of this section and to section 48F (3) of this Act, where a complaint or matter is notified to the Commissioner in accordance with section 48c of this Act, no action shall be taken under this Act concerning that complaint or matter until—

New

- 5 “(a) The Commissioner notifies the Council—
 “(i) That the complaint or matter is not to be investigated, or investigated further, under the **Health and Disability Commissioner Act 1994**; or
 “(ii) That the complaint or matter has been resolved; or
 “(iii) That the complaint or matter has been investigated under that Act and the complaint or matter is not to be referred to the Director of Proceedings in accordance with **section 33 (f)** of that Act; or
- 10 “(b) The Director of Proceedings notifies the Council that the Director of Proceedings has decided, pursuant to **section 36A** of that Act, not to institute disciplinary proceedings under this Act in relation to the complaint or matter.
- 15 “(2) Nothing in this section prevents the taking of any action under section 32 or section 33 or section 34 of this Act.
- 20 “**48F. Director of Proceedings may lay charge under this Part of this Act**—(1) This section applies where,—
 “(a) After conducting an investigation under **Part IV** of the **Health and Disability Commissioner Act 1994**, the Commissioner is of the opinion that any action (within the meaning of that Act) that was the subject-matter of the investigation, being the action of a registered or enrolled nurse, was in breach of the Code; and
- 25 “(b) The Director of Proceedings decides, pursuant to **section 36A** of that Act, that proceedings should be taken under this Part of this Act against that person.
- 30 “(2) Where this section applies, the Director of Proceedings shall frame an appropriate charge and refer it to the chairman of the Council.
- 35 “(3) Where the Director of Proceedings refers a charge to the chairman of the Council under **subsection (2)** of this section, the Council shall deal with the charge as if it were a charge that had been referred to the chairman pursuant to section 41 (3) of this Act, and, subject to **section 48G** of this Act, the provisions of
- 40 this Part of this Act shall apply accordingly with all necessary modifications.

New

- “48G. Director of Proceedings to prosecute charge—**
 Notwithstanding anything in this Part of this Act, any charge
 laid under **section 48F** of this Act by the Director of Proceedings
 shall be prosecuted at the hearing by the Director of
 Proceedings, who for that purpose may be represented by
 counsel or otherwise. 5
- “48H. Costs may be awarded to Commissioner—**
- (1) Where,—
- “(a) In any proceedings under section 42 of this Act, the** 10
 Council or a committee of Council is empowered to
 make an order under subsection (3) of that section;
 and
- “(b) The proceedings relate to a charge laid by the Director**
 of Proceedings under **section 48F** of this Act,— 15
 the nurse concerned may be ordered under section 42 (3) of
 this Act to pay—
- “(c) Any costs and expenses of and incidental to any**
 investigation made by the Commissioner under the
 Health and Disability Commissioner Act 1994 in relation to 20
 the subject-matter of the charge:
- “(d) The costs and expenses of and incidental to the**
 prosecution of the charge by the Director of
 Proceedings.
- “(2) Any costs and expenses payable pursuant to subsection (1)** 25
 of this section—
- “(a) Shall be recoverable in accordance with section 42 (6) of**
 this Act; and
- “(b) Notwithstanding anything in section 14 of this Act, shall**
 be paid to the Commissioner. 30
- “(3) Nothing in this section limits section 42 (3) of this Act.”**
- 91. Matters on which appeals lie—**Section 49 (1) (g) of the
 principal Act is hereby amended by inserting, after the word
 “inquiry”, the words “, investigation, or prosecution”.